

Queensland



Parliamentary Debates  
[Hansard]

**Legislative Assembly**

**WEDNESDAY, 18 JULY 1866**

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## LEGISLATIVE ASSEMBLY.

Wednesday, 18 July, 1866.

Ministerial Explanation.

## MINISTERIAL EXPLANATION.

The SECRETARY FOR LANDS AND WORKS:  
Mr. Speaker—Honorable members will recollect that I promised, yesterday, to place before the House certain correspondence having reference to the causes which had induced the Government to tender their resignations to His Excellency the Governor. I have not desired to do so, either to satisfy a feeling of curiosity on the part of individuals, but simply because I believe the course I propose to pursue is the constitutional one, and has been the practice in all the other colonies. And I do think that, although to some extent the matter may be regarded as personal between His Excellency and the Ministry, there is a principle involved in the action taken by the Ministry of a constitutional character, which, in all colonies in which responsible government obtains, should be upheld. It will be in the recollection of honorable members, that on Wednesday last, this day week, my honorable colleague the Treasurer was asked by some honorable member what he intended to do in the present financial condition of the colony, in consequence of the intelligence which had then just been received from England. My honorable colleague intimated that he had called a meeting of the bankers of Brisbane for the following morning, and that, in the event of not coming to any arrangement with those gentlemen of a satisfactory character, he should take steps to bring under the notice of the House a proposition to authorise the Government to issue legal tender notes. The following afternoon, it will also be recollected, my honorable colleague gave notice of his intention to introduce a Bill to carry out the proposal at which he had hinted on the previous day. It will also be remembered that, immediately after the notice was given, an honorable member of this House, the honorable member for West Moreton, my predecessor in office, made a motion, without notice, for the appointment of a select committee to inquire into the financial affairs of the colony. Although that motion came upon me somewhat suddenly—because I was not aware of it until the honorable member for West Moreton mentioned it—still the Government assented to it, because it did not appear, either to the Treasurer or myself, that any investigation of that sort was to be avoided, but rather to be courted. The motion was carried, and the committee sat and took evidence. On the following morning they sat again, and I was present. During that sitting of the committee, the Governor's Private Secretary arrived, and handed me a letter from His Excellency, requesting me at the same time to call at Government House and see His Excellency as soon as possible. I read that letter, and I also shewed it to my colleagues;

and as soon as I had done so, or shortly afterwards, I went to Government House, and saw His Excellency. He was aware that I was likely to leave town that day, and, in point of fact, we talked the matter over. We also referred, but very slightly, to the letter. I mentioned to His Excellency that I had read his letter; but it appeared to me that there was no great hurry to answer it for a day or two (this was on Friday); and I said that as soon as we had considered it I would speak to him on the subject. Before I go any further, it will, perhaps, be as well to read the letter in question. It is as follows:—

“Government House, July 13, 1866.

“My dear Mr. Macalister,—The Colonial Treasurer, as you are aware, yesterday informed me that he proposed forthwith to introduce a Bill to empower the Government to issue legal tender notes.

“I pointed out to the Treasurer, on two separate occasions, that the Governor was prohibited from giving his assent to any Bill of that nature by the instructions issued, for well-considered reasons, and in the interest of the public welfare, to the representatives of the Queen in all British colonies. I distinctly added, when the Treasurer waited on me for the second time, that *in no event* would I give the royal assent to the proposed Bill.

“On the first of the two occasions to which I refer, you were present, and appeared to acquiesce in the view which I took of my duty. You also pointed out to your colleague some of the obvious and grave objections to which any measure of the kind suggested by him would be liable.

“On full reflection, I consider it right to repeat, in the most formal manner, the determination expressed yesterday, viz., that *in no event* will I give the royal assent to any Bill of the nature proposed.

“Moreover, it should be seen, looking to the 54th clause of the Constitution Act, whether a Bill of the nature contemplated can be originated or passed by the Assembly, unless it shall have been first recommended by a message of the Governor to the said Legislative Assembly.”

“Further, you are already aware, that it is a well-known constitutional principle, that ‘to all important acts (of Ministers), by which the Crown becomes committed, the sanction of the Sovereign (or of her representative) must be *previously* signified.’ (See ‘Mill’s Parliamentary History,’ vol. 1, page 135.)

“It is not to be supposed that you and your colleagues can be actuated by any desire except that by which the Governor is actuated, viz., to uphold inflexibly the paramount authority of the law, and the true principles of constitutional government.

“This letter should be communicated forthwith to your colleagues. If necessary, it can be read in both Houses of Parliament.

“I remain, my dear Mr. Macalister,

“Yours faithfully,

“G. F. BOWEN.

“The Honorable Arthur Macalister.”

