

Queensland



Parliamentary Debates
[Hansard]

Legislative Assembly

THURSDAY, 13 APRIL 1871

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ERRATA.

Page 37, column 2, lines 30-31 from top, *for* "Wide Bay," *read* "Fortitude Valley."

Page 133, column 2, line 21 from top, *for* "Barnett," *read* "Bullen."

Page 228, column 1, line 16 from top, *for* "discredit," *read* "credit."

Page 236, column 2, line 18 from top, *for* "Pring," *read* "Cribb."

Page 300, column 2, line 8 from top, *for* "Secretary for Public Works," *read* "Secretary for Public Lands."

once to Government House, and present to His Excellency the Administrator of the Government the Address in Reply to the Opening Speech, which had been adopted by the House on the previous day.

Honorable members then proceeded to Government House, and on their return,

The SPEAKER stated that he had attended Government House, along with other honorable members, and presented to His Excellency the Administrator of the Government the Address in Reply to the Opening Speech, and that His Excellency had been pleased to make the following Reply:—

“GENTLEMEN,

“In the name of the Queen I have to thank you for the loyal Address you have just presented to me, containing as it does, renewed proof of your loyalty and affection towards the Person and Government of our Most Gracious Sovereign.

“I thank you also for your assurance that the several important matters to be submitted to you shall engage your earnest attention, and I make no doubt, the close of the present Session will shew that your labors have aided materially the progress and prosperity of the Colony.

“M. C. O'CONNELL.”

SEAT OF THE HON. RATCLIFFE PRING.

Mr. MILES moved—

1. That, in the opinion of this House, the Honorable Ratcliffe Pring, member for North Brisbane, having contracted with the Government to perform certain services in connection with the Gold Fields of this Colony, has thereby vacated his seat.

2. That Mr. Speaker do forthwith issue his Writ for the return of a Member to serve in the Assembly for the Electoral District of North Brisbane.

The honorable member said he wished it to be distinctly understood that he was not actuated by any personal feeling as regarded the honorable member for North Brisbane, in bringing forward this motion. He did so merely for the purpose of obtaining the decision of the House on what he considered to be a most important question as affecting the position of honorable members. Now, he maintained that the honorable gentleman to whom his motion referred, could not hold the office he had accepted and continue to be a member of the House. He therefore brought forward this motion to afford honorable members an opportunity of saying if they considered that the Honorable Mr. Pring could hold the office he had accepted and continue to be a member of the House. He had some little difficulty in proving that the honorable gentleman had accepted the office; but he found by a Supplement to the *Government Gazette*, of the 21st January last, that the Acting Governor issued a proclamation authorising Mr. Pring to act as Commissioner for the Gold Fields, and to bring up a report. Now that, taken in connection

LEGISLATIVE ASSEMBLY.

Thursday, 13 April, 1871.

Presentation of Address in Reply to Opening Speech.—
Seat of the Hon. Ratcliffe Pring.

PRESENTATION OF ADDRESS IN REPLY TO OPENING SPEECH.

The House having met at twelve minutes to three o'clock,

The SPEAKER stated that it was the first duty of honorable members to proceed at

with the fact that Mr. Pring had entered upon the performance of the duties of Commissioner, would, he thought, be received as satisfactory proof that he had accepted the office. The sixth clause of the Constitution Act was perfectly clear and distinct in setting forth that any honorable member accepting an office of profit under the Crown forfeited his seat. The clause of the Act to which he referred stated that—

"Any person who shall directly or indirectly himself or by any person whatsoever in trust for him or for his use or benefit or on his account undertake execute hold or enjoy in the whole or in part any contract or agreement for or on account of the public service shall be incapable of being summoned or elected or of sitting or voting as a member of the Legislative Council or Legislative Assembly during the time he shall execute hold or enjoy any such contract or any part or share thereof or any benefit or emolument arising from the same and if any person being a member of such Council or Assembly shall enter into any such contract or agreement or having entered into it shall continue to hold it his seat shall be declared by the said Legislative Council or Legislative Assembly as the case may require to be void and thereupon the same shall become and be void accordingly."

Now, in his speech to his constituents, lately, the honorable gentleman said—

"The contract between himself and the Government had never been fairly put before the public."

In that one sentence Mr. Pring admitted that there was a contract between him and the Government; and he went on to say, in the same speech, that—

"He entered into a contract beyond the Parliament. He did not deny the right of the Parliament to deal with and decide his case; but he was of opinion that they could not legally and constitutionally deprive him of his seat."

He also said—

"He was not bound to time, but if he took five years to do it, he would not receive a penny more than he agreed for."

