

Queensland



Parliamentary Debates
[Hansard]

Legislative Assembly

WEDNESDAY, 22 APRIL 1874

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LEGISLATIVE ASSEMBLY.

Wednesday, 22 April, 1874.

Proceedings in Committee.—Supply.

PROCEEDINGS IN COMMITTEE.

Mr. GRIFFITH said he rose for the purpose of calling the attention of the House to a difficulty that had arisen with respect to a matter of practice, and which was of considerable importance, so far as the time of the House was concerned when in committee. He understood it had been the practice hitherto, when the House was in committee on Bills, and clauses were added or omitted, that the consecutive numbering of the clauses was a mere clerical duty which should be performed by the Chairman of Committees with the assistance of the Clerk. He had, however, been given to understand that this practice was improper; that the arithmetical number prefixed to a clause formed part of the clause, so that no person could alter it except the House itself. Of course, if this were so, where a clause was inserted or omitted, the Bill would have to be re-committed for the simple purpose of going through the drudgery of correcting the numbers of the clauses. But that, as far as his experience went, had not been the practice; for instance, the Redistribution Bill was amended frequently, and every time it

was re-committed, the clauses were numbered in arithmetical progression. The practice in the House of Commons was different; there, the practice was, to add new clauses only after the other clauses had been disposed of, so that if there were 100 clauses in a Bill, and five new ones were proposed, they would be added to the end of the Bill. It also appeared from page 478 of "*May*," that it was the custom in the House of Commons to reprint Bills where numerous amendments had been made, and

"The practice of both Houses is to rely more upon a reprint of the Bill, than upon any proceedings in the House, on the report of very numerous and important amendments."

The question that had arisen was, whether it was right for the Clerk to correct errors in the numbers of clauses in a particular Bill which was partially reprinted, or whether it would be necessary to recommit the whole Bill, and probably waste the time of the committee, for two hours at least, to correct a mere clerical error—it was not even a clerical error, but simply going through a process of correction that any boy could do. He submitted that the foundation of the error was in supposing the number of a clause was part of the clause itself; these numbers were merely inserted for convenience of reference, and followed in arithmetical progression. The question put in committee was not that clause 2, for instance, stand clause 2, but that it stand part of the Bill; and if clause 40 were passed, the next clause would be numbered 41. He had brought the matter under the notice of the House because he believed considerable waste of time would arise if they allowed the established practice of the House to be departed from.

The SPEAKER: Will the honorable member state his question in writing?

Mr. GRIFFITH: The question I put is this:—

Whether, when clauses are added to or omitted from a Bill in Committee of the Whole House, it is within the province of the Chairman of Committees to cause the numbers of the clauses of the Bill, as amended, to be corrected, so as to follow in correct arithmetical progression?

and perhaps it will be more convenient to ask your ruling upon it.

Mr. J. SCOTT said before the question was disposed of he would point out a difficulty that might arise where a particular clause in a Bill referred to another clause which preceded or followed it. If the Chairman of Committees, or the Clerk, altered the body of a Bill, which he would be doing if he altered the number of a clause referred to by another clause, it would be very awkward, and likely to lead to confusion; because, if he could alter one part of the body of a clause, he (Mr. Scott) could not see why he could not alter another part. For instance, if clause 100 referred to clause 90, and 90 in the corrected Bill was altered to 92, it would not, unless

a further alteration were made, apply to the clause it was intended to apply to. That was a difficulty which presented itself to his mind.

Mr. BELL said the observations of the honorable member for Springsure only applied to the Bill before it was passed. After the Bill was passed it did not matter whether the Chairman of Committees altered the numbers or not. The mere alteration of the numbers of clauses could in no way affect the value of the Bill.

