Queensland

Parliamentary Debates
[Hansard]

Legislative Council

WEDNESDAY, 2 JULY 1879

LEGISLATIVE COUNCIL.

Wednesday, 2 *July*, 1879.

Hour of Meeting.—Stock Returns.—Impounding Bill.—Bankers' Books Evidence Bill.—Bills of Exchange Bill.

HOUR OF MEETING.

The POSTMASTER-GENERAL said, as there was the necessary majority of the House present, this afternoon, to consider an alteration of the Sessional Order, it would be well for the attention of honourable gentlemen to be directed to the motion which, for some weeks past, had been standing in his name. As he said previously, so far as he was individually concerned, it was immaterial to him whether the Council met at half-past three or half-past four o'clock; but he acknowledged that he should prefer the earlier hour. As the other House assembled at half-past three o'clock, he thought it would be more convenient, in the present state of the Council, if they, too, fixed their time of meeting at the same hour. But there were stronger reasons. He had been informed that there were certain honourable members of the Council who were really unable to attend if the sittings were protracted after six o'clock. They were not able to leave home in the evening without very great inconvenience. This was an occasion on which the minority ought to give way to the majority; unless there were very strong reasons why the present practice should be adhered to. He believed there was a majority of the House in favour of having the hour of meeting fixed at three for half-past three o'clock. It was only within the last session or two, he understood, that the time of meeting was altered to half-past four o'clock. As it had been proved to be of some inconvenience to a number of honourable gentlemen, the House might very fairly give the whole subject consideration. Therefore, he moved:—

1. That the Sessional Order made on the 14th May, "That, unless otherwise ordered, this House will meet for the despatch of business at Four o'clock p.m. on Wednesday and Thursday in each week," be rescinded.

2. That the following be a Sessional Order for the present Session in lieu thereof:—"That, unless otherwise ordered, this House will meet for despatch of business at Three o'clock p.m. on Wednesday and Thursday in each week.

Mr. MEIN said he had already expressed his opinions on this subject, on the occasion of the introduction of the Sessional Order which it was now proposed to repeal. He might state that that Sessional Order was introduced by himself for very good reasons, as they appeared to him, when he was in the Government. He had found that, unless in very exceptional circumstances, there was very great difficulty in getting a quorum at half-past three o'clock in the afternoon. He then considered what gave rise to that state of affairs, and he arrived at the conclusion that it was due to the inability of persons actively engaged in professions or business to devote the whole of the afternoon—as, practically, they had to do, being called upon to meet at three for half-past three o'clock—in attendance at the House.

Dr. O'DOHERTY: Hear, hear.

Mr. MEIN: And he almost invariably found that, after the House had been dismissed for want of a quorum, one or two gentlemen came leisurely up the stairs; but too late for business.

Dr. O'DOHERTY: Hear, hear.

Mr. MEIN: And, he had observed in his travels elsewhere that the Upper House of Legislature, at all events, did not meet until half-past four o'clock; thus showing

that, in the other colonies, the Legislature recognised the fact that members actively engaged in business or professional practice were entitled to consideration to the extent that they ought not to be called upon to abandon their business to attend to their public duties, which could be as judiciously discharged at a later time of the day. The Postmaster-General now, and on a former occasion, told the House that he had introduced the motion at the request of some honourable members. It was a pity the honourable gentleman took that duty upon himself without according to him (Mr. Mein), as the original introducer of the Sessional Order, the ordinary courtesy of acquainting him of the wishes of those members; especially when the honourable gentleman admitted, and stated positively, that he was not personally concerned in the motion. If he had no individual interest in the matter, the ordinary course would have been for him to have let the Sessional Order stand, and leave those members who felt anxious about it to move, themselves, for its alteration. The only honourable gentlemen that he (Mr. Mein) had heard were inconvenienced by the Sessional Order were those who required to get home to a comfortable cup of tea at half-past five o'clock. They had peculiar notions of their duty as legislators. Honourable gentlemen came to the House to attend to the public business, which their position required of them. They laid their heads together to advise as to the best legislation for the advancement of the interests of the country, and to do all the good that they possibly could do. No doubt, the maxim, "In the multitude of counsellors there is wisdom," was true. It was desirable to get as many members as possible together to consider of the measures brought before the Council, and to make those measures as perfect as they could be made. But, past experience had shown that the Sessional Order, for meeting nominally at three o'clock, and practically at half-past three, did not, unless in exceptional circumstances, enable a quorum to be got together. He would say, not to put too fine a point upon it, that the motion indicated a great degree of selfishness on the part of those honourable gentlemen who had abundant means and leisure to attend the House, and who thus insisted upon compelling professional and business men who were actively engaged, like himself, to neglect their own affairs so unnecessarily; because it imposed much upon them the giving up to their public duties of that part of the day which was of great value;—and, he submitted, without egotism, that the members engaged in professions and business were not the least intelligent or influential in the work of legislation. There were but two honourable gentlemen in the House, this afternoon, whose residences were so far out of town that it would be of practical inconvenience to them under ordinary circumstances to meet at half-past four o'clock. If there was any business of importance to transact, the consideration of it was bound to go over the dinner-hour, whether the House should meet at half-past three or half-past four o'clock. Experience had shown that, since the Council met at half-past four o'clock, on ordinary occasions, they got through their business by the dinner-hour. Speaking for himself, he said it was a great inconvenience to him, generally, to get to the House before half-past four o'clock; and he had the vanity to think that he could be of some practical use in putting legislation into shape. On questions of public policy, he knew his opinion was not more valuable than that of any other gentleman in the House; but from the position he had occupied for a time, he might be considered to be a representative man. If the Council met at half-past three o'clock, his business engagements rendered it absolutely impossible for him to give his attendance at that time; and the result would be that a number of the discussions of the House must take place without his presence. Since he took a position in the Council, he had endeavoured, independently of his private opinions, to put legislation—as the majority of the House might think proper to decide—into as good a shape as possible; and if the present Sessional Order was altered, he would be unfairly handicapped in his performance of his public duties, without any special advantage resulting to those gentlemen who wished to go home to their comfortable tea at half-past five o'clock in the afternoon. He had no desire to put his private convenience against that of honourable members. Although, probably, owing to the extensive array of forces that had been brought together, this afternoon—possibly by accident, possibly by design——

