

Legislative Council,

Tuesday, 22nd September, 1925.

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The PRESIDENT took the Chair at 4.30 p.m., and read prayers.

QUESTION—METROPOLITAN WATER SUPPLY.

Hon. H. SEDDON asked the Colonial Secretary: When do the Government expect that water from (a) Churchman's Brook, (b) Canning, (c) Wongong Brook will be available for the metropolitan area?

The COLONIAL SECRETARY replied: (a) end of October, (b) end of December, (c) end of November.

SELECT COMMITTEE—MAIN ROADS BILL.

On motion by Hon. H. Stewart, the quorum of the select committee appointed to inquire into the Main Roads Bill was reduced from four to three.

BILL—CITY OF PERTH.

Recommittal.

On motion by Hon. J. Nicholson, Bill re-committed for the purpose of reconsidering Clause 5. Hon. J. W. Kirwan in the Chair; the Colonial Secretary in charge of the Bill.

Clause 5—Power to prescribe new building line:

Hon. J. NICHOLSON: I move an amendment—

That in Subclause 3, after the word "new" in line 5, the following be inserted:—"Except for the purpose of completing a building already in course of erection at the time of the prescribing of the new building line as aforesaid."

As a result of the reconsideration that has been given to this Bill it has been thought desirable to safeguard the position of persons who have buildings in course of erec-

tion. This amendment will I think meet the case. As the clause stands it appeared that the City Council might have had power to stop any one from completing a building that was in course of erection. No doubt compensation would have been allowed, but it has been thought only right that such persons should be protected.

Amendment put and passed; the clause, as amended, agreed to.

Bill again reported with an amendment.

BILL—FORESTS ACT AMENDMENT.

Second Reading.

THE COLONIAL SECRETARY (Hon. J. M. Drew—Central) [4.40] in moving the second reading said: Under the Forests Act, 1918, a fund for reforestation purposes was inaugurated, and was to be sustained by the bulk of the revenue from forest products, which of course included sandalwood. Three-fifths of the revenue had to go to the fund. At that time there was little revenue from sandalwood. Subsequently under a scheme for limiting the export, the revenue from this source was considerably increased. It rose from £1,600 a year to something like £50,000. There was no outlet for the wise expenditure of such a sum annually on the regrowth of sandalwood, and there was a large accumulated balance of £71,545 in the fund on the 30th June, 1924. During last session the Government introduced a Bill exempting sandalwood from the operations of the Forests Act, in so far as contributions to reforestation were concerned. An amendment to the Bill was carried in this House providing that one-tenth of the amount received from sandalwood should be set aside for regrowth purposes, or £5,000, whichever was the greater. The operation of that Bill was limited to one year, and the object of the Bill now before the House is to make the measure a permanent one. In introducing the Bill of last year I stated that the cost of sandalwood reforestation would not exceed £5,000. I find from figures supplied to me by the Conservator of Forests that I was very much on the safe side. Only a little more than half of that amount was spent during last year; to be precise, a sum of £2,539 was the expenditure on regrowth of sandalwood. The Conservator states that the amount to be spent this year will depend upon the results of the experimental work

now in progress. The amount expended on the regrowth of other timbers was £65,497. On the 1st July of this year there was a balance to the credit of the fund of £82,377, whereas on the 1st July last year the amount was only £71,545. Hence, although only £5,000 was contributed on account of sandalwood the credit balance of the fund increased by £10,832 during the 12 months. In other words, the fund commenced the new financial year £10,832 better off than it did on the 1st July of last year. I move—

That the Bill be now read a second time.

HON. J. EWING (South-West) [4.43] : So far as I can see no objection can be taken to the Bill except on the ground that it is to be made a permanent measure. In other words a sum of £5,000, or one-tenth of the revenue derived from sandalwood, is to be set aside permanently for the reforestation of sandalwood. I think the House on reconsideration will come to the conclusion that it is better to have this Bill brought up every year, so that we may see what is being done with regard to the matter. I should like the Leader of the House to inform us what has been achieved with respect to the reforestation of sandalwood. A sum of something like £2,500 only was spent in this connection last year, and the balance of the money would therefore have gone to the Treasury to help the financial position. It is quite possible that not enough has been done. We should be told whether it has been possible to carry out successfully a scheme for the reforestation of sandalwood. I would like the Minister to give the House some information on these points. Perhaps the Minister will present to hon. members a report from the Conservator of Forests regarding the success that has attended his efforts in this direction during the last 12 months. If it has not been found necessary to spend more than £2,000 in the year, no doubt the Treasurer will be glad to retain the balance, for there is much that he can do with it. We have had no intimation in the course of the Minister's speech regarding the possibility of the regeneration of sandalwood. We should be told why the £5,000 was not expended last year, whether the experiments have proved satisfactory, and why it is not possible to spend the full amount. In addition to that, hon. members should consider whether it is advisable to make the Bill an annual one rather than,

