

Queensland



Parliamentary Debates
[Hansard]

Legislative Council

THURSDAY, 5 NOVEMBER 1885

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LEGISLATIVE COUNCIL.

Thursday, 5 November, 1885.

Federal Council (Adopting) Bill (Queensland).—Licensing Bill.—Adjournment.

The PRESIDENT took the chair at 4 o'clock.

**FEDERAL COUNCIL (ADOPTING) BILL
(QUEENSLAND).**

The PRESIDENT announced the receipt of a message from the Governor, intimating that His Excellency had, on behalf of Her Majesty, assented to this Bill.

LICENSING BILL.

The PRESIDENT announced the receipt of the following message from the Legislative Assembly :—

“ His Excellency the Governor having transmitted by message to the Legislative Assembly the following amendments, which he desires to be made in the Licensing Bill, namely :—

“ Clause 4, page 3, line 8—

“ Omit ‘ ratepayers’ ’ and insert ‘ voters’ .’

“ Clause 7, page 4, line 16—

“ After ‘ bagatelle,’ insert “ or in respect of which an application is made for a license under this Act.’

" Clause 117, first line—

" Omit 'ratepayers' and insert 'voters'."

" Clause 121—

" Omit the words 'next ensuing,' and insert 'in the year following that in which the notice requiring the poll to be taken was given.'"

" The Legislative Assembly have agreed to the amendments proposed by His Excellency, and now forward them to the Legislative Council for their concurrence."

On the motion of the POSTMASTER-GENERAL, the President left the chair, and the House went into Committee to consider the message.

The POSTMASTER-GENERAL moved that the Committee agree to the amendment in clause 4.

The HON. A. C. GREGORY said he had been looking over the amendments, and it was quite clear that the use of the word "ratepayers," though conveying to their minds what was intended, was not the correct term. Under the Act to which reference was made, with regard to the ratepayers, they found that the roll was called the "voters' roll," and, as it was so called under the Act to which the clause had reference, it was only proper that they should substitute the word "voters" for "ratepayers." It was merely a verbal alteration, which would not alter the effect of the provisions in which the term was used.

The HON. A. J. THYNNE said it seemed to him that an important alteration might be made in the Bill by the insertion of the word "voters." Reading clause 117 with the interpretation clause, any person whose name was on the books of the municipality, and was rated in respect of property, was entitled to vote, whether he had paid up his rates or not. He thought the insertion of the word "voters" might have the effect of preventing people whose rates were not paid from voting.

AN HONOURABLE MEMBER: Very properly too.

The HON. A. J. THYNNE said that, as the Postmaster-General put it the other night, the question was not one of property, but a social question; and, if men were in possession of property, whether their rates were paid or not, they ought not to be debarred from voting. Rates were not usually paid up till towards the end of the year, and that was where the difficulty might arise. The matter had come upon hon. members so unexpectedly, that he had not had time to give it sufficient consideration.

The HON. T. L. MURRAY-PRIOR said it struck him as being very strange that a Bill, after being passed, should be returned merely to make a verbal alteration. If they read the definition, substituting the word "voters" for the word "ratepayers," it would read thus:—

"Ratepayer.—Any person whose name is duly entered in the voters' roll of a municipality, or in the rate-book of a division."

Of course, on first looking at that, a person would be led to think that it only referred to the ratepayers on the roll of a municipality, but if there was an election in the municipality of Brisbane, for instance, it might mean the voters who elected a member. He did not think that was the meaning, but it struck him in that manner, and, if so, it would make a very great alteration in the meaning of the Act, so far as voting was concerned. They all knew what a ratepayer of a municipality was, and, as he said before, he thought it very strange that the Bill should be returned merely to make a verbal alteration.

The POSTMASTER-GENERAL said the word "ratepayers" crept in through inadvertence. They all knew what it meant so well, and that was the reason why the error had escaped their notice. It was now proposed to substitute the word "voters," to enable the Act

to be worked. The roll was called a "voters roll" in the Local Government Act, and there was no such thing as a "ratepayers' roll" in that statute, and they must use the term "voters' roll" in order that the Licensing Act should be in harmony with the Local Government Act. The rate-book referred to divisions. It was surprising that so many eyes saw the word but did not detect the error.

