Queensland

Parliamentary Debates
[Hansard]

Legislative Council

THURSDAY, 24 JULY 1879

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LEGISLATIVE COUNCIL.

Thursday, 24 *July*, 1879.

Assent to Bill.—Practice as to Private Bills.—Electoral Rolls Bill.

ASSENT TO BILL.

A message from the Governor was received, informing the House that His Excellency had consented to the Appropriation Bill, 1879-80, No. 1.

PRACTICE AS TO PRIVATE BILLS.

Upon the order being called for the second reading of the Tooth Estate Enabling Bill,

Mr. GREGORY, in charge of the Bill, rose to address the House.

Mr. WALSH: Did the honourable Mr. Gregory rise to move the second reading? He had a technical objection to the Bill being considered at all. A point of order which he would raise would give him the right to interrupt the honourable gentleman.

Mr. GREGORY said he rose to move the second reading of the Bill.

The PRESIDENT said, the honourable Mr. Walsh would do well to state at once his point of order. The Order of the Day was called on, and the honourable gentleman in charge of the Bill would, in conformity with the practice of the House, proceed with his motion for the second reading.

Mr. WALSH said he was afraid that would not, at any rate, be in conformity with the practice of Parliament. He thought, if an honourable member had a technical objection to the matter being considered at all, it was his duty to state it at once, to prevent the necessity of the Bill being discussed. He wished to raise an objection to the Bill being proceeded with, and to give his reasons. If the honourable Mr. Gregory, after that, insisted upon moving the second reading, he (Mr. Walsh) would not be so discourteous as to interfere further.

The PRESIDENT: The House were not in a position to know what the honourable gentleman was about to do, until he made his motion. Then would be due time for a technical objection or other objections to be made.

Mr. WALSH said he did not think he had made himself understood. He wished to show that it was not in the power of the honourable gentleman to make the motion. He would state, now, that it might not be too late, that he did not think the Bill had been brought before the House in a proper manner; and, hence, that it should not be discussed at all. He was not opposing the second reading of the Bill, but questioning the propriety of the existence of the Bill in the Chamber.

The POSTMASTER-GENERAL: The Honourable Mr. Walsh was bound to state what the objection was. It was hardly reasonable that a member who had brought forward a Bill of any kind should omit to move its second reading because some imaginary objection was to be raised to it.

Mr. WALSH said he felt equally bound to state the objection. But as it would take a short time to do so, he felt bound to state what he did, so that honourable gentlemen would understand what he was going to do, and to ascertain whether the honourable Mr. Gregory would persevere in moving the second reading of the Bill, after he (Mr. Walsh) had avowed his intention of preventing the Bill being discussed by the Council at all.

Mr. GREGORY: Of course, it was impossible for him, as the mover of the Bill, to know what possible objections might be raised in the House to it. If some formal objection, to render the Bill inadmissible, was entertained, he conceived that the proper time to draw attention to its inadmissibility was on the first reading. But it would be utterly impossible for him to meet by anticipation all objections that might be raised by honourable gentlemen. The easiest plan would be for him to be allowed to move the second reading and to give his reasons in support of the objects of the Bill. If there was anything objectionable in the Bill, or contrary to the usages of Parliament, of course, when the House went into committee upon it, or at any stage of the Bill, it could be objected to or remedied. The House were not, at any time, pledged to accept the Bill until it passed. He was prepared to give the reasons for the introduction of the Bill. If the President ruled that he was bound, first of all, to listen to objections—before he entered upon the argument in support of the Bill—of course, he must perforce give way.

The PRESIDENT: I rule, most decidedly, that the honourable gentleman is in possession of the floor of the House, and in order, to move the second reading of the Bill as set down in the Order of the Day.

Mr. WALSH: Then, he presumed to rise to a point of order. It was, that the House were not entitled to discuss the Bill at all, because it had not been properly brought brought before the Council. He should now proceed to substantiate the position he took up, unless the President should choose to rule that he could not do so.

The PRESIDENT: As a point of order, the honourable member is perfectly in order.

Mr. WALSH: He should now proceed to substantiate his position. He maintained that the Bill, which was a private Bill, must be introduced into Parliament, through the Lower Chamber, in a manner conformable with the Standing Orders and according to the practice of the Imperial Parliament, so far as the rules of the Queensland Parliament did not provide what was necessary, and so long as that practice was not at variance with existing Standing Rules and Orders. Having come to that conclusion, it was now his duty to show that the Bill had not been introduced into the Council in a proper manner. Before it could be introduced in another place and forwarded to the Council, certain forms of proceeding must be complied with, as laid down very exactly with regard to private Bills. As far as the Council were concerned, they would not enter on the consideration of any private Bill which had not first been considered by the other House; but as regarded the introduction of private Bills in the other House the forms and practice were clearly laid down and must be strictly followed. Hence, a private Bill brought before the Council must have been introduced strictly in accordance with the rules and practice of the other House. He would proceed to show that in regard to the Tooth Estate Enabling Bill that had not been the case. He would not say that he regretted to do so; but, at the outset, he would state that he raised the objection he now advanced because, probably, great injury might be done, not only to the Parliament, but to private individuals, by allowing any infraction of the rules which guided the proceedings of Parliament, and which by long usage and practice had been shown to be necessary, and which should be followed in order to guard the Council themselves against intrusions, and to protect those interests which honourable members volunteered to serve. He found amongst the Standing Rules and Orders of the Legislative Assembly, the following—under the head, "Chapter XVIII., Private Bills."

Notice of the intention to apply for every private Bill shall be published once a week, for four consecutive weeks, in the *Government Gazette*, in one or more public newspapers published in Brisbane, and in one or more public newspapers published in or nearest to the district affected by the Bill, which notice shall contain a true statement of the general objects of the Bill.

That notice must contain "a true statement of the general objects of the Bill." As far as he knew, and he believed, that Standing Order had been strictly conformed to. But there was another Standing Order of the Lower House which it was equally necessary to conform to—that was the 260th;—

Every Select Committee on a private Bill may, in its discretion, hear counsel if it be desired; and may also take such oral or other evidence as it may think requisite; and may decide on matters in issue between the persons conducting and opposing the Bill; after which the question shall be put from the Chair, "That this preamble stand part of the Bill?" And if the question pass in the negative, it shall be fatal to the Bill, and the Committee shall report accordingly; but if the question pass in the affirmative, the several clauses of the Bill shall next be proceeded with, and the amendments, if any——

Now, this was a part to which he wished to draw honourable members' careful attention——

carefully noted for report to the House, care being taken that no clause be inserted, or amendment made, in the Bill, which shall be foreign to the import of the notice required, under section 251, to be given by the party or parties applying for it.

That was his whole contention, that the most extraordinary amendment was made in the Bill by the Select Committee, an amendment which was foreign to the requirements of the 251st Standing Order, which Order required that due publicity should be given by advertisement containing "a true statement" of the general objects of the Bill, before the measure could be introduced in Parliament. If honourable gentlemen would look at the evidence which was sent up to the Council in connection with the Bill, they would see that the petition which was presented to the Legislative Assembly in respect to the Bill set forth the following:—

To the Honourable the Speaker and the Members of the Legislative Assembly of Queensland, in Parliament assembled.

The humble Petition of Lucy Ann Tooth, of Clifton, Darling Downs, in the Colony of Queensland, widow,

RESPECTFULLY SHEWETH—

That the existing Trustees of the Will of William Butler Tooth, deceased, of whom your Petitioner is one, by their Solicitor, have complied with the Standing Orders of your Honourable House, and have within the time specified therein given public notice as required by the said Standing Order of their intention to apply for a Bill to enable the said Trustees to sell and dispose of the Trust property comprised in the said Will.

That the objects of the said Bill are to confer upon the Trustees for the time being of the Will of the said deceased, in their discretion—

1. To sell and dispose of the whole or such portion of the Trust property as shall in the opinion of the Trustees be requisite or necessary to discharge the debts of the Testator, and to pay the expenses of such sale or sales.

2. To enable them to sell the same together or in lots, and either by public auction or privately, upon special or other conditions as regards title.
3. To enable them to stand possessed of any surplus after payment of debts and expenses upon the Trusts of the Will; and lastly,

To declare their receipts for any moneys accruing from such sales to be good discharges to purchasers.

That a Copy of the said Bill is hereunto annexed.

And your Petitioner humbly prays that permission may be given by your Honourable House for the introduction of the said Bill.

And your Petitioner, as in duty bound, will ever pray, &c.

