

Queensland



Parliamentary Debates
[Hansard]

Legislative Assembly

WEDNESDAY, 31 MAY 1865

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LEGISLATIVE COUNCIL.

Wednesday, 31 May, 1865.

The Clerk of the Council.

THE CLERK OF THE COUNCIL.

The PRESIDENT said he had to acquaint the Council that, since the last day of meeting, he had carried out the recommendations contained in the report of the Standing Orders Committee on the suspension of the Clerk of the Legislative Council, which recommendations were adopted by the House. The third section of that report was—"That Mr. Henry Johnson should be granted leave of absence on half salary, and that the President should be requested to communicate with the Executive Government to make the necessary arrangements for the efficient performance of the clerical duties of this Council during the present session." He had consulted with the Executive Government and had received, under date 26th May, a letter from the Colonial Secretary, informing him that the recommendations of the committee, and the suggestions of the report, were concurred in by the Government, and that the action thereon proposed by himself was approved of. It, therefore, now devolved upon the Clerk-Assistant of the Legislative Council, under the Standing Orders, to take the place of the Clerk of the Council, who had received six months leave of absence on half salary. He had, further, to acquaint the House that he had appointed Mr. Fitzroy William Henry Somerset, Acting Clerk-Assistant during the period of Mr. Henry Johnson's leave of absence.

LEGISLATIVE ASSEMBLY.

Wednesday, 31 May, 1865.

Report of the Committee of Elections and Qualifications on the Election for the district of Mitchell.

REPORT OF THE COMMITTEE OF ELECTIONS AND QUALIFICATIONS ON THE ELECTION FOR THE DISTRICT OF MITCHELL.

The COLONIAL SECRETARY: Sir, in moving, pursuant to notice, that the report of the Committee of Elections and Qualifications on the petition of C. B. Dutton, Esquire, be referred back to that committee for reconsideration, as not being in accordance with the provisions of the Electoral Act, I may say that I approach the question with a full sense of the delicacy as well as the difficulty and importance of the trust imposed upon the committee, and I trust the object which I had in view, in putting this motion on the paper, will not be misinterpreted or misunderstood. I desire to state, in commencing, that I did not purpose thereby in any manner to bring forward a censure upon the Committee of Elections and Qualifications; or, as has been suggested, to attempt in any way to reinstate in his seat the gentleman who has been declared by the committee to have been unduly elected; because I do not consider that I am competent to do so. I accept the report as final under the clause of the Act, which states that "the said committee shall determine finally on all questions referred to them." Therefore, if the committee consider their report as a final one, I shall accept it, and shall have no desire to press it upon them. But, sir, we who are outside are unaware of the proceedings of the committee, and are ignorant of the grounds upon which they arrived at their decision; and it has been suggested by persons out of doors, that certain steps might have been taken which were not taken; and, in fact, that the proceedings of the committee were not altogether so carefully conducted as those of previous years. Perhaps the honorable gentlemen who are members of that committee may be able to offer some explanation which may prove that I have no ground for this motion; and if so, I shall be happy to withdraw it. I hope I have put the motion in such a form, that it will not be offensive to the members of the committee, for it is not my intention that it should be so; but it appears to me that this is a case which ought in some manner to come under the notice of the House. I simply submit that the committee have not pursued their inquiry in accordance with the provisions of the Electoral Act, and I think that is shown by their report. In the first place, it does not appear that they have taken such evidence as they might have obtained—of course I am speaking under correction upon every point. As far as I am informed, they made their report upon evidence furnished

by the returning officer. I hardly think that is in accordance with the 72nd section of the Electoral Act, which is an instruction to the committee to procure the best evidence available. They might have considered the letter from that officer sufficient evidence, practically, for the purpose; but I submit that it was not sufficient evidence—not such evidence as might properly have been taken. For it has been said out of doors that, if evidence had been invited, proof could have been afforded that a majority of hands were held up in favor of the gentleman whom they have unseated, and that a majority of votes could have been given in his favor; and, moreover, that the returning officer did not give his casting vote in the way he is said to have done. It has been alleged that the evidence which might have been given would have materially altered the complexion of the case. It is said that there was a person in town while the committee was sitting, who was present as an elector on the occasion. Of course it is not my business to know it, but I think it was the business of the committee to ascertain whether such a person was at hand, as it might have been of advantage to them to examine him. I do not say these are facts, but it is alleged that they are. I think, at all events, the committee might have gone the length of ascertaining whether there were any witnesses they could examine before they decided upon the only evidence before them—the letter of the returning officer. Then, I find that the report of the committee, as it appears to me, was improperly brought up, before the specified time. For I can put no other construction upon the 79th clause of the Constitution Act, which says—

“All persons subscribing any such petition shall be deemed to be parties to the reference and the sitting member to whose election any such petition relates or any person who voted or had a right to vote thereat or any person complained against in any such petition may within four weeks after presentation thereof by notice in writing to the Speaker be admitted as a party to support or oppose the same or to defend the return of the sitting member as the case may be and every person so admitted shall be deemed a party to the reference.”

