

Queensland



Parliamentary Debates  
[Hansard]

**Legislative Council**

**THURSDAY, 26 JUNE 1879**

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## LEGISLATIVE COUNCIL.

Thursday, 26 June, 1879.

Hour of Meeting.—New Bills.—The Dry Dock.—Elections during Recess Bill.

## HOUR OF MEETING.

The POSTMASTER-GENERAL said, as there was not a majority of the whole House present, he begged to postpone the motion standing in his name, until next Wednesday:—

1. That the Sessional Order made on the 14th May, "That, unless otherwise ordered, this

House will meet for the despatch of business at four o'clock p.m. on Wednesday and Thursday in each week,"—be rescinded.

2. That the following be a Sessional Order for the present session in lieu thereof:—That, unless otherwise ordered, this House will meet for despatch of business at three o'clock p.m. on Wednesday and Thursday in each week.

Mr. HART said he believed there were three or four honourable members who would be present: postpone the motion until a later hour of the day.

Mr. MEIN: You can not do that, without the permission of the House.

The POSTMASTER-GENERAL moved the adjournment of the House. He said it was rather inconvenient that honourable members should be compelled to attend day after day, as some of them had attended, with the full intention of discussing a motion of this sort, and that they could not proceed for want of an absolute majority of the Council because some hon. gentlemen, who were within the precincts of the House, would absent themselves at the time they were perfectly aware the motion was to come on for discussion. It was not, perhaps, a subject of very great importance, whether the House should assemble at half-past three or half-past four o'clock; but he knew—

Mr. WALSH rose to a point of order. He understood that the honourable gentleman moved the adjournment of the House, but found that he was really discussing the subject of a motion which was on the paper and which could not now be brought forward. He asked the President's ruling, whether the honourable gentleman was in order in anticipating a discussion that must necessarily ensue when the motion should be brought before the Chamber? If that was the practice of the Council, he was quite sure it was not allowable in another place.

The POSTMASTER-GENERAL: He was sorry if he had committed a breach of order in attempting to discuss a motion which he had no intention to discuss when he rose. All he intended to do—

Mr. WALSH: He would take the President's ruling.

The PRESIDENT: His ear did not catch that the honourable gentleman had gone sufficiently far to induce him to think that he was discussing the motion which was on the paper. The Postmaster-General was quite right to move the adjournment of the House upon a subject which he (the President) had yet to learn the purport of; and, no doubt, when the honourable gentleman went somewhat further, the House would know whether or not it was a discussion upon the motion on the paper.

Mr. MEIN: Before the honourable gentleman got on his legs again, he should just like to know what had become of the motion on the paper. The Postmaster-

General was called upon to move the resolution standing in his name. He (Mr. Mein) did not catch whether it was withdrawn, or what was done with it. He presumed that, as the mover was called on, the motion must be disposed of before the mover could proceed to another question. He must remark that it was a very unusual course on the part of a Minister, when there was business on the paper, to move the adjournment of the House.

The PRESIDENT: He must say that he called on the honourable gentleman to move the motion standing in his name. He understood that the honourable gentleman was about to move the postponement of it until a later hour of the day, or until some other day; but, in the meantime, the honourable gentleman unexpectedly rose to move the adjournment of the House for a purpose that he (the President) had not been able to discover. He thought it would be better if the honourable gentleman disposed of the motion standing in his name.

Mr. WALSH: Hear, hear.

The POSTMASTER-GENERAL: In moving the adjournment of the House, he understood that the postponement of the motion on the paper until Wednesday next had been assented to.

An HONOURABLE MEMBER: Hear, hear. That is it.

Mr. MEIN: All right; if that was understood.

Mr. WALSH: Hear, hear.

The POSTMASTER-GENERAL: And he moved the adjournment of the House, not with the intention of anticipating the discussion of the motion that he had hoped to be able to bring before the House, to-day; but to ask honourable members, if an actual majority would be kind enough to attend the Council, in order that that motion might be discussed. He did not bring it forward because he was interested in it, himself; but because he had been requested to bring it forward by honourable members who felt very strongly disposed to return to the old time of meeting.

Mr. MEIN rose to a point of order. The Postmaster-General was giving the House a second edition of the speech they had yesterday afternoon, and was really discussing the motion which had been postponed until Wednesday next. It was the most unusual practice for a Minister to resort to.

The PRESIDENT: Did he understand that the honourable gentleman wished to postpone his motion until a later hour of the day?

The POSTMASTER-GENERAL: He should prefer it.

Mr. MEIN objected, on the ground that that motion could not be put without notice.

The POSTMASTER-GENERAL: If the President supported him, he would decidedly ask for the postponement until a later hour of the day.

Mr. MEIN submitted, as a point of order that it was not competent for the honourable gentleman to move that motion, unless with the unanimous approval of the House, as it was a motion made without notice; and he objected to it.

The POSTMASTER-GENERAL: Well, he should be happy to withdraw it.

The PRESIDENT: According to the 43rd Standing Order of the House—

No member shall make any motion, except an unopposed motion, but in pursuance of notice openly given at a previous sitting of the Council and duly entered on the Notice Paper. He understood that the motion was withdrawn.

