

# ADJOURNMENT—STATE OF BUSINESS.

The COLONIAL SECRETARY (Hon. J. M. Drew): I move—

*That the House at its rising adjourn until Tuesday, 6th August.*

Hon. M. L. MOSS (West): I second the motion. My only object in rising is to ask the Minister whether he is quite satisfied that when we come here next week we will be in the Chamber more than half an hour. If not, would it not be as well to adjourn until 13th August? It would be a pity to bring the country members down if there is to be only a short sitting.

The COLONIAL SECRETARY (in reply): I think there will be work to keep us occupied for a week or a fortnight. I did not think there was any justification for bringing members down from the country this week; there would have been something for them to do, but not sufficient to justify me in asking them to come to the City, so I notified them by circular that the House would sit for only a short time to-day. On our reassembling next week there will be a sufficient quantity of work for some weeks.

Question put and passed.

*House adjourned at 5.3 p.m.*

# Legislative Assembly,

*Tuesday, 30th July, 1912.*

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

## PAPERS PRESENTED.

By Hon. W. C. Angwin (Honorary Minister): 1, By-law under "The Health Act, 1911," Section 175, Claremont road district. 2, Annual report on Medical, Health, Factories, and Early Closing for 1911.

## QUESTION—BROOME MURDER.

Mr. NANSON, in giving notice to move for the return of papers connected with the commutation of the death sentence passed on the murderers of Constable Fletcher at Broome, said: I ask whether the Premier will treat this motion as a formal one?

The ATTORNEY GENERAL: No.

## QUESTION—FLAG ON PARLIAMENT HOUSE.

Mr. GREEN gave notice to ask: 1, Will the Premier arrange to have the Australian flag hoisted over Parliament House during the days of sitting in future? 2, If this is not allowable, will he have our own State flag hoisted as well as the British flag, as is the custom at the Parliament House in New South Wales?

Mr. SPEAKER: I can inform the hon. member that it is not a question the Premier should answer, and if the hon. member will see me in my room I will explain why.

### QUESTION—RAILWAY FACILITIES, HOTHAM LINE.

Mr. O'LOGHLEN asked the Minister for Works : 1, Is he aware that settlers at Pindalup and Hotham experience great inconvenience owing to the difficulty and uncertainty of getting goods along that railway ? 2, When is it proposed to hand the Holyoake-Hotham line over to the Working Railways Branch ? 3, In the event of not handing it over will the Minister attach a carriage and carry goods on Tuesdays and Fridays for the convenience of the people concerned ?

The MINISTER FOR WORKS replied : 1, Yes. There must be inconvenience and uncertainty in the carriage of goods whilst a line is under construction. 2, When completed to a distance of 44 miles—about the beginning of November. At present our water supply is at Holyoake, and there are thousands of sleepers and many piles between there and 26-miles awaiting transport. 3, Yes; arrangements are now being made to run a carriage twice a week from the 9th prox. between Holyoake and Pindalup.

### QUESTION—ORCHARD BLOCKS AT DWELLINGUP.

Mr. O'LOGHLEN asked the Minister for Lands : 1, Is he aware that all the suburban blocks recently thrown open in the Dwellingup district were taken up at the first opportunity ? 2, Will he immediately have surveyed 100 additional orchard blocks in close proximity to Dwellingup, Holyoake, and Nanga Brook ?

The MINISTER FOR LANDS replied : 1, Yes. 2, About 20 blocks have been surveyed in the vicinity of Dwellingup and Holyoake, and will be gazetted in about a week. A few blocks will be surveyed at Nanga Brook. The question of surveying further lots adjacent to Dwellingup and Holyoake is under consideration.

### QUESTION—RAILWAY CONSTRUCTION, BROOKTON-KUNJIN.

Mr. MONGER asked the Minister for Works : When is it the intention of the

Government to proceed with the construction of the Brookton-Kunjin line of railway already sanctioned by Parliament ?

The MINISTER FOR WORKS replied : The commencement is contingent upon the adoption of this route for the Transcontinental Railway. It is anticipated that this will be decided at an early date.

### QUESTION — POISON INQUIRY BOARD'S RECOMMENDATIONS.

Mr. A. E. PIESSE asked the Minister for Lands : 1, Is it the intention of the Government to give effect to the recommendations of the board of inquiry re eradication and the settlement of poison lands, as set forth in a report addressed to the Under Secretary for Lands dated the 11th October, 1911. 2, If not, why not ?

The MINISTER FOR LANDS replied : 1 and 2, The report will receive due consideration in any proposals for dealing with such infested lands.

### QUESTION—RAILWAY CONSTRUCTION, PORT HEDLAND-MARBLE BAR.

Mr. E. B. JOHNSTON asked the Minister for Works : 1, Is it true that Mr. Teesdale Smith was the contractor for the Port Hedland-Marble Bar railway, and that he failed to complete his contract ? 2, Why was the contract not enforced by the Government ? 3, What action was taken by the Government to complete the work, and why ?

The MINISTER FOR WORKS replied : 1, Yes. 2, It was desirable to assume control of the traffic. The contractors agreed to forego payment for the value of the uncompleted work as assessed by our engineers. 3, The completion of the work was undertaken by the Government in March and finished in June, 1912.

### BILLS (2)—THIRD READING.

1, Methodist Church Property Trust.

2, Excess (1910-11).

Transmitted to the Legislative Council

## BILL—TRAMWAYS PURCHASE.

*To Recommit.*

Mr. DWYER (Perth) moved—

*That the Bill be recommitted for the further consideration of Clause 8.*

He said: At the last stage of the progress of the Bill through Committee the leader of the Opposition had moved an amendment to Clause 8 with the object of apportioning the three per cents. with special consideration to the reversionary rights of the Perth municipality. The municipalities of Subiaco, Victoria Park, Leederville, and North Perth, and the roads boards of Perth and Claremont were also concerned in the division of the three per cents., but Perth municipality was the only one possessing reversionary rights, and the result would mean, if the amendment were carried, that Perth municipality would practically get the lot. Therefore he (Mr. Dwyer) could not support the amendment of the leader of the Opposition. But there was a way out of the difficulty, and the Ministry ought to reconsider the clause in order that no injustice would be done to the Perth municipality. The clause provided, in Subclause 2, that the percentage was to be apportioned between the several local authorities half-yearly in ratio to the car miles run in the several districts. Some figures had been prepared by the treasurer of the Perth City Council from returns supplied by the tramway company, and from one's knowledge of the treasurer of the Perth City Council the figures could be thoroughly relied on as correct. The return was based on the following tabulation:—The district was given first, then the car mileage run, the earnings per car mile, the total amount of earnings in coin, the apportionment, firstly on the basis at present in force, secondly on the basis as proposed in the Bill, and, thirdly showing the gain or loss to the various municipalities concerned. The return covered the month of June only, but that month might reasonably be taken as typical of the results to be expected in any other month. From the return it appeared that the car mileage run in Perth during that month was 47,565 miles, and the earnings per car

mile 29.34d. The total amount of the earnings was £5,816 2s. 9d. On the basis at present in force Perth would get from the company the sum of £174, but on the basis proposed in the Bill Perth would receive only £98, which meant an absolute loss to the city in one month of £76, or an annual loss of £916. On the other hand, the outlying municipalities, as contrasted with Perth, would receive liberal treatment. Under the return Subiaco would gain £31, Victoria Park £6, Leederville £16, North Perth £18, Osborne Park £1, and Nedlands Park £2. Perth alone would suffer, and that to the extent of £76 per month. Surely it was bad enough to have all reversionary rights taken away and nothing put in their place; to be shorn of rights for which the municipality of Perth had contended so strenuously and so successfully. It was to be remembered, too, that in contending for her own ratepayers Perth had conserved the interests of the whole of the ratepayers in the metropolitan districts. By providing that the tramway concession should be handed over free of all cost at the end of a stated period, Perth had conserved the rights of the outlying municipalities; because, having to hand back the concession to Perth free of charge, the tramway company could not well charge the other municipalities any excessive amount in handing over the several other concessions. Under the Bill, not only did the reversionary rights of Perth disappear without any compensation, but it was proposed that she should suffer to the extent of £76 per month, an amount which would thus be made a present to the other municipalities. It was most unjust, and he hoped that some method would be found of remodelling the clause with a view to doing justice to the municipalities. If the Bill were recommitted, he intended to move to strike out, in the first line of Clause 8, the words "and until the Parliament shall otherwise determine." To leave those words in the Bill would be to allow Parliament at any time to put an end to the three per cent. gift to the municipalities without committing any breach of any honourable understanding or undertaking; but if the words were

struck out, and any future Parliament attempted to take away the three per cent. from the municipalities, that Parliament would be committing a distinct breach of an honourable compact. Therefore be proposed to ask hon. members to strike out the words referred to. With this amendment agreed to, Parliament would have entered into an honourable understanding with all the municipalities that they should receive three per cent. of the gross earnings of the tramways. This would be doing nothing more than justice to the Perth municipality, because, after all, the Government of the day were using property which had been given to the municipalities under the various Municipal and Endowment Acts.

Mr. Taylor: This Parliament cannot bind future Parliaments.

Mr. DWYER: That was an elementary rule known to any tyro in Parliamentary or constitutional law. What he desired was to show in the Bill that an honourable understanding had been arrived at with the municipalities concerned in respect to this three per cent. Then if any future Parliament attempted to put an end to the arrangement it would commit a distinct breach of the agreement. Subclause 2 of Clause 8 read as follows:—

The percentage referred to in paragraph (a) of Subsection 1 shall be apportioned between and paid to the several local authorities of the districts in which the tramways are constructed half-yearly in ratio to the car miles run in the several districts during the then last preceding period of six months.

He proposed, if the Bill were recommended, to move to strike out the words "in ratio to the car miles run in the several districts during the then last preceding period of six months" and insert the following words:—"according to the present method of apportionment and after deduction of one-fourth per cent. payment to the municipality of Perth as compensation for their reversionary rights." Perth undoubtedly had reversionary rights, and for these something ought to be paid in compensation. His purpose was that of the three per cent.

one-fourth per cent. should go to the Perth municipality by way of compensation.

Mr. Gill: When do these rights accrue?

Mr. DWYER: In thirty years' time.

Mr. Gill: Yet you would start to pay compensation now.

Mr. DWYER: Seeing that it was proposed to abolish the rights immediately, there was no reason why compensation should not start at the same time.

Mr. Taylor: It is argued that Perth has no such rights.

Mr. DWYER: So far from that being the case, the fact was admitted. Perth had reversionary rights, and should get compensation for them. He could not at the present time say what amount would be represented by one-fourth per cent. of the three per cent.

The Premier: Five hundred pounds a year.

Mr. DWYER: Well, certainly that sum ought to go to the Perth municipality. When this amount had been earmarked and set aside it still remained to say how the balance should be allocated. Under the return, on the basis set forth in the Bill, Perth would suffer to the extent of £76 per month, or £916 per annum.

The Premier: That is on the basis of the month of June only.