As I have informed the House, I saw His Excellency, and told him that when I had considered the contents of his letter I would wait upon him in reference to it. On the following afternoon I received a telegram

from the Treasurer, to the effect that the Governor had requested him to produce to the committee sitting on finance the letter which His Excellency had written to me on the previous day, and he put the query, "Shall I do so?" My answer at the moment was "Decidedly not; and tell the Governor I have said so." I used that language, and spoke emphatically, because I was desirous of shewing His Excellency that there was a constitutional principle involved in any question of that kind. I made every haste to get back to town as soon as possible; but did not manage to arrive until Sunday afternoon, when I had an interview with my honorable colleague. He then informed me that, before my answer had reached him, my letter had been submitted to the committee. Ample time would have been afforded for submitting His Excellency's opinion of the Bill which my honorable colleague intended to introduce. I arranged with the Treasurer that I should write an answer to His Excellency's letter, and should, in that letter, state the constitutional practice in reference to the Parliament, and should not, at that time, say anything more about what had been done. Accordingly, I drafted a letter in reply; and on Monday morning, at half-past ten o'clock, I waited upon His Excellency at Government House, and as soon as we met I drew his attention to what had been done on the Saturday, and I did mention to him verbally, that I thought it was contrary to all constitutional practice for the Sovereign or her representative to hold any communication with either branch of the Legislature, or any portion of them. I also pointed out to His Excellency that I had prepared the draft of a letter for his perusal, and as I had not been able to get a copy of it made, I would sit down and read the draft to him, which I did. This is a copy of the letter:—

Department of Lands and Works,  
"Brisbane, 14th July, 1866.

"My dear Sir George,—Your Excellency's letter, dated the 13th instant, was duly delivered into my hands by Captain Pitt.

"The contents of that letter I would respectfully sum up as follows, viz.:—That you are prohibited by the Royal Instructions from giving assent to any Bill empowering the Government to issue legal tender notes; that you distinctly told the Treasurer, when he waited on your Excellency a second time, that *in no event* would you give the royal assent to the proposed Bill; that, on the first of the two occasions, I was present, and appeared to acquiesce in the view which your Excellency took of your duty; that I also pointed out some of the obvious and grave objections to which any measure of the kind suggested by him would be liable; that, on full reflection, you consider it right to repeat, in the most formal manner, the determination expressed on the previous day, that in *no event* would you give the royal assent to any Bill of the nature proposed; that it should be seen whether, under the 54th clause of the Constitution Act, such a Bill could be originated or passed by the Assembly,

unless first recommended by a message from the Governor; that it was a well-known constitutional principle, that to all important acts of Ministers, by which the Crown became committed, the sanction of the Sovereign, or of her representative, must be previously signified.

"Your Excellency is also justly pleased to observe, that it is not to be supposed that the members of the Ministry can be actuated by any desire except that by which your Excellency is actuated, viz., to uphold inflexibly the paramount authority of the law, and the true principles of constitutional government.

"Your Excellency also observes that the letter should be communicated forthwith to my colleagues, and, if necessary, it could be read in both Houses of Parliament.

"When your Excellency's letter reached my hands, Parliament was not sitting, and had the Ministry been desirous of reading the letter to both Houses, we could not hitherto have done so. But I would respectfully point out to your Excellency that, had I read such a letter to the Assembly, I should have been guilty of a breach of the true principles of constitutional government to which you have alluded; for, I take it, that any attempt to make known to the Parliament the views of the Sovereign or her representative, in the hope of influencing the Parliament, would be a direct breach of constitutional government.

"I have, however, placed the letter before my colleagues, and they, one and all, agree with me that I should put in writing the views which we hold of our duty, and in the most respectful manner the views we entertain of your Excellency's duty; and we doubt not, that your Excellency will agree with us, that as a difference of opinion has arisen between your Excellency and your responsible advisers, this course is the correct one.

"And, here, it may be as well that I should submit to your Excellency that you have fallen into a misapprehension with regard to the Royal Instructions.

"Leaving out of view the question as to how far the Bill proposed to be introduced by the Treasurer will interfere with the currency, I would invite your Excellency to the words of the Royal Instructions, clause six:—'When any Bill is presented to you for our assent, of either of the classes hereinafter specified, you shall (unless you shall think proper to withhold our assent from the same), reserve the same for the signification of our pleasure thereon, *subject, nevertheless, to your discretion, in case you should be of opinion that an urgent necessity exists requiring that such Bill be brought into immediate operation, in which case you are authorised to assent to such Bill in our name, transmitting to us by the earliest opportunity the Bill so assented to, together with your reasons for assenting thereto.*'

"It is matter, therefore, of grave import, to look at the circumstances in which the colony has suddenly become involved. The failure of the Agra Bank, I need not allude to further than to observe, that, by the stoppage of that bank, the Government have been informed that the arrangements, with regard to our new loan, and the immediate assistance we were to receive, are at an end.

"The position, therefore, in which this intelligence finds the colony, is as follows, viz.:—The

Government account at the bank is largely overdrawn; our credit is stopped, and the Government cheques dishonored. We are landing thousands of immigrants upon our shores, without the means of paying for landing them from the ships, or of supporting them for a single hour. We are largely indebted for the conveyance of these immigrants from England, without the present means of meeting such indebtedness. We have introduced many thousands of individuals, who have landed in Queensland on the faith of being employed on our public works, and upon whose labor along our several railway lines thousands of others are dependent. We have entered into large contracts for the employment of these people, and we are considerably indebted to the contractors at this moment, without having money to meet their demands. If these works are stopped, we are equally unable to support the laborers, while the possibly dangerous consequences to stations and property along our lines cannot be estimated. We are also liable, at any moment, to be sued by all parties who have claims against the Government.

"These few facts denote our position.

