

Queensland



Parliamentary Debates
[Hansard]

Legislative Assembly

TUESDAY, 22 MAY 1866

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LEGISLATIVE ASSEMBLY.

Tuesday, 22 May, 1866.

The Clerk of the Assembly and the Staff of the House.—
Revision of the Electoral Rolls of Drayton and
Toowoomba and Western Downs.—Claims of Daniel
Henry Sinclair.

THE CLERK OF THE ASSEMBLY AND
THE STAFF OF THE HOUSE.

Mr. PUGH moved—

That it be referred to a select committee, with
power to send for persons and papers, and leave to
sit during any adjournment of this House, to
inquire and report—

- (1.) How far the arrangement under which
the Clerk of the Legislative Assembly
is provided with quarters has “conducted
to the more satisfactory conduct of the
business of the House,” as anticipated
by the Standing Orders Committee of
the session of 1860.
- (2.) Whether the arrangement has effected
any saving by keeping within narrow
limits the staff of the department, and
has been economical and effective, or
otherwise.
- (3.) What has been the actual expense to
the Government in the way of interest
upon cost of erection and repairs, as
well as of the allowances accompanying
the quarters.
- (4.) Whether, and to what extent, it may
be desirable to continue the arrangement
within the precincts of the new Houses
of Parliament; and, if found undesirable,
whether any, and what, remuneration in
lieu, shall be given to the officer in ques-
tion.

- (5.) Whether the staff of the officers of this House will admit of reduction, or combination, without impairing its present efficiency.
- (6.) That such committee consist of the honorable the Speaker, the Chairman of Committees, the Minister for Lands and Works, Mr. Dalrymple, Mr. McLean, Mr. Stephens, and the mover.

The resolutions, he said, spoke sufficiently plainly to give honorable members an idea as to the object he had in moving for the committee. But he felt it was a duty to himself and to the honorable the Speaker to offer an apology for not having consulted him before putting his name on the committee, previous to introducing the motion to the notice of the House. The not having consulted the Speaker was a mere inadvertence on his (Mr. Pugh's) part; and he was sure the Speaker would acquit him of anything like an idea or desire to shew disrespect thereby. The matter brought up in the resolutions had often occupied the attention of persons, not only of those connected with the House, but of those out of doors; and, as it was strictly a matter of economy he had in view—a matter which the House had every right to deal with—he trusted that there would be no opposition to his motion. Should any honorable member desire a ballot, instead of the appointment of the honorable members he had named, for the committee, he should be very happy to accede to the wish;—even if he had the power of opposing it, which he had not, he should be sorry to object to such a wish. He need not detain the House further than to state that he hoped the inquiry of the committee, which must necessarily be of short duration, would end in economising the funds placed at the disposal of the House for their own purposes.

Mr. COXEN seconded the motion.

Mr. FORBES said he had some objection to the committee; for he thought it must be obvious to honorable members that it placed both the Speaker and the Chairman of Committees in a very invidious position. When he found that the office of Chairman of Committees in another colony was perhaps as important as the Speaker's; and, also, that the Speaker alone had to attend to the distribution or combination of the offices of the House;—he was bound to propose, unless the honorable the mover was prepared to place in his motion two other names in lieu of those of the Speaker and the Chairman of Committees, that the committee be appointed by ballot.

Mr. PUGH: Have a ballot, if you like.

Mr. FORBES: Well, he proposed that the committee be appointed by ballot.

The SECRETARY FOR LANDS AND WORKS observed that, not having been consulted by the honorable member who had introduced the motion, he was not aware of the objects he had in view, beyond what was recommended to the House on the face of the

resolutions. He could see nothing in them to which the Government would take any objection; on the contrary, the course proposed would relieve the Government from an amount of responsibility which at present existed with regard to the arrangement of the offices of the Parliament, a responsibility which he thought would be much better placed on the House than on the shoulders of the Government. It would be recollected, that a few years ago, by resolution of the House, certain accommodation was found for the Clerk of the Legislative Assembly; but the Government, in the new Parliament Buildings, had made no arrangement of that kind. It was very important that an expression of opinion from the House on that subject should be given, instead of putting the responsibility of erecting new buildings upon the shoulders of the Executive. If the resolutions had no other effect than the bringing up the report of the committee on that subject, they would do some good. He thought the honorable member for North Brisbane, Mr. Pugh, should have consulted with the honorable the Speaker, from whom all the estimates respecting the House came. Of course, they went to the Executive, and the Government were bound to put them before the House; but that did not bind the House. He (the Secretary for Lands and Works) thought the honorable member would have done well if he had consulted the Speaker on the subject; but as the honorable member had explained to the House that he had no desire to give offence, and that he had omitted to consult the Speaker simply by inadvertence, he might be excused. The Government had no objection to the motion, if the House chose to go into it; on the contrary, he would much rather see the committee appointed, and a report brought up from it.