POSTMASTER-GENERAL: No.

Mr. MEIN: Although they might declare in favour of the rescision of the Sessional Order; yet he knew, from conversations he had had with honourable members, that a majority of the Council was decidedly in favour of keeping it as at present. He should certainly vote against the motion.

Mr. MURRAY-PRIOR said he, for one, was not present at the call of the Postmaster-General, but to vote as he should explain. The honourable Mr. Mein accused honourable gentlemen of wishing to go home early to a comfortable tea. That was hardly a fair way to put the matter.

Mr. MEIN: That was what they said, at any rate.

Mr. MURRAY-PRIOR: He should endeavour to place the matter in a different

light. In the first instance, the honourable gentleman said the Sessional Order now asked for had been an Order of the House for many years; and, that he was the first to alter it—no doubt for his own convenience. He (Mr. Prior) wished to give the honourable gentleman credit for the assistance, in a legal way, which he had rendered to the House on many occasions, and he deeply regretted to find him taking the course he had taken on this occasion. When the change was proposed, he submitted his personal convenience to what he considered was the wish of the majority of the House. He refrained from opposition, because he thought it was the general wish of the House that the old Standing Order should no longer exist. There was one argument which the honourable gentleman had not brought forward, and which was a very serious one, especially at the end of the session, when the House were awaiting Bills from another place. In his experience, at such times, he had found great convenience from having an early hour of meeting.

Mr. MEIN: On the contrary, they had to wait sometimes for half-an-hour.

Mr. MURRAY-PRIOR: It was most difficult then to get honourable members to remain in town, especially country members—he was speaking of those in another place—and the late Postmaster-General must be aware, as all his predecessors were, that it was very difficult in the Council to carry measures at the end of the session. That was a reason why he thought it was undesirable that the old Sessional Order should be altered. Another reason was, that if the House met at half-past three o'clock, they would have time to give considerable discussion to any measure which might come before them. There were, in fact, very few measures that they took longer in considering than the hours between half-past three and six o'clock; and it might be in the recollection of honourable gentlemen, that they had sat often beyond the dinner-hour so as not to have to return after dinner to a late sitting. It must also be remembered that the Upper Chamber comprised gentlemen who, as a rule, were not young. There were many members of the House who had attained the age of three-score years; some were even past that age. He thought it very undesirable, therefore, that men of such advanced years—he did not speak for himself in that matter—should be brought out in the cold of an evening at risk to their constitutions.

Mr. MEIN: Let them give it up, then.

Mr. MURRAY-PRIOR: He saw one or two young members present; but, when they arrived at sixty or seventy years of age, they would agree with what he had said.

An HONOURABLE MEMBER: Hear, hear.

Mr. MURRAY-PRIOR: Taking all those reasons into consideration, and the length of time the Sessional Order now proposed had been in force, he really thought it would be wise if the House would return to their old practice. It might be in the memory of the House that, when he spoke on the last occasion, he said he was satisfied that they would find it more convenient to meet at half-past three o'clock than at half-past four. As far as forming a quorum was concerned, he was satisfied that, at whatever hour they met, the effect would be the same. It was not meeting an hour earlier or later that affected honourable members in making a quorum. Honourable members did not hasten to the House at the appointed time, each feeling sure that others would attend punctually. He hoped that the honourable Mr. Mein would think that he, for one, would do everything to please him, and to place business and professional men resident in the city at their ease. The question did not affect himself personally so much, as he lived a long way off in the country, and it did not matter to him whether the House met at half-past three or half-past four. But, for the House generally, and for the purpose of carrying on the business of the country satisfactorily, he considered that the earlier hour was certainly the best, as giving the most time to honourable members to devote to business.

