Queensland

Parliamentary Debates
[Hansard]

Legislative Council

WEDNESDAY, 4 JUNE 1879

LEGISLATIVE COUNCIL.

Wednesday, 4 June, 1879.

The Dry Dock.—Correction.—Mineral Oils Bill.—Wrecks and Salvage Bill.

THE DRY DOCK.

Mr. WALSH asked the Postmaster-General—

When he will be prepared to lay on the table of this House, a report bearing upon the construction of the Dry Dock at South Brisbane?

The POSTMASTER-GENERAL answered—

As soon as possible after 30th June;—the annual report of the Engineer of Harbours and Rivers to the 30th June, 1879, will be laid on the table, containing the necessary information.

CORRECTION.

Mr. WALSH said, he took the opportunity when the House last met to point out that there was a mistake in *Hansard*. He did not see, because he felt it his duty to those honourable gentlemen who had done him the honour to introduce him to the Council to make the correction, why his doing so should not be reported; but he found that no notice was taken beyond simply reproducing the paragraph showing by whom he was introduced. His particular object, then, was to show that he had not been introduced by the Postmaster-General, and to show by whom he was really introduced to the House. He did not think it belonged to any officer of the Council to ignore an effort of himself (Mr. Walsh) to bring any matter which he thought proper under the notice of the House. It would appear, now, that he was introduced only—or, rather, that the notice in *Hansard* was correct, in the first instance. He wished it to stand as a record, at any rate, that a mistake was made; and that he, in justice to his friends who introduced him to the Council, caused it to be corrected. He did trust that the President would not allow an officer of the House to ignore the remarks made by himself (Mr. Walsh).

The PRESIDENT: The error alluded to by the honourable member escaped his notice, or else certainly he would have felt it his duty to have the correction made. Although it was one that he was not at the moment aware of; yet he had no doubt that it would be placed in a correct form when *Hansard* next appeared. He might say, on the part of the Shorthand Writer, that there was no intentional mistake.

At a subsequent period of the sitting, occupied by Mr. WALSH in giving notices of motion,

The PRESIDENT said, he thought it well, perhaps, that he should refer to what was now placed before him—a copy of the *Parliamentary Debates*, Legislative Council (No. 3), which showed that the remarks made by the honourable Mr. Walsh on the last sitting of the House were duly attended to. He would read the report in *Hansard*:—

NEW MEMBER.

The Honourable William Henry Walsh, being introduced by Mr. Mein and Mr. Cowlishaw, produced his writ of summons, took the prescribed oath, and subscribed the roll of the Council.

There might have been in the original issue from the Government Printing Office an error, which had evidently been corrected, and the report appeared, now, as he thought it should stand.

Mr. WALSH wished to point out that that was not the cause of his complaint at all. He knew the matter was correctly put in *Hansard*, now. The cause of his complaint was, that the remarks he felt it necessary to make when he last appeared in the House were not reported;—in other words, his speech did not appear;—it was only a few words altogether, but they had no right to be ignored. He did take up the time of the House a few minutes, perhaps—it was due to the Postmaster-General, to whom the *Hansard* did an injustice; and it was necessary in justice to his (Mr. Walsh's) friends who introduced him. No doubt, the officer of the House had simply done right to correct his own error, which gave him (Mr. Walsh) the opportunity of alluding to the mistake which had been made against his friends.

The PRESIDENT was very glad he now thoroughly understood the honourable gentleman. He did not understand him when he last spoke.

The POSTMASTER-GENERAL said, he should like to make one remark with regard to what had fallen from the honourable Mr. Walsh. He thought it was very desirable that *Hansard* should not needlessly hand down to posterity small things which could not possibly have permanent value or interest.

An HONOURABLE MEMBER: Hear, hear.

The POSTMASTER-GENERAL: Mistakes would occur, sometimes.

The PRESIDENT: He thought the honourable member was slightly in error. There was nothing before the House.

The POSTMASTER-GENERAL: When an honourable member had called attention in the House to a mistake, the remark ought to have been recorded.

The PRESIDENT: Unless the honourable member was anxious to go on, he thought it would be better not to continue the debate.

MINERAL OILS BILL.

On the Order of the Day being called, the House resolved into Committee of the Whole for the consideration of "a

Bill to place certain Restrictions upon the Importation, Storage, and Sale of Refined Mineral Oils."

Clause 1—

On and after the first day of one thousand eight hundred seventy-nine all refined mineral oils which may give off an inflammable vapour at a temperature of less than one hundred and fifteen degrees of Fahrenheit's thermometer after being subjected to the test mentioned in the Schedule A to this Act by any officer or person duly authorised by the Colonial Treasurer (for which purpose such samples as may be required may be drawn from the packages containing such oil) shall be deemed to be goods absolutely prohibited to be imported into Queensland within the meaning of section 41 of the Customs Act of 1873 and to be included in the table of prohibitions inwards and shall be forfeited and destroyed or otherwise disposed of as the Collector of Customs may direct Provided however that any such refined mineral oil may be delivered by the Customs Department upon the payment of the duty chargeable thereon if it shall have been duly coloured by the admixture of such material and in such proportion and in such manner as the Governor in Council may prescribe and that any package containing such oil so coloured shall have distinctly marked on the side or top thereof in black Roman letters of not less than two inches in length and half an inch in breadth the words "specially dangerous."

