Queensland

Parliamentary Debates
[Hansard]

Legislative Council

WEDNESDAY, 8 SEPTEMBER 1886

LEGISLATIVE COUNCIL.

Wednesday, 8 *September*, 1886.

Message from the Legislative Assembly—Clerical Error in Bill.—Messages from the Administrator of the Government.—Members Expenses Bill—third reading.—Mineral Oils Bill—third reading.—Immigration Act Amendment Bill—committee.—Customs Duties Bill—second reading.—Succession Duties Bill—second reading.—Justices Bill—committee.

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

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.

CLERICAL ERROR IN BILL.

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

"Mr. PRESIDING CHAIRMAN,—The Clerk of the Parliaments having, under the provisions of the 29th Standing Order, reported to this House the following clerical error in the Elections Tribunal Bill, as finally passed by both Houses of Parliament—namely, in line 1 of clause 36 the word 'candidate' occurs where the general phraseology of the Bill appears to require the words 'sitting member'; and this House having amended the said error by the substitution of the words "sitting members returned at the same election in the same district" for the word 'candidate' in line 1, clause 36, beg now to transmit such amendment to the Legislative Council for their concurrence.

"W. H. GROOM,
"Speaker.

"Legislative Assembly Chambers,
"7 September, 1886."

On the motion of the POSTMASTER-GENERAL, the Presiding Chairman left the chair, and the House went into committee to consider the message.

The POSTMASTER-GENERAL moved that the amendment of the Legislative Assembly be agreed to.

Question put and passed.

The House resumed, and the CHAIRMAN reported that the Committee had agreed to the amendment of the Legislative Assembly.

The report was adopted, and the Bill ordered to be returned to the Legislative Assembly by message in the usual form.

MESSAGES FROM THE ADMINISTRATOR OF THE GOVERNMENT.

The POSTMASTER-GENERAL said: Hon. gentlemen,—I have the honour to present five messages from His Excellency the Administrator of the Government.

The PRESIDING CHAIRMAN announced the receipt of messages from the Administrator of the Government, giving his assent to the following Bills:—Pearl-shell and Bêche-de-mer Fisheries Act Amendment Bill; Elections Act of 1885 Amendment Bill; Labourers from British India Act Repeal Bill; Patents, Designs, and Trade Marks Act of 1884 Amendment Bill; and Pacific Island Labourers Act of 1880 Amendment Bill

MEMBERS EXPENSES BILL — THIRD READING.

On the motion of the POSTMASTER-GENERAL, this Bill was read a third time, passed, and ordered to be returned to the Legislative Assembly, by message in the usual form.

MINERAL OILS BILL—THIRD READING.

On the motion of the POSTMASTER-GENERAL, this Bill was read a third time, passed, and ordered to be returned to the Legislative Assembly, by message in the usual form.

IMMIGRATION ACT AMENDMENT BILL—COMMITTEE.

On the motion of the POSTMASTER-GENERAL, the Presiding Chairman left the chair, and the House went into committee to consider this Bill.

Preamble postponed.

Clause 1—"Short title"—put and passed.

On clause 2—"Governor in Council may suspend or restrict provisions of 9th and 12th sections of principal Act, or impose conditions"—

The HON. F. T. GREGORY said he would like to ask the Postmaster-General the application, in the 11th line of the clause, of the words "any of them." There were only two clauses proposed to be suspended by Order in Council, and if the words "either of them" had been used he could have understood it, but the phrase "any of them" referred to any section of the Act.

The POSTMASTER-GENERAL said the phrase referred to the word "provisions." Any of the provisions of the two clauses might be suspended.

Clause put and passed.

Preamble put and passed.

The House resumed, and the CHAIRMAN reported the Bill without amendment.

The report was adopted, and the third reading made an Order of the Day for to-morrow.

CUSTOMS DUTIES BILL—SECOND READING.

The POSTMASTER-GENERAL said: I beg to move that this Bill be now read a second time.

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

SUCCESSION DUTIES BILL—SECOND READING.

The POSTMASTER-GENERAL said: I beg to move that this Bill be now read a second time.