Dr. O'DOHERTY: As one of those who voted for the change on the occasion of the present order being introduced, he regretted to hear that there was any ground for supposing that any serious inconvenience had resulted from it to members of the House. And, upon his word! he fancied it was time to think of it, in the case of those honourable gentlemen just alluded to, who might catch cold going home at a late hour. So far as the professional men in the House were concerned, he considered there was a great deal in what the honourable Mr. Mein had stated. No doubt, the afternoon was the portion of the day when the largest amount of business was transacted in the city; and three or half-past three o'clock was a very inconvenient time for men, who had work to do elsewhere, to come to the House. He was quite sure that the voice of professional men, as well as others actively engaged in business in the city, would be in favour of half-past four as a very much more convenient hour for attending the House than half-past three. So far as he was concerned, he would be very sorry if his personal convenience should interfere with that of the majority of honourable members. He took it for granted that the majority would be in favour of that which was best and most convenient; but he felt himself bound to vote for the existing state of things.

Mr. HEUSSLER said that, as far as he was personally concerned, he would rather see the hour of meeting return to half-past three. As his duties, like those of other honourable gentlemen who were engaged in business, compelled him reluctantly to give up the idea of a comfortable evening at home, he was prepared to stay in the House and do his duty.

Mr. MEIN: Hear, hear.

Mr. HEUSSLER: He must say there was some force in the remarks of the late Postmaster-General, with regard to forming a quorum. He believed he had been in default himself when the hour of meeting was half-past three, though perhaps by not more than a few seconds. But very often, upon coming to the House punctually, he found that no quorum could be formed because other members did not attend in time.

Mr. MEIN: Hear, hear.

Mr. HEUSSLER: He might state that that was his experience very often. If there could be any such thing as a compromise, he would suggest that the House should meet at four o'clock sharp. He was one of those who did not understand four o'clock meaning half-past four. He was accustomed to keep appointments with punctuality. His impression was that most persons engaged in business, as well as those engaged in professions, could manage to attend about four o'clock; but if it came to the vote, he should certainly go on the side of those who voted for half-past four.

Mr. GREGORY said he thought the question before the House was one which could be briefly summarised thus:—First, honourable members must consider their duty to the country, and how to do it best, and thus to use the time and to adopt the hour that would be most advantageous for the large amount of business to be got through; secondly, to do their duty in the way most convenient for the largest number. But this was only a secondary consideration. The best way would be to put it to the vote. If they discussed it until to-morrow, they would not affect any decision they might come to. As far as their duty to the country was concerned, he thought they would do better to meet at the earlier hour, than as at present ordered. His own convenience, if that was worth consideration, went in the same direction. But he would allow it to give way to that which was best for the conduct of the business of the country. The majority of the House would decide what was the best course to take.

Mr. HART said that, as far as he was concerned, he had no feeling one way or the other. As honourable gentlemen were aware, he lived very close to the Parliament House, and it was no inconvenience to him to come at a late or an early hour, or to come after dinner. The only difficulty was that, if they met at the latter hour and their discussions were carried over dinner-time, they would rarely have a quorum after seven o'clock. He would therefore bow to the convenience of the majority of the House, without consulting any wishes of his own.

Mr. SANDEMAN said that, for his part, he had no choice. He did not care whether the hour of meeting remained as it was, or was altered to the old time. But he believed, from what had fallen from the honourable Mr. Hart, that it was very likely, if they adhered to the present arrangement, after dinner a number of members who lived out of town might not find it practicable to attend. Eight honourable gentlemen now present lived out of town, and he thought that was a large proportion. It was a great convenience to get through the business at an early hour, and he thought it was desirable to return to the old arrangement.

Question put and passed.

In consequence of the ringing of the division bell,

The PRESIDENT said he had heard no call for a division.

Mr. MEIN remarked that he had called;—true, after the honourable the President had sat down.

The PRESIDENT: He must only say, in strict ruling, that he had heard no call for a division. He left it in the hands of the House; but, his decision was, that a division could not be taken now, unless the House decided otherwise.

The matter dropped.

STOCK RETURNS.

Mr. HEUSSLER moved—

That there be laid on the table of this House, a return showing the number of sheep, cattle, horses, and pigs within the colony in the year 1865, in the various distric s, and particularising the increase and decrease, in any manner known to the Government, by yearly compilations since then and up to the end of 1878, in those districts, or any other since established.

The POSTMASTER-GENERAL said he did not intend to obstruct or offer any opposition to the motion; but he thought the honourable gentleman ought to inform the House of his object in making it.

An HONOURABLE MEMBER: Hear, hear.

