Legislative Assembly,

Wednesday, 14th September, 1910.

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

PAPERS PRESENTED.

By the Premier: 1, Report of the Royal Commission on the Establishment of a University in Western Australia. 2, Regulations under the Audit Act, 1904—Amendment under Section 71.

UNIVERSITY — ROYAL COMMISSION'S REPORT.

The PREMIER in presenting the report of the Royal Commission on the establishment of a university in Western Australia said: The report of this Commission has been presented to His Excellency the Governor. It will be within the memory of hon. members that the Commission was instructed on the 6th January, 1909, to make certain investigations as to the constitution and form of government of a university, the professors and other university officers to be appointed at the outset, at what salaries and under what conditions, the courses of study to be undertaken, the fees to be charged to students, the buildings that would be required and the most suitable arrangements with regard thereto, the estimated cost with regard to initial expenditure and annual expenditure, the estimated revenue, and generally to make such recommendations as might seem fit in connection with the foundation and establishment of the university. The Commission have with their report submitted a draft Bill for the establishment of a university in Western Australia; and the various members who have signed the report have added an addendum as follows:—

On the motion of the Right Rev. Dr. Riley, Bishop of Perth, the following resolution was agreed to, and ordered to be inserted at the conclusion of the report: "That the thanks of the Commission be hereby given to the Chairman, Dr. Hackett, for his splendid example and citizenship in offering to provide an endowment for a Chair of Agriculture."

On motion by the Premier the report was ordered to be printed.

QUESTION—FOREIGN LABOUR IN MINES.

Mr. TAYLOR (without notice) asked the Minister for Mines: What action does he intend to take in view of the strong comment of Warden Gibbons during the hearing of a case against an Austrian at Leonora for a breach of the postal regulations by posting explosive material, when the warden is reported to have said, "The accused had had to give evidence through an interpreter and yet was allowed by the mining authorities to work underground to the peril of himself and others who had to work with him"?

The MINISTER FOR MINES replied: I have asked the Under Secretary for Mines to obtain a report from the warden. I know nothing more than is contained in the newspaper paragraph.

QUESTION—DINGO DESTRUCTION.

Mr. WALKER asked the Premier: 1, Is the same price paid in the goldfields districts for wild dog or dingo scalps as in the coastal districts? 2, If not, why not?

The PREMIER replied: 1, No. In the South-West division of the State the reward is 10s. per scalp; in all other districts 5s. per scalp. 2, Practically no sheep are depastured in the goldfields areas, and the reward is given principally on account of the damage done by dingoes to sheep flocks.

QUESTION — ASIATICS TRAVELLING BY TRAIN.

Mr. COLLIER asked the Minister for Railways: In view of the strong objections which the white population have to travelling by train in the same compartments as Asiatics, will he have a separate compartment set aside for all such persons?

The MINISTER FOR RAILWAYS replied: Present conditions do not warrant such distinction.

QUESTION — RAILWAY DINING CAR, GREAT SOUTHERN.

Mr. McDOWALL (for Mr. Troy) asked the Minister for Railways: Is it the intention of the Railway Department to attach a dining car to the Great Southern Railway passenger service?

The MINISTER FOR RAILWAYS replied: The Commissioner has already intimated that endeavours will be made during the summer months, if a car can be spared, to attach it to one or perhaps two trains per week to and from Albany, but it is not possible at the present time to provide a dining car daily.

PAPERS — RAILWAY STATION, SOUTHERN CROSS, TELEPHONE.

On motion by Mr. HORAN, ordered: "That all papers having reference to the request for the connection of the Southern Cross railway station with the telephone exchange in that town be laid on the Table."

The Minister for Mines laid the papers on the Table.

PAPERS—SUPERANNUATION ALLOWANCE.

Case of E. Joyce.

Mr. DRAPER (West Perth) moved—

That all papers in connection with or relating to the retirement of Mr. Edward Joyce from the position of computer and draftsman in the Mines Department be laid upon the Table.

