Queensland

Parliamentary Debates
[Hansard]

Legislative Council

WEDNESDAY, 28 SEPTEMBER 1881

LEGISLATIVE COUNCIL.

Wednesday, 28 *September*, 1881.

Message to the Legislative Assembly.—Fire Brigades Bill.—Tramway to Petrie's Bight.—The Gulland Railway.—The Thomas Railway.—Central Railway Extension.—Sale of Food and Drugs Bill—second reading.—Mines Regulation Bill—committee.—Legal Practitioners Bill—committee..

The PRESIDENT took the chair at 4 o'clock.

MESSAGE TO THE LEGISLATIVE ASSEMBLY.

The POSTMASTER-GENERAL (the Hon. B. D. Morehead), without notice, moved that a message be sent to the Legislative Assembly, requesting that J. Horwitz, Esquire, P. O'Sullivan, Esquire, and W. Kellett, Esquire, members of that House, be given leave to attend and be examined by the Committee appointed to inquire into Railway Extensions, on such days as should be arranged between them and the Committee.

Question put and passed.

FIRE BRIGADES BILL.

The PRESIDENT announced that he had received a message from the Legislative Assembly, forwarding the Fire Brigades Bill for the concurrence of the Legislative Council.

On the motion of the POSTMASTER-GENERAL, the Bill was read a first time, and the second reading made an Order of the Day for Tuesday next.

TRAMWAY TO PETRIE'S BIGHT.

The PRESIDENT announced that he had received a message from the Speaker of the

Legislative Assembly stating that that House had that day agreed to the plans, sections, and books of reference of a tramway from the Railway Terminus to Petrie's Bight, and transmitting the same to the Legislative Council for their approval.

THE GULLAND RAILWAY.

The PRESIDENT announced that he had received a message from the Legislative Assembly, stating that that House, having this day agreed to the plans, sections, and books of reference of Gulland's branch line of railway, begged to transmit the same to the Legislative Council for their approval.

THE THOMAS RAILWAY.

The PRESIDENT announced that he had received a message from the Legislative Assembly, stating that that House, having this day agreed to the plans, sections, and books of reference of Thomas' branch line of railway, begged to transmit the same to the Legislative Council for their approval.

CENTRAL RAILWAY EXTENSION.

The POSTMASTER-GENERAL, in moving—

That the Report of the Select Committee on the proposed Extension of the Central Railway be now adopted—

said he felt perfectly certain that this resolution would meet with no opposition. Hon. members were aware that the extension of the Central Railway had been approved for a distance of 260 miles beyond Rockhampton, and it was now proposed to extend that line by 107 miles. For the first seventy or eighty miles the country passed over would not be much used for grazing purposes, but he believed a large portion of it would be available for agricultural purposes. The line in itself was a very easy one, there being no heavy work upon it, and its construction would, according to the Engineer's estimate, cost about £3,000 per mile. It started from a point about six miles west of Belyando River, and went over a very fairly level country——

The HON. W. H. WALSH rose to a point of order. He would ask the President whether it was competent for the House to discuss this Order of the Day at all. The report of the Committee was only a progress report; and, on reference to it, he found that the Committee asked for an extension of time to prosecute their inquiries further in respect of branch railways. Apparently, the Postmaster-General was asking them to accede to a railway as though the full report upon it were before them. If they did so it would be highly insulting to the Committee, and the members of it would feel bound to resign immediately if the motion were acceded to. He knew nothing about the railway or the Committee; but they could not consider the motion in the face of the report. He called upon the Postmaster-General to endeavour, so long as he was leader of the House, to carry out the business in the proper way.

The POSTMASTER-GENERAL said he thought if the hon. member would read the report he would see that it was final so far as the Central line was concerned. The first paragraph stated that the Committee had—

"taken evidence which satisfies them of the expediency of the extension of the Central Railway from 260 miles to 367 miles; which evidence, including two reports of the Chief Engineer of the Central and Northern Railways, is attached hereto; and they recommend the work for the approval of your Honourable House."

The HON. W. H. WALSH apologised to the House, but this was one of the inconveniences arising from the bringing up of a report on more than one railway at a time. He had always protested against this from the beginning, and he objected to committees having more than one railway under consideration at one time. He admitted he was wrong, and apologised.

The POSTMASTER-GENERAL said the line would run through an undulating country, presenting no great difficulties, from 325 miles to 367 miles, where it ended. When it reached that place, hon. members who knew the Western country would admit that it had arrived at the commencement of that magnificent tract of country which he believed to be equal in extent and quality to any stretch of pastoral land in Australia. He believed that this extension would enormously increase the traffic of the Central Railway, which was already paying better than any in the colony. If there was any railway that deserved by its earnings, so to speak, to be pushed forward, it certainly was the Central Railway. Those who had observed it during the past few years would admit that, and when it was borne in mind that this country which it tapped was not stocked by more than one eighth or one-tenth of what it would carry, he thought hon. members would agree with him that this extension was one for which every justification could be brought forward. It might be called a national undertaking. For himself, he spoke with considerable local knowledge—and some hon. members of the House had, perhaps, as much as himself—when he said he remembered in that part of the country in 1866 a place which did not carry a single hoof of any sort of stock, or any habitation of man, and where there were now 160,000 head of sheep. This was only one instance out of, perhaps, fifty that he could mention to show to how great an extent the Central Railway had assisted in the development of that country alone. He therefore had much pleasure in moving this resolution, feeling that there would be no opposition from hon. members.

The HON. C. S. MEIN said he did not rise for the purpose of opposing the resolution, although, perhaps, he was not quite so enamoured of it as the Postmaster-General. The Assembly and the Committee had previously affirmed the desirability of constructing this railway, and he therefore would not oppose it on the present occasion. He, however, did not know whether it was proper to proceed by moving the adoption of a progress report—for it professed to be only a progress report—and he thought, according to the usual practice, it should lie on the table. By following that course they would be acting according to precedent, but at the same time it would be perfectly competent for them to affirm the desirability of constructing this railway, even though the Standing Orders had not been strictly complied with, seeing that the Committee which had taken evidence had recommended the line for approval.

The HON. W. H. WALSH said he thought they were getting into a fog. It would appear that if they assented to this motion they should agree to the railway being made, according to the exposition given by the Postmaster-General; and it appeared to him that if they took the interpretation of the Hon. Mr. Mein they need not do anything of the sort. He was not now prepared to oppose the construction of this railway, only they had not arrived at that particular stage which would justify them in agreeing to it in accordance with the Standing Orders of the House. They had now the opinions of these two leaders on the subject, and perhaps it would be

just as well to know what the hon. Postmaster-General meant. Did he mean to say that if they passed this resolution they would understand that that House gave its sanction to this railway —that the Government would consider that thereby they had received the sanction of that Chamber for the construction of the line?

The POSTMASTER-GENERAL, in answer to the Hon. Mr. Walsh, said that if the resolution were carried the Government would consider themselves placed in the same position as they did when an exactly similar resolution was passed in respect to the Northern line.

The HON. W. H. WALSH said it would be a good thing if the hon. Postmaster-General would state the exact position the Government considered themselves in then. Of course, they would have to pause for a reply to that question. He began to think that the Postmaster-General and the Hon. Mr. Mein were playing battledore-and-shuttlecock with this question; but there was no doubt the railway would be made, and there was no use objecting to it. Still, he should like to draw the attention of the Hon. Mr. Gregory to the fact that what appeared to be a most valuable Standing Order of his was being set entirely at defiance, and was being turned to ridicule by the proceedings which had taken place this session. He noticed that there was one thing which was not to be found in the evidence obtained from the witnesses examined upon this line, and that was the probable expense of the construction of the line. Surely, the hon. Postmaster-General, before he asked them to approve of this line, should tell them what was likely to be the cost of its construction.

The POSTMASTER-GENERAL: I have told you already that £3,000 a mile is the Engineer's estimate.

The HON. W. H. WALSH said the Postmaster-General stated that he had already told them that it would be £3,000 a mile; yet see what one of the witnesses told them upon that same subject. In answer to question 4, put by the Hon. Mr. Gregory, they had the following:—

"4. What is Mr. Ballard's estimate of the cost, do you know? Mr. Ballard has not furnished an estimate from 245 to 305, but from 305 to 367.

"5. That is the lighter portion of the estimate? Yes, the lighter portion, which he describes at £3,000 per mile.

"6. By Mr. Rome: That is exclusive of rolling-stock? The permanent way—the construction of the line. The section from 245 miles to 260 miles includes the crossing of the Main Range.

"7. He does not give an estimate for that? No.

"8. So that the heavier work is not estimated for; it will be considerably higher than the other? Yes."

That was all the information the witness gave. They had here distinctly laid down that for the lighter part of this railway £3,000 would be the cost per mile, but for the heavier part of the line it might be £30,000 for any information they could get.