I think, according to the ordinary construction of the Acts of Parliament, this provision was not complied with. I believe it would only be just that the Committee of Elections and Qualifications should in future be allowed these four weeks, especially in the case of a distant electorate, before they make their final award. It certainly seems to me probable that some of the electors might have had something to say in the matter, and that the honorable member who has been ousted by the report of the committee, should have had an opportunity of making his statement to them. I submit that he was on the spot, and should have been invited to give evidence; and I think he should have done so

in pursuance of the clause I have just read, which specifies certain objections in which he should have been made a party to the reference. There is another objection which, although of a technical character, bears materially upon this case. According to the 75th clause of the Act, it is necessary that the petition should appear in the *Government Gazette*. But I find that owing to an accident which was never noticed, it was not notified in the usual way. I think, sir, the committee ought to have inquired whether all these forms had been duly complied with, and that they would only have acted fairly, and in accordance with the trust reposed in them, if they had done so; for how could any elector of the district, residing some hundreds of miles away, know anything of the proceeding of the committee, unless he saw the notice provided for in the Act? I think the committee might have taken all these precautions; I think it would have been much better had they done so. As I said before, I have no desire to censure the committee; but I have considered it my duty to bring forward this motion, in order to show that the Committee of Elections and Qualifications, who possess great powers, should be very careful to look into all the bearings of the different cases which are brought before them. No powers in the Legislature are so great as those of the Committee of Elections and Qualifications, because their decisions are absolute and final. I do not for one moment desire to infer that the action taken by the committee was not conscientious and *bona fide*. But the Act contains lengthy clauses, with definite instructions as to their proceedings, framed because it is intended that their decisions shall be final; and, if final, they should be based upon the most substantial grounds. I will suppose a case:—say that any person were to write to the committee, and state that I was a contractor or insolvent, and so disqualified from taking a seat in this House; and the committee, without hearing me at all, were to report, upon the strength of that letter, that my seat was vacant. Would that be regular, or in accordance with the Act? Yet, that is a case not wholly different from the case upon which this committee has decided. It would be in the power of any person to oust me, or any of my colleagues in the same way, at any time. I repeat that I have no desire to censure the committee, but I wish to impress upon them the importance of the trust and the great power which is vested in them. I have no doubt some honorable gentleman of their number will address the House in explanation of their course of procedure,—a course which, I believe, it is not desirable under such circumstances, to continue. If the explanation be satisfactory,—and facts are adduced which do not appear on the face of the evidence,—I shall have no desire to press my motion to a division. I bring it forward more to preserve the

rights of the House than with the object of re-instating the honorable member who has been unseated, or censuring the committee. I do not say they have not acted with the best intentions; but I think it is to be regretted that they have brought up their report so hurriedly, and that the various provisions to which I have alluded, were not seen to before they recorded their decision.

Mr. BROOKES said the diffidence with which he approached the consideration of the question, had been increased by the remarks of the honorable member at the head of the Government, who did not appear to have made out his case against the committee. The honorable member had complained of the report which had been brought up by the Committee of Elections and Qualifications, and immediately afterwards declared it to be final, and expressed his readiness to accept it. He (Mr. Brookes) was averse to the introduction into the debate of questions of mere rumor, which could not be substantiated by any positive evidence. He, however, felt himself at liberty to say that the Mitchell election was a reflection upon our colonial representative Government, and was calculated to bring it into ridicule at home. It appeared from the minutes of evidence, that the Speaker had received a letter from the returning officer, which stated that the candidates were Mr. C. B. Dutton and Mr. J. Gore Jones; that there were two hands held up for Mr. Dutton and two for Mr. Jones, and that the numbers being equal, the returning officer had given his vote in favor of the latter. He had been informed, though he did not wish to place too much reliance upon what might prove to be mere rumor, that Mr. Jones was returned by Mr. Boyd's two orderlies, and that if two of Mr. Dutton's stockmen had not been prevented from attending, the affair would have terminated, to adopt a sporting phraseology not unknown to one member of the Government, in a dead heat, instead of a walk over the course. He regretted that the matter should have been brought forward, especially as the honorable Colonial Secretary had declared the report to be final. If it were final, of what use would it be to refer it back to the committee for reconsideration. If the honorable gentleman wished to read a lecture to any member of the committee, he might have taken some opportunity of doing so. It appeared to him that the motion itself was absolutely informal, and he doubted whether it was competent for the House to refer this report to a Committee of Elections and Qualifications. He hoped, with a view to the further peaceable conduct of affairs in the House, that such questions would not be brought forward again.

