Queensland

Parliamentary Debates
[Hansard]

Legislative Council

WEDNESDAY, 26 SEPTEMBER 1900

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LEGISLATIVE COUNCIL.

WEDNESDAY, 26 SEPTEMBER, 1900.

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

PAPER.

The following paper, laid on the table, was ordered to be printed:—Report of the Commandant of the Military Forces for the year 1899-1900.

ABSENCE OF THE CHAIRMAN OF COMMITTEES.

APPOINTMENT OF ACTING CHAIRMAN.

The POSTMASTER-GENERAL (Hon. J. G. Drake): The Chairman of Committees, the Hon. Mr. Brentnall, has asked me to explain to the Council that, owing to an important engagement outside Brisbane, he is unable to be present to-day. It is the first time, I think, that he has been absent for seven years. I therefore beg to move, without notice, that the Hon. W. G. Power do act as Chairman of Committees during the continued absence of the Hon. F. T. Brentnall.

Question put and passed.

SUSPENSION OF STANDING RULES AND ORDERS.

The POSTMASTER-GENERAL moved—

That so much of the Standing Rules and Orders be suspended for this sitting as will admit of the passing of an Appropriation Bill through all its stages in one day.

Question put and passed.

DENTAL BILL.

RESUMPTION OF COMMITTEE.

On postponed clause 16—"Names of dentists guilty of certain offences or of infamous conduct to be erased"—

The POSTMASTER-GENERAL said that when the Bill was last under consideration in Committee of the Whole, clause 16 was discussed, and the general opinion was expressed that it was desirable that some appeal should be given in the case of a person whose name had been on the register and had been struck off by the board. He asked the Committee then to intimate the form they desired that appeal to take, and the general opinion expressed was that the form of appeal should be similar to that which was given in the case of a person who was aggrieved by a refusal to register his name. He had, therefore, had an appeal clause prepared which ran upon much the same lines, with the necessary alterations, to suit the altered conditions, as clause 10. He would read the proposed new clause now in order that the gentlemen might satisfy themselves that it met the case—

If the board causes the name of any person to be erased from the register under the provisions of this Act, the board shall, if required by such person, state in writing the reason for such erasure; and such person may appeal to the Minister, who may, after hearing such person and the board, dismiss the appeal, or order the board to restore the name to the register, and such order shall be final and conclusive, and shall be obeyed.

It would be necessary, when clause 16 had been passed, and the Bill reported to the Council, to re-commit the Bill for the purpose of inserting the proposed new clause.

Clause put and passed.

The Council resumed; and the ACTING CHAIRMAN reported the Bill with amendments.

The POSTMASTER-GENERAL: I move that the President do now leave the chair, and that the Council be put into Committee of the Whole to reconsider the Bill with a view to the insertion of a new clause to follow clause 16.

Question put and passed.

RE-COMMITTAL.

The POSTMASTER-GENERAL: In moving the insertion of the proposed new clause it was not necessary for him to speak at any length, seeing that the matter was discussed when the Bill was formerly under consideration in committee, and seeing that he had explained already the object the clause was intended to serve. It placed that matter, the same as the others, in the hands of the Minister. The Minister was responsible to Parliament, and he might safely be entrusted with that power. It would be noticed also that the appeal was much simpler than an appeal to the Supreme Court would be. He moved that the proposed new clause he had already read follow clause 16 of the Bill.

HON. A. H. BARLOW: He was rather surprised that a legal gentleman should bring in a clause of that sort. While he did not wish to pose as an authority, he wanted to know what was going to happen if the board did not obey. The Supreme Court caused people to obey because it had the whole military force of the State behind it, and could lock them up until

they did. He did not know what the Minister was to do in case the board was obstinate, and would suggest, in all sincerity to his hon. friend, that he should insert something to this effect: "If the order be not obeyed within one month the Minister may, by a notification in the *Gazette*, confer upon such person all the powers of registration as if the board had registered his name." If the board and the Minister got at cross purposes, that seemed to be one way of enforcing the order of the Minister. He might be mistaken, but the legal members of the Council would tell him if that were so.

The POSTMASTER-GENERAL: The fact that four members of the board were to be appointed by the Government had been commented upon at large on the second reading of the Bill, as showing that the Government would have a very great power with regard to the constitution of the board, and he could hardly assume that a board so constituted would put themselves into such a position of antagonism to the Minister administering the Act as to go to the length of defying the law. The objection was that there was no provision for penalising the board if they refused to obey the law.

Hon. A. H. BARLOW: There is no sanction.

The POSTMASTER-GENERAL: There was no sanction—that was to say, that they had to assume that the board would defy the law of Queensland, unless there was some penalty in the way of fine or imprisonment to compel them to obey the law. He did not think it reasonable to assume that that board would defy the law, nor did he think it necessary for them to legislate for so remote a contingency.