He said: I anticipate the Government will accede to my request, as the Premier, in answer to a question put by me about a week ago, stated that if I would give him any particular instance he would supply me with the information. I desire in this case to have more than the information; I desire to bring before the House the principle upon which the Government have acted as regards the Superannuation Act and as regards civil servants who are undoubtedly entitled to pensions under that Act after serving 10 years. I do not desire to blame the present Government for their action; they are merely following in the steps of their predecessors and of their predecessors who held office prior to the Daglish Government; but under the Superannuation Act—I think it is in the first section—it is clearly laid down that after 10 years a public servant is entitled to a pension; and there is no doubt that many people have entered the public service relying upon the promise given to them by that Act that after a period of 10 years they would receive a pension. When they have entered the service they have probably accepted a small salary because of the advantage they would receive at the end of 10 years. I do not care what the legal aspect is at present, but I ask members to take a commonsense view of the Act and to ask themselves what anyone would be likely to expect when on entering the public service he found a section of the Act which distinctly stated that he would get a pension after 10 years. Some years ago this question as to whether a person should be entitled to a pension after 10 years came before the Cabinet. The Government at that time were, perhaps, not financially too strong, and there can be no doubt they sought to avoid the liability and the clear moral responsibility imposed on the Government, and to evade the principle of the Act. There is another section in the Act, under which no man is absolutely entitled to a pension, and the Government contend, under this section, that a civil servant cannot enforce his right in a court of law; but, assuming for a moment that the Government are correct in putting that construction on the Act, we have still this to con-

sider, that morally they are bound to give a civil servant a pension. If they refuse to give him a pension merely because he is not able to enforce it in a court of law, they are not following the principle of justice which should prevail in a British community. I could well understand some South American republic desiring to repudiate a liability; but it is difficult to believe that in Western Australia we should find a Government seeking to evade their liability upon the mere pretext that, although a man is entitled to a pension, yet, as he cannot bring an action and enforce it in a court of law, they will not give him one. Of course it is obvious to anyone who looks at the Act and considers all the facts of the case that the subsequent section in the Act, upon which the Government rely, is merely meant to prevent a man who has been guilty of misconduct in the service from enforcing his right to a pension. The section has no application whatever, from a commonsense point of view, where there are no complaints against the character of the public servant, and where, on the contrary, he has been recommended by his superior officer to be retained in the service. A great wrong has been inflicted on public servants for many years past, and it is time their grievances were ventilated in the House. I do not care from which side of the House a motion comes for the enforcement of the Superannuation Act, I shall always support it. Many officers have been intentionally retired by the Government before they have been 15 years in the service, so that a pension would not be necessary. The term of 15 years is a period arbitrarily fixed by the Government, not by the Act. The Government of the day stultified themselves in the matter, for while they said a man was not entitled to a pension, they fixed by Cabinet minute the period of 15 years as the service for which a pension might be granted. The position is illogical. I will not mention names, but I remember one case about 12 months ago, when an old civil servant who had been in one of the departments for about 12 years, and was an efficient officer, was retired by the Government ostensibly because they intended to amalgamate his position with that of another, and do with three officers instead of four in his particular branch. The officer applied for a pension but was refused because he had not been in the service for 15 years. There was no mention of misconduct nor of any fault to be found with the man in question, but the Government took the opportunity of getting rid of him because he had not served for 15 years. The worst feature of the case is that immediately after he was retired, ostensibly on the ground of effecting a reduction in the branch from four men to three, an advertisement appeared in the *Government Gazette* calling for applications to fill up the very position he had occupied. I believe there are four men working in that department to-day instead of the three the Government said there would be. The case referred to in the motion is another example. Mr. Joyce has also been retired from the public service. He had been there for 10 years, and I am informed was recommended by the head of his department to be retained in his position. We shall be able to ascertain the full particulars when the papers are tabled, but he was retired notwithstanding the fact that men doing his work were scarce at the time. Certainly Mr. Joyce was arbitrarily retired. There has not been the slightest slur cast on his character nor complaint found with his work, but he was retired because if he had stayed on he would have served the arbitrary period of 15 years, and qualified for a pension. It has been the practice at times to give certain officers who have left the service through old age, or some other sufficient reason, after long service a lump sum instead of a pension. In many of these cases the men have been obliged to accept the lump sum as they could not afford to fight the Government for the pension. There is no doubt that the Superannuation Act should be brought before the House and the public. I do not blame the Government, for they are simply following the precedent set by other Governments.

Mr. Johnson: Set by Parliament.