The HON. F. T. GREGORY said: Hon. gentlemen,—I have no intention of discussing the Bill just now. It is almost purely a matter of revenue—a means of obtaining a greater amount of revenue for the country—and I look

upon it as the natural outcome of the necessities and requirements of the country. My purpose in rising now is with a view of drawing attention to the 25th section of the Bill, which, to my mind, is not very clear. It proves that this may be made a very inquisitorial and possibly a very unjust clause when applied to those who may have had no intention whatever of defrauding the revenue. Parties, to my own knowledge, are constantly transferring real properties from one member of the family to another for the purpose of adjusting their liabilities, or some reason of that sort, and unless there is some power provided by which the matter may be considered and adjusted without being, as I have before stated, too inquisitorial, I would like to see the clause in some way so far modified as to do away with the objection to which I referred. I will not detain the House any further just now. The measure, generally speaking, is one which, as I have said before, seems to be the natural outcome of the necessities of the country.

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

On the motion of the POSTMASTER-GENERAL, the committal of the Bill was made an Order of the Day for to-morrow.

JUSTICES BILL—COMMITTEE.

On this Order of the Day being read, the Presiding Chairman left the chair, and the House went into committee further to consider the Bill in detail.

Clause 4—"Interpretation"—postponed.

On clause 8, as follows :—

"The chairman for the time being of every municipal district shall, by virtue of his office and without any further commission or authority than this Act, be a justice of and for such municipal district"—

The HON. F. T. GREGORY said the clause was of the same purport as that which appeared in the Bill of last session, and was retained by a majority of one. Having had an opportunity of discussing the question with a number of members of divisional boards, he was of opinion that they were not in favour of the clause, and he should test the opinion of the Committee by calling for a division on it. With very few exceptions, the chairmen and presidents of divisional boards and shire councils were men who were qualified to hold the position of justice of the peace independent of their public position, but there were instances in which men who were totally unfit to be magistrates might be elected chairmen or presidents of boards or councils, and it would be an onerous duty for a Minister of the Crown to deprive such men of the functions they acquired by virtue of the Divisional Boards Act or the Local Government Act. The Bill before the Committee did not constitute presidents of shire councils or chairmen of divisional boards, but they were recognised by the 8th clause of the Bill under discussion. When the Divisional Boards Act Amendment Bill came before that Chamber he should draw attention to the clause dealing with the subject, with the view of having it omitted.

The HON. G. KING said he agreed with the Hon. Mr. Gregory. He did not think any person should be appointed a justice of the peace by virtue of his office; that appointment should come directly from the Government, who should be responsible for the appointment. In the present case the responsibility would be taken out of their hands, because any person might become a justice of the peace, under the provisions of the clause, without having been appointed by the Government.

The HON. W. HORATIO WILSON said the 8th and 9th clauses of the Bill were taken from the Local Government Act, and as far as he could ascertain the provisions they contained had worked very well up to the present time. The appointments of justices were usually made in January, and the election of members of divisional boards and municipalities took place in February, so that it would be a matter of inconvenience for the Government to have to specially appoint as justices of the peace chairmen of divisional boards who were elected in the month of February. It was far better that they should be justices of the peace by virtue of their office. And suppose any unfit person—such a thing had never happened in Queensland yet—suppose such a person became a chairman, it was within the power of the Government to deal with that person by clause 9. But the Government had never up to the present time had to prohibit any such person from acting as a justice of the peace. As a matter of practice, the fact of a chairman of a divisional board being by virtue of his office a justice of the peace, worked exceedingly well. He was made a member of the Licensing Bench, and could do other small matters within his district. Hon. members would notice that his action as a justice of the peace was limited to the district of which he was chairman.

