

Queensland



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Legislative Council

THURSDAY, 23 MAY 1867

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LEGISLATIVE COUNCIL.

Thursday, 23 May, 1867.

Ministerial Explanation, Message from the Governor, and Prorogation of Parliament.

MINISTERIAL EXPLANATION, MESSAGE FROM THE GOVERNOR, AND PROROGATION OF PARLIAMENT.

The POSTMASTER-GENERAL rose and said: Honorable gentlemen—In pursuance of the promise which I made yesterday, I now come to afford you information with respect to the advice which the Ministry have thought it desirable to tender to His Excellency the Governor, and also to inform you of the manner in which that advice has been received. But in order that you may clearly understand the whole matter, I must trouble you with a brief statement of the events that have recently occurred. It will be in the recollection of honorable gentlemen, that on the 3rd of May Mr. Watts, who had held the office of Secretary for Public Works for some months, resigned that office, and that on the 10th of May Mr. Bell, the Secretary for Public Lands, was gazetted as having been appointed to act as Secretary for Public Works. The notice is in the following words, and I have extracted the form of the notice as it appears in the *Gazette*, because I have been told that some weight has been attached, in another place, to the form of the words of the notice. The notice is in these words:—

“His Excellency the Governor directs it to be notified that he has been pleased to appoint the Honorable Joshua Peter Bell, Secretary for Public Lands, to act also as Secretary for Public Works.”

So I do not think, from that, it can be contended that the office was in any way suspended. All that was done by that notice in the *Gazette* was to appoint Mr. Bell to the office, so as to enable him in the interim to control the department of the Public Works. On the 18th of May, that is to say, on last Saturday, Mr. Douglas, not feeling himself in a position, or understanding that he was not in a position, without some better light, to remain in the office of Treasurer, sent in his resignation, but it was a conditional resignation. I am authorised to state that it was not an unqualified resignation, but a tender of resignation to be accepted under certain conditions. That resignation was not accepted; and on the 21st of May, Sunday and Monday intervening, my honorable friend, Mr. Douglas, in consequence of certain consultations and negotiations that had passed in the meantime, was gazetted to the office of Secretary for Public Works, and Mr. T. B. Stephens was gazetted also on the same day to the office of Treasurer, and as a member of the Executive Council. On the same date a motion was brought forward in another place, to the effect that by his acceptance of the office of Secretary for Public Works, Mr. Douglas had vacated his seat for the Eastern Downs. A division was taken

on the motion, and it was found to have been carried in the affirmative, the Government being beaten by a majority of nineteen to six. I am not here to argue that the vote was illegal; I am not to argue that this was another attempt to override the statute law by a vote of the House; because such an allegation, from the course we are to adopt, becomes unnecessary,—though I am quite prepared to argue it out; but, as there can be no purpose gained, I abstain from saying anything more about it. Next morning, the 22nd of May, Her Majesty's Ministers advised His Excellency to dissolve Parliament, for four reasons, which I will explain. It is not on account of the vote that we have thought proper to dissolve Parliament any further than as that vote is an indication of the state of parties in the House; and I state here in emphatic terms, and I hope honorable gentlemen will bear it in mind, that His Excellency is not called on to express, and does not express, any opinion on the point of privilege or constitutional law. He strictly guards himself against expressing an opinion as to whether the vote on privilege or constitutional law was right or wrong. He is not called on to do so, and he does not do so. I will now go through the reasons that have induced the Ministry to tender to His Excellency their advice for a dissolution of Parliament. In the first place, the Parliament is four years old, and in twelve months from this very day, as I am informed, it must expire by effluxion of time. Since the Parliament was elected the population has doubled, or nearly so, and therefore we conceive that, as it appears we do not possess the confidence of another branch of the Legislature, it becomes desirable that we should appeal to the increased population that has accrued since that branch of the Legislature was last returned, and we intend therefore to appeal to the country at large. That is our first reason. It is that Parliament must necessarily in a few months die of its own accord. Our next reason is the disorganised state of parties. This reason does not apply so much to this House, where, I am sorry to say, there is not so much party spirit as I would like to see in it—for parliamentary government can only be well carried on by well defined divisions of party. It is not the province of this House to know of anything that takes place in the other House, but putting it to the knowledge that honorable members obtain out of doors, they must be aware that there is no definite party existing in the other House either. Every honorable member seems to think it best to act upon his own opinion; and we consider that without some general understanding, such as is necessary to constitute parties, it is impossible to carry on the work of legislation. Our second reason, then, is that parties have become so disorganised that we feel unable, in consequence, to carry on the Government successfully. Now, our third reason is in accordance with what is the practice both in