The HON. F. T. GREGORY said he thought the Hon. Mr. Thynne had drawn attention to what was the only question of any consequence that could be raised in regard to the amendment, which was clear enough as put by the Postmaster-General. It was to be considered, however, that though the term "ratepayers" might be wrong, there was a roll of ratepayers both in a municipality and in a division. In a division the conditions under which people became voters were somewhat different from those in the municipality. In a municipality the rolls were made up at a particular period of the year, and all ratepayers who had not paid up to that date were disqualified and no longer on the roll; in a division any man who paid his rates up to the day before an election could vote. He did not know whether that would materially affect the question; but he pointed it out so as to show how altering the word would alter the question between a municipality and a divisional board. There might be some ambiguity in using the word "ratepayers" instead of "voters"; but, to his mind, it would affect it only as he had pointed out. It would act in a different way in a municipality to what it would in a division; at the same time he saw no objection to deciding that only those ratepayers should be entitled to vote whose names are on the voters' roll.

The HON. A. C. GREGORY said that if they retained the word "ratepayers" it would have no effect, because there was no such thing as a "ratepayers' roll" referred to in the Local Government Act. In clause 51 of the Local Government Act, they found that the clerk was instructed to do certain things—to make up a list to be called a "voters' list," based upon the then current voters' roll. In the early part of that clause reference was twice made to the form. The 1st subsection of clause 57 read thus:—

"The court shall insert the name of every person who has claimed as aforesaid, and has proved to the satisfaction of the court that he is entitled to be inserted in the voters' roll for one or more votes according to the provisions of this Act."

The consequence was that though there was a "voters' list" it was a merely temporary matter, because following the voters' list was the voters' roll, and all voters under the Local Government Act were on the voters' rolls. In considering far more important questions than verbal inaccuracies, they had passed over the error, because the words "ratepayers' roll of a municipality" were perfectly clear in ordinary conversation; but if they referred to the Acts they would see that it was important that the expression "voters" should be used. Reference had also been made to clause 117 of the Bill, and an amendment which they would be asked to agree to, but the expression "rate book" did not refer to any rate-book belonging to a municipality but to the rate-book of a division. Therefore in the other case it was quite clear that the rate-book had nothing to do with the rate-book of the municipality. If they wanted to make a total alteration in the system, they would have to entirely alter the verbiage with regard to the voters of municipalities who did not pay up before the first of November. If they chose to qualify them they could do so, but that had not been the intention of the Bill as passed by the House. Therefore he saw no

reason why they should not adopt the amendment, which, so far as he knew, was a purely formal matter, to make the Bill consistent with the Local Government Act, to which it applied.

The HON. W. FORREST said, without any intention of opposing the amendment, he had grave doubts whether they were not acting perfectly irregularly. He did not profess to be an authority on parliamentary practice, but it struck him that that was the introduction of new matter, and, as a matter of fact, the Bill was a new Bill. If that was the case they were going beyond their power, because two Bills dealing with the same subject could not be introduced during the same session; and he would like to hear some expression of opinion upon that point. Referring to the amendment, he might state that a ratepayer was a man who was liable to pay rates, but a voter under the other Acts which had been referred to was a man who had paid his rates; if the alteration was adopted a man could not vote unless he had paid his rates, therefore a new complication had been put upon the Bill. If, however, the amendments had been introduced in the ordinary way he did not wish to oppose them, but he thought there was considerable danger that they might outstep their rights and privileges. He had referred to a danger of a similar character when the Standing Orders were suspended, and it was well that hon. gentlemen should have the matter called to their attention. If the amendments had come before them in the ordinary way, and they had had time to consider them and look into them for a moment, no difficulty could have arisen, but whether they should be introduced in that manner, and hon. members only have an opportunity of giving them a cursory glance, was a matter for consideration. Again he would remind hon. gentlemen that they might be going outside their rights and privileges, and if they were he would certainly oppose the amendment.

