Queensland

Parliamentary Debates
[Hansard]

Legislative Council

TUESDAY, 25 SEPTEMBER 1900

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LEGISLATIVE COUNCIL.

TUESDAY, 25 SEPTEMBER, 1900.

The PRESIDENT took the chair at half-past 3 o clock.

PASTORAL LEASES ACT OF 1869 AMENDMENT BILL.

ASSENT.

The PRESIDENT announced the receipt of a message from His Excellency the Governor intimating that the Royal assent had been given to this Bill.

PAPER.

The following paper, laid on the table, was ordered to be printed:—Report of the Railway Commissioner for the year ended 30th June, 1900.

PETITION.

HEALTH BILL.

HON. W. G. POWER presented a petition from thirty-four master bakers of Brisbane and suburbs, complaining that the provisions of the Bread Act, with further drastic amendments, were to be re-enacted in the Health Bill; and praying to be heard on the subject before the House or a select committee thereof.

Petition read and received.

HEALTH BILL.

COMMITTEE.

Clauses 1 to 4, inclusive, put and passed.

On clause 5—"Interpretation: Minister"—

HON. W. F. TAYLOR said that, for some unexplained reason, the amendments of which he had given notice had not been circulated, and therefore hon. gentlemen had not had an opportunity of considering them so carefully as they might have done.

The CHAIRMAN: Will the hon. gentleman allow me to interrupt him. So far as my own papers are concerned, they contained these amendments a day or two ago.

HON. W. F. TAYLOR: Hon. gentlemen near him had told him they had not received them. The amendment he wished to propose in the clause was to omit the words "Home Secretary," with the view of inserting the words "Minister for Public Health." To all intents and purposes a department of public health was created by the Bill, and they ought to recognise that fact. Although provision might not exist at present for the appointment of a Minister for public health, the clause read "or other Minister of the Crown charged with the administration of this Act." If an Act of that sort was to be administered properly, the onus of administering it must rest upon a Minister, who would be responsible to Parliament and the country for its due administration, no matter what power was conferred upon any of his officers. The insertion of those words would not alter the scope and effect of the Bill, and it would render it an easy matter in future, should it be deemed advisable to appoint a Minister for public health. The duties might be undertaken by any Minister of the Crown, such as the Secretary for Agriculture or the Postmaster-General.

The POSTMASTER-GENERAL (Hon. J. G. Drake): The amendment, from one point of view, appeared to be a very important one. As a matter of fact, the substitution of the words proposed would not make any alteration as far as the working of the Act was concerned, but it would mean that there was going to be a Minister whose official title would be Minister for Public Health; and he did not think a Minister for public health could be created without an alteration of the Officials in Parliament Act. If the hon. gentlemen desired that there should be a Minister for public health, he should take some other steps in order to ensure his ideas being carried out. Seeing there was no Minister having that title, it seemed to him rather unwise to alter the measure now by putting in the title of a Minister who did not exist. With regard to the merits of the amendment he did not see the necessity for the creation of a new Minister to administer the Act. Having already brought into existence a commissioner vested with very extensive powers, the importance of the Minister in connection with the administration of the Act became somewhat less than it would have been otherwise. In other words, it rendered the existence of a separate Minister of public health rather more unnecessary than it was before. Hitherto the Home Secretary had, under considerable difficulties, administered matters relating to the public health, and he thought he would be able in the future to do what he had done in the past. Certain changes had been hinted at by one hon. member of the Chamber in connection with federation, and he did not think it was at all an appropriate time, just as they were going into federation, to contemplate the creation of an additional Minister. Under those circumstances it was impossible for him to accept the amendment.

HON. W. F. TAYLOR: By the new clause which he proposed should be inserted after clause 34, he intended that some person having an official standing in dealing with matters of public health should be appointed, and he proposed that such an official should be fully charged with all the powers given to the commissioner under the Bill. He believed the establishment of a department of public health was just as necessary as that of a department of agriculture or a department of education, or any other department. He knew of no other department at present existing that was as important as a department of public health so far as the public were concerned, and it surely should have a responsible head. According to that Bill a sort of quasi department of public health would be established, but it would simply be an appendage to the Home Secretary's Department, and all its official communications would go through the Under Secretary to the Home Secretary's Department, notwithstanding the fact that they were creating a commissioner at a big salary, with large executive powers, a board of health, and a number of inspectors. To all intents and purposes a department of public health was being created by the Bill, and he thought that should be recognised by the appointment of a responsible head. To say that an important department of that sort might be administered by the Home Secretary, or any other Minister who might be appointed, was making altogether too light of the matter. The fact that there was no Minister for public health at present was no reason why there should not be one; and though the present Home Secretary might be able to carry out the work, another Home Secretary might not, and they should make the Bill, as far as they could, such as would meet a contingency of the kind in the future.

The POSTMASTER-GENERAL did not wish any hon. gentleman to think he underrated the importance of the subject. Nothing could be more important than the health of the people of the colony. But when talking about creating a department, with a new Minister, another view should also be taken, and that was as to the amount of work the proposed department would have to do in administering the Act. The Hon. Dr. Taylor compared the health department with other departments of Government, and amongst them the Education Department. He was in a position to say that the Education Department always involved a great deal of work for the Minister in charge, but he was inclined to think that a Minister created solely for the purpose of administering that Bill would have but very little to do for the greater part of his time. He said that without underrating the vast importance of the whole subject.