The POSTMASTER-GENERAL moved that the blank in the clause should be filled up by the insertion of the word "November," so that the prohibition against the importation of inferior mineral oils might be effective from 1st November next. Less time had been allowed in Victoria, when a similar enactment was passed; under the Imperial Statute about the same time was allowed as he now proposed, in order that private interests might not suffer unduly.

Mr. BOX said his feeling was that the date proposed was too far off. The sooner inflammable oils were got rid of, the better for the colony. Unscrupulous traders might flood the market with inferior oils from other countries, and there would be a repetition of accidents to the consumers such as the House had already heard of.

Mr. GREGORY agreed with the honourable gentleman who spoke last in the desirability of restricting the term, fearing the probable rushing of the Queensland market meantime with inferior oils from the other colonies which would not stand the test there imposed. As to the inability of persons in trade to countermand orders for oils already despatched, he pointed out that when an alteration was made in the tariff it was done without any notice, or upon the shortest possible notice, so that nobody should have an advantage; and, as regarded its effect on commercial interests, there was no more reason to delay the operation of the present Bill than to postpone giving effect to changes in the tariff.

Mr. Box had no doubt, when the Postmaster-General saw the feeling of the House, that he would of his own accord alter his proposal to "September."

Mr. SANDEMAN agreed that the sooner what had been proved to be a serious evil was got rid of the better. The distance to Sydney and Melbourne was not great; their markets were depressed; and so soon as it was known that the importation hither of inferior mineral oils was limited as to time, the stocks unsaleable there would be sent on to Queensland before the Bill came into operation, and the difficulty of repressing the existing evil would be increased. The time should be restricted.

Mr. HART agreed with the honourable Mr. Box. It would be advisable to fix the time at 1st October, at any rate. So far as he could judge, the Bill would pass the Council, without delay; and, also, it would be expedited in another place, and would soon become law. Three months would be ample time for orders on the way to arrive, while it would prevent other shipments being despatched.

Mr. WALSH said, if he might be allowed to make a suggestion—as he thought honourable gentlemen did not seem to be *au fait* as to the nature of the Bill—they would not delay its passage by referring it to a Select Committee. He doubted if there was a member present who thoroughly understood the tendency of the Bill, or who could say that its passing would be of benefit to the country, or how far it would be prejudicial to the commercial interest. He read a scientific work, this morning, which the Postmaster-General was kind enough to lend him; and he found that there was a very great diversity of opinion in the United States as to the qualities of mineral oils. In one State, the test point was 150 degrees, and no oil was allowed to be sold of a lower standard. In another State, it was 100 degrees. If he remembered aright, scientific gentlemen in America held that there was no necessity for a higher test than 125 degrees. The Bill proposed the test for this colony at 115 degrees. It went in the face of experience; and he thought that, as commercial men and as citizens, the Council were unable to give a matured opinion on it. A select committee would, in two or three days, obtain from the mercantile men of the city all the information they had, and, at the same time, would be able to search such works as were at command. If the House proceeded in the way he recommended, they would be able to send the Bill down to the other Chamber in a shape that would be acceptable; and thus they would accelerate its passage. In making the suggestion, he did not intend

to do anything to embarrass the honourable gentleman who represented the Government.

The POSTMASTER-GENERAL: Hear, hear.

Mr. GREGORY said he was not present at the second reading of the Bill, and he should like to make some remarks upon the general question. What had just been said coincided with his views which led him to the same conclusion as the honourable Mr. Walsh;—in other words, the Bill would, in his opinion, require very considerable amendment. With regard to the principle of the measure, as set out in the first clause, there was a great variety of opinion amongst scientific men as to what was dangerous oil, as tested by the flashing-point. He found by research and by experiments, which he was a party to making two years ago with a view to bring in a Bill with a similar object to that of the measure under consideration, that more accidents resulted from using inferior or low-class oils in which the flashing-point was very high than from using refined oils which were said to be of a dangerous tendency by that test. In the considerable majority of cases of accident, they had resulted from the cheap oils, burnt in inferior lamps in which the wicks had become carbonised, or in other ways foul, and the explosions had been caused by the hydrocarbon produced. The flashing-point was a very important consideration in the present question. It would be a very great mistake to suppose that the public would be very materially protected against danger of injury from accidental explosions of mineral oils by fixing the standard as proposed. In the Bill the flashing-point was put down at 115 degrees. That alone required great attention before the Bill was proceeded with further. It would practically prohibit the introduction of some highly volatile oils for manufacturing purposes.

Mr. THORNTON directed the honourable member's attention to the seventh clause.

Mr. GREGORY: Some of them were imported for lighting purposes also. The colouring of inferior oils might not destroy their capability of being used for lighting purposes, and he thought that great disadvantage would result from admitting them to the colony, even though they must be coloured. He should suggest, at the proper time, an amendment for the testing of oils, somewhat similar to a proposed new clause which the Postmaster-General had placed in the hands of honourable members. For colouring the oils there were very few chemical ingredients; his own experience included only some of the compounds of tar, to be used in the colouring or discolouring of mineral oils. The possibility of destroying oils or leaving them fit for some useful purpose in the colony might become a difficulty. There was no provision for the importation of oils for the purpose of refining them in the colony, which might be done subject to certain restrictions; as, by refining, they could be rendered perfectly safe for use. He could imagine that importers would prefer to deal with dangerous oils in that way, in preference to having them marked and coloured or sent out of the colony. Reverting to the flashing-point, in putting it down at 115 degrees, the Government rather overlooked the fact that although the climate of Queensland was hot, yet that in the southern colonies the maximum temperature was quite as high as the northern temperature.

