

Queensland



Parliamentary Debates
[Hansard]

Legislative Assembly

WEDNESDAY, 2 JUNE 1869

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LEGISLATIVE ASSEMBLY.

Wednesday, 2 June, 1869.

Motion for Adjournment—Question of Privilege.—Gold
Fields Bill.—Immigration Bill.

MOTION FOR ADJOURNMENT—QUES-
TION OF PRIVILEGE.

Mr. FRANCIS moved the adjournment of the House for the purpose of calling the attention of the Speaker to the report in "Hansard" of his ruling upon a point of order raised by the Attorney-General, in reference to a resolution introduced by him on Thursday last, 27th May. He had then moved—"That it is expedient to reduce the cost of a license for the sale of spirits outside the boundaries of municipalities." He would not repeat any of the reasons he had advanced in support of that resolution. He merely wished to know whether the ruling of the honorable Speaker on the point of order raised by the Attorney-General was correctly reported. He was unwilling that it should go forth as a correct statement, if it were not so, as it appeared to him that a great principle was involved in this decision. He should not like it to go forth that it was beyond the province of any private member to introduce a resolution which embraced the abstract question of the taxation of the country. That it was inexpedient for such resolutions to emanate from private members, might, perhaps, be admitted; but that was a question for the House to decide. That was, at any rate, not contrary to the parliamentary practice of the House of Commons, where similar motions were made by private members; and he would go so far as to say, that, during late years, some of the best resolutions had emanated from private members—as, for instance, the repeal of the advertisement tax, the reduction of fire insurances, and others. He wished to know whether the Speaker was correctly reported, in his ruling on the point?

The SPEAKER said he had been reported to have said that he agreed with the Attorney-

General. He believed he had added that the honorable member was scarcely in order; and his reason for saying so was, that he had fully in view the authority which he would proceed to read to the House.

"As a proposed grant of money cannot be increased, nor a new grant made, except upon the recommendation of the Crown; in like manner, any proposition for the levy of a new tax or duty, or even for the repeal of an existing impost, should emanate from the Government."

He had not, however, ruled arbitrarily that the honorable member was out of order, though he had stated his opinion that he was scarcely so; for—

"While the strict right for private members to introduce a Bill or resolution for the modification or repeal of an existing tax cannot be denied, and has been acknowledged of late years by leading statesmen, it is nevertheless in the highest degree inexpedient for private members to take the initiative in proposing such questions to Parliament."

* * * * *

"Abstract resolutions in regard to particular branches of taxation have been not unfrequently submitted to the House of Commons by private members; but they have been uniformly resisted by the Government, as being inexpedient and politic."

The ATTORNEY-GENERAL said it was his duty to raise the question of order, subject, of course, to the Speaker's ruling; and he should consider it his duty to pursue the same course in every instance where a motion was made by a private member for the repeal of a tax, because it was for the House to decide in committee whether it should be considered and discussed. He thought it was highly inexpedient that such resolutions should be brought forward, because, until the Colonial Treasurer had brought forward his financial statement, honorable members were not in a position to consider the desirability of entertaining them. He had submitted the point for the Speaker's ruling, without making any positive statement that the honorable member was out of order, because he was aware that the window tax, or other questions of the sort, had been introduced in the House of Commons by private members. He was the more induced to call attention to the point of order, because he saw, further down on the paper, another motion in the honorable member's name, for imposing a land tax. He thought he was perfectly justified in pointing out, as a Minister of the Crown, that it was highly inexpedient for a private member to bring forward these resolutions.