The whole object of the Bill which was attached to the petition was to be found in that first section of the petition which he had read. Nothing else was asked for, except the necessary power to enable the trustees to sell "by public auction or privately" and to "stand possessed of any surplus moneys." That was prayed for by the petition; that was what had been agreed to by all persons interested in the will of the late Mr. Tooth—the devisees whom it was the especial duty of the House to protect;—that was the prayer that, perhaps, had taken months and months to get the consent to of persons living probably thousands of miles away, in order that the trustees should obtain by Act of Parliament the power that they evidently lacked. Whatever powers the trustees possessed under the will, the petition was for an Act of Parliament to enable them to sell the real property in trust to pay off the debts of the estate. The Bill which was so introduced to the Legislative Assembly by petition was next consigned, necessarily, as required by the Standing Orders and the Practice of Parliament, to a select committee, to take evidence, if necessary, and to report upon the petition. What did the committee do? They took evidence. He did not think he should analyse it, now. To his astonishment, when he read it over, he found that, at the instigation of one of the members of the committee, the following new clause was moved and inserted in the Bill:—

Motion (Mr. Amhurst)—That the following new clause follow clause 5 of the Bill:—

It shall be lawful for the Trustees to borrow at interest upon the security of the said lands hereditaments and premises or any part thereof such moneys as to them may appear necessary for the purpose of paying off the debts of the said testator or any part thereof upon such terms and conditions and in such manner as they may think fit and for that purpose to sign and execute such mortgage transfers or other instruments containing such powers of sale or other powers as to them may seem expedient.

Question put and passed.

That, he (Mr. Walsh) maintained, was a new feature of the Bill;—it had not been asked for by the petitioner; it was not in the original Bill. It did appear to him an extraordinary thing that, whilst the petitioner prayed that the trustees be enabled to sell real property to pay debts, a clause was inserted in the Bill to increase partially the debts of the estate. It was a new feature introduced in the Bill, it was new in the practice of Parliament, and it was certainly a new way to pay old debts—that of borrowing money. He could understand selling real property to pay debts owing upon personal property when the personal property was not sufficient. He could understand getting a Bill to do that; but to get, in the way shown, the right to borrow money to pay debts was an entirely new way of doing the thing. He maintained that as far as the House could see, it was foreign to the intention of the trustees of the estate, it was foreign to the petition by which the other House had been moved, and it was foreign to what the Standing Orders prescribed. Now, he should show, further, what was the practice of Parliament in such cases. It was laid down in "May," page 679, to which he now referred to point out to honourable gentlemen what their duty was in connection with private Bills. They had to perform a double duty—not alone their ordinary legislative duty, but a higher one even, their judicial duty; that was, when they were called upon to interfere with private interests, and the disposition of private property, they were not only acting as legislators, but they were taking upon themselves the rights—necessary rights in a colony like Queensland—that appertained peculiarly to the highest courts in the mother-country. A matter of the kind before the House, if possible, should not be referred to Parliament at all; but to the highest legal minds of the country—as he believed the highest court had powers—for the purpose of altering a will to such an extent as would enable trustees under such circumstances to dispose of land; and, therefore, while the House were taking upon themselves the duty of legislators in the present matter, they were also occupied in, and exercising, the more important functions pertaining to the superior judicial tribunal in the colony. He wished to point that out to honourable gentlemen, to show that this was a very serious matter, indeed, for them to consider; and that therefore it behoved them, at any rate, at every step they took, to be sure of what they were doing, and to see, also,

that they proceeded in strict accordance with the practice and usage of Parliament—a consideration, perhaps, more important just now than all others. One of the greatest authorities he ever looked into—and he had had to look into a few—was "Cushing's Law and Practice of Legislative Assemblies;"—it was the work of the celebrated American jurist, who invariably in his instructions to the Parliaments of the United States held up and quoted the Parliaments of Great Britain as his guides and as his mirrors. At page 946 "May" was quoted; but he (Mr. Walsh) preferred to read Cushing's text, because it appeared to be more incisive than their ordinary authority:—

If, after the introduction of a private Bill, any additional provision should be desired to be made in the Bill in respect of matters to which the Standing Orders are applicable, a petition for that purpose should be presented, with a copy of the proposed clauses annexed.

In the present instance, that had not been done;—in fact, the provisions of the Bill which required to be advertised to the world so many weeks had been utterly ignored by the amendment to which he directed attention. Cushing then went on to say that, under such circumstances—

The petition will be referred to the examiners, and memorials may be deposited against it. After hearing the parties, in the same manner as in the case of the original petition for the Bill, the examiner reports to the House whether the Standing Orders have been complied with or not, or whether there are any applicable to such petition.

No opportunity had been given to memorialists, in the present instance, if there were any, to protest against the introduction of new matter into the Bill. In another place, the same authority said:—

If the promoters of a Bill, after and notwithstanding such an adverse report, still entertain hopes that the House may be induced to dispense with the Standing Orders; or are willing to abandon portions of their Bill; or if there be special circumstances in the case, such as the consent of all parties; or if there be an urgent necessity that the Bill should pass during the current session; they should present a petition to the House, praying for leave to deposit a petition for a Bill, and stating fully the grounds of their application. The petition will be referred to the Standing Orders Committee, who, after hearing the statements of the parties, will report to the House whether, in their opinion, the parties should have leave to deposit a petition for a Bill.

It was thus clearly shown that when any material alteration was to be made in a Bill, it must be petitioned for, just the same as the original Bill was at its introduction. If honourable members would refer to the proceedings of the other House in connection with the Tooth Estate Enabling Bill, they would see that such precautions had not been taken; and if they would read the evidence before the Select Committee that had reported on the Bill it would show them that such precautions had not been taken. Hence he said the Bill had been brought before the Council in an informal manner; and the House had a right to object to its introduction, because all the requirements necessary had not been conformed to by the other Chamber of Legislature. They had a perfect right to review from the first the whole way of the Bill's progress, and how it had got into the Council Chamber; and, if they found, as they were bound to find, now, from what he had read, that there had been any informality of a vital nature in regard to the Bill—which might be of the highest interest to those persons who came under it;—if the conditions prescribed had not been duly complied with; if the necessary precautions had not been taken in regard to it; they must call attention to it, and preserve the safeguards of legislation, and maintain intact for the benefit of themselves and all parties interested, the rigid rules which prescribed the strict practice, not only of the Queensland Parliament, but of the Parliaments of Great Britain. Therefore, for the reasons he had given, supported by the quotations he had made, the Bill had not been passed by the other House conformably to Parliamentary practice and to the Standing Orders of the Legislative Assembly; and the Council had no business to consider the Bill at all. He should state that he had no reason to suppose that the Bill would not be of advantage to those whom it concerned. He believed there would be plenty of time during this Session to amend the defects in it. But he did trust that honourable gentlemen would see that by overlooking what had been done, and what he had pointed out, they would be submitting to a most unhappy kind of legislation and practice; and that for the sake of the Council, and for those whom they represented and had to protect, the House would take such a stand on the Bill as would induce all parties concerned to be more careful in introducing new legislation in future.

Mr. GREGORY said he had listened with close attention to all that had fallen from the honourable gentleman who raised the question as to whether the Bill could be, consistently with the forms of the House, introduced; and it resolved itself into the simple fact that the honourable gentleman believed that certain amendments had been made in the Bill during its progress through the other House inconsistent with, or outside the terms of, the petition upon which the Bill was founded. He should show the House, in the course of speaking on the question raised, that the alterations in the Bill were not inconsistent with it in

any way. In some particulars the amendments made were purely verbal, and in others they only disclosed some minor powers which were covered by the greater, which the Bill conferred. The one to which the honourable gentleman especially referred was that clause which empowered the trustees to mortgage, instead of to alienate. He should state, for the information of the House, that before the Bill was introduced in the Assembly, the question was raised and discussed by some of the most learned barristers of the colony.

Mr. WALSH: What had that to do with it?

Mr. GREGORY: Their reply was, that the greater power covered the lesser. He thought that commended itself to the common-sense of honourable gentlemen, without his going into the subtleties of the legal mind. They would allow that the power granted by the Bill, to sell, also covered the power to mortgage. They could conceive of a case, possibly, in which an objection might be raised to the lesser power being granted, where its exercise might seem to vitiate the original intention of the devisor. But it must appear clear to anyone who read the Bill that the power to mortgage, so far from departing from the original intention, was in accordance with it, and gave greater facilities for carrying out the object of the petitioner. As to the alteration of the Bill being beyond the power of the Assembly, it might as well be said that the inherent power of Parliament was not to be exercised upon any Bill that came before it, and that the House must go on with any such measure, no matter what its defects might be. He contended that when the Bill was before the Select Committee, upon evidence taken a defect was recognised, and an amendment was made to remedy that defect. To make the Bill complete and thoroughly comprehensible, both to Parliament and to those who would have the working of the Bill after it passed, certain necessary words were introduced amongst its provisions; and those words were not in any way contrary to the spirit of the petition or the original Bill itself. In the petition it was distinctly specified what were the purposes and objects of the Bill.

