

**Record of the  
Proceedings of the Queensland Parliament**

...  
**Legislative Assembly**  
**7<sup>th</sup> May 1861**  
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Extracted from the third party account as published in the  
Moreton Bay Courier 9<sup>th</sup> May 1861

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THE Speaker took the chair at thirteen minutes after three.

**OBSTRUCTIONS IN THE BREMER.**

Mr. FERRETT, pursuant to notice, asked the Colonial Secretary—"(1.) Whether the money voted last session for clearing the obstructions in the rivers Brisbane and Bremer, has been expended? (2.) If so, where, and in what manner?"

The COLONIAL SECRETARY stated that the money voted last session had not been yet expended. He had laid on the table of the House, the other day, a report of the Marine Survey, made by Lieutenant Heath, and since that survey was completed, there had not been sufficient time to commence the works required. He would now move that the report in question be printed.

The ATTORNEY-GENERAL seconded the motion, which was put and passed.

**COMMISSIONS OF ENQUIRY.**

Mr. FERRETT, pursuant to notice, asked the Colonial Secretary—"What has been done in the matter of the Commissioners of Enquiry, in the cases of the Commissioner of Crown Lands for Maranoa and the Police Magistrate for Maryborough, which enquiries was so much a subject before this honourable House last session?"

The COLONIAL SECRETARY said that the Commissioners appointed to enquiry had sent in their reports, which to-day he would have the honor to lay upon the table of the House.

**WEST MORETON ELECTION.**

Mr. MACALISTER presented a petition from certain electors of West Moreton. The petitioners set forth that, on the occasion of a recent election, when Dr Challinor and Mr G. E. Forbes were candidates, the former gentleman was duly returned ; that on that occasion the latter gentleman was guilty of bribery and corruption by 'treating.' Also that he was at that time a non-elect, and therefore disqualified. The petitioners prayed to be heard in support of their allegations.

On the motion of Mr. MACALISTER, seconded by Mr. LILLEY, the petition was received, and referred to the Committee of Elections and Qualifications.

**PAPERS, &c.**

The COLONIAL TREASURER laid upon the table of the house the Auditor-General's report of the public accounts for the year 1860. Also a statement of the receipts and disbursements on account of government printing, from the 1st January, 1860, to the 1st April, 1861.

The COLONIAL SECRETARY laid upon the table of the house—minutes of the proceedings of the gold-exploring expedition ; report of the Surveyor-General upon the department under his charge ; regulations of the Board of Education as to the establishment and management of primary schools ; returns of runs tendered for upon which rents had not been paid in March last ; evidence and reports of commissioners appointed to enquiry into charges

brought against Mssrs. Halloran and Boyle.

### THE "MORETON BAY COURIER."

Mr. WATTS rose to a question of privilege, and intended to conclude: the few remarks he decided it his duty to offer by a substantive motion. He wished to bring under the notice of hon. members an article which had appeared in a public print, and which reflected upon the credit of that honourable house. It had been the custom for ages that the privileges of the house of parliament should be protected. The article he referred to was a breach of those valued privileges which it was the duty of every hon. member of that house to protect. He believed he should be able to show that the comments to which he referred were a libel upon the House as a body, and also tended to discredit hon. members out of doors and hold them up to public contempt. He found in the imprint of the paper the name of "Theophilus P. Pugh," and with the permission of the the house he would proceed to read the article in which he contended the libel was contained. (The speaker here read our first leader of Tuesday last, referring to the composition of the Native Police Committee, and commented upon various portions of it as he proceeded.) The article inferred that he was in collusion with Mr. Gore amongst others. He disagreed with that gentleman, as was well known, on many points, but he thought the attack upon that gentleman most unjustifiable. Moreover the writer displayed ignorance of facts with which he assumed to possess acquaintance. Sir James Graham did not earn the appellation of "Peel's dirty boy" by doing the dirty work of the ministry as an independent member. He was himself a member of the ministry, and earned this title by continually getting into messes by his own actions, which the government had to help him out of. He had consulted no hon. member in bringing this matter before the house, but had acted quite independently. He thought the article was an insult upon the house as a body, and therefore upon himself as a member of that body. (Hear, hear.) He felt quite sure that the committee denounced in that journal would act impartially in enquiring into facts, taking evidence, and framing a fair report based upon that evidence. He could show by a volume which he held in his hand that the house possessed power to punish such libellous attacks as that of which he now complained. (The hon. member here made quotations from May's Practice, pages 83 and 99 to prove that in the years 1559, 1580, 1628, 1805, 1809 and 1810, persons publishing libels on parliament had been imprisoned and otherwise punished.) He contended that the article of which he complained was to all intents and purposes a libel upon the parliament. The committee referred to was chosen fairly by ballot, and there could be therefore no grounds for the charges made against that committee, and certain members of the house. He hoped that the house would assert their rights, and indicate the proper course to be pursued in this matter. He would now produce the newspaper, and move that the article in question be a breach of privilege.