The HON. A. C. GREGORY said he knew of one occasion on which a justice of the peace who had been removed from the Commission for a very good reason was nominated and very nearly elected chairman of a divisional board, and he thought it would be far better that the Government should place the chairmen on the Commission of the Peace after election if they were not already justices of the peace. This was not the proper occasion to finally arrive at a decision as to whether chairmen should be justices of the peace *ex officio* or not; that question involved some very important matters which had to be considered in dealing with any Local Government Act, and there was now before Parliament an amending Divisional Boards Bill, and they were promised another which would touch on local government. If they left clauses 8 and 9 out of the Bill they would leave themselves perfectly free as to deciding whether chairmen should or should not be justices of the peace *ex officio*. He decidedly thought that no person should be placed on the Commission of the Peace without the direct action of the Government, and that no one should be elected by any body of persons in the colony to the position of justice of the peace. A great deal had been said about unsuitable individuals that had been placed upon the Commission, and it was far better to throw the responsibility of all appointments, without exception, on the Government. The omission of clauses 8 and 9 would not prejudice the existing state of things, nor would it prejudice what would hereafter be the case; and it would be very much more convenient to discuss the question of chairmen of divisional boards being magistrates *ex officio* when they came to deal with the ground on which they were appointed and the Act under which they were to be appointed. He should therefore vote against the clause.

The HON. J. TAYLOR said he also should vote against the clause. He knew of two cases in which magistrates were taken off the Commission of the Peace for reasons which he would not state, but who were afterwards in a position to sit on the bench by virtue of being chairmen; one was a mayor, and the other chairman of a divisional board. He thought the appointment of magistrates should be made by the Governor

in Council, and no other person. If the clause were passed it would simply allow the election of magistrates by the people—nothing more or less.

The HON. G. KING said he thought the Government would be placed in a far less invidious position if the clauses were left out than if they had to remove from the Commission of the Peace gentlemen who became justices by virtue of their office. It was in view of the unpleasant alternative as much as anything else that he should vote for the omission of the clause.

The HON. A. J. THYNNE said it would be better to omit from the Justices Bill provisions relating to chairmen of divisional boards, and put them into the Bill dealing with local government matters—if they were put in at all. No doubt it might be very invidious for the Government to remove from the Commission of the Peace a man who had been elected to the position by the people of the district; but while he agreed that in the majority of instances there would be some reason for the removal, he knew of one case where a very great injustice was done by the Government in striking off the name of a very honourable man through some misconception. The injustice was remedied, however, by the people of the district at once, who expressed their opinion of the action of the Government by placing him in the highest public position it was in their power to place him. No doubt, in the majority of instances when a man was struck off it was undesirable that he should be placed in a position to act as a justice without the consent of the Government, but it was on the ground that the provision ought not to be made in the Justices Act at all that he should vote against the retention of the clause.

The HON. A. HERON WILSON said he should vote for the retention of the clause, especially as it was limited by clause 9. He did not see why a man who was chosen to act as chairman of a divisional board on account of the abilities he possessed should not be considered qualified to be a magistrate, and use the powers given to him in the matter of granting licenses. Perhaps any magistrate could sit on the bench and give his opinion as to whether a man should have a license or not, but no one had so much knowledge of his own particular district as the chairman of the board. He should therefore vote for the clause, as clause 9 gave the Governor in Council power to prohibit a chairman from acting as a justice of the peace if he was an unworthy man.

The HON. F. T. GREGORY said the only point that had been raised against the omission of the clause was that the chairman of a divisional board or the president of a shire council would not be in a position to act as a justice of the peace at the moment he was elected. So far so good, but the objection was such a very trivial one as compared to the objection raised on the other side, that the weight of argument was very much against it. In eliminating the clause from the Bill it was not in any way proposed to do that which would embarrass the Government; it was just the reverse. There was nothing vital in the amendment and nothing that would prevent the passage of the Bill. The proposal to omit the clause was based on good arguments, and fair reasons had been advanced why it should be omitted. He quite disowned any intention to raise an objection as against the measure itself. He really thought it was for the good of the country, and under those circumstances he thought hon. gentlemen, wherever they might hold their seats, would give an independent vote in the matter.

The HON. W. HORATIO WILSON said he would like to point out one other matter which he had omitted to mention. Supposing the two clauses were expunged the Government would be in this position: They would have to make their list in January, and have to issue another list in February, and supposing that, in their opinion, any gentlemen who had been elected to be chairmen of certain divisional boards were unfit to hold the Commission of the Peace, they would have to leave their names off. Now, he thought that would be quite as invidious a task for the Government to pursue as to leave names off in the first instance. There was the authority to sit as a magistrate given in clause 8, and the Government under those circumstances simply did nothing at all. The party who was appointed chairman of the division became then *ex officio* a justice of the peace. He thought it was very much better that it should be so rather than that the Government should have to leave him off the Commission of the Peace, which they would have to do if the clause was omitted.

