

member, who knows the forms of the House better than I do, should know that these resolutions cannot go as formal motions, and if we were to appoint a particular time for them to come on, one of them might give rise to a debate which would block the whole of the Government business for a night. I do not see any way out of the difficulty except taking the resolutions in the ordinary course on a private night. As regards the rolling stock on the Cooma railway, I replied to a question about that matter early in the sitting.

Question resolved in the affirmative.

House adjourned at 1.15 a.m. (Wednesday).

Legislative Council.

Wednesday, 19 June, 1889.

Land, Crops, and Stock Returns Bill—Parliamentary Representatives Allowance Bill—Manly Drainage Works Bill.

The PRESIDENT took the chair.

LAND, CROPS, AND STOCK RETURNS BILL.

Bill read the third time.

PARLIAMENTARY REPRESENTATIVES ALLOWANCE BILL.

Bill received from the Legislative Assembly.

Mr. SALOMONS moved :

That this bill be now read the first time.

He said: I should like to be allowed to state that I have been asked to take charge of this bill by reason of my hon. friend, the Vice-President of the Executive Council, not feeling justified in proposing it on account of his being opposed to it.

Question resolved in the affirmative.

Motion (by Mr. SALOMONS) proposed :

That the second reading of the bill stand an order of the day for this day week.

Mr. H. C. DANGAR: I should like to take this opportunity of suggesting to the hon. and learned gentleman that upon the occasion of the second reading of this bill there should be a call of the House. I think it is a matter of such great importance to

the community generally that it is highly desirable to have a call of the House on that occasion. If that is agreed to, the postponement of the second reading for a week would hardly be sufficient, and I would therefore suggest to my hon. and learned friend the desirableness of postponing it for a fortnight, at any rate.

Mr. BUCHANAN: I do not see why the proposal to postpone this measure should be entertained by the House. It is not a new measure that we are going to discuss for the first time. I think it has been three or four times before this House; it has been three times passed by the other House, and there is no justification of any kind for a postponement. As to the call of the House, if hon. members do not like to attend, whose fault is that? It is not the fault of the promoters of this bill, nor the fault of the bill, but their own fault; and why should the House go out of its way for them? I think that considering this bill is almost threadbare from the discussion it has had, it would be an unjustifiable act of procrastination to stop it any longer than is proposed by the hon. and learned member, Mr. Salomons.

Sir WILLIAM MANNING: I have never expressed myself very strongly against this measure. In fact, a great many years ago I expressed myself in this place rather in favour of a bill of the sort, and I am not at all prepared to say now what course I shall take on this occasion. The matter has assumed a very different aspect now, because there have been threats held out in connection with the measure; and we have heard it said that a crisis will probably arise if the Council rejects the bill. Therefore, I think it highly important that there should be a call of the House.

Mr. SALOMONS: I regret that I cannot accede to the suggestion of my hon. and learned friend, Mr. H. C. Dangar. This question has been discussed for some years, and it will be well known, I think, to every member of the Chamber long before next Wednesday that the second reading is to take place on that day. With every respect for the hon. and learned member, Sir William Manning, I think it would be lowering to the dignity of the House to consider that threats have been made by any member of the other House.

Mr. JACOB : They were cheered by the rest !

Mr. SALOMONS : Cheers are too unsubstantial for us to take notice of them. I cannot see any necessity for postponing the second reading of the bill.

Dr. GARRAN : I do not think that the fact that threats have been made should enter into our consideration. They did not come from a minister, and if we take notice of everything which comes from persons who occupy a position in the other Chamber, we shall place ourselves at the mercy of the most garrulous and reckless members of that House. Of course, they have the right to say anything about us they like ; but I think we shall be going beyond our position in making what has been said a reason for the postponement of the consideration of this bill.

The PRESIDENT : I think I cannot allow this discussion to continue, since the hon. and learned member, Mr. Salomons, has replied.

Mr. H. C. DANGAR : It was not understood that the hon. and learned member, had replied. He had no right to get up and stop the discussion.

Question put. The House divided :

Ayes, 22 ; noes, 14 ; majority, 8.

AYES.