Mr. DRAPER: So much the worse, but I can hardly believe that Parliament would do such a thing. I cannot imagine that Parliament would decide that, although a man had entered into a contract whereby he should receive a pension at the end of 10 years that contract should be ignored, and the period extended to 15 years, before the Government decide whether to grant the pension or not.

The MINISTER FOR MINES (Hon. H. Gregory): I think the hon. member would have been better advised had he brought forward this matter by way of motion dealing with the Superannuation Act itself rather than by bringing it forward by way of calling for papers in connection with one specific instance. So far as the papers themselves are concerned, there is nothing in any shape or form one would seek to hide. The jacket, however, contains certain advice from the Crown Law Department on matters connected with pensions, and I think it would be inadvisable in the present circumstances to lay it on the Table and make the papers public. This officer, Mr. Joyce, was a draftsman in the Mines Department. He served there for some 13 years, and undoubtedly his record was a good one. He joined the service very late in life, however, and when he reached the age provided for in the Public Service Act for compulsory retirement, the Public Service Commissioner compulsorily retired him. Mr. Joyce has not given this State the benefit of his life's service, for he entered at the age of 48 or 50 years, and the Government only had his services in the declining years of his life. The question of the pension was placed before Cabinet, and it was decided that he should get 14 days' pay for every year of service, plus any long leave which had accrued to him during the term of his employment. I understand there is some possibility of action being taken in connection with this case, and it would be unwise for the papers to be tabled now. I have not the slightest objection, however, to the hon. member perusing the papers. From the hon. member's speech I should imagine that his objection is more as to the method adopted by this, and previous Governments, in administering the Superannuation Act. My reading of that Act is that full power is given to the Government to say whether a pension should be granted at the end of 10 years' service or not. In 1902 or 1903 the Government laid it down clearly that no pension would be granted except after 15 years' service. I hold with that action, and think it was a wise procedure to adopt. The Government have to exercise great care in dealing with questions of this kind, otherwise they might saddle the country with the cost of a large number of pensions. The Act says, "Subject to the exceptions and provisions hereinafter contained the superannuation allowance to be granted after the commencement of this Act . . . . to any person who has served 10 years and upwards," and then the section goes on to point out how, after this lengthy service, the amount of the pension shall be calculated. Undoubtedly power is given to the Executive to say whether a pension should be granted or not. I do not think this case differs from several others which have occurred during the past four or five years, and it would have been wiser for the hon. member to bring forward a motion to this House that would make clear what the wishes of Parliament are in connection with the administration of the Superannuation Act. The Government have always felt they were justified in granting or refusing a pension, and that the mere fact of a man having given 10 years' service to the State did not entitle him to receive a pension as a matter of right. Of course, if an officer, after many years' service, did something to disgrace himself, or did not give good service, that would be sufficient justification for not granting him a pension. But that is not the question the hon. member is referring to now, for what he is dealing with is the case of whether a person after serving 10 years can demand a pension. The question is whether the word "may" in the Act should be construed as "shall." The reading of the member for Kalgoorlie (Mr. Keenan) Sir Walter James, and other lawyers we have had in various Cabinets, is that the

Government have power to refuse pensions. As I have said before, in the case under discussion the officer came into the service very late in life.

Mr. Walker: He came when you wanted him.

The MINISTER FOR MINES: Or when he wanted a job. Certainly he served the State faithfully and did good work. He had 13 years' service, and we gave him a special payment at the rate of two weeks' salary for every year of service in addition to the long leave that had accrued to him. As I have said, proceedings are pending in connection with the case, and it would be unwise to table the papers now. The hon. member will hardly wish to make public our own case in connection with the matter and he will not object I am sure if we take from the files any special advice given by the Crown Law Department. I am prepared to admit for the sake of argument that this officer rendered good service to the State, but it was held by the Government that this was not a case for special consideration, and consequently a pension could not be granted. I want to emphasise this point also that there are several other cases of a similar nature, and that if this case is revived the others will also have to be revived. The House I think might consider the advisableness of amending the Act.

Mr. Walker: There is no need to amend the Act; the Act is quite clear as to your duty.

