

Queensland



Parliamentary Debates
[Hansard]

Legislative Council

WEDNESDAY, 31 MAY 1871

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LEGISLATIVE COUNCIL.

Wednesday, 31 May, 1871.

Adjournment.—Answers to Questions.—Land Orders Bill of 1871.—Larceny and Embezzlement Bill of 1871.—Legislative Assembly's Message.—Diseases in Sheep Act Amendment Bill.

ADJOURNMENT—ANSWERS TO QUESTIONS.

The Hon. G. HARRIS moved the adjournment of the House for the purpose of bringing under the notice of honorable members the fact that questions put to the honorable member representing the Government were not answered in a way at all satisfactory. The week before last it might be remembered that he had asked the honorable the Postmaster-General for a return of the names of all persons who had applied for the appointment of Inspector of Invoices; and that day he had put a question bearing on the same subject, namely whether Mr. William Wilson had applied either verbally or otherwise for such appointment; to which question the reply was that Mr. Wilson had not. Since the first question was put by him, he had noticed a letter in the *Courier* from a Mr. Adams, stating that he was one of the applicants, and that gentleman had since called upon him and informed him that he had sent in his application in writing; yet no notice appeared of Mr. Adams having applied. Now he (Mr. Harris) had put a question to the honorable the Postmaster-General, and he considered that he was entitled to an answer. It appeared to him that the matter had been referred to the honorable member the Collector of Customs, and that no inquiry was made by the honorable the Postmaster-General. He had had some conversation with the honorable member the Collector of Customs, from which he was led to believe that Mr. Wilson had applied personally, or through

some friend, and he was anxious to know whether any record was kept of such application. That was his object now, and he should be glad to have a little more information afforded to him on the subject.

The POSTMASTER-GENERAL thought that what the honorable member had applied for could have been obtained from the customs; but if an application was made to the honorable the Collector of Customs, that honorable gentleman had not thought fit to forward it to the Government. The honorable member might know that many verbal applications were made, which were not treated in the ordinary way and registered in the office. All he could say was that he had answered the honorable member's questions as far as was in his power; and he did not think it was the duty of the Government to make inquiries of the officers under them whether different persons had made verbal applications.

The Hon. G. HARRIS said that he had asked for a return of all applications; and as from what had appeared in the local journal, an error had been made in one case, it was quite possible that a similar error had been made in reference to Mr. Wilson. He thought he was entitled to receive that admission.

The POSTMASTER-GENERAL said that he had already stated that he had no knowledge of any application made by Mr. Adams; and the answer he received from the Colonial Treasurer's office was, that there was no record of any such application having been made. He did not, therefore, see how a fuller answer could be given. He must certainly say that if all verbal applications were registered and treated as papers there would be no end to them, for there would be hundreds.

The Hon. W. THORNTON said that, as his name had been mentioned, he would like to make a few remarks. The honorable member opposite appeared to be suffering from "Wilson on the brain," and he would do all he could to relieve the honorable member. He might state that some time ago a merchant of Brisbane mentioned Mr. Wilson's name as being a very proper person to appoint as Inspector of Invoices, and he mentioned then that Mr. Wilson should apply to the Treasurer. Subsequently Mr. Wilson called upon him (Mr. Thornton) and said that he had not applied, as he would first have to get permission from Messrs. Hart and Company, with whom he was connected. He then told Mr. Wilson that the matter rested with the Colonial Treasurer, and that he (Mr. Thornton) would be cautious in interfering. As to keeping a register of all applications for employment, it would be necessary, if that was done, to keep a clerk specially for the purpose, as every day he walked through the streets he had applications made to him. He certainly did not consider it was his business to report all applications of that character.

