

Queensland



Parliamentary Debates  
[Hansard]

**Legislative Council**

**THURSDAY, 19 JUNE 1879**

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ELECTIONS DURING RECESS BILL.

On the Order of the Day being read for the committal of the Bill to Amend the Legislative Assembly Act of 1867,

The POSTMASTER-GENERAL moved—

That this House be now put into Committee for the consideration of this Bill.

Mr. WALSH said, before the question was put, he wished to address honourable gentlemen on the subject of the Bill—whether or not it was a necessary measure? It might be remembered that on the second reading, he took some exception to the Bill on the ground, as he stated, that he thought it was “a work of supererogation;” and he found on further reference to the existing law that he could not possibly have used a more applicable term to it. He was sure honourable gentlemen must feel that they had an important duty to perform in preventing the statute book being encumbered by unnecessary laws; laws which, by their multiplicity, or by their sameness, rendered their administration most difficult; laws which it was exceedingly difficult for the community to understand. He was prepared to prove that the Bill was not only like the existing law, but that it was a very bad “ditto” law—a very unnecessary second edition of enactments of the Queensland Parliament; and he would prove that ample means were provided at present to meet every supposed requirement for the Bill. The law for dealing with cases contemplated by the Bill was very much more simple, and efficacious, and constitutional than the Bill could possibly render it; while, if the Bill should pass, the law would be difficult for the public to understand and for the Speaker of the Legislative Assembly to operate upon. If honourable gentlemen would look into the Bill, they would see what powers it was intended to confer upon the Speaker. Those powers would enable him to issue a writ under certain circumstances which it was not desirable to consider. The mode proposed to enable a member to leave the other Chamber was more complex and incomprehensible than that in force. In the first place, what was it proposed to do? To enable the Speaker to issue a writ during a recess, to fill up a vacancy. But under what circumstances? Upon his receiving a certificate, signed by two members of the Assembly, that a certain member had accepted an office of profit, and countersigned by the member in question, the Speaker would be enabled to issue a writ. He thought that was an innovation upon all Parliamentary practice of a very wrong sort. If the Bill could be put into force, how could the Speaker act? From a recent instance, honourable gentlemen knew that the Chamber to which the Bill related took two whole nights to determine whether two important members had

LEGISLATIVE COUNCIL.

*Thursday, 19 June, 1879.*

Conduct of Business.—Elections during Recess Bill.

CONDUCT OF BUSINESS.

Reports from Committee on the Mineral Oils Bill and the Impounding Act Amendment Bill were adopted.

The Queensland Coast Islands Bill was read a third time and passed, and returned to the Assembly.

been guilty of taking—had accepted offices of profit; and forty-three members voted, some one way and some the other, on that question. From that, they might see the importance which had been given to the question to the present moment. In the House of Commons it was regarded as of the utmost importance. No Speaker was allowed himself to determine whether a member had accepted an office of profit. It was a difficult question always to determine. But now, upon the mere supposition, he would say, of a member who might be in error, that he had accepted an office of profit; or, upon the supposition of two other members, that he had accepted such an office; the Speaker would be allowed to do that which no Speaker, hitherto, at any rate, had been allowed to do. The majority of the other Chamber, within a few days past, declared that two members of the Legislative Assembly had not accepted offices of profit;—though to any man in his senses who had well investigated the matter it was as plain as possible those two members had not accepted such offices, the question was raised that they had. But, when the matter came to be discussed calmly and reasonably in that Chamber, it was discovered by the majority that they had not accepted offices of profit. Now, it was proposed to allow two members, by their mere word, to decide that a member had accepted such an office. But he would put it in another way:—The Bill before the House would substitute a cumbrous method for the simpler one which could be resorted to under the existing law. Was there not a much simpler one in existence at this moment? If the Government were going to bestow upon a member of the Assembly that which they believed to be an office of profit, was it not more loyal for them, more simple, to call upon that member to send in his resignation to the Speaker?—and, there the matter ended. By the eighth section of the Legislative Assembly Act, that was the course to be taken; and nothing was plainer:—

It shall be lawful for any member of the Assembly by writing under his hand addressed to the Speaker of the said House to resign his seat therein and upon the receipt of such resignation by the Speaker the seat of such member shall become vacant.

