

Queensland



Parliamentary Debates
[Hansard]

Legislative Council

WEDNESDAY, 3 SEPTEMBER 1879

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LEGISLATIVE COUNCIL.

Wednesday, 3 September, 1879.

Additional Sitting Day.—Lunacy Bill.—Stock Returns.—
Life Insurance Bill.—Loan Bill.—Orphanages Bill.—
Licensing Boards Bill.—Toowoomba Chapel Lands
Sale Bill—order and practice.

ADDITIONAL SITTING DAY.

The POSTMASTER-GENERAL said, in moving the motion of which he had given notice, for an additional sitting day, it was needless to state that the Council were expecting a number of Bills up from the other House—some that afternoon, and others, he hoped, to-morrow—which it would be desirable at once to enter into the consideration of. As the session was now rather far advanced and those measures would have to go through their various stages in the Upper House, and, of course, receive proper consideration, it became necessary for him to ask that there should be an additional sitting day in each week. He did not think it was required of him to say anything in support of the motion, because he knew the House would be quite prepared for an increase of their sittings at the present stage of the session. It was what was done every session, he believed, and he did not anticipate any objection to the motion, to-day. His proposal was that the additional sitting day should be Tuesday. He thought, on the whole, so far as he could ascertain the feeling of honourable members, that that would be more convenient than Friday; but, if the majority of the House pre-

ferred Friday, of course he should have to submit. He moved—

That, unless otherwise ordered, this House will meet for the despatch of business at 3 o'clock p.m. on Tuesday in each week, in addition to the usual sitting days.

Question put and passed.

LUNACY BILL.

On the Order of the Day being called for the resumption of the debate on the motion for the second reading of this Bill, a pause ensued;

The POSTMASTER-GENERAL said, as he understood that no honourable member was prepared to speak on the first Order of the Day, and as the measures had not come up from the other House that he expected the Council would receive this afternoon, he thought it would be desirable for the House to adjourn for half-an-hour or an hour.

Mr. WALSH: Say an hour.

The POSTMASTER-GENERAL: He had no doubt that, when that time had expired, they would have the Orphanages Bill and the Loan Bill, at all events. It was very desirable that they should have those two measures up, to advance them at once through their first stage.

The PRESIDENT said that if the honourable gentleman would allow him, he should informally leave the chair, and resume it in an hour.

Sitting suspended accordingly, until half-past 4 o'clock.

The House having resumed,

Mr. SANDEMAN said that, after the very explanatory remarks of the Postmaster-General in introducing the Bill, and the valuable comments of the honourable Dr. O'Doherty upon it, he thought there was not much to be said on the subject, at present. The Bill was a very important one, he was sure every honourable member would admit; and discussion upon it had best be left until the Bill should get into committee. But he doubted very much whether, at this late period of the session, a measure of such importance could be done justice to. It appeared to him that the subject was, above most other questions, well fitted for the consideration of a select committee. Even amongst medical men there appeared to be a variety of opinions as to the mode of properly carrying into effect the best treatment of lunatics. The authorities who ought to be most capable of judging being divided in opinion, afforded a strong argument for referring the Bill to a select committee. However, as it was impossible that justice could be done to the subject by dealing with it in that way at present, he should say that the best plan was to allow the Bill to lapse for the session, with the understanding that,

at the beginning of next session, it should receive the fullest consideration. Having paid some attention to the subject of late—he had, himself, visited Woogaroo during the past few days—and having seen a great deal in connection with the treatment of the insane, he could say that the more he saw the more he was impressed with the importance of the measure before the House; and that its importance rendered it most desirable that the House should not attempt to dispose of it this session.

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

STOCK RETURNS.

The POSTMASTER-GENERAL laid on the table a Return to an Order made by the House, on the 2nd July last, on the motion of the Honourable J. C. Huessler, relative to Live Stock.

Ordered to be printed.

LIFE INSURANCE BILL.

On the Order of the day being called for the resumption of the debate on the motion for the second reading of this Bill, no honourable member rising to speak, the question was put and passed, and the Bill was accordingly read a second time.

LOAN BILL.

A message was received from the Legislative Assembly, transmitting, for the concurrence of the Council, "A Bill to authorise the raising of Loans on the security of the Consolidated Revenue of the Colony for the execution of certain Public Works and for other purposes."

On the motion of the POSTMASTER-GENERAL, the Bill was read a first time and ordered to be printed; the second reading being made an Order of the Day for to-morrow.