That, he thought, proved that a certain sum had been agreed upon; and if the Government had done what he thought they ought to have done, it would not have been necessary for him to bring forward this motion. It had been suggested to him that he should not bring forward the motion during the absence of Mr. Pring; but in doing so he was only following the course that was taken by Mr. Pring in the case of Mr. Sandeman. He would now, in support of his position, quote a few passages from "Todd's Parliamentary Government," page 246, where it was laid down that—

"As a general rule, all statutory commissioners who are paid for their services, are expressly declared to be ineligible to sit in the House of Commons, although a direct enactment to this effect is unnecessary, because all 'new offices' of profit disqualify the incumbents thereof, under the statute of Anne. This disqualification would not, of course, apply to an unpaid commissioner.

Temporary commissioners, moreover, appointed by the Crown to investigate a particular matter, do not disqualify, and it has not been uncommon to appoint members of the House of Commons to serve thereon."

Now, from that authority, it was clear to him that the honorable member for North Brisbane had forfeited his seat. He did not think it was necessary to further occupy the time of the House on the subject. As he had already said, his only object in bringing forward the motion was to afford honorable members an opportunity of expressing their opinions on the question. If the House held that Mr. Pring had not forfeited his seat, then he had nothing more to say on the subject; but he must say that, in his opinion, the honorable gentleman had, under the sixth section of the Constitution Act, forfeited his seat. He had seen, in the *Sydney Morning Herald* of the 19th of August last, that a similar question was raised in the Legislative Assembly there, with respect to an honorable member, Mr. Baker, who accepted the office of a commissioner for the gold fields. He could not help saying it appeared to him very strange that the paper containing the report of the discussion on Mr. Baker's case had been removed from the library. Mr. Baker, when he accepted the office of a commissioner for the gold fields, resigned his seat, but was re-elected. The question was then raised in the Assembly as to whether it was competent for Mr. Baker to continue to hold his seat, and the House came to the decision that it was not competent for him to do so while he held an office under the Government, and received remuneration for his services.

Mr. MORGAN seconded the motion, and said he desired it to be understood that he did not do so from any wish to see the honorable member for North Brisbane, Mr. Pring, out of the House. On the contrary, he thought that it was extremely desirable that a gentleman possessing such brilliant accomplishments should have a seat in the House. Still, he thought, the time had arrived when the House should decide as to how far a Minister of the Crown should be allowed to go, in endeavoring to catch honorable members from the Opposition side of the House. During a previous session an objection was raised to there being five Ministers on the Treasury bench, but now there were six, and he must say he was astonished to see the honorable gentleman who raised the objection sitting on the Treasury bench, and remaining a member of the Ministry though without office. If matters went on as they had done lately it might come to pass that all honorable members would be found holding seats on the Government side of the House. It was solely upon public grounds that he supported the motion now before the House.

Mr. LILLEY said that, in the absence of the honorable member for North Brisbane, Mr. Pring, he would like to say a few words on the question that had been raised by the

honorable member for the Maranoa. He did not see how the House could enter fully into the matter and deal with it, seeing they had no evidence before them in support of the question. The honorable member for the Maranoa had, he thought, introduced the subject in the lamest manner possible. He had supported his motion by a number of statements for which he produced no evidence. Now, if questions were to be dealt with in that way, it would lead to hopeless confusion. He must say that he thought it was due to Mr. Pring that a motion of this kind should not be brought forward during his absence. He should have been allowed to be in his place in the House, as he was entitled to be, in order to shew cause why he had a right to retain his seat, before honorable members were asked to deal with a motion declaring his seat vacant. The case of Mr. Pring, he held, was clearly distinguishable from that of Mr. Sandeman. In the case of Mr. Sandeman, there was evidence by the records of the House that he had been absent for an entire session; but as to the case now before the House, there was no evidence that Mr. Pring had accepted any office, or that he was to be paid. The disqualifying clause of the Constitution Act referred to the acceptance of a contract, or of an office of profit. Now there was no evidence before the House to shew that Mr. Pring had entered into a contract with the Government, or that he had accepted an office of profit. If it was a contract it must possess all the elements of a contract, and under it the Government would be in a position to compel Mr. Pring to perform the services he had undertaken to perform; while, on the other hand, Mr. Pring could compel the Government to pay him for the services he rendered. But there was no evidence before the House that Mr. Pring had accepted an office of profit—or that it was an office at all—or that he had entered into a contract with the Government. Now, without such knowledge, he did not see that the House was in a position to take cognizance of the matter. He would suggest that the further consideration of the question should be postponed; and there was a case in “May” which he thought would justify any delay that might take place in dealing with the matter until the return of Mr. Pring. He referred to the case of Mr. Townsend, and it bore very strongly upon the present case; for Mr. Townsend was heard in his place in the House of Commons when the question as to his seat was brought forward, though at the time he was a bankrupt. “May,” in reference to the case, said, at page 37 of his “Practice of Parliament,” published in 1863 :—