The POSTMASTER-GENERAL: All the information that the honourable Mr. Heussler asked for could, he presumed, be obtained from the Journals of the Council or from the Votes and Proceedings of the other House. It would involve considerable expense to produce; and, he thought, unless the honourable gentleman had some particular object of a public character in view, he might as well withdraw the motion. He

(the Postmaster-General) should be very happy to assist the honourable gentleman in ascertaining any particulars he wished to be informed upon; but he did not think the motion necessary, or that the return asked for should be furnished to the House.

Mr. MEIN said it was the invariable practice of the Government to take no exception to motions for the production of returns, unless for very grave reasons. The House presumed that every honourable member who asked for a return had a valid reason therefor. He could see no possible objection to the production of the return now asked for, but, on the very grounds suggested by the Postmaster-General, reasons for its production. The honourable gentleman said rightly, the information was obtainable from the Journals of the House. For that reason, the expense of preparing the return could not be great.

Mr. HEUSSLER: As the Postmaster-General wished him to give reasons for his motion, he begged to tell that honourable gentleman that this was about the first time an objection was made in the Council to such a motion as he now brought forward; and it was the first return he ever asked for since he had the honour of a seat in the House—and he was now one of the oldest members. The honourable gentleman might well take it for granted that he (Mr. Heussler) had some ulterior object in asking for the return; also, that he knew perfectly well that he could get the information himself by searching over all the public statistics. But his object was to have the information in a concise form. Assuredly what he, as a member of Parliament, could do, a third-rate clerk in a public office might do for him! He believed that he did not ask for too much from the representative of the Government, in asking him for that. He was really taken aback by the honourable gentleman's remarks on this occasion, and by his objection to the motion. It was enough to make any man lose his temper, to be treated in such a paltry manner and to hear such an objection made. With these remarks he left it to the House to say whether the return should be furnished or not.

Question put and passed.

IMPOUNDING BILL.

A message was received from the Legislative Assembly, to the effect that that House had had under consideration the Legislative Council's amendments in the Impounding Act Amendment Bill, and disagreed to the amendments in clauses 4 and 7, "because they are contrary to the spirit of the Bill as transmitted by the Assembly," and agreed to the amendments in clause 5 of the Bill.

The POSTMASTER-GENERAL moved—

That the House be now put into Committee for the consideration of the message.

Mr. MURRAY-PRIOR did not think there was any necessity for going into Committee. The amendments made by the Council in the Bill were understood by honourable gentlemen. They were not concurred in in another place. In his opinion the amendments disagreed to were the principal features of the Bill. Without the amendment in the 7th clause, no person could make any charge for driving expenses in impounding cattle; all such charges would go to the hospital. It was not very long since the pastoral lessees of the Crown paid large sums for the right to graze on certain portions of their runs; they generally purchased their leases to have the right of poundage, without which their holdings would be of little value. Any person selecting a homestead of eighty acres on a run could bring on a number of cattle and virtually eat the lessee out of the grass for which he paid. If a lessee lived near a pound, it did not matter much to him whether driving expenses were allowed or not; but if he lived a hundred miles distant from a pound, it would be very unfair that he should have to bear the expenses himself. He paid the Government for protection against trespassers. Protection would virtually cease if the Bill should become law without the amendments of the Council; and he would have to bear all the expenses and run all the risks of trespass from stray cattle. And there were risks; for he believed it was illegal for a person taking charge of cattle to impound them to drive them beyond a certain pace or speed; and a man might be put to very great expense by the manner in which he would have to drive cattle or sheep from his residence a long way to pound. He (Mr. Murray-Prior) had had some experience of the outside, and he could speak well on this matter; though he could say that during five-and-twenty years he had not twice exercised his right to impound. As a rule, impounding was very much disliked by settlers; and it was only in extreme cases that they impounded stock at all. Now, when income was small and expenditure was reduced, owners of stock in the bush would be obliged to hire men to take stray cattle to pound. True, certain persons had taken advantage of the existing law, and caused annoyance by impounding stock, for the driving expenses. By the Bill, that would be avoided; but it was of no particular value without the amendments of the Council. Under the circumstances, this trifling Bill would not be an improvement on the old Act; it would be worse than useless in assisting stockholders, as far as their good was concerned. The Bill was not the same as when it was introduced in the Assembly by the Government; and to give them an opportunity of considering the whole subject, and preparing a comprehensive measure during the recess, and intro-

ducing an Impounding Bill as perfect as one could be made, next session, to remove all the numerous amending Acts from the Statute Book, he should move by way of amendment—

That the word "now" in the original motion be omitted, with the view to add at the end thereof the words "this day six months."

Question—That the word proposed to be omitted stand part of the question.