Mr. FITZSIMMONS said he thought the committee that had been named was quite sufficient, and that there was no use in going to the ballot. He suggested, that as the honorable gentlemen named were quite competent for the inquiry, the honorable member for Warrego should withdraw his amendment.

Mr. FORBES: He really could not see that the honorable member for Rockhampton had shewn any reason why he should withdraw his amendment.

The SPEAKER: I was not aware that the honorable member had moved any amendment; but simply made a suggestion.

Mr. FORBES: For a ballot.

Mr. WALSH said he must confess that he thought the result of the committee would do more harm than good. He felt, in the first place, that it was somewhat intrenching on the prerogative of the Speaker, and interfering with the duties which were naturally confided to him. He thought, also, it was opening up a question that it was hardly safe for the House to do. It always appeared to

him rather anomalous that the Assembly had been enabled to place the Clerk of their House in a superior position to that occupied by the Clerk of Parliaments. He believed that in every other colony it was usual—and, probably, it was the custom wherever such Parliaments were in existence—to consider the Clerk of Parliaments as the chief officer employed by the Parliament; and it struck him (Mr. Walsh) that the effect of the motion under discussion would be to raise a jealousy—to induce honorable members of another place to consider the question for themselves, and to see whether this was not the time when some provision should be made, before entering the new Parliament Houses to assert their position and dignity on this question. He thought honorable members had overlooked that fact. No doubt, it was some satisfaction to the House to find that their Clerk, whomsoever he might be, was occupying a position which seemed to be a superior one to that of the Clerk of the Council; but he hardly knew whether the matter had not better be dropped. He could hardly think it was wise of the Assembly to take action in this matter; for it would lead to action being taken elsewhere. It would be satisfactory, and probably have some effect upon honorable members, were the honorable the Speaker to give an expression of his opinion on the subject to the House. Previous speakers had admitted that the motion somewhat intrenched upon the Speaker's privileges; and it was not right for the House to do so. He believed they would all be better pleased if they had the Speaker's judgment and advice on the subject.

The SPEAKER: Before putting the question to the House, I will say that I am aware that the honorable member for North Brisbane placed my name on the proposed committee, without speaking to me, quite inadvertently and without any intention to be disrespectful. But I may state, at the same time, that it is very unusual for the Speaker to serve on a committee of the House, and, for obvious reasons, I think it very desirable that it should be so. Yet, if the House desire it, and are inclined to grant the committee, I have no objection to serve on it. I think there is a point in one of these resolutions, the fifth, which in all Houses of Parliament I ever heard of has always been left to the Speaker, in sending in his estimates; still, it is quite open to the House to do as they please in voting his estimates. I have never heard of a committee of the House before to enter into the duties of the officers of the House.

Mr. PUGH, in reply, remarked that the very fact of his putting the honorable the Speaker's name in the list of the proposed committee shewed that he had no intention at all of infringing on his jurisdiction by

the fifth resolution; and, by being on the committee, the Speaker would be best able to give the information that he (Mr. Pugh) desired to obtain by the committee. As to the course proposed being an infringement on the privileges or functions of the other House, he could not see anything at all in the resolutions which could tend that way. The Assembly would proceed in this matter just the same as if the other House was simply at Timbuctoo. It was for the Assembly to deal with; and, on that ground alone, he had put the resolution on the paper. He might state that the fifth resolution was simply added to the others, because the honorable the Speaker's name was added to the committee. If the honorable member for the Warrego still desired the committee to be appointed by ballot, he (Mr. Pugh) again said he had no objection to that course.

The question was put, and the first five resolutions were agreed to.

The House then proceeded to a ballot, which, having been taken, the following honorable members were reported to have been elected on the committee:—Mr. Pugh, Mr. McLean, Mr. Dalrymple, Mr. Stephens, Mr. Macalister, the Honorable the Speaker, and Mr. Coxen.