HONOURABLE MEMBERS: Hear, hear.

Mr. GREGORY held that the higher the flashing-point, the more inferior the quality and illuminating properties of kerosine. There were in mineral oils numerous constituents, some chemists giving as many as thirty; and they were so highly volatile, that if the cans containing oil were allowed to stand in the warehouse for some time undisturbed, and a sample was drawn off from the top, it would be highly inflammable, flashing at about 82 degrees; while, if a sample were drawn from the bottom, or if the can were shaken or the oil stirred up, it would not flash at 120 or 130 degrees. Those were matters which the officer testing the oil should take into consideration, or he would not be competent to perform his functions. No provision existed for marking oils which had passed the examination and test; and, as he read the third clause, there was some danger of their being confiscated. He had drafted a short clause to meet the case, and he should move its insertion in the Bill. After oils had been examined and tested, they ought to be marked "safe," and should not be liable thereafter to a fresh test or to forfeiture.

The CHAIRMAN pointed out to the honourable member that the Committee were considering the first clause of the Bill, which was the question before them.

Mr. GREGORY said he was speaking to that question, and giving his reasons for supporting the suggestion of Mr. Walsh, to refer the Bill to a select committee. Having now touched the salient points of the Bill, he expressed his doubts whether in its present shape the Committee could make much progress with it. But if the Committee determined to proceed, he had another amendment to propose, in the first clause.

The POSTMASTER-GENERAL hoped the Committee would proceed with the consideration of the Bill, to-day. There was no necessity for referring it to a select committee. The observations which had just been made showed that, at any rate, the honourable member who spoke last knew something about the subject. The infor-

mation which the Committee had at command in the Imperial and Victorian Acts, and also from the United States, placed them in a position to go on with the Bill. With regard to marking "safe" oils, no advantage would be derived from that; but there was a contingent evil. It would be very easy to secure a number of empty packages marked "safe" and to fill them with inferior oils; and, under the condition proposed, the Government inspector, because they would appear to have been previously examined, could not subject them to a test. That would be a very successful operation for some persons.

Mr. THORNTON said the Bill had not been prepared without consulting the authorities on the subject. The main thing was the flashing-point; and Mr. Staiger, the Government analytical chemist, suggested that, for reasons peculiar to this country, it should be 115 degrees. He answered objections of the honourable Mr. Gregory by referring to the way they were met by the third and seventh clauses of the Bill as regarded inferior oils already in the colony or that might be imported after the passing of the Bill. He could see no difficulty in the way of passing the Bill, which was a very simple one. It was meant to provide a certain test for oils used for lighting purposes. Oils that would not stand that test would be prohibited from such use.

Mr. SANDEMAN called the Postmaster-General's attention to the fifth clause, and suggested that it met the question raised by Mr. Gregory—namely, that oils which had passed the test should be marked "safe." The Governor in Council might, by regulations, order all oils to be marked.

Mr. BOX proposed, by way of amendment, that the blank in the clause be filled by the word "September."

The POSTMASTER-GENERAL argued against shortening the period.

Mr. BOX said he had no sympathy with persons who imported inferior oils, if they suffered from the destruction of their property under the law. The object of the Bill was to protect the public. Every gallon of dangerous oil should be destroyed.

Mr. WALSH said he had no idea before this debate took place that the Bill was of an Algerine character, and that oil which had been properly imported and was held legally in the colony was liable to seizure and destruction; and, in addition, the owner was to be subjected to severe penalties. He was sorry to find that such a measure had been initiated in the Council. He hoped that honourable gentlemen would see that it was un-English, and should not be approved of by them. Notwithstanding that oil had been legally landed, the Collector of Customs and his officers might confiscate it. That was quite a new light which had dawned upon him. Now, the Postmaster-General would, he trusted, see the advantage of referring the Bill to a select committee. He could not give his sanction to the Bill unless the honourable gentleman assured him that it would be modified.

Mr. HART remarked that a great deal of rascality was practised in regard to the importation of mineral oils, and he should be very glad to see an immediate stop put to the use of such as were of an inferior and dangerous description. He supported the provisions of the Bill, and the powers given to the Collector of Customs, who had a discretionary power to allow bad oils to be sent out of the colony. Such oils might be "forfeited and destroyed or otherwise disposed of" as that officer might direct. He knew that bad oils had been bought up and sent to Queensland, because they would not stand the tests imposed in the southern colonies, and that a number of gentlemen in business had, at this moment, kerosine in their possession which they had imported as good oil, and which would not stand the test but would prove to be highly inflammable and dangerous. He would give them an opportunity of exporting it, and they might get a rebate of the duty; but he would not allow the oil to remain in the colony.

