**VERMIN DISTRICT (No. 26) BILL 1889**

**Legislative Council, 30 October 1889 pages 1375-8**

Second reading

The MINISTER of EDUCATION (Hon. J. H. Gordon) moved the second reading of the Bill. The circumstances that necessitated the passing of the Bill were peculiar. The Vermin Destruction Act of 1862 appointed vermin boards controlling certain districts. By the Vermin Act Repeal Act the clauses empowering this were abolished, but at the time many of the boards had money in hand collected by rates for the destruction of vermin. A number of these boards voluntarily gave up the money which was lying to their credit to the district councils. But there was one district—No. 26, Wilmington— the members of which seemed to have a mind of their own on the subject—(A member—“ And quite right too”)-and they objected to the action of the late Treasurer in seeking to appropriate the money in the way that gentleman decided. When Mr Playford made up his mind he kept to it, and as the board were resolute, a dead lock resulted. The position was an awkward one, the difficulty of which, however, could have been overcome, in his opinion, by the exercise of a little *suaviter in modo*. The amount to the credit of this particular board was £671 6s. 7d., which bad been placed in the National Bank. When the board declined to hand over the money for the purpose which Mr. Playford in his wisdom had decided upon, that gentleman gave the bank notice that it was not to pay the money over to the board. The bank did not feel justified in taking this action unless a guarantee were given by the Treasurer then in office against any damages that might accrue from it. This was done. The board drew a cheque on the amount, which was returned dishonored. A case on the matter was fought out in the Supreme Court. The court held that the bank had no right to dishonor the cheque of the board, and consequently had acted illegally in interfering with the funds. A verdict for £150 damages was made with costs, amounting to between £500 and £600 (Mr. West-Erskine—“Two or three thousand altogether.”) He was not prepared to go as far as that. The board having thus demonstrated that the Treasurer was wrong in the action, said that they did not want the money, and if the Government would protect them against any claims that might be made against them they would be satisfied. The position

now was that the vermin board if protected against the claims of third parties would not ask for the £671 6s. 7d. He was not there to defend the action taken by the late Treasurer or the vermin board, which might or might not have been courteous; but at all events illegal action had been taken. He did not think any ratepayers would claim any of the money and if they did he did not consider they would have any *locus standi*. When the Act was repealed legislation should have been brought in for the disposal of the funds In a way to determined by Parliament The district councils, he considered, should be given the money, "as to some extent the obligation of keeping down the vermin rested with them". The offer made by the Wilmington board only remained open till November 3, so that he would ask members to settle the fate of the Bill that day. He thought the solution of the difficulty arrived at by the presort Government was the best one under the circumstances. (Hear, hear.)

The Hm. J. H. ANGAS regretted exceedingly that such a mistake bad been made by the late Government. He thought members would recognise that throughout the whole proceedings very extraordinary action was adopted. Money was raised by the Government for the destruction of vermin, and before ft was expended the Vermin Act was repealed, which he considered was a very bad thing for the colony. No provision was made for the distribution of the money then held by the boards. The Wilmington board acted in a proper manner and put their money in a bank on deposit, but the Government adopted a very undesirable course with regard to this money. They induced the manager to refuse payment of the cheques drawn by the Vermin Board, and demanded that the amount deposited should be handed over to them. When the bank refused to do so the Government guaranteed to hold the bank harmless and so got possession of the money. He was exceedingly sorry that such action as was described bt the Minister of Education should have been taken. It was beyond the power of the board, however, to distribute the money they held, and it ought to have been left in the bank at interest until legislation as to its distribution was introduced. The matter might have been dealt with in a way by which much litigation and the accompanying law costs could have been obviated. A gentleman who had contributed largely to the funds in that particular district had complained to him of the manner in which the funds had been used. He thought the Bill should be thrown out. It would not be just to pass the Bill. The matter was unjust, illegal, and undesirable, and if the Council passed it a vicious principle would be affirmed and they might be asked to pass other obnoxious measures. Even if the Bill were to become law he could not see why there should not be more litigation, as those who contributed the funds might bring an action against the board who had agreed to this composition with the Government. He moved that the Bill be read “ this day six months" (hear, hear.).