Mr. WALSH: What were they?

Mr. GREGORY: The power to sell and dispose of the estate, and to re-invest moneys after the payment of debts, and otherwise. He need not read what was in the hands of all honourable members. The power was, to dispose of the estate in a suitable way——

Mr. WALSH: No, no.

Mr. GREGORY: He did not wish to detain the House, but he should read it—

1. To sell and dispose of the whole of such portion of the trust property as shall in the opinion of the Trustees be requisite or necessary to discharge the debts of the testator, and to pay the expenses of such sale or sales.

2. To enable them to sell the same together or in lots, and either by public auction or privately, upon special or other conditions as regards title.

Mr. WALSH: Hear, hear.

Mr. GREGORY: He supposed the honourable gentleman would object to sell on deferred payments, or on deferred bills, or on promissory notes—that the trustees could not go into any arrangement short of cash payment. No conditions of improvement could be made, when the purchaser only paid half the money down; nor any other of a host of conditions that might be imposed in the sale of the estate, to obtain money to pay debts thereon. The honourable gentleman's objections were trifling; he was straining at a gnat and swallowing a camel. Either the Bill was objectionable as a whole, or the mere question of the power to mortgage fell into insignificance. However, as far as the second reading was concerned, to pass that was simply to affirm the main principle of the Bill. When it was in committee, if the honourable gentleman could then satisfy the House that it was beyond the power of Parliament to introduce any amendment, he (Mr. Gregory) should be quite prepared to consider the objections raised, and if they were valid he would submit to the will of the House. At present, he protested against the objections raised to his moving the second reading of the Bill. There was nothing in the Bill—at any rate, nothing in it had been shown—which ought not to be there; and he maintained that nothing objectionable, or out of order, could be shown:—

3. To enable them to stand possessed of any surplus after payment of debts and expenses upon the trusts of the will; and

Lastly—To declare their receipts for any moneys accruing from such sales to be good discharges to purchasers.

Mr. WALSH: There was nothing about mortgage there.

Mr. GREGORY: There was nothing to prevent the making of any terms of sale or to land being sold on mortgage. They all knew that they could sell lands and take a mortgage over it for the purchase-money, or part of it: that was a common practice in disposing of property. However, he thought he should leave the particular question raised by the honourable gentleman until the Bill got into committee. He did not think the objection a valid one. As the whole of the evidence taken before the Select Committee was in the hands of honourable members, he should not attempt to enter into a discussion of the statements there brought forward, except to show that

the question had been distinctly asked as to whether it would be desirable that the estate——

Mr. WALSH: The question was the point of order he had raised; not the quality of the Bill.

The PRESIDENT said he must remind the honourable gentleman that if he travelled from the point of order, he might be precluded from speaking to the second reading of the Bill.

Mr. GREGORY understood. He would speak to the point of order. His contention was that the argument raised by the honourable Mr. Walsh, that the Bill was not consistent with the Standing Orders, was simply answered by the fact that the Bill had been dealt with and passed by the Legislative Assembly, where some of the most able barristers in the colony, who were thoroughly conversant with the law relating to trusts, as the honourable gentleman must admit, were as well able as he to see that all preliminaries and formalities had been complied with—publication in the *Gazette* and other newspapers, and all other proofs which must be adduced for the satisfaction of that House that everything requisite had been done. He could not, therefore, see what point there was really in the honourable gentleman's remarks, or in what way the Bill was prejudiced, or why it should not have been introduced in the Council, or why it should be obstructed at any of its necessary stages towards becoming law. Of course, if the fact of the introduction of any foreign matter whatever into the Bill was fatal to its passing in its present form, the House had that to learn;—because he had seen private Bills come before the Council with amendments made by the other House, and yet they had not been objected to. He had seen new clauses put in and old clauses struck out—of course, they had been in harmony with the principles of the Bill.

Mr. WALSH: This was not.

Mr. GREGORY: He knew that nothing must be foreign to the Bill or absolutely foreign to the petition. He saw no use in attempting to follow the question any further. Unless something new in the practice of the House appeared, he submitted that sufficient was shown to remove the objection of the honourable Mr. Walsh.

The POSTMASTER-GENERAL said he did not think it was desirable to occupy the time of the House in discussing the question put before them when their own Standing Orders provided that—

> Until special Standing Orders for the initiation of Private Bills shall have been adopted, this Council will not enter on the consideration of any Private Bill which has not first been considered by the Legislative Assembly, and referred by that body for the concurrence of this Council.

Mr. WALSH: Hear, hear.

The POSTMASTER-GENERAL: Another Standing Order provided that Private Bills should be treated in other respects as Public Bills. Now, he maintained that the Council had nothing to do with the Standing Orders of the other House. If the Standing Orders of the Legislative Assembly, which were subsidiary to the Constitution, had been infringed, that was simply a question for the other House to decide. The Bill had come before the Council in a perfectly regular way, and he did not think it was their province to take exception to it. He could admit, that, after the second reading, if any clause should be found in the Bill which appeared contrary to the petition and general design of the preamble, then it would be competent for the House in committee to consider and, perhaps, to expunge it; but, at the present stage, he thought it was absurd to enter into such objections. Believing that the Bill had come up from the Assembly in a regular way, it was for the Council to go on with the second reading, and he hoped that the time of the House would not be occupied any longer with the discussion on the point of order. The honourable Mr. Walsh had exhausted it, and it might now be allowed to drop.

Mr. MEIN said he entirely differed from the Postmaster-General, that the discussion was fruitless; he did not think so, or that there was anything absurd about it. The honourable gentleman very often used that word, absurd; and as he was a very sensitive man, when anyone else characterised his procedure, he ought to be careful in the choice of his epithets. So far from thinking the remarks of the honourable Mr. Walsh absurd, he (Mr. Mein) thought they were very pertinent, and that the House must be indebted to him for bringing the matter forward. The question raised was one of great importance, and he must candidly confess that he did not see his way out of it clearly, notwithstanding the discussion that had taken place upon it. The Postmaster-General, when quoting the Standing Orders, ignored one very important provision. He properly quoted the clause that the Council should not, for the present, make special arrangements by their own Standing Orders for the introduction of private Bills; but, that proper precautions might be afforded to all parties concerned in such Bills, it was stipulated further in another Standing Order that private Bills passed by the Legislative Assembly must be accompanied by a copy of the proceedings of the Assembly's Select Committee when sent up for the concurrence of the Council. What was the object of inserting in the Standing Order the words that a private Bill sent up from the other House should be accompanied by a printed copy of the report and proceedings of the Select Committee?

They had some meaning. The obvious intention was, that the Council should have evidence before them that a Bill affecting private interests had gone through all the ordeals that the Standing Orders of the Legislative Assembly required. The honourable Mr. Walsh pointed out beyond dispute, certainly beyond contradiction, that the Select Committee of the Legislative Assembly on the Tooth Estate Enabling Bill had gone altogether beyond their functions. It was expressly provided by the 260th Standing Order of the Legislative Assembly that no amendments should be made in the Bill that was at variance with the principle enunciated in the petition, which had been advertised in the form prescribed; that was, once a week for four consecutive weeks in the *Government Gazette* and in one or more newspapers published in or nearest to the district affected by the Bill. The object was, that all persons interested should have notice of what the petitioner wished, and it was for the protection of those parties who were affected by the provisions of the Bill. If, in Select Committee, a clause could be interpolated, persons affected by any private Bill coming before Parliament might be damnified and put to considerable expense and loss. It was elsewhere provided that persons outside the petitioner could get a clause inserted in a private Bill; but in order to do so they must give and publish due notice of their intention. The proceedings of the Select Committee now before the Council showed that the clause which the honourable Mr. Walsh now called in question had been introduced at the request, not of the trustees and of the petitioner, but at the instance of the Bank of New South Wales. At the request of a third party, that clause had been introduced, without any notice of the intention of that party or any advertisement, as provided. What the petitioner wished was a very proper matter. Tooth's Estate was encumbered; there was a large mortgage existing over it; and it was pointed out that it would be inconvenient, at the present time, owing, probably, to the depressed condition of properties and to the security not being so valuable as at one time it was considered, to further encumber it, by making application to the Supreme Court for administration; but some of the real estate was sufficiently valuable that, if judiciously sold, it would realise enough money to pay off encumbrances. Doubtless the absence of power to sell in the will showed the intention of the testator, that the real estate should not be disposed of until his youngest child had attained the age of twenty-one years. It had been proved by the trustees that from the comparatively unproductive nature of the property they could not clear off the encumbrances otherwise, and it was asked that they should be clothed with the extra power, not contemplated by the testator, of sale; and the Bill very properly provided that any surplus received for the land sold should be vested in precisely the same way as was expressed by the will of the testator with regard to his trust funds. But a new power altogether was included in the Bill since it was introduced in the Assembly. It might be a very good power. He (Mr. Mein) did not see any particular disadvantage about it—the principle was right enough—that the trustees, in addition to the power to sell, should have the power to mortgage in any way that they might think proper. The clause which had been incorporated in the Bill, on the suggestion of the Bank of New South Wales—possibly with a view to new business with the estate or the trustees—was the following:—

