

With Mr. Campbell's Compliments.

TRADES' HOUSE.

MEMORANDUM EXPLANATORY OF MR.
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Motion.:—"That this House resolve to amend the following Rules and Regulations of the House, viz.:—"Delete from Rule 7 enacted by this House on 7th October, 1833, and also from Rule 10 enacted by this House on 9th October, 1835, all as printed in Mr. Craufurd's Sketch of the Trades' House at pages 123 and 124, the following words occurring after the words "place of business," viz., within the Parliamentary district of Glasgow specified in the Act 2nd and 3rd William IV., to amend the Representation of the people of Scotland, or within any part of the Royalty of Glasgow not comprehended by that district,' and insert instead in these Rules after the words 'place of business,' the following words, 'or whose avocation or calling is within the City of Glasgow as at present defined by Act of Parliament, or as may be defined by any future Act of Parliament.'"

At the last meeting of the Trades' House of Glasgow, the above motion was proposed by Mr. Campbell, and referred to the Bye-laws Committee to consider and report to the House. In order to save time, and enable every member of the House to understand the full scope of the motion, Mr. Campbell respectfully submits the following remarks thereon for their consideration:—

The necessity for the alteration of the Bye-laws arises from the fact that such Bye-laws were enacted so long ago as 1833 and 1835, and, while they met the then existing state of matters, they fail to meet the altered circumstances of the present day, as will be shortly explained.

The City of Glasgow, prior to the year 1800, embraced only the ancient Royalty, which was but a small portion of the present Municipal City.

In the year 1800, the Royalty and Municipal City was extended so as to include a portion of the Barony Parish, then in the County. By subsequent sundry Acts of Parliament the Municipal City was again extended over and embraced portions of the lands of Blythswood. When the Bye-laws were enacted in 1833 and 1835, the Municipal City—for which the Town Council and Deacon-Convener were elected, and to which alone the Burgess Ticket applied, and in which alone the exclusive privilege of trading engaged in by the Crafts could be carried on—extended to under a half of the area of the present Parliamentary Burgh, the boundaries of which were fixed by the Parliamentary Reform Act of 1832, an Act which deals with boundaries of Burghs and the Franchises thereby created for Parliamentary purposes only. Consequently this Act has no connection with Municipal Franchises, rights, privileges, and immunities, or Trades' House matters in any way whatever. It may be also observed that, although the Parliamentary Burgh embraced all and more than the built-on portion south of the river, the Municipal Burgh comprised only a small part of the Parliamentary Burgh on the north side of the river. Now the Municipal Burgh is much larger in area than the Parliamentary Burgh, by the extensions authorised in 1846, 1872, and 1878. Within the boundaries fixed in 1832 for Parliamentary purposes there were five separate and independent jurisdictions or authorities, viz.: The Municipal Authorities of the Burgh of Glasgow, the Municipal Authorities of the Burghs of Calton, Anderston, and Gorbals, created by separate statutes, and the Commissioners of Supply of

the County for the portion of the Parliamentary Burgh not under Burghal Jurisdiction. A Post-Office map in the hands of the Clerk to the House, in the hands of the members of the Bye-laws Committee, and in the hands of the Deacons, shows (1) the Municipal Burgh of Glasgow prior to 1846 in yellow body colour; (2) the Police Burghs of Anderston, Calton, and Gorbals, and a part of the ancient Royalty and part of the County, in brown body colour; (3) the present Parliamentary Burgh of Glasgow prior to 1846, which included the then Municipal Burgh of Glasgow and the Burghs of Anderston, Calton, and Gorbals, &c., ringed in red; and (4) the present Municipal Burgh of Glasgow, as extended in 1846, 1872, and 1878, ringed in blue.

The Home Secretary, Viscount Melbourne, in the Royal Commission issued to the Commissioners to fix these Parliamentary Boundaries, gave the following direction, viz.: "In general, without being controlled by local divisions or jurisdictions, you will assign such boundaries as the circumstances of each Burgh may seem to require, making sufficient allowance for the future extension of the town."

The Report of these Royal Commissioners submitted to Parliament, and upon which Report the Parliamentary Boundaries of Glasgow were fixed, contained the following passages:—"In following your Lordship's instructions to 'assign such boundaries 'as the circumstances of each Burgh may seem to require,' we conceived it to be our duty to ascertain what really and fairly ought to form the Burgh, and to settle its boundaries upon that principle.