The POSTMASTER-GENERAL said the observations of the last speaker were worth noticing. It would be interesting to know as to how it was that it had got into the head of the Hon. Mr. Forrest that the House was going outside its rights and privileges. The amendments had been introduced in the only way in which they could be introduced after having been discovered when the Bill was presented to His Excellency for the Royal assent. It must be remembered that there were three estates which comprised our Constitution—the Assembly, the Council, and the Governor; and these three powers must assent to a Bill before it became law. Certain matters had been discovered and dealt with in that Chamber, sent back to the Assembly, and again came back to them, and after revision and adoption it was finally passed and sent to the Governor, by whom some errors had been discovered. One of the functions of His Excellency the Governor was to make suggestions when it was discovered that amendments were necessary, and that function had been performed in the present instance. The measure had, in the first place, been sent to the Lower House, where the amendments had been adopted, and it had been proved clearly that they were merely verbal amendments. They were not technical in any sense or degree whatsoever, and they did not alter the Bill as stated by the hon. gentleman. The hon. gentleman said the Bill was a new Bill, but he was altogether mistaken, inasmuch as they were now dealing with a few verbal amendments recommended by His Excellency the Governor. That Chamber, at that stage, could alter nothing which bore upon the character of the measure. If it was proposed to alter its

meaning in the slightest degree it could not be dealt with by them. The hon. gentleman must be aware of that. The Bill could not possibly get to that Chamber if there was one scintilla of alteration in its character or scope.

The HON. W. FORREST said, referring to the last observations of the Postmaster-General, he had shown that the amendments did alter the Bill. The hon. gentleman said if it was proposed to make the slightest alteration in the character of the Bill it could not have come before them, but he contended that the Bill had been altered, and he had shown clearly how it had been altered. The terms "ratepayer" and "voter" were not convertible terms. A man might be a ratepayer, but, through not having paid his rates, he was not a voter. Therefore a material alteration was proposed in the Bill, and he still stuck to that point.

The HON. SIR A. H. PALMER said it would save a great deal of useless debate if the rules of the Legislative Assembly bearing upon the subject were read to hon. members. Rule 248 said:—

"Whenever the Governor shall transmit by message to the Assembly any amendment which he shall desire to be made in any Bill presented to him for Her Majesty's assent, the amendment shall be treated and considered in the same manner as amendments proposed by the Legislative Council."

And the next rule said:—

"When the Assembly shall have agreed to any amendment proposed by the Governor, such amendment shall be forwarded to the Legislative Council for its concurrence."

They should treat the Bill just as if it came up from the Legislative Assembly with amendments, and nothing more or less, and the amendments were not outside the scope of the Bill in any way. They were mere verbal alterations in the Bill, which the Governor had a perfect right to send back to the Assembly.

The HON. T. L. MURRAY-PRIOR said perhaps he had been the cause of the discussion, but he thought it was a very good thing to have a discussion on Bills when any hon. member of that Chamber had doubts upon the subject. The matter which had been brought before them was a very proper one for discussion.

The HON. W. FORREST said he would again take advantage of the Bill being in committee to impress upon hon. gentlemen the danger of suspending the Standing Orders. He was perfectly satisfied with the explanation that he had been the means of drawing from the Hon. Sir A. H. Palmer, and if the Postmaster-General had afforded that information he would have been perfectly satisfied. The amendments had been sprung upon them, as it were, before they had had time to grasp the meaning of them, and if notice had been given of the proposed amendments hon. gentlemen would have come to the House prepared for them and there would have been no objection. Members were not expected to know the Standing Orders by heart, or to carry them about with them.

The POSTMASTER-GENERAL said of course it was not expected that hon. gentlemen should carry the Standing Orders in their heads from day to day, but if the hon. gentleman carried in his head the ordinary principles of the Constitution he would have been able to quote them, and not have raised the difficulty which he had raised. Why, it was laid down in "Stephen's Commentaries" that every English gentleman was supposed to know the whole of the law of his country, and more especially were hon. members of Parliament expected to know the practice of Parliament and the rudiments of the Constitutional law. He would commend to the hon.

gentleman the perusal of the little book he had referred to, which would tell him that he ought to know the ordinary laws of his country as well as the constitutional law. He might tell the Hon. Mr. Forrest that he had given in a few words the explanation which had subsequently been clearly and succinctly quoted by the Hon. the President.