Mr. DOUGLAS said that, as he understood the question from a simple reference to the Electoral Act, and without looking into imperial precedents, the decisions of the committee, whatever they might be, were

absolutely final. That being the case, he felt some difficulty in receiving the motion before the House in the form in which it appeared—"to be referred back to the committee for reconsideration." The resolution had been tabled at the time the committee brought up their report which declared the seat for the Mitchell district to be vacant. He thought it would have been better for the honorable Colonial Secretary to have couched his motion in different terms, and to have stated that the report was not in accordance with such and such clauses in the Electoral Act. The clause which the honorable member had referred to which, he said, provided that a month should be allowed to the party petitioned against to appear before the committee to give evidence, was, to say the least, dubious. For it stated that the said party may within four weeks do so and so. It might, perhaps, be desirable to allow a period of four weeks for such a purpose,—he thought it would. But, as he had read the clause, it seemed doubtful whether the committee were bound to do so; at any rate it had not been the case hitherto. Petitions against the return of members had been received and decided upon in a few days. That was, however, no reason that the practice should be perpetuated; and it was well, perhaps, that the attention of the House had been drawn to the clause and to the finding of the committee, as the Legislature might find it desirable to alter the law to govern future cases. In the meantime he thought the motion was incautiously worded. He did not suppose the honorable member who introduced it, intended to convey any censure upon the committee, but the motion in the form in which it was brought forward certainly implied it; besides which, it suggested that the House should do what, in point of fact, it was incompetent to do. The power vested in the committee was absolute, and as they had given their decision, the House had nothing further to do in the matter.

Mr. PUGH observed that a similar point had never been raised in reference to the Committee of Elections and Qualifications. During the previous session there had been two or three petitions sent in against the return of members, and in one case the petition was heard and no notice, that he was aware of, was given to the party petitioned against. But while he was rather loth that the House should take any steps to interfere with the action of the committee, who were in the position of a judicial court, he was constrained to state that they had not taken the course which was open to them. Leaving the 79th clause, which had hitherto been a dead letter, out of the question, he thought the latter portion of the 72nd clause was quite conclusive:—

"And in the trial of any such questions the committee shall be guided by the real justice and good conscience of the case without regard to

legal forms and solemnities and shall direct themselves by the best evidence they can procure or which is laid before them whether the same be such evidence as the law would require or admit in other cases or not."

Notwithstanding that provision, reference to the report of the committee would show that the only evidence laid before them was a letter forwarded to Mr. Speaker from the returning officer, and, he believed, a motion was made by one of the members that the returning officer be summoned to appear before the committee, and to produce the electoral roll of the Mitchell district. That evidence was certainly producible, as well as other evidence of a direct character, and he must say that had he been the party petitioned against, he should have considered it hard not to have had an opportunity of saying anything in the matter. Then, again, at the end of the 74th clause, it was provided that—

"If the committee shall come to any resolution other than the determination above mentioned they shall if they think proper report the same to the Assembly for its opinion at the same time that they inform the Assembly of such determination and the Assembly may confirm or disagree with such resolution and make such order thereon as shall seem proper."

He thought it would have been wise on the part of the committee to have brought up some resolution, and to have asked the House to approve of the course they had pursued. The power vested in the Committee of Elections and Qualifications was, no doubt, a very arbitrary one, and they might have been justified in unseating the honorable member for the Mitchell district. Still, while he should be disposed to vote against the motion of the honorable Colonial Secretary, he thought the action taken by the committee ought to be considered, and that it would be well also to take into consideration the propriety of altering the 79th clause of the Electoral Act. It was quite unnecessary to allow four weeks' notice. If the honorable member who was petitioned against had taken his seat, and was in the House, he would of course be aware of what was going on, and would have every opportunity of making his statement and defending his case. In his opinion one week's notice would be ample, and would not be likely to prove a hardship in any case. He should oppose the motion, but he could not help saying that the committee had not acted towards the member petitioned against as they would like to have been treated themselves.

