

## Legislative Council,

Tuesday, 11th October, 1904.

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The PRESIDENT took the Chair at 4:30 o'clock p.m.

## PRAYERS.

## ADDRESS-IN-REPLY—PRESENTATION.

THE PRESIDENT reported that, instructed by the House, he had presented the Address-in-reply to His Excellency the Governor, and that His Excellency had been pleased to reply as follows:—

MR. PRESIDENT AND HONOURABLE GENTLEMEN OF THE LEGISLATIVE COUNCIL,

I thank you for your Address in reply to the Speech with which I opened Parliament, and for your expression of loyalty to His Most Gracious Majesty the King.

FRED. G. D. BEDFORD,  
Governor.

Government House,  
Perth, 6th October, 1904.

## QUESTION—MALLET BARK, TANNIC ACID.

HON. W. MALEY asked: In view of the proved value of mallet bark, does the Government propose to cause analyses to be made of the bark of the several indigenous trees known to contain tannic acid, with a view to ascertaining the commercial value of same; also to discover whether by blending the bark of any trees a marketable commodity may be produced?

THE MINISTER FOR LANDS replied: Yes; analyses are now being made.

## QUESTION—SCHOOL OF MINES, MURCHISON-GASCOYNE.

HON. W. PATRICK asked: Is it the intention of the Government to take steps for the establishment of a School of Mines on the Murchison-Gascoyne goldfield at an early date?

THE MINISTER FOR LANDS replied: Classes already exist at Cue, whereat students can obtain instruction in such subjects as will enable them to compete for the School of Mines' Junior Scholarships. It is hoped that, before long, arrangements may be made to establish classes at Cue and other leading goldfield centres for the training of more advanced students in mining.

## LEAVE OF ABSENCE.

On motion by Hon. M. L. MOSS, leave for one month granted to the Hon. J. D. Connolly, on the ground of urgent private business.

On motion by Hon. W. KINGSMILL, leave granted for one month to the Hon. T. F. O. Brimage, on the ground of urgent private business.

## BREAD ACT PENALTIES, HOW PAYABLE.

THE HON. M. L. MOSS (West) moved:—

That this House is of opinion that all penalties recovered under the Bread Act 1903, since 1st July, 1904, should be paid by the Treasury to the municipal council of the municipality wherein the breaches of the Act have taken place.

During the last session an Act known as the Bread Act 1903 was passed, and by Section 17 the responsibility was cast on municipal councils of appointing inspectors for carrying out the provisions of the Act. Those provisions were being enforced also by the police; but experience in Fremantle was that the responsibility of administering this very important statute was practically thrown on the municipal body. No reference was made in the Act as to how penalties recovered under it should be appropriated; and in the absence of specific provision, the penalties went into the current revenue. By Section 122 of the Municipal Institutions Act, penalties recoverable for certain offences specified were payable to the local municipal body. Having regard to that precedent, it would be seen that it was far more important that the penalties recoverable under the Bread Act should be paid to the municipal councils, because the administration was thrown on those bodies, and the Act could not properly be administered without a certain amount of expense in

carrying out its provisions. Not only had a municipal council to appoint an inspector for carrying out the Act, but he was usually accompanied by a witness whose services had to be paid for; and in order to obtain convictions it was necessary to undertake proceedings, which of course entailed expense. The fines going into the general revenue as they did now, the work of carrying out the Act was a burden thrown on municipal bodies; and the fact that they did not receive the penalties payable for carrying out the Act would tend to slackness in its administration. If these penalties were paid to the bodies administering the Act, no expense would thereby be thrown on the country. It was also important that poor people should receive the full weight of bread when purchasing; and altogether he submitted that it was desirable to give effect to the motion he had moved.

HON. W. KINGSMILL seconded the motion.

HON. W. T. LOTON: What did the fines amount to?

HON. M. L. MOSS: In the case of Fremantle, about £15 so far.

On motion by the MINISTER FOR LANDS, debate adjourned until the next sitting.

#### FRIENDLY SOCIETIES ACT AMENDMENT BILL.

##### SECOND READING.

THE MINISTER FOR LANDS (Hon. J. M. Drew), in moving the second reading, said: The chief object of this measure is to amend Section 8 of the principal Act, providing for the registration of specially authorised friendly societies. Applications have been received by the Registrar of Friendly Societies from the united friendly societies' unions and associations, which do not provide medical, sickness, funeral, or other benefits such as are enumerated in Section 7 of the principal Act, but are formed simply to represent the joint views and interests of the registered friendly societies affiliated with them or to manage property jointly held by those societies. A number of applications received this year for registration had to be refused, because there was no power under the law to grant registration. For instance,

the Perth United Friendly Societies' Association and the Northam United Friendly Societies' Council made application for registration. Section 6 of the principal Act does not permit of the registration of such unions or associations unless they provide for some purposes of mutual advantage to the members which the Attorney General may approve of. The position at present is that while the individual societies can register, the association which helps in the government of the societies is unable to register. Clause 3 of the Bill is framed to remove this disability, and to provide in addition that societies which have specially authorised objects together with one or more ordinary objects may be registered. In England, in New Zealand, in Queensland, in South Australia, and in Tasmania specially authorised societies exist, and are registered in the manner and on the basis provided in this Bill. The amendment of paragraph 3 of Section 7 of the principal Act is to remove doubts as to whether sums payable at death as well as funeral expenses may be provided for in the rules. The amendment of the proviso at the end of Section 7 is for the purpose of making it clear that the maximum funeral benefit, or the maximum sum payable at death, shall be £25 on the death of a member and £15 on the death of a member's wife. [MEMBER: Why £25?] Well that is considered an actuarial necessity. The matter has been considered by the Registrar of Friendly Societies, and he has concluded that no society can be solvent unless such a stipulation is made. The present provision is £25; and no society is registered unless it makes this provision. The providing of sums larger than £25 is left to insurance companies. To make it clear that the limitation of funeral benefits or sums payable at death in Clause 2 of the Bill does not prevent the society from offering farther funeral benefits from a separate fund, the words "from one fund" have been inserted; so there is nothing to prevent societies from establishing two or more funds if considered necessary. The amendment of Section 12 of the principal Act, paragraph (a), subsection (1.) is made to identify the registered address of the society with the term "registered office" used in other parts of the Act, as in Sec-

tion 18, subsection (4). The Bill enacts that the offices of secretary, treasurer, and trustee must always be held by separate persons; and I think that on consideration members will see the advisableness of separating those offices.