HON. A. J. THYNNE: The amendment assumed that the board would refuse to obey an order made, on appeal, by the Minister because no penalty was provided if they did not obey it; but they were in the happy position in this country of being able to enforce the law, through the Supreme Court, upon any recalcitrant board of that kind. Their refusal to obey the law would probably result in their being severely condemned, and possibly in their having to pay a considerable amount in expenses to the applicant who invoked the power of the court against them. If they had to attach to every duty set forth in their statutes some "sanction" allotted to each, their statutes would be much larger than they were. When they had one remedy available in all extreme cases, it was not wise to cumber their statutes with unnecessary penal provisions which would not perhaps be required once in a hundred years. He did not know whether it meant anything, but it was a little strange that the Council should have been first approached—possibly on account of their greater experience of the ills and infirmities of life—to deal with a Dental Bill, then with a Medical Bill, and then with a Health Bill. He was not sure whether they could take that as a compliment. It might be considered a doubtful one. Speaking seriously about that clause, he wished to ask if the Postmaster-General considered it definite enough, or whether it was not necessary that there should be some limits as to the grounds on which the Minister might take action to reverse or uphold the decision of the board, seeing that there was no appeal from that order?

The POSTMASTER-GENERAL thought they could hardly lay the flattering unction to their souls that those Bills had been initiated in the Council on account of any superior wisdom or knowledge of the subjects dealt with attributed to hon. gentlemen. It was, he thought, rather unfortunate that there were constitutional reasons which prevented the initiation of a very great number of Bills in that Chamber. He had no doubt it would be extremely gratifying to hon. gentlemen if that Chamber was able bear some of the burden of the work which seemed to have fallen upon the other Chamber. He saw the Hon. Mr. Thynne smiling, but he did not mean the burden which he anticipated the hon. gentleman had in his mind. During the earlier part of the session, owing to the limited number of measures that could constitutionally be initiated in the Council, they found such Bills as the Dentists Bill, the Medical Bill, and the Health Bill first submitted in the Council.

Hon. W. F. TAYLOR: The Health Bill came to us from the other Chamber.

The POSTMASTER-GENERAL: That was so. They had dealt with some other measures, and it seemed to him that under the circumstances that Chamber had been as active in legislation as it could well be. He thought hon. gentlemen agreed that it was very desirable that the Council should show its capacity for legislation and for carrying on the business of the country in a satisfactory manner. He thought, as a young member of the Council, he might be permitted to say that the way in which
[4 p.m.] business was conducted in the Council had been eminently satisfactory. The Bills they had dealt with were of very great importance as affecting the public health, and if they passed into law he had no doubt they could be proud of those which had been initiated in this Council. With regard to the weightier matter to which the hon gentleman referred, it would be extremely difficult to state in the clause, in so many words, the reasons which would actuate the Minister in either dismissing an appeal or ordering a name to be restored to the register. The board had to state in writing its reason for the erasure of a name from the register, and what the Minister had to decide was really whether those reasons were good and sufficient. They could not in the clause direct the Minister as to what he should consider good and what unsatisfactory reasons. They must in such a case trust the judgment of the Minister, and, as the Hon. Mr. Thynne had reminded them, there was behind the Minister the Supreme Court. The reason for the clause was the fear which had been expressed that the board might act in an arbitrary manner with regard to some practitioner whose case they had inquired into, and it had been urged strongly on the second reading that no appeal in such a case had been provided for any person who might feel aggrieved.

HON. B. D. MOREHEAD: When he first read the clause he thought it must have been taken from a comic opera. The last sentence of it said, "And such order shall be final and conclusive, and shall be obeyed." If it was "final," he took it it was "conclusive," and as they were passing legislation he assumed that they intended it should be "obeyed." Could the hon. gentleman give any rational explanation of such a use of those words, and did he not think they should be materially modified or else struck out?

HON. A. H. BARLOW did not desire that a statute like that should go through with such a defect as he had pointed out, and he moved the addition of the following words after the word obeyed—

> And if not so obeyed within one month, the Minister may, by notification in the *Government Gazette*, confer upon such person all the privileges of registration.

The POSTMASTER-GENERAL had two objections to the amendment. The first was that it was unnecessary, and the second that it might be injurious, as by implication conveying the idea that the board might disregard the order for a month.

Hon. A. H. BARLOW: You must fix some time for obedience.

The POSTMASTER-GENERAL: The amendment practically said that the board might disobey the order if they chose, but not for longer than a month. He knew the hon. gentleman, though he might not have passed certain examinations, was in the widest sense very learned in the law, but he did not think the hon. gentleman could show a precedent for a clause which assumed that the law would be disobeyed and providing that it might be disobeyed for any term not exceeding one month.

HON. A. H. BARLOW: The amendment was in the hands of the Committee. He had done his best to make the thing perfect. Human nature was what it was, and it was just possible that the board might dispute and defy; and he proposed to get over that by giving the Minister power to direct registration.