"It is not relief that is to be obtained in a week, a month, or three months hence, that can satisfy our wants, but it is instant assistance that we require; and your Excellency's responsible advisers think that no one can have any difficulty in arriving at the conclusion that the above facts fall within the "urgent necessity" which the Royal Instructions carefully, and for wise purposes, excepted from the Bills intended to be reserved; if not, the words of exception are useless.

"Your Excellency's responsible advisers would desire to assure your Excellency that nothing can be further from our wish or intention than to advise you to any course that would interfere either with the Royal Instructions or your position with the Imperial Government. On the contrary, we believe that an opportunity now presents itself for your Excellency to establish a lasting debt of gratitude on the part of the colonists, and of thanks on the part of the Home Government, by promoting the efforts of your Ministers to afford immediate relief to our embarrassments.

"With reference to the means by which this end may be attained, I would observe that your Excellency is right when you remind me that I did point out some grave objections to the legal tender notes, the gravest of which was, that the amount was not, to my mind, sufficient for our purposes. Your Excellency will also remember, that, when I left, it was with the view of ascertaining how much could fairly be expected to be raised by taxation.

"The result of the inquiry by the Treasurer and myself was, that taxation would not meet our urgent wants, even if justifiable, while a period of years would be necessary for it to extend over, before it could have any palpable influence in meeting our expenditure. The Treasury bonds proposed to be issued, and to be met by taxation, we felt would, in the financial position of the Australian colonies, take some time to float, even if their ultimate success were not problematical.

"On the other hand, we feel that the course proposed by the Treasurer of legal tender notes,

as a temporary means of meeting our unexpected and pressing financial difficulties until our debentures become saleable, was, so far as public works were concerned, the only truly justifiable course open to be pursued; and it was in consequence of our arriving at this conclusion that the Treasurer returned to Government House, and informed your Excellency of the result of our deliberations. So far as I have been able to discover, the proposal to meet our difficulties in the way pointed out by the Treasurer, meets with general approval.

"I shall not trouble your Excellency with any observations as to the 54th clause of the Constitution Act, for, as your Excellency is aware, that clause refers entirely to Bills of Appropriation, and has no connection with a measure such as the Bill of my honorable colleague.

"Nor need I allude to the constitutional principle, which your Excellency has kindly quoted from 'May,' for I am ignorant of any intention to violate that principle, or that it is at all involved in the Treasurer's proposition.

"I have often had occasion to express my sense of your Excellency's personal kindness and consideration towards myself, and in writing this note I can assure your Excellency that your responsible advisers are actuated solely by a hope that you will be induced to reconsider your present determination; and that, under the advice of Ministers, your Excellency will be induced to assent to such a measure for the relief of the colony as Parliament may desire to pass.

"I have, &c.,

"A. MACALISTER.

"His Excellency Sir G. F. Bowen, G.C.M.G., &c."

I may mention, at this time, that the question as to whether His Excellency would assent to any Bill introduced by a Minister in this House had not been raised—at any rate, by any member of the Government. Now, after reading that letter to the Governor, His Excellency read to me the following letter, which had been written at the time:—

"Government House, Brisbane,

"Saturday night, 14th July, 1866.

"My dear Mr. Macalister,—I think it right to add a few remarks to the letter which I addressed to you yesterday morning, Friday, the 13th instant.

"The action taken by the Colonial Treasurer on the preceding evening, made it my imperative duty to write that letter without delay. I need scarcely say that nothing can be further from my desire or intention than to interfere in the slightest degree with the freedom of debate, or with any of the other undoubted privileges of the Houses of Parliament. But (to omit other considerations) it appears to me that I should be justly liable to the charge of a want of due courtesy towards the other two branches of the Colonial Legislature, from whom the Governor, as the representative of the Crown, has invariably received the most loyal respect and support, if I were to approve the introduction, by one of my Ministers, or, if I were in any way whatsoever to become a party to the introduction, at the present crisis, of a Bill to which (as the Treasurer was made fully aware on Thursday morning last), I feel precluded by the Queen's Instructions from

signifying the royal assent. To engage the attention of the Parliament with a measure which cannot become law, would seem to be equivalent to occupying unprofitably valuable time, which could be far better employed, during the existing emergency, in discussing and passing measures which can be brought into immediate operation.

"I earnestly hope that you and your colleagues will see your way to asking forthwith the sanction of the Legislature to the issue of Treasury bills (like the Exchequer bills of England), coupled with the imposition of that additional taxation which you have (as I understand) already determined to propose. This is the course which has been usually adopted with success, in monetary difficulties, both in the mother country and in the principal British colonies. It appears that Queensland is as yet the most lightly taxed community in Australia.

"The measure proposed by the Treasurer, as explained to me by himself, is a Bill to empower the Government to issue inconvertible notes, and to make those notes a legal tender. It is obvious that I am required, by the sixth section of my Instructions, to reserve for the signification of Her Majesty's pleasure any Bill of the above-mentioned nature. For the fourth clause of that prescribes the reservation of 'Any Bill whereby paper or other currency may be made a legal tender, except the coin of the realm, or other gold or silver coin.' And the eleventh clause of the same section prescribes the reservation of Any Bill of any extraordinary nature and importance, whereby our prerogative, or the rights and property of our subjects not residing in the colony, or the trade and shipping of the United Kingdom and its dependencies, may be prejudiced."