DR. HACKETT: May not two of them be held by one person?

THE MINISTER: They must always be held by three separate persons. This rule has always been insisted on by the registrar, and the English Act has a similar provision. Section 12 is farther amended to provide that when, on the death of a member, the body is not or cannot be recovered, and a certificate of death cannot be issued, the trustee shall have discretion to pay. No sum can at present be legally paid to the survivor in such a case. It will not be compulsory on the trustee to pay; but he has the discretion if he thinks the proof of death reasonable. The amendment of Section 14 embodies a provision found in the Imperial Act of 1896, and makes the marriage of any member operate as a revocation of any nomination theretofore made by that member, just as marriage revokes a will previously executed. Under the Act, a member of a registered friendly society may by writing nominate any person not a member of the society, to whom any money payable to such member shall be paid at his death. The intention of Clause 5 is to annul such nomination in the case of a man who subsequently marries, and to insure that the money shall be paid to his wife, who is best entitled to it. I think I have sufficiently explained the principles of the Bill, and I now move the second reading.

HON. W. KINGSMILL (Metropolitan-Suburban): I am quite in accord with what has fallen from the Minister as to the chief object of this Bill. There are, however, some other objects of the Bill which he has not specified, which he has touched somewhat lightly, that do not in my opinion merit the same approval. For instance, I fancy that Clause 2, which amends Section 7 of the principal Act, is likely to have a result which I cannot regard with satisfaction. It is likely to have a very restrictive effect on the registration of societies under the Bill. I hold that the Act of 1894, the main Act, has the good and laudable object of insuring

that friendly societies shall be conducted, as it were, before the public eye; that their proceedings, financial and general, shall be guided by a set of rules and by statutory obligations laid down in the Act. That, I think everyone will agree, is a good and lawful object; but when we find that the Government propose in this Bill to pass legislation which will restrict registration, then I say their object is wrong. Of course the Minister has stated that any farther benefits than £25 in case of death of a member, and £15 in the case of death of any other person, should be left to insurance societies. That point is extremely arguable; and when we consider that the very Act on which this Bill is framed—the Imperial Act of 1896 already quoted by the Minister—lays down a maximum in this particular case of £200, in a country where people cannot so easily afford to subscribe to friendly societies as can the people in this country, then I say that the object of fixing the maximum at £25 for funeral expenses is not obvious. I do not know what the object is; but I can see plainly enough that the clause must have a restrictive effect on the registration of friendly societies, and that any legislation which has that effect must be bad. I support the Bill generally; but I intend when in Committee to move an amendment for a substantial increase of the sum of £25 as the maximum for funeral expenses.

HON. W. MALEY (South-East): Having listened to the address of the Minister and the remarks of Mr. Kingsmill, I must say that I see in this Bill something objectionable; at the same time, I see in it several advantages. I should not go the length of Mr. Kingsmill in restricting the amount payable at death to £25; but when it comes to the payment of funeral allowances, I agree with him that £25 is ample.

DR. HACKETT: Are you not in error?

HON. W. MALEY: I trust I am understood in stating that the funeral expenses should not exceed £25, but the allowance at death ought to be anything that the society desires to make. In my observation of the working of friendly societies, I saw one notable instance in the city of Perth of a society which was in existence about 20 years ago. That society gathered together large sums of

money and had big interests in city properties; and instead of dividing the assets among the indigent families of members who had died, the entrance fees were raised, difficulties were put in the way of persons wishing to join, and the society became smaller, more restricted, and wealthier, until at last the property was sold, and a division of it made amongst the members. Speaking from memory, I say that there was more than one child waiting at the door, when the division was proceeding, to take possession of the money against which advances had already been made. It is far more desirable that large sums should be paid to the poor families of deceased members than that the moneys should be saved up for the purpose of division amongst those who are able to earn bread for their families, and who should have no occasion to take advantage of a division of funds. I trust the Bill will not be hastily rushed through, but that members will carefully consider that particular clause; and that, probably after an adjournment, the Bill will in Committee be put in such a shape as will make it acceptable to the House.

HON. G. RANDELL (Metropolitan): I do not know that the Minister quite clearly explained whether the allowance he spoke of was in the nature of a payment after death to the deceased's representative or a payment for burial purposes. For funeral expenses £25 is in my opinion quite sufficient. If we increase the amount we shall open the door to big undertakers' bills. I am quite in favour of limiting burial expenses, and should like to see a reform of this nature all over the country. I have risen principally to speak regarding the latter part of Clause 4, which strikes out of the principal Act the words "who dies at sea," and proposes to insert "whose body is not or cannot be recovered, or who dies or is drowned at sea." In such case, the Bill proposes that the trustees shall not be liable to pay any claim until in the opinion of a majority of the trustees satisfactory proof of death is produced. I am inclined to think that is an unnecessary limitation. If the persons interested have to depend on the decision of the trustees without an appeal at common law, they will never get the benefits. That seems to be a most restrictive clause, which I think should

be very carefully considered; and in this matter I hope the Minister will give us his assistance. If an opportunity were given for an application to a court to compel the trustees to pay on reasonable grounds, then I should be quite satisfied. I think the trustees should have some little discretion, but not absolute discretion. That is the only clause to which I propose to take any exception; and I trust it will have the attention of the Minister when we go into Committee. I should like to hear the observations of Mr. Moss on the legal aspects of the Bill.

THE MINISTER (in reply): I wish to point out that the Government have introduced this Bill on expert advice. The sum of £25 has been stipulated in accordance with the expert advice. It has been a rule that the Registrar of Friendly Societies should register no friendly society that stipulated for more than £25 being paid for burial. The solvency of societies must be protected, and if an increase is made the amount of subscription must also be increased. If that were done many societies would be harassed to a great extent.

