

Queensland



Parliamentary Debates  
[Hansard]

**Legislative Assembly**

**WEDNESDAY, 10 MAY 1871**

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## LEGISLATIVE ASSEMBLY.

*Wednesday, 10 May, 1871.*

Inaccuracy in Division List.—Message from the Legislative Council as to Bills transmitted from Legislative Assembly.—Writs of *Dedimus* Bill—Postage Bill.

## INACCURACY IN DIVISION LIST.

Mr. HANDY called the attention of the Speaker to the divisions that took place on the previous day when the Pastoral Leases Act of 1869 Amendment Bill was under consideration. On that occasion he voted with the “noes” when the question for the adjournment of the debate was put, and with the “ayes” when the question for the second reading of the Bill was put. In the list of the first division his name did not appear. The honorable member for West Moreton, Mr. FERRETT, was sitting beside him on the occasion of the first division, and could, therefore, assure the House that what he now stated was correct, if any corroborative statement should be required.

Mr. FERRETT said he could confirm the statement of the honorable member for the

Mitchell. The honorable member and he were sitting beside each other on the occasion of the division as to the adjournment of the debate.

The SPEAKER said he had no doubt the House would accept the statements of the honorable member for the Mitchell and the honorable member for West Moreton as sufficient, and allow that the division list should be corrected.

The matter then dropped.

MESSAGE FROM THE LEGISLATIVE COUNCIL AS TO BILLS TRANSMITTED FROM THE LEGISLATIVE ASSEMBLY.

The SPEAKER said he had received the following message from the Legislative Council:—

"MR. SPEAKER,

"The Legislative Council having come to the following resolutions, viz. :—

"(1.) That, in order to facilitate the business of the Session, and to avoid the highly reprehensible practice of receiving in this House a number of Bills at the close of the Session, of suspending the Standing Orders, and of passing these Bills through their various stages in one day, this House resolves not to entertain any Bills unless they are placed on this table at least one week prior to the closing of the Session.

"(2.) That the foregoing resolution be transmitted to the Legislative Assembly by Message,—

"beg now to intimate the same to the Legislative Assembly.

"(For and in the absence of the President,)

"DANL. F. ROBERTS,  
"Chairman."

Mr. ATKIN said he wished to obtain the opinion of the Speaker as to whether such a message did not amount to a breach of the privileges of the Legislative Assembly. He, for his part, thought that it was not only unconstitutional, but also that it was an infringement by the Upper House of the privileges of the Lower House.

The SPEAKER said he not only regarded the message as a breach of the privileges of the House, but he also considered it to be unconstitutional. At the same time, he must say that he sympathised in the matter with the Legislative Council, because of the difficulties they labored under at the present time, on account of the absence of the President, and also of the Clerk of the Parliaments. The Legislative Assembly had a right to legislate up to the last hour of the Session, and the Legislative Council had a constitutional right to say whether they would then, or at any time, entertain the measures transmitted to them. He thought it would be well that the House should suspend any action in respect to this matter in the meantime, as the other branch of the Legislature might, at its next sitting, consider it advisable to rescind the resolution now transmitted to this House.

Mr. ATKIN said that his only object in calling attention to the message was, that it

might appear on their records that the House considered it to be a breach of their privileges. The Legislative Council could not refuse to receive any Bill transmitted from this House up to the last moment. The Upper House had a constitutional power to refuse to deal with any measure sent up from this House at a late period of the Session; for all they required to do, was to object to the suspension of the Standing Orders, to allow Bills to be passed through all their stages in one day.

The COLONIAL SECRETARY said that his attention was called to this matter when the resolution was passed, but he did not think it was worth his while to take any notice of it; because, as it was only a resolution, it could be rescinded at any time. If such a resolution should be acted upon, it must be quite clear to honorable members that an Appropriation Bill could not be passed at the end of the session; for it would not be possible to keep a quorum of the members of the Legislative Assembly together for eight days after the general business of the session was finished.