Mr. FERRETT seconded the motion, and after it had been put to the house, a considerable pause ensued.

The ATTORNEY-GENERAL, as this matter had been brought forward, felt it necessary to say a few words. He was not aware that such a motion was contemplated, as he had but just returned from Ipswich, and had not even read the article in question. He had been falsified in that article, and language had been put into his mouth which he never could have made use of. He was made to say that the committee "WOULD" be constituted in such a manner as to include the advocates of the force on one side and their opponents on the other. What he did say was that this committee "SHOULD" be so constituted. There was a vast difference between saying that such a course WOULD be adopted, and such a course SHOULD be adopted. He would leave it to the house whether he had not just cause of complaint. If reporters chose to come to that house to report, the least they could do was to report correctly. The speeches went forth as true reports, and the reputation of himself and other hon members, not only in his colony but in the other colonies, was thus made to suffer. He felt bound to make those remarks for his own sake. With reference to the question now before the house he thought it but right that the house should take notice of a breach of privilege, if they considered that a breach of privilege had been committed, and a breach of privilege should be visited with some penalty. The house had been chosen by the nation, and they were bound to assume that the house possessed the confidence of the nation;

therefore the hon. members of that house ought not in the conscientious discharge of their public duties to be held up to ridicule. The falsifying of the reports of their proceedings was, however, infinitely worse than any adverse criticism upon those proceedings. He would ask the house to assert their privileges.

The COLONIAL TREASURER had read the article, but had felt inclined to treat it with the same contempt with which he regarded all articles which appeared in that very honest and veracious journal. There was, however, in the paper of that same date an article still more stringent than the one complained of, in the shape of correspondence from Ipswich. The committee was, by that writer, designated as "infamous." Before bringing forward his motion for a select committee, he had prepared a list of members to submit to the house, but on reflection he thought selection by ballot would be the most satisfactory method of proceeding. This was, moreover, the principle usually advocated by that very democratic journal. He had said, in the debate upon the appointment of this select committee, that the question was one mixed up with a great deal of party spirit, and here was a proof of the truth of his assertion. It was alleged that, because a number of gentlemen were squatters, they were incapable of dealing fairly with this question. He trusted that the motion now brought forward would have the effect of putting a stop to the violent articles which too often appeared in some of the public journals.

Mr. BLAKENEY thought that every member of the house should feel indebted to the hon. member for Drayton and Toowoomba for the motion he had brought forward. It was high time that a stop was put to the licentiousness of a portion of the press of Brisbane. Last session he had been compelled to bring under the notice of the house a personal attack upon himself from the same quarter. The slander at present complained of included every hon. member chosen on that committee. That committee was selected by ballot, and he contended that in attacking the gentlemen whom the house had selected, the character of the house itself was attacked and held up to contempt. What grounds existed for the insinuation that the committee was one-sided. How could it be asserted that he had any connection with the squatters whom this article endeavoured to bring into contempt. It was high time that something should be done to assert the privileges of that house. He had hoped that the motion would be carried by acclamation, but from certain expressions of dissent which he had heard from one or two quarters, he feared it would not be carried unanimously. He trusted, however, that they would, by a large majority, show their sense of the conduct of this newspaper. Let them have fair discussion. Let the conduct of every hon. member be fairly discussed, but let them not be prejudiced by any man, even though he should wield a pen, and call himself 'we' of the 'Courier.' (Laughter.) This did not give him the privilege of holding this committee up to the contempt of the community. By what authority was it asserted that the public would have no confidence in the reports which that committee would bring up? He hoped that an end would be put to such proceedings, and that hon. members would not be liable to be continually held up to ridicule in such dastardly and cowardly attacks.