Hon. W. F. TAYLOR: He might be Home Secretary as well.

The POSTMASTER-GENERAL: There might be special times, as there had been lately under the plague visitation, when the Minister administering the department of health would have a very great deal of work; but he could see no work connected with this subject that would continually occupy a Minister during the year. He thought therefore that there was no justification for the creation of a separate Minister to administer that Bill. With regard to the amendment which the hon. gentleman proposed to insert after clause 34, he could see no necessary connection between it and the amendment now before the Committee, and its consideration might be postponed until they arrived at that part of the Bill in which the hon. gentleman proposed to insert it, because the acceptance of the amendment now proposed did not involve the acceptance or rejection of the second amendment.

HON. A. J. THYNNE rose for the purpose of getting some more light on the subject than he had at present. The complaint, as he understood it up to the present time, had been that the Central Board of Health was put entirely under the domination of the Minister, and could not take independent action in any form; and he was afraid the Hon. Dr. Taylor wanted to put the health authority constituted under that Bill in exactly the same position. He did not agree with the Postmaster-General on the subject of the second amendment suggested, because he considered the two amendments suggested by the Hon. Dr. Taylor must be looked at together. The hon. gentleman proposed in the second amendment that the "Minister for public health" should have complete domination and control, and might supersede anything and everything the commissioner under the Bill might propose to do. If that were to be done, he failed to see that they would be making much progress beyond the present condition of affairs.

The POSTMASTER-GENERAL: We should not want the commissioner, certainly.

HON. A. J. THYNNE: It seemed to him that if the Minister was to have the powers proposed by Dr. Taylor the public, the commissioner, and the board of health constituted under that Bill would be in no better position than they were at present. That, he [4 p.m.] thought, was a matter upon which the Committee should come to some decision as to what really was to be the policy of the Bill. Were they to have, as he thought was intended by the Bill, a commissioner invested with extensive powers and advised by a body of persons competent to advise him in matters of public health, or were they to have a powerless constitution directed and controlled by the Minister, no matter who he might be? When federation came about, and Ministers were relieved of certain departments they had to administer at present, that might be found a convenient time to fill up the vacancy by the appointment of a learned doctor as Minister for public health. He agreed that the Central Board of Health to be effective should have greater powers than it at present posse-sed, and it appeared to him that the Hon. Dr. Taylor by his amendments was going back, in that Bill, to the position they found the Central Board of Health in at the present time.

HON. W. FORREST did not see the slightest necessity for the amendment. In the Bill "the Minister" was defined to be "the Home Secretary or other Minister of the Crown charged with the administration of this Act." Suppose they were to decide that a Minister for public health should be appointed, there was nothing to show that he would be a specialist any more than the present Home Secretary, if as much. It was better to leave the clause as it stood.

HON. E. J. STEVENS did not consider the amendment necessary. The appointment specially of a Minister for public health might be left to the future. With respect to what had fallen from the Hon. A. J. Thynne, he pointed out that under clause 22 the Minister practically had the power after all under that Bill, because it provided that the orders of the commissioner were to be binding "when confirmed by the Minister."

HON. W. F. TAYLOR: The Postmaster-General had raised the objection to this proposal that during times when there was an absence of epidemic diseases the department for public health would have little or nothing to do. He did not agree with the hon. gentleman at all, because that was just the time when the health department should work, and make preparation to prevent the introduction of such diseases into the colony. It was not after they had been introduced that the work should be done. If such a department was created it would always find plenty of work to do, and as their population increased the work would steadily and rapidly increase. At present they were in a very crude position in respect to health matters, and any man who undertook to administer that Act would have a great deal of work to do for many years before he could claim to have matters affecting the public health in a satisfactory state. Even if there was not too much work to do there was no reason why, for instance, the Secretary for Public Instruction should not also be secretary for public health. The two offices would go well together, and it would be well for the mental and physical education of the children of the colony to be controlled by the one Ministerial head. The Secretary for Public Instruction would then be in a position to command the whole subject, and while seeing that the rising generation were provided with healthy minds, he could see that they had healthy bodies as well. He certainly was the man who should occupy the position. With regard to the remarks of the Hon. Mr. Thynne, he pointed out it was proposed that the Board of Health constituted under that Bill should be no more than an advisory body. The only difference there was the appointment of the commissioner with certain executive powers. At present if a local authority permitted a nuisance, no matter how urgent it might be that it should be abated, the Central Board of Health required to apply first to the local authority, and if no notice was taken they then applied to the Governor in Council. The Governor in Council then, after due inquiry, called upon the local authority to abate the nuisance, and, if they did not do so, after much communication, the Central Board of Health was empowered by the Governor in Council to take action. That occupied about six months, and the hon. gentleman would remember the instance he had given on the second reading of the Bill. It was to avoid that sort of thing that he wished to create a responsible Minister who would be prepared to step in and act, even where the commissioner under that Bill was not willing to act. In clause 12 they provided that the commissioner might do certain things if asked by the Governor in Council to do them. He might or might not do them at his own sweet will. No one cou'd compel him to do them. The only power they had was to stop him from doing certain things. He did not wish to say much at present about the second amendment of which he had given notice. In Victoria they had a very good Health Act indeed. There they had a medical inspector, who was chairman of the Central Board of Health, and that medical inspector occupied precisely the position proposed to be occupied by the commissioner under that Bill; but the Minister had full power to exercise all the powers of the Central Board of Health and of the commissioner when he deemed it advisable to do so. The same power should be given in that Bill, and his second amendment was a reprint, with the necessary alterations, of the corresponding clause in the Victorian Act. It was absolutely necessary that there should be some person behind the commissioner to do work in urgent cases which the commissioner, from some cause or other, did not, or could not, or had neglected to do; and that person should be the Minister charged with the administration of the Act.