Mr. DWYER: If the earnings proved to be greater or less for other months Perth would suffer in greater or lesser degree accordingly. He hoped the Government would see their way clear to maintain the present system of apportionment. None of the municipalities had complained of that system, notwithstanding which the Minister had informed hon. members that it would be impossible to frame an estimate upon the present basis. By adhering to the present basis, no injustice would be done, and the municipality of Perth would be treated fairly. He hoped that the Bill would be re-committed.

Question passed; Bill recommitted.

#### *Recommittal.*

Mr. Holman in the Chair; the Premier in charge of the Bill.

Clause 8—Privileges conceded to local authorities:

Mr. DWYER moved an amendment—

*That the words in lines 1 and 2 "and until the Parliament shall otherwise determine" be struck out.*

His reasons for moving the amendment had already been stated. With the clause in its present form the position was that Parliament would grant three per cent. to the municipalities, but without any breach of faith any succeeding Government might withdraw this grant at any time. It was practically left to the discretion of the Government of the day as to whether or not the grant should be continued. The effect of striking out the words would be that there would be an honourable understanding by the Government from henceforward to pay three per cent. to the municipalities. With the increase of population in the suburbs there would naturally be an increase in receipts from the trams, and it was, therefore, only proper on behalf of the Government to agree to pay three per cent., and that there should be an honourable understanding and undertaking that the three per cent. should remain until there was some very urgent and cogent reason for abolishing it. Then and only then should Parliament agree to take away the three per cent. from the municipalities.

The PREMIER: The difference between the amendment and the clause as it stood was the difference between tweedledum and tweedledee. The course proposed in the Bill was the wisest one for Parliament to adopt for we had no right to agree to accept an amendment which might be quoted in years to come, by those who would oppose the desire on the part of the people to remove the charge against the tramways, that we had no right to break the contract. There was no intention at present to limit the payment of the three per cent. but the time might come when it would be desirable to take away the three per cent. and we had no right to say to a future Parliament that that Parliament should not do as the public desired. It was right to leave it to a future Parliament to decide what should be done. It would not make a difference

of a penny a year to the municipalities, therefore we should leave the words in the Bill.

Hon. FRANK WILSON: One could not quite agree with the Premier. The words in the Bill seemed to convey the intention of Parliament that the three per cent. some day should be taken from the municipalities. He agreed with the Premier that if the words were not in the Bill the three per cent. could be taken away by Parliament if it was thought desirable to do so, but it would be wiser to leave the matter open so that it would be left absolutely to any future Parliament to deal with the matter as was thought fit. To leave the words in the clause seemed to intimate that the time would come when Parliament should determine the payment of the three per cent.

Mr. THOMAS: It was surprising to find this question raised at the present time; in fact, he was rather surprised that the member for Perth should not be more than satisfied with what the Government proposed to do. While he was in favour of nationalising the trams, he was opposed to municipalising them, and if we went on making further concessions to municipalities we were using the national funds to run trams for the benefit of Perth and other municipalities.

Mr. Dwyer: Nonsense.

Mr. THOMAS: There was no question about it.

Mr. Dwyer: There is no difference in the amount to be paid.

Mr. THOMAS: That was so, but he was opposed to the amount being paid at all. He objected to be victimised for the benefit of Perth or any other municipality. The point we ought to consider was when we nationalised the trams there were many things that would be asked for that were not asked for at the present time. In the first place, a demand would be made for an increase of wages; that, of necessity, would have to be granted. Secondly, there would be increased expenditure when the Government took over the trams for bringing the lines into proper condition, the improvement of the rolling stock and bringing everything up-to-date.

Mr. Dwyer: Was the member in order in discussing the total profits or total losses in view of the fact that the amendment only asked that certain words should be struck out or remain?

The CHAIRMAN: The hon. member was quite in order because Parliament might determine next year, owing to expenses, to limit the three per cent.

Mr. THOMAS: Now that the member for Perth had had the clause recommitted he (Mr. Thomas) wanted to prove that we should do away with the three per cent. altogether.

Mr. Dwyer: Was the member in order in speaking to the fact that we should do away with the three per cent. altogether?

The CHAIRMAN: The hon. member was quite in order in arguing from that point of view, because he might be bringing forward some fresh grounds why Parliament should have the right to determine the three per cent.

Mr. THOMAS: When interrupted, he was pointing out many of the troubles that would confront the Government. There would be increased wages, increased expenditure for rolling stock and bringing the trams up-to-date, increased mileage and new lines, also a reduction of fares. All these considerations would have to be looked into in nationalising the trams. It must also be remembered that the Government proposed to pay to municipalities three per cent. of the gross revenue from the trams. This concession should have satisfied the public because, in the event of the Government making a complete loss on the trams, would the Perth municipality and other municipalities be prepared to forego part of their three per cent.? He had no hesitation in saying that they would howl out for their pound of flesh and insist on having the three per cent. notwithstanding that the Government lost thousands of pounds a year. The member for Perth was unwise in bringing this question forward. There was no limit to the voracious demands of the municipalities to ask Parliament to concede more than had been already conceded. He (Mr. Thomas) wanted to make it clear that not only did he object to the

three per cent. being given now, but he objected to anything being engineered in the future. Not only were we to be benefactors to the extent that we should provide Perth with an up-to-date tram service, that the municipalities could not themselves provide, but we were going to keep the streets in repair, provide them with water for watering the streets, and relieve them of all responsibility. The Government had to do all that and, in addition, were to give three per cent. whether the trams proved a success or not. The Government had been decidedly too liberal in granting the three per cent., penalising the people of the country to that extent. There was such a thing as being too generous and the Government in nationalising the trams had been too generous to Perth and other municipalities. The Government should consider the whole of Western Australia, not only a particular section. We should consider at the same time, in doing justice to the people, we had to find the money for the purchase.

Mr. B. J. Stubbs: You should give some consideration to the people using the trams.

Mr. THOMAS: Were not the people all over the State going to use the trams?

Mr. B. J. Stubbs: Yes.

Mr. THOMAS: The people of Western Australia should not be penalised in order that the Perth municipality should have a greater income enabling them to keep down the rates of the ratepayers. In other words they were asking that Perth should not have to pay high rates by squeezing as much out of the nationalised trams as possible. If the trams had been municipalised no doubt the Perth municipality would have been getting a fair amount of revenue out of the trams, but because the municipality were not able to get the concession they wished to obtain from the Government, who had been generous in giving them three per cent., a larger amount of money, in fact they were asking that the three per cent. should remain for all time. The member for Perth said that the Perth municipality ought to get a quarter of the total

of the three per cent. and then have a dividend out of the remainder. It was Perth first and Perth all the time. The member for Perth had said that in nationalising the trams it was little short of confiscation. It was confiscation, if there was any, of the country's money for the benefit of Perth and the surrounding municipalities. The Government would be fired at from all sides for reductions of fares, extensions of lines, and greater facilities, and they had to guarantee the municipalities three per cent. of the gross earnings.

The Premier: It is the only national undertaking I know of in the world that returns anything to the local authorities.

Mr. THOMAS: That was where the Government had been over-generous. In Sydney he understood that the tramway returns amounted to just under two million pounds a year. Supposing the Perth tramways showed a turnover approximating that sum, and the day must come when they would, if the three per cent. were still paid, what a tremendous drain it would be on the people of Western Australia. The amount would probably be sufficient to do away with local taxation.

Mr. B. J. Stubbs: The City would be growing.

Mr. THOMAS: And so would the profits from the people. If we wanted everything for Perth, we should municipalise the trams; but if we were here to protect the whole State, we should nationalise them.

Hon. J. Mitchell: Why are you robbing the City of its rights?

Mr. THOMAS: The intention he had was to preserve the rights of the State—the whole was greater than the part. He did not think the municipalities had any claim whatever to the three per cent. He trusted that now the clause had been recommitted, the Premier would take advantage of the opportunity to strike out the three per cent.; otherwise he would consider the question of voting against the Bill.

Mr. George: You cannot. It is a party question.

Mr. TAYLOR: The member for Perth had emphasised that the reason why the words should be struck out was to lay it down definitely that an honourable understanding had been arrived at with Parliament that three per cent. should be paid practically for all time. The same speaker seemed to have the idea that Parliament was not likely to do anything wrong. The Perth municipality had an agreement, which was binding, between themselves and the tramway company. He presumed that agreement was drawn up in keeping with the Municipalities Act, and that power had been given them by Parliament. Now Parliament told the Perth municipality that they had no rights under that agreement. He took exception to any member emphasising the point that this proposal was one of nationalisation. It was not nationalisation in the true sense of the word. The limitation was that a small section of the community within a few miles of the Perth town clock, were to take a percentage of the earnings, and whatever was left could go to the working expenses of the concern, and anything over that to the Consolidated Revenue. The people of Western Australia as a whole were finding the money and accepting all the obligations. The local governing bodies which would receive the three per cent. were included in the people as a whole, and they were to get the first call on the earnings.

Mr. George: They have that first call now.

Mr. TAYLOR: Yes, while the cars were run by a private company. The Premier had said that in the interests of the State, they should forego that claim though he had thought it wise that the three per cent. should be spread over the area controlled by the local authorities. He agreed with Mr. Thomas that if there was to be nationalisation, it should be nationalisation and not a hybrid policy. If the people of Perth had rights, it was the duty of the Government to fairly consider them, and have them decided by a proper tribunal.

Mr. Dwyer: They have no rights against the Crown.

Mr. TAYLOR: No, but they had rights against the company, and the company were selling irrespective of their agreement.

Mr. Dwyer: Subject to the passage of this Bill.

Mr. George: Did not the Government undertake to carry on the obligations?

Mr. TAYLOR: Yes, the Bill specified that. Why should any small section of the community have the first call on the earnings of a nationalised concern as against the whole of the people. The people as a whole were responsible for the concern whether it was a losing or a paying one. Those who knew anything about the trams were aware that, if the capital cost was now £475,000 before twelve months elapsed under Government control, the capital cost would be something like £700,000 due to equipping rolling-stock, increasing the labour required, and by giving the men better wages and conditions.

Hon. Frank Wilson: How would increasing wages increase the capital?

Mr. TAYLOR: The purchase of rolling-stock would increase the capital cost, and out of revenue increased wages would have to be paid. The point was that, with the capital cost going up a couple of hundred thousand pounds, the population would not increase proportionately to augment the earnings. The conditions of the employees must be improved. Anyone who rode on the cars and considered the cost of living, and the hours the men had to work must realise that the conditions must be altered whether the Government took over the cars or not.

The Honorary Minister (Hon. W. C. Angwin): They are now before the Arbitration Court.

Mr. TAYLOR: Yes. Was it wise to give three per cent., as proposed, to a small section of the community, or would it not be wiser to recognise the rights which Mr. Allen had pointed out and compensate the Perth municipality at one fell swoop. The only justification for taking away the rights from the council was that they had no claim against the Crown. He would like to test the feeling of the Committee, and at a later stage

would move that the three per cent. be struck out.