Buchanan, D.	Renwick, Dr. A.
Creed, J. M.	Rundle, J. B.
Dodds, A.	Salomons, J. E.
Garran, Dr. A.	Shepherd, P. L. C.
Hill, R.	Stephen, Sir Alfred
Hoskins, J.	Stewart, J.
Humphery, F. T.	Suttor, W. H.
Lamb, W.	Trickett, W. J.
Macintosh, J.	
Moore, C.	<i>Tellers,</i>
Neale, J. H.	King, P. G.
Pigott, W. H.	Webb, E.

NOES.

Bowker, Dr. R. R. S.	Norton, J.
Charles, S.	Smith, J.
Dangar, H. C.	Vickery, E.
Jacob, A. H.	White, R. H. D.
Kater, H. E.	
Knox, E.	<i>Tellers,</i>
Manning, Sir William	Lackey, J.
Moses, H.	Thornton, G.

Question so resolved in the affirmative.

[*Mr. Salomons.*

MANLY DRAINAGE WORKS BILL.

In Committee (consideration resumed from 12th June, *vide* page 2097) :

Clause 3. The cost of carrying out the work hereby sanctioned, shall be defrayed from moneys to be provided by loan, but such cost shall be repaid to a loan trust fund by the municipal authorities of the localities served by the said work, as provided by the Metropolitan Water and Sewerage Act of 1880. And parts five and six of the said act shall apply to such municipalities in all respects as if instead of the words "board" or "president of the board" the words "Secretary for Public Works or the member of the Executive Council for the time-being charged with the duties of the said minister" were therein substituted. 15

Dr. GARRAN said that he desired to move an amendment in order, as he had explained on a previous occasion, to bring the bill under the machinery of the Metropolitan Water and Sewerage Act. The clause, as it stood, simply said that the cost should be defrayed as provided by that act ; but it did not distinctly enact that it should be a work under its provisions. It was not a work under the act ; it was an outside work altogether. It would be only by implication, and not by express enactment, that the machinery of the act could be brought to bear upon the municipality to compel the repayment of the money. He moved :

That all the words after the word "to," line 4, be omitted with a view to insert in lieu thereof the following words :—"the Colonial Treasurer, to be by him carried to a loan trust fund by the municipality served by such work, upon the transfer thereof, after completion by the constructing authority to the council of such municipality. Such cost shall be a debt chargeable upon the general revenues, from whatever sources derived, of such municipality until defrayed : Provided that such debt shall be liquidated by the municipality aforesaid, and be recoverable by the constructing authority in the same manner as is provided in part V of the Metropolitan Water and Sewerage Act of 1880 for the liquidation and recovery of expenses incurred for sewerage works thereby sanctioned ; and this act shall be read as if such portions of the said part V as provide for the payment and recovery of the debt therein mentioned were part of this act, with the necessary modifications to suit the provisions thereof."

Mr. W. H. SUTTOR : I protest again against the proposed alteration, because I

consider that the clause, as printed, is quite sufficient to carry out the object of the bill. Let us dissect, as far as we can, the amendment. It says, in the first place, that the cost of the work shall be repaid to the Colonial Treasurer, to be by him carried to a loan trust fund, by the municipality served by such work, upon the transfer thereof, after completion, by the constructing authority to the council of such municipality.

The whole of that provision is contained in the clause as it stands. It is also contained in section 135, part V, of the Metropolitan Water and Sewerage Act, which provides for the transfer of works to local authority. The amendment goes on to say that

such cost shall be a debt chargeable upon the general revenues, from whatever sources derived, of such municipality until defrayed.

That provision, I maintain, is contained in section 136, part V, of the Metropolitan Water and Sewerage Act of 1880, which provides that the whole amount expended upon such works

shall be a debt chargeable upon the general revenues, from whatever sources derived, of such borough or district until defrayed as hereinafter provided.

What we propose to do by the clause is to ingraft, and I maintain that the clause as now drawn does ingraft, upon the bill all the provisions of part V of the Metropolitan Water and Sewerage Act which are quite sufficient to carry out the provisions of the bill. There is no provision in the hon. member's clause for the work being carried out by the constructing authority. The clause, as it stands, simply provides that the work shall be carried out by the Secretary for Public Works in lieu of the board, and gives him all the power which the Metropolitan Water and Sewerage Board have under the Water and Sewerage Act. I hope that the Committee will leave the clause as it is. I am satisfied from the advice I have received that it carries out the whole object of the bill. In a bill of much more importance, the North Shore Drainage Works Bill, we allowed a similar clause to remain, and in view of that fact it would be undesirable to amend this clause.