REVISION OF THE ELECTORAL ROLLS FOR DRAYTON AND TOOWOOMBA AND WESTERN DOWNS.

Mr. WATTS moved—

That in the opinion of this House the revision of the electoral rolls of Drayton and Toowoomba and Western Downs is illegal and contrary to law; and this House, therefore, declares the said revision null and void.

He said it would be necessary for him to shew in a few observations that the rolls named in the motion had not been revised according to law; and, in fact, that they were not revised at all. He trusted that the House would be able to decide in that way. He would point out, first of all, why he considered the revision illegal; and he thought he should be able to do so, by reading the notice which had been sent to the electors. When he proved that that was the only notice that had been given, he thought, too, it would be seen by the House that the revision was not legal and that the old lists must stand. In bringing the subject forward he had in view to get an expression of opinion from the House on the Registration of Electors Act, which, it appeared, was read differently in all parts of the colony;—it might shew those who had to deal with the law, how to deal properly with it. He believed it was very necessary for the House carefully to watch the privileges of the people. In putting the motion on the paper, he was not guided either by friends or opponents; his desire was, that all who were entitled to the franchise should receive the benefit of it without respect to persons.

The notice that had been given to the electors ran thus :—

“ Court House, Drayton,
18th January, 1866.

“ Sir—Your qualification as an elector for the Western Downs is not considered satisfactory by the examining court of the electoral roll, and in terms of the Act, 29 Victoria, No. 12, I hereby give you notice to produce satisfactory proof of your qualification to vote for the Western Downs at the next court of revision, to be held at this office some time between the 28th March and 28th April, due notice of which will be published in the *Government Gazette* and local newspapers.

“ I am, sir, your obedient servant,

“ ARTHUR EDWARD DOUGLAS, C. P. S.

“ Mr. James Porter, Eton Vale.”

It would be seen that that notice did not specify any day for the holding of the revision court. The Act provided that the day should be named, and published in the *Government Gazette* or nearest local newspaper. Now, the House knew the great difficulty electors had in ever seeing the *Government Gazette*. Very few, in fact, of the persons likely to suffer under the Act were likely to see the *Gazette*. Therefore, if those who were in a superior position did not take care to see that they had their rights, it was clear that humble people would be excluded from the franchise. That was a case which he could prove himself, and that was the reason he had brought it before the House. Porter was a mechanic of good ability, and holding a good position; he had been in his (Mr. Watts') employment five years, receiving a salary of £150 a year. The qualifications under the Act were, that a person with a salary of £100 a year was entitled to vote; also—he referred to the second clause of the Act—that a person

“—having a freehold estate in possession situate in the district for which his vote is to be given of the clear annual value of £100 sterling money above all charges and encumbrances in any way affecting the same or to which he has been seized or entitled either at law or in equity for at least six calendar months next before the last registration of electors or being a householder within such district occupying any house warehouse counting house office shop or other building of the clear annual value of ten pounds sterling money and having occupied the same for six calendar months next before such registration as aforesaid”

was entitled to vote. He (Mr. Watts) thought that was quite clear. He could not state the exact number that had been struck off the roll; but, so far as he could ascertain, it was two hundred, or over. The notice he had read had been placed in his hands only the other day, on the Darling Downs, and he had not had an opportunity of ascertaining further particulars of the number of names that had been expunged from the list. However, he thought that if one person had been improperly struck off, and illegally disqualified, it was ample for his case;—he should be reinstated, within

the meaning of the Act. He thought he could shew how the bench of magistrates should have dealt with this question. The fifteenth clause provided that a court of examination should take place during the months of November or December.

The ATTORNEY-GENERAL: That is a different court.

Mr. WATTS: He wanted to shew that the notice of the court of revision was given under that clause, and that the clerk of petty sessions had no right to give such notice; and that if he gave notice at all, it should have been under the fifth clause, in accordance with schedule B of the Act. He had no doubt the honorable the Attorney-General would be able to explain the legal points better than he could; for he only professed to deal with the question in the common-sense view. The fifteenth clause went on to say, that of the holding of the court of examination by the justices

“ thirty days notice shall be given in the public newspapers * * * * and at such court the said justices shall examine the electoral rolls in force within their respective police districts and whenever they shall be in doubt whether any qualification specified on the electoral roll as being situate or arising within their police districts is really possessed by the person to whose name it is appended or where such qualification is situated or what is the exact nature of such qualification”

they were not to have their partial doubts: he took it that it was not necessary to give notice to any individual, especially when the justices knew those who actually possessed votes; they should first ascertain whether there were doubtful voters, and after they had ascertained that, and not before, should they send notice at all;—at least, that was his (Mr. Watts') notion.