ORPHANAGES BILL.

"A Bill to make better provision for the establishment and management of Asylums for Orphans and Deserted and Neglected Children" was received from the Assembly; and was read a first time and ordered to be printed.

The POSTMASTER-GENERAL then moved that the second reading be made an Order for the next day.

Mr. MEIN said he did not know anything about the Bill; but, judging by its title, it was a measure of importance. Certainly it had not been in the hands of honourable members long. If they were going to discuss the Loan Bill, to-morrow, which was to authorise the raising of over £3,000,000 sterling, the House would have enough to digest for one sitting, without the Orphanages Bill. He hoped the hon-

ourable gentleman would postpone the second reading of the latter Bill until next week. It was unusual to advance measures of importance in the way proposed. Honourable gentlemen must, at any rate, have time to read the Bills submitted for their consideration, before they were asked to vote on them.

The POSTMASTER-GENERAL: With the permission of the House, he might say that he had not the slightest intention of going on with the Bill to-morrow. He merely moved that the second reading should stand an Order of the Day for to-morrow, that the House might be in a position to take up the Bill any day they might think fit. If honourable members thought it better, he should alter his motion to make the second reading an Order of the Day for this day week.

Question, as altered, put and passed.

LICENSING BOARDS BILL.

A message was received from the Legislative Assembly, transmitting, for the concurrence of the Council, "A Bill to amend the Publicans Act of 1863 so far as relates to the granting of licenses and for other purposes." The Bill was read a first time and ordered to be printed.

The POSTMASTER-GENERAL moved that the second reading stand an Order of the Day for to-morrow. He said he did not think it probable that the Bill would come under consideration to-morrow; but if the House would permit him to set it down as proposed, it could be, when the other business was cleared off, appointed for second reading on any future day.

Mr. MEIN said he did not want to interfere with the Postmaster-General's arrangements for the conduct of business; but the same objection that he before urged would apply to the consideration of the Licensing Bill to-morrow. If the Postmaster-General wished to have the Bill set down for the next sitting day following, he could get it done by moving that the second reading be made an Order for the next sitting day after to-morrow; but if it was put in the business paper for to-morrow, honourable members would naturally conclude that it would come on as appointed. For himself, he should be content with the honourable member's promise that it was not his intention to bring the Bill forward to-morrow; but if it was not intended to take it into consideration before next Tuesday, why not say so at once? The licensing of public-houses was a question that had been agitated by a very large portion of the public for a long time past. He did not know what the contents of the Bill were. They might be very harmless in their nature; or the Bill might be stringent in its provisions. Honourable members ought to have an oppor-

tunity of considering them. It was very possible the Postmaster-General and other honourable gentlemen having a great deal of leisure had time to wade through the Loan Bill, involving as it did an expenditure of a very considerable sum of money, and the Licensing Bill, between this and to-morrow afternoon. He was not able to afford that time, he candidly admitted. The House were not only going through the second reading of the Loan Bill to-morrow, but its consideration in Committee—in fact, they were to dispose of the Bill altogether. Well, he must say that if they disposed of over £3,000,000 of money—something like £60 a head of the whole population—they would do a great deal to-morrow.

MR. MURRAY-PRIOR said that it had not been the practice to ask for a second reading of a Bill until the day week following its introduction. Several of the practices of the Council, which honourable members had seen to be good and which custom had approved of, had been set aside by innovations. He, for one, not being so frequently in the House as in times past, through living at a distance, looked at his papers, and if he saw any particular Bill upon which he desired to say something, or at the consideration of which he desired to be present, the fact of its being ordered for a particular day was an inducement to him to come in from the country. He thought it was a very bad practice to try to get the second reading of a Bill passed in any time less than a week. Honourable members required to look over Bills brought before the House. They would not have time, with the other business, to look over the Licensing Bill by to-morrow. It was far better that they should have the opportunity of talking amongst themselves upon the measures to be brought before them for consideration. One might ask the Postmaster-General, or any other member, to explain something before the matter came up in the House. He would always oppose hurrying the second reading of Bills so soon after their introduction as was now proposed. A week at least should be allowed before that important stage of the Bill was arrived at—except, of course, towards the end of the session, when there was very good reason for pressing forward business.

