

Queensland



Parliamentary Debates  
[Hansard]

**Legislative Council**

**WEDNESDAY, 26 JULY 1876**

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## THE OFFICERS OF THE HOUSE.

The PRESIDENT informed the House, further, that His Excellency the Governor had been pleased, with the advice of the Executive Council and upon his (the President's) recommendation, to make the following appointments to the department of the Legislative Council:—Mr. Henry Bates Fitz, to be Clerk of the Council, in the room of Henry Johnson, deceased; and Mr. St. George Ralph Gore, to be Clerk-Assistant, in the room of R. E. G. Johnson, deceased. Some few days ago a question was put to him (the President) by an honorable member, in the House, as to what were the appointments likely to be made, and he promised to give what information was in his power when they had been completed. He might now inform the Council that his first offer of the appointment of Clerk of the Council was to Mr. FitzRoy Somerset, who was Police Magistrate at Townsville; and who, for reasons not explained, preferred to remain in his present office. He, then, was happy to have it in his power—as he understood it was desired by the gentleman, who had applied—to offer the appointment to Mr. Fitz, who had been for upwards of sixteen years a member of the Legislative Council, and who, having attended very regularly to its proceedings, must, he was sure, take charge with a very competent knowledge of the duties which would fall upon him in his office. He would say that, during the many years that gentleman had sat with him as a member of the Council, he had received from him a loyal and zealous support; and it was with great pleasure, knowing it was his wish to be placed in the position of Clerk of the House, that he found himself enabled to offer him the appointment. The other appointment, he trusted, would also meet with the approval of the House;—because honorable members must recollect that all those appointments were made subject to the approval of the House;—it was conferred on a gentleman who was the son of one that had been for many years their colleague, and who was for the last five or six years in the public service, and held office with credit to himself. He was quite sure that that gentleman would occupy the position of Clerk-Assistant of the Council with benefit to the House and to his own credit also.

HONORABLE MEMBERS: Hear, hear.

The PRESIDENT: The only other application he had had was from the Clerk of the Legislative Assembly, who, however, coupled his application with a condition which he was not in a position, of course, to comply with; that was, that he, the applicant, should be allowed to retain his dwelling-house, and such emoluments as he held in his present office. Of course, there was no person more competent than Mr. Bernays, could he (the President) have seen the way to accept his offer, for the duties; but, under the circumstances, he was unable to do so.

## LEGISLATIVE COUNCIL.

*Wednesday, 26 July, 1876.*

New Member.—The Officers of the House.—Correction of the Roll.—Auditor-General's Report.—Message from the Assembly.—Suspension of Standing Orders.—Appropriation Bill of 1876-7, No. 1.—Crown Cases Reserved Bill.

## NEW MEMBER.

The PRESIDENT informed the House that he had received a letter from the Private Secretary to the Governor, notifying that His Excellency had been pleased, with the advice of the Executive Council, to appoint Thomas Blacket Stephens, Esquire, to the Legislative Council.

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HONORABLE MEMBERS: Hear, hear

The PRESIDENT: He had promised that the correspondence should be laid upon the table, and he now put it on the table. He did not think it need be printed; but any honorable gentleman who had a desire to look through it would have the opportunity of doing so. It was necessary that the Clerk of the Council should be sworn in before proceeding with the duties of his office; and he should now proceed to administer the oath to him.

Leaving the chair, the President administered to Mr. Fitz the oath of allegiance and the oath of office, and presented him with his commission under the seal of the colony.

## CORRECTION OF THE ROLL.

The PRESIDENT, referring to the absence of honorable members, stated that on the last day of meeting the Honorable W. D. Box presented himself to be sworn. The honorable gentleman had been a long time absent from the colony, and, at the moment, he (the President) was not aware that he had already taken the oath and signed the roll in the present Parliament. If the Postmaster-General agreed with him, it would be well to move that the record of the day when Mr. Box signed the roll the second time should be rescinded and the honorable gentleman's signature on the roll be obliterated.

The POSTMASTER-GENERAL: Erased.

The PRESIDENT: Erased or obliterated. The state of the case was, that the Honorable Mr. Box had taken the oath twice and had signed the roll twice, which was, at any rate, a work of supererogation, and which had best be taken notice of, in order that hereafter it might not occasion confusion.

HONORABLE MEMBERS: Hear, hear.

The Hon. W. D. Box said he was sorry that through his ignorance he had given trouble. He had thought that, at the commencement of the session, honorable members ought to take the oath; and as he had not been in attendance during the previous session, nor during the present session from its commencement, he had not obtained the proper information how he should have proceeded.

The PRESIDENT: It was of no consequence.