The HON. J. TAYLOR said he did not see any difficulties in the appointment of magistrates either in January, February, March, or any other month if the Government chose to appoint them. Nearly every month of the year they saw fresh magistrates being appointed.

The HON. W. F. TAYLOR said he had long held the opinion that mayors of municipalities and chairmen of divisional boards, as a class, should not be magistrates, and he had arrived at that opinion after watching the effects of the Acts which gave power to those people to act as magistrates. He had known a number of people, at all events two or three, who were appointed as mayors or chairmen of divisional boards who were by no means fit for the position, and consequently were not fit to act as magistrates. It was a well-known fact that there were a great number of bad appointments to the magistracy, but he thought that was no reason why they should endeavour in that wholesale manner to appoint magistrates. He agreed, to a certain extent, with what the Hon. W. H. Wilson had said, that the Government would be prevented from appointing chairmen of municipalities as magistrates by reason of the appointment as chairmen taking place some months later than the annual appointment of magistrates. But he did not think that that was a very strong argument, because, as had already been stated by another hon. gentleman, magistrates were constantly being appointed and could be appointed at any time. Under all the circumstances he thought the two clauses had better be omitted from the Bill.

The POSTMASTER-GENERAL said the Hon. W. H. Wilson had anticipated him in referring to the matter which he spoke of when he last addressed the House, and he would not refer to that again. But some earlier speaker had stated that the clause practically gave to the people the appointment of magistrates. That was true, but to a very small extent indeed. The clause only related to municipal districts, and it was only within those districts that the magisterial powers were to be exercised. Now, why should the people who elected the chairmen not elect the magistrates? That House, as was stated only last week by one of the Hon. Messrs. Gregory, was to a large extent representative of the people, and through the people the House subsisted. The people elected members of Parliament; they were the governors of the colony, and, forsooth, why should the privilege of being a magistrate not attach to the office of chairmen of divisional boards or municipal districts? Where was the consistency in objecting to that? The Hon. J. Taylor had a very wholesome terror of those divisional board chairmen. Now, the evil would be small, if

there was any evil connected with the case at all. Those chairmen were only elected for one year, and he would further intimate to hon. gentlemen that the Government were extremely anxious that those two clauses should pass as they stood. Personally he was very anxious that they should remain as they were, and he did not wish that so good a Bill should be endangered, as it might be, by the exclusion of the clauses. As had been stated before, the Government most decidedly preferred to exercise the power conferred upon them in clause 9 rather than proceed under the old method of appointing every chairman as a magistrate year by year, and then omit the names afterwards from the annual list. The Hon. Mr. Taylor said appointments were made to the magistracy monthly, but he (the Postmaster-General) could assure him that for some considerable time past that had not been done. The annual list was prepared, and unless there was some special reason given no fresh magistrates were appointed. In some particular district there might be a scarcity of magistrates, and appointments were made as a matter of urgency; but it had been the practice for some time not to appoint magistrates after the annual revision unless in cases of exigency—not to appoint them after the annual revision of the list in December and its publication in January. Most of the chairmen were elected in February, and there would be some administrative trouble in appointing magistrates in March, as would have to be done if the clause was expunged from the Bill. There had been nothing alleged at all against the wholesomeness of the two clauses. For seven or eight or nine years it had been the law of the land, and what evil had occurred? None at all. The Hon. A. C. Gregory said someone nearly became chairman of a divisional board whose name had been previously left off the Commission of the Peace, but that was no argument against the stability of that mode of appointing magistrates. To omit the clause would mean this: It would mean many acts instead of one act that the Government would have to do. There was the difference, and why should all that administrative trouble be taken? Moreover, he would state, on behalf of the Government, that they very much preferred to take the responsibility of excluding someone from the magistracy under clause 9 than to adopt the mode which would obtain if the clause was omitted from the Bill. He sincerely trusted the clause would pass. He expressed that desire because he was extremely anxious that the Bill should become law, and as far as he could see there had been no substantial grounds alleged for the omission of clauses 8 and 9. No evil had been alleged to exist with regard to the existing law. No evil had transpired. If there had been no damage during the past eight or nine years, why should objections be alleged against the continuation of what had subsisted for some time with the asserted positive advantage to the country? The chairmen of divisional boards were men who were lifted up to that position by the people themselves, and they would be held entitled to the position of magistrates. They performed a great many little administrative duties. Thankless work it was, as they all knew, but still the people were the Government. The people of a municipal district were a government of themselves. Who should know better than they? He was inclined to go further and say that the people of municipal districts, growing as they were in population and influence from year to year, probably knew more as to the stability of the men who were chairmen of divisional boards than the Government of the day did as to the stability and worth of many men who were appointed to the magistracy. That applied to the whole of Australia, and not only to our colony. For those reasons he respectfully hoped that the clauses would pass as they stood.

