

Queensland



Parliamentary Debates
[Hansard]

Legislative Council

TUESDAY, 17 NOVEMBER 1885

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LEGISLATIVE COUNCIL.

Tuesday, 17 November, 1885.

Appropriation Bill—message from the Legislative Assembly.—Report of the Joint Select Committee.—Appropriation Bill No. 2—consideration of Legislative Assembly's message.—Message from the Legislative Assembly.—Adjournment.

The PRESIDENT took the chair at 4 o'clock.

APPROPRIATION BILL—MESSAGE FROM THE LEGISLATIVE ASSEMBLY.

The PRESIDENT read the following message from the Legislative Assembly :—

MR. PRESIDENT,

The Legislative Assembly having come to the following resolutions—namely :—

I. That the Report of the Joint Select Committee of the Legislative Council and Legislative Assembly, appointed on the 13th of November "to consider the present condition of public business in consequence of no Supplies having been granted to Her Majesty for the service of the current financial year," be now adopted by this House,

II. That the following Joint Address to Her Majesty be adopted, as recommended by the said Committee :—

MOST GRACIOUS SOVEREIGN,—

We, Your Majesty's loyal and dutiful subjects, the members of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, humbly approach Your Majesty with a renewed assurance of our affection and loyalty towards Your Majesty's person and Government.

Questions have arisen between the Legislative Council and Legislative Assembly with respect to the relative rights and powers of the two Houses, which questions we are desirous of submitting for the opinion of Your Majesty's Most Honourable Privy Council.

We have caused a case to be prepared setting forth the questions which have so arisen, and which we desire to be so submitted, in the words following :—

1. The Constitution Act of Queensland, 31 Victoriae, No. 38, contains the following provisions :—

Section 1. "There shall be within the said colony of Queensland a Legislative Council and a Legislative Assembly."

Section 2. "Within the said colony of Queensland Her Majesty shall have power, by and with the advice and consent of the said Council and Assembly to make laws for the peace welfare and good government of the

colony in all cases whatsoever Provided that all Bills for appropriating any part of the public revenue for imposing any new rate tax or impost subject always to the limitations hereinafter provided shall originate in the Legislative Assembly of the said colony."

Section 18. "It shall not be lawful for the Legislative Assembly to originate or pass any vote resolution or Bill for the appropriation of any part of the said Consolidated Revenue Fund or of any other tax or impost to any purpose which shall not first have been recommended by a message of the Governor to the said Legislative Assembly during the session in which such vote resolution or Bill shall be passed."

2. Sections 1 and 2 are re-enactments of sections 1 and 2 of the Order in Council of 6th June, 1859, providing for the Constitution of the colony of Queensland.

Section 18 is a re-enactment of section 55 of the Act of New South Wales, 17 Victoria, No. 31, contained in the first schedule to the Imperial Act, 18 and 19 Victoria, c. 54.

3. The members of the Legislative Council are nominated by the Governor for life, subject to certain contingencies. The members of the Legislative Assembly are elected by the several constituencies into which the colony is divided.

4. During the sessions of 1884 and 1885 a Bill to provide for the payment of the expenses incurred by members of the Legislative Assembly in attending Parliament was passed by the Legislative Assembly, and on each occasion rejected by the Legislative Council. No limit was proposed to the duration of this Bill.

5. In the Estimates of Expenditure for the year 1885-6, which were laid before the Legislative Assembly in the session of 1885, after the rejection of this Bill for the second time by the Legislative Council, there was included, under the heading of "The Legislative Assembly's Establishment," an item of £7,000 for "Expenses of Members," to be payable for the year 1885-6 under conditions precisely similar to those defined by the Bill which had been so rejected by the Legislative Council.

6. The Estimates are not formally presented to the Legislative Council, but are accessible to members.

7. The annual Appropriation Bill having been sent by the Legislative Assembly to the Legislative Council for their concurrence, containing an item of £10,585 for "The Legislative Assembly's Establishment," which sum, in fact, included the item of £7,000 for "Expenses of Members," the Legislative Council, on the 11th of November, 1885, amended the Bill by reducing the sum proposed to be appropriated for "The Legislative Assembly's Establishment" from £10,585 to £3,585, and making the necessary consequential amendments in the words and figures denoting the total amount of appropriation and returned the Bill so amended to the Legislative Assembly. There was nothing on the face of the Bill to indicate the special purpose for which any part of the sum of £10,585 was to be appropriated, except that it was for the Legislative Assembly's Establishment.

8. On the 12th November, the Legislative Assembly returned the Bill to the Legislative Council with the following message:—

"The Legislative Assembly having had under their consideration the amendments of the Legislative Council in the Appropriation Bill No 2—

"Disagree to the said amendments for the following reasons, to which they invite the most careful consideration of the Legislative Council:—

"It has been generally admitted that in British colonies in which there are two branches of the Legislature the legislative functions of the Upper House correspond with those of the House of Lords, while the Lower House exercises the rights and powers of the House of Commons. This analogy is recognised in the Standing Orders of both Houses of the Parliament of Queensland, and in the form of preamble adopted in Bills of Supply, and has hitherto been invariably acted upon.

