

# Legislative Assembly,

Tuesday, 12th October, 1909.

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The SPEAKER took the Chair at 4.30 p.m., and read prayers.

## PAPERS PRESENTED.

By the Premier : 1, Perth Museum and Art Gallery—Report of Committee, 1908-09. 2, Public Library—Annual Report, 1908-09. 3, By-laws passed by the Geraldton Local Board of Health.

By the Minister for Mines : 1, Amended Regulations under "The Mining Act, 1904" (Addition to Form 59). 2, Papers relating to the appointment of a clerk of courts and mining registrar at Wiluna. (Ordered on motion by Mr. Holman.)

## QUESTIONS (3)—RAILWAY OFFICERS.

### Minimum Salaries.

Mr. DRAPER asked the Premier : Is it the intention of the Government, in view of the provision which has been made upon the Estimates, to pay officers under the Public Service Act the minimum salary according to classification, and to take steps to place the officers of the Railway Department relatively in the same position under the salaried staff regulations."

The PREMIER replied : The Commissioner of Railways is at present engaged on a new classification, which has been rendered necessary owing to the reorganisation of the department. On the completion of the classification the case of those officers receiving less than their classified salary will receive consideration.

### Junior Officers' Increments.

Mr. JOHNSON asked the Minister for Railways : 1, Do the Railway salaried

staff regulations provide for automatic yearly increments to junior officers until £150 a year is reached, and why were these increases not generally granted for the year 1908-9? 2, Was there a general suspension of classification advances owing to the exigencies of the Railway Department's finances, 1908-9? 3, If not, why were exceptions made in the matter of increases?

The MINISTER FOR RAILWAYS replied : 1, a. Yes. b. Owing to financial stringency. 2, Yes. 3, Answered by No. 2.

### Salaries below Minimum.

Mr. SCADDAN asked the Minister for Railways : 1, In view of the Premier's announcement that provision had been made on the current Estimates to bring all civil servants up to the minimum salary according to their respective classified grades, will the Minister inform the House if railway officers in receipt of £150 per annum and over, but who are still receiving less than minimum salary for their positions, have been provided for? 2, If not, will the Minister inform the House of the reason for different treatment meted out to railway officers as compared with other branches of the civil service?

The MINISTER FOR RAILWAYS replied : 1 and 2, A minimum salary has not been fixed, as is the case under the Public Service Act, but when the Commissioner of Railways has completed his classification the case of those officers receiving less than their classified salary will receive consideration.

## LEAVE OF ABSENCE.

On motion by Mr. Gordon, leave of absence for one fortnight was granted to Hon. F. H. Piesse on the ground of ill-health.

## BILLS (2)—THIRD READING.

1. Land Act Special Lease, transmitted to the Legislative Council.

2. Administration Act Amendment, transmitted to the Legislative Council.

## BILL—HEALTH.

*Second Reading.*

The MINISTER FOR MINES (Hon. H. Gregory) in moving the second reading said: In introducing this Bill to the House I might start by referring to the checkered history which has followed the introduction of Bills consolidating and amending the Health Act of this State. In 1904 a comprehensive measure was brought before this House and referred to a select committee, but owing to the shortness of the session no further action was taken during the year. In 1907 the Bill was again introduced, this time in the Legislative Council, and it was again referred to a select committee. Many amendments were made, and the Bill passed all its stages in that Chamber, and was then sent to the Legislative Assembly where, again owing to the amount of business we had before us and the late stage of the session at which the Bill was introduced, it failed to pass the second reading. On that occasion only the Leader of the Opposition and myself spoke in regard to the measure. Again this year the Bill has been placed before the Legislative Council, has passed that Chamber, and is now sent down to members of this Assembly for review. I hope that on this occasion the Bill will pass this Chamber and become law.

Mr. Angwin: Is it the same Bill that was introduced in the previous year?

The MINISTER FOR MINES: There are amendments. Generally, it is a consolidating measure, but to a very great extent it is similar to the measure brought forward by my friend, the member for Mount Margaret. There are some essential alterations which I will endeavour to explain later on. There are also one or two additions. The Bill is a most voluminous one, but a similar one has undergone so much criticism, and on two occasions has been referred to select committees, that I hope on this occasion it will be passed. I would like members to remember that in connection with this measure the administration of health is under the control of the Colonial Secretary, and if there should be any amendments suggested—I hardly think there will be—I hope members will table them

early so that I shall be able to obtain the advice of the department with regard to them. I have had no knowledge of the administration of the Health Department, and, therefore, it would be fair and wise, and, I think, essential, for me to obtain the best advice from the department with regard to suggested amendments. Any special amendments anyhow might be given early notice of so that I might be fully seized of their importance. This Bill deals with sewerage and sanitation generally, houses unfit for occupation, boarding and lodging houses, nuisances and offensive trades, the inspection of foods, the control of infectious diseases, private and public hospitals so far as they relate to infectious diseases, and also to the protection of life and the registration of nurses. In a measure of this kind the most important part, to my mind anyhow, is that dealing with administration. The method of administration must, I think, create the greatest discussion, for the other parts are mere matters of detail in comparison with the system to be adopted in regard to the administrative clauses. In New South Wales there is a Central Board of Health, which consists of from seven to ten members, who are nominated by the Government; the local control is by the municipalities, where there are such, and otherwise by the police. In Victoria there is a Central Board consisting of the chairman and medical inspector appointed by the Government, and seven members elected by the various groups of towns, boroughs and shire councils. The local administration is carried on by the councils of cities, towns, boroughs and shires. In South Australia they have a central board of health consisting of a chairman and four members, two of whom are elected, and the others are appointed by the Governor. The former are elected, one by the city and suburban local bodies, and the other by the country boards. In Queensland they have a commissioner of public health who is assisted by a nominee Central Board of Health whose functions are purely advisory. In Tasmania there is a department of health with a chief health officer who has absolute control over health matters. The same applies to New Zealand,

In Western Australia we are following the practice which is being adopted in South Australia, that is, we are to have a principal medical officer, assisted by two members who will be nominated by the Government, and by two others who will be nominated by the local authorities. The proposal is to have the country bodies divided into two groups each one to nominate a member to the central board, and the Governor-in-Council will approve of such nominations. In the 1904 measure which was introduced in this Chamber it was proposed that we should follow the practice adopted in Tasmania and New Zealand, that is, that we should have one president who would have a supreme authority and control over all matters pertaining to public health. It has also been proposed that the whole central board should be elected. We have endeavoured to give effect to the wishes of both parties. We do not desire that the board should be wholly nominee or wholly elective, but we provide that two members should be elected and two nominated, with a medical man as president. In having a medical man as president of the board and controlling the whole of the functions associated with health in a State like ours, so much depends upon the class of man we appoint. If he is a medical man he should have good business ability, sound practical commonsense, and then the administration of the Health Department will probably meet with the approval of the general public.

Mr. Taylor: He wants administrative capacity as well.

The MINISTER FOR MINES: He must have administrative capacity. On the other hand we might not make a good selection, and we might get hold of a man who would be a faddist, and who would take extraordinary measures with regard to administration.

Mr. Heitmann: A man cannot be too much of a faddist in connection with health matters.

The MINISTER FOR MINES: Oh yes he can, and if he wants to he can easily find germs everywhere. We want a medical man as president to whom we can say, "We want you to have advice," and we ask that we should be allowed to

nominate two professional men who will not be biased by local conditions, and who will be placed upon that board purely as professional advisers to the president and to the board generally.

Mr. Angwin: Will you make them Government officers?

The MINISTER FOR MINES: They will be members of the board and to that extent Government officers. Their appointment will be for three years. On the other hand we want someone on the board who can appreciate local conditions and who can point out to the other members the difficulties that have to be contended with in the remote districts of the State. It is all very well for people residing in the metropolitan area to say that it is an easy matter to carry out functions relating to public health, but the conditions applying to one place might not apply to an outside place, and we want to be able to appoint men who are also interested in local conditions. We therefore ask that two shall be nominated by the local authorities, thus giving the local authorities some representation on the board. I want specially to emphasise this, because in connection with the Bill there have been comments about the strong and drastic powers given to the central board not only so far as the general public are concerned but against such local authorities, as, in the opinion of the central board might be neglecting their duties. We want, therefore, to constitute a central board which will meet with the approval of all parties concerned. The system which we propose in the Bill is, to an extent, a compromise, and I hope it will meet with the approval of hon. members. We have both a nominative and elective board here, and I trust that the clauses dealing with administration will meet with general approval. A new feature of the Bill is the power to appoint a deputy president. Under the present administration, in the event of a president being absent for some time, or away on leave, some other member of the board becomes chairman ex officio. We propose that in the event of the medical officer who is president being absent for any length of time, that there shall be power to appoint a deputy president who

will fulfil all the functions, and have all the powers of the president. While this Bill gives the central board very great powers it must not be assumed that these powers will be exercised on every occasion; they are powers which will be required only in special circumstances. For instance, in the event of an outbreak of plague the central board of health must always step in to prevent a continuation of anything of that sort. The power proposed in the Bill is absolutely necessary. I would refer to an instance that occurred in the Leonora district recently. The complaint came to the central board to the effect that the sanitation of the Gwalia district was not being attended to properly, but the local board neglected to take any action. The Central Board of Health sent up their own inspector; gave him instructions to carry out what improvements he considered were essential, and they were carried out under the authority of the Central Board of Health and the local authority had to pay for the work.

Mr. Bath: How do you enforce payment?

The MINISTER FOR MINES: There is power to insist upon them increasing their rates to the maximum allowed by the Act in the event of it being necessary for them to meet any special expenditure incurred.

Mr. Bath: Supposing they did not do it.

The MINISTER FOR MINES: We will have power to compel them under this Bill, but I will deal with that question when I reach the rating clauses. In connection with the local authorities, in this measure it is proposed in addition to the municipal authority being created a local body, to also provide that roads boards shall also be created local boards of health, but the Government will have the power to divide a roads board area if they consider it to be too large or too cumbersome, and they will be able to appoint nominee boards as in many instances is done at the present time. A nominee board will only come in when we have to appoint local bodies in such districts as the roads boards cannot attend to. The Bill also provides that the ap-

pointment of medical officers, analysts, and inspectors must be approved by the Central Board of Health. I would like to point out that this power has been exercised by the Central Board of Health ever since 1898, so that as far as this particular matter is concerned no extra power has been provided for in the Bill. The extra power asked for is that a local authority should not have the power to reduce the salary of a medical officer or inspector without the approval of the Central Board of Health. It is a matter of opinion as to whether the central board should have that power or not. The Legislative Council struck out the proposal that the Central Board of Health should review the action of the local authorities in connection with the dismissal of an inspector, because they did not think it was essential that the central board should have the power to review these dismissals. It will be a matter for consideration in Committee whether we should go so far as to protect an inspector appointed by a local board by giving the central board power to review a dismissal in the event of that authority not considering the dismissal justified under circumstances. The power, I am sure if given would never be taken advantage of by the Central Board of Health except under special circumstances. Where vested interests are concerned an inspector, may in the opinion of some, be over zealous in regard to his work, and he may be dismissed for conscientiously carrying out his duties. I can quite understand that in the event of any inspector showing himself to be over zealous, or making himself obnoxious or for not properly carrying out the functions of his office that the Central Board of Health would approve of his dismissal. On the other hand it may be a wise provision to reinsert in the Bill the power that the central board should control the dismissal of such officers. Dealing with the final matters pertaining to administration, I would like to point out to those who believe in Ministerial control that here we have the Minister as a court of appeal. He has full power to review any action of the central board, so that a local authority who may feel aggrieved at

any action taken by the central board will have the power to place their case before the Minister who will sit as a court of appeal and review the matter, and act as he may think fit.

Mr. Angwin: Could he not do the same if there were only a commissioner?

The MINISTER FOR MINES: No, I do not think the Minister could do so, because there is an enormous amount of detail work to be carried out which would never come before the Minister. It would not be right to ask the Minister to accept responsibility for all the actions of the president, sitting alone as commissioner of public health, and to attend to the details of the work of the board of health. Should any trouble arise between the local authority and the central board it will be for the Minister to go fully into the merits of the dispute and to decide between them. As we have it, we give the greatest security to the local authority; we give them the power to bring their case before a greater authority than the central board, and we do not embarrass the Minister by asking him to be responsible for every detail of the work being carried out by the board. The rating powers are similar to those contained in our present legislation, with the exception that in remote districts, after approval by the Governor, the boards have the power to increase their taxation by 50 per cent; that is, where the rating will be 6d. in the pound on annual value, or  $\frac{3}{4}$ d. on the unimproved value. Take districts in which the cost of administration has greatly increased: with the approval of the Governor-in-Council these boards will be able to increase their rating by 50 per cent. Provision is also made for the striking of sanitary rates. In Clause 47 power is given to strike a supplementary rate. If a local authority be not rating up to its full power, and if special expenditure has been incurred in connection with the work of that local authority, the central board will have the power to insist upon the local authority rating its people up to the full maximum power.

Mr. Bath: Of course, the central board may insist: but supposing the

local authority refuses to carry out the request?

The MINISTER FOR MINES: I have not yet got a full grasp of the details of the whole Bill. I hope to get a better grasp of the clauses of the Bill when in Committee. We cannot give power to a local authority to tax over and above a certain amount, no matter what the cost may be; the maximum power is clearly defined in the measure. They will have to reduce their expenditure in some other manner, and endeavour to make arrangements for the carrying out of the order of the central board. We have in the Bill borrowing powers which are entirely new. It has happened that local authorities have been desirous of raising money for the purpose of providing their own sanitary system. I well remember that when the Kalgoorlie and the Boulder councils desired to carry out sanitary work in connection with their municipalities it was necessary to borrow a large sum of money for the purpose.

Mr. Angwin: They could have done it under the Municipal Act.

The MINISTER FOR MINES: On that occasion the Government advanced the money to the councils to enable them to do this work, but provision is now made in the Bill under which they will have power to borrow for themselves. I would like to point out in connection with this borrowing that a loan must first be approved by the central board, then by the Minister, and, lastly, by the Governor-in-Council; and the borrowing must be carried out under the same conditions as would apply to a municipal body or a roads board. The Bill also deals with the sewerage of towns and the drainage, the removal of refuse, etcetera. In regard to these matters there are some very large powers provided, and also in regard to by-laws, as, for instance, power to make regulations dealing with hairdressers' saloons. I think every member will approve of giving power to insist upon the cleanliness and proper ordering of these saloons. In regard to condemned dwellings, the local boards have not had the power to order the demolition of a

dwelling condemned as unfit for habitation. In many instances these condemned buildings have been allowed to remain as sore spots in the community, and undesirable characters often take shelter in them. In future, the local boards will have the power to order the demolition of these condemned buildings. The overcrowding of public buildings and theatres is dealt with in Clause 148. If an officer of police or of the central board considers that a building is already filled, he will have the power to close the doors; and in the event of any person allowing a building to be filled above its licensed capacity, it is provided that instead of a fine of £20 being imposed the fine may be increased up to £100. It has been shown clearly that it pays a company to overcrowd a theatre and pay a fine of £20 rather than to turn people away; so we have taken power not only to insist upon the doors being closed to prevent overcrowding, but also to impose a penalty up to £100. I am sure every hon. member will agree that we should have strong powers to prevent the overcrowding of public buildings to the extent it has been done in the past. Power is given to appeal to the central board if a local authority refuses to grant a license for the carrying on of an offensive trade in a municipality. Power is also taken to deal with food stuffs, dairy produce, drugs, medicines, and the like. Indeed the Bill is a resume of past legislation, with improvements suggested by experience. The central board is to have power to set up standards in connection with food stuffs, and the Governor will fix these standards in respect to the food stuffs and the amount and kind of any foreign substance to be added for preservation, colouring, or flavouring of foods. These powers are very necessary for the preservation of the health of the people. We can make regulations dealing with printed matter placed on goods exposed for sale; and not merely in respect to what shall be printed on these goods, but also the manner in which it is printed. This is done in order that persons may not make undue use of small letters for the printing of words which they have no

especial desire that the public shall notice. I am sure this regulation will meet with the approval of all parties. When any person goes to a store and asks for certain goods, I think that person ought to receive the goods he desires; and we certainly should have power to make regulations dealing with the sale of such goods. We have also power to deal with the sale of patent medicines. If it be found that any patent medicines containing injurious compounds are being vended, the board has power absolutely to prohibit the sale of such patent medicines within the State. However, I can assure hon. members that that power will not be carried out until such drugs and medicines have been properly analysed and examined. The Bill also deals with infectious diseases, and gives extensive powers to the board in that respect. And yet, to a great extent, these powers represent simply the legislation we have in force to-day. The power is given to the central board to co-operate with a local authority in case of an outbreak of plague. This has been done in the past but, as a matter of fact, there has been no legal authority for so doing. The Bill makes provision that the central board and the local authority may co-operate and act in concert for the purpose of suppressing any such disease.

