

Queensland



Parliamentary Debates  
[Hansard]

**Legislative Council**

**THURSDAY, 23 SEPTEMBER 1880**

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## LEGISLATIVE COUNCIL.

*Thursday, 23 September, 1880.*

Return.—Appropriation Bill No. 2.—Railways and  
Tramways Bill—committee.—Adjournment.

The PRESIDING CHAIRMAN took the  
chair at 4 o'clock p.m.

## RETURN.

The HON. W. H. WALSH moved—

That there be laid on the table of this House, a Return showing the number and names of Criminals upon whom Corporal Punishment has been inflicted in this colony for the ten years ending with the 15th September last. Such Return to show, in detail, the nature of the charge in each case, at whose instigation, and upon whose evidence the same was prosecuted; the name of the Visiting Justice, the Gaol, and date at which each case was dealt with, and the amount of punishment inflicted. Such Return also to include, if a Medical Officer was present, his name, at each punishment.

The POSTMASTER-GENERAL said the return asked for would involve considerable expense, and, as the Hon. Mr. Walsh was aware, the staff of the various offices was limited. It was, moreover, usual when an hon. member moved for a return, to give the House some idea as to what was intended to be done with the information. It would be seen that the return required would involve much labour and research, as the records would have to be gone over for ten years. If the hon. gentleman intended to found any action upon the information that was sought, then he (Mr. Buzacott) would offer no opposition; but unless the House was informed that some good object was intended it would be his duty to oppose the motion. He was sorry to have to take any course which might appear to indicate a desire to withhold information, because his desire was really the very opposite—was that any information about the machinery of Government should be supplied. He hoped, therefore, that the House would not misunderstand the position he was taking up.

The HON. W. H. WALSH said he trusted that the House was not going to degenerate into a Chamber where an hon. member dare not meet a case of this kind until the proposer had conformed to the rules of debate and said all he had got to say. It was very unfair and unjust to himself that hon. members opposite, who he could see

were on the alert and were prepared to make a gross, a savage, attack upon him, should not do so until he could not reply. He had information sufficient to justify him in moving for the return, which was one that any clerk in the Government Office could furnish in ten minutes. Surely there had not been so many inflictions of corporal punishment that it would take months or weeks to produce the return! He desired to have the return because information had lately reached him that punishment was inflicted upon prisoners in the gaols of the nature of which the public knew nothing. That was quite sufficient to awaken attention in him, and to justify him in moving for the return in order that publicity might be created. If a man was fined a paltry sum for the offence of drunkenness, or was even discharged with a caution, it was chronicled in the papers; but here there were instances, not many he hoped, where their fellow-creatures were tortured under the lash at one of the gaols in particular, and about these instances the public never got any information. The Visiting Justice went to the island or to the gaol; he lunched with the accuser of the prisoner, and the man was then brought out and sentenced to the punishment of the lash. The public never heard anything about the offence or the amount of punishment inflicted, or what the result was—whether it led to permanent illness or not. He knew from actual observation that what he stated had occurred. In Great Britain, if a sentence of corporal punishment was passed, the whole country seemed to resound with dissatisfaction—or, at any rate, notification of it was given; but in this colony he was afraid that too often, at the instigation of the officer or subordinate officers of the gaols, corporal punishment was inflicted of which they never heard a word; neither did they know what dire results it produced. And when he asked for information which ought to be made known to the public in the *Gazette*, the Postmaster-General objected that it would be a protracted and costly production. He did not think it would be. At any rate, he would urge hon. members not to be bound by the trammels of political party to support the practice of that which might be wrong. Let the House show that it had the manliness to insist upon the liberties and rights of the subject being protected. He felt that he was speaking under difficulties, because, no doubt, when he sat down some hon. members opposite would be appointed to reply to him.

The Hon. F. J. IVORY said he did not think the Hon. Mr. Walsh had any justification for the remarks which had just fallen from him. They looked upon the motion as formal until they had some explanation of the reason why it was moved. He certainly could not address himself to the question until he was given the reasons which had just been supplied, and he thought the hon. gentleman had least cause of any member in the House to complain of savage and gross attacks, to use his own language, being made upon him. A large amount of courtesy was shown to him, for he was often in the habit of making not only gross attacks upon hon. members, but applying nicknames to them, and using various other means of annoyance; so that his remarks came with a very bad grace. He (Mr. Ivory) had certainly misunderstood the hon. member in one respect, and would give him an opportunity of making himself clear. In stating what had occurred on the island, by which he presumed St. Helena was meant, he had informed the House that the Visiting Justice lunched with the accuser and was then brought out and subjected to corporal punishment. The Visiting Justice was at the present moment away on leave of absence owing to delicate health. He hoped it was not caused by the corporal

punishment which the hon. member implied had been inflicted upon him. With regard to the motion itself, it was no doubt a serious matter, and after having heard the explanation given by the Hon. Mr. Walsh with regard to what occurred, and learning that the Postmaster-General acquiesced, he was perfectly willing to let the motion pass.

The Hon. F. T. GREGORY said it struck him very forcibly that if the hon. mover had taken a special case in hand and moved for an inquiry, he would have elicited far more readily what he desired than by moving for a number of papers, many of which must be useless and cost money to compile and print. He should always support a motion of the sort before the House, if reasons were given for it; but as he thought there was a much better way of getting at what the hon. member desired, he would suggest to him to amend his motion by having the specific case mentioned, in which even he would certainly support him.

The Hon. K. I. O'DOHERTY said he thoroughly agreed with the mover of the motion that the preparation of the return would be a very simple matter. It could not possibly be that the cases of corporal punishment had been so numerous that it would require any great amount of clerical labour to supply the information asked for. The particulars in connection with each case should be found in a book kept for the purpose, and it should not take more than half-an-hour to prepare the return. He also thoroughly agreed with the spirit in which the hon. mover asked for the return. He, for one, had always been strongly opposed to the infliction of corporal punishment save under most exceptional circumstances; and he was also strongly opposed to the infliction of the punishment without any publicity being given. He had occasion already, in reference to the proceedings as carried on at Woogaroo, to express his conviction as to the absurdity of the practice of Visiting Justices. He did not believe in them; he did not believe in the spirit of fairness to the accused, with which the practice of Visiting Justice was carried out, especially where there was only one Justice. He could not speak with regard to St. Helena, and yet he fancied the same objection applied there equally as well; but he knew as a fact, with reference to the Asylum, the presiding Justice who visited there went, as a rule, without the slightest idea of carrying out the principle of a strict judge in the course of procedure he adopted. As the Hon. Mr. Walsh had stated, he believed, as a rule, the Visiting Justice lunched with the Superintendent, and heard from him, in the lightest possible way, what business there was to do, and this he got over as quickly as possible. There was no judicial action and manner taken. Probably, these remarks applied equally as well to the Island; and if it was true, as he was now informed for the first time, that, on the mere *ipse dixit* of the Justice, corporal punishment was inflicted, he held that it was wrong. A return of this kind would be very important and very necessary for the public. It was the duty of the House to take some action, and to condemn in the most emphatic manner the infliction of the lash on no higher authority than the mere *ipse dixit* of the Visiting Justice.