> It shall be lawful for the trustees to borrow at interest upon the security of the said lands hereditaments and premises or any part thereof such moneys as to them may appear necessary for the purpose of paying off the debts of the said testator or any part thereof upon such terms and conditions and in such manner as they may think fit and for that purpose to sign and execute such mortgages transfers or other instruments containing such powers of sale or other powers as to them may seem expedient.

Under that clause, the trustees—he did suggest that they would—he did not know who they were, and he could not conceive gentlemen in such a position doing so—but he said that it would be possible for them to do so—could execute a mortgage to any banking institution by which the bank could receive fifty or one hundred per cent.;—they could do what they thought fit; they were subject to no conditions. That was matter worthy of consideration, whether the powers given were not too great with which to clothe trustees, especially in face of the fact that they had never asked for them. On the matter of principle, he entirely agreed with the honourable Mr. Walsh; he thought that the Select Committee of the Lower House went beyond their functions. If the Assembly had had their attention directed to the fact, he had not the slightest doubt they would have referred it back to the committee for reconsideration. But it had passed the House. The Bill was treated as private Bills usually were. Being provided for in the Standing Orders, it had been referred to a Select Committee, and after they had reported upon it, it was taken for granted that the correct course of procedure had been pursued all through. It was a question, in what position were the Council, now, and what action should they adopt, with regard to the Bill? He was not in a position to give an opinion upon it which would be satisfactory to his own mind. The evidence taken before the Select Committee certainly indicated that there were just

grounds for the petitioners asking for what was required by the trustees. If the Bill confined itself to that, he had not the slightest doubt that honourable members would cordially agree to the second reading; but as it went beyond that, and as the committee had failed in their duty, what should the Council do? He thought that, seeing the advanced stage of the Session, they might find some way of getting out of the difficulty, without throwing out the Bill altogether. He did not see that it was possible to advertise for four weeks, and to have a new Select Committee to bring the Bill to its present stage again this Session. Under the circumstances, the Council were justified, at the very least—in fact, it would be their bounden duty, in their judicial capacity, to which the honourable Mr. Walsh just referred—in striking out all those amendments incorporated in the measure which were not consistent with the petition and the Bill as presented to the Legislative Assembly. Under ordinary circumstances, it would be wrong for the House to interfere, unless they saw public grounds for doing so, with the provisions of the Bill; but the Select Committee having exceeded their duty by introducing a clause in the Bill which interfered with the interests of persons under the trust who had not been heard in the matter, the House ought to strike that clause out.

The PRESIDENT: I have given the point of order that has been raised my best consideration, and I have also formed an opinion as to the practice which the other Chamber has chosen to follow in passing private Bills. The decision I am about to state is in no way connected with the opinion I have formed of that practice. My decision is that it is no part of the duty of this Chamber to sit in judgment upon the conduct of business of the other Chamber; and I therefore hold that it is competent for this Bill to be received and discussed by the Council, to-day, and that, either upon its merits or upon any technicality, it may be thrown out or approved of, as the House may think proper. I give my opinion, that the Bill may be received, and that the second reading may be gone on with.

TOOTH ESTATE ENABLING BILL.

Mr. GREGORY said that, after the decision given by the President, he should not now detain the House many minutes. The principle of the Bill having been so far discussed in the debate on the point of order, and the Bill being in the hands of honourable members, he need only add to what he said a few minutes ago that, if there was anything in the Bill which ought not to be in it, he should be perfectly prepared in committee, if the majority of the House decided against him, to give way, and to amend it. But he thought he should be able to show that there were valid grounds for the amendment which had been objected to by the honourable Mr. Walsh. He moved—

That this Bill be now read a second time.

Question put and passed.

ELECTORAL ROLLS BILL.

The House resolved into Committee of the Whole for the consideration of "a Bill to amend the law relating to Parliamentary Elections."

Clause 4—Quarterly registration courts.

The POSTMASTER-GENERAL moved the insertion of the word "respectively" in the second line of the Bill, so that the courts should sit—

On and after the first Tuesday in the months of January April July and October respectively in every year, &c.

Mr. MEIN, commenting on the Postmaster-General's desire to make the clause strictly and verbally accurate, observed that there was an inaccuracy of expression in the words, "the court of petty sessions," immediately following the quotation made by the honourable gentleman, which showed the manner in which the Bill had advanced through its various stages: the clauses appeared to have been pitched into a revolving machine, set in motion by the Colonial Secretary, and then to have been pulled out by the Postmaster-General to frame the Bill. He should propose the omission of those words, which were not applicable at all, and substitute the words "a court." The measure, as presented to the Council, was wholly at variance with the Bill introduced by the Government in the Legislative Assembly. It was now convenient to discuss the fundamental principle involved in the clause before the Committee. He repeated his objections made on the second reading of the Bill, that the Government were over-legislating; that electors in outside constituencies would suffer under the operation of the clause; also, that the persons absolutely entitled to object to improper claims for registration had no right to do so under the provisions of the Bill. He should prefer, if the Postmaster-General could see his way clear to the alteration, that there should be half-yearly, instead of quarterly, registration courts. As the Bill stood, a man might forfeit his qualification in October, and nevertheless have his name on the roll for the following year and have a vote for the whole of that year for an electorate in which he possessed no qualification; and, he could, in the following April, go to another district and get his name on the roll for an-

other electorate for six months of the current year. Facilities of that sort should not be allowed; by which a man might have a vote for two districts while he had only one qualification. The Postmaster-General might say that, under the existing law, a man might have a vote for which he had no qualification; but under the Bill, a man might be two units of the voting population; whilst from only one qualification under the existing law he could not possibly arrange to have votes in two separate electorates. In support of the amendment he proposed, he pointed out that the court was not a "court of petty sessions" at all; as honourable members could see by clauses 5 and 22, which provided for the constitution and conduct of the court. The registration court would be constituted, the same as the revision court, of the justices resident in the electoral district associated, whenever the judge or the Crown prosecutor of any district court should be present, or whenever the Colonial Secretary should order him to attend, with one of those officials.

The POSTMASTER-GENERAL said he was happy to hear all the provisions of the Bill discussed intelligently, and did not desire the Committee to allow it to go through without deliberation. Before a man could hold a qualification, he must have been resident for six months in an electoral district, and when he claimed registration, if his qualification was proved, his name would be in the register for three months; so that nearly twelve months expired from the time he acquired his qualification before he could vote. That was a sufficient guarantee that an augmentation or plurality of votes could not be got. He (the Postmaster-General) had studied the Bill, and he thought it would work well and ensure honest returns in the metropolitan constituencies, which the present law did not always effect; and there need not be the slightest apprehension that it would affect unfavourably the outlying districts of the colony. In the country everybody knew everybody else, and a man could not register himself without being known. It was in the large and populous constituencies that any difficulty of that kind might occur. And so far as that was concerned, it could occur now, under the existing law. For example, at one of the last year's Rockhampton revision courts, he believed that scores of men who had not qualifications were placed on the temporary roll. He admitted that a man could have his name placed on the list in August, then leave his district, and after he left, say in October, he could have it placed on another roll for a contiguous district. However, the 76th clause of the Act of 1874, that he would read in connection with the Bill, which would, of course, be construed with the principal Act, provided that

Every person who shall wilfully mislead any collector——

Mr. MEIN: There were no collectors under the Bill: that ought to be repealed.