The POSTMASTER-GENERAL: It must be a great gratification to all honorable members present to see the Honorable Mr. Box once more in his place. After the explanation by the President, and consultation with the honorable gentleman, he (the Postmaster-General) thought it would be unnecessary to make any amendment of the records of the House. The case would be met by the House passing a resolution, that the roll of members be amended by the excision of the last signature of Mr. Box.

The PRESIDENT: With a note.

The POSTMASTER-GENERAL: With the approbation of the House, he should move—

"That the roll of this House be amended by striking out the last signature of the Honorable W. D. Box."

Question put and passed.

The Clerk was instructed, thereupon, to pass his pen through the last signature on the roll, and to make a note of the reason in the margin.

## AUDITOR-GENERAL'S REPORT.

The PRESIDENT announced that he had received from the Auditor-General, in compliance with the provisions of the Audit Act of 1874, the Colonial Treasurer's Annual Statement of Receipts and Expenditure for the Financial Year ended the 30th June, 1875, together with a Report upon it and upon various matters relating to the more effectual and economical audit and examination of the Public Accounts.

On the motion of the POSTMASTER-GENERAL, the documents were ordered to be printed.

## MESSAGE FROM THE ASSEMBLY.

A message was received from the Legislative Assembly, transmitting the Appropriation Bill of 1876-7, No. 1, for the concurrence of the Council.

On the motion of the POSTMASTER-GENERAL, the Bill was read the first time, and ordered to be printed.

## SUSPENSION OF STANDING ORDERS.

There being an absolute majority of the Council present, viz., fourteen members, exclusive of the President,

The POSTMASTER-GENERAL said, he found on reference to the Standing Orders, that provision was made "in cases of urgent or pressing necessity" for the suspension of the Standing Orders; and a motion to this effect could be made when an absolute majority of the whole number of members of the Council was present. With the leave of the House, he intended to move, without notice, the suspension of the Standing Orders which related to the passing of Bills through all their stages in one day. Honorable gentlemen knew that though we had advanced one month in the present financial year, no money was voted for the public service; and it was probable that one or two months more would elapse before the Estimates of Expenditure for 1876-7 were likely to get through the lower House. For this reason, and because of the necessity for going on with urgent public works at the present moment, the Appropriation Bill was introduced for a grant in advance; and as it was desirable that the Bill should become law with the least possible delay, he wished to induce the Council to suspend the Standing Orders, with a view of passing the Bill through all its stages this day.

The PRESIDENT suggested, that another Bill on the paper should be taken also.

The Hon. J. F. McDougall said he did not see why the House should be called upon to pass it through—

The POSTMASTER-GENERAL: The Criminal Practice Amendment Bill. He might mention, in order that honorable members who were not in attendance on the second reading of the Bill should know the nature of it, that the object of the Bill set down for consideration in committee to-day, was to remedy a defect in the present Criminal Practice Act, which necessitated all the Judges of the Supreme Court attending upon the hearing of criminal appeals with the result of considerable delay in the administration of justice as well as a large expenditure, in consequence of the Northern Judge being compelled to come down to Brisbane to constitute the full court of appeal in criminal cases. In all other cases, under the Supreme Court Act of 1874, three Judges, or a less number, could sit and decide appeals. The Bill had been on the table since the commencement of the session, but unfortunately, in consequence of a House not having been formed for many days past, it had not been taken into consideration as ordered, and remained on the paper. So it might now be advanced through its remaining stages. It would provide a public benefit, and not be an injury to anyone. Therefore he desired to include it in the motion he should make for the advancement of the Appropriation Bill without delay. He moved—

That so much of the Standing Orders as will admit of the Appropriation Bill of 1876, No. 1, and the Criminal Practice Act Amendment Bill being put through all their stages in one day, be suspended.

The Hon. H. G. Simpson said, he must move that the Criminal Practice Bill, which it was attempted to tack on to the Appropriation Bill, should be left to stand on its own merits and take its own time to go through the House. He could see little or no use in tacking it on to a measure which it was necessary the Council should pass. Honorable members had all come to the House, some at considerable trouble to themselves, to pass the Appropriation Bill. He was afraid that even if they should advance the other Bill through its remaining stages, to-day, it would remain where they left it, and then go into the waste paper basket. No honorable member who looked at the present state of public affairs, would believe that any such measure, notwithstanding the way it might be made to accompany the other Bill, was likely to pass through another place in a shorter time than it would take if the Council dealt with it in the proper way, by advancing it through its remaining stages in accordance with the Standing Orders and the usual practice of the House. There was no reason for passing

the Bill in the hurried way proposed. He had heard that it was a very good Bill. But the House would be interfering with their usual practice, for no benefit whatever, by passing the Bill now; for the Bill would not be law a minute sooner than if left to pass through all its stages in the ordinary way. He, for one, must object to its being taken in the way moved by the Postmaster-General, and he moved, by way of amendment, the omission of the words referring to the Criminal Practice Bill.