The POSTMASTER-GENERAL: He was sorry that the amendment came from his honourable friend. It was true, the Bill appeared now not in the same form as that in which it was introduced by the Government in the Assembly; and, no doubt, the 7th clause, which principally caused the disagreement between the two Houses, had been introduced in Committee of the Whole in the other House. But he should regret very much if the introduction of that clause should result in the laying aside of the Bill. Though a very short and unpretending measure, yet it was one calculated to be of very considerable public advantage, if it should become law. It would be seen that the 2nd clause provided that inspectors of brands should be inspectors of pounds, which was a very important provision. Honourable gentlemen knew that very great irregularities had occurred in the management of pounds, in the more distant parts of the interior, and that it was very necessary that increased efficiency in, and supervision over, their management should be exercised beyond what had been the case hitherto. Of course, he was perfectly well aware that, if the Council insisted upon their amendments in the Bill, it could not become law, and that thus the same effect would be realised if the House went into Committee and so decided, as if they determined now upon the amendment moved by the honourable Mr. Murray-Prior. On the whole, it would be advantageous if the Bill became law, even in its present shape. The only important difference between the Assembly and the Council was, as before observed, in regard to the payment of driving fees to persons impounding stock. Although that was an important consideration, and he thought that, perhaps, some hardship might be sustained under the measure, yet the other portions of it were so much more important for the general welfare that it was on the whole desirable to pass it. The Council should not insist on their amendments; and he hoped, therefore, that the honourable Mr. Murray-Prior would see his way to withdraw his amendment. The amendment should not be adopted by the House hurriedly, because the Bill had received a good deal of consideration in the Assembly, and the Council had given much attention to it. However, he was in the hands of the House.

Mr. MEIN said he should oppose the amendment. There was a great deal in what the Postmaster-General said, that the Bill should pass even as sent back by the Legislative Assembly, as it would be a valuable addition, though an unpretentious one, to the statute book. At the same time, he could not overlook the fact that the position that the Assembly had taken up was a strong one, with regard to the 7th clause. The law, as it at present stood, was very unequal. Provision was made to enable any person to impound stock off enclosed or unenclosed land, with one exception; and that was an exception against the industrious, hardworking selector, who was absolutely restricted from impounding any stock off his selection, unless it was enclosed with a substantial fence. He (Mr. Mein) had no doubt that the Legislative Assembly had in view that unequal condition of the law when they stipulated that no driving charge should be made against a person whose stock was impounded off unenclosed lands. He believed an effort was made to equalise the law as between the selector and the pastoral tenant, but unsuccessfully. The only way to effect some approach to equality was by giving discouragement to any person to impound stock off unenclosed land. If the stock was found trespassing, the owner would be penalised by their being driven to the pound; but the impounder was not to make a trade out of it or a profit. The impounder had a remedy at law, if injury was done to him; he could prosecute for the trespass, and get damages to the extent of the injury he had suffered therefrom. If the injury was not of sufficient importance to justify him in going to law, he could still penalise the offender or owner, who would have to pay certain charges which would not go into the pocket of the impounder, but which would be appropriated to public purposes. The owner of trespassing stock would be penalised, but the person who had not suffered actual injury by the trespass would not get any profit out of the impounding of the stock. He went with the majority of members of the Council, that there would be occasions on which persons who drove stock to pound should have some return for the outlay involved; but the limit which they put upon the matter came on for discussion, and appeared to be too small. If they had been more liberal than their addition to the 7th clause implied, there would have been a greater prospect of their amendment being carried in another place. But it would be undesirable to destroy the other good provisions of the Bill, because they could not by a side-wind get rid of what was unsatisfactory to them.

Mr. GREGORY was not in the House when the particular amendment was carried which was the cause of the misunderstanding between the two Houses; but he confessed that the distance of ten miles was

a little too short to entitle to driving expenses. Had the distance been twenty miles, and the other House had objected, he should certainly have thought the Council might very fairly refuse to take the Bill into further consideration. However, he hardly felt inclined to support the motion of his honourable friend, Mr. Murray-Prior, because it did not give a fair chance of the matter being discussed. True, the House could discuss the amendments at the present stage; but it would be a simpler plan, if the honourable member withdrew his amendment and let the House go into Committee on the Bill, when the particular points could be considered on their merits. If it really seemed to the majority of honourable members that no driving fees should be charged, whatever distance cattle were taken to pound, looking at the Assembly's refusal to endorse the Council's amendment in that respect, he might say that in every other respect he was strongly inclined to endorse the amendments of the Council. The issue was involved really in the 7th clause, and if they should refuse to discuss that, and now threw out the Bill, they would hardly do justice.

Mr. SANDEMAN: The honourable Mr. Mein stated that the object of the Bill was to relieve selectors from certain abuses which had crept into the law.

Mr. MEIN: He said, apparently that was the object of the 7th clause.