The MINISTER FOR MINES: The opinion of the present Government and also of previous Governments has been to hold to the minute issued by the James Administration wherein it is provided that pensions shall be granted only after fifteen years of service. I think, therefore, that it would be better for the House to decide with regard to this matter. I shall not object to placing the papers on the Table excepting of course those papers which I do not consider expedient to make public. The course adopted by the member for West Perth I do not think the best procedure to follow. I feel sure that his desire is not that we should deal differently in connection with the administration of the Superannuation Act than has been done during the past two years. I would go further and point out that when the Public Service Act was passed the questions of pensions was raised and in 1904 when that measure was passed, special provision was made that any person who joined the service after the passing of that Act would have no right to claim a pension. On the other hand those who had joined the service prior to that date entered it in the full belief that after ten years of service they would be entitled to a pension. I will not object to the papers being presented to the House with the exception of those to which I have referred.

Mr. JOHNSON (Guildford): I have no intention of opposing the motion, because as a general principle I consider that any man who is dismissed from the service should be given full reasons for that dismissal. I do not say whether it is right in any case for the Government to hold back the facts in connection with a dismissal.

The Minister for Mines: I do not think that applies in this case.

Mr. JOHNSON: In any case where there is a dispute between the employer and the employee the employee should be in possession of the facts of the case, especially when the person responsible for the dismissal is only a middleman acting on behalf of the people. I take exception to the argument advanced by the member for West Perth in favour of pensions. I trust this House will never agree to the reintroduction of pensions. I would like to point out that this matter was decided by Parliament, I think in 1901, or 1902, when the James Government proposed to retire an officer who, if I remember rightly, held a position in one of the law offices or the police courts and who was granted a pension. When the Estimates were presented Parliament struck out that pension as a protest generally against pensions. That influenced the James Government to consider the Superannuation Act and to reconsider the policy generally of granting

pensions, and they decided by Cabinet minute that after certain years' of service two weeks' pay for every year of service should be paid, and over a longer period one month's salary for every year of service should be given in the place of a pension. That has been honoured as far as I know by every Ministry up to the present time. I think the arrangement made by the Government of that time was a very fair one and it has worked splendidly. It was a definite understanding and every officer knew exactly what to expect and he made his arrangements accordingly. Under the present Government's administration, however, no officer knows exactly what he is going to receive. I would like to have a denial from the Government that in special cases they have granted special consideration. I know of cases which have been brought under my notice and which I brought under the notice of Ministers where officers have been retired after 16 years' service and have not been paid one month's salary for every year of service as a retiring allowance, but have been paid only a fortnight's salary, and I have been informed that other officers have been granted a month's salary for each year of service. If that is so the Government must have two policies, one for one section of the public service and a second for another section.

The Minister for Works: The circumstances in each case would have to be taken into consideration.

Mr. JOHNSON: That is the difficulty. We allow Ministers to discriminate, and I am not prepared to agree to that. I want it clearly laid down what they should do. Under existing circumstances one man comes along and if he happens to be a particular favourite of a particular Minister then he gets his retiring allowance according to the agreement.

The Minister for Works: The Ministers have no favourites.

Mr. JOHNSON: We know well that the public service is full of Ministerial favourites. When they grant allowances Ministers use as a justification the minute issued by the James Cabinet and when they want to refuse an allowance they say, "We are not carrying out that minute and we do not think that the payment is a fair one." It is for this reason that I say we should get all the papers in connection with every retirement placed upon the Table of the House so that members might see what policy the Government are following in connection with the administration of the Act in question. I will continually raise my voice against any re-introduction of the pension system. If the Government adhere to the minute issued by the James Government to pay instead of a pension a retiring allowance of a fortnight's salary for every year of service for the period, I think it is between 10 or 15 years, and a month's salary for every year of service during 15 years and over, there would be general satisfaction among the civil servants. I have written to the Minister on two or three occasions in connection with the subject of retiring allowances and in each case my request has been refused. I also brought under the notice of the Minister for Railways the case of a man named Barnes who was retired from the Railway Department after having served over 10 years. This officer got a fortnight's salary as a retiring allowance while he was entitled under the arrangement laid down by the James Cabinet to a month's salary for each year of service. I wrote and rewrote about that case and ventilated it in Parliament, but the Ministry stuck to the point that they were only paying two weeks' salary for each year of service. Since then I have learnt that they have paid a month's salary for every year of service, and that leaves it possible for Ministers to have special favourites to whom they give special consideration. Therefore, I trust that the Government will lay down some definite policy so that each civil servant may know exactly what to expect.