"For centuries the House of Lords has not attempted to exercise its power of amending a Bill for appropriating the public revenue, it being accepted as an axiom of constitutional government that the right of taxation and of controlling the expenditure of public money rests entirely with the representative House—or, as it is sometimes expressed, that there can be no taxation without representation.

"The attention of the Legislative Council is invited to the opinion given in 1872 by the Attorney-General and Solicitor-General of England (Sir J. D. Coleridge and Sir G. Jessel) when the question of the right of the Legislative Council of New Zealand to amend a money Bill was formally submitted to them by the Legislature of that colony. The Constitution Act of New Zealand (15 and 16 Victoria, c. 72) provides that money Bills must be recommended by the Governor to the House of Representatives, but does not formally deny to the Legislative Council (which is nominated by the Crown) the right to amend such Bills. The Law Officers were, nevertheless, of opinion that the Council were not constitutionally justified in amending a money Bill, and they stated that this conclusion did not depend upon and was not affected by the circumstance that by an Act of Parliament the two Houses of the Legislature had conferred upon themselves the privileges of the House of Commons so far as they were consistent with the Constitution Act of the colony.

"The Legislative Assembly believe that no instance can be found in the history of constitutional government in which a nominated Council have attempted to amend an Appropriation Bill. Questions have often arisen whether a particular Bill which it was proposed to amend properly fell within the category of money Bills. But the very fact of such a question having arisen shows that the principle for which the Legislative Assembly are now contending has been taken as admitted.

"The Legislative Assembly maintain, and have always maintained, that (in the words of the House of Commons of 3rd July, 1678) all aids and supplies to Her Majesty in Parliament are the sole gift of this House, and that it is their undoubted and sole right to direct, limit, and appoint, in Bills of aid and supply, the ends, purposes, considerations, conditions, limitations, and qualifications of such grants, which ought not to be changed or altered by the Legislative Council.

"For these reasons it is manifestly impossible for the Legislative Assembly to agree to the amendments of the Legislative Council in this Bill. The ordinary course to adopt under these circumstances would be to lay the Bill aside. The Legislative Assembly have, however, refrained from taking this extreme course at present, in the belief that the Legislative Council, not having exercised their undoubted power to reject the Bill altogether, do not desire to cause the serious injury to the Public Service and to the welfare of the colony which would inevitably result from a refusal to sanction the necessary expenditure for carrying on the government of the colony, and in the confident hope that under the circumstances the Legislative Council will not insist on their amendments."

9. On the same day the Legislative Council again returned the Bill to the Legislative Assembly with the following message:—

"The Legislative Council having had under consideration the message of the Legislative Assembly of this day's date, relative to the amendments made by the Legislative Council in the Appropriation Bill of 1885-6, No. 2, beg now to intimate that they insist on their amendments in the said Bill,—

"Because the Council neither arrogate to themselves the position of being a reflex of the House of Lords, nor recognise the Legislative Assembly as holding the same relative position to the House of Commons:

"The Joint Standing Orders only apply to matters of form connected with the internal management of the two Houses, and do not affect constitutional questions:

"Because it does not appear that occasion has arisen to require that the House of Lords should exercise its powers of amending a Bill for appropriating the public revenue, and, therefore, the present case is not analogous; the right is admitted though it may not have been exercised;

"Because the case of the Legislature of New Zealand is dissimilar to that now under consideration, inasmuch as the Constitution Act of New Zealand differs materially from that of

Queensland, and the question submitted did not arise under the Constitution Act, but on the interpretation of a Parliamentary Privileges Act. If no instance can be found in the history of constitutional government in which a nominated Council has attempted to amend an Appropriation Bill, it is because no similar case has ever arisen;

"Because in the amendment of all Bills the Constitution Act of 1867 confers on the Legislative Council powers co-ordinate with those of the Legislative Assembly, and the annexing of any clause to a Bill of supply, the matter of which is foreign to and different from the matter of said Bill of supply, is unparliamentary and tends to the destruction of constitutional government, and the item which includes the payment of members' expenses is of the nature of a 'tack.'"

"For the foregoing reasons the Council insist on their amendments, leaving the matter in the hands of the Legislative Assembly."

10. On the 13th of November the Legislative Assembly, by message, proposed the appointment of a Joint Select Committee of both Houses "to consider the present condition of public business, in consequence of no Supplies having been granted to Her Majesty for the service of the current financial year." Such committee was appointed on the same day, and on the 17th of November brought up their Report, recommending, amongst other things—

"That, for the purpose of obtaining an opinion as to the relative rights and powers of both Houses with respect to money Bills a case be prepared, and that a Joint Address of both Houses be presented to Her Majesty praying Her Majesty to be graciously pleased to refer such case for the opinion of Her Majesty's Most Honourable Privy Council."

11. The following Acts and documents are to be deemed to form part of this case:—

- (1) The Imperial Act, 18 and 19 Victoria, c. 54;
- (2) The Order in Council of 6th June, 1859;
- (3) The Constitution Act of 1867 (Queensland)
- (4) The Standing Orders of both Houses;
- (5) A copy of the Members Expenses Bill of 1884;
- (6) A copy of the Members Expenses Bill of 1885;
- (7) The Estimates of Expenditure for 1885-6, "Executive and Legislative Department";
- (8) The Appropriation Bill of 1885-6 (No. 2);
- (9) Extracts from the "Journals of the Legislative Council" relating to the Appropriation Bill;
- (10) Extracts from the "Votes and Proceedings of the Legislative Assembly" relating to the same matter.