The SPEAKER said: I have given this question some consideration, and that I may not be misunderstood I have committed my opinions to writing, which I will read:—

The Question is—a Bill having gone almost through committee—can a clerk of the House, or any other officer, adjust the errors found by him to exist in the numbering of certain clauses? I think not; and that the House alone can deal with the errors, by ordering the Bill to be re-committed for that purpose. The way of putting a clause in committee is as follows:—The Chairman calls out the clause by number; the member in charge of the Bill moves that the clause, as printed, stand part of the Bill;—hence the committee having willed that a certain numbered clause, as read, or amended, be agreed to, the House or committee only can subsequently make any necessary alteration thereto. In other words, I think that an officer of the Assembly, with his pen, cannot correct the most trivial mistake found to exist in a vote of the committee of this House. I think it would be safer to re-commit the Bill, than to delegate to an officer the slightest power to alter a vote.

The COLONIAL SECRETARY said he did not know whether this was a question of order, or what it was; but he supposed there would be no harm in giving expression to his opinion on the subject. He had listened carefully to the expression of opinion which had emanated from the honorable the Speaker, but he must confess that he failed to discover any ground upon which he arrived at the conclusion he had announced; because, while no precedent had been shown for it, it had, undoubtedly, been the practice of the House for the last fourteen years to consider the numbers of clauses as no portion of a Bill. The honorable member for Springsure had mentioned that one clause might have reference to another; but he was speaking altogether beyond the question, because the instance he referred to would be undoubtedly, an alteration of the body of the clause; but the numbers now under discussion were those which were prefixed to clauses merely for convenience, and they formed no part of the Bill. A Bill would be still a Bill without even a single number being inserted. They were merely for the convenience of members, and it had always been the practice for the Chairman of Committees and the Clerk to arrange and correct the numbers. If they adopted the ruling that these numbers formed part of a Bill, a Bill might have to be committed over and over again, and they would never get to the end of it; and seeing

that no damage had ever arisen, or was likely to arise, from the practice they had hitherto followed he was of opinion they ought to continue it.

The SPEAKER: Do you make a motion?

The COLONIAL SECRETARY: No; I make no motion.

Mr. GRIFFITH said, for the purpose of testing the question—which did not relate to alterations in figures in the body of a clause, but to the figures prefixed to each clause, which was an artificial arrangement for convenience—he would now move—

That the ruling of the Speaker be disagreed to.

Mr. THOMPSON thought that no honorable member, except one who had filled the office of Chairman of Committees, could give any information to the House as to the convenience of the present practice. If honorable members would consider the process which had to be gone through, they would see the practice was a very convenient one. All honorable members had in their hands printed Bills, the clauses of which were numbered simply for the sake of directing the attention of members to particular clauses; but those numbers formed no part of the Bill. They had, however, got into the habit, in drafting Bills, of referring to clauses by the numbers—which was not a good system, because, if a mistake occurred, it could not be altered without considerable trouble. There should be no clause in a Bill referring to another as clause three, four, or five.

Mr. GRIFFITH: Hear, hear.

Mr. THOMPSON was glad to hear the honorable member for Oxley, say, "Hear, hear," because a great many mistakes had arisen from the practice he had alluded to. When a clause was put by the Chairman, the way in which it was put showed that the present practice was correct; because the question was, "That the clause as read stand part of the Bill." The Chairman read the number and the short title, and he (Mr. Thompson) observed that according to the practice in the House of Commons it was not necessary to read the number, but only the short title. Then, if a new clause were proposed, it was not moved as clause so and so, but as a clause to follow a particular clause as printed, and the process of numbering, which came afterwards, was a mere mechanical operation. In the same way, marginal notes were sometimes altered by the Chairman of Committees, sometimes by the Clerk, sometimes by the member introducing the Bill, and sometimes by the Government Printer. He thought the present practice was very convenient, but of course when a clause was referred to in another clause by number, any alteration became important.

The SPEAKER said: In the present instance I may inform honorable members it is not simply a matter of convenience; it is altering numbers in the body of a clause.