Mr. WALSH said the Bill turned out to be highly penal in its provisions;—in that character it could not be made retrospective; it could not operate fairly;—it was un-English, as he had said. If oil brought into the colony under the law of the land was found to be below a certain standard to be fixed, it was to be disposed of under severe penal conditions. He held that it would be improper to force the owner to export it, as it would be to destroy it. What was the dangerous tendency of the oil? Where was the harm that it had done to any person which had not resulted from other things in the colony? It was not as dangerous as travelling on the railways and by stage coaches; it was not as dangerous as riding horses. Yet we were constantly hearing of accidents from all of those causes. But, the Ministry said, it was time to put a stop to the use of oils of a dangerous nature. They might be right. But were the Legislature going to destroy that which had been legally landed and which was legally in existence in the country? It was not a question of life or death—there was nothing to justify the House in taking such an alarmist view. He trusted that they would more value their character as senators, their rights as citizens, their liberties as men, than to rush into a measure such as the Bill before the Committe, which, he did not hesitate to say, now that they had its complexion exposed

to them, was a measure of the most unjust, uncommercial, and unconstitutional character. He was sorry to hold opinions differing so widely from his honourable friend who was in charge of the Bill; but the privileges of an Englishman were very dear to him; and he maintained that the rights of the subject would be infringed by the passing of the Bill in its present shape.

Mr. Box said the third clause was the one which the honourable gentleman desired to interfere with. He did not see why the Committee could not go on with the first clause.

The POSTMASTER-GENERAL said he was sorry his honourable friend, Mr. Walsh, thought the Bill un-English. He considered that the English principle was, that the interests of the individual should be sacrificed if necessary to the interests of the community.

HONOURABLE MEMBERS: Hear, hear.

The POSTMASTER-GENERAL: If there were anything un-English in the Bill, then the statutes of England and Victoria, dealing with the same subject, were un-English. The Imperial statute prohibited the sale or exposure for sale or use in the United Kingdom of any description of petroleum that gave off an inflammable vapour at a temperature of 100 degrees Fahrenheit; and any person acting in contravention of the section referred to was subject to a penalty of £5.

Mr. WALSH: That said nothing about destroying it.

The POSTMASTER-GENERAL: There was another section, which empowered the inspector of weights and measures to enter any place where petroleum was for sale, and if any should be found contrary to the provisions of the statutes of 1868 or 1862, it was liable to be seized, and the owner was subject to a penalty not exceeding £5, and the forfeiture of the oil.

Mr. WALSH: That was exposing it for sale.

The POSTMASTER-GENERAL: If petroleum or kerosine was in a store, it was to be inferred that it was for sale. The honourable gentleman's argument was out of place. There had been discussion enough, if the Committee were to arrive at a decision as to the time the Bill should come into operation. As he proposed it, not more than four months would remain after the passing of the Bill by Parliament.

Mr. THORNTON said, the Committee ought to go through the clauses of the Bill *seriatim*. When they got to the third clause, he could show Mr. Walsh that he was rather mistaken in his reading of the Bill, and that the oil was not to be confiscated or destroyed, provided the owner gave notice to the Customs and wanted it tested. It was upon the owner not doing so, and holding oil that would not stand the test, that the liability to penalty applied. He might have the oil tested, and coloured if below the standard; he could take it on paying the duty; or he could export it without its being coloured. Every consideration was shown to him. It was best for the legislature to do something, anything, rather than run the risk of adding to the list of horrible deaths which had occurred from the use of inferior kerosine, and which he (Mr. Thornton) had given to the House on the second reading of the Bill.

HONOURABLE MEMBERS: Question.

The question was put on the amendment, and the Committee divided:—

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Mr. Gregory, Mr. Box, Mr. Hart, Mr. Cowlishaw, Mr. Turner, Mr. Sandeman.

NOT-CONTENTS, 6.

Mr. Swan, Mr. Walsh, Mr. Buzacott, Mr. Thornton, Mr. Heussler, Mr. Pettigrew.

The CHAIRMAN said, the votes being equal, he had to give the casting vote; which he gave in favour of the "Contents." The word "September" stood in the clause.

An amendment to make the clause specific in its application to "oils imported into Queensland" was moved by the POSTMASTER-GENERAL, and agreed to; and, the temperature at which the test must be applied was reduced from 115 to "110" degrees, also on his motion. The honourable gentleman observed that the Imperial and Victorian Statutes fixed the standard at 100 degrees; but he found that, by the law of the United States, the standard was 110 degrees, whilst some of the State Legislatures had fixed it even higher—in one State it was 140 degrees.

A verbal amendment, to substitute the word "upon" for "after" was agreed to, on the motion of Mr. GREGORY.

Mr. Box urged that the proviso of the clause should be omitted.

The POSTMASTER-GENERAL contended for its retention. If oil was so distinguished as provided, by being coloured and marked "specially dangerous," it would be safe to deliver it, because everybody would know what it was, and its value was thereby depreciated. The proviso might prevent a great deal of hardship to owners of oil.

Mr. THORNTON: No person would voluntarily import oil below the standard after September next. The colouring and marking were to prevent such oil from being used for lighting.

Mr. HART: The great object was to prevent inferior oil getting into consumption. If the coloured oil got out into the back country where it would be hard, perhaps, to procure good oil, it would be used, and loss of life would be incurred. If the proviso were omitted there would be no need to go to the expense of colouring and marking "specially dangerous" oils. If it was

known that persons could take such oils out of bond, they would attempt to get it into consumption in the way suggested. After the Bill were passed with the amendment suggested by Mr. Box, there would not be any consignments of oil; but orders would be sent hence to America for oils carefully selected. No one would run the risk of importing oil that would be prevented from coming into use in the colony. He might himself be unconsciously a victim under the operation of the Bill. A man might send him a hundred cases of kerosine on consignment;—if upon examination it was found to be dangerous he should send it back.

The POSTMASTER-GENERAL said he was sorry to find himself in opposition to the commercial interest in the House.