"Now, with regard to this latter clause, I must make the following remarks:—

"(1.) The measure proposed by the Treasurer is of an 'extraordinary nature and importance;' for he admits that he knows of no precedent for it in any British community.

"(2.) That measure may affect the Queen's 'prerogative;' for it is a well-known maxim that questions of coin and currency belong to the sovereign power in every State. We cannot legislate in our local Parliament on matters of this kind, against the general policy established by the Crown and by the Imperial Parliament for the government of the whole British Empire.

"(3.) That measure may prejudice 'the rights and property of British subjects not residing in this colony, and the trade of the United Kingdom and its dependencies;' for (as you truly observed in my presence to the Treasurer on Thursday last) a large proportion of the capital now in Queensland belongs to British subjects resident in the United Kingdom, and in other British colonies; and their interests (as well as the credit of this colony) may be gravely compromised by the proposed measure.

"It seems hardly necessary to add, that it cannot be seriously argued in any quarter that there exists an urgent necessity for the adoption of expedients of an 'extraordinary' and questionable nature, before the financial position of the colony has been fully examined by the Legislature, and the simple, ordinary, and legitimate measures usually adopted during financial emergencies

elsewhere, have been tried here, and found to be failures.

"With regard to the proper interpretation of the 54th clause of the Constitution Act (referred to in my letter to you of the 13th instant), it will be observed that I express no opinion on that point. I think that you should forthwith consult thereon the Attorney-General and the Speaker of the Assembly.

"Of course, my objections apply to the Bill proposed by the Treasurer, and as explained to me by himself. I shall be ready to give the royal assent forthwith to any measures adopted by Parliament, provided that they be not repugnant to the letter or spirit of the Queen's Instructions.

"You are well aware, my dear Mr. Macalister, that in matters of purely colonial policy, I have always deferred to the advice of my constitutional Ministers for the time being, although my own personal opinion has sometimes differed from theirs on practical questions of importance.

"But the present is a case in which Imperial interests are concerned, and I must do my duty to the Crown; which, as I believe, is in this, as in most other instances, identical with my duty to the colony, and with the true interests of the people of Queensland.

"This letter should be communicated without delay to your colleagues; and should also receive the same amount of publicity with the letter previously addressed to you on the 13th instant.

"I remain, my dear Mr. Macalister,

"Yours faithfully,

"G. F. BOWEN.

"The Honorable Arthur Macalister."

In consequence of this letter, it became necessary for me to call a meeting of my colleagues, in order to consider our true position. As I have stated, we had never asked His Excellency whether he was likely to assent to the Bill which the Treasurer proposed to introduce. No Bill was at that time in existence; and beyond the fact that it had been announced in this House that my honorable colleague intended to introduce a measure to authorise the Government to issue legal tender notes, we were utterly ignorant of any of the details which that Bill might contain. But His Excellency had raised the question, and had given us so decided an answer as to what his course of action would be, that it became necessary for the Government to decide what line of conduct they should adopt. That decision will be found in the letter which I shall now read:—

"Department of Lands and Works,  
"Brisbane, 17th July, 1866.

"My dear Sir George,—Your second letter has been laid by me before my colleagues, and although I have the greatest reluctance to protract a correspondence, which cannot much improve by its length, the Ministers agree that there are one or two points in it to which I ought to invite your Excellency's attention.

"Your Excellency has not mentioned the circumstance that, on Friday evening last, you requested the Treasurer to place before the Finance Committee the letter of your Excellency to myself, dated the same day, in which you announce your determination *in no event* to assent to any Bill

authorising the issue of legal tender notes. I observe, however, that in the second paragraph of your communication, dated the 14th instant, you justify such a course for the reasons you there give.

"I regret that the Ministers cannot agree with you, for, if these reasons are to form a sufficient excuse for disregarding one of the first principles of responsible government, namely, that the name of Her Majesty or her representative ought not to be mentioned, even in Parliament, with the view of influencing its deliberations, then our constitution is at an end, and the advice of responsible Ministers is rendered unnecessary.

"Your Excellency has, however, sufficiently dwelt upon this point in your letter, and I have, I think, said enough in my previous communication with reference to the constitutional objection to that step.

"If I understand your Excellency aright, you are desirous that taxation should be imposed in order to meet our financial difficulties, and that, on the strength of this taxation, Treasury bills should be issued, and that until these are tried and found to be failures, you will not entertain any other proposition; but in no case will your Excellency entertain a proposition for the issue of legal tender notes.

"I would desire respectfully to point out to your Excellency, that the taxation intended to be proposed by the Treasurer would have had very little to do with the purposes to which he contemplated applying the legal tender notes.

"Taxation for other purposes than those in which the whole colony has a direct interest, would be unjustifiable. To meet our increased and increasing ordinary expenditure, it is at all times desirable that the taxation should enable the Government to remain unaffected by the limited credit of banking institutions. This position we do not at present occupy, and hence the stoppage to our credit, which the late intelligence from England has caused. The Treasurer's proposition would probably have carried taxation to the extent of preventing any future difficulty of this kind; but he never contemplated taxation to carry on our public works, nor has any Australian colony yet authorised taxation for such works. Your Excellency will, therefore, observe that Treasury bills, covered by taxation, would really, as they were intended to do, only cover a portion of our embarrassments.