Mr. ARCHER said he thought, as a rule, it was highly inexpedient for a private member to bring forward resolutions which affected the taxation of the country, and especially to reduce a tax; but the honorable member for East Moreton had brought forward a resolution, the object of which was, by relieving certain persons from taxation, to relieve the

revenue, and to check the great evil of sly grog-selling. He thought the Premier had been very hasty in his attempt to overrule the honorable member, for the question was not so much a question of taxation, as one relating to the good government of the country—whether they were to continue this evil system of sly grog-selling, or take steps which while they did not decrease the revenue, would prevent the country from becoming demoralized. The only real reason against the resolution appeared to him to be in the statement of the honorable Premier, that the Government had taken the subject into consideration, and anticipated the honorable member for East Moreton. He felt quite sure the country would concur in the resolutions of the honorable member, and he hoped next time—if he brought them forward again—he would insist upon them.

Mr. FRANCIS said he was quite satisfied if the matter was under the consideration of the Government. With regard to the other motion, to which the Attorney-General had alluded, if he read the authorities aright, it was quite competent for a private member to move the imposition of a tax, provided he obtained the sanction of the Crown. That consent he should of course have asked for before bringing forward the motion, but it was quite competent for him to put it on the paper. He had brought these resolutions forward simply for the purpose of discussing the abstract questions they involved. He would now withdraw the resolution before the House.

The motion was, by leave, withdrawn.

GOLD FIELDS BILL.

The SECRETARY FOR PUBLIC WORKS moved the second reading of this Bill.

Mr. WALSH pointed out that this Bill was for the purpose of raising a revenue from the Crown lands of the colony, and should be originated in committee.

The SECRETARY FOR PUBLIC WORKS said it had not occurred to him before that this was a money Bill, and he feared the objection was a fatal one. He would therefore move that the Bill be discharged from the paper.

The Order of the Day was discharged accordingly.

IMMIGRATION BILL.

The CHAIRMAN OF COMMITTEES said he had to submit to the honorable the Speaker a question of order—Whether the Immigration Bill, now before the House, should be originated in a committee of the whole?

Mr. WALSH said he wished to point out that this Bill contained a provision for the expenditure of public money to make certain payments, and for increasing the taxation of the country, as far as was necessary to make those payments. He believed he was quite justified in pointing out that the permission of the House in committee should have been asked before it was introduced. He hoped

the Ministry, following out the amiable and admirable example set by the Minister for Works that evening, would again acknowledge that an error had been committed, and would rather see the forms of the House strictly adhered to than persevere in a course about which there seemed to be very great doubt.

The SPEAKER asked the honorable member for Maryborough to point out the clauses in the Bill upon which he based his question of order.

Mr. WALSH: Among other clauses he would refer to clause ten, which empowered the Governor in Council to authorise free passages to certain persons. Clause nine contained a similar provision. He would also refer to clause two, which provided for the appointment of an Agent-General, and entitled him to receive a salary. Then, again, in clause six he found that the Agent-General was empowered to give to certain persons specified in the clause, warrants for grants of land, while clause five, authorised him to engage competent persons to act as clerks, and to pay their office expenses, &c. So that it was clear that the moment the Bill became law, the Government or their officers would be obliged to spend money belonging to the colony for the purposes of carrying out this Bill. Well, after the opinion which the Premier had given—that it was a question whether cotton bonuses could be given without an Act of Parliament, and they were equivalent to money, he thought it must be considered that the Bill now before the House was a money Bill to all intents and purposes, and should have been like other Bills of that class originated in committee of the whole.

The ATTORNEY-GENERAL said there was nothing at all in this Bill which brought it under the category of money Bills. Its whole tendency must be taken into consideration, and it would be found that all the expenditure connected with it must depend entirely upon the will of Parliament. There was not a single clause which showed it to be a money Bill; and even if it were, it was now too late to raise that objection. The House had gone to the trouble of reading it a second time, and they were now in committee upon it. There must be an end to these obstructions; for if this practice were allowed, it would be open to any honorable member, even at the third reading of a Bill, to argue that it was a money Bill, and that the House should retrace its step, in order to introduce it in committee. The Bill had now passed its second reading, and, in legal phrase, it was too late to raise an objection. Why, if this obstructive principle were once admitted, the House would probably find that, in dealing with Bills in detail, there would be, in every instance, quite as good grounds for objecting to them as money Bills. He repeated, that there was no single clause in the Immigration Bill, now before the House, which would justify such an assertion.