“On the 15th June, 1858, a copy of the record of adjudication of bankruptcy against Mr. John Townsend, a member, which had been ordered and presented, was read. The Acts 52 George III., cap. 144; and 12 and 13 Victoria, cap. 106,

sec. 5 (Bankrupt Law Consolidation), were also read; and a motion being made, and question proposed,—‘That Mr. John Townsend, the member for the borough of Greenwich, having, on the 29th day of March last, been found, declared, and adjudged a bankrupt, has since been, and still is, by law, incapable of sitting and voting in this House.’ Mr. Townsend was heard in his place, and withdrew. When the question was put and agreed to, the House then ordered—‘That the said Mr. John Townsend do withdraw from this House until his bankruptcy shall have been superseded or annulled; or until his creditors, proving their debts, shall have been paid, or satisfied, to the full amount of their debts.’ And notice being taken, that Mr. Townsend had since his bankruptcy voted in several divisions, it was ordered that the said votes be disallowed.”

Of course it was quite competent for the House to decline the course he suggested, which was, that the further consideration of the motion should be postponed until Mr. Pring was in his place, or till there was evidence before them that Mr. Pring had accepted an office of profit. The only evidence they had was the *Gazette* notice for the appointment of a commissioner; but there was no evidence that Mr. Pring had accepted the office, or that he had received one shilling for his services. He did not mean to say that Mr. Pring had not received payment, but only that there was no evidence before the House that he had done so; and he held that until they had such evidence they were not in a position to deal with the question. Besides, he maintained, that the office was not strictly an office of profit under the meaning of the sixth section of the Constitution Act. He thought that the clause referred to an office which could be held for a term of years, or during pleasure; but Mr. Pring was in the position merely of a commissioner for the performance of a particular service; and when he had performed such service, his position as commissioner would cease. It was quite competent for the House to assert that it was an office of profit held during pleasure; but his opinion was, that the office was not such an office as came within the meaning of the sixth section of the Constitution Act. Though the section might be capable of two interpretations, it was his opinion that it would not bear a construction opposed to the claim of Mr. Pring to retain his seat for North Brisbane—and especially he held that it did not bear on the acceptance of this commission. Then, as to its being a contract, he would ask any honorable member if he thought that Mr. Pring could bring an action against the Government for non-payment for his services; or if the Government could bring an action against Mr. Pring for the non-performance of his contract. If not, then there was no contract, for the agreement, whatever it might be, did not possess the principal incidents of a contract. It might be competent for the House to declare that

this was a contract; and it might have been the intention of the Legislature, in passing the Constitution Act, to provide, by the sixth clause, against all such arrangements. While he said so, he must also state that in dealing with a penal law they must construe it strictly, and he did not think they would be doing so if they were to consent to the motion now before the House. If they were to agree to the motion the effect would be not only to incapacitate Mr. Pring from taking his seat, but also to deprive the constituency of North Brisbane of his services. He thought the House could not come to a proper conclusion on the subject, as there was no evidence for honorable members to go upon. He also objected to the motion because he considered that Mr. Pring was entitled to be heard in his place, in defence, before any decision was come to by the House.

Mr. GROOM said he thought that if the speech in support of the motion was a lame one—and it had been described as of the lamest description—he must say that the speech of the honorable member for Fortitude Valley, in defence of Mr. Pring, was a much lamer one. Before proceeding farther, he also must say that it appeared to him a most extraordinary thing that the copy of the *Sydney Morning Herald* containing the report of Sir James Martin's speech, in the case of Mr. Baker, and which was a most exhaustive speech on the subject, should have been removed from the library at the very time when it was likely to be required. Sir James Martin shewed clearly that, according to the Constitution Act, Mr. Baker had vacated his seat by accepting the office of Commissioner for the Gold Fields, and the motion he brought forward on the subject was carried unanimously, or at any rate without a division. Now, he held that the case of Mr. Pring was quite analogous to that of Mr. Baker. In both cases it was the acceptance of the office of Commissioner for the Gold Fields, and in both cases there was remuneration for the services that might be rendered. As to evidence respecting the amount of remuneration to be given to the commissioner, it would be found on the records of the House that the sum was £1,500 for salary and expenses. Now, as to who was the commissioner was well known from the fact of Mr. Pring being gazetted as having accepted the office. What more evidence could be required? A *Gazette* notification would be received as evidence in any court of law; and then they had the evidence on their own records that the commissioner was to be remunerated for his services. If the case, as it had been laid down by the honorable member for Fortitude Valley, was correct, he must say that the principle on which the question rested was a most vicious one. For his part, he maintained that the honorable member for North Brisbane, Mr. Pring, had forfeited his seat; and while he said so, he knew that if

the House came to a decision declaring the seat vacant, they would very soon see the honorable gentleman again occupying a seat in the House. No one would be more glad than he would be to see Mr. Pring again holding a seat in the House; but, still, on public grounds, and on public grounds alone, he felt bound to support the motion of the honorable member for the Maranoa.