The POSTMASTER-GENERAL *(reading)*:—

Or clerk of petty sessions in the collection or preparation of the lists or who shall wilfully insert or cause to be inserted therein any false or fictitious name or qualification,

was, on conviction of such offence, subject to a penalty of £20 or to imprisonment for three months. That clause stood, and afforded sufficient protection against improper registration. Persons qualified would get on the roll with very little trouble. The end which the Government wished to attain was to enfranchise everyone who had a qualification. He considered that one of the most favourable points of the Bill was, that it enabled qualified persons to get on the roll four times a year, either by sending in a written claim at any time or by making oral application before the quarterly registration court. The honourable Mr. Mein objected that a person who made an objection to a claim must have his own name on the list. Well, he (the Postmaster-General) held that it was a very desirable provision. The clerk of petty sessions, in September, in preparing his annual list, took every name on the existing rolls, and the name of every person in the July list, including, therefore, the names of all electors qualified to vote at that time; and that annual list was to be exposed to public view, and objections could be lodged against any name therein by any person named in the list. What any person outside of it had to do with the matter, he (the Postmaster-General) could not see. It was a very fair provision, which he thoroughly approved of, and was inserted in the principal Act by the Macalister Government—that nobody should lodge an objection unless his own name was in the list. It would be a very grave error if outsiders were allowed to interfere at all. The honourable gentleman's objection was not a valid one. At present, a great number of persons were disfranchised who would be benefited by the Bill: though flaws might be found in this as in every other measure for enfranchisement. As a whole, the Bill was about as perfect a Bill as ever came before the House. The honourable Mr. Mein had spoken of the system in New South Wales; but there the Legislative Assembly, last Session, affirmed the principle of self-registration and the abolition of collectors of electoral lists. He believed that in that colony the defectiveness of the collection of the electoral lists had

been just as distinctly found out as in Queensland. Honourable members must admit that if a man was obliged to go to the polling-place to record his vote, he should also be required to go to the registration court to establish his claim as an elector. An honourable member in another place had assured him (the Postmaster-General) that there had been a great deterioration in the interest shown by electors since the system of collection was established. Men would not go to vote unless a cab was sent round for them. If the suffrage was worth anything, it was worth looking after by self-registration. As to the cost of the clerks of petty sessions, their remuneration would not come to ten per cent. of the present cost of collecting the lists. Each would get probably about £10. In Brisbane, for instance, there would be lists for five electorates to be prepared. If the clerk of petty sessions got £50 for each, the amount named by the honourable Mr. Mein, he would receive £250 a year. That was simply absurd. At present, the clerks of petty sessions had the supervision of the collectors' work, and they were not paid at all. A small amount of compensation would induce them to see that the lists were carefully compiled. As to the publicity suggested by the honourable gentleman, it would involve considerable expense to advertise lists of names, and he did not think it desirable that the country should be put to that expense.

Mr. WALSH, while deprecating inconsistency in the remarks of the Postmaster-General, admitted the difficulty found in getting men to exercise their franchise. What was the cause of it? The Legislature were always pampering the people, doing for them what they should do for themselves—clothing them, feeding them, bringing them out, educating them, making them indifferent about exerting themselves, and in every way making too much of them. How were the Government going to meet the difficulty? Again pampering the people by holding quarterly registration courts. Well, if it was necessary in order to induce those valuable members of society to place their names on the electoral rolls four times a year, why not provide for twelve times? —why not carry out the principle to its fullest extent, and allow every court of petty sessions to be a court for receiving the names of persons who wished to be registered? That would be something practical, wise, and judicious. He could not see why a man, if he happened to be in town on any day, should not be able to place his name on the list just as well as he was allowed by the Bill to do so every quarter. It would not entail much extra labour on the clerks of petty sessions or on the justices, and it would be of very great advantage to the people. He should like to see an amendment made in the clause to that effect. He was rather amused at the Postmaster-General saying that the Bill was one of the most perfect that ever came up to the Council. That was a piece of satire upon either the other House or the Government. What a state must the other Bills have been in! There was not a shred or a particle of the Bill that belonged to the Government, the Bill was so changed since it was introduced.

The POSTMASTER-GENERAL: Yes; several clauses.

Mr. WALSH: He had spoken to two or three honourable gentlemen in the Library, and they said the Bill ought to be a good one because the Government had had nothing to do with it, except introducing it; —they had put it into its present shape. The Postmaster-General must use stronger arguments than he had used, if that most perfect Bill was to go as it stood from the Council.

Mr. SANDEMAN said the quarterly registration courts would be applicable to the outside districts, and would be of great advantage to the working men, many of whom were away from their homes for a period of the year. If those men were absent one quarter, they could register the next.

Mr. WALSH intimated that he should, at the right time, move an amendment to the clause in the shape of the proviso following:—

> Provided, however that all other sittings of courts of petty sessions whereat two justices shall sit shall be deemed and have the power of registration courts.

The simple act of claiming registration—on an average, it would not engross ten minutes' attention on the part of the clerk of petty sessions or the justices—had nothing to do with the revision courts that would sit four times a year as specified, and it did not give the claimant a right and title to vote; but it gave him, simply, the advantage of getting his name placed on the list.

The POSTMASTER-GENERAL asked the honourable gentleman not to press the amendment, as it would disturb the whole structure of the Bill and entirely subvert its intention. The House did not desire to do that, or to defeat so important a measure, for such an amendment. There were great objections to it. It would be seen by the 5th clause that the magistrates forming the registration court were the same as those who, under the 25th clause, would constitute the revision court—"the justices of the peace resident in the electoral district." In the court of petty

sessions there would often be magistrates sitting who were not residents of the district. If the amendment were passed, the next thing would be that courts of petty sessions should be empowered to declare every electoral list a supplementary roll. He thoroughly approved of the spirit of the amendment, but really it could not be carried into effect in the shape desired by the mover; as, if it were included in the Bill, the effect would be to necessitate its withdrawal and prevent the reform now proposed from being carried out.

Mr. WALSH said the honourable gentleman's remarks confirmed him in insisting upon the amendment. The 5th clause did not clash with it in any way. The fact was that the amendment was too liberal for the *pseudo*-Government measure now before the Committee.

Mr. GREGORY said the honourable gentleman had overlooked the fact that by clause 7 a man could get his name registered by a written claim.

Mr. MEIN: The honourable gentleman's argument would prove that the quarterly registration courts were no good whatever. If a man could send in his written claim, and it was *primâ facie* evidence of his being an elector, the court was of no use at all. The honourable Mr. Gregory had not grasped the meaning of the Bill. The courts would sit in a double capacity:—As registration courts, before which it would be proved by oral evidence or other testimony that claimants had the qualification of electors;—the names of those persons whose qualifications were proved being then recorded in a certain way in the register book;—and as revision courts, three months afterwards, when the lists of the names so registered would be revised, and it would be determined that persons so registered and properly qualified should be placed on the electoral roll for the remainder of the year. What the honourable Mr. Walsh proposed was, that the registration should be month by month, the courts of petty sessions to determine whether claimants had qualifications or not to be registered; instead of having only the quarterly registration courts.

Mr. SANDEMAN: The Bill might not work properly if left to strange magistrates. Any justice of the peace travelling might be asked to sit on the bench, and would always give his assistance cheerfully to dispose of ordinary business; but it might not be an advantage to have him on the bench to deal with matters under the Bill. He saw great advantage in calling together the resident justices as a revision court; while strangers knew nothing of the people and were unacquainted with their circumstances with which they would have to deal.

Mr. HEUSSLER said, the amendment was not understood; it did not interfere with the revision courts.

Mr. WALSH: Objection might be taken to strange magistrates sitting as a revision court, which would be quarterly as well as the registration court. He must confess that, after a long experience of magistrates, he did not think that half-a-dozen would be found indecent enough to intrude their services on a local bench to deal with affairs of a purely local nature. Strangers in a district would give their assistance readily enough in ordinary police business. But, supposing that they could be induced to act for the revision of the electoral lists—which was not contemplated by him, at all—they would not be actuated by any personal or local feelings. The very best magistrates for a registration or revision court would be men free from all local influences; the very worst, men who took a warm interest in petty local and political matters.

The POSTMASTER-GENERAL: As the proviso could not be inserted at present, he should be very happy to entertain it at the proper time.