Mr. GRIFFITH: No.

The SPEAKER: I am advised by an officer of the House that the question refers to the alteration of figures in clauses.

Mr. J. SCOTT said he could refer to a case in point. In the 124th section of the Insolvency Bill it was provided—

"The insolvent shall to the utmost of his power aid in the realization of his property and the distribution of the proceeds amongst his creditors. He shall on or before the day appointed by the order of adjudication for that purpose deliver to the trustee the statement in the seventy-first section hereof."

That was a section referred to in the body of a clause, and if, from the numbering of the clauses, clause 71 were made 69, there would be an alteration in the body of the clause. If the honorable the Speaker's ruling applied simply to numbers which occurred in the body of clauses, he quite agreed with it, because numbers at the commencement were simply for the purpose of identification and convenience.

Mr. GRAHAM said notwithstanding the statement of the honorable the Premier, he maintained that evils, or, at any rate, an evil had arisen from the present practice. In the Leasing Act of 1866, there was a case in point. It was provided in clause 12 that lands in agricultural reserves should be open to lease by the first applicant, under the terms and conditions provided in the 7th clause of the Act. Now the 7th clause provided—

"It shall not be lawful for any one person co-partnership or company to become the lessee in any one year of more than two thousand five hundred and sixty acres."

But clause 6 contained a number of conditions, and no doubt the intention of the House was that persons who selected land in agricultural reserves should fulfil those conditions. This was therefore a strong case in point, because they had an Act, if not quite nullified, at any rate rendered very inconsistent, by the number of one clause being referred to in another.

Mr. STEWART understood the numbers in question were the numbers at the beginning of clauses, and not numbers in the body of clauses, which of course formed part of the Bill, and could not be altered except by the House.

Mr. PALMER: Do I understand your ruling, sir, to be that officers of this House cannot correct numbers at the commencement of clauses, or marginal notes; or is it that they cannot interfere with numbers in the body of clauses? If it be the latter, I certainly agree with you—that no Clerk or Chairman of Committees has power to alter one word, or clerical error even, in the body of a clause. But, with regard to marginal notes and numbers of clauses, I know it has always been the practice to consider that the Chairman of Committees has power to make alterations and to see that they are correct.

Mr. GRIFFITH said the question submitted for the ruling of the honorable the Speaker was, whether it was within the province of the Chairman of Committees to alter the numbers in the margin of clauses so as to make them go on in numerical succession? That was the only question he submitted for the ruling of the Speaker, and his motion that the ruling be disagreed to related solely to that question. He quite agreed with the honorable the Speaker that they could not make alterations in the body of a clause without recommitting the Bill, or a portion of it. He took it that the ruling was on the question as he had stated it, and he hoped honorable members would clearly understand this in voting on the question before the House.

The SPEAKER: In answer to the honorable member for Port Curtis, I may state that this difficulty has arisen in consequence of the honorable member for Oxley, who is in charge of the Insolvency Bill, having agreed to excise some three or four clauses of the Bill. The honorable member who suggested the withdrawal of these clauses, or any other honorable member, may substitute others to take their places; and hence it follows that the Bill must necessarily be recommitted at some future time to enable these new clauses to be inserted. Of course honorable members will understand that my only object is to get the business of the House into a state by which it can be most expeditiously carried on. I will repeat my ruling, because it has not been altered by any argument I have heard. [The honorable gentleman here repeated his ruling at length.]

Question—That the ruling of the Speaker be disagreed to,—put and passed on division.

| Ayes, 23. | Noes, 10. |
|----------------|--------------|
| Mr. Macalister | Mr. Graham |
| " Stephens | " Buzacott |
| " Hemmant | " De Satgé |
| " McIlwraith | " Pettigrew |
| " Miles | " J. Thorn |
| " Moreton | " W. Scott |
| " J. Scott | " Hodgkinson |
| " Pechey | " Fitzgerald |
| " Fryar | " Morehead |
| " Bailey | " Wienholt. |
| " Ivory | |
| " Royds | |
| " Dickson | |
| " Beattie | |
| " MacDevitt | |
| " Lord | |
| " Griffith | |
| " Fraser | |
| " Thompson | |
| " Palmer | |
| " Groom | |
| " Stewart | |
| " Edmondstone. | |

SUPPLY.