HON. A. J. THYNNE: The Hon. Mr. Barlow must have overlooked one of the effects of his amendment. The hon. gentleman proposed, as a remedy, to give to the applicant, on notification by the Minister in the *Gazette*, all the powers and rights in Queensland of a dentist; that as his name was off the register he would not be able to get a certificate when he was going elsewhere.

Hon. A. H. BARLOW: Is it not a privilege of registration to get a certificate?

HON. A. J. THYNNE: The hon. gentleman assumed that the board would refuse to restore the name on appeal, and would stand by their refusal; but he was very much afraid that the doubtless well-meaning amendment might have the opposite effect to that which was intended, and be really injurious to the unfortunate man whose name had been erased. To rely upon a *Gazette* notification of that kind was as bad as not being registered at all, and it would be far better for the applicants to leave the clause as it stood.

HON. A. H. BARLOW contended that the notification would confer upon a man all the privileges he would have if his name were actually written on the register, and if such a man went to another colony he would be recognised as a dentist who had been practising in Queensland; and it would be far better for him, in another colony, to say, "I forced the dental board of Queensland to register me, because I went to the Minister, who over-rode the dental board and put my name in the *Government Gazette*." He was not competent to deal with the legal subtlety as as to whether all the privileges of registration would be conferred upon him on transferring himself to another colony, but the amendment was in the hands of the Committee.

HON. W. F. TAYLOR: He did not like the clause any more than he liked clause 10. In both cases the referee was the Minister. The Minister might be above suspicion; he might be perfectly unbiased in his decision, and he might be competent to deal with the matters brought before him. On the other hand, he might not. They did not know who, in the vagaries of politics, might be charged with the administration of the Act, or what might influence his decision if a case of the sort were brought before him. It would give rise to a good deal of public feeling, and it would be difficult for the Minister to escape the effect of that public feeling, either politically or personally. With regard to the amendment itself, the decision of the board might be perfectly good, while the reason given might be quite wrong. The board might have arrived at a right decision by an entirely wrong process of reasoning. But the Minister would have to decide on the reasons, not on the evidence. His opinion was that the appeal should be left to the Supreme Court, or, failing that, to the Attorney-General, who, with his legal knowledge, would be better able to judge the value of evidence and arrive at an impartial decision than a layman who had no knowledge of evidence and was not able to judge. Besides it must be remembered that the board was composed of seven individuals who were just as well able to judge on the evidence brought before them as the single individual who occupied the position of Home Secretary, and who might have had no technical education or training in that direction, and to whom, as a private individual, no one would think of appealing.

The POSTMASTER-GENERAL: The Home Secretary who would have the administration of the Act might be presumed to know more about the subjects in connection with the dental profession than the Attorney-General; and, although he would be presumably a layman, he would probably be quite as good a judge of the facts as the Attorney-General. If any legal difficulties arose the Home Secretary, or whoever had the administering of the Act, would refer the matter to the Attorney-General as the principal law officer of the Crown; so that the assistance of the Attorney-General could always be obtained by the Minister if he desired any assistance from a legal standpoint.

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

The Council resumed; the ACTING CHAIRMAN reported the Bill with further amendments.

The reports were adopted, and the third reading of the Bill made an Order of the Day for Tuesday next.

APPROPRIATION BILL, No. 2.

FIRST READING.

This Bill, received from the Legislative Assembly, was, on the motion of the POSTMASTER-GENERAL, read a first time.

SECOND READING.

The POSTMASTER-GENERAL: I move that the Bill be now read a second time.

HON. A. H. BARLOW: I ask permission to occupy five minutes to call the attention of the Council and the country to the present financial position we are entering upon. I am perfectly satisfied we have seen the last year of surpluses, and that very considerable, if not serious, difficulties may be in our way. I put a question to the Postmaster-General the other day which had for its object to elicit from him, if possible, what were the views of the Government on this subject of financial economy; and while I do not for a moment say the Government is not economical, I think there is the utmost necessity that they should be so in the future. It is no use to live in a fool's paradise and say that, federation being so close at hand, we do not know what the effect of it will be. We know what the effect of it will be in the disappearance of our Customs revenue to a large extent. I am not saying this in the slightest degree in opposition to the Government or to attempt to embarrass my hon. friend opposite. I am simply putting before the Council and the country what I believe to be the state of the case. I do not think the £200,000 referred to in the Treasurer's Financial Statement will be sufficient for the wants of the Federal Parliament during the first six months of its career. I believe the federal expenditure will be vastly greater than anything we can possibly conceive. The question, also, forces itself upon us: What is to be the position of the sugar industry? That is a most serious question—what is to be the future position of the sugar industry of Queensland? Without expressing any opinion one way or the other on the question of black or coloured labour, there is no doubt federation will make a very great change in the prospects of that industry. We have also seen the other

day that a report has been laid before the Government as to the state of the rolling-stock on our lines, which will involve large expenditure. We are now in a position which we should face, and which the country should understand—we are now only able to give a second mortgage. We are in the position of a landowner only able to give a second mortgage. I do not want to attempt to prophesy evil, or to justify the things I have said in this Chamber; but I am perfectly satisfied that what I have said in this Chamber is true, and that it will come to pass, and that serious difficulties are in front of us which we shall have to combat. I believe the last of our good revenue years has gone; that the pastoral industry will not recover itself with the rapidity some people seem to hope; that our revenue will not be as buoyant and increasing as some people imagine it will.