Mr. GORE would take a very brief part in the debate. He amongst others, had been held up to public contempt in the article referred to, as he had on a previous occasion when nominated to the committee appointed to sit upon Dr. Langs' petition. It was then supposed that he held different views from the chairman of the committee and the friends of Dr. Lang, but he did his duty as impartially upon that committee as any hon member could have done, and he would appeal to the chairman of that committee in support of his statement.

Mr. LILLEY. The hon. member did not act most impartially as a member of that committee, and I myself endorse every word of the report it framed.

Mr GORE continued: When the charges then made against him were published, he did not think it worth his while to answer them. On the present occasion he should give his best endeavours to the consideration of the question which the committee had been deputed to enquire into, and would strive that the report should be a credit both to the intellect and impartiality of the committee. He would not be turned aside by the press from that course of public conduct which, when he entered the house, he had marked out for himself. He thought the article complained of was a breach of privilege, and he should vote for the motion, if it were not

withdrawn.

Mr. WARRY said that the latest precedent quoted by the mover of the motion before the house was as far back as 1810. Matters since then were much changed, in his opinion for the better. (Hear, hear.) If they commenced by condemning the press on the present occasion there would be no end of discussions similar in nature to the present one, with most inconvenient and satisfactory results. The house had better not attempt to interfere with the law of supply and demand. A paper was a commercial speculation, and if not properly conducted, the public would not purchase it. He deprecated any interference with the liberty of the press. If he, as a public man, was in his public character aspersed, and himself abused, it was no doubt unpleasant ; but he could not help it. He need not take the paper if he did not like it.

Mr. MACALISTER was prepared on the present motion to give a vote in the negative. He thought this was the most proper and correct way of meeting such a motion. He had as yet heard no satisfactory arguments advanced in favour of it from the ministerial side of the house. The hon. member for Drayton and Toowoomba had accused the paper in question of misrepresenting public opinion, in its statements with regard to the committee. Now no less than fifteen persons had spoken to him that day about this committee, and had expressed just the same opinions with regard to its constitution as those set forth in the journal. The same men who were on the committee last year were on this committee, and thus had already, to a certain extent, expressed their opinion upon that matter upon which they were called to adjudicate. Again, it was urged that the committee was chose by ballot, and therefore the selection must have been an impartial one; but hon. members well knew that the ministry, possessing a majority of the house, could if they chose to exert their influence, obtain any ballot they wished. Newspapers, he thought, were entitled to comment upon the political topics of the day as they arose. They happily lived in a time when liberty of opinion in its fullest sense was allowed and newspapers were supposed to be the reflex of at least a portion of public opinion. He had no doubt that the hon. member for Warwick would act impartially, as would also every other member of the committee, but this would not prevent the public from entertaining those suspicions, which he maintained, did exist in many quarters, of the impartiality of this committee. If the house once begun to take cognizance of these matters, they would soon have nothing else to do. He regretted that so much valuable time had been wasted over this discussion.

Mr. CRIBB thought that they should be very careful how they attempted to meddle with the press. Although the liberty of the press might sometimes tend to licentiousness, yet it was very difficult to draw the line of demarcation. He had had—both in that house, but more especially elsewhere—greater cause to complain of being misrepresented—often he believed intentionally, to gratify private ends—than any other hon. member. Systematic misreporting the thought, should be taken notice of, but comments and criticisms which appeared in the press should be left to be dealt with by public opinion. Moreover, when the question of privilege was mooted, they should remember that the presence of reporters at all in the house was in itself a breach of privilege.