The COLONIAL TREASURER moved—

That the resumption of the Committee of Supply take precedence, as of course, on each day on which the House shall sit during this week.

He said he might point out, for the information of the House, that at the present time there was a balance of only £8,039 out of the £150,000 granted to carry on the business of the country in the early part of the year;

and the vouchers in the Audit Office, under the cash credit system, would absorb the whole of that amount; so that the Government were practically without funds. The balance he had mentioned had been virtually appropriated; and, under these circumstances, he thought honorable members would not object to go on with Supply during the remainder of the week.

Mr. PALMER said he hoped honorable members would pause before they allowed this motion to pass; because, if it were agreed to, the result would be that Supply would be rushed through, the Appropriation Bill would be passed, and then, if they were not sent about their business, they ought to be. He thought that immediately after the passing of the Appropriation Act, the Government were bound to prorogue the House, whether for a long or a short period it did not matter, but the shorter the better so far as he was concerned. It would be most irregular to continue to go on with the business of the House after that Act was passed. There would be no difficulty in the Government getting what money they required to carry on with, and there was no necessity whatever for taking up private business days in order to rush through Supply. He believed, if the Government took their ordinary business days, they would get on quite fast enough, and, if they wanted money, he would be prepared to give them what they required. He considered they would be pursuing a very dangerous course, indeed, in rushing Supply through and getting the Appropriation Act passed; and they would be following the bad example of one of the neighboring colonies if, after that, they proceeded with the business of the country. He was of opinion that the question involved was one of very great moment, and he hoped the Premier would take it into his serious consideration. He had not the slightest intention to obstruct Supply; and he did not believe any honorable member on either side of the House had any such intention; but he thought it would be a safer course for the Government to take any grant they required—he was not at all particular to a few hundred thousand pounds—and let the House take the Estimates in the ordinary course, and pass the Appropriation Bill at the end of the session. They had the Estimates for 1875 to pass during the year but it would not be well to pass them during the present session; it would be better to prorogue, and go on again. He thought, as he had said before, the Government were taking a very dangerous course in following the precedent set by New South Wales, and there was no necessity for it, because they could get whatever money they asked for.

The COLONIAL SECRETARY said the views of the honorable member for Port Curtis varied so much under different circumstances that he was not at all astonished at the doctrine he had just laid down. He would point out

that it was for the very purpose of preventing the Estimates being rushed through the House—as it was quite possible they would at a later period of the session—that the Government asked for this concession. They were now drawing towards the end of the month; they had no money, and unless they got it they must do that which they were most anxious to avoid; and, although the honorable member for Port Curtis said they might get a lump sum, the Government had a great objection to that course of proceeding. Had it not been for the lump sum voted at the beginning of the year, the House might, in considering the Estimates before them, have made much greater reductions than it was now in their power to do, simply because part of the money had been spent. The honorable member also argued that the moment the Estimates and the Appropriation Bill were passed the House must adjourn; but he could point to two sets of Estimates which were passed under similar circumstances, and business was proceeded with. The honorable member had evidently made a mistake with regard to the course of action adopted in New South Wales. The objection taken there was a very excellent one. The estimates passed there were the Estimates for the succeeding year, and not those for the current year; and after those Estimates were passed, the Government proposed to bring forward a Bill which would alter the fundamental principles of the constitution. It was upon that the debate arose, and the Speaker very properly objected to such a course, on the ground that it was in violation of all constitutional rule for the Government, after passing the Estimates for the succeeding year, to introduce a Bill to alter entirely the constitution of the country. But here the Government were not endeavoring to get through the Estimates for next year. It would be six weeks, probably, before the Estimates for 1875 were sent down to the House, and until these Estimates were passed the argument did not apply. The object of the Government was simply to advance the business of the country. There were a great many measures on the paper which they had not been able to advance beyond their first stage; and if any honorable member was inconvenienced by the postponement of private business, he was sure, so far as the Government were concerned, they would be glad to bring it forward on any other day. The Government simply desired to be placed in a proper position, because the present state of affairs was not brought about by them, and he thought it was not asking too much to take Supply to-morrow and the next night.