Mr. WALKER (Kanowna): The member for Guildford expresses the hope that this Chamber will never revert to the system of pensions. Unfortunately it is at this moment the law of the land. It is not a question of policy, it is a question laid down in our laws by Statute.

Mr. Johnson: That is arguable.

Mr. WALKER: It is not arguable. This Parliament laid down the principle of pensions in the Constitution Act. In Section 72 we find—

> . . . nor shall anything in this Act affect any pensions or superannuation allowances which at the commencement of this Act are by law chargeable upon the public revenue of the Colony, but all such pensions and superannuation allowances shall remain and be so chargeable, and shall be paid out of the Consolidated Revenue Fund, and all rights and benefits which at the commencement of this Act are by law claimed by or are accruing to any civil servant of the Government are hereby reserved and maintained.

The principle of pensions is declared in this Act. Apart from that we have a special Act of Parliament, 35 Vic. No. 7, which also deals with the matter. I want to draw hon. members' attention to the fact that pensions and Superannuation Acts of Parliament are framed for those purposes alone. I may say that it was an English Act, 4 & 5 Victoria, No. 24, which was copied word for word, with such alterations as applied to local conditions. The Act was assented to on the 8th of August, 1871. It has never been repealed, never been altered; it stands on our statute-book as part of the laws of Western Australia. It is all nonsense, therefore, to talk about not reverting to these things. It is the law of the land, and no policy of a Government can alter it. You cannot alter the laws of the land by a change of policy. Were it so, you might be altering the law with every fresh Ministry, or the Ministry itself might change the law each succeeding session as Parliament went along.

The Minister for Mines: You do not contend that we are not carrying out the laws?

Mr. WALKER: I do; that is the very point I am contending for.

Mr. Swan: Only in regard to some cases.

Mr. WALKER: There may be some instances where it has been granted. This Act—"an Act to regulate superannuation and other allowances to persons having held civil offices in the public service under the Colonial Government"—this Act, I say, has never been repealed; it stands as the law to-day. But its effect was altered, illegally altered, or rather, altered in such a way that we may call the alteration *ultra vires.* It was altered by a resolution of the James Cabinet, the resolution referred to by the member for Guildford. That resolution was passed on the 12th of September, 1903. It is recorded in this way—

> Cabinet resolution of the James Ministry, 10th and 12th September, 1903. Circular 1128/03. From the Under Secretary to the Hon. the Attorney General—The following Cabinet decision is forwarded for your information by direction of the Hon. the Premier. (Signed) D. B. Ord, for Under Secretary, 12th September, 1903. "Cabinet decides that the following rules should be adopted:—Permanent—The rule shall be one fortnight's pay for each year of continuous service up to 15 years. To this should be added annual leave for two weeks if accumulated by consent. Temporary and loan—The rule should be one week's pay for each year of continuous service. In the case of permanent officers whose service exceeds 15 years the officer may apply for a pension, and each case will be dealt with on its merits."

That is what the Minister for Mines was alluding to—"may apply." But that is not the law. The law says he shall be entitled to his pension. This was an attempt to alter the law by a resolution of Cabinet.

The Minister for Mines: I wish you would let me know the precise section of the Act.

Mr. WALKER: I shall do so. But let me make it perfectly clear that Cabinet cannot alter the law by resolution. That being so that resolution of the James Cabinet is of no value. Is that admitted?

The Attorney General: Of course not. We do not accept your interpretation of the law as being what the law exactly is.

Mr. WALKER: I would not expect the Attorney General to accept my interpretation of the law as being what the law is. But let it be perfectly clear that the resolution of the James Cabinet does not invalidate the law.

The Attorney General: That is admitted.

Mr. WALKER: Well, it will be seen that this resolution of the Cabinet does attempt to alter the law.

The Attorney General: No, that is not admitted.