The POSTMASTER-GENERAL: When the Hon. Dr. Taylor spoke first he was under the impression that he desired that a separate Minister for public health should be created whose duty would be to look after that subject solely. He understood now it was something very

different the hon. gentleman contemplated—that a Minister holding another portfolio should administer that Act as well. He would point out that that being so, the amendment was entirely unnecessary. It was only necessary that the Minister for Public Instruction, say—the hon. gentleman having been really too complimentary to him to suppose him capable of administering three departments—should be charged with the duty of administering that Act by the Governor in Council.

Hon. W. F. TAYLOR: In the name of the Minister for public health.

The POSTMASTER-GENERAL: Why?

Hon. W. F. TAYLOR: Because it will create a department.

The POSTMASTER-GENERAL: He did not see any advantage in creating a fresh department. There was a certain amount of danger in it. It generally led to unlimited expense, and the department got to take a rigid form and became incapable of reform to a great extent. The Hon. Dr. Taylor had not shown that it was desirable that there should be a separate department created.

Amendment negatived; and clause, as printed, put and passed.

Clauses 6 to 9, inclusive, put and passed.

On clause 10—"Commissioner of public health"—

HON. W. F. TAYLOR said it would be noticed that the commissioner was to be a medical practitioner and "expert in sanitary science." It was generally understood that all medical men were experts in sanitary science. But that did not follow; some medical men knew nothing about it. A number of medical men were appointed to the position of health officers, and they were all dubbed experts in sanitary science, because they had been appointed to that position. There ought to be some provision made that that particular expert should be the holder of a diploma of public health from some recognised authority. In that case there could be no doubt that he had studied the question at all events.

The POSTMASTER-GENERAL: He did not profess to be an authority on the subject, but he believed sanitary science was a special science which involved the knowledge of a great number of cognate subjects. Whether diplomas for public health were issued he was not aware, but if so, he presumed the diploma the person applying would be able to produce would be the evidence to satisfy the Governor in Council that he was an expert in sanitary science. If any amendment was to be inserted he should like it to be of such a nature that it would not exclude the appointment of perhaps a very desirable man.

Hon. W. F. TAYLOR: Who might not hold a diploma. That was where the difficulty came in.

The POSTMASTER-GENERAL: It was quite possible that a man might be an expert in sanitary science without holding one of those diplomas.

HON. A. J. THYNNE: Perhaps the Hon. Dr. Taylor would inform the Committee whether there were many medical men in Queensland holding those diplomas. They were all aware that the hon. gentleman himself was the holder of one.

Hon. W. F. TAYLOR: There are two or three others.

HON. A. J. THYNNE: That practically limited the appointment of the first commissioner to two or three men if the choice was restricted to the colony. With regard to the clause itself, there appeared to be no provision made for the temporary absence of the commissioner, or any temporary incapacity to discharge his duties. There was nothing with respect to any acting appointment, and it would be as well to guard against any awkward fix in that respect.

The POSTMASTER-GENERAL: In most cases of the sort there was a second in command who would take the place of the commissioner in his absence. In that case there was not. He fully recognised the importance of the Hon. Mr. Thynne's suggestion, and he thought at first blush that the best way to deal with the matter was to provide that in the absence of the commissioner the Minister should exercise the same powers.

Hon. A. J. THYNNE: Or give the Government power to appoint an acting commissioner.

The POSTMASTER-GENERAL: He presumed that in that case the acting commissioner would have to be qualified in the same way as the commissioner. However, with the permission of the Committee he would postpone the further consideration of the clause.

HON. B. D. MOREHEAD: Why should the commissioner be a medical practitioner? He could understand that he should be an expert in sanitary science, and he could also conceive that a man might be thoroughly skilled in sanitary science without holding the qualification of a medical practitioner. He fancied there had been many sanitary reformers who were not medical men.

HON. A. C. GREGORY: It might be a convenient way of dealing with the difficulty raised by the Hon. Mr. Thynne if one member of the board was appointed to take the place of the commissioner during his absence, or if power was given to the Minister to appoint any other member to act on his behalf. It would be very inconvenient for the Minister to take the place of the commissioner, because he then became both master and man.

Clause postponed.

On clause 11—"Central Board of Health"—

HON. A. J. THYNNE said there was one provision in the clause of which he did not see the advantage. That was that at least one member of the board should be a person who has had not less than three years' experience of local government as a member of some local authority. He did not see that an apprenticeship of three years was necessary. He would call the attention of the Postmaster-General to the fact that the gentleman who had taken the most prominent part lately in the administration of the public health laws was the present mayor of Brisbane, and he doubted whether that gentleman would come within the qualification. Why restrict the choice of the Governor in Council by making a provision of that kind, especially as it would exclude gentlemen who had taken a prominent and highly creditable part in connection with the health affairs of the colony. He believed he was right in saying that the present mayor had not been a member of the Brisbane Municipal Council for three years. If any time qualification was necessary at all, he thought it might be reduced from three years to two years. He moved the omission of the word "three" before the word "years," on the 4th line of the 2nd paragraph of the clause, with a view of inserting the word "two."