[4·30 p.m.] And while I believe that the Financial Statement which hon. gentlemen have read was an honest and well-meant endeavour to set before the country the position of the finances, and that the figures quoted were honest and true, I believe it was somewhat rosily coloured. I do hope the Government and the country will take this matter to heart and will see that we are not able now to spend money as we please, and that we have come, as I may say, to the end of our tether. No one knows what is, in the unknown future of the federation, before us. I do not believe that £200,000, or twice that, will satisfy six months' requirements of the Federal Government. If it gets into the hands of the men who have been indicated or foreshadowed as the Ministers of the first Federal Parliament, extravagance will be the order of the day, and we shall have to pay for it. I have not the slightest intention of offering any comment upon this Bill. It is the necessary Supply Bill; the Government are entitled to have it, and we are not entitled to object to it. The remarks I have made have been made in good faith, and in order that the country may be aroused, if possible, to a true sense of the position in which we stand.

The POSTMASTER-GENERAL: If no other hon. gentleman desires to speak upon the subject, I should like to say that I thoroughly appreciate the spirit which has animated the Hon. Mr. Barlow in the remarks he has offered. I only regret that I have not by me any figures that might be necessary in order to effectively reply to him. I do not think there is any reason to fear that the anticipations of the Treasurer will not be realised, and I see no reason, at the present time, for thinking that the expenses which will fall upon this colony in connection with federation will be greater than the amount at which he estimates them. I would like the hon. gentleman to remember the result of the operations of the Treasurer during the last year, that, in consequence of the war in South Africa, expenses of an extraordinary and entirely unforeseen character had to be met, and that in spite of all those additional expenses the Treasurer was able to show a considerable surplus.

Hon. A. H. BARLOW: By that large succession duty.

The POSTMASTER-GENERAL: That is so, but the hon. gentleman must not suppose that because the revenue is considerably increased in one year from some one particular cause it will not be in another year increased from some other cause that has not been anticipated or foreseen. Should next year be as good as the year through which we have passed—and I see no reason to doubt it—and should no extraordinary expenses fall upon the colony, the same as those occasioned by the action taken by the Government in connection with the war in South Africa, there is every reason, it seems to me, to believe that the country can meet all the additional expense that will devolve upon it in consequence of federation, and still be able to show a surplus. And in my humble opinion it would not be good statesmanship to make provision, either by extra taxation or in any other way, to meet expenses which we have no reason to suppose will devolve upon us. The hon. gentleman has referred to the condition of the industries of the colony. I think that the condition of our industries, with the exception of the pastoral industry, is most bright, and with regard to the pastoral industry there is always room to hope. Though we may not venture to hope that it will suddenly, or within a year or two, regain its former position, I think we have reason at all events to hope that the condition of the pastoral industry is not a condition of absolute ruin.

Hon. B. D. MOREHEAD: Hear, hear!

The POSTMASTER-GENERAL: We know very well that it has survived many shocks before, and no doubt it will again. It is most gratifying to find that at a time when this distress has fallen upon the pastoral industry other industries are showing signs of such exceptional vitality that we may well hope they will assist to help the country through, and to keep our finances in a sound condition. The hon. gentleman speaks of the sugar industry. If the hon. gentleman intended to suggest that under federation he anticipates that the sugar industry will suffer more or less, I do not know why he should anticipate it. The extension of the market of Australia to Queensland will be one of the results of federation, and it appears to me that that will have a tendency very much to improve the prospects of the sugar industry. We have had, this year, the finest season for agriculturists that I think we have ever had in Queensland; a most astonishing season. The mining industry is in a prosperous condition, and if the measures submitted by the Government are approved by Parliament, I have no doubt that the mining industry will get an impetus such as it has never had before. Why, then, should we indulge in these forebodings that, for some reason or another, the revenue of the colony is going to receive a great shock? I confess I see no reason to fear anything of the kind. The hon. gentleman speaks of our being in a position now, only to give a second mortgage, and I assume that he means that in future, in consequence of federation it will be more difficult to raise loans. But I think that under federation the security we will be able to offer will be ampler than it is at the present time, because, in addition to the resources of the individual State, each State will have the whole federation behind it. I do not like to enter upon any prophecies. I do not feel inclined to attribute to myself any of the qualities of a prophet, but when the hon. gentleman chooses to pose, or feels impelled, perhaps, I should say, to pose in this Chamber as a prophet of evil, I think I hould be quite justified in taking up the position of a prophet of good things.