The HON. W. FORREST said he liked to hear such a speech coming from the Postmaster-General, of all other men in that House. Every day he had to be called to order by the President, and had very properly been called to order only yesterday. What did the Postmaster-General know about the Standing Orders? If that hon. gentleman had not learnt them before the matter had been dealt with he would know nothing about them, and he (Hon. Mr. Forrest) doubted whether the hon. gentleman knew anything about them now.

The HON. J. TAYLOR said it was but fair that the Hon. Mr. Forrest and the Postmaster-General should give some other hon. members a chance of saying a word. He would like to ask the Postmaster-General—if a man had not paid his rates could he vote?

The POSTMASTER-GENERAL: That is not in the Bill.

The HON. J. TAYLOR said if a man was on the list of voters, could he vote if he had not paid his rates?

The POSTMASTER-GENERAL said he must refer the hon. gentleman to the Local Government Act and the Divisional Boards Act.

The HON. J. TAYLOR said the Postmaster-General would have the goodness to look up those Acts and show them to him. The arrangements in the Municipalities Act was this: that the voters must pay their rates not later than the 1st day of November, and two instances of the admirable way in which that worked had come under his notice within the last week. On the 31st day of October the little municipality of Toowoomba received £618 in rates, and that would never have been paid but that the ratepayers wanted to get on the roll. The municipality of Warwick had received during the same week something like £1,000, and he considered if all Acts, in which ratepayers or voters were mentioned, were framed in the same way as the Municipalities Act, they would work much better. He had been chairman of a divisional board for many years, and the ratepayers in the division could pay on the very day that the election took place and have the right to vote, but the evil that existed in that was the clerk had not time to make up a list of the voters. Now, in municipalities, on the 1st day of November the clerk closed his office for a week and made up the list of ratepayers who were entitled to vote, and when the election came on there was not the slightest trouble in the world. He thought that was a very good system, and it was a pity that the Bill did not carry out the same arrangement.

The HON. A. J. THYNNE said the hon. gentleman who had just spoken was desirous of having the Licensing Bill as a kind of ally to the Local Government Act, as far as collecting rates was concerned. Now, he disagreed with the hon. gentleman entirely in that matter, and that was the reason why he was not satisfied with the alteration. He thought it would open the door to a great deal of injustice, and would prevent the proper working of the Act. They would have a section of the community working points upon their probable opponents by paying up rates, and so on. No doubt it would be a good thing for divisional boards, but he did not think that was an enactment that they ought to

support, when its working would depend on public sympathy and the will of the district. If the people were not prepared to pay up their rates, and were thereby deprived of their votes, they would think themselves hardly used, and would not hesitate to assist in infringements of the liquor law.

The HON. W. G. POWER said the Postmaster-General seemed disinclined to answer the question of the Hon. Mr. Taylor—if a ratepayer who had not paid his rates could vote? The Postmaster-General knew perfectly well that no ratepayer could vote if he had not paid his rates, and, he (Hon. Mr. Power) thought, very properly too. A man had no business to interfere in municipal matters if he had not paid his rates.

The HON. W. PETTIGREW said he was surprised at the amount of opposition there was given to the alteration of the word. He saw the necessity of making the alteration, because the ratepayers' roll had no existence, while the voters' roll had an existence in fact. There was no such thing in a municipality as a ratepayers' roll. Certainly there were the books of the municipality, but a voters' roll was made up every year, and a large number of clauses in the Local Government Act bore upon it. The clause as it stood would not be workable, but the substitution of "voters" for "ratepayers" made it workable, and he did not see why hon. gentlemen should occupy so much time in discussing the question.

The HON. F. H. HART said he thought the discussion which had arisen was to be laid at the door of the Postmaster-General himself, because at the close of business yesterday hon. members were asked to make a House so that one or two printer's errors in the Licensing Bill might be corrected. Of course the hon. gentleman was taken at his word, but members had been taken by surprise by finding that the errors were not printer's errors and that the amendments required some consideration. He had gone through the amendments and he could see no objection to any of them, but at first he was rather taken aback because he had thought the proposed amendments were perfectly simple. The last amendment he thought was not altogether formal, because it put off for a year the time at which the first resolution, when adopted, should come into force.