Mr. WALKER: This is an Act of Parliament. Section 1 reads—

> Subject to the exceptions and provisions hereinafter contained the superannuation allowance to be granted after the commencement of this Act to persons who shall have served in an established capacity in the permanent civil service of the Colonial Government whether their remuneration be computed by day pay, weekly wages, or annual salary, and for whom provision is not otherwise made by legislative enactment in force at the time of the commencement of this Act, or hereafter to be passed, shall be as follows, that is to say:—To any person who has served ten years and upwards, and under eleven years, an annual allowance of ten-sixtieths of the annual salary and emoluments of his office; for eleven years and under twelve years, an annual allowance of eleven-sixtieths of such salary and emoluments. And in like manner a further addition to the annual allowance of one-sixtieth in respect of each additional year of such service until the completion of a period of service of forty years, when the annual allowance of forty-sixtieths may be granted, and no addition shall be made in respect of any service beyond forty years. Provided that if any question should arise in any department of the public service as to the claim of any person for superannuation under this clause, it shall be referred to the Governor in Executive Council, whose decision shall be final.

Now, let the Attorney General read that with this resolution, and I ask him to tell me if they are the same.

The Minister for Mines: Kindly read the first line of that section again.

Mr. WALKER: "Subject to the exceptions and provisions hereinafter contained." Now, what are the exceptions? Will the Minister point them out? I suppose he means Section 12 of the same Act. If so, this is the condition—

> Nothing in this Act contained shall extend or be construed to extend to give any person an absolute right to compensation for past services, or to any superannuation or retiring allowance under this Act, or to deprive the Governor of the power and authority to dismiss any person from the public service without compensation.

Quite right. It does not tie the hands of the Government or make the Government responsible to a thief, or to an immoral character, or to a disobedient servant. You continue in the service, but there must be a saving clause to the effect that if you are disqualified by any unfitness or wrongful act the Governor shall have the right to dismiss you, and to dismiss you disgraced. That is the purpose of the section, and the Attorney General will admit that it is so.

The Attorney General: No; I listen to you with interest, but I am not necessarily convinced.

Mr. WALKER: When I convince the Attorney General of anything that is true, I shall have accomplished a miracle. But to return to the point: this resolution of the James Cabinet altered the provisions of the Superannuation Act.

The Attorney General: That is where we part company.

Mr. WALKER: I shall have to get *Hansard* up directly. Read the first section of the Superannuation Act in parallel columns with the clauses in the resolutions of the James Cabinet; can anybody say the two are identical? Certainly they are not identical. In the section of the Act we have—

> To any person who has served ten years and upwards, and under eleven years, an annual allowance of ten-sixtieths of the annual salary and emoluments of his office . . .

Here the rule shall be one fortnight's pay up to fifteen years. No provision

for the ten years at all. Is not that a glaring alteration? The Superannuation Act allows one to claim on ten years' service, but here the claim is to start at fifteen years' service. Are those identical? Is there no alteration there? We do not want to quibble; we want the plain facts. There are distinct differences between the Act and the resolution, and I submit the resolution is of no value whatsoever. But the Attorney General, with his great suavity, refuses, as is very natural, to take my interpretation of the law; and I should be very presumptuous indeed, if, being a mere student, I attempted to dictate to the leader of the Bar, the Attorney General. I am not presumptuous to that degree, and therefore I have fortified myself with someone a little greater than the Attorney General, great as he undoubtedly is. This is a work of authority—it will not be questioned—on civil proceeding by and against the Crown. It is by George Stuart Robertson. The Attorney General will find it in his law library. Amongst other matters discussed is that of pensions, and on this question the author says—

> The question of petitions of right by military and civil servants of the Crown after dismissal, are dealt with in the next chapter (p. 354), where it is pointed out that they hold office at the Crown's pleasure only, and have in general no claim to compensation for dismissal, or to the payment of pensions. But apart from such exceptions, a petition of right would no doubt lie for the recovery of a pension or arrears of a pension, and even in the case of a civil servant, where the servant was entitled by statute or otherwise.

That is not my interpretation of the law.

The Attorney General: I never disputed that.