The questions submitted for consideration are:—

1. Whether the Constitution Act of 1867 confers on the Legislative Council powers co-ordinate with those of the Legislative Assembly in the amendment of all Bills, including money Bills?
2. Whether the claims of the Legislative Assembly, as set forth in their message of 12th November, are well founded?

We humbly pray that Your Majesty will be graciously pleased to refer the said case for the opinion and report of Your Majesty's Most Honourable Privy Council.

III. That the foregoing resolutions be forwarded to the Legislative Council, with a message, inviting their concurrence in the proposed Joint Address.

Beg now to forward the same to the Legislative Council and to request their concurrence in the proposed Joint Address.

WILLIAM H. GROOM,
Speaker.

Legislative Assembly Chamber,
Brisbane, 17th November, 1885.

On the motion of the POSTMASTER-GENERAL, the message was ordered to be taken into consideration at a later hour of the day.

REPORT OF THE JOINT SELECT COMMITTEE.

The Hon. A. C. GREGORY laid upon the table of the House the Report of the Joint Select Committee on the present condition of public business, and moved that it be printed.

Question put and passed.

The Hon. A. C. GREGORY moved that the Report be read by the Clerk.

Question put and passed, and Report read at length by the Clerk, as follows:—

The Joint Select Committee of the Legislative Council and Legislative Assembly, appointed on the 13th of November, 1885, "to consider the present condition of public business in consequence of no Supplies having been granted to Her Majesty for the service of the current financial year," report as follows:—

1. They have carefully considered the matter referred to them, and in particular have considered the messages transmitted by the Legislative Council and Legislative Assembly respectively, on the 12th November, with respect to the Appropriation Bill No. 2.

2. They recommend that for the purpose of obtaining an opinion as to the relative rights and powers of both Houses with respect to money Bills a case be prepared, and that a Joint Address of both Houses be presented to Her Majesty, praying Her Majesty to be graciously pleased to refer such case for the opinion of Her Majesty's Most Honourable Privy Council.

3. They have prepared a Draft Address to Her Majesty and a draft case to be submitted, which are appended to this Report, and which they recommend for adoption by the Legislative Council and Legislative Assembly.

4. They recommend that it be an understanding that while the questions so submitted remain under consideration no appropriation of money should be included in the annual Appropriation Bill for a purpose substantially the same as any purpose for which an appropriation has during the same session been submitted to the Legislative Council by separate Bill and rejected by them.

5. They recommend that upon the adoption of this Report by both Houses, and the adoption of a Joint Address to Her Majesty as herein recommended, the Legislative Council do not further insist on their amendments in the Appropriation Bill No. 2.

S. W. GRIFFITH,
Chairman.

Legislative Council,
Committee Room No. 1,
16th November, 1885.

The Hon. A. C. GREGORY said: Hon. gentlemen,—With the consent of the House I propose to move that the report of the Joint Committee on the present condition of public business be adopted by the House. In doing so I would point out that the questions at issue between the two Houses have been very carefully considered by the Committee, and it has appeared to them that the best mode of dealing with the matter is to submit a case for the opinion of the Privy Council. There appeared to be no other course for us to adopt if we were to return with a report that would meet with the approval of both Houses, except to refer to the Privy Council the very serious difficulty with regard to coming to an understanding with reference to the rights and privileges of the two Houses. We have already seen the great difficulty that has arisen between the two Chambers through the adoption by one House of custom for their rule, and an adherence on the part of the other to the law. I do not think it is desirable to enter into any discussion as to the relative merits of the case, because they have been so fully discussed by hon. members on the messages between the two Houses in regard to the Appropriation Bill, and also on our amendment in the Local Government Act Amendment Bill. It would only be taking up the time of hon. members unnecessarily to refer to the arguments again on the present occasion: I may, however, state that the draft case which has been prepared contains nothing but matters of fact and the messages that have passed between the two Houses in regard to the Appropriation Bill. I do not think, therefore, that there will be any difficulty in deciding the case. There are no matters of opinion advanced in it, beyond what are contained in the messages between the Council and the Assembly, and the questions

that are submitted are, in fact, the questions involved in those messages. The report of the Committee has been made as complete and as concise as it reasonably could be made. There is one paragraph in the report which is of great interest to members of this House. The 5th paragraph states that—

"They recommend that upon the adoption of this report by both Houses, and the adoption of a Joint Address to Her Majesty as herein recommended, the Legislative Council do not further insist on their amendments in the Appropriation Bill No. 2."