The POSTMASTER-GENERAL said when he spoke yesterday he was only cognisant of the second alteration as likely to come before the Chamber, and it was not necessary for him to announce the mode by which the Bill would be brought forward. The Hon. Mr. Hart complained of the amendments coming unexpectedly upon hon. members, but he could assure hon. gentlemen that with the exception of what he had just mentioned he saw the amendments now for the first time.

Amendment put and passed.

The POSTMASTER-GENERAL moved that the amendment in clause 7, page 4, line 16, be agreed to. The amendment was to insert after the word "bagatelle" the words "or in respect of which an application is made for a license under this Act." Those words were exactly the same as those which appeared in subsection (f). Those words, as hon. gentlemen would see, should have been inserted in subsection (b), but by some means they had been omitted. The clause without the amendment would exclude from sitting on the bench the owner, landlord, or mortgagee of a house already existing, and would not apply to the owners or mortgagees of houses for which licenses were applied for. The amendment would make the clause applicable to both cases, as it was intended it should be.

Question put and passed.

The POSTMASTER-GENERAL moved that the amendment in clause 117, substituting the word "voters" for the word "ratepayers," be agreed to.

Question put and passed.

The POSTMASTER-GENERAL moved that the amendment in clause 121 be agreed to, and said it would be seen from clause 115 that when the ratepayers demanded a poll they must give notice in writing to the chairman of the local authority not later than the first day of November. If a poll was taken in May or June, and the first resolution was adopted, it would be a very great hardship to the publicans if it came into operation on the 30th of June, which might be two or three weeks, perhaps only one week, after the poll was taken. It was therefore proposed to amend clause 121 by omitting the words "next ensuing" and inserting "in the year following that in which the notice requiring the poll to be taken was given."

Question put and passed.

The POSTMASTER-GENERAL moved that the Chairman leave the chair, and report to the House that the Committee had agreed to the amendments.

Question put and passed.

The House resumed, and the report was adopted.

The POSTMASTER-GENERAL moved that the Bill be returned to the Legislative Assembly with the following message :—

Legislative Council Chamber,
Brisbane, 5th November, 1885.

MR. SPEAKER,

The Legislative Council having had under consideration the message of the Legislative Assembly, of this day's date, relative to certain amendments in the Licensing Bill transmitted to the Legislative Assembly, by message from His Excellency the Governor, beg now to intimate that they concur in the said amendments.

Question put and passed.

ADJOURNMENT.

The POSTMASTER-GENERAL moved that the House do now adjourn.

The Hon. G. KING said : Hon. gentlemen,—I move, as an amendment, that the words "till Tuesday next" be added at the end of the motion. There is no business on the paper for to-morrow, and we are not likely to receive any business from the other Chamber.

The Hon. W. APLIN said : Hon. gentlemen,—I shall oppose an adjournment till Tuesday, because I think it is probable that important business may come up to-morrow. I wish to go away north, and do not want to be kept here next week. It is probable that the whole of the business may be gone through to-morrow, so as to enable the session to be closed this week. I certainly do not see any reason for adjourning till next Tuesday, and I hope the House will not consent to it. Hon. gentlemen may say that there is no possibility of the Appropriation Bill being received to-morrow from the Assembly. How do they know? I think it is probable that it will be sent up from the Assembly to-morrow; at all events it is possible.

The Hon. W. FORREST said : Hon. gentlemen,—I do not think, from all we can gather, that there is the slightest chance of the Appropriation Bill coming up to-morrow, and as there is no business on the paper I do not see why we should sit on Friday. I have some matters to attend to which are just as important as the affairs requiring the attention of the Hon. Mr. Aplin. I should very much like to have to-morrow, but at the same time if there was any business on the paper I would put my private business at one

side and attend the House. But there is no possibility of there being any business to-morrow, and it will be very hard to keep hon. members here on the odd chance of receiving the Appropriation Bill from the Assembly. And even if it does come up to-morrow there is not the slightest chance of our finishing to-morrow.

The Hon. W. APLIN : It has always been done in one day.

Question—That the words proposed to be added be so added—put, and the House divided :—

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Question resolved in the affirmative; and question, as amended, put and passed.

The House adjourned at three minutes to 5 o'clock.