Hon. FRANK WILSON: When he moved the amendment to this clause last week, he had no intention that the reversionary rights should be the sole consideration with regard to the distribution of the three per cent. Although the words in the amendment might have borne that construction, he thought members understood that, if the amendment had been carried, the Government could easily have recommitted the Bill, and made the intention of the amendment perfectly clear. He was sorry that the member for Perth, on that occasion, did not vote with him. He had spoken in favour of such an amendment, and then had failed to vote. It would have been as well for him to have recorded his vote, even if the wording had seemed somewhat erratic. With regard to the suggestion of the member for Mount Margaret that we should nationalise the system out-and-out and not permit any municipality to have the slightest interest in it, or any call in connection with the gross earnings of the system, if the Premier could see his way to compensate the different municipalities—

Mr. Taylor: There is only one.

Hon. FRANK WILSON: They all had rights, but they did not all have reversionary rights—if the Premier could see his way to draft a clause to submit the whole thing to arbitration as to what compensation was due to the city of Perth and the other municipalities in view of the rights they held under certain agreements and if we paid up and had done with them, one would be very pleased to support it.

The Minister for Works: The arbitrator may determine there are no rights.

The Premier: Your amendment tells the arbitrator there are rights.

Hon. FRANK WILSON: Of course there were rights. If the Government suggested taking away the electric lighting system from the Bunbury municipality to nationalise it, we would have the member for Bunbury rising up and calling it confiscation and using much stronger language.



The Minister for Works: Do the whole of the people use electric light in the same way as they use trams?

Mr. Dwyer: It is a public service just the same.

Hon. FRANK WILSON: We could not take away the rights of any section of the community without doing wrong unless we compensated them. It stood to reason and was commonsense and certainly equity. The suggestion of the member for Mount Margaret would perhaps gain the support of the majority of members and he (Hon. Frank Wilson) would support it. It was no question of party politics. It was a question of doing the right thing.

Mr. Underwood: You did not believe in doing the right thing when you brought down the Redistribution of Seats Bill.

The CHAIRMAN: Order!

Hon. FRANK WILSON: The majority approved of the nationalisation of the tramway system, but to take away what belonged to some other person without compensation could not be approved of. The Premier could hardly wish to do that, nor the Attorney General who talked in high-falutin language about the rights of the people being paramount. Of course they were. We showed it by saying that the people were to own the tramways.

The Premier: It is not like the Bullfinch railway. This has to do with the people.

Hon. FRANK WILSON: The hon. member voted for the Bullfinch railway. What had he in his mind now?

The CHAIRMAN: Hon. members must not interject when the debate was proceeding. A pertinent interjection that would throw light on the question was always welcomed, but otherwise interjections were disorderly.

Hon. FRANK WILSON: We certainly maintained the rights of the people by deciding to nationalise the tramway, but that did not give us the right to dip our hands into the Treasury of the city of Perth.

Mr. Underwood: Who are the city of Perth?

Hon. FRANK WILSON: The citizens of Perth, represented by the mayor and councillors.

Mr. Underwood: If we give them reduced tram fares, does not that meet the case?

Hon. FRANK WILSON: It did not permit us to go to the suburban municipalities and take away something that might or might not have a marketable value to-day. Certainly the reversionary rights of the city of Perth had a marketable value.

The Attorney General: As against the company?

Hon. FRANK WILSON: Certainly, and against anyone, State or individual, taking the place of the company.

The Attorney General: Not against the Crown.

Mr. Dwyer: They have not legally, but morally they have.

Hon. FRANK WILSON: Legally also. Give the Perth City Council the right of action and see. Perth had an undoubted right which did not apply to other municipalities, and it was entitled to further consideration. Previously he had suggested that the 3 per cents. be divided up so as to give Perth recognition over and above the suburban municipalities; also that the percentage might be allowed on any extension carried out by the Government. There was nothing very wrong in doing that. It was all very well to talk about the rights of the people, but it was a very considerable section of the people that had an interest in the tramway system, and the municipalities had a greater interest over and above the ordinary interest of a visitor to the City. The suggestion thrown out might be adopted, because members were incompetent to give a correct and equitable decision in connection with the matter. The useful figures put before the Committee from the town clerk of Perth showed that members could not find a correct solution. The matter should be settled by arbitration, because the proposition to alter the present system of the distribution of the three per cents. among the municipalities would work a grave injustice to the City of Perth. For June under the present sys-

tem the Perth municipality received £174 9s. 8d. Under the system proposed in the Bill, the amount received would be £98 2s. 8d. On the other hand, Subiaco received during June £25 12s. 6d., but under the system proposed in the Bill it would collect £56 13s. 4d., showing conclusively that the new system would work an injustice to the Perth municipality.

The Premier: First of all, you must satisfy yourself that the present system is just.

Hon FRANK WILSON: We must first satisfy ourselves that we were not going to injure the revenue municipalities derived under their existing agreements. It was something they had a right to. The Premier and his colleagues would not acknowledge any rights under the contracts made between the company and the different municipalities, and these rights were cancelled by the Bill, but we must acknowledge these were rights possessed by the municipalities. Undoubtedly the city of Perth had a valuable right. The city council got in early. The member for Murray-Wellington, a member of the city council at the time, stuck out hard and fast for a percentage on the gross earnings.

Mr. Heitmann: Why did the company accede to it? What did you give them for it?

Hon. FRANK WILSON: Running powers through the streets.

Mr. Heitmann: You gave them the right to earn profits, whereas the Government are not earning profits.

Hon. FRANK WILSON: The city council fixed the fares and insisted on certain cars being run.

Mr. Underwood: You got in very early.

Hon. FRANK WILSON: When the hon. member would finish interjecting one might proceed.

Mr. Underwood: You are talking such utter tripe.

The CHAIRMAN: Order!

Hon. FRANK WILSON: The hon. member ought to be called upon to withdraw that.

The CHAIRMAN: The hon. member must withdraw.

Mr. Underwood: I withdraw.

Hon. FRANK WILSON: The Perth City Council were the first to inaugurate a tram system and the first to lay down the condition of three per cent on the gross earnings.

The Premier: In return for what?

Hon. FRANK WILSON: The right to run through the streets.

The Premier: No; in lieu of rates; that was distinctly stated.

Hon. FRANK WILSON: The company were exempted from rates. There was some difficulty in rating gas mains at the time, and it was necessary and equitable that the City should derive some rates from the property of companies of this description, not only gas companies but tramway companies, and this was an equitable solution of the position as far as could be judged at the time. The suburban municipalities were not able to get the same terms. They were satisfied to get the trams on different terms, but they did it with their eyes open and in the interests of the people, and the people as a whole were not grumbling with the civic fathers for having done anything wrong by entering into these agreements.

The Premier: And they are not complaining about this Bill.

Hon. FRANK WILSON: The people were complaining about the reversionary rights going away without compensation.

The Premier: The people are not.

Hon. FRANK WILSON: The ratepayers were. It was the ratepayers who had to raise all the revenue for the City. It was recognised under the Municipalities Act that those who paid the rates got representation on the city council, which was a body to administer the affairs of the City collectively, and which charged up to the different property owners or occupiers of property the total cost of administering the affairs of the City, and made them pay for it.

The Premier: I do not think the majority of those people are asking what you are.

Hon. FRANK WILSON: After all, that was only an opinion. Probably the Premier was honestly of that opinion. There was no doubt about the fact that the great majority of citizens wanted the trams nationalised; they certainly did not want them to be municipalised.

The Premier: Your attitude is the best evidence to the contrary.

Hon. FRANK WILSON: What did the Premier mean by that?

The Premier: You would not vote for nationalisation if the majority of people wanted municipalisation.

Hon. FRANK WILSON: Why not? He was just as free in his opinions as the Premier himself. The Premier must have been influenced by the good example which he (Hon. Frank Wilson) set him. The three per cent. should be divided up in proportion, or somewhat in proportion to the relative values of the concessions which the different municipalities held. It would be difficult for any member of Parliament to arrive at what was a just proportion. The hon. member for Perth was of the same opinion, and, above that, it would be much better if we could allow some outside tribunal to settle any differences which might arise in the future. With that object in view, it was his intention to support the member for Perth; later on, if the member for Mount Margaret moved to delete the whole of the clause, so that another might be inserted to allow whatever values might appertain to the different municipalities to be settled by arbitration and compensated for, that too would receive his support. We must first be just before we were generous.

Mr. ALLEN: The Premier emphasised the fact that he desired to be fair; that was all Parliament desired in connection with this matter. The Opposition were desirous that that should be done in connection with the local governing bodies which had rights against the company, and that no one would deny. Those rights, however, were to be taken away under the Bill because it was provided, in Clause 6, that as soon as the purchase was gazetted, all rights should be extinguished. It was only fair and

just that the local bodies should have some consideration. There was no desire, on his part, to plead for special consideration for the city council, of which he was a member, but it should be left to some outside person to assess the value of the reversionary rights. Whether that was to be three per cent. or a lump sum in cash would have to be determined, but the Bill as it existed was simply legalising confiscation.

Mr. CARPENTER: If we were considering the question of giving privileges in return for some rights that had been given, we should discuss the matter from that point of view. The clause dealing with the privileges conceded to the local authorities was, in his opinion, the weakest, and the action taken by the member for Perth had only served to emphasise that weakness. The question was whether we had the right to give the Perth municipality, or any other body, the power to make our nationalised tram service an instrument of taxation against the people for all time; if the member for Perth got his way, that would certainly happen. The member for Perth as much as said that we should give the local authorities a lever to take money out of the pockets not only of the citizens but everyone else who used the trams, and divert that money into the municipal treasury. Then one began to wonder whether the Government had not been too generous in giving the three per cent. as a sort of compromise. While we wanted to be fair to Perth and the suburbs, we should also be fair to the people generally, and we had no right to grant privileges to one section of the community. The people had been crying out for years past about lack of efficiency in the tram service, and we were nationalising the system for them. If we had presented the Bill to the people without that clause, and said that we recognised that the people might have had some legal right thirty years ahead to make money out of the system, but that the Government would give them instead an up-to-date tram service, he felt sure that by ten to one the voting would have been in favour of the Bill. The people would not have quibbled about reversionary rights.

Everyone was so sick of the present service that they would say "Give us a nationalised system, and do not quibble about a matter of £80 a year, or whatever it might be." The member for Perth was no doubt doing his duty to the municipality in bringing this question forward, but it was doubtful whether the hon. member was not overlooking the wider duty, viz., the consideration of the larger number of people in the city and suburbs who would be taxed. The tax would, perhaps, be a mere bagatelle, but still it would be taxation. In the old days, when it was regarded as legitimate to make anything and everything a matter of profit, it was not to be wondered that concessions of this sort were granted; people regarded these things as a means purely of profit-mongering, if the word might be used. To-day the question was on a different plane altogether, and there should not be any desire to see a nationalised service made a means for taxing the people. We should give the people the very best service at the minimum of cost, and when the thing had been made to pay that was all we should require of those who contributed to its upkeep. There was no right to make a concern of this description an indirect means of taxing the people.

Mr. George : Why do you not do that with the railways?

Mr. CARPENTER : Suppose the people of Perth said that as the railways ran through the municipality they should receive three per cent. of the gross earnings? He would not be at all surprised if after giving the municipality the three per cent. a similar request was made in connection with the railways. It would have been better if the whole question had been submitted to the people. He was not prepared to cut anything out of the Bill and then allow someone else to come in and declare how much the local authorities should get. If Parliament recognised these rights at all, it should decide what they were worth, and pay for them honestly, but, considering we were giving them ten times the value of anything we were taking from them, the people

concerned would not raise any question if they were given a service which was satisfactory.