The COLONIAL SECRETARY said he thought it would be well he should say a few words on the present occasion; more particularly as he had been twitted by the honorable member for the Maranoa that it was his (the Colonial Secretary's) duty to have brought this question forward. Now, he maintained that it was not his duty to do so, and besides that, the honorable member did not afford him the opportunity to do so; for, before honorable members were sworn in, the honorable member was on his feet with his notice of motion. He did not blame the honorable member for bringing forward the motion he had proposed; but he must deny the assertion he made that it was the duty of the Colonial Secretary to bring the question before the House. Had it been left to himself to deal with the question, he would not have taken any action in the matter until the honorable gentleman, whose right to a seat in the House had been called in question, was present. He would have given Mr. Pring more fair play than Mr. Pring gave to Mr. Sandeman—for he would not have taken action in the matter until the honorable member was present to defend himself. He must frankly state that he was not in a position to say, he was able to satisfy himself as to whether Mr. Pring had forfeited his seat or not; or as to whether he had accepted an office of profit, or not, within the meaning of the Constitution Act. He might say, however, that the opinion of every member of the Ministry, when they agreed to give Mr. Pring the office—after he had asked for it—was, that he ought to resign his seat for North Brisbane; but the Ministry had no power to compel him to do so. Now, the opinion of the House, when they passed the vote, was, that a gentleman of the highest legal ability should be appointed to the office of commissioner. When the motion was agreed to, he had no idea that the honorable member, Mr. Pring, would apply for it. But he did apply for it; and the Secretary for Public Works told him, when he applied for the office, that, if he accepted it, he would have to resign his seat for North Brisbane. It was most monstrous to say that a Minister of the Crown could go to any honorable member of the House and buy his services for any consideration; and as to the honorable member, Mr. Pring, he did not believe that any amount that might be paid to him for services that he might render to the Government, would succeed in buying up his vote. He considered that the honorable gentleman was far above being bought. If the vote of any honorable

member could be purchased in this way it would lead to a general system of bribery and malversation; and he could assure the House that he would be one of the first to put down anything of the kind. He was not altogether satisfied that the honorable member had, legally, forfeited his seat, for the Acts bearing upon the subject were very different in their wording; so much so, that, so he believed, if the opinion of a dozen lawyers were taken as to their meaning, it would be found that half-a-dozen would be on the one side and half-a-dozen on the other. If the question had been brought before the House in another manner, he thought he would have felt it his duty to support the view that the honorable gentleman had forfeited his seat. The honorable member for the Maranoa had failed to shew that the office was one of profit; and there was no proof whatever before the House to shew that it was so. He thought that a better way of dealing with the question would have been by the appointment of a select committee to inquire into the matter. The Government, in the course of this discussion, had been twitted with attempting to buy up the members on the Opposition side of the House; but there was no foundation for such an assertion. The Government appointed Mr. Pring because they considered that, of all the applicants for the office, he was the best fitted for it; and when he applied to be appointed to the office it was considered by the Government that if he accepted it he would, by doing so, forfeit his seat. For his own part, he must say that he thought the House should declare that they would not allow a member to accept any office of profit under the Crown without vacating his seat.

Mr. ATKIN said he believed that the honorable member, Mr. Pring, would be of more use to the Government, as a member of the Opposition, than as a member of the Ministry. The honorable gentleman at the head of the Government had denied that it was his duty to bring this question before the House, and maintained that there was no evidence that Mr. Pring had accepted an office of profit under the Crown. Now, he could not agree with the honorable gentleman on either point, for he held that it was especially the duty of the Colonial Secretary, as head of the Government, to bring forward such a question; and as to evidence, it was only necessary to say that they had sufficient common sense evidence. There was the *Gazette* notice of the appointment of Mr. Pring; then, there was the fact that the honorable gentleman had entered upon the performance of the duties of the office; and no one could expect that he or any one else would perform those duties without remuneration; especially as a sum had been voted by the Parliament for the purpose. He thought it was impossible to take any other view of the question than the one put forward by the honorable member for the Maranoa.

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It was, he held, most objectionable that honorable members who might belong to the upper branch of the legal profession should on that account be allowed to accept of any office of profit under the Crown. In his opinion, he thought it was clearly the intention of the framers of the Constitution Act that an honorable member accepting any office of profit or of emolument under the Crown, should, by doing so, forfeit his seat. It was highly necessary that every care should be taken to secure the purity of Parliament. Now, if in this instance, they delayed doing anything until the honorable gentleman had completed his services and pocketed his money, the House would be reluctant to take action because it would be of a retrospective and personal nature. He, therefore, thought that the House should agree to the motion.