Mr. SANDEMAN: Well, he considered that clause the most important in the Bill. He, for one, was quite willing to assist in relieving the selectors or any other class of Crown occupants from the abuses that he knew had crept into certain portions of the existing law; and one was, the business of impounding, which had been made a source of profit by persons interested in taking stock to pound. That was a great evil which it was never the intention of the law to countenance. A very large amount of stray stock was running in the unsettled districts, and he thought it very hard that the Bill should leave those who were obliged to impound stock from great distances to do so at their own expense. Being the mover of the amendment in the 7th clause, he pointed out, amongst other things, that it was to the interest of the public that the amendment should be made; because, as he contended, by the impounding of stock, persons in the interior especially who had lost stock when travelling were enabled to learn the whereabouts of the animals they had lost, and they were glad to be told by advertisement where they could be reclaimed. Therefore, it was for the benefit of the public that the impounding law should be kept in operation in its integrity. The old Act was very much better than the present Bill. There were many persons in the interior with large holdings not fully stocked who did not care about impounding stray cattle or horses when they had to be driven thence sixty or seventy miles to the pound; and they would not do it at their own expense. On every ground, the Council ought to insist upon their amendments in the Bill; and if they gave the other House an opportunity of reconsidering the question of distance, and if that House thought ten miles too short, by all means let it be increased; and he should be quite willing to give fifteen or twenty miles, or whatever might be considered a fair distance. Let the other House discuss that question; it was of importance; and the result would doubtless be to put the Bill into proper shape.

Mr. MURRAY-PRIOR: After what he had heard from honourable members——

The PRESIDENT said he thought the honourable gentleman had spoken.

Mr. MURRAY-PRIOR: In reply——

The PRESIDENT: The honourable member had no right of reply.

Mr. MEIN: No reply on the amendment. The honourable member was going to withdraw it.

The PRESIDENT: He had no doubt the House would hear him, if the honourable member was going to withdraw his amendment.

Mr. MURRAY-PRIOR: Yes;—he asked leave to withdraw his amendment.

Amendment, by leave, withdrawn.

The original motion was then put and passed, and the House resolved into Committee of the Whole.

The POSTMASTER-GENERAL moved—

That this Committee do not insist upon their amendments in this Bill.

He conceived that the reasons he had placed before the House were valid; and he quite agreed with what the honourable Mr. Mein had advanced. He should have been very happy to have made the distance greater.

Mr. MEIN explained to the Committee the state of the impounding law up to 1876, and the bearing upon it of the 86th section of the Crown Lands Alienation Act of 1876, which provided that no stock should be impounded from "any selection" held under that Act or the Land Act of 1868, "unless the same shall be securely fenced." The result from the last mentioned date was, that the owner of a station which was unenclosed could impound any horses, cattle, sheep, or other animals, that he found trespassing, in the nearest pound, and charge certain fees for mileage, &c.; and the selector who might have taken up land near the runholder could not impound any of the runholder's stock that had entered upon and eaten up or destroyed his growing crop, or committed any damage, unless the trespassing stock had gone inside an enclosure or fence. That was felt appa-

rently by the mover of the 7th clause of the Bill to be an injustice; because, allegations had been made that a practice was pursued—indeed, it had been admitted in certain instances—of persons impounding selectors' stock, not for trespassing merely, but for the purpose of making a profit out of the driving fees allowed by law. By the Bill, as sent up from the Assembly, whilst selectors should keep their stock within the four corners of their selections, they were liable to have them impounded and to be subjected to driving charges; but those charges would not go to the impounder for his profit, but to the nearest hospital. They would be in precisely the same position as before, in still having to pay pound fees and driving charges on their trespassing stock—but for the benefit of public charity, not for individuals. At any rate, the business of impounding for profit would cease, as there would be no inducement for persons who practised it heretofore to impound their neighbours' stock, unless they had a real grievance. The question now, was, whether there should be a hard-and-fast rule. Last week, the Council decided that there should not, and that in the settled districts, if stock had to be driven to pound more than ten miles, the impounder should be entitled to driving charges. The Assembly disagreed with that amendment and returned the Bill.

Mr. Murray-Prior: The honourable gentleman had explained the Bill from the selectors' point of view; but selectors were not the stockholders of the country. It would be no hardship for a stockholder to drive trespassing cattle ten miles to pound; but it would be a good thing for the hospital. For persons in the interior it was very hard that they should have to drive cattle long distances to pound and have no recompense whatever, but have to bear all the cost themselves. He, for one, wished to protect the selectors as far as he could; but the Bill would be applicable not to the selectors only, but to the whole colony and to the districts where there were no selectors at all. A person travelling stock, or in search of grass—with stock that did not require shepherding—could drive his cattle on to any unenclosed land where there was feed, and leave the holder to send them to pound at his own expense. During a drought, as he knew, that had been done; and places which had been reserved by the holders who paid the Government for the grazing had been trespassed upon by travelling cattle in a starving state. Whilst the grass kept them from dying, it was impossible that they could be driven to pound a number of miles without the loss of a great number by death on the road. That was the case in many instances during the late drought. On the Brisbane River all the grass was eaten up by the stock of persons of the description he gave; and the stock, not only of runholders, but of selectors, who did not pay for the grass, perished from want of feed. It was not the rule for persons in the bush to quarrel about their cattle; and neighbours did not impound unless there was a great necessity for it. By passing the Bill and putting all expenses on the impounder, all the good that was intended and done by the Impounding Act would be abolished; and, taking a common-sense and practical view of the whole circumstances of the colony, no injustice would be done to any persons, not even the selectors, by imposing moderate driving charges. What was allowed under the existing law was only a trifle, hardly sufficient to cover actual expenses; and one-half of all charges went to the hospital. He admitted that the Bill did not interfere with or alter the right to impound; but it threw all the expense upon the person impounding and nullified all the good of the Impounding Act. He should move that the House do insist upon their amendments.