Mr. GEORGE : The tramway system was established years ago in the interests of Perth, and at that time a good bargain was made for Perth. Had it been possible for the City or even the Government to establish their own service, it would have been better, but if the people had waited for either one or the other to do so there would not have been any trams running to-day.

Mr. Munsie : What do the present tramways cost the city of Perth?

Mr. GEORGE : The information was not in his possession. He was merely looking at the question on broad lines. The Government were about to nationalise an existing system. If they were starting *de novo* there might be no claim upon them for this 3 per cent., but, as a matter of fact, the City had substantial rights, and these should be compensated for. The Premier had argued that the city of Perth had no rights as against the Crown; but it was to be remembered that the Crown had stepped into the position of a private company and were taking away undoubted rights from the City. Surely compensation should be paid for the loss of those rights. In all probability the Government would give the citizens a better tram service than ever they had had before, and possibly a cheaper one; yet, with all the advantages to accrue from the nationalisation of the trams, the Government had no right to take away anything without compensation. The 3 per cent. had been regularly collected for all these years, and it was only right that it should continue.

Mr. S. STUBBS : In reply to a question asked when the Bill was being introduced, the Premier had stated that the 3 per cent. would be paid until Parliament otherwise decided. The Premier had then gone on to explain that at the outset the Government had thought it would be sufficient to give the municipalities the 3 per cent. during the unexpired term of their agreement, but that, on mature consideration, it had been resolved to pay the 3 per cent. until Parliament should otherwise decide. On the score of these re-

marks by the Premier, he (Mr. Stubbs) had decided to vote for the nationalisation of the trams. To-night, however, the members for Bunbury and for Mount Margaret had been pleading for what seemed to him to be pure confiscation, and contending that Perth had no rights whatever under the agreement. If those hon. members would but place themselves in the position of the Perth City Council in respect to this proposed nationalisation of the trams, they would not be so ready to scoff at the idea of compensation. Undoubtedly the citizens had strong claims under the agreement. As had been pointed out, when first the concession was given the city council had not the money required for the construction of the trams, and so private enterprise had stepped in. And, notwithstanding what the majority of the members might think about private enterprise in general, there was no gainsaying the fact that the people who found the money for the construction of the Perth trams did a very real service to the citizens of Perth. In his opinion the 3 per cent. which had for so long been demanded by the city council in lieu of rates from the company should be continued. The amendment was a sound one, and the member for Perth was to be commended for his endeavour to make clear the intention that the 3 per cent. should be paid for all time instead of a lump sum by way of compensation. The leader of the Opposition had suggested referring the question to arbitration. But, suppose the arbitrator decided that the rights of the city of Perth represented half a million sterling, the Premier might experience no little difficulty in finding the money. Clearly the best way out of the dilemma was to put it on record that the Government intended to pay to the several municipalities for all time 3 per cent. on the gross earnings of the system.

Mr. Munsie: They will be paying much more than £500,000 in that way.

Mr. S. STUBBS: It might prove so in the end, but it was scarcely likely to worry any of the hon. members of to-day, for it would take many a long year before that amount was exceeded. The three per cent. represented only £2,000 a year.

Mr. Munsie: We expect it to increase.

Mr. S. STUBBS: Even so, it would take a good many decades before it reached the sum of £500,000. It would be a great mistake to let it go abroad that the rights of the citizens of Perth had been confiscated by Parliament. He was quite in accord with the principle of nationalising the trams, because the Government could run the trams cheaper than could any municipality, if only for the reason that the railways and the tramways could be run in conjunction.

Mr. FOLEY: Even if the member for Perth failed to gain his point, it could be claimed that the amendment had given members a chance of fully considering what they were doing. Much had been said of the reversionary rights of Perth. He would like an answer to the question, to whom do these rights belong? Surely the rights of the people of the State as a whole were of much greater importance than the rights of the citizens of Perth. If this were so, then we should give some monetary consideration in the Bill.

Mr. S. Stubbs: The Premier has conceded that.

Mr. FOLEY: It mattered little what the Premier did. The point was what the Committee would do. The Perth City Council desired to get 3 per cent. The Bill gave them a chance to get that 3 per cent, under certain conditions. It seemed that the city council were after the biggest plums. If the nationalisation of the trams were not in the interests of the Perth people alone, those people would not be heard supporting the proposal. It had been said that the casual visitor to Perth did not support the trams to the same extent as the resident citizen. But it was to be remembered that the resident citizen, the business man of Perth, was dependent, not on Perth alone, but on the various parts of the State for the maintenance of his business. It was these very business people whom the trams would most benefit.

*Sitting suspended from 6.15 to 7.30 p.m.*

Mr. FOLEY: If the clause was to be altered it would be preferable to make

provision that if any money was left after paying interest and sinking fund, the balance should be distributed on a three per cent. basis to each and every municipality. Such a provision would safeguard the interest of the State as a whole. The city of Perth fell into insignificance when the interests of the whole of the State were concerned, because the greater portion of the wealth which had accrued to the City from business, municipal, or State points of view, had come from the general taxpayers of the State, who were to be called upon to foot the bill irrespective of what the amount might be. If that were to be allowed to go on, members who had State enterprises in their districts would all be asking for a three per cent. share of the proceeds. Were he as parochial as some members, he would be asking for three per cent. of the receipts of the Gwalia State hotel, and the member for Forrest would be making a similar demand in respect of the Dwellingup State hotel. If no fairer proposal were brought forward, he would support the clause as it was in the Bill.

Mr. Underwood: What about knocking the clause out altogether?

Mr. FOLEY: A proposal to delete the clause would receive his support.

Mr. B. J. STUBBS: Realising that the Committee would not be justified in placing anything in the Bill which might impose an obligation, or even an honourable understanding, on any future Government, it was his intention to vote against the amendment, but the arguments which had been used against the payment of the three per cent. were difficult to understand. Some members professed to see an analogy between the railway system, or the State hotels, and the tramway proposal, but would the Premier inform the Committee why this clause was inserted in the Bill at all? Such a provision had never been thought of in connection with a railway Bill or in connection with State hotel propositions, but it had been placed in this measure because of the fact that, although the local governing bodies, acting in behalf of a certain section of people, were performing functions which have been handed over to them by Parliament, the Government still recognised

that they were not justified in totally removing at one fell swoop all the privileges that had been vested in that section of the people. To overcome that, and to avoid placing the local governing bodies in an unfair position, the Government had decided to provide this three per cent. payment for as long as Parliament was agreeable. With that proposal he was in accord. It was true that Parliament could take away any powers conferred on local governing bodies, but in many cases, if that were done, the Legislature would be acting unfairly. For instance, the late Government had acted unfairly in withdrawing portion of the subsidies to the local governing bodies and so disorganising the finances of those bodies. There could be no question that the local bodies, having enjoyed certain privileges and powers granted by Parliament, should have some respect shown to them. The Government would not be justified in sweeping away the privileges without due notice to allow the local governing bodies to finance the obligations that were placed upon them. The position was very different in regard to any proposal for distributing the three per cent. Had the Government provided in the Bill that they would pay three per cent. on all future extensions, then the Perth municipality would have been justified in asking for some little consideration over and above that accorded to other local governing bodies; but the Government recognised that they were not called upon to pay for anything that did not exist to-day. It must be remembered that the Perth municipality would benefit by every one of the future extensions. The cars on those extensions would run through the city, and the Perth municipality would collect three per cent. on that mileage. Thus they were being amply paid and justly treated in that respect. Notwithstanding the broad national perspective that some members took in dealing with propositions that did not affect their own localities, he could not see that the Committee would be justified in deleting this clause. They would certainly be acting most foolishly if they were to agree to the proposal that this

matter should be submitted to arbitration; that would be only building up unnecessary expense.

Mr. Monger: Why should we not?

Mr. B. J. STUBBS: Because it had been demonstrated over and over again that abnormal expenditure resulted from referring such matters to arbitration. The clause as printed should be retained.

Mr. NANSON: One of the effects of the Bill was to deprive the city council of certain reversionary interests under its contract with the tramway company. That was set forth in Clause 6, but the clause now before the Committee bore no relation, so far as any evidence contained in the Bill was concerned, to that extinguishment of those privileges which the city council enjoyed at present, or would ultimately enjoy under the contract with the company. If the Bill became law in its present form, the Governor, as representative in the State of the Imperial Government, would be bound, under his instructions as Governor, to send the Bill home to the Imperial authorities so that they might consider it before the Royal assent was given. The instructions on that point were perfectly explicit, and it would be well for the Government to consider that aspect of the case. It was true that in the instructions to the Governor, it was pointed out that where a Bill was of a nature interfering with the rights and property of subjects not residing in the State, in those circumstances it should be the duty of the Governor to refer the measure to the Imperial authorities. It might be argued that the city council was not resident outside the State, but the argument could be carried further if it could be shown that the individual ratepayer was personally interested in the extinguishment of these privileges, and it could scarcely be denied that there were outside the boundaries of Western Australia some persons who were ratepayers of Perth.

Mr. Allen: Hear, hear.

Mr. NANSON: If the Bill were passed, there could be little doubt that the city council would avail themselves of their undoubted right to petition the Imperial

Government and protest against the confiscation of their reversionary interest. Much capital had been made out of the fact that, although the tramway company were bound by their contract with the city council, there was no such binding authority on the Crown when it took over the contract. Those who used that argument should know that there was no support for it either in constitutional usage or in the practice of the Crown. If an action would lie for breach of contract against a private individual or corporation, the Crown would never seek to evade its equitable liability in similar circumstances. In every portion of the British Dominions that most important right of the subject was safeguarded by statute. If the doctrine was to prevail that the Crown was entitled to do an injustice which would not be permitted in the case of a private individual or corporation, of what value was the right of any individual member of the community? Under cover of the prerogative of the Crown, or power of the majority in Parliament, the liberties of no individual subject would be safe. One reason why, in the Royal instructions to the Governor, it was specially laid down that any attempt to interfere with the rights of persons not residing in the colony should be specially reported to the Home authorities, was because it had always been recognised that a colonial Legislature, even under Responsible Government, was subordinate to the Imperial Parliament. The Mother of Parliaments would look with jealous eye upon the encroachment of any colonial Parliament which would say that contracts were not to be regarded as sacred, or if avoided, that sufficient compensation should not be paid.

The Premier: We do not propose to pay it; we will drop the Bill first; we will not have it over-capitalised.

Mr. NANSON: If the Premier had confidence in his case he would not object to submit the value of the reversionary interests to an impartial tribunal.

The Attorney General: Alleged reversionary interests.

Mr. NANSON: The alleged reversionary interests might be scarcely worth

taking into account, but the value should be ascertained, and should be paid by the Government to the city council. That was common equity, by which every individual citizen would be bound, and the Government was in no superior position. It would be an evil day for the country if the Government, merely because it happened to possess a majority in this Chamber, could override what would be regarded as a bounden duty in the case of a private individual or corporation.