The POSTMASTER-GENERAL said he made the statement on the information of the hon. Minister for Works.

The HON. W. H. WALSH said he was taking the evidence they were called upon to discuss. They were not reviewing anything the Minister for Works might have said to the Postmaster-General. He believed that £30,000 a mile would be the cost of this unestimated portion of the line. There was not the slightest doubt that that Chamber would vote any sum asked, no matter whether they were kept in ignorance of what would be the probable cost of the line or not.

Question put and passed.

CENTRAL RAILWAY EXTENSION.

On the motion of the POSTMASTER-GENERAL, it was resolved—

1. That this House approves of the Plans, Sections, and Book of Reference of the Extension of the Central Railway from 260 miles to 367 miles, as received by message from the Legislative Assembly on the 31st August last.

2. That such approval be notified to the Legislative Assembly by message in the usual form.

SALE OF FOOD AND DRUGS BILL—SECOND READING.

The POSTMASTER-GENERAL said that the primary reason for introducing a measure of this kind was this: There were at present in existence three Acts dealing with the question proposed to be dealt with by this Bill. One of these Acts dealt with the adulteration of bread or flour and meal; the second dealt with the adulteration of malt liquor, and the third with the adulteration of spirituous liquors. Under this Bill it was proposed to meet all these various sources of adulteration, and he thought anyone who had read the analyses supplied in the papers laid on the table of the House upon this question within the last fortnight would agree with him that some such measure as this was necessary. The Bill was almost an exact transcript of the last Act of the kind passed in England in 1875. It varied from that Act only in some small particulars; it proposed to give greater powers to the Governor in Council than were given by the English Act. As he had said, it was a Bill which was urgently needed. The first part of it, after the interpretation clause, was the clause describing the various matters which would come under the head of offences against this Bill should it become law. Clause 3 provided for the prohibition of the mixing of drugs with injurious ingredients and selling the same. Clause 4—"Exemption in case of proof of absence of knowledge." That was a very necessary clause to have in the Bill. Clause 5 was—"Prohibition of the sale of articles of food and of drugs, and not of the proper nature, substance, and quality." Clause 7—"Protection from offences by giving of label"; and clause 8—"Prohibition of the extraction of any part of an article of food before sale, and selling without notice";—were also important clauses. Then they came to the third portion—"Appointment and duties of analysts and proceedings to obtain analysts." There had been a good deal of discussion about this part of the Bill when it was in another place. It appeared to have been thought there that the Governor in Council were taking too much upon themselves. He, however, did not share in that opinion, because he considered that, in a matter of so much importance to the inhabitants of the colony, very strong powers should be placed in the hands of the Governor in Council. Clause 11 said that any municipal or local authority might recommend the appointment of an analyst; and clause 12 said that the appointment should have the approval of the Minister under this Bill. Clause 14 said that if the local authority neglected to appoint an analyst the Governor might appoint one. Clause 16 gave power to the purchaser of an article of food to have it analysed by a public analyst. Clause 17 said that "where no public analyst is appointed analysis may be made by Government analyst." The clauses of the Bill then went on to deal with the question of obtaining samples for analysis, and provided for the manner in which the samples so obtained were to be analysed. Clause 20 was—

"If the seller or his agent does not accept the offer of the purchaser to divide the article purchased in his presence, the analyst receiving the article for analysis

shall divide the same into two parts, and shall seal or fasten up one of those parts, and shall cause it to be delivered either upon receipt of the sample or when he supplies his certificate to the purchaser, who shall retain the same for production in case proceedings be afterwards taken in the matter."

Clauses 21—

"If the analyst does not reside within two miles of the residence of the person requiring the article to be analysed, such article may be forwarded to the analyst through the post office as a registered letter, subject to any regulations made by the Postmaster-General in reference to the carrying and delivering of such article, and the charge for the postage of such article shall be deemed one of the charges of this Act, or of the prosecution, as the case may be."

and 22—

"If any such inspector or officer, as above described, applies to purchase any article of food or any drug exposed to sale, or on sale by retail on any premises or in any shop or stores, or in any street or open place of public resort, and tenders the price for the quantity which he requires for the purpose of analysis, not being more than is reasonably requisite, and the person exposing the same for sale refuses to sell the same to such inspector or officer, such person shall be liable to a penalty not exceeding ten pounds."

These were also important clauses, and were absolutely necessary. Then there was the form of certificate with which the analyst should send in his report; and then they came to the way in which proceedings under the Bill should be taken. Clause 25 read as follows:—

"When the analyst, having analysed any article, has given his certificate of the result, from which it appears that an offence against some one of the provisions of this Act has been committed, the person causing the analysis to be made may take proceedings for the recovery of the penalty herein imposed for such offence, before two justices in a summary manner, at the petty sessions held at or nearest to the place where the article or drug sold was actually delivered to the purchaser."

Clause 26 said that the certificate of the analyst was to be taken as *primâ facie* evidence for the prosecution, but that the analyst was to be called if required. Clause 27 provided:—

"The justices before whom any complaint is made, or the court before whom any appeal is heard under this Act, may, upon the request of either party, or in their discretion, cause any article of food or drug to be sent to the Minister, who shall thereupon direct a Government analyst to make the analysis, and give a certificate to such justices or court of the result of the analysis, and such certificate shall be received in evidence by the justices or court, and the expense of such analysis shall be paid by the complainant or defendant, as the justices may by order direct."

That gave legal protection to anyone who thought he was aggrieved by the report of the analyst. The next was, "Trial for proceedings"; and the 29th clause gave the power to appeal to the district court. The 30th clause was as follows:—

"In any prosecution under the provisions of this Act for selling to the prejudice of the purchaser any article of food or drug which is not of the nature, substance, and quality of the article demanded by such purchaser, it shall be no defence to any such prosecution to allege that the purchaser having bought only for analysis was not prejudiced by such sale. Neither shall it be a good defence to prove that the article of food or drug in question, though defective in nature or in substance or in quality, was not defective in all three respects."

The 31st clause provided that a certain amount of water might be put into various spirits. Clause 33 read:—

"If the defendant in any prosecution under this Act proves to the satisfaction of the justices or court that he had purchased the article in question as the same in nature, substance, and quality as that demanded of him by the prosecutor, and with a written warranty to that effect; that he had no reason to believe at the time when he sold it that the article was otherwise; and that he sold it in the same state as when he purchased it; he shall be discharged from the prosecution, but shall be liable to pay the costs incurred by the prosecutor unless he had given due notice to him that he would rely upon the above defence."

The next clause was "Application of penalties." The next provided "Punishment for forging certificate or warranty," and the second portion of this clause 35 was as follows:—

"Every person who wilfully applies to an article of food or a drug, in any proceedings under this Act, a certificate or warranty given in relation to any other article or drug, shall be guilty of an offence under this Act and be liable to a penalty not exceeding twenty pounds;

"Every person who gives a false warranty in writing to any purchaser in respect of an article of food or a drug sold by him as principal or agent, shall be guilty of an offence under this Act, and be liable to a penalty not exceeding twenty pounds;

"And every person who wilfully gives a label with any article sold by him which falsely describes the article sold shall be guilty of an offence under this Act, and be liable to a penalty not exceeding twenty pounds."

He thought that clause would not be taken exception to by anyone. The whole action taken under the Bill was evidently for the public good. They found in the Bill special provisions as to tea, and he believed it was a fact known to many that large quantities of tea had been brought into the colony which were utterly unfit for human consumption. Clause 38 said what was to be done with the tea if it were found to be unfit for human use. The last two clauses dealt with a matter which was as important as any dealt with by the Bill. He believed a great deal of disease had been caused by the use of impure milk. It was well known that there was hardly any other means more easy for conveying disease than the use of impure milk, and it was for this reason that these clauses were put in the Bill. He thought the Bill was an exceedingly good one, and if any verbal amendments were thought necessary they could be made in committee. He looked upon this Bill as one of the most important measures which could be brought before the Legislature, and was one which was introduced wholly and solely for the benefit and good of the public. He was quite sure there would be no opposition to this Bill, and he begged to move that it be now read a second time.

Question put and passed, and committal of the Bill made an Order of the Day for to-morrow.

MINES REGULATION BILL—COMMITTEE.

On the Order of the Day being read, the House went into Committee for the further consideration of this Bill.

Clause 1—"Division of Act"—put and passed.

The HON. C. H. BUZACOTT moved the insertion of the following new clause, to follow clause 1:—

The Act 18 Victoria, No. 32, intituled an Act for the Registration and Inspection of Coal Mines in the Colony of New South Wales, is hereby repealed.

He said, as the Hon. Mr. Mein pointed out the last time the Bill was before the Committee, the Collieries Act of 1854 would in a measure conflict with this Bill, and it was evident that that Act would not be required when this Bill came into operation. It was therefore necessary to repeal the Collieries Act, which was a very short measure providing for the appointment of examiners. In the Bill before the Committee these officers were called "inspectors," and their duties were defined with much more precision than in the old Act.