Could anything be more simple or more clearly laid down, for the guidance of the Speaker and of the member who accepted an office of profit? Could anything be more clear to the Government in bestowing an office? It appeared to him (Mr. Walsh) so clear, that he could not see the least necessity for the Bill; and he was quite sure that if the Bill was allowed to pass it would mystify the Speaker to a considerable extent. It would lead to endless discussion on vexatious questions in the other Chamber; it would benefit no one, and in

no way could it be efficacious. He would call the attention of the honourable gentleman in charge of the Bill to another difficulty which he thought should make the House pause. If the Bill should pass as it stood, there would be two Acts of Parliament bearing on the subject. The Bill did not repeal any of the existing Act: not a word was in it about repealing. There would be two Acts for the guidance of gentlemen accepting offices of profit and those two gentlemen who would be called upon to make the certificate; two Acts to mislead and puzzle the Speaker;—for one would have equal force with the other. The Legislative Assembly Act, by the tenth section, clearly told the Speaker the way in which a writ was to be issued under certain circumstances; and it provided that, in cases of vacancy in the Legislative Assembly, caused by the death or resignation of a member, the Speaker might issue a writ himself. In the case of a vacancy occurring from any other cause, such as a member accepting an office of profit or taking a seat in the Council, then it was reserved for the Legislative Assembly to declare “when,” especially, such vacancy had occurred, and “the causes thereof;” and thereupon the Speaker should issue a writ for supplying such vacancy by a new election. If the Bill passed in its present shape there would be two Acts bearing on the same subject, but divergent in operation; and no Speaker could determine which he was bound to give preference to. Under the circumstances, he (Mr. Walsh) felt it to be his duty to point out what he considered the defects of the Bill, and that there was certainly no necessity for it, in his humble opinion; and he thought that the very best thing he could do was not to allow it to go into Committee. He therefore moved, by way of amendment:—

That all the words after the word “That” be omitted, with a view to insert the words, “the consideration of this Bill stand an order of the day for this day six months.”

The POSTMASTER-GENERAL said there was great inconvenience in the way that the honourable gentleman had taken to raise a discussion which ought to have taken place on the second reading of the Bill before the House. He had listened very attentively to his remarks, and he had failed to discover that the honourable gentleman had shown to the House any reason for dealing with the Bill in the extraordinary way that had been proposed by him. It was also rather inconvenient that he should have to speak, now; because he believed that his honourable friend opposite (Mr. Mein) intended to support the motion for laying aside the Bill. And it was scarcely fair, after a full opportunity had been afforded on the second reading for discussing the measure, that the honourable Mr. Walsh should reopen the discussion on the

order of the day for considering the Bill in Committee of the Whole; and that, after he (the Postmaster-General) should have replied to the honourable gentleman, the honourable Mr. Mein should get up and pull his speech to pieces, if he could—as, of course, he would endeavour to do, with all an attorney's acumen. However, he (the Postmaster-General) thought he should be able to convince the House, without occupying too much time, that the Bill was really a desirable one; indeed, that it was absolutely required. He contended, simply, that it arose out of a practical inconvenience which had been suffered, in more than one instance, through a member of the Assembly who had accepted an office of profit failing to send in his resignation to the Speaker before accepting office. He quite agreed with the honourable Mr. Walsh that the way prescribed by the eighth clause of the Legislative Assembly Act left nothing to be desired, if only an honourable member, before accepting office, sent in his resignation. But, as he said, the question had arisen in more than one instance, upon a member, either from ignorance or from want of care, accepting office, by which his seat at once became vacant, without having sent his resignation to the Speaker;—because the statute provided that the moment a member of the Legislative Assembly accepted an office of profit under the Crown, then and there, his seat was vacant. In that dilemma, the Speaker had felt that the Legislative Assembly Act of 1867 did not give him power to issue a writ for a new election, as it did in the event of a member sending in his resignation in the ordinary way, or of a vacancy occurring by death. The proviso of the tenth section of the Legislative Assembly Act was:—

Provided that in all cases of a vacancy caused by death or resignation the Speaker may issue such writ without such preceding resolution when the Assembly is not in session or when such vacancy occurs during any adjournment for a longer period than seven days.

Now, the Bill attempted to make a similar provision for such cases as he had described. It was brought in, he believed, at the request of the Speaker, and it had been passed by the other House, to obviate the inconvenience which had been experienced in carrying out the statute. Moreover, it was not only a harmless measure, in itself, and provided for remedying an inconvenience which had occurred, but it assimilated to a very great extent the law of the colony to the law of England.