The SECRETARY FOR LANDS AND WORKS said, he had expected that the chairman or some member of the Committee of Elections and Qualifications would have offered some remarks in explanation of the course pursued by the committee. He did not say they were bound to do so, but he thought they could not have failed to discover, that the evidence upon

which they had based their report was not of a character to satisfy anybody. As his honorable colleague, the Colonial Secretary, had candidly and properly stated, there had been no desire to bring down a vote of censure upon the committee. But under the circumstances he could not have done otherwise than to bring the proceedings of the committee under the notice of the House, as a guide for future proceedings on the part of the committee, or to effect an alteration in the law as it then stood. The ground which the honorable Colonial Secretary had taken in his resolution ought to have satisfied every member, not only of the House, but of the committee, that there was no evidence at present to justify the committee in bringing up any report at all. If the Electoral Act were to be held as having any force or effect in the colony, it must be regarded as a whole measure, and every clause must be considered valid and effective. Whilst, therefore, the last clause of that Act, bearing on the subject, might set forth that the decision of the Committee of Elections and Qualifications was final, it should be remembered that that finality was dependent upon, and bore reference to, previous clauses of the Act. It pre-supposed that all the other clauses had been carried into effect. He did not say that the House had power to overturn the decision of the committee, but the finality of the decision should be regarded in connection with previous clauses of the Bill. Again, the committee in this instance had not observed the legal forms, which, although technical, were perhaps, of great importance. The petition before them had never been published in the *Government Gazette*, as required by law. In point of fact, the committee had brought up a report upon a petition which was never properly before them. It was their duty before they deliberated upon any petition to see that there was a *locus standi*, and that they had conformed to the regulations provided for their guidance.

Mr. R. CRIBB appealed to the chair; he thought the discussion was out of order.

Mr. LILLEY thought, also, it might be desirable to consider whether honorable members were not out of order in entering on a debate after the report of the committee had been declared to be final. The question was an important one, as it involved judicial functions, and ought not to be hastily entered upon. He had no desire to stifle discussion; but he thought it was irregular at that stage. The House had delegated certain powers to the committee, and they ought to assume that the committee had exercised them according to law.

The SECRETARY FOR LANDS AND WORKS: If I am out of order, sir, I can only say that I am addressing the House because a question has been raised, upon which a discussion has ensued, which you have permitted.

The SPEAKER: As I have been referred to, I must say that I do not think this question

should have been brought before the House as it was; but, as I was inclined to believe that it might be represented as a question of law, upon which it was not necessary to give my opinion, rather than of practice, I have allowed the discussion to go on. At the same time, I can only say that I am fully of opinion that the seat for the electorate of Mitchell is now vacant, and that my duty is to issue the writ at once.

The COLONIAL SECRETARY said that he bowed to the ruling of the chair; and that he had put this motion on the paper, after due consideration, as being the most lenient motion he could make in connection with the decision of the committee in this case. By the 63rd clause of the Act, he might have moved that the committee be at once dissolved; but he had abstained from that, as he believed their error simply consisted in not adducing sufficient procurable evidence. He trusted, in this matter, to have had the support of the whole House—the members of the Opposition included. It was a matter affecting the interest of every honorable member. He only asked the committee to reconsider their decision, and he had put his resolution in the most moderate form possible. As, however, the Speaker had ruled that it was out of order, he would withdraw it.

Mr. WALSH: I rise, sir, to move the adjournment of the House.

The SPEAKER: The honorable Colonial Secretary has expressed his readiness to withdraw his motion, and I must now put it to the House whether the motion shall be withdrawn.

Mr. MACKENZIE: I object to the withdrawal of the motion.

The SECRETARY FOR LANDS AND WORKS: I rise, sir, to a point of order. I have been ruled out of order in addressing the House, and I submit the honorable member for the Burnett is out of order in attempting to renew the discussion after your ruling.

The SPEAKER: I think it is very undesirable, after the honorable member at the head of the Government has offered to withdraw his motion, that honorable members should persist in discussing the question. Is it the wish of the House that the motion be withdrawn?

Mr. FITZSIMMONS said he thought it was very hard that the members of the committee should not have an opportunity of defending themselves, after the severe charge which had been brought against them.

The SPEAKER: Do I understand that the motion is withdrawn? (No, no.) Let any honorable member who objects to it stand up.

Mr. DOUGLAS: Sir, as I understood your ruling when the honorable Minister for Lands and Works was ruled to be out of order, it is neither in the power of the honorable Colonial Secretary to withdraw his motion, nor for the House to continue the discussion. As you have affirmed that the

debate is altogether irregular, I presume it must end here.