The COLONIAL SECRETARY felt it necessary to say a few words, as he would not like the public outside to imagine from his silence that he agreed with the remarks made by the Chairman of Committees. He was astonished to hear that gentleman rise up and assert that a large portion of the public would endorse such sentiments as that “what amount of impartiality in calling witnesses, taking evidence and framing a report, can be expected of a committee composed of Messrs. Mackenzie, Fitzsimmons, Gore, Moffatt, Blakeney, Royds, Watts, and Ferrett. He much regretted to hear the words which dropped from the Chairman of Committees and he thought the journal on the present occasion was very properly being called to account. The greatest amount of liberty of the press was in existence here, and that liberty there had never yet been any attempts to check. The press of the colony, he believed, was generally speaking, conducted with a fair amount of ability, and was honest in its criticisms; but that one journal alone made use of language which the others did not use with reference to the proceedings of parliament. He believed that on more than one occasion attempts had been made to put a pressure on hon. members through the columns of that paper for political purposes. He should advise the hon.

mover to withdraw his motion, (No, no, from Mr. Blakeney) but if it were left to the vote he should give his vote in favor of it. He believed the present discussion would do a great amount of good.

Mr. O'SULLIVAN rose to reply to a remark which had fallen from the Colonial secretary. He was prepared to endorse the statements of Mr. Macalister, that the general impression through the district of West Moreton was, that the committee was a one-sided one. He himself was at a loss to guess by what means so many squatters got upon the committee. Mr. Blakeney had asked what connection he had with the squatters, or how could he be supposed to be favorable to the native police. Simply in this manner—viz, that he (Mr. B.) had a son who was a lieutenant in the native police force; at least, so it was reported outside the house. He had himself nothing to thank the 'Courier' for, and if the motion were pressed he should not feel himself justified in voting against it, at the same time he hoped. It would be withdrawn. The hon. member for Drayton and Toowoomba had quoted a book in support of his motion, but from that same book he might learn that motions such as that before the house should be discouraged as much as possible.

Mr LILLEY thought the time of the house had been enough occupied by this discussion, and he would, in order to put an end to it, suggest to the house whether they possessed the power to summon a printer before them, or take any subsequent action upon this motion. (Cries of "order," "that is not the question.") He contended that he was quite in order, and was speaking to the question. If they passed this motion they must take some action upon it, and then they might find they did not possess the necessary power. He would suggest to the hon. member for Drayton and Toowoomba to withdraw his motion and then a committee of privileges might be appointed to ascertain what privileges the house really possessed.

Mr. WATTS never intended to go to extremes, and merely wished to elicit opinion in order that it might have some good effect. He contended that it was unfair of any journalist to prejudice a committee, and make unfavorable comments before the report was brought up. Then any criticism of that report could not be complained of. If it were found the committee had not summoned sufficient evidence, or not evidence of the right sort, then would be the time for the press to censure them. He felt sure that when the report and evidence were brought up and read no charge of impartiality would be brought against him, as sooner than sanction, whilst on the committee, any partisanship he would expose, as he had done before any such attempts. He would, with the permission of the house, withdraw his motion.

The motion was accordingly withdrawn.

## NEW MEMBER

Mr BENJAMIN CRIBB, introduced Messrs. Forbes and Fleming, took the oaths and his seat for West Moreton.

## APPOINTMENT OF MEMBERS TO OFFICE.

Mr. R. CRIBB moved—“(1) That, in the opinion of this house, no member of the Legislative Assembly, ought to be eligible for appointment to a paid office under the Crown, until a period of, at least, twelve months has elapsed after resignation of his seat,—except in the case of appointment to office as a Responsible Minister or Judge. (2) That the above resolution be communicated by address to his Excellency the Governor.” It was pretty well known he said, that the present circumstances of the colony offered very great inducements to adventurers to procure a seat in the house for the mere purpose of obtaining thereby some paid office under the Crown. The facility offered for the adoption of such a course was increased by the fact that the tenure of the present parliament was to extend over so long a period as five years. He did not think it necessary to detain the house with any lengthened observation on the subject, as he presumed that nearly every member was fully alive to the evils he complained of. With regard to the concluding words “or Judge” he confessed that they had been inserted on the suggestion of a friend, and if hon. members desired it he would be quite willing to expunge them.

