

Queensland



Parliamentary Debates  
[Hansard]

**Legislative Council**

**THURSDAY, 26 SEPTEMBER 1867**

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relative to certain charges that had been made against him as a magistrate, in connection with the refusal of a publican's license to Mr. Kingsford, Warwick. What he had to refer to was a report in the *Brisbane Courier*, of Thursday, 19th September, of certain proceedings elsewhere, with reference to what took place at a recent licensing court at Warwick. The report stated that Mr. O'Sullivan presented a petition to the Legislative Assembly, in reference to the licensing court at Warwick, relative to an application for a publican's license by Mr. J. J. Kingsford. The application was refused, and that partly by himself, as he sat on the bench on the occasion referred to, and concurred in refusing the application. He would feel obliged to the honorable the President if he would inform him if—a personal attack having been made upon him in the Legislative Assembly—he would be in order in referring to the report of what took place. He knew there was a standing order which prevented him from taking notice of the proceedings in another place; but honorable gentlemen must admit that it was very hard upon him if, an attack having been made upon him, he should not have an opportunity of taking notice of it. He considered it would have evinced a want of due regard to the dignity of the House if he, being a member of that House, had entered into a newspaper correspondence with any one, either in or out of the House, concerning the imputations that had been made against him; and he, therefore, hoped he would be allowed to persevere in the course he had adopted. The gentleman who had cast the imputations upon him was well known to the House; and he believed the animus that directed that gentleman might be traced to proceedings that took place in the Legislative Council during a former session, and in which he took rather a prominent part. He referred to the rejection of the Jury Bill, which did not contain a certain clause he had very much in heart, and which he used all the influence he possessed in the House to reject; and he thought the animus that dictated the personal attack upon him could be easily traced to that occasion. What the gentleman was reported to have said was as follows—

The PRESIDENT considered he ought to remind the honorable gentleman of the standing order of the House, which said that no member

“shall comment upon the words used by any other member in a previous debate, or upon any expressions said to have been used in the Legislative Assembly.”

The Hon. ST. G. R. GORE said he admitted that if the rule of the House was to be carried out, the ground would be quite taken from under his feet.

The Hon. W. WOOD pointed out to the honorable member that he could accomplish his object by not stating that what he alluded to took place elsewhere, and by confining

#### LEGISLATIVE COUNCIL.

*Thursday, 26 September. 1867.*

Warwick Licensing Bench Proceedings—Explanation.—  
New Parliamentary Buildings.

#### WARWICK LICENSING BENCH PROCEEDINGS—EXPLANATION.

The Hon. ST. G. R. GORE moved the adjournment of the House for the purpose of enabling him to make a personal explanation

himself entirely to what was contained in a newspaper report.

The PRESIDENT said he understood that the honorable gentleman desired to defend himself against charges that were made against him elsewhere. It was very undesirable that charges or recriminations should take place between honorable members of that House and of the other. But he felt that the honorable gentleman had been attacked, and it would be very hard indeed if he should have no opportunity of replying to the attacks that had been made upon him. He hoped, however, that the honorable gentleman, in making any reply he considered to be called for, would confine himself within the terms of the Standing Order he had read, and that he would not infringe it either in the spirit or the letter.

The Hon. Sr. G. R. GORE: Then he begged to state that what he had to say referred to what was printed on a piece of paper which he held in his hands, and he would read that portion which he complained of. It was as follows:—

"He (Mr. O'Sullivan) was of opinion that the license had been refused from political motives. The first alleged reason why Mr. Kingsford's license was refused was, as he believed, that the house was not up to the requirements of the Publicans Act. The police authorities at Warwick had stated, however, that the house was up to those requirements. This did not satisfy Mr. Gore, however, who had also taken upon himself the office of a detective policeman, and had asked whether the clause of the Act in question, requiring the notice of application to be advertised in a local paper, had been complied with. It was proved that this had been done; and then the license was refused at last on the alleged ground that there was a sufficient number of public-houses in the locality. The fact that the questions referred to had been asked shewed that Mr. Gore, when he refused the license, had taken his seat upon the bench predetermined upon the course he should pursue. He went on to say that there was a principle involved in the matter, and that a line should be drawn in the licensing power of the bench. He did not think that any bench was justified by the present Act in refusing a license on the ground of the number of public-houses adjacent to the proposed one."