The Hon. W. D. BOX said the possibility of any injustice being done—the idea that was implied by the motion, that corporal punishment was inflicted in our gaols except in the most careful manner—was, to his mind, very unpleasant, and he did trust that hon. members would consent to the motion. He supposed the Hon. Mr. Walsh had a reason for going back ten

years. At any rate, no harm could be done by doing so; and, whatever the return would cost, it was the duty of hon. members to their fellow-citizens to have such a return supplied. The last speaker had informed them that, in his mind, corporal punishment could be inflicted upon the *ipse dixit* of a visiting justice. Although he (Mr. Box) had a very high opinion of the Visiting Justice for St. Helena, he contended that such an institution should be visited by a person of higher position than a Civil servant. Civil servants were subject to the influence of the Minister of the special department in which their duty lay, and he contended that a visiting justice should be a man perfectly beyond the influence of a Minister, and therefore trusted that the House would consent to the motion, in order that it might be shown that no injustice was ever inflicted.

The POSTMASTER-GENERAL said, with the permission of the House, he should like to state that as soon as he had got the explanation of the Hon. Mr. Walsh he withdrew his opposition to the motion. Had that explanation been given at the first, as it ought to have been, he should probably not have spoken at all.

Question put and passed.

#### APPROPRIATION BILL No. 2.

The POSTMASTER-GENERAL said that, as there were sixteen members now present, he begged to move the motion of which he gave notice yesterday; and in doing so he would simply repeat that it was to enable the House to pass through all its stages, to-day, a Temporary Supply Bill for £100,000 to enable the Government to pay the salaries and other public expenditure until the Estimates had been passed. This was not at all a new course. It had been done by the other House, and in this Chamber, repeatedly; and as the passage of the Bill was a matter of necessity, he presumed there would be no objection to the motion. He therefore begged to move that so much of the Standing Orders be suspended as will admit of an Appropriation Bill being passed through all its stages in one day.

Question put and passed.

The POSTMASTER-GENERAL moved that the Bill be now read a second time.

The Hon. W. H. WALSH said that before the motion was put he wished to call the attention of hon. gentlemen to a rather anomalous state of procedure which was about to occur in this colony, and which particularly affected the Presiding Chairman. It had transpired that the Administrator of the Government would leave the colony to-morrow. He was about to ask the Postmaster-General what provision had been made to do the Administrator's work during his absence, and he should be told, of course, that there was a certain provision made in 1877 in a despatch sent to the colony; but he had to inform hon. gentlemen that he believed that, whatever that provision was, it had been misconstrued by the Government in their advice to the Governor, and that it had been wholly set aside by the last instructions of the Home Government. He believed that when His Excellency the Administrator of the Government left the colony to-morrow, either the Chief Justice or the Acting President of the Council would be virtually the Administrator of the Government. He had already privately called the attention of the Postmaster-General to this matter; but he also felt it his duty to mention it publicly. From the moment the Administrator of the Government left the colony he ceased, *de facto*, to be the Administrator. He made these remarks chiefly from a regard for the position of the Acting President of that Chamber, and a desire

to know whether, in the event of that gentleman becoming the Administrator of the Government, what arrangements would be made for the appointment of another gentleman to perform his duties in the Council. Before they advanced another step with the Bill they had a right to an answer to that question. The last instructions from Home upon the subject were so clear that there was no room for mistake. He would read an extract from a draft of a "dormant commission" passed under the Royal sign-manual and signet, appointing the person for the time being discharging the functions of Chief Justice of Queensland to be Administrator of the Government of that colony in the event of the death, incapacity, or absence of the Governor and Lieutenant-Governor and President of the Legislative Council. The commission was dated 19th April, 1880, and part of it read—

"Whereas, by certain Letters Patent under the Great Seal of our United Kingdom of Great Britain and Ireland, bearing date at Westminster, the thirtieth day of April, 1877, in the fortieth year of our reign, we did order and declare that there should be a Governor and Commander-in-Chief (thereinafter called our said Governor) in and over our colony of Queensland and its dependencies (thereinafter called our said colony), with all and singular the powers and authorities in our said Letters Patent mentioned or referred to: And whereas we did, in and by our said Letters Patent, declare our pleasure to be that, in the event of the death, incapacity, or removal of our said Governor, or of his departure from our said colony, the powers and authorities therein granted to him should, subject to the proviso and condition therein contained, be vested during our pleasure in our Lieutenant-Governor of our said colony, or if there should be no such officer in our said colony, then in such person or persons as might be appointed by us, under our sign-manual and signet, to administer the Government of the same: And whereas by commission under our sign-manual and signet, dated the thirty-first day of May, 1877, we did appoint the President of the Legislative Council for the time being to administer the Government of our said colony in the case of the death, incapacity, or absence of our said Governor, as well as of our said Lieutenant-Governor (if any): And whereas we are minded to provide for the administration of the Government of our said colony in case of the death, incapacity, or absence of the President of the Legislative Council for the time being: Now know you that we do, by this our commission, under our sign-manual and signet, appoint you, the person for the time being discharging the functions of Chief Justice of Queensland, to administer, from time to time, the Government of our said colony in case of the death, incapacity, or absence from our said colony of our said Governor, as well as of our said Lieutenant-Governor (if any), and of the President of the Legislative Council for the time being; with all and singular the powers and authorities granted to our said Governor by our said Letters Patent."

It was evident to his mind from that dormant commission that when the Administrator of the Government left the colony to-morrow the Chief Justice or Acting President—he was inclined to think the Chief Justice—would become Administrator.

The Hon. C. S. MEIN thought the remarks of the Hon. Mr. Walsh were entitled to some acknowledgment at the hands of the Postmaster-General. The public had a right to know whether the facts were as the Hon. Mr. Walsh had suggested; and if so, what steps had been taken to fill the office of Administrator of the Government. He was inclined to think, from the commission to which reference had been made, that when the President left their shores it would devolve upon the Chief Justice to administer the Government until his return. No doubt, the Government had considered the question, and had arrived at some decision, in which case there could be no objection to communicate it to the House.

The POSTMASTER-GENERAL: I should be out of order.

The HON. W. PETTIGREW could not see how the Postmaster-General would be out of order in replying to the question. As far as the Bill was concerned, he supposed it was not absolutely necessary that it should have the signature of the President as the Administrator of the Government, and therefore there was no necessity that it should be immediately passed.

The HON. F. J. IVORY said the Postmaster-General was perfectly right in refusing to answer the question, and the Hon. Mr. Walsh, who was so constantly calling hon. gentlemen to order, must be acquainted with the fact. The Postmaster-General would, of course, be in a position to give the information asked for when the Bill was in committee.

The HON. G. EDMONDSTONE thought the Postmaster-General would have facilitated business by answering the question immediately. As the hon. gentleman did not seem disposed to pursue that course, he (Mr. Edmondstone) would accede to the request of several friends and move that the debate be adjourned, in order to afford him an opportunity of doing so.

The POSTMASTER-GENERAL said that as the Hon. Mr. Edmondstone had by his motion enabled him to reply to the Hon. Mr. Walsh without being out of order or asking the indulgence of the House, he would give the information which he would have been only too pleased to give before had it been asked for in a parliamentary way. He thought he could soon show the House that the apprehensions which appeared to influence the Hon. Mr. Walsh were without foundation. He presumed that hon. members would give the Administrator of the Government, and the Government itself, credit for having examined the question before arrangements for His Excellency's departure were entered into. As the Hon. Mr. Walsh had read from the dormant commission to the Chief Justice, he would read extracts from the commission issued to Sir Arthur Kennedy shortly after he entered upon the Governorship of the colony. The 16th clause of that commission said—

"And whereas great prejudice may happen to our service and to the security of our said colony by the absence of our said Governor therefrom: now we do hereby direct that he shall not quit our said colony without having first obtained leave from us for so doing under our sign-manual and signet, or through one of our principal secretaries of State, except for the purpose of visiting any neighbouring colony for periods not exceeding one month at any one time, nor exceeding in the aggregate one month for every year's service in the colony."