"Proceeding to act on this system, we thought ourselves called upon to consider not merely what constituted the town itself, but also the nature of the population situated in the immediate neighbourhood, but beyond its actual precincts. Most of the larger towns are surrounded by villas or detached dwellings of that description, occupied chiefly by persons who either carry on business in the town, or who are so intimately connected with it in various ways, that they are, in habits and character,

"an urban rather than a rural population. In these cases it was thought expedient that the occupiers of such premises should form part of the Burghal Constituency, and they have been accordingly included in the Burgh, wherever it was found practicable without extending the boundary to an unreasonable size."

And in speaking of the boundary fixed for the Parliamentary Burgh of Glasgow, the Royal Commissioners state that—*"A large portion of open ground is contained within these limits which appears necessary to be attached to so rapidly an increasing town."*

These quotations show the far-seeing principles which guided the Commissioners in fixing the Parliamentary Boundaries in such a way as seemed to them to meet all future extensions. But it is well known that Glasgow has grown far beyond what was contemplated even by the Commissioners, and in other respects the changes have been equally great since 1832.

The Trades' House at that time very naturally, in fixing the area within which its Members should reside or carry on business, adopted the statutory boundaries fixed by the Royal Commissioners, and accordingly in 1833, when the present Bye-law VII. was enacted, it provided first that "No person shall be eligible as a Representative in the House unless he is a duly-admitted Freeman of, and entitled to hold office in, the Incorporation to be represented by him, duly enrolled upon the last qualified Roll of that Incorporation, and in the occupancy of a dwelling-house or place of business within the Parliamentary District of Glasgow specified in the Act 2 and 3 William IV."—"to amend the Representation of the People of Scotland, or within any part of the Royalty of Glasgow not comprehended by that district." This Royalty is part of the Ancient City, and is situate to the north of the canal, and is beyond the Parliamentary District, but is within the Municipal Boundary.

A similar Bye-law, X., was enacted in 1835 with reference to persons entitled to hold office in the various Crafts.

From the operations of these Bye-laws the Members of the Maltmen, Dyers', and Gardeners' Crafts were specially exempted, on the ground, it is assumed, that they could not, from the nature of their respective Crafts, carry on their business in the Municipal Burgh.

This exemption confers upon the Members of these Crafts a right to a seat in the House, and to hold office in their own Incorporations, even supposing they reside or carry on business in any part of the country. It might be asked if this is an exemption applicable to the present day?

As regards the other eleven Crafts, the Members thereof, in order to hold office in the House and in their Crafts, must, according to the above rules, reside or carry on business in Glasgow.

But the motion does not aim at levelling down the present Rules applicable to the eleven Crafts so as to give them the same rights which the three privileged ones have and exercise. In order to qualify the Craftsmen, the object of the motion is to extend the area within which they may reside or have an avocation to that of the Municipal Boundaries of Glasgow, which are now much greater than the Parliamentary Boundaries, although at one time, as already stated, the Parliamentary Boundaries were much more extensive than the Municipal Boundaries—the latter, as already mentioned, being the area for which the Town Council and Deacon-Convener are elected, and to which the Burgess Ticket applied, and in which the exclusive privileges of Trading could alone be carried on.

At the time the Bye-Laws were made, and down to the year 1846, the exclusive privileges of Trading could not be exercised or carried on in the Municipal Burgh by the privileged Craftsmen unless they were qualified members of the Craft, and having that in view it was necessary, perhaps, to enact such Rules; but the men of those days composing the House, even although the members of the Crafts could not carry on the exclusive privileges of Trading beyond the then, as already stated, very limited Municipal Burgh, holding, as they did, enlightened and far-seeing views,

enacted the Bye-laws referred to, which conferred a right upon persons in the occupancy of a dwelling-house or place of business in the burghs of Calton, Anderston, and Gorbals, and in the county of Lanark—although these places were as distinct from the then Municipal Glasgow as the present burghs around the present Municipal Glasgow are distinct from the present Municipal Glasgow—to hold office in the House and in their Incorporations. A new Bye-law might with equal justice be proposed for extending the area for having a place of business and residence, so as to include the burghs of Partick, Hillhead, Govan, Kinning Park, Pollokshields, Crosshill, Govanhill, and Maryhill, which burghs stand in precisely the same relation now to Municipal Glasgow as did the burghs of Calton, Anderston, and Gorbals in 1833 and 1835.

But, as will be seen, the motion does not go so far as this. Its object is simply to extend the boundaries, so as to embrace those members who have a residence outside the present City boundaries, *but who have a calling or avocation in the City*. Its adoption would impart a spirit of fairness, and produce an equality of privilege amongst the members of the Incorporations which does not at present exist.