Question put and passed.

Bill read a second time.

#### IN COMMITTEE.

Clause 1—agreed to.

Clause 2—Amendment of Vic. 58, No. 23, Section 7:

On motion by HON. G. RANDELL, progress reported and leave given to sit again.

#### METROPOLITAN WATERWORKS ACT AMENDMENT BILL.

##### SECOND READING.

THE MINISTER FOR LANDS (Hon. J. M. Drew): In moving the second reading of this Bill, I may say that for many years past there has been considerable friction amongst the members of the Metropolitan Waterworks Board, and that friction has increased during the last few years. It is the intention of the Government, if this Bill be passed, to dispense with the services of the existing board, and it is intended also that the Works Department shall take over the control of the waterworks. I think most members will be prepared to admit that the Works Department are eminently

qualified to take upon themselves that task. They have been administering the Coolgardie Water Scheme, the Fremantle waterworks, and the Claremont water supply, and on the whole the department have given every satisfaction.

HON. J. W. WRIGHT: Not at Claremont.

THE MINISTER: From what I learn there will be no extra expense incurred by the department in taking over the control of the waterworks. No additional officers will be appointed, but the present staff will carry on the operations for the present. The existing board are receiving fees, and until the new board is appointed the fees will be saved. The Bill gives the Governor power by Order-in-Council to supersede the board. At present the Government have no such power. There is power to dismiss the board, but there is no power to supersede the board.

HON. J. W. HACKETT: Does the Bill allow the Government to give compensation, or have the board the right to make a claim?

THE MINISTER: The members of the board will have no claim.

HON. J. W. HACKETT: What is the meaning of the word "supersession" then?

THE MINISTER: The members of the board will have no claim for compensation, and the appointment of a new board will not be lost sight of. As soon as the Government are prepared to appoint a new board it will be appointed; but it is necessary for the Government to have power to supersede the present board before taking any active steps in that direction. I beg to move the second reading.

THE HON. G. RANDELL (Metropolitan): I am not sure that the change will work for the benefit of the community at large; and I am inclined to think that while the capital involved is very large, the only way to reduce the price of water under the Works Department or under a board will be to write off say £100,000 from the capital expended in purchasing the waterworks. I am not sure that the Legislature will be willing to agree to that, for it means saddling the country with £100,000 for the benefit of the city of Perth and suburbs. Probably the reason why the word "supersession" is used is to deprive the present

board of the right of any compensation for the loss of office. Perhaps as a board they have no right to compensation, as the members of the board are not Government servants. I am inclined to think, though, that the chairman and the other members of the board represent the Government more than the residents of Perth. That may account to a large extent for the actions of the board with regard to the citizens generally. It is quite certain that the board have received instructions that the rate to be charged for water should be an amount that will insure the payment of the interest to the Government on the outlay that has taken place and in the equipment of the waterworks. It is unnecessary for me to say I have no sympathy with the obloquy and reproach which have been cast especially on the chairman of the board, and I rose to speak because I think the chairman has striven to do what he could for the Government whose servant he principally is. I am not prepared to say that he has done that altogether in a way which has proved acceptable to the great body of the public; but the methods he has adopted are what every man would have adopted in the administration of the Waterworks Act to secure payment for water supplied. Whether the Works Department or a board continue the administration of the Act, I think similar methods will have to be adopted. I am not one of those who expect any reduction or any alteration to be made under the present Bill. As one of the citizens of Perth who has some interest in the city, I have never objected to pay 2s. per thousand gallons when I found it was absolutely necessary, in justice to other portions of the State, that that amount should be paid so as to cover the interest and expenses in administering the Act. I have no sympathy with the actions of some members of the board in the way in which they have dealt with the chairman from time to time. I have not the slightest sympathy with the methods they adopted, and I think the action taken was unjustifiable on most occasions. Certainly the actions of some members of the board did not read well in the newspapers, and gave the impression that the board were like a house divided against itself. Of course it was known from the beginning that people would have to pay

for water whether it was used or not if property was situated within the radius of 180 feet of the pipes which were laid down to convey the water to different parts of Perth. It would have been impossible to introduce a Bill without its being one of the main principles of the measure that every owner whose property was situated within 180 feet of the pipes should have to contribute whether he used the water or not, and whether the ground was occupied or not. In the administration of a Waterworks Act where the board come in contact with a large number of citizens, many of whom are anxious to get their water for nothing and many who are anxious to use as much as they can without its being known, friction is likely to arise. I think it is only right and just to the present chairman to say, knowing a good deal of the circumstances, that he did the best he could during his administration of the Act. I do not think that the Works Department or a new board could do differently. Some of the chairman's actions may have subjected him to severe criticism, but I say his object was right and that it was impressed on him by the Government that he must make the system pay interest and expenses, and provide for the extension of the water service. So far from condemning the administration of the Waterworks Act we should feel that the board have done their best under the circumstances, and that no administration could have done better.

HON. W. MALEY (South-East): I would like to say a word in support of the second reading, because I am satisfied that if a larger water supply can be obtained for the city of Perth and the price of water reduced, it will have a great and lasting effect upon Perth and its suburbs. If we compare the price of 2s. per 1,000 gallons paid in Perth, with the price of 6d. per 1,000 gallons paid in Adelaide, and when one bears in mind the porous nature of the soil in Perth, it being necessary in the summer months to use ten times as much water here as in Adelaide where there is a clay subsoil, and the disadvantages of making attractive suburban homes where people must have gardens for the beautification of their dwellings and for their comfort and edifi-

cation, is it at all to be wondered at that people leave Perth and take their families to Adelaide, Melbourne, or Sydney, where the advantages to be gained are so great, and where people can obtain water at a cheap rate? As to the management of the board, I have no reflection to make upon any member of that board. It is a great pity and lamentable that so much friction existed among the members of the board. As to administration, certain things have come under my notice which, to my mind, were not satisfactory. The method of paying for water, the price paid, and not only the price paid but the method of collecting the dues were not right. I know one instance in which the dues for this year were paid in a lump sum last year for a building which was not erected. The person holds the receipts which were given him under some method which was adopted by the waterworks board. I believe the board were short of money, and anticipating some little difficulty they made a direct offer to the owner of the property to pay so much for rates which would carry him to the end of the year. [MEMBER: He could get a rebate.] I do not know what he could do, but the method was unsuitable. I trust the Bill will pass, and the result will be a great benefit to the city of Perth.

