

Queensland



Parliamentary Debates  
[Hansard]

**Legislative Council**

**WEDNESDAY, 24 JUNE 1874**

---

Electronic reproduction of original hardcopy

## LEGISLATIVE COUNCIL.

*Wednesday, 24 June, 1874.*

Assent to Bills.—Oyster Beds in Moreton Bay.—Civil List  
Amendment Bill.—Rockhampton Gas Company Bill.  
—Elections Bill.—Insolvency Bill.

## ASSENT TO BILLS.

A message was received from His Excellency the Governor informing the Council that, in the name and on behalf of Her Majesty the Queen, he had assented to the following Bills:—

Appropriation Act of 1874—No. 2.  
Bank of New South Wales Act.

## OYSTER BEDS IN MORETON BAY.

The PRESIDENT moved—

That an Address be presented to His Excellency the Governor, praying that His Excellency will be pleased to cause means to be taken to provide that a competent person be appointed to examine and report on the Oyster Beds in Moreton Bay, with a view to obtaining information whether it is desirable to prevent for a certain time the exportation of oysters therefrom.

He said it was not long since his honorable friend, the Collector of Customs, brought in a Bill providing for the farming of the oyster beds in Moreton Bay; and attention having thus been called to the subject, he (the President) was waited upon by a number of persons who were interested in the dredging of oysters, who informed him that injury was being done to the oyster beds by fishermen sent up from Sydney, who exported oysters in large quantity, collected in Moreton Bay, to New South Wales. Those persons seemed to fear that the injury done would be of so serious a nature as, in time, would lead to the exhaustion and closing of the beds. In speaking to the Collector of Customs, who had been seeking information elsewhere, he found that that honorable gentleman was of opinion that such a measure as the closing of the oyster beds would hardly be desirable, in view of the Bill which had been passed for the purpose of leasing the oyster beds in Moreton Bay. Nevertheless, there seemed to be a doubt in the minds of those who knew anything about the matter. Meantime, there was serious injury being done to the oyster beds, more particularly in the passage between Bribie Island and the main land. As it was a matter of some importance, he did not see why it should not be inquired into; in fact, it was desirable that the matter should be investigated, and that some competent person should be sent down to the bay to examine and report what was best to be done in reference to the oyster beds. He was told that, at one time, the men in charge of the Sydney boats were in the habit of boarding the local oyster boats and taking out their cargo by main force and sending it off to Sydney. That was what first induced him to give notice of motion on this subject; but he

found, on further inquiry, that such was not the practice at the present time. There was no question that what he stated had occurred, some two or three years ago. Now, serious injury was being done to the oyster beds by the indiscriminate dredging that was carried on, as not only the oysters fit for use, but also the spat, which was necessary for their reproduction, were gathered at the same time. Most certainly, it was desirable that inquiry should be made. The water police in the bay did not often visit Bribie Passage. There would be no great expense attendant on the carrying out of the motion, if the House should pass it; and the inquiry might, and very likely would, lead to the production of some valuable information.

Question put and passed.

#### CIVIL LIST AMENDMENT BILL.

The POSTMASTER-GENERAL moved the second reading of a Bill to Grant a Civil List so far as respects Ministers of the Crown. The intention of the measure was to bring back the salaries of Ministers to the old rate which obtained before the financial depression in the colony took place; and to raise the salary of the representative of the Government in the Council to the same amount as would be paid to other Ministers. Honorable members would see, also, that it was proposed to give £300 additional to the Vice-President of the Executive Council. The Bill was brought in by a private member, in another place. It was not necessary for him (the Postmaster-General) to say anything, but merely offer it for the acceptance of the House.

Question put and passed.

On the motion that the committal of the Bill be an order for to-morrow,

The Hon. H. B. FITZ rose to say that that was rather too quick. There was an expression of opinion by the House, the other day, that the Bill should go side by side with the Governor's Salary Bill, which was not yet before the House. He moved, by way of amendment, that the committal stand for Friday next.

The Hon. W. THORNTON said he could not agree with his honorable friend, Mr. Fitz. The sooner the House got through the business before them the better: the session might come to a very abrupt termination.

The POSTMASTER-GENERAL: If the honorable gentleman would withdraw his amendment, and allow him to get the Bill down for committal on Friday, that would perhaps meet the wishes of the House. It was like the Council dictating to the other House how the public business should be conducted, to delay a Bill for the reasons stated. The present Bill was a private Bill, while the Governor's Salary Bill was a Government measure. It was the anxious desire of the Ministry that the latter Bill should pass.

On Wednesday last, the committal of the Bill was next after the Land Bill—not, as the Honorable Mr. FITZ had said, at the bottom of the paper—and, now, it was almost the first business on the paper, in another place. He desired to withdraw his motion, and move that the Civil List Amendment Bill be committed on Friday next.