Mr. R. E. O'CONNOR agreed with the object aimed at by the hon. and learned member, Dr. Garran, which was to impose upon the municipality a legal liability

to repay the money. At the same time it must be obvious that if there was any existing machinery which might be made the means of enforcing that liability it would be better to adopt it. Parts V and VI of the Metropolitan Water and Sewerage Act contained very elaborate provisions for imposing upon municipalities the cost of works of this kind. Those provisions were of the most complete character, and provided for every possible contingency. We should not take this bill as standing by itself. It was only one of a class which would probably be numerous, and it was therefore desirable to adopt such general machinery as was contained in the Metropolitan Water and Sewerage Act. If we attempted to deal with the question of repayment in each bill separately, we might possibly omit something of importance. The 3rd clause, as proposed by the Government, provided in the most complete way for bringing into force all the machinery under parts V and VI of the Metropolitan Water and Sewerage Act. Turning to that act we found a most complete method of recovering this kind of charges. For instance, in section 136:

Upon the transfer to any such local authority of any works constructed by the board —

and for "board" was to be read here "Secretary for Public Works."

under the authority of this act it shall be lawful for the Governor by the original or any subsequent proclamation published as aforesaid to declare that any special powers or provisions contained in this act —

should apply to such local authority ;

and the following provisions shall also come into force upon the publication of the proclamation of transfer hereinbefore mentioned :—

(1.) The whole amount expended upon any such works as certified upon the hand of the president of the board —

in this case Secretary for Public Works.

or such proportion thereof [in cases where the expenditure ought to be apportioned between several boroughs or municipal districts by reason of their common enjoyment of the benefit of the works or for any like community of benefit] as shall after ascertainment in accordance with the principle hereinafter in section one hundred and forty described be certified in like manner shall be a debt chargeable upon the general revenues from whatever sources derived of such borough or district until defrayed as hereinafter provided.

That, therefore, gave the Government a statutory charge upon the revenues of

every kind of the municipality until the debt was paid. Sub-section 2 provided :

Such debt shall be liquidated by periodical payments to the Colonial Treasurer to be by him carried to the consolidated revenue fund. And the first payment shall be made within one year from the date of the proclamation of transfer and shall be for an amount equal to six pounds per centum of the debt so certified as aforesaid. And before the end of each succeeding municipal year thereafter a payment shall in like manner be made until the aggregate amount so paid shall have discharged such debt with interest added thereto at the rate of four per centum on the balance remaining unpaid in each year. So soon as the sums so paid shall equal the said debt together with interest added as aforesaid all further payments shall cease and the rates and income arising from such works shall go wholly toward the endowment of such borough or municipal district.

So that it not only made the cost a charge upon the funds, but provided that it should be paid in a certain way—that at least 6 per cent. should be paid the first year, and after that certain instalments should be paid until the whole debt was cleared off. Then the act provided for the case of delay, so that if the municipality did not pay, proceedings might be taken for the appointment of a receiver, who would receive all the funds of the municipality and pay the Government.

- (3.) If default shall be made by the council of such any borough or municipal district in making any payment prescribed by this section for a period of thirty days after the same shall have become payable the board shall be entitled forthwith to take such proceedings to enforce payment by procuring the appointment of any number of persons not exceeding three to be receivers of the rates and other revenues of such council as may now or hereafter be taken by a mortgagee or other secured creditor or by the holder of the debentures of a municipal council under the Municipalities Act of 1867 or any act amending the same.

Then again :

- (5.) Such receivers shall be entitled to receive all rates and other revenues payable to the council of the municipality for or in respect of which they shall have been appointed receivers and to make and levy rates but so nevertheless that the rates so made and levied do not exceed the limits prescribed by law. And for such purposes such receivers shall be deemed the council of such municipality and may exercise all the powers thereof.

That was part V. He did not know that part VI touched the matter specially ; but he thought he had read enough to [Mr. R. E. O'Connor.

show that there was already in existence a set of provisions which had been most carefully considered, and which, in the most stringent way, provided for the payment of the debt by the municipality and for its recovery in the most effectual way by the Government. Now, as he took it that his hon. and learned friend's only object was to ensure the payment of the money by the municipality which was to be benefited, he thought it would be very much better if that object were carried out by the provisions of an existing law, what might be called a standard act, which could be referred to in all the numerous acts that would come under the Public Works Act, rather than by inserting independent provisions in each bill, which might contain defects that would pass unnoticed in the consideration given to such bills.