From the rapid outgrowth of Glasgow, and from other circumstances, large numbers of persons are forced to obtain house accommodation outside of Glasgow, although they have fixed and permanent avocations in Glasgow, such as Bank Agents, Tellers, Managers, Secretaries, Collectors, Heads of Departments, &c., &c.; and it is to these and such like, the terms avocation or calling would apply. These persons have really quite as deep, if not a deeper interest in the City and its affairs, as some of those having an individual place of business or residence in their own name.

Were the House to extend the area embracing the burghs outside Glasgow, as was done in 1833 and 1835, there would be no need for adopting the proposed motion; because the persons having an avocation or calling in Glasgow, and residing in these burghs would then have the qualification to hold office. The motion is, however, it will be observed, *restricted to those persons having an*

avocation or calling in, and as such having their interests bound up in Glasgow, and does not confer any right to those outside Municipal Glasgow, and who have no interest therein, as was done in 1833 and 1835. A very great number of the members who joined the Crafts within the last ten years would be qualified to hold office if this motion was passed. To keep matters as they are would not only limit the choice for selecting members to hold office, but would be keeping up an unfairness.

It has been urged as an incontrovertible argument that the Bye-laws of the House so made in 1833 cannot be altered—in short, that they are, like the laws of the Medes and Persians, unalterable. But the Bye-laws made in 1833 were altered and amended by the House in 1835, under the advice of its eminent legal adviser, and no doubt for good and sufficient reasons, and this, too, after the passing of the Burgh Reform Act of 1833, which will be referred to presently. There is no doubt about the power of the House to make Bye-laws, and having the power to make the House possesses an equal right to alter and amend, as it did in 1835, when the then circumstances required it less than they now do.

Another objection advanced against any alteration is, that the alteration would prejudice the election of the Deacon-Convener. Any alteration now in the direction indicated by the motion would, admitting for the sake of argument that there is something in the objection, be less objectionable than what was done in 1833 and 1835, when the late Mr. Crawford knew well about the bearing of all the matters connected with the Burgh Reform Bill of 1833, and the right of the House to elect the Deacon-Convener under it. Mr. Crawford, it may be observed, was engaged upon that very Bill, and adjusted the clauses in it with reference to the rights of the House and its Deacon-Convener, and under the provisions of this Act alone the Bye-law of 1833 and its alteration in 1835 were enacted.

Referring to the Burgh Reform Act, 1833, it has been urged that the Deacon-Convener must be elected by persons having the

same qualification as those who elect Town Councillors. This is an entire mistake.

Section 8 of that Act provides, with reference to the election of Town Councillors, that "Upon the first Tuesday of November next, the Electors, qualified and entered in the List or Roll made up as aforesaid, shall, in each of the Burghs not contained in Schedule (F) to this Act annexed, *choose from among such of their own number* as either reside within the boundaries assigned to such Burgh by the said recited Act, or as may carry on business or reside within the Royalty thereof, such a number of Councillors as by the set or usage of each Burgh respectively at present constitutes the Common Council of such Burgh."

Now the persons to be so chosen as Town Councillors *are to be chosen by the Electors out of their own number*, as appearing in the Municipal Roll of Electors; but these Municipal Electors have nothing to do with the choosing of the Deacon-Convener—that is specially afterwards provided for by the Act, as will be now explained.

Section 21 of the Burgh Reform Act of 1833 enacts "that nothing herein contained shall be held or construed to impair the right of any Craft, Trade, Convenery of Trades or Guildry, or Merchants' House or Trades' House, or other such Incorporation, severally to elect their own Deacons, or Deacon-Convener, or Dean of Guild, or Directors, or other lawful officers for the management of the affairs of such Crafts, Trades, Conveneries of Trades, or Guildries, Merchants' or Trades' Houses, or other such Corporations, but that, on the contrary, the said several bodies shall from and after the passing of this Act be in all cases *entitled to the free election in such form as shall be regulated by them* of the said several office-bearers, and other necessary officers for the management of their affairs *without any interference or control whatsoever on the part of the Town Council thereof*."

It will thus be seen that the Trades' House is entitled to elect their Deacon-Convener in any way they like, and the Section is

quite silent as to the Trades requiring to have any qualifications such as that now in the Rules, although in Section 8 before quoted it expressly states what the qualifications for *electing the members of Town Council from their own number* must be, and that the Town Council could not interfere, as they had done previous to the passing of the Burgh Reform Act, 1833, which Act made important alterations upon the Letter of Guildry and the ancient laws and usages.