HON. J. W. WRIGHT (Metropolitan-Suburban): The Bill I think is totally unnecessary. Under the Act passed last year, power was given to appoint a new board: and why should the Government desire now to take over the waterworks to be administered by the Public Works Department? If the control of the waterworks and the sewerage works are taken back by the Public Works Department, it will be a long time before the city of Perth gets the control again. I think the system is bad. Under the Act of last year, the Government could have appointed a board, but they have not seen fit to do so. The members of the board have fallen out, but I think the chairman, in all his actions, did what he could for the best. I should like to see provision made so that all the suburban towns to Fremantle could be represented on the board; and that the board should appoint their own chairman every year, so as to give him a chance of seeing the working. I feel certain that if this is transferred at all to the Public Works,

it will be many a long day before we shall get it back; and it means that when the sewerage works come on, as they will before long, we shall have them all constructed by day-work. I have heard a lot about day-work, I have had a lot of experience, and I do not altogether approve of it. In some instances it is all right, but in others it is wrong. I shall oppose the passing of the Bill.

**THE MINISTER** (in reply): In regard to providing compensation for the board, no doubt if there are claims for compensation, those claims will be considered. In reference to Mr. Wright's contention, I do not know that there is anything to prevent a Bill from going through this session to deal comprehensively with the waterworks and sewerage scheme.

**THE HON. J. W. WRIGHT**: Why not do it?

**THE MINISTER**: The Bill passed last year was passed *pro formâ* on the understanding that it would be submitted to the revision of Parliament, so far as I know; and the amending Bill has not yet been framed.

**THE HON. J. W. HACKETT**: Will that revision be done this session?

**THE MINISTER**: That will be done this session. There have been no less than three amendments of the Municipal Institutions Act in one year. In the session of 1901-2 the Municipal Institutions Act Amendment Act was passed. The following session there was a second measure, the Municipal Institutions Act Amendment Act of 1902 (No. 2), while later in the same session there was a third measure, No. 3 amending Act. So I may inform Mr. Wright that the passing of this measure would in no way affect legislation in connection with the metropolitan waterworks and sewerage scheme.

**HON. J. W. WRIGHT**: If it is intended to bring in another Bill, what is the good of bringing in this one at all?

Question put and passed.

Bill read a second time.

#### IN COMMITTEE.

Clause 1—agreed to.

Clause 2—Governor may appoint Minister for Works to exercise functions of board:

**HON. J. W. WRIGHT** wished to move an amendment that all the words after "the" be struck out.

**THE CHAIRMAN**: Would it not be better to oppose the clause?

**HON. J. W. WRIGHT**: Yes. He moved that the clause be struck out.

Amendment negatived, and the clause passed.

Clause 2—On such appointment, Board superseded:

**HON. J. W. HACKETT**: What was the difference between supersession and abolition?

**THE MINISTER FOR LANDS**: Supersession did not mean the dismissal of the board. The board would exist, but it would have nothing to manage.

Clause passed.

Clause 4—agreed to.

Preamble, Title—agreed to.

Bill reported without amendment, and the report adopted.

#### TRAMWAYS ACT AMENDMENT BILL.

##### SECOND READING.

**THE MINISTER FOR LANDS** (Hon. J. M. Drew), in moving the second reading, said: The chief object of this measure is to amend Section 46 of the Act, providing for the management of the tramways. I do not wish to disguise from members the fact that it is of a retrospective character, and that the period covered extends over something like 19 years. This would, under ordinary circumstances, naturally create some alarm in the minds of members; but when I explain the circumstances and the reason why it has been introduced, I do not think the Bill will meet with any serious opposition. The position is this. The Tramways Act was passed in 1885, but through a slip on the part of Parliament the measure is in some respects so much waste paper. By Sections 33 and 34 of the principal Act the local authority was given power to make regulations. Those regulations came under one clause, but it would appear that during the progress of the measure through Parliament some amendment took place and the clause was cut into two, one part being Clause 33 and the other Clause 34. The effect of this subdivision—and it apparently escaped observation—was that while

power was given to enforce the regulations framed under Section 34, no power at all was given to enforce the regulations made under Section 33. Although the Tramways Act was passed in 1885 it is only during the last few years it has been found necessary to put it into actual operation, and an opportunity therefore did not occur to discover the mistake which had been made while the measure was under consideration by Parliament. The object of Clause 4 is to remove a doubt which existed whether an agreement was valid that had been entered into between the Perth Electric Tramways Company and the Municipal Council of Perth to pay a composition of 3 per cent. in lieu of all rates. In Section 46 of the principal Act power was given to the council to take a composition of rates in connection with roads, but it was not clear that such composition was made to include carbarns and power-houses. When the agreement was drawn up the parties to it were of opinion that it gave the council power to take a composition of 3 per cent. in lieu of all rates. On farther consideration and on examination of the measure by lawyers it was not perfectly clear that this could be done; hence the reason for the introduction of this legislation. I may say that both parties to the agreement offered no opposition the Bill; in fact, they desired it, in order to prevent possible future litigation. I have now pleasure in moving the second reading.