The 17th clause said—

"And whereas we have in our said Letters Patent declared our pleasure to be, that in the event of the death, incapacity, or removal of our said Governor, or his departure from our said colony, all the powers and authorities therein granted to him should (subject to the proviso and condition thereafter contained) be vested during our pleasure in our Lieutenant-Governor of our said colony, or if there be no such officer in our said colony, then in such person or persons as may be appointed by us under our sign-manual and signet to administer the Government of the same. Now, we do hereby declare that no temporary absence of our said Governor, for any period not exceeding one month, previously stated by him to the Executive Council of the colony in writing to be so intended by him, shall be deemed a departure from our said colony, within the meaning of the clause in that behalf above recited."

The HON. W. H. WALSH: That was in 1877.

The POSTMASTER-GENERAL said the extract he had read made it clear that His Excellency's absence for one month did not constitute an absence within the meaning of the commission. There need not, therefore, be the slightest difficulty with regard to His Excellency's intended absence.

The HON. C. S. MEIN thought the Postmaster-General might have answered the question before: indulgence was invariably granted to the representative of the Ministry in these matters, and no one in the past had availed himself of that indulgence to a greater extent than the Postmaster-General. He had known him to speak three or four times by way of explanation upon the same question. For his own part, he did not object to these explanations, but he thought they ought, instead of granting this indulgence, adopt a standing order resembling that in force in the Legislative Council of South Australia, whereby the representative of the Ministry was enabled to speak twice upon every subject. If the facts were as the Hon. Mr. Walsh conceived them to be—and as he himself, after the light which had been thrown upon the subject by the Postmaster-General, also conceived them to be—then there was no urgent necessity for passing that Bill through the whole of its stages in one day; and as that point indirectly affected the question before the House he thought the Postmaster-General might have made some explanation. The assumption at the outset was that the hon. member intended to treat the matter with indifference. He (Mr. Mein) had not considered the question at all; he had obtained all his light by hearing what had been said by the Hon. Mr. Walsh and by the Postmaster-General in reply. He was under the impression that the original commission, extracts of which had been read by the Postmaster-General, referred exclusively to the Governor. Now, the President was not the Governor; he was simply the Administrator of the Government. It appeared to have been pointed out to the Home Authorities that it was possible that the President, as Administrator of the Government in the Governor's absence, might become incapable or leave the colony. Hence the dormant commission to the Chief Justice to administer the Government in the absence of the Governor and his substitute. Nothing was said in the dormant commission limiting or extending the period during which the President of the colony might be absent. Being only acquainted with that portion of the commission to Sir Arthur Kennedy which had been read by the Postmaster-General, he was of opinion that the Chief Justice should be sworn in to-morrow if the Administrator of the Government left the colony. He had no doubt the Government had considered the question; but it might so happen that the Chief Justice might take the same view of the matter as a Chief Justice of New South Wales, who asked Ministers to proceed to Government House and swear him in. It was a matter of great concern that their Government should be carried on properly and constitutionally; and he thought the Hon. Mr. Walsh should be thanked rather than blamed for raising the question.

The HON. F. T. GREGORY said the remarks of the Hon. Mr. Mein simply amounted to an excellent piece of special pleading. He quite omitted to observe that the opportunity taken by the Hon. Mr. Walsh to bring forward this question was not the right one. It seemed to him that the hon. member was absolutely out of order, and had he (Mr. Gregory) been presiding he was not at all sure that he would not have ruled to that effect, supposing no fresh light had been thrown upon the matter. There could be no doubt that the hon. member had introduced a subject quite irrelevant to the Bill. The hon. member should have obtained the information he desired, either by moving the adjournment of the House, or by placing a substantive motion upon the paper. It was a pity that the House should have been permitted to fall into such irregular mode of discussing this question, as it might lead to great confusion in the future.

Motion for the adjournment of the debate, by leave, withdrawn.

Question—That the Bill be read a second time—put and passed.

Upon the question, that the House resolve itself into Committee of the Whole to consider the details of the Bill,

The HON. W. H. WALSH said the dictum of the Hon. Mr. Gregory with reference to the relevancy to the Bill of the question he had raised was quite new to him. It was the invariable practice both in the House of Lords and House of Commons to discuss matters of this description upon financial measures. When a financial measure was introduced, it was generally conceded that hon. members might ask for information upon almost any subject.

Question put and passed.

Bill passed through committee without amendment, and report adopted.

Upon the question, that the Bill be read the third time,

The HON. W. D. BOX said he should like to elicit from the Postmaster-General a more definite opinion than that which he had already given upon the points raised by the Hon. Mr. Walsh. What would the Government do supposing the Chief Justice conceived it to be his duty to assume the reins of Government and demand to be sworn in?

The POSTMASTER-GENERAL thought he had already explained with sufficient clearness that the intended absence of the Administrator of the Government was not an absence within the meaning of the Governor's instructions. There could be no doubt that, although absent for a week or two in Victoria or New South Wales, the President would still be the Administrator of the Government.

The HON. W. H. WALSH said, in reply to the Postmaster-General, he must repeat that it was not a question whether the Government considered this was right, but whether it was right. He held that any member of the House or of the community who read the document he (Mr. Walsh) had read to the House, could come to no other conclusion than that the Government were wrong. That document merely referred to the commission of 1877; it did not recite it, but completely repealed it. It clearly provided that in the absence of the Acting-Governor the Chief Justice of the colony was to be the administrator of the Government; and he very much mistook the Hon. Charles Lilley if he did not, immediately upon the exit from the colony tomorrow of the Administrator of the Government, come forward and assert his right to be sworn in. It was a matter of the greatest importance, especially when they were told it had been considered by the Government. He did not believe that they had considered it, because if they had they would have made some other provision for the administration of the Government during the absence of His Excellency, Mr. Bell.

Question put and passed; and the Bill having been passed through its remaining stages, was ordered to be returned to the Legislative Assembly with the usual message.

#### RAILWAYS AND TRAMWAYS BILL—COMMITTEE.

On the motion of the POSTMASTER-GENERAL, the House was put into Committee to consider this Bill in detail.

The preamble was postponed.

Clause 1—"Interpretation"—put and passed.

On Clause 2—"Railways to be made on roads"—

The HON. C. S. MEIN said he rose for the purpose of testing the feeling of the House with regard to the provision for compensation for alterations of levels of roads abutting upon property affected by a railway or tramway. The payment of compensation was, by the clause, limited to those persons whose property was interfered with after the level of a road had been fixed in a municipality; it did not allow compensation to be paid to a person whose property abutted upon a road not within a municipality, or within a municipality which had not the levels defined under the Act of 1878. That, he thought, was unfair. He found upon inquiry that more than two-thirds of the roads within the Municipality of Brisbane itself had not had the levels defined, and notorious instances of injustice had arisen; one in particular would be familiar to hon. gentlemen, which had been created by the alteration of the levels of roads within the Municipality of Brisbane, and in which an incalculable amount of injury had been done through the pulling down of houses which previously brought in a handsome income to the owner, and he had not been able to get any compensation whatever. That was a system which should not be perpetuated. Where, for the public advantage, it was necessary to interfere with the approaches to a man's property, a fair and legitimate amount of compensation ought to be paid to the party affected, and, of course, in estimating that compensation there should be taken into consideration the amount by which the property had been enhanced in value by the construction of the railway or other public work that went through it. He therefore proposed to move an amendment which would have the effect of placing all persons whose property was affected by the construction of a railway or tramway upon the same footing, and entitle them to equitable compensation for the injury received. That would be effected by omitting the words "within any municipality the level of which shall have been fixed under the provisions of the Local Government Act of 1878;" and he moved the omission of those words accordingly.