The Hon. G. HARRIS said that he had not succeeded in getting the information he had applied for. He had previously spoken to the

honorable the Postmaster-General, asking him to make inquiries, and was told by that honorable gentleman that it was not his business to do so unless an application was reported. It appeared, however, that Mr. Wilson had applied for the appointment verbally, and that information might have been given on a previous occasion. In regard to the remark of the honorable the Collector of Customs, that he (Mr. Harris) had "Wilson on the brain," he would inform that honorable gentleman that if he or any other honorable member had suffered the losses his firm had, through Mr. Wilson, he would not have been surprised at the question having been put.

The Hon. W. THORNTON wished to explain that Mr. Wilson had not applied to him for the appointment, but had stated that he would consult his employers on the subject.

The Hon. G. HARRIS said it was quite clear that Mr. Wilson had made a preliminary application, and that was all he (Mr. Harris) wished to ascertain. He would now move that the question put by him to the honorable the Postmaster-General that day and the answer to it be recorded.

The motion was carried.

The motion for adjournment was then withdrawn.

LAND ORDERS BILL OF 1871.

The Hon. H. B. FRIZ moved—

That a select committee be appointed, consisting of the following members,—The Honorable T. L. Murray Prior, The Honorable C. B. Whish, The Honorable H. G. Simpson, The Honorable G. Elliott, and the Mover,—with power to send for persons and papers, and leave to sit during any adjournment, for the purpose of inquiring into and reporting on the Land Orders Bill of 1871.

The honorable member said that the more he thought upon the question, the more he was convinced of its importance. If any honorable member or any mercantile man were to be guilty of the conduct of the Government in reference to the land orders, he would be spoken of by the country in the strongest language. As honorable members would remember, Dr. Lang had some years ago been greatly blamed for what he did in reference to land orders, but his conduct was nothing when compared with that of the Government. There were several cases which had come under his observation, in which very great hardship had been inflicted—among others that of Dr. Blundell, a gentleman who brought out his family from England, and who had land orders. Well, he attended a land sale, and was told by the Government auctioneer that his land orders would not be recognized. Now he (Mr. Fitz) thought that when a gentleman occupying the position of Dr. Blundell wrote to his friends in England, such a circumstance would have a most damaging effect on the colony. He did not blame the present Government so much as former Governments; but he thought that, as there was no better system of colonizing a country

than that of issuing land orders, everything should be done to make those land orders useful. He believed that the departmental notice of 1869 had authorised the Surveyor-General to endorse land orders so that they would be recognised in payment for land; whereas, when they were presented to the Government auctioneer as payment, they were dishonored.

The POSTMASTER-GENERAL said that he did not intend to oppose the motion for the appointment of the committee; but he wished to state, in reference to the remarks of the honorable member, that they would, according to his shewing, apply to every Government, and accuse them of dishonesty, whereas the present Government had introduced a Bill to protect persons from any evils in connection with their land orders.

The motion was then carried.

LARCENY AND EMBEZZLEMENT BILL OF 1871.

The Hon. E. I. C. BROWNE said he had been requested to take charge of this Bill, and that he was glad to do so, as he believed that it was one which was very desirable to supply a great want in the present criminal law. Honorable members would observe that the first clause was to enable a member of a co-partnership to proceed against his co-partner for illegally converting to his own use the property of the co-partnership. At present a co-partner had power to proceed against his co-partner by civil law, but not criminally; and it was found that the latter power was necessary. The second clause was to extend the powers of the Act of 16 Victoria, which gave magistrates power to deal with cases of larceny summarily, but not with cases of embezzlement. Through magistrates not having that power, there were cases which were sometimes dismissed, as a bench considered the charge too trifling for a committal, and thus many offenders escaped. It was to supply that deficiency that the present clause was inserted. He now moved that the Bill be read a second time.

The motion was carried.

LEGISLATIVE ASSEMBLY'S MESSAGE.