AN HONOURABLE MEMBER: No.

The POSTMASTER-GENERAL: He was quite aware of what the honourable Mr. Walsh would state, that a member of the House of Commons was unable to resign his seat—that he had not the option of so

doing, except by a peculiar process. It was provided by 21 and 22 Victoria, chapter 110, of the Imperial statutes, that the Speaker, on receipt of a certificate from two members—precisely as provided by the Bill before the House—that a seat was vacant, should issue his warrant for a new writ, during the recess.

Mr. WALSH: When a member resigned.

The POSTMASTER-GENERAL (*reading*):

From and after the passing of this Act it shall and may be lawful for the Speaker of the House of Commons for the time being during any recess of the House as aforesaid to issue his warrant to the Clerk of the Crown to make out a new writ for election of a member of the House in the room of any member who has since such adjournment or prorogation accepted any office whereby he has either by the express provisions of any Act of Parliament or by any previous determination of the House of Commons vacated his seat in the House of Commons so soon as he shall have been gazetted thereto in any of the Queen's gazettes and a notice thereof together with a copy of the gazette, shall have been sent to the Speaker by a certificate under the hands of two members of the House of Commons according to the form in the schedule to this Act annexed or to the like effect.

The Bill proposed to assimilate the law of the colony to the English law, in every respect; except that, under the statute of Queensland, a member of the Assembly could resign his seat at any time, whereas in England a member of the House of Commons had not that privilege. Now, he should like to know what harm would accrue from giving the facility for the working of the principal Act—which the passing of a short Bill would give for the issue of a writ for a new election under the circumstances disclosed? The honourable Mr. Walsh had pointed out that there would be two Acts of Parliament for a similar thing. He (the Postmaster-General) regretted that that should occur; but, unfortunately, the statute book showed a great many illustrations of the same defect. He was afraid that the same thing would be seen until Parliament could pass measures which would not need alteration or amendment. That, however, was no argument against the Bill. The sixth clause of the Bill was as follows:—

This Act shall be read and construed with and as an amendment of the Legislative Assembly Act of 1867, and may be cited as the Election of Members during Recess Act of 1879. If the Bill passed, the opportunity would be still open for a member to resign his seat under the eighth clause of the Legislative Assembly Act. It would not repeal that clause, or affect the administration of that Act; it would simply give the Speaker power, when a member accepted an office of profit, without first resigning, to issue his writ in the same manner as he would if that member had resigned. The only in-

convenience that would be suffered by the Bill not going through was, that, probably, during the recess a member might accept an office of profit, and, if he had not sent in his resignation, no action could be taken to issue a new writ for filling the vacancy caused until Parliament had again assembled and the Legislative Assembly had declared by resolution the seat vacant. Well, that certainly was an inconvenience. He was quite ready to admit that a member, before accepting office, ought to resign. Still, accidents would occur; or, it might, also, not be convenient to resign under a contingency that might occur, and which in fact, had occurred. The power to be given to the Speaker was a very simple one, and could not possibly do any harm. It would be seen that the Speaker was not bound to issue his writ. The third clause of the Bill provided that—

In any case in which it shall appear to the Speaker to be doubtful whether the acceptance of any office or pension which has been certified to him as aforesaid has the effect of vacating the seat of the person so appointed it shall be lawful for the said Speaker instead of issuing his writ in pursuance of this Act to reserve such question for the decision of the Legislative Assembly.

The Bill was simply an enabling Bill, which would permit the Speaker to do what he (the Postmaster-General) believed was intended to be done when the Legislative Assembly Act of 1867 was brought into force. Only recently it was discovered that there was any necessity for the Bill.

Mr. WALSH: Hear, hear.

The POSTMASTER-GENERAL: But he did not think that was an argument for refusing to pass the Bill. It would be seen that there was another clause as a safeguard against injury to the country:—

Nothing herein contained shall extend to enable the Speaker to issue his writ in any case in which the notification of acceptance of office shall be made with respect to a member against whose election and return a petition shall be then pending or in any case in which the time for presenting a petition against the election and return of the member whose acceptance of office is so notified shall not have expired at the time of such notification.