The Hon. R. PRING said he could not imagine why such a message as this should have been sent down from the Upper House. It only transmitted a resolution; and he thought that under all the circumstances of the case, the House ought not to receive the message. While he said so, he thought that it would be well that the House should return the message with a polite communication, stating, in effect, that this branch of the Legislature declined to entertain such a message. He thought that the course he proposed, was the only one which it was competent for the House to pursue—or, at any rate, it was the only dignified course the House could pursue, in respect to so important a question.

Mr. LILLEY said he thought the most advisable course to adopt would be to receive the message in the first instance, and to forward to the Legislative Council, in reply, a message stating, in effect, that this House considered that the resolution which had been forwarded by the Legislative Council was a breach of the privileges of the Legislative Assembly. In the message that was returned it might be well to suggest that the resolution which had been come to should be rescinded. It would, no doubt, be inconvenient to have such a message as this on the records of the House; but he thought that, if a respectful and dignified answer was returned, by way of message, to the Legislative Council, another message might be returned by the Legislative Council stating that this resolution had been rescinded.

Mr. FRYE said he believed that the Upper House had passed this resolution with a view to prevent hasty legislation towards the end of the session; and he thought this resolution was a sort of protest against Bills being sent up at a late period of the session. He would not, however, as a member of the

Legislative Assembly, submit to any kind of dictation from the Legislative Council.

Mr. ATKIN said he most decidedly considered that the Upper House, in passing such a resolution as had been forwarded by this message, had infringed upon the privileges of the Legislative Assembly. Now, if such a proceeding was allowed to pass without notice—in fact, if they were to allow this to pass down to history—it would be considered, by their successors, that they had not properly attended to the protection of the privileges of the House. On account of such negligence, very great injury might subsequently accrue in respect to the privileges of the Legislative Assembly. He therefore moved—

That the Resolution transmitted from the Legislative Council, by Message, on the 10th instant, and dated the 4th instant, be returned to the Council, with a Message that such Resolution may lead to a breach of the Privileges of this House.

The motion was put and passed without division.

#### WRITS OF *DEDIMUS* BILL.

The ATTORNEY-GENERAL, in moving the second reading of a Bill to authorise the issuing of writs of *dedimus potestatem* and commissions for taking affidavits within and without the colony, said, that the object of the Bill was to remove certain doubts on the part of the Judges of the Supreme Court, as to their power to issue such writs to magistrates of this colony, who were resident in other colonies.

The Hon. R. PRING said he did not see how there could be any doubts about the matter at all, inasmuch as any measure the Legislature might pass here, could not confer vitality upon the action of a person in another colony, unless there was reciprocal action by the Parliament of the other colony.

The SECRETARY FOR PUBLIC WORKS said he thought the honorable member must have misunderstood the purpose for which this measure was introduced. It appeared that the judges considered they had no power to issue writs of *dedimus potestatem*, to be acted upon by magistrates in other colonies. Now, it was necessary they should have such a power, and it was the intention of this Bill to give them such a power. There were magistrates of this colony in other colonies, but they had no power to swear in any one there.

The COLONIAL SECRETARY said that though he did not profess to know anything about the law in this matter, he knew that great inconvenience was occasioned from the want of an Act of this kind. Such a measure was very necessary, and if the Bill now before the House were passed into law, it would be found to be of great benefit. Doubts had arisen in the minds of the law dignitaries in this colony, as to their power to issue writs of *dedimus potestatem* to magistrates in other

colonies, and the purpose of this Act was to remove such doubts.

The SECRETARY FOR PUBLIC LANDS said the judges here had decided that they had not now the power which this Bill proposed to give them. There was great difference of opinion upon the point amongst the members of the legal profession; and, for his own part, he was inclined to think that the judges had at present all the powers they required in respect to this matter. Still, if they declined to act on the powers they might possess, the Parliament could not compel them to do so. It was, therefore, necessary that a measure of this kind should be passed, in order to remove any doubts the judges might have; and they would then be able, without any doubts on the subject, to issue writs of *dedimus potestatem* and commissions for the taking of affidavits without the colony, and to take judicial notice of proceedings under those writs. He did not see why the House should decline to satisfy any scruples the judges might have in the matter.