The POSTMASTER-GENERAL thought the only reason for inserting that provision at all was to ensure that there should be at least one member out of the five who would have had some experience of local government. Whether it was two or three years' experience was not a matter of much importance, as one man would learn more in two years than another would in twenty. He had no objection to the amendment.

HON. A. C. GREGORY was sorry to say that, from his experience, service as a member of a local authority could hardly be looked upon as any qualification for membership of a board dealing with sanitary matters, because nine-tenths of the work done by local authorities had nothing at all to do with questions of the public health, and a large proportion of the members of different local authorities were strongly opposed to anything being done to secure the public health. He supposed it was the election by the ratepayers that caused it, but in such matters, with many of them, "Let things be" was the rule. Amongst the many thousands of members of local authorities in the colony there should be no difficulty in finding one who had had three years' experience of local government, but viewed as a qualification for the board of health it would be as well, and in fact rather better, that a member should have served a term in the army.

HON. W. F. TAYLOR asked what good the Postmaster-General thought the Central Board of Health would effect, and what would be its duties? Its duties appeared to be to advise the Minister upon matters relating to the administration of the Act. The clause said it should meet "at such place, and at such times as the Minister may direct." It might be, as in the old times when he was a member of the board, that they would not meet more than once in four months. They could meet only by permission of the Minister.

The POSTMASTER-GENERAL: There was no commissioner under the old Act.

HON. W. F. TAYLOR: The commissioner could act as he chose without the board. He could if he chose consult the board and carry out their advice, if he was willing to take any notice of it, which he would hardly do if he was a man who knew his business, because with the exception of one other medical man the members of the board might know nothing whatever about sanitary matters. What would be the value of the advice of a board of that sort to the commissioner? The men appointed by the Government might be laymen, and, with the man who had three years' experience of local government, they might know nothing whatever of sanitary matters. It might happen that when they met, the one other medical man in addition to the commissioner might not be present, and what would their advice be worth? As he had pointed out before, it was simply making a farce of the whole thing. It was simply shifting the responsibility and making the board a buffer for the commissioner. When he got into a fix he could say he was acting on the advice of the board, and the board, as hon. gentlemen could see, would be of no use at all. If the board was to be composed of medical men and sanitary experts there would be some sense in it, and one could understand then that the opinion of the board would have some value. Apart from the commissioner and the one other medical man, the persons appointed to the board might be incompetent to give an opinion upon sanitary matters. He would like the Postmaster-General to say what the value of such a board would be?

The POSTMASTER-GENERAL was more hopeful than the Hon. Dr. Taylor as to the way in which the commissioner would perform his duties. No doubt a first-class man would be appointed and paid a good salary to do certain work, and he had every confidence that the man appointed would do the work to the best of his ability.

Hon. W. F. TAYLOR: What is the use of the board then?

The POSTMASTER-GENERAL thought the board would be very useful in giving him advice, and the fact that he would be earnestly doing his work would be a sufficient assurance that the board would be called together. The hon. gentleman had in his mind the old Central Board of Health, and the troubles in connection with it. If that board had worked well there would have been no necessity for the measure now before the Committee. It was simply because it was not filling the position for which it had been appointed that it became necessary to take that action. They would now have a real live working commissioner to attend the meetings of the board as chairman, and there could be little doubt that the Central Board would be called together at regular intervals to discuss matters relating to the administration of the Act. In a multitude of counsellors there was wisdom, and it must be an advantage to the commissioner to be able to rely upon the advice of a board composed as that would be of a medical man, probably of large experience, and four other persons appointed on account of special qualifications for the position. He thought the commissioner would avail himself of the board of advice the Bill provided for.

HON. A. J. THYNNE took it that the object of having the three members outside the commissioner was to enable the Governor in Council to add to the strength of the board by the appointment of experts in other branches of work, such, for instance, engineering and architecture. The appointment of such persons would probably be of immense assistance to the commissioner. Of course, the commissioner could take the law into his own hands as suggested, and set aside the advice of the board and ignore everything they said to him, but he dared say that if the commissioner did so, he would probably find a vacancy in his own office in a very little time.

HON. C. F. MARKS: If, as he hoped would be the case, the commissioner was an expert imported from England, he could well understand that a central board of health composed of members having local information, would be of very great assistance to him.

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

On clause 12—"Inquiries"—

HON. W. F. TAYLOR said the clause provided that "the commissioner may from time to time cause to be made such inquiries as are directed by the Governor in Council, or by this Act." It was altogether optional with the commissioner whether he did what he was directed to do by the Governor in Council or not. That seemed a great discretionary power to give the commissioner. If he was directed by the Governor in Council to make certain inquiries he should be compelled to do it.

Hon. A. J. THYNNE: This is one of those cases in which "may" means "shall."

The POSTMASTER-GENERAL did not think it necessary to make any alteration. As suggested by the Hon. Mr. Thynne, the word "may" was sometimes used in a mandatory sense. If the commissioner was directed by the Governor in Council to make certain inquiries and he did not do it, they had only to turn to clause 10 and they would find that the commissioner was to hold office during the pleasure of the Crown. If he was directed to do anything by the Governor in Council the Committee might be reasonably assured that the commissioner would do it.

HON. A. C. GREGORY thought there might be occasions on which it would even be inexpedient for the commissioner to carry out the orders of the Governor in Council. He could mention one of which he had personal cognisance.