Mr. PIGOTT would support the amendment of his hon. and learned friend, Dr. Garrahan, on the very sufficient ground of a statement made in the Assembly by the Secretary for Public Works, which he would read for the benefit of the hon. member representing the Government. When this very question was being discussed in the other House, Mr. Lyne said :

That, in his judgment, if the clause remained as it was proposed, the expenditure would not come under the provisions of the Metropolitan Water and Sewerage Act ; but with the amendment it must come under the act, and, therefore, he was quite satisfied.

Then Mr. Edmunds, who was a barrister, said :

That section 136 of the Metropolitan Water and Sewerage Act appeared to refer to works constructed under the authority of a board. What he wished to ask the Minister was whether these were works constructed by a board within the meaning of that act ?

The answer given by Mr. Bruce Smith showed that the amendment moved by the hon. and learned member, Dr. Garrahan, was absolutely necessary. He said :

Under the bill which is on the paper for second reading—the Metropolitan Water and Sewerage Act Amendment Bill —

which bill had not yet been read the second time, and was therefore not law.

the Secretary for Public Works is given power to construct in all cases in which the board is given power to construct under the Metropolitan Water and Sewerage Act.

There was an admission by the Secretary for Public Works that the power given by

the clause, as proposed by the Government, would not be sufficient to carry out the object of the Government in case of the Metropolitan Water and Sewerage Act Amendment Bill not passing into law. The amendment proposed by his hon. and learned friend, Dr. Garran, would get over that difficulty. The clause provided that the cost of the works should be borne by the municipality as provided by the Metropolitan Water and Sewerage Act of 1880. But all that act proposed was, that certain money paid in respect of certain works performed by a board should be recovered from the municipalities. If the work were performed by some other authority not contemplated by the act, the money could not be recovered until the Water and Sewerage Act Amendment Bill was passed. Since he had shown that the Secretary for Public Works admitted that there was this defect, he thought the Committee should adopt the amendment proposed by the hon. and learned member, Dr. Garran. The Secretary for Public Works, after having made that admission, said, referring to the Metropolitan Water and Sewerage Act Amendment Bill, which had not yet been passed :

The bill puts the Minister in the place of the board in the construction of the act ; it gives him power to do anything under the bill which the board can do under the act, and it is retrospective.

That showed clearly that the Minister was referring to a bill which had not then become law.

Mr. W. H. SUTTON : With respect to this clause, hon. members are under a misapprehension as to the provisions of the North Shore Drainage Bill when it was first introduced into the Assembly. If I recollect rightly, it provided that the repayments should be carried out according to future legislation ; but when the bill came up to the Council we altered it entirely, and it was returned to the Assembly with a clause identical with the 3rd clause of this bill. The remarks of the Secretary for Public Works had reference to the provisions of the bill when it was first introduced into the Assembly ; but when the Manly Drainage Bill came before that Chamber it was altered in the same way as we altered the North Shore bill. So that any argument based upon what took place upon the second reading of the

North Shore Drainage Bill in the Assembly is irrelevant, because, as I said before, it was altogether a different bill from this.

Sir WILLIAM MANNING said that we had all the same object in view with regard to the clause, and that was to make it clear beyond all doubt that the money should be charged upon the municipality, and be repaid according to the provisions contained in the Metropolitan Water and Sewerage Act. The question was, what were the best words in which to express our meaning ? He thought the matter was very important, because it seemed to be shadowed forth that there were to be a great number of measures similar to that before the Committee. He hoped it would not be so ; but if it should, it was all the more necessary to establish a thoroughly good precedent, now that our attention was called to the matter. He hoped we should not have many of these measures, because it was to be deprecated that the municipalities around Sydney should be indebted for forty years to the general Government. The indebtedness of the free selectors to the state for ever had been got rid of, and he thought it was nearly if not quite as bad to have a number of municipalities in a state of indebtedness for a long period. Be that as it might, we should at least establish a clear precedent as to the making of the money borrowed returnable by the municipalities. As he had said on a former occasion, he thought it all too likely that before the time had expired the municipalities—especially if there were a great number in the same condition—would evade repayment. He was of opinion that the amendment proposed by the hon. and learned member, Dr. Garran, was an improvement on the clause ; but he thought it would be as well to add to it the latter part of the clause. That might make the clause more effective.