The ATTORNEY-GENERAL: I think, sir, the honorable member for Port Curtis is quite correct in the view he has taken. When my honorable colleague the Minister for Lands and Works was ruled by you to be out of order, and sat down in deference to your ruling, and the honorable Colonial Secretary withdrew his motion, the discussion was at an end.

The SPEAKER: I am quite sure, as a matter of Parliamentary practice, that the discussion was quite out of order. But, as I said before, considering that it involved a question of law, I allowed it to go on.

Mr. COXEN: I think, sir, that as you have ruled the discussion to be out of order, it should now drop altogether—that the motion should neither be withdrawn nor proceeded with.

The SPEAKER: When the mover of a resolution offers to withdraw it, the Speaker, according to Parliamentary usage, puts the question, "Is it the pleasure of the House that this motion be withdrawn?" I now, therefore, put that question.

Mr. WALSH: I now rise, sir, to move the adjournment of the House, in order to make such explanation as I consider it would have been derogatory for me to make as a member of the committee while the subject was under consideration. I believe, sir, the only explanation which the honorable member at the head of the Government can possibly make, or this House can understand, is that, for the first time since this House commenced its sittings, a petition against the return of a member who has shown himself a Government supporter has been successful. I do not hesitate, sir, to express my conviction that had the honorable gentleman, whose absence as an individual I regret, not taken his seat on the ministerial side, the House would never have been troubled with this informal motion. The reasons which the honorable Colonial Secretary has advanced have only proved that he is unable to support it, they hardly call for comment. Had the honorable gentleman, instead of asking the House to entertain such a motion, brought forward some comprehensive measure which might have resulted in amending what is admitted to be faulty in our present laws, the House would have afforded him every consideration, and I should gladly have lent my support to such a measure. But the honorable gentleman, as soon as the chairman had laid upon the table the report of the committee, got up in a fit of anger, without thinking for a moment what he was doing, and gave notice of this motion. I felt sure that he was committing some blunder which would recoil upon himself. And your ruling, sir, to-night, ought to be sufficient compensation to the committee for the attempt he has made to lacerate their feelings. Sir, I repudiate the leniency of which the honorable

gentleman has spoken, I require leniency from no one in a matter in which my honor, my character, my judgment, as an individual, are concerned. I treat the offer with contempt—

The COLONIAL SECRETARY: I distinctly state that I imputed no motives.

Mr. WALSH: Sir, it was impossible to make such a motion without imputing motives. I repeat, that if the honorable member who was returned for the Mitchell district had taken his seat on this side of the House, this motion would never have appeared on the paper. One of the first things I was told, I think by a member of the Ministry, after I had taken my seat in the House, was that the election for the Mitchell was a mere farce—that it would never stand. That statement was made when it was not known on which side the new member would sit. But when it was known that Mr. Jones intended to take his seat on the Government side of the House, a sudden change came over the minds of certain honorable gentlemen, and they altered their tactics. It is impossible to treat this question in any other than a plain matter-of-fact way. I regret to have these observations forced upon me; but I do not hesitate to say that this informal motion would never have been tabled if the Government had not discovered that they had lost a supporter. It has been rumored throughout this city that the gentleman who has been unseated was to have been offered a Government appointment at the end of the session, and when the public become aware of that fact they will put a proper value upon the motion of the honorable member at the head of the Government, and placing it side by side with the statement of the honorable gentleman that he meant nothing disrespectful, made no insinuations against the committee, they will form their own opinion of the course he has pursued. The arguments which were advanced by the honorable the Minister for Lands and Works seem to me unanswerable, since I believe they were foreign to the question. But I have no doubt that if the honorable gentleman had not unfortunately been interrupted he would, with his usual ingenuity, have extricated himself from the difficulty in which he had placed himself.

The SECRETARY FOR LANDS AND WORKS: I must appeal to you, sir, whether the honorable member has not imputed motives.

Mr. WALSH: Sir, my experience of this colony has led me to the conviction that it is hardly possible to impute motives which are not correct in respect to certain individuals. I will appeal to the honorable Minister for Lands and Works, since he has risen to attack my character, whether he has not too often stimulated, and in every case endorsed the insinuations which I have indulged in. I admit that I have made imputations, and I have no doubt that I was correct in doing so. I deeply regret that I have been obliged to make them. But my character has been

assailed in this House by the Government before I became a member.

The COLONIAL SECRETARY: I must again say that I have never assailed the character of the honorable member, or of any member of the committee.

The SPEAKER: I have never heard the honorable member do so.