New clause put and passed.

Clause 2—"Interpretation"—passed as printed.

On clause 3—"Contravention of or non compliance with this Act an offence"—

The HON. W. H. WALSH said if any hon. gentleman would join him he would vote against

this clause, which was a very arbitrary one. It provided :—

"In the event of the contravention of or non-compliance with this Act in any mine by any person"—

He might be a stranger, who had trespassed for a few minutes—

"the manager of such mine shall be guilty of an offence against this Act."

The manager might be absent, sitting on a jury, or attending to important public business, and yet he would be liable for any contravention of the Act.

The POSTMASTER-GENERAL: Read the proviso.

The HON. W. H. WALSH:

"Provided that such manager shall not be deemed guilty of such offence if he proves to the satisfaction of the court that he had taken all reasonable means of enforcing the provisions of this Act, and of preventing such contravention and non-compliance."

Who was to interpret that? Even the astute Postmaster-General himself could not. He considered the clause most arbitrary.

The HON. C. S. MEIN said this clause was important in connection with the provision that the mere fact of the allegation in an information that a person was the manager of a mine was *primâ facie* evidence that he was the manager, throwing the onus on the person charged to prove that he was not, thus reversing the ordinary forms of criminal procedure. He thought if this clause were passed it would be most unfair to adopt clause 14. This was legislation upon a special subject where the lives of a large number of persons might be dependent upon the care, or want of care, or inattention on the part of the manager, who was responsible if anything happened to them. He, therefore, did not feel inclined to vote against clause 3, but he should be disposed to oppose clause 14.

Clause put and passed.

On clause 4—"Act to apply only where more than six persons are employed; boys under fourteen years of age not to be employed below ground in any mine"—

The HON. F. T. GREGORY asked the hon. gentleman in charge of the Bill why the provisions of the Bill were restricted to six persons? They all had some experience of mining in a country like this, and, as far as their experience went, they knew that there was a very large amount of mining carried on where there were not more than three or four men employed at one time; and why the same precaution should not be taken to protect human life in cases where only three, or four, or five men were engaged, as where twenty were employed, he could not understand. The clause said "except as hereinafter provided," but up to the present time he had failed to find any part of the Bill to which that referred. But still, under any circumstances, he failed altogether to see why this distinction should be drawn respecting the number of men employed in a mine; and thought the same precautions ought to be afforded to mines worked by even two men as to those worked by six or upwards.

The POSTMASTER-GENERAL said the Bill was intended purposely to exclude mines worked by fewer than six men. He thought it would be very hard if small parties of men should be compelled to come under the provisions of the Act. As a matter of fact, mines worked by fewer than six men were probably not very deep, and when they reached any appreciable depth more men were bound to be employed, and then the mine would come under the operations of the Act.

The HON. C. S. MEIN failed to see any reason why the Bill should be restricted to six persons. He had not had much experience of gold-mining, but he had seen a little of coal-mines, and knew that a large number of mines were being worked by six men or fewer. The Bill took special care of miners above six in number, and he did not see why the lives of miners below six should not have the same value. As the Postmaster-General pointed out, operations which could be carried on by fewer than six miners must be very limited in extent, and that would probably be the case on a goldfield where the mineral sought was in small quantities. As much care ought to be taken of these miners as of those in larger mines. The question in his mind was, whether they could not make these provisions less cumbersome for the smaller mines. He admitted that it might become oppressive to compel people to carry out these minute regulations; but, at the same time, he thought a smaller number of persons would require as much, if not more, protection than a larger number. Where there was a large number there was greater interest in their combining together for proper protection, whereas wherever there was a smaller number their influence in this direction was less. He would also refer to the second part of the clause. He found that the average age at which children might be engaged in these mines at home was ten years in ordinary mines, and twelve years in coal-mines; and though his own observation satisfied him that it might be oppressive to many parents to prevent their children going to the mines under the age of fourteen, still he thought the age ought to be such that children could prosecute their studies and acquire education up to the age of fourteen.

The POSTMASTER-GENERAL said, in reference to what had fallen from the hon. gentleman as to accidents occurring in mines where only four or five men were engaged, he differed from him entirely. If they got four, five, or even six men working together they were nearly always "mates," with an interest in the concern, and, as a rule, personally attached to each other, and more likely to look after one another's safety. With regard to the second part of the clause, he thought that if the present system of education were to go on it was rather unfair to treat these children so that they could not get the benefit of the high-class education given by the State for the two years between twelve and fourteen, when they were most likely to profit by it. He thought it would certainly be going back on the policy of the Legislature to deprive them of an opportunity of acquiring knowledge, and he was glad to find hon. members were beginning to see the force of this.

The HON. C. H. BUZACOTT said there must be cases in which it was desirable to extend the operation of this Act to mines where fewer than six men were engaged; and he would move the following proviso, to be added to the clause :—

Provided that the Governor in Council, by a proclamation in the *Government Gazette*, may extend the operation of this Act to any special mines where less than six persons are employed.

The HON. W. H. WALSH: Why not strike out the clause altogether?

The HON. C. H. BUZACOTT said no doubt it would be very hard on two or three men engaged in sinking a shaft if this Bill were to be applied to them, but if it were represented to the Governor in Council that the work was especially dangerous it would be better if powers were given to extend the operations of the Act.

The HON. W. H. WALSH said it was extraordinary that they should arm the Governor in Council with a power like this affecting any man in the colony. Because somebody

chose to inform the Government that less than six persons were employed at a mine, the whole machinery of the Government was to be enforced to harass the individuals engaged at that mine. It would be a dribbling kind of legislation. It would be better to strike the clause out altogether. By giving such authority to the Governor in Council—meaning a party Government—a ukase could be issued, stopping the working of some particular mine. It appeared to him to be absurd. He was very glad the Postmaster-General had not intimated that he would receive this amendment, for it was a petty kind of legislation.

The HON. C. H. BUZACOTT said if men were engaged in sinking a shaft at all they would incur the responsibility necessary to bring them under the provisions of the Act, but the Act should be subject to modification; and he was quite sure the Government would not interfere in cases where it was not really necessary. It was true they had party government; but in small matters of this sort he did not think any Government, no matter how corrupt or partisan it might be, would carry this power out with a personal object. He thought they might trust the Government with a regulation of this kind.

The HON. W. H. WALSH would point out that a mine might have five men working on it to-day and fifty men to-morrow, or fifty to-day and five to-morrow; and as soon as the number of men working at the mine was under six, representation to that effect could be made to the Governor in Council. They might as well act in a similar way to shopkeepers who employed less than five assistants. What was right for one was right for the other. If it was necessary to protect twenty people in a mine it was necessary to protect one, and he did not see why they should provide protection for six people any more than for five. This seemed to him to be a peddling kind of legislation.

The HON. F. T. GREGORY thought that the wording of the amendment, as proposed by the Hon. Mr. Buzacott, would still be under the operation of the 11th clause; therefore it would not be necessary, except in special cases, to interfere. He quite agreed with the Hon. Mr. Walsh in stating that it was very undesirable to have regulations or orders left to the Governor in Council in particular cases. He strongly opposed the introduction of such a clause, but in this case he thought it would be merely authorising the Governor in Council to order any particular mine to be placed under inspection, when it would be the duty of the inspector to carry out the Act so as not to be oppressive.

Amendment put and carried, and the clause as amended agreed to.

Clause 5—"General rules"—put and passed.

The HON. C. H. BUZACOTT moved the insertion of a new clause, to follow clause 5. The Act provided that the rules were to be observed in every mine wherever reasonably practicable; but his proposed new clause gave the authorities more specific powers by enabling the Governor in Council to vary the regulations in respect to mines under certain conditions. The clause was as follows:—

> If in the opinion of the inspector the observance of the foregoing general rules is not reasonably practicable in any particular mine, the Governor in Council may from time to time by notification in the *Gazette* suspend, alter, or vary such rules in such manner as he deems necessary with respect of such mine. And any general rules so altered or varied shall be deemed to be the general rules of the mine to which they relate.

It appeared to him that if this clause were not inserted the whole matter would be left to the inspector to see whether these regulations, or any or both, should be adopted in a mine. He thought it better that the responsibility should be thrown upon the higher authorities, and that the clause he proposed would meet what was required. If the regulations were found to be impracticable in any mine it gave power to the Governor in Council to modify them. He could easily conceive such regulations as these being found impracticable, and if they could not be carried out in the smallest and most minute detail it might be considered an offence against the Act. He would not take up the time of the Committee by further explaining the matter, as the new clause really explained itself.

The POSTMASTER-GENERAL said he had no objection to the new clause.