The members of the Joint Committee who were appointed by this House felt exceedingly loth to recommend a retraction of the contention put forward by this House. But taking into consideration the fact that owing to the long drought we have experienced, and other circumstances, the commercial and monetary position of the colony is not such as would justify them, or, in their opinion, would justify this House in adding anything to the difficulties which already exist, by any act which would cause the stoppage of payments from the Treasury, they have considered that it is better at once to relinquish that point and remit the matter for consideration elsewhere, and thus at least remove a difficulty which would otherwise arise if we insisted upon our amendments in the Appropriation Bill. The gravity of the case is really so great that I think all hon. members will be satisfied that the course is a judicious one, and that they will agree with me that this House should rather withdraw its contention and refer the question for the decision and opinion of the Privy Council than to put the country to the very serious inconvenience and injury which would result from insisting upon our previous action. In clause 4 of the report we have insisted that there should be no further tacking, or attempts to tack, such as has occurred in connection with the Appropriation Bill. This may be argued by some not to be material to the point at issue. It may appear to be a small concession, and probably the concession is of little practical effect beyond being a distinct acknowledgment on the part of the Legislative Assembly that they have gone at least a great length, if not beyond what was reasonable, in the mode in which they tacked members' expenses on to the Appropriation Bill. I do not think it is necessary for me to detain the House any longer. Hon. members are equally as well aware as I am of the conditions under which we are now proceeding, so that it will be unnecessary for me to go into further details. I beg now to move that the report of the Joint Committee be adopted.

The Hon. T. L. MURRAY-PRIOR said: Hon. gentlemen,—In the formation of the Committee I was one of the consenting parties, and although the conclusion arrived at is not exactly what I would have liked, still, having assented to the appointment of the Committee, I shall feel it my duty not to offer any opposition to the adoption of the report. At the same time, having taken a prominent part in this matter, I think I ought to say a few words upon it. What the Hon. A. C. Gregory has told us as bringing the matter before the Privy Council I quite agree with. I think it would be a very good thing to have the question settled. For my own part I am quite indifferent as to the way in which it may be settled, seeing that the power which we used has been turned to our disadvantage instead of to our gain. It is not entirely a question whether this Council have a right or have not a right to amend a money Bill. What I feel more than anything else is that those who I believe have been entirely in the wrong have apparently obtained a victory, and it is questionable whether, if we had fully carried out

what might be looked upon as our duty, we should not have continued to insist upon what we commenced. I must own that that is very much my feeling. At the same time I see that the country would have been plunged into very great difficulties had some arrangement not been arrived at, and for that reason, and that reason only, I am glad that an arrangement has been arrived at. I feel myself that it is better not to carry on, if it may be so named, a warfare with another place by which much harm would result to the community at large, and think it much better for the country that the matter should be settled as proposed. At the same time I cannot help feeling that we have been coerced to do what we are now doing. Never before has such a case come before the House. Look at it from its commencement. We rejected a Bill and the matter has been tacked on to the Appropriation Bill. It is allowed by everybody that we had a perfect right to lay the Appropriation Bill aside, but when we, thinking that our duty to the country imposed on us the necessity of not at once laying that Bill aside, amended the measure, the result was that in the other Chamber, and in many places in the country, instead of our action being thought well of it has been brought to an issue different to that which we at all intended. Our main object was to prevent any Government from tacking on any matter they pleased to the Estimates. As far as I am concerned, I feel that if I had not taken the action I did take, and which was approved of by many here at the time, I would not have done my duty. The action I took was one which I approved of myself, and I do not regret it even if it has only led to the conclusion arrived at. I feel satisfied that in after days, when the matter is looked at coolly by all shades of the community, their verdict will be a unanimous one. They will think that the Council did what they could to preserve the rights of the people; that Ministers, who they now think represent themselves, have gone against their rights; and I think that the Premier and each member of the Government—the older they become—will feel that a blot has been cast by them upon their political career which time will not efface.

The Hon. G. KING said: Hon. gentlemen,—I must congratulate the members of the Joint Committee upon the satisfactory conclusion of their labours and I trust this reference to Her Majesty's Privy Council, whatever may be the verdict returned, will set for ever at rest the cause of the contention between the two Houses.

The Hon. F. H. HART said: Hon gentlemen,—I wish to make a few remarks, not merely because I was a member of the Joint Committee, but also because I did not address this House when the subject was formerly before us. It was not that I did not feel very strongly on the subject, but simply because so many members addressed themselves to the question and so much time was occupied, that I did not wish to weary the House by going over the same ground again. As has been said by the Hon. A. C. Gregory, the members of the Joint Committee sent from this House had a very serious duty to perform. The question had been discussed in this House from the point which the majority took—namely, that a very serious attempt had been made to coerce them—and the result was that the Appropriation Bill was amended. As far as that went I was entirely in accord with the majority of this House; and if it had only been a question of insisting upon our rights and of resisting any attempt at coercion I would have been quite prepared to fight the matter to its bitter end. But we had others besides ourselves to consider. We had to consider the welfare of the colony, and although