The POSTMASTER-GENERAL: As he understood that there was now an actual majority of the House present, he begged to move the motion standing in his name.

Mr. MEIN: The honourable gentleman could not. Upon his word, the Council were getting into a curious state of things! —He rose to a point of order. The hon. gentleman got up, and absolutely withdrew his notice of motion, and proposed to give a new notice of motion for Wednesday next; and he admitted that it was disposed of in that way. After that, he resorted to a motion for the adjournment of the House; and, there being some impatience on the part of honourable members, he then wanted the House to consent to his motion standing for a later hour of the day. That was objected to, as being inconsistent with the Standing Orders, his (Mr. Mein's) opposition being given to it; and the honourable gentleman now got up, after his motion had been actually withdrawn for the day, and he wanted to move it forthwith. Surely, the honourable gentleman was sufficiently well practiced in the rules of Parliament to know that he was utterly out of order, and that the course he proposed could not be resorted to.

The POSTMASTER-GENERAL: He should be, perhaps, far more able to cope with the question before the House, at present, if he was as well up in the forms of the House as his honourable friend opposite, who objected to his doing one thing or the other. At first, he asked leave to withdraw the motion, or postpone it, until Wednesday next. His honourable friend rose to object to his doing so.

Mr. MEIN: He did nothing of the sort.

The POSTMASTER-GENERAL: He sat still, then, and objected to it.

Mr. MEIN: He did nothing of the sort. He never objected to it.

The PRESIDENT said he thought he might prevent further discussion on the subject

by informing honourable gentlemen that there was not a majority of the Council present.

AN HONOURABLE MEMBER: Hear, hear.

The PRESIDENT: He understood the Postmaster-General to withdraw his motion. In fact, it was not competent for him to move the consideration of his motion at a later hour of the day. He understood that the Postmaster-General was about to give notice for another day.

HONOURABLE MEMBERS: Hear, hear.

The POSTMASTER-GENERAL: He understood that his motion was postponed until Wednesday next?

The PRESIDENT: Yes.

Mr. HART said he objected to be called upon to attend the House, day after day, and treated as honourable members were treated yesterday. There was a majority present at one time, but honourable gentlemen walked out to prevent the matter coming on for discussion. There were actually fifteen members in the House, and three or four others sitting in the Library. Was that the way to conduct public business? Let them meet the question fairly and debate it, and decide it. If it was desirable that the Council should meet at four o'clock, let honourable gentlemen settle it; if, at three o'clock, settle it. Do not let them be going on in the present contemptible way. Let them act in a manly business-like way. The present procedure was childish.

Mr. WALSH: If he might point out—there was no question at all before the House. The Postmaster-General, as he had a right to do, had given notice that he would bring forward his motion to alter the hour of meeting, next Wednesday. Having given notice, the motion could not be discussed now.

Mr. EDMONDSTONE: No.

The PRESIDENT: If the honourable gentleman would give notice of the postponement of this motion for next Wednesday, the discussion would cease at once. That would be the most convenient way.

The POSTMASTER-GENERAL gave notice of his motion for Wednesday next.

#### NEW BILLS.

Mr. MEIN, pursuant to notice, presented a Bill to amend the law relating to Bankers' Books Evidence, and a Bill to explain the Bills of Exchange Act of 1867.

They were read a first time and ordered to be printed.

#### THE DRY DOCK.

Mr. WALSH: Before the Order of the Day was called on, might he be allowed to repeat the question he put to the Postmaster-General yesterday, respecting the Dry Dock?

The POSTMASTER-GENERAL, in reply to the honourable gentleman, said: It would

be inconvenient to furnish the return referred to before the 30th of the present month; it would be incomplete. He hoped to lay it on the table of the House next Thursday.

Mr. WALSH said, he felt it to be his duty to call the attention of honourable gentlemen to the answer—which he knew was to be given, in consequence of the courtesy of the Postmaster-General, who previously informed him of it;—and he called their attention to it, because of the style of the answer, and because it was not consistent with the order made by the House. He would read to honourable gentlemen that order:—

Mr. WALSH moved, pursuant to notice—That there be laid on the Table of this House, a return showing in detail the cost of the Dry Dock at Brisbane to date;—

that date was the 5th of June;—

such return to include the probable expense of contracts begun and not concluded; the probable time and expenditure yet required to finish the whole work; and if there has been or is any unforeseen expenditure occasioned, said return to state it and the cause in detail with the cost thereof.

Now, the reply, as given to his question, a question evoked in consequence of the Government apparently taking an undue time —

The POSTMASTER-GENERAL: He found that by the 35th Standing Order—

No question shall be put to any member without previous notice; and no discussion shall then take place upon the subject when any question is put.

Mr. MEIN: You have answered it.

Mr. WALSH: Of course, the hon. gentleman himself had condoned the question, by answering it, if put without notice. But he (Mr. Walsh) gave notice yesterday, and the honourable gentleman then promised to give a reply to-day. Now, the Postmaster-General tried to take advantage of the Standing Order by stating that the question he had answered should not be discussed. The question would not have been put if any exception could have been taken to it.