The ATTORNEY GENERAL: The hon. member (Mr. Nanson) could not have given the subject the serious consideration he usually did, as he had entirely confused several issues. He had not made the necessary distinction between a municipality which was not on the status of a citizen and a citizen. British Parliaments, and all other Parliaments it was true, paid the utmost respect for the sanctity of a contract, but, in estimating a contract, we had to think who the parties were. The municipality was neither more nor less than a portion of the State or the people of the State. In no sense could that corporation be considered as clothed with and limited to the rights or standing of a private individual. When the city of Perth contracted with an individual or a company, it contracted, not in its own right, and not in the rights of the personages who signed the contract, but in the right of its representative capacity, and that only. In no sense was it other than a trustee.

Mr. Nanson: Is it not created by statute?

The ATTORNEY GENERAL: Undoubtedly a municipality was so created. It was a trustee for the people, and all the rights and privileges it enjoyed or could exercise were, by delegation, from the whole corporate body called a State. Never, in the exercise of any of its rights, powers, or privileges, did it cease to stand in that capacity as the representative of a portion of the nation. It had, of itself, no powers, and could arrogate to itself no powers. All the powers it had were exercised on behalf of the State.

Mr. Nanson: No.

The ATTORNEY GENERAL: The hon. member (Mr. Nanson) had a clear conception of municipal law, which must enable him to grasp the fact that a municipal corporation, like a roads board, was neither more nor less than the creature of the State or Parliament, that its powers were defined by Act conferred upon it subject to its trust being faithfully carried out.

Mr. Nanson: It is no more the creature of Parliament than a joint stock company.

The ATTORNEY GENERAL: The hon. member surely would not put that forth as sound. A joint stock company might be authorised by Act of Parliament, but a contract there would be between individuals and subjects all the way through. In this instance a municipality was no more than what its name implied — local government — and the sovereign government of the State was in the Executive.

Mr. Nanson: Then everything that belongs to the citizens of Perth equally belongs to the State as a whole.

The ATTORNEY GENERAL: The State never lost that interest. Civic functionaries were merely officers for the custodianship of property which was the people's, and for the rightful use of it. They were entrusted with the management of the people's property; that was the whole basis of municipal government. It was recognised in our laws which were passed every session. If there should be maladministration on the part of a roads board of this trust or an omission to perform the duties which the trust involved, the Minister could supersede and immediately annul the board. In several out-back districts there were municipalities suffering such extreme poverty, owing to the sparsity of population, and the lack of ratable property, that it was questionable whether it was wise, in the interests of local government, that they should be allowed to exist, and the Government of which the hon. member (Mr. Nanson) was a member offered several municipalities he believed to merge into roads boards. The powers these municipalities enjoyed only three



years ago were now taken over by the inferior bodies called the roads boards, and the moment a municipality became a roads board it could be wiped out with a snap of the fingers and the Minister could step in and take possession of its every asset on behalf of the people of the State, and without compensation. The fallacy in the present instance was the assumption that two subjects were quarrelling about their respective rights, but it was a false assumption. For the purpose of giving facilities to the inhabitants of Perth to travel, Parliament gave authority to the municipality to contract with a private company to provide means of transit in the public streets; on behalf of the people Parliament, protecting the people in that contract, which the council was only the agent—not the principal—in making, contracted with the company that they should enjoy the privilege of using the streets of the people for a number of years, and pay three per cent. to the municipality in lieu of rates, and only in lieu of rates, during the currency of that contract, and that afterwards the property should become the people's entirely. All through, the municipality was no more than the agent of the people; yet now the agent wanted to claim the property belonging to the people, as if a municipality were a corporation like a joint-stock company or another tramway company. The municipality was never more nor less than a trustee or agent for the people. As the agent became no longer necessary, the principal stepped in to his own; having no further need of a trustee, he became himself possessor of the property, and all the qualities of the trusteeship disappeared, and all rights, obligations, and privileges connected with it were put an end to. It was threatened there would be an appeal to the Imperial Parliament because some oversea, foreign ratepayers of Perth would cause the Governor to tremble with an inflow of petitions, beseeching him to stay his hand and put in to throes the Mother of Parliaments on behalf of these belated, deluded and confiscated citizens in foreign lands. Nothing more absurd could be conceived,

though the threat was spoken in such pompous diction. The whole of the citizens of the State were greater than the citizens of Perth; all the property within the boundaries of the State was the property of the whole of the citizens of the State, therefore the property enjoyed by the people of Perth was the property of the people of the whole of the State. There could be no division; the interests of the whole of the people of the State were expressed by the aggregation of all the local bodies within the State; the assets were not local assets but were assets of the whole of the people of the State. As trustees the people of Perth had obtained an interest as against a private company, but as against the whole of the people of the State they had no contract, no interest, no rights. When the State stood in the position of possessor the people of Perth had no rights. Because the State stepped in, not as a subject, but as the sovereign power, as that in which all the property of the State was vested, and claimed on behalf of the whole of the people, who could bring claim against it? The member for Greenough had gone on to some by-play as to the rights of citizens to appeal against the Crown. Where the Crown wronged a subject, or where the subject was placed at a disadvantage by any breach, omission, or action on the part of the Crown, there was open to him under statute, or by petition of right, an appeal to the Crown; but that was not the case here; this was not a case of the subject appealing against the Crown; it was the people appealing against the people. Were not the citizens of Perth the people of the State? Were not the Government taking over this property on behalf of the people of the State? Where then did the wrong come in? What were the Government doing for the people of Perth? The people would have to wait until 1939 before they got this property falling in to them; but the Government came forward and said, "You shall not wait till then: we will at once place you in possession of this great boon, find the money for you, and take over the management of it." Was that not an advantage to the

city of Perth, to the citizens of Perth and to the people of the State? Was it not worth more than all the reversionary interests in 1939? Within 12 months the people would have their own trams and increased facilities of traffic, and better provisions in the shape of extensions of lines; they would be better served in every respect. Was that giving nothing to the people of Perth? Some said the council were ready to buy; but the council would have to find the money. The Government saved them that, and saved them the interest they would have to pay.

Mr. Allen: They would not purchase at the price paid.

The ATTORNEY GENERAL: Perhaps they could not; perhaps they would find some difficulty in finding the means to purchase; and with the history of the Perth City Council before the people, could it be said they could manage this great concern as the Government could; would they have at their disposal the means for extension and for the reduction of fares and the supply of rolling stock; could they have capitalised the venture as the Government had?

Mr. George: We have agreed to all that.

The ATTORNEY GENERAL: Yet it was insinuated that in some way the Government were robbing the people of Perth in insisting on giving them this great blessing, that the Government were doing them out of their rights when it was desired to make an absolute present of the tramways. The Perth City Council need borrow no money nor use any of their funds; without any effort of theirs the Government gave them this great asset with such great possibilities of improvement and extension; yet the Government were accused of confiscation. Because the Government desired to make them a present of an up-to-date system, they said the Government were robbing them. They could not see they had the best end of the stick; they did not know when they were well off. After receiving this present of an up-to-date go-ahead tramway service, run on approved lines

with modern scientific applications for the betterment generally of the service, they said, "If you had left it alone until 1939"—when all the present citizens would be dead or too old to ride in the tramcars—"we should have had it." The present Government were a Government for the living, and had no desire to wait till then; their desire was to do now what others wished to put off for so long. Then the Perth City Council claimed, "You are mean about your three per cents.; we want them for ever and ever, amen." They did not want them to suit the emergencies for the time being; they wanted them for always. But frankly they had no right to them for a single hour.

Mr. B. J. Stubbs: What is it in the Bill for?

The ATTORNEY GENERAL: So far as rights were concerned they had none.

Mr. George: Oh, go on!

The ATTORNEY GENERAL: What were the rights that the city council had now? Why did they claim 3 per cent. now? Because the private company using the streets was subject to the payment of rates. For mere convenience sake, when the contract between the city council on behalf of the ratepayers and the company was signed, they said that instead of having to assess the rates on the tramway properties year in and year out, there should be a fixed sum. Instead of paying rates as ordinary ratepayers it was decided that they should pay a percentage of the takings, and, as between the company and the municipality that was a fair thing. But when the Government stepped in, it did not pay rates, it could not pay rates by virtue of its sovereignty. It would be turning things topsy-turvy to assume the possibility of that for a moment. This 3 per cent. represented nothing but rates, and when the Government became proprietor of all the property owned by the tramways, all rates *ipso facto* were wiped out. Why were the Government offering this 3 per cent.? Because it was recognised that the municipality of Perth and other municipalities had more or less been subject

to a process of cheese-paring, and it was recognised that they had been more or less dependent in their resources upon what they had received from this 3 per cent., that it was part of their financial life, so to speak, and that, if taken away, they would have to tax the ratepayers to make up the deficiency. It was not desired that the ratepayers should be penalised by the Government giving the tramways to the people, and therefore, so that there might be no readjustment of the finances, so that we should create no disorganisation, no Treasury manipulation, we said "Until Parliament otherwise orders go on as you have been doing."

Mr. Underwood: Parliament will otherwise order to-night.

The ATTORNEY GENERAL: It was to be hoped that Parliament would not otherwise authorise. Considerable inconvenience would be caused to the city council if we deprived them of that sum, and the Government therefore said, "Go on as you have been doing; we will do everything for you that we possibly can to help you so that neither the ratepayers nor the citizens nor the municipality shall suffer any inconvenience by this action which is for the benefit of the people." That was a generous view to take and we put it forward only as a generous view, not as the performance of any duty or right. It was in order that the Government might benefit every party to the transaction, that they had brought down the Bill in its present form and he had no fear that if it passed it would cause His Excellency to tremble or the Parliament of England to shudder.

The PREMIER: As a number of members who were very keenly interested in this particular question were attending a meeting elsewhere, it was his intention to ask the Committee to report progress; at the same time, he would ask hon. members to place whatever amendments they were desirous of moving on the Notice Paper.

Progress reported.

## BILL—PREVENTION OF CRUELTY TO ANIMALS.

### *Second Reading.*

Debate resumed from the 23rd July.

Hon. J. MITCHELL (Northam): When I moved the adjournment of the debate I had no intention of offering any opposition to the measure. As a matter of fact, I cordially approve of it. The measure has been carefully prepared, and is very necessary, and, as the Attorney General stated when moving the second reading, it should have found a place on the statute-book long ago. There are, however, a few amendments which might be made when the measure is in Committee. Apart from these, however, the measure is a good one, and should become law. It will be helpful to the owners of stock, and will be valuable also from the point of view of the protection of stock. I specially welcome that clause relating to the feeding of stock. In the past people have been punished for cruelly treating stock in many ways, but nothing has ever been said about starving animals. The Bill provides against neglect in that direction. Generally, the measure has my cordial support.