it was apparent that the Government, with a very large following in another Chamber, was prepared to throw the interests of the colony over in order to secure the item put into the Appropriation Bill, I was not prepared to go that length. I, as a commercial man of over twenty years' standing in this place, and knowing how this colony has suffered at various times when vicissitudes have arisen, and knowing that anything which brought about a crisis and panic at the present time would lead to disastrous results, feel that very few members who voted for the miserable item for payment of members ever contemplated or realised what the consequences would be. It was not, however, for us to hold out for what we considered our rights, when there was the chance of bringing ruin on the colony. I was not prepared to go that length, and I went to the Joint Committee with a full intention of doing my duty to the colony, and my duty as well, as far as I could, to this House. In common with the other members of the Committee, I argued the various points, and I do not think I argued them without some effect. But there were reasons why the main point in the discussion could not be insisted upon, and I am very sorry for it, because it shows me that, even at present, Ministers are not so independent as they should be. The report which we have brought up ends, as you will notice, by recommending the reference of the case in question to the Privy Council. Our object in doing that was, if possible, to have the question set aside for ever. It has cropped up over and over again, and hon. gentlemen may recollect, when we were discussing the Local Government Act Amendment Bill, I particularly asked the Postmaster-General to have the matter settled there and then; but the point was not taken up. This House considers it has certain rights under the Constitution Act, and according to my reading of the Constitution Act, I have not the slightest doubt that we do possess those rights. A ruling was given in this House by the late Sir Maurice O'Connell, that the House undoubtedly did possess those rights; but he, at the same time, advised the Council to use discretion in using them. Our next president, the late Sir J. P. Bell, also said he had not the slightest doubt that we possessed such rights. We have not asked our present President; but I think we can take the vote he gave upon the Local Government Act Amendment Bill as showing that he also entertains the same views as his predecessors. Those rights have always been maintained since I have been a member of this House—about thirteen years—but we have always stated we would not use them until forced to do so. We have been forbearing, and have allowed matters to go through this Chamber that we did not altogether approve of. This matter of payment of members, after being most decisively rejected by this Chamber this session, was sent up in a surreptitious manner in the Appropriation Bill, and we were asked to pass it whether we liked it or not, and we considered it a case with respect to which we must exercise the power given to us, if it is only to stop this unconstitutional way of passing measures through the House. Consequently, I think, by referring this matter to the Privy Council, we shall not only have the question as to whether this House has the right or not to amend money Bills settled, but we shall also get an expression of opinion from the Privy Council as to the unconstitutional method which the Legislative Assembly took in including the item in the Appropriation Bill, and also as to the legality of hon. members of that House voting payment to themselves. The Joint

Committee prepared a report, and so far as the representatives of the Council are concerned we did our best to get the matter into the shape in which it is now presented to this Chamber; and in clause 4 of that report, to all intents and purposes, the Legislative Assembly pledge themselves, or Ministers pledge themselves, that they will not repeat the offence we complain of. That is the main point we have been going upon—that a measure that we have once rejected this session has been brought up again unconstitutionally, and forced upon us. But we have here recommended, and I understand that the other House has adopted the recommendation, that this unconstitutional practice shall not be repeated; and I say that the fact of that clause being inserted into the report, and adopted by the Legislative Assembly, is tantamount to an admission on the part of the Government that they have done an unconstitutional thing, if not an illegal thing; and, taking that view of the matter, I hold that the whole action of this Chamber has been justified. I do not think there is anything more I can say upon the subject beyond this: that I am very glad indeed that the dispute between the two Chambers has been brought to a conclusion; and I may further say that, in the Committee, the representatives from this Chamber met with the utmost courtesy and consideration; and, whatever may be the result, I think that this Chamber need not regret the position of affairs.

The HON. F. T. GREGORY said: As one of the Select Committee appointed to discuss the question now before the House, I do not like to allow it to pass without saying a few words. Unfortunately for myself I was physically unable to give that attention to it which I could have wished; but the report as brought up is fully in accord with my views on the subject. I have carefully weighed, together with other members of the Committee, the reasons for yielding what appears to be a very substantial point in connection with the contention between the two Houses. We have been guided by a sense of duty to the country, instead of insisting upon what we believe to be our just rights and privileges, and thereby throwing it into disorder and confusion. It is hardly fair that we should have been forced into such a position and had to yield what we still maintain to be our right, merely to prevent a reckless Government from shipwrecking the colony by its extravagant action, not only with regard to payment of members, but as to its whole conduct, which has been one of reckless waste, which sooner or later cannot otherwise result than in national disaster, or, at any rate, in a period of severe depression, the end of which it is hard to foresee. I make no attempt to renew the discussion as to what we consider to be the utterly improper and illegal conduct of the other House in dealing with this question, which it has been now decided to relegate to a higher tribunal. If the Assembly possess the powers they claim, they will get what they ask; but if they do not possess such powers, I trust that their common sense will show them that they cannot trespass upon the rights and privileges of this branch of the Legislature without bringing about a state of affairs similar to the present. Under those circumstances I think that the Committee have done right to yield the point at present, as it is only for the present. It is not a matter in which they pledge themselves in any way in the future to be governed by unless the result of the appeal to the Privy Council induces them to take a different view of their position from that they now insist upon. We are not actuated by any fear of what may be said out of doors—by the usual cry, "Oh

yes, they have been obliged to give in; they knew they were wrong and had to give way." People may say that as much as ever they please; but the day will come—even supposing that they succeed in rendering this House perfectly useless as in any way controlling or governing public expenditure—the day is not far distant when they will rue their action in so doing, more especially if this branch of the Legislature continue to adopt the same calm attitude they have done up to the present time—the non-aggressive principle upon which, as I have more than once stated, they have conducted all their business in connection with the other branch of the Legislature. If we continue that course there will be very little fear that any real aggression will ever take place upon their rights; but if at any future time any course of action should be adopted which would lead to a restriction of the powers of this Chamber to perform certain functions, those who take that action will find it an element of discord to themselves and one that will prove prejudicial to the country. I concur in adopting the report.