The PRESIDENT rose.

Mr. WALSH: He should move the adjournment of the House.

The PRESIDENT: The honourable gentleman would put himself in order, if he did that.

Mr. WALSH: It would be just as well for the Postmaster-General to bear in mind that honourable gentlemen were not children in regard to the practice of Parliament. If they should go wrong, they could generally put themselves in the right; but that would not be by his going wrong.

Mr. MEIN: Hear, hear.

Mr. WALSH: The order of the House was, as he had just read, that a certain

return should be made up to the 5th June. The Postmaster-General had taken upon himself to alter that order, by the answer he had given—that it would be inconvenient to furnish the return referred to before the 30th instant. What had that to do with an order of the House? Because it would be inconvenient for the Government, or some official, the return ordered could not be furnished? What had they to do with a peremptory order of the House, that a return should be furnished, and furnished up to a certain date? If the honourable gentleman laid before the House a return going one day beyond that date, he would disobey that order. He (Mr. Walsh) trusted that honourable gentlemen would guard the almost sacred privileges they had, by insisting that the return they had ordered should be furnished to the House, not only within a reasonable time, but honestly and fairly. Now, they were not going to get the return ordered by the House, but one in a more convenient form, which the Postmaster-General said he hoped to be able to lay before them next week. What had the return ordered by the House to do with the 30th June? The order made by the House was for “a return showing in detail the cost of the dry dock at Brisbane,” to the 5th June. Such return was to “include the probable expense of contracts begun and not concluded.” What had that to do with the 30th instant? It was to state “the probable time and expenditure yet required to finish the whole work.” What had the 30th June to do with that? And, “if there had been or is any unforeseen expenditure occasioned, said return to state it and the cause in detail, with the cost thereof?” What had that to do with the 30th of this month? He did trust the House would see the necessity of insisting upon their rights, and preventing the Government publishing any return other than that ordered by them; and that they would not consent to any departure, more or less, from what they had demanded. If the returns that they required were not furnished, they would not be able to carry on the public business in the Upper Chamber. It was always presumed that an honourable gentleman who moved for a return had some ulterior object in view; otherwise, he was not justified in moving for it, because its preparation involved trouble and expense.

The POSTMASTER-GENERAL: Hear, hear.

Mr. WALSH: He had an ulterior object in view. Probably the kind of return that the Postmaster-General was now changing from that ordered by the House would prevent him (Mr. Walsh) carrying out that object. At any rate, he felt it to be his duty to ask honourable gentlemen to insist that the return to be made should be in accord with their order, and not such as the Govern-

ment might think fit to change it to, so that they should maintain the privileges which they possessed; and that the return which had ordered should be made as expeditiously as possible.

The POSTMASTER-GENERAL: He thought his honourable friend had been working himself very unnecessarily into a state of indignation. He had not refused to produce the return as ordered by the House. His simple answer, to-day, was, that it was inconvenient to furnish the return before the 30th instant. He hoped, as far as he was informed, that the whole of the information desired by the honourable Mr. Walsh would be furnished to the House in the precise form he had asked for. But the order of the House did not state that the return was to be prepared by a certain hour or a certain day. Surely, the exigencies of the public service required attention. The whole machinery of administration could not be stopped to prepare the return. He was sure that the honourable gentleman would have no reason to complain, when the return with the information which he (the Postmaster-General) had promised to obtain, if possible, was laid on the table of the House—this day week;—nor that the order of the House had not been complied with.

Question put and negatived.

#### ELECTIONS DURING RECESS BILL.

On the Order of the Day being called for the Election of Members During Recess Bill to be considered in Committee,

The POSTMASTER-GENERAL moved the President out of the chair, now, that the House might be put into Committee of the Whole.

Mr. WALSH said he must confess that he was in a little bit of a fog as to the position of the question. The House seemed to have shelved the motion that he brought forward last Thursday; because his amendment for going into Committee that day six months was met by that of the Collector of Customs, which received the assent of a majority of honourable members present. He fully expected, when that last amendment was assented to, that, at any rate, the discussion of the Bill would not be stifled or prevented. There had really been no discussion of the Bill. His object in moving his amendment had been to lead to a discussion of the Bill, that honourable gentlemen on both sides of the House should deal with it on its merits. He was not quite sure that he was in order in addressing the Chamber again. He knew that both the Postmaster-General and himself had spoken, when, last week, the question was in the same state as now; but things seemed to have arrived at a very different state from what he had expected.

Mr. MEIN said he should like the ruling of the President on the question that Mr. Walsh had incidentally raised—whether it would be competent, on the present motion, to move an amendment to the effect that the word “now” be omitted, with a view to add, at the end of the question, the words “this day six months.” In other words, the amendment was meant practically to shelve the Bill altogether. It would be within the recollection of honourable members that when a precisely similar question to the present one was before the House, last week, Mr. Walsh proposed that the word “now” be omitted with a view to adding the words “this day six months”; and, upon that, an amendment was moved by Mr. Thornton, that, instead of six months, the consideration of the Bill be postponed for a week. It appeared to him (Mr. Mein) that it would be perfectly competent for any honourable gentleman, now, to move any amendment on the question before the House that was consistent with common sense. It would be perfectly in order, at the present moment, to move precisely the same motion as on that occasion, with a view to ascertain whether the House were prepared to affirm the principle of the Bill or not.