The POSTMASTER-GENERAL said he would have to oppose the amendment, because the effect of it would be to place the Government under a disadvantage as compared with the municipal authorities. Under section 246 of the Local Government Act of 1878, compensation was to be given if the level of a road was altered after being fixed, but he had never heard in any Municipal Act—in Australia, at any rate—of compensation being claimable for alterations of levels of streets and roads which had not been fixed by the authorities for the time being. The case the Hon. Mr. Mein referred to really did not apply to the clause; compensation would have been paid in that case had section 246 of the Local Government Act been law at the time the level of the street was altered. The Municipalities Act of 1874 repealed the clause which entitled persons to claim compensation for alterations made after levels were fixed; that was, however, done through inadvertence, and it was considered right that the clause should be re-inserted in the Act of 1878. He thought the principle adopted in that Act was a sound one, and ought to be incorporated in the Bill now before the House. Why should the Municipal Council be able to alter a street without paying compensation, when the Government or the Railway Commissioner, acting on behalf of the Government in making the railway, would have to pay compensation? Surely if any preference were shown at all, it should be

shown to the Central Government, who should have larger power than mere local authorities. Had the matter not been disposed of and satisfactorily settled? At the same time, as the Local Government Act was passed two years ago, there might be some reason for again raising the discussion on this Bill; but he maintained that, the law having been settled, it was not desirable to make such an amendment as that now moved by the Hon. Mr. Mein. He admitted that the clause as it stood did appear to create an improper preference to owners of property within municipalities, and he did not see why the same compensation should not be claimable by owners of property in divisions as well as municipalities, divisions having the same power as municipalities as to fixed levels. Had the Hon. Mr. Mein moved an amendment which would have assimilated the practice with regard to property in divisions with municipalities, he should have offered no opposition to it. But the amendment as moved would practically have the effect of repealing the clause of the Local Government Act of 1878 to which he had referred. That Act was passed by the Administration of which the Hon. Mr. Mein was a member, and it was not reasonable that the House should be called upon to go back in an important matter of policy, in so short a time, which had been satisfactorily settled. It seemed ridiculous that because the Commissioner made a difference to the extent of six inches in the level of a bush road that the Government should be called upon to pay compensation for it, even if the road was not formed or made.

The Hon. C. S. MEIN said if this clause had its operations extended only to bush roads, possibly he might hesitate before asking the Committee to affirm his proposition; but it went a great deal further than that—it extended to every road throughout the length and breadth of the land. So far as roads outside the municipalities were concerned, he believed that practically the Government fixed the levels of these roads when they prepared plans upon which the land was offered for sale and persons invited to purchase allotments; and his proposition was simply to place those who had purchased allotments on the understanding that the Government intended to have roads constructed alongside their doors, and who gave a price accordingly, should have fair compensation allotted to them when the Government interfered with the road and thereby injured their property. He did not agree with the Postmaster-General in holding that the Local Government Act of 1878, with regard to declaring levels of roads, applied to Divisional Boards at all; and he was rather amused at the reference made by that hon. gentleman to the fact that the Local Government Act of 1878 was passed during the Administration of which he (Mr. Mein) was a member. He (Mr. Mein) might say that he was proud of that Act, which he believed to be one of the most perfect Acts ever placed on the statute-book. If it had been properly administered by the successors of the Administration of which he had been a member there would have been no necessity whatever for the introduction of that ridiculous sham, the Divisional Boards Act of last year. The principle of the Act of 1878 has been applied to all portions of Victoria, and might have been fairly applied here had the Government had the courage to enforce its provisions. Under it the Government could have compelled towns and other centres of population which had refused to incorporate themselves to do so, failing which they should receive no grant from the public purse; but the Government did not seem to have the courage to undertake such a course of procedure, and introduced the Divisional Boards Bill, which the people of the colony had very conscientiously endeavoured to carry

into operation, but which, in his opinion, would prove to be a gigantic failure owing to the impossibility of administering it in parts of the country where there was a small population. However, the question was now whether, if the public exigencies required the construction of public works, it was fair that owners of property affected thereby should not receive compensation for any injury that might be caused to them thereby; and he maintained that they should deal out justice to all parties, which the Bill, as it now stood, did not do.

The Hon. F. T. GREGORY said the question as to whether owners of land were entitled to compensation whether they resided in towns or the country was a very fair one to be considered by the House. It was a matter of quantity and not of quality; and he (Mr. Gregory) understood the amendment of the Hon. Mr. Mein meant simply that, instead of residents in a municipality being entitled to compensation for injury under the Act, all owners of land, whether in country or town, should alike be entitled to it; and that was a question which might very well be considered. But there were other elements in the discussion which amounted to this—that country roads were not subject to those very violent transitions as to level alterations which must necessarily occur in towns and cities. In crowded towns, where heavy cuttings and other extensive works for drainage purposes had to be carried out, and property was thereby interfered with, the owners were entitled to compensation; and so far he approved of the provisions of the Bill; but he would point out that in the country little local rings might spring up bearing upon what might be termed bush roads, and it might be made very oppressive to the revenue when there was really no adequate grounds for it. While he would be perfectly willing to agree that residents in municipalities should be fairly compensated for injury done, he thought in case of country lands they should act in the spirit of patriotism and forego any small compensation they might be justly entitled to, for the benefit of the public, in the same way they taxed themselves and put other burdens upon their shoulders for that purpose. He believed that if this compensation were given as proposed for country lands they would have a large number of claims put forward without any sufficient grounds, and under these circumstances he was prepared to support the clause in its original form.

The Hon. C. S. MEIN said the hon. member was under a delusion. He (Mr. Mein) did not want any person who was not injured to get compensation, but merely proposed that the person injured should receive fair compensation, which the Bill practically proposed he should not get.

The Hon. W. D. BOX said that as the Act was worded it seemed to him that it was only in those portions of a municipality where the levels were actually fixed that persons who were injured would have any right to ask for compensation. They knew, as a matter of fact, that there were municipalities in large portions of which the levels were not fixed. Even in Brisbane not one-third of the levels were fixed, so that under this Bill the owners of property would be entitled to ask for compensation. With regard to the spirit of patriotism referred to by Mr. Gregory, it occurred to him that if the public gained much by railways the public should be prepared to pay for them, and not call upon certain individuals to suffer injustice. He saw nothing in the amendment which would make it more difficult to give compensation, and if the hon. gentleman in charge of the Bill did not consent to the amendment as proposed, he (Mr.

Box) trusted he would at least consent to some lesser amendment which would have the effect of making the Bill more equitable.

The POSTMASTER-GENERAL pointed out, in reply to the Hon. Mr. Box, that the provision to which he took exception was in the Local Government Act of 1878, and it had been universally recognised that until local authorities fixed levels of streets compensation should not be paid. He would put it to hon. members whether, if the Corporation of Brisbane had to pay compensation for every time they formed a street before fixing a level, how many streets in Brisbane would be formed at the present time? He believed that two-thirds of the houses in the city would not be approachable to-day by any wheeled vehicle if that principle had been carried out. It was most unfair to throw upon the Government, who were endeavouring to meet the demand for railway communication in settled districts, any unusual disability such as this amendment contemplated, and he hoped the Committee would pause seriously before they accepted it. The amendment would place the Government at a great disadvantage in comparison with the municipal councils of the colony, and that was evidently not felt by the Committee. They should assimilate the law so that the constructing authority in each case should be placed as nearly as possible on the same footing.