The HON. F. T. GREGORY said he should not have spoken again but for a remark made by the Postmaster-General twice during the progress of the discussion, wherein he indirectly threw out the threat that the Bill would not be passed at all by the Government if the two clauses 8 and 9 were omitted. Now, that seemed a very singular thing indeed. He did not know whether he was right in drawing that inference from the expressions used by the hon. gentleman, but it struck him very forcibly that that was by no means a proper threat to emanate from the representative of the Government unless some principle of the Bill was threatened. There was a Bill which was recognised to be a good and useful measure as a whole, and yet, because one particular section, which really was not at all essential, was objected to, the Postmaster-General held out the threat that the measure would not pass if that section was eliminated. He (Hon. F. T. Gregory) strongly protested against anything of that sort. With regard to the question that magistrates should be elected by the people of the colony, which the Postmaster-General appeared to be so partial to, that was so totally opposed to the spirit in which the discussion connected with the magistracy had been carried on during the last ten or fifteen years that he could not help calling attention to it. It was well known that very strong opinions had been expressed, both inside the House and elsewhere, that magistrates should not even be appointed by the Government of the day, but that the appointments should rest with the Supreme Court. By leaving the magistrates to be elected by small isolated local bodies, the evil which now existed would be only aggravated. He regretted very much that the hon. gentleman should choose such an occasion to enunciate views so opposed to the spirit of the times and so revolutionary in their nature.

The HON. J. D. MACANSH said he must say he was of opinion that there was no necessity to retain the two clauses in the Bill, seeing that they would soon have the Local Government Bill before them, when the desirability of chairmen of municipalities and divisional boards being *ex officio* magistrates could be fully discussed. He certainly was opposed to the appointment of chairmen of divisional boards as magistrates unless they were appointed by the Government, and he should vote against the clause. No doubt the majority of men who were appointed to such positions were men well qualified, but there were cases where most unfit men had been elected as chairmen of divisional boards and had become magistrates. It would be a very invidious position to put the Government in to have to supersede those men.

The POSTMASTER-GENERAL said the last speaker must remember that it would be very much more invidious if the Government had to omit from the annual list the names of those who were magistrates for the year only. Suppose one chairman out of a hundred chairmen was unfit to be a magistrate, was it not better that the Government of the day should exercise the power contained in clause 9 and omit his name from the Commission rather than they should omit the ninety-nine names at the end of the year? The hon. gentleman evidently did not see that the provision in clause 9 gave the Government absolute power to deal with all cases. He (the Postmaster-General) did not see that the Government would be put in an invidious position by having to deal with those cases; it called the public attention to them, and it taught the district that they ought not to elect

a type of man who was unfit to exercise magisterial functions. The object hon. gentlemen had in supporting the amendment was that the larger number of cases should be dealt with, and put upon those men the bad reputation that might accrue from the omission of their names. He hoped hon. gentlemen would observe that clause 9 gave the fullest power, and that no honest Government would hesitate to exercise the power conferred upon it.

The HON. G. KING said he had spoken to several hon. gentlemen of the other House, and they had said that the clauses were passed by mistake, and they would be very glad to see them omitted. If they were to adopt the argument of his hon. friend the Postmaster-General and allow the people to elect the magistrates, they would have as great a curse in this colony as free selection before survey was in New South Wales.