The PRESIDENT: This order of the day is in exactly the same position as it was on the last day the Bill was before the House for consideration: it was postponed until this day. Of course, it is competent for any honourable gentleman to make any motion he thinks proper on the subject.

Question put and affirmed; and the House resolved into Committee of the Whole.

Clause 1—Power to Speaker to issue writ.

Mr. MEIN said, this would be a fitting time for testing the feeling of the Committee on the desirability of accepting the Bill or not—of affirming the general principal of it or not. He should not go over the ground that was travelled on the last occasion of the Bill being before them; but he would remind honourable gentlemen that the Bill was postponed for a week to enable them to read up, and prepare their minds for considering it, so that when they next came to the House they should be able to say, “Yea” or “Nay” upon it. Therefore he would move—

That the Chairman leave the Chair and report no progress, and ask leave to sit again this day six months.

He did so because he still adhered to his original conviction, that there was no necessity for the measure; that the country had already in the Legislative Assembly Act adequate machinery for dealing with questions arising from the appointment of members of the Legislative Assembly to offices of profit under the Crown; and that

if the Executive did their duty in such cases no fresh legislation whatever was required. It had been urged that the Bill was required, and that it assimilated the law of the colony to the law of the mother country. He had already answered that assertion, and showed that in Great Britain it was impossible for a member of the House of Commons to resign his seat. Formerly, when a member accepted an office of profit, the question was determined by the House as a body or through the Elections and Qualifications Committee. More recently such questions were disposed of by the judges of the Court of Queen’s Bench; and it was considered necessary to introduce some machinery by which a vacancy in the House of Commons created by the acceptance of an office of profit during the recess could be filled up, without waiting till the meeting of Parliament. Accordingly, it was provided by the Act which had been already referred to that when a member of the House of Commons accepted an office of profit under the Crown, the fact might be certified to the Speaker under the hands of two members, and that their certificate should be endorsed or accompanied by a document signed by the member that had accepted the office; and that thereupon the Speaker should have authority to issue his writ for a new election. That machinery was introduced to meet the necessities of the case, there being no means otherwise by which it could be dealt with during a recess; whereas, in this colony, in New South Wales, in Victoria, and in South Australia, ample provision existed by law, which was identical in all those colonies, to the effect that any member could at any time resign his seat in the Legislative Assembly, and that, upon receipt of such resignation by the Speaker, the seat was *ipso facto* vacated, and a new writ should issue.

Mr. WALSH: Hear, hear.

Mr. MEIN: He contended that it would be encouraging a loose, and, to his mind, an immoral, mode of proceeding, to pass a law, to provide that a person might hold an office of profit under the Crown without resigning his seat. It would provide inducements for bargains to be made on the understanding that seats should not be vacated until it suited the convenience of the Ministry of the day; the person accepting office not sending notice to the Speaker that he had done so. If the Executive did their duty rightly, they would see that a person on whom they were about to confer an office of profit should send in his resignation of his seat in the Assembly to the Speaker.

The POSTMASTER-GENERAL: He could not discover that the hon. gentleman had introduced an argument which would lead the House to alter their previous decision; for it was virtually their decision approv-

ing of the Bill that was given last Thursday, in the division which then took place. The honourable gentleman said if the Bill were passed it would lead to immorality. Well, he (the Postmaster-General) failed to see that it would lead to immorality; for the existing law would be still in force which provided that immediately a member of the Legislative Assembly accepted an office of profit his seat became vacant; and that would still be the case if the Bill should be placed on the statute book. He could point out how the absence of the Bill might lead to immorality. Supposing the Government of the day to be corrupt—which his honourable friend would not accuse the present Government of being, by reason of the fact that he opposed the Bill;—that, during the recess, they knew that in the forthcoming Session of Parliament they would be in a minority, or that they would have only a small majority; that, to save their position, or to create a majority, they offered one or two or more members offices of profit;—under the existing law, according to the ruling of the Speaker of the House, the Speaker had no authority to take action in regard to the seats of those members who accepted such offices until the Legislative Assembly should have met and formally declared those seats vacant. Supposing those members who accepted offices represented constituencies in remote parts of the colony, fresh elections, if contested, could not be completed in less time than six weeks or two months, and, meantime, the electors would be disfranchised; the effect being, that the Government, by corruptly giving offices of profit to members of the Assembly, might create a majority or add a few members to their majority in the House. He wished to point out that, if members failed to send in their resignations before they accepted office, they could not do it afterwards, under the existing law; and that, until the House assembled and declared their seats vacant, they would not be vacant, and elections of new members could not take place. If the Bill now before the Committee was in force, a member could accept an office of profit, and resign afterwards; or, the certificate of two members to that effect, countersigned by himself, as provided, could be sent in; and, in either case his seat would be vacated, and could be operated upon by the Speaker. In answer to his honourable friend, he begged to say that if it transpired that the Government had acted as suggested, by inducing the acceptor of an office of profit during the recess to withhold his resignation, they would be made accountable to the country for their action; they would find themselves in a very serious position, indeed, when Parliament assembled. Indignation would be expressed from one