The Hon. C. S. MEIN said this clause did not assimilate the law in the slightest degree. Under the Municipal Act, before a person built a house he had the privilege of calling upon the Municipal Council to define the level of the street, and the Council were bound to do so, and if they afterwards made any alteration in the level that person would be entitled to compensation for any injury he received. If the Bill provided that all persons throughout the country should have the right to call upon the Government to define the levels of roads abutting upon their property, and that, if those levels were afterwards altered, they would be entitled to compensation, the rules would be similar; but at present there was no similarity. He again contended that practically the Government fixed the levels of roads in the country whenever they prepared plans and induced persons to buy allotments, and all he asked was that these persons should be put in precisely the same position as persons within municipalities where the levels were fixed.

The POSTMASTER-GENERAL thought the Hon. Mr. Mein was scarcely correct in his statement that the Government had fixed the levels of all roads when they sold the land; they did not do so. All roads in the country were merely tentative, and except in certain places where expensive bridges had been erected, no attempt had been made to interfere with the natural surface unless it was absolutely necessary. The roads over which most of the railways ran would not have had their levels fixed or even been formed by the Government of the day; and it seemed monstrous to him, under these circumstances, that the Government should be called upon to give compensation if the levels of roads were altered even twelve inches.

The Hon. W. H. WALSH wished to enter his protest against the dictum of the Postmaster-General being taken as anything like authority that the Government had not done so-and-so upon the roads of the colony. He (Mr. Walsh) was sure the hon. gentleman knew no more of what had been done on the roads of the colony than he (Mr. Walsh) knew of what had been done in the Postmaster-General's Department.

The POSTMASTER-GENERAL said he was bound to call the attention of the Committee to the position in which the Bill would be left if

the amendment was carried. He confessed that he was not quite prepared to say what would be the exact legal effect of the amendment, but so far as he could see at present it would utterly and completely destroy the Bill so far as the object of the Government was concerned. That object was to prevent absurd and excessive claims being entertained for compensation for supposed damages caused by the construction of railways over roads in the country districts. As he read it, if the amendment was carried the mere fact of laying a railway down which did not alter the level of the soil but projected an inch or two above the level would be an alteration of the level within the meaning of the law, for which the owners of frontages to the road would be able to claim compensation—first, for altering the level of the road, and incidentally for severance. The Bill was designed to confer great public benefits by the making of railways through settled districts on economical principles. The Legislature had been asked to step somewhat out of its way, he admitted, to give Government exceptional powers for the carrying out of these railways. It had been done in other countries, and no compensation had been paid. In New York railways had been carried on elevated structures level with the first floor of houses, and still no compensation had been given; it had been acknowledged that even in such cases there had been no depreciation of property, as was evidenced by the fact that no reduction of rents—which was the true test—had taken place. He would repeat that the amendment would place the Government in making railways at a disadvantage compared with municipal councils should they require to alter the levels of roads. He did not think that was what the Legislature intended. It intended that the Government should have greater facilities and powers for constructing main arteries of communication than even the local authorities possessed. He had already said that the amendment, if insisted upon, would practically destroy the Bill. Of course, he would not state what the effect of that would be—it would be for the Government to consider; but he must again press upon the Committee that practically the Government believed it would destroy the Bill and put them in a worse position for resuming land than they were now in.

The Hon. C. S. MEIN said he only rose to reply to the special pleading of the Postmaster-General. The meaning of the word level was transparent by the section, which provided that the railways or tramways should be constructed and formed in accordance with the proper levels of the road, in a manner calculated to cause the least possible inconvenience. An alteration of the level meant an alteration of the level of the whole road, and to say that the putting down of a few rails constituted a permanent alteration was farcical. It might as well be argued that the putting down of a few pieces of stone to repair a road was altering the level. The amendment would not interfere with the principle of the Bill. It would not encourage the recognition of absurd and excessive claims for assumed injuries. The estimated loss had to be determined in an orthodox and legitimate manner, so as to prevent any absurd or excessive claims being recognised. He was entirely in accord with the Government in their desire to prevent the country paying unfair prices for alleged injuries, but he was also strongly imbued with the principle that the public should do no injury to a man without fairly compensating him for it. They should deal even-handed justice to every one, and not make fish of one and flesh of another as the Bill proposed. The amendment would simply have the effect of asserting that if a man had a legitimate ground for claiming com-



pensation for permanent injury, he could have his case arbitrated in such a way as to get redress, and at the same time the Government had the protection that any enhancement of the value of the claimant's land by the railway must be set off against the injury or assumed injury. Surely that was fair!

The HON. F. J. IVORY said the Hon. Mr. Mein had just told them that the alteration of the level of the road meant the level of the whole road being altered. He took a totally different view. Their roads were a chain and a-half wide generally, and there might be a deep cutting made for the portion over which the railway was to travel; and yet the level of the road would be maintained according to the hon. gentleman's contention. The fact of the matter was that, according to that contention, if the Government took half the road the proprietor of land having a frontage to it could not claim compensation; but if they cut down the whole road, and used only half for the railway, they could claim compensation.

The HON. W. H. WALSH said he confessed that he must sympathise with the Postmaster-General when he had to be defended by an adjutant-general who used such arguments. The amendment proposed by the Hon. Mr. Mein was to protect the public against the Government, and their henchman, Mr. Ivory. He hoped the Postmaster-General would see the necessity of admitting the amendment, and, if possible, of protecting himself from the assistance of his particular friend the Hon. Mr. Ivory.

The POSTMASTER-GENERAL thought it was most unfortunate that the Committee was led away with the idea that unless the amendment was made private owners of land would suffer. If they just looked into the history of railway compensation, they would find that under the Railway Act passed in 1863 the fairest and most reasonable provisions were made for compensation. In 1864 another Act was passed making further provision. The system of arbitration was found to entirely go against the Government, the arbitrator invariably giving an award against the Government and favourable to the owner. Then came another provision, brought in, he believed, by the Hon. Mr. Walsh, for the appointment of a railway arbitrator who was placed in a perfectly independent position. He was required to act under this clause:—

“In determining the compensation to be paid for lands taken from or damage sustained by the owners of or parties interested in any lands taken, used, or temporarily occupied for the purpose of any such railway, or injuriously affected by the execution thereof, the enhancement by such works or undertakings of the value of the lands of such persons respectively or as regards such land so injuriously affected, of the value thereof in any other respect than that in which such injury is sustained, shall be taken into consideration in reduction of the amount which would otherwise be awarded.”

That was a provision put in, as the Hon. Mr. Walsh said, for the protection of the general public against the unreasonable demands of individuals. But what had been the effect of the appointment of a railway arbitrator? Simply that the compensation had been more excessive than before.

The HON. W. H. WALSH: No.

The POSTMASTER-GENERAL said if the compensation given before under the ordinary system of arbitration was excessive, as compared with what had been given since, it was no wonder that the colony was now nearly in an impoverished condition.

The HON. W. H. WALSH said that in fairness to the railway arbitrator he felt bound to

say that the remarks of the Postmaster-General could not be borne out by facts. The sums the arbitrator had given would not compare with the sums given anterior to his appointment.