The POSTMASTER-GENERAL said he merely wished to have the Bill set down for second reading to-morrow, as, if anything happened to prevent the House going on with other important business, they would have some work to do. They had an illustration, this afternoon, of how business was disposed of. If the important measures that had come up from the Assembly had not been received, some honourable members, who came from a distance, would have to go away not having had more than

five or ten minutes' work. Now, he fully expected the Loan Bill would come on for consideration to-morrow, but there was just a possibility that something might happen to prevent it.

MR. MEIN: It depended on the Government.

The POSTMASTER-GENERAL: He thought it best to be prepared for a contingency. If they could not go on with the business he intended that they should transact, he might then, at any rate, move the second reading of the Licensing Bill and explain its provisions, without its going further. He did not wish to introduce any innovations in the Council which were considered undesirable. He could only say that the practice which he was now following obtained in the other House—the practice of allowing Government measures to stand Orders of the Day for the first sitting day;—and he thought it was a good practice, and one which would enable the Council to dispose of business without much trouble. However, he was inclined to meet the wishes of honourable gentlemen, and he would ask that the second reading stand an Order of the Day for next Tuesday.

Question put and passed.

TOOWOOMBA CHAPEL LANDS SALE BILL—ORDER AND PRACTICE.

MR. WALSH said he wished to call the attention of honourable gentlemen to what appeared to be a difficulty he met with this afternoon, not clearly provided for in the Standing Orders. He had taken charge of a Bill which had come up from the Legislative Assembly in connection with land belonging to the Methodist Church at Toowoomba. He found that he was blocked, apparently, from moving the ordinary motion, that the Bill be read a first time, because, as was stated, it was not accompanied by a sum of money. He must confess that on reading the Standing Orders he could not see that money ought to be received. The 69th Standing Order was—

Until special Standing Orders for the initiation of private Bills shall have been adopted, this Council will not enter on the consideration of any private Bill which has not first been considered by the Legislative Assembly, and referred by that body for the concurrence of this Council.

The next Standing Order said—

Every private Bill sent up from the Legislative Assembly, if accompanied by a printed copy of the report and proceedings of the Select Committee of that House to which it shall have been referred, shall be dealt with in the same manner as a public Bill, and shall not be referred to a Select Committee of this Council, unless the same shall be opposed, and then only by motion on notice to be made before the second reading.

That language appeared to him to be very clear. If the Bill was a "public Bill," of course, it would be impossible to receive, or to require that there should be lodged, a sum of money accompanying it. The fault lay in the Council not having provided the necessary Standing Orders. As far as that went, he did not know why the Upper Chamber had not for a number of years furnished themselves with the necessary powers in regard to the introduction of private Bills. But, now that he had called the attention of honourable gentlemen to the fact, they would perhaps take action. It did seem strange that the Council could not initiate private Bills, entirely from a want of their own making; but that they leaned upon the other Chamber for doing so. If they took the example of one Bill, at any rate—two, he believed—sent up lately from the other Chamber, it would be better for honourable members to take measures for the initiation of private Bills in the Council. The 70th Standing Order, which he read last, distinctly provided, in language not to be mistaken, that in present circumstances a private Bill "shall be dealt with in the same manner as a public Bill." He believed that, so far, the terms of that Order had been complied with. There was nothing in that Order providing that a sum of money should be lodged with the Bill. He believed it had been the practice to lodge money; still, if that practice was not justifiable, it should not be persevered in. True, the 82nd Standing Order said—

Before any private Bill be read a first time in this Council a sum of twenty pounds shall be paid into the hands of the Colonial Treasurer, for the public use of the colony, to meet the expenses of such Bill;—and so forth. That he took to be in connection with the 69th Standing Order.

Mr. MEIN: Obviously.

Mr. WALSH: It was obvious. He fancied, at any rate, that the House should refrain from exacting that amount of money, or should pass such Standing Order as would allow of Private Bills being initiated in the Council.

The POSTMASTER-GENERAL: If he were in order, he should like to say that he believed the practice had not been constantly adhered to by the Council; because he remembered distinctly that, in 1875, he introduced a private Bill in the Legislative Assembly, and no deposit was required when the Bill came to the Upper House. First, he was informed that he would have to deposit the sum of £20 in the Treasury before the Bill would be considered. He was then informed that £25 had been already paid into the hands of the Colonial Treasurer, and that the receipt for the money would be sufficient. He had been asked by the honourable gentleman who intended to take charge of the Bill to initiate it, this afternoon; and he was sur-

prised when it came up at being informed, again, that it was necessary the money should be paid.