The Hon. H. B. FITZ referred the Postmaster-General to the antecedent proceedings, on the 6th June, in another place, as supporting what he had said as to undue preference being given to the Bill now before the House. He concurred in the motion of the honorable gentleman, and withdrew his amendment.

The Hon. A. H. BROWN, though desirous of supporting the postponement of the Bill, denied that the Council dictated to the other House. He thought the Council were supporting the policy of the Government by anticipating a measure which they had introduced at an earlier period than the present Bill. They wished to give such attention to what he imagined was the wish of the Government—to pass the two measures concurrently.

Question put and passed.

#### ROCKHAMPTON GAS COMPANY BILL.

The Hon. J. GIBBON moved the second reading of a Bill to incorporate the Rockhampton Gas and Coke Company under the provisions of the Companies Act of 1863. He said it contained the necessary provisions to enable the company to lay pipes in the streets of Rockhampton and suburbs, and to light the town, just as were provided for Brisbane.

Question put and passed.

#### ELECTIONS BILL.

On the reading of the Order of the Day for the adoption of the report from the Committee of the Whole on this Bill,

The POSTMASTER-GENERAL moved that the report be now adopted.

The Hon. H. G. SIMPSON moved the re-committal of the Bill, for the purpose of re-considering the 34th clause. It would be in the memory of many honorable members, no doubt, that on the second reading of the Bill he announced his intention of moving an amendment in committee. The Bill passed through committee in one day, and he happened to be, by an accident, unable to attend in his place; and, unfortunately, he had not an opportunity of communicating with any honorable member who would have taken the amendment in hand. He now asked the forbearance of the House for the purpose of moving a further proviso to the 34th clause, to prevent a polling place being established at a long distance outside any districts for which an election was to take place. It

appeared to him that the powers given under the clause might, to a very serious extent, be abused. He might say that he had been requested to move in this matter by a member of the other House, who had intended to propose it himself, but that he was also accidentally prevented from doing so. He might inform the Council, further, that there was very little fear of the amendment not being accepted by a majority of the other House.

The POSTMASTER-GENERAL: It was necessary that the Elections Bill should pass without delay, and come into operation at once. There was very little time between now and the 1st August, when the collectors must commence their operations in respect of the electoral lists. If the House went and stuck in another amendment, the Bill could not be got back from another place for a fortnight. For the past fourteen years, Sydney, to his knowledge, was appointed a polling place for several electoral districts in New South Wales; and the arrangement worked satisfactorily. To his mind, the amendment was a trivial one. The Bill would be of very little use if they should amend it further before sending it back to the other Chamber; and he hoped the House would refuse to go into committee again.

The Hon. H. B. FITZ agreed with the amendment, which would be a safeguard against an abuse of power. A polling place might be appointed in town, far away from the electorate, just because the Government candidate might have a large number of supporters there—as he knew was done, in one instance, lately. If any individuals had votes to record, they should go into the electorate to record them. He should not put the power into the hands of the Government to appoint polling places outside any electorate.

The Hon. A. H. BROWN: If the amendment would have the effect of shelving the Bill, he would oppose it. The recommitment of the Bill and the adoption of the proviso—if the Council in their wisdom should approve of it—could be done this evening; and the proviso would be only an additional amendment to go down for the consideration of the Assembly. It would cause hardly any extra delay. The proviso should be inserted to prevent improper advantage being taken of the clause. The electorates of the colony had been separated; and the intention of the Legislature was that they should be kept distinct. According to the Bill now, a polling place for the extreme north could be appointed in Brisbane. In the district, the electors' voting could be watched; but out of it they could not be, and would not be, known.

The POSTMASTER-GENERAL: Honorable members could not understand, or they had not read, the Bill. No new polling place could be appointed for any election after the fourth day next before the day of nomination,

so that what was said to have occurred could not occur again; all the candidates must now know all the polling places.

The Hon. F. T. GREGORY said he should certainly be disposed to recommit the Bill for any useful clause; but he could not see that the amendment would work advantageously. The power of appointing polling places should be left in the hands of the Government; he did not think any Government would mal-administer the law by keeping in the back ground a polling place, and thus stultify themselves. A great advantage would be gained in some parts, from his personal knowledge, by the appointment of a polling place as permitted by the Bill. He had suffered inconvenience from having to travel a hundred miles to vote; and he had known other electors in the same position, living at a distance;—and, if the power was left to the Government of appointing a polling place within a reasonable distance of a locality where a number of voters were known to be, a good deal of inconvenience would be avoided.

The POSTMASTER-GENERAL: Another thought had just struck him—that if an elector voted out of his polling district, he must vote openly. That provision, and many others in the Bill, would be affected if the Honorable Captain Simpson's proviso was carried. The clause, as it stood, was a very conservative clause.