Mr. George: Does the Bill deal with all contagious diseases?

The MINISTER FOR MINES: As the hon. member knows, an amendment was placed in the Bill at the request of certain people, and the amendment states that the Bill does not apply to certain diseases.

Mr. Bath: What attitude will the Health Department take in respect to these diseases?

The MINISTER FOR MINES: They will take no action in any shape or form.

Mr. Bath: Take no action at all?

The MINISTER FOR MINES: I presume the hon. member refers to venereal diseases. We never had any intention of compassing in the Health Act any legislation which would deal with diseases of the sort. I would point out that if it were desired, it is an action which would be taken under the police admini-

stration. In no other State has any such matter been brought up in a health measure.

Mr. George: Yet it is the most important disease in the world to deal with.

The MINISTER FOR MINES: It should be dealt with under special legislation, and its administration should be by the police, and not by the health authorities.

Mr. Bath: Have the department obtained any report from the medical officers in regard to this question?

The MINISTER FOR MINES: I could not advise the hon. member on that, but I can advise the hon. member to this extent—that the central board and the Minister in drafting and proposing this measure had not the slightest idea or desire that the Bill should, by suggestion or otherwise, have anything to do with the diseases that have been mentioned; and quite properly so, because if we want to deal with them it should be by special legislation; and if any member desires to bring in legislation to that effect it will probably be taken into consideration by the House.

Mr. Bath: If it is to be dealt with at all, it should be dealt with by this Bill.

The MINISTER FOR MINES: I do not agree with the hon. member. The administration necessary in dealing with the class of people concerned lies wholly with the police and not with the Medical Department. However, I do not want to be drawn into a discussion as to the merits of inserting an amendment in the Bill to enable these diseases to be included in the infectious diseases clauses. At the same time I think that if we did so we should probably be doing a great harm, and a great wrong, and an incalculable amount of injury without doing any great good at all. If hon. members have any desire to have legislation brought forward to control these diseases, the House can take the matter into consideration. I agree with the member for Murray (Mr. George) that it needs special consideration, but I think that consideration should be given in a special measure which would be dealt with entirely apart from the administration of health generally.

Mr. Osborn: Do the same as we do now; run them all in!

The MINISTER FOR MINES: We have that legalisation already, and it is controlled by the police. There is an entirely new proposition in Part XI. of the Bill dealing with the registration of nurses. There will be a nominee board of three. The president of the central board will be ex officio chairman of this board, and there will be two other medical gentlemen, one of whom, after the expiration of twelve months, will be appointed on the nomination of registered nurses. The measure deals first with the registration of midwives. After the 1st January, 1911, all midwives shall be registered. I think all members will agree that it is essential that persons who follow the vocation of midwives should be of good character and cleanly in their habits, and generally irreproachable, and persons in whom the public can place confidence. Any woman who has followed the vocation of midwife, and can show the board that she has had the experience at any time within two years after the passing of the Act can be registered as a midwife, and no other person can practice except in cases where there is no doctor resident within five miles of the patient, or where there is no registered nurse available, or if the doctor or registered nurse should refuse to attend. In this case any woman can attend as a midwife, but no woman can practice as a registered midwife unless she has been registered by the board, and if she claims to be a registered midwife without being registered by the board she will be liable to a penalty. As I have already said where there is no doctor or midwife available, any other person can attend and accept fees, and no complaint can be made for her so acting. We also provide for the registration of trained nurses. They have to serve a period of three years in an approved institution before they can be registered. Here I think the Bill disagrees with the desires of the trained nurses, because any woman may practice as a nurse except in cases of midwifery, though she cannot advertise herself or claim to be a registered trained nurse. If she does so advertise herself she is liable to be prosecuted for commit-

ting a breach of the Act. However, it is not compulsory that nurses shall be registered for the purpose of carrying on the duties of nursing.

Mr. Heitmann: Then what is the good of the Bill?

The MINISTER FOR MINES: Any person following the practice of nursing and who is a registered trained nurse can put a notification on her door or an advertisement in the newspaper to the effect that she is a registered trained nurse, but no other person can properly claim to be a registered trained nurse. We are not desirous at the present time at any rate of making the nurses' association a close corporation by providing that no one except those who have served three years' training can act as nurses. That would act as a very heavy impost on the poorer section of the community. It should be sufficient to provide as we have already done, and if a woman knowingly engages a nurse who is not a registered nurse she engages that nurse at her own risk. The principle is that none other than registered trained nurses can advertise as registered trained nurses.

Mr. Heitmann: A nurse can be trained but not be registered.

The MINISTER FOR MINES: If she is trained and is not registered, it is her own fault. We do not make registration compulsory except in the case of midwives; and, as I pointed out, if a doctor or a midwife is not available any other person may practice as a midwife and obtain fees. The Bill also deals with the examination of children at schools. The Education Department and health authorities, at the instance of Mr. Kingsmill, many years ago instituted a system of the examination of school children by medical gentlemen: but there is no legal authority to conduct these examinations, because technically, whenever a doctor makes such an examination of a child he is guilty of an assault, and we want the power. It simply means carrying out the present practice. All the Bill does is to give the central board the legal authority for carrying out the examinations. The Bill is a very comprehensive one: it is a mass of details; and I have no intention of try-

ing to wade through all the various clauses and explain them; but when dealing with them in Committee—

Mr. Heitmann: What are you doing in reference to infectious diseases: that part is very important?

The MINISTER FOR MINES: I do not want to go through the details of the provisions in the Bill dealing with infectious diseases.

Mr. Heitmann: What about phthisis?

The MINISTER FOR MINES: The method of dealing with phthisis is provided in the Bill.

Mr. Heitmann: Do you know that there are scores waiting to go into sanatoriums, and you have not the accommodation for them?

The MINISTER FOR MINES: That is a matter for administration, not legislation.

Mr. Taylor: It is necessary to have legislation on that point.

The MINISTER FOR MINES: We have legislation dealing with it, and I think the hon. member will find that it is quite complete. I think the Bill will be found to be a very comprehensive measure, and one that will require full consideration. If any drastic amendments are suggested I hope members will table them early, so that I will be able to obtain the full benefit of the advice of the department. The chief point in connection with the Bill is that dealing with administration, and the method pursued in the Bill has been to render the health authorities, both central and local, much more efficient by conferring on them new powers that have been found to be necessary in the past. Public health work is largely a matter of evolution, and the progress that has been made in this State in public health work for the last ten years can be easily followed, and local authorities may now be safely given powers which would not have been given them when the Act of 1898 was passed. With the conferring of these additional powers upon the local authority and the central board an effort has been made to obtain an equitable balance, and to provide safeguards against the undue or unreasonable exercise of the powers thus conferred. By the powers of appeal against the local



authorities' decisions in Clauses 41 and 42 a safeguard is given to owners and occupiers of property; and by the revised constitution of the central board, allowing for the appointment of two representatives by the local authorities, the interests of those authorities should be safeguarded; and it is quite fair to anticipate that the proposed powers will in operation be found to work efficiently and smoothly. The powers conferred on the central board are naturally not aimed at all local authorities. Surely local authorities do not anticipate neglecting the carrying out of their duties. It is to be hoped the local authorities realise that when they receive powers under the Health Act they do so with the desire to carry out their duties without invidious distinctions, and it is only when the central board finds that the local authority is not carrying out its duties properly it will interfere. I hope that the Bill will receive every consideration from hon. members. It is in every sense a full and comprehensive measure, and deals with all matters pertaining to health. We have had the experience of the various health boards of the Eastern States. In Tasmania and New Zealand they have control by one commissioner. There is also an elective system in some States, and in another State there is the nominee system. I think it will be found in the administration proposals placed in this measure that we will be able to give far greater satisfaction than if we adopted either of the systems in force in the other States. I have much pleasure in moving—

*That the Bill be now read a second time.*

#### *Points of Order.*

*Mr. Bath:* I desire to take the point that the Bill, the second reading of which has been moved by the Minister for Mines is not in order. Clause 246, Subclause 10 states—

“A contribution of one-half of the costs and expenses incurred in providing hospitals under this section, and in the treatment of indigent patients, shall be paid to the local authority out of moneys appropriated by Parliament to that purpose.”

Under Section 66 of the Constitution Act it is provided—

“All bills for appropriating any part of the Consolidated Revenue Fund, or for imposing, altering, or repealing any rate, tax, duty, or impost, shall originate in the Legislative Assembly.”

It is clear therefore that the Bill is out of order.

*The Minister for Mines:* I fail entirely to follow the hon. member in regard to his objection to the measure. The subclause read is merely a provision by which moneys may be appropriated by Parliament. It does not provide for the actual appropriation of money. If Parliament choose to appropriate money for the purpose indicated, provision is made whereby that money will be paid. There is no encroachment upon the powers of this House, and the clause does not provide in any sense for taxation. There is no charge upon the State.

*Mr. Bath:* It provides for an appropriation.

*The Minister for Mines:* The moneys must be appropriated first. I fail to see that the Legislative Council have done something which deals with appropriation. I hope the hon. member will not press the objection. In this instance there may be some little technical infringement of power—I do not admit there is—but it is a small matter, and it is evident that there has been no desire to infringe the powers of the Assembly. Members will notice that in Part III., which deals with the financial position of the measure, the clauses are printed in italics, and have not been dealt with by the Legislative Council. The appropriation under the clause to which objection has been taken must receive the authority of the Assembly before moneys can be paid.

*Mr. Bath:* I do not bring this matter up with a view of embarrassing the Government or interfering with the passage of the Bill, but with the express desire of protecting the privileges of the Assembly. We have had trouble before in regard to this question, on very important matters, and irrespective of the question of the Bill now before the House, we have to take care that in no form do we offer any

precedent for future claims by another Chamber. It is no use blinding ourselves to the fact that already appropriations are made annually for the purpose of supporting hospitals in the country. This is not a question where it is problematical whether the powers will be utilised, for we know that appropriations have taken place in the past for this purpose, and that under this provision appropriations will take place in the future. In these circumstances we give express power by the clause for the appropriation of a sum of money for the support of hospitals, and I contend that is altogether a violation of our rights by the other Chamber. It would be very dangerous for us, even with the view perhaps of avoiding any delay in the passage of this Bill, to permit the action of another Chamber to go unchallenged. I am not anxious to press for a decision on this point now, and I will be willing later on to move the adjournment of the debate, so that Mr. Speaker may have an opportunity to look into the objection.

*Mr. Walker:* I wish to draw attention to the fact that the Leader of the Opposition takes the point on the Constitution Act, behind which we cannot go, and I desire to read with particular emphasis the part of Section 66 which applies to the point of order. That section reads--

"All Bills for appropriating any part of the Consolidated Revenue Fund, or for imposing, altering, or repealing any rate, tax, duty, or impost, shall originate in the Legislative Assembly."

With the latter portion of the section the Minister for Mines has not dealt. The Bill may not itself now fix the amount of the appropriation, or make the appropriation; but it does make an impost, it does alter existing imposts or appropriations, and it does repeal certain rates, as it were, certain taxes. Therefore it comes particularly under Section 66. There is another point which doubly makes this measure out of order, and that is that it has not been introduced by Message. By the Constitution Act—and no Standing Orders can overrule that Act, if there

were any that attempted to do so, which there are not—it is said in Section 67—

"It shall not be lawful for the Legislative Assembly to adopt or pass any Vote, Resolution, or Bill for the appropriation of any part of the Consolidated Revenue Fund, or of any rate, tax, duty, or impost to any purpose which has not been first recommended to the Assembly by Message of the Governor during the session in which such Vote, Resolution, or Bill is proposed."

It will be remembered that there have been Bills ruled out of order precisely upon the same point as this one. One was the Fire Brigades Bill, which did not appropriate any specific sum but provided for an impost and was ruled out of order because it was not introduced by Message. It was re-introduced afterwards by Message. These sections are fundamental guides. They appear in the Constitution Act and we cannot go behind them. We cannot dispute or question that Act without a law for the purpose. It is provided that all Bills dealing with taxation shall be introduced in the Assembly, yet on page 19 of this Bill will be found certain clauses, which it is true were not considered by the Legislative Council, but which form part of the Bill which comes before us now. The words of those clauses are printed in italics and drawn through to signify that they were not intended for the Legislative Council to consider; but a Bill was introduced which contains these clauses, while Section 66 provides that all Bills providing for appropriating money shall originate in the Legislative Assembly. These are the financial clauses of the Bill, and the position cannot be overcome by the clauses being printed in italics and the Legislative Council being refused permission to deal with them. The Bill is not a Bill without these clauses. It is a subterfuge to suggest that the position is altered by the printing of the clauses in italics. I do not use the word disrespectfully, but it is an evasion of the Constitution Act which distinctly says that such Bills must originate in the Assembly. The Act goes further, for in the section are the words, "or for imposing, altering, or

repealing any rate, tax, duty, or impost."

*The Minister for Mines:* Where is the rate, tax, duty or impost?

*Mr. Walker:* There is a contribution of one-half the cost. That is a great burden on the people. One half of the cost of the expenses incurred in private hospitals under this section and in the treatment of indigent patients shall be paid to local authorities out of moneys taken from the public revenue and appropriated from time to time. You cannot read it any other way.

*The Premier:* From moneys appropriated.

*Mr. Walker:* Exactly. Where do you appropriate from?

*The Premier:* The Estimates.

*Mr. Walker:* Where do you appropriate your money from?

*The Premier:* Parliament.

*Mr. Walker:* Parliament has not a penny; you get it from the public funds. Is it not foolish to talk about it not being money because it is appropriated? It is to be appropriated from the public moneys.

*Mr. Jacoby:* Is this an Appropriation Bill?

*Mr. Walker:* No; but this is a Bill for imposing.

*Mr. Draper:* Imposing what?

*Mr. Walker:* Why, a tax.

*Mr. Bath:* An impost.

*Mr. Walker:* Imposing, altering, repealing any rate, tax, duty or impost.

*Mr. Draper:* Hardly a tax.

*Mr. Walker:* We may split straws there, but it is a Bill which directs. It is almost compulsory in the appropriation of revenue from the public funds. We must take money under this Bill, and therefore it is a money Bill.

*Mr. Jacoby:* Nothing would appear on the Estimates as a result of this measure.

*Mr. Walker:* How are you going to provide the money then? If the Auditor General says, "where is your authority for appropriation," what do you say? You say it is this Act; you cannot appropriate money without authority.

*Mr. Jacoby:* Parliament will, and when Parliament does that that will be an act of appropriation.