as suggested, make the provision permanent. I think it would be better for members to consider the position each year, so as to know exactly what has been accomplished.

HON. H. STEWART (South-East [4.48] : I am in accord with Mr. Ewing's contention in favour of a continuing Bill coming before us annually. Last year the view of the Minister was not endorsed, although, in all probability, the House felt that all the revenue allocated in accordance with the provisions of the Forests Act was not necessary for the reforestation of sandalwood. At the same time a certain proportion was set aside not only for the development of sandalwood but of other forest work as well. It was my intention to move the adjournment of the debate to enable me to deal with any figures supplied by the Minister, analyse the information given to us and ask for further particulars. In view of the small amount of business appearing on the Notice Paper, I will proceed with the matter now and deal with these questions more fully during the Committee stage. Though all the money collected on account of sandalwood, in accordance with the provisions of the Forests Act, 1918, was not necessary for the reforestation of sandalwood, that does not indicate that it is not now necessary to retain the money for the forests generally, or for work associated with reforestation. There is a lot to be done. It is necessary to safeguard the forests from fires, and roads have to be constructed to and through the forests to facilitate the work of foresters. It is recognised, too, as a part of the development of the reforestation policy that woodmen must be established on small agricultural holdings in the midst of the timber areas, where they can make a living all the year round, doing useful work in the forests and at the same time maintaining their agricultural work. I do not believe the House will agree to the Bill as it is before us now. It really means altering the provisions of the parent Act so that one-fifth only of the revenue from sandalwood shall be set aside for the reforestation of that timber. When speaking on the Address-in-reply this session I referred to the conference of forestry officers two or three years ago when the position of Australia's forests was surveyed. The Premiers, at a later conference, endorsed the

decisions of the forestry conference in allocating to the different States the area that should be set aside for forest purposes. Whereas Western Australia has reserved less than one-tenth of the area she undertook to set aside, the other States have set aside about three-quarters of the areas allocated for forest purposes. The Bill helps to override the decision of Parliament when we passed legislation to place the forests on a sound and permanent basis, thereby conserving our forest resources. It would be a great mistake to agree to the suggestions embodied in the Bill. I certainly cannot support the proposal to repeal Subsections 2 and 3 of Section 41 of the Forests Act, 1918.

On motion by Hon. H. Seddon, debate adjourned.

BILL—JURY ACT AMENDMENT

Second Reading.

THE HONORARY MINISTER (Hon. J. W. Hickey—Central) [4.55] in moving the second reading said: Last session a Bill following along these lines was before this Chamber, but was not passed. In the Bill now before members some of the clauses that appeared in the Bill of last session have been dropped and it now embodies two parts, one relating to the abolition of special juries and the other to increasing the fees paid to jurors. In 1898 the scale was fixed for the payment of fees to jurors. Since then many changes have taken place. When the fee was fixed at 10s. a day, the basic wage was 7s. or 8s. a day. Under those conditions 10s. a pay may have been regarded as adequate payment. If people are called upon to fulfil a public duty by sitting on a jury, they are entitled to-day to better remuneration than is provided by the present scale under the Jury Act. If an ordinary working man on the basic wage were called upon to sit on a jury, it would mean that he would have to make a great sacrifice in order to fulfil a public duty involving grave responsibilities. He would be out of pocket to the extent of the difference between the fee of 10s. and the basic wage and that money would be owed to his trades people. Such a position is unfair. What applies to the working man applies equally to others who are called upon to serve as jurors. The business man likes to keep his fingers on the pulse of commerce, and to