Hon. A. H. BARLOW: A prophet of caution, not of evil.

The POSTMASTER-GENERAL: I accept the correction. Perhaps I should have used a different word, but I have heard the phrase "a prophet of evil" before, and it was in my mind at the time. From the information at my command I see no reason to fear that the future of Queensland or of Australia is likely to be anything but the most bright. The hon. gentleman seems to have some special knowledge with regard to the formation of the first Federal Ministry.

Hon. A. H. BARLOW: Only what I saw in the Press.

The POSTMASTER-GENERAL: If the hon. gentleman has any information which would enable us to form anything like a sound opinion as to the constitution of the first Ministry of the federation, I have no doubt it would be exceedingly interesting, not only to us in this colony, but to the people of the other colonies. At the present time I think it is almost impossible for anyone to forecast the composition of that Ministry; but I have so much confidence in the statesmen of Australia, including, I may say, the statesmen of Queensland—because Queensland has never been behind the other colonies in producing statesmen at any time. I think Queensland can challenge comparison in the past with any other State in the production of statesmen of high calibre. I have confidence that the other colonies also can produce good statesmen, and whoever the Federal Ministers may be, I think there is no reason to doubt that the Federal Ministry when formed will be formed of men of whom Australia will have no reason to be ashamed. Under the guidance of that Ministry I believe there is every reason to anticipate that the future before the Commonwealth of Australia is a very bright one. I cannot share at all in the pessimistic forebodings of my hon. friend, Mr. Barlow, though I am perfectly sure that in bringing this matter forward now, and before, as he has done, he has been actuated only by the very best intentions and the greatest desire to promote the welfare of Queensland.

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

The Bill was passed through all its remaining stages without discussion, and was ordered to be returned to the Legislative Assembly.

PETITION.

Health Bill.

Hon. W. D. BOX presented a petition from certain merchants of Brisbane in connection with the Health Bill, praying that the fixing of standards should be left to a commission of experts, instead of leaving them to be fixed, as under the Bill, by one individual, and that the commission be empowered to hear evidence from the trading community as to the articles dealt in by them, and to decide the question of the use or otherwise of preservatives and antiseptics in food. He moved that the petition be received.

Question put and passed.

Hon. W. D. BOX: I move that the petition be read.

The PRESIDENT: That motion is rather late. It should have been moved before. The petition has already been received by the Council.

HEALTH BILL.

Resumption of Committee.

Clause 20—"Power of commissioner to act in emergencies"—

The ACTING CHAIRMAN said that when the clause was last under consideration an amendment was moved to omit the words "of which the commissioner shall be the judge," and on a division being called on the question "That the words proposed to be omitted stand part of the clause," the Committee divided, when it was found that there was not a quorum present. He would now put the question again.

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

Contents, 13.

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

Not-Contents, 4.

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

Resolved in the affirmative; and clause, as printed, put and passed.

Clause 21 put and passed.

On clause 22—"Orders of commissioner, when confirmed, binding"—

Hon. A. C. GREGORY said the clause, as it stood, would be incompatible with clause 20, just passed. Clause 22 provided that orders made by the commissioner should not be binding and conclusive unless they were confirmed by the Minister. In clause 20 they had provided that the commissioner should do a great many things solely on his own authority. It would be necessary to reconcile the two clauses.

The POSTMASTER-GENERAL said he thought the remarks of the Hon. Mr. Gregory were based entirely on a misconception of clause 20. Hon. gentlemen considered that the words "of which the commissioner shall be the judge," made the commissioner the sole authority in doing any of the things enumerated in subsections 1, 2, and 3. If hon. gentlemen would look carefully at the clause again, they would see that the commissioner was the judge of the emergency. All those powers were to be used in the case of an emergency, and the commissioner was to be the judge whether it was a case of emergency. The commissioner having decided that it was a case of emergency, he was empowered to do certain things. But to do those things he would have to make orders, and in each case the order would have to be confirmed by the Minister before it became binding. The clause made the commissioner an autocrat so far as to say, "This is a case of emergency."

Hon. A. C. GREGORY: He believed the Postmaster-General was wrong in his contention, because almost the first words of clause 20 were that the commissioner should "exercise, undertake, and perform any or all" of certain powers and duties, and that was to be done without any reference to the Minister or the making of any order to be confirmed by the Minister. It was not a question of making an order.

The POSTMASTER-GENERAL: Those things could not be done by the commissioner in person. Some order would have to be made which would have to be confirmed by the Minister. In order to do anything affecting a local authority or an individual under clause 20, the commissioner would have to make an order, and that order would not be binding until it was confirmed by the Minister under clause 22. He submitted there was no conflict between the two clauses.