*Mr. Walker:* That is also splitting straws. This is the authority.

*Mr. Taylor:* This gives authority to appropriate.

*Mr. Walker:* Undoubtedly. This is the thing that fixes it. A contribution of one-half the cost of expenses incurred in private hospitals under this clause, and the treatment of indigent patients will be paid. It must be paid.

*Mr. Jacoby:* Presuming there is no Appropriation Act brought down, money cannot be spent under the authority of this measure.

*Mr. Walker:* I fail to see the point.

*Mr. Jacoby:* This Bill certainly does not appropriate.

*Mr. Walker:* It does not say you shall make appropriation: it says that money shall be paid, and it distinctly says that money shall be paid, and goes on to say that it shall be paid out of appropriation made by Parliament from time to time, and the object in putting it in that form is clear. This year you may only require so much: next year you may require twice as much, and the following year less than either of the previous years, and so on. It may vary year to year, and you shall make your appropriation according to your necessities.

*Mr. Bolton:* Under the authority of the Act.

*Mr. Walker:* Under the authority and by command of this Act the money shall be paid and shall be annually appropriated.

*Mr. Jacoby:* This says, if appropriated.

*Mr. Walker:* If this does not commit the country to the spending of money I never knew a money Bill that did. It commits the country to the expenditure of money, and if it does that it is a money Bill. Where is there a money Bill other than the mere Estimates themselves if this is not one? It directs from what source the money shall be paid.

*Mr. Jacoby:* The Constitution Act refers to a Message.

*Mr. Walker:* It provides that not only shall Bills for appropriating but Bills which fix an impost shall be introduced by Message.

*Mr. Jacoby:* That is another question.

*Mr. Walker:* That is the point I am taking.

*Mr. Jacoby:* I am not disputing that point.

*Mr. Walker:* Then why make all this fuss, because that is the point I have been arguing all the time. All Bills for appropriating any part of the Consolidated Revenue Fund must originate in the Legislative Assembly. This is one. The Act provides, "... or for imposing, altering or repealing any rate, tax, duty or impost shall originate in the Legislative Assembly." It is only that latter portion I am dealing with. This Bill comes under these headings. It provides that there shall be money paid, and that it shall be taken out of the appropriation from year to year, and consequently there is no escaping that matter. Apart from that the next section goes on to state, it shall be introduced by Message. We had many discussions last Parliament on similar matters, and I think it was definitely understood that we should agree upon it, more especially as there already existed a precedent. The wording of the clause in question in this Bill is almost exactly similar in the Fire Brigades Bill, which says—

"Towards the annual expenditure so estimated a sum equal to the whole of such estimated expenditure in each district shall be contributed annually in the portions hereinafter set out and be paid to the board as follows, namely——"

*The Premier:* Out of moneys appropriated.

*Mr. Walker:* "Appropriate" means the specific mention of a specific sum. It is put in the form of Estimates, and the authority for it is in these various Acts, but the appropriation is when we reach that point when we are dealing with the revenue and expenditure. Here, in this Bill we are directed to make that appropriation. This is a step which says that these funds must be raised and appropriated, and consequently we are bound by the Constitution Act, more particularly as a precedent has been set in those Bills already thrown out and reintroduced in some instances because of that irregular-

ity. I am informed that the particular contract under the clause in the Bill reads, "The Government have agreed to pay the local authorities 3s. a day for indigent patients, being one-half of 6s., that the local authorities are charged by arrangements made with the Central Board of Health and the hospitals in the metropolitan area."

*The Premier:* That exists now.

*Mr. Walker:* It is an agreement that the Government have already entered into. It is a contract under the clause in question, and it is an appropriation at once.

*The Premier:* Not under the Bill.

*Mr. Walker:* But this is the arrangement the Government are making.

*The Premier:* It is law at the present time. A similar clause is to be found in the existing Health Act.

*Mr. Walker:* Will that be altered, or will it be retained under this Bill? I think there is no alternative open to us, and while we speak of our rights here, while we sometimes have occasion to take up a strong position with reference to another place interfering with this undoubted right of the people, we should not allow instances of this kind to occur. If you give the right to bring in this Bill to the Legislative Council you throw away your privileges altogether. If the Legislative Council can introduce a Bill such as this, then there is no money Bill that they cannot introduce.

*Mr. Draper:* I have listened with some attention to the arguments of the member for Kanowna, but, while agreeing with him that the privileges of this House ought to be maintained in their entirety on every occasion, I cannot for one moment see how those privileges have been infringed by Clause 246. The Constitution Act prevents, undoubtedly, a Bill appropriating any part of the Consolidated Revenue Funds, or Bills which impose, alter, or repeal any rate, tax, duty or impost from originating in any other but this House. I would ask hon. members to consider how does this Bill in any way appropriate any sum of money for the purpose of this Act. The question is really a simple one, and I do not think requires much explanation to the House. The most that this Bill provides

is that one-half of the cost and expenses of providing for hospitals shall be paid to the local authorities. That is the enactment. Then it goes on to say, "out of moneys appropriated by Parliament for that purpose." If this Bill were to pass and no other measure were to be brought before the House, obviously there would be no money appropriated by Parliament for that purpose. Not one farthing would have been appropriated by Parliament. Any money spent by the Government for that purpose without a Bill having been previously passed for the appropriation of such moneys could, undoubtedly, be correctly challenged by the Auditor General. But this Bill only contemplates that at some other time moneys will be appropriated by Parliament and set apart for this purpose.

*Mr. Walker:* It says "moneys shall be paid."

*Mr. Draper:* It is obvious that, no moneys having been appropriated by Parliament, the clause will be inoperative.

*Mr. Bath:* Have no moneys been paid in past years?

*Mr. Draper:* I have not the slightest idea, nor has it anything to do with my argument. This clause does not in any way infringe the privileges of the House.

*Mr. Foulkes:* The member for North Fremantle stated that as a Message had been necessary in respect to the Fire Brigades Bill, it was therefore necessary in connection with this Bill. But anybody looking at the Fire Brigades Bill will see it is not the same kind of Bill as this at all. The Fire Brigades Bill gives specific powers to tax certain people; and not only that, the Bill goes further, and in Clause 41 it provides that—

"Towards the annual expenditure so estimated, a sum equal to the whole of such estimated expenditure in each district shall be contributed annually in the portions hereinafter set out, and be paid to the board as follows, namely, by (a) The Colonial Treasurer out of the consolidated revenue which is hereby appropriated for that purpose accordingly."

Here power is given for appropriating certain funds. That is an appropriation Act in itself. But there is no mention of

any such clause in this Bill. If this Bill were intended to be an appropriation Bill we should have definite words inserted in it stating that the Colonial Treasurer shall pay out of the consolidated revenue which is hereby appropriated for that purpose accordingly. The member for West Perth has shown quite clearly that this Bill is not an appropriation Bill; it simply states that if there is money appropriated by the Appropriation Act or by a definite Statute, then it becomes law. I can remember very well the introduction of the Land Tax Bill. In that case we had one Bill dealing with the machinery clauses, and afterwards the Taxation Bill. No Message was sent to the House in connection with the machinery Bill but, of course, we had a Message in connection with the imposition of the tax.

*Mr. Walker:* Do you not admit that the clause makes it obligatory for this Parliament to appropriate?

*Mr. Foulkes:* Most certainly not. It may be decided not to appropriate any money at all. This is practically a machinery Bill, just as we had in connection with the Land Tax. I am surprised that the member for Kanowna should try to strain such an interpretation into the clause. I would like to remind him that whatever amounts are provided here are merely of the nature of fees, and of reward for work done. *May* lays down a distinction between charges imposed upon the people and a provision in respect to fees, or for rewards for work done. In the eleventh edition (1906), page 580, it is stated—

"The rigid enforcement of this claim proved inconvenient, and in 1849 the Commons adopted a Standing Order based on a resolution passed in 1831 which gave the Lords power to deal by Bill or amendment with pecuniary penalties, forfeitures, or fees, when the object of their legislation was to secure the execution of an Act; provided that these were not payable into the Exchequer or in aid of the public revenue"—

*Mr. Walker:* That is the difference: it is the appropriation out of revenue.

*Mr. Foulkes:* There are no fees to be paid into any exchequer here.

—“and when the Bill shall be a private Bill for a local or a personal act. And the Commons also agreed to another Standing Order whereby they surrendered their privileges so far as they affected private and provisional order Bills sent down from the House of Lords which referred to tolls and charges for services performed”—

These are for services performed. Afterwards if we do have an appropriation Bill it will provide for, practically, grants-in-aid.

—“not being in the nature of a tax, or which refers to rates assessed and levied by local authorities for local purposes.” I have not the slightest doubt that this Bill has been introduced in proper order, and I confidently refer you, Mr. Speaker, to this instance in *May*. There is not the slightest relationship between this Bill and the Fire Brigades Bill, for it is distinctly stated in the Fire Brigades Bill that the Colonial Treasurer shall pay out of consolidated revenue. There is no clause of that kind in this Bill, and it cannot be regarded as an appropriation Bill.

*Mr. Taylor*: How do you get over page 19 of the Bill, dealing with the financial clauses?

*Mr. Foulkes*: That is what I want to try and make plain. This is in the nature of fees and payments for services rendered, which, of course, is very different from a tax which has to be paid into the public Exchequer. For an appropriation it is necessary to have a formal appropriation Act, and a distinct provision of this kind was inserted in the Fire Brigades Bill. The member for Kanowna must recognise that there is a great difference between the term “shall be paid” and “shall be appropriated.” There is all the difference in the world.

*Mr. Bath*: I might point out that last session an amendment to the Health Bill was introduced in the Council, and that when the Message came to this House the Order of the Day was discharged, and for the protection of the privileges of the Assembly the Attorney General introduced a new Bill. Now, I would like to urge that this is not a point to split straws upon. It is a question which may vitally affect us later on; therefore, it is a point we

ought to discuss with no idea of partisan feeling, but essentially from the point of view of our own privileges in respect to a money Bill. Under these circumstances I deprecate the partisan feeling imported into the discussion.

*The Premier*: I do not think there has been any partisan feeling introduced into the discussion at all. No one can take exception to the raising of a point of order, if the member who raises that point of order thinks it is capable of being sustained. So far as I am concerned I see no objection whatever, nor any objection to both sides being clearly placed before the Speaker in order that he may give a ruling on the point at issue. In regard to this I would like to say it seems to me that both the member for West Perth and the member for Claremont have raised points which completely dispose of the arguments previously raised, inasmuch as it has been stated that this money shall be paid out of money appropriated by Parliament to that purpose. Now, unless Parliament passes the Estimates—which have been introduced by Message—and in which provision is made in the Colonial Secretary's Estimates for these subsidies, I maintain we can take no action at all under the Bill. The whole thing depends on that money being appropriated in the Estimates by Parliament. And it has been already pointed out by the member for Claremont that the Fire Brigades Bill specially and definitely appropriates money, whereas here it is simply laid down that this is only to be paid after the money has been appropriated by Parliament.

*Mr. Bath*: But we require to have a provision to appropriate the money raised under the Land and Income Tax.

*The Premier*: Yes, but that is not contained in the Estimates. We have to bring in a special Bill each year to impose that tax.

*Mr. Bath*: But the expending of it—it has to be done by appropriation. When you put it into the Consolidated revenue you require to have an appropriation Bill to take it out again.

*The Premier*: Certainly. I would like to point out that the clause as it

stands is the law of the land at the present time. It exists in the Health Act.

*Mr. Bath:* That was introduced in the Assembly.

*The Premier:* I think the point that has to be decided is as to whether the Bill appropriates, or whether it is not depending on Parliament appropriating for it.

*Mr. Bath:* You would not permit a land and income tax Bill to be introduced in the Upper House?

*The Premier:* Certainly not.

*Mr. Scaddan:* It is astounding to listen to the information supplied by the Premier, because the Colonial Secretary in introducing this measure in another place made a statement which showed conclusively that the Government recognised that this was a money Bill. Now the Government say it is not a money Bill.

*The Premier:* We are talking about one particular clause.

*Mr. Scaddan:* Is this Bill a money Bill or not? I have here a copy as introduced in the Council. Clause 45 deals with finance. How will we get from Clause 44 to 58?

*The Minister for Mines:* Deal with the point of order.

*Mr. Scaddan:* Clause 44 as introduced in the Council deals with the powers of Ministers. Clause 45 deals with Bills that—

*The Minister for Mines:* On a point of order, I want to draw attention to the fact that Clauses 45 to 57 are not yet before the House. They are not part of the Bill yet, and will not be until introduced and placed before the House in proper order.

*Mr. Speaker:* Those clauses are not before the House; they have not been passed by another place.

*Mr. Scaddan:* I am trying to make the point that this is a money Bill. There are certain clauses making up the Bill. They are numbered consecutively, and I find that Clause 44 deals with the power of the Minister, and that Clause 45 deals with finance.

*Mr. Speaker:* They were not introduced in the Legislative Council.

*Mr. Scaddan:* Yet we find that the Colonial Secretary in introducing the Bill said—

“Members will notice that a certain part of the Bill is printed in italics. It is not necessary to touch on the matters thus dealt with in this speech for at a later stage, in accordance with the Standing Orders, they will again come before members after having been before another place. The portions are printed in italics so that members may know what they will be asked to agree to when the Bill comes to them again.”

Does not that prove conclusively—?

*The Minister for Works:* No, it proves nothing.

(Sitting suspended from 6.17 to 7.71 p.m.)

*Mr. Speaker:* I am quite prepared to give a ruling on this point. I do not know whether it is desirable to discuss the question any further. All the arguments come down to the one point, that is, whether this Bill gives the power to appropriate. I have no hesitation in saying that it does not. I think the case was aptly put by the member for West Perth.

*Mr. Walker:* That is not a decision on the point I raised. Whether the Bill gives the power to appropriate or not, in these financial clauses it is recognised as a money Bill. For that purpose the clauses on page 19 were printed in italics when sent to another House and they come back here included in the Bill; therefore, it is a money Bill. That being so, we come back to Section 67 of the Constitution Act—

“It shall not be lawful for the Legislative Assembly to adopt or pass any vote, resolution, or Bill for the appropriation of any part of the Consolidated Revenue Fund, or of any rate, tax, duty, or impost to any purpose which has not been first recommended to the Assembly by Message of the Governor during the session in which such vote, resolution, or Bill is proposed.”

Now, whatever may be the effect of the

subclause on page 98, which you, Mr. Speaker, have ruled in order, the decision cannot apply to Clauses 45 to 57 inclusive—those printed in italics—because their character, as relating to financial matters, was recognised and considered by the Government in introducing the measure in the Upper House. For that reason, and for that reason alone were they printed in italics. There is a paragraph in *Todd's Parliamentary Practice* which says that Bills which have money clauses in them, or those which take the characteristic of money Bills, may be considered in the Upper House if the financial clauses be printed in italics, and then these italics are considered as blanks. There is more testimony than *Todd* on that point; but the Bill is no longer in that position in this House.

*The Minister for Mines:* Those clauses are not before us yet.

*Mr. Walker:* The Bill is before us with those clauses in it.

*The Minister for Mines:* No; they are out of it yet.

*Mr. Walker:* They were out of it so far as the Legislative Council were concerned, but they are not out of it so far as the Legislative Assembly are concerned.

*The Minister for Mines:* At the present, yes. They are not before us yet.

*Mr. Walker:* Undoubtedly they have been introduced to us to-night by the Minister for Mines in the second reading speech. They are before us as part of this Bill. One of the Ministers, in introducing the measure in another place, said—

"It is not necessary to touch on the matters thus dealt with (in italics) in this speech, for at a later stage, in accordance with the Standing Orders, they will again come before members after having been before another place."