Mr. WALSH: I did hope, sir, that I should not have to defend myself against these insinuations. I cannot understand how any honorable member can address himself to such a motion as the honorable the Colonial Secretary has put forward, without doing all in his power to show his abhorrence of it. If he had explained that the committee had committed an error, and that the law required amendment, the House would have comprehended his motives. But the angry and injudicious way in which the honorable member gave notice of his intention was sufficient to justify me in believing that the decision of the Committee of Elections and Qualifications was unpalatable to the Ministry because they lost a supporter by it, and the result was the motion which made such a direct attack upon the character of members of that committee.

Mr. FITZSIMMONS said he could not of course take exception to the withdrawal of the motion, but he did take exception to the course pursued by the honorable member at the head of the Government. His manner in bringing the matter before the House, and his speech upon it that evening, were, he thought, a severe censure upon the members of the committee. The honorable member could withdraw his motion, if it were in his power to do so, and thus deprive every member of the committee of an opportunity of vindicating himself, but that would not alter the nature of the resolution. If the honorable Colonial Secretary had come down to the House with a motion to disband the committee, there would have been something manly in it. But he had not taken that course, and he (Mr. Fitzsimmons) would relate one or two instances which would, perhaps, give the members of the committee some little confidence in their decision. A report had been cautiously circulated inside the House, and, perhaps, not so cautiously outside it, that the honorable member at the head of the Government had stated the election for the Mitchell was illegal and could not be upheld upon any principle laid down in the Act. He did not say that he put much confidence in the rumor, for he believed the honorable gentleman to be too cautious to make such a statement. But, other members of the committee probably did. Indeed, he had such a regard for him, that he only mentioned the fact in order to give him an opportunity of either acknowledging or defending it. However, after this present question had been decided, he should resign his seat on the committee in order that he might not again expose himself to such an

insult as that which had been offered to its members on the present occasion.

Mr. FORBES said, he did not rise to defend the proceedings of the committee, he left that to honorable members who were not interested in the proceeding,—but to defend himself and the members of the committee from the aspersions which had been cast upon them by the honorable the Colonial Secretary. As a member of the House, he felt it his bounden duty to do so.

The SPEAKER: I must call the attention of the honorable member to the fact that the honorable the Colonial Secretary has disclaimed any intention of aspersing the characters of members of the committee.

Mr. FORBES could only judge of the motives of the honorable gentleman by the motion which, in the insolence of his power, he had felt himself warranted in bringing forward. The honorable gentleman ought to know that the members of the Committee of Elections and Qualifications were sworn to do their duty, and the attack which had been made upon them almost inferred that they had failed in the observance of their oaths. It might be a fault on their part not to have interpreted the law as the honorable gentleman had done; but it occurred to him that the provisions of the Electoral Act had not always been construed in the same way. He would not attempt to impute any motives; that he would leave to other honorable members; but he would observe that he had received his appointment from the Speaker, not being unknown to the House previously, and he concluded that there were good reasons for appointing him a member of the committee. Other honorable members, under similar circumstances, had chosen rather to resign their appointments than to continue to fulfil the duties of the office after such an attack had been made upon them. He did not intend to take that course, he intended to perform the duty he had undertaken, to the very letter. And he believed he had done so hitherto,—he believed that under the powers conferred upon him as a member of the committee by the Electoral Act, he had fulfilled those duties. He would not enter into details, but he would say that it was an error of judgment on the part of the honorable member at the head of the Government to suppose that any lecture which he could read to the members of the committee would influence them either to revoke their decision, or to form any very high opinion of himself. When he (Mr. Forbes) had taken his seat in the House, at the commencement of the session, his feelings had been rather with the Government than otherwise. But the defiant tone adopted by the Ministry towards honorable members on the opposite side of the House, had induced him to alter the course he intended to take. If the Government were strong they ought also to be merciful, and not to attempt to castigate honorable members who differed with them as they had

done. The honorable member at the head of the Government, after his attack upon the members of the committee, had added insolence to injury, by stating that he had been lenient towards them. They asked for no leniency at his hands, and they challenged him to bring forward a motion to disband the committee, as he had expressed himself competent to do. They placed themselves in the hands of the House, with the conviction that they had done their duty. Notwithstanding the power of which the members of the present Ministry were possessed, he believed there was a feeling of rectitude in the House which would protect the committee in the discharge of their duty. He trusted the House would not look upon the motion as a slur on the committee, but as an indignant affront to its members; for if they possessed the confidence of the Speaker who appointed them, surely the House, having confidence in him, had also confidence in the members he appointed. He felt very strongly on the subject; he objected to the motion, as well as to the manner in which it had been brought forward, and he trusted the honorable member would see the impropriety of pressing it upon the House.