The Hon. W.A..E. WEST-ERSKINE said they were asked to legalise a robbery. The money was raised for a certain object and it had been used for a totally different purpose. (Hear, hear ). The extraordinary action of the late Treasurer in telling the bank not to honor the cheque was to be condemned, and indeed the bank was also to be blamed for allowing itself to be bullied. One point had been lost sight of by the Minister. Several ratepayers in this vermin district did not contribute anything at all. The money of those who did contribute was to be returned for the benefit of the district council. What about those residents who never paid op their proportion at all? Was it right that a tax should be imposed on a certain section of the community who honestly paid their rates, and that those rates should be handed over for the benefit of those who never contributed a farthing? (Hear, hear.) For several years they had been legislating to attempt to repair the mistakes made by the Hon. Thomas Playford. This was another case of arbitrary action, which would cost several thousand pounds. He felt convinced that the Council, having their honor at stake, could not possibly pass this Bill (Hear, hear),

The Hon. J.G. RAMSAY said the last two hon. members who had spoken did not seem to understand the nature of the Bill. By the repealing Vermin Act and the Local Government Act the destruction of Vermin had been placed in the hands of the district councils in certain districts. The boards had no power to expend the money or to give it back to the ratepayers who paid it. The late Treasurer did the right thing, but he did it in the wrong way. He should have got power by legislation first of all. It was the proper way for the money to be appropriated, but whether it was right or wrong the Bill did not alter it in any way. It only protected the board, who thought they were wronged, from any action which might arise.. This Bill was to be passed at the request of the board (No, no; and an hon. member—“Too thin ”). If hon. members would read the Bill they would see the object He could not see what good could be done by not passing this Bll. If they did not pass it the action of the Council would compel the Ministry to pay this £600 to the board, who would only have to retain the money until legislation was passed instructing them how to distribute it Would not that be absurd? (Mr- West-Erskine— “No, the proper people will be paid then.") . If the Bill were not passed it would only make "confusion worse confounded." Be hoped hon. members would look into the Bill and see the effect; of it, when he was sure they would see the advisableness of passing the measure. (Hear, hear.).

The Hon. J. WARREN supported the amendment. He would point out that the district council in that vermin district refused to pay for the destruction of vermin there. The district councils were acting contrary to the provisions of the Dog Act. Perhaps they did so because the late Government refused to pay for scalps He did not know what the present Government intended to do in this direction, but be hoped they would improve upon their predecessors. The only just way to distribute this money was to divide it pro rata amongst those who contributed it. Be hoped the Council would not condone the action of the Government, which had been strongly condemned by one of our judges (Hear, hear.) This Bill would only confuse matters more by legalising an illegal act. Many of the ratepayers were opposed to the proceeding, and he could not see that this Bill if passed would finally settle the matter. He hoped the amendment would be carried.

The Hon. J. V. O'LOGHLIN had been rather mystified by the contradictory statements that had been made. The Minister of Education said this Bill was in accordance with the wishes of the board, and if both parties to the wrangle were willing to agree to this composition it would be as well to pass the Bill (Hear, hear). The Council would be wise to agree to the Bill and allow the matter to drop. He would be glad to know if the Bill was in accord with the wishes of the board. If this was the case be could see no reason why the Bill should not be passed. (Hear, hear.)

The Hon. A R ADDISON said to pass this Bill would be to endorse the high-handed action of the late Treasurer, and the bank in handing over the customers’ money to the Treasurer had acted disgracefully. It was the place of the hank to have refused such an improper request when it was made. To pass the Bill would have the effect of endorsing the action of the Treasurer and the action of the bank, and be refused to do either.

The Hon. A HAY intended to support the Bill, but he did not Intend to endorse the action of the late Treasurer or the bank. The late Treasurer bad acted foolishly, but the bank were justified in acting as they did after they had received the guarantee of the Treasurer of the colony. The coots of the action were already about £500, and it was no use throwing out this Bill, as they would not get the money from the Hon Thomas Playford, If the lawyers were to go on with it and another £500 were to be wasted let them throw out the Bill. It had been a bad and a stupid business, and did not redound to the credit of the late Treasurer, but as we had got into the mess it was better to pass the Bill than to waste more money.

The Hon. H SCOTT was not quite sure that it was desirable to carry the amendment, though be sympathised with it. If the money were returned to the board certain legal proceedings might be commenced by the Government against the board to prevent them from distributing the money. The amount of money in question was £671 6s. 7d. If a penny was added so as to make it £671 6s 8d. fed. it would be a very suitable amount for lawyers to divide amongst them. That was what would be done if the Government chose to be disagreeable over the matter. If he were a member of the board he would pay the money into the Supreme Court and apply for a direction of what to do with it. That would mean that all the money would be spent, and this was not what the Council wished to do. It would have been best to have adopted the course taken by the other boards, who had quietly distributed the balance among the contributors. If, however, that matter came before the courts the Government might obtain an injunction to prevent a further distribution of those funds, and the rightful proprietors would never get their money. He would support the Bill if the Minister of Education would agree to the following to the final clause :—"Nevertheless the sais sum of £671 6s. 7d. shall be paid by the Government to the vermin board for the purpose of the distribution amongst the subscribers to the funds of each boards in proportion to the amount contributed by such subscribers". The money if not required by the board should have been returned to the subscribers. If the Bill were thrown out this could not be done The Council Should pass the second reading, and then seek to amend it. If this failed members would have an opportunity of throwing it out on the subsequent reading. It had been suggested to him that the money might he applied for the destruction of wild dogs, but he would sooner see it returned to the subscribers.