That is to say there is a recognition that this is the place where these clauses are before us. The Minister in another place also said—

"The portions are printed in italics so that members may know what they

will be asked to agree to when the Bill comes to them again."

In other words, they have been considered to that extent; they have been put before another place already and considered in their character as money clauses. Here we have them before us in the Bill. The object of printing them in another place in italics was to avoid the necessity of introducing a Bill of this character in the Assembly, and I submit that if we are to protect the privileges of this House we must insist upon our right to originate this measure in the form mentioned. I desire to quote from *May*, page 574 of the 11th edition. Under the heading of "Commons Privileges and Legislation of the Lords" *May* says—

"By the practice and usage based upon that resolution (of the Commons) the Lords are excluded, not only from the power of initiating or amending Bills dealing with public expenditure or revenue, but also from initiating public Bills which would create a charge upon the people by the imposition of local and other rates, or which deal with the administration or employment of those charges. Bills which thus infringe the privileges of the Commons, when received from the Lords, are either laid aside or postponed for six months."

It cannot by any stretch of imagination be imagined that the measure is not now before us with these clauses in it. It is a Bill with financial clauses dealing with revenue, and although not now appropriating the fixed amount, it still makes it compulsory for appropriations from time to time, insisting that money shall be spent, and Clauses 45 to 57 are of that character, and are now before this House in the Bill and as part of the Bill. Without them the Bill cannot be considered. They are the gist of the Bill. Take these clauses out of the Bill and the whole machinery of the Bill crumbles to waste. Therefore, it is absolutely necessary in such a case that the Bill should be introduced by a Message. We cannot divide the Bill up and say this part of the Bill is before the House and that part is not. It is all



before us, and a Minister of the Crown distinctly said these clauses were printed in italics simply to evade the law, to get in by a side wind, as it were, what should originate in the Assembly; and I am sure if the Premier reflects for a moment he will admit that a Bill of this character should originate in the Assembly, and that no convenience of the Government, or saving of time, or anything of the sort should stand in the way of our privileges in this respect. I submit the point is equally as vital to the measure and as fatal to the Bill in its present form. The Bill, therefore, should be withdrawn and introduced afresh with a Message. We have had too much of this slipshod work; let us do things as instructed by law, not by a Standing Order but by a law that is supreme over all other laws, that gives us the right to make all other laws, and without which we should not have a law in the country. I speak of the Constitution Act itself, and of Section 67 of that Act, which has not been observed. The Bill is before us.

*The Minister for Mines:* But the financial clauses are not.

*Mr. Walker:* Where is that exception? The order of the day is "Health Bill." There is no exception. It is merely splitting straws. The Health Bill is before us and the Bill includes these clauses. The Minister in his second reading speech referred to those clauses, while the Colonial Secretary, in another place, practically said, "Do not say anything about these clauses now; you can look at them and read them; we shall have them back again soon and you can deal with them then." Where shall we be if these loose methods of dealing with money Bills are permitted. Let us know where we are going to; when we are on sure ground, and if we take our authority from the Constitution Act we cannot consider this measure to be rightly before us to-night. The first step in introducing a measure of this kind is a Message from the Governor. That Message has not been received. To be constitutionally accurate we should go into Committee, and the Message from the Governor should be introduced into Com-

mittee. I know that practice has been departed from, but it has been admitted from the Chair that in future the practice shall be followed of introducing money Bills by a Message. No amount of special pleading or twisting of words or excusing can obviate the fact that the Health Bill is before us, and that it includes the words I have referred to. I wish to draw attention to the fact that when we were discussing the Fire Brigades Bill of 1907 these words came from the Chair—

"I rule that it can be brought down, according to precedent, at any stage. Perhaps the wiser course in the future will be to adhere to the word "first," but I am following the precedent that has been adopted for years past, and I think I am putting the proper construction on it; unless a Message does come forward before we reach the second reading stage."

This day we do one thing; the next day we do another. We follow one practice one week, and follow another next week. It is only special pleading to say these clauses are not part of the Bill, for the Minister himself referred to them in his second reading speech. We should have to start *de novo* if these clauses were to come in again at another stage. The clauses are in the Bill and are part of it, they are not excluded from it. I submit that the Bill can go no further if we are to be consistent with the rules laid down, nay more than rules, the law itself. We have no right to debate those clauses or to have them put before us in any form until we have a Message. We have no Message, therefore I submit that the Bill is improperly before the House.

*Mr. Jacoby:* I submit for your consideration that the practice of the House of Commons regarding the use of italics in Bills cannot apply to our practice here, for the reason that our practice is governed by the Constitution Act. The Minister stated that these financial clauses were not before the House, but if that is so immediately the Minister attempts to bring the clauses before the House, even if it is now ruled that the Bill is in order, he puts the Bill out of order.

*Mr. Walker:* He has discussed the clauses to-night.

*Mr. Jacoby:* Section 66 of the Constitution Act sets the position out clearly. It says—

“All Bills for appropriating any part of the Consolidated Revenue Fund or for imposing, altering or repealing any rate, tax, duty or impost, shall originate in the Legislative Assembly.” Therefore it is not possible for us to insert a clause in any Bill that will mean a tax, rate, or impost, until it has originated in the Assembly. I submit that there is no other course but for the Speaker to rule the Bill out of order. If it is not out of order at this moment, it will be immediately the Minister attempts to introduce money clauses into it.

*Mr. Walker:* He has discussed them to-night.

*The Minister for Mines:* Dealing with the point raised by the member for Kanowna to the effect that Clauses 45 to 57 are part of the Bill, it surely is apparent that those clauses are entirely in blank although printed in the Bill. They are lined out, and to all intents and purposes they are not before the House now. They were not before the Legislative Council when the Bill was discussed there, nor at the present time are they before this Chamber. They will not be before us until notice has been given for the moving of the clauses after the other clauses of the Bill have been dealt with fully. If passed by the Assembly they will appear in the Bill as Clauses 45 to 57.

*Mr. Bolton:* They cannot be inserted.

*The Minister for Mines:* The procedure adopted now is not new, for on several previous occasions the same practice has been followed. Some years ago when the Health Bill was brought before the House it was submitted in exactly a similar manner as on the present occasion. It can be pointed out in May that in the House of Commons a similar practice has been adopted.

*Mr. Walker:* Never.

*The Minister for Mines:* It has been adopted there, and certainly it has been ruled in this Chamber that the practice followed to-night is constitutional. I

hold that Clauses 45 to 57 are not before the Chamber now.

*Mr. W. Price:* The Minister states that Clauses 45 to 57 are not before the House, and I take it that the whole point of order hinges on that question. I wish to draw attention to the fact that when introducing the Bill the Minister referred explicitly to paragraph (b.) Subclause 2, of Clause 45, stating that the rating would be sixpence in the pound on the annual assessment, or, and he quoted these words—

“When the system of valuation on the basis of the unimproved value is adopted, one penny half-penny in the pound on the capital value of the land in fee simple.”

He referred to those clauses in his speech, and he then intended members to believe that the clauses were before us. Now that a point of order is submitted he desires us to believe that the clauses are not before the House. He also quoted Clause 47, but he now desires us to believe that the clause is not before us. As the youngest member in the House, I desire to learn something from Ministers, but if I am to listen to a speech one hour, and a couple of hours later hear the Minister retract and ask me to believe certain things are not before us which he previously dealt with, I should like to know where I am. The clauses referred to deal with the finances, and such being the case I take it the Bill is out of order. I am somewhat in the dark, and I hope Ministers will be careful and not bring forward matters which they desire to retract a couple of hours later.

*Mr. Draper:* There are two points before the House, one arising under Section 66 of the Constitution Act.

*Mr. Walker:* That is settled.

*Mr. Draper:* And another arising out of Section 67. A certain confusion has arisen between the two. If the point as to Section 66 is decided, I cannot understand the further point which has been taken. We are told that the Bill is before the House because the Minister for Mines has referred to the clauses in question in his second reading speech. Surely a reference to anything does not necessarily

mean that the matter referred to is before the House. Most of us have heard discussions at different times which have nothing whatever to do with the business before the House. It is quite possible that the Minister has fallen into the same common error prevailing here to mention matters incidentally which are not before the House at all. What do we find? If we look up the records in *Hansard* of the debate in another place we find that the Colonial Secretary, when introducing the Bill, expressly pointed out that the clauses which were in italics were not part of the Bill under discussion in that House. Further, when the Committee stage was reached, these clauses were not discussed or dealt with in that House. What follows? A Bill is sent down from another place to this House accompanied by a message detailing what has been done. When we found on looking at the Bill that the objectionable clauses have all been deleted, and we find on looking up the records of another place that they have been intentionally deleted, it seems to be splitting straws to say that these clauses deleted form part of the Bill.

*Mr. Walker:* But they are before the House.

*Mr. Draper:* If they are not part of the Bill they are not before this House. The Bill which has come down from another place does not contain any clause which imposes a rate. If it did have a clause which imposed a rate, I venture to think, putting the true construction on Section 67 of the Constitution Act, no Message would be necessary from the Governor before a Bill of that nature could be discussed in this House. The only time a Message from His Excellency the Governor is required for the introduction of a Bill in this House is when money is appropriated by a Bill.

*Mr. Walker:* You have not read your Act.

*Mr. Draper:* The only occasion where a Message is necessary will be found referred to in Section 67. I will quote it now that hon. members say that I have not read it. I read—

"It shall not be lawful for the Legislative Assembly to adopt or pass any

Vote, Resolution, or Bill for the appropriation of any part of the Consolidated Revenue Fund, or of any rate, tax, duty, or impost to any purpose which has not been first recommended to the Assembly by Message of the Governor during the session in which such Vote, Resolution, or Bill is proposed."

*Mr. Walker:* How could you appropriate an impost?

*Mr. Draper:* It is obvious, reading that section in the light of commonsense and plain English, that the word appropriation cannot refer to the imposition of a rate which is the very point the member for Kanowna now takes against me. Under those circumstances I submit there is no necessity for a Message, and the Bill in its form, as brought down from another place, is quite unobjectionable, and complies with the Constitution Act of Western Australia.

*Mr. Bolton:* In view of the remarks of the last hon. member who has just sat down, I desire that you, Mr. Speaker, shall take into consideration this point: If you find it necessary to rule that the clauses printed in italics are not before the House, it will also be necessary to consider whether this Chamber has the right to insert such clauses in view of the fact that the Bill was not introduced into the Assembly. As the Bill was first introduced in another place, has this House, when considering such a Bill, the right to insert those financial clauses?

*Mr. Scaddan:* I desire to point out that the member for West Perth, by his utterances to-night, is attempting to set himself up as a greater authority than *May*. I think the hon. member might take the appointment of Agent-General for Western Australia, and attempt to enter the House of Commons, and show them there that their procedure since 1671 has been wrong. Let me read to the hon. member from *May* in order to show exactly what the sections in our Constitution Act provide. I will read from page 574 something that has already been quoted by the Premier on a previous occasion, and on this Sections 66 and 67

of the Constitution Act are founded. It reads—

"The Commons, having during nearly three centuries claimed the right to include the members of the House of Lords in the taxation levied upon the subjects of the Crown, advanced this claim still further by resolving, 1671, 'That in all aids given to the King by the Commons, the rate or tax ought not to be altered by the Lords;' and, by a second resolution, 3rd July, 1678, 'That all aids and supplies, and aids to His Majesty in Parliament, are the sole gift of the Commons;' and all Bills for the granting of any such aids and supplies ought to begin with the Commons; and that it is the undoubted and sole right of the Commons to direct, limit, aid appoint in such Bills the ends, purposes, considerations, conditions, limitations, and qualifications of such grants, which ought not to be changed or altered by the House of Lords."

*The Minister for Works:* What is all this about?

*Mr. Scaddan:* This is for the edification of the Minister. *May* goes on to say—

"By the practice and usage based upon that resolution, the Lords are excluded, not only from the power of initiating or amending Bills dealing with public expenditure or revenue, and also from initiating public Bills which would create a charge upon the people by the imposition of local and other rates, or which deal with the administration or employment of those charges. Bills thus infringing the privileges of the Commons, when received from the Lords, are either laid aside or postponed for six months."

Surely the member for West Perth will not now say that the clauses we are dealing with are not before the House, and are not financial proposals which should be submitted with a Message from His Excellency. If these clauses are not before us, what are Clause 45 to 57 inclusive? As far as I can understand, the Bill includes all the clauses from 1 to 302, and if these financial proposals are not before us what are the provisions contained in

Clauses 45 to 57 inclusive? These are financial clauses and should have originated in this House and should have been introduced by Message. As already pointed out, they have been introduced by the Minister for Mines when moving the second reading of this Bill. If they are not in the Bill what was his object in referring to them. If these clauses are eventually inserted in the Bill will the Bill then become a money Bill? If it does, did it originate in the Legislative Assembly? If these are money proposals, why are they struck out? If they are, and they are inserted in the Bill, does the Bill become a money Bill? That is the position before the House at the present time, and there can be only one ruling, and that is, that the Bill having been introduced in another place is not in order.

*The Premier:* I would like to point out to the hon. member with regard to the point he has raised, that in the Standing Orders of the Legislative Council (I am quoting these to show that they do not consider these clauses in any way) No. 199 says—

"No question shall be put upon any cause printed in italics."

In the first instance these clauses are printed in italics. Then they are struck out and they are reinserted with a line ruled through them. Further on in the Legislative Council Standing Orders it is provided—

"So soon as the Bill has been read a third time, the President shall, without permitting discussion, amendment, or adjournment, put the question that 'This Bill do now pass.' Provided that if it contains any clause not within the title the same may be first amended."

"After the third reading any clause printed in italics shall be struck out, but the fresh print of the Bill as transmitted to the Assembly shall contain such clause printed in erased type, and the same shall not be deemed to form part of the Bill."

*Mr. Walker:* What procedure is that?

*The Premier:* The procedure of the Legislative Council.

*Mr. Walker:* That is not the point now before the House.

*The Premier:* I maintain those clauses are not yet before the House. Dealing with this subject, on page 580 of the Constitution we find—

“when it is desirable that a Bill containing provisions which deal with charges upon the people should be introduced into the House of Lords. In such a case the Bill is presented and printed, containing the necessary provisions for giving the full effect to the intention of the Bill, and is considered and discussed in the Lords in that form. On the third reading the provisions infringing upon the privileges of the Commons are struck out; and the Bill, drawn as to be intelligible after their omission, is sent to the Commons in that form. The Bill is printed by the Commons containing the omitted provisions, formerly printed in red ink, but now marked by underlines and brackets, and with a note stating that these provisions are to be proposed in Committee. Thus, as these provisions form no part of the Bill received from the House of Lords, no privilege is violated: whilst the Bill before the Commons contains every provision necessary for giving it full effect: and in Committee the privileged provisions, if approved of, are inserted.”

I maintain that will happen in this case, that the Minister will move in Committee that these new clauses be inserted.

*Mr. Walker:* Where is the statement there that you can dispense with a Message from His Excellency.

*The Premier:* I am dealing now with the second point that has been raised.

*Mr. Walker:* My point is that there should be a Message from the Governor.

*The Premier:* Three different points have been raised. The first was with regard to Clause 246, whether it appropriated, or whether it was contingent on the amount being provided on the Estimates; that was decided. Now another point has been raised, and we have not arrived at the third point.

