

Legislative Council,

Wednesday, 24th November, 1909.

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The PRESIDENT took the Chair at 4-30 p.m., and read prayers.

BILL—DISTRICT FIRE BRIGADES. *Report of Select Committee.*

Hon. A. G. Jenkins brought up the report of the select committee appointed to inquire into the District Fire Brigades Bill.

Report received, ordered to be printed and to be considered when in Committee on the Bill.

BILL—ELECTORAL ACT AMENDMENT.

Introduced by the Colonial Secretary and read a first time.

REPORT—TROPICAL CULTURE.

Debate resumed from the previous day on the motion of the Hon. R. W. Pennefather, "That the reports on the North-West furnished by the tropical expert, Mr. Despeissis, to the Agricultural Department, be laid on the Table."

The COLONIAL SECRETARY (Hon. J. D. Connolly): The adjournment of the debate had been moved so that he might have time to consult the department as to whether there was any objection to laying the papers on the Table. Finding there was no objection, he had no opposition to the motion.

Question passed.

ASSENT TO BILLS.

Message from the Governor received and read notifying assent to the following Bills:—

1. Administration Act Amendment.
2. Coolgardie Recreation Reserve Revestment.

3. Permanent Reserve Rededication (No. 1.)
4. Supply Bill, £384,000.

BILL—FISHERIES ACT AMENDMENT.

Assembly's Amendments.

Schedule of four amendments made by the Legislative Assembly now considered.

In Committee.

No. 1.—Clause 2, line 12: After the word "fit" insert the words, "Provided always that such terms and conditions shall provide that no Asiatic or African alien or any person of Asiatic or African race claiming to be a British subject shall be employed."

The COLONIAL SECRETARY: The Bill was brought in to more fully define food fish, in other words, to allow the Governor to grant an exclusive license for the gathering of turtle. The first amendment made by the Assembly added a proviso that terms should be put in the lease granted to people carrying on the industry that they must not employ any Asiatic or African labour, or any person of Asiatic or African race claiming to be a British subject. This might inflict some hardship on the industry. It might not be possible to get men to work in the water other than Manila men and those engaged in the pearlshell fisheries: but being anxious to see the Bill go through so as to allow companies to take up the waters to collect turtles, he felt that if the amendment was not agreed to, the probability was the Bill would not be passed. He would not contend the proviso would inflict hardship on the lessees, but it was reasonable to suppose it would be better not to hamper the lessees with conditions of this kind. He moved—

That the Assembly's amendment be agreed to.

Hon. M. L. MOSS: This was a very unjust amendment, one for which he certainly would not vote. He objected to legislation of this kind that singled out Asiatic and African people, particularly those who were British subjects,

who were in Western Australia. We had an illustration of this legislation in the Factories Act. That Act was grossly unfair. This was altogether a different proposition to keeping undesirable people out of Australia. People who had properly emigrated to the State were aimed at. The proviso aimed at a class of persons who were largely availed of in connection with the pearl fishing. If it were not for that class of labour that industry would be absolutely a dead-letter; and now this proviso would put a perfectly unjustifiable obstacle in the way of people who would take up these exclusive licenses and embark on this other enterprise. There was a class of politician that absolutely delighted in this type of legislation. The Factories Act was a disgrace, particularly the provisions in which persons of the Asiatic race, who were properly in the State, were specially singled out for different treatment. By all means keep these undesirable people out of Australia, but once they came in there should be the same law for one as the other. This proviso was going to interfere with an industry the Bill was to be passed to enable to be undertaken. He certainly hoped hon. members would not agree to the proviso.

Hon. A. G. JENKINS: One could not follow the argument of the hon. member that though we should keep out undesirable people, we should allow them to follow any occupation if they came in. If they were undesirable we should restrict their operations, he thought. Though he did not favour so much restricting those who were British subjects, certainly those who were aliens he would restrict as much as possible.

Hon. B. C. O'BRIEN: We should give this amendment our heartiest support. Mr. Moss referred to a certain party of politicians.

Hon. M. L. Moss: I did not say "party"; I said "class."