He had been travelling with the Governor of a Crown colony when the Governor gave an order to the men to do something. He had countermanded the order before the Governor's face, and turning round to him, had said, "I trust Your Excellency will reconsider your order." He did, and his life was saved in consequence.

HON. W. F. TAYLOR thought no man with any sense of self-respect would accept a position of that sort unless for a stated term. He reminded hon. gentlemen that at one time it had been thought well to appoint three Railway Commissioners in Queensland, and when they subsequently found it necessary to get rid of one of them they had to pay him his salary to the end of the term of office for which he had been engaged.

The POSTMASTER-GENERAL: Because he was appointed on those terms.

HON. W. F. TAYLOR: They could not get a man worth having as commissioner under that Bill on any other terms. What sort of a man would he be who would consent to hold office during the pleasure of the Crown, when he might be dismissed at any time, and would be assailable every year to every member of the Assembly who chose to criticise everything he did? He did not think they would get a man who would be worth anything to accept the position under those conditions.

Clause put and passed.

Clauses 13 to 18, inclusive, put and passed.

On clause 19—"Default of local authority"—

HON. J. COWLISHAW said that in case of default by a local authority, the clause empowered the commissioner to make and levy a rate of sufficient amount to defray the debts due from it, and all costs and expenses in connection therewith. And according to the 3rd paragraph the commissioner could certify for a loan for the purpose. The commissioner might certify for a loan exceeding the borrowing power of the local authority. What would he do in that case?

The POSTMASTER-GENERAL: They could not "get blood out of a stone." If the commissioner certified for an amount of costs and expenses more than the borrowing power of the local authority, it could not be recovered. And although he had power under the clause to make and levy a rate to cover the costs, he could only levy the rate up to the amount authorised by the law, and if that did not yield a sufficient amount he could not get it.

HON. A. C. GREGORY: The commissioner would have power to levy a rate to any amount, because it would be a special rate—not a general rate; and as there ought to be some limit put to it, he intended to move the insertion of the following proviso at the bottom of page 8:—

> Provided that no such rate, in any one year, shall exceed the amount of one-fourth of one penny in the pound of the rateable value of the land on which it is made.

The reason for that was that it would not be a general rate. The general rate was limited to 2d. or 1½d. in the £1, according as they were shire councils or divisional boards. Beyond that nothing could be raised. He could easily understand why that appeared in the Bill; it became a special rate. If it were not, the local authority in many instances would have already levied a rate to the full extent they could go during the year, and the commissioner would have no further power except that he might levy another rate, which would yield him nothing. It was, therefore, desirable that it should be limited to some amount. While, as he had said on the second reading, it might be desirable that the commissioner should have power to some extent to raise funds for the purpose of wiping off the debt incurred by an obdurate local authority, at the same time that power should be limited. The limitation he proposed was one-eighth or one-sixth of the maximum revenue respectively. As the clause stood the commissioner might make it 30s. in the £1, or anything he liked.

The POSTMASTER-GENERAL did not know whether his reading of the clause was the correct one, but if it was, the amendment proposed by the hon. gentleman would have an exactly contrary effect to that which he desired. He thought that, according to the clause, the limitation of the taxation that could be imposed on local authorities was that which existed by law now. If the hon. gentleman got in his amendment it would provide that the local authorities might be taxed up to the full amount permissible by law now, and to the extent of ¼d. in the £1 above that. And then there was the question to be settled as to whether it was competent for that Chamber to introduce an amendment which would have the effect of increasing taxation.

Hon. A. C. GREGORY: This will simply limit it.

The POSTMASTER-GENERAL: It seemed to him that it would increase it. The first paragraph of the clause empowered the commissioner to make an order directing the local authority to do its duty in the matter. If that was not done the commissioner had "all the powers of such local authority and its officers, other than (same as hereinafter provided) the power of levying rates." And the power of the local authority was to levy a rate up to 2d. in the £1. That was a general rate clearly. It was not mentioned as a special rate. The reference there was to a general rate. The commissioner had the same power as the local authority—that was, to levy rates up to a limited amount. If the local authority refused to pay the debt incurred, the Governor in Council might authorise the commissioner to make and levy a rate to a sufficient amount to defray the debt. He assumed that that meant that the commissioner would have the power which the local authority had at present in that respect. The amendment would make it a special rate over and above the amount the local authority was authorised to levy; and in that respect, he submitted, it was imposing taxation.

HON. A. C. GREGORY: He had had a little experience in those matters, and knew the difference between a special rate and a general rate. If they were to make it clear that it was a general rate only, all that a board had to do would be to levy its full amount of 2d., and when the commissioner came with his levy he would get nothing. His power in that case would be a dead letter. The Toowong Council had levied the whole amount, 2d. in the £1, and if any further levy was made it must be by a special rate.

[5 p.m.]

The POSTMASTER-GENERAL: The Valuation and Rating Act of 1890 placed a limit on the powers of rating in municipalities and divisional boards, fixing it at 2d. in the one place and at 1½d. in the other; and section 37 provided that local authorities might levy special rates for the purpose of defraying the cost of constructing works relating to sewerage and drainage, watering and cleansing streets, and so on; but the rate, to be a special rate, must be created a special rate by statute. The Bill now under consideration did not state that the commissioner would be authorised to raise a special rate, and if a local authority rated itself up to the full amount, he failed to see how it could be further rated under the Bill.