The Hon. H. G. SIMPSON: The last explanation of the Postmaster-General, as to an elector voting openly outside his polling district, did not touch the matter at all of the appointment of a polling place outside the electoral district. He did not care anything about the clause being a conservative clause. The proviso that he wished to have inserted would prevent what might be an extremely arbitrary and unjust exercise of power, and he should most certainly persevere in his amendment, knowing that a large number of members in another place would support it, and knowing, also, from conversations, that at least two Ministers had no objection to it. He thought he was justified in going on.

The Hon. J. GIBBON said he quite agreed with the Honorable Captain Simpson that it would be a great innovation, and very improper, to have polling places outside the electoral districts. Who ever heard of the electors of Manchester, or Birmingham, or London, going outside their districts to vote? If persons at a distance had a right to vote in an electorate, and they wished to vote, they must be prepared to take a journey.

The Hon. A. B. BUCHANAN asked the Postmaster-General to point out the clause that would make an elector vote openly, if he voted outside of his district.

The POSTMASTER-GENERAL: The second and third sections of clause 53. He could see very little harm in polling places being appointed outside the district.

Question—That the words proposed to be omitted stand part of the question—put, and the House divided:—

Contents, 8.	Not-Contents, 8.
Hon. D. F. Roberts	Hon. H. G. Simpson
" W. Hobbs	" J. F. McDougall
" E. I. C. Browne	" J. Gibbon
" W. D. Box	" F. T. Gregory
" W. Thornton	" A. B. Buchanan
" W. Wilson	" A. H. Brown
" G. Harris	" G. Sandeman
" G. Thorn.	" H. B. Fitz.

The PRESIDENT: The votes being equal, according to the rule I have always adopted and followed, I give my voice with the not-contents. The question is therefore resolved in the negative.

Question, on the amendment—That the words proposed to be added be so added—put; and a division being called for, and while the House was in division,

The Hon. H. B. FITZ (*seated*) challenged the vote of the Honorable D. F. Roberts, on the ground that the honorable member was not in the House when the preceding question was put, and he cited May's "Practice of Parliament" in support of his view.

Delay ensued in the proceedings that followed, consequent upon a misapprehension by the Honorable D. F. ROBERTS of the interrogations of the PRESIDENT, who laid down the rule of practice according to the precedent of the House of Lords.

The Hon. E. I. C. BROWNE said, he believed the House were going upon wrong premises altogether. As he understood the Honorable Mr. Roberts, the honorable member came into the House before the bar was down, and, therefore, he must have been in his place before the question was finally put.

The Hon. D. F. ROBERTS: He might inform the House that he was present during the discussion. He went away; and, when he heard the bell ring, he came back, and the bar being up, he re-entered the House and took his seat, and, as he had a perfect right to do, he voted on the question.

The PRESIDENT: Did the honorable member hear the question put? He understood him to say that he did not. Did the honorable member know what the question upon which he voted was?

The Hon. D. F. ROBERTS: Most certainly; or, he should not have voted.

The PRESIDENT: The objection was not a mere technical one. The object was that a member should know on which side he was voting. He apprehended that the honorable member did hear the question put from the papers, before they were handed to the tellers.

The Hon. D. F. ROBERTS: From the papers—Yes.

The PRESIDENT: Then, honorable members, it is quite in order.

The question was again put, and the tellers were called; when,

The Hon. G. SANDEMAN called attention to the Honorable Mr. Hart, who, he said, was not present when the question was put.

The PRESIDENT: The honorable member is present, now, and hears the question put before he gives his vote.

HONORABLE MEMBERS: Hear, hear.

The result of the division was as follows:—

Contents, 8.	Not-Contents, 9.
Hon. G. Sandeman	Hon. W. Hobbs
" A. B. Buchanan	" W. Thornton
" J. Gibbon	" E. I. C. Browne
" J. F. McDougall	" D. F. Roberts
" F. T. Gregory	" W. D. Box
" H. G. Simpson	" G. Harris
" H. B. Fitz.	" F. H. Hart
" A. H. Brown.	" W. Wilson
	" G. Thorn.

The PRESIDENT: The words proposed to be added are not added, and the question now stands, that the word "That" is without sequence.

The POSTMASTER-GENERAL moved the addition of the words, "the adoption of the report on this Bill do stand an order of the day for to-morrow."

Question put and passed.

#### INSOLVENCY BILL.

On the Order of the Day being read for the adoption of the report of the Committee of the whole House on this Bill,

The Hon. W. D. BOX said that, in deference to the opinion of the President, he wished to move the re-committal of the Bill for the reconsideration of clause 121, with reference to post letters addressed to insolvent.