Mr. MEIN: There was a great deal in what the honourable Mr. Walsh said. He was strongly of opinion that it was not good to have the quarterly revision courts, especially in view of a subsequent clause, which provided actually for two separate revisions going on at the same time. The facts were, that, in October a revision court was held to revise the July list, and that revision enabled persons retained therein to be voters for the rest of the year—from October to December. That very same July list, then forming part of the roll, underwent another and separate revision altogether by the annual revision court in November. So that there might, possibly, be a case like this:—A man might go through the ordeal of the quarterly revision court in October after having his name in the July list, and be put on the roll as a qualified elector for the rest of the year; yet, on the very same claim, an adjudication by the annual revision court in November might be made against him. A man might reasonably presume that, after passing the quarterly revision court in October, after having gone through the fire, he was safe; but it was possible that when the roll for the ensuing year came out he would find himself disfranchised for that year. That was a state of things which all the ingenuity, or sophistry, or misrepresentation of the Postmaster-General could not get over. There should not be a conflict of authorities. Two revision courts in the year would be sufficient—one to revise the list of new claims to be placed on a supplementary roll to be in force from July to December, and the other to be the

annual revision court, to complete the roll for the ensuing twelve months. There could, then, be no conflict; and, by the adoption of the facilities proposed to enable men to register their claims, which would be confirmed only by the proper revision courts, half-yearly, everything desirable would be gained. He proposed to omit from the first and second lines of the clause the words "the months of January April July and October in," and after the word "every" in the second line to substitute "month" for "year," so that the clause would read—

On the first Tuesday in every month the court of petty sessions, &c.

That would obviate the amendment proposed by the Postmaster-General, before which it would come, and also a following one which he had himself suggested.

Question, on the last amendment, by consent, put—That the words proposed to be omitted be so omitted.

The POSTMASTER-GENERAL said he was very sorry that the honourable gentleman spoke so strongly about misrepresentation and sophistry; but he left it to the Committee to decide on which side they were. He denied that two lists underwent revision at the same time.

Mr. MEIN: The honourable gentleman was now misrepresenting him, as he did not say that two lists underwent revision at the same time, but that the same claims underwent revision by two different authorities; which was totally different from what the honourable gentleman put into his mouth. The Postmaster-General could not deny that.

The POSTMASTER-GENERAL: The July list would be revised by the October court, and the names of electors that had been proved or confirmed by that court would be placed on the quarterly electoral roll. That, of course, did not give those electors the right to be incorporated in the next year's roll; but it gave them the right to vote at any election that occurred between October and 31st December. However, the July list was also incorporated in the annual list, which was compiled in August and exhibited in September, to be revised in November. The thing was simple. He did not accuse the honourable Mr. Mein of want of understanding, but of not having had time to look into the Bill. The honourable gentleman's whole argument seemed to be founded on the idea that one court would, on the same evidence, give a decision contrary to what the other court did. If an objection was lodged against a man whose name was on the list, a copy of the objection must be sent to him, and he would be informed of the time at which he must meet it and establish his claim. The Bill provided the same as the existing law, that the person who made an objection must send it to the clerk of petty sessions, with a deposit of five shillings, and also a copy to the person against whom it was lodged. So that, if a person objected to was on the July list, he would be informed of the fact; if on the annual list, the same; and, in either case, he would be at the court to substantiate his claim as an elector. The annual and quarterly lists would not clash at all. He (the Postmaster-General) hoped the Committee would not entertain the amendment, because it would subvert the whole Bill. He did not think it was fair that he should be met this evening with the two amendments brought forward, as no argument had been adduced to show that the system under the Bill was unadvisable, or that it would not confer much greater advantages on the public than the law as it existed did now. It was not fair, after the other House had devoted six or eight nights to the Bill.

Mr. MEIN said he should not be affected by the Postmaster-General's appeal—or, rather, by his threat—that the amendments would lead to the withdrawal of the Bill. He raised his objection as a matter of principle, on grounds of public policy. If the Government did not like to accept it, that was their look out. In his public position he saw the state in which the Bill came up to the Council. If it had not come up earlier, if it could not be passed in time to effect the object the Government had in view, was that not their fault? Had they brought before Parliament a matured scheme, had they given the subject full consideration, had they understood it—that they did not might be from incapacity or from a desire to serve half-a-dozen different parties—for the fact was notorious that this Bill had been transmuted altogether—they might have got on without meeting any obstacles. The Bill before the House was not the measure the Government introduced. The Postmaster-General had not met his objection in any way whatever, that persons registered and enrolled on the same qualification could be twice objected to: clauses 11, 19, and 21 showed clearly that the same qualification would be investigated by two separate courts. That was an anomaly in the Bill which ought not to be encouraged, and which should not have a place in the statute book. Half-yearly revision courts would be quite enough. If a man had facilities to register himself as a voter every month, he had nothing to complain of; his claim would be investigated every six months, and, after revision, the roll would be made up.

The POSTMASTER-GENERAL: Something might occur between October and November to affect a man's qualification on the annual list; and thus a name passed by the former court might be struck out by

the latter. He could not see how the system of monthly registration courts would affect the question at all, or what object was to be gained by them; a man would not get on the roll earlier. The Bill provided that a man might send in his claim at any time, while he could get on the roll four times in the year.

Mr. MEIN: The claim must be made in writing; and the claimant must, any way, wait three months before he could get on the roll.

The POSTMASTER-GENERAL: Nothing had been advanced fairly to disparage the Bill. He hoped the Committee would go to a division at once. If the amendment should be carried, it would compel the withdrawal of the Bill, which would be rendered unworkable by it.

Mr. HEUSSLER believed the proposed amendment would work well in the country.

Mr. SANDEMAN was of opinion that the proposal to have a number of courts would be unworkable in the interior; at any rate, it would be of no advantage, and would be most inconvenient.

Mr. MEIN cited the opinion of a very high authority on the meaning of statutes, that could not, he said, be surpassed in Queensland, if in Australia—Mr. Griffith, whose attention had been directed carefully to the Bill, and who gave an opinion that, in respect of the provisions which he (Mr. Mein) had pointed out and objected to, "it would only lead to endless confusion." The provision for the quarterly revision courts had only been carried in the Assembly by a majority of twenty to eighteen votes; and he (Mr. Mein) had been assured that if honourable members had had the opportunity of studying the clause which the Government had forced upon the House—if it had been understood—the majority would have been the other way. He hoped the Committee would reject it, as, if passed, the first duty of Parliament would be to repeal it.

The POSTMASTER-GENERAL: From what he had heard, the high authority mentioned did not understand the clause at the time referred to. The Committee had nothing to do with high authorities, who very often went astray; and this same authority, when last cited in this Chamber, had admitted to a change of opinion after a Bill had passed the other House. He would rather trust to his own common-sense than to the highest legal authority in another place.

The question was put on the amendment for the omission of the words, and the Committee divided:—

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

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Mr. Thornton, Mr. Lambert, Mr. Sandeman, Mr. Hart, Mr. Gregory, and the Postmaster-General.

Resolved in the negative.

The amendment of the POSTMASTER-GENERAL, for the insertion of the word "respectively," was then put and affirmed; also, the amendment of Mr. MEIN, for the omission of the words "the court of petty sessions," and the substitution in lieu thereof of the words "a court."

Mr. MEIN said that the words "electoral list," in the fourth line of the clause were vague. It would have been best if they had been defined in the interpretation clause. He should move that they be followed by the words "of such district," so that the clause might be clear as to what electoral list was meant.

The POSTMASTER-GENERAL had no objection to the insertion of the words.

Amendment made accordingly.

Mr. WALSH then formally moved his amendment for the addition to the clause of the proviso that he before read to the Committee.

The POSTMASTER-GENERAL said he should be unable to accept the amendment, as it was contrary to the system provided by the Bill.

Mr. WALSH: It might be, and yet be perfectly in accordance with the spirit enunciated by the honourable gentleman during the debate—to give every man an opportunity of being placed on the electoral roll. The Postmaster-General had already admitted two innovations in the Bill, notwithstanding that he had described it the best Bill that was ever framed, or that ever came before the Council from the other House.