HON. J. McMASTER said he did not think the rate had anything at all to do with a general rate. The clause certainly gave the commissioner power to levy a special rate in the same manner as the local authorities did for special purposes. And there was no limitation to a

special rate. The local authority could levy a rate up to the amount required for the payment of whatever work they were carrying out. He took it that the clause empowered the commissioner to levy a special rate up to the amount necessary to pay the indebtedness incurred.

HON. E. J. STEVENS was of the same opinion as the last speaker. The word "duty" in the clause had a very specific meaning. The commissioner had to be satisfied that a local authority had not done that which "it is its duty to do." If the board had done its duty, and found that more money was required to carry out the work, it would be clearly its further duty to impose a special rate. In the alternative, the commissioner did the work, and imposed a special rate for the purpose.

The POSTMASTER-GENERAL: If hon. gentlemen would look at the last paragraph on page 8 they would see that the commissioner when so empowered was to have the same powers of making and levying the rate as the local authority would have had in the case of a rate made by it. That put the commissioner in the position of the local authority in the matter. The clause quoted from the Act of 1890 expressly stated the purposes for which a special rate might be levied, and that for which the commissioner was empowered to levy a rate under that Bill was not included in that clause.

HON. J. COWLISHAW: The 2nd paragraph of subsection 2 stated that if the local authority refused to pay within thirty days after demand, the Governor in Council might from time to time empower the commissioner to make and levy a rate "of sufficient amount to defray the debt." There was no limitation at all, and the next paragraph gave the commissioner power to levy the rate in the same way as the local authority.

HON. A. J. THYNNE thought the clause was one which required a good deal of consideration. Many local authorities had got on to the wrong side of their ledger, and they made many complaints of the payments they had had to make at the call of joint boards in the last few years. If they were going to add another authority with power to call upon them, a great deal of dissatisfaction would arise from it. He thought it would be wise to have some limit under the clause, but he admitted it would not be wise to leave it to the Shire Council of Toowong, for instance, under the guidance of its old-time president, the Hon. Mr. Gregory, to take off the hat in the most courteous manner to the commissioner and say, "Really we can do nothing, nor can you."

HON. E. J. STEVENS: How could the local authority defy the commissioner?

HON. A. J. THYNNE pointed out that by lowering the valuation of their properties to half their value, and then rating them at the full amount allowed of 2d. in the £1, they could defeat the Bill.

Hon. E. J. STEVENS: How about a special rate?

HON. A. J. THYNNE: That was a point on which the Postmaster-General was not clear as to whether a special rate could be levied for that purpose. He was not expressing any concluded opinion upon the subject, but pointing out that the clause was one that it would be well to postpone for further consideration.

HON. A. C. GREGORY: No doubt the Postmaster-General would postpone the clause, but it would be well that he should hear the views of the Committee on the subject. The 37th clause of the Valuation and Rating Act mentioned the classes of works for defraying the expense of which special rates could be levied, and it appeared to him that the works which the commissioner would be likely to levy a rate for would come under that clause. The Postmaster-General was working against his own interest in the matter if it was his wish that the clause should be operative, as the view the hon. gentleman took of the clause would nullify its operation. The clause he referred to in the Valuation and Rating Act provided for the levy of special rates for certain works to the extent of 1d. in the £1.

The POSTMASTER-GENERAL: You see there is a limit even for a special rate.

HON. A. C. GREGORY was pointing out that the object of the clause might be defeated, and the commissioner would get nothing. In the shire of Toowong they could find plenty to do with all they could get by levying rates to the full extent allowed by the Act, and if the commissioner then tried to levy a rate it would be just as well, perhaps, if he kept out of the way of the ratepayers for two or three weeks. He was not wedded to the words he had suggested, but he thought some amendment should be made. They might say that he should have power to levy a special rate and limit it to 1d. in the £1. That in Toowong would bring in £1,000.

The POSTMASTER-GENERAL: It might perhaps mean that that amount was to be leviable under section 121 of the principal Act.

Hon. A. C. GREGORY: That Act is repealed.

The POSTMASTER-GENERAL: The hon. gentleman was mistaken. He would see by the schedule that the whole of that Act was repealed with the exception of that section 121, and it was probably retained expressly for the purpose of providing the fund which the commissioner might require to raise, as under that section of the principal Act the power to levy health rates remained. It was certainly desirable in any case that they should thoroughly understand the clause before they passed it, and he therefore moved that its consideration be postponed.

HON. W. F. TAYLOR: The clause was similar to that in the Imperial Act, and gave the commissioner similar powers to those given the Local Government Board in England by the clause in the Imperial Act. There was no necessity for any lengthy discussion upon the matter. The commissioner in the matter was given power to do only what the local authority could do. The work must be done if it was necessary, and if it was done it must be paid for.

Clause postponed.

On clause 20—"Powers of commissioner to act in emergencies"—

HON. J. COWLISHAW noticed that subsection (*iii.*) of subsection 1 provided for the compulsory inoculation of persons as a preventative of disease. Medical men in England were not all agreed that it should be compulsory.

The POSTMASTER-GENERAL: That is not vaccination.

HON. J. COWLISHAW: Inoculation might be just as bad as vaccination. He noticed also that everything there stated to be done was to be done by the commissioner. He was the sole person mentioned. If they turned back to clause 11 they found that a central board of advice was provided for, but in the rest of the Bill that board seemed to be entirely ignored.