*Mr. Taylor:* Before we arrive at the third point I will pass a few remarks on

the second point, and in doing so I desire to state that I do not wish to pose as a Constitutional authority. At the same time no layman who reads Section 67 of the Constitution Act, and reads the Bill now before the House, and in addition to that, has heard the Minister for Mines introducing it, will have any doubt about the Bill being before the House irregularly, because the Minister made a special effort, and laid special emphasis on those sections, giving power to local boards to tax. The Minister for Mines in moving the second reading dealt with these clauses, and if they were not before the House, and if they were not a portion of the Bill, why did he refer to them? And how could he have introduced the Bill without referring to them? Would the Bill be complete with two of its pages which were not to be considered? We will say that that part of the Bill is not before the House, and the other part is. When these clauses come before the House are they coming before the House as a portion of the Bill, or an amendment to it? If they come before the House as a portion of the Bill, it will be too late, I maintain, under Section 67 of the Constitution Act to precede them with a Message from the Governor. In spite of all that has been read to-night from *May*, and all that has been quoted from the procedure of the House of Commons by the Premier, I venture to say, that no discussion in the House of Commons of such a character has ever taken place. I venture to say no Minister in the Commons of England would dare bring down a measure in the same form as this measure has been brought down to-night, and try to hoodwink the Commons in the manner in which it has been attempted to hoodwink this House to-night. Personally, I desire that the Bill should go through, and I am prepared to help to make it a workable measure. But there is something greater than that at stake. The privileges of this Assembly are at stake. And while it is not perhaps such an important matter that this Bill should be withdrawn; while perhaps it is not necessary to be so particular and so exact, yet it must be remembered

that we are establishing a precedent that at some future date, when the privileges of this House are being imposed upon, will be cited and quoted as a conclusive precedent. That is what we have to guard against to-night. I say the Minister knows that he will get assistance from all parts of the House to make this a good Bill. The Minister knows that no discussion has taken place to-night for the purpose of blocking the measure in any way: the discussion has been purely in the interests of maintaining the privileges of the House, and Ministers should be more particular and more exact than even private members in looking after the privileges of the House. I hope the Minister will withdraw the measure and re-introduce it in a manner in which it can be accepted by the Chamber without any infringement of the Chamber's rights.

*The Minister for Mines:* In connection with our procedure here I understand that we in the first place adopted the system and the rules of the House of Commons. The question of procedure in dealing with this question has been raised, and we have heard a good deal in regard to the system which has been adopted in the House of Commons. Page 579 of *May* makes it quite clear, in the paragraph dealing with the relaxation of the Commons privileges. The paragraph states—

“The claim of exclusive legislation over charges imposed upon the people was formerly extended by the Commons to the imposition of fees and pecuniary penalties, and to provisions which touched the mode of suing for fees and penalties, and to their application when recovered; and they denied to the Lords the power of dealing with these matters. The rigid enforcement of this claim proved inconvenient; and in 1849 the Commons adopted a standing order based on a resolution passed in 1831, which gave the Lords power to deal by Bill or amendment with pecuniary penalties, forfeitures, or fees, when the object of their legislation was to secure the execution of an Act; provided that these were not payable into the Ex-

chequer or in aid of the public revenue; and when the Bill shall be a private Bill for a local or personal Act. And the Commons also agreed to another standing order whereby they surrendered their privileges so far as they affected private and provisional order Bills sent down from the House of Lords which referred to tolls and charges for services performed, not being in the nature of a tax, or which referred to rates assessed and levied by local authorities for local purposes.”

There we have it clearly laid down that the House of Commons passed a standing order which enabled the legislation to initiate in the House of Lords.

*Mr. Taylor:* That is not the point; that has been decided already.

*The Minister for Mines:* In the first place I do not think I need again go over the contention that these clauses are not before the House. The only question is as to whether this Bill can be initiated in another place. It will be seen that the Bill has been introduced in accordance with the Standing Orders of the House of Commons in every sense, and consequently it is quite in order.

*Mr. Speaker:* The point raised by the member for Kanowna in regard to whether these clauses are before the House or not—

*Mr. Walker:* That is not the point. The point is as to whether there should have been a Message.

*Mr. Speaker:* The clauses are certainly not before the House. With regard to the question of Message, that has always been a practice, a custom, where there has been appropriation. Therefore, it does not apply in this case. The clauses are not before the House, and if they were they do not come within the scope of Section 67 of the Constitution Act.

#### *Dissent from Ruling.*

*Mr. Walker:* From necessity I shall dissent from your ruling. But, in order to give hon. members an opportunity of looking the matter up, unless you prefer it otherwise, I will give notice for Thursday night. I am only doing that for the convenience of the House and of you.

Sir, I think it would be advisable to make it Thursday night, otherwise I shall be compelled, according to our rules, to at once have the matter discussed. I know that by the rules it should be discussed at once, and I think that is the right course to take when dissenting from the Speaker's ruling. It should be at once settled. But if it be inconvenient to the House and to you, Sir, I will leave it till Thursday night.

*Mr. Duglish:* The objection has been taken now.

*Mr. Walker:* Yes, and now the discussion of it can be adjourned till Thursday night. I do not know whether that will suit hon. members or not. If there is no intimation, then by the Standing Order I am compelled to proceed at once. If I understand your ruling correctly, you have ruled, first of all, that the financial clauses in the Bill are not before the House, and that if they were they do not come within the scope of Section 67 of the Constitution Act. Is that correct?

*Mr. Speaker:* These clauses are not before the House.

*Mr. Walker:* Is this correct: That the financial clauses in the Bill are not before the House, and if they were they do not come within the scope of Section 67 of the Constitution Act?

*Mr. Speaker:* That is correct. Before the hon. member proceeds, I may say the House has control over its own affairs. It is all one to me, but if it be the pleasure of the House, of course, this discussion can be postponed. It is in the hands of hon. members. I will put the question formally. Is it the pleasure of the House that this discussion should be postponed? I am not suggesting that this should be done.

*The Premier:* Is this done with the view of getting further authority in regard to the objection? Is anything to be gained by not proceeding at once?

*Mr. Walker:* Only that any hon. members who so desire may have an opportunity of looking up authorities. It is no light matter to dabble in these things. I am quite sure of the grounds I take, for without egotism, I may say I have given some thought, some care, and some study

to the question. Still, other hon. members may wish to have an opportunity of looking into the matter with a view to gaining the stand I take. That is the only purpose of adjourning it till Thursday night.

*Mr. Bolton:* It would be a dangerous initiative.

*The Premier:* Why not make it tomorrow night?

*Mr. Scaddan:* It is private members' night, and this is a Government Bill.

*The Premier:* All these points of order and adjournments come on Government days.

*Mr. Walker:* I have no objection to going on at once.

*Members:* Go on!

*Mr. Walker:* Well, Mr. Speaker, I desire to move—

*That your ruling be disagreed to.*

It is contrary to the most important Act upon our statute book. It is contrary to the spirit and law of the clause I have read to-night. Now whatever may be the alterations and conditions in the British House of Commons, only one thing can guide us, and that is—if it is dealt with at all by statute—the statute on the subject. There is no other law, rule, or suggestion outside the law, that can alter the law. I am now arguing for the moment that there is some force in what the Premier quoted just now. I am arguing on that supposition and I shall show before I finish that the Premier has not read that portion aright. I say that whatever may be the force of that reference, we cannot go outside the corners of an Act of Parliament. If by our Standing Orders or by a resolution of this House we alter the provisions of this Act of Parliament, the alteration would be null and void, would have no force. The Act overrides everything. I know, in order to avoid the difficulty that has arisen to-night, we had a reading of the Act by the member for West Perth, but was a most extraordinary reading, and I venture to think that if the hon. member had not wished to assist the Government out of a scrape, he would never have read it in that light; and when I say "scrape" I do not

mean anything in the way of disgrace but simply an accident or an oversight. It is necessary to take the two sections together for they form part and parcel of the same thing. It is our constitutional safeguard of the privileges of this Chamber. If we read Sections 66 and 67 with no attempt to force the matter we read—

“All Bills for appropriating any part of the Consolidated Revenue Fund or for imposing, altering, or repealing any rate, tax, duty, or impost, shall originate in the Legislative Assembly.”

That, I think, is clear. You, sir, will observe that it deals not alone with the act of appropriating, but it deals with something wider. So we can see how general it is. We cannot put on any impost, we cannot alter any rate, we cannot deal with any charge upon the subject of the Crown unless the measure doing that originates in the Legislative Assembly. Then it says, “It shall not be lawful”—that is the point we must not try to get beyond. It says—

“It shall not be lawful for the Legislative Assembly to adopt or pass any vote, resolution, or Bill for the appropriation of any part of the Consolidated Revenue Fund, or of any rate, tax, duty, or impost to any purpose which has not been first recommended to the Assembly by Message of the Governor during the session in which such vote, resolution, or Bill is proposed.”

We cannot avoid considering the clauses in the Bill as financial clauses, as dealing with financial matters, as coming under the heading of money Bills. If these clauses were in by themselves the Premier would admit they were money measures. The Premier admits now they are money measures. Mr. Speaker, I think, will admit that the Government considered them as money measures. They are before us in italics because they are considered and intended to be money measures. What is the force of all this argument that they are not before the House if it is not intended to escape the provision that they are money measures. That is the purpose

of it. If, therefore, they are money Bills, then your ruling, Mr. Speaker, that they are not governed by Section 67 of the Constitution Act must be dissented from. There is no avoidance from it. And how is the excuse to be made that they are not money Bills? Did not the Premier himself quote portion of *May*? And I ask him whether I am not quoting the exact parallel. This is what is said on page 560 of the 11th edition—

“When the main object of a Bill is the creation of a public charge, resort must be had to this procedure before the Bill is introduced—”

That is the procedure of a Message from the Crown—

“And upon the report of the resolution of the Committee of the whole House thereon the Bill is ordered to be brought in. If the charge created by a Bill is a subsidiary feature therein, resulting from the provisions it contains, the Royal recommendation and preliminary Committee are not needed in the first instance, and the Bill is brought in on motion. But before the clauses and provisions creating such charges can be considered by a Committee on the Bill, a resolution sanctioning them must be passed by a Committee of the whole House—”

And that is the point I am insisting on—

“And in the presentation copies of the Bill, the clauses and provisions which create these charges are printed in italics, to mark that they do not form part of the Bill, and that no question can be proposed thereon unless vitality has been imparted to those provisions by a Committee resolution: and amendments to Bills which are not thus sanctioned are not proposed from the Chair or, if agreed to inadvertently, are cancelled. The Speaker also has declined, in like manner, to put the question on an amendment which would have varied the incidence of taxation.”

That puts us in a clear position: the Bill is improperly before the House: and I will show how the procedure has not been followed by the Premier's own reading. The procedure *May* recognises



has not been followed, though doubtless the Government thought they were right when they took this course to-night. That is what *May* says—

“The following expedients have been adopted when it is desirable that a Bill containing provisions which deal with charges upon the people should be introduced into the House of Lords. In such a case the Bill is presented and printed containing the necessary provisions for giving full effect to the intention of the Bill, and is considered and discussed in the Lords in that form. On the third reading the provisions infringing upon the principles of the Commons are struck out; and the Bill, drawn so as to be intelligible after their omission, is sent to the Commons in that form. The Bill is printed by the Commons containing the omitted provisions, formerly printed in red ink, but now marked by underlines and brackets and with a note stating that these provisions are to be proposed in Committee.”

Where is that note?

*The Premier:* The Minister has advised you that he is going to move them.

*Mr. Walker:* Where is the note? It is all very well for Ministers to laugh. If we are going to play fast and loose with legislation, call this a rabble, do not call it a Parliament, if a man can do as he likes!

*The Minister for Works:* You are not quoting from the Constitution Act.

*Mr. Walker:* I am following the argument that has led Mr. Speaker to come to the conclusion he has. *May* says, “With a note stating that these provisions are to be proposed in Committee.” We must have a Committee to propose them before they are part of the Bill for discussion, but they are now in possession of the House, introduced by the Minister for Mines, quoted as part of the Bill, and as an important part of the Bill. They are before the House in the strongest way; no man now can be prevented from discussing these clauses. They should have been taken in Committee, with a Message to cover them, as soon as the Bill was

brought down, and in Committee the Bill should have been introduced with these clauses in italics and a note saying that they were to be proposed in Committee. *May* goes on further to say—

“Thus, as these provisions form no part of the Bill received from the House of Lords, no privilege is violated; whilst the Bill before the Commons contains every provision necessary for giving it full effect; and in Committee the privileged provisions, if approved of, are inserted.”

That is to say the way this Bill should have been brought to this House was in Committee, with these clauses covered by Message; and then, of course, the Committee would have ordered the Bill to be brought in, and the clauses would have been before us and the whole matter could have been discussed upon the second reading. But that course has not been taken, we have not yet been in Committee, and yet these clauses have been treated in discussion to-night on the second reading as part and parcel of the Bill, and it is pure bandying of words to say that they were considered as no part of the Bill during the second reading speech of the Minister. We know they were so considered, and it was only another way to get out of the difficulty that arose when the point was taken to say they were not so considered. Let me look at these financial clauses. It was Clause 47 the Minister quoted—

“Every local authority may, and when required so to do by the central board, shall make and levy as aforesaid, within the authorisation of the preceding sections of this part of this Act, and cause to be collected, supplementary rates to meet any extraordinary or unanticipated expenditure.”

If that is not a burden upon the people I do not know what it is. It is authorising money to be raised from the people, the collection of rates and taxes to be appropriated; for what purpose? To meet any extraordinary or anticipated expenditure. That is appropriation for a special purpose, and authorisation to put a special burden on the people, and if that does not come within Section 67 of the Constitution Act I do not know what it

does. It is a rate, a tax, an impost. Clause 46 says—

“Every local authority may from time to time, as occasion may require, make and levy as aforesaid and cause to be collected an annual rate for the purpose of providing for the proper removal of nightsoil and other refuse. Such annual rate shall not exceed—(a.) sixpence in the pound on the annual assessment; or (b.) where the system of valuation on the basis of the unimproved value is adopted, three farthings in the pound on the capital unimproved value of the land in fee simple. Provided that the local authority may direct that the minimum annual amount payable in respect of any one separate tenement shall not be less than ten shillings.”

If that is not an imposition of a rate, an authorisation for it, there never was one made, and that is what is forbidden under Section 67 of the Act. We are governed by that Act. This appropriation gives authority to raise the money, and appropriates for a specific purpose. There is a tax of sixpence in the pound on the annual assessment, and in some cases they are allowed to take not less than ten shillings in respect of any one separate tenement. This sum is to be appropriated to a specific purpose in connection with the furtherance of the objects of the Bill. It is as definite as one can get it in language. The Minister for Mines has called attention to the fact that we are governed by the British House of Parliament; and I presume in interpreting a matter of this kind we are justified in taking *May* as a standard. On page 574 there appears the following:—

“The Commons, having during nearly three centuries claimed the right to include the members of the House of Lords in the taxation levied upon the subjects of the Crown, advanced this claim still further by resolving, 1671, ‘That in all aids given to the King by the Commons, the rate or tax ought not to be altered by the Lords’; and, by a second resolution, 3rd July, 1678, ‘That all aids and supplies, and aids to his Majesty in Parliament, are the sole gift of the Com-

mons; and all Bills for the granting of any such aids and supplies ought to begin with the Commons; and that it is the undoubted and sole right of the Commons to direct, limit, and appoint in such Bills the ends, purposes, considerations, conditions, limitations, and qualifications of such grants, which ought not to be changed or altered by the House of Lords.’”

Sir Erskine May’s comment upon that has been quoted before, but it is full of significance and importance. He says—

“By the practice and usage based upon that resolution, the Lords are excluded, not only from the power of initiating or amending Bills dealing with public expenditure or revenue, but also from initiating public Bills which would create a charge upon the people by the imposition of local and other rates, or which deal with the administration or employment of those charges.”