Mr. MILES said the Government could not for a moment suppose that if they got the two private business days of the week, they would be able to get through the Estimates.

The COLONIAL SECRETARY: No; we do not expect it.

Mr. MILES: They had some of the most important items to deal with yet, and even if the Government had the whole of this week and next week, he did not believe they would be able to get them through. He, therefore, thought it would be better for the Government to take a vote on account. He knew they were always very ready in offering their predecessors lump sums, and he could not see why they should not accept the same thing themselves. They all knew what Governments were when they got the Estimates through, and the Appropriation Bill passed. He had seen it over and over again, that as soon as the Appropriation Bill was passed, if honorable members brought forward any question that would not stand discussing, the Government simply prorogued the House, and sent them about their business. He thought it would be better to transact private business on private days, and let the Government keep to the days set down for them. If the question went to a division, he would vote against it.

Mr. FITZGERALD was one of those who objected very strongly to the proposition of the honorable the Colonial Treasurer, because he was living at a considerable distance from the capital, and he wished to get home as soon as possible. It would be very inconvenient for him to have to remain in town any length of time, and he feared that, if the Estimates were passed in this way, they would find the Government—who might then see very good and strong reasons which they did not see now—adjourning for two or three weeks, in order to get in the new Estimates. This would be great inconvenience to members, many of whom would be obliged to leave before they could bring forward measures which they considered necessary. With regard to the necessity for the course proposed, he thought the Government need not be so thin-skinned as to fear drawing a few cheques over and above what they were authorised to spend. If they took a lump sum, before next month was over the Estimates would have been passed through in the ordinary course, and private business would have been disposed of in the same proportion as Government business.

Mr. GROOM said, at first he felt inclined to oppose the motion, but he must confess that the views put forth by the honorable the Premier had rather convinced him that the course proposed was the best after all. He had read the debate referred to by the honorable member for Port Curtis, and also the very excellent speech delivered by the Speaker of the New South Wales Assembly, Mr. Arnold, on the extraordinary proposal of the Government of that colony to try and pass an Electoral Bill, which would revolutionize the constitution, after they had got Supply and the Appropriation Bill passed. But here, as the honorable the Premier had stated, the Government simply required the Estimates for 1874 to be passed; and, as he

had well observed, it was no fault of that side of the House that they were in arrears with the Estimates. It was entirely owing to honorable members opposite, that Supply for 1874 had not been voted.

Mr. PALMER: It is nothing of the sort.

Mr. GROOM: He maintained that it was, because if that celebrated adjournment for seven or eight months had not been carried in opposition to the wishes of the House, and had not been followed by a dissolution, it was probable the House would now be discussing the Estimates for 1875. So far as his experience went, this was usually done in April or May of the preceding year. But he took higher ground than this. He objected to voting a lump sum, and he was surprised to hear the honorable member for Carnarvon even giving his sanction to such a proposal; because he, in common with thirteen or fourteen other members of the House, appealed, on a former occasion, to the highest authority in the colony, protesting against the action of the then Government, and he was told that one of the chief duties of the Opposition was to criticise and carefully watch the expenditure of the Government, which they could not do if lump sums were granted. Then, again, he could not see how the Government could adjourn for even seven days, or any other period, in the face of the heavy and important business that was on the paper, some of which, he thought, ought to be proceeded with even before the Estimates were passed. There was the Elections Bill, which, he supposed, would completely alter the present system, and he knew that a great many electors were refraining from taking steps to be enrolled under the apprehension that this Bill would be passed and would abolish a great deal of the troublesome proceedings necessary under the present Act. Then again, there was the "Land Bill," and a Bill to inquire into the fraudulent acquisition of Crown lands, and other important measures which had been introduced by the Government, and which it was necessary that the Government should proceed with. However, after the statement of the honorable the Premier, that even if the Estimates were passed he would not adjourn the House, but would go on with those measures, he thought that the House should agree to the proposition which had been made that evening by the honorable the Treasurer.