Dr. O'DOHERTY regarded the amendment as a very reasonable proposal. If the object of the Government was, as proclaimed by them, to grant every possible facility to those who desired to have their names as electors enrolled, he confessed that he was very much of the same opinion as was expressed by the honourable Mr. Mein on the second reading of the Bill; and he was not inclined to look on the Bill as an improvement on the present system of collecting the electoral rolls, notwithstanding what the majority in another place decreed, that their collection by the police was a failure. He doubted whether it was a failure; but if it was, he did not attribute it to any other cause than maladministration of the Act. If properly administered, there could not be an improvement on the existing system. When a census was required to be taken, there was no great difficulty found in having the work carried out in a very efficient manner by the police; and it was, therefore, a

puzzle how their collection of the electoral rolls failed to give satisfaction. Everyone looked upon it as a misfortune that there was great difficulty in getting the people to enrol themselves; and his remark did not apply to the humbler classes only. He had not bothered himself about it, except, perhaps, at election times; when he went to vote, and, to his surprise, found he was not on the roll. Was it for political reasons, or any other, that collection by the police was pronounced a failure? However, the Council had to deal with the fact that the other House had declared, most probably for reasons of retrenchment, that the system was to be changed. The Government professed to be very liberal, and it was insisted that the Bill was a good one. If the system must be changed, there should be no excuse for men not getting on the roll. The amendment of the honourable Mr. Walsh showed the Government a way to be more liberal than they were; and, in spite of the Postmaster-General saying that it would be unworkable in the Bill, he was inclined to give his vote in favour of it.

HONOURABLE MEMBERS: Hear, hear.

The POSTMASTER-GENERAL objected that if every court of petty sessions was made a registration court, any magistrate who might be sitting on the bench, whether "resident in the electoral district" or not, would have the power of registering claims. He again directed attention to clauses 5 and 22 of the Bill, as to the constitution of the registration and revision courts. The condition that he quoted was inserted in the latter clause by the leader of the Opposition.

HONOURABLE MEMBERS: Hear, hear.

An HONOURABLE MEMBER: That was a powerful argument.

The POSTMASTER-GENERAL: It was very undesirable to leave the registration to haphazard benches of magistrates.

Mr. WALSH: His impression, from the way that the leader of the Opposition was quoted, was that the honourable gentleman was in another place for the purpose of embarrassing the Government. He was told that that was his peculiar *rôle*. How did the House know that the Bill was a Government measure?—or, that the clause referred to had not been introduced by the leader of the Opposition for the purpose of embarrassing the Government? He was told, again, that the leader of the Opposition did not introduce clauses in their Bills for the purpose of assisting them.

The POSTMASTER-GENERAL: He sometimes did: that one.

Mr. WALSH: When it suited his ideas. Well, he had no confidence in the leader of the Opposition, who so misled the Government in the passage of their measures that he was obliged to be suspicious in receiving them in the Council. If the Bills were the Bills of the Government of the day, that might not be necessary. Seriously, the Government ought to have well considered their measures, and they ought to be able to stand by them in Parliament until they made them the law of the land. All the Bills they introduced were altered by the leader of the Opposition. Therefore, he could not swallow the dictum that the present measure was the most perfect that ever came before the House. He was opposed in politics to the leader of the Opposition, and he was not a great admirer of his; and it was an extraordinary and anomalous position for the Postmaster-General to recommend a Bill on such evidence and arguments as had been used by him against the amendment of the Bill. He was puzzled by the argument against strange magistrates in the registration courts. The very fact of strange magistrates being on the bench implied that the work would be properly done. He could not understand what harm could result from the adventitious presence of a stranger in court when a man applied to register his claim to vote. The Bill facilitated registration to a limited extent; the amendment proposed to do it to a great extent. He should press the question to a division.

Mr. SANDEMAN was surprised at the honourable Mr. Walsh talking disparagingly of the leader of the Opposition, seeing the position the honourable gentleman himself had taken up in the Council.

HONOURABLE MEMBERS: Hear, hear.

Mr. SANDEMAN contended that the registration of electors should be supervised by the local magistrates. In many cases, local knowledge would be desirable.

The POSTMASTER-GENERAL pointed out that after striking out the words "the court of petty sessions" at the beginning of the clause, it was proposed in the proviso to refer to "other sittings" of such a court.

Mr. MEIN: Leave out "other."

Mr. WALSH: That is a trifle.

The POSTMASTER-GENERAL: The proviso would be contradictory of clause 5.

Mr. MEIN: They would discuss that when they came to it.

Mr. GREGORY asked what would be the use of hampering the Bill with useless verbiage? He referred to the 7th clause, and urged that there was not a word in the Bill to prevent any elector going to the clerk of petty sessions and making his claim, even getting the clerk to fill up the form for him.

Mr. WALSH: The 7th clause was about the most pernicious in the Bill; it allowed the magistrates to be a revision court as

well as a registration court. His contention was to give every facility for a man to make his claim and to be registered.

Mr. THORNTON counselled the withdrawal of the amendment.

Mr. MEIN said, the honourable gentleman, like many others, had evidently never read the Bill, though he invariably went with the Postmaster-General.

Mr. SANDEMAN suggested that, if clause 7 were amended, by the substitution of the word "claiming" for "entitled," it would settle the whole question.

Mr. WALSH said he, too, thought it would. Though he preferred his own amendment, yet if the honourable gentleman and he came to a thorough understanding, his proviso might be withdrawn in order that the amendment suggested in the 7th clause should be made. That amendment would necessitate another alteration in the clause, to the effect that the claims should be laid before the next quarterly "revision" court instead of the "registration" court.

The POSTMASTER-GENERAL: The Committee had had sufficient discussion upon the question. He could not accept the latter amendment, which, if carried, would necessitate the reconstruction of the Bill.

Mr. WALSH said, if the honourable Mr. Sandeman promised him his support, he should, notwithstanding the statement of the Postmaster-General, withdraw his proviso and reckon upon being able to carry the alteration of the 7th clause.

Mr. SANDEMAN: His was a suggestion to meet a difficulty, if the Postmaster-General would agree to it.

The POSTMASTER-GENERAL: He should be prepared to consider the amendment of clause 7, which the Committee should not discuss now, when they came to it.

Mr. WALSH: The Postmaster-General would be the means of defeating the Bill, if he did not assist in fulfilling the promise asked for. Would he push the Bill forward to let the Committee get to clause 7? He (Mr. Walsh) should withdraw the proviso, and call upon the honourable Mr. Sandeman to support him in the amendment of clause 7, which was substantially the same, but more clumsy way of getting what he wanted.

The POSTMASTER-GENERAL promised to push on the Bill.

Mr. MEIN: The better plan would be to postpone clause 4, until the Committee should see what became of clause 7.

The POSTMASTER-GENERAL: Clause 4 had had teazing enough; and they ought to come to a decision.

Eventually the proviso was, by leave, withdrawn; and the 4th clause, as amended, was agreed to.

Clause 7—Registration may be claimed by written application.

Mr. EDMONDSTONE called the attention of the Postmaster-General to a great want in the Bill. There was no one in court to see if the address of the person claiming to be registered as an elector was correct. In a thickly populated district, persons, or political organisations, might get names on the roll without qualification. Though the measure was a very liberal one, yet it was experimental. However, he called upon the honourable gentleman in charge of the Bill to make some amendment to prevent imposition in the way suggested, and to inflict adequate punishment upon any person who might be guilty of it.

The POSTMASTER-GENERAL referred the honourable gentleman to the 77th clause of the principal Act, by which a "false statement in any claim to be inserted in an electoral list" was punishable as a misdemeanor.

Mr. SANDEMAN suggested that the clause should be amended by the insertion of the word "claiming" instead of "entitled" in the first line.

Mr. WALSH: Move it, please.

Mr. SANDEMAN moved, that the word "entitled" be omitted.

The POSTMASTER-GENERAL thought the amendment quite immaterial. A man could not send in his claim unless he was entitled to it; and when he sent it in he stated his qualification. To avoid delay he would accept the word "claiming" instead of "entitled."

Mr. MEIN: Unless the amendment should be followed up by a substantial alteration in a subsequent part of the clause the Committee ought not to make it. The claim must be founded upon the fact of an existing right. A person was not warranted in making a claim unless he had at the moment a title to what he claimed. The mere fact of the word "entitled" appearing in the clause at once led a man's mind to grasp that meaning. Any person would at once see that there was a difference between a claim and the title to a thing. The word was advisedly inserted.

Mr. WALSH thought that, perhaps, the word must stand; and the object in view would be met by altering in another part of the clause "registration" to "revision" court. He would leave it to the honourable Mr. Sandeman to move it. He considered it easier to get into Parliament, or into the Church, than to get on the electoral roll under the Bill.