maintain that personal touch so essential in any organisation or business. To such a man 10s. is a mere bagatelle, but his absence from his business involves not only a sacrifice of his time, but possibly the interests of clients who depend upon him. It is harder to estimate the loss suffered by professional men in various walks of life, when they are required to sit on juries. Bearing that in mind, the Government have framed the Bill with the object of eliminating the difficulties that have existed in the past. It is sought to increase the fees to such an extent as will be more commensurate with the time lost by the individual placed in such a position. It may be necessary from time to time to readjust the scale of fees, and therefore power has been included to authorise the Government to make such adjustments as may be necessary by way of regulations, instead of having to bring down a Bill to amend the Act each time such a course is deemed necessary. The other proposal which is of considerably more importance relates to the abolition of special juries. Last session some objection was taken to this proposal. No proper opportunity was afforded the Government for obtaining the views of members who were opposed to the change. I hope that on this occasion the Bill will be discussed and that if there be sound and reasonable arguments in favour of the retention of special juries, those arguments will be placed fully before hon. members. I am one of those who may be hard to convince though, generally speaking, I am not. On this particular matter, however, I have heard a lot of argument but never yet one that has convinced me that it is essential to the welfare and prosperity of this country to retain the special jury system. This Bill was introduced in another place in an atmosphere entirely different from that which surrounded it 12 months ago. The arguments that were used on that occasion can hardly be said to have been used by those that advanced them, with the goal of success in view. Following the matter since then, and having my mind fairly well concentrated on public opinion, I venture to say that public opinion is tending towards going a little further than the Bill proposes by reason of the fact that trial by jury has outstayed its usefulness. In that regard, however, I am offering no comment except to say that trial by special jury is effete. Opinions have been expressed on this subject in various quarters; the matter has

been discussed publicly and by debating societies, and I have never heard or read of an argument against the opinions to the retention of trial by special jury. Perhaps in bygone days arguments may have been successfully advanced for this particular arrangement. In those days, however, the peasantry were unenlightened and they had never entered into the hurly-burly of the world. Education they had little or none. One might therefore say that there was a reason or an excuse for special qualifications to serve on juries. In these modern times, with our higher education, and when we boast of our enlightenment as the result of free education from the kindergarten to the university, the reason given in days gone by can no longer be advanced. I admit that certain qualifications are necessary, but we go beyond that and say that anybody who can pay shall have the right to ask for a special jury. The qualification for a special juror is that he must be possessed of real or personal estate to the extent of £500. I do not go so far as to say that because a man has wealth we cannot expect justice from him. I do not know, however, that the man who has £500 or £500,000 may not have any greater qualification or more ability to sift and weigh evidence than the man with 500 shillings or 500 pence. My idea of the qualifications of a juror is that in the first place he must possess a certain amount of respectability and character, and he must have that common sense which will enable him to weigh facts that are placed before him. Thus we are entitled to expect a correct verdict in the simplest or even the most intricate cases. Having got that, what more do we require? In connection with juries—again in support of my argument that they have outlived their usefulness—we find that mistakes have been made. I do not wish to make comparisons between ordinary and special juries in this respect.

Hon. J. Duffell: Is there any case on record where special juries have done wrong?

The HONORARY MINISTER: Yes.

Hon. J. Duffell: I wish you would give us an instance.

The HONORARY MINISTER: I am not prepared to enter in to a controversy with the hon. gentleman. As a justice of the peace, he knows that there have been instances of mistakes having been made. If

they have not come under his notice probably he has not investigated the matter seriously.

Hon. J. Duffell: I do not know of any; I wish you would tell me of one.

The HONORARY MINISTER: I can give a recent instance and probably other hon. members can do likewise. Mr. Duffell, however, is trying to draw me off the track and to make me attack the jury system. I am not prepared to do that.

Hon. J. Duffell: I take exception to that remark. The Honorary Minister should be asked to withdraw it. I deny that I am trying to take him off the track.

The PRESIDENT: I do not see anything very offensive about the remark.

Hon. J. Duffell: I deny that I am trying to throw him off the track.

The HONORARY MINISTER: Perhaps the hon. gentleman—

The PRESIDENT: Hon. member, please, not hon. gentleman, though he may be one.