The HON. W. H. WALSH said that this matter read to him this way: that two persons might have mines adjoining each other, and one would be under the fast rules of this Act, and the other might be in the hands of persons who might occupy a better position in the eyes of the Government of the day than their neighbours, and they might get an abrogation of the rules in their case. They might get a proclamation issued to relieve them from the requirements mentioned in this Bill. This appeared to him to be about the most extraordinary piece of fast-and-loose legislation he had ever heard of. Was it not making one law for the rich and another for the poor—one for the powerful and another for the weak? This would be applied or not to persons as they occupied different positions in the social or political atmosphere. It appeared to him a very improper and un-English piece of legislation which they were trying to introduce under this Bill. The Governor in Council appeared latterly to have been reduced to a kind of political ring, and they were given power to alter and change matters affecting individual persons.

Question—That the new clause, as read, be inserted, to follow clause, as passed—put, and the Committee divided as follows:—

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The Hons. B. D. Morehead, C. S. Mein, F. T. Gregory, L. Hope, J. Taylor, J. F. McDougall, J. C. Foote, W. F. Lambert, C. H. Buzacott, and J. Gibbon.

NON-CONTENTS, 4.

The Hons. W. H. Walsh, W. Pettigrew, J. Cowlishaw, and G. Edmondstone.

Question, consequently, resolved in the affirmative.

On clause 6—"Rules to be posted on conspicuous places"—

The HON. C. H. BUZACOTT said he had a verbal amendment in this clause, consequent upon the adoption of the new clause just passed.

On the motion of the HON. C. H. BUZACOTT, the clause was then amended by the insertion of the word "general" after the word "the" in the 1st line of the clause, and also by the omission of the words "contained in section five of this Act," and the substitution therefor of the words "as aforesaid."

Clause, as amended, put and passed.

Clause 7—"Miners inspectors"—put and passed.

On clause 8—"Shafts with vertical or overhanging ladders to have platforms"—

The HON. W. H. WALSH said he would like to ask the Postmaster-General if such a clause as this was to be found in any other Act?

After a pause,

The HON. W. H. WALSH said the Postmaster-General would not give an answer to his question. He considered the Government had been led into a trap by the Hon. Mr. Buzacott.

Question put and passed.

Clause 9—"Employer to compensate employé injured through negligence of owner or his agent"; and clause 10—"Protection of abandoned shafts"—put and passed.

On clause 11—"Inspection of mine"—

The HON. C. S. MEIN said this clause provided that the Governor in Council might, from time to time, appoint fit persons to be inspectors of mines. He did not think any of them could dissent from that proposition; but he should be very much more satisfied with the Bill if it provided how the evidence of their fitness was to be determined, by prescribing that the persons appointed should have passed an examination before some competent board of examiners. He did not know whether the Government had any person in view with the intention of making such an appointment. He was speaking now especially with regard to the Collieries Act, as he did not know much about the ordinary mining on goldfields. He knew that in New South Wales they had a very competent man; and in the old country, he believed, special precautions were taken to have none but thoroughly competent persons—mining engineers of large experience—to occupy the position of inspectors of mines; and he had no doubt that it was as necessary that competent persons should be employed to inspect other kinds of mines besides collieries. At home it was specially stipulated that no man should be appointed a mining manager unless he possessed a certificate of competency, and he could only obtain that by undergoing an examination before a recognised board of examiners. It had been urged, he believed with some force, that it would be impossible to enact a similar stipulation here with regard to the managers of mines, because they must trust to the best material available on the spot; but that argument should not prevail with regard to the inspectors of mines. If they had not competent persons in this colony they could go elsewhere, and satisfy themselves by proper credentials that the persons appointed were properly qualified. The whole object of the Bill would be defeated unless the Government secured the services of inspectors thoroughly equal to the position. He should be glad, therefore, to know from the Postmaster-General whether the Government had in view any person for the appointment he referred to. If they had it would relieve his mind, and no doubt the public mind.

The POSTMASTER-GENERAL said this Bill was almost a complete transcript of the very Bill dealing with the subject that the hon. gentleman said he knew more about than any other branch of mining. The clause in the Act provided that the Secretary of State might from time to time appoint any fit persons to be inspectors of mines, assign their duties, award such salaries as the Commissioners of the Treasury might approve of, and so on. It was strange that, although there was a board of examiners for colliery managers, that there was not similar precaution taken with regard to inspectors; but he presumed that that was a matter that was left to the discretion of the Secretary of State.

The HON. F. T. GREGORY said the first part of the clause seemed to imply, although not very strongly, that these inspectors were to be competent. It provided that they must be "fit." It was a very common thing to apply both of the terms "fit and competent," and perhaps the hon. the Postmaster-General would not object to an amendment to that effect. Then, if any Government should apppoint an incompetent man, they would fairly lay themselves open to censure just as if they appointed an incompetent person in any other branch of the Public Service.

The HON. C. S. MEIN said he preferred this phraseology—to omit the word "fit," and insert after "persons" the words "possessing competent knowledge, skill, and experience." He proposed that as an amendment.

Amendment agreed to, and clause, as amended, put and passed.

Clauses 12—"Employés to satisfy themselves of safety of appliances"; and 13—"Notice of accident to be given to Inspector of Mines"—were agreed to without discussion.

On clause 14—"Burden of proof to lie on defendant"—

The HON. C. S. MEIN said he had already hinted that he felt inclined to oppose this clause. He could see no reason whatever for it. It was inverting the ordinary mode of procedure in criminal prosecutions. It was true that in some few statutes the burden of proof was thrown on the defendant; but that was invariably done when it was impossible for the complainant to prove an affirmative. For instance, in a prosecution under the Chinese Restriction Act, proof of the affirmation that the person charged was not a British subject was not thrown upon the Crown, but the onus was thrown upon the defendant of proving that he was a British subject, because, *primâ facie*, and to all outward appearances, he was a person belonging to another nation. But in this case there was no difficulty in proving whether a man was in charge of the mine as a manager, or in charge of the mining operations. The evidence of persons employed in the mine could be very clear and explicit on that point. Under this clause it would be very easy for persons who had a dislike, or objection to, or a grudge against an individual who happened to be employed in the mine, and had been in the vicinity when an accident or any other thing occurred which amounted to an offence under the statute, to allege that he was responsible for it by saying that he was the manager. That simple allegation in the information would be quite sufficient to satisfy the bench that he was the man, and would throw the onus on the defendant of proving that he was not. In fact, there might be a combination of persons associated together to punish another for an offence of which he had no personal knowledge whatever. The Committee must bear in mind that under this statute the mining manager was made responsible for every breach of its provisions, and the onus was thrown upon him of proving that he had taken every reasonable precaution to avert it, so that there would be a double obligation thrown upon him. He thought it was quite sufficient that the onus of showing that the person charged was the mining manager should rest upon the person bringing the charge. The thing could be proved without any difficulty whatever.

The POSTMASTER-GENERAL said that this clause was taken from the Victorian Act, and was also in force in New South Wales; and he believed that no such cases as stated by the hon. gentleman as likely to arise had arisen. When this clause was introduced last year, it was strongly debated in another place, but he noticed this year that no discussion took place at all upon it, even by the hon. gentleman who took immense interest in the Bill. Of course it was a strong clause, but he thought it should be made as strong as it could be possibly drawn. A great deal might be said in favour of the clause remaining as it stood, and he saw no necessity for any alteration.

The HON C. H. BUZACOTT said he felt a great deal of sympathy with the remarks of the Hon. Mr. Mein, because, in an extensive concern where two or three hundred men were employed, there would be no difficulty in proving that the man charged was the manager, and it would be

no harm to throw upon the reputed manager the onus of proving that he was not the manager. However, there might be cases where half-a-dozen persons, or fewer, were employed—because they had now inserted a clause to enable the Governor in Council to extend the provisions of the Act to mines where only two or three men were employed—where there might be great difficulty in the way of a prosecutor proving which of the two or three men was responsible. Supposing the man who was assumed to be responsible, denied that he was responsible, there would be some difficulty in proving it; and he thought that where the man was the reputed manager, it was no hardship to throw upon him the onus of proving that he was not the manager. He did not think the clause would be productive of any hardship in its practical application, although, of course, the principle was one that could not be generally applied.

The HON. C. S. MEIN said that they must not overlook the fact that a man who would be charged in this instance would not be competent to give evidence on his own behalf. They would actually drive him to make use of evidence which would be as easily available on the part of the prosecutor; and they were assuming, contrary to the whole spirit of British law—that a man was guilty as soon as a charge was brought against him; instead of, as was usual in all criminal prosecutions, assuming at the outset that the man was not guilty. He said that the thing was monstrous, especially in view of the very stringent stipulations they surrounded the manager with in the early part of the Bill. As pointed out by the Hon. Mr. Buzacott, this clause might relate to mines where only five men were employed, and in the event of an accident occuring, there was nothing to prevent four of the men putting their heads together and saying that the other man, who might have made himself obnoxious to them, was the person in charge of the mine. That single allegation was all that was sufficient. The Bill provided that the manager was responsible for every accident that happened, and the onus of proving that he took every reasonable precaution rested upon him. He had also to prove that he was not the mining manager; but his mouth would be shut, and nobody, in the case of such a combination, could give evidence in his behalf. It would be a monstrous state of affairs.