—“ They shall cause the clerk of petty sessions to require from the person represented to possess such qualification or from his known accredited agent satisfactory proof thereof”——.

Now, as the agent, he had received no notice whatever as to the proof required; nor was there any demand in the document which he had read as to the proof to be shewn whether the man was really qualified or not, nor any certain day named on which to produce it, as was provided.

—“ And it shall direct the said clerk of petty sessions what proof to require”——.

There was nothing set forth in the notice as to the proof required from or on behalf of the person objected to; that document merely stated, in vague terms, when a court of revision would be held—

“ sometime between the 28th March and the 8th April;—”

nothing else. It was necessary for the bench to require from the individual proof of his qualification. None was asked for.

“ In default of such proof being received before the day hereinbefore fixed for making

objections, [the bench] shall cause the said clerk to object to such person in due form."

If a proper notice had been sent and no proof had been returned, then the magistrates had power to instruct the clerk of petty sessions to issue a notice in the form of schedule B to the Act; and if, in answer to that, the elector should not comply by giving proof of qualification, then his name should be struck out. He (Mr. Watts) need not trouble the House further on this question. He would leave it in the hands of the honorable the Attorney-General, who would give the House a clear definition of the law, and shew that he was right in what he had said—that the roll had not been legally revised, and that the old list should stand. If not, there would be a great number of electors in Drayton and Toowoomba, and also in Western Downs, disqualified.

Mr. GROOM said he was in some measure glad that the honorable member had introduced the motion before the House, and he thought it might be admitted that he had done so on perfectly independent grounds. The honorable member had consulted nobody in the House; but, on the strength of information gleaned by himself from residents on the Darling Downs, he had brought the subject forward. It would be in the recollection of the House, that about the 22nd April last, he (Mr. Groom) considered it his duty to bring under notice a great wrong which had been perpetrated upon the electors of Drayton and Toowoomba through ignorance and stupidity—he gave it no milder name—on the part of both the clerk of petty sessions and the bench of magistrates. A revision court for Drayton and Toowoomba was held in the month of December, in the town of Toowoomba, and on that occasion the clerk of petty sessions received instructions from the bench to object to about two hundred and twenty electors on the roll. It was towards the close of that month that the objections were carried about the town by the letter-carrier. At the time this was going on, it was stated in the press, and otherwise, openly, that "gross political motives" had been brought into play about the issuing of such a large number of objections; and he thought, from what had transpired, that no milder expression could be used. The Act distinctly specified, and the honorable the Attorney-General would doubtless indorse the statement, that every possible publicity was to be given of the persons objected to at the court of revision. In the first place, he (Mr. Groom) took objection to the mode in which the notices of objection had been made out, and he contended that the magistrates' orders were not in accordance with the spirit of the Act; nor was the proceeding at all in accordance with the course advised by the honorable member for West Moreton, Mr. Herbert, who introduced the Act last session. The Act stated

that an examining court should be held at some convenient time, in November or December, and that if the court had any reasonable doubt as to the qualification of any elector—he did not think the Act gave the bench any power to make wholesale objections—they should cause the clerk of petty sessions to call upon the elector to give satisfactory proof of his qualification to vote. It would appear, from a notice he held in his hand, that the court of examination was held on the 15th January, when he knew it was held on the 15th December. A month later than the holding of the court, the following notice was issued, in a lawyer-like handwriting, which, though it was signed by the clerk of petty sessions himself, probably shewed the source from whence it emanated:—

"Court House, Toowoomba,

"15th January, 1866.

"Sir—Your qualification as an elector for Drayton and Toowoomba is not considered satisfactory by the examining court of the electoral roll, and, in terms of the Act, 29 Victoria, No. 12, I hereby give you notice to produce satisfactory proof of your qualification to vote for Drayton and Toowoomba,"—

The notice, so far, was good; but it ought to have had these words:—"You are called upon to give satisfactory proof of your claim to vote, to me, on or before the 1st March, in due form." It did not have them, but the following, in continuation of what he had just read:—

"at the next court of revision, to be held at this office, some time between the 28th March and 28th April, due notice of which will be published in the *Government Gazette*.