The HON. A. J. THYNNE said: Hon. gentlemen,—As every other member of the Committee has spoken, they have set an example which I feel bound to follow; and in respect to the Report I would say that I have looked at the point submitted as containing two distinct matters—one the question of passing this Appropriation Bill, and allowing the item of payment of the expenses of members of the Assembly to pass this House, which I have considered all along as a separate question—and the other, whether we had a right to amend a money Bill. The question of passing this item of £7,000 is one which would necessarily receive very much consideration; but we are met at the outset by the other House, with a large majority sitting on one side, determined at all hazards, whether to the country or to themselves, to secure to themselves payment of this sum of money. They cannot, on any principle, justify the propriety of passing that vote this session, and they cannot justify its being attached to the Appropriation Bill in the manner in which it has been done. At the same time members of this Council have to face the difficulty of either plunging, or allowing the other branch of the Legislature to plunge, the country into a turmoil of financial difficulty such as no man can see the end of, or else allowing this item of £7,000 to pass, and leave it to the country at some future time to express their approval or disapproval of the action of their representatives in regard to the matter. I am quite satisfied that when a few days are over, and when the attitude of some portion of the Press has become rather distasteful to themselves and their subscribers—that when matters have come to be calmly considered—the electors of this colony will think that it is a most disastrous power to put into the hands of their representatives—that of voting to themselves any money at all directly. If they can vote £200 in the manner in which they have done on the present occasion, it will be only a matter of amount afterwards. There is nothing to prevent them making it £1,000 or £2,000; there is no limit beyond the limit of their own moderation what they may vote to themselves; and it is a matter for the country to consider whether it is a wise or a proper thing for members of Parliament of either House to vote to themselves sums of money when it has not been approved of by the whole of the Legislature. However, upon that question I think it is better that it should be left for public consideration and discussion for some considerable time, when the electors may have an opportunity of expressing their opinion differently upon it. With regard to the question

of difference between the two Houses as to the power of this House to amend money Bills, I think the report of the Committee furnishes the only reasonable solution which we can expect. We do not abrogate any of our legislative functions by the adoption of this report; we do not commit ourselves to the passing of any legislation at the dictation of any power outside this colony; we merely invite an expression of opinion from the highest judicial authority in the British possessions on the point at issue between the two Houses. Naturally we shall follow the conclusions which may be arrived at by that tribunal, if they entertain the case submitted to them; but we do not in any way formally commit the Legislature of this colony to any particular course of action. The case has been carefully examined, and I do not think there is much to be added or left out of the report. I hope that the only difficulty which I can foresee in the matter is one that may not arise; that is the possible difficulty of getting her Majesty's Privy Council to entertain the question: that seems to me to be a possible difficulty, but I have no doubt that, in view of the gravity of the situation, Her Majesty's Government will do all they can for the purpose of getting such an interpretation of the Constitution Act as will serve as a good and safe guide for the future, for not only this colony but probably all others in the British possessions which have representative institutions.

The HON. J. F. McDOUGALL said: Hon. gentlemen,—In reviewing the action of the Committee, which I hold this Council has a perfect right to do, I must say that the result is not so satisfactory as I had hoped and believed it would be. I have no doubt that the Committee had a difficult task to perform and that they had very formidable rivals to meet from the other Chamber, and I believe that they did the best they could under the circumstances; but this Council, having duly weighed and considered the course that they were in duty bound to pursue, preferred to adopt the milder course of amending the Appropriation Bill rather than take the more straightforward course of throwing out the Bill as they had an undoubted right to do. I had hoped that when the Committee met they would not have been forced into their present recommendation, but would have, at all events, insisted upon the payment of members being suspended until the opinion of the Privy Council had been obtained as to whether we had the right to amend a money Bill. However, it seems that that was not to be, but it appears to me that the position which the Government occupy is not an enviable one. I am not going to say anything now about the pressure that may have been brought to bear upon the Government of the day, but I believe it was that pressure which forced them to take up the position they have done. With these remarks I am not prepared to say whether I shall vote against the adoption of the Report or not.

The HON. J. TAYLOR said: Hon. gentlemen,—I generally speak pretty plainly, and I intend to do so now whoever I offend or please. I think the report of the Joint Committee is a most shameful one, and that the members who represented this Chamber have done wrong in agreeing to it. I think the matter should have been thus settled: that the payment of members should have been left over until we got the opinion of the Privy Council, and that members should not be paid one sixpence until then. What chance, I should like to know, has the country of ever getting this money back again if our contention is right after all? Is there the least chance in life? And if we have been right in amending the Appropriation Bill, this £7,000