Question—That the clause as read stand part of the Bill—put, and the Committee divided:—

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The Hons. B. D. Morehead, J. Taylor, P. F. McDougall, C. H. Buzacott, J. C. Foote, and W. H. Walsh.

NON-CONTENTS, 5.

The Hons. C. S. Mein, F. T. Gregory, J. Cowlishaw, J. C. Heusler, and J. Gibbon.

Clause 15—"What is an offence against this Act"—put and passed.

On clause 16—"Wages or contract money how to be paid"—

The HON. W. H. WALSH asked if the miners were to be treated as children, or as persons not able to look after themselves. If there was any class whom they ought to insist upon giving rights to, it was the miners. So far as his information went, he considered them to be the most manly and best instructed men in the colony. He did not often deliver these panegyrics, but he did not hesitate to say this in the case of the miners. It was not the business of the House to interfere with the way these men were paid, whether at a public-house or elsewhere, any more than shepherds, or clerks, or servants. This clause seemed to him to be an unnecessary interference with the liberty of the subject, and doing an injustice to the miners by presuming that they were not able to look after themselves.

The POSTMASTER-GENERAL said he wondered if the hon. gentleman had ever been in a colliery township on pay-night. If he had he would know that a good deal of drunkenness and misconduct had arisen from miners being paid in public-houses, and this clause would prevent it. The hon. member might as well say, why abolish the truck system, and that if a man chose to be paid in goods why should he not be so paid? He thought this was a very wise provision.

The HON. W. H. WALSH said the same argument might be applied to shopkeepers, or shepherds, or any other class of the community. He had had experience of coal-miners, and had paid away thousands of pounds to them in his time. He had seen them kick up a row, but it was not at a public-house. They had no right to treat the miners in this manner, and he did not see why they should step out of their way to presume that the miners were not able to make their own arrangements as to how, when, and where they should be paid.

The HON. P. MACPHERSON said it seemed to him the object of this clause was to prevent the wages of miners being wasted.

Question put and passed.

Clauses 17 to 19 put and passed.

On clause 20—"Mode of adopting special rules when objected to"—

The HON. W. H. WALSH said this was a serious feature of the Bill, which authorised the Government to interfere with the arrangements of the miners. His attention had been called to the power of interference given in the metalliferous mines regulations, which referred to the safe working of the mine; but here—so far as he could see—the Minister was giving the right to step in and interfere between the employers and the workmen in other matters.

The POSTMASTER-GENERAL said, if the hon. member would read further down, he would see that—

"In the event of any dispute arising between the parties aforesaid as to such rules, or between the parties and any inspector as to the administration of the rules, or upon any matter within the scope of this Act (not being an offence against this Act), and not otherwise provided for, the matter in dispute may be referred to arbitration in manner aforesaid."

The HON. W. H. WALSH said it still appeared to him that it was going between the employers and the employed, and the same principle might be adopted with equal justice by employers on squatting stations and in all the establishments in the colony.

Question put and passed.

Clause 21—"Promulgation of special rates"—put and passed.

Clause 22—"Amendment of special rules"—was verbally amended and passed.

Clauses 23 to 27 put and passed.

Clause 28—"Entry in adjoining mine, etc."

The HON. C. S. MEIN thought the provisions contained in the Collieries Act that they had repealed were much better than this provision, and more in accordance with the English legislation on the subject, by providing that the owner of every coal-mine should keep or deposit in a public place, for the information of the inspector, the plans and workings of his mine. This clause gave this power to the owners of adjoining coal-mines: All they had to do was to make an affidavit, and that would be sufficient to authorise the Minister to instruct the inspector—who was to be accompanied by a mining surveyor or an experienced miner—to go down the mine and inspect the workings, and the exact bearings of

the direction of the workings. This might be done at any time by an adjoining mine-owner, in order to ascertain the direction of the operations in his neighbour's coal-mine. It was well-known to everyone who knew anything about coal-mining, that the vein of coal was often interrupted by what were called "dykes," and the coal stratum was often interrupted in this way for several hundreds of feet; and the consequence was that it required a large amount of money to take up the stratum again. For that reason it might suit a mine-owner to deposit a hundred pounds for the purpose of being in a position to get down into his neighbour's mine to see in which direction the vein was running, so that he might profit at his neighbour's expense. It was true that the clause provided that every inspector, surveyor, or miner should, before entering a colliery, make a declaration before some authority that he would not, except as a witness in a court of justice, or without the consent, in writing, of the owner of the colliery encroached upon, divulge, or cause to be divulged, any information obtained by such entry. He (Mr. Mein) thought that stipulation was not sufficient. The clause ought also to stipulate that a person entering a mine shall not be in the employment of the person who lodged the complaint. He would move, therefore, that the clause be amended by the insertion of the words "who is not ordinarily employed by any of the persons interested in the property alleged to be encroached upon," after the word "miner," in the 50th line. As it stood now, the person who entered the mine might be in the employment of the person who made the affidavit and put the Minister in motion.

Amendment agreed to; and clause, as amended, put and passed.

Clause 29—"Recovery of penalties"—put and passed.

Clause 30—"Short title"—and preamble, put and passed.

On the motion of the POSTMASTER-GENERAL, the Chairman left the chair, and the Bill was reported to the House with amendments. The report was adopted, and on the motion that the third reading of the Bill be made an Order of the Day for to-morrow—

The HON. W. H. WALSH said he thought they should not be called upon to vote for the third reading of this Bill to-morrow until they had seen it with the whole of the amendments. He would submit that until they had seen the Bill with the amendments made to-night, they would not be justified in passing the third reading of it, as the Bill had been very much altered in Committee.

Question—That the third reading of the Bill be made an Order of the Day for to-morrow—put and passed.

LEGAL PRACTITIONERS BILL—COMMITTEE.

On the motion of the HON. W. H. WALSH, the President left the chair, and the House resolved itself into a Committee of the Whole for the purpose of considering this Bill.

The preamble was postponed.

On clause 1—"Status"—

The HON. W. H. WALSH said that, in moving the first clause of this Bill, he would simply say he was aware that his hon. friend, Mr. Mein, had proposed that some important amendments should be made in it. He was sure that every hon. member of that Chamber would credit that hon. gentleman with the very best intentions in his efforts in connection with this Bill; but, in respect to these amendments—which, being before the House, they had a right to treat of—he (Mr. Walsh) would still call the attention of hon. members to the fact that the hon. gentleman was dealing with a subject which this Bill did not at all intend to deal with. The hon. gentleman was making provision for regulations and rules of court, which this Bill did not contemplate at all. The promoters of this Bill, and the public generally, were perfectly prepared to leave to the judges of the land the regulation of the processes by which barristers and attorneys would be admitted to the inns of their courts. This Bill did not propose—nor was he aware that any other statute proposed—to deal with that matter. His hon. friend (Mr. Mein) however, evidently thought it did. He (Mr. Walsh) preferred that this Bill should be considered as simply what it was, and what it purported to be—namely, a Bill for the amalgamation of the legal professions, leaving to the judges, or to the lawyers themselves, the processes by which members of the professions were to be admitted into their societies. What he desired in this Bill was, that barristers and attorneys should be admitted to practise in their respective branches of the profession, and be allowed audience in every legal court in the colony. That was what the Bill aimed at, and it was not intended to interfere at all with the present processes for the admission of practitioners to the different branches of the profession. It simply determined that these practitioners, or rather the clients of these practitioners, should have the right to require their services in any court in the colony. He thought it necessary to make this statement upon the motion for the passing of the 1st clause, and of course he would pay the utmost deference to any suggestion which might be made by the opponents of the Bill, and especially by his hon. friend, Mr. Mein; but he warned hon. members that if they tampered with the simplicity of this Bill they would thereby endanger the passing of it, and thereby deprive the people of the colony of a measure which they were most anxiously looking forward to, and which, if he was to believe his own senses, was being daily more and more loudly demanded.