That was similar to the principal statute;—the Constitution gave the same power which the clause would give. He thought that the statement he had made would remove from the minds of honourable members any doubt that might have been felt as to the propriety of the Bill. He had one more argument to bring before the House. He thought it had been recognised, from the foundation of responsible Government in this colony, that neither House

of Parliament should interfere unnecessarily with the privileges of the other.

Mr. McDUGALL: Hear, hear.

The POSTMASTER-GENERAL: The Bill was simply intended to facilitate the election of members of the Legislative Assembly; and, with all respect to the honourable gentleman who raised the question, to-day, he said that the Council had nothing whatever to do with it. It was a matter for the Legislative Assembly alone to determine. The Bill had been passed by the Legislative Assembly and had been sent up to the Council for their concurrence in the usual form; and it would be an act of impropriety and discourtesy to the other House if they agreed to the amendment of the honourable Mr. Walsh. There would be, probably, some further discussion on the Bill. As he should not have the opportunity to reply on the present question before the House, he would take advantage of the opportunity to do so when the Bill got into Committee; for he could not believe that a majority of the Council would refuse to consider the Bill in Committee. With those remarks, he hoped that further opposition would be withdrawn. He was ready to give all due weight and consideration to the remarks made by honourable gentlemen opposed to the Bill; but he must say, decidedly, that sufficient reasons had not been adduced for postponing it as proposed.

Mr. MEIN: The honourable the Postmaster-General had more than once shown a facility in creating a grievance for himself and then appealing to the House for consideration and respect. He commenced his observations by a pathetic appeal on behalf of himself, because of what he regarded as the unfairness of the honourable Mr. Walsh in introducing the discussion of the Bill at this particular time. If the honourable gentleman had deliberated for a moment, he would have understood why Mr. Walsh was compelled to bring forward his motion on the present occasion. The Bill was one of those measures that had been put into honourable members' hands, at the time of the second reading, without their having an opportunity before to read it. He (Mr. Mein) protested at the time against the style in which the Bill was thrust upon the House; and he explained that honourable members could not be expected to afford that intelligent discussion to measures which they had hardly read that they would have been able to give if the ordinary plan had been adopted of submitting them to honourable members before they came on for discussion in the House—in which case, too, they might have discovered the uselessness, as the honourable member admitted, of introducing the present Bill. If any argument were wanted in favour of the discussion now

raised by the amendment of the honourable Mr. Walsh, it would be in the admission of the Postmaster-General himself that the Bill was not required.

The POSTMASTER-GENERAL: He made no such admission.

Mr. MEIN: He took down the honourable gentleman's words. The honourable gentleman said, he admitted the Bill was not required. He (Mr. Mein) repeated that if any argument was wanted in favour of Mr. Walsh's motion, that admission would settle the question. Honourable gentlemen did not come to the House to pass legislation that was not required.

The POSTMASTER-GENERAL: He did not say so.

Mr. MEIN: He considered that the Council met to pass legislation which would be of some practical utility. Mr. Walsh had shown that there would be no practical utility in the measure before them, all the machinery at present existing for enabling elections to take place in the case of persons who accepted offices of profit or pensions under the Crown. Honourable members did not usually legislate for the incompetence of Ministers; and to pass the Bill would simply amount to that. It was the duty of the Executive, if they thought fit to confer an office of profit on a member of the Assembly, to see that he sent in his resignation before accepting the office which would otherwise vacate his seat. The Postmaster-General used as an argument in favour of the Bill that its passing would assimilate the practice of the Queensland Parliament with that of the Imperial Parliament. There was no analogy whatever. There was no means by which a member of the House of Commons could vacate his seat other than by the acceptance of an office of profit; and it being found inconvenient, during the recess, to refer questions of the acceptance of an office of profit or not to the Elections and Qualifications Committee of the House of Commons, the Imperial Legislature had found a roundabout way to enable a member to vacate his seat; that was, two members should certify to the Speaker that the said member had accepted an office of profit, and thereupon the Speaker was entitled to issue his writ. The Bill, if passed, would have an immoral tendency altogether; it would encourage persons whom Ministers for the time being might find it convenient to appoint to offices of profit, to stipulate that they should have office conferred upon them without resigning. That was a state of affairs the House ought not to encourage. Where it was necessary for the public interest for a person to accept an office of profit, it was the duty of the Government that conferred that office on him to insist upon his sending in his resignation to the Speaker. The House had heard from the Postmaster-

General that the inconvenience of having the law in its present state had been already experienced—that inconvenience had arisen. He (Mr. Mein) had looked through the records of the Legislative Assembly, and he could not find any case in which the question of vacancy or no vacancy during the recess in consequence of the acceptance of an office of profit under the Crown had arisen, nor any circumstances such as the Postmaster-General would lead honourable members to believe had arisen. Until they did arise, he thought, with Mr. Walsh, that, where the machinery was on the spot, it would be over-refining to pass what was an unrequired piece of legislation.