The Chairman ruled that the amendment could not be put: its object would be attained by the direct negative of the question.

Mr. Sandeman said it was quite clear that the Committee could not make an amendment in the Bill now. The question was, whether, by insisting on their amendment, and returning the Bill to the Assembly, that House might not see their way to bring in an additional amendment to meet the difficulty raised by the 7th clause, which was one evidently intended for the benefit of the selectors wholly, and one that ignored the interests of the stockholders, who were by far the largest in number. He did not think it fair that the Bill should have such a prejudicial effect. If any mode could be suggested by which the clause could be amended in the other Chamber, he, for one, was quite willing to give way.

Mr. Murray-Prior: Hear, hear.

Mr. Gregory: His honourable friend was labouring under a misapprehension. The other House had no power to amend the clause; but must simply insist on or reject the amendments.

Mr. Sandeman was only aware that the Council had no power to amend.

The Postmaster-General: The House, if they desired, could insist upon their amendments or could alter the Bill so far as certain words were concerned. He had the authority in "May," as laid down in page 521.

Mr. Mein: The rule was perfectly clear. The House could not amend anything they had already passed. "May" laid it down as—

"A rule that neither House may, at this time, leave out or otherwise amend anything which they have already passed themselves; unless

such amendment be immediately consequent upon amendments of the other House, which have been agreed to, and are necessary for carrying them into effect."

It was consistent with common-sense that the Council, as a deliberative body, having decided a thing, had made up their minds; but it was quite competent for the other House to accept any of the Council's amendments with an amendment. That was laid down in "May," and it was the practice of the Queensland Parliament:—

"Sometimes one House agrees to the amendments, with amendments, to which the other House agrees."

With regard to the honourable Mr. Sandeman's argument, he (Mr. Mein) did not think there was the least chance of the Assembly submitting to the Council's amendments in any modified form. He found, on looking over the records, that the amendment of clause 7 was rejected on a division by forty to five votes; and that it received very scant consideration, indeed; so that the Committee might now very fairly make up their minds either to insist or not upon their amendments. There was not the slightest chance of the Assembly accepting anything short of the Bill as sent up.

Mr. Box said he was not very conversant with the subject; but it struck him that the House should not insist upon their amendments, because the abolition of driving fees took away a cause of animosity amongst neighbours, by taking away from the impounder any benefit he had in the expenditure to which he put the owner of cattle. The Bill would, not otherwise, interfere with the existing impounding law; it only did away with an acknowledged evil. The Assembly would not accept the amendment.

Mr. SANDEMAN: From what fell from the honourable gentleman, he was evidently not conversant with the impounding law. The Bill would do a very great injury to a large section of the community if it went back without the Council insisting upon their amendments; and it would do away with the advantages for which the impounding law had been passed. He was not one of those who wanted to do injury to any person or class.

The question was put, and the Committee divided:—

CONTENTS, 9.

The Postmaster-General, Mr. Pettigrew, Mr. Swan, Mr. Mein, Dr. Mullen, Mr. Turner, Mr. Cowlishaw, Mr. Edmondstone, and Mr. Box.

NOT-CONTENTS, 6.

Mr. Sandeman, Mr. Hope, Mr. Gregory, Mr. White, Mr. Thornton, and Mr. Murray-Prior.

Resolved in the affirmative.

The Bill was then reported to the House, and was ordered to be returned to the Assembly with a message to the effect that the Council did not insist on their amendments.

BANKERS' BOOKS EVIDENCE BILL.

Mr. MEIN moved the second reading of "a Bill to amend the law with reference to Bankers' Books Evidence." He explained that it was founded on English legislation which had been followed in Victoria, and, he believed, in some other of the Australian colonies. It was introduced for the purpose of remedying certain inconveniences that had been felt by banking institutions at home. Cases had arisen in the courts of justice where it was necessary to prove certain facts from ledgers and other books of account of banking and other institutions. Justice was not administered always in the most speedy manner, and some practical inconvenience had arisen when those books had been produced in evidence and detained in court over a certain number of days; whereas similar evidence could be obtained quite as satisfactorily and in a much less inconvenient form by those persons who had the custody of the books giving certified extracts therefrom—certified by some responsible person who had a knowledge of the facts. In that respect, the Bill would assimilate the law with that in force in the colony with regard to public documents. There was a provision in the Acts Shortening Act which permitted leases and other documents which were in the custody of public officers to be proved in court by the production of certified copies. The Bill provided that it should not be necessary in bank cases, unless the judge investigating the matter in dispute should order otherwise, to produce original bankers' books or banking accounts; but that it should be sufficient to produce certified copies of the books, verified by a partner in the bank, or manager, or other superior officer. Those copies should not be adduced in evidence unless five days' notice had been given to the other side of the intention to produce them, such notice to be accompanied by a copy of the documents or entries to be adduced in evidence. Further, where a banking institution was a party to a suit, it should produce all cheques, bills of exchange, and other orders referred to in course of account. Really, that was all the matter; except the discretion which the judge, on the application of either party, could exercise by making an order that any party should be at liberty to inspect the books, copies of entries in which were proposed to be put in evidence; and, for the protection of the banks, books were not compellable to be put in evidence, except by special order of the