The PRESIDENT said, as it was upon his suggestion that the Postmaster-General consented to make the alteration in his original motion, which alteration seemed to meet with some objection, he thought it right that he should explain the reasons which induced him to make the suggestion. The Criminal Practice Bill had been on the paper since the commencement of the session.

HONORABLE MEMBERS: Hear, hear.

The PRESIDENT: Since the very first day;—honorable members had not been as constant in their attendance as was their usual practice; and, therefore, the Bill had made no progress for some time. The Bill was one of very great interest to the public, inasmuch as it was one calculated to avoid considerable expense. According to the reading of the Criminal Practice Act, the Judges of the Supreme Court had decided—there being four, one stationed in Bowen—that all of them must be present on any case of criminal appeal. It seemed but reasonable that the presence of the three Judges who resided in Brisbane, and ordinarily attended the Supreme Court, should be quite sufficient to enable the Court to deliver judgment in any case of appeal; and the Bill was brought in to remedy what was certainly a mistake in the Act, and to relieve the Northern Judge, residing at Bowen, from the necessity of attending when not particularly required in the Supreme Court, Brisbane. He was given to understand that expense, which he presumed must be charged upon the revenue, was incurred by the Northern Judge being brought down to Brisbane. The Judges of the Supreme Court, he believed, considered that it was not at all necessary that the extra expense should be incurred. The Bill in itself was a mere simple remedy of a mistake made in the framing of the Act of 1865. As allusion had been made, it was possibly true that if the Council passed the Bill quickly it might be delayed in another branch of the Legislature; but that was not the affair of the Council. The business of the Council was to deal with what was before it. Honorable members knew that the Bill had been before them two months, and that they had not made progress with it. The Bill was not one which would create a difference of opinion or argument. He supposed there was no honorable member of the Council who would be disposed to oppose it on its merits; therefore,

why should not the House get rid of it from the paper? That was the reason why he thought it desirable, as the Standing Orders were about to be suspended, to include the Bill in the motion made, so that all the business before the Council might be disposed of without further delay.

The Hon. E. I. C. BROWNE said he might point out to honorable members that the Bill had been already considered, having been read the second time; and that what they were now asked to do was, merely, to go into committee upon it; and, as he apprehended that there would be no amendment made in it, then to read it the third time, which was merely a formality. Although it was highly probable that the prophecy of the honorable Captain Simpson would be realised in fact, yet he (Mr. Browne) did not see why the Council should not let the Bill have a chance of getting through. It was extremely desirable that the Bill should become law as quickly as possible, that great expense and inconvenience might be avoided. He explained the peculiarity of the existing law which the Bill was to remedy, by making it clear, as otherwise provided, that the Supreme Court was the court of appeal, rather than "the Judges" of the Supreme Court. By some misadventure the words "the Judges" had been used in the Act; therefore, their Honors held that all the Judges must be present in court; and, in consequence of that holding of theirs, which, he must say they regretted very much the necessity of, the Northern Judge had to come down to Brisbane when a criminal appeal to the full court had to be heard. That should be got rid of, and he hoped the Bill would be allowed to pass. As the President had said already, the Bill had been before the House ever since the commencement of the session.

The Hon. J. F. McDUGALL said that, having heard the explanation offered, and having had the opportunity of reading the Bill since he came to the House, he should withdraw his opposition to the motion.

The Hon. H. G. SIMPSON, in explanation, said he thought that the President and the Honorable Mr. Browne misunderstood his opposition, which was not to the Bill but to its being included in the motion for the suspension of the Standing Orders. No two honorable gentlemen in the Council had been so much in the habit of opposing the suspension of the Standing Orders, unless it was absolutely necessary, as those named. It seemed to him, in this case, that there was no necessity for departing from the practice of the House, especially in view of the fact that the Criminal Practice Bill was never likely to get a stage beyond the Council. However, he was in the hands of the House. He was confident that the proposal was another step in the bad groove the Council had got into by suspending the Standing Orders.

The amendment was, by leave, withdrawn, and the motion was put and passed.

#### APPROPRIATION BILL OF 1876-7, No. 1.

On the motion of the POSTMASTER-GENERAL, "a Bill to Authorise the Appropriation out of the Consolidated Revenue Fund of Queensland of the sum of £150,000 towards the Service of the Year ending on the last day of June, 1877," was read the second time, without discussion, and passed through all its subsequent stages, by virtue of the suspension of the Standing Orders.

The Bill was returned to the Legislative Assembly with the usual message.

#### CROWN CASES RESERVED BILL.

On the motion of the POSTMASTER-GENERAL, "a Bill to Amend the Law respecting the Hearing of Crown Cases Reserved," was considered in committee, read the third time, and passed.

The Bill was transmitted to the Legislative Assembly with a message requesting the concurrence of that House.