The POSTMASTER-GENERAL, by way of personal explanation, said he should be very happy to take the responsibility of what he had said; but he declined to permit the honourable gentleman to distort what he said. He did not say the Bill was not required. That it was not absolutely indispensable, might be allowed. He did not say, as the honourable gentleman had repeatedly put it to the House, that the Bill was not required. Therefore, he thought he could reasonably object to the honourable member founding argument on such an assertion.

Mr. MEIN denied that he had distorted anything that the hon. member had said, or that any word he had addressed to the House would amount to distortion. He had sufficiently disposed of the question of the Bill being an assimilation of the law of Queensland to the law and practice of the Imperial Parliament. The law of this colony was identical with the law existing in New South Wales, which had been found hitherto to work without inconvenience: possibly because Ministers there were more capable of performing their duty, or, were more faithful in its performance. Parliament was not expected to legislate for the imperfections of Ministers. Honourable members were to take it that Ministers, who undertook duties, were capable of performing them. The only other argument the honourable member had advanced was, that, if the House did not pass the Bill, it would be an interference with the privileges of the Legislative Assembly. He (Mr. Mein) saw nothing in that argument whatever. They had a perfect right to deal with that question. This was the first time he heard that the Legislative Assembly were the sole authority for determining in what way the election of members of that House should be conducted. The Legislative Council had a perfect right to deal with any piece of legislation affecting the Assembly. The present was not a question of dealing with the ordinary internal working of that House at all; it was a question of public policy, and being a question of public

policy, the Council had a perfect right to deal with it in any manner whatever;—so that that argument of the Postmaster-General's went to the wall along with the other one. He would have much pleasure in supporting the amendment of the honourable Mr. Walsh, because he fully agreed with him, that this piece of legislation was not required; that no necessity for it had arisen, and that to pass the Bill would be encumbering the statute book with an Act which would only tend to mystify the public, instead of rendering the law clearer than it was at present.

Mr. THORNTON suggested to his honourable friend, Mr. Walsh, that, instead of moving that the Bill be postponed till this day six months, he should move for a shorter period, say next Thursday;—and that would give honourable members an opportunity of studying the measure, and comparing it with the law in force. He felt himself incompetent to deal with the subject, this afternoon.

Mr. WALSH: Hear, hear.

Mr. THORNTON: He did not come prepared to deal with it. If the amendment was carried it would shelve the Bill altogether. He moved by way of further amendment, that the committal of the Bill stand an Order of the Day for this day week.

Mr. GREGORY confessed that, with the honourable Mr. Thornton, he was taken very much unawares by the motion of the honourable Mr. Walsh. When the Bill was before the Legislative Assembly he took the trouble to read up a little upon it, and spent some hours in research through "*May's Practice of Parliaments*;" and the Bill appeared to him so much in accordance with the rule adopted in the House of Commons that he laid it on one side, thinking that the whole question was sufficiently settled in his mind, unless some further point was raised in the discussion of it in the Assembly. He had followed the debates in that House, and the result confirmed him in the opinion he had formed; and he owned that, now, his strongest conviction was that the measure was very desirable, and that it should be passed to avoid a repetition of the same mistake which appeared to have occurred, and which had elicited the Bill, and which it would be very undesirable should occur again. It was not very important whether the Bill was passed or not; still it did appear to him that, until more time was taken to amend the Legislative Assembly Act of 1867, as a whole, so that there should be no necessity for two enactments on one subject, this temporary measure would be preferable. His object was not now to discuss the merits of the Bill itself, but to support the view of his honourable friend, Mr. Thornton, that honourable members might have a little more time to con-

sider it. If the honourable Mr. Walsh would amend his amendment as suggested, he thought many honourable gentlemen would support it.

Mr. SANDEMAN said the Bill was not a constitutional matter, but one simply to facilitate the action of the Speaker as to questions arising in his mind and as to his action in certain cases. He could not see that there should be any objection to pass a Bill of this kind; also, he thought that it would be an act of discourtesy to reject it. He should therefore vote for time to enable honourable gentlemen to give further consideration to the Bill.