Section 42 of the Act, 1833, further enacts that "The persons elected as hereinbefore provided (that is, under Section 21) to the offices of Dean of Guild and Deacon-Convener, or Convener of Trades, by the Convenery and Guild Brethren * * * of Edinburgh, and to the offices of Dean of Guild and Deacon-Convener by the Merchants' House and Trades' House respectively of Glasgow, *shall, in virtue of their said election by the said Guild Brethren, Convenery, Merchants' House, and Trades' House respectively* in the City of Glasgow be *Constituent Members* of the Town Councils of the said cities, and shall enjoy all the powers and shall perform ~~all~~ the functions now enjoyed or performed by such office-bearers in these cities." * * * *

There cannot be any doubt, therefore, that the Deacon-Convener can, in virtue of this Section, take his seat at the Town Council under any Regulation or Bye-law enacted by the House under Section 21, provided always that the persons must be Burgesses who elect, and no one is admitted a Craftsman unless he is a Burgess; and there cannot also be any doubt that the House has power to make, under Section 21, such Bye-laws as they deem expedient, and afterwards to alter and amend them, as the House in its wisdom may deem proper.

If the contention that any alteration of the Bye-laws in the manner pointed out in the motion would affect the right of the Deacon-Convener to sit as a Constituent Member of the Town Council under the Reform Act of 1833 be correct, then the House by the special exemptions conferred by them on the Maltmen, Dyers, and Gardeners, by the Bye-laws enacted since the passing

of that Act, has already jeopardised the Deacon-Convener's seat in the Town Council, because the Statute makes no exception in favour of any one Craft over another. Under the Statute of 1833, all the Crafts are alike, and all must stand in the same position as regards the qualification for sitting as Members of the House, and for holding office in their Crafts. But it is quite evident that the House in making the Bye-laws under the provisions of the Reform Act of 1833 were well and rightly advised that it was not necessary that the Deacon-Convener and those electing him should have the same qualification as the Electors enfranchised under that Act for electing out of their own number the *ordinary Members* of the Town Council; for, had it been otherwise, they could not have made the exception under the Act of 1833 in favour of the Maltmen, Dyers, and Gardeners.

Mr. Crawford, in his work on the Trades' House, in dealing with what was done at the passing of the Burgh Reform Bill of 1833, says—"The Merchants' House and Trades' House are thus indebted to Lord Rosslyn for right to elect their own Chairman by direct vote, without the control of the Town Council, and to *make Bye-Laws*; to have the Dean of Guild and *Deacon-Convener Constituent Members* of the Town Council; to elect the Members of the Dean of Guild Court, and the Directors and Office Bearers of the several Institutions they had a right to *elect, free from its control*; and for the provision that no person shall be allowed to qualify or act as a Town Councillor until he shall be a Burgess."

The case of the Dean of Guild is cited as one against any alteration. But there is no analogy between the two cases. The protest against the Dean of Guild sitting as a Member of the Town Council is that he is elected by certain of the Members of the Merchants' House *who are not Burgesses*. That does not apply to the Deacon-Convener, for every Member of the House is a Burgess.

With reference to the exclusive privileges and rights of the Crafts, these were enforced in the Municipal Burghs, as distinguished

from the Parliamentary Burghs up to the year 1846, and many actions at law were brought to enforce the rights; but the Act 9 Vict. of that year enacted—"That all such exclusive privileges and rights shall cease, and it shall be lawful for any person to carry on or deal in merchandise, or to carry on and exercise any trade or handicraft in any Burgh and elsewhere in Scotland, without being a Burgess of such Burgh, or a Guild Brother, or a Member of any Guild, Craft, or Incorporation."

This Act also provides "That it shall be lawful for every such Incorporation to make all Bye-laws, Regulations, and Resolutions relative to the management and application of its funds and property in reference to its altered circumstances under this Act, as may be considered expedient, and to apply to the Court of Session for the sanction of the Court," &c.

It being clear, then, that the House has power under the Acts of 1833 and 1846 to alter and amend its Bye-laws, and it being equally clear that, to meet the "altered circumstances" which a period of 46 years must have wrought in a city like Glasgow, an amendment is required; and it is hoped, therefore, that no unreasoning sentimentality will stand in the way of the House redressing what is felt to be a real grievance by many Members of the Crafts, and a bar not only to their acceptance of office, but to the entry of new Members into the Crafts, from the knowledge that, under the present Bye-laws, they are debarred from office and cannot rank on an equality with the other Members, if they should happen to reside beyond the Parliamentary Boundaries of the city and not have a business of their own in it—a restriction which is surely applicable to other days than these. If the House has any fear as to the legality of adopting the principle of such a motion as is proposed, and if it is in doubt as to what should be done under all the circumstances stated, a safe course would be to take the opinion of Counsel on the whole subject.