The Hon. S. TOMKINSON said the Bill had been introduced owing to an illegal action of the late Treasurer. He would like to know whether in the event of the Bill being not carried Messrs Playford and Kingston could not be personally held liable for the amount? This was only another evidence of the arbitrary high-handed action of Mr. Kingston. He hoped the Council would throw out the Bill. Such conduct on the part of Governments should not be, countenanced.

The Hon. W. A. E. WEST-ERSKINE moved—“That the House divide.”

The motion was put in the form that the word "now ” stand part of the question, which was declared carried. The Hon. W. A. E. WEST-ERSKINK called for a division, which resulted as follows:

 AYES, 9—The Hons. H. E. Bright, W. Copley, G,W. Cotton, A. Hay, J. Martin, J. V. O’Loghlin. J. G. Ramsay, H. Scott, and the Minister of Education (teller).

NOES. 7—The Hons, A. R. Addison, J. H. Angas, J. Bosworth, M. Salom, S, Tomkinson, J. Warren, and W. A. E. West-Erskine (teller), majority o! 2 for the Ayes

The Bill was then read a second time.

In committee.

Clause 1. No action to be brought against the board of directors of District No. 26 or the Treasurer.

The Hon. H. SCOTT hoped that the Minister of Education would not proceed further with the Bill that afternoon, as it was desirable that the Council and the Minister should have an opportunity to fully considering the matter.

The Hon. A R. ADDISON said he hoped that the Bill would be taken on and allow them to get rid of a dirty action as soon as possible.

The PRESIDENT—The hon. member is not in order in referring to the Bill as “a dirty action."

The Hon. H. E BRIGHZ could see no good in delaying the Bill.

The Hon. W. A. E. WEST-ERSKINE could not understand that Mr. Bright, an old politician, should consent to a Bill of this description being rushed through. The Bill was necessitated by one of those messes made by the late Government, and which had to be dealt with by the Ministry now in power. He would be no party to such a system, which could only be characterised as "legalised robbery".

The MINI8TER of EDUCATION (Hon. J. H. Gordon) said the position was that the board had a verdict against the Government, but had given the Government till November 3 to pass the Bill. If it were not done in that time the Government would have to pay the damages and costs. The difficulty might have been avoided, but the question was how to avoid further litigation. He would be to see another way out of it. They could not pass the Hon. Mr. Scott’s suggested amendment, as this was a money Bill.

The Hon. J. H. ANGAS would like to see the discussion adjourned. The money had already been given to another board though in the same district. He could not see why the Council should do what was not right.

The Hon. J. G. RAMS AT moved that the committee divide.

Carried.

The clause was then put and declared carried. The Hon. W. A. E. WEST-ERSKINE called for a division, which resulted as follows:

 AYES, 9—the Hons. H. E. Bright, W. Copley, G W. Cotton, A. Hay, J. Martin, J. V. O’Lognlin, J. G. Ramsay, M. Salom, and the Minister of Education (teller).

NOEs, 7—The Hons. A. R. Addison, J. H. Angas, J. Bosworth, H. Scott, S. Tomkinson, J. Warren, and W. A E. West-Erskine (teller).

Majority of 2 for the Ayes.

The preamble and title passed.

The Bill was reported and the report was adopted.

The MINISTER of EDUCATION (Hon. J. H. Gordon) moved- “ That the standing orders be suspended to enable the Bill to pass through its remaining stages without delay.”

Carried.

Third reading.

The MINISTER of EDUCATION (Hon. J. H. Gordon) moved that the Bill be read a third time.

The Hon. J. WARREN said if this Bill passed the Government would be taking money raised for a certain purpose and handing It over to a different body for a different purpose. (Hear, hear.) If this were legalised would it not give the Government the power to take money which was in a similar position at the present time ? (Hear, hear.) This money had been subscribed by certain parties on their own accord for the purpose of destroying vermin on their own property, and the Government would, he thought, be justified in taking money from the bank and distributing it as this had been done. There were such sums at the present time; and in some cases the money had been distributed pro rata amongst the subscribers. Could the Government collect these sums and give them to other bodies? (Hear, hear.) It was outrageous that this Bill should have been rushed through in this manner, and he would vote against the third reading unless he was satisfied with the explanation of the Minister of Education on this point. It was not likely that people would come forward again to subscribe in such a way if this Bill were passed

The Hon. W. A. E. WEST-ERSKINE said if the Bill were passed there would be no guarantee against a dishonest Treasurer appropriating funds of a bank.

The Hon. H. E. BRIGHT moved ‘‘that the Council do now divide."

The third reading was declared carried.

The Hon. W. A. E. WEST-ERSKINE called for a division, but the request was subsequently withdrawn. The Bill was then passed.