The HON. C. S. MEIN said he had listened very attentively to the hon. gentleman's remarks, but he could see no reason in them. The latter part of his speech was quite inconsistent with the former. He had urged the Committee to pass this Bill as it stood, in the first place because he was quite willing, and was sure the House would be willing, to leave in the hands of the judges the power to regulate the terms upon which barristers might practise as attorneys and attorneys as barristers. He was glad to hear at this late hour that the hon. gentleman had so much confidence in the judges of this colony. It was about the first time he (Mr. Mein) had heard him express any confidence in the administration of justice in this colony, and he was glad to see that the hon. gentleman was converted to a right state of mind in that respect at all events. Then the hon. gentleman wound up by saying, what was really his idea upon the question—and it showed how much a man's feeling was liable to warp his judgment—he warned hon. gentlemen that in the event of any interference with this Bill there was a possibility of its not becoming law. He (Mr. Mein) hoped that that would not influence any hon. gentleman in deciding as to what state the Bill ought to be, and in dealing with this measure so as to do justice to all parties concerned, having in view the primary object of all legislation—the general good of the people. That was the object he (Mr. Mein) had in bringing forward the amendments he proposed. He was opposed to the principle of the Bill as it stood entirely. But—as he had already intimated—in view of the strong expression of

opinion by a large number of the members of that Chamber in favour of an alteration in the present arrangements by which there was a division in the legal profession, he was willing to accept their ideas upon the subject, provided that a suitable and proper measure, dealing fairly with all persons concerned as well as the public, was adopted. It was in that spirit he had drawn these clauses; but, assuming that they were accepted, they would not embody a Bill of which he entirely approved, but still they would put the Bill in a proper and workable form. So far from the Bill enabling the judges to deal with the question of admission of barristers and solicitors, it took the power out of their hands altogether. If this Bill became law in its present form, any barrister could practise as a solicitor, and any solicitor as a barrister, independent whatever of what the judges might think desirable on the subject. He (Mr. Mein) maintained that there would be a great injustice, and it would be depriving the public of the protection which the present state of the law provided. As the law now stood in this colony, and in almost every portion of Her Majesty's dominions, there was a distinction made between the two branches of the profession, and it was a distinction which did not exist in English-speaking communities only. It had been brought about by the requirements of society—by the complicated arrangements which must necessarily exist in any community where municipal institutions were being brought towards a perfect state. It had existed in Rome. It now existed in all important portions of the Continent; and although it did not exist in name in America, it existed there in fact, because they had the distinction between the advocate proper and the person who took charge of all the details of legal matters and exercised practical common sense and judgment. As their law now stood, these two classes of the profession had certain requirements exacted of them before they were authorised to practise their labours. Under our law——

The HON. W. H. WALSH: What law?

The HON. C. S. MEIN: Under the law which he held in his hand, a person requiring to be admitted as a barrister had to undergo a literary and legal examination. That was all that was required of him; and if he satisfied the examiners on those points he could apply for admission, and if of good character he would be admitted at once. But in order that a man might become a solicitor it was not only necessary that he should pass a literary examination, but he must undergo a term of servitude with a legally qualified practitioner in his branch of the profession extending over five years, except in exceptional cases where the person possessed literary qualifications, such as a university degree, in which case he would only have to serve three years; but after that term was over he would have to pass an examination in law. The examinations in law up to a certain point were similar with regard to both barristers and solicitors, but they were not identical in all respects. A solicitor was required to pass a satisfactory examination with regard to the practice in all the courts of judicature in the colony, and to show himself thoroughly acquainted with the minutest details of the practical part of his profession; whereas the barristers' examination was chiefly, if not wholly, confined to abstract principles of law and justice. The state of the law, as it at present stood, recognised the necessity for a solicitor undergoing a course of training——

The HON. W. H. WALSH: What law?

The HON. C. S. MEIN wished the hon. gentleman would not interrupt him.

The HON. W. H. WALSH: I am asking you what law?

The HON. C. S. MEIN said he thought the Chairman ought to protect him against those unseemly and improper interruptions. The hon. gentleman had been dinning the same question into his ears for the last ten minutes. He said as the law now stood——

The HON. W. H. WALSH: What law?

The CHAIRMAN said the hon. member was out of order in interrupting.

The HON. C. S. MEIN said the hon. gentleman's experience and the position he had occupied before ought to induce him to act, at all events, in a decent manner. If he (Mr. Mein) was saying anything offensive to him he had his remedy; but while addressing the House he (Mr. Mein) ought to be treated with proper respect. He said that the law as it now stood required that a solicitor should go through a course of training with a competent man for five years. That course of training involved him in an expenditure of money and an expenditure of time, and it must be fairly presumed that some good must result from the expenditure of both. This Bill proposed to abolish the distinction at once, and to give persons who had not undergone this training the privileges of persons who had. He maintained that that was unfair to begin with; but his amendments admitted that there might be some force in the arguments of those who said that the circumstances of the colony at the present time were peculiar, and that it was necessary that gentlemen who were now in the colony acting as barristers, and who had not undergone special training, should have the right to practise as solicitors. He said, let them do it. But it was a fixed principle of statute law that no professional man should be authorised to practise in a profession until he showed himself qualified for it. He said, by his proposed amendments, let those persons be admitted without insisting on their apprenticeship, but let them show to the proper authorities that they had a competent knowledge to practise the profession. Let them pass an examination. With regard to the solicitors who might wish to become advocates, he said the same thing. Inasmuch as they wanted both branches of the profession to be practised by one and the same person, let them provide, for the guidance of posterity, that persons who wished to possess this privilege should prove themselves to be competent for it by undergoing a course of training and passing the stipulated examination. He did not set out in his amendment what the examination should be. He was content, with the Hon. Mr. Walsh, to leave that to the judges; but he held that it should be specified by statute what the training should be to enable those persons to be authorised to practise. It was all very well to say that this was a mere sentimental objection. He would give an instance of the hardship which would be inflicted by this Bill which had come under his notice during the last few months. There were two cousins in Rockhampton; one came from the University in Sydney about twelve months ago, studied at Rockhampton without the assistance of a barrister, came down here, passed his examination within the twelve months, and was admitted as a barrister. His cousin underwent a course of training in a solicitor's office, extending over a period of five years, passed the necessary examination, and became a solicitor. Now, this Bill proposed that the five years' service of this young man was to count for nothing. Practically, it said that this training was utterly valueless, and that his cousin was quite as good as himself to practise the profession. A man might know nothing at all about the details of the practice of his profession, but, nevertheless, they were to license him to practise it. That was not a proper state of affairs. They should have some guarantee, by

means of previous training as well as examination, that persons authorised to practise should have a practical knowledge of the profession. He submitted that the examinations were not difficult. He had had a good deal of experience in examinations—perhaps more than any member of the House—and he knew that if a person got crammed up to pass an examination he would probably lose nearly all that he acquired in that way in a very short time. He did not hesitate to say that it would be a gross act of injustice to each profession to allow the other branch to come in and possess its privileges without the persons wishing to take those privileges showing that they were competent to practise. That was all he asked by these amendments. The hon. gentleman had said, with reference to proposed new clause 2, that it was not determined by statute anywhere what the term of service should be—that it was left entirely to the judges. In reply to that he had to state that his proposed clause 2 was founded on a clause in the statute where the law existed, which the movers of this Bill had stated was similar in principle to it—that was in Tasmania. In Tasmania the distinction between barristers and solicitors was observed. A person wishing to be admitted there as a barrister only must pass a literary and legal examination; and a person desiring to practise in the dual position must pass not only both examinations, but must also serve his articles of clerkship. In order that hon. gentlemen might be satisfied that he was accurate, he would read the clause of the Act, 38 Vic., No. 14, relating to the service of articles:—

"No person shall (save as hereinafter provided)"—

That saving was with regard to certain public officials—

"be capable of being admitted as a barrister or attorney unless such person has been bound by contract in writing to serve as clerk for and during the term of five years, to a practising attorney of the said court, and has duly served under such contract for and during the said term, and, also, unless such person shall, after the expiration of such term (save as hereinafter provided) have been examined and sworn in manner hereafter directed."

Then it fixed the limit as to age. There were practically similar rules in force in South Australia. There it was provided that unless a person had been admitted as a solicitor, advocate, or barrister in any of the courts in Great Britain or the Australian colonies, he must be articled and serve the full term of five years. In New Zealand they still preserved the distinction between barristers and solicitors, but the practice seemed to be indiscriminate; and it was provided that no person should be admitted as a barrister there unless it appeared that "such candidate was *bonâ fide* exclusively engaged in the study of law as a pupil of such barrister for three years at least before his application to be admitted." He (Mr. Mein) provided in his amendment that the term should be five years, but he was not wedded to the number of years, although he thought five little enough. He might state that five years was the term in force in New South Wales, Victoria, and Great Britain. However, as he said, he was not wedded to five years. What he wished was to lay down a statutory period during which a person should undergo training, and that whilst undergoing that training he should be confined to that occupation and nothing else, leaving it for the judges to decide, after that training, what knowledge it would be necessary for him to display before he could be admitted to practise in the profession. He was not wedded to the phraseology of the amendments at all. He was willing agree to any state of affairs by which they could have one man doing two men's work. All he wished to bring about was a provision by statute law, that before a person should be authorised to do both men's work he should prove his competency by examination as it at present existed, or, if it was made a point, he should be willing to concede to the contention of those on the other side not to examine persons at present practising. Rather than cause hardships, jealousies, and annoyances, he should be willing to give way upon that point, and allow an indiscriminate admission of barristers and solicitors at the present moment; but he said in the interests of the public;—for this was a growing community—they were not going to stop in their present position with regard to population, and municipal requirements and the requirements of society would become more complicated in the future;—let them take proper care that in the legal profession, as well as in every other profession, none but competent persons should be licensed in the future to deal with the public in regard to legal matters. He begged to move that the words "or who may hereafter be admitted to practise," in lines 9 and 10 of the clause, be omitted.