Mr. WALKER: This is an interpretation by George Stuart Robertson. There are several cases tried in the English courts in which this question has come up for decision. Some of them have been referred to the Privy Council from the States (at that time Colonies) of Australia. This much is concluded by the decisions—that there is not the absolute right to demand a pension. The Act in England is 4 and 5 Will. IV. In England the court of appeal is the Treasury; here it is the Governor-in-Council; and to the Treasury is given the right of final decision, and their final decision is unappealable, the civil courts will not interfere; but, as pointed out by this author, there always lies in these cases a petition of right to the Crown; and the author cites a number of cases, and one particularly which I think was relied upon by the member for Kalgoorlie when the case of Doctor Smith was discussed in this Chamber; that is, the case of Edmund *v.* Attorney General, reported in 47 L. J. Chancery 345, where it was held "that it was for the Treasury to decide whether a pension should be granted to a public servant, but it seems to have been left open whether any proceeding would lie on the part of a public servant after the Treasury had decided to grant him a pension." Then in the case of Cooper *v.* Regina, reported in 14 Chancery Division 311, which was a petition of right by a scripture-reader at Portland prison for compensation for loss of office, it was held "that no claim for superannuation allowance under the Superannuation Acts could be enforced by the civil tribunals of the country, and that civil servants must rely upon the decision of the Treasury, who will say whether they will take the claim into their favourable consideration, or not. Their decision, whether erroneous or not, is made by the Acts absolutely conclusive and binding." Now in Smith *versus* Regina in 1898, an appeal from Victoria, it was held "that a local statute entitled the appellant, the Public Prosecutor, to a superannuation allowance, although he held office during pleasure." Now that is not the laying down of the law by me, that is the law as recorded in the Privy Council's decision. If that decision is good and sound—and it is a Privy Council decision—then it covers these cases. We are bound by the Privy Council, as the Attorney General knows; and if so, the appeal from Victoria being on all-fours with our case, their Superannuation Act being practically ours, both being a copy of the English Act, then this appeal

governs these cases, governs that brought up by the member for West Perth this afternoon. I know that the reading that has been put upon the Act is that one can screen oneself under Section 12 of the Act, that nothing in this Act shall be construed to extend to any person the absolute right; but it is not contended that anyone has an absolute right to this; because misbehaviour, misconduct, failure to perform duties, or other disqualifications would disentitle one to make a claim upon the Crown even though one has served the full extent of 10 years. A man may prove himself absolutely treacherous to his employment, and therefore to say we are absolutely bound to pay him a pension would be to make an absurdity of the law; so that in order that we may allow an escape, this twelfth section has been inserted, allowing the Crown to dispense with the services of any of its servants at any time, with or without any allowance or pension. But what is objected to most of all is that the Government should seek any opportunity of escape, that they should seek to evade their moral duties—this is where the gravamen of the offence is—that they should strive to shelter themselves under a possible difference of construction between "may" and "shall."

The Minister for Mines: It has been going on for several years, you know.

Mr. WALKER: I do not care how long it has been going on, the length of time a wrong continues does not constitute it a right. The error was made here in attempting to get rid of the moral, if not the legal, force of an Act of Parliament by resolutions of Cabinet. I believe the hon. member was a member of the Cabinet which passed these resolutions. Therefore he, by participating in those resolutions and lending his aid to them, attempted to override Acts of Parliament by a mere vote in Cabinet and not by a vote of the House. True, it has been pointed out there was some dissent in the Chamber as to the principle of pensions, and the Cabinet carried out the will of the majority of that moment by resolutions in Cabinet; but if they wanted to get rid of the force of the Superannuation Act the way to do it was to come down to Parliament with a Bill to repeal the Act.

The Minister for Mines: They had good legal advice.

Mr. WALKER: They could not have had good legal advice—nonsensical advice if you like; but no legal advice in the world could say that you could get rid of an Act of Parliament by a resolution of Cabinet.

The Minister for Mines: They did not try to.

Mr. WALKER: It has been tried; this is the effect of it; and you are working under it, working under resolutions and not under an Act of Parliament. That is what you are doing at the present moment. No twisting, or turning, or special pleading, or apologising, or anything else, can get rid of it; you are taking advantage of resolutions passed in 1903 at a Cabinet meeting, instead of acting in obedience to the laws of the land which you are sworn to administer, and which you are not administering, but which you are evading by resolutions of Cabinet. But apart from all this, supposing you could screen yourselves under Section 12 and say that what the Governor-in-Council decides shall be final as to pensions, supposing that to be the correct interpretation, I ask what kind of Government could possibly lend themselves to that sort of screening. When men enter the Government service they enter under a contract with all the moral force, if not the legal effect, of an absolute contract, as part of the agreement, a condition or term in the agreement, that if they enter the service and continue there 10 years they will be entitled to a pension. That is part of the contract.