Mr. MEIN: The question was not raised, to-day, for the first time. He raised it on the 4th October, 1876, and he then took the same ground as the honourable Mr. Walsh now took up. Then it appeared to him—and no argument, since, had led him to alter his opinion on the subject—that the 82nd Standing Order was one that, if it had any meaning at all, could only be applied in the case of the Council having complete Standing Orders made under the 69th Standing Order for the introduction of private Bills in their Chamber. In fact, to his mind, there could be no other meaning; because the latter part of the 82nd Standing Order required that

The promoter of the Bill shall also furnish at his own cost fifty fair printed copies of the same, and the same number of copies of any amended Bill, for the use of members, three clear days before the same shall be considered. That, clearly, would be the Bill amended by a select committee of the Council. The Order was evidently a transcript from a corresponding Order of the Legislative Assembly or some other legislative body elsewhere, dealing with cases where private Bills had been referred to a select committee, and where the select committee reported in favour of certain amendments which were afterwards printed. That was absolutely at variance with the sentiment of the 70th Order, which said that a Bill should be treated, for all practical purposes, as a "public Bill." The Bill was printed and distributed at the public expense. If the Council exacted the £20—which, by-the-by, was invariably handed back to the promoters of a Bill—they might just as well go through the farce of insisting upon the introducer of the Bill presenting to the House fifty printed copies of the Bill, independently of the copies that had been printed at the Government Printing Office. The measure which came up to the Council from the Assembly might not be the original Bill that was presented in the first instance. It might have had a large number of amendments made in it by the other House. The Standing Orders of the Council very properly provided that after going through the ordeal of the Legislative Assembly, the Bill was practically a public Bill. And, until the Council had made arrangements of their own, enabling private Bills to be introduced in the Upper House, and to be referred to select committees, and to be dealt with as elsewhere, they would treat as public Bills such measures as were sent up to them from the Legislative Assembly; and there was no need to exact anything whatever from the promoters. There was a subsequent Standing

Order, the 83rd, which bore on his view of the subject. It said—

No private Bill shall pass through more than one stage on one and the same day.

That was, a private Bill which had been initiated in the Council; because the 70th Standing Order said that the Bill initiated in the Assembly was, in fact, a public Bill—that it was no longer a private Bill;—therefore, it could not be affected by the 82nd Standing Order, or any other Standing Order bearing upon private Bills. He thought that if the £20 had been exacted heretofore, it had been unfairly exacted; and that there was no necessity on the present occasion for the production of the £20. He submitted that the Bill could be dealt with now; especially as a case in point had been stated by the Postmaster-General, no doubt correctly, of a Bill which had been sent up to the Council and passed without the £20 being required. It seemed to be farcical to ask the promoter for £20, and then to give it back to him. There were no expenses incurred, there could be none incurred, in regard to the Bill; even if amendments should be made, they must fall on the country as for a public Bill. That would be an expense incurred for the Legislature, to meet its views; not at the suggestion, or for the benefit, of the promoter of the Bill. It appeared clear that the £20 ought not to be exacted under the existing Standing Orders.

The PRESIDENT: The rule under which the money has hitherto been required by this Chamber is contained in the 82nd Standing Order:—

Before any private Bill be read a first time in this Council a sum of twenty pounds shall be paid into the hands of the Colonial Treasurer, for the public uses of the colony, to meet the expenses for such Bill; and a certificate of that sum having been paid, to be filed with the Clerk, shall be produced by the member having charge of the Bill. And the promoter of the Bill shall also furnish at his own cost fifty fair printed copies of the same, and the same number of copies of any amended Bill, for the use of members, three clear days before the same shall be considered.

I may state that my opinion has long been that the second fee on the passing of a private Bill is an unnecessary exaction.

HONOURABLE MEMBERS: Hear, hear.

The PRESIDENT: I turn to "May," and I find there that things are in very much the same position as with us:—

The fees which are chargeable upon the various stages of private Bills, and are payable by the several parties promoting or opposing such Bills, have been settled in both Houses. The tables of fees are well known to Parliamentary agents, and to suitors; they are published in the Standing Orders of the Commons, and in

the House of Lords they are separately printed, and are readily accessible to parties interested.