Mr. KING said that in his opinion the subject raised by the motion consisted of two divisions. The first was a legal question—Whether the office which Mr. Pring had accepted was an office of emolument—whether he had accepted any payment for the services which he rendered to the Government as commissioner on the gold fields? The second was—supposing he had received payment—Had he vacated his seat thereby? The House had no evidence before them that would be accepted by a court of law—although they knew it as a fact—that Mr. Pring had accepted office; and they had no sufficient proof that he had accepted an office of emolument. He trusted that the question would be referred to the Committee of Elections and Qualifications; and he moved—

That the Question be amended by the omission of all the words following the word "That," at the commencement, with a view to the insertion, in their place, of the following words, viz.:—"It be referred to the Committee of Elections and Qualifications to decide whether the Honorable R. Pring has vacated his seat by accepting the appointment of Commissioner to inquire into the Management of the Gold Fields."

Mr. ATKIN asked for the ruling of the Speaker upon this point: Supposing the amendment to have been carried, and the question referred to the Committee of Elections and Qualifications, and, before that Committee had decided upon it, that the Honorable Mr. Pring's functions as Gold Commissioner had ceased, would it be competent for that committee to proceed?

The SPEAKER, understanding that it was the wish of the House that he should give his ruling, must say that he offered an opinion on this matter with considerable doubt; while, at the same time, he did believe that the disqualification clause was effective even though the work undertaken by Mr. Pring was finished.

The Hon. C. LILLEY said he had not noticed that when he first spoke; but he thought, if the terms of the Act were attentively considered, it would be seen that the question would not be affected by the termi-

nation of the commission;—the seat would still be vacant. He would read the sixth clause of the Constitution Act:—

“Any person who shall directly or indirectly himself or by any person whatsoever in trust for him or for his use or benefit or on his account undertake execute hold or enjoy in the whole or in part any contract or agreement for or on account of the public service shall be incapable of being summoned or elected or of sitting or voting as a member of the Legislative Council or Legislative Assembly during the time he shall execute hold or enjoy any such contract or any part or share thereof or any benefit or emolument arising from the same and if any person being a member of such Council or Assembly shall enter into any such contract or agreement or having entered into it shall continue to hold it his seat shall be declared by the said Legislative Council or Legislative Assembly as the case may require to be void and thereupon the same shall become and be void accordingly.”

The very fact of Mr. Pring having entered into the contract as commissioner disqualified him, and he must vacate his seat; so that no harm could arise from the delay.

The ATTORNEY-GENERAL wished merely to add to what had fallen from the honorable and learned member for Fortitude Valley that he considered the two points lay in a nutshell. In case of any member of the House accepting an office of profit, his seat became vacant by virtue of such acceptance; in the case of a member entering into a contract, his seat was vacant by his so entering into such contract; and his continuing to hold it vacated his seat. Both questions were so very narrow that they were expressed in a very few words.

The SECRETARY FOR PUBLIC WORKS said he must admit that he thought the proposition of the honorable member for Wide Bay was the one the House ought to adopt. He was very averse from attacking any member of Parliament behind his back. He said so during the discussion relative to Mr. Sandeman's case, and he said so again. But, if it could be distinctly proved that the honorable gentleman, Mr. Pring, had forfeited his seat, and that by prolonging the decision upon his case, it would be out of the power of the House to declare his seat forfeited, he should demur from waiving the question so long as the committee would take in arriving at a conclusion. He must, however, call to mind the words he used at the time the contest was going on with reference to Mr. Sandeman's seat. He had the “Parliamentary Practice” of “May” in his favor:—

“Whenever any question is raised affecting the seat of a member, and involving matters of doubt, either in law or in fact, it is customary to refer it to the consideration of a committee.”

He thought that the discussion shewed that there was a want of evidence—that there was a doubt about the acceptance, a legal doubt; there was no moral doubt, but honorable members must admit there was a legal doubt.

They had the distinct assertion of probably the most eminent lawyer in the colony that he had a legal doubt about it.

“This practice, in fact, extends to members whose seats are called in question by any member of the House, the same protection as that afforded in controverted elections.”

