

Legislative Council

Tuesday 13 September 1859

Present
All the Members

Information not pursuant to summons
The minutes of the last preceding meeting
were read and confirmed.

The Governor moved the first reading
of a Bill to amend that part of the
Administration of Justice Ordinance
which relates to Juries, copies of which
had been furnished to the members
on the 9th instant. Agreed to.

Bill read accordingly.

The Clerk then read, by order of H.E., a letter
received by H.E. from Captain Abbott
(N^o 65. 22nd Aug: 1859) relative to the men
under his command serving on Juries.

W^t. Broome enquired of the Governor his
motive in bringing this bill before the
notice of the Council.

H. E. in reply to W^t. Broome said "that
"the state of the present law was contrary to
"the usual practice elsewhere, & contrary
"to the old law of the Colony, under which
"soldiers were exempt from serving on Juries,
"in force from 1846 to 1851, and that when
"that law was amended, there was no
"necessity for continuing that exemption
"there being then no soldiers in the Colony;
"but Pensions also did military duty
"only 12 days in the year & that it was
"not fair to expect of men who kept

"Ground,

" Guard at night to sit on the Jury by day - trial their doing to interfere with their military duties - & that in his opinion the more they were kept apart from Civilians the better - trial on a recent occasion there were as many as 5 soldiers sitting at the same time on a Jury - & finally that he considered the fact of soldiers being compelled to sit on Juries highly injurious to the welfare of the Colony.

Mr. Brooke asked His Excellency when he proposed the meeting of the Council for the 2nd reading.

H. E. then moved that the Standing rules be suspended, in order that the 2nd reading might proceed forthwith.

Mr. Brooke requested that H. E. would allow the usual time of three days to elapse prior to the next reading as he was not aware of any great necessity for suspending the Standing rules, - that it was an affair of the greatest importance often involving a decision of life & death - that he objected to making any amendments this 1st reading & stated his intention of speaking of the general principles of the bill at the 2nd reading.

Mr. Brooke then gave notice of a motion, that the 2nd reading of this bill shd take place that day six instant Saturday the 17th inst was finally fixed upon for the second reading.

Mr. Brooke applied to H. E. for a copy of Captain Abbott's letter to him previously read.

Council adjourned.

Legislative Council

Saturday 17th September 1859.

Present

all the Members.

The Council met pursuant to ad-
journment.

The minutes of the last preceding meeting were read amended & confirmed. The Clerk then read a Petition from the Falkland Islands Company, addressed to the Legislative Council (Petition N^o. A see end of Book)

Mr Bowe moved that this Petition
might be kept on record among the records
of the Council. — Agreed to —

The Governor moved the second reading of the bill.

Founded by Mr. Dean

Mr. Brooke moved an amendment
that the bill be read the day six
months.

The Council divided;

To the Amens. — Against it

Mr. Broome A. P. the Govt

Mr. Dean.

The Clerk then proceeded with the Second reading clause by clause?

Mr. Bowe moved that the preamble had not been proved. —

M! Broke moved that, in clause 2, after the words 'all officers', the words "and men" be struck out.

For the motion — against it
by Prof. Dr. H. G. F. Lenz

Mr. Broome.

The Governor

Mr. Dean

Finally Mr. Brooke moved that the bill
might not be brought into operation till
Her Majesty's pleasure be known thereon.
Council Divided.

Ayes
Mr. Brooke

Noes
The Governor
Mr. Dean.

Mr. Dean moved that this Ordinance
be engrossed, & brought up for the third
reading that day next.
Seconded by H. E. the Governor

Council adjourned until
Saturday the 24th instant.

W. R. Pyne
Clerk to the Councils.

The minutes of the Council
to this date were sent
home in Mr. Moore's despatch
No. 49. 29th September 1859.