England and in the Australian colonies; and that is, that in the last session of a Parliament about to expire the Ministry, if they see reasons for doing so, are entitled to the privilege of dissolving the Parliament, and by so doing to submit their policy to the ordeal of the people at large. That is our third reason. There is also another course which embodies our fourth reason. It may be suggested, that if we thought proper we were bound to advise the Governor to send for some person on the other side of the House. But I contend that this course has been repeatedly followed already. We are now at this moment a coalition Ministry, that has been recruited from all parties in the House, and when Parliament met some of the most eminent men in the Legislative Assembly, who had held prominent positions on the Opposition side of the House, were actually members of the Government. When the present Assembly was elected there were the Premier, and Mr. Bell, and Mr. Pring on the one side; and Mr. Lilley, Mr. Douglas, and Mr. Stephens on the Opposition side. Since that time, Mr. Mackenzie, Mr. McLean, and Mr. Watts have been members of the Cabinet. We therefore contend that we have tried members of all parties, and it is notorious to all who have seen the state of things in the other House, that without more consistent support, which we expect to receive by an appeal to the country, it is impossible to carry on a strong Government. In consequence of those reasons, we have advised His Excellency to dissolve Parliament, and to that advice His Excellency has been pleased to accede. Having said this much I have now to present a message from His Excellency.

The Hon. W. WOOD: This message has not been brought down in the proper manner, nor has it been announced to the House in the proper manner.

The PRESIDENT: The honorable member is out of order.

The Hon. W. WOOD: I only desire to ask the honorable the Postmaster-General if he means to steal a march on us. We intend to debate the matter; but does the honorable gentleman desire to prevent us from doing so.

The POSTMASTER-GENERAL: I have acted in this matter according to the advice of the Attorney-General.

The Hon. W. WOOD: I must take the sense of the House upon this. The usual way for messages to be transmitted is by His Excellency's Aide-de-Camp.

The PRESIDENT: The Standing Orders, with respect to messages from the Governor are as follow:—

“Whenever a message from the Governor is announced, the business before the Council shall be suspended; and the bearer of the message be introduced, to deliver the same to the President.

“The President shall immediately read the message to the House, and, if necessary, a day shall then be appointed for taking the same into consideration.”

Our first Standing Order provides:—

“That in all cases not hereinafter provided for, resort shall be had to rules, forms, usages, and practice of the Imperial Parliament of Great Britain and Ireland, which shall be followed so far as the same are applicable to the proceedings of this Council.”

The practice of the House of Lords is, that any Minister of the Crown may present a message in his place, which message is handed to the Lord Chancellor, and read by him at length and then read by the Clerk at the table. The following is the passage in “May” on the subject:—

“The mode of communication next in importance, is by a written message under the royal sign manual, to either House singly, or to both Houses separately. The message is brought by a member of the House, being a Minister of the Crown, or one of the royal household. In the House of Lords, the peer who is charged with the message acquaints the House that he has a message under the royal sign manual, which Her Majesty had commanded him to deliver to their lordships. And the Lord Chancellor then reads the message at length, which is afterwards read again by the Clerk.”

The Hon. W. WOOD: With all due submission to the honorable the President, I would suggest that, as we have a Standing Order on the subject, we do not require to fall back on the practice of the House of Lords.

The Hon. E. I. C. BROWNE: Do the Standing Orders that have been read by the President, as to messages from the Governor, apply to all messages? Do they apply to messages dissolving Parliament? I think there are precedents where a messenger bearing a message for the dissolution of Parliament has been kept waiting at the doors till a debate was finished. According to the Standing Orders, whenever a message from the Governor is announced the bearer of the message shall be introduced. That course has not been taken in this instance; and I protest against a Minister appearing in his place with a message for dissolving the House.