"I am, sir, your obedient servant,

"ARTHUR EDWARD DOUGLAS."

In the notice read by the honorable member for Western Downs, after the words *Government Gazette*, followed the words "and local newspapers;" and that notice was in print, while the one he (Mr. Groom) held in his hand was in writing. He had reason to know where the illegality was pointed out; and, also, that the notice he had read was sent out to the person to whom it was addressed before the notices that had been prepared to be served on the electors for the Western Downs were distributed. As there was not time to re-write them after the illegality was discovered, an order was given, and two hundred odd notices were printed. He wished the Government to inquire into the whole subject, because the "grossest political motives"—he made the statement advisedly—had influenced the revision court of Drayton and Toowoomba, and that of Western Downs also. The clerk of petty sessions at Toowoomba, was a sort of "Bashaw of three tails." If the constables did not salute him, and if people did not pay him his fees, he threatened to bring all the power of the law into force—to shew his importance. He (Mr. Groom) for

one, believed that the power vested in the courts was not in any way judicious. Instead of the present political courts, the English practice should be adopted, of having a revising barrister; or, he would suggest another course, that the District Court Judges should be appointed—he would even say, should be compelled—to take their seats on the bench of the revision courts.

Mr. PUGH: They do, now.

Mr. GROOM: Yes, if they were in the district. The way in which the revision had been carried out in Brisbane by the Metropolitan District Court Judge had given great satisfaction; and, if a like course were generally adopted, there would be an end to the complaints which were now heard from all parts of the colony—not from Drayton and Toowoomba alone. The Act was much misunderstood, and clerks of benches and police magistrates variously interpreted it. He thought the honorable member for Western Downs had not gone sufficiently far in the matter he had brought before the House. A revision court was said to have taken place in the town of Drayton. That was at the extreme end of the electorate in one direction, and the town of Goondiwindi was at the other end, at a distance of one hundred and thirty miles. He (Mr. Groom) happened to know that fifty or sixty objections had been sent to Goondiwindi. There were not four or five *Government Gazettes* taken in that town, and not the slightest intimation was otherwise given to the residents at Goondiwindi of the day on which the court of revision sat. But if there had been, few people would care to ride two hundred and sixty miles to meet the objections; particularly when the Act made provision for a claimant to send a declaration of his qualification to the bench, which must be taken as *prima facie* evidence of his right to be registered as a voter. But very few of the clerks of petty sessions, he thought, knew that there was such a provision. Before the revision, the electors objected to should have been furnished with proper forms for that purpose. Every one living beyond a radius of twenty miles of the court should have been furnished with the form of declaration, as in schedule C of the Act, to fill up. It might be said that the House was not in a position to deal with this question—that it should form the subject of a Bill to be introduced by the honorable member for Western Downs and himself, or by the honorable the Attorney-General. It might not be imminent, but a general election might take place before long; and he put it to honorable members if they would not have to incur a great deal of trouble under the present state of the electoral rolls in such a contingency. He put it, that any defeated candidate could petition the House against a successful rival; and that, under the state of things existing, one-half the members of the new House would be unseated. He should be

glad to hear some expression of opinion from the honorable member who introduced the Act last session; for, though he believed it intelligible enough, every police magistrate in the country—in whose hands it placed too much power—interpreted it his own way. If the conduct of any honorable member was offensive, any magistrate might go and sit on the bench at the revision court, and object to a great number of electors on the roll; and, when the time came, get in his own pet candidate, and oust the offending member. Certainly, the people of Drayton and Toowoomba and Western Downs had not been treated with justice. He would read a note which had been sent to him by a respectable storekeeper at Toowoomba:—

“My dear sir,—I beg to inform you that my name has been struck off the electoral roll. Would you kindly inform me by what authority any bench of magistrates can deprive me of my vote, I being a leaseholder and freeholder. * * *

“P.S.—If you think I have a good case against the Toowoomba bench, I will immediately enter an action against them.”

Another gentleman, scarcely so intelligent as the first, wrote under date April 24th—

“My name has been struck off the electoral roll for the electoral district of Drayton and Toowoomba, without any cause whatever. As you are aware, I am a resident of Toowoomba over three years, and hold property worth, at least, £450. Please take some steps, if in your power, to restore my name, if possible.”