Mr. WATTS said he felt that he had been placed in rather a painful position by the two honorable members who had preceded him. He had understood that it was not their intention to have addressed the House on the subject, and he thought it would have been wiser on their part not to have done so. For his part, he must say that he did not accept the motion of the honorable the Colonial Secretary as casting any slur upon the committee. He said so positively; the speech which had been made by the honorable member for Maryborough let the cat out of the bag, and clearly showed that the honorable member had a bias when he was a member of the committee. Now he (Mr. Watts) happened to have been appointed chairman of that committee, and he must say he condemned the course taken by the honorable gentlemen who had just spoken and the part they had taken in the debate, because he had brought before the committee those very questions which had been mooted in the House. He did think the committee had arrived at a very hasty conclusion, and that it would have been far better, after acknowledging that they had done so, to have left the matter alone. He was aware that the report of the committee was final, and he was sorry that the honorable the Colonial Secretary should have put his resolution upon the paper. He thought it was not wise to bring before the notice of the House matters which occurred while the committee was sitting. He repeated that he did not believe the honorable the Colonial Secretary had been actuated by any desire to cast a slur upon the committee, but that he had brought forward the resolution because he found that

they had not acted up to the letter of the law, and for the guidance of future committees. He did not think the honorable gentleman intended any injustice whatever to the members of the committee or to any one else. The question had been fully discussed, the motion was withdrawn, and no good would be likely to result from a continuance of the debate. Besides, neither the House nor the members of the committee had the power to open the question again. He hoped, therefore, the matter would be allowed to rest.

Mr. DOUGLAS said it might possibly be expedient, and perhaps more convenient in every way, to put an end to the debate upon the question which had been raised, but he could not see why the whole bearing of the question should not be brought out in debate. He still retained his opinion that the unfortunate wording of the resolution had entailed a discussion which probably had not been either anticipated or desired. But, as the question had been brought forward again, he thought the committee might well look to the House for a consideration of the whole question, and ask whether or not they had acted *bona fide* in the matter. He had fully considered the question, and he did think the committee had decided fairly and legitimately upon the merits of the case, as it was put before them. In the 72nd clause of the Act, it was stated that "in the trial of any such questions the committee shall be guided by the real justice and good conscience of the case without regard to legal forms and solemnities." So far as the case had been placed before him by the report and minutes of evidence, he thought the committee were fully justified in the course they had taken. There had unquestionably been an informality in the election, and the question the honorable Colonial Secretary had raised, was whether all the formalities had been complied with since. The honorable gentleman had laid great stress upon the month's notice provided in the 79th clause. But he (Mr. Douglas) maintained that the clause was simply permissive;—the party petitioned against might or might not appear, as he thought fit. There was no doubt that the honorable member whose seat had been vacant, was well aware that a petition had been lodged against his return since he had taken his seat in the House. He had no doubt either, that gentleman had also received official notice, and if that could be shown he could not say that he had been aggrieved. If he had chosen to have taken notice of the proceedings of the committee, he could have claimed to have been heard either in person or by counsel, or if he had asked even a further delay than was usual, the committee would probably have accorded it to him. He (Mr. Douglas) was not quite sure that if the honorable member at the head of the Government had introduced a motion

recommending an alteration in the law by which the committee had been guided, that he would have been able to support it. It was not of course a pleasant thing to admit that a resolution had been hastily and hurriedly tabled, a notice of motion of an injudicious character, but he should like to have seen the honorable member come forward and acknowledge frankly that he has done so.

The COLONIAL SECRETARY: I do not admit it.

Mr. DOUGLAS: No, he believed it was a weakness of gentlemen in power not to admit that they ever made mistakes. It was a general axiom that they should not make any such admission, and the honorable gentleman appeared to act upon it. He considered the honorable member for Maryborough was justified in moving the adjournment of the House, in order to give the committee an opportunity of defending themselves.