The PRESIDENT: The question raised by the honorable gentleman, Mr. Wood, is one relative to the Standing Orders respecting messages from the Governor. If the House should so determine, those Standing Orders will have to be complied with. But the practice of the House of Lords is, that such messages may be presented by a Minister; and I was of opinion that this message might so be presented here.

The Hon. W. WOOD: I do not know if it is necessary that I should put the motion in writing. The Standing Orders say that in all cases where we have not a standing order on the subject, we are to follow the practice of the House of Lords; but here we have a standing order that applies to messages from the Governor.

The PRESIDENT: As I understand, it will be necessary in this case for the honorable member who is charged with the message to appear at the bar of the House, and be announced.

The POSTMASTER-GENERAL: It appears to me that the first of the Standing Orders relating to messages from the Governor, has reference to a class of messages that are of less importance than a message such as this; and I do not think that a greater deference could be shewn to the House by the Governor than by a message being conveyed by a Minister. We have thought it right in this case to pursue the course adopted in the House of Lords. If there was a standing order saying that no message should be received but by the Aide-de-Camp, I should be bound by that; but as the practice of the House of Lords is identical with that which I have pursued, and as the message is one of more importance than those which it is usual to send by His Excellency's Aide-de-Camp, we have considered that it should be presented in a different way, and by a Minister of the Crown. If the House rules otherwise, it will be very easy for me to appear at the bar with the message.

The PRESIDENT: I would suggest, before the debate goes further, that it would be well for some honorable member to propose a motion requiring that the message be presented in accordance with the Standing Orders; and the House can then divide upon it.

The Hon. W. WOOD: That is what I intended to do when I last rose; I now move that the message be brought in as required by the Standing Orders.

The Hon. H. B. FITZ: It appears to me that this is quite in keeping with the way the Government have been carrying on the affairs of the country for some time past; and now we find them coming down with a high hand to invade the privileges of the House. I, for one, shall oppose them in that, and shall support the motion for the message being brought here in the usual way. It is clearly laid down in our Standing Orders that the bearer of a message from the Governor shall be introduced, and shall deliver the message to the President. There are one or two matters which I think should be brought before the House. I find that an attack has been made upon me, that I should have an opportunity of replying to; and for that purpose I would move the adjournment of the House.

The PRESIDENT: The honorable gentleman is not in order, as there is a question of order before the House; and in whatever manner His Excellency's message may be delivered, it must immediately be read and suspend all other business.

The POSTMASTER-GENERAL: I take it that I am not required to appear at the bar of the House as the bearer of a message from the Governor. I am a member of the House, and have a right to enter the chamber and take my seat here without being introduced.

The Hon. H. B. FITZ: Then you should not have put yourself in the position of a messenger.

The POSTMASTER-GENERAL: I acted on the advice of the Attorney-General.

The Hon. E. I. C. BROWNE: Why did not the honorable member act upon the Standing Orders? I have nothing particular to say on the subject; but I object to the course that has been adopted by the Ministry in this matter. I look upon it as an attempt to shut the mouths of honorable members of this House, and to prevent any discussion. I have nothing to say upon the particular point that has been raised; but if I do vote, it will be for the purpose of entering a protest against the rules of the House being infringed.

The PRESIDENT: The following motion has been handed to me, in writing, by the honorable mover, Mr. Wood:—

“That the message from the Governor, spoken of by the Postmaster-General, be not now read by the President, but be brought in in the usual form, according to the Standing Orders of the House.”

So, if this motion is carried, I do not now read the message that has been handed to me, but require that it be brought in in the usual way, as provided for by the Standing Orders.

The motion was then put, and the House divided as follows:—

Contents, 8.		Non-Contents.	
The Hon. H. B. Fitz		The Hon. J. A. Bell	
„ J. F. McDougall		„ G. Harris	
„ D. F. Roberts		„ St. G. R. Gore.	
„ W. Thoratton			
„ E. I. C. Browne			
„ J. C. Heussler			
„ J. Gibbon			
„ W. Wood			

The PRESIDENT, in announcing the result of the division, said: The resolution is, therefore, adopted by the House, and it will be necessary for the honorable the Postmaster-General to present it in the usual way.

