

Queensland



Parliamentary Debates
[Hansard]

Legislative Assembly

WEDNESDAY, 16 JUNE 1875

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The Chairman having reported that the committee had disagreed to the Legislative Council's amendment in this Bill, the report was adopted.

The ATTORNEY-GENERAL then moved—

That such disagreement be communicated to the Legislative Council by message, embodying the following reasons, viz. :—

Because the power of intervention now possessed by the Attorney-General is insufficient, inasmuch as he has frequently no means of ascertaining the facts which would warrant his intervention until the cause has been heard, and a decree pronounced.

Because, if it should be discovered after the decree *nisi* has been pronounced, and before it is made absolute, that the decree has been obtained by collusion or suppression of material facts, it is desirable that there should be some means of bringing the matter before the Court, and some officer authorised to do so.

Because the provisions with respect to the expenses of intervention are calculated to relieve the revenue of a burden; and it is desirable that, if the Court is of opinion that the intervention was proper, it should have power to compel the party whose improper conduct occasioned the intervention to bear the expense which would otherwise fall upon the revenue.

The SPEAKER: I feel it my duty to inform the House that, while our Standing Orders are silent on the subject, if this is adopted the House of Commons' practice will not have been followed; and I feel obliged to take this course, because honorable members do not, perhaps, quite understand the full force of these reasons. The House of Commons' practice is this :—

"When any amendment made by the other House is disagreed to, a committee is appointed to draw up the reasons for such disagreement; and when the reasons prepared by the committee are reported to the House and agreed to, a message is sent to communicate such reasons, or to desire a conference."

It is for the House to determine what course shall be pursued. Such is the practice of the House of Commons; it is a question whether it is desirable here.

Question put and passed.

SHERIFF'S BILL.

On the Order of the Day being read for the resumption of the adjourned debate on the question—That this Bill be now read a second time.

Mr. THOMPSON said he did not move the adjournment of the debate; but he believed the honorable member who did so was not very anxious to take up the subject. He had made it his business, both before and since the second reading of the Bill had been moved, to find out all about it, and he found it was a very necessary measure, owing, particularly, to the extent of the colony. In the early days of the colony they got on very

LEGISLATIVE ASSEMBLY.

Wednesday, 16 June, 1875.

Matrimonial Causes Bill.—Sheriff's Bill.

MATRIMONIAL CAUSES BILL.

On motion of the ATTORNEY-GENERAL, the Speaker left the chair, and the House resolved itself into a Committee of the Whole, to consider the Legislative Council's amendment in this Bill.

well in regard to these matters. They used to get process executed by clerks of petty sessions, with the assistance of the police; but afterwards that was put an end to by the police declining to do work of that sort. They had always found great difficulty in reference to the appointment of special bailiffs to execute process in distant places, and this Bill provided means for that. He was told it had been necessary, on one or two occasions, to send bailiffs to Townsville.

THE ATTORNEY-GENERAL: Cooktown.

MR. THOMPSON: And Cooktown; and the Bill was, therefore, very necessary in that view. It also effected another reform, which was this:—At present the Sheriff, he supposed, by analogy to the Sheriff of England, was held responsible for the conduct of his servants, and this Bill took away that responsibility, which would rest on the officer whose duty it would be to execute the process. In committee, some little explanations might be necessary—in section 7, for instance, but they were not matters affecting the principle of the Bill, and from all he could see in it, and from all he could hear from the profession, the general feeling was that it was a very good Bill, and would effect a great and much-needed reform.

MR. DOUGLAS rose to address the House.

THE SPEAKER: The honorable member has spoken.

MR. DOUGLAS: I moved the adjournment of the debate.

THE SPEAKER: The honorable gentleman spoke, and at the end of his speech he moved the adjournment of the debate.

MR. DOUGLAS: I submit, with all due deference, that there was another motion at the time before the House.

THE SPEAKER: The question was the second reading of the Bill. The honorable member spoke to that, and moved the adjournment of the debate at the end of his speech.