Mr. PALMER said as it appeared there was a probability that, if this objection were admitted, any member might throw out a Bill on its third reading, he wished to hear the Speaker's ruling on the point raised by the honorable member for Maryborough. If there was any probability that the Bill would be thrown out, it was far better to throw it out at once, than to let it go to its third reading. He had, certainly, never looked upon it as a money Bill; but, as the question of order had been raised, he must say that, without going further than the second clause, it appeared to him to come under that category. He remembered a case in point: last year, a Bill was introduced in the other House—the Contagious Diseases Bill,—which certainly did not strike him as being a money Bill: but it was ruled in another place that it could only be originated in committee, and it was sent down to this House for that purpose. He thought the Bill before the House was quite as much a money Bill as that was, and as he had observed, clause two was a sufficient proof of it. That clause provided that a salary should be given to the Agent-General, and that salary must be raised by taxation. He thought that it was better to have the Speaker's ruling at once.

Mr. LAMB said that, in his opinion, clauses 5, 6, 7, and 8, proved it to be a money Bill. It authorised the issue of land orders, which were always taken into account in the revenue; and in clause 8 it empowered the Agent-General "to engage competent persons" as clerks, and to defray the cost of their services. There could be no doubt it was a money Bill; the word "money," "expenses," and "land orders" were used throughout the Bill.

Mr. JORDAN said that non-transferable land orders were not negotiable in any form. They simply gave the holder a right to settle down on the land, and that land was not the property of the persons settling upon it until they had fulfilled certain conditions, and at the end of five years; and therefore, so far, this could not be considered a money Bill. The cost of carrying out the Bill would not involve any extra taxation, because the Agent-General would raise the necessary funds by means of the Bill itself.

Mr. THOMPSON said it appeared to him that clause two was quite sufficient to stamp it a money Bill according to the Standing Orders. In "May's Parliamentary Practice," page 442, it was laid down—

"Certain classes of bills are required to originate in a committee of the whole House, and, if by mistake, this plan has been omitted, all subsequent proceedings are vitiated, and must be commenced again."

Now clause two expressly enacted that certain payments were to be provided by Parliament. That was quite sufficient for the purpose. But he would go further and say that any Bill

which imposed a general burden on the people would come under the same category. In this Bill, if it were not proposed to part with the public money, it was proposed to part with the public estate.

The SECRETARY FOR PUBLIC WORKS said that if the word "land order" were repeated a thousand times it would not make it a money Bill. There must be some grant-in-aid; there must be a charge upon the revenue of the country. Clause two made no such charge; it simply stated that a salary should be given—if voted by Parliament. The Parliament might not vote one penny, and therefore it was perfectly preposterous to call this a money Bill—it was nothing of the kind. There was nothing in any of its clauses that he could discover which justified that interpretation, or that bore the slightest reference to money granted by that House. The schedules to which an honorable member had referred were schedules of money to be raised by immigration, and not to be taken from the Government of the colony under this Act. He defied the honorable member for Maryborough to point out a single clause which made it a money Bill.

Mr. WALSH said he observed one or two clauses under which the Agent-General would be authorised to engage servants at the expense of the colony. ["No, no," from the Government benches.] The honorable the Premier said "No." Was it at the expense of the immigrants themselves. There was a formal undertaking that that gentleman should sign a document to this effect. He thought it would be much better to refer the question to the Speaker for his ruling. He would call honorable members' attention to the authority cited by the honorable member for Ipswich, which clearly showed that any Bill which entailed a charge upon the revenue, or affected the taxation of the country in any way, must be initiated in committee. He was rather astonished at the law laid down by the Premier, that because this mistake had not been discovered sooner, it was too late to remedy it. He maintained that it was never too late to remedy an error until the Bill was actually passed. He begged to say that he had not designedly called attention to it.