Hon. B. C. O'BRIEN: It was understood the hon. member referred to the Labour party.

Hon. M. L. Moss: I did not say so, but if the cap fits, you can wear it.

Hon. B. C. O'BRIEN: All knew what the hon. member meant. We were not singling out this industry any more than any other industry; but the main object of English-speaking people throughout Australia and the British Empire was as far as possible to keep white the colonies where they were white: and though aliens had been engaged in the past, there was no reason to perpetuate that system. We should endeavour in every way and in every industry where possible to encourage white labour. There was no fear the industry would be wiped out of existence because white labour was to be engaged, because if it was going to live it would live with the assistance of white labour just as well as with black or alien labour. Members should give the amendment serious consideration, and not look at it from a conservative or narrow-minded standpoint. We should make a start in this industry and give support to our white people. We should have all our industries worked by white people if possible.

Hon. R. W. PENNEFATHER: Underlying this amendment was noticeable the thin end of the wedge that would shortly be used no doubt in a similar spirit against a large and thriving industry on the North-West coast, namely the pearling industry. The pearling industry was carried on mainly, if not entirely, by coloured labour, and if an attempt was made to pass such a provision the effect on that industry would be fatal. It should be pointed out that when a person was once a British subject he ceased to be an alien. The word "alien" did not apply to British subjects, but to a person who was not a British subject, therefore the intent to single out British subjects, no matter what their colour might be, and say "You shall not work in that industry because your skin is coloured"—

Hon. J. W. Kirwan: This is the exact wording of a similar clause in the Mining Act.

Hon. R. W. PENNEFATHER: To single out one class of the community who had been admitted, and who had a perfect right to live here, and who

might be British subjects, and to say, "You shall not labour in such and such an industry," would be an arbitrary and cruel procedure. If the amendment were agreed to, it would be a misfortune, and it would mean that in a short time other industries of the State would be similarly attacked.

Hon. S. J. HAYNES: The arguments used by Mr. Moss and Mr. Pennefather were unanswerable. The clause as it appeared on the Notice Paper seemed to be a cruel and a most un-British one. It was no use reiterating the arguments used except to say with reference to the Asiatics who had been naturalised that they were entitled to protection. It should also be pointed out that in a clause of this nature it seemed to him that the Governor would be justified in refusing his assent to the Bill, or reserving the Bill for His Majesty's assent.

Hon. J. W. Kirwan: Exactly similar words appear in the Mining Act.

Hon. S. J. HAYNES: That might be, and it was surprising that the Act had been assented to. The Governor would be justified in reserving the Bill for assent, and the King would no doubt refuse to give it while it contained a clause of the nature proposed.

Hon. M. L. MOSS: There was no doubt whatever that the Governor would not assent to this Bill if it contained the clause in question.

Hon. J. W. Kirwan: How was it that the Governor assented to the Mining Act?

Hon. M. L. MOSS: How was it that assent was given to the Factories Act? It was difficult to say why the Factories Act was allowed to pass.

Hon. J. W. Kirwan: Why should assent be refused in the case of this Act while it was not refused in the other?

Hon. M. L. MOSS: The pearly industry was an industry which would always be worked in tropical waters, and we knew well that Asiatic labour had to be used. Without it there would be no industry. It might be that some members would sacrifice that industry rather than employ any

black labour. On the other hand the Federal Parliament passed an Act enabling these men to be brought in under indenture and conditions that would not interfere at all with the fears expressed by Mr. O'Brien that we were going to contaminate the population of Australia. He (Mr. Moss) was with Mr. O'Brien up to the hilt with regard to that, but the amendment was quite a different thing. It would be absolutely cruel to pass it. Here were people who were proper residents of Western Australia, and some of them were perhaps British subjects; here was an industry too in which this labour was required, and in respect to which white labour was unable to work. Yet a certain class of politician, and with it another class of politician, who were afraid of the Labour Party, attempted to insert a provision of this kind. It was reasonable to place a restriction against bringing undesirable people into Australia, but if they were British subjects why preclude them from taking part in an industry such as pearling. It might be desirable to prevent them from doing certain things, but in connection with labour of this kind we knew that white men would not resort to it when they could get anything else to do. If members agreed to the amendment they might just as well throw the Bill out.