The POSTMASTER-GENERAL said he accepted the correction, and would assume that under the present system of arbitration the amounts awarded had been more moderate, but that really strengthened his argument. He did not know whether members of the House had read the speech delivered elsewhere by the Minister for Works, and the returns he produced to prove that compensation awarded by the railway arbitrator had been unreasonable and exorbitant. When the report of the hon. member's speech was circulated through the country it created a universal feeling almost of horror, he might say, at the way in which the Government had been swindled under the arbitration clause of the Railway Act of 1872. The railway arbitrator was a perfectly fair man; but, at the same time, he was influenced by the feelings of human nature, and when he was called upon to give an award in the matter of the value of property, what were the influences to which he was subjected? On one side was the Government, which represented a corporation for which nobody had any great regard, and which nobody thought it a great harm to swindle out of compensation. This was proved by the fact that claims for compensation were sent in continually, such as no man would dare to send to a private individual. On the other hand, the railway arbitrator knew that if he reduced a claim below what the individual considered a fair and reasonable amount he would make an enemy of that person for the rest of his days; and, therefore, he (Mr. Buzacott) was not surprised that in all those arbitrations the award had gone in favour of the individual and unfairly against the Government. Seeing that it was theoretically the most impartial system that could be devised, seeing that the arbitrator had to take into consideration the enhancement of the value of the land by the railway in awarding compensation for damages, and that notwithstanding these awards had been almost without exception unreasonably large, they had not the slightest reason to fear that under the Bill any injury would be done to the individual. The Government would still have to contend against the fact that if the arbitrator gave an excessive award he would make no enemies and injure no one but the Government; whereas, if he gave an award which the individual would be likely to consider unfair or unreasonable, he would make an enemy for the rest of his life. The same influence which now prevailed would operate under the Bill. The Hon. Mr. Mein had ridiculed his observation that there would be claims based upon the fact that rails were laid upon and projected above the surface of a road. Claims for compensation had been legally made in cases where rails had been laid upon the surface of the streets of towns, and he had not the slightest hesitation in saying that it would be held that the owners of frontages to roads had a legal claim for compensation under similar circumstances. He said this with all due deference to the Hon. Mr. Mein, who was a lawyer; but he found that even a layman who had his eyes open could form a pretty sound opinion upon these matters. He had seen that damages for compensation had been made for the laying of the rails above the surface of streets elsewhere, and that ought to satisfy him quite as well as the affirmation to the contrary of even so eminent a legal authority as his hon. friend opposite. Probably the amendment had been discussed sufficiently, and as members were here now it would be, perhaps, as well to come to a division.

The HON. C. S. MEIN said he simply rose to protect a friend from the aspersions which, unconsciously he hoped, the Postmaster-General had cast upon him. The hon. gentleman had insinuated, he had almost directly stated, that the arbitrator had been influenced in giving his awards against the Government by fear of making an enemy of the claimant for compensation. That was not only a libel against the individual but a libel against human nature. It was certainly a libel on the profession to which the railway arbitrator belonged. If the railway arbitrator was actuated by such motives the Government had a remedy; he was their officer, and if they found he had such a misconception of his duty or behaved so improperly their duty was to remove him. Anybody, however, who had the privilege and pleasure of Mr. Macpherson's acquaintance would feel certain that he had been actuated by anything but improper motives. He might have been actuated by a misconception of the terms of the statute and of the duties thrust upon him; but if he was wrong it was the duty of the Government to direct him, and if they found that he could not conscientiously discharge his duties in the manner directed by the Government then they ought to have called upon him to resign, and to have appointed a man in his place who would carry out the law according to the interpretation of the Postmaster-General. He believed the Postmaster-General's construction of the statute was absolutely correct, and he did not know that the arbitrator had not acted upon that interpretation; but it was a libel upon British humanity to say that a gentleman in that position would be intimidated in giving his decision by the fear that he might make an enemy.

The HON. W. D. BOX said that if the Government believed what the Postmaster-General had insinuated with reference to the arbitrator, they were themselves to blame for allowing him to continue in his office. If the Postmaster-General believed that the present system was as impartial a one as could be devised, why did he not adhere to it? Why upset everything which they had already enacted? Instead of the clause they were now considering being in the Bill, there should have been a clause to the effect that no person should receive any compensation.

The HON. F. J. IVORY: That was originally in the Bill.

The HON. W. D. BOX said he was obliged to the hon. member for letting the cat out of the bag. So, then, the Government had intended that no matter how a person might be crushed and injured, no matter to what extent the bread might be taken out of his mouth, he was to receive no compensation. That would have been still more unjust in its operation, now he came to consider the matter, than the provision that those persons only who resided within municipalities should be allowed to claim.

The HON. F. J. IVORY said that if the hon. member had attended to the course of business in another Chamber he would have known that the provision to which he had referred was not in the Bill when it was first laid upon the table. He had not, therefore, been guilty of letting a very big cat out of the bag. The proviso connected with claims in municipalities was introduced in the other Chamber, he believed, by the Hon. Mr. Griffith. He regarded the amendment as imperilling the interests of the community at large for the sake of a limited number of property owners. Even supposing no damages were granted, the very allowance of the claims would lead to a large expenditure in arbitration. The plans and sections would be laid upon

the tables of both Houses, and there was not much fear of any person's property being prejudicially affected.

The HON. F. T. GREGORY said the Committee had overlooked a salient point in this discussion. If they were to compensate every owner of land who could show that he had sustained some injury, it would be only right to make those who derived any benefit from the construction of railways pay for that benefit. Believing in that principle, he could not agree to the amendment. If the Postmaster-General had cast any slur upon the railway arbitrator, he believed he had done so inadvertently. He was acquainted with the gentleman in question, and had watched his proceedings very carefully, and he could affirm, without the slightest fear of contradiction, that he had fulfilled his duties with care, integrity, and honesty of purpose.

The POSTMASTER-GENERAL said he would like to put himself right with regard to the railway arbitrator. It had been assumed that he intended to reflect upon that gentleman's impartiality and integrity. He had no intention of the kind. From all that he knew of the railway arbitrator he could say that he was a man of unexceptionable integrity; but the system under which he made his awards, although perfectly fair in theory, worked practically against the public interests. The question before the Committee was really one between the assumed privilege of private individuals and the interests of the general taxpayers.

The HON. W. H. WALSH said he must maintain that the Railway Bill of 1872 had saved the public some tens of thousands of pounds. This was the first time since that Bill was passed that he had found anyone who had the courage to say it was an infliction upon the public.

Question—That the words be omitted—put, whereupon the Committee divided:—

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The Hons. C. S. Mein, W. D. Box, W. H. Walsh, J. Swan, W. Pettigrew, J. Cowlshaw, and G. Edmondstone.

#### NON-CONTENTS, 7.

The Hons. C. H. Buzacott, J. O. Foote, W. F. Lambert, F. T. Gregory, L. H. Hope, G. Sandeman, and F. J. Ivory.

The CHAIRMAN said it devolved upon him to give a casting vote; in so doing he should observe the general custom and vote so that the question might be further discussed. He therefore voted with the contents.

The POSTMASTER-GENERAL pointed out that the vote of the Chairman would have an effect precisely contrary to that which the hon. gentleman had intended. The hon. gentleman said he wished to facilitate discussion, but his vote would have the effect of closing it.

