

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

...
Legislative Council
22nd April 1863

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Extracted from the third party account as published in the
Courier 23rd April 1863

The PRESIDENT took the chair at two o'clock, and opened the proceedings with prayer.

THE ADDRESS.

On the motion of the ATTORNEY-GENERAL the Council proceeded forthwith to Government House for the purpose of presenting the address in answer to the Governor's speech.

In the course of about twenty minutes the Council returned, and the PRESIDENT reported having received from his Excellency the following

REPLY.

"MR. PRESIDENT AND HONORABLE GENTLEMEN,—

"I thank you, in her Majesty's name, for this assurance of your continued loyalty and affection to the person and government of our gracious sovereign. I rely with perfect confidence on your support and assistance in promoting and consolidating the prosperity which this colony now enjoys.

"G. F. BOWEN."

LEAVE OF ABSENCE.

Mr. YALDWYN moved that leave of absence for [gap in original text] months be granted to the Hon. J. Balfour. He did not wish to make any observations touching the principle involved, but he thought the practice which had gradually grown up of obtaining long leave of absence was one well worth ventilating. Believed that absence without leave during two sessions unseated a member.

Mr. ROBERTS objected to the motion. It was notorious that the hon. gentleman went home on his own private business for a given time, and he did not think it was likely the hon. gentleman would return within six months. But irrespective of such a contingency he objected in toto to motions of this kind. If hon. members were to obtain leave of absence for any length of time by a mere formal vote of the house there would be no end to such motions, and as a natural consequence it might happen hereafter that they would be unable to obtain even a quorum to carry on the ordinary business of the house. In making these remarks he did not object to hon. members making a trip to England or elsewhere when they thought proper, but he maintained that such hon. members ought to resign. Their position would not be damaged thereby, for the simple reason that if those hon. members had proved themselves efficient in their places in the Council they would, as a matter of course, be re-appointed on their return to the colony.

Mr. GALLOWAY agreed with the motion, and pointed out, according to the official record, that there were no fewer than six members, one of whom (Mr. Simpson) had not attended for nearly three years. Under those circumstances it appeared to him that the house ought to take some action in the matter; at all events they ought to call upon their President to give some information on the subject.

The PRESIDENT explained that his Excellency the Governor had by virtue of a clause in the Constitution Act given two years' leave of absence to the hon. Mr. Simpson and the hon. Mr. Laidley, which leave of absence would not expire before the end of the present month. It was further provided by the same act that an hon. member could not be subjected to the penalties except on proof of absence during two consecutive sessions after the leave of absence had expired. Hence the hon. members referred to would not forfeit their seats unless they absented themselves during the whole of the present and the next session of parliament. With regard to Sir Charles Nicholson, he had good authority for stating that the hon. gentleman had sent in his resignation, although he was not just then in a position to lay the document before the house.

Dr. FULLERTON agreed generally with Mr. Yaldwyn.

The ATTORNEY-GENERAL concurred in the remarks of Mr. Roberts and the President. Leave of absence for two years, and non-attendance for two years after, or, what would be the same, two sessions would unseat a member. This would necessarily be the effect according to the arguments offered in interpretation of the Constitution Act.

The motion was then put and negatived.

Mr. YALDWYN next moved for two months' leave of absence to the hon. Western Wood. This he pointed out was a very different case, inasmuch as advices had been received to the effect that the hon. gentleman was on his way out, and would in all probability reach the colony before the time asked for expired.

The PRESIDENT explained that the hon. gentleman was to leave England by the March steamer.

The motion was carried without opposition.

IMMIGRATION.

Dr. HOBBS moved—"That an address be presented to his Excellency the Governor, praying that the minutes of the Immigration Board, with all correspondence and papers in connection with the immigrant ship Conway after her arrival in Moreton Bay, be laid upon the table of this house."

Carried.

MINISTERIAL ABSENCE FROM THE COLONY.

Dr. HOBBS moved—"That, in the opinion of this house, the protracted absence from the colony of the honorable the Colonial Secretary, without the sanction of this parliament, is a most unconstitutional procedure, and establishes a very objectionable and reprehensible precedent." The hon. member said that, in making this motion, he disclaimed any personal ill-feeling towards Mr. Herbert, for whom he entertained, as he believed the great bulk of the community did, the highest esteem. Still, he felt bound in his public capacity to waive all private feelings in dealing with public men or measures. The hon. gentleman, as they all knew, was a responsible minister of the crown, and had absented himself from the colony for a period of eight or nine months, without obtaining the sanction of parliament. This, he conceived, was a case calling for a direct expression of opinion on the part of the house. If the precedent were once admitted, the same thing might occur again, and no one could foretell what a vast amount of inconvenience and political disorganisation might result. It was well known that the hon. gentleman's departure from the colony had occasioned changes in the ministry which, to say the least of it, had not given general satisfaction to the public. One of the results was the secession of a gentleman from the ministry (Mr. Mackenzie) who possessed the confidence of both houses of parliament, and the accession of one (Mr. Moffatt) who did not possess the confidence of either. This was the more to be regretted, as he believed that the confidence reposed in the experience and integrity of the late Colonial Treasurer was the chief means of giving efficiency and permanent stability to the present ministry. (No, no, from the Attorney-General.) At all events, they must admit that the Colonial-Secretary, and even his hon. and learned friend the Attorney-General, were both mere novices in colonial politics when they accepted office, and therefore he repeated that it was mainly to the experience and practical ability of the late Colonial-Treasurer that the present

ministry owed its success. But whether this were the case or not he contended that the principle embodied in the motion then before the house was a sound one. It followed as a natural inference that, if one head of a ministry could make ministerial changes to suit his own convenience another might do so also, and as they could not always depend upon having an honest man as Colonial Secretary, it was easy to foresee that this exercise of power might lead to the greatest corruption. In making these remarks it was not his intention to cast the slightest slur on the hon. Mr. Herbert. The Speaker here gave several examples, showing that a dishonest Colonial Secretary might, under the system objected to, make use of his position in England in a mercantile point of view at the expense of the colony.