Mr. BELL said he thought the honorable member for Maryborough had raised a very important technical objection to the Bill, and that it behoved the House to give it every consideration; but he thought, at the same time, that, in coming to a conclusion, they should be cautious not to go to extremes, and affirm that every Bill which at all related to money must be introduced in Committee of the Whole. It appeared to him that, if this Bill were illegal, in consequence of this objection, every former Immigration Bill must have been illegal. He was not going to argue that, if it were illegal, it should be passed in that form; but he would ask if it would be possible to put any Bill before the House which was not illegal. His idea of a

money Bill was one that had reference to the creation of money, such as a Loan Bill, passed for the purpose of carrying out other measures after they came into law. He thought the House should be thankful for the watchful care shewn by the honorable member for Maryborough, and, whether there was anything in the objection or not, he was equally thankful to him. He was not, however, disposed to agree with the honorable member in the view he had taken of the Bill.

Mr. GROOM said he found, on reference to the "Votes and Proceedings," that, on the 28th July, 1864, Mr. Herbert brought in his Immigration Bill, which went through its several stages without any such question being raised upon it. Then the present Immigration Bill authorised the raising of a very large sum of money, for immigration purposes, and the then Attorney-General raised no objection to it. There were six Bills during that year, which originated in committee, but the Immigration Bill did not.

The SPEAKER said it was with much regret that he had to give his opinion in opposition to that of the Attorney-General. He did so with much deference; but after the most mature consideration he thought the Bill before the House ought to be initiated in committee.

The ATTORNEY-GENERAL said he should like to take the opinion of the House upon the question, because it was a very serious matter, not only with regard to this Bill, but also with regard to another—the Pastoral Leases Bill. Every Bill, in fact, which referred to money in the remotest degree, would have to originate in committee.

Mr. LAMB said, with respect to the Pastoral Leases Bill of last year, that it had to go first through committee, and the Speaker's ruling upon it was taken at the time.

AN HONORABLE MEMBER: That was a tax.

Mr. LAMB: The only tax was the salaries to the commissioners, and this Bill made a similar provision. He thought the Pastoral Leases Bill of this year ought to have been initiated in committee.

The ATTORNEY-GENERAL said, as he wished to take the opinion of the House, he would move that the question, whether this is a money Bill, and must be initiated in committee, be put to the House.

Mr. WALSH said he was extremely sorry that the Premier should think it necessary to resort to such a course, and to appeal to the House against the Speaker's decision. Such a course was unusual if not unprecedented, and set a bad example to the House. It was not fair on the part of the Premier to put it on the score of expediency, in order to accelerate the business of the House. He thought the first thing to be done, should be to obey the ruling of the Speaker, and be guided strictly by the forms of the House. He felt sure the House would not bear out the Premier when he said this was not a money Bill. He sympathised with the honorable

member on this the second occasion in which the Government had been taxed with an error in the introduction of a Bill, and he did not rejoice as he had done on the first occasion, though he was fully disposed to adhere to the course he had taken. Now no one could have read the Standing Orders of the House, against which there should be no appeal, who could uphold the honorable member. The 266th Standing Order expressly—

"The House will not proceed upon any petition, motion, or bill for granting any money or for releasing or compounding any sum of money owing to the Crown, except in a committee of the whole House."

These were a copy of the Standing Orders of the House of Commons, and he hoped they would be adhered to. The next clause said—

"If any motion be made in the House for any public aid or charge upon the people, the consideration and debate thereof may not be presently entered upon, but shall be adjourned till such further day as the House shall think fit to appoint, and then it shall be referred to a committee of the whole House before any resolution or vote of the House do pass thereon."

Now, in the face of those Standing Orders, he would ask whether the honorable the Premier was justified in asking the House to give an opinion adverse to the ruling of the Speaker. He sincerely trusted that a majority of honorable members would have too much good sense to support him.