The Committee deliberated upon the point raised, as to the meaning of the word; and a suggestion to withdraw the last amendment was made by Mr. SANDEMAN, but ob-

jected to by Mr. WALSH. In the course of other observations made,

The POSTMASTER-GENERAL referred to the amendments which had been proposed, and which, if accepted, would destroy the Bill. If that was their object, let the honourable Mr. Walsh come forward at once with a substantial proposal to throw out the Bill, not with half-a-dozen insidious amendments. Their proceedings in so long discussing whether the word should be "entitled" or "claiming" were not worthy of a Legislative Chamber, such as the Council; they were very undignified, and, if recorded in *Hansard*, would not redound to the credit of the House. He believed the honourable Dr. O'Doherty had an important amendment to move on the 7th clause, which the Committee would like to consider impartially, instead of wasting time about words.

Dr. O'DOHERTY: The Postmaster-General should not speak in that way. Very important amendments had been moved. From the legislation of the past, it was clear that the House had great reason to be careful in dealing with the measures before them. One important Bill had this session been laid aside, which was absolutely objectionable in the opinion of the Council though it had passed through the other House. The Council had to put the finishing touch on the Bills that came before them. He was not in a position to simplify the complex machinery of the Bill, which honourable gentlemen who moved the amendments endeavoured to do; and he was willing to assist the Postmaster-General to pass the Bill, though the honourable gentleman ought to treat the House with a less impatient spirit.

Mr. MEIN said very important issues often turned upon the interpretation of words, and nearly all the troubles that had arisen in the courts were from the same cause. The office of the Council should be to make Acts of Parliament as strictly verbally accurate as possible. They could not be too careful.

The POSTMASTER-GENERAL pointed out that he felt the present position the more because on the second reading of the Bill he entered into the whole question fully. Now, he found honourable members who had not been present at the second reading, and who evidently did not understand the Bill, moving amendments upon it.

Mr. WALSH: The House had no means of ascertaining what the honourable gentleman did say on the second reading of the Bill. He had seen no report of his speech in the public prints. The House had not the *Hansard*, yet. It was all very well for the honourable gentleman to have made his speech in a thin House, and then to remind honourable members of it next day. If he would assist in ensuring that what he said one day on an important Bill like that before the Committee should be known the next day, some advantage would accrue to the House and the country. He (Mr. Walsh) did not know that the honourable gentleman spoke yesterday, as he had seen no report of his speech. Though the Committee appeared to have got into a difficulty, yet the evening had not been misspent. The honourable gentleman would spare himself many a retort, if he dropped making remarks that the time of the House was wasted by honourable members who reviewed the questions that came before them, and if he appealed to their judgment rather than spoke of their conduct as undignified. The highest courts in the land had been completely obfuscated because they did not understand the meaning of words in certain Acts of Parliament.

Mr. THORNTON: The Committee had been two hours splitting straws about the 7th clause; and as they seemed likely to make no headway, he suggested that the Postmaster-General should move that progress be reported.

The question for the omission of the word "entitled" was put and negatived.

In answer to Mr. Walsh,

Mr. SANDEMAN said, if the honourable gentleman insisted, he should move that the word "revision" be substituted for "registration" in the second sub-section of the 7th clause. But he was afraid that it was not acceptable.

Dr. O'DOHERTY said he had an amendment to suggest in the most perfect good faith, for the acceptance of the Postmaster-General, who would not, he was sure, think he meant to embarrass him; and he thought it would meet the wishes of the House:—

> The clerk of petty sessions shall forward to every post office in the police district a sufficient supply of such forms and the person in charge of such post office shall assist every such applicant in preparing the notice in the manner prescribed by this Act and shall transmit every such notice so prepared to the clerk of petty sessions post-free any statute to the contrary notwithstanding.

He moved the insertion of the provision to follow the tabular form given in the clause. His object was the same as the Committee had in view during all their discussion, to give every facility to persons entitled to the franchise to have their names placed on the roll. It was one of the crying grievances of the institutions of the colony that men, from negligence or other causes, did not secure the franchise. The post office was the place to which everybody went, at least once a week in country districts; and the obligation to place their names on the electoral roll would be brought prominently

before all men. There would be no practical difficulty in carrying out the provision.

The POSTMASTER-GENERAL: Although he did not think it necessary for the carrying out of the objects of the Bill, yet he approved of the amendment in principle. He had given his assurance to the honourable gentleman who moved it that, if he left the matter one of administration, the Government would take care it should be given effect to by the postmasters in each district. But, the present Government might not be in power, and he admitted the clause might as well be made directory.

Mr. MEIN: He was surprised at the eagerness with which the Postmaster-General had accepted this amendment on his perfect measure. He should have imagined, judging by the action of the Government towards one postmaster, that they would not have consented to any such proposal. The services of an officer had been dispensed with, because he had simply been suspected of taking part in an election; whilst the amendment would have the tendency to reduce every country postmaster to the function of an electioneering agent. Some advantage, however, might be gained by allowing the forms to be distributed throughout the country, through the post office.

Mr. WALSH could not support what was said by the honourable gentleman who spoke last. Because one black sheep had been found, it was not to be supposed that all the officers would be incompetent. He was inclined to support a proposition that would enable the people of the colony to get their names on the electoral roll, and because the Bill was not the Government Bill, every member of the other House to whom he spoke claiming to have framed some clause or portion of it. He had found himself in conflict, at wordy war, with friends when criticising some particular feature of the measure: everything he spoke of was the pet amendment of some one or other who was not in the Government. He condemned the Bill as about the most unfinished piece of legislation that was ever laid before the Council; and he was glad to see any improvement made in it. He liked not the Postmaster-General's wish to give administrative furtherance to the proposed new provision. He trusted that the postmasters who received the forms would be compelled to forward them irrespective of the administration at all: and that the honourable Dr. O'Doherty would see that that was the meaning put upon his amendment, if it should be carried. He was astonished at the conduct of the Postmaster-General, who accepted the amendment, whilst the innovations which he had attempted to make were met by the honourable gentleman and his goodly band of followers in a spirit of the strongest hostility. Yet he thought his amendments were worth a dozen of the honourable Dr. O'Doherty's. If they had only occurred to a member of the other House, he would have covered himself, certainly, with electioneering glory. He trusted, yet, to see the day when a man could register himself as easily as he walked the streets.

Mr. SANDEMAN said he should support the amendment of the honourable Dr. O'Doherty.

Question put and passed, and the clause was then agreed to as amended.

Clause 8—

Every person entitled to have his name inserted in any electoral list may personally appear before the quarterly registration court aforesaid and may there make his claim and prove his qualification.

Mr. MEIN directed the attention of the Committee to the 77th section of the Act of 1874, under which a person making a false claim was guilty of perjury. The clause was good as far as it went, but it was imperfect; it said a man might prove his qualification, but it did not say in what mode he should do so. He presumed that the intention of the clause was that the claimant was to be examined on oath—that he should prove his claim orally on the spot;—and it should say so, otherwise the clause was useless.

The POSTMASTER-GENERAL explained that originally the words "on oath" were in the clause, but were struck out as undesirable by the other House after mature consideration. He presumed the registration court had the same power as the revision court under the principal Act.

Mr. MEIN: The mature consideration had led to no good result. The "registration" court was named in the clause, and that was not a convertible term with "revision" court.

The POSTMASTER-GENERAL: The two courts were constituted of the same persons.

Mr. MEIN: But they had different functions. The word "registration" court did not occur in the principal Act. The only provision in the Bill for making a claim was that it must be made in writing, on a certain printed form. He moved the addition, at the end of the clause, of the words, "orally before the court."

Question put and passed; and the clause, as amended, was agreed to.

Mr. MEIN said he had very important amendments to propose, in regard to the periodical revision courts, as he before intimated to the Committee, and he suggested that this would be a convenient stage to adjourn. Meantime, the amendments could be put in type.

The POSTMASTER-GENERAL said he could give the honourable gentleman no hope

that his amendments would be accepted. He called attention to the necessity for the Bill to come into operation on the 1st August, to avoid great expenditure in the collection of the rolls under the existing law. The Committee might sit some time longer. They had sat all the evening, but had not made much progress.

Mr. MEIN: If they gauged their progress by that made by the Legislative Assembly, the Council had done a great deal of work. The Bill was put into committee on the 3rd June, and did not get out until the 17th July; having thus been some weeks passing through that stage in the Legislative Assembly. If anybody was to blame for the Bill being backward, it was not the Council. The Bill was read the second time yesterday, and put into Committee to-day, and some of its principles were affirmed by the Committee. There was not a quorum present, and there would, perhaps, be a full House on Wednesday. He did not wish to have his amendments discussed by half-a-dozen members who admitted they had not read the Bill. A little time might enable honourable members to grasp them.

The POSTMASTER-GENERAL: Of course, the question was in the hands of the House. On his motion,

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