Mr. Box had heard the honourable Mr. Walsh's opinions, and the position that gentleman had held in this country, with credit to himself and to the Parliament, made him (Mr. Box) feel that he ought to pay him the greatest deference. He was therefore inclined to support the amendment of Mr. Thornton, that he might himself have the advantage of looking up the authorities that he could lay his hands on, and that he might consider the question more fully than he had been able to do. The only argument against refusing to adopt Mr. Walsh's amendment was, that the rejection of the Bill might be discourteous to the other House; the Bill being for the regulation of the way in which the Assembly should conduct their business. He trusted the House would accept the motion for further time for consideration.

Mr. WALSH begged to say that he most willingly consented to the request made by the honourable Mr. Thornton. It was a very good one, indeed. All that he cared about was that the matter should be well discussed, and that the Council should do nothing hastily; nothing that they should hereafter be sorry for, or, that the other Chamber would be sorry for. The simplest way would be for him to substitute, for the words "six months" in his amendment, the word "week."

The POSTMASTER-GENERAL said he should be very happy to accept the amendment of the honourable Mr. Thornton. If he might say—

Mr. WALSH rose: If the honourable gentleman would allow him to put him right, the Postmaster-General had no right to address the House again—any more than he himself had. He had adopted the honourable Mr. Thornton's amendment, which, embodied in his own amendment, stood as his original motion.

The POSTMASTER-GENERAL said he was not speaking on the amendment of the honourable Mr. Walsh, but on the amendment of the honourable Mr. Thornton.

Mr. WALSH: Again he was right; the honourable Mr. Thornton had put no amendment.

The PRESIDENT thought that the honourable gentleman had a perfect right to

speak to the amendment then before the House. He had only spoken to the original motion. He was now speaking to the honourable Mr. Walsh's amendment.

MR. WALSH: That put him in a difficult position. While the honourable gentleman could address the House twice, he (Mr. Walsh) could only do so once.

THE PRESIDENT: The position was, now, that the honourable Mr. Walsh had moved an amendment, and that the Postmaster-General was speaking to it.

MR. MEIN: Some honourable members were under a slight misapprehension—that Mr. Thornton did not actually put an amendment to the House, but merely suggested that one should be made on Mr. Walsh's amendment. He thought Mr. Thornton intended to move an amendment on Mr. Walsh's amendment. If the honourable member did so, it was perfectly right for the Postmaster-General to speak on it.

THE PRESIDENT: If it was intended to discuss the amendment on the amendment, the motion should be put as intended by Mr. Thornton. He understood that the House were disposed to accept the amendment in the amended form last proposed by Mr. Walsh.

HONOURABLE MEMBERS: Hear, hear.

THE PRESIDENT: He was not aware that there was going to be a discussion upon it; but, of course, if Mr. Thornton's amendment was to be discussed, it must be put in a formal manner, so that the discussion should go on regularly.

THE POSTMASTER-GENERAL: He should like the House to remember that this debate had arisen on the motion for the House to go into Committee of the Whole for the consideration of the Bill. The Bill had been submitted to the House in the usual form, and the House had agreed that it be read a second time and had ordered it for committal to-day. There could be no doubt, whatever, that in accordance with the practice of the House, the Bill should next be put into Committee without further discussion.

AN HONOURABLE MEMBER: No.

THE POSTMASTER-GENERAL: It was very seldom, indeed, during his experience of Parliament, that a Bill was discussed on the motion for going into Committee, and after it had passed its second reading. Indeed, it was a very unusual course to pursue. He was very anxious to consult the convenience of honourable members; but no object would be gained, except obstruction, by carrying the amendment of the honourable Mr. Walsh. There would be ample opportunity in Committee to discuss the Bill, clause by clause, and any objection that Mr. Walsh or Mr. Mein had to it could be submitted as conveniently as before. He could not see what their object was, except to obstruct the Bill;