The Hon. G. HARRIS said he thought it would be exceedingly inconvenient that the Bill should be re-committed to-day. More notice should certainly be given to honorable members. He had several suggestions to make to the honorable gentleman in charge of the Bill, which the Honorable Mr. Box might take or not, as he thought proper.

The Hon. W. D. BOX rose to speak.

The Hon. G. HARRIS rose to a point of order. The honorable gentleman had spoken already.

The Hon. W. D. BOX: He had merely wished to explain in answer to the honorable member.

The Hon. A. H. BROWN: As he understood, the re-committal of the Bill was moved for only one clause. As to what the honorable Mr. Harris had said, he did not think it was competent to go into detail. His own feeling with regard to the clause was, that, while at one time he thought it should be expunged, it should be retained.

The Hon. H. B. FITZ: He did not think that because a man was unfortunate enough to become insolvent, his private letters, from his wife or daughter, should be handed by the Postmaster-General to the trustee in his estate.

The Hon. E. I. C. BROWNE: No doubt, the clause had a very harsh appearance as it stood in the Bill; but he should represent to honorable members that it might be one which was very necessary to a proper knowledge in the administration of the estate

of the insolvent. It was quite possible that an insolvent's letters would contain such information as ought to be within the knowledge of the trustees to enable them to become possessed of all the estate, which perhaps they would not be able to do properly otherwise. No doubt a proper discretion would be exercised with the letters of insolvent's family; and, if opened and found to have no reference whatever to the estate, they would be forwarded on and delivered to their proper destination. The clause was in pursuance of the practice at home, where an insolvent's letters were opened by the trustee. It was an unpleasant one; but it was necessary for the due administration of the estate of an insolvent.

The Hon. F. T. GREGORY: Letters being opened was no very great hardship. Honorable members frequently got their letters, if they miscarried, through the dead letter office. The clause would operate for only three months, and it was simply to disclose what was going on in regard to both debtors and creditors in the estate. It was perfectly fair in an insolvency law.

The PRESIDENT: Perhaps, as the honorable gentleman in charge of the Bill had been good enough to move its re-committal, in consideration of some remarks he (the President) had made, he might take this opportunity of giving vent to his opinion in answer to the reasons of honorable members in favor of the clause. If the House should be then inclined, as seemed likely, to adopt the clause as part of the law, he should offer no further objection. He was surprised to find that such a provision was law in England—that it should exist as part of a British statute. He should not have been surprised to find such a provision in the laws of Russia. It would not have astonished him so much that an autocrat should desire to know what passed in the private correspondence of his subjects: in fact, he knew that such was the practice in Russia, and that persons absent from the country could never be certain that their private letters were not perused by the police. He was sorry that such a principle should have made its way into English law; and, if he could help it, it should not be introduced here. However much the secret police had been conducive, in France, to the protection of the subject, he was quite sure the institution was one which Englishmen would be very sorry to see established in this colony. He could only account for the presence of this clause in the English Act by the possibility of its having passed through the House of Commons much as the Bill had passed through the Legislative Assembly.

The Hon. G. HARRIS: Hear, hear.

The PRESIDENT: Very few honorable members paying attention to its provisions.

The Hon. E. I. C. BROWNE: All the Bankruptcy Acts had it.

The PRESIDENT: He was very sorry to hear it. He knew that at one time Sir

James Graham gave occasion for great public excitement by causing the letters of certain suspected political persons to be examined; and that the strong feeling aroused was not allayed for some time; though he did not remember what was the result. It was, at the best, a petty interference with a private individual, to examine his correspondence; it was not even politic; and it was not likely to be beneficial to an estate, because, those who intended to defeat their creditors—he presumed it was only intended to meet the case of those insolvents who attempted, by fraud, to defeat their creditors—would take very good care that no letters likely to compromise themselves would go through the post office, at any rate, in their own names. The clause only gave power to the Postmaster-General to send letters addressed to an insolvent to the trustee of the estate. Any man knowing that, and intending to do something wrong, would take care that his letters should come to him in a round-about way; they would be addressed to Jack, Tom, or Harry, but not in his own name. As a matter of police, the clause was not likely to do good. It was one abhorrent to the feelings of Englishmen—to any man accustomed to believe that he might go out and walk the world in freedom, and sit down in his house, secure from the intrusion of the police;—that his correspondence, containing the expression of the private feelings existing between himself and his friends, should be subjected to the prying inspection of others. He would rather the creditors should lose the whole of their claims than that such a law should be passed with his sanction. If the Bill should get into committee, he should move the omission of the clause; but if the House was against re-committing the Bill, he should not carry his opposition further.

The Hon. A. B. BUCHANAN observed that when he first read the clause, it appeared to him in the same light as that in which the President had placed it before the House; but, on further consideration, he was convinced that if it should not be passed, the consequence would be a very great loss to the creditors.

The question for the re-committal of the Bill was put and negatived; and the report was adopted.