Mr. WALSH asked the honourable gentleman representing the Government, if the Committee were to understand that the oil, after it was coloured, would be allowed to be circulated throughout the colony?

The POSTMASTER-GENERAL: Yes. It would be so easily distinguished.

Mr. WALSH: Would the colouring destroy its inflammability?

The POSTMASTER-GENERAL: No.

Mr. WALSH: Then, persons would say that it was coloured oil, instead of white.

The POSTMASTER-GENERAL: The colouring merely showed that it was inferior oil.

Mr. SANDEMAN thought that inferior oil might be imported after the passing of the Bill; and, although it would be coloured, yet it would find its way into the interior of the colony, and the effects which it was the object of the Bill to prevent would be felt there. That would be a repetition of what had been lately heard of in regard to "Sprigg's grog" which was now distributed over the colony.

The POSTMASTER-GENERAL observed that the colouring might be such as to destroy the illuminating power of the oil. If the Governor in Council found that there was danger on that score, he might provide by regulation against coloured oil being used for lighting.

Mr. THORNTON said the oil could not be uncoloured, and coloured oil would not be in marketable condition.

Mr. BOX formally moved the omission of the proviso.

After the adjournment at six o'clock,

The POSTMASTER-GENERAL said that during the adjournment the question had been considered, and he was prepared to concede the proposed amendment.

Question put, and the proviso was omitted; and the first clause, as amended, was agreed to.

Clause 2 was postponed until after the consideration of clause 3:—

On and after the first day of one thousand eight hundred and seventy-nine any Customs officer or other person duly authorised by the Collector of Customs may in the daytime enter any warehouse or other place where any refined mineral oils may be stored and draw samples for the purpose of applying the test provided by this Act and any refined mineral oils found therein contrary to the provisions of this Act shall be forfeited and the owner thereof liable to a penalty of two shillings for every gallon of refined mineral oil so found Provided always that any person who may have in his possession or warehoused under bond in his name any refined mineral oil imported into Queensland before the passing of this Act can require that the same be tested by the proper officer as provided for in the Schedule hereto and if any portion of such oil should give off an inflammable vapour at a temperature of less than one hundred and fifteen degrees Fahrenheit's thermometer can have the same coloured and marked as hereinbefore provided and delivered to him on payment of duty if not previously paid or such oil may be exported without the colouring and marks as aforesaid in the usual way.

On the motion of the POSTMASTER-GENERAL, the blank was filled by the insertion of the word "September."

The POSTMASTER-GENERAL then moved the omission from the clause of the words—

and the owner thereof shall be liable to a penalty of two shillings for every gallon of refined mineral oil so found.

The penalty was, he thought, unreasonable. He had other amendments to follow.

Agreed to.

In the proviso, the words "passing of this Act" were omitted, and the words "first day of September, 1879" substituted therefor; and 115 degrees was altered to "100" degrees Fahrenheit's thermometer.

The POSTMASTER-GENERAL said a further amendment in the proviso was necessary, in consequence of the proviso of the first clause having been struck out. He moved the omission of all the words after "thermometer," with a view to the substitution, in lieu thereof, of the following:—

Upon being subjected to the test before mentioned such oil shall be coloured by the admixture of such material and in such proportion and in such manner as the Governor in Council may prescribe and any package containing such oil so coloured shall have distinctly marked on the side or top thereof in black Roman letters of not less than two inches in length and half an inch in breadth the words "specially dangerous."

Mr. WALSH said the objection that he saw to the amendment was, that it gave such enormous powers to the Governor in Council, which simply meant to the Minister in charge of the department. The powers were unnecessary; for he could not see why the Government should not lay down plainly what stuff they were going to mix with the oil, that all the world might know. The Minister would prescribe for every case. There was not a common mix-

ture, or any specific quantity. Every case was to be dealt with on its merits or demerits.

The POSTMASTER-GENERAL suggested that the difficulty might be met by adding words, as the Governor in Council might prescribe "by the regulations."

Mr. WALSH: Yes; let it be one of the regulations.

By consent, the words "in the regulations" were included in the amendment after the word "prescribe."

The POSTMASTER-GENERAL wished to add, at the end of the new proviso, words to the same effect as those at the end of the original clause as printed—

and such oil may be exported without the colouring and marks in the usual way.

Mr. BOX said he thought that the honourable gentleman had left out words, to the effect that the oil might be delivered to the owner on payment of the duty. That was a mistake. He fancied that on a question of revenue his suggestion would be acceptable. The implied construction of the Bill was that oil having been coloured was no longer useful.

The POSTMASTER-GENERAL accepted the suggestion, and added, at the end of the amendment, the words—

and such oil may be delivered to him on payment of duty if not previously paid or may be exported without the colouring and marks as aforesaid in the usual way.

The amendment was agreed to, and all the words in the amended proviso were included in the clause.

On the question—That the clause as amended do stand part of the Bill,

Mr. WALSH remarked that the English statute said the proper officer who tested the oil should be the public analyst, or some other person of competent chemical knowledge. He did not think it right that any man's goods should be subject to test or probable confiscation by an ignorant person. A competent person ought to be employed to give a professional opinion; and an ordinary Customs officer, who would probably be appointed under the Bill, was not likely to be competent. He (Mr. Walsh) should move an addition to the clause, in effect as follows:—

Provided however that the said proper officer shall be the Government analyst or some other person having competent chemical knowledge.

