

Queensland



Parliamentary Debates
[Hansard]

Legislative Council

THURSDAY, 8 DECEMBER 1870

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The motion was agreed to, without discussion; and the Bill was considered in Committee, and reported, without amendment.

The third reading of the Bill was made an order for Wednesday next.

VALIDITY OF SEATS.

The POSTMASTER-GENERAL moved the adoption of the report of the Select Committee of the Legislative Council, declaring the seats of the Honorable J. F. Garrick and the Honorable J. C. Heussler vacant, because of absence during two sessions consecutively.

The PRESIDENT said that before the Council came to a decision on the question now under consideration, he was anxious to say a few words upon it, because some doubt had arisen in his mind as to the invalidation of the seat of one of the honorable members referred to in the report. The fact of gentlemen being appointed members of the Legislative Council—such appointment being for life—it was his duty, and the duty of honorable gentlemen, to protect the privileges of honorable members who had been so appointed. It was, he considered, the duty of honorable members jealously to guard the privileges of any other honorable member, and see that he was not deprived of his seat except for some sufficient reason. As honorable gentlemen knew, he was Chairman of the Committee, and he was therefore, as such, committed to the report, so far as it went. With respect to Mr. Garrick, he desired to observe that that gentleman, after being appointed to a seat in the House, did not make such representation to him as he ought to have made, according to the Standing Orders, of his appointment, nor did he ask leave of absence. Now, that gentleman had been absent during two sessions without leave, and consequently there could be no doubt as to his having vacated his seat. He had never attended the House, —had never signed the Roll or taken his seat, and therefore, according to the Constitution Act, his seat must be declared vacant. The case of Mr. Heussler was quite different; because that gentleman had taken his seat and signed the Roll. He also obtained leave of absence, and, but for the abrupt termination of the last session, he would have been able, on his return to the colony, to take his seat during last session. If the House objected on constitutional grounds to Mr. Heussler taking his seat, he did not think that any injury would occur to him, because he was now in the colony, and would no doubt again be appointed.

The Hon. ST. G. R. GORE said he had listened with great attention to the remarks that had been made by the honorable the President, but he could not, on constitutional grounds, agree with him as to the case of his honorable friend, Mr. Heussler, though he fully agreed with him as to the seat of Mr. Garrick having become vacant. According

LEGISLATIVE COUNCIL.

Thursday, 8 December, 1870.

Validity of Seats.—Civil List Amendment Bill.—Speaker's Pension Bill.—Validity of Seats.—Government Loan Bill, 1870.

VALIDITY OF SEATS.

The POSTMASTER-GENERAL brought up the report of the Select Committee on the privileges of the Legislative Council in reference to the validity of the seats of the Honorable J. F. Garrick and the Honorable J. C. Heussler—both honorable members having been absent during two consecutive sessions.

The report was read by the Clerk, and ordered to be taken into consideration at a later hour.

CIVIL LIST AMENDMENT BILL.

The Civil List Amendment Bill passed through Committee without amendment; and the third reading of the Bill was made an order for Wednesday next.

SPEAKER'S PENSION BILL.

The POSTMASTER-GENERAL moved that the Bill for providing a pension to the Honorable Gilbert Elliott, Esq., late Speaker of the Legislative Assembly, be read a second time.

to his interpretation of the Constitution Act, it appeared to him that Mr. Heussler, having been absent for two sessions, no matter how short they might have been, had also lost his seat; and the Council had no power to revive the commission of his appointment. If they were to do so they would be guilty of an interference with one of the prerogatives of His Excellency the Governor. The House, he maintained, had no right whatever to appoint a new member. An honorable member of the other branch of the Legislature was absent for two sessions, and he was unseated; and honorable members felt that they could not admit him to take his seat, because it would be an interference with the privileges of the constituency he was elected to represent. Now, he held that if the House were to reinstate Mr. Heussler, they would interfere with one of the prerogatives of the Governor, under the Constitution Act.

The Hon. H. B. Fitz said he fully concurred in the views expressed by his honorable friend, Mr. Gore, in respect to Mr. Heussler. He considered that that gentleman had vacated his seat, and that the House had no power to re-appoint him. The Governor alone had the power to do so. As to Mr. Garrick, he believed that it never was the intention of that gentleman to take his seat, and he thought that honorable members should express their disapprobation of that gentleman's conduct in the strongest possible manner, inasmuch as on his part he had treated the House with great contempt; for he had never taken his seat, or asked for leave of absence.

The PRESIDENT wished to remind honorable members that there were precedents for re-instatement under such circumstances, both in the Legislative Council and the Legislative Assembly.

The Hon. H. B. Fitz said that the cases to which the honorable the President referred, did not apply to the case of Mr. Garrick. In the cases to which the honorable the President referred, the second session lasted for only a few hours. Now, Mr. Garrick left the colony within twenty-four hours after receiving his commission from the Governor, to occupy a seat in the Legislative Council. Such conduct was, he considered, a gross contempt towards the Governor, and also towards the House. Mr. Garrick only made a convenience of the commission both here and at home. He obtained the commission in order that he might nominally have a higher social position than he had previously held. He had heard it stated that Mr. Garrick had made great use of the title of "honorable" since his arrival in England. Seeing that that gentleman had not had the courtesy to attend in the House and ask leave of absence, he thought honorable gentlemen should strongly express their dissatisfaction with his conduct. They should also bear in mind this fact, that Mr. Garrick, after receiving his commission, had not taken

the steps necessary, on his part, to constitute his appointment as a member of the House.

The motion that the report be adopted was put and passed.

The POSTMASTER-GENERAL then moved—

That an Address be presented to His Excellency the Governor embodying the report of the select committee and the resolution that had been come to by the House.

Agreed to.

GOVERNMENT LOAN BILL, 1870.

The PRESIDENT informed the House that he had received a message from the honorable the Speaker of the Legislative Assembly, transmitting a Bill to authorise the raising of Loans on the security of the consolidated revenues of the colony for the execution of certain public works, and further to provide funds for Immigration and other purposes.

The Bill was read a first and second time, without discussion; passed through committee without amendment, and was read a third time and passed.

The House then adjourned.