HON. G. RANDELL (Metropolitan): In the original Act no power was given to the Municipality of Perth to enforce any penalties which they thought might have been incurred under the Act. I think that if the hon. member looks up the Act of 1885 he will find that Section 34 distinctly refers to the two sections. I believe the stumbling-block all along has been that there has been no legal power given in the Act to impose penalties, and it was not from the fact of the two clauses. It is highly desirable that this contentious subject should be settled, and it is wise and right that a Bill of this kind should be brought into operation. I am pleased indeed to hear from the Minister that both parties to the agreement are quite in accord on the matter, and therefore we may anticipate that things will work smoothly. Whilst

upon this subject, I desire to say I trust that speedily some effort will be made by the Government to deal not only with tramways but with motor cars. Something should be introduced in the Tramways Act or Municipal or some other Act to regulate this source of menace to the citizens of Perth, at any rate.

HON. M. L. MOSS (West): I only rise to point out to the Minister the expediency of the Government acting under Section 52 of the original Tramways Act. Under that section the Commissioner of Railways is empowered from time to time to make, rescind, annul, or add to, rules with respect to certain matters, and amongst them is provision regarding payment of money or lodgment of securities by way of deposits, the repayments and forfeiture of the same, and the investment of the same. The following state of affairs exists at Fremantle, and I mention this to the Minister so that he can put the matter before the Government, in order to prevent a recurrence in other towns of the State. It appears that some years ago promoters under the Act of 1885 obtained power for the purpose of constructing a tramway system at Fremantle. At the time the Provisional Order was applied for and granted to the promoters it became necessary to deposit £875 as security for due fulfilment by them of the obligations the contract contained. No regulations or by-laws have been made under Section 52 providing for the forfeiture of this deposit, and the Provisional Order which was drawn in the Fremantle case was also silent upon that question. The result is that while the promoters hold a right to construct tramways, they keep this right *in terrorem* over the heads of the people. For some three years they did nothing at all but attempt to sell it in the old country, leaving Fremantle without the tramways and also with this deposit of £875 in hand. No regulation was, I say, made in Section 52 providing for the forfeiture of this, and the result is at present that the council, although I think morally entitled to the £875, is fighting a law suit with the holders of the concession for this deposit. There is some provision in the statute which enables the Government or one of their officers, the Commissioner of Railways, to make regulations providing for circumstances of this kind.

It is the bounden duty of the Government to see that such regulations are made that, in the event of any council giving a concession, the same thing may not take place as took place at Fremantle. The Minister should take notice of this and should bring the matter before his colleagues so as to get the section amended.

HON. J. W. HACKETT: Was it not the fault of the Fremantle Council?

HON. M. L. MOSS: Probably it was; but the section should be amended.

Question put and passed.

Bill read a second time.

IN COMMITTEE.

Clauses 1, 2, 3—agreed to.

Clause 4—Amendment of Section 46; Promoters may agree with local authority for composition of rates:

On motion by the MINISTER, the clause amended by adding the word "exclusively" at the end, and passed.

Preamble, Title—agreed to.

Bill reported with an amendment, and the report adopted.

ABORIGINES PROTECTION BILL.

SECOND READING.

Debate resumed from the 4th October.

HON. R. F. SHOLL (North): The Minister when explaining this Bill very kindly said he did not intend to reflect in any way on the treatment of aborigines by settlers, and that though there were cases of neglect and ill-treatment, yet on the whole the natives were treated well. The Minister also said that the Bill did not contain any novel legislation. In regard to the remarks concerning the general treatment of aborigines, not only in the North but in the whole of the State I think the Minister is right. There may be individual cases of ill-treatment, which may happen in any community; but when the Minister says there is no novel legislation introduced in the Bill, I disagree with him. It may not be novel to Queensland, but it is certainly novel to this State. Under the present Act a settler may make an agreement with an aboriginal native for service for 12 months, if I remember aright, and that agreement has to be witnessed by a magistrate, police constable, or a justice of the peace, whose duty it is to explain the

contents of the agreement to the native and to be satisfied that the native understands what he is agreeing to. The Act has not been availed of, particularly in the North. No doubt where the Act is intended to apply settlers are employing natives; but many settlers in the North are not employing natives at all, the consequence being that the gaols are full, while, according to the Aborigines Report for last year, the requirements for the upkeep of aborigines in the State are on the increase and are likely to increase. Under the present Bill, the Government not only propose in Clause 20 to continue this system of forced agreements, but they add to it a permit so that no one may make an agreement to engage or employ a native unless he enters into an engagement for 12 months, after previously obtaining a permit to make the agreement. It would be better and simpler if the Bill were amended so as to do away with agreements altogether, and to deal solely with permits. Otherwise I do not see how this Bill can possibly be worked or administered. It will not apply so much to the stations close to the coast, but on a station 240 miles from the coast, which a policeman visits only once a year, how is it possible for the employer to obtain permits to make agreements with aborigines? It is impossible to bring the natives down, and it is illegal to employ them without permits; so the settler is between the old gentleman and the deep sea. If he employs a native he is liable to a penalty under the Act, which I think is six months' imprisonment with a fine for every native he employs, and if he does not employ them his sheep are killed. If it be attempted to carry out the Bill in its entirety it will be impossible to work it, while it will create hardship in many ways. Clause 20 says that it shall not be lawful to employ any aborigine or male half-caste under 18 years, or any female half-caste except under an agreement. I should like to see the agreement done away with. It seems to me to interfere with the liberty of the subject in a most extreme manner. The native should be a free agent, and the employer should be a free agent, subject to a permit from the protector of aborigines. The protector should know whether the settler was a reliable man in whom he

could have confidence, and whether the settler would treat well the natives he might employ. That would get over the difficulty. I cannot see how the Bill can be worked unless something of that kind is done. I see that by Clause 15, without any reason at all, an aborigine may be removed from a reserve or ordered on a reserve. The aborigine has committed no crime; but if he objects to go on the reserve, or leaves it, he is liable to a penalty under the Bill. He has committed no offence except that he will not remain in the paddock in which the Government say he shall remain. From my knowledge of the aboriginal natives, gained some years ago in the North, if the Government intend to insist on the natives staying within imaginary lines, they will require all the policemen in the State to keep them in the reserves. The natives naturally are a wandering race. They may settle on a place for two or three days, and the next day by sundown may be 20 or 30 miles away. It is found impossible in the North to keep them in the lockups, so that I think it is absolutely impossible to keep them within imaginary reserve lines. It may answer in some parts of the State, but certainly will not in the northern districts. I am in sympathy with the Bill, but I do not see how it can possibly be administered. The Bill has evidently been framed by those who have never been in the far North districts, and who do not know the conditions of the far North. The Government have obtained the services of a gentleman from Queensland who is now, I believe, on his way or has arrived in the far North; and he will be in a much better position on his return to know what Bill will be suitable and can be administered to deal with the natives of the North. I suggest that the Government should withdraw the Bill, and bring in a consolidating measure next session dealing with the whole question. It is unsatisfactory to people to be always bringing this unfortunate question before the world through these Bills being continually tampered with. The settlers in the North are as worthy a class of people as any in West Australia; but they are being traduced and wronged by arguments raised upon these agreements which the Government wish, by this Bill, to perpetuate. I hope the Government will withdraw the