The POSTMASTER-GENERAL was sorry he was not able to accept the amendment. The first clause provided that the proper officer should be some person "duly authorised by the Colonial Treasurer." He pointed out to the honourable mover that if a sample of every parcel of oil imported had to be submitted to the Government analyst, who resided at Brisbane, it would be a vexatious interference with trade. The new clause which he had circulated provided that if any person felt himself aggrieved by the decision of any testing officer, he should demand in writing addressed to the Collector of Customs any sample of mineral oil to be further tested, and it should be lawful for the Colonial Treasurer to appoint "some person having competent chemical knowledge" to make such further test. In the first instance, the examinations would be made by an officer appointed by the Treasurer, who might be presumed to understand how to apply the test. There would be nothing to cavil at. Still, anyone dissatisfied with the test could appeal. If the honourable gentleman would consider the effect of his proviso, he would see that it was undesirable.

Mr. THORNTON thought the honourable Mr. Walsh was under some misapprehension that it required chemical knowledge to apply the test. Any person could do it. It was just to flash a lighted match across the wire over the mouth of the vessel holding the oil. Any person who could guage a cask could apply the test. It would be impossible to submit samples of oil from all the ports of the colony to the Government analytical chemist in Brisbane.

Mr. GREGORY presumed that the Executive Government would make it their duty to appoint efficient officers. The amendment was tantamount to the implication that they did not perform their functions properly, when the assumption should be the other way.

Mr. WALSH: Honourable members assumed to be wiser than their forefathers. The honourable Mr. Thornton said it was very easy to apply the test. The trouble that was shown by the British Parliament to see that injustice was not done to the subject was shown by the minute and exhaustive mode laid down for applying the test in the schedule to the Imperial statute, which he read for the information of the Committee, to prove the great care of English legislation for individual interests contrasted with the slip-shod system proposed.

The POSTMASTER-GENERAL: The schedule of the Bill contained directions for applying the flashing test, which was the same as was now adopted by the Metropolitan Board of Works, London, under the Imperial Act of 1862 or 1868, that the honourable Mr. Walsh had read from, and that gave the Board authority to apply the test if they thought it desirable;—and the same test was adopted in Victoria. He hoped the honourable gentleman would withdraw his proviso and facilitate the progress of business.

Mr. WALSH consented.

Amendment, by leave, withdrawn; and the clause, as amended, was agreed to.

Clause 2, as printed—Penalty for removing words "specially dangerous" or selling

coloured oil without such words—was amended by filling up the blank with the date, and agreed to as clause 3 of the Bill.

On the motion of the POSTMASTER-GENERAL, the following new clause was agreed to, as clause 4 of the Bill:—

If any person who shall think himself aggrieved by the decision of any testing officer appointed under this Act shall require by demand in writing addressed to the Collector of Customs any sample of mineral oil so tested to be further tested it shall be lawful for the Colonial Treasurer to appoint some person having competent chemical knowledge to further test such sample and the decision of such person shall be final Provided that every such demand shall be made within fourteen days from the date of the decision originally given by the testing officer and provided that if such decision shall be confirmed the person making such demand shall pay all reasonable costs and charges incurred by the Colonial Treasurer in ordering such further test.

Clause 5—Governor in Council may make regulations—was verbally amended, on the suggestion of Mr. MEIN, by the omission of the word "Government" before *Gazette*.

Clause 7—

The Treasurer if he deems fit to do so may exempt from the operation of this Act any refined mineral oil imported for other than lighting purposes.

Mr. WALSH moved the omission of all the words from the beginning of the clause to "if" inclusive, with a view to the insertion, after "Act," of the words "shall not apply to."

The POSTMASTER-GENERAL said he was prepared to accept the amendment, which was an improvement.

Clause amended and passed.

The "short title" clause was verbally amended.

Schedule A—Directions for applying the flashing test to samples of kerosine oil.

Mr. BOX said no such term as "flashing test" was used in the Bill.

Mr. MEIN confessed that he did not like the loose manner in which the schedule was drawn. It seemed to be a slavish copy of the Victorian Act. There was nothing in the Bill to show what was the meaning of the "prescribed distance" at which the flame should be from the surface of the oil to be tested. He presumed that the framer of the Bill meant that that should be relegated to the regulations made by the Governor in Council; but it should not be. Then, at the commencement of the schedule, the description of the instrument for making the test was unreliable:—

The instrument to be employed must be similar in construction to that adopted by the Metropolitan Board of Works for London for similar purposes and registered W. C. Miles 36 Great Pearl street London and commonly called the Metropolitan Petroleum Oil-tester and the test shall be conducted in a closed room free from current of air.

He thought it was very desirable that legislation should be accurate, distinct, and comprehensive. A series of questions might arise, when a person was prosecuted for an offence under the Bill. What was the character of the instrument employed by "the Metropolitan Board of Waterworks, London," at that particular moment? He did not see how the law could be enforced if a technical objection was taken, that the character of the instrument by which the test was applied was not shown. In order to find a person guilty, it would be the duty of the Collector of Customs or the officer prosecuting to show that the instrument used was similar to that used for like purposes in London; and he (Mr. Mein) did not see how that was to be done. Then, what means were there of knowing "W. C. Miles, 36, Great Pearl street, London," and his registered oil-tester?

Mr. THORNTON: Scientific works referred to the instrument.

The POSTMASTER-GENERAL admitted that he had not examined the schedule as attentively as he had read the clauses of the Bill. He moved that the Chairman report progress, and ask leave for the Committee to sit again.