end of the colony to the other, not only against the Government, but against those members who accepted offices; and they would be held up to scorn and contempt. He did not think any men who bestowed or accepted offices would have the hardihood to act in that way. There was a real object in the Bill, which he had shown, independently of what he said last week. It was a measure that could do no possible harm; it did not affect the present law except to extend and facilitate its working. Neither of the honourable gentlemen opposite, Mr. Mein nor Mr. Walsh, had given one solid reason why the Committee should refuse to pass it. He reminded honourable gentlemen that the Bill had come up to them with the approval of the Assembly, and that it affected that House only. With this explanation, he hoped his honourable friend, Mr. Mein, would allow the Bill to go on; because he could not conceive that any good object would be gained by further discussion. If there was any further argument against the Bill, of course, he should be glad to hear it.

MR. MEIN: The honourable gentleman's last remarks were the strongest refutation of his preliminary observations, and his argument went for nothing in support of his own case. He (Mr. Mein) contended that there was likely to be a corrupt state of things if the Bill should become law; whilst there had been hitherto no practical inconvenience under the present law. The Postmaster-General said there was a ruling of the Speaker, that he had no authority for taking action in the recess if a member of the other branch of the Legislature neglected to send in his resignation before accepting an office of profit. In answer to that, he (Mr. Mein) said there was no such ruling of the Speaker on the records of Parliament.

THE POSTMASTER-GENERAL: He did not say there was.

MR. MEIN: If that was not the honourable member's meaning, then his words were calculated to mislead the House. A ruling meant the laying down of a law by authority, in a formal way; and there was no ruling in the journals of the Legislative Assembly, to the effect that the Speaker was of opinion that he had no authority to take action in reference to the seat of a member who had accepted an office of profit. On the contrary, the journals showed, if anything, that the Speaker had authority to deal with cases of that sort. Though the Postmaster-General did not mention any name, he had referred to the case; and he (Mr. Mein) was justified in referring to it also; and he might state that it was a matter of notoriety that the late member for Clermont, Mr. Fowles—who, by-the-by, had been elected a member of the Opposition, and it might be considered, though he did not say it, that the

Government had an object in removing him by offering him an office, as the gentleman who succeeded to his seat by a narrow majority was a supporter of theirs—was appointed Registrar of the Supreme Court, but did not send in his resignation for several days after the notification of his acceptance of office had appeared in the *Government Gazette*. On his resignation reaching the Speaker, the Speaker issued a writ, and Mr. Fowles' successor was elected. He (Mr. Mein) did not find the Legislative Assembly taking any action in the matter at all. The House were perfectly satisfied with the action of the Speaker in that matter. If his action went for anything, it amounted to a ruling that the existing machinery for meeting such cases, even when a member neglected to send in his resignation before he accepted an office of profit, was sufficient. He (Mr. Mein) had no doubt that if the Government had not hurriedly made the appointment, and had looked into the matter, they would have found it was their duty to have seen that Mr. Fowles resigned his position as a member of the Assembly before taking office; but, viewing the case in the light of the fact that Mr. Fowles was a member of the Opposition, the House had exactly the state of things that was assumed by the Postmaster-General—the Ministry of the day appointing a member of the Assembly who was opposed to them to an office of profit. In this case, although it was clear that the Ministry had neglected their duty in the matter, still, it appeared, judging by the results, that, in the eighth section of the Legislative Assembly Act, there was sufficient machinery to deal with any question. If, however, the Bill became law, it would be pointed out thereby that there was no sufficient authority in the Speaker to issue a writ—that all his past actions had been illegal; whereas, the fact was, that the Assembly had by their action confirmed the authority exercised by the Speaker. The Bill would not only throw doubt upon the authority of the Speaker and his past proceedings, but it would present inducements to members to accept offices of profit under the Crown and to withhold notice thereof from the Speaker, by arrangement with the Ministry. If the Bill was passed, the Speaker would have no authority to act as now; it would be a direct intimation to him that he could not issue a writ, that he had no jurisdiction whatever until a member voluntarily sent in to him notification that he had accepted an office of profit under the Crown, accompanied by a certificate of two members to the same effect. As had been said, a Ministry that would condescend to corrupt action would in the first instance make it a bargain between them and the member accepting office that he should withhold the notice of his accept-

ance from the Speaker, in order that his constituency might be for an indefinite period without representation in the Legislative Assembly. In view of that supposed state of facts, it would be unwise to alter the existing law, which, hitherto, had been found to work satisfactorily under all circumstances, and which had been found to work equally well in all the adjoining colonies without any intimation whatever that any reform was necessary.