Hon. T. F. O. BRIMAGE: By interfering with the measure in the manner proposed, we would be interfering with the Federal laws. He was one of those who believed in a white Australia as much as anyone, but in a matter of this kind where the Act was purely Federal it was not our right to interfere with it. With a view of hearing further arguments he moved—

That progress be reported.

Motion negatived.

Hon. J. W. LANGSFORD: The amendment in some aspects was repugnant. While not wishing to discuss the question of a white Australia the Committee should have the opportunity of voting on the question of British

subjects, and he would move an amendment on the Assembly's amendment—

That the words "or any person of Asiatic or African race claiming to be a British subject" be struck out.

Hon. M. L. MOSS: The position was that if an Asiatic or African became a resident of Australia, or Western Australia, he was to be precluded from participating in a work of this kind, and it further meant that as we knew the bulk of the Asiatics employed in the pearling industry in the North-West were not British subjects, to carry the principle that the Committee were going to vote upon, would mean that when we were revising legislation dealing with the pearling industry we would close up that industry as far as Western Australia was concerned.

Amendment (Mr. Langsford's) negatived.

Question put, and a division taken with the following result:—

Ayes	..	..	..	7
Noes	..	..	..	12

Majority against .. 5

AYES.

Hon. J. D. Connolly	Hon. B. C. O'Brien
Hon. J. W. Hackett	Hon. W. Patrick
Hon. J. W. Kirwan	Hon. A. G. Jenkins
Hon. W. Oats	(Teller).

NOES.

Hon. T. F. O. Brimage	Hon. R. D. McKenzie
Hon. J. F. Cullen	Hon. M. L. Moss
Hon. J. T. Glowrey	Hon. R. W. Pennefather
Hon. V. Hamersley	Hon. T. H. Wilding
Hon. F. J. Haynes	Hon. C. Sommers
Hon. J. W. Langsford	(Teller).
Hon. R. Laurie	

Question thus negatived: the Assembly's amendment not agreed to.

No. 2.—Clause 2, line 17: Add the following proviso, "Provided that before any license is granted in respect of any length of foreshore exceeding 75 miles, the draft of such license shall, at a time when Parliament is sitting, be laid upon the Table of both Houses of Parliament."

The Colonial Secretary moved—

That the Assembly's amendment be agreed to.

The object of the amendment was to provide that where an exclusive license was

granted for a greater length of foreshore than 75 miles, the draft of the lease must be laid on the Table of the House.

Hon. M. L. MOSS: What would occur if Parliament was not sitting?

The COLONIAL SECRETARY: No lease could be granted. The amendment really provided that the draft must be laid on the Table before the lease was executed, but there was no stated time. He took it that the Minister would lay the draft on the Table stating that the lease would be granted within a certain period.

Hon. J. W. Hackett: These leases could be granted for the foreshore running down to Fremantle.

The COLONIAL SECRETARY: Yes; but turtles did not come down South.

Question passed; the Assembly's amendment agreed to.

No. 3.—Clause 2, line 2 of page 2: After the word "unlawful" insert the words "except as hereinafter provided."

The COLONIAL SECRETARY moved
That the Assembly's amendment be agreed to

This amendment was consequential on the one following. While it was agreed that an exclusive license should be granted for gathering the product of the sea it did not prevent a person gathering any product of the sea for personal use. The subsequent amendment provided that a man could go on the area of the exclusive license and collect marine animals for his personal use.

Question passed; the Assembly's amendment agreed to.

No. 4.—Clause 2, line 8 of page 2: Add the following provisos. "Provided that it shall, nevertheless, be lawful for any person to collect or gather therein any marine animal life or product of the sea for his personal use or consumption, but not for sale or barter. Provided also that nothing contained in this Act shall authorise the issue of any exclusive license to collect hawks bill turtle, trepang, otherwise beche-de-mer, or dugong."

The COLONIAL SECRETARY moved
That the Assembly's amendment be agreed to.