and, therefore, he should like them to consent to the Bill going into Committee, to-day; after which he should be willing to move the Chairman out of the chair to report progress, if it should be found that they were not fully satisfied with the provisions of the Bill. The amendment of Mr. Walsh was almost unprecedented; and he (the Postmaster-General) did not think it was fair of the honourable member to make such a motion. He should like to point out how admirably his honourable friend (Mr. Mein) opposite could talk on both sides of a question. Only last evening, when Mr. Sandeman moved an amendment which brought the Impounding Bill into harmony with the Impounding Act, the House had a long speech from Mr. Mein on the inadvisability of the representative of the Government in the Council consenting to it. To-day, on similar grounds, he (the Postmaster-General) was called upon to resist Mr. Walsh's amendment. There was no reason whatever shown for the course taken in bringing forward that amendment. The arguments of Mr. Mein had been fully answered already. Admittedly a member of the House of Commons was unable to resign his seat; but provision was made, as had been shown, to meet any difficulty. He (the Postmaster-General) had pointed out that practical inconvenience had been suffered in this colony, although not on record, from the want of a measure such as was now before the House. With regard to what Mr. Mein had stated, he might say that the Speaker of the Legislative Assembly had acted already as if the Bill was on the statute book—he had acted on that interpretation of the Legislative Assembly Act. But there were still some doubts whether the Speaker was empowered so to act. He hoped the amendment would be withdrawn; and he should be very happy to discuss objections to the Bill in Committee.

MR. MEIN: It would be most inconvenient, if the majority of the House were of opinion that the Bill was an undesirable one, to go into committee on it at all. Going into committee assumed an agreement in the general principle of the Bill and a desire to proceed to the discussion of its details; whereas Mr. Walsh's amendment was aimed at the measure itself, and was a straightforward challenge to the House to say which way they would deal with it—shelve it or consider it in Committee. Mr. Thornton's amendment was that they should have another week to consider how they should vote, before determining whether they were prepared to accept the principle of the Bill or not. True, if the House went into Committee now, honourable members could obtain the same result practically by moving that the Chairman leave the chair, immediately after he had



taken it, and that the Committee have leave to sit again this day six months, or any other time. That would be an unnecessary piece of work, when they could get at the result more simply. His main argument against the Bill was that it was an unnecessary piece of legislation, for which reason he objected to go into Committee; and it was an unnecessary piece of work to go into Committee. He should say nothing further about the other remarks which the Postmaster-General had chosen to make to the House.

Mr. WALSH did not desire to trouble the House again with any remarks, but he must say that he thought the Postmaster-General might have spared himself and the House some trouble. The statement that he wished to prevent the Bill from passing was literally true; but not in the sense in which the honourable gentleman put it. The Postmaster-General seemed to think, or to be anxious to make others think, that he (Mr. Walsh) was opposing the Bill merely for the sake of opposition to him. He opposed the Bill as a public duty, and for the sake of the Parliament and the country. The honourable gentleman stated that there was something discourteous, sudden, and unexpected in the amendment. He was not justified in making that statement, because he must remember that on the second reading of the Bill, he (Mr. Walsh) said he knew little about it—that he had not had any time to examine it—nor did he think that any member of the Council had read it through;—at any rate, no one gave the House the benefit of the knowledge he had derived from a perusal of it on the second reading. He was certain that, at that time, no two members of the House knew anything about the Bill. He was reminded that the honourable gentleman himself said he knew for some days that he (Mr. Walsh) intended to oppose the passage of the Bill through any further stage. He certainly spoke to many honourable members—he said as much to the Postmaster-General, at any rate, last evening—of his intention to oppose it; and, at his request, the honourable gentleman did not bring forward the Bill yesterday, but consented to postpone it until to-day. So that the honourable gentleman was not justified in what he had said, that the motion took him by surprise. If the Postmaster-General was taken by surprise, other honourable gentlemen could not say that they were taken by surprise; because he (Mr. Walsh) took the opportunity to let them know his intention without soliciting their support. He had been disposed to accept the amendment of Mr. Thornton, if allowed to put it himself; but certainly he was not now. He should persevere with his own motion. The intention of the other course was not