The Hon. H. B. FITZ said that, owing to a severe cold, he did not feel prepared to go so fully into this subject—namely, the consideration of the Legislative Assembly's Message of 10th May—as he otherwise would have been. He thought, however, as the matter had already been before the House, that there was only one way of dealing with it, and that was by moving that it be taken into consideration on that day six months. He was aware that the Honorable St. G. R. Gore intended to bring forward an amendment, to the effect that the Message should be sent back to the Assembly; but he thought that the adoption of such a course would not be treating that branch of the Legislature with the respect

due to it, and that it would be more dignified to treat the matter in the manner he proposed. He had taken great pains to refer to authorities, having searched through the records of Parliament, and he did not think that a precedent could be found within the last two hundred years for treating that House in the undignified manner in which it had been treated by the Assembly. It was a resolution by the House shewing that they would not be treated as they had been during previous sessions by having a large number of Bills thrust upon it at the close of the session. Such a resolution was necessary, and it had been forwarded to the other branch of the Legislature in the usual way, and was couched in respectful language. The reception given to it in another place was not such as was due to that House, and he must say that he was very much surprised at the language made use of on the occasion, which was most unwarrantable, more particularly the remarks which fell from the Chair. Without repeating those remarks, he would say that they should not have been made. He thought the House would support the dignity due to it by agreeing that the Message of the Legislative Assembly be taken into consideration on that day six months.

The Hon. ST. G. R. GORE said that unfortunately so much time had elapsed since the subject matter now under notice first came before honorable members, that no doubt many honorable gentlemen had in a great measure forgotten what was really before them. He would therefore trouble the House by reading the Message they were now asked to consider:—

"The Legislative Assembly having had under consideration the Legislative Council's Message, of date the 4th instant, have resolved as follows, viz.:—That the Resolution transmitted from the Legislative Council, by Message, on the 10th instant, and dated the 4th instant, be returned to the Council with a Message that such Resolution may lead to a breach of the privileges of this House,—and the said Resolution, with the Message conveying the same, is now accordingly returned annexed hereto.

"A. MACALISTER,
"Speaker."

He thought his honorable friend was right to a great extent in stating that that was an unprecedented way of treating the question, and if it was the wish of the House that the course proposed by the honorable member should be adopted, he should certainly not offer any objection. Still, however, he thought it would only be hurling back defiance to a body with which they had always been on fair terms, and with which it was desirable, in the interests of the colony, that they should remain on friendly terms. With that object in view, he had prepared certain resolutions as an amendment upon the motion of his honorable friend. He would not say that he was particularly wedded to them; yet he would submit them for the consideration of the House, and if

there were other amendments proposed he would most cheerfully give place to them—his object only being that the matter should be thoroughly ventilated, and a great slight offered to that House explained away. He was extremely sorry that so long a time should have elapsed between the receipt of the Message and its being taken into consideration; and he had moved on a former occasion that it should be taken out of its order on the business paper, on purpose that it might be discussed by a full House. That was, however, opposed by the honorable member representing the Government. In consequence of that, seeing on the last day of meeting that when the order of the day was called on, there was barely a quorum, he (Mr. Gore) had threatened to leave the House if the matter was then brought forward for consideration, as he thought it was a subject on which the opinion of a full House should be expressed; and he thereby incurred the displeasure of the honorable gentleman opposite, the Honorable Mr. Browne. It seemed to him that the object in sending the Message to the Assembly was to prevent hurrying through business, and passing Bills through all their stages on the last day of the session, as had been the case hitherto, but which had never been carried to such a pitch as last session, under the Government of which the honorable the Postmaster-General was a member. Honorable members, when drawing up resolutions to send to another place, were not apt to consider the wording, and although they might pitch upon good words, they might not always study how those words could be interpreted. He must say that he considered the action taken by the Legislative Assembly was not a courteous one in the present matter. They were bound to give that House (the Council) the benefit of any doubt, and should not have thought that anything discourteous was intended, nor have misinterpreted words to that effect. He must say that there was one word in the message sent to the Assembly by his honorable friend Mr. Fitz, namely, "entertain," which the Assembly had thought fit to consider in such a manner as to make it appear that honorable members refused to receive any Bills sent up to them. Whilst he did not consider that the action of the Assembly was courteous, he thought it would be better for that House to shew that they were above any petty feeling of jealousy, and that they were ready to suppose that the meaning of the message to the Assembly was not fully understood. Now the resolutions he wished to propose were as follows:—