Mr. GRAHAM said, the honorable member for Toowoomba had endeavored to throw upon the late Government the blame of the Estimates not being yet passed, and had gone on the old argument of what might have been; but the honorable member should have remembered that the late Government were not responsible for the deadlock which had been the cause of so much delay. He only wished to see some progress made with the business before the House; as although the House had been in session for a long time, with the exception of the Payment of Mem-

bers Bill—which could hardly be regarded a Government measure—the Government had not advanced a single Bill beyond the first reading. Why that should have been the case he could not say, or why there was that studied care in pushing the Crown Lands Sales Bill lower down on the list, every day. Honorable members had certainly seen that Bill, but it appeared as if they were not to be allowed to touch it. All he wanted was, that they should get as soon as possible to those important measures which the Government had introduced. If the honorable the Premier would give the House a pledge that he would not prorogue until the Estimates for 1875 were voted, he would have no objection to go on with the Estimates, as proposed.

The COLONIAL SECRETARY: Hear, hear.

Mr. GRAHAM: He did not think that the Government had any intention of proroguing, and therefore he should not offer any further opposition.

The SECRETARY FOR PUBLIC WORKS thought that the remarks made by the honorable member for Carnarvon amounted to as great a compliment as the honorable member could pay to the Government, inasmuch as the honorable member would prefer to give them a lump sum on account than proceed with the Estimates as proposed by the honorable the Treasurer. If the honorable member looked at the matter in the same light as he (the Secretary for Public Works) did, he placed most unbounded confidence in the Government, as he would give them £150,000 to allow them to carry out any works they chose—in fact, the Government would be at liberty to go on with works that might possibly be objected to by even the honorable member. He was not alone in that opinion, as he had had an authority pointed out to him in a reply made by the present Governor to a memo. addressed to him:—

"To grant Supply in a lump sum, without examination of the Estimates, is a course which should be resorted to very rare and special occasions; and to do so to a Government in which you profess to have no confidence, is, in my opinion, to abdicate not your own rights, but those of your constituents, who have entrusted this important duty to your charge; and I can well understand even a member who has perfect confidence in a Government refusing to grant Supply in such a manner."

That reply was addressed to Charles Lilley, Esquire, T. B. Stephens, Esquire, and William Miles, Esquire.

HONORABLE MEMBERS on the Government benches: Hear, hear.

The SECRETARY FOR PUBLIC WORKS: After reading that authority, he considered he was justified in characterising the remarks of the honorable member for Carnarvon as the greatest compliment which had yet been paid to the Government.

Mr. GRIFFITH said that, before the question was put, he would like to ask the

honorable the Premier whether, in the event of the motion being carried, he would, before the House went into Committee of Supply on the following days, have the business called on in a formal matter; because there were some very important matters on the paper which he should be very sorry to see pushed down to the bottom of the paper. If the honorable member would promise that that should be done, he (Mr. Griffith) would withdraw his opposition to the motion now before the House.

The COLONIAL SECRETARY said he had already explained that he should be anxious to afford every assistance to honorable members in getting on with their private business on the paper; and he might inform the honorable member that his request would be acceded to.

The question was put and passed.

The House went into Committee of Supply.