The ATTORNEY-GENERAL said he should not have risen to address the House, if the remarks made by a previous speaker—the honorable member for Maryborough—had really been made with the object he alleged they were—to give the members of the Committee of Elections and Qualifications an opportunity of explaining the part they had taken in unseating the member for the Mitchell. If that had been his object, he would have spoken at an earlier period of the debate. But the honorable member had no such object in view; he had risen for the sole purpose of informing the honorable Colonial Secretary, as he did upon every occasion, that he had been guilty of gross delinquencies. His honorable colleague, the Colonial Secretary, had been charged by several honorable members with having improperly placed his motion upon the paper. If that had been the case, any honorable member could have objected to it, as the irregularity—if it was an irregularity—must have been apparent from the first. If that had been the objection entertained by the honorable member for Maryborough, why did he not object to the motion at once. He (the Attorney-General) had no hesitation in saying that his honorable colleague, the Colonial Secretary, had fairly and truly stated the motives which had induced him to bring forward the resolution. Certain irregularities had undoubtedly taken place in connection with the proceedings of the committee, and he agreed with the honorable member for North Brisbane (Mr. Pugh) that any person, who had suffered by those irregularities, ought to have an opportunity of making his own position good, no matter how final the decision of the committee might be. Of course, it was not supposed that the committee had really acted improperly; but an irregularity had palpably been committed, and there could be no harm in acquainting the House with the fact; and that being the case, the remarks which had been made by his honorable col-

league must have had a beneficial effect, rather than otherwise. Why, then, should honorable members attack the Government for attempting to set them right—for simply pointing out certain irregularities which had been committed? He thought it would have been much better to have ended the discussion before the adjournment of the House was moved. He did not think any member of the committee could seriously uphold the course they had taken, although they had probably acted in good faith. In his opinion, the Committee did not arrive at a proper decision; for the 72nd clause in the Act expressly provided that they were to avail themselves of the best evidence they could procure. He could not conceive how any member could come forward and affirm that that clause had been complied with. The committee comprised one legal gentleman, whose opinion they might have taken, if they had desired. He had no doubt, they had acted according to faith and good conscience, although it was somewhat remarkable that the honorable member for Maryborough had said he had been guided by a cautious statement which the Colonial Secretary had made out of doors.

Mr. WALSH denied having made use of such an expression.

The ATTORNEY-GENERAL: It is clear, at any rate, that the honorable member had moved the adjournment of the House for no other purpose than to attack the honorable Colonial Secretary, and to charge him with having tabled his motion because the Government had lost a supporter. He (the Attorney-General) thought the House had been led into a useless discussion, and that the question was virtually decided, when he was ruled out of order by the Speaker, and the motion was withdrawn. He considered that his honorable colleague had been badly treated, because a more temperate, a more delicate or courteous speech, could not have been made, than that in which the motion had been introduced to the House. He did not believe any honorable member could affirm, truly and conscientiously, that the Colonial Secretary had been actuated by the motives which had been applied to him.

Mr. BLAKENEY said he had not intended to address the House on the question, but as other members of the committee had preceded him, he would speak on it. He must express his regret that the motion had been pressed upon the House. He had been under the impression that it had been tabled hastily, and without due consideration, and on further reflection, would have been withdrawn. No doubt it had been introduced in a temperate manner; but there were observations, both temperate and mild, which came with great bitterness. He did not think the word "leniency" quite comported with the tone used by the honorable and learned Attorney-General, in speaking of the temperate manner of the honorable Colonial

Secretary. Members who were not on the committee knew nothing of the matter but what could be seen in the committee's report. He was the only legal member of the committee, and he had been left in a minority in moving for what he considered to be necessary evidence. But it could not be said that because other members of the committee did not take the same microscopic view of the question as a barrister would take, they did not act *bona fide* in the matter. It had been stated that the political opinions of the member who had been unseated, influenced the committee; but such a remark could not apply to him, as it could hardly be supposed that he would take any great pains to confirm in his seat, a member who sided with the Government. The decision of the committee was based upon evidence entirely irrespective of any political feeling. He looked upon the motion to refer back the report, as an impeachment of the action taken by that committee, for which he believed there was no precedent in the Legislature of any other colony.

Mr. MILES moved that the next question on the paper be called on.

The SPEAKER: It is not competent for the honorable member to do so. On a motion for an adjournment, there can be no amendment.

Mr. MILES withdrew his motion.

Mr. WALSH said he felt it necessary to press the House to a division. The question was virtually whether the honorable the Premier had been justified in bringing forward his motion or not. If the motion for adjournment were carried, it would convey the approval of the House to the committee, and a disapproval of the proceedings of the head of the Government. Otherwise, the House could take warning by the result. He moved, therefore, that the House "do now adjourn."

The House divided.

Ayes, 11.		Noes, 10.	
Mr. Brookes		Mr. Herbert	
„ Stephens		„ McLean	
„ Groom		„ Macalister	
„ Edmondstone		„ Watts	
„ Fitzsimmons		„ Royds	
„ Blakeney		„ Sandeman	
„ Pugh		„ Miles	
„ Lilley		„ Coxen	
„ Walsh		„ Pring	
„ Forbes		„ Bell	
„ Douglas			