The HONORARY MINISTER: The hon. member, I am sure, like everyone else, desires that in every instance a correct and honest verdict shall be given. In my opinion better results could be obtained were it possible to appoint what we might call a composite jury. Say, for the sake of argument, that the qualifications of a common juror are £100 and those of a special juror £500, though both may be worth a good deal more. We would have a better opportunity of arriving at a more satisfactory verdict if men coming under the two categories were appointed. In that way we should have a better interchange of ideas. If special juries are to be retained, industrialists, at any rate, will never have the opportunity of serving on a special jury, not because of any lack of intelligence but merely because of the qualification. Industrialists should not be denied the right to sit on any kind of jury in a democratic country like ours. Therefore we should do our best to arrive at a fairer method of empanelling juries instead of limiting them in the manner that has been done in the past. When candidates stand for seats in Parliament the essential qualification is that they should have a sense of respectability as well as responsibility. They are not asked whether they have 5s. or £5 or £500 worth of property. If electors are satisfied with a candidate, they will choose him to legislate and, amongst other things, to frame measures, perhaps like the one we are now

discussing. They make it possible for even you, Mr. President, to be elected to the exalted position you now occupy. If the people generally can do that, surely they should be entitled to a seat on a jury, be it common or special.

Hon. A. J. H. Saw: There is no analogy between the two; juries are not elected.

The HONORARY MINISTER: No, they are conscripted.

Hon. E. H. Harris: And you want to widen the scope of the conscription.

The HONORARY MINISTER: The object of the Bill is to widen the scope of the conscription because we want to lessen the franchise. We want special juries eliminated. The desire is that juries shall be so composed that all will be satisfied. There is yet another aspect which appeals to me because I have been in the hurly-burly of life. Ever since boyhood I have been through rather a rough school, and since gaining a sense of responsibility in the Labour movement I have tried to do my best in the interests of all sections. I have seen something of the degrading results that follow upon the preaching of the gospel of class hatred. Class hatred is something utterly different from class struggle. So long as the struggle for existence obtains, there must be class struggle. I have, however, tried to eliminate class hatred, and in that connection I have had some queer experiences. Bearing those experiences in mind, I would be untrue to myself, and untrue to those whom I represent, if I did not seek to bring about results that will be in the best interests of all. When the representatives of an organisation happen to have done something which they consider themselves legitimately entitled to do, say, refusing to work with a non-unionist, they find themselves before a court as the result of such action. Of that I do not complain, but a feeling of bitterness is engendered in the minds of the men brought before the court if they find that they are to be tried by a special jury. The men affected think that is wrong, and so class bitterness is perpetuated. In view of the rumblings of a storm on the eastern horizon, which storm may mean a mixed condition of affairs in the industrial world, the retention of such a proposition as the special jury system, in the absence of substantial backing, means something that is not in the best interests of either the individual or the community. That is a very serious consideration. If I had the re-

motest thought that there was a sound reason for the retention of special juries, I certainly would not join in any movement for their elimination. But I have long been of opinion, through thought and study, that whatever usefulness the system may have had at one period has long since passed away. Jurors should meet on common ground, empanelled on the same lines. A special jury is not required, for instance, where a man's life and liberty are at stake. That fact in itself constitutes a reason why the special jury system should be removed from the statute book. The retention of special juries means dissatisfaction except on the part of such persons as are enabled to ask for them; and even such persons do not remain satisfied with them if the verdict happens to go against them. I have never been convinced by any argument for the retention of special juries, but on the other hand have been convinced by the arguments for their abolition. Apart from any feeling the Government may have in this matter, I submit the Bill to the earnest and sympathetic consideration of the House in view of my own experience and study of the question. If the Bill passes, we shall have done something to assist progress. Reforms are never brought about except by agitation. Even the qualification for this Chamber has been whittled down as the result of agitation. Years ago some of us who now are members of this Council could not have been elected, simply because we could not have footed the bill.

Hon. E. H. Harris: And you are not satisfied now.

The HONORARY MINISTER: I am not speaking from the personal standpoint. The franchise is quite another question. Members of this Chamber have to possess certain qualifications. The opinion of Australia is rather in the direction of eliminating trial by jury. To that view I do not subscribe, but I certainly hold that no strong argument can be put up for the retention of special juries. I move—

That the Bill be now read a second time.

On motion by Hon. J. Nicholson debate adjourned.

BILL—INDUSTRIAL ARBITRATION ACT AMENDMENT.

Received from the Assembly and read a first time.

House adjourned at 5.25 p.m.