The same protection as that afforded by the Committee of Elections and Qualifications. That was exactly the advice laid down by “May;” that was the practice, he supposed, of the House of Commons. The proposition submitted in the amendment was in accordance with it. As the Minister who had probably most to do in the employment of the Honorable Mr. Pring, it would be his duty to add a few words to the statement already made by the Premier, which was, in the main, correct, and pretty clear. The honorable gentleman did apply for the appointment. He was told, immediately he made the application, by himself (the Secretary for Works) that he must resign his seat in the House. His answer was, that that was a matter for his own consideration, more than the Ministers', and that he would think over it. He (the Secretary for Works) told Mr. Pring that it was also a matter that the Government must consider; that there must be some understanding upon the point; but he did not recollect the words. The honorable gentleman led him to believe that he would resign his seat, at such a time as he would choose;—he led him to believe that he would get over the work without delay, and come back to town before Parliament met, and resign and regain his seat. That was the case. Honorable members would like to hear it, and he did not think it would be right for the Government to withhold the fact, that the Honorable Mr. Pring's appointment was to an office of emolument. They had been told that Mr. Pring did enter into a contract to do certain work, to travel a certain distance, to frame certain regulations connected with the gold fields, for which he was to receive £1,000. These were all the facts to which it was necessary to refer. There was no attempt on the part of the Government to buy the vote of the honorable gentleman; not one word was spoken on the subject of his conduct in the House. The Government would rather see the honorable gentleman on the Opposition side of the House than on theirs. They felt that in him they had an able, clever, generous, and lively opponent. For himself, he (the Secretary for Works) would rather see the honorable gentleman facing him than sitting on the same side of the House with him. But, he would point out to honorable members that, in that spirit of fair play which should, but which did not always, actuate them on all occasions, they should deal with Mr. Pring. They might, by an act of persecution, as it might be construed—by judging a man behind his back—cause a reaction of feeling in his favor. If there

were honorable members who did not wish to see Mr. Pring in the Assembly again, they were taking the very part that would secure his re-election on the part of the generous constituents of Brisbane, by countenancing anything having the semblance of persecution. If he (the Secretary for Works) were one of the constituents of a man who was turned out of his seat as Mr. Sandeman had been, he would strain every nerve to get him in again. As a member of the House, he reiterated the words that had been uttered by the Premier, and that he cordially agreed with. He thought it was the bounden duty of the House to see that no Government had the power to purchase the votes or silence of any member. He should consider himself under an obligation to any honorable member who would carry a Bill through the House which would put beyond all doubt what constituted the buying and selling of votes. It was one of the worst things a people could submit to, the trading with the votes of their representatives in Parliament. Taking the whole of the circumstances of this case into consideration, he would much rather see the matter referred to the Committee of Elections and Qualifications, to decide whether Mr. Pring's seat was vacant, than that the original motion should be carried; and he would, therefore, support the amendment.

Dr. O'DOHERTY said that were he to follow his own inclination, he should probably abstain from saying anything on the question before the House; and naturally so, considering that Mr. Pring, whose case was under discussion, was his own colleague in the representation of Brisbane. But, it seemed to him that though he owed a good deal of consideration to the honorable gentleman as an absent colleague, yet he had a higher duty to perform as a member of that House, and in the discharge of that duty he was bound to express the opinion he held upon the question. He thought that, from all the circumstances stated, there could be no moral doubt whatever that the seat of his honorable friend and colleague was vacant, and had been rendered so by his acceptance of office. It did not matter, in his (Dr. O'Doherty's) mind, whether it was an office of profit under the Crown, or a contract for the carrying out of certain work. It must be considered that the honorable gentleman had accepted £1,000 from the Government for filling an office which even at this moment kept him from taking his place in the House. That to his mind was sufficient justification for the House forming their own opinion upon the matter, and for interpreting the Act in the sense in which it would be interpreted by men of common sense. He felt grieved that there was sufficient doubt in the case to enable Mr. Pring to accept the office and expect to retain his seat. They had just commenced a very important and momentous

session—the most momentous which had opened since he (Dr. O'Doherty) had the honor of a seat in Parliament. Questions of vital importance would come on for discussion, especially to the constituency which he and Mr. Pring represented; questions which were put forward in the Speech from the Throne yesterday. He never put himself forward as a prominent member of the House. He was always anxious to find a capable leader on his side of the House to whom he was ready to yield a loyal following and obedience. There was not, probably, an honorable member on the Opposition side of the House to whom he would have more readily yielded a loyal following than to his honorable colleague, Mr. Pring. On the question of the Address in Reply, there was one other honorable member to whom, on many occasions before this, he had yielded a loyal obedience: he would not enter into the question why he would no longer follow him, though the honorable gentleman still sat on the Opposition side—he was no longer one of them! Yesterday, after meeting the members of the House on the Speech, he left, and whilst the discussion was going on; and, by the records of the House, he (Dr. O'Doherty) saw that the honorable gentleman went over to the Ministerial side of the House and left the Opposition disconsolate without him. He would not enter minutely into what might be the honorable gentleman's reason for deserting the Opposition in that unhandsome manner. In a previous session, the honorable gentleman said, speaking rather disparagingly of the Opposition, that he would not follow such fellows.