Well, he might state, with respect to the first refusal of a license to Mr. Kingsford, that he had nothing to do with it—he was in Brisbane at the time the license was first refused; but on his return to Warwick, when the late Ministry went out of office, he observed that certain alterations were being carried out upon a certain house, and he inquired what the alterations were for. He was informed that they were with the view, by Mr. Kingsford, of applying for a license. He went to the Police Magistrate, and asked him if such was the case; and that gentleman told him that it was so, and that Mr. Kingsford had applied, at the previous monthly licensing court, for a license for the house, that he adjourned the hearing

of the application with a view to its being brought before a fuller bench of magistrates; that he objected to the granting of any more licenses in the town as more public-houses were not required; and, further, that he objected to granting a license to Mr. Kingsford on account of his character. For those reasons, the Police Magistrate said he did not like to take the responsibility of alone dealing with the application of Mr. Kingsford, and therefore postponed the hearing of the application till the next sitting of a licensing court, in the hope that it might then be dealt with by a full bench. He then told the Police Magistrate that he perfectly agreed with him in his objections to the granting of any more spirit licenses, and also as to the character of Mr. Kingsford; and, at the same time, informed him that he would be glad to attend the licensing bench, in September, if notice were sent to him in the usual way. Well, in due time he received a notice informing him that a licensing court would be held on the second Tuesday of September. What he wished honorable gentlemen particularly to notice was, that he did not refuse the first application, which was the thing charged against him. On the second Tuesday of September he went to the court. He might state that he saw two other magistrates in Warwick, that day—one before and another after the sitting of the court; he was also informed that Mr. Clark was in town, and would very probably attend the meeting. However, he went, as he had said, to the court, at twelve o'clock, and he found there was no other magistrate present. He was informed by the inspector of police, or by the clerk of petty sessions, he did not know which, that Mr. Green was in the clerk's office, and might come and sit on the bench. He sent a message to Mr. Green, and that gentleman came and sat on the bench. Now, from certain circumstances that had occurred, Mr. Green and he were not on speaking terms; and, therefore, as honorable members would see, there was no chance of any collusion between them in the matter. Both Mr. Green and he were very doubtful as to whether there was any authority for a monthly licensing meeting to adjourn. For his own part, he was very doubtful indeed; but, at any rate, an adjournment had taken place, and the two attorneys who appeared on behalf of Mr. Kingsford's application pressed that the adjournment should be considered valid—for, if not, all the notices that had been given as to the application would have had to be repeated. He thought it was best, upon the whole—and Mr. Green completely agreed with him—to assume that the previous meeting had been correctly adjourned. In the course of the hearing of the application, he asked whether the advertisements prescribed by the Act had been published in the proper form; and it was for doing that

that Mr. O'Sullivan compared him to a detective policeman. But he could inform that gentleman, that by the fourteenth section of the Act, magistrates were required to satisfy themselves that proper notice had been given. He also asked the inspector of police as to the number of public-houses in the place, and that officer informed him there were five in the same street as Mr. Kingsford's house was situated, and six within a radius of a quarter of a mile. He then asked Mr. Green his opinion as to the granting of the application, and his opinion was that it should not be granted, but he did not say what were his reasons. His own opinion also was that the application should not be granted, and his own reasons, though he did not state them, were that he considered there were already a sufficient number of public-houses in the town, and that Mr. Kingsford's character was not such as to render it desirable that he should have a license; and such was his opinion of Mr. Kingsford after an experience of seven or eight years. When he first knew Mr. Kingsford, he thought him a very excellent young man, but from his career during the last seven or eight years he had seen reasons to alter his opinion of him. So far from the refusal of the license being in any way attributable to political influences, Mr. Kingsford used to be a very staunch supporter of his when he held a seat in the elective chamber. He believed there were honorable members now present who were able to bear out the truth of his assertion, that Mr. Kingsford was a very undesirable person to be the holder of a license. He believed that Mr. Kingsford was that sort of a man who would put in practice any of those time-honored practices that bush publicans were said to adopt for the purpose of easing a station man of his cheque. He did not mean to say that he would rob a man, but that he would continue to supply him with liquor and induce him to stay in his house and spend his money until there was little or none of it left. That being his opinion of Mr. Kingsford, he was determined not to grant him a license. It had been said that all discretion had been taken away from magistrates, as to whether they should grant a license to any applicant, if none of the objections specified in the Act existed. Now, he would admit, that the general wording or tenor of the Act afforded some ground for that opinion, and he would admit further, that he believed that such was the intention of the Legislature when they amended the former licensing Act. But, when the Legislature amended the Act, they did not amend the schedules of the Act so as to correspond with the intention; and the schedule which magistrates were required to address to the Colonial Treasurer concluded with these words:—

"And the said A.B. is a person of good fame and reputation and fit and proper to be licensed as aforesaid."

Now, he contended, that the Legislature had no right to call upon any person to sign a certificate which he believed to be a false one; and while that schedule, so worded, continued to be one of the schedules under the Act, magistrates, he contended, were entitled to exercise their discretion as to the character of the applicant for a license. The honorable the Attorney-General made a few observations—or was reported to have made a few observations—and to have said:—

"He thought the whole proceedings at that licensing meeting had been wrong from the commencement, as, in the matter of a license, two magistrates only had no jurisdiction."