"To meet the demands already created, and fast increasing, by reason of our public works, until our debentures were sold, was the object the Treasurer had in view in proposing to obtain authority for issuing legal tender notes; and although my honorable colleague may not have furnished your Excellency with the precedent of any British colony for these notes, I have it upon what I conceive to be good authority, that these very legal tender notes were, at the latest dates, in force in the colony of Nova Scotia, and that they have been so for many years.

"I respectfully submit these remarks, because I feel it due to the members of the Ministry to state that they will form no party to place a burden of taxation upon the colony, for objects which were provided for, and could only be justified, by loan; and because I feel that had the Treasurer been permitted to put before

Parliament his plan in all its details, it could not have failed to meet with approval. That banking institutions, or those over whom such institutions have influence, might not at once have regarded the scheme with favor, I can easily understand; but that these constitute either the colony or its interests, has yet to be shewn.

"I must also observe, that whatever may have taken place between yourself and the Treasurer, in the course of conversation as to his proposed measure, the Ministers conceive that if your Excellency intended to take any objection to its details, the proper period for doing so, supposing your Excellency's action at all constitutional, would have been when the Bill was in committee; at present, it is not even in existence.

"As stated by me in the outset of this letter, I do not see any good likely to arise from a protracted correspondence on a matter that may be restricted to a very narrow compass.

"Your Excellency refuses, *in any event*, to assent to the proposal to make Government notes a legal tender, while your Ministers see nothing to justify such a refusal, and believe the substituted remedies of taxation and Treasury bills are not calculated to meet the difficulties. We also conceive that the 54th clause of the Constitution Act is too plain to admit of any double meaning, and that it has no reference to a Bill like the one proposed; and we think the question of prerogative has been sufficiently met by the urgent necessity for the measure which exists.

"With these views, your Excellency's advisers feel:—

"(1.) That the course which your Excellency has taken, without waiting to know what the measures of the Government would really amount to, to frustrate their intentions, has so embarrassed the action of the Government, as to render any effort on their part to relieve the colony from its present financial difficulty perfectly useless.

"(2.) That to require publicity to be given to your Excellency's determination with regard to any measure in contemplation by the Government on the subject of these difficulties, is utterly repugnant to all true principles of constitutional Government.

"Under such circumstances, it only remains for me to tender to your Excellency my resignation of the office of Vice-President of the Council, and, in the name of all my colleagues and myself, our respective offices as your Excellency's responsible advisers, with the several departments under our charge.

"I have, &c.,

"A. MACALISTER.

"His Excellency Sir G. F. Bowen, G.C.M.G., &c."

Some short time after that letter had been despatched, I received a message through the Private Secretary that His Excellency was desirous to see me at Government House. I went there, and His Excellency informed me that he declined to accept the resignations of the Ministers, upon constitutional grounds, and that he would place those grounds in writing, and forward them to me as soon as he could. Accordingly, in the course of the day, His Excellency forwarded to me the following memorandum:—

"Government House,  
"Brisbane, 17th July, 1866,  
"12 o'clock (noon).

"The letter from Mr. Macalister, dated on the 14th instant, did not reach Government House until after ten o'clock p.m., on Monday night, the 16th instant, and was not put into the Governor's hands until this morning (the 17th instant) at nine o'clock a.m. Most of the observations which he might have felt called upon to make on its contents were anticipated in his letter to Mr. Macalister of the same date.

"The letter, dated on the 17th instant, reached the Governor's hands at half-past eleven o'clock a.m. this day. He cannot admit several of the statements made, and of the conclusions drawn in that letter. Misapprehensions evidently exist as to his motives and actions on several points. But he has not, of course, time at the present moment, when immediate action is required, to refer except to general principles.

"The Governor repeats, that he has invariably deferred to his Ministers in matters of purely colonial policy, though his personal opinion has sometimes differed materially from theirs on such questions. It seems a most unusual course for Ministers to tender their resignations, practically, because, in one single case in which Imperial interests are concerned, the Governor felt it to be his duty (for reasons assigned) to inform them that he must act in conformity with the Queen's Instructions; and directed attention to an important constitutional principle (as laid down in 'May's Parliamentary History'), which one of their number appeared to him (as rightly or wrongly) to have overlooked.

"The Governor fears that the motives of the Ministers will be liable to grave misapprehensions if they were to resign their trust at the present crisis on a wrong issue, and in direct contradiction to the recent and public declaration of Mr. Macalister, viz., that they would retain their offices so long as they should appear to possess the confidence of the Parliament. This declaration Mr. Macalister supported by constitutional precedents and authorities of the greatest weight.

"The Governor cannot accept the resignations tendered to him, on grounds of such nature.

"The Governor, under existing circumstances, is ready to waive, for the present, the constitutional principle referred to above (see 'May's Parliamentary History,' vol. 1, p. 135), and will ask the instructions of the Secretary of State as to whether colonial Governors are bound to enforce the practice established on this point at home.

"The Ministers will, of course, introduce such measures as they think proper, and the Governor will reserve all action until the proposed Bills shall have been passed by Parliament, and presented to him for the royal assent.

"The Governor has much pleasure in reciprocating towards his Ministers the expressions of personal good-will contained in Mr. Macalister's letters.

"G. F. BOWEN.

"The Honorable Arthur Macalister."