The HON. J. TAYLOR said the Postmaster-General appeared to be very fond of referring to the previous speaker, the Hon. Mr. Macansh, but he had no hesitation in saying that that hon. gentleman knew far more about the chairmen of divisional boards than the Postmaster-General. He knew the mode in which those men were elected, and, in fact, everything connected with divisional boards far better than the Postmaster-General. What did people in Brisbane know of those kinds of things? Did they know anything of the way in which divisional boards managed their business? Did they know how the chairmen were elected? Not they. The Postmaster-General had said that he had a "down" upon divisional boards and their chairmen, but he could tell the hon. gentleman that he had been chairman of one board for five years, and of another for eight years. He therefore thought he could not have much "down" upon them.

The POSTMASTER-GENERAL: I did not say "down."

The HON. J. TAYLOR said then he should like the hon. gentleman to say what he did say. He used the words "down," "dislike," or something of that sort. The hon. gentleman also said that it would give the Government a great deal more trouble if the appointments were made afterwards. He would like to know what trouble there was now? The Government were paid for performing their duty, and they had got a lot of clerks and secretaries under them to do the work. As to appointing magistrates during the year after the annual list came out, he had repeatedly seen two or three names gazetted. He trusted the clause would be thrown out, especially after what the Hon. Mr. King had said.

The POSTMASTER-GENERAL said it was just as well that he should answer one observation made by the hon. gentleman when he asked what did the Postmaster-General know about chairmen of divisional boards as compared with the Hon. Mr. Macansh or himself? He could tell the hon. gentleman that he had been longer connected with local government than either of the gentlemen concerned, and that he had had a very intimate experience of it. The hon. gentleman asked what did people in Brisbane know of local government. But what did they know of it in Toowoomba? Was Toowoomba the centre of all the brain-power of Australia? The hon. gentleman talked nonsense, and he (the Postmaster-General) repeated that he had as much, if not more, experience than the hon. gentleman. He must give one fact against his assertions.

The HON. W. HORATIO WILSON said he could not understand how it was that some hon. gentlemen were desirous of altering the law as it at present existed. He would point out that the 126th section of the Local Government Act said:—

"Subject to the provisions of any law now or hereafter in force relating to justices of the peace, the chairman for the time being of any municipality during his tenure of office shall, by virtue of his office, be a justice of the peace of and for Queensland."

And the proviso said:—

"And provided further, that any person, being a justice of the peace by virtue of his office as chairman of a municipality, shall not thereby become entitled to sit or act as such justice in any court not holden within the municipal district of the municipality for which he is chairman."

Justices of the peace were referred to in that Act, and surely it was uniform and proper that the law as at present contained in the Local Government Act relating to chairmen of municipal districts being justices, should be adopted when dealing with the same subject in another measure! It had been said over and over again that there was very little new law in the measure, and the object of the clause being left in was to render the Justices Bill uniform with the Local Government Act. He thought it was paying a very poor compliment to chairmen of divisional boards, the highest officers appointed by members of divisional boards who were elected by the general body of the ratepayers, to say that they were unfit to exercise the duties of justices of the peace.

The HON. A. J. THYNNE said the hon. gentleman put a wrong construction upon the arguments offered against maintaining the section. It was not urged that the chairmen of divisional boards as a whole were unfit to hold the position of magistrate. Everyone recognised that the great majority of them were fit to sit on the bench; but there were some exceptions. All judicial appointments ought to rest with the Crown, and, as he took it, the contention the hon. gentleman had put forward was that such appointments should still be left with the Crown. The hon. gentleman referred to the Local Government Act, and quoted a similar clause to clause 8. That was the proper place for a provision of that kind to exist, and not in the Bill under discussion. That was the very reason why he intended to vote against the retention of the clause.

The HON. J. COWLISHAW said the Government made the appointment of magistrates in January, and they knew that generally all eligible persons in the different districts were chosen. The mere fact of a chairman of a municipal district or divisional board not being a justice of the peace would show that the Government thought him an unfit person to act as a justice. He did not think the fact of a man being appointed as chairman of a divisional board should carry with it the *ex officio* office of justice of the peace.

Question—That clause 8 stand part of the Bill—put, and the Committee divided:—

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The Hons. T. Macdonald-Paterson, F. H. Holberton, W. Horatio Wilson, W. Pettigrew, A. Heron Wilson, J. C. Foote, F. T. Brentnall, J. S. Turner, and J. C. Heussler.

