Queensland

Parliamentary Debates
[Hansard]

Legislative Council

THURSDAY, 17 JUNE 1875

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LEGISLATIVE COUNCIL.

Thursday, 17 *June*, 1875.

Leave of Absence.—Places of Worship Bill.

LEAVE OF ABSENCE.

The PRESIDENT announced to the House that His Excellency the Governor had granted leave of absence for twelve months to the Honorable William Draper Box, Esquire, to enable that gentleman to visit Europe for the benefit of his health.

PLACES OF WORSHIP BILL.

The House resolved into Committee of the Whole for the consideration of the Places of Worship Bill.

Clause 1, put, as follows:—

"Whosoever shall be guilty of riotous violent or indecent behaviour in any church chapel meeting-house or other place of religious worship whether during the celebration of Divine service or at any other time or who shall molest disturb hinder vex or trouble or by any unlawful means disquiet or misuse any clergyman or other minister ministering or celebrating any Sacrament or any Divine service rite or office in any church chapel meeting-house or other place of religious worship shall on conviction thereof before two justices of the peace be liable at the discretion of the convicting justices to a penalty not exceeding the sum of five pounds or to be imprisoned in the common gaol or house of correction for any term not exceeding two months."

The Hon. A. H. BROWN said he should move an amendment, adapted from the English Act, in Roscoe's work, which he considered would be an improvement on the clause before the committee. As he intended to eliminate the second clause of the Bill, his amendment embraced all that would be necessary in one clause. To give any person the power of arrest without warrant would be to apply a remedy worse than the disease. He proposed that the following clause should be substituted for clause 1, which he now moved, by way of amendment, should be omitted:—

If any person or persons at any time after the passing of this Act do and shall wilfully and maliciously or contemptuously disquiet or disturb any meeting or congregation of persons assembled for religious worship in any church chapel meeting-house or other public place of religious worship or shall in any way disturb molest or misuse any preacher teacher or person officiating at such meeting assembly or congregation or any person or persons there assembled such person so offending may be summoned by any justice of the peace upon information duly laid to appear before the nearest court of petty sessions assembled and upon proof thereof to the said court by two or more credible witnesses shall be liable at the discretion of such court to a penalty not exceeding the sum of five pounds or to be imprisoned in the common jail or house of correction for any term not exceeding two months.

He maintained the necessity for a summons to be issued.

The POSTMASTER-GENERAL said the amendment should have been printed. The honorable member should not mention "a public place" of religious worship in his clause, or he might defeat the object that he had in view. In many churches one had to pay for admission. The judges of the Supreme Court of New South Wales had decided that places where payment for admission was given were not public places; and for that reason many places of worship could be regarded only as private houses. Further, he might point out to the honorable gentleman in charge of the Bill that he should not send it down to the Assembly with the amount of penalty specified, as it might cause the Bill to be contemptuously kicked out. A penalty imposed on the people was the same as taxation.

The Hon. A. H. BROWN: Leave it blank.

The POSTMASTER-GENERAL trusted that the Honorable Mr. Brown would withdraw the amendment, and allow the original clause to pass, with either a blank or italics in place of "five pounds" penalty.

The Hon. H. G. SIMPSON could not accept the amendment. His clause was framed on the statute of 1860, after it had been found that the statute 52 George III., from which the Honorable Mr. Brown had copied his clause, would not work in England. His phraseology might be wrong; he did not pretend to say whether it was or not; but he thought the language chosen by

the law officers of the Crown at home was as good as any arrangement that might be made from any preceding Act. He was perfectly willing to accept an amendment on the second clause, to substitute summons for indiscriminate arrest. The honorable member's fears of a disturbance in church, from the power that might be exercised under that claim, were groundless, as churchwardens or other officers of congregations had power now to remove any troublesome persons disturbing a congregation at Divine service. Unless the Honorable Mr. Brown thought the Bill unnecessary, and wanted to throw it out, his amendment was not required at all; he should have read the statute 52 George III., instead of the abstract given by Mr. Roscoe. That statute referred to Dissenters, and applied to them what already applied to the Established Church; and the statutes of Elizabeth, and William and Mary, were almost identical with it; and that statute was actually in force in the colony at present. As to the remark of the Postmaster-General, he might state that penalties imposed for carrying out the object of an Act could be imposed equally by either House of Parliament. The Council had already done what he now proposed, in the Brands Act.