The members of the Government were of the following opinion, after perusing that memorandum—for no answer to it has been placed on record—that instead of the Government having arrived at a wrong issue, His Excel-

lency had arrived at a wrong issue, on the question. The question raised for us was not one as to the precedent laid down in "May's Parliamentary Practice," but the real question was whether His Excellency, by his communications, had embarrassed the action of the Government, and whether his action had been in accordance with constitutional rule. However, in the present state of the colony, the members of the Government thought they would be perfectly justified in recognising that memorandum from His Excellency, as one enabling them to appear free and unfettered in their action in this House. In that memorandum, His Excellency expressed no opinion as to what course he would pursue in the event of the Bill being passed; and on that view, and after I had seen His Excellency yesterday afternoon, and stated our intention, the members of the Government appeared in this House. Honorable members will recollect I mentioned yesterday, that before His Excellency's consent to produce these papers was given, he stated that he should like, in the event of their being produced, to add something to what he had already written. As I have already stated, no correspondence has taken place on the part of the Government beyond what I have already read. I have also read a memorandum written subsequently by His Excellency, on which the members of the Government appeared in this House last night. Now, the memorandum I hold in my hand, was brought to me by Captain Pitt, about an hour ago. Of course, I could not sit down and answer it at once, and I did not ask any of my colleagues whether I should do so before I came down to this House. The document is as follows. I shall have occasion to make one or two comments upon it, as I proceed:—

"Government House,

"Brisbane, 18th July, 1866.

"In his memorandum of the 17th instant, the Governor remarked that he could not admit several of the statements and inferences of Mr. Macalister's letter of that date. He will now refer, as briefly as possible, to a few of the more salient points.

"(a.) The Governor has always agreed with most of the remarks made by the Ministers in that letter, respecting the propriety of providing, by loan, for reproductive public works. But it will be recollected that they have overdrawn at the present moment, not only the loans, but also the ordinary revenue; and that they have already admitted that additional temporary taxation is required to supply the deficit, at all events, in the latter account. However, this is a question of purely colonial policy, in which the Governor cannot interfere, and which must be discussed and decided in the colonial Legislature.

"(b.) It is asserted that there exists an 'urgent necessity' that the Governor should assume the heavy responsibility of bringing into immediate operation a Bill which, if passed by Parliament, ought, in conformity with the Queen's Instruc-

tions, to be reserved for the signification of Her Majesty's pleasure thereon."

Now, I am not aware that His Excellency is, under the Royal Instructions, obliged to reserve his assent to such a measure. I think the letter to His Excellency, which I have read, makes that perfectly plain. His Excellency then refers to that portion of his letter of the 14th instant, in which he says—

"With regard to this point, the Governor refers, in the first place, to that part of his letter of the 14th instant, in which he wrote as follows:—

"It seems hardly necessary to add, that it cannot be seriously argued in any quarter that there exists an 'urgent necessity' for the adoption of expedients of an extraordinary and questionable nature, before the financial position of the colony has been fully examined by the Legislature, and the simple, ordinary, and legitimate measures usually adopted during financial emergencies elsewhere, have been tried here, and proved to be failures."

"Moreover, on last Monday morning, Mr. Macalister entirely acquiesced in the opinion that it was unfair and unreasonable to expect the Governor to consider whether there be an 'urgent necessity' for assuming so weighty a responsibility, until his responsible advisers should have laid before him full and detailed information respecting the financial position of the colony."

Upon this point I may say that His Excellency was perfectly correct. The question was put to me categorically, and categorically answered; and I believe it would have been impossible to have answered in any other way. But I think the following paragraph will shew that His Excellency was pretty well aware of the financial position of the colony at the time:—

"Ministers will recollect that, for several months past, the Governor has foreseen the possibility of a crisis such as that which has now occurred; and that he has frequently urged *greater economy* and earlier publicity, with regard to the public revenue. On May 16th ultimo, he laid before the Executive Council a report from the Auditor-General, shewing that from the balance of the moneys raised under the authority of the first Loan Act, there remained so small a balance 'legally available' (in the terms of the Audit Act) for future operations, that the public works must be stopped, if a fresh Loan Act, providing funds for the completion of the works already authorised, should not be passed during the then current month of May. On the occasion referred to, the Governor made use of the following words:—'Looking at the wide-spread misery and confusion that must follow the sudden suspension of the works from which so large a proportion of the inhabitants of this colony derive, directly or indirectly, their daily bread, the Governor is strongly of opinion that the colonial Legislature had a full right to expect that the Treasury would have laid before them, immediately on their meeting for the session of this year, full documentary evidence shewing the extreme urgency of this question, and the very critical position of the public finances, so far as the public works are concerned.' Several of the Ministers have since expressed their concurrence in the spirit of these remarks."

I would simply remark that the whole of this statement is utterly unconnected with the question which has now been raised. It refers to the Loan Bill, and it is simply because we have been unable to carry out the provisions of that Act, that we are in this position.

"The new Loan Bill was not introduced until within a very short time of the period when it was known that the former loans would be exhausted.

"(c.) From the words quoted above, it will be seen that the Governor entirely agrees with the views of his Ministers, as to the necessity of completing at least the greater portion of the reproductive public works now in progress. The arguments of the Ministers on this subject only confirm the Governor's opinion that the attention of the Legislature should have been requested, in the first instance, to those measures of relief which could be brought into *immediate* operation."