How can we escape from that. It is most comprehensive. These matters cannot be dealt with in the Upper House even though they are of a local nature, and are only rates. Matters dealing with administration or employment of the charges made upon the people are outside the province of the other Chamber. They are peculiarly the province and privilege of this Chamber. These clauses are admitted to be of that character by the Government, for they are printed in the form they are for the purpose of showing they are of the character I am indicating, namely those matters within the sole province of this Chamber to deal with. Clause 46 fixes the rate of sixpence, and Clause 47 goes still further and gives an additional right to spend the money to meet emergencies. It deals with the administration or employment of these charges which form a burden placed upon the people. It is the imposition of a rate. The distinction between the appropriation and the imposition of a rate is one that is not made by the Act, neither is it made by *May*. The assumption is that the Bill makes provision for appropriation, but it does more than that; it insists upon

and absolutely renders necessary the appropriation. Clause 246, which has been read, points it out distinctly, and that clause makes it absolutely necessary to pay those charges, those costs. The words are "shall be," not "may be." It is mandatory. These charges shall be paid. The remainder of the clause only indicates from what source they shall be paid. It is explanatory. "Shall be paid to the local authority." How paid? Then comes the description, "out of the moneys appropriated." They shall be paid, and shall be paid out of appropriations from time to time; that makes it compulsory to make the appropriation. There is our contract with these local bodies; that is our agreement that we shall do it. We are pledged to find the money, to make the appropriations necessary from time to time. There is no escape from it. Then the question is how shall we pay it, and the reply is "out of the moneys appropriated." Not one appropriation, but appropriations every year according to the necessities of the local bodies. Although we do not appropriate the exact amount in figures we do appropriate a sum to be made certain at some time or other when the accounts are rendered. No moral evasion of that is possible among honourable people. No legal escape is open to us. These obligations being performed by the local bodies having incurred these costs, and having treated indigent patients, they have a legal claim to one-half of the costs being paid out of public revenue, appropriated when the amount is ascertained. One can only appropriate when the amount is ascertained, and here is the ruling clause which says it shall be done. Any avoidance of that by saying it is not appropriated is merely splitting hairs. There is an obligation, an impost, upon the public revenue. Subclause 10 of Clause 246 evidently escaped the notice of Ministers, the others did not. In reference to money Bills, our own Standing Orders, following others, provide that it is the prerogative of this Chamber to initiate money Bills however trifling or however large. The changes in the British House of Parliament have been made for con-

venience sake, but they do not alter the principle. There have been instances where matters affecting payment of working expenses have been allowed. These were allowed by resolutions, which we have not and cannot adopt in the face of this Act of Parliament. The British Constitution has no Act of Parliament to rule it like this. The British Constitution is changing all through the ages with the necessities as they arise, but it has never departed from the principle, and has more strongly affirmed it as time has gone on, that money Bills, effecting burdens upon the people, are within the province of the House of Commons, and the House of Commons only. That being so, I submit there is no avoidance of the conclusion that these clauses are money clauses. There can be no denial of that. It is admitted by the Government notwithstanding Mr. Speaker's ruling. I am moving on this particular occasion against your ruling, Mr. Speaker, because you are at variance with the Government, you are at variance with the other House, and you are upsetting all authority. The Upper House has refrained from dealing with these matters. Why? Because they are covered by our Constitution; that is the sole reason why they have refused to deal with them. If they had not been money clauses covered by this Act there would have been no necessity for them to be put in italics, but if they had not been put in italics there are those there who know the Constitution Act well enough, and know their rights and privileges well enough also, to say, What does it matter, they are not printed in italics, they are as much within our province as they are within any other, and they would have debated them; but having been printed in italics they declined to do that. That is the President there; there are men there who are skilled in Parliamentary law, and they did not discuss these clauses, they treated them as clauses deleted from the Bill, and they ignored them altogether, except the Minister, who drew attention to them. Why? Because they recognised they were of that type called money clauses. So that in your ruling, Mr. Speaker, you are chal-

leuging the ruling of the Legislative Council, you are challenging the ruling and interpretation of the Government themselves. What is the good of the Minister who is in charge of the Bill going to all the trouble he did to explain that these clauses were not yet before the House? If they are not money clauses, there is no need to apologise.

*Mr. Scaddan:* The Minister said they would be put in the Bill per medium of a Message from the Governor.

*Mr. Walker:* If they are recognised by the Government as money clauses, how is it that they appear in the Bill in italics? What is the object if they are not covered by the Constitution Act? I think the Minister for Works will admit that they are printed in italics because it is recognised that they are money clauses; is that not so?

*The Minister for Works:* No; because they are clauses to impose a tax, duty, or impost; not to appropriate.

*Mr. Walker:* Not to appropriate a specific sum. Are they covered by the Constitution Act, making these clauses come within the province of this Assembly? Is that not why they are printed in italics? Mr. Speaker says it is not covered by Section 66.

*The Minister for Works:* Mr. Speaker said it did not come under Section 67.

*Mr. Walker:* I am arguing that if they come under Section 66 they come under Section 67 as well.

*The Minister for Works:* Oh, no!

*Mr. Walker:* If they come under Section 66, Section 67 is a certainty. Section 66 says that "All Bills for appropriating any part of the Consolidated Revenue Fund, or for imposing, altering, or repealing any rate, tax, duty, or impost, shall originate in the Legislative Assembly." The Minister for Works says that the financial clauses of the Bill come under Section 66; that is to say, they are forbidden as being matters that are debated in the Legislative Council by Section 66 of the Constitution Act. If they come under Section 66, what does Section 67 say? It says, "It shall not be lawful for the Legislative Assembly to adopt or pass any Vote, Resolution, or

Bill for the appropriation of any part of the Consolidated Revenue Fund, or of any rate, tax, duty, or impost, to any purpose which has not been first recommended to the Assembly by Message of the Governor." That is to say, Section 66 says, you shall only originate such measures in the Assembly, and Section 67 says, you shall only originate such measures by Message. One says the Assembly only shall deal with it, and the other says the Assembly shall deal with it by way of a Message from the Governor in the first instance. If that be so, the whole House must agree to it. Your ruling then, Mr. Speaker, is undoubtedly wrong. I think the interjection by the Minister for Works just now, admitting that this is an imposition, that it is a tax on the people, makes it indispensable that we should have this Message from the Governor, and the admission of the Government that they intend to introduce this part of the Bill at another stage in Committee and by Message, in itself challenges your ruling. It is admitted that these financial clauses are money clauses. Mr. Speaker has ruled otherwise, and I challenge him. I go further and say, Mr. Speaker, that you are wrong in saying that these are not before the House; you are wrong in saying these are not money clauses, because the Government admit it, the Upper House have admitted it, and anyone will admit it. You are wrong further in saying they are not before the House, and here the Government are wrong with you. This time you have support from the Government. You are wrong for the simple reason that when a matter once becomes debated that matter is the property of the House. It becomes then part and parcel of the thing debated. When the Government treated this matter to-night as a part of the Bill they are stopped from going back on it. They cannot take advantage of their wrong now. They have themselves debated this. They have brought these clauses before the House, and consequently they are in the possession of the House, and being before the House, having been debated as a part of the second reading

and as part of the Bill introduced by the Minister for Mines, I say, then, that the Bill is wrongly before the House. Of course there has been no Committee yet, so that the Committee cannot have authorised these clauses, and having had no Message, we are discussing them wrongly. The Bill has been introduced without a Message, and debated without a Message, and, therefore, under these circumstances it must be withdrawn. I do not want to labour the matter further. I will save what other matter may be necessary, for the purpose of replying to those who are defending the position, and who may choose to take the pains to defend your attitude. In conclusion, let me emphasise that you have ruled that the financial clauses do not come within the scope of the Constitution Act, and I am dissenting. I am also dissenting, which is the second point, from your saying that these clauses are not now before the House.

*The Premier:* I do not know that I can say anything further beyond what I had to say prior to this motion that your ruling be dissented from. Your ruling was to the effect that the financial clauses were not before the House, and that if they were, no Message would be needed.

*Mr. Taylor:* No, if they were they do not come within the scope of Section 67 of the Constitution Act.

*Mr. Speaker:* The member for Mount Margaret is correct. I ruled that these clauses were not before the House, and that if they were they do not come within the scope of Section 67 of the Constitution Act.

*The Premier:* I can only again remark that the Standing Orders of the Legislative Council distinctly point out that they do not consider that such clauses form part of the Bill at all. The first Standing Order I quoted provided that no question shall be put upon any clause printed in italics. They do not consider such a clause; therefore, such clauses cannot be before the House. And the Council's Standing Orders further rule that after the third reading any clause printed in italics shall be struck out. They did not discuss these clauses in any way.

How then can the procedure be out of order?

*Mr. Walker:* The clauses should have been introduced in Committee straight off.

*The Premier:* The hon. member is raising a point of order on which a considerable amount of discussion took place last year. It is a point with which the Standing Orders Committee deal in their present report. The argument in support of introducing certain Bills in Committee is recognised in the fact that the procedure has been adopted for many years in this Assembly—in fact, ever since the Dividend Duties Bill was introduced. But that is not the point upon which the Speaker has given his ruling. The argument has been used that the mere fact of the Minister for Mines referring to these clauses was tantamount to saying they were in the Bill. The furthest one could go would be to say that the Minister was irregular, and that this matter he was discussing was irrelevant.

*Mr. Taylor:* The Minister did not think so.

*The Premier:* That does not affect the point at all. The only argument that could be used was that the Minister was referring to a matter which was not relevant to the subject under discussion.

*Mr. Bath:* The Speaker did not call him to order.

*The Premier:* It is very often said that in this Chamber hon. members are not called to order. There are occasions when we wander from the subject under discussion and yet are not called to order; so it can hardly be argued that because the Speaker did not call the Minister for Mines to order, the clauses were made relevant to the Bill, and that the Minister was not himself irregular.

*Mr. Taylor:* You cannot make the Minister believe he was out of order; he is smiling at you now.

*The Premier:* He will have an opportunity of admitting the error of his ways later on.

*Mr. Walker:* If these clauses were before the House now would they be money clauses?

*The Premier:* Should we not deal with the first point? The Speaker says these

clauses are not before the House, and I am endeavouring to show why I think the Speaker's ruling is correct, namely, inasmuch as under the Standing Orders of the Legislative Council it is amply provided—

*Mr. Taylor:* We do not recognise the Standing Orders of the Council in this Chamber.

*The Premier:* I say it is provided there that the same shall not be taken to form part of the Bill. When they sent that Bill down, so far as this House is concerned, there might have been so much blank space. In accordance with the precedent which the member for Kanowna has quoted, I maintain that the Minister is perfectly within his rights in moving these clauses in Committee. I do not wish to do more than again draw the hon. member's attention to that quotation which was read by the member for Kanowna, who has dealt with the matter very exhaustively, and to whose opinion on such matters I am always prepared to listen with the greatest possible respect, because I realise that he has made the question of procedure a special study. Now, this procedure, as outlined in *May*, is as follows:—On the third reading the provisions infringing upon the privileges of the Commons are struck out; and the Bill, drawn so as to be intelligible after their omission, is sent to the Commons in that form. The Bill is printed by the Commons containing the omitted provisions, formerly printed in red ink, but now marked by underlines and brackets, and with a note stating that these provisions are to be proposed in Committee. The only exception the hon. member has taken to that is the lack of a note, a note stating that these provisions are to be proposed in Committee. That is the only objection the hon. member has taken to the provisions as carried out in the House of Commons—his only reason why they should not be adopted here. I take it that if a note had been printed the hon. member would have been prepared to accept the procedure as being absolutely in order.

*Mr. Walker:* No, I say that might be all right in the House of Commons, but

that they are not governed by an Act of Parliament as we are. We have a special Act dealing with this which overrides everything else.

*The Premier:* Well, so far as my opinion goes, I say that we can follow these provisions. Further, it is stated in *May*, that as these provisions form no part of the Bill received from the House of Lords no privilege is violated; whilst the Bill before the Commons contains every provision necessary for giving it full effect; and in Committee the privileged provisions, if approved of, are inserted. Now so far as the reason which prompted the Government to adopt this procedure is concerned every inquiry was made, and the authorities were consulted; and it was confidently stated that provided this procedure was adopted the Bill would be perfectly in order. With this object in view the Colonial Secretary introduced the measure in the Legislative Council with the clauses in italics, so that hon. members in another place might have an opportunity of discussing the Bill during the early part of the session, knowing full well that so far as the financial clauses were concerned, they would again have an opportunity of considering them when the Bill was returned to the Legislative Council.

*Mr. Taylor:* They recognised that they were financial clauses?

*The Minister for Works:* They recognised that the Bill would contain financial clauses afterwards.

*The Premier:* The clauses, I understand, are headed "financial"; but the great point is the object with which those clauses were inserted there. Without them hon. members in another place could not have known what bearing the other clauses would have on these financial clauses. There would be no value in discussing the Bill if they were not aware how these financial clauses were to be applied. That is to say, while the machinery is provided in the other clauses, if blank spaces had been left for the financial clauses the Legislative Council would not have been in a position to know what effect the clauses they were considering would have on the various local bodies that might be affected by it.

*Mr. Taylor:* And they recognised these clauses as portion of the Bill?

*The Premier:* They recognised that they would form part of the Bill. At the same time they recognised that they had no authority to deal with these clauses until they had been submitted to the Legislative Assembly.

*Mr. Bath:* The very fact that this discussion has taken place should emphasise the necessity of the very greatest care being taken by the Assembly in regard to financial provisions of this kind. In the first place, I do not think we can be guided by the procedure of the House of Commons in this respect, because our own Standing Orders are not silent on the matter. For instance, the Minister for Mines quoted from *May* as to the occasions when the House of Commons will waive its undoubted privileges. But that does not apply to this Assembly, because we have a Standing Order of our own which fixes the occasions upon which the Legislative Assembly will waive its provisions. And that Standing Order deals with provisions of this kind. It reads—

“With respect to any Bill brought to the House from the Legislative Council or returned by the Legislative Council to the House with amendments, whereby any pecuniary penalty, forfeiture, or fee shall be authorised, imposed, appropriated, regulated, varied, or extinguished, the House will not insist on its privileges in the following cases: 1. When the object of such pecuniary penalty or forfeiture is to secure the execution of the Act, or the punishment or prevention of offences. 2. When such fees are imposed, in respect of benefit taken or services rendered under the Act, and in order to the execution of the Act, and are not made payable into the Treasury, or in aid of the public revenue, and do not form the ground of public accounting by the parties receiving the same, either in respect of deficit or surplus. 3. When such Bill shall be a Private Bill for a local or personal Act.”

Then again I want to point out that the provision in the Standing Order by which

we refer to the rules of the House of Commons reads as follows:—

“In all cases not provided for hereinafter, or by Sessional or other Orders, resort shall be had to the rules, forms, and practice of the Commons House of the Imperial Parliament of Great Britain and Ireland, which shall be followed as far as they can be applied to the proceedings of this House.”