These were in the handwriting of the men themselves. They ought, he thought, to induce the House and the Government to take some steps to reinstate the electors who had been wrongly struck off the roll. There must be some truth in the statements made about those courts, by which such a number of people had been disfranchised, and amongst them men of property and influence in the communities amongst whom they lived. He trusted that the subject before the House would receive the attention it deserved, and that some measures would be taken to remedy the evils complained of.

The ATTORNEY-GENERAL said: Mr. Speaker—Whatever course may be taken to remedy this evil, I am clear in my own mind that this House has no power to deal with the motion; and it does seem to me that the honorable member for Western Downs, in putting such a motion before the House, understands the Act, I fear, as little as the magistrates themselves to whom he has made objection. It is provided in the seventh section of the Act that, at a revision court, “no candidate for election or member of the Legislative Council or Legislative Assembly shall take any part in the revision of any roll;”

and, no doubt, individually they cannot; but, at the same time, I do not see how this House can override the action of justices, sitting judicially in the determination of claims and objections under the statute, and declare their proceedings to be illegal and

contrary to law. We may, as a matter of opinion, say what we think of those proceedings, or of the manner in which they were conducted; but we are asked to declare "the revision null and void." Now, that, I apprehend, under the statute, we have no power to do;—we cannot carry it into effect. I must say that the country is indebted to the honorable member, Mr. Watts, for bringing this matter before the House, because, not in Drayton and Toowoomba and Western Downs only, but in other parts of the colony, electors have been disfranchised, either from political considerations or some other causes influencing the magistrates. I do not know whether it is that the new Act has not been properly read, or that it is incomprehensible to the clerks of petty sessions; but it appears to me that the notices in question that have been issued by Mr. Douglas, have been improperly issued under section fifteen of the Act.

"At some convenient time during the months of November or December in each year an open court of examination of which thirty days' notice shall be given in the public newspapers or in some other public manner where no newspapers are published shall be held by the justices in petty sessions at their usual places of meeting or at such other places as may be found convenient and at such court the said justices shall examine the electoral rolls in force within their respective police districts and whenever they shall be in doubt whether any qualification specified on the electoral roll as being situate or arising within their police districts is really possessed by the person to whose name it is appended or where such qualification is situated or what is the exact nature of such qualification they shall cause the clerk of petty sessions to require from the person represented to possess such qualification or from his known and accredited agent satisfactory proof thereof and shall direct the said clerk what proof to require and in default of such proof being received before the day hereinafter fixed for making objections shall cause the said clerk to object to such person in due form."

I apprehend that no clerk of petty sessions could possibly misread that. He is "to require from the person represented to possess such qualification or from his known or accredited agent satisfactory proof thereof;"—and for this, the bench is to direct the clerk of petty sessions "what proof to require."

In these notices there is no requisition at all made to the elector, and in that respect they are grossly irregular, and ought not to have been issued by any clerk of petty sessions who is able to read the English language. There is a mistake, also, in the omission to name the day on which the revision court was to sit, which should have been specified, notwithstanding the publication in the *Government Gazette*. He is directed that

"in default of such proof being received before the day hereinafter fixed for making objections to object to such person in due form."

Now, the direction to objectors is contained in section five—

"Every person named on any electoral roll objecting to any other person as not being entitled to have his name retained or inserted thereon shall on or before the first day of March in any year give or transmit by post to the clerk of petty sessions as aforesaid and also to the person objected to at his last known place of abode a notice objecting to the retention or insertion of such name on the roll in the form of the schedule hereto annexed marked B."

Lists of objections are to be made up and publicly exposed; and every person duly objected to, except

"he reside at a distance of more than twenty miles from any revision court,"

when he may send proof of his qualification in writing, is required

"to appear by himself or by some one on his behalf and when required by the court shall establish his qualification by satisfactory proof."

If he be required to appear before the revision court, I take it, in all reason, that, though not stated in the Act, the day of holding the court ought to be named. But there is another, and a more serious matter, which has not been mentioned by the honorable member. The mere fact that a person has made default in sending satisfactory proof to the clerk of petty sessions does not, in my opinion, entitle the magistrates to strike his name off the roll. I believe, when the clerk of petty sessions is called on to object in due form, he is placed in the same position as every other objector; and he is required, like every other objector, to establish objections by due proof. That is my opinion; that is as I read the Act: and it seems to be the reason of the thing. Therefore, I concur with the honorable member, that this has been a grossly irregular proceeding; and I cannot acquit the clerk of petty sessions of not having used due diligence in giving notice in accordance with the Act. I do not know whether the honorable member, in deference to my opinion, will withdraw his motion. I do not know whether all the rolls are yet in. It may be incumbent on this House, in one or two instances, to exercise its legislative power to enable the electors to return to the old roll for the purposes of a fresh election, should one be in view after this sitting or in the recess. Although section eleven provides