The POSTMASTER-GENERAL: As this House has thought proper to decline to receive a message from Her Majesty's representative, in accordance with the practice of the House of Lords, I beg to lay on the table the following document:—

[The document was the proclamation of prorogation accompanying the message.]

The Hon. W. WOOD: We have not declined to receive the message, but we require it to be delivered in the usual way.

The PRESIDENT: I am bound, by the authority of the House, to carry out the decision it has come to. The honorable the Postmaster-General has, by resolution of the House, been acquainted that the message he has laid before me shall be presented in the usual way that such messages are presented; and the honorable member is bound to conform to a resolution of the House.

The POSTMASTER-GENERAL: I bow to the decision of the House.

The honorable gentleman then left the chamber, taking with him the message and accompanying document.

The Hon. H. B. FITZ: I now move the adjournment of the House.

At this stage, a message from His Excellency the Governor was announced; and the honorable the Postmaster-General, who was the bearer of it, entered by the bar, and presented the message to the President.

The PRESIDENT: I have to communicate to the House that I have received the following message from His Excellency:—

“G. F. BOWEN,
“Governor.

“The Governor informs the Legislative Council that he has determined, by the advice of his Responsible Ministers, to prorogue the present Parliament, with a view to the immediate dissolution of the Assembly, and a general election.

“In taking leave of the second Parliament of Queensland, the Governor desires to express his deep sense of the constant and loyal co-operation of both Houses with the Representative of the Queen.

“Government House,
“Brisbane, 23 May, 1867.”

The Hon. W. WOOD: Before we proceed further, I move that the message be taken into consideration this day week. That is perfectly in accordance with the Standing Orders.

The POSTMASTER-GENERAL: The House is prorogued, and I now hand in the proclamation of prorogation.

The PRESIDENT: I think the course of procedure the honorable gentleman, Mr. Wood, proposes, would be very inconsistent with the usual practice of Parliament. Here we have a message brought down from His Excellency clearly intimating his intention to prorogue Parliament, and thanking the Parliament for its constant and loyal co-operation. That message is in charge of a Minister of the Crown who has brought it down, and I think it would be inconsistent, and not in accordance with any parliamentary practice that I am aware of, that the question as to when the message shall be considered should be taken up by a member of the Opposition. Still it is within the forms of the House that such a course may be taken, and if the House chooses so to act, it may do so, however undesirable such a course may be.

The Hon. H. B. FITZ: I beg to move that the message be taken into consideration at a later hour of the evening. Such a course may meet all that is required.

The PRESIDENT: Perhaps honorable members are not aware that the second message is the proclamation proroguing Parliament.

The Hon. W. WOOD: I was not aware there was a second message. I consider the conduct of the honorable gentleman is in accordance with the whole of the conduct of the Ministry towards members of both Houses of the Legislature.

The PRESIDENT: I must keep the proceedings of the House in accordance with the Standing Orders; and I will be guided by the rule that the production of a message

from His Excellency stops all other proceedings; and this message from His Excellency having been placed in my hands, I am bound to read it to the House. The question involved is one of constitutional law, which may form the subject of consideration when we meet again; but I am now bound to read the message that has been placed in my hands from the Governor, and, for that purpose, to stop all further proceedings. The message is as follows:

“PROCLAMATION.

“By His Excellency Sir GEORGE FERGUSON BOWEN, Knight Grand Cross of the Most Distinguished Order of St. Michael and St. George, Captain-General and Governor-in-Chief of the Colony of Queensland and its Dependencies, and Vice-Admiral of the same, &c., &c., &c.

“In pursuance of the power and authority in me vested, as Governor of the said Colony, I, Sir GEORGE FERGUSON BOWEN, do hereby prorogue the Parliament of Queensland, until Wednesday, the fifth day of June, 1867.

“Given under my Hand and Seal, at Government House, Brisbane, this twenty-third day of May, in the year of our Lord One thousand eight hundred and sixty-seven, and in the thirtieth year of Her Majesty's reign.

“G. F. BOWEN.

“By His Excellency's Command,

“A. MACALISTER.

“GOD SAVE THE QUEEN!”

The PRESIDENT then declared the House to stand prorogued until Wednesday, the 5th day of June.