Mr. LANDER (East Perth): It gives me very great pleasure to support this Bill. It is a measure which has been required for a number of years. I agree with the member for Northam that we cannot find much fault with it, but there are some amendments which I think ought to be made when the measure is in Committee. They are not of a very serious nature, but sufficiently important to warrant inclusion in the measure. For a number of years past there has been a necessity for a Bill of this description. If we turn up the records of the State we find that nothing has been done to effect improvements in any direction in the matter of the protection of animals since 1892. The whole of the work has practically been carried out under the Police Act of that year. I would like included in the Bill a power for police constables to effect arrest when witnessing acts of cruelty. Some hon. members will no doubt dis-

agree with me on that point, but if they realise how necessary it is for the police to have that power, I am sure they will see the importance of having it in the Bill. The police are often witnesses of acts of cruelty and as they have not the power to arrest they practically have no other means of dealing with the matter. Some might argue that that would be an arbitrary power to give to the police, but I would point out that since 1892 they have had it under the Police Act. If members turn up the Police Act of 1892, it will be found that, under Section 43 a police constable has the power to effect an arrest when witnessing an act of cruelty. Another amendment I would like to see inserted—and the Attorney General will agree with me with regard to it—is that, instead of allowing for 14 days in which to take action, the period should be considerably extended. It will be practically impossible to carry out the provisions of the Bill if only 14 days are allowed. Say a case at Meekatharra is reported to the authorities in Perth, it will be very often impossible to send an officer up to that district within the period specified. I would suggest that "six months" be substituted for "14 days." It is also provided that the Bill shall not apply to animals carried in railway trucks. In my 18 years experience as an inspector for the Society for the Prevention of Cruelty to Animals, I have come across many cases of cruel treatment by wilful neglect, not only by the Railway Department, but also on the part of the consignors and consignees, and this ill-treatment refers to all classes of stock, large and small. The unfortunate animals have been put into trucks and completely neglected. I know that during the time the member for Murray-Wellington was Commissioner some improvements were effected and that the present Commissioner is doing his best to remedy the evil, but cases of cruelty still exist and I think if the clause dealing with the matter is left in the Bill it will leave the door open for abuses. I would like to see it taken out altogether. I would also like to see in the penal clauses, a minimum specified. In some cases of cruelty which have come before

the courts of the gentlemen occupying the magisterial benches have been too cowardly to inflict adequate punishment in some most brutal cases which I have taken before them. Instead of inflicting imprisonment they have been satisfied with the imposition of a fine of a few shillings, in some cases of only one shilling. It is a standing disgrace. The penalties imposed in other parts of the world are very much higher than obtain in Western Australia. I congratulate the Attorney General on having brought down the Bill, and when in Committee I propose to move one or two slight amendments.

Mr. E. B. JOHNSTON (Williams-Narrogin): I wish to congratulate the Government on the humane action they have taken in bringing down the Bill. I am thoroughly in accord with its main provisions, but there are some small details which I hope the Attorney General will approve of having amended when the Bill reaches the Committee stage. The member for East Perth has mentioned, as did also the Attorney General, that the Railway Department is to be exempt from the operations of the measure. I certainly think it is most desirable that such a provision should be deleted, that it is most desirable the Bill should protect stock carried from one part of the country to another in railway trucks. There is contained in the measure a provision under which the main employer will be responsible for any action committed by his servants. I agree that it would be a good thing to relieve the Commissioner of Railways of any responsibility for acts committed by the railway employees, or any omissions on their part resulting in neglect which might cause the stock to suffer. But I do think the officers of the Commissioner of Railways who deal with stock when they are in trucks should be under the operations of the measure so that the stock in their charge will be properly attended to. If this be not done the railway servants will not be in the position, as they should be, to regard it as part of their duty to see that where possible the stock are watered, and, if necessary, even fed when kept in trucks for a period exceeding

twenty-four hours. In introducing the measure the Attorney General pointed out that it did not apply to stock being carried on the railways. I wish to remind the Attorney General that if the Government throw on the railway servants the responsibility of attending to the stock while in trucks no harm can be done, because the Government also retain the power to remit any fine that may be imposed on a railway servant if it is found departmentally that the officer was not to blame. That is a safeguard the Government will always retain in order to prevent railway employees from being unfairly dealt with under this measure. Another point I would like to see included in the Bill is a provision that the anaesthetic known as curari should not be used in cases of vivisection. The Bill directs that animals subjected to operations must, during the whole time thereof, be so under the influence of some anaesthetic as to be insensible to pain. The clause should be clearer, and should expressly forbid the use of this curari as it is well known that animals subjected to its influence, whilst entirely powerless to move, are very keenly sensible to pain, and suffer intensely. Also I think it should be provided that no animal should be operated on twice. If the poor brute is fortunate enough to recover once, it should be allowed to go. I hope also the Minister will approve of a provision in the Bill throwing on railway officers the responsibility of seeing that stock are watered on the trucks, or released from the trucks at some suitable spot for watering and returned again to the trucks. The member for East Perth, who is an expert in regard to these matters, and whose services to suffering animals in Western Australia can never be too highly praised, has pointed out that some of the most marked instances of cruelty known to him have occurred to animals in railway trucks. We have that expert opinion before us, and I hope that in the interests of suffering animals, and also in the interests of stock holders, opportunity will be taken in this measure to throw on the railway officers the responsibility of seeing that stock are watered and, if necessary, fed, during

long railway journeys. I will have much pleasure in supporting the Bill, but I hope the Government will accept the amendment I have mentioned.

Mr. GEORGE (Murray-Wellington): As far as the watering and feeding of stock in railway trucks is concerned, I agree that the animals should be attended to, and that if it can be proved that they have not been properly watered when they could have been watered, those responsible should be made to suffer for it. The member for East Perth made reference to the interest I took in these cases when I was Commissioner for Railways. I know that whenever a case was brought before me of cattle not being watered when they could have been watered I saw to it that those responsible were taken to task. I do not see why the railway officers, if they can water the stock, should not do so. Of course, in cases of delay, with the obligation thrown upon the department to attend to the stock, a charge would have to be made for the cost, particularly of the feeding of the animals. If the Attorney General will include some such provision in the Bill I see no reason why the department should not be made responsible for the proper watering and feeding of stock carried in trucks.

The Attorney General: How did these cases come under your observation when you were Commissioner of Railways?

Mr. GEORGE: Complaints were made.

The Attorney General: But what instructions were issued?

Mr. GEORGE: Only general instructions. No specific instructions were issued, so far as feeding was concerned. The general instructions were that cattle should be watered when conveniences could be found for the operation. There is sometimes considerable difficulty about this, more particularly when sending cattle to the goldfields. As the result of some mishap upon the road the cattle might be delayed for twenty-four hours. If it were laid down in the Bill that in all such circumstances they must be watered, and provision were made for charging for this service, I think greater care would be taken to see that the animals were properly looked after. As a rule it will be found that very few men

wish to be cruel. Occasionally it happens that some men are not disposed to trouble much about animals that are to be slaughtered, but I think it should be made part of their duty to be so. It is well known to stockmen that in connection with sheep and other animals it is sometimes necessary to perform a certain operation, even at the station, and I would like to know whether this measure will interfere with such performance. If it does, it should be well considered.

Mr. Lander: The Veterinary Act provides for that.

Mr. GEORGE: So long as it is provided for I am satisfied. Generally speaking in respect to the Bill, anything that will make people more careful and reduce the possibilities of cruelty is to be commended. However, as I say, I think that it is but a very small percentage of the people who wish to be really cruel to animals, except it be under the influence of drink or ungovernable rage. I have had to do with large numbers of animals, and have known of but very few cases of cruelty. At the same time it is necessary for us to have legislation of this sort.

The ATTORNEY GENERAL (in reply): I shall not detain the House at any length. I can only express my sense of gratification that the Bill should have been so well received. I am quite aware that improvements can be affected in it, more particularly as its model is the English Act, and I doubt not there are some provisions in it which better apply to England than to Western Australia. When we go into Committee we shall be able to make amendments calculated to put the measure more strictly in accord with the views of men of experience in Western Australia. I will put the Bill into Committee without delay and such amendments as I can accept, I think we might insert as we proceed, but there may be one or two to which I shall desire to give further consideration and postpone till a later stage.

Question put and passed.

Bill read a second time.

### *In Committee.*

Mr. Holman in the Chair: the Attorney General in charge of the Bill.

Clauses 1, 2, 3—agreed to.

Clause 4—Ill-treating animals:

Hon. J. MITCHELL: Paragraph (b.) referred amongst other things to persons who failed to supply any animal, other than those running at large or on a journey, with shelter. A great many of the new settlers were unable to find shelter for their animals, and it often happened in other cases that horses were left at night in the open yard. Would it be possible for farmers to be prosecuted on these grounds?

The ATTORNEY GENERAL: There might be something in the contention of the hon. member that this paragraph might apply to the new settler and render him liable to punitive action, but, on a fair reading of the clause, it could not be held that a new selection was a place where animals were lodged. Even in those cases, however, horses that did the ploughing and carting ought to have some shelter. It was an act of gross cruelty for a settler to not find, at any rate, a bough shelter for his animals. If a settler gave no shelter to his animals and exposed them to the hot glare of the midday sun in summer he should come under the operations of the Act, because it was quite inexpensive to provide a bough shed.

Hon. J. Mitchell: A bough shed would not be a shelter in winter time.

The ATTORNEY GENERAL: A skilful farmer could make a bough shed that would be a sufficient shelter even in winter.

Hon. J. MITCHELL: The proper care of animals was necessary, but the Attorney General might consider the point which had been raised, in case any hardship might be imposed.

Mr. LANDER: The paragraph would not work any hardship on the settler, but was meant to have particular reference to sale-yards. Often in the summer a pig was brought to the sale-yards and allowed to remain exposed to the sun until its condition was pitiable. Nobody would take any exception to a bough shelter, in addition to which, any farmer who had

respect for his animals, would provide them with bush rugs which were inexpensive, and which had proved an effective protection on the timber stations. No inspector or police officer would attempt to put the clause into effect against settlers who provided protection of that character.

Hon. J. MITCHELL: Did the Attorney General agree that a rug would be sufficient shelter?

The Attorney General: If a man had a few rugs he surely could make a little shelter for the animals against wind and rain.

Hon. J. MITCHELL: If a rug would be sufficient it would be well to say so. The clause as at present worded might be productive of a good deal of trouble.

The MINISTER FOR LANDS moved an amendment—

*That in line 4 of paragraph (b) of Subclause 1 the word "shelter" be struck out, and the words "protection against inclement weather" be inserted in lieu.*

It was true that in some cases rugs were sufficient, but there were large portions of the State where, in ordinary circumstances the climate was such that the stock experienced no hardship, even when without the shelter provided in the clause; and, if the word "shelter" were struck out and "protection against inclement weather" inserted, the clause would then cover protection in the shape of a bough shed in summer time, or rugging where that was sufficient in milder climates. The amendment would also achieve all that was desired by hon. members who were anxious for the prevention of cruelty to animals.

Hon. J. Mitchell: That is quite satisfactory.

The ATTORNEY GENERAL: The amendment was acceptable.

Mr. Foley: Would inclement weather include excessive heat?

The Minister for Lands: Both heat and cold.

Amendment put and passed.

Mr. HUDSON: Was the penalty of £5 per day mentioned in Subclause 2 to be a maximum or a minimum, or was the amount discretionary?

The Attorney General: The penalty is distinctly discretionary.

Mr. HUDSON: Not more and not less?