Mr. HANDY said that the Bill proposed to give the judges a double power, namely, the issuing of writs of *dedimus potestatem* and commissions for taking affidavits in other colonies. They had always done so hitherto, and he did not see, therefore, that there was any necessity for this second power. As the judges, however, had doubts as to their powers in those respects, he would support the second reading of the Bill.

Mr. STEPHENS said that as this Bill had been brought in to give the judges a power which they thought they did not at present possess, it would be well to know if they were satisfied that this Bill would be sufficient to remove any doubts they had in the matter. He would like to hear from the Attorney-General if such would be the case.

Mr. MILLS said he should object to the Attorney-General being heard a second time on the motion for the second reading of the Bill. Besides, he did not think that the Bill required any explanation. It was quite a simple measure, and all that it proposed to do was to relieve the minds of the judges from doubts as to their powers to issue certain writs. He knew that such a measure was necessary, and, therefore, he would support it.

The motion that the Bill be read a second time was then agreed to without a division.

#### POSTAGE BILL.

The COLONIAL SECRETARY, in moving the House into Committee of the Whole for the consideration of the Postage Bill, said it was principally a consolidation measure of existing arrangements. There was something new in it, but nothing which, he thought, honorable members would object to. The first new part to which he would call attention was the fourteenth clause, which autho-

raised the Government to make such regulations as would allow business packets to be—  
“sent by post as town country and foreign packets within the meaning of this Act (that is to say)—

“(1) Bankers’ packets (in covers open at the ends or sides and the contents legibly endorsed thereon) containing notes orders cheques pass-books returns or other periodical statements sent by or to any bank or banker.

“(2) Packets (in covers open at the ends or sides and the contents legibly endorsed thereon) containing process of or proceedings or pleadings in any court briefs cases and instructions for counsel and their opinions thereon respectively deeds affidavits policies of assurance letters of attorney depositions or recognizances.

“(3) Packets (in covers open at the ends or sides and the contents legibly endorsed thereon) containing patterns or samples of merchandise not having a value of their own apart from their mere use as patterns or samples and either unenclosed or enclosed in transparent bags or in bags tied round the neck so as to be easily loosened and refastened.

“(4) Packets (in covers open at the ends or sides and the contents legibly endorsed thereon) containing prices current and catalogues.

“(5) Packets (in covers open at the ends or sides and the contents legibly endorsed thereon) containing Acts of the Queensland or Imperial Parliament or printed Votes and Proceedings of either House thereof respectively or returns or copies of returns made by or to any officer in the Public Service.

“(6) Packets (in covers open at the ends or sides and the contents legibly endorsed thereon) containing scrip pamphlets maps plans specifications music photographs (on paper) magazines reviews placards almanacs prospectuses paintings engravings printers’ proofs or periodical publications other than newspapers.

“(7) Packets (in covers open at the ends or sides and the contents legibly endorsed thereon) containing printed or plain books.

“(8) And (as town and country packets) packets containing seeds in transparent bags or papers tied so as to be easily loosened and refastened not exceeding sixteen ounces in weight.”  
Though that was new in this colony, it was not new in the neighboring colonies. Any person in business in this colony knew that packets of the description given came from the neighboring colonies at a much less rate of postage—a packet rate—than he could send them back for. Here, the full letter rate of postage must be paid. The only other thing new in the Bill, except the schedule, was the third part, relative to money orders. He was informed, upon very good authority, that although the money-order system had been carried on for a long time in Queensland, there was no statute under which the system was authorised. The Bill made no new rule, but provided merely for legalising the system in operation and the rules already carried out. There was no necessity for his going further into the Bill; and he now moved that the Speaker leave the Chair.

Question put and passed. The House went into committee.