I think the difficulty would have been to have gone into anything of the sort while the Loan Bill was being discussed.

"Had this course been pursued, it is believed that an Act empowering the Government to issue Treasury bills (like the Exchequer bills of England), might have become law before the end of last week, and that the public credit and general confidence might have been already restored.

"(d.) It is difficult to understand on what grounds it is supposed in some quarters that any advantage would be gained from the Governor allowing himself to be persuaded into giving the royal assent to a Bill repugnant to the Queen's Instructions; for Her Majesty has the power of disallowing any Bills assented to by her representative."

I am not aware that there is anything to object to in that.

"Nay, more, it has been held (as it is stated) by high legal and constitutional authorities in England, that the Governor's assent, if signified to a Bill which ought to have been reserved, is utterly void and invalid."

I would simply observe, that if the Governor gave the royal assent to a Bill which he had no power to assent to, it would, of course, be utterly void. That, however, would not be the case here, as the exception quoted from the Royal Instructions shews.

"Consequently, the Governor asks:—What practical object can be gained by attempting (without the slightest prospect of success) to put pressure on the representative of the Queen in the exercise of his undoubted constitutional powers?"

Now, I must remark, that the Ministry never attempted anything of the kind. Any difficulty which has occurred was created by his own letter.

"(e.) In conclusion, the Governor wishes to draw particular attention to the two following paragraphs, in which Ministers sum up their case in their letter of the 17th instant, viz.:—

"(L.) That the course which your Excellency has taken, without waiting to know what the measures of the Government would really come

to, to frustrate their intentions, has so embarrassed the action of the Government, as to render any effort on their part, to relieve the colony from its present financial difficulties, perfectly useless.

“(2.) That to require publicity to be given to your Excellency's determination with regard to any measure in contemplation by the Government on the subject of these difficulties, is utterly repugnant to all true principles of constitutional government.”

“With regard to the first of these paragraphs, the Governor is at a loss to imagine to what part of his actions or correspondence it refers. In his letter to Mr. Macalister of the 14th instant, he distinctly stated:—‘Of course, my objections apply to the Bill proposed by the Treasurer, and as explained to me by himself.’ I shall be ready to give the royal assent forthwith to any measures adopted by Parliament, provided that they be not repugnant to the letter or spirit of the Queen's Instructions.”

“With regard to the second of the above paragraphs, the Governor never ‘required’ publicity to be given to his determination on the subject referred to. Nor does he now ‘require’ it. He has granted permission to Mr. Macalister to present this correspondence to Parliament, at the earnest interest of that gentleman himself, who represented that his (Mr. Macalister's) colleagues considered that course to be necessary for their own sakes.”

I do not know that it was necessary for His Excellency to refer to that point at all, because we should have been bound to produce this correspondence, with or without His Excellency's permission.

“What happened previously on the subject was substantially as follows:—At the ball at Government House, on Friday last, the Governor was positively informed that he was very generally stated to be himself the real originator of the Treasurer's proposal to issue ‘inconvertible legal tender notes.’ The Governor naturally requested the Treasurer to contradict, in the most formal manner, so unfounded and injurious an allegation. It was suggested by a prominent member of the Assembly, then present, that it would be only right and just to inform the Finance Committee of the real facts of the case. To this suggestion, when repeated to him, the Treasurer made no objection whatsoever. Had he done so, the Governor would have acquiesced.

“(f) In closing this correspondence, the Governor desires it to be clearly understood that:—

“1. He has consented to the production of these letters in Parliament on the urgent advice and on the responsibility of Ministers.

“2. Nothing can be further from the Governor's intention than in the slightest degree to interfere with the privileges, or to influence the deliberations, of the other two branches of the colonial Legislature.

“3. While the Governor believes it to be his duty to give his Ministers, for the time being, without distinction of party, all just and lawful support, and the assistance of any political knowledge or experience which he may have acquired during a lengthened career in the public service, he leaves them, at the same time, perfectly untrammelled to bring forward any measures whatsoever, which they may deem suitable to the present crisis.

“4. The manner in which Ministers have thought proper to animadvert, in their letter of the 17th instant, on certain portions of the Governor's public conduct, renders it imperative that he should be equally candid and explicit in this reply. But he wishes to avoid all spirit of controversy; and he need scarcely add that nothing that has taken place will make the slightest difference in his personal or official relations towards those gentlemen.

“5. The Governor will signify the royal assent forthwith to any Bills which the wisdom of Parliament may adopt, provided that such assent be not repugnant to the Queen's Instructions which are a part of the constitutional law of the colony.

“G. F. BOWEN.

“The Honorable Arthur Macalister.”

Now, Mr. Speaker, as I mentioned at the outset, when His Excellency's memorandum, which I have read to the House, the one dated 17th July, was considered by the members of the Government, we regarded it as leaving us unfettered in reference to any measure to be introduced into this House; and believed we could, at any rate, present such a measure to His Excellency, with a fair expectation that he would consider it. But His Excellency's letter, which I have just read, contains an announcement in this form:—

“What practical object can be gained by attempting (without the slightest prospect of success) to put pressure on the representative of the Queen in the exercise of his undoubted constitutional powers.”