The Attorney General: Oh, yes; or none at all.

Mr. LANDER: The minimum should be fixed at £5 for a continuous offence. Business connections would affect justices and they would not inflict a decent penalty.

The ATTORNEY GENERAL: The possibility of cruelty was a matter of degree. Two dogs without teeth could safely be left to fight.

Hon. J. MITCHELL: Subclause 3 provided that if any person ill-treated an animal, and did damage or injury to it, he should, in addition to the penalty, pay to the owner of the animal a sum by way of compensation not exceeding £20, as was ascertained and determined by the convicting magistrate or justice. Many animals were worth more than £20. There should be no restriction; it should be left to the discretion of the magistrates. He moved an amendment—

*That in Subclause 3, lines 7 and 8, the words "not exceeding the sum of twenty pounds" be struck out.*

The ATTORNEY GENERAL: It was provided at the end of the subclause that nothing in the subclause should take away any other remedy of the owner in respect to damage. That other remedy existed in the common law.

Hon. J. Mitchell: He cannot go twice to court.

The ATTORNEY GENERAL: Yes, the Bill gave that power.

Mr. George: Why compel him?

The ATTORNEY GENERAL: Because the police might not be the proper court to decide such an issue. A couple of justices might not be the proper persons to assess the damage suffered by a valuable race-horse or a valuable bull. The Bill took away no rights from the owner. It simply made it a special penalty that, in addition to all other remedies, he would have this award. The penalty might be increased if there was any doubt about the matter, but it hardly seemed wise to do so. If we fixed it at £40 or £50, in addition to all the other

finer, the temptation was for the country magistrate to go to the full extent of the penalty.

Mr. Hudson: Up-country magistrates are just as good as city magistrates.

The ATTORNEY GENERAL: In small country districts there were always cliques and rivalry, and if one clique sat on the bench the other clique went down. If we gave enormous powers in this Bill they might exercise them.

Mr. Hudson: It is a libel on the up-country magistrate.

The ATTORNEY GENERAL: No, it was simply a true expression of facts of human nature—wherever small communities existed there we would find little cliques and rival sections.

Mr. LANDER: The amount should be increased to £100, in order to allow magistrates to award a proper value. It was not much of a horse that would not go up to £100.

Mr. HUDSON: Provision being made for remedy otherwise than under this Bill, a man might be doubly penalised. The proper tribunal to determine the amount to which a person was entitled was not the magistrate referred to by the Attorney General. It would be better to leave it to the police magistrate and not to up-country justices.

The Attorney General: What did the member for Northam intend to substitute for the £20?

Hon. J. Mitchell: It was intended to leave it to be settled by the magistrate or justices.

Mr. THOMAS: If we fixed it at £100, and if that were not sufficient to cover the price of a very valuable animal, there would be some excuse to go to court. If we left it at £20 the horse might only be worth £40, and it would not pay a man to go to court to recover the balance, and the individual ill-using the animal would get off at a much lower amount than he should in the case of a more valuable animal. The anxiety in all cases should be to escape legal technicalities and get away from lawyers' costs. He would like to see the legal fraternity deprived of taking advantage out of this subclause.

Mr. HUDSON: The Attorney General was not making this provision to increase lawyers' costs. The point was to do justice to the individual. A person charged with ill-treating an animal was liable to a penalty, but by this subclause we sought to impose on him a further penalty as the result of an action on the part of someone other than the owner. A special constable would not take upon himself particularly to prove the value of an animal, yet the person charged might find himself landed, on appearing in court, with an order for the payment of a large sum of money for the value of the animal. In short he would be called upon to plead to a case for which he was not summoned. The subclause should go by the board altogether, and the magistrate should not have the power to assess the value of the animal or determine that the person already inflicted in a penalty should also be liable to go to gaol for an extended period for not paying up the value of the animal.

Mr. LANDER: It was not a new thing. If members turned up the Police Act of 1892, it would be found that the £25 penalty was provided there. There had never been any trouble in the past and there would not be any trouble in the future. If the amount were fixed at £100 it would have the tendency to stop a lot of trouble. Reference might be made to a case at Albany where a man, because his horse was a little bit fractious, got a stick and bashed it across the head and inflicted such injuries that the animal died. Unfortunately there was no corroborative evidence; it was the word of one man against another and the case was dismissed. If the amount were fixed at £100 the effect would be to frighten people of this description.

The MINISTER FOR LANDS: Hon. members were arguing from the point of view that in every case where injury was done the result would be complete loss to the owner of the animal. It very rarely occurred that ill-treatment, even of the worst kind, resulted in the loss of the animal, and in this case we were apportioning a sum by way of compensation,



which would represent the injury done to an animal by the person practising the cruelty. Under those circumstances, if we were to fix a larger amount it would mean that we would give a justice the opportunity of apportioning a much larger sum than would represent the value of the horse. In the present case we would have a fairly high sum which could be given in the apportionment of compensation and then there was the reserve power by which the person aggrieved could proceed in a proper way to secure redress.

Mr. Hudson: You mean "another" way.

The MINISTER FOR LANDS: I said "another" way.

Mr. Hudson: You said "proper" way.

The MINISTER FOR LANDS: To suit the hon. member, the word "another" would be substituted. Hon. members would be well advised to leave the amount as stated in the Bill. The provision was similar to that contained in other measures of a like character, and the Bill had been framed on the lines of the Act of the United Kingdom.

Hon. J. MITCHELL: The Attorney General should agree either to delete the words or alter the amount to £100. To make the law useful, we should endeavour to fix the amount sufficiently to cover the value of an ordinary draught horse. It was sought to provide in the measure for the payment of compensation, and the Committee should see that reasonable compensation was provided.

Mr. HUDSON: In the average number of cases the prosecution was undertaken by the police or the inspector of the society, and it was possible for the magistrate to award a sum of money as compensation for injuries done, and we were leaving it open to the owner to have a double-barrelled shot at the person who inflicted the injuries and to recover in another court.

Mr. LANDER: It might be mentioned that when the society was taking action against an individual, the defendant, if he liked, was able to get a copy of the evidence which the society was in possession of; therefore, before the man went into court he would have a good idea that

possibly the owner would claim damages.

The ATTORNEY GENERAL: The amendment, leaving it to the court to assess the damage, would be preferable.

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

Clause 5—Dehorning cattle:

Hon. J. MITCHELL: The clause provided that in the dehorning of cattle the operation should be performed with the minimum amount of suffering to the animal. It would be too much to ask a justice to determine whether the operation had been performed with a minimum amount of suffering. The Attorney General would find that the officers of the Stock Department were capable of setting up by regulation the method that should be adopted. He moved an amendment—

*That in line 2, the words "with a minimum of suffering to the animal operated upon" be struck out and "as provided by regulation" be inserted in lieu.*

The ATTORNEY GENERAL: The attention of the hon. member might be drawn to Clause 20, which gave the Governor power to make regulations not inconsistent with the Act. There was no doubt that this would be submitted to the experts of the Stock Department and to others as well, for the purpose of getting wise regulations which would enable the operation to be carried out, and notwithstanding that we would have the regulations when the Bill became law, we would still assert that the operation should be performed with a minimum of suffering to the animal that was operated upon. Even if we got the regulation or prescribed method of performing the operation, it might be done technically correctly and yet inflict ferociously cruel suffering on the animal. It would be better, therefore, to retain the words in the clause, and the hon. member could accept the assurance that provision would be made by regulation for the carrying out of the Act.

Mr. LANDER: It was his desire to see the words left in the clause, and he hoped also that the Minister would not take too much notice of the officials of the Stock Department. It was not many

years ago since he had to take action against the Chief Inspector of Stock for dehorning a bull in the most cruel manner, and he thought that this was in the time when the member for Northam was Minister for Lands. The Chief Inspector of Stock, instead of cutting off the horns where they were not sensitive, sawed them off near the head and covered up the wounds with Stockholm tar, a most brutal thing to do. This officer also thought nothing of leading a horse with a broken leg.

**Mr. GEORGE:** The Attorney General might explain whether the clause would apply to sheep or cattle so far as operations were concerned, necessary operations that had to be performed. The matter was difficult to express, but the Attorney General knew how to put it.

**Mr. BROWN:** There appeared to be nothing in the Bill covering a point which should be attended to. He would like to move an amendment to insert after the words "dehorning of cattle" the words "castrating and tailing of lambs and other stock."

**Hon. J. MITCHELL:** It would be well if the Attorney General conferred with the Stock Department and the Parliamentary Draftsman with a view to ascertaining if these necessary operations were prevented by the Bill. The clause should be allowed to stand, on the understanding that the Attorney General would consult the authorities on the point referred to, and if found necessary have a special provision inserted, rendering these operations exempt from the measure.

**The CHAIRMAN:** The amendment suggested by the member for Beverley could not be accepted until the amendment before the Chair was withdrawn or otherwise disposed of.

**Mr. BROWN:** In all probability the suggested amendment would be more fittingly moved on Clause 19.

Amendment put and negatived.

**Mr. George:** Is the operation in respect to the lambs provided for?

**The ATTORNEY GENERAL:** The Bill did not contemplate any penalties for operations of that kind. It dealt rather with the management and care and

breeding of stock. Acts of apparent cruelty, which really were for the good of the animal, provided no unnecessary pain was inflicted in the performance of those acts, did not come under the Bill. The object of the Bill was to safeguard the animal world from the passions of brutality and the ferocity of man. He would assure the Committee that before the Bill finally left the Chamber he would see that the phase of the subject referred to was not overlooked.

**Mr. LANDER:** There was no danger whatever of advantage being taken of the Bill to lay informations in respect to the performance of certain necessary operations. These operations, including the painful one of branding, had by custom become well established, and would be very difficult to abolish.

Clause put and passed.

Clause 6—agreed to.

Clause 7—Power to prohibit use of animal unfit for work:

**Mr. GEORGE:** Had the Attorney General fully considered the tremendous power which this clause put into the hands of an ordinary constable? The clause provided that if any constable was of opinion that an animal was unfit to be used in work or labour, the constable might direct that such animal should not be worked. If the provision were limited to cases of sore backs or sore shoulders it would be reasonable enough, but, apart from these apparent disabilities in an animal, how many constables were qualified to say that a horse should not be worked? Surely these questions should be left to an experienced veterinary surgeon.

**The Attorney General:** Subclause 4 provides for an appeal.

**Mr. GEORGE:** The process of appeal would take a considerable time, and in the meanwhile the owner would be losing the services of his horse. The clause was asking too much, as well of the constable as of the horse owner. It was wrong to give a constable a power which should be in the hands of a duly qualified veterinary surgeon. He had no intention of suggesting that a constable would maliciously order a man to refrain from working his horse.

**The MINISTER FOR LANDS:** The best reply to the hon. member's contention lay in the fact that this power had already existed for a very considerable period without producing any of the direful results predicted by the hon. member. It was to be remembered that the average constable in country districts usually had a good knowledge of stock. If such a constable saw that a horse was unfit to be worked, the officer should have power to forthwith restrain the owner from working the animal, without having first to go 20 or 30 miles to the nearest town in order to lay an information. The essence of the measure lay in the ability of the person administering or policing its provisions to act promptly, and that could only be attained by investing a constable with power to take action immediately on noticing a condition of affairs contrary to the intention of the Act.