MR. DOUGLAS: Will the House tolerate me in saying a few words?

THE SPEAKER: The honorable member is out of order.

MR. DOUGLAS: I ask the permission of the House; if the House objects to hear me for a few minutes, I shall at once sit down.

THE SPEAKER: I must maintain the honorable member has spoken on the main question. I know of no exception to the rule, but that of personal explanation, in which the House will allow an honorable member to speak again.

MR. DOUGLAS: With great deference, I submit myself to your ruling; but I most deferentially submit that I did not speak to the main question; I simply moved the adjournment of the debate. I addressed my remarks to the House upon the motion before it, which was moved, I think, by an honorable member opposite, who moved an amendment on the Bill.

THE SPEAKER: I have a record of the matter, and I cannot allow that to be questioned. After Mr. Morehead had spoken,

Mr. Douglas rose at 9:40, and subsequently moved the adjournment of the debate; and that the honorable gentleman spoke for some time, is proved by the fact, that the next speaker did not rise until 9:42. The honorable member has made his speech. I may say, I have not the slightest wish to prevent the honorable member from speaking, on a suitable occasion; but it is my duty to preserve proper order in the House, and I shall endeavor to do so.

MR. J. SCOTT moved the adjournment of the debate, and said the object he had in doing so was to allow the honorable member for Maryborough an opportunity of speaking.

MR. DOUGLAS said he was very sorry that he should have caused the honorable the Speaker any inconvenience, and he hoped he would accept his most humble apology. He had very little to say on the subject, and it was this:—The legal authorities were satisfied with the Bill, and he believed it had been well thought over, and therefore he presumed it might be considered safe to pass; but representations had been made to him by gentlemen with whom he had had some correspondence on the subject, and who did not view the Bill with the same complacency as those who had spoken on the question that evening, and on the previous occasion when it was before the House. It provided for a change—a very considerable change of principle, and it was very doubtful whether it would work satisfactorily. It would, probably, be found that the appointment of under-sheriffs in distant localities would be more effective for the purposes referred to than what was proposed in this Bill. He must confess that he did not pretend to be very conversant with the details of the law, and he merely wished to say that this was a considerable infringement upon previous practice and principle, when it did away with the direct personal responsibility of the Sheriff in matters connected with his duty. It was quite possible, if that responsibility were to be done away with, they might find actions brought against the representatives of the Government, and thereby the Government might be mulcted in damages, which under the present system might be avoided. He presumed the Government would take care the transference of the duties of the Sheriff to subordinates would not be detrimental to their interests. It would no doubt be found necessary, whether now or not he did not say, to appoint under-sheriffs in the northern and outlying districts, so that the provisions of the Act might not be futile, which there was some reason to believe would be the case under the proposal in this Bill.

MR. STEWART said he believed this was a Bill which was very much wanted, and the necessity for it arose from the increase of population generally, and the spreading out of large centres of population. It was a matter he thought was hardly known to the House, that there were no means of serving

writs in some of their larger towns. He could mention an instance, where a writ was sent to a solicitor in Townsville for service, there being no other means of serving it; the parties to be served were rather influential, and the result was that the writ was returned to Brisbane, after a delay of a month or six weeks, and the ends of justice were entirely defeated. With regard to the remarks of the honorable member for Maryborough as to the liability of the Sheriff, he could tell him, from experience, it was to a great extent a myth. They would find the Sheriff always took security, and, if he found the security was no good, he put an end to the case, and got out of his liability in that way. He thought, if under-sheriffs were appointed, they would require a shoal of them. They would want one in every town in the colony, so that writs might be properly served; and he would point out that, in sending special bailiffs up to towns where they did not know the person to be served, or the people of the district, they were liable to make mistakes, and these mistakes often resulted in an action being brought; so that, not only were the ends of justice defeated, but further injustice was done.

Question—That the Bill be now read a second time, put and passed.