As I have stated before, no attempt at pressure has been made by the members of the Government. Surely they are not to be blamed for taking up a constitutional question, or for answering any documents which His Excellency may have placed in their hands as his constitutional advisers. But when he announces, as he does in his letter, that all efforts on our part to legislate for the issue of legal tender notes will be in vain, and that there will not be the slightest chance of success, it becomes my duty to announce to this House, that the resignation of Ministers will again be forwarded to His Excellency this evening, without fail.

The COLONIAL TREASURER: Sir, after listening to the remarks of my honorable colleague, I think there is an explanation due from me, which, I admit, I did not think would be necessary before his statement was made. I think it is probable that, to some honorable members in this House who are not wholly acquainted with the facts and circumstances connected with the correspondence now laid before the House, the words which fell from my honorable colleague, the Secretary for Lands and Works—that he regretted the course which I had taken in his absence, of placing before the committee, of which I was a member—may lead, if not explained, to some misconception. For my honorable colleague omitted to mention at the same time that he had not in his possession a letter which I had received, and of which I

was in possession from His Excellency the Governor. That letter, I think it necessary to place before honorable members. I will now read it, and I believe, if I now understand my conduct and my duty on that occasion, I then only acted in accordance with that duty in not only reading, but placing a copy of His Excellency's letter to my honorable colleague before the committee. The letter from His Excellency addressed to me is dated 14th July, 1866, and it is marked "private" I admit, but I think the tone and spirit of the letter, as well as the words, will be a sufficient justification for reading it in the first instance, and for the explanation which I now consider it necessary to make. The letter is as follows:—

"Government House, 14 July, 1866.

"My dear Treasurer,—I send herewith the copy of my letter to Mr. Macalister which you wished last night to have for the purpose of laying it before the Finance Committee this morning. I understand that the Premier is absent from Brisbane."

At the time I received that letter I made a note in reference to the words I have just quoted. That note is to the following effect:—

"His Excellency is mistaken, inasmuch as I expressed no wish the evening before the date of that letter to have a copy of the letter to Mr. Macalister placed before the committee."

I state that, because there has evidently been a misapprehension on the part of His Excellency the Governor. There was no desire on my part, nor any reason for desiring, that the letter should be laid before the committee. His Excellency goes on to say:—

"I request you to mention to the committee with reference to the enclosed letter, that my immediate object in writing it was this:—It appears to me, that I should be wanting in due consideration and respect for the two Houses of Parliament, if I were to approve the introduction by my Ministers, or if I were in any other way to become a party to the introduction, at the present crisis, of a Bill to which, as you were aware on Thursday last, I felt precluded by the Queen's Instructions from signifying the royal assent. To engage the attention of Parliament with a measure which cannot become law, would seem to be occupying precious time which could be better employed in discussing and maturing measures which can be brought into immediate operation. I earnestly hope that you will see your way to asking the sanction of the House to the issue of Treasury bills like the Exchequer bills of England, coupled with that additional taxation on which you and your colleagues have already decided. This is the course which has always been adopted with success in financial emergencies, both at home and in the principal British colonies. On the other hand, a Bill to authorise the issue of 'legal tender notes' would be a measure (in the terms of the Royal Instructions) of 'extraordinary nature and importance' (for you admitted on Thursday that you know of no precedent for it in any British community); and also calculated to prejudice, directly or

indirectly, 'the rights and property of British subjects not resident in this colony.' (See Queen's Instructions, section 6, clauses 4 and 11.) You will bear witness, my dear Treasurer, that in all matters of purely colonial policy, I have always deferred to the advice of my constitutional Ministers for the time being, although my individual opinion on questions of importance (such as the Brisbane Waterworks in 1864, and other public works more recently) has sometimes differed from theirs. But the present is a case in which Imperial interests are concerned, and I must do my duty to the Crown, which, as I sincerely believe, is in this and most other instances, identical with my duty to the colony. I need scarcely add, that I shall be ready to give the royal assent to any measures adopted by Parliament, provided they be not repugnant to the letter or spirit of the Queen's Instructions. You are at liberty to communicate this letter to the committee, but I do not wish it to be placed on the records, because at a later moment I shall send a more formal and complete letter to precisely the same effect, to be reconsidered and laid before Parliament, together with the enclosed letter to Mr. Macalister.

"I remain, &c.,

"G. F. BOWEN.

"The Honorable J. P. Bell."

Now, sir, I think, when it is remembered by honorable members—notwithstanding the assertion by His Excellency that I was, in my position of a Minister of the Crown, taking up the time of the country unnecessarily, in a crisis like this—that the object of this House in appointing the committee was to facilitate the settlement of our difficulties, and, as nearly as possible, to ameliorate the financial position of this colony, they will believe that I should have been wanting in my duty if I had not placed the contents of this communication before that committee.

The SECRETARY FOR LANDS AND WORKS moved the adjournment of the House.

Mr. HERBERT said he did not intend to offer any observations at the present time on the correspondence which had been read; but as it had excited a great amount of interest in the House, and required to be fully before them, in order that honorable members might carefully weigh it, if it should come on for discussion at a future time, he trusted that the honorable member would give orders that the correspondence be printed.

The SECRETARY FOR LANDS AND WORKS said he had no objection.

On the motion of Mr. HERBERT, the correspondence was ordered to be printed; and the motion for adjournment was put and agreed to.