Mr. HART said that, last Thursday, he listened with great respect to the remarks which fell from the honourable Mr. Walsh, and which were, he felt, entitled to consideration from the high position that honourable gentleman held in former years in the Legislature, and that made him competent authority. In the course of the debate on that occasion a remark was made by the Postmaster-General which had weight with him (Mr. Hart), more particularly as neither the honourable Mr. Walsh nor Mr. Mein took any notice of it, that the measure had been introduced in the Assembly at the request of the present Speaker. Upon hearing that remark he immediately decided that he would vote for the honourable Mr. Thornton's amendment for the postponement of the Bill for a week. He was at once satisfied of the inadvisability of the Council interfering with a measure sent up to them from another place which was for the benefit of the Assembly alone. He must confess that his own feeling was not to interfere in any way in a matter which the Assembly had arranged for themselves. But, to make assurance doubly sure, he had taken the trouble to ascertain from the Speaker that the Bill had been actually introduced at his request, to meet a difficulty that had arisen recently. He might mention it, because it had been already referred to, that it was in connection with the late member for Clermont. It appeared that all Speakers of the Legislative Assembly, since Queensland was a separate colony, had been in the habit of acting upon vacancies in the same way—

Mr. WALSH: No.

Mr. HART: With the exception of one Speaker, he believed the late Mr. Forbes. The present Speaker was clearly of opinion that it was illegal to issue a writ. Before doing so, he actually satisfied himself by reference to the leader of the Government and the leader of the Opposition, that no exception would be taken to his action in this instance.

Mr. WALSH: Oh!

Mr. MEIN: No, no.

Mr. HART: He understood from the Speaker that that honourable gentleman looked upon the matter as so grave, that he would not issue a writ until he had done so. The Bill had been introduced to avoid any complication in future from anything



of the kind. And, when it was before the other Chamber, he observed that the leader of the Opposition, the late Attorney-General, who was one of the best legal authorities in the colony, stated that he fully agreed with the Premier, that the Bill was a very necessary measure.

MR. MEIN : He had modified his opinion since.

MR. HART : And the honourable and learned gentleman said he was clearly of opinion that the course taken by the Speaker was not sanctioned by the Legislative Assembly Act. He also said that the Bill was a transcript of an English Act ; and, also, that it was the object of both sides of the House to make it as perfect as possible. The Bill was passed with the concurrence of both sides of the House, and came up from the Assembly for the approval of the Council. No doubt, it was as perfect as it could be made, and he was unwilling to go into its various clauses, as the honourable Mr. Mein had done. If the Bill was considered desirable by the the present Speaker and by the other branch of the Legislature, for their own protection, he certainly did not see why the Council should take any exception to it. The Bill did not affect the Council in any shape or way whatever ; if the Assembly were satisfied with it, he did not see why the Council should object to it. Amongst other things that the Speaker pointed out to him, he might mention that as far as the honourable gentleman was concerned there was no court or tribunal in the colony that could take exception to his issuing a writ ; but that it was quite competent for any member of the Assembly to take the matter before the Privy Council. In the event of the Privy Council deciding that the action of the Speaker was illegal, the whole of the measures passed by the Parliament would be invalidated.

MR. MEIN : Nonsense !

MR. HART : The honourable member said "nonsense," but it struck him (Mr. Hart) that that was a very common-sense view to take. If such a result was possible, it was perfectly justifiable for the Government to bring in a measure to prevent it happening. He had no doubt that, if the amendment was not adopted by the Committee, then the Bill would be gone into on its merits. As it stood at present, honourable members had a right to presume that the Bill had not been sent up to the Council in a hurried manner. It was introduced at the request of an honourable gentleman in a high position, for his own protection, who, otherwise, wanted to bring everything into strictly legal form ; and it had the support of the highest legal authorities in the colony, on both sides of the Assembly. At any rate, he should support the Bill, which could do no possible harm, and as he

thought it would be rather going out of their way for the Council to interfere with it.

MR. WALSH must protest against the dictum laid down that, because a measure sent up to the Council was supposed to affect the other Chamber more than the Council, honourable gentlemen had no business to dissect it, or to differ in opinion from it ; and he should protest, again and again. He did not care what the measure was, honourable members were not to sit as mere children and dummies to pass it silently and obediently. They had a right to discuss all business that came before the House. It had been plainly pointed out before that the Bill under consideration was not a measure affecting one Chamber only ; but that it was a question of policy ; that it was a question as to the way in which the representative institutions of the colony should be carried out—the way in which a kindred Chamber of the Legislature should be filled. That was an important question, and it was one for the consideration of honourable members of the Council. The information that the honourable Mr. Hart had vouchsafed to the House was not such as ought to have been given to them. According to that honourable gentleman's showing, the Speaker of the Legislative Assembly had committed an error.

MR. HART : All Speakers.

MR. WALSH : He would come to that presently. He did not submit to accept blame or censure. According to the honourable gentleman who was the exponent of the Speaker in the Council, the Speaker of the Legislative Assembly had committed an error ; in fact, had issued a writ illegally ;—and the Speaker had confessed that he had done so ;—mind ! that there was somebody sitting in the other Chamber who had no right to be there !—a stronger statement, that, than any honourable member of the Council would make. That was derived from the retailed statement of the Speaker of the Legislative Assembly. Then, after that, came another statement by the honourable Mr. Hart, one which he (Mr. Walsh) heard for the first time—that an appeal could be made to the Privy Council upon the manner in which a colony possessing independent representative Government chose to elect members of the Legislative Assembly. That statement he denied *in toto* ; and he did not care whether the Speaker of the other Chamber, or all the lawyers there, made it—there was no such appeal. The Parliament of the colony was not so dependent upon, or tied in leading strings to, the mother country. He denied that the Privy Council of England could unseat a member of the Queensland Parliament. He should be recreant to the position he held in the Council and

as a colonist, if he heard such a statement and did not stand up to protest against it.