**Mr. HUDSON:** The Minister for Lands should realise that his argument had no weight when he spoke of the working of an existing Act and attempted to deduce therefrom the results to be anticipated from the operations of the Bill; because, as had been pointed out, special constables and inspectors would be given powers under the Bill which they had not previously possessed.

**The ATTORNEY GENERAL:** Not only the Police Act gave this power to the constable, but the clause was almost a verbatim copy from the more modern Act in South Australia, where the provision had been tested.

**Hon. J. Mitchell:** The notice has to be endorsed by a justice of the peace.

**The ATTORNEY GENERAL:** The Minister for Lands had put the case precisely when he said that promptitude and expedition must be shown if cruelty to animals were to be prevented. One could not see cruelty and wait for a lot of formalities before taking action. Somebody must be armed with power—either the ordinary constable or special constables.

**Mr. George:** \* Then the constables should pass a course in veterinary surgery.

**Mr. Hudson:** You make the policeman or special constable the judge first of all.

**The ATTORNEY GENERAL:** Power was given to the constable to take action to prevent cruelty, and surely the detection of cruelty did not require a great deal of acumen or learning; the ordinary policeman was quite capable of that and a great deal more. Without this power the Act would be a nullity, and if the constable maliciously did anything, he rendered himself liable to prosecution.

**Mr. George:** How difficult it would be to prove malice.

**The ATTORNEY GENERAL:** Not if the evidence was clear that the animal was fit.

**Mr. LANDER:** The provision was a very proper one. Under Section 43 of the Police Act a constable had power to arrest a person for cruelty, without having regard to this measure at all. Would it not be better to accept the provisions contained in the Bill that the constable should first caution an offender? The clause was not nearly as severe as the existing provision in the Police Act. A constable should have power to take action when he was supported by a justice. If a constable saw a horse with an ulcerated shoulder being worked, would it not be better for him to warn the owner and then take action if the cruelty was continued?

**Mr. Hudson:** The Government are not proposing to repeal this portion of the Police Act.

**Mr. LANDER:** The Bill did repeal Section 79 of the Police Act, which was the section under which most of the actions had been taken. Section 43 dealt with miscellaneous offences, which included cruelty to animals. The provision in the Bill was the most humane way of dealing with both animals and owners.

Clause put and passed.

Clause 8—agreed to.

Clause 9—Apprehension:

**The ATTORNEY GENERAL** moved an amendment—

*That in line 2 the words "upon the complaint" be struck out and "at the instance" be inserted in lieu.*

The word "complaint" had a technical meaning under the Justices Act which was not intended to be conveyed by this clause. The meaning here intended was a mere setting in motion.

Hon. J. MITCHELL: If the remainder of the clause was to stand the person making the complaint should be made to understand the seriousness of it. The amendment proposed by the Attorney General would allow of any person being arrested at the instance of any other person. The informant should be made to understand his responsibility.

The Attorney General: He can only lay an information.

Hon. J. MITCHELL: The constable could lay an information and then apply for a warrant for the arrest of the person concerned. This gave too great a power to an unscrupulous person.

The ATTORNEY GENERAL: This power not only obtained in England, but had been found to be necessary in New South Wales and New Zealand, and no evil had cropped up. There could be no harm in the clause.

Mr. Thomas: A summons would serve the same purpose.

The ATTORNEY GENERAL: But this was for the prevention of continuous suffering. Surely this State should be at least on a level with England, New South Wales, and New Zealand.

Mr. LANDER: There could be no serious objection to the clause. It simply meant that any person witnessing an act of cruelty would be able to report to the constable, and if the constable or inspector considered the informant a reliable person, he could lay an information. Under the existing law, if a case of cruelty was reported to the police, the informant was told to lay the information himself. It would be a good idea to amend the clause so as to give the constable the same power to arrest as was given in Section 43 of the Police Act. If the constable had power to arrest it would often save mileage to a man who lived in the country. The man arrested would get out on bail immediately and have his case tried next morning.

Amendment put and passed.

On further motion by the ATTORNEY GENERAL the words "an information" in line 5 were struck out and "a complaint" inserted in lieu.

Mr. TURVEY moved a further amendment—

*That Subclause 2 be struck out.*

This subclause provided that any justice could forthwith issue a warrant for the apprehension of any person charged with an offence under the measure whenever good grounds for so doing should be stated on oath before him. Throughout the Bill every provision was given to prevent unwarranted cruelty to animals, but this subclause was too extreme. At times one might become over-enthusiastic as an inspector under the measure and let his enthusiasm run a little to the extreme, causing the apprehension of some individual for an alleged cruel action to an animal. If we gave local justices power to issue summonses, it was all that was necessary. If a man was arrested and put into gaol the stain would be on his character for all time, no matter how successfully he might refute the charge.

Mr. LANDER: The subclause should not be struck out; it was very essential. Men sometimes ill-used horses and, when threatened with prosecution, cleared out, leaving the owners of the animals without remedy.

The MINISTER FOR LANDS: The subclause provided that good grounds must be stated before a justice would issue a warrant, and those good grounds must be stated on oath. For malicious prosecutions, therefore, the remedy would be proceedings for perjury. The subclause provided the usual procedure, acting on the idea that people were not running round making malicious prosecutions and running the risk they would naturally undergo in laying informations. If people were malicious, any member of the House could be imprisoned until the facts were examined. The protection of the individual was that people generally were sensible. Very rarely did we find persons of such malicious character and perverted mind that they would lay

malicious informations and take oaths to that effect.

Mr. THOMAS: While entirely in sympathy with people who took such a great interest in the prevention of cruelty to animals, and with every possible facility that could be extended to them to carry on their work, still he was loth indeed to give any support to this subclause. It would be placing in the hands of an enthusiast, who sometimes overstepped the bounds of discretion, the possibility of doing harm that nothing could eradicate. It was said that a Bengal tiger with its tail in the air was sometimes no more dangerous to the welfare of the community than a fool with good intentions. A man might get excitable and entertain the idea that an individual was doing some terrible wrong, and might rush off to a justice and make some serious statements, and get a warrant forthwith, as the result of which a reputable citizen might be put in gaol, and for the rest of his life be marked as a gaol-bird.

The Minister for Lands: Are you prepared to wipe every law off the statute-book?

Mr. THOMAS: There was only one law now before us for consideration. A man might inflict a trifling injury on an animal, and by the perverted judgment of some excited enthusiast be landed in gaol, and all the subsequent actions in the world would not remove the stain from his character. While anxious to assist those generously helping in the protection of animals, he could not see his way clear to support the subclause. He feared it. It would do a great deal of harm, and the objects sought after, laudable and all as they were, in the Bill were being defeated by attempting to introduce extreme measures.

Hon. W. C. Angwin (Honorary Minister): The law is more drastic now.

Mr. THOMAS: It should not be. The Attorney General should not allow his kindly heart and humane sympathies to lead him astray in matters of this kind, and should pause and see if something could not be done to reach the same ends by more legitimate means, without risking

doing serious injury to any citizen of the State.

The ATTORNEY GENERAL: For the generous homily just delivered he was exceedingly grateful. The hon. member had a vivid imagination. What the subclause proposed was now the law. It was a wonder half the people in the country were not in gaol, if there were these hot-headed fanatics willing to swear oaths wholesale, and justices so blind as to immediately issue warrants thick enough to darken the air. It was even in the statute quoted by the member for East Perth.

Mr. Thomas: You are not amending the statute-book.

The ATTORNEY GENERAL: It was sought to make an improvement. This was what stood upon our statute-book at the present time—

Any officer or constable of the police force, without any warrant other than this Act, at any hour of the day or night, may apprehend any person whom he may find drunk, or disorderly, or using profane, indecent, or obscene language, or who shall use any threatening, abusive, or insulting words or behaviour, with intent or calculated to provoke a breach of the peace in any street, public vehicle, or passenger boat; and also any person who shall ride, drive on or through any street so negligently, carelessly, or furiously, that the safety of any other person may thereby be endangered, and also any person who shall cruelly or wantonly beat, ill-treat, over-drive, overload, or abuse or torture any living thing or cause the same to be done; . . . shall detain any person so apprehended in custody, until he can be brought before a justice to be dealt with.

This law had been in existence since 1892 and there still were free men walking about without stains on their characters. We had never found constables so mad as to rush people into gaol wholesale because that law was on the statute-book; neither would they do so when the Bill before the Committee was passed.

Mr. Turvey: Do you not think it sufficient to summon individuals?

The ATTORNEY GENERAL: A case happened a little time back in which a horse got bogged and could not move; the driver actually lit a fire under it, and the animal was burnt to such an extent that it had to be killed. Did hon. members desire that we should wait until the act of cruelty had been completed before taking action?

Mr. HUDSON: To whom would you leave it?

The ATTORNEY GENERAL: To the police.

Mr. HUDSON: You are not doing that here.

The ATTORNEY GENERAL: That was provided for in the Bill. It was provided that when a constable saw an act of cruelty, or had his attention drawn to it by someone who had seen it, he could take action, and the law could be set in motion upon oath before a justice of the peace.

Mr. THOMAS: No purpose could be served by the subclause, which provided for the arrest of an individual; the same effect would be obtained by means of a summons.

The Attorney General: Suppose the offender were a stranger to the district?

Mr. THOMAS: Even then he would not be out of the jurisdiction of the State; the long arm of the law could reach him wherever he was. The Attorney General endeavoured to show that while extreme cases might happen only once in a generation, in order that he might protect the public against such instances, he was going to put into operation a clause that might be put into use by a spiteful or a misguided individual against hundreds of citizens. It was all very well to argue that certain things had been provided and had not worked ill to the community. That might be so, but if they were there and they were wrong, they should be repealed.

The Minister for Lands: Then you would have to repeal the whole of the statute-book.

Mr. THOMAS: That was not so. There was no use in referring to extreme cases, and the argument that an individual might be here to-day and gone

to-morrow was not worth anything, because the long arm of the law could reach him wherever he was. Let us not do an injustice to a vast section of the community.

The Attorney General: No injustice is done here.

Mr. THOMAS: With all due respect to the professional knowledge of the law possessed by the Attorney General, he still disagreed with him. Perhaps a layman could see as clearly the possibility of injury being done as one versed in the intricacies of the law; therefore he asked the Committee to consider well and wisely before agreeing to allow the clause to go on to the statute-book.

Mr. A. N. PIESSE: The amendment would receive his support, because the subclause really conferred greater powers than the section which the Attorney General had read. In the Police Act power was given to a constable to effect an arrest, but in the Bill power was given to arrest at the instance of any person other than a constable. That made the arrest second-hand. In the section quoted by the Attorney General the arrest was first-hand. Subclause 2 provided that any justice might issue a warrant on the information of the constable on oath, but that information might probably have been obtained second-hand. Under the Police Act it was on first-hand information that the arrest was effected. It was certainly a serious matter to give the power to one justice to order the arrest of an individual without the hearing of the complaint.

Progress reported.

*House adjourned at 10.28 p.m.*