Hon. A. C. GREGORY: The conflict was between an order and an act without an order, and something should be done to make the two clauses conform.

Hon. A. H. BARLOW said he could not agree with the Hon. Mr. Gregory. It seemed to him that when the commissioner made a regulation he judged that there was an emergency. Then he took the thing to the Minister for confirmation. He may say, "Whereas I judge that an emergency has arisen by reason of the prevalence of the disease called oriental plague, I therefore direct that people shall be buried in quick-lime." Then he would make an order and take it to the Home Secretary, who would confirm it. If he understood the Minister correctly that order had no validity until it was so confirmed.

The POSTMASTER-GENERAL: The section they were now considering provided that all orders or regulations which under section 20 might be made, should, when confirmed by the Minister, be binding and conclusive; and that obviously implied that if they were not confirmed by the Minister they would not be binding and

conclusive. The proviso to clause 22 also showed what was intended, and that no order was binding upon a local authority until it was confirmed by the Minister.

HON. A. C. GREGORY had no doubt that was the interpretation wished to be put upon it; but under clause 20 the commissioner might "exercise, undertake, or perform" certain duties. He was, under that clause, to be the judge of emergency, and he was then entitled to act, not merely to make regulations, and his action could not be governed by the subsequent clause 22.

The POSTMASTER-GENERAL drew attention to line 25, where it was stated, "but no such order shall have any such effect until so confirmed." That made it perfectly clear that confirmation by the Minister was necessary in the case of every order.

Hon. A. C. GREGORY: It is not merely a question of making orders; he may undertake and perform.

The POSTMASTER-GENERAL failed to see how it was possible for the commissioner to exercise any of the powers or duties expressed in clause 20 without making an order.

HON. A. C. GREGORY pointed out that clause 20 said that the commissioner might "perform."

The POSTMASTER-GENERAL: Take the shovel himself?

HON. A. C. GREGORY: Yes. He had had himself to do that sometimes as No. 1 in authority. However, he left the matter in the hands of the Postmaster-General, and after further consideration the hon. gentleman might see that it was desirable to amend clause 20 by the insertion, for instance, of some such words as "subject to the confirmation of the Minister," before the word "exercise," which would, he thought, be a convenient place for the amendment. That could be done on recommittal, or he would have thought it necessary to move an amendment in clause 22.

The POSTMASTER-GENERAL: In deference to the opinion expressed by the Hon. Mr. Gregory, he would distrust his own judgment in the matter, and take the advice of the Home Secretary and the Parliamentary Draftsman on the subject, and if they considered that there was any ambiguity or uncertainty as to the way in which the Bill would operate, he would have the clause recommitted for further consideration.

HON. A. C. GREGORY thought that would meet the case. He had found so many serious difficulties in the administration of Acts—and especially of Queensland Acts—that he always thought it was better, if they could, to remedy a defect before the Act came into operation.

HON. W. F. TAYLOR thought it was clear that under subsection 1 of clause 20 the intention was that the commissioner should act upon his own initiative. It might take him a couple of days to secure confirmation of a necessary and urgent order, and a very great deal of mischief might be done if in cases which the commissioner judged to be cases of emergency he could not take the initiative and act promptly. Such a power must be given to someone, and he thought the clause was specially intended to confer that power upon the commissioner. Unless that power was given the main object of the Bill as he understood it would be defeated.

Clause put and passed.

Clauses 23 to 28, inclusive, put and passed.

On clause 29—"Appointment, remuneration, and duties of officers of local authorities"—

HON. W. F. TAYLOR: The clause provided for the appointment of a medical officer of health to a local authority, and the 2nd paragraph of the clause said that such medical officer of health should be paid such remuneration, not being less than £10 for any one year, as the local authority thought fit. That, he thought, was fixing the remuneration at a very low rate.

Hon. A. H. BARLOW: That is the minimum wage.

HON. A. C. GREGORY thought the clause an excellent one as it stood, because if the medical man was called in to certify to a case of scarlet fever or measles, or something even more trivial, he must receive a fee of not less than £10. He might be called in but once in the year, and he could, if that were the case, claim the £10 for the one visit.

HON. W. F. TAYLOR: Under the clause he was appointed a medical officer of health to a local authority. It was not the case of a man being called in to see a case of scarlet fever.

An HONOURABLE GENTLEMAN: He might be required only once.

HON. W. F. TAYLOR: He might be required a hundred times, and he could get no more than £10.

The POSTMASTER-GENERAL: No; the £10 was only the minimum, and the medical officer of health might be paid any amount more than that. He could not get less under the Bill even if he had only one case in the year.

Clause put and passed.

Clauses 30 to 34, inclusive, put and passed.