Question put and passed.

The House resumed, and the Chairman reported progress. Leave was given to the Committee to sit again next Wednesday.

WRECKS AND SALVAGE BILL.

The House resolved into Committee of the Whole for the consideration of this Bill.

Clause 1—Marine Board of Queensland to have supervision of wrecks—Customs officers to be *ex officio* receivers.

The POSTMASTER-GENERAL: As he said on the second reading, the Bill was almost a transcript of Part VIII. of the Imperial Merchant Shipping Act of 1854, page 2093 of the "Queensland Statutes." The first clause was very slightly altered from section 439 of the English statute. It substituted the Marine Board of Queensland for the Board of Trade of the United Kingdom; and it provided that the principal officers of Customs at every port of the colony should be *ex officio* a receiver of wrecks. By the Imperial statute the Board of Trade could appoint

any officer of Customs or of the coast guard or of inland revenue

or any other person, if more convenient, to be a receiver of wrecks and to perform such duties in any district.

Mr. MEIN said he saw that throughout the subsequent clauses of the Bill the word "receiver" was not used in connection

with "of wrecks." That would lead to some ambiguity. By the English act, the word "receiver" was defined at the beginning of the statute; and he thought that some defining or interpretation clause should be in the Bill—either at the beginning, which was generally the place, or at the end.

The POSTMASTER-GENERAL: Hear, hear. He should be prepared to move the recommittal of the Bill for the purpose of inserting such a new clause.

Mr. GREGORY: As there might also appear in the process of considering the Bill some other necessary interpretation, perhaps it would be better to leave its insertion until the end.

Mr. MEIN: The words "Marine Board" ought also to be defined otherwise than as "appointed under the Navigation Act of 1876." They appeared by themselves in other clauses of the Bill.

The POSTMASTER-GENERAL said, he thought the Acts Shortening Act provided that the words used in that way should be taken in the complete sense of the first clause. The 14th section said—

Whenever any officer or office is referred to in any enactment the same shall be taken to refer to the offices or office of the description designated within the Colony of Queensland;—

and so on.

Mr. MEIN: The Marine Board was not an "officer" nor an "office." It was a combination or body of gentlemen to do certain duties under the statute. The words might mean the Marine Board of New South Wales or anywhere else. The Acts Shortening Act met the case of the Registrar of the Supreme Court—of Queensland, understood; the Colonial Treasurer or the Attorney-General—of Queensland, being implied. However, no harm could be done by defining the Marine Board.

The POSTMASTER-GENERAL: If his proposal was accepted, the Committee could go on, and attend to that afterwards.

Mr. MEIN: Go on. He now had drafted the clause.

Question put and passed.

Clause 3—Power of receiver in case of accident to any ship or boat—Penalty for refusing aid.

On the motion of the POSTMASTER-GENERAL, an amendment was made giving power to demand the use of "working bullocks" as well as horses and vehicles near at hand.

Clause 5—Power of receiver to suppress plunder or disorder by force.

The POSTMASTER-GENERAL: There was an alteration from the Imperial Act, which last provided, that if any person was killed or injured by reason of resisting the receiver in the execution of his duties, the receiver, or anyone acting under his orders, should be free and indemnified as against any persons so killed or maimed.

Mr. MEIN: No doubt that provision of the English statute had been very carefully considered, evidently to guard the receiver from an action by the survivors or relatives of any person inadvertently killed or maimed in resisting the receiver or those acting under his instructions in the execution of the duties imposed by the statute. Perhaps in the present state of the law the receiver would not be liable to be mulct in damages; but there would be no harm in making assurance doubly sure, even if the words were surplusage. If any matter under the Act came before the judges of this colony, and the words were found to have been omitted, the court would conclude that they were omitted with the specific object of enabling an action to be brought; and he was inclined to think that, under the clause as it stood, the onus would be thrown upon the receivers to prove that he had taken every precaution against accident or casualty to life and limb which might be the subject of action. If the Postmaster-General would not do so, he should propose the insertion of the provisions from the English statute.

The POSTMASTER-GENERAL moved the addition to the clause of the following words:—

And if any person is killed maimed or hurt by reason of his resisting the receiver in the execution of the duties hereby committed to him or any person acting under his orders such receiver or other person shall be free and fully indemnified as well against the Queen's Majesty her heirs and successors as against all persons so killed maimed or hurt.

The addition was adopted, and the clause as amended was agreed to.

Clause 6—Justices of the peace or harbour masters may exercise powers of receiver in his absence or disability.

Mr. MEIN: Looking at the reckless way in which justices of the peace were appointed, and at the character of some of them, the powers given by the clause were too large; and he should be very sorry to allow some of those persons to be a receiver of a box of gold or anything similarly valuable. The police magistrates were proper persons for the duties proposed, with the harbour masters. He moved the omission of the words "justice of the peace," with a view to the substitution of the words "police magistrate."

The POSTMASTER-GENERAL accepted the amendment.

The clause, as amended, was agreed to.

Clause 9—Power of receiver to institute examination with respect to ship in distress—was amended by the substitution in three places of "police magistrate" for "justice of the peace."

Clause 10 was amended to correspond with the foregoing.

Clause 13—Notice of wreck given by receiver.

The POSTMASTER-GENERAL said the Secretary of the Marine Board was named in the clause for the Secretary of the Committee of "Lloyd's" in the Imperial statute.