Mr. B. CRIBB seconded the motion.

Dr. CHALLINOR agreed with the object sought to be achieved by the motion—the

exclusion of place-hunters from the house—but he entirely disagreed with the method proposed, particularly as it might materially inconvenience the government in the selection of proper officers by limiting their field of choice. If any system could be devised by which the government could be made responsible in the event of their making improper appointments, such as those alluded to, he would be most happy to give it his support; but as the matter now stood he could see no good likely to arise from the adoption of the motion before the house.

Mr. GORE agreed with the hon. member who spoke last. He thought that house offered the best possible field for the selection of gentlemen to fill important offices under the Crown. He would have been extremely sorry, for instance if the hon. gentleman who had been elected the other day for East Moreton had been debarred the privilege of accepting a paid office under the Crown, simply because he had succeeded in obtaining the confidence of a constituency. (Hear, hear.) It appeared to him that the mover, in bringing forward a question of this kind was actually throwing slur on the constituencies by which that house had been elected, inasmuch as he impliedly charged them with being capable of lending themselves to the designs and corrupt motives of adventurers. ("No, no," from Mr. Cribb.) To show, moreover, the necessity of keeping the Assembly open as a field of choice, especially in the case of judges, the hon. member referred to a recent case in New South Wales where the selection of District Court judge was made from the Assembly, solely because no eligible person could be found elsewhere. For those and other reasons, he should vote against the motion.

Mr RAFF had no objection to the motion, provided that some such words as these were added—"unless in accordance with a resolution of this house."

Mr O'SULLIVAN suggested that the hon. mover should leave out the words "or judge."

Mr FORBES thought the house should at all times be above suspicion, but at the same time, as he conceived the motion would merely be to pacify, he should certainly vote for it.

Mr. FITZSIMMONS looked on the motion as an insult to the house, and he therefore hoped that hon. members would reject it accordingly.

Mr. LILLEY did not think the motion cast the slightest slur on the house, seeing that it would only apply to such a member as might feel disposed to sell himself, or his constituents. (Hear, hear.) He admitted that the effect of this motion in practice might to some extent embarrass the action of the government in their selection of suitable persons for the public service, but still he thought the advantages would counterbalance the evils, and therefore, especially after reflecting upon his experience of the last session, he was determined to vote for the motion.

Mr. MOFFATT did not think there was the slightest chance of such a motion being carried, nor did he see anything in the history of the last session to warrant even its introduction. Indeed it appeared to him that the hon. member brought the motion forward now simply because, in the course of an electioneering speech, he had made some kind of promise to his constituents that he would do so during the present session. At all events, the motion was a very poor compliment, not only to the house collectively, but to himself individually, and it was hoped, therefore, that he would yet see the propriety of withdrawing it. The motion, moreover, was unfair to the government as being calculated unduly to interfere with their privilege of selecting officers.

Mr R. CRIBB briefly replied, and the house then divided on the question with the following result :—

Ayes, 8.

Noes, 16.

Mr. B. Cribb  
Haly  
Watts  
Warry  
Forbes  
Raff

Mr. Pring  
Herbert  
Royds  
Mackenzie  
Moffatt  
Fitzsimmons

Lilley                } Tellers  
R. Cribb            }

Richards  
Fleming  
Edmondstone  
Ferrett  
Coxen  
Blakeney  
Challinor  
O'Sullivan  
Gore                } Tellers  
Macalister        }

In the course of the division a difficulty arose as to whether the recess recently constructed for the private conference of the members could be considered, in a parliamentary sense, as a portion of the house. The question was raised by Mr. Warry retiring to the recess for the purpose of avoiding taking any part in the division. The Speaker, however, ruled that the recess was part of the House, and Mr. Warry was accordingly told on the side of the ayes.