1. That this House regrets that the Legislative Assembly, by considering in a captious spirit a resolution intended to promote more careful legislation, and by construing the use of a word of doubtful meaning into an attempt to infringe on its undoubted privileges, should have thought fit to interrupt the good understanding and dis-

regard the courtesy which it is desirable to maintain between all branches of the Legislature.

2. That this House hereby disclaims any intention of refusing to receive Bills presented by the Legislative Assembly at any time during the session.

3. That though this House will not interfere with the privileges of the Legislative Assembly, it is determined to maintain its own dignity."

That meant that the House disclaimed any intention of violating its duties—

4. That considering the act of the present Government in proroguing Parliament last session at such a time as to make it necessary for this House either to reject no fewer than seventeen Bills, or to pass them by suspending the Standing Orders; it is hereby declared that this House will pass no Bills brought up from the Legislative Assembly at such a period of the session as to make it impossible to afford them the attention due to all measures laid before it.

5. That these resolutions be communicated to the Legislative Assembly by message.

The gist of those resolutions was, that the House did not pledge itself to any course as it pledged itself by the former message, but it merely disclaimed any intention of refusing to receive Bills. As he had before remarked, he was not wedded to any of those resolutions. It might appear to the honorable gentleman representing the Government that they reflected upon the conduct of the Government, but there was no doubt that if the Government chose they could always afford that House ample time to deal with any measures, and to give their usual attention to them. He would therefore beg to move the resolutions he had just read.

The POSTMASTER-GENERAL said that honorable gentlemen would recollect that when the resolutions had first been proposed he had strongly represented to the House that the message was unnecessary, and his opinion was that they did wrong in sending such a message. If his honorable friend opposite would withdraw the amendments he had proposed, he would suggest one which, without entering too much into the question, would meet the whole objection. What he wished to do was to treat the Assembly with all courtesy, and at the same time to uphold the dignity of that House. The amendment he had to propose was—

That the second resolution of the 4th May be rescinded. That a message be sent to the Legislative Assembly stating that the message of the 4th May was sent from motives of courtesy, but that under present circumstances this Council have rescinded the second resolution, and do withdraw the message.

His own opinion was that that would be the most dignified course to adopt.

The Hon. G. ELIOTT thought it was difficult to say what the question before the House really was at present.

The POSTMASTER-GENERAL said he would withdraw his amendment for the present,

until after that proposed by the honorable Mr. Gore had been considered.

The Hon. G. ELIOTT said it would be in the recollection of the House that when the resolutions were first brought forward he had opposed them in the strongest way, and had moved the previous question, for which he was taken to task by an honorable member. He considered that the adoption of the resolution proposed by the Honorable Mr. Fitz was the most dignified course for the House to pursue, and at the same time it would not be discourteous to the other branch of the Legislature. Whilst, in fact, in another place most unseemly language had been used, he considered that House should uphold its dignity at least.

The Hon. ST. G. R. GORE said that as he had already informed honorable gentlemen he was not at all wedded to his amendments, and if it was considered preferable to adopt the resolution of the honorable member, Mr. Fitz, it was a perfectly proper and open course to pursue. As he understood that the motion of his honorable friend would not bring them into collision with the Assembly, he was quite willing to save the Chairman the trouble of putting his amendment again.