The POSTMASTER-GENERAL: The commissioner would get the advice of the board upon everything of importance.

HON. J. COWLISHAW: The Bill did not say so. That clause said the commissioner was to be the sole judge, and the board was ignored altogether.

The POSTMASTER-GENERAL: In the earlier clauses of the Act they had provided for a commissioner and for a board of advice to assist him in carrying out the Act. It was not necessary afterwards to say in every clause that

the commissioner was to take the advice of the board, for it was a reasonable assumption that he would do so. The matter to which the hon. gentleman had specially referred only provided that the commissioner might make regulations under which persons could be inoculated for the prevention of disease, but it would not be compulsory. It was just as during the visitation of the plague a regulation had been adopted under which a medical man attended at certain times to inoculate persons who were voluntarily prepared to submit themselves for it. If compulsory inoculation were intended, it would be necessary to enact that persons must be inoculated, and a penalty would have to be provided if they refused.

HON. B. D. MOREHEAD asked if the Postmaster-General was in earnest, or had read clause 20? It provided that in any emergency, of which the commissioner should be the judge, he was to have certain powers. Was not that rather an autocratic power to confer on the commissioner—that he was to be the judge as to what should be done, where there was no appeal? There was no doubt the clause gave a tremendous power to the commissioner. He was to arrive at the decision on his own responsibility and without reference to anybody. He was to be the judge as to the emergency. He occupied the position of an absolute autocrat, although he had beside him a responsible Minister of the Crown. He was in a position in which he did not think any other official had ever been placed in any of the colonies.

The POSTMASTER-GENERAL: There has never been an outbreak of plague before.

HON. B. D. MOREHEAD: Was that commissioner to be the judge as to whether it was an outbreak of plague or not? Was it the intention of the Bill to create an autocrat who was to judge *per se* what the emergency was? If so, it was a most improper power to put into the hands of any individual. It might be a shelter-trench for a weak Administration to get behind if an Administration wished to get rid of responsibility, although he should be very sorry to think that the present Administration would for one moment accept such a position. If the power was such as that described, and endorsed by the Postmaster-General, they ought to be very cautious before passing the clause. Personally, he would never be a party to delegating the powers of the Executive into the hands of any individual.

The POSTMASTER-GENERAL: In cases of emergency it was necessary to clothe someone with initiative powers, and it was admitted that the Bill did confer certain autocratic powers on the commissioner; but it did so because it had been found, in the light of recent experience in connection with the plague outbreak, that the only way to fight against the spread of disease at a time like the recent attack was to clothe one man with what might be called autocratic powers. If the commissioner was not to be the judge as to whether an emergency had arisen, who was? It was well known that during the recent plague visitation all the powers contained in the clause had been exercised by one man in that city without any harm arising.

HON. B. D. MOREHEAD: The hon. gentle- was fencing with the question. His contention was that the commissioner should not be the sole judge when he had others that he could apply to before he issued his fiat. It was a responsibility that should be undertaken by the Government, and not be shirked by them.

HON. A. J. THYNNE: The hon. gentleman had described the position of the commissioner as that of an absolute autocrat. He looked upon the commissioner as a servant of the public, who had a great and wide discretion left to him, and who was responsible for the exercise of that discretion. If he made an improper use of his discretion, he must take the responsibility for it, just the same as a general in command of an army, when he made a blunder, had to suffer. It was necessary in emergent cases to provide emergent remedies, and it would be more than useless to provide that he could do nothing unless he was armed first of all with the minute-book of the Central Board of Health. Let them have some confidence that if they selected a man for a responsible public position, occasionally, at any rate, he would act with some discretion.

HON. J. COWLISHAW said that clause 11 provided that the Central Board of Health should advise the Minister and the commissioner upon matters relating to the administration of the Act and the public health generally, and those matters were defined in the clause now under discussion. It was all nonsense to talk about the commissioner being the sole judge about a case of plague, because it was specially provided that two members of the board should be medical men, who would be just as able as the commissioner to say whether it was plague or not. The commissioner might say it was plague, and the two medical members of the board might say it was not. With regard to the late visitation it was well known that medical men differed in opinion.

HON. A. J. THYNNE: If the commissioner had an opportunity of consulting with his board and did not do so, he would make a mistake. If he did consult them he would be relieved of a great deal of responsibility. He would not take upon himself the emergency powers unless in case of really absolute necessity.

HON. A. C. GREGORY: It was very strange that in a Bill of that kind they should invest the commissioner with powers which they had very carefully avoided giving to the Government.

HON. W. F. TAYLOR: Emergencies would arise where it was necessary that some person must have power to act promptly, and it was absolutely necessary that in an emergency the commissioner should have that power. There was a safeguard against any autocratic action on the part of the commissioner being continued too long in clause 22, which provided that the orders of the commissioner should only be binding when confirmed by the Minister, and which also gave the right of appeal.

HON. A. C. GREGORY: Admitting that it was desirable that the commissioner should have those powers, why not get rid of all trouble by setting aside the board altogether? It would cost less, and there would be no difference of opinion. As to the right of appeal, it was an appeal after the mischief was done.

HON. W. FORREST: His first impression on reading the clause was that the powers given to the commissioner were rather arbitrary, and he was prepared to move an amendment to provide that "in any emergency, of which the commissioner shall, subject to the Governor in Council, be the judge;" but he had seen that that was unnecessary, because under section 22 it was provided that no order given by the commissioner should have the slightest effect unless it was confirmed by the Minister.