That opinion, he believed, was right so far as it referred to the annual licensing meeting, but it was not an annual licensing meeting at which Mr. Kingsford's application was refused. The annual licensing meeting was established by the eleventh section of the Act, but the monthly licensing meeting was held under the twenty-second section. With respect to the annual licensing meeting, the Act said that there must be present three or more of the magistrates usually sitting for the district; but there was no clause requiring more than a quorum to be present at the monthly meetings. Therefore, if Mr. Green and he thought right to grant a license, the proceeding would have been right as regarded the Act, according to his reading of it; but if they had no power to grant a license, as the Attorney-General seemed to think, what they did was also right, for the bench did not grant a license. Whatever interpretation, therefore, was placed upon the Act, the magistrates acted according to law. But the Attorney-General went on to mention what was undoubtedly a very particular point, and one upon which it was most desirable to have all doubt cleared away. The honorable and learned gentlemen said:—

"In reference to the course which the law provided as that to be pursued by a bench at a licensing meeting, he held that if no objections were raised to a license, the magistrates had nothing to do but to grant it."

That was a very important point, and, with all deference to the opinion of the Attorney-General, he should be very sorry to accede to it; and so long as a certificate such as he had quoted from had to be signed by the magistrates in granting a license, he could not in all cases—as in the case of Mr. Kingsford—act in compliance with the opinion of the Attorney-General. If the honorable and learned the Attorney-General used the expressions that were attributed to him in the report in the newspaper, it was very desirable that the point referred to should be made plain, for the guidance of country benches; otherwise, in many cases that could be imagined, magistrates would feel compelled to fly in the face of the Attorney-General, or to sign their names to what they knew to be a notorious falsehood. Another gentleman, who spoke on the sub-

ject, was Mr. Clark, and a portion of the gentleman's speech, as reported, was as follows:—

"Mr. CLARK, in seconding the amendment, deprecated the assertion of the honorable member for West Moreton, Mr. O'Sullivan, that the refusal of the license in question had been made for political reasons. Now, he knew Mr. Green, one of the two magistrates who had sat upon the bench, and he could vouch for the fact that that gentleman had not been actuated by political reasons.

"Mr. O'SULLIVAN: I never said he was.

"Mr. CLARK: Well, that honorable gentleman had referred to the bench generally. With regard to Mr. Gore, he (the speaker) could not defend him, as that gentleman had always displayed great political bias in matters where he should not have done so, and he was by no means certain that he had not been actuated by political reasons on this occasion."

He must say he felt extremely obliged to Mr. Clark for his very favorable opinion. He knew Mr. Clark, but that was all, and he could not challenge his memory with ever having broken bread in his house. He knew Mr. Clark's brother very well, but he only knew, and no more, the Mr. Clark who was the member for Warwick; and he was by no means certain that this Mr. Clark had not been guilty of subornation of perjury in connection with some recent land purchases. He did not say that such was the case, but he might as well say he was not certain that it was not the case, as Mr. Clark might say that he was by no means certain that he (Mr. Gore) was not actuated by political reasons in refusing Mr. Kingsford a license.

The POSTMASTER-GENERAL remarked to the honorable gentleman that he thought he was spoiling his case by making such observations.

The Hon. ST. G. R. GORE: Well, he did not know; but he might say, as regarded the insinuation about political influence, that Mr. Kingsford used to be one of his supporters when he was an elective member. The last election at which he was present as a candidate at Warwick was in 1863; and there was no election at Warwick from 1863 till last year. During that time he was in the habit of sitting on the bench, but for the last eighteen months he had not sat on the bench. During the time that he was in the habit of sitting on the bench, there were no electioneering matters going on in Warwick; and since political feeling rose again he did not sit on the bench till the other day, though he did not mean to say that when he had been passing through the town the police inspector might not have asked him to go into court and discharge a drunkard or two, but on no other occasions had he sat on the bench till lately. As to Mr. Kingsford's political difference with him, it arose on the occasion of the re-election of Mr. McLean, for the Eastern Downs, last year. Mr. Kingsford was opposed to the

election of Mr. McLean on that occasion, and seeing that political influence was not attributed to Mr. Green, who was the partner and friend of Mr. McLean, and who sat with him on the bench when Mr. Kingsford was refused a license, he thought the same charitable interpretation might have been extended to him. Mr. Clark said—

The PRESIDENT: The honorable member was directly transgressing the standing order, which said that no honorable member shall comment upon any expressions said to have been used in the Legislative Assembly. No doubt the honorable member was not the originator of this very inconvenient practice; but he thought a most desirable mode of putting a stop to it would be for some honorable member to move that when the conduct out of the House of an honorable member was attacked, it should be discussed in the House to which he belonged; and a resolution of that kind could be sent to the Legislative Assembly for its concurrence. He confessed that he saw no other way in which such proceedings as the honorable member complained of could be dealt with.