will be lost to the colony. The members of the Joint Committee voted for the Report entirely, because they were afraid of the drought or afraid of a panic. I can well understand members of the other Chamber smiling in their sleeves now that they have got their money, but I have no hesitation in saying that the verdict of this Committee was based on the drought and a probable panic. I only wish I had been on the Committee, for I do not think such a Report would have been so easily agreed upon. It is a most shameful thing that members of this House, who assisted to throw out the Payment of Members Bill on a division of 15 to 5, should be parties to drawing up such a Report as this. It is something most extraordinary to my mind that such a thing should happen. I do not believe that any previous Government have ever brought forward such extravagant Estimates as those which have been laid before Parliament this year. They are something disgraceful and shameful. We must not forget that week after week our railways and other sources of revenue are failing, and one of two consequences must result: either we shall have to put up with additional taxation, or else half the Civil servants will have to be dismissed. Here we find on the Estimates £180,000 for education, £50,000 for central sugar-mills, and what not else. We have £45,000 for the Defence Force. Of course, that is a perfect farce and simple child's play. Altogether, hon. members will see that the Estimates are disgracefully extravagant. Hitherto, hon. gentlemen, we have been called "old women"; but in this instance we have not shown the perseverance of old women in our powers of resisting and contradicting. For the future we may justly be called children and babies; for, had the representatives of this Chamber been really old women, we would never have seen this Report brought up. I shall vote against the Report if I stand alone, because I think it is a shameful report. I little dreamt that the hon. gentlemen who represented this Chamber on the Joint Select Committee would have given way like children as they have done.

The POSTMASTER-GENERAL said: Hon. gentlemen,—Notwithstanding what has been stated by one or two previous speakers, it may, I think, be said without doubt that general satisfaction is felt on all sides at the amicable and honourable result of the responsible labours of the Joint Select Committee.

Question put and passed.

APPROPRIATION BILL No. 2—CONSIDERATION OF LEGISLATIVE ASSEMBLY'S MESSAGE.

The POSTMASTER-GENERAL said: Hon. gentlemen,—I beg to move that the Address to Her Majesty the Queen, as recommended by the Joint Select Committee, be now adopted.

The Hon. A. C. GREGORY said: Hon. gentlemen,—The Address to Her Majesty, praying that she will direct the Privy Council to give some decision upon our contentions, has been so fully dealt with in the message from the Legislative Assembly, as read by the President, that I think it unnecessary to go further into the details. The papers that accompany the Report of the Joint Committee are repeated in the Address to the Crown, and therefore I do not think it necessary to go over them again. At the same time, I may say that I think that this mode of proceeding is almost the only one left in our hands. The contention between the two Houses has not, unfortunately, been conducted on anything like logical principles. This House has insisted on its legal rights; and its claims have not been met by any substantial argument to show

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they were not good and sound, but simply by assertion based upon no fact—in fact, based upon premises that will not bear investigation. It is therefore utterly impossible to discuss the relative merits of the two contentions, under existing circumstances, within the colony; and therefore I think the course recommended is the only one that remains for determining what the relative positions of the two Houses may be. I hope sincerely that we are absolutely right and legally correct in the position we have taken up. Of course I do not go so far as to say that we ought to exercise those rights continually simply because we possess them. Nor could any one of the three estates exercise their rights without bringing the whole country into trouble. The Address to Her Majesty is simply following up what we have already affirmed by the adoption of the Report of the Joint Committee.

The PRESIDENT said: Hon. gentlemen,—Before putting the question I wish to say a few words. There is no use, at this period, in my going into the merits *pro* and *con*. of the course adopted; but I just wish to say, as some hon. gentlemen may not perhaps be aware of it, that although several hon. gentlemen taking a leading part in the discussions in this House did me the honour to consult me on the course to be pursued, in no single instance have they followed the advice I gave.

The Hon. J. TAYLOR said: Hon. gentlemen,—I support that motion with a great deal of pleasure, and I trust Her Majesty will herself read most carefully the address, and will give great credit to the Premier of this colony for the great victory he has gained this day. The Premier is a young man, but there is no doubt he is the Assembly; because I do not think one of his followers dare say "Bo!" if he says "No." I am told, however, that a good deal of pressure was brought to bear upon him, and that sixteen members declared that they would cease to support him if he did not carry this out. That was rather an exacting position for a young man, but I say the Premier has gained a victory this day which no other Premier ever gained in this colony. I heartily support this motion for the address to Her Majesty the Queen, and I trust she will read it with the greatest care and study it.

Question put and passed.

The POSTMASTER-GENERAL said: Hon. gentlemen,—I beg to move that the following message be sent to the Legislative Assembly:—

MR. SPEAKER,

The Legislative Council having had under consideration the message of the Legislative Assembly, of this day's date, transmitting to them the proposed form of a Joint Address to Her Majesty, beg now to intimate that they concur in the presentation of the said address.

Question put and passed.

The PRESIDENT: I shall resume the chair at half-past 5 o'clock.

On the House resuming—

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.

The PRESIDENT announced the receipt of the following message from the Legislative Assembly:—

"MR. PRESIDENT,

"The Legislative Assembly having had under their consideration the message of the Legislative Council, of date the 12th instant, with reference to the Appropriation Bill No. 2, and having adopted the Report of the Joint Select Committee of the Legislative Council and Legislative Assembly, appointed on the 13th instant, to consider the present condition of public business in consequence of no Supplies having been granted to Her Majesty for the service of the current financial

year, beg now to intimate that they insist upon their disagreement to the amendments of the Legislative Council in the said Bill.

"They do not propose to offer any further reasons for their disagreement, and hope that the Legislative Council will not further insist on their amendments.

"WILLIAM H. GROOM,

"Speaker.

"Legislative Assembly Chamber,

"Brisbane, 17th November, 1885."

On the motion of the POSTMASTER-GENERAL, the President left the chair, and the House went into Committee to consider the message.