To the Legislative Council of the Falkland Islands -

A. The Petition of The Falkland Islands Company.

Sheweth,

That your Petitioners have heard
that it is proposed to alter the existing Law
of the Colony (under which every male
person between the ages of 21 & 60, ~~the convicted~~
of felony, is now liable to serve as a
Juryman) by enacting that Soldiers shall
be disqualified -

That Soldiers, as such, are not amongst
those exempted by the Law of England
from serving on Juries, & that it would
be unconstitutional to exclude them -

That the Soldiers, in this colony, consist
of 5 non-commisined Officers, & 30 Privates;
all of whom are married men, having
families, & were selected from different
Regiments for long service, & good conduct,
& that they are, at least, as intelligent & well
conducted, as the average of the civilians on
the jury list - And your Petitioners have
been informed that they were sent here
not only to assert the Civil power, but as ~~British~~
also - being allowed to cultivate land, & work for
wages; & $3\frac{1}{4}$ of them live in Cottages, one Man, his
Wife, & family, only, occupying one Cottage -

That it cannot be alleged that their serving would interfere with military duties - 1, to b of these only being employed on one day on those duties - That there have been only two Juries summoned in the past 12 Months, & the Magistrate has power to excuse any jurymen on sufficient reason being stated -

That on a trial for murder in the past year (under the Jury list for 1858-9, from which last the Soldiers had been omitted) nearly all the names were called, & of a few more men had been absent from the Settlement, a Jury could not have been found, & justice w^t have been defeated -

That the present Jury list for 1859-60 contains in the State

86 names

36

50

+ Deduct the Clerk of the Court Gaoler & Constable whose services are required

3

Deduct Seafarers on the list

11

14

If the Soldiers & their Officer are excluded

72

36

Leaving 36 names

That of the 36 Jurors, tho' w^t so remain, 8 are Government Officers, & employees, & q are in the regular Employment of your Detentioners, making together 17. -

That deducting that number from the 36 above mentioned, (& without including the absence of others, sickness, & other causes of ease) there w^t remain only 19 Jurors, who may be said not to be subject to influence, being five less than would be necessary, with the Challenger allowed, to constitute a Jury for a capital crime.

That a Verdict of so limited a selection as w^t remain, if the Soldiers shd be excluded, would not be considered satisfactory, or as having its proper weight

and particularly in cases of government prosecutions & questions between the Government & your Petitioners -

That your Petitioners have only heard, by rumour, that the measure in question was before the Legislative Council; & they have been informed that it was proposed by H^r Secy, the Governor, to suspend the Standing orders to carry the measure, thro' all its stages, on the first reading, & that it sh^d come into operation forthwith -

That your Petitioners consider that their interests, and those of the Colonists generally, are insufficiently protected under such circumstances; & that publicity should be given to any proposed legislative measures, the council consisting of only two members besides H^r Secy the Governor -

Your Petitioners therefore pray

- 1 That the existing Law of the Colony may not be altered by disqualifying Soldiers from serving as Jureymen -
- 2 That it may be a standing Order, that, in future, each proposed ordinance, after being read a first time, shall be left open to public inspection, in Stanley, for 7 days before the second reading, to allow of petitions being presented relating thereto -
- 3 That the measure referred to, as now before the Council, & may not (if passed) come into operation until Her Majesty's pleasure thereon is known -

Dated at Stanley the 16th Sept^r 1859.

James Lane
Colonial Manager
of the Company.



Legislative Council

Saturday 24th September 1859.

Present. All the Members.

The Council met pursuant to adjournment
The Minutes of the last preceding meeting
were read amended & confirmed.

His Excellency moved the third reading
Agreed to

Bill read accordingly.

Mr. Dean moved that this Ordinance
do now pass. Seconded by Mr. ~~Dean~~
H. E. the Governor.

Bill passed accordingly
24th Sept. 1859.

William R. Pyne
Clerk to the Councils.

I, Edward Wallace Woodlake Esquire, do
swear that I will truly and faithfully
to the best of my skill and knowledge,
discharge the duties of a Member of the
Legislative Council for Her Majesty's
Settlements in the Falkland Islands and
their Dependencies

So help me God.

Council Room
February 3rd 1862.