Hon. M. L. MOSS: There was a statute in reference to the taking of kangaroo

in respect of which prosecutions were held. There was a similar saving clause allowing kangaroo to be taken for a man's personal use, but it was difficult to prove that the kangaroos were not taken for personal use. A man might have a large number of marine animals in his possession, and it would be a difficult matter to say whether they were for personal use. It was a question whether or not the onus should rest on the person having the animals in his possession to prove that they were for consumption.

The COLONIAL SECRETARY: There was nothing to be feared. Prosecutions had arisen under the Game Act in regard to kangaroos, but he did not think that prosecutions could arise in connection with this Bill.

Question passed; the Assembly's amendment agreed to.

Resolutions reported, and the report adopted.

A committee consisting of the Hons. M. L. Moss, R. W. Pennefather, and the Colonial Secretary drew up reasons for not agreeing to amendment No. 1.

Reasons adopted, and a Message accordingly returned to the Assembly.

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#### BILL—AGRICULTURAL BANK ACT AMENDMENT.

Received from the Legislative Assembly, and read a first time.

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BILL—METROPOLITAN WATER SUPPLY, SEWERAGE, AND DRAINAGE.

In Committee.

Clauses 1 to 6 agreed to.

Clause 7—Power to alter boundaries:

Hon. M. L. MOSS: Seeing that Parliament created these districts, why should not the alteration of the boundaries be left to Parliament. It was an extensive power to leave in the hands of the Governor-in-Council. A large sum of money had been expended on waterworks in Perth, and a very much lesser sum in Fremantle. Even more striking was the difference between the sums paid in Perth and in Guildford, and if Guildford were to be included in Perth, the Guild-

ford people would be subjected to a very much heavier rate than that which they were entitled to pay. He would vote against the clause.

The COLONIAL SECRETARY: It was true that Parliament was creating these districts. The necessity for the creation of the districts lay in the necessity for differential rating, the cost being greater in some districts than in others. It was desired to strike a rate in each district just sufficient to cover the interest and sinking fund on money expended in that district. That was the only reason why the districts were defined at all. If there were a common source of water supply there would be no need for districts, and the area could be treated as a whole. But for one or another reason it might be found necessary to alter the boundaries of one of these districts, and with a view to that contingency the power was given to the Governor-in-Council to re-define the districts. If this power were not given a district might be called upon to pay a greater rate than it was justly entitled to pay.

Hon. M. L. MOSS: You could always get Parliament to alter the boundaries shortly after the occasion for such alteration arose.

The COLONIAL SECRETARY: Surely it was not thought that the Minister controlling the measure would wish to place any unfair burden on any one district. It was a wise provision as it stood, and it should be allowed to stand.

Hon. M. L. MOSS: It would seriously affect the province he represented if the people down there were to have cast upon them the burden of contributing equally with the people of Perth; and if any part of Guildford were to be included in the Perth district the hardship would be even greater. The principle contained in the clause was a most pernicious one. Certainly the present Minister for Works would discuss the matter from an impartial point of view. But Ministers came and Ministers went, and some day we might have a Minister who would not be actuated by the same high motives. Any alteration of the boundaries should be left to Parliament, which would be in

session shortly after the end of each financial year. Seeing that Parliament fixed the districts, it was not asking too much to suggest that any alteration of the boundaries should be left to Parliament. The clause would be capable of working a very serious injustice on people living outside the city of Perth proper.

The COLONIAL SECRETARY : The clause had been put in for the purpose of protecting the districts. A perusal of Clause 126 would show how necessary it might be for the Minister to alter the boundaries. Supposing, for instance, that in one part of Fremantle some extensive sewerage works were to be laid down, the Minister would require power to re-divide the district, so as to collect a shilling rate on the part containing the sewerage, and only sixpence on the other. If the matter were not left to the Minister to fix up, a Bill would have to be brought into Parliament, and in the meantime, the whole of the district would be paying, say, a ninepenny rate, whereas the one part of the district should not be called upon for more than sixpence.