Bill, and introduce a consolidating measure dealing with the whole subject after receiving a report from the expert on the subject. There are other matters in the Bill which I do not care to deal with in the open House; but if the Government will not withdraw the Bill, it should be referred to a select committee, where it can be thoroughly investigated.

SIR E. H. WITTENOOM (North): I think with the member who has just spoken that it is rather premature to consider the Bill before receiving a report from the expert who is making the inquiry. The Government have gone to expense and trouble to send a special expert into the North for making a report on the subject; yet before he has had opportunity of examining the circumstances, we are asked to deal with the matter under a Bill, which probably will have to be altered considerably after receiving that report. Under these circumstances it will be well to postpone the Bill till we have the report of the expert before us. With regard to the Bill as it stands, it is simply a pure reversal of the policy that has obtained in this country in the past. It is not a Bill that we can discuss in detail, or that we can take any particular objection to. If the policy of the Bill is considered a sound one, the Bill may go through without opposition; but I am one of those who think the best course to take in regard to the aborigines is not the course proposed in the Bill. It has been said the aborigines in the North have been cruelly treated, and all sorts of dreadful accusations have been placed to the credit of settlers; but I believe that if one were to take account of all that has happened, the proportion of acts of cruelty would be very small indeed. We can hardly expect that a lot of uneducated natives, and even a lot of educated men carrying on the pastoral industry in the wildest parts of the country, will not occasionally commit some excesses, when we find that in the city of Perth, as in other metropolitan cities in Australia, crimes are occasionally committed and outrages occur among people who are supposed to be well educated. Therefore I say that under these conditions it is not surprising that some cases of ill-usage or hardship should occur. We know also that under the conditions previously existing in regard to

aborigines in the North, the Government have been relieved to a great extent from any expenditure in connection with them, for the natives have been employed in many cases by the settlers, and in return for that employment they have been fed, clothed, and cared for; even the old, the infirm, and the sick have been looked after by the settlers. This has been no light burden borne by the settlers, and it has entailed on them a good deal of expense, while the natives generally have been satisfied with their treatment. The policy of this Bill is to transfer the keeping of the aborigines from the settlers, and to place the burden of it on the people of the country; because it will be seen from the Bill that the aborigines will have to be in one or two places; either employed by the settlers under conditions stated in the Bill, which conditions I believe the settlers generally will not consent to, or the natives will have to be confined to reserves if they can be kept there. As Mr. Sholl has said, if they are not employed in work they will be likely to do some mischief. Of course they cannot do that if they must not go off the reserves; but there will be the difficulty of keeping them on the reserves, and if a black man goes off a reserve in certain circumstances, he will be committing an offence under the Bill. Therefore a native must be either bound under agreement with a settler according to conditions stated in the Bill, which I do not believe the settlers will accept, or the native must be on his reserve. The conditions surrounding this agreement are such as settlers will, in my opinion, not be prepared to undertake. In a recent journey I made to the North-West, I found there is now considerable objection amongst settlers to employ aborigines at all; and several settlers told me they wished the Government would take the natives off the place altogether; that in consequence of the trouble of keeping them, and their habit of running away, it was better to have other labour that settlers could depend on rather than go on employing native labour, even though the other labour would be a little more expensive. So under the circumstances I do not think settlers will be willing to employ natives under the conditions stated in this Bill; therefore the whole burden of keeping them will be laid on the Government. I

do not think the Government or the head of the Aborigines Department will find it an easy matter to keep a number of aborigines on a reserve. The natives will have to be fed, and if kept on a reserve with nothing to do, the Government will have to find them something to do, or the old adage about Satan and mischief will operate to a large extent. Therefore I hardly see that it is necessary to go into the details of the measure. If it meets with the approval of a majority of this House that this new state of things is to take place, we shall have nothing to do but vote for the Bill; but, on the other hand, if the existing state of affairs is considered to be fairly satisfactory, as I believe it is, this Bill should not be assented to. So far as the settlers are concerned, I do not think they care whether they have the aborigines on their stations or not. Settlers will not want to have natives under the conditions provided in the Bill, and they will consent to have them only on conditions that are satisfactory to the natives and agreeable to the settlers. At present the conditions are in favour of the aborigines, and the employer is not considered to a large extent. In Clause 30 a power is given by which a protector may cancel an agreement at any time. Under this clause a native might choose to go away from a station after being kept five or six months, and for some reason or other, not always a wise reason, he might want to cancel his agreement just when the busy season came on, and when his labour would be most required by his employer. The clause may be capable of explanation, but it seems to me very arbitrary as it stands. We find also there are a certain number of actions which, if done by an aborigine, will be an offence under the Bill; but how is a poor beggar to know whether he is committing an offence or not? Will he have to learn to read and write, so as to find out what is an offence under this Bill? This will be most difficult to work. There are other provisions which we might discuss, but perhaps they can be dealt with better in Committee. I maintain it is useless to oppose the details of this Bill if we are to agree to the policy. One difficulty was suggested to me the other day. If natives are to live in a reserve, and a settler employs one or two of them

to do work for him, he may find it difficult to get those natives roused up in a morning, as they are not good at early rising, and so his work may not be attended to. Difficulties of this kind, however, may melt away before reason and experience. I would strongly impress on the House that it would be much wiser to defer the consideration of the Bill till we have got the report of the expert who is inquiring.