HON. W. F. TAYLOR moved the insertion of the following new clause, to follow clause 34:—

All the powers, rights, and authorities vested in the commissioner shall, whenever he deems fit, be exercisable by the Minister, and when so exercised shall, if so ordered by the Minister, supersede any direction, notice, or order of the commissioner, and every officer shall at all times obey any order or direction of the Minister; and such officers, for the purpose of carrying out such orders and directions, shall have all the powers of the commissioner, whether conferred on the commissioner by Act, regulation, by-law, or otherwise.

All orders, directions, authorities, consents, receipts, made or given, or purporting to be made or given, by such officer, in any way relating to the purpose in respect of which he was authorised by the Minister to act, shall, by all courts, officers, and persons whatsoever, be deemed and taken to have the same force and effect as if such orders, directions, authorities, consents, or receipts (as the case may be) had been made or given by the commissioner.

The object of that was to give the Minister power to act when the commissioner did not act, was unable to act, or was unwilling to act. So far the Bill did not give any power to the Minister at all, except the power of a veto upon the commissioner under clause 22. If the commissioner was disabled or out of the way at a time when an emergency arose requiring prompt action, under the Bill as it stood no one could act. That difficulty had been recognised in the discussion on the appointment of the commissioner, when the Hon. Mr. Thynne raised the point as to the necessity for the appointment of a deputy commissioner. He thought the Minister was the person who should be invested with the same powers as the commissioner, and, if that were done as he proposed, there would be no necessity for the appointment of a deputy commissioner. He should have the power to initiate or to compel certain things to be done where there might be some objection on the part of the commissioner to act. Under the Bill as at present, the Minister could only stand aside and see things done after he had given permission to have them done, and though he might think it absolutely necessary in some emergency, and in the absence of the commissioner, that certain things should be done, he could not, nor could anyone, as the Bill stood, step in and perform what was necessary in a case of emergency. It was a very anomalous position to be placed in that he should not be able to take the initiative, but must delegate it to a subordinate, and at the same time the subordinate had to

secure the sanction of the Minister for what he did. He thought it would be found to work very badly. The Victorian Act recognised that fact, for it provided that—

> All powers, rights, and authorities vested in the board shall, whenever he deems fit, be exercisable by the Minister, and when so exercised shall, if so ordered by the Minister, supersede any direction, notice, or order of the board, and every officer, whether a member of the board or not, and every servant of the board, shall at all times obey any order or direction of the Minister; and such officers and servants, for the purposes of carrying out such orders and directions, shall have all the powers of the board whether conferred on the board by Act, regulation, by-law, or otherwise. All orders, directions, authorities, consents, receipts made or given, or purporting to be made or given, by such officer or servant in any way relating to the purpose in respect of which he was authorised by the Minister to act, shall by all courts, officers, and persons whatsoever be deemed, and taken to have the same force and effect as if such orders, directions, authorities, consents, or receipts (as the case may be) had been made or given by the board.

He did not wish to occupy time. From what he had already said he thought the Committee would see the necessity there was for that power to be given to the Minister.

The POSTMASTER - GENERAL: The amendment was a very important one indeed, because it affected the main principle of the Bill. To increase the power of the Minister would necessarily be to reduce the status of the commissioner. He admitted that the Hon. Dr. Taylor had made out a very good case in favour of the alteration, but it was to be borne in mind that the complaint that had always been made hitherto in connection with health matters was that there was too much power vested in the Minister, and that the Central Board of Health did nothing. The hon. gentleman himself mentioned, as an instance of the defective working of the former Act, that the Minister did not call the board together; that everything depended on the initiative of the Minister; that the Minister did nothing, and so nothing was done. It was on account of that feeling in the public mind that the demand had been made for the creation of an authority which would not be entirely under the control of the Minister. Of course, in a sense, he was under the control of the Minister, but not so far as initiative was concerned. The proposal was that the Minister should occupy a position of superiority to the commissioner at all times, to the extent that he could come in at any time, put the commissioner on one side, and simply exercise all the powers of the Act as though he himself had been appointed the commissioner.

Hon. W. F. TAYLOR: He can put the commissioner on one side now.

The POSTMASTER-GENERAL: If he did, the result would be that nothing would be done because the Minister could not initiate. If the amendment was accepted the Minister could at any time depose the commissioner by saying, "Stand aside; I will do it all myself."

Hon. W. F. TAYLOR: He can now say, "Stand aside; I won't let you do it."

The POSTMASTER-GENERAL: But under the amendment he could say he would do it himself; and that was the unsatisfactory view of the case. The status of the commissioner would certainly be reduced to such an extent that he would not have the same position and authority that he would have as the Bill now stood. He admitted, as he had said, that the Hon. Dr. Taylor had made out a good case, but there was much to be said on both sides, and he should like to have the opinion of hon. gentlemen upon it. He would suggest that, as they had done very good work that afternoon, they might adjourn the consideration of the clause, and he would consult with the Home Secretary as to the view he took of the matter, seeing that it was practically his Bill and in his department.