Hon. M. L. MOSS : The equivalent in a Municipal Act would be that the Governor would have power to include Guildford in Perth ; yet the amounts raised by way of loan in the two districts would probably be out of all proportion one with another. Why, then, should Guildford be called upon to pay the same loan rate as Perth was paying ? Parliament should be the tribunal. This matter should not be decided by the Minister. An Order-in-Council could not be undone until the Government advised the Governor to revoke it, or until some other Government came into power. Parliament could not revoke it. Why should not Parliament keep the matter in its own hand ? Clause 126 provided that in order to ascertain the amount of interest and sinking fund necessary the capital cost was to be estimated by the Minister. That was all right. But when once that was done, and a proper rate was levied to pay that interest and sinking fund, there should be no alteration made by the Minister. Parliament should be properly consulted. The proposal in Clause 7

would be to give the Minister greater power than was ever given to a Minister.

Hon. J. W. KIRWAN : The argument put forward by Mr. Moss amounted to this, that if a Minister maladministered an Act, injustice would be done ; but that applied to every act that could be done by any Minister ; and if because a Minister might act wrongly we were not to pass certain legislation or give a Minister certain power, little legislation would be passed. On the other hand, with Clause 7 struck out, more injustice would be done. Circumstances might arise where it might be necessary to alter the boundaries of a district, but the alteration could not be made until Parliament met, and we all knew the difficulty of getting small Bills through both Houses. If a Minister did a grossly unjust act, Parliament would deal with the Minister. One could not understand the members in both Houses for the district concerned not pointing out the matter, and making it so unpleasant for the Minister that certainly the Minister would have to reconsider the matter. We must give the Minister credit for common sense and, if so, must vote for the retention of the clause.

Hon. M. L. MOSS repudiated the insinuation that he would not give the Minister power to make an Order in Council ; it was necessary to carry on ordinary administration ; but the power sought to be given in this clause had never been sought in any other legislation. Certainly it was in the Act of 1904, but that Act was passed on the distinct promise that it would not be proclaimed until Parliament had the opportunity of revising its provisions, though he did not complain about the publication of the proclamation when it became absolutely necessary to get statutory authority to make connections on private property.

The COLONIAL SECRETARY : This was a distinct improvement on the provision contained in the 1904 Act, because that Act provided a flat rate, or in other words, that the four districts be one district. The intention was that each district should pay interest and sinking fund on the capital spent within its boundaries. If the clause was struck

out the only difference would be that the Minister would have to bring in a Bill altering the boundaries, so as not to place on any district a burden to which it was not entitled. The instance of adjoining municipalities could not be fairly cited by way of comparison. A municipality had power to strike a rate whether it was needed or not, whereas the Bill provided a rate could only be struck sufficient to cover interest and sinking fund and working expenses ; so there was no danger in this regard. Paragraph (a) gave the Minister power to alter or extend the boundaries of any area or district. It was quite likely mains would be extended beyond the boundaries of a district, but if the clause were struck out the district would have to bear the whole cost of the extension until a Bill was brought in to alter the boundaries so as to cover the new area in which the mains were placed, whereas the Bill now provided that the Minister could straightaway alter the boundaries, and the area affected by the new water or sewerage mains would immediately have to help in bearing the cost of the work. By omitting the clause it would be necessary to wait perhaps six months or twelve months before that could be done.

Hon. J. F. CULLEN : For the reasons advanced by the Colonial Secretary paragraph a should be retained because the growth of districts might make it necessary to extend mains : but the word "alter" should be omitted, leaving simply the power to extend the boundaries of an area or district. However, the power given in paragraph b was so enormous that it would be well worth having a Bill passed to give effect to it. In order to test the feeling of the Committee he moved an amendment—

That in paragraph (a) the words "alter or" be struck out.

Amendment put and negatived.

Hon. M. L. MOSS : It would be well perhaps to add a proviso to the effect that the Order-in-Council should cease to have any force or effect until both Houses of Parliament within a month after meeting approved.

The COLONIAL SECRETARY : That would be equivalent to striking out the

clause. He could not accept the proposal.

Hon. M. L. MOSS : Then I will vote the clause.

Hon. J. F. CULLEN moved an amendment—

That paragraph (b) be struck out.