In a subsequent part, I find:—

In both Houses there are officers whose special duty it is to take care that the fees are properly paid by the agents, who are responsible for the payment of them

It is clear that we have followed the practice of the House of Lords. The only question that arises is one that has been advanced by the honourable Mr. Mein, under the 70th Standing Order, which is as follows:—

Every private Bill sent up from the Legislative Assembly, if accompanied by a printed copy of the report and proceedings of the Select Committee of that House, to which it shall have been referred, shall be dealt with in the same manner as a public Bill, and shall not be referred to a Select Committee of this Council, unless the same shall be opposed, and then only by motion, on notice to be made before the second reading.

My opinion is, and it always has been—because it was my lot to have a private Bill passed through the two Houses on a former occasion, and the question then arose to my mind—and I am very much disposed to rule in the sense and the meaning of the practice of the House of Lords, and in that which is intended by the Standing Orders of this House, that the payment of the fee of £20, when a private Bill is introduced in this Chamber, is what is meant. This is my opinion: that it is inconsistent with common sense that the two fees should be exacted.

HONOURABLE MEMBERS: Hear, hear.

Mr. WALSH said that, to test the feeling of the House, he would now formally move that the Bill be read a first time.

The POSTMASTER-GENERAL said he could not say that he approved of the whole of the arguments that had been used by his honourable friend opposite (Mr. Mein), but he could quite agree with the ruling of the President. There was no doubt of its correctness from the reading of Standing Order, No. 82:—

Before any private Bill be read a first time in this Council, a sum of twenty pounds shall be paid into the hands of the Colonial Treasurer, for the public uses of the colony, to meet the expenses for such Bill; and a certificate of that sum having been paid, to be filed with the Clerk, shall be produced by the member having charge of the Bill. And the promoter of the Bill shall also furnish at his own cost fifty fair printed copies of the same, and the same number of copies of the amended Bill, for the use of members, three clear days before the same shall be considered.

Well, there had been £25 paid into the hands of the Colonial Treasurer. If they could get a certificate, it could be laid before the House—if the House insisted

upon it. Having regard to the 69th Standing Order, it was not positively necessary to insist upon the second fee being paid; therefore, there was no argument against the first reading of the Bill.

Question put and passed.

On the motion that the Bill be printed,

Mr. HART said he should like to know, if a private Bill was introduced in the Council, whether the same rule would be applicable as to a Bill that came up from the Assembly? He should like to know, in the event of a private Bill being introduced in the House, whether the same rule would be applicable when the Bill was sent down to the Lower House;—whether the promoter in either case would have to pay a second fee.

Mr. WALSH: The Assembly made their own rules.

Mr. HART: According to the argument of the honourable Mr. Mein, a private Bill introduced in the other House might be treated in this House as a public Bill. There was a Bill recently before the Council which was hardly treated in that way—the Tooth Estate Enabling Bill. There had been a great deal of opposition shown to it. The promoters had been put to a great deal of expense in petitioning and printing, and it seemed to him very strange that the House should “make fish of one and flesh of another.” He thought that any promoter of a private Bill who should introduce it in the Upper House should have the same justice in the Lower Chamber as might be accorded to him in the Council.

Mr. WALSH said there was no analogy between the two Houses at all, nor between the two Bills. The Tooth Estate Enabling Bill was introduced in violation of the Standing Orders of the other House. In respect to the Bill in his hands, all the requisite conditions imposed by either Chamber had been fulfilled, except as to the £20. The Standing Orders of the Council threatened somehow to put him out of court, by requiring the payment of £20, but, according to the 69th, until they had made special Standing Orders of their own for dealing with private Bills, the House had a right to treat a private Bill coming up from the Assembly as a public Bill. With regard to the reception of the private Bill in the other Chamber after it had been introduced in the Council, their Standing Orders could not influence the Assembly.

Mr. HART: If that was to be carried out, they would never have any private Bills initiated in the Council.

Mr. WALSH: Not until they made the special Standing Orders, according to Standing Order, No. 69.

The PRESIDENT: The honourable gentleman will see that there is no connection

between the actions of this Chamber and the other one. Each House have their own rules in regard to initiating Bills, fees, or fines. I do not think it is very likely that the Assembly will pass a private Bill without strict regard to their Standing Rules and Orders. We say, until we provide special Standing Orders for the initiation of private Bills we will not initiate such Bills; when we do, the fee shall be paid and the receipt produced.

Question put and passed.

The House adjourned at 5:16 p.m.