The ATTORNEY-GENERAL: He might say at once that he wished to have the question put to the House. In saying so, he had no desire whatever to do anything which might be considered disrespectful to the Speaker. Honorable members all knew that there was no question upon which opinions differed so much. He felt bound to take this course because he thought they ought not to throw away their time in this way; and if the House looked upon the point as so far doubtful that they could support him, they would be able to proceed with the business of the country. That was all he desired to do. The Standing Orders which the honorable member for Maryborough had quoted only related to Ways and Means, as the honorable member would at once observe if he looked at the heading of the chapter, and did not at all apply to this case. There was nothing in the Bill which imposed a burden upon the people, or gave a grant of money; all that was done subsequently, and would be submitted to the House in the Estimates. And after all, the mode of introduction was only a form at the best, and it was no use to strain the point too far. He was sorry that so much time should have been taken up in discussing this question, and really the obstructions to the transaction of business were becoming so frequent in that House that they might almost as well go away, and leave the business to take care of itself. The 266th Standing Order said—

"The House will not proceed upon any petition, motion, or bill for granting any money"—

Now, what granting of money was there in the Bill?—

"or for releasing or compounding any sum of money owing to the Crown, except in a committee of the whole House."

Then the 267th section said—

"If any motion be made in the House"—

Any motion—mark that—

"for any public aid or charge upon the people"—

And so on. He maintained that there was no public aid or charge upon the people in the Bill before the House. He did not blame the honorable member for Maryborough for bringing this question forward; but he was bound to warn the House against anything which tended to obstruct the business of the country. He was sorry the matter should have been so suddenly brought before the Speaker, and that he should have come to the decision he had given; but if there was the least shadow of a doubt, he wished to take advantage of it, in order to proceed with the business before them. He, therefore, submitted respectfully, notwithstanding the decision of the Speaker, to which he had always bowed with the greatest respect, and to which he should bow now, if it were not of material importance to go on with the Bill, that the question should be put to the House. For he saw no possibility of carrying through the House any Bill which had the remotest reference to money in it, if this objection was upheld. It was not, he maintained, a Bill which either directly or indirectly took anything out of the revenue, and, therefore, he respectfully submitted that the House should pass on to express their opinion upon it.

Mr. MILES said he regretted having to speak upon this question, and the more so because he disagreed with the Speaker's ruling. If the Bill were passed, every item it referred to would have to be submitted to the House on a subsequent occasion, and therefore he was of opinion that it was not a money Bill. Even the salary for the Agent-General must be submitted to the House on the Estimates, before it could be paid, and if it were refused the Bill would become a dead letter.

Mr. ARCHER said he did not think the honorable the Premier had put the question in a proper light, when he based his argument on the ground of expediency. If it were a question of principle, they should retrace their steps no matter what the inconvenience might be. But he was of the same opinion as the honorable member who spoke last, that it was not a money Bill. Of course it might appear rather singular for the House to decide upon this point, but he supposed every honorable member would vote according to his own judgment, and, therefore, he should record his vote in accordance with his opinion of the character of the Bill. He did not consider it a money Bill, as every item of money to which it referred was dependent upon the passing of the Estimates, by the House. He

did not think the course the House were taking should in any way be considered disrespectful to the chair, although some honorable members might differ from the Speaker.

The question was put, and the House divided:—

Ayes, 19.	Noes, 6.
Mr. Lilley	Mr. Haly
" Hodgson	" Lamb
" Macalister	" Palmer
" Stephens	" Francis
" Bell	" Walsh
" Taylor	" Thompson.
" Miles	
" Ramsay	
" Archer	
" Royds	
" Sandeman	
" Edmondstone	
" Thornton	
" Jordan	
" Murphy	
" Groom	
" Forbes	
Dr. O'Doherty	
Mr. Fraser.	

Mr. PALMER wished to ask whether the question could be brought before the House again, at any time before the Bill was passed?

The SPEAKER: I do not say that the question cannot be brought before the House again, but if it be brought up again during this debate, I shall certainly vote with the majority.