judge. It would be seen that every possible facility was afforded by the Bill to suitors to verify for themselves the copies of documents that were proposed to be adduced in evidence; and to see that they were the exact copies of the documents which would be themselves the best evidence, and to produce which would be, for the reasons he had indicated, a practical inconvenience to banks, should they be detained in a court a number of days, and would delay the conduct of business, and entail loss not only on parties to the suit, but on all parties interested in the bank.

Mr. Box was anxious to ascertain from the honourable gentleman in charge of the Bill, if it was a transcript from any measure in force in England or known in the colonies, or to the banking institutions of this colony; because, if it was not, it should be carefully considered by the House. Not until eleven o'clock, to-day, was the Bill put into his hand; and he had not had time to master its details, though he took an interest in it.

The Postmaster-General said he did not know whether the Bill was a transcript of an Imperial statute or not; but he had ascertained that it was substantially a transcript of a Victorian Act which was passed by Parliament last session. He approved entirely of the object of the Bill. With the distinct understanding that it would be freely discussed in committee, he was quite willing to accept the second reading without further delay, unless the House desired it, at this stage. He knew that honourable gentlemen were anxious to get home; therefore, he should not occupy further time this evening, but reserved his right to discuss the details of the Bill.

Question put and passed.

On the motion for the committal of the Bill to stand an Order of the Day for the next sitting,

Mr. Mein explained that he had not risen in answer to the honourable Mr. Box, as he had no right of reply on an Order of the Day; but he now took the opportunity of informing him that the Bill was founded on Imperial legislation, and was almost a transcript of an Act passed by the British Parliament in 1876. That Act was followed in all material points by the Act of the Victorian Parliament, to which the Postmaster-General had referred. There had been very little discussion—in fact, none—on the measure at home; the Lord Chancellor approved of it, and moved an amendment, defining the word "bank," which he (Mr. Mein) had followed exactly. There was, however, one provision of the Imperial statute which was not adopted by the Victorian Act. In England, where a banker was a party to a suit, the books of the bank were bound to be produced in evidence. In Victoria that provision was not insisted upon, and the other party to the suit was considered sufficiently protected by the provision of the statute, to the effect that, on the application of either party, the judge could, for sufficient reason, refuse to allow copies to be adduced in evidence and order the original books of which copies were proposed to be adduced to be put in in evidence. The measure was hailed with delight by the banking institutions of England; their only regret being that it did not go far enough.

Question put and passed.

BILLS OF EXCHANGE BILL.

Mr. Mein moved the second reading of "a Bill to explain the Bills of Exchange Act of 1867." He said it might be termed simply declaratory in its aim, and it followed legislation in Victoria. The Bills of Exchange Act, which was founded upon an Imperial statute and had been also adopted in Victoria, provided that an acceptance to a bill of exchange should not be valid, unless in writing, signed by the acceptor. It had been the practice for a very long time past for banking institutions to have some printed stamp to put on bills of exchange stating that the document was accepted and payable at a certain bank, that stamp being signed by the drawee of the Bill;—but, inasmuch as the whole acceptance was not in handwriting, the Supreme Court of Victoria decided that it was invalid under the Bills of Exchange Act, and that a person who had a claim against the acceptor could not enforce it in law. Under the circumstances, a Bill was introduced in the Victorian Parliament to declare that the acceptance of a bill of exchange should not be held insufficient in consequence of having only the signature of the acceptor in writing. One would imagine that the intention of the statute originally was, that a person who was sought to be bound and who had given his written signature was bound; but, owing to the decision of the court, that appeared not to be the strict legal interpretation of the statute. He had not the slightest doubt that it was the intention of the Legislature that a man's signature should be binding on him. To put the matter beyond dispute, and that our courts might not follow the dictum of the Victorian courts, the present measure was introduced; and, he might mention, it had the approval of the leading banking institutions.

The Postmaster-General took the same position with regard to this measure as he had taken with regard to the one which preceded it. The object of the Bill was a very desirable one, and he should offer no opposition to it; nor did he think it necessary to discuss it now.

Question put and passed.