NON-CONTENTS, 10.

The Hons. A. C. Gregory, F. T. Gregory, G. King, J. F. McDougall, J. Taylor, A. J. Thynne, A. Raff, W. F. Taylor, J. D. Macansh, and J. Cowlishaw.

Question resolved in the negative.

Clause 9—"Unless prohibited"—put and negatived.

On clause 28, as follows :—

"Except as hereinafter provided, when two or more justices are present and acting at the hearing of any matter and do not agree, the decision of the majority shall be the decision of the justices, and if they are equally divided in opinion, the case shall be reheard at a time to be appointed by the justices.

"Provided that upon a complaint for an indictable offence a police magistrate, if he is one of the justices, may commit the defendant for trial, notwithstanding that a majority of the justices are of opinion that the defendant should be discharged. In any such case, a memorandum of the dissent of the majority of the justices shall be made upon or attached to the depositions."

The HON. A. J. THYNNE moved the omission of the words "if he is one," with a view of inserting the words "and in the absence of the police magistrate any one or more." That would give the police magistrate the power already provided by the clause, and would at the same time obviate the danger of a bench being packed in the absence of the police magistrate for the purpose of acquitting a defendant who ought to be committed for trial.

The POSTMASTER-GENERAL said that though the amendment appeared simple it dealt with a very important matter, and would require consideration. He thought it would be better to postpone the clause till to-morrow.

Clause postponed.

On clause 69, as follows :—

"A person taken into custody for an offence without a warrant shall be brought before a justice as soon as practicable after he is taken into custody; and if it is not practicable to bring him before a justice within twenty-four hours after he is so taken into custody, an inspector or sub-inspector of police, or other police officer who is of equal or superior rank or who is in charge of a police station, may and shall inquire into the case, and, except where the offence appears to such inspector, sub-inspector, or other police officer to be of a serious nature, shall discharge the defendant upon his entering into a recognisance, with or without sureties, for a reasonable amount, to appear before justices at the day, time, and place named in the recognisance"—

The HON. A. J. THYNNE moved the insertion of the words "a clerk of petty sessions or" after the word "custody," before the words "an inspector." His object was to make the clause fit in with clause 94, where "recognisances generally" were authorised to be taken before clerks of petty sessions. It would be strange if in a country place where there was a clerk of petty sessions but no magistrate the sergeant of police or the constable should have power, under certain circumstances, to discharge the defendant upon his entering into recognisances, while the clerk of petty sessions had not the power to do so.

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

Clause 80 was amended, on the motion of the Hon. A. J. THYNNE, so as to read as follows :—

A warrant for the apprehension of a witness may, if necessary, be backed in order to its being executed out of the jurisdiction of the justice who issued it; and may be executed as hereinbefore provided in the case of warrants for the apprehension of defendants.

Without the amendment there would be no statutory authority for the execution of a warrant under the circumstances provided by the section.

Clause, as amended, put and passed.

On the motion of the Hon. A. J. THYNNE, verbal amendments were made in clauses 87, 88, and 92.

On clause 94, as follows :—

"When justices have fixed as regards any recognisance the amount in which the principal and sureties (if any) are to be bound, the recognisance, notwithstanding anything in this or any other Act, need not be entered into before the same justices, but may be entered into by the parties before the same or any other justice or justices, or before any clerk of petty sessions, or before an inspector or sub-inspector of police or other police officer who is of equal or superior rank or who is in charge of a police station, or, where any one of the parties is in gaol, before the keeper of such gaol; and thereupon all the consequences of law shall ensue, and the provisions of this Act with respect to recognisances taken before justices shall apply, as if the recognisances had been entered into before such justices as heretofore by law required"—

The HON. A. J. THYNNE moved the insertion, after the words "sessions or," of the words "where it is not practicable to have the recognisance entered into before a justice or a clerk of petty sessions."

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

The POSTMASTER-GENERAL moved that the Chairman leave the chair, report progress, and ask leave to sit again.

Question put and passed.

The House resumed, and the Committee obtained leave to sit again to-morrow.

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