The Hon. C. LILLEY: Would not lead.

Dr. O'DOHERTY: However, it might be possible that a similar spirit impelled him now; or, it might be that the fourteenth of the Acts named in the Speech actuated him. Be that as it might, there could be no doubt that the Opposition had the misfortune, yesterday, to find one of their two really capable leaders walking over to the enemy's camp, whilst the other was absent doing the work for which he was to receive £1,000 from the Government. What was the result? He (Dr. O'Doherty) had the greatest possible faith in the efficacy of responsible Government for carrying on the work of the colony; but, in order that we might have responsible Government carried out in the true sense of the word, it was absolutely necessary that whilst there should be a strong Government with its supporters, there should be an honest Opposition with its supporters. He believed that any act which had the sanction of the House and which would strike at the root of an honest Opposition, was as serious a blow to representative institutions in this colony as any act that would strike at the root of an honest Government. Therefore, he said that the act which the House found, on the opening of the Session, had deprived them

of one of the two most experienced men in the House, and of one whose talents would enable him to take the lead of the Opposition, was an act which struck at the root of representative Government. He agreed with what had been said by some honorable members, that the House could not be too cautious in the course that they should adopt, when a question of this kind arose, and when they were without satisfactory evidence. If, without giving him a hearing, they were to cashier a man and deprive him of his seat, and find, afterwards, that they had done so unjustly, they would be full of regret for having acted in a hasty and an improper manner. It was a very grave question for the House, as it had been put before them—Whether the honorable gentleman had or had not legally forfeited his seat? Seeing that there was no legal evidence before them—such as the lawyers required—that his honorable colleague had received money from the Government for his services—He was just reminded that since the remarks of the honorable member for Fortitude Valley, in which that point was put forward, it had been very positively stated, by the Minister for Works, that a contract had been duly entered into by his honorable colleague, and that Mr. Pring had to receive £1,000 for it. Under those circumstances he (Dr. O'Doherty) confessed that he found a difficulty in coming to any other opinion than that which had been expressed by so many honorable members, that the seat was vacant. He had less difficulty in arriving at this conclusion, because he knew perfectly well that there was no danger of his honorable colleague not re-entering the House. He knew pretty well that the feeling of the constituency outside, was that the honorable gentleman should have the benefit of the doubt. He knew that great laxity had been permitted since the establishment of responsible Government in this colony. It had become an established system that members of the House had a right to accept all sorts of emoluments from the Crown; and he found it difficult to draw the line between the acceptance of £1,000 by Mr. Pring, and the acceptance of £100 by the honorable member for Fortitude Valley to go to Rockhampton to execute work for the Government, though not exactly of the same kind. He thought it was high time that this great laxity was put a stop to, and the whole question finally set at rest. On this occasion, until after the remarks of the Minister for Works, he was inclined to vote with the honorable member for Wide Bay, but he could not see how the Minister's statement could be got over. Although he could have preferred that the case should be dealt with by the Committee of Elections and Qualifications, he must support the original motion.

Mr. DE SATGE said it appeared to him that there was "much ado about nothing." The

House had nothing to debate about on this occasion. There was not the slightest doubt that the Honorable Mr. Pring expected to have to vacate his seat. He (Mr. De Satgé) had not the slightest doubt about it; and he should vote for the motion of the honorable member for Maranoa. He submitted that if the Government told Mr. Pring, at the time he took his appointment, that he would have to vacate his seat, they could not vote for any half measure, but must vote for the original motion.

Mr. FORBES considered that the honorable member for Brisbane, Mr. Pring, had forfeited his seat by his acceptance of an office of profit under the Crown. The honorable and learned Attorney-General had laid it down that such acceptance vacated the seat. There was also the evidence upon the Votes and Proceedings of the House, that a sum of money was appropriated in order to pay the commissioner who should be appointed. And there was evidence before the House that the Honorable Mr. Pring had been appointed a commissioner. The statement made by the Attorney-General had been acceded to by the honorable member for Fortitude Valley. Therefore there was evidence that an office of emolument under the Crown had been accepted. If the House took the opinion of the honorable member for Fortitude Valley as of value, here was what he said on the occasion of a somewhat similar motion being before them, as an explanation of the Constitution Act:—

"The right to hold a seat in the House was obtained by election, and by conforming with certain conditions prescribed by an Act of Parliament; and by committing a breach of those conditions a member ceased to have a right to occupy a seat in the House."