The HON. W. H. WALSH said he need not tell the Committee that if his hon. friend was enabled to carry this amendment it would be fatal to the Bill. He did not say this by way of a threat, because it was not his province, nor was it his manner; but he said it simply because it was so. He begged to call attention to the fact that his hon. friend had endeavoured to put the whole matter on a false issue. They were not to determine the quality that should govern the admission of either attorneys or barristers to the profession. They were merely bringing about a simplification of the proceedings of the legal profession in our courts of law; in other words, they were trying to provide for reform in the management of the legal profession so as to result in benefit to the public at large. He was well aware of the immense influence and power which his hon. friend exercised in that Chamber as an old leader, and as a popular member of it. He knew that there was certain difficulty in contending with him; but he wanted hon. gentlemen to understand that he (Mr. Mein) was now advocating for that which was clearly a vested interest; and whatever might be his feelings generally, as far as doing that which was right for the country, there was no doubt that in this particular instance he felt that he belonged to a noble profession, and he had a certain duty to perform to that profession. All honour to him for doing it in the way he was doing it, but still he (Mr. Walsh) held that they had a higher duty to perform, and that was to try and serve the country. The hon. gentleman referred particularly to the fact that according to the present law certain requirements were necessary for admission to practise in either branch of the profession. The hon. member was inclined to resent his asking what law he referred to; but he (Mr. Walsh) considered he had a perfect right, when any hon. member chose to refer to a law, to ask what law he referred to. The hon. member did not deign to enlighten his ignorance, but still harped upon the strain, "what the law required." He (Mr. Walsh) did not see that there was any law on the subject, but it was a very captivating way to say that the law required so-and-so. But in this instance, where there was said to be a law on the subject, the other branch of the Legislative proposed to set it aside and to bring a new law into existence. This was what they were now asked to do, and, therefore, it was no argument to say that the law required so-and-so. He could not find that any law existed, but he did find that the judges had power to make regulations for the admission of both barristers and solicitors to the profession. He said this notwithstanding the sneers of his hon. friend. This was all he could

find in reference to the subject at any rate, with the exception of an obsolete Supreme Court Act—31st Victoria, 123—where it was provided in clause 54, relating to the admission of barristers and solicitors, that it should be lawful for the majority of the judges to make such rules for regulating the admission of barristers, solicitors, and attorneys to practise in the court, and to repeal them, as occasion might require. So that there was absolutely no law, so far as he could make out, with this exception. He did not make any complaint that the judges in enforcing their rules subjected applicants to any unnecessary ordeal, and therefore he did not see why in the Bill they should interfere with the judges in that respect. Whenever it was represented to Parliament that the judges were unwisely or arbitrarily exercising their powers in reference to the admission of practitioners of either branch of the profession, then would be the time for Parliament to step in and interfere. His hon. friend said Parliament had done that already. He was aware that Mr. Griffith had introduced a Supreme Court Bill, and he would speak of it further on. But under what circumstances had he introduced it? It was not for the purpose of interfering with the Act at all, nor with the statutory regulations of the practice of the respective branches of the profession. He thought it was about the year 1875, or 1876, when Mr. Griffith introduced the Bill. He was Attorney-General at the time, and the Bill was simply to enable members of the lower branch of the profession to practise in certain courts of law; not that they could force their way into them, but it was to give them a kind of right to appear. He questioned the assertion of his hon. friend with respect to existing law, because he said there was no such law. The rules which the judges were empowered to make might be as wise or as absurd as they chose, but he believed it was not proposed at this moment to interfere with them. He spoke on this subject because his hon. friend seemed to think he (Mr. Walsh) wished to take an undue advantage of him when he asked the name of the Act to which he referred. The hon. gentleman then spoke with reference to the five years' service which gentlemen who wished to become solicitors of the court had to go through. That had nothing to do with this question at all. What had it got to do with the people who had to engage in law proceedings? It might be left to the discretion of the judges whether the term be three or five years; all they demanded was that they should be able to engage in law proceedings in the simplest possible way. It did not matter whether they employed the most ignorant or the most learned lawyers, just as they might go and buy a pair of boots from the very worst bootmaker if the spirit moved them to do so. Why should they dictate in any avocation what class of men should be employed? His hon. friend had referred to the Tasmanian statute, but that did not apply. All he knew was that the profession there was legally amalgamated, and the same with New Zealand. He (Mr. Walsh) trusted hon. members would see that the simpler they kept the Bill the better, and it must be apparent that if they, by allowing his hon. friend to carry his amendment, admitted the thin end of the wedge, the quality of the Bill would be seriously interfered with.

The HON. K. I. O'DOHERTY said he would like to say a word on this matter, as he was not present on a previous occasion when it was under discussion. At first he must say that he could not fall in with the remark of the Hon. Mr. Walsh, to the effect that if they agreed to this amendment of the Hon. Mr. Mein it would necessarily destroy the Bill. So far as he could understand what the Hon. Mr. Mein sought, it was simply that they should, in attempting to amalgamate the profession, take care that everyone who was admitted to perform these double functions of attorney and barrister should have a proper training to reasonably fit him to perform his duties with credit to himself and with safety to the public. He must confess that he could not see how a provision of that kind could destroy the Bill. It simply pointed out, to his mind, a very reasonable mode by which that amalgamation could be brought about to the satisfaction of the people. Hitherto, as far as he was able to understand it, it had been required, not merely in this colony but everywhere else where our institutions were established, that candidates for the legal profession should be tested. These tests, so far as he could understand them, were very suitable for the work that was required. A young man who desired to practise as a solicitor was required—and, he thought, very properly—to spend a term of five years with a duly qualified solicitor, in order that he might acquire not merely a general knowledge of the law, but also a knowledge of the forms in which that law was carried through the various courts, and both these were very important matters. He could understand that it would be perfectly absurd for a man who had only gone through the study required for a barrister, and had passed the literary and legal examinations, to undertake to perform the mechanical work that was required by a solicitor in carrying a case through the court. On the other hand, he could also understand how absurd it would be to call upon a young man, who had simply served his term of five years as a solicitor, without requiring from him some further test of his ability and of his knowledge of law, to practise before the judges of the Supreme Court. So that it seemed to him that the most rational proposition that could be put before the country was the one, as he understood it, that had been moved by the Hon. Mr. Mein. It waived what he had heard mentioned as a grievance—namely, that old practitioners either in one branch or the other should be called upon to pass an examination before he could enter the other branch of the profession. All that was asked for was that there should be a special and suitable examination for those who sought to be attorneys and barristers in the future; and that, he thought, might very well be left to the judges to determine. Who else could be so well fitted as they were to mark out the character and scope of an examination of the kind? Whatever board might be appointed under the Act—and he thought there ought to be a board—the form of examination ought to be left to the judges, and he thought they would be perfectly safe in leaving it to the judges to mark out the scope and nature of the examination required. In his own profession an amalgamation of the same kind as the one now proposed practically existed, and for years they had been endeavouring in Great Britain to carry it out. It was not yet carried out to its fullest perfection, but there had been a continuous effort made for the last ten or twelve years to completely amalgamate the profession, and to arrange that there should be one suitable examination, so that on passing it all distinction between surgeons, doctors, and physicians should cease, and that any man who passed that examination should be admitted on an equal footing with the others in any British dominion. On a different scale this was the same thing. Assuming that examination should be insisted on before any man should be allowed to practise as joint solicitor and barrister—for, if he understood it rightly, that was the meaning of the Hon. Mr. Mein's amendment—he must say that he was very heartily in favour of it.

The POSTMASTER-GENERAL asked if the Hon. Mr. O'Doherty understood the Bill to mean that the candidate had not to pass an examination.

The HON. K. I. O'DOHERTY: Certainly.

The POSTMASTER-GENERAL: Well, it is not so.

The HON. K. I. O'DOHERTY said the hon. member had explained that matter in his speech when moving the amendment.

The HON. C. S. MEIN said that, although he was opposed to the idea, he was willing to give way in order to bring about a reconciliation. He would withdraw—if there was any decided feeling in the Committee to that effect—his second, third, and fourth amendments, provided the Committee would agree to some stipulation that future practitioners must go through some course of training as well as an examination. There was nothing underhand or ungenerous in his action, or any attempt to defeat the object of the clause; and he would submit to any alteration in the phraseology the Committee desired, so long as they allowed that idea to be embodied in the statute—that candidates must be trained for a specified time, and also pass an examination prescribed for them by the judges of the land.