Now, if we have a provision not in the Standing Orders, but in our Constitution Act by which our procedure is limited or defined, it is not a case which we can refer to the House of Commons for our guidance. Then, again, the Premier has referred to the Standing Orders of the Legislative Council as governing this case. But the Premier probably knows that the Legislative Council acts entirely independently of the Legislative Assembly in the drafting and amending of its Standing Orders; and, as a matter of fact, there has been a conflict of opinion between the two Houses of Parliament on that very question as to the limitation of the Standing Orders of the one House by another House, and there is an issue which has not been decided up to the present between the two Houses as to the exact powers of the Legislative Council in regard to financial provisions or in regard to money Bills. I submit, even if for the time being we admit that these financial clauses are not before us at the present time, we are only postponing the difficulty, because when the Minister for Mines moves them in Committee Section 66 of the Constitution Act will then apply, as pointed out by the member for Swan (Mr. Jacoby). That section does not say that the particular clauses which for the time being are marked through with erasures in this Bill shall originate in the Legislative Assembly; it says that all Bills that impose, alter, or repeal any rate, tax, duty or impost, shall originate in the Legislative Assembly. I submit that when the time comes for the Minister to introduce these provisions he will find himself up against this provision in the Constitution Act, and then he will have to withdraw the Bill in accordance with that provision in the Constitution Act. Again, I would point out that already the Government on

a previous occasion have adopted an entirely different attitude on the very question of our privileges in regard to money Bills and the imposing of taxes and imposts, because on the 20th January, 1909, we had the Health Act Amendment Bill, No. 3, introduced to this House. One Bill had been introduced in the Legislative Council, but through some mistake, through the wrong draft being put in, it being found that the Bill contained other provisions that had been contained in the Bill on its first reading, that first Bill was withdrawn, and a second Bill was introduced in the Legislative Council. This Bill the Legislative Council passed and sent up to this House by Message, but when it reached this House there was no discussion on it, there was no explanation, the Attorney General simply moved that the Order of the Day be discharged, and then No. 3 Bill was introduced, and in moving the second reading the Attorney General said —

"This Bill has been passed before by this House and was sent to another place where, owing to the crush of measures at the end of the session, it was unfortunately rejected. During the present session it has been again brought in in another place, where it was passed and sent here for our consideration. But it appeared to me that it was somewhat of an invasion of the privileges of this House that such a Bill should originate in another place. It affirms an impost upon the people of certain road districts and, therefore, in my opinion should have originated in this House. Consequently, although there is a measure on the file word for word with the measure not submitted to this House, I have brought this in as an original measure in this House, and now move the second reading in order that we should not compromise the rights and privileges of this House."

That was, I submit, the proper attitude to take up, and while possibly with the best intentions in the world—

*The Premier:* That case is not on all fours. If the objectionable clauses had been printed in italics it would have been a different proposition.

*Mr. Bath:* It is on all fours when considering the dissent of the member for Kanowna in this way—the Speaker has ruled that these provisions are not in the Bill, and he has further ruled that if they were they would not be subject to the limitation imposed by the Constitution Act.

*Mr. Walker:* That is the important point.

*Mr. Bath:* The Attorney General at that time considered that the Bill putting an impost—it was for a health rate in road districts, particularly referring to the Kalgoorlie roads board—was an invasion of the privileges of this House, and, therefore, introduced a new Bill and originated it in this House. Now, that is the point I wish to emphasise, the necessity at all times for sticking as closely and as fast as we possibly can to those powers and privileges of which we are sure. Members will remember that in 1907, on an almost similar question, on the question of the right of this House to its full powers in regard to taxation, the Legislative Council by their attitude humiliated the Government and, in humiliating the Government, humiliated the Assembly on the question of taxation: and I want to see these humiliations avoided in future, and that at least, if there are disputes between the privileges and rights of the two Houses, where we are sure of our ground, and where by their attitude members of the Legislative Council have recognised our rights, we should be all the keener in asserting them and in seeing that our procedure is beyond question, even if it does involve a slight delay, or the introduction of another measure to replace this one.

*Mr. McDowall:* It seems to me that all this trouble is caused by the Minister not taking sufficient trouble to introduce this measure in accordance with the Constitution. It is admitted generally that these financial clauses were left out by the Legislative Council because under Section 66 of the Constitution Act the Council have not the right to deal with money matters. If I understand the member for Kanowna correctly, all he wishes is that the Minister, before proceeding with the second reading of this measure,



should indisputably, under Section 67 of the Constitution Act, have first brought in these financial clauses by Message from the Governor. It strikes me as being a great pity indeed that in consequence of failing to do what appears to be a simple thing the whole of this evening has been wasted. It must be admitted that these clauses have to be brought in at some period or other, so why could they not have been brought in under Section 67 of the Constitution Act? It is useless to read this section, that already has been done a dozen times, but it seems to me it is certainly distinct in what it states. At least to a lay mind, to an ordinary individual, the commonsense of it seems that it was the duty of the Minister in introducing this Bill to have brought in these financial clauses by Message. Had that been done I venture to assert the member for Kanowna would not have raised this point of order. I do not think there is any desire for obstruction in any way whatever. I am sure it is the desire of most of the members on the Opposition side of the House that these little constitutional matters shall not be constantly overlooked. During my first session of Parliament last year we wasted an evening or two on the argument that these money measures should originate in Committee. Surely one would have imagined that after that experience, and after the practical defeat of the Government on the question—because I am quite convinced all the logic on that occasion was on this side of the House—this mistake would not have been repeated.

*The Premier:* Look at the Standing Orders Committee's report.

*Mr. McDowall:* I have not the time to look at that now. I am talking of a commonsense measure, and, boiled down to commonsense, knowing that these clauses have to be introduced, the Minister, before debating the second reading of the Bill, should have introduced them. That is the commonsense conclusion, no matter how much one may bandy words or talk around them. I only rose to pass these few remarks, and to consider the measure as I maintain it should be con-

sidered from a commonsense point of view. I am satisfied there is no obstruction on the part of the Opposition side of the House. It is certain that if we are always tinkering with what is laid down for us in the Constitution we shall lose some of our rights and privileges.

*The Minister for Works:* I do not intend to take very long in dealing with the point raised by the member for Kanowna. I do, however, want to point out that although he made a great point of the fact that no rule or regulation can alter the law still, no matter what view we take, we cannot be sure, nor can the hon. member, that he is interpreting the law as it should be interpreted.

*Mr. Walker:* I am taking your interpretation.

*The Minister for Works:* We have certain Standing Orders which we work under, and there is one which the Leader of the Opposition referred to and was evidently overlooked by the member for Kanowna. That is Standing Order 309, and it seems to me it is very explicit that, notwithstanding there is undoubtedly a certain privilege attached to this House which the other place does not possess, we have under our Standing Orders relaxed it to some extent. The Standing Order says—

“With respect to any Bill brought to the House from the Legislative Council or returned from the Legislative Council to the House, with amendments, whereby any pecuniary penalty, forfeiture, or fee shall be authorised, imposed, appropriated, regulated, varied, or extinguished, the House will not insist on its privileges in the following cases:—  
 (1.) When the object of such pecuniary penalty or forfeiture is to secure the execution of the Act, or the punishment or prevention of offences.  
 (2.) Where such fees are imposed in respect of benefit taken, or service rendered under the Act, and in order to the execution of the Act, and are not made payable into the Treasury, or in aid of the public revenue, and do not form the ground of public accounting by the parties receiving the same, either

in respect of deficit or surplus. (3.) When such Bill shall be a Private Bill for a local or personal Act."

Surely this Bill comes within the province of that Standing Order. There we have regulations which practically exempt this measure from the privileges which the hon. member says we should insist upon, and upon which he has thought fit to dissent from Mr. Speaker's ruling. He has made a great point of two sections of the Constitution Act, but I cannot quite agree with him in his argument. He brings Section 66 into play. That is a very specific section, but this Bill, as we have it, does not impose any rate, impost or duty for any purpose.

*Mr. Walker:* If these clauses were in the Bill, would it do so?

*The Minister for Works:* The Bill would then impose a tax or a duty.

*Mr. Walker:* Mr. Speaker said it would not.

*The Minister for Works:* The Bill would give power to the local board of health to raise certain funds.

*Mr. Taylor:* What about Subclause 10, Clause 246?

*The Minister for Works:* The financial clauses of the Bill provide that the local board of health shall be able to raise certain revenue for its own purposes, but nothing about appropriating any part of the Consolidated Revenue. There is no appropriation; it does not form part of a deficit or a surplus.

*Mr. Walker:* Does not the Auditor General have to look at the accounts?

*The Minister for Works:* That is where the member is wrong. The Auditor General may audit the accounts, but they are not public accounts. The money does not go into the Treasury, but is merely a local fund raised for local purposes, and therefore does not come under the definition of an appropriation. The local authorities have their own auditors, but in addition the Auditor General may exercise certain powers which he exercises over all local bodies, that is a check audit. Let me quote *May* on the question. It is shown there that there are exceptions to the Standing Orders touch-

ing charges on the people. This is what he says—

"Unless a new and distinct charge be imposed upon the public revenue the Standing Orders which regulate financial procedure are not applicable."

This Bill does not impose a new and distinct charge, and certainly not a new and distinct charge of the public revenue. *May* says the Standing Orders are not applicable, and he goes on further—

"This principle applies to cases where it is proposed to authorise advances on the security of public works, out of moneys already set apart for such purposes. For the same reason, it was held, 30th June, 1857, that a Bill which repealed a section of the Superannuation Act that created a superannuation fund by means of annual deductions from official salaries did not come within the scope of these standing orders, because, although the bill effected a diminution of public income, it did not increase salaries, nor the public charge in respect of salaries. The same exemption also applies to legislation which varies the appropriation of the proceeds of an existing charge upon public revenue, whereby no new burthen is imposed; such, for instance, as the University Education (Ireland) Bill, 1882, which diverted to the use of the Royal University of Ireland grants out of the Consolidated Fund which were payable by statute to the Queen's Colleges in Ireland; and this principle was applied to the Local Government Bill of 1888, to the Local Taxation (Customs and Excise) Bill of 1890, the Agricultural Land Rating and the Agricultural Rates, Congested Districts, &c. (Scotland) Bills of 1896."

It goes without saying that there are any number of exemptions under the British Constitution in connection with the clauses to which members have referred.

*Mr. Scaddan:* All these points referred to moneys already appropriated for other purposes.

*The Minister for Works:* No; the member has not listened. It appears to

me that we are quite within our province in considering this Bill as having been brought down from the Legislative Council without the financial clauses to which so much exception has been taken. We cannot receive the Bill in any other form. The Standing Orders are clear. The clauses printed in italics, and which are erased by a line drawn through them, are not to be considered a portion of the Bill. Therefore we receive the Bill without those financial clauses, and they must, as the Minister in charge of the Bill pointed out, be placed upon the Notice Paper and moved in Committee. There is no doubt about that position. I hope the House at any rate will agree to-night to support Mr. Speaker's ruling.

*Mr. Walker:* On which point?

*The Minister for Works:* On both points. That these clauses do not at the present time constitute a portion of the Bill, and that if they did they do not come within the scope of Section 67 of the Constitution Act.

*Mr. Walker:* Do they come under Section 66?

*The Minister for Works:* The Speaker has ruled that they do not come within the scope of Section 67. The member has disagreed with that ruling. I will support Mr. Speaker's ruling, and I hope a majority of the House will do likewise.

*Mr. Jacoby:* I do not propose to enter into the merits of the question raised during this debate by the member for Kanowna and other members who supported the position he has taken up. But Mr. Speaker's ruling has been questioned, and I think it my duty to support his ruling. The ruling was given, and had to be given impromptu. Mr. Speaker had no time to give the point lengthy consideration, and it is quite possible that later on he may see fit to make a modification of it. It is necessary that we as members, who owe a duty to the House and the Speaker, should strain every point to support him in his arduous work. Under these circumstances I intend to support the ruling.

*Mr. Taylor:* I will at all times pay respect to the ruling of the Chair, but on an occasion like this when in my opinion

the privileges of this House are at stake, I am influenced more by that reason than by the necessity to support the Chair. If it were a matter affecting perhaps a question of debate as to whether a member was in order or out of order, and Mr. Speaker's ruling was questioned it would be quite a different thing to support his ruling against one's convictions, but where it is a matter in which the privileges of the House are to be whittled away and where I know the ruling of the Speaker to be wrong, I will support the motion to dissent from that ruling. If I had heard no other arguments than those advanced by the Premier and the Minister for Works, that would have been sufficient to convince me that the ruling was wrong. The Premier pointed out clearly and distinctly by the Standing Orders of another place that the very clauses under discussion were looked upon by that House as financial clauses, therefore they were not dealt with. What reason was there for their not dealing with those clauses unless they were considered financial clauses. The Speaker has ruled that if the clauses were before this House they would not come within the scope of Section 67 of the Constitution Act. That section says that money Bills must be introduced in the Legislative Assembly and be preceded by a Message from the Governor.

*The Minister for Mines:* Nothing of the sort.

*Mr. Taylor:* It follows on from the preceding section. Both these sections have already been read to the House. This Bill is a Money Bill; it gives power to people to tax; it gives power to the Government to come down here with Estimates to meet liabilities incurred in Clause 46.

*Mr. Angwin:* That Bill goes further, it compels them to tax.

*Mr. Taylor:* Clause 46 enables the local body to levy a tax, and apart from Clause 46 there is also Subclause 10 of Clause 246.

*The Minister for Mines:* That has been dealt with.

*Mr. Taylor:* But it is a portion of the Bill before the House.

*The Minister for Works:* Is that an appropriation?

*Mr. Taylor:* You are called upon to pay these people 3s. for every indigent patient.

*The Premier:* Out of moneys already appropriated.

*Mr. Taylor:* Appropriated where?

*The Premier:* Appropriated in last year's Estimates and in this year's Estimates.

*Mr. Taylor:* Did you make provision in last year's Estimates for this Bill? The hon. member should have had more foresight, and looked up the Constitution, and brought down the Bill in the proper form, then there would not have been this discussion to-night. It is only a subterfuge, and the hon. member is only a hypocrite to himself, and he is deceiving himself if he says this is not a Money Bill, and that these clauses, not dealt with in another place, are not financial clauses, and do not come within Section 67 of the Constitution Act. The Minister for Works went to the trouble to read *May*. We know well, as far as *May* is concerned, that this House takes no notice of that authority. We make our own provisions. We have it laid down in the Constitution Act, which *May* cannot override; the Constitution Act is supreme. I cannot see it as the Minister desires me to see it. I know, too, Section 309 in the Standing Orders, but you cannot make me believe that a section in the Standing Orders overrides the Constitution Act. Will the Minister for Works tell me that the Standing Orders can, at any time, override the Constitution Act? If he does I will sit down. I say it is absurd to bring forward a case dealt with in the House of Commons when we have provisions in our Standing Orders, or our own Constitution. The House of Commons is in a different position. There is no Parliament or authority that the House of Commons can refer to for precedents. They cannot look to a higher body; but this Parliament does that. When we have made no provision for the conduct of the business of the Chamber we look to the House of Commons, and also refer to *May*.

*Mr. Bath:* They have no Constitution Act there.

*Mr. Taylor:* That is so, and as the member for Kanowna has already pointed out to-night, they alter their procedure as the occasion arises. We have a Constitution Act, and beyond that we cannot go. A section of that Act points out clearly that no Bill can be brought down, imposing a burden on the people, unless it is preceded by a Message, and it is idle to say that these financial clauses in the Bill are not before the House, and it is also idle to say the Bill does not impose taxation. If the Minister is wise he will withdraw the Bill, and re-introduce it in a proper form. I say it is not the matter of the Bill itself. I am anxious that the Bill should be passed and made a workable one, but I am not satisfied with the ruling that has been given. It may establish a precedent which, at some future time, will be quoted when a grave question affects this Chamber, and when the privileges of this House are at stake, and the hon. gentleman who may be sitting in the Speaker's Chair, may quote the decision given on this very night to support his contention, in giving a decision on what may be an important matter. That is what this House should guard against. It should jealously watch over its privileges irrespective of the side on which members sit. The privileges of the people's Chamber are not to be whittled away; neither should we allow another place to take away our privileges, and Ministers more than private members should jealously guard them. However much I would like to support the ruling of the Chair, on this occasion the stake is too great to permit of my doing so.