Dr. GARRAN quite agreed with the suggestion of his hon. and learned friend, because it entirely met an objection raised by the hon. member, Mr. W. H. Sutton. It would alter the form of his amendment, so that instead of all the words of the clause after the word "to," line 4, being left out, only the words down to "1880," line 8, would be omitted.

Mr. W. H. SUTTON : All I can say is that I am in the hands of the Committee,

and having had so much legal advice I feel bound to assent to the amendment.

Mr. R. E. O'CONNOR thought that the alteration might be accepted, but he would suggest a further alteration, that all the words after the word "sanctioned," in line 17 of the amendment, be omitted, and all the words in the clause after "1880," line 17, be substituted in their place. That would meet the wishes of all hon. gentlemen, and would put the matter of the recovery of the debt beyond all possible doubt.

Question—That the words proposed to be omitted stand part of the clause—resolved in the negative.

Question—That the words proposed to be inserted be so inserted—proposed.

Sir WILLIAM MANNING would like to know what was the meaning of the expression "loan trust funds" in the amendment? He thought that the expression ought to be "consolidated revenue fund."

Mr. W. H. SUTTOR: I think that the hon. and learned member, Sir William Manning, is quite right. I see that in section 136 of the Metropolitan Water and Sewerage Act it is provided that

such debt shall be liquidated by periodical payments to the Colonial Treasurer, to be by him carried to the consolidated revenue fund.

Dr. GARRAN said that the work was to be carried out by money provided by loan. Did the consolidated revenue fund include loan trust funds?

Sir WILLIAM MANNING thought that it was only a question of accounts. The payment of the money must be made to a definite body, and not to a fund. Loan trust fund was an expression which he had never seen in legislation before. He thought that it should be paid to the Colonial Treasurer to the credit of the general revenue.

Dr. GARRAN said that the object was that there should be a visible accumulating fund to pay off the debt; but if the money were paid into the general revenue, there would be no such provision. It was calculated that the rate to be levied would pay off both principal and interest in a term of years, and the money so received, instead of being passed into the general revenue, should be paid to a loan trust fund. What might become of the money if it were paid into the general revenue no

[*Mr. W. H. Sutor.*]

one could tell. He was quite willing to accept the suggestion of his hon. and learned friend, Mr. R. E. O'Connor.

Amendment (by Mr. R. E. O'CONNOR) agreed to:

That the amendment be amended by omitting the words "And parts five and six of the said act shall apply to such municipality in all respects as if instead of the words 'board' or 'president of the board' the words 'Secretary for Public Works or the member of the Executive Council for the time-being charged with the duties of the said minister' were therein substituted," and inserting in their place the words "and this act shall be read as if such portions of the said part five as provide for the payment and recovery of the debt therein mentioned were part of this act, with the necessary modifications to suit the provisions thereof."

Amendment, as amended, agreed to.

Clause, as amended, agreed to.

Bill reported with further amendments; report adopted.

House adjourned at 5.35 p.m.

Legislative Assembly.

Wednesday, 19 June, 1889.

Mr. Deasy's Letters—Seamen's Discharges—Public Charities—Bridge over the Murray River—Road from Molong to Gumble—Conviction of Children for Larceny: Fees of Clerks of Petty Sessions—Women's College Bill—Fire Brigades Act Amendment Bill—Wollongong Trust Bill—Select Committees—Crown Lands Bill—Land, Crops, and Stock Returns Bill—Adjournment (Formal Motions).

Mr. SPEAKER took the chair.

MR. DEASY'S LETTERS.

Mr. BURNS: I desire to ask the Postmaster-General a question respecting the Deasy correspondence. I observe in the public prints that a letter has been sent by the Postmaster-General to Mr. Deasy on the subject of complaints made against the post-office at Branxton. As the correspondence has been published, I presume the hon. gentleman concludes that it is at an end. I should like to know if it is his intention to at once cause an inquiry to be held at Branxton, as prayed for by the local postmaster, Mr. Tulloch? I can assure the hon. member that neither the hon. member for The Hunter, nor myself, have made any communication to the press,