HON. C. A. PIESSE (South-East): I approve of the Bill very much, except in a few of the clauses. It is a very necessary Bill, and an improvement on the existing Act. Some of the clauses should be struck out, and I think there are other provisions which ought to be inserted. Taking Clause 10, I ask the Minister whether these protectors will be paid men or will do the work in an honorary way? If not paid, I conceive that they are going to occupy very unpleasant positions, which will entail a good deal of loss to them. I am speaking as one having experience of many agreements with natives in the past, and I have found it takes considerable time to make a native clearly understand what he is required to do. If the Government think they are going to work this Bill with honorary protectors, they are making a mistake.

HON. R. F. SHOLL: The police will have to do it, I expect.

HON. C. A. PIESSE: Even the police cannot give the necessary time, because, as I have said, there is a great deal of trouble in making natives understand an agreement. If the Bill be passed, we shall have to specify the time that the agreement shall continue. The Bill says a permit shall continue for twelve months, but it does not state any limit to the agreement. With regard to reserves, it seems to be a monstrous thing to try to force the aboriginal owners of this country to live inside certain defined areas. A native reserve will be an arbitrary area, perhaps the trees blazed along a certain line; but any member of this House who has a love of his own freedom should realise that it will be very harsh to force these natives to stop absolutely inside the arbitrary boundary of a reserve. Make a reserve by all means; but do not force the natives to stay on it; else we

shall have murders committed in order that a member of one tribe may on his death be accompanied, according to custom, by a member of another tribe. The Government propose to mix five or six tribes of natives, put them on a reserve, and keep them there. Yet in every instance when there is a death, the natives invariably send a member of another tribe to join the departed. This will happen again as in the past. To make it compulsory for native men and women to stay on the reserves will be scandalous. The original owners of the country are entitled to more consideration. Keep them out of the towns by all means, because they become perfect beasts when they get drunk; but place reserves at their disposal, and let them go there voluntarily; otherwise we shall do an injustice for which the world will cry shame on us. We have no right to pen the natives inside defined lines. As to the provision for agreements, I am opposed to this, and think we should have permits only. The protectors for the various districts will know the character of the applicant for a permit to engage a native. I know that natives have been engaged by settlers who ought not to have a native within a hundred miles of them, men who are doing more moral injury to the natives by bad example than they would dare to do to a white man or a white woman. We want power to prohibit such men from keeping native girls; and I am glad to note the provision in the Bill that a man travelling with a native woman in his cart is liable to a penalty. I have known a white man to boldly take away a native's wife; and in two or three hours the abductor was perhaps 70 miles off, while the native was walking round appealing for justice. It should be possible for such a native to recover damages, just as the white man can recover. Why should not a native recover? The fact that he is a blackfellow should not be a disability. This sort of thing is done openly. There is any number of blackfellows in my district. They periodically visit Cuballing, over 30 miles from their camp, to trade in skins and to get liquor. At that place there is no police protection. As to the question of age, how can we arrive at the age of a native? The native may say he is 25, and the employer may

honestly believe him. Can we tell a native's age by his teeth? It is against common sense to fix the age for a labour engagement. Does one native in a thousand know his own age? I think that question of age will be most difficult for a protector to arrange. I trust the Bill will not be thrown out. It is in many respects a splendid measure, which will fill a need that undoubtedly exists for better legislation to deal with these unfortunate people. No doubt there are good natives as well as bad, just as there are good and bad men amongst the whites. We had an instance only the other day of three natives who saved the Government no end of trouble, and possibly prevented two or three terrible murders. The moment they were asked to do so, these natives arrested one of the most desperate native criminals we have had for some years. They voluntarily risked their lives; because the offender was not doing the blacks any harm, and they actually captured him although he had five rifles and was well supplied with ammunition. This shows that some natives are eager to obey the law and to make others obey it; and it would be scandalous if we passed a clause forcing such natives, at the caprice of the protectors, to stay within defined boundaries. Undoubtedly they should have their freedom; but I quite agree with any provision made to keep them away from townships. I trust the Bill will not be passed over. As to the necessities of the North, the Queensland expert will, after investigation, be able to judge for himself, and to assist us on his return to Perth. I think it was Sir Edward Wittenoom who said that in the Bill one side only was considered; but I maintain that the natives are not too fully considered. There is room for more consideration, particularly with regard to their freedom.

HON. F. M. STONE (North): After listening to Mr. Sholl and Sir Edward Wittenoom, gentlemen who are well qualified to speak on a matter of this kind, and after looking into the Bill, it appears to me one the consideration of which should be postponed till we get the report of the Queensland expert who is now making inquiries in the North. The Bill appears to embody a considerable portion of the Queensland Act;

and I understand the expert will therefore be well versed in its provisions, and will need only some local knowledge in order to determine whether the Bill will be workable. To me it certainly appears unworkable. There are two principles involved: one, the placing of natives on reserves, and the other the engagement of natives by settlers. It seems to me impossible to keep the natives on the reserves. How are we to impress on a native that there is a line beyond which he is not to go? If he oversteps it unknowingly, he can be punished under the Bill. That provision might be very well in thickly-populated centres; but in the far North or in the South-East, how are we to make clear to a native that he is bound to keep in a certain area, and that if he trespasses beyond it he is liable to punishment? The Queensland expert may be able to show us some means of devising a scheme for creating reserves and keeping natives on them; but to my mind it will be impossible to do this under the provisions of the Bill as it stands. As to the employment of natives, we have heard that the settlers in the North, and I take it in the South also, do not care much about employing them; and it will be well for the Government to consider, in a measure of this kind, whether they will not be faced with the burden of the protection and maintenance of the whole of the natives in the State. Although we may be desirous of protecting the natives in any practicable way—and in many respects this measure seems calculated to achieve that object—I do not think we should go to an extreme by preventing the employment of natives by persons whom we consider suitable employers. There are exceptions to every rule; and there may be valid objections to certain persons having control of natives, just as it may be undesirable for certain white persons to have control of children. Still, we must take great care lest we pass an unworkable provision. The Bill provides, first, that a white man shall not employ a native unless the employer has a permit. Then the employer must get an agreement. In the first place, the employer must hunt for a protector to get a permit; and the clauses seem to provide that he must get a separate permit for each native employed, instead of a general permit to employ