### CRIMINAL LAW AMENDMENT BILL.

Mr. LILLEY moved for leave to introduce a bill to amend the law in criminal cases, and in doing so he invited the co-operation of all hon. members to make the measure as complete as possible. Many of the provisions which he proposed introducing had already been fully discussed in the English Parliament, and they were such as could be understood equally by non-professional and professional men. He proposed, in the first place, to admit the evidence of prisoners in cases of felony or misdemeanour; secondly to introduce that portion of the Scottish law known as "not proven;" thirdly, to do away with the law of forfeiture of property on conviction, and to provide for the disposal of that property in requiting the injured party, and in maintaining the wife and children of the prisoner; fourthly, to allow costs to persons not found guilty; and fifthly, to reduce from seven to three years the period of absolute separation between man and wife, by virtue of which either party would be entitled to marry again.

Mr. R. CRIBB seconded the motion, which was carried.

The bill was eventually read a first time, and the second reading fixed for to-morrow (Wednesday) week.

### NATURALISATION OF ALIENS BILL.

Mr. LILLEY moved for leave to introduce a Bill to Grant Further Facilities for the Naturalization of Aliens. He thought that it was very possible that some portion of this bill might have been already anticipated by the government in the instructions recently issued by them to clerks of petty sessions.

Mr. R. CRIBB seconded the motion.

The COLONIAL SECRETARY said he would be very happy to give the bill his most attentive consideration.

Mr. WARRY was in favor of a very reduced fee.

The motion was then put and passed, and the bill having been read a first time, the second reading was fixed for Thursday week.

### MARRIAGE WITH A DECEASED WIFE'S SISTER BILL.

Mr. LILLEY moved for leave to introduce a Bill to Legalise Marriage with a Deceased Wife's Sister.

Mr. GORE seconded the motion.

The COLONIAL SECRETARY was averse to the principles of the bill, but he had no desire to oppose it at the present stage. He was disposed to think that the question was entirely one of

individual responsibility.

The CHAIRMAN of COMMITTEES pointed out that the proposed bill was merely designed to enable people, in a legal sense, to exercise their taste.

Mr. FERRETT opposed the bill, especially because in England it would not have the force of law, and consequently the offspring of such marriages would be regarded as illegitimate.

After some explanation the motion was put and passed, and the bill having been read a first time it was ordered to be read a second time on Friday week.

### IMMIGRATION REMITTANCES.

Mr O'SULLIVAN moved—"That there be laid upon the table of this house a return showing the amount of money received into the Treasury of Queensland as Immigration Remittances during last year (1860), specifying the amount for each month, and stating how, and when, the money was sent home from this colony; and also the amount received under the new system during the same time, and what has become of it." He did not desire to raise a discussion upon this subject, but he might remark that persons out of doors had represented to him that, certain moneys paid into the Treasury more than twelve months could not, or rather had not, been accounted for in the ordinary way. This was his sole reason for bringing the motion forward.

The COLONIAL SECRETARY said the government had no objection to furnish the information asked—indeed he believed his hon. friend the Colonial Treasurer was now prepared to lay on the table a return containing all the information asked for. With regard to the concluding sentence in the motion, he pointed out that the new system did not come into force until the commencement of the present year.

The motion was the put and passed.

### PAPER.

The COLONIAL TREASURER laid on the table the following paper—"Return to an order, in reference to Immigration Remittances during the year 1860, made by the house on the motion of Mr. O'Sullivan."

The paper was ordered to be printed.

### SUPPLY.

The resolution reported from the committee on the 3rd instant, having been brought up by the chairman, the same was read as follows—"That there be granted to her Majesty a sum not exceeding £300, to meet the travelling expenses of his Excellency the Governor on tours of inspection during the year 1860."

Whereupon the COLONIAL TREASURER moved—"That this resolution be now agreed to by this house." Carried.

### POSTPONEMENTS.

The remaining business was postponed, and the house adjourned at half past five o'clock until three o'clock the next day.