The ATTORNEY-GENERAL acquitted the hon. mover of cherishing any personal ill-feeling towards his hon. friend the Colonial Secretary. He felt bound, however, to oppose the motion—in the first place because the phrase “this parliament” was improper. It should have been “this house”, inasmuch as the expression of their opinion could not be supposed to embody that of the other house. Then with regard to the assertion that his hon. friend the Colonial Secretary had not obtained the sanction of Parliament for his absence from the colony, he admitted that in a formal sense it was true but not so virtually. He (the Attorney-General) remembered distinctly telling the house on the day previous to the close of the last session that it was the intention of the Colonial Secretary to revisit England on matters of an urgent private nature, and yet, singular to say, neither the hon. mover nor any other hon. gentleman thought proper to make any comment on the subject. He also remembered informing the House that the Colonial Secretary himself was to make a similar announcement in the Assembly in the course of the next day. Unfortunately through want of a quorum in the Assembly that announcement was not made, but the intention of the Colonial Secretary was nevertheless *bona fide* in so far as he desired to leave the colony with the sanction of both houses of parliament. Had there been a quorum on the occasion referred to, no doubt the hon. gentleman’s departure would have been duly considered, and his leave of absence sanctioned by both houses. With regard to the late Colonial Treasurer, he denied most emphatically that the hon. gentleman’s resignation was influenced in any way by the simple fact of the Colonial Secretary going home. On the contrary, he could state as a positive fact that the hon. gentleman assented most cordially to the step proposed by the Colonial Secretary, and it was not until he saw no chance of playing first fiddle that he made up his mind to resign. With regard to Mr. Herbert himself, he knew that it was the intention of the hon. gentleman to resign his office as Colonial Secretary the moment he determined on his trip to England, and there could be no doubt that he would have done so had it not been for the urgent advice of his friends.

Mr. GALLOWAY supported the motion, and explained that the phrase “this parliament” was a mere clerical error, and was intended to mean “this house.” As for the announcement by the Attorney-General of the Colonial Secretary’s intended departure for England, he contended that it was made at such a late hour as to preclude the possibility of the house entering into any consideration of the matter. In supporting this motion his object was not to censure the Colonial Secretary, but to prevent a recurrence of a practice which he considered unconstitutional.

Mr. ROBERTS agreed that the Colonial Secretary’s absence without leave was a breach of constitutional usage, and called for some expression of opinion on the part of the house. Still it appeared to him that the terms of the resolution were rather too strong, in so far as they applied pointedly to the Colonial Secretary individually. He therefore moved the following amendment:—That, in the opinion of this house, the absence beyond the neighboring colonies of any minister of the crown from the colony of Queensland, without leave of this council, is highly objectionable and unconstitutional.

The ATTORNEY-GENERAL concurred in the amendment.

Dr. FULLERTON supported the original motion.

Mr. HARRIS was in favor of the amendment, as answering the purpose of the original resolution without being so personal.

Dr. HOBBS, in reply, condemned the amendment as being a sort of side wind to get rid of the matter altogether.

The ATTORNEY-GENERAL reiterated his statement—that at the time the Colonial Secretary left satisfactory arrangements had been made.

Mr. GALLOWAY approved of the amendment for reasons similar to those already stated.

The PRESIDENT remarked that it was known for several weeks previously, and that any hon. member, by addressing a question to the representative of the government in the house, could have obtained the required information.

The amendment was then put and passed without a division.

BUSINESS DAYS.

The ATTORNEY-GENERAL moved—“That, unless otherwise ordered, this house will meet for despatch of business at three o'clock on Wednesday and Thursday in each week.”

Carried.

STANDING ORDERS COMMITTEE.

The ATTORNEY-GENERAL moved—“That the Standing Orders Committee for the present session should consist of the following members, viz.:—The Honorable the President, the Honorable D. F. Roberts, the Honorable J. J. Galloway, the Honorable W. H. Yaldwyn, and the Mover, with leave to sit during any adjournment, and authority to confer on subjects of mutual concernment with any committee appointed for similar purposes by the Legislative Assembly.”

Carried.

JOINT COMMITTEES.

The ATTORNEY-GENERAL moved—“(1) That the Honorable the President, the Honorable G. Fullerton, and the Honorable J. J. Galloway be appointed members of the Joint Library Committee. (2) That the Honorable the President, the Honorable W. H. Yaldwyn, and the Honorable D. F. Roberts, be appointed members of the Joint Refreshment Rooms Committee. (3) That the Honorable the President, the Honorable W. Hobbs, and the Honorable J. F. M'Dougall, be appointed members of the Joint Parliament Buildings Committee.”

Carried.

On the motion of the ATTORNEY-GENERAL a message was ordered to be transmitted to the Legislative Assembly requesting it to nominate a like number of members to act on the joint committees.

MINISTERIAL STATEMENT.

The ATTORNEY-GENERAL moved that the house adjourn until three o'clock to-morrow (this day) when he would be prepared to deliver a ministerial statement.

There being no business on the paper, however, the house adjourned upon an amendment moved by Mr. YALDWYN, until three o'clock on Wednesday next.