The HON. W. H. WALSH said according to that it would still be left to the judges of the land. All they required was that they should have a combination of the profession so that law could be procured at a cheaper rate than they had been able to obtain it in the past. That was the hope of the people, and the desire of the supporters of the Bill in another Chamber. It was the object of the Bill, and it was the whole object he had in supporting it. He must confess that if such an amendment as that proposed by his hon. friend, notwithstanding the plausible way in which it was put, were adopted, he should consider the Bill not worth going on with.

The HON. C. S. MEIN said the hon. member did not understand his own Bill. If a man went to law at present he employed both a solicitor and a barrister. If a client, under the proposal in this Bill, employed one man, that one man would be certain to charge for the two men's work. That was the invariable practice in the other colonies; and, instead of the law being cheapened by the amalgamation of the professions, the unanimous testimony of all persons competent to pass an opinion upon it—whether barristers, attorneys, or clients—was that it made law much dearer. Even in the small towns of New Zealand and Tasmania he had heard of practitioners where such a law was in force making enormous incomes—more than any man in this colony. There was an instance that came under his own observation in which all the work of a case done here by an attorney did not amount to more than £30; and in the same case the remaining proceedings, which were almost entirely of a formal nature, were transacted in South Australia, and the bill was run up there to about £90, the bulk of which consisted of fees paid to the barrister, who was the partner of the solicitor employed in the case. All he had to do was to go from one room in his office to another and consult his partner upon the matter, and charge his client accordingly. A very payable bill of costs might be piled up under this Bill. It was an excellent medium for the multiplication of legal costs. If the legal profession in this colony was so debased as hon. members of that House wished to persuade them, this Bill would certainly not mend matters, as it gave the utmost facilities to the profession to mulct their unfortunate clients to an unlimited extent. Every solicitor might think it necessary to get the advice of a barrister upon any matter submitted to him.

The HON. W. H. WALSH: He does that now.

The HON. C. S. MEIN said the hon. gentleman's experience must have been very unfortunate. The solicitor, if this Bill was passed, would most likely employ his own counsel, and what would be the position of the client then? Instead of having the choice of counsel in whom he might have the utmost confidence, as a man usually had at present by instructing his solicitor as to which barrister he would like to see employed to conduct his case, if this amalgamation were carried out the solicitor would throw everything in the way of the barrister who was his own partner. They could not legislate against human nature; they must judge by experience, and that was the experience of the other colonies in which this amalgamation existed.

The HON. K. I. O'DOHERTY said he might mention that one of the strongest reasons why he defended an amalgamation Bill, shaped as the Hon. Mr. Mein proposed, was because he had personal experience many years ago of its beneficial working. At that time there was a gentleman practising in Hobart in the dual capacity of solicitor and barrister, who had acquired the honourable title of "the honest lawyer." His name he recollected was Robert Pitcairn. He had no partner, but transacted himself all the joint business of his clients as well as attorney and barrister, and gave such satisfaction that it was supposed he had the best business in the city. At the same time, however, there was no lack of gentlemen practising with success as pure attorneys and pure barristers. A Bill shaped as the Tasmanian Bill was seemed, therefore, to him more likely to satisfy our requirements than the one now proposed.

The HON. P. MACPHERSON said that this matter had already been worn threadbare; but he would give the hon. gentleman in charge of this Bill a word of advice, and he should not charge for it. If the hon. member wished to cheapen law, why did he not ask them to adopt the Act passed in England in 1870, by which the client might contract with his solicitor for what he would carry out his work for?

The HON. F. T. GREGORY said that, in the hope of throwing some light upon this matter, he might make a statement as to what he believed would be the result if this Bill were passed. To begin with, if the judges found in the future that legal men practising in their courts could practise in an amalgamated capacity, he presumed they would require them to undergo certain examinations which would qualify them to take up both positions. He took it that one effect of the passing of this Bill would be that it would become rather more difficult for a man to attain a high standing in either branch of the legal profession in the future than at present. A man's capacity for learning was limited, and one man might have a natural gift and ability for taking up pleadings in a court, and might be very successful as an advocate; and possibly he might take up some particular branch of study in connection therewith. He might be qualified to conduct matters in the criminal courts, and conduct his case in such a way as to be exceedingly successful in getting his clients out of their difficulties. Again, a man having an ability for commercial law would apply himself to commercial relations. And so it would go on through the different branches into which the study of law might be divided—conveyancing, real property, etc. He did not suppose that only one of these would be taken

up; the probability would be that two or three leading branches would be studied, and the result then would be a great convenience to the public. For instance, if a man was charged with horse-stealing, or house-breaking, he would go to the lawyer eminent in that branch; and the person who had a case involving commercial law and practice would go to the legal practitioner who had the highest qualifications in that respect. The result of the passing of the Bill would be that candidates for the legal profession would be obliged to pass examinations of the highest standard, or else they would be unable to undertake the united duties. Still, he did not think this would preclude the same number of legal candidates coming forward to occupy a position in the profession. He thought by this Bill they would get rid of the necessity which existed at present for the attorney or solicitor to secure the services of a special pleader to conduct his cases simply because, as a solicitor, he could not conduct them himself. If this really was the state of the case, he could see no objection whatever to the Bill passing in its present form.

Question—That the words proposed to be omitted stand part of the Bill—put, and the Committee divided:—

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The Hons. B. D. Morehead, W. H. Walsh, L. Hope, F. T. Gregory, J. F. McDougall, J. Taylor, W. Pettigrew, T. Rome, J. C. Foote, W. F. Lambert, and J. Gibbon.

NON-CONTENTS, 10.

The Hons. C. S. Mein, K. I. O'Doherty, C. H. Buzacott, J. Cowlishaw, P. Macpherson, J. Swan, J. S. Turner, G. Edmondstone, F. H. Hart, and J. C. Heussler.

Question, therefore, resolved in the affirmative.

Question—That clause 1, as read, stand part of the Bill—put.

The HON. C. S. MEIN said he had taken the sense of the Committee upon this question, and he had been defeated. He should accept his defeat; but he might congratulate the country that a law was now initiated which would bring the legal profession in Queensland into more contempt than was the case in any other colony.

The HON. C. H. BUZACOTT said he was precluded from taking part in the discussion upon the amendment; and he should say what he wanted to say now. He voted as he did in this matter because he thought it hard that a barrister should be allowed to practise as a solicitor on terms upon which no one else would practise. If, before the solicitor himself could practise, he had to pass a certain examination, it was very hard that a barrister, simply because he was a barrister, should be allowed to do so without passing any such examination. As he noticed the Hon. Mr. Mein had given up all contention upon the Bill since he was defeated on the amendment, he (Mr. Buzacott) should not offer any opposition either; but he would repeat what he said before, and that was that he considered the Bill an incomplete measure, and one which would not attain the object sought to be attained. With that object he thoroughly agreed; but he did not agree with putting upon their statute-book measures ill-digested and crude, as the one before them. The matter, to his mind, was one more of conventionality and etiquette than of statute law. At present there was no law compelling a barrister to go into court with a junior, yet they never saw a barrister go into court without a junior—it was the etiquette of the profession; and all the statutes in the world, it appeared to him, would not do away with this system, which existed purely for conventional reasons, and employed two or three men to do one man's work. Certainly, that object would not be attained by the Bill now before the House, and for that reason he was found voting with the Hon. Mr. Mein in the last division. He made this explanation because his doing so might seem rather inconsistent, after stating on the second reading that he would support the Bill.

Clause put and passed.

Clause 3 agreed to.

On clause 4—"No vested rights to be conferred"—

The HON. C. S. MEIN said he wished to point out to the Committee the effect of the principle initiated by clause 2 of the Bill. By that clause they enabled any attorney of five years' standing to be eligible for appointment as a judge of the Supreme Court or district court. Under the existing state of the law no attorney could become a district court judge unless of seven years' standing. They did not allow an attorney to be appointed registrar, who was a subordinate officer of the Supreme Court, unless he was of seven years' standing; but they allowed a person to be appointed his master—to be Chief Justice of the colony—who might be only twenty-one years of age, simply because he might happen to have passed his examination as an attorney five years before. He might not have practised a year in the court; he might have practised the whole five years, or only a portion of that period; but still they enabled him by this Bill to be competent to be appointed a judge of the Supreme Court. He was sure that in no other part of the world would such a provision as this be found, where it was possible for a lad twenty-one years of age to be appointed Chief Justice in an important community. That clause was of a piece with the whole of the provisions of the Bill, and he was sure that it would reflect great credit upon its framers.

Clause put and passed.

Clause 5—"Short title"—and the preamble having been agreed to, the Bill was reported with amendments, and the third reading made an Order of the Day for to-morrow.

The House adjourned at five minutes past 9 o'clock.