The HON. W. H. WALSH said he had no doubt the object of the Chairman was to allow further discussion, but by the vote he had given he had prevented that.

The HON. C. S. MEIN protested against the discussion. The question had been resolved in the affirmative. A man might reason from very sound premises and arrive at a wrong conclusion, or he might reason from very unsound premises and arrive at a sound conclusion; and, although the Chairman's argument might be bad, his conclusion was perfectly right, and he (Mr. Mein) cordially approved of it.

The CHAIRMAN considered it his duty to explain that the vote just taken could not be conclusive in any respect, because if the Bill were sent back to the other House with this amendment it would very likely be returned, and consequently there would be an opportunity for further discussion.

On the motion of the POSTMASTER-GENERAL, the clause was further amended by substituting "the Railway Act of 1872" for "the Railway Act of 1864," and the clause, as amended, was agreed to.

On clause 3—"Commissioner's powers and duties"—

The HON. W. H. WALSH asked, after the castigation the railway arbitrator had received, did the Government propose to appoint a new officer so as to instil more confidence in the minds of the public?

The POSTMASTER-GENERAL said he could only repeat that he had imputed no improper practice to the railway arbitrator. It was merely the fault of the system, which this Bill was intended to amend. He had said nothing against the Railway Act of 1872, which, he was prepared to admit, was an improvement on the previous Acts.

Clause put and passed.

On clause 4—"Tolls and charges"—

The HON. W. D. BOX asked the meaning of the word "tolls." He understood "toll" to mean a charge made for passing through a turnpike, and he thought the word unnecessary.

The POSTMASTER-GENERAL said the meaning of "tolls," as defined in the Railway Act of 1864, was simply a charge for anything conveyed on a railway. It had nothing to do with ordinary roads.

After further discussion the clause was agreed to.

On clause 5—

The HON. W. H. WALSH confessed that he had not read the Bill at all until that moment, and it seemed to him that clause 5 was fatal to the Bill. It could not be passed; the Bill must be in conformity with its preamble, which was to

"Authorise the construction and maintenance of railways and tramways along, over, and across public reserves, streets, highways, and roads."

And this clause provided—

"That any body corporate or legally constituted authority shall also have the like powers for the construction, maintenance, and preservation of gasworks, waterworks, sewerage works, and other works."

This provision was entirely foreign to the preamble of the Bill, and he put it to the Chairman whether they could proceed any further with it?

The POSTMASTER-GENERAL admitted that at first sight this appeared to be rather beyond the scope of the Bill, but it simply provided that any body corporate or other legally constituted authority should have the same powers as the Commissioner for ingress and egress.

The HON. F. J. IVORY said the proviso provided that bodies corporate should have the same powers as the Commissioner for ingress or egress over land occupied by railways.

The HON. W. H. WALSH said it must be patent to every member of Parliament that the preamble of the Bill must contain the quality of the Bill, and he was prepared to stake his reputation as a parliamentarian that no Bill could go beyond its preamble, which this Bill did, and he thought that objection fatal to it. It was from no captious reason that he raised the objection, but so long as he thought that any clause was in contravention to the practice of Parliament, so long would he oppose it. He thought the Postmaster-General would be wise to postpone the further consideration of the Bill.

The HON. F. T. GREGORY said the difficulty had arisen out of a slight inaccuracy in the phraseology of the clause. There was no inten-

tion that the clause should give special powers beyond those already possessed by bodies corporate or other legally constituted authorities, and he thought that a very slight alteration in the clause would meet the case. The meaning of the clause was evidently to give authority to bodies corporate to carry out their works in harmony with the Bill.

The HON. C. S. MEIN said there was considerable obscurity about the clause, but he thought he now saw the meaning of it. Under the existing laws, gasworks, waterworks, and sewerage works could be constructed along public highways, under certain restrictions—that was to say, gas companies had the power of cutting up roads for the purpose of laying pipes, subject to the condition that they were to restore the roads to their former condition; boards of waterworks had similar powers, and in all probability, if sewers were to be constructed by corporate bodies, like powers would be conferred upon them. The object of the clause was that where a railway or tramway passed over a piece of road that should not take away from those companies the power of opening the road for laying pipes and repairing them; and therefore, although the clause seemed obscure, it came within the scope of the Bill. Its intention was merely to preserve the right of companies such as he had mentioned.

The HON. W. H. WALSH had no doubt that if the clause carried the interpretation put upon it by the Hon. Mr. Mein it would be very useful; but in its present form it was impossible to carry it out, and when it was put from the chair he should have an objection to raise which he had no doubt he should be able to sustain, and which would be fatal to the Bill. He hoped the Postmaster-General would postpone the question.

The POSTMASTER-GENERAL said he could not accept the hon. member's suggestion. He admitted that the clause as it stood was rather obscure; at the same time it was pretty evident that the clause meant that, notwithstanding that a railway was constructed over a public road or reserve, there should be powers of egress and ingress to any body corporate for the purpose of constructing and maintaining their works. To make it clearer, he would move that the words "under any law in force for the time being" should be inserted after the word "constructed," in the 36th line.

The HON. W. D. BOX said that the objection which had been raised to the clause was that it gave to companies power to construct gasworks, waterworks, or sewerage works, and he contended that any body corporate going in for such works should come to Parliament and get an Act passed. They got their powers from different sources.

The HON. C. S. MEIN said the effect of the clause was this—that if any authority had power to break up the public roads for the construction of waterworks, that power should not be interfered with, but should remain subject to the restriction that it should not be put into force except at a convenient time, and with the Commissioner's approval.

The HON. W. H. WALSH said he did not think his hon. friend had correctly construed the power of the clause. It did not provide for the carrying out of any powers now existing in a corporate body, but for the acquisition of a power, which made a vast difference. The Bill was one of the most insidious that he had ever heard of. Under the presumption that it was to enable the Government to make tramways along and across public reserves, streets, and roads, it gave authority to corporations, syndicates, and rings to step in and obtain monopolies for carrying out gasworks, waterworks, and sewerage works

The Hon. G. EDMONDSTONE said the proviso gave a body corporate powers equal to a commissioner, which was certainly not intended.

The POSTMASTER-GENERAL said he was anxious to meet any reasonable objection on the part of hon. members; but he submitted that the clause, with the amendment he had proposed, would be wholly deprived of the objectionable features of which the Hon. Mr. Walsh had complained. With a view, however, to make it still clearer, he would amplify the amendment by the insertion, before the word "constructed," of the words "from time to time." That amendment would strictly limit the power of bodies corporate to ingress or egress for the construction or maintenance of works carried out under some other statute.

Question—That the words proposed to be inserted be so inserted—put and passed.

The Hon. C. S. MEIN, referring to the question raised by the Hon. Mr. Walsh, that the Bill came under the 52nd Standing Order, said he took the Standing Order to be, that the general rule to be adopted by the House should be to get a Bill to deal with one entire subject, and that if a clause was introduced which transgressed the rule, the title must be altered to make it harmonious with the Bill itself. That was consistent with the practice of the Imperial Parliament.

The Hon. W. H. WALSH said there was this difference—the Bill had been introduced informally; it contained its own fatality by including an incongruous subject; and it ought to have been rejected by a certain person in another place.

Question—That clause 5, as amended, stand part of the Bill—put and passed.

Clause 6—"Power to resume lands"—passed as printed.

On clause 7—"Compensation, as per assessment-book"—

The POSTMASTER-GENERAL moved the insertion of the words "or president" in the 48th line.