any number of natives. Suppose a man is employing 20 natives and wishes to employ 10 more, he has to hunt about for a protector; then he has to get the agreement signed before a justice of the peace. In many districts it would be almost impossible to find a justice; so the employer may have his permit from a protector, and may be unable to find an available justice of the peace to sign the agreement, though the Government may wish the natives to be taken off their hands. However much we may wish to protect the natives, we do not want to go to that extent. It appears to me if we had a provision in the Bill that no person shall employ a native unless he has a permit we should be going far enough. Permits should only be issued to desirable persons, and no undesirable person should get a permit. That is as far as we should go. As to agreements, provision could be placed in the Bill that if a person ill-treated a native and did not supply him with proper food, the permit could be cancelled. I do not like the powers that are placed in the Bill. In all other Acts a person has the right to go to a court and be dealt with openly and upon evidence brought before that court. But what do we find in this measure? The protector has the right to cancel a permit himself without inquiry, and he also has the right to cancel an agreement himself. In the Act of 1873 provision is made that if it is proposed to cancel an agreement there must be an inquiry before a justice of the peace in the proper way. If there is any complaint against an employer there should be due inquiry before a justice of the peace, evidence being taken on oath, and if the justice is satisfied that the employer has ill-treated the native and not dealt properly by him, the agreement should be cancelled. But in this Bill, I do not know for what reason, power is placed in the hands of the protector to cancel the agreement without any inquiry. We should give absolute protection to the natives, and provide that no person who is an undesirable employer shall be allowed to have a permit. There should be the right upon complaint by the protector to go before a tribunal and have the permit cancelled in the proper way. I would go farther, and provide that a justice of the peace, in such a case,

could say that the person should not have a permit in future. That would be similar to the provision in the Licensing Act. The court may say, in the case of a license being cancelled, that the holder shall not have a license again. It has been pointed out to us in many cases that settlers are working without agreements at all. The protector should see that no undesirable person should employ natives, and if natives are not properly treated they may clear home. We should arrive at what we desire by providing that natives be employed only by desirable persons, leaving to the native, there being no agreement, to see whether his employer treats him well or not. If a native is treated cruelly he has the means of going before a court, and also if the protector of the aborigines knows that a native is treated cruelly a case may be taken before a court and the agreement may be cancelled. For these reasons, and as this Bill has been taken from the Queensland Act, and as we have a Queensland expert in this State, it is desirable to postpone the measure for some time until we get that expert's report. Then perhaps it may be necessary to refer the Bill to a select committee, and have the Queensland expert before that committee. I feel that the result should be a Bill for the benefit not only of the aborigines but also of those who employ them.

HON. W. MALEY (South-East): No doubt all members welcome any Bill that tends to ameliorate the conditions of the natives of the State. I join with members in welcoming this measure, and I believe some good will come from the Bill, and I sincerely hope it will be passed into law. It appears to me that all the argument has been on Clause 15, which provides that the Minister may cause any aborigine to be removed to and kept within the boundaries of a reserve, or may be removed from one reserve or district to another reserve or district and kept therein, and any aborigine who refuses to be so removed to or kept within such reserve or district shall be guilty of an offence under the Bill. If we read that clause in conjunction with Clause 11, that the chief protector shall be the legal guardian of every aboriginal and half-caste child until such child attains the age of 18 years, it will be seen by members that

the chief protector will have no control over aboriginal children within reserves unless the power is given by statute. That is one good feature I see in Clause 15. Again, we are giving power in the Bill for agreements to be entered into by settlers with the natives. If by delegation the Government seek to restrict the movements of aborigines, and if by delegation the Government may make powers for natives to stay on certain stations and in certain places, is it not reasonable to leave that power in the hands of the Government? That the Government having entered into agreements with natives, or the chief protector, as the guardian of the natives, that the natives should remain within certain reserves, it certainly is objectionable that the Minister may cause any aborigine to be removed. It seems harsh and an interference with the liberty of the subject. I do not think that is intended. It is optional for the Minister to remove a native, and no doubt the Government will be cautious in using such power. I think such a provision can safely be made, and there can be no real objection to it. I support the second reading of the measure.

On motion by HON. J. A. THOMSON, debate adjourned.

#### ADJOURNMENT.

The House adjourned at 6-24 o'clock, until the next day.

## Legislative Assembly,

Tuesday, 11th October, 1904.

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THE SPEAKER took the Chair at 8-30 o'clock, p.m.

#### PRAYERS.

#### PAPERS PRESENTED.

By the MINISTER FOR WORKS: By-laws of Cue Roads Board (amended) for registration of camels and licensing of drivers.

By the PREMIER: Fremantle Cemetery Board, Receipts and Expenditure for 1903-4; 2, War Office claims on account of South African Contingents, moved for by Mr. Thomas. The PREMIER requested that members referring to the Contingent papers should do so within a few days, as they were still the subject of correspondence.

#### QUESTION—LAND SURVEYS, ARREARS.

MR. HOPKINS asked the Premier: 1, In view of the arrears at present existing in the Survey Branch of the Lands Department, will the Premier inform the House what reasons have been advanced for the retirement of Assistant Surveyors from the Contract Staff? 2, Is it not unwise to curtail the Survey Staff whilst the arrears of surveys continue to harass the selector and menace the progress made in land selection? 3, Why was the Works Department not provided the urgently needed accommodation for the Drafting Branches of the Lands Department? 4, What steps are being taken to overcome the congestion existing? 5, Will the Premier insist on the arrears being cleared off with all the expedition possible?

THE PREMIER replied: 1, Contract surveyors received authority to employ assistants, but owing to its having been