"that if in any year the roll for any electoral district shall not be regularly made out or shall not be perfected the roll for the preceding year shall wholly or in part as the case may require be used;"

yet, my opinion is, that it would be dangerous to rely upon that, because it seems to me that it would apply to rolls that have been made out under the Act. But rather than that there should be no machinery, or that any man should be disfranchised in the way that I believe many men in this colony have been by the magistrates and clerks

of petty sessions, either by mistake or through ignorance, we ought to exercise our legislative power and protect the electors: because, if there be only one wrongly struck off, he has no right to suffer, either by mistake or ignorance.

Mr. WATTS expressed himself thankful for the opinion of the honorable the Attorney-General, and said he had been aware, before he heard it, that no motion of his could alter the law. The opinion of the first law officer of the Crown was valuable, as shewing the way in which the Act should work; and the honorable gentleman had really proved to his mind that an illegality had been perpetrated. If the honorable gentleman would give him assistance, he (Mr. Watts) would undertake at a future time to bring in a Bill to give those persons who had been disfranchised an opportunity to come forward on a certain day to prove their right to the franchise. The Act, he thought, was an excellent one, and sufficiently intelligible, as the Attorney-General had clearly shewn. He had no doubt the opinion of the Attorney-General would be read with interest by the magistrates in all parts of the colony. He desired, with the leave of the house, to withdraw the motion.

Motion, by leave, withdrawn.

CLAIMS OF HENRY DANIEL SINCLAIR.

Mr. DALRYMPLE moved—

That this House will, on Tuesday, the 5th of June next, resolve itself into a committee of the whole, for the purpose of taking into consideration the prayer of the petition from the mayor and corporation of Bowen, and others, for substantial recognition by this House of the claims of Henry Daniel Sinclair.

He said that in bringing this motion before the House he considered it necessary he should make a few remarks in support of it; and he would do so as briefly as possible. With regard to the claims of Mr. Sinclair, it would be in the recollection of some honorable members that he (Mr. Dalrymple) in 1859, proceeded to explore the country now known as the Kennedy District. That portion of the colony was then beyond the boundaries of settlement, which had at that time extended only as far as Marlborough, on the Fitzroy River, about seventy-five miles beyond Rockhampton. On that occasion, he was out exploring the interior of the country for about six months, and, being absent so long, people began to suppose that he was lost in the bush. Mr. Sinclair, who was a master mariner, but out of employment, and then residing at Rockhampton, formed an expedition to search for him (Mr. Dalrymple), and in the event of his finding him to furnish him with supplies; and, further, should he (Mr. Dalrymple) have been successful in discovering a rich country to the north for which it would be desirable there should be a seaport, to endeavor, by a close examination

of the coast, to discover a suitable entrance and harbor for such port. With such views, Mr. Sinclair fitted out a schooner at his own expense, which involved a considerable outlay, and, accompanied by three volunteers, proceeded along the coast northwards, and succeeded in discovering the port now known as Port Denison, which had hitherto been passed by all Her Majesty's vessels, and by all vessels of the mercantile marine passing northwards. Having ascertained that it was a place suitable for a first-class port, he returned south, and reported his discovery to the Government of this colony, which was then not separated from New South Wales. His discovery he reported to Sir William Denison, through the resident magistrate at Rockhampton. When he (Mr. Dalrymple) returned from exploring, he had an interview with Sir William Denison on the subject of Mr. Sinclair's discovery; and having seen Mr. Sinclair's charts of the port, he had the honor of informing Sir William Denison that the harbor was a most advantageous one, and one worthy of being established as a first-class port for the district he (Mr. Dalrymple) had successfully explored. Sir William Denison then despatched Her Majesty's ship "Cordelia," to examine the harbor; but the captain, instead of going into the harbor himself, or sending an officer of high rank to inspect it, sent merely a midshipman in a pinnace, who simply went inside one of the entrances, and then returned and reported that the harbor was quite useless, being full of sandbanks and reefs. The "Cordelia" then returned to Sydney, and the captain reported to Sir William Denison that the harbor was useless. When he (Mr. Dalrymple) was told of that report, he said he was perfectly satisfied the harbor had not been properly examined. As Separation had taken place by this time, he urged on the Governor and the Government of this colony the advantages of having a first-class port for the country north of Rockhampton, and the desirableness, therefore, of an examination being made of the harbor discovered by Mr. Sinclair, and also of the mouths of the Burdekin. He and Lieutenant Smith were then sent, in company, in the "Spitfire," a very small craft, to make such examination; and they found that the harbor discovered by Mr. Sinclair was in every way fitted to be established as a first-class port, and that all the representations made by Mr. Sinclair respecting it were correct. They found it was a port that would not only be suitable for a coasting trade of large dimensions, but also for vessels engaged in ocean trade. That had since been satisfactorily proved to be the case, and the harbor had been established under the name of Port Denison. A town had since sprung up there, which already contained a population of about fifteen hundred souls, and was the outlet of a large district; and it might yet be the seat of the Government of a northern colony. The port