MR. HART: He was not aware that he had said so. He said he understood the Speaker to say that it was quite competent for any member to take the matter of illegality home to the Privy Council; and that if it should be proved that the Speaker had acted wrongly, the legislation of the session would be invalidated. The honourable gentleman must understand him, that he was not the exponent of the Speaker in any sense. He had sought for information upon a matter stated in the House by the Postmaster-General.

MR. WALSH: It was beyond the power of the Privy Council of England to meddle with the question, whether a member of either Chamber was seated rightly or wrongly. It was impossible to take such a question for decision into the law courts of the colony; hence, it could not be removed from them, and forward to the Privy Council: and he knew of no other way to get a case before the Privy Council, except through the colonial courts. The honourable gentleman said he was not the exponent of the Speaker. He had certainly put himself in communication with the Speaker, and he had retailed their conversation to the House. He (Mr. Walsh) was sorry the honourable gentleman had done so; and sorry that it was stated by him that the Speaker of the Legislative Assembly admitted that, without law, he had issued a writ.

MR. HART: Hear, hear.

MR. WALSH: He was sorry to find that the honourable gentleman, to qualify, apparently, the impropriety of the present Speaker, had said it had been done also by previous Speakers.

MR. HART: The leader of the Opposition stated that it had been the practice to issue writs during the recess, unauthorised by the Legislative Assembly Act. It could be read in *Hansard*.

MR. WALSH: He took down the honourable member's words, but he must accept his explanation. Well, it was not the case; and he spoke with some knowledge, as far as one individual was concerned. He knew of no instance, and he did not think it could be possible for one to occur. He was quite sure that if any Speaker had done so, and discovered his error, he would not have gone to a member of the Council to tell him of it; but he would have gone to the Assembly and confessed the mistake he had made, or the illegality he had been led into, and he would have asked the condonation of that Chamber; he would not have asked the Assembly to pass such a measure as the one now under consideration, to increase the mistake in the future. He was more opposed to the Bill now than he was at the last sitting of the House. The powerful arguments of

his honourable friend, Mr. Mein, should convince every honourable member that the Bill was not only unnecessary, but would mystify the administration of the law, and would enable a corrupt Government—of which he hoped the country would not have a sample—more than the present statute did, to trifle with Opposition members. Nothing could be more conclusive than the remarks they had heard on that subject. He should like to ask the Postmaster-General, in reference to the vacancy of a seat, how he was going to get over the difficulty of finding two members to certify that a member had accepted an office of profit? If the corrupt Government of whom the honourable gentleman had spoken made an appointment, and a corrupt member accepted an office of profit, how was he going to get the certificate sent in? If he could not get two corrupt members to certify, what was he going to do? He (Mr. Walsh) could understand a corrupt man who had accepted an office of profit from a corrupt Government going about the streets whining: "I want to resign my seat, but I can't get two members to certify that I have accepted an office of profit." He could understand meeting a dozen such men in Queen street every day. The Bill was a bungling piece of legislation which had arisen, according to Mr. Hart, out of a blunder committed elsewhere; and it was a very rough style of doing things that was now indulged in of bringing in a Bill to meet particular cases. If the honourable gentleman would only take that to heart, he would find that, if the Bill passed, it would be as defective in its operation as the law was alleged to be for the single case for which the Bill was proposed as a remedy. The whole thing was a bungle, as honourable gentlemen would see, if they reviewed the eighth and tenth sections of the Legislative Assembly Act, than which nothing could be simpler or more effective. No Speaker could go astray with those provisions for his guidance. Were the Government going to offer an opponent an office of profit and two thousand pounds a year?—The Postmaster-General did not contradict him. Could they not make it a *sine qua non* that that member should send in his resignation before accepting that office? Under the Bill, a corrupt Government such as the honourable member had referred to, might say, it was not convenient for them that there should be a vacancy for the particular constituency represented by the person to whom they offered an office of profit; that they would hoodwink the Speaker; that they would humbug the country; that the member accepting the office could take his time, and should only send in his resignation when they told him to do so; and that only then would they get two members to certify that a member

had accepted office and that his seat was vacated. That was what the Bill would open the door to. The Government must insist as a preliminary that a member accepting office must send in his resignation to the Speaker; and then there would be no need for the Bill, and no temptation to trifle with the country or to act dishonestly. He contended that, as a branch of the Legislature, the Council were bound to protect the general interests of the electors of the Colony, and of the whole people; that they should not pass laws which would encumber the statute book; and that they should not open the door to a dishonest Government or a dishonest acceptor of office to trifle with the important position of a representative of the people. On behalf of those who might have corrupt representatives in the other Chamber he took his stand; and he hoped honourable members would not be led aside from their duty by the argument that the Bill affected only the Legislative Assembly. As an independent portion of the Legislature, he said the Council had a right to deal with the Bill.