The honorable member concluded that the gentleman who was expelled, Mr. Sandeman, had forfeited his seat by absenting himself from the House for a whole session, and that that was the condition on which he became a stranger in the House and was subjected to expulsion. The Gold Fields Commission would in all likelihood have been undertaken as a work of love by the honorable member, Mr. King, on whose motion it was authorised, and who was well fitted by his ability and belief in the prosperity of the gold fields to carry it out; but the honorable member loved his seat best, and would not imperil it. A Gold Fields Commission had been issued in the sister colony, and the highest legal authority there, Sir James Martin, said he could buy a small book on the gold fields of California, for ten shillings, which would give him three times the information that the New South Wales Gold Commission could furnish. There were men of talent on that Gold Fields Commission, some half-dozen of them; and if their labors were valueless, how much less worth would be the services of an even

eminent Queensland lawyer on matters of gold mining! In the case of the honorable Mr. Pring's acceptance of an office of emolument, there was no legal or moral doubt; and as the House had laid down a precedent, by a large majority, on the 6th July, 1870, which they must not forget, they must now be ruled by it—unless they were prepared to take action to repeal their former vote. He was disgusted with that vote which expelled Mr. Sandeman; it was a disgrace to the House, and ought not to be on the records of their proceedings. The referring of the question before them to the Committee of Elections and Qualifications, or to a select committee, would be a stultification of themselves as a body. It was his duty to vote against the amendment of the honorable member for Wide Bay, and to vote for the original motion.

Mr. FERRETT said he should support the amendment, because it appeared to him that the question rested entirely upon the matter of evidence. A simple statement was no evidence. He could not see how the House could decide the question without taking evidence; and he could not see how they could take evidence without referring the case to a select committee. He preferred a select committee to the Committee of Elections and Qualifications, because to him it was doubtful whether the case could be settled by the latter. The Honorable Mr. Pring was a very high legal authority, and, as such, would doubtless have something to say for himself; the points which it was necessary to settle were legal as well as moral, as the honorable and learned member for Fortitude Valley had told them; and it would be desirable for the House to have some high legal authority on the committee. There was not one legal member on the Committee of Elections and Qualifications; and there would be a want therein if that committee should have to deal with the case of Mr. Pring. If a select committee should be appointed by the House especially to deal with the case, some legal member, perhaps the honorable and learned Attorney-General, might be put upon it, and the question involved might be cleared up satisfactorily. On a previous occasion, Mr. Pring spoke in his place very strongly with regard to Mr. Sandeman's expulsion from the House. He (Mr. Ferrett) did not wish that Mr. Pring should be dealt with exactly in the same way that Mr. Sandeman had been, with his assistance. On that occasion he objected, and said he did so by law and practice, to Mr. Sandeman speaking at all. If the present case was referred to a committee, no doubt Mr. Pring would, by some means, be able to defend himself. He was not quite clear as to what the honorable member for Fortitude Valley had quoted—a bankrupt or any other disqualified person might sit in the House for a considerable time before he could be rejected—but he wished to shew that one side of the House

was not quite so arbitrary as the Opposition side had been.

The SECRETARY FOR PUBLIC WORKS wished to know if he might ask the Speaker for his ruling, whether, in the event of the original motion being carried, it would be possible for the Honorable Mr. Pring to be re-elected while holding his present office.

The Hon. C. LILLEY: That was hardly a question upon which Mr. Speaker might offer an opinion.

The SECRETARY FOR PUBLIC WORKS: He only suggested it, as many honorable members would be very averse from rushing into an act that would deprive the honorable gentleman of an opportunity of re-entering the House.

Mr. ATKIN rose to order. That was a very extraordinary statement. What was the point of order?

The SPEAKER: There was no point of order.

The SECRETARY FOR PUBLIC WORKS was repeating his question; when,

The SPEAKER said the Act was very clear; but he was not called upon to give any opinion upon the point raised.

Mr. MILES, in reply, said that he had become aware, before he gave notice of his motion, that the honorable member for Wide Bay was about to ask for fourteen days leave of absence for the Honorable Mr. Pring. Supposing that the House had granted the leave asked for, it was just possible that the honorable gentleman would complete his commission before the expiry of his leave; and then the House would not call upon him to vacate his seat. He had no doubt, even if his motion were carried, that the honorable gentleman would be in the House again; and he wished not to see him excluded from Parliament, but that a rule should be laid down by which the House and the country should know how far, and when, a member could hold an office of profit under the Government. He should certainly not accept the amendment, but would divide the House on the question; and he trusted that his motion would be carried.

The question was then put—That the words proposed to be omitted stand part of the question.

The House divided.

Ayes, 16.
Mr. Palmer
" Bell
" Bramston
" Thompson
" Ramsay
" Johnston
" Atkin
" Roys
" McIlwraith
Dr. O'Doherty
Mr. Forbes
" Morgan
" Groom
" Miles
" De Saigé
" Scott.

Noes, 9.
Mr. Ferrett
" Edmondstone
" Handy
" Jordan
" Thorn
" Walsh
" Stephens
" King
" Lilley.

Original question then put and passed.