*Mr. Scaddan:* It seems that the very action of the Government in introducing this Bill in another place, with these particular clauses dealing with finance, printed in italics, and eventually sending the Bill to this Chamber, without those claims having been dealt with, and with the printed words ruled out, and then the Minister for Mines asserting that they were not before the House, is evidence that the Government themselves consider these clauses come under that section of the Constitution, which has

been referred to. Otherwise why should there be the necessity to permit these clauses to be included in the Bill when it is before another place, and the Minister there stating to members that those clauses were not before them. To comply with the Standing Orders those clauses were printed in italics, and members in another place were asked not to consider them, and were informed that they would be dealt with by the Assembly, after which they would go before the members of the Legislative Council for consideration. Why the necessity of that procedure unless the Government themselves recognise that these financial proposals come under the provisions of the sections of the Constitution Act, which have been quoted. Let me point out another objection raised by the Minister for Mines. He tries to assert per medium of interjection that while the clause in the Constitution deals with appropriation of money, the clause in the Bill is not an appropriation, and consequently there is no need to introduce it by Message. The Minister says it is a charge, not an appropriation. *May*, however, points out differently. Further, the member for Swan, earlier in the evening stated definitely that these clauses, if they were inserted in the Bill, would make it a money Bill, and that when this Bill was made a money Bill, not having been introduced in the Assembly, it would be irregularly before this Chamber. Now, in order to stand by the assertion he has made that this House should strain every point to support the ruling of the Speaker rightly or wrongly, he says he is going to support the Speaker's ruling. I am sure the Speaker would not thank him for offering the apology to the House that he has made in connection with the ruling. I want to say that the House should not consider the matter from the standpoint of the ruling; it is a matter affecting the proper procedure, and should not be made to appear in *Hansard* and in the *Votes and Proceedings* as a precedent for future Speakers to follow. There have been rulings given previously, which, while not being in conformity with the Standing Orders, were based upon precedents which were sufficient to say that

they were right; but I contend that if the that kind of procedure is always to be adopted it is time that the House itself asserted its right to compel the Treasury bench to introduce money Bills in a proper manner. There are many other matters that one could refer to.

*Mr. Monger*: Keep on, they are all very interesting.

*Mr. Scaddan*: Not as interesting, perhaps, as some things the hon. member is occupied in. I want to show whether these clauses of the Bill dealing with the finances are before the House or not. The second decision of the Speaker, that the clauses are not before the House, is, in my opinion, the most serious one of the two. Irrespective of whether they are in order, or whether they have been introduced in another place correctly, the point is, that when these clauses are introduced it is necessary that they should be introduced by Message. When we give authority to any person, as we have already proposed under the District Fire Brigade Bill, to enable them to raise moneys, and where we proved a charge on consolidated revenue, I contend that the House in such matters should assert that a Bill of such a description should be introduced by Message from the Governor, and it is on those lines that I contend that the Speaker's ruling should not be agreed to. The first matter, I admit, is not of such great importance. Whether rightly or wrongly, the Council did not deal with this matter; they have not considered whether the taxation proposals are right or wrong, therefore we cannot complain on that standpoint. The Assembly however should assert its right, that in matters of this kind the procedure followed should be in accordance with the Constitution Act. Therefore, I will vote with those who disagree with the ruling on this question.

*Mr. Walker* (in reply): I feel, Sir, that when the vote is taken to-night your decision will be upheld. But I want to see under what circumstances: and it is well that you should know it, for my object is to prevent your ruling to-night becoming a precedent. That is my only object. I want to save the House from the possibility of discussing these points of order by insisting that the right course should

be taken. Then it should not be possible in future to have these debates and these dissents from your ruling. You will be supported by one class of voters.

*Mr. Monger:* And some others thrown in.

*Mr. Walker:* You are always thrown in. First of all there will be the Minister for Works, who himself says that these are financial clauses. Then the ruling will be supported by the Minister for Mines who also says these are financial clauses. Now if these be financial clauses, if they are of the character called money clauses, they must be governed by our Constitution Act, which says, in Section 66, that they shall originate in the Assembly and, in Section 67, that they shall be introduced by Message. Very well. You will be supported to-night by those who dissent from you.

*Mr. Speaker:* The hon. member is slightly out of order in referring to Section 66.

*Mr. Walker:* No, I am replying to the Minister who, by interjection, said that these would be governed by Section 66 because they were financial clauses. I get to that position. Let us decide that these are financial clauses, that they are of that character called money clauses, and then there can be no question but that Section 67 will govern them. There can be no question that they are monetary clauses. The section says—

“It shall not be lawful for the Legislative Assembly to adopt or pass any vote, resolution, or Bill for appropriation of any part of the Consolidated Revenue Fund, or of any rate, tax, duty, or impost to any purpose which has not been first recommended to the Assembly by Message from the Governor”—

*The Minister for Mines:* That is appropriation.

*Mr. Walker:* What is this little ebullition? What point is the hon. member making? If these are money clauses, they must be introduced by Message. What money clauses ever were lawfully introduced by any other course? What is this quibbling? I am trying to protect the House from this lackadaisical, foolhardy way of chucking a Bill in anyhow. I am

trying to protect Parliamentary institutions, and it is a recognised thing that money Bills and money clauses must be introduced by Message.

*Mr. Bath:* If it were not so there would be no need for a Message on the Land Tax.

*Mr. Walker:* There would be no need for a Message on anything whatever. We might throw away the Crown altogether. I do not want to enter upon that now. I have dealt with it at other times. The Crown is a part of Parliament, and the time when the Crown speaks in Parliament is when we get a Message and that Message comes to cover money Bills, money clauses, and money measures. If these are money measures and money clauses they must be covered by Message. I do not think there is any break in that reasoning. I do not think there is a flaw in it at any spot. We must have the Message if it is of that order, of that character. If it be a money part of the Bill it must be covered by Message. The Minister for Works and the Minister for Mines agree that if it be a money measure, if these clauses be money clauses, they must be introduced by Message. Yet, Sir, they will support your ruling. I say this because I do not want the vote to-night to be taken as expressing the real opinion of the House on the merits of the question. Hon members will not express an opinion on the merits of the question to-night. I want to do it, but unfortunately it is this kind of proceedings, this way of loose business that prevents any other course being taken. Unfortunately we are so drifting that every question is a party question, and members will vote party on a question affecting the law. That must not be forgotten. We are not dealing now with the Standing Order, but with the law. Whose support will you get to-night? That of the member for Swan, who speaking to-night told you, Sir, that in his opinion the Bill was out of order and improperly before the House: and who whilst telling you he would vote for your support, said, also, that he did it because it was a sort of duty he held under all circumstances to support the Chair. He intimated that you were wrong, and he made the apology

that you were taken on the spur of the moment—that had you had time to consider the matter, you would probably have modified your decision. That gentleman is going to support you in the ruling you have given. I am reminded that he also said that, possibly, you would later come to another conclusion. Why should we have this unseemly tinkering with Standing Orders and the law? I am mentioning this to show that when the vote is decided to-night it must not be taken as a confirmation of the justice and accuracy of your ruling. It will express this: That finding you are in the unfortunate position that you have—it is agreed on both sides of the House—made an error, they are not desirous of humiliating you. On that score I myself would wish to be able to vote for you; for it is a duty we all hold to have respect for the Chair, and to feel the sense of its dignity and its importance. And there is not a member here, certainly not myself, who would not anxiously vote to support your dignity and to ward off any possible humiliation. But, Sir, I beg you to think that there is no desire to humiliate you in the vote I am going to give. It is simply an assertion of the dignity of the House, of the rights and privileges of the House which are time immemorial in their antiquity. With that preface, I desire to pay attention to one or two arguments used against me. I must take notice of these because they are liable to create confusion. Standing Order 309, quoted by the Minister for Works, gives certain exceptions to the amendments, or the agreements, or the right to object to agreement with the amendments of the Legislative Council. Now, Sir, these do not apply to the matter. But if they did they could not override an Act of Parliament. The Constitution Act stands before all other Acts of Parliament. I have said, and I must insist upon it, that no Standing Order can alter an Act of Parliament. I want the Minister for Works to remember that before we can alter it as it stands here in the Constitution Act we must amend the Constitution Act. This would require another Act of Parliament and distinct and special formalities. So sacred is this Constitution Act that it

cannot be treated on all fours with other Acts of Parliament. It requires a special procedure to amend it. No Standing Orders can be made which contravenes that Act, and Sections 66 and 67, dealing with the matters we have been considering to-night are conclusive whatever other procedure may be followed in other parts of the world. Whatever Standing Orders we may have which conflict with those are overridden. The Constitution Act overrides them all. But none of these things we are dealing with to-night covers this Bill. None of them deals with the authorisation of taxes, or the payment of money out of our Treasury either by or without special Acts of appropriation. This Bill pledges us to spend money out of the public revenue. It authorises the raising of taxation by local bodies. It directs the use of the moneys so raised and makes the collection of that money compulsory. It therefore places a burden upon the people and comes under this section in the Constitution Act. And that I am not alone in taking this view the Leader of the Opposition showed to-night when he quoted from the ex-Attorney General, the member for Kalgoorlie. That member said—

“This Bill has been passed before by this House, and was sent to another place where owing to crush of measures at the end of the session it was unfortunately rejected. During the present session it has been again brought in in another place where it was passed and sent here for our consideration. But it appeared to me that it was somewhat of an invasion of the privileges of this House that such a Bill should originate in another place. It affirms an impost upon the people.”

Here is the Bill we have to-night. The member for Kalgoorlie, at that time the Attorney General, was on all fours with me in that respect as to its being an impost upon the people. He said—

“It affirms an impost upon the people of certain roads districts and therefore, in my opinion, should have originated in this House. Consequently—” And I compliment him on the course he took; not that he needs any compliment of mine.

*The Premier:* Still it is always acceptable.

*Mr. Walker:* I am pleased that it is. I only wish that what I say were acceptable more often. I believe this House would save a lot of time. The hon. member further said—

“Consequently although there is a measure on the file word for word with the measure now submitted to this House. I have brought this in as an original measure in this House, and now move the second reading in order that we should not compromise the rights and privileges of this House.”

Those are words I endorse in every particular; they are on all fours with the argument I am using; and it is for that reason, because Mr. Speaker disputes that, I am dissenting from his ruling. Observe what we are dissenting from in Mr. Speaker's ruling. It is not alone that these clauses are not before the House. That point has been made and disposed of, but I gather from what the Minister says that if these clauses had been before the House Mr. Speaker's ruling would have been wrong. I believe the Minister now says that by and by he will introduce these clauses by a special Message.

*The Minister for Mines:* I did not say that; I said I would introduce them in Committee.

*Mr. Walker:* And by Message, I presume?

*The Minister for Mines:* No.

*Mr. Walker:* It has been pointed out previously that if they are not introduced by Message certainly we are going to have this trouble again, because money clauses must be introduced by Message. It is not a matter of convenience or of getting a law on the statute-book.

*The Minister for Mines:* It does not make any difference; they are not before the House. I can easily get a Message if it is necessary.

*Mr. Walker:* Exactly. If these clauses were rightly before the House they would constitute a money Bill. Now, what are we dissenting from? That if these clauses were before the House they would not come within the scope of Section 67 of the

Constitution Act. But if they are money clauses they must be introduced by Message according to Section 67; and for Mr. Speaker now to say that money clauses need not be introduced by Message is for Mr. Speaker, on his own initiative, to controvert the Constitution Act.

*The Minister for Mines:* It all depends upon how you read Section 67 of the Constitution Act.

*Mr. Walker:* I defy the Minister to read it in any other way.

*The Minister for Mines:* Where is there any appropriation in this Bill?

*Mr. Walker:* Every local authority, when required to do so, has to make and levy supplementary rates to meet any extraordinary or unanticipated expenditure.

*The Honorary Minister:* That is only the imposition of a rate.

*Mr. Walker:* Undoubtedly. It is a compulsory direction as to how it shall be spent. I have read what *May* says on the interpretation of these words, and I do not know that I need read it again, but these words apply—

“By the practice and usage based upon that resolution (of the House of Commons) the Lords are excluded, not only from the power of initiating or amending Bills dealing with public expenditure or revenue, but also from initiating public Bills which would create a charge upon the people—”

The clause in the Bill creates a charge upon the people, and that brings it within the list—

“By the impost of local or other rates”—

I take *May* as a better interpretation than the Minister for Mines upon these words, for the same words occur in the Bill—

“Or which deal with the administration or employment of those charges.”

It is precisely what this Bill does, and that is the interpretation put on the words by the highest Parliamentary authority, which proceeds to say—

“Bills which thus infringe the privileges of the Commons, when received from the Lords, are either laid aside or postponed for six months.”

When we have interpreted the words contained in the Bill by the interpretation



given by *May*; when we learn that you, Mr. Speaker, disagree with *May* and with the Constitution Act, I am obliged, out of sheer respect for Parliamentary institutions, to vote against your ruling. Much as my courtesy and respect for you and your position would induce me to vote in support of your ruling, I should be lacking in courage and wanting in my duty if I voted for your ruling in a case of this kind; because we are getting so loose and positively disgraceful in the way we manage public business in this House, we dispense with the Standing Orders just according to the mood of the moment, we are drifting no one knows where, and committing the suicide of this institution of which we are members. If this kind of thing goes on there will be an excuse for abolishing local legislation altogether, because we are not respecting our privileges or acting up to our highest sense of duty, and we are carelessly doing the duty of the country. It is to prevent that I formally and now dissent from the Chair, purely with the view of getting some kind of systematic work and the government of this body by orderly rule and law, and on that account alone and for that purpose, and with no intent to wound you, Sir, I have moved my motion to-night and intend to have a division upon it.

*Mr. Speaker:* With regard to the motion now before the House, which is one of dissent against my ruling, I ruled that the financial clauses of the Bill were not before the House and that if they were the matter did not come within the scope of Section 67 of the Constitution Act. I desire only to say that if I had felt for one moment that I was in any doubt, or that I was wrong, I should not have given the decision I did, but I felt sure according to my interpretation of the clauses that there was no appropriation, hence I gave my ruling.

Motion (dissent from ruling) put and a division taken with the following result:—

Ayes	..	..	..	18
Noes	..	..	..	24
				—
Majority against	..	..	..	6

## AYES.

Mr. Angwin	Mr. Scaddan
Mr. Bath	Mr. Swan
Mr. Bolton	Mr. Taylor
Mr. Courley	Mr. Underwood
Mr. Heltmann	Mr. Walker
Mr. Holman	Mr. Ware
Mr. Johnson	Mr. A. A. Wilson
Mr. McDowall	Mr. Troy
Mr. O'Loughlin	(Teller).
Mr. W. Price	

## NOES.

Mr. Brown	Mr. Jacoby
Mr. Butcher	Mr. Keenan
Mr. Cowcher	Mr. Male
Mr. Daglish	Mr. Mitchell
Mr. Davies	Mr. Monger
Mr. Draper	Mr. N. J. Moore
Mr. George	Mr. S. F. Moore
Mr. Foulkes	Mr. Osborn
Mr. Gordon	Mr. J. Price
Mr. Gregory	Mr. F. Wilson
Mr. Hardwick	Mr. Layman
Mr. Hayward	(Teller).
Mr. Horan	

Motion thus negatived.

On motion by Mr. Bath debate on second reading of Bill adjourned.

*House adjourned at 10.45 p.m.*

## Legislative Assembly,

*Wednesday, 13th October, 1909.*

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The DEPUTY SPEAKER took the Chair at 4.30 p.m., and read prayers.

### PAPERS PRESENTED.

By the Minister for Lands: 1, Papers relating to the forfeiture of Homestead