The POSTMASTER-GENERAL moved that the Committee do not now insist on their amendments in the Appropriation Bill.

The HON. W. FORREST said that on the motion for the adoption of the Report he refrained from saying anything because he attended only two of the meetings of the Joint Select Committee, but he might say now that, apart from the reasons given by the Hon. Mr. Hart why the Council should no longer resist the wishes of the other Chamber, there was another reason. He had been informed on tolerably good authority that one of the reasons why the other House was so determined was that the action of the Council was considered to be an interference with their privileges; and that they might gain their point, feeling that there would be grave impropriety—not to say indecency, and perhaps illegality—in voting the money, they said that if they gained their case with regard to their privileges they would not touch the money even if it was voted. He only trusted they would have the decency to carry that out.

The HON. T. L. MURRAY-PRIOR said he had not altered his opinion in the slightest degree, though he was going to offer no opposition to the motion. He must say, however, that he protested against the "tack," and that what the Council were now doing did not condone any illegality there might be in the matter.

The HON. W. D. BOX said the message from the Assembly distinctly stated that the Report of the Committee should be adopted by both Houses before the Council was asked not to insist on their amendment; and he wished to hear from the Postmaster-General whether the Report had been adopted by both Houses; and the Joint Address to Her Majesty also.

The POSTMASTER-GENERAL: Yes.

The HON. A. C. GREGORY said the whole subject had been pretty well thrashed out, and the question before the Committee was simply consequential on what they had already done. No good would come from entering on a discussion; at the same time he wished it to be clearly understood that he in no way waived the opinions he previously expressed.

The HON. W. FORREST said that in passing the Appropriation Bill the Council did not waive any of their rights.

The HON. W. F. LAMBERT said he would like to know whether the Government had funds on Thursday last or Friday morning to meet the demands made on the Treasury? No one could tell how long the session might have lasted; it might have continued two or three weeks longer. He presumed that if no difficulty had occurred between the two Houses, payments would have been made at the Treasury?

The POSTMASTER-GENERAL said the hon. gentleman had asked a question of which notice should necessarily be given, as he (the Postmaster-General) was not cognisant of the subject. He was, however, quite sure that the

Colonial Treasurer would give the hon. gentleman full satisfaction if he called upon him at the Treasury.

The HON. W. FORREST said he thought the suggestion made by the Postmaster-General was a dangerous one to make at that stage of the proceedings in connection with so important a matter as that before the Committee. Suppose the hint were taken and notice given and an answer to the question insisted upon, what would follow?

Question put and passed.

On the motion of the POSTMASTER-GENERAL, the CHAIRMAN left the chair and reported to the House that the Committee do not insist upon their amendments in the Appropriation Bill.

The POSTMASTER-GENERAL moved that the Report be now adopted.

The HON. W. FORREST said: Hon. gentlemen,—I rise to draw attention again to what I suggested when the House was in Committee. I think it should be stated in the message to be sent to the Assembly that we do not waive our objections to the course adopted by that Chamber. I may be wrong in thinking this. If I am I should like to know the reason why?

The POSTMASTER-GENERAL moved that the Bill be returned to the Legislative Assembly with the following message:—

Legislative Council Chamber,
Brisbane, 17th November, 1885.

MR. SPEAKER,

The Legislative Council, having had under consideration the message of the Legislative Assembly of this day's date, and having also adopted the report of the Joint Select Committee of the Legislative Council and Legislative Assembly, appointed on the 13th instant, "to consider the present condition of public business in consequence of no Supplies having been granted to Her Majesty for the service of the current financial year," beg now to intimate that they do not insist on their amendments in the said Bill.

Question put.

The HON. A. J. THYNNE said: I rise to a point of order. The Report of the Committee has not been adopted.

The PRESIDENT: I beg your pardon.

The HON. A. J. THYNNE: I did not hear the question put.

The HON. W. FORREST: I interrupted the President when the question was being put.

The PRESIDENT: The hon. member is quite right. The Hon. Mr. Forrest interrupted me, and I forgot to put the question again. In fact, I thought when the Postmaster-General rose that he was going to speak.

Question—That the Report be now adopted—put and passed.

The POSTMASTER-GENERAL moved that the Bill be returned to the Assembly with the message he had read.

Question put and passed.

ADJOURNMENT.

The POSTMASTER-GENERAL said: Hon. gentlemen,—In rising to move that this House do now adjourn, I wish to state that His Excellency the Governor will prorogue Parliament in person on Thursday at noon. I wish also, on this occasion, to offer my hearty congratulations to hon. gentlemen on the conclusion of the session, which, doubtless, though somewhat protracted, has nevertheless resulted in sound and useful legislation. I am only stating what is generally felt on this side of the House when I say that the good feeling and courtesy displayed by

hon. gentlemen opposite in the many important discussions which have taken place during the session have been gratifying to us. If I express a hope that all future sessions may be carried through with the same amount of good feeling and with the same satisfactory termination I shall, I am sure, be expressing the wishes of this Chamber and the desire they have at heart—namely, the future prosperity of this colony. I beg to move that this House do now adjourn until a quarter before 12 o'clock on Thursday next.

Question put and passed.

The House adjourned at five minutes to 6 o'clock.