Hon. A. C. GREGORY: The proposed clause was one that was perfectly in accordance with their great constitutional principle that Ministers should be responsible to Parliament.

The POSTMASTER-GENERAL: We have been getting away from that lately.

Hon. A. C. GREGORY: It was true, but that would enable them to do right for once. The Minister was like the captain of a ship, and was responsible to the owners, or, in other words, responsible to Parliament. If officers were put under him whom he could not supersede or direct he was placed in a position of irresponsibility. It was not to be supposed that the Minister would, merely from some fad of his own, supersede the commissioner, but there might be cases where it was necessary that he should do so; and somebody must be responsible to Parliament for what was done by the department. True, the commissioner might be called to the bar, and the Minister might be directed to dismiss him, but that would be a very unsatisfactory way of doing business. If the department was to be carried out satisfactorily the Minister must be in a position to step in and take everything into his own hands if necessary. If he did it unnecessarily he was in the hands of Parliament, and Parliament had a very effective way of dealing with him. He thought the amendment should be adopted. Meantime the suggestion of the Postmaster-General that the matter should be deferred until he had time to examine it was a very good one.

Hon. A. H. WILSON: He was very much afraid that if the clause was passed it might cause clashing between the Minister and the commissioner. He did not coincide with the Hon. Mr. Gregory in the parallel he drew between the captain of a ship and the Minister in charge of a scientific department. A captain was supposed to know more about the working of his ship than the man who merely represented the owners. The commissioner, who in that case was the captain, would be a man thoroughly up in all the duties appertaining to the preservation of the public health and the working of a complicated Health Act, whereas the Minister might be a mere nincompoop in those matters; and if he was given power to overrule the commissioner at any time, he would be likely to do much more harm than good.

The POSTMASTER-GENERAL: They might issue contrary orders.

Hon. A. H. WILSON: And the Minister might issue absurd orders and do a great deal of injury. It might be all very well to give him the power when the commissioner was sick or away; but to give him the power at any time to over-ride the commissioner would not work at all, and he objected to a clause like that.

Hon. C. F. MARKS: Before coming to a decision he should like to know what amendment was to be made in clause 10, providing a substitute or deputy for the commissioner in case of illness or absence. A very great deal hung on that. It must be either the Minister or someone else.

Hon. W. F. TAYLOR: He could only reiterate what he had said. The Minister had complete power over the commissioner now. He could stop his action at any time he liked.

The POSTMASTER-GENERAL: Supposing they issued contrary orders?

Hon. W. F. TAYLOR: Was it likely they would issue contrary orders when the commissioner had to get the consent of the Minister before he could issue an order. It was utterly impossible; the commissioner must get the consent of the Minister for everything he did. With regard to clause 10, there was no necessity to appoint a

deputy. In the absence of the commissioner from any cause whatever, the Minister, with the advice of the Central Board of Health and his experts, could act. The matter appeared to him to be one of common sense.

HON. C. F. MARKS asked the Hon. Dr. Taylor what would occur in the event of the Minister acting as commissioner? They had had the case of one Minister who, when the Central Board of Health asked that an analysis of a sample of water should be made, refused, because, as he said, he did not think it necessary to have the water analysed. They might again have a Minister who knew so much or so little about it, that he would render the power given under the Bill to the commissioner absolutely useless.

HON. W. F. TAYLOR: The answer was very simple. Anyone who wanted the water analysed would, under that Bill, have to go to the commissioner, and the commissioner would have to get the sanction of the Minister to do it all the same. According to the Bill as it stood, nothing could be done without the Minister, but the Minister himself could do nothing.

HON. A. H. WILSON did not object to the whole clause, but to the words, "whenever he deems fit." If those words were excised, the clause would be right enough, and the Minister would have ample power. If the Minister could interfere at any time, he might do a great deal of harm.

HON. A. C. GREGORY took it that they were not then discussing the details of the wording of the clause, so much as the general policy it involved. They could discuss the wording of the clause when they had decided as to the general principle it raised.

HON. J. McMASTER was inclined to support the clause. The Hon. Dr. Marks had said that they might have a Minister in office who would not give a necessary order or who might himself do something which would be injurious. That was so, but they might have a commissioner who would do just the same. Under that Bill very drastic powers were given to the commissioner, and he could not be approached as the Minister could be. The public, he thought, would have more confidence in the Minister than in the commissioner. No Minister would use the power given to the commissioner under the Bill in a way to injure the public generally. He thought it desirable that the Minister should have those powers, and he would support the amendment.

The POSTMASTER-GENERAL: In order that they should have an opportunity to further consider that important clause, he would move that the Acting Chairman leave the chair, report progress, and ask leave to sit again.

Question put and passed.

The House resumed; the ACTING CHAIRMAN reported progress, and the Committee obtained leave to sit again on Tuesday next.

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