HON. J. COWLISHAW: The Hon. Mr. Thynne had just pointed out that the commissioner was to be responsible for any act he did, but in that case it was only necessary for the commissioner to say, "I am the sole judge; I did it;" and no one could find fault with him. He moved the omission of the words "of which the commissioner shall be the judge," in the 1st and 2nd lines of the clause.

The POSTMASTER-GENERAL really could not accept the amendment, which would leave the matter in entire uncertainty. It must

be given to somebody to decide the emergency. It was a matter that could not be left open. The board would be very useful to advise and assist the commissioner, but they did not want a decision as to emergency to depend upon the board, or any body which might differ in opinion. It might have been suggested that the Minister should decide, but certainly the commissioner was the most capable person to decide, and certainly someone must decide whether there was a case of emergency or not.

HON. W. FORREST had just pointed out that, as a matter of fact, the Minister was the responsible person, as no order could have any effect until the Minister approved of it. If the commissioner came to him as a householder and ordered him to do something, he would ask him to show that his order had been confirmed by the Minister, and if he could not show that he would take no notice of his order.

HON. E. J. STEVENS: In reference to those powers given to the commissioner in cases of emergency, he was perhaps out of order, but he wished for a moment to refer to clause 11, as he had been called away when it was discussed. It dealt with the meetings of the board, and he had intended to suggest that there should be a meeting of the board at least once a fortnight. If a definite time for meeting was not fixed, the members of the board would get out of the way of attending to the business. In commercial affairs it had been found absolutely necessary to fix a definite time for meetings. He hoped an opportunity would be given by the recommittal of the clause to introduce an amendment to that effect.

The POSTMASTER-GENERAL: I will recommit it for discussion and consideration.

HON. B. D. MOREHEAD wished to clear up the point about the extensive powers given to the commissioner under clause 20. It was stated there that he was to be the sole judge in any emergency, and when they went on to clause 22 they found that any action taken was really Executive action because the order of the commissioner had to be endorsed by the Minister? Was that not so?

The POSTMASTER-GENERAL: Yes.

HON. B. D. MOREHEAD: Then the executive power was not in the hands of the commissioner?

The POSTMASTER-GENERAL: That is so, but he judges the emergency.

HON. J. COWLISHAW: That did not do away with the fact that in any emergency the commissioner could do certain things and he was to be the sole judge.

The POSTMASTER-GENERAL: I think he ought to be.

HON. W. F. TAYLOR would like to ask the hon. gentleman who was to be the sole judge of the emergency, if it was not to be the commissioner? Was it to be the Minister, who might know absolutely nothing about those things? Was the Governor in Council, composed of non-medical men, to be the judge in those matters of a purely medical nature?

Hon. J. COWLISHAW: What becomes of the board with its medical men?

HON. W. F. TAYLOR: That was a question he had himself asked before; but as the Bill stood, that did not matter much, for the commissioner could preside at the board and do as he liked.

HON. A. C. GREGORY: If they did not adopt the amendment proposed in clause 20 they would require to make a much larger amendment in clause 22, or those clauses would be incompatible, because under clause 22 the Minister had to confirm every order of the commissioner, and under clause 20 the commissioner was to be the sole judge.

The POSTMASTER-GENERAL: He is to be judge only of the emergency.

HON. W. FORREST pointed out that the two gentlemen who during the plague scare had taken most trouble and done most work were the Home Secretary and the mayor of Brisbane, and they were non-medical men.

HON. E. J. STEVENS thought it an advantage to have the clause as it stood. He would doubtless be a thoroughly qualified man, and, being the judge in any emergency, he would probably initiate action upon which the Minister could afterwards exercise his veto if he thought it necessary. In such a case the matter would be brought prominently before the public, and the commissioner would have an opportunity of showing that he had proposed to do what was the proper thing.

HON. B. D. MOREHEAD: It appeared to him they were creating a treble authority which, in that case, would not, he thought, work well. He hoped the Postmaster-General would think the matter over before he pushed it further.

The POSTMASTER-GENERAL: But there is only a single authority here to judge of the emergency.

HON. B. D. MOREHEAD: Would the hon. gentleman show him how he was going to be the judge when clause 22 said he was not going to be the judge?

The POSTMASTER-GENERAL: There is no appeal from his judgment on the point of "emergency."

HON. B. D. MOREHEAD: Then he could only say that the subsequent clause was not so worded as to make that clear to him.

Amendment—That the words proposed to be omitted ("of which the commissioner shall be the judge") stand part of the clause—put; and the Committee divided:—

CONTENTS, 9.

Hons. J. G. Drake, W. F. Taylor, F. H. Holberton, C. F. Marks, W. G. Gray, E. J. Stevens, J. McMaster, A. Gibson, and W. Forrest.

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Hons. A. C. Gregory, B. D. Morehead, and J. Cowlishaw.

The CHAIRMAN: There being no quorum present, it is my duty to report the fact to the Council.

The Council resumed.

The CHAIRMAN: I have to report that a division having been called for and taken, it was found that there was no quorum present.

ADJOURNMENT—NO QUORUM.

The PRESIDENT, after counting the Council, said: There being no quorum present, the Council stands adjourned until the next sitting day.

The Council adjourned at eight minutes past 6 o'clock.