Mr. MEIN: It would be better to post the notice of wreck or salvage in the Custom House, Brisbane, than in the office of the Secretary of the Marine Board. There was no place here corresponding to Lloyd's in London, and the Custom House was "the most conspicuous place" for all persons in the mercantile interest.

Question put and passed.

Clauses 16 and 18 were amended, on the suggestion of Mr. MEIN, by the insertion of the word "Colonial" before Treasurer.

Clause 19—Disputes as to salvage how to be settled.

Mr. MEIN saw no use for the clause at all. The corresponding section in the Imperial act set forth that disputes with respect to salvage arising within the boundaries of the Cinque Ports should be determined "in the manner in which the same had hitherto been determined;" but disputes arising elsewhere should be determined in the way provided by the statute. He had an objection to giving the powers to be exercised under the clause to ordinary justices.

Mr. THORNTON: How would the honourable member settle disputes?

Mr. MEIN: Let the parties proceed according to due process of law. He did not see why persons should be compelled against their will, perhaps, to go to arbitration before two justices.

Mr. THORNTON: The object was to have cases decided as soon as possible, and by the least expensive method.

Mr. MEIN: It was the introduction of a new phase of law altogether. Why should a case of salvage be taken out of the ordinary tribunals?

Mr. WALSH: There were places in the colony—say the ports of the Gulf of Carpentaria, or elsewhere in the north—where salvage might not exceed the value of £200, the whole of which would be wasted if the parties disputing about it had to come to Brisbane to have their dispute settled; whilst two justices on the spot could settle it to their satisfaction in a few hours. It would be perfectly absurd, in such a case, to compel the parties to come to Brisbane.

Mr. MEIN: They would have to come down in any case under the clause as it stood. It did not say who should order the arbitration or to whom reference was to be made. If it was desirable that disputes should be settled on the spot, insert in the clause that the local courts should have jurisdiction. As now provided, if the persons claiming refused to come to an amicable settlement, and must go to arbitration, they must get an order from the court, which certainly was a tax upon the person entitled to the money.

The POSTMASTER-GENERAL: The Acts Shortening Act, section 16, provided that any two justices should be a court of petty sessions.

Mr. MEIN: An arbitration by two justices clearly meant an arbitration to be made by two justices named. The justices would have to be selected.

The POSTMASTER-GENERAL had not the legal education that his honourable friend had; but he was prepared to say that the section did apply.

Mr. MEIN: If his honourable friend had a legal education, he would not have made the gross blunder that had been made. An arbitration was not a judicial proceeding, to which alone the section he had quoted related. By the Bill some authority not named should have power to refer disputes to arbitration of two justices in the neighbourhood. Arbitration was an extra-judicial proceeding; and the authority making the reference was bound to state, not generally, but specifically, two justices that the persons disputing could lay hold of by name. It was undesirable to drive the persons to a nameless authority, which he (Mr. Mein) took to be the Supreme Court, to order the arbitration. He said, give the local courts of petty sessions jurisdiction, and in that way let two justices of the peace investigate and determine disputes. As the clause stood, it would bring about the very thing the Postmaster-General professed it was his desire to avoid.

On the motion of the POSTMASTER-GENERAL, the words, "referred to the arbitration of," were omitted; and the words, "heard and determined by," were inserted in their place; and the words "by the Court of Admiralty" were omitted, and other consequential amendments were made in the clause, which was then agreed to.

Verbal amendments were made in clause 21.

Clause 22—Costs of arbitration.

Mr. MEIN said duties were imposed on justices of the peace in the counties of England, where there was no need of a paid magistracy, and those duties were discharged willingly and efficiently by men who were above suspicion. By the Bill it was provided that justices might be arbitrators between parties disputing, and it was hard to expect them, many of them engaged in business, to neglect their private interests to act for other persons. It was a regular thing for arbitrators to be paid, and as the Bill provided for the payment of assessors and umpires, he thought arbitrators ought to be included. He moved the insertion of the word "arbitrator."

Agreed to.

Clause 24—Appeal to Supreme Court.

On the motion of Mr. MEIN, the words "the Court of Admiralty," and all the words following "intention to appeal," to the end of the clause, were omitted; and the clause was agreed to as amended.

Consequential amendments were made in clauses 28, 29, and 32.

Clause 34—Mode of recovering penalties and forfeitures.

Mr. MEIN wished the Government could devise some means by which officers of Customs would not get large bonuses for doing what was obviously their duty to the public. He believed the present system had a very immoral tendency. Policemen did not get half the fines enforced upon offenders whom they happened to apprehend, and Customs officers should not be in a different position. Referring to the police reward fund, he said he presumed that the House could hardly alter in that direction the present system as regarded the Customs officers, or the procedure as laid down in the 25th section of the Acts Shortening Act.

Mr. THORNTON said he was not aware that the Customs officers of the colony got an undue share of penalties, any more than corresponding officers and officers of the coast-guard in the Imperial service. The system stimulated and incited the officers to vigilance and to be alert in their work. No doubt there were objections to it. He thought himself that it might be advantageous if something like the police reward fund were instituted, into which the proceeds of seizures coming to the Customs officers could be paid.

Mr. MEIN: The present system had the effect of encouraging inequitable, perhaps illegal seizures.

Agreed to.

Clause 35—Short title—was amended as to form.

The schedule was verbally amended, and passed in blank.

On the resumption of the House, the Bill was reported with amendments, and the adoption of the report was made an Order for next day.