The Hon. H. G. SIMPSON said he should prefer supporting something like the amendment of the honorable the Postmaster-General, because he considered with that honorable gentleman that they had been wrong in sending the message to the Assembly at all. The object of the original resolutions was, he thought, to inform the Government that matters should be so managed that business should not be delayed until the last day of the session, as had been the case last session; but as there was a member of the Government in that House, he thought that the message was unnecessary, as that honorable gentleman would be able to inform his colleagues of the wishes of the House on the subject. He thought that although that House had not been treated with the courtesy they had a right to expect from the Assembly, it would be better to withdraw the message. But if the general feeling of the House was in favor of the more summary way of dealing with the message of the Assembly, by moving the postponement of its consideration for six months, he would offer no opposition.

The Hon. C. B. WISH wished to comfort honorable members with the assurance that, judging from the way in which business was being delayed in another place, the question before the House would probably come before them again in six months. He considered that they were perfectly justified in sending the message to the Assembly, as had they not informed them of the action they intended to take, the Assembly could, when the time arrived, have retorted by saying that they had not been informed. He need only point to that day's business paper to shew how injurious was the practice of rush-

ing through business the last day of the session. There was the Wages Bill, which was passed six months ago, almost before honorable members knew anything about it, and now they were asked to repeal it. With regard to the action of the Lower House in sending back the message, he thought they could not have dealt a smarter smack on the face, or taken a better step to shew that they were determined to annoy that House. But he thought that House should not shew any annoyance, but agree to the motion of the Honorable Mr. Fitz, that the question be taken into consideration that day six months.

The Hon. E. I. C. BROWNE stated that on a former occasion he had been charged with acting erroneously, when he supported sending the message to the Legislative Assembly; but if that message had not been sent, he considered, as stated by the honorable gentleman who had preceded him, that that House would have been guilty of discourtesy in not informing the Assembly of what their intentions were. They had no right to refuse to receive Bills from the other branch of the Legislature, and he believed that no honorable gentleman ever attempted to arrogate to that House such a right; but at the same time they had a most perfect right to say how they proposed to carry on their own business. He hoped that the resolutions would not be withdrawn, as attention had been drawn to an extraordinary example of the impropriety of rushing Bills through the House, as had been done last session. The fourth resolution proposed by the Honorable Mr. Gore was very much like a postscript to a lady's letter; it was not a charge against the other House, but it gave the Government a slap on the face. Now, he (Mr. Browne) did not think it was fair to charge the Government with all the sins of last session, because honorable gentlemen sinned themselves, inasmuch as they were not forced to listen to the Government. Had last session been an exception, there would have been no occasion for the Honorable Mr. Fitz to have brought forward his resolutions; but it was not, as during every session there had been too much hasty legislation, although not so much as last session. It must be remembered, also, that there was a peculiar reason for hurrying the session to a close, as the immediate decease of the late Governor was expected. With reference to the remarks of the Honorable Mr. Gore, as to the postponement of the consideration of the message on the last day on which that House met, he thought it would have been better if the honorable member had then asked for a few days' postponement, instead of holding out a threat to the House.

The Hon. H. B. FITZ said he could not allow the amendment to be passed without drawing attention to a statement that had been made that the Government would be sure to know of any arrangements made by that House through their colleague, the

honorable the Postmaster-General. He (Mr. Fitz) considered that it was necessary to communicate by message to the other branch of the Legislature any action the House intended with respect to matters in which they were concerned.

The Hon. St. G. R. Gore remarked, in reference to the statements made by the Honorable E. I. C. Browne, that he had been informed by the Honorable Mr. Fitz that, during the years 1866, 1867, out of forty-two Bills, only four were passed through in one day, by the suspension of the Standing Orders. He did not agree with the honorable member, Mr. Browne, that the haste of last session was caused by the prospect of the death of the late Governor.

The amendments of the honorable the Postmaster-General, and of the Honorable St. G. R. Gore, were then withdrawn.

The motion, that the consideration of the message be postponed till that day six months, was then carried.

DISEASES IN SHEEP ACT AMENDMENT BILL.

The POSTMASTER-GENERAL moved—

That this Bill be now read a second time.

The motion was carried.