The Hon. W. WOOD recommended the honorable gentleman to adopt the suggestion of the honorable the President, and remarked that the Legislative Assembly did not shew that courtesy towards members of the Legislative Council, which they expected to receive from the members of the Legislative Council, and which the members of the one branch of the Legislature ought to shew towards the members of the other. The members of the Legislative Assembly had over and over again broken through their own Standing Orders in that respect, and attacked honorable members of the Legislative Council.

The Hon. ST. G. R. GORE: He was entirely in the hands of the House. All he wished to gain by the step he had taken was that it should not be allowed to go forth to the world that he had allowed an imputation on his character to pass unnoticed, and so leave it to be supposed that he was not prepared to submit to the most searching investigation. He was entirely in the hands of the House, and if the House should give him to understand that they considered the charges were unsupported by evidence he should be satisfied. With respect to the suggestion of the honorable the President, he thought it was an admirable one, but he did not think that he was himself the proper person to bring it forward, under present circumstances. There had been a considerable amount of obloquy cast upon him lately in the other House, and he, therefore, thought some other honorable member should take a more leading part in this business; and he should be very happy if some other honorable gentleman would take such action as would elicit if the House were satisfied that he had a *prima facie* case, and that he had been ill-used in the

matter by the way in which he had been spoken of in the other branch of the Legislature. If honorable members would be kind enough to express that opinion, in order that it might go forth to the public, he should be satisfied, and would, of course, then withdraw his motion. But he hoped it would be understood, that it was entirely in deference to the ruling of the honorable the President, and the opinions of other honorable members, that he did not go fully into the matter.

The Hon. E. I. C. BROWNE said he thought the honorable member might be satisfied that his character did not in the least suffer in the opinion of other honorable members of the Legislative Council from his having refused Mr. Kingsford a license. He must say, and with all deference to the opinion of the honorable and learned the Attorney-General, that his own reading of the Publicans Act was, that the magistrates had a most perfect discretion to refuse a license, on the ground raised by the certificate which they had to sign for transmission to the Colonial Treasurer. If they were to have no discretion in signing or refusing to sign the certificate, their sitting as a licensing bench would be a perfect absurdity. The magistrates could not be forced to sign the certificate if they felt that in doing so they would be certifying to a falsehood; and, therefore, they must in all cases have the right to refuse a license for such a reason. He thought the House would agree with him, at any rate those honorable members who knew Mr. Kingsford as well as he himself did, that the honorable gentleman, Mr. Gore, exercised a most sound discretion when he refused the certificate; and that he might be satisfied that his character did not on that account in the least suffer in that House.

The motion for adjournment was then withdrawn.

#### NEW PARLIAMENTARY BUILDINGS.

The PRESIDENT moved—

That an address be presented to His Excellency the Governor, praying that His Excellency will be pleased to cause to be laid upon the table of this House, the minutes of proceeding of the Parliamentary Building Commission, whose report was presented and ordered by this House to be printed on the 25th day of May, 1864; also, any further report from the same commission which may have been laid before His Excellency; also, copies of any subsequent proceedings in the Executive Council in reference to the preparation of plans and directions for the building of the new Houses of Parliament.

He believed, he said, that he would not need to detain the House at any length in asking them to agree to this motion, inasmuch as he presumed there would be no opposition to it. It seemed to him that the documents he asked for ought to be amongst the records of the Parliament, that would pass down to future generations, and shew what proceed-

ings had taken place with regard to preparations for the buildings that were now in course of erection. The last proceedings of which he could find any notice on the minutes, with reference to this matter, were contained in a series of resolutions that he brought forward, and which, after being transmitted to the Legislative Assembly, were eventually agreed to by both Houses. The last paragraph of those resolutions was to the following effect:—

“That this House, therefore, declines to concur in the appointment of a joint committee of the two Houses under the terms proposed by the Legislative Assembly’s message of the 19th July; but desires to intimate to the Legislative Assembly its opinion that the Executive Government should cause estimates and specifications to be prepared, and call for tenders for the construction of new Houses of Parliament, in accordance with the recommendation of the commission, whose report has been laid upon the table of this House.”

Now, since that time no intimation had been given by the Executive Government to the Legislative Council, or to the Legislative Assembly either, he believed, as to what proceedings had been taken in the preparation of plans, or the direction of their execution, of the new Houses of Parliament. It was desirable, therefore, it seemed to him, that such information should be placed before honorable gentlemen, and for that reason, as he had already stated, he asked that the papers should be laid on the table of the House. He was aware that, as Chairman of the Building Commission, he could easily obtain those papers and have them laid on the table of the House, but the copies of subsequent proceedings were most important, and those could only be obtained by address, and he, therefore, moved accordingly.

The motion was agreed to.