The COLONIAL SECRETARY : This paragraph was just as essential as the preceding one. Claremont had no sewerage or storm-water, but it was quite probable that within a year or two there would be a sewerage area over a limited portion of the Claremont district, and the paragraph would give the Minister the power to subdivide the Claremont district, charging the higher rate necessitated by the sewerage works on the one district, and the lower rate in the other district.

Hon. R. LAURIE : The amendment should be passed. Parliament had laid down the districts in Clause 6, yet Clause 7 asked for the power to be given to the Minister to enlarge those districts. The works carried out in one district might necessitate not more than a rate of 9d., yet that district might be added on to another district where the rate necessary was 1s. 6d.

Hon. J. W. Kirwan : If a Minister did that it would create a public scandal.

Hon. R. LAURIE : It was shown that within six months Parliament could give power to do certain things. It would take six months perhaps to remove that public scandal. It would be left to the Minister and it was possible that the Minister might err. Such a power as was proposed should not be given, and if it cut one way, as Mr. Kirwan had said, it would be a public scandal, and the Committee should place the scandal beyond the possibility of happening.

Hon. M. L. MOSS : Having looked at the 1904 Act he had found that the subclause contained in the Bill was not in that. In Section 7 of the Act power was given to alter or extend the boundaries of the area and divide the area into water and sewerage districts.

The Colonial Secretary : It was necessary in the 1904 Act because it was one area.

Hon. M. L. MOSS : It was on account of one area and one uniform rate that the 1904 Act was so seriously objected to at the time, and that was why the Government promised it would not be proclaimed until there was an opportunity of revising its provisions. Now Parliament was fixing the areas and we were going to delegate to Cabinet the power to alter them.

Hon. J. W. LANGSFORD : It should be remembered that the Committee were dealing with works which were constantly growing and which were certainly not in full operation yet. The idea of Mr. Moss was a very laudable one but it could be best achieved by allowing the clause to remain as it was. No extra rate would be put on these districts unless facilities and advantages accrued, and in that case those who enjoyed the advantages would be only too willing that the districts should be extended. Where an injustice might be done it would be better to approach the Minister by deputation, especially in the matter of rating ; that course would be better than to wait until the area could be changed by Act of Parliament. An instance might be given with regard to Claremont. It was felt there that the water rate was not equitable ; the Minister was approached and the deputation got what was requisite, and that too without the aid of Parliament and the alteration of the districts.

Hon. R. LAURIE : The object of dividing the areas into four districts was, so that a particular district should be charged for the work done in it. Why should a district which was costing only a small amount be made to share the cost of a district where the cost would be considerably higher ? Parliament had defined four definite districts, and, having done so, why should it be left to a Minister afterwards, even with the assistance of his colleagues, to alter those districts ? It could be understood that Mr. Jenkins would say that they should do so ; the probability was that the district that he represented would cost an immense sum, and he would like to drag some of the other districts in with it. Another place

had said that there should be four defined districts for the time being and it was for Parliament to determine whether these four districts should be altered or not.

Hon. C. SOMMERS : It was his intention to support the Clause as it was printed. This was a big and a new work and those responsible for drafting the Bill could hardly tell what alterations might be needed. We should be liberal, particularly in the early stages, and give the Minister as much scope as possible to do what he thought was necessary. Seeing that there would be many opportunities of bringing the matters which had been referred to before Parliament the Committee could safely trust the Minister in this respect.

Amendment negatived.

Clause put and a division taken with the following result :—

Ayes	..	..	..	9
Noes	..	..	..	5
				—
Majority for	..	..	..	4
				—

AYES.

Hon. J. D. Connolly	Hon. J. W. Kirwan
Hon. J. M. Drew	Hon. C. Sommers
Hon. J. W. Hackett	Hon. T. H. Wilding
Hon. S. J. Haynes	Hon. J. W. Langsford
Hon. A. G. Jenkins	(Teller).

NOES.

Hon. J. F. Cullen	Hon. M. L. Moss
Hon. V. Hamersley	Hon. T. P. O. Brimage
Hon. R. Laurie	(Teller).

Clause thus passed.
Progress reported.

House adjourned at 6.18 p.m.