The Hon. W. D. BOX said he should like to see the clause expunged. It was most unjust to his mind, that the assessment-book should be *prima facie* evidence of the value of the land. According to his experience of assessments by municipalities, he did not think it possible that assessors could arrive at the real value of property, and it would be very unwise of the Committee to pass such a clause.

The Hon. C. S. MEIN said he agreed with the Hon. Mr. Box that the clause was an objectionable one. He presumed that the object of having the valuation of municipal assessors was to assist and influence the arbitrator in a marked degree in forming his decision as to the value of the land. The circumstances attending the valuation of land for a municipality and for railway purposes differed very much. It would manifestly be to the interest of a person in a municipality to get a low estimate, and it would obviously be to the interest of the municipality to get the estimate fixed as high as possible; but ultimately the amount in dispute bore a small proportion to the capital value of the land. The amount annually paid for assessment was but a small percentage upon the capital value, and very often it would cost the owner of property more to contest the valuation than to pay the assessment placed upon him. In ninety-nine cases out of a hundred, unless the assessment were extravagantly high, or the amount of property at stake extravagantly large, the assessment would be put up with. Yet in all those cases the clause would operate against

the public. In other cases people might take steps to have a low valuation put upon their property. The rate-books, in fact, would not be a fair clue for the assessment of value. The fairest way would be to leave the valuation an open question until the land had been taken away. He agreed with the Hon. Mr. Box that the clause should be excised, and he would therefore assist the hon. member to negative it.

The POSTMASTER-GENERAL said the arguments against the clause were not sound. No doubt there would be some cases in which the municipal valuation would be inaccurate. In some cases it would be too high and in others too low; but it was the best machinery which had been yet devised for arriving at a fair appreciation of the value of property. The language of the valuation clauses in the local Acts was substantially the same as that in the English and other colonial Acts. It was the most perfect method of arriving at a valuation to judge by the rent which might be expected from year to year. This method being established and being well understood surely afforded a fair criterion for the railway arbitrator in dealing with the demands of property-owners, to whose prejudice the clause could not possibly operate, seeing that the assessment-book was only to be taken as *prima facie* evidence of value. If the land were worth more it would be easy for the owner to show it. It might be urged that under the new system of Divisional Boards some of the valuations had been very eccentric; but that difficulty was only a temporary one. The system had worked well elsewhere, and would doubtless ultimately be brought to something like perfection in this colony. It was absurd to suppose that mistakes would not occur at the outset. He had admitted last year that it would be impossible at that time to carry a perfect measure. The point in the valuation clause upon which controversy had taken place would apply equally to the Local Government Act. He had had considerable experience in the working of local government, and no other valuation was so equitable as that adopted in that Act.

The Hon. G. EDMONDSTONE said he was anxious to see the Bill passed, and would support the Government in this clause. Of course it was to be presumed that the arbitrator would use his discretion, and that if a valuation were too high or too low he would reject it.

The Hon. C. S. MEIN said he understood from the Postmaster-General that the arbitrator would assume that the valuation in the assessment-book was correct. That being so, it would throw entirely upon the hands of the claimant the onus of rebutting the evidence when he had not an opportunity of cross-examining the person who gave it.

The POSTMASTER-GENERAL pointed out that if a property-owner thought his land assessed under its value he could get the valuator to give evidence. He would move, instead of the amendment he had already mentioned, that the word "chairman" be substituted for the word "mayor." He found from reference to the Local Government Act that the mayor and president were both chairmen.

The Hon. C. S. MEIN said the Divisional Boards Act provided that a valuation should stand until another valuation had been made. Fifty years might elapse between two valuations, and yet the amount upon the assessment-book, by which the railway arbitration would have to be guided, would remain unaltered.

The POSTMASTER-GENERAL said the interests of the board and ratepayers combined might be relied upon to enforce annual valuations.

Amendment put, whereupon the Committee divided:—

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The Hons. C. H. Buzacott, F. T. Gregory, F. J. Ivory, J. C. Foote, L. Hope, W. F. Lambert, and G. Edmundstone.

NON-CONTENTS, 5.

The Hons. C. S. Mein, W. Pettigrew, J. Cowlishaw, J. Swan, and W. D. Box.

The HON. F. T. GREGORY moved that the word "allow" be substituted for the word "furnish" in line 49, and that the words "access to" be substituted for the word "with" in the same line. He did not think it reasonable to suppose that the chairmen of the divisional boards would hand over their assessment-books to anyone. It would be quite sufficient if the railway arbitrator had access to the books.

The POSTMASTER-GENERAL said the clause would inflict no hardship, and would be more convenient to all parties concerned if retained in its present form. He suggested, however, that the object of the hon. gentleman would be obtained by inserting the words "certified extracts from" after "with" in line 49.

The HON. F. T. GREGORY withdrew his amendment in favour of the proposal of the Postmaster-General.

The POSTMASTER-GENERAL then moved the amendment he had mentioned.

The HON. W. H. WALSH said it was unusual to sit until such a late hour in that House; and, as they were discussing a measure that hon. members really knew nothing about, he suggested to the Postmaster-General the propriety of moving the Chairman out of the chair.

The POSTMASTER-GENERAL said of course if the Hon. Mr. Walsh was determined to obstruct business it would be utterly useless to attempt to go on. He (Mr. Walsh) had obstructed the Bill as far as he had been able, but, notwithstanding that, the good sense of the Committee had enabled them to make some progress; and if this clause were disposed of he (the Postmaster-General) would then defer the consideration of the remaining clauses until another day.

The HON. W. PETTIGREW said it would take some time to go through this clause, as there were several material alterations to be made in it, and it would be better to adjourn. When hon. members were inclined to talk against time it was impossible to go on with business.

The POSTMASTER-GENERAL asked the Hon. Mr. Pettigrew what material alterations he intended to propose? It had been arranged that the first division on the clause should decide its acceptance or rejection, and he had heard no further amendment even hinted at until now.

The HON. W. H. WALSH said no doubt the Postmaster-General would like hon. members on that side of the House to show their hands.

The POSTMASTER-GENERAL said he was willing to move the Chairman out of the chair.

The HON. W. H. WALSH moved that the Chairman leave the chair, report progress, and ask leave to sit again.

The POSTMASTER-GENERAL said he had already stated that he was prepared to move the Chairman out of the chair, and he certainly would not allow any member to take the conduct of business out of his hands. If the Hon. Mr. Walsh would withdraw his motion he (the Postmaster-General) would move the Chairman out of the chair.

The HON. W. H. WALSH withdrew his motion.

On the motion of the POSTMASTER-GENERAL, the Chairman left the chair, reported progress, and obtained leave to sit again to-morrow.

ADJOURNMENT.

The POSTMASTER-GENERAL moved—That the House do now adjourn.

The HON. W. H. WALSH said before the question was put they ought to understand what was to be, at that time to-morrow, the Acting-Governor or Administrator of the colony. They had obtained no satisfactory reply from the representative of the Government in that House that afternoon on that subject, and although hon. members might laugh and smile over it, still it was a most important subject for them to consider. They found that without any authority whatever the helm of Government was to be thrown aside, and that at that time to-morrow they would virtually have no Governor in the colony, unless his Honour Charles Lilley, that excellent judge and astute Chief Justice, came down to Government House and assumed his rights. He (Mr. Walsh) maintained they should not submit to an adjournment until they had an intimation from the Government as to who should be Administrator of the Government by that time to-morrow.

Question put and passed, and the House adjourned at five minutes past 10 o'clock.