seriously to examine the Bill; but the Postmaster-General doubtless thought that he would have a better opportunity of carrying it next Thursday than this afternoon. On that ground it was his (Mr. Walsh's) duty to press his amendment. He should not now weary the Chamber by meeting the arguments raised by the honourable gentleman, as he and other members also were able to do if the Bill should get into Committee. It mattered very little to him whether the Bill was postponed to this day week or this day six months. He did hope, however, that honourable gentlemen would approach the question not in a party spirit; but that they would give it their best consideration, because of what would be best for the country. He might say that the *ad misericordiam* appeal of the Postmaster-General to the Council, that, because the Bill dealt with a matter referring to the other Chamber, they should not meddle with it at all, was the most extraordinary one he ever heard. Were honourable members to sit in their Chamber as cyphers? If that was so, why should the House go into Committee at all? Why did they not receive Bills from the Legislative Assembly, and, without considering them, order the President or the Clerk of the Council to endorse upon them that they were approved and passed? They did not want to discuss them;—they accepted everything! Well, he protested against such teaching as that. He was sure that the other House would be under great obligations to the Council, if they sent the Bill back in an improved form; for he was quite sure that the majority of honourable members of the Assembly were not proud of their work.

Some doubt arising as to the mode of putting the question upon an appeal from Mr. HART; a suggestion of its intricacy from the POSTMASTER-GENERAL; and the statement by Mr. SANDEMAN that, by the practice of the House, the last amendment should be put first;—

The PRESIDENT said: I have an authority, which I shall read to the House, for the way in which I put the question. In the last edition of "May's" *Practice of Parliaments* (the eighth), it is laid down:—

To avoid a difficult illustration (of which there are many in the Journals), let the simple question be, "That this Bill be *now* read a second time;" to which an amendment has been proposed, by leaving out the word "*now*," and adding "this day six months;" and let the question that the word "*now*" stand part of question, be negatived, and the question for adding "this day *six months*," be proposed. An amendment may then be proposed to such proposed amendment, by leaving out "*six months*," and adding "*fortnight*," instead thereof. The question will then be put, "That the words '*six months*' stand part of the said

proposed amendment." If that be affirmed, the question for adding "this day six months," is put; and if carried, the main question, so amended, is put, viz., "That this Bill be read a second time this day six months." But if it be resolved, that "six months" shall not stand part of the proposed amendment, a question is put that "fortnight" be added; and, if that be agreed to, the first amendment, so amended, is put, viz., that the words "this day fortnight" be added to the original question. That being agreed to, the main question, so amended, is put, viz., "That this Bill be read a second time this day fortnight."

I have been told by an honourable gentleman that it has been the practice of the House, if there is more than one amendment, to put the last amendment first. If it is more convenient to the House—as, perhaps, it may be thought the more direct way—I have not the slightest objection to put the question in the form suggested. I shall, therefore, do so. Until the honourable the Postmaster-General suggested the intricacy of the form laid down in "May," and the honourable Mr. Sandeman suggested that it was not in accordance with the practice of the Council, I preferred to put the question in that form. Stating the original question and the successive amendments in order, I should put it—That the word "now," in the original question, stand part of the question.

IN ANSWER TO HONOURABLE MEMBERS,

The PRESIDENT continued: If that was negatived, the question—That the words "this day six months" be inserted, would be then put. If honourable members objected to shelving the Bill, they would vote against that question; and if that was negatived, the question for the insertion of the words, "this day week," would then be put.

HONOURABLE MEMBERS: Hear, hear.

After some desultory conversation,

The PRESIDENT said: It is clear, if the House wish me to put it the other way, I can put the last amendment first, as an amendment upon the original question, and the question will be decided by the practically shortest way—That the committal of the Bill stand an order of the day for Thursday next.

Mr. MEIN: With due respect, the way the President first proposed to put the question was the proper way, and it was perfectly clear to his mind what honourable gentlemen would have to do. Honourable members averse to postponing the Bill for six months, or for one week, would vote against the first question; and if it was negatived, the amendment moved by Mr. Thornton, for this day week, would be put; if that was affirmed, Mr. Walsh's amendment was disposed of, as it would be ascertained that the House was not in favour of it. The mode proposed by the President was in accordance with Parliamentary practice, and was clearly the proper one.

Upon further deliberation, the question was put, and, on the amendment—That the consideration of this Bill stand an order of the day for this day week—

The House divided :—

CONTENTS, 11.

Mr. Buzacott, Mr. Hart, Mr. Thornton, Mr. Cowlishaw, Mr. Roberts, Mr. McDougall, Dr. Mullen, Mr. Turner, Mr. Heussler, Mr. Gregory, and Mr. Sandeman.

NOT-CONTENTS, 5.

Mr. Mein, Mr. Pettigrew, Mr. Swan, Mr. Edmondstone, and Mr. Walsh.

Question resolved in the affirmative.