The Hon. A. H. BROWN expressed his willingness to listen to the suggestion of the Postmaster-General to have his amendment printed, if the Bill should be postponed. If the Act from which he had framed his amendment was in force in the colony, so was the statute of 1860, to which the Honorable Captain Simpson had referred.

The Hon. H. G. SIMPSON: No Imperial law was in force in this colony since the date of the first responsible Government of New South Wales; and the Act of 1860 was not in force in this colony.

The Hon. A. H. BROWN did not know any such private places of worship as the Postmaster-General had referred to. If they were private, they were already provided for; and persons would not be admitted to disturb them. There was no difficulty in such cases.

The PRESIDENT said the committee were all desirous that something of the nature of the Bill should be carried into law; because there could be no greater scandal upon society, or amongst those persons in society who had any good feeling at all, than the danger of interruption to religious worship, no matter what denomination was concerned. The Bill proposed to introduce the law of England into this colony, for the purpose of preventing a scandal such as had been mentioned. Of course, it was very seldom that persons in their correct minds would be guilty of such indecorous conduct as to interrupt religious worship; but some instances had occurred of offence given in that way. The power conferred by the second clause, was just that which was requisite in such cases. It should be competent in some person to remove an offender.

The Honorable L. HOPE: Some person; not any person.

The PRESIDENT: It was necessary to get rid of an offender who was interrupting a congregation. To have to go through the form of sending for a policeman, who, perhaps, could not be found for half-an-hour, would render it impossible to get rid of the nuisance complained of. No doubt many persons would be inclined to eject the offender with very little ceremony; but such a procedure would subject the person ejecting him to an action for assault and to damages. By the means proposed an offender would be turned out, and a disturbance prevented; and under the Bill he could be punished. The amendment proposed merely put in other words the same meaning as was comprised in the first clause of the Bill. It would be a pity to divide upon the question,

The Hon. G. SANDEMAN thought that if the second clause was eliminated, it would deprive all concerned of a power which it was very necessary should exist. Offences might arise in some part of the country where there were no constables or churchwardens. He thought the same power should be given by the Bill as was given under the Vagrant Act—that any person should arrest the offender;—for there could not be a greater act of vagrancy than disturbing a church or place of public worship.

The Hon. J. C. HEUSSLER, having regard to the objection taken by the Chairman of Committees at the second reading of the Bill, said he was not satisfied how far the idea to which the Bill gave effect would be carried. He admitted that every society should be protected in the fulfilment of their religious duties; but was the Bill to be extended to the Joss House, or was that to be left under the care of the police? Having been told that the English law provided for all cases contemplated to be met by the Bill, he thought further information should be given, or further time for consideration. Persons asked for no special protection from intruders in their private houses, and the same common law protected congregations in churches. He feared that too much power might be exercised under the Bill by an indecorous minister; and he agreed with the Honorable Mr. Brown that the second clause would infringe the liberty of the subject.

The Hon. H. G. SIMPSON said the Honorable Mr. Heussler was not in the House at the time the Bill was discussed, or he would have heard a little more about the statutes than he knew.

On the question being put for the omission of the first clause, the committee divided:—

CONTENTS, 5.

The Honorables L. Hope, J. C. Heussler, J. F. McDougall, W. Wilson, and A. H. Brown.

NOT-CONTENTS, 5.

The Honorables Sir M. C. O'Connell, G. Thorn, W. Thornton, H. G. Simpson, and G. Sandeman.

The CHAIRMAN said, the votes being equal, it became his duty to give the casting vote, which he would give for the Not-Contents.

Question—That the clause as read stand part of the Bill—put and affirmed.

The remaining clauses were passed without discussion. The short title was altered to "The Places of Worship Act," instead of "Religious Places Act."

On the resumption of the House, the Chairman reported the Bill with one amendment.