The question was then put, and the Committee divided:—

#### CONTENTS, 6.

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

#### NOT-CONTENTS, 6.

Mr. Taylor, Mr. Cowlshaw, Mr. Thornton, the Postmaster-General, Mr. Hart, and Mr. Sandeman.

The CHAIRMAN: It appears that the Contents are 6, and the Not-Contents are 6. It is therefore for me to vote in order that the matter may be further discussed. I vote with the Not-Contents. The question is therefore resolved in the negative.

The POSTMASTER-GENERAL then moved—

That the Chairman report no progress, and ask leave to sit again on Wednesday next.

Mr. WALSH: Does that come from the Postmaster-General?

The POSTMASTER-GENERAL: Yes.

Mr. WALSH: He must say that he thought the honourable gentleman would have done much better if he had accepted the other motion. It was a very uncommon course. Did the honourable gentleman acknowledge that he was defeated? If so, it was a proper course he was pursuing; but he must not tantalise the Chamber by putting off important business, if business was to be done. In that case, after the expression of opinion which the Chairman had thought fit to give, it was a discourtesy to that honourable gentleman not to go on with that Bill this evening. At any rate, he hoped the Postmaster-General would indicate to the Committee the causes that led to his making the motion, and the course that he, or the Government, meant

to pursue, with respect to the Bill: he should certainly do that, or he would not be acting courteously to the Committee.

The POSTMASTER-GENERAL: The hon. gentleman said he wanted to know the cause of the motion. He could only refer to the clock, and he would see the cause. There was no other business on the paper to be transacted this evening; and as some of the supporters of the Government had taken their departure, and as he was not prepared to go on with the Bill in their absence—for, of course, he could not be expected to accept the decision of a minority of the Council—and, as he hoped next Wednesday to have a full House, to give the Bill proper consideration, he did not think it worth while to ask honourable members to meet after the tea-hour. Every object would be attained by postponing the further consideration of the Bill until next Wednesday.

HONOURABLE MEMBERS: Hear, hear.

Mr. MEIN said he had reason to believe that some honourable gentlemen had voted against the postponement of the question for six months under a misapprehension. The honourable Mr. Hart had used as an argument that the honourable Mr. Griffith, in the other House, had stated that he considered the Bill necessary. He (Mr. Mein) was, to a certain extent, in Mr. Griffith's confidence. Upon reading the Bill, when it was thrust before the House, he came to the conclusion, altogether independent of his honourable friend, Mr. Walsh, that the Bill was wholly unnecessary; and he afterwards discussed the matter with Mr. Griffith, who frankly told him that he had hurriedly come to the conclusion that the Bill was a desirable measure, but that on further reflection he saw no necessity for it whatever; and the honourable and learned gentlemen absolutely confirmed him in the argument he used throughout before the Council, that the measure was wholly unnecessary. The observations of the honourable Mr. Hart, uncontradicted as they were, might have led the Committee into a misapprehension in voting on the division. He (Mr. Mein) thought it was altogether irregular and unbecoming in the honourable gentleman to introduce the name of the Speaker of the Legislative Assembly. Whatever the Speaker might think on any point, his was simply the opinion of one man; but his official position ought not to have been used in the Council in any way whatever to coerce or induce honourable members to give their votes in one way. The Council had to discuss measures submitted to them on their merits, independently of the personal wishes of any man. The honourable Mr. Walsh had admirably answered that; so no more need be said. In order that honourable gentlemen might not be misled by opinions given hurriedly

elsewhere, he moved by way of amendment, that in lieu of the words "Wednesday next," the words "this day three months," be substituted in the motion before the Committee.

Question—That the words proposed to be omitted stand part of the question.

Mr. HART said, in answer to the implication of discourtesy by his statements during the debate, he had to express regret if he had committed any irregularity. In going to the Speaker, he had gone to the fountain head for information regarding a statement previously made in the House.

HONOURABLE MEMBERS: Hear, hear.

Mr. HART: In answer to the honourable Mr. Mein, he said he had only taken from *Hansard* the statement of the opinions of the leader of the Opposition in another place. He was not, certainly, in the confidence of the honourable and learned gentleman, who spoke on the introduction of the Bill in the Assembly, on the second reading, and in Committee of the Whole. The honourable Mr. Griffith did not object to the Bill at any time, and the third reading passed without remark. He (Mr. Hart) was perfectly justified in quoting the opinions of the leader of the Opposition in the other House in support of the Bill.

Further discussion on the motion ensued; when

Mr. WALSH said, that in consequence of the observations of the Postmaster-General, which, if carried to an ultimate conclusion, would leave the honourable gentleman no right to move any motion in Committee, this evening, he was impelled to call attention to the state of the Committee.

There not being a quorum, the CHAIRMAN left the chair, and reported the fact.

The House being counted, and there not being a quorum, the President declared the Council adjourned until the next sitting day.

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