had been found suitable, as he had said, for ocean-going vessels; and, as honorable members were aware, it was the first port of arrival and the last of departure for the mail steamer carrying the Indian and European mail, *vid* the Torres' Straits route, to Batavia; and it was also known to be a safe port for large vessels to lie in to receive and discharge cargoes. The port was not dependent on the town of Bowen itself, but the whole of a large surrounding district was benefited by it. Since the establishment of Port Denison, five other ports to the northward had been established from it as a basis; and in a few years hence, the ports around it might, with Port Denison, form the ports of a large colony. He should be prepared, on the day named in his motion, to lay further particulars on the subject before the House. He would not further take up the time of the House at present; and he trusted there would be no objection to the passing of the motion.

The COLONIAL SECRETARY said that as the occurrences mentioned by the honorable member took place when he was previously in office, he could state exactly how the matter stood. Captain Sinclair made an application for compensation, and the compensation made to him was that the Government purchased from him his schooner, the "Santa Barbara," and appointed him harbor master at Port Denison. About that time, the honorable member who had brought forward the present motion was appointed commissioner of Crown lands and police magistrate at Port Denison, and shortly afterwards he had occasion to complain of Captain Sinclair's conduct, as he had taken to drinking, and was in consequence very inattentive in the performance of his duties. On that ground Captain Sinclair was removed from the office of harbor master, and he (the Colonial Secretary) had not heard of him since. It was on the grounds he had mentioned that Captain Sinclair was dismissed; and if he recollected rightly, he was very liberally treated at the time in the purchase of his schooner by the Government, and in other respects.

Mr. DALRYMPLE wished, in explanation, to state that the honorable the Colonial Secretary was mistaken as to the schooner having been purchased by the Government from Captain Sinclair. He had to part with her, and she was purchased from him, at a great loss to him, by a person residing in South Brisbane. He (Mr. Dalrymple) afterwards purchased her for thirty pounds, and sold her to the Government for the same amount. There was no doubt the honorable the Colonial Secretary was correct in what he said, as to Captain Sinclair being dismissed from his office of harbor master; but if a man who had rendered an important service to the colony committed a mistake once, that should not be held as a sufficient reason why he should for ever afterwards be shut out from any chance of amendment.

Captain Sinclair had a large family, and ever since he left the Government service at Bowen, he had had to carry on a hard struggle for a livelihood. He (Mr. Dalrymple) thought it would be only an act of justice that Captain Sinclair, having discovered such a valuable port as Port Denison, should receive some slight recompense for his services in that respect. There was no doubt he received the appointment of harbor master at Port Denison, but that was almost an empty title—the salary was so small. There was many a coxswain in the Government service who received a higher salary than Captain Sinclair received as harbor master.

The SECRETARY FOR LANDS AND WORKS: The salary was £150 a year.

Mr. DALRYMPLE: Well, as he had said, some coxswains in the Government service received more than that. He hoped the House would consent to take the matter into consideration, and would extend to Captain Sinclair some recompense for his services.

The question was then put, and the House divided as follows:—

Ayes, 5.	Noes, 13.
Mr. Haly	Mr. Pugh
" Fitzsimmons	" Macalister
" Coxen	" E. Cribb
" Davis	" Filley
" Dalrymple	" Groom
	" Walsh
	" Forbes
	" Miles
	" Stephens
	" B. Cribb
	" McLean
	" Bell
	" Mackenzie

The question was accordingly resolved in the negative.