The Minister for Mines: I do not think it was ever admitted they are absolutely entitled to it.

Mr. WALKER: Why not ever admitted? While I am on my feet, I ask the hon. member to point out any disqualification. It says the superannuation allowance shall be as follows to any person who has served 10 years or upwards and under 11 years—an annual allowance of ten-sixtieths of the annual salary or emoluments of his office. How can that

be misunderstood? Is that no part of the contract upon which men enter the service? Can we possibly read an Act of Parliament and go into the service without feeling that this is part of the agreement we have accepted? Can it be otherwise? Will the Minister say this is all rubbish, that an Act solemnly passed is all rubbish, that it means nothing, that civil servants are entitled to nothing? Does it signify anything? It is an Act of Parliament that reads into any appointment to the civil service after the passing of the Act. It is read into every appointment; and the disqualifications are only to allow of that liberty, which of course should be claimed by any employer, that on disobedience, or failure to fulfil a task the appointment carries with it, a man can be dismissed without a pension. There is not one word in the Act which says he shall not be entitled on fulfilling his obligations perfectly and accurately—not one word in the Act which disqualifies a man from his right to the pension if he does all the duties that are placed upon him by his appointment. Well then, how can the Government shelter themselves in this way? They cannot, at all events, repeal an Act of Parliament by this kind of resolution-passing. That is not the way to repeal an Act of Parliament. So long as that Act stands it surely has some force, it surely means something, more particularly as it is borrowed from England, where they are a little bit serious and have always been serious in placing upon the statute-book important enactments. The very section upon which the Minister now relies to escape the force of the Act is word for word a copy of the section in the English Act, except that in the English Act it speaks of the Treasury instead of the Governor-in-Council. That is the whole difference. Word for word the section is the same. It means something in England; it means something here; it has the valid force of law in this land to this day, and we cannot get rid of it unless we repeal the Act. The right to the pension being given by Act of Parliament, the only difficulty is how can we enforce the right? It is clear we cannot enforce the right in our civil tribunals. We cannot go with a claim for a pension to the Supreme Court and get the Supreme Court to consider the claim, that is, as an ordinary claim at all events. The court would say, "Oh no. This has been considered by the Executive Council. That is the tribunal that has to decide this; and the decision of the Governor-in-Council shall be final and binding, and the court will have nothing to do with it." But the court would be presuming all the time that the Governor-in-Council had given consideration to the matter, and when I say consideration I mean "had complied with all the Act and had granted the pension unless there was a fault, which meant forfeiture on the part of the civil servant." The court would presume—that is why we cannot get our claim enforced in law—that the Governor-in-Council had done justice, had obeyed the tenor of the Act and had given force to every feature in it, and that, if the Governor-in-Council had not given the pension, the presumption would be that the one claiming the pension had forfeited by some wrongful conduct, some folly, or crime, or insubordination, or something of that sort, the rights given him under the Act. And even though the court, the civil tribunal, would not consider the claim of a pensioner who had been wronged by the Government, whose contract had been repudiated, and the obligations of the whole community to the civil service ignored, they might still consider the claim if brought up in another form; that is, if a petition of right obtained the fiat of the Attorney General the courts would give it consideration. It is distinctly set out here that a petition of right would lie. It is not a question open to any doubt, "For the recovery of a pension or arrears of a pension and even in the case of a civil servant whether the servant was entitled by statute or otherwise." That is the case with the person mentioned in the motion. In the appeal case of Smyth *v.* Regina it was held that local statutes, that is our statutes, entitled an appellant, a public prosecutor, to a superannuation allowance although he held office during plea-

sure. No civil servant can consider himself a fixture, for he holds office during the pleasure of the Crown. Notwithstanding that, the Privy Council have held that the appellant was entitled to a pension. It is no guesswork, no sentiment, no appeal to mere feeling, it is what is absolutely the law of the land at the present time, and the Government are seeking to evade that law by screening themselves behind resolutions not worth the paper they are written on, the opinion of men not authorised to act as they did. Those acts have no binding on the community. The Government cannot wipe out the rights of their fellow citizens by a flourish of the pen; if they desire to alter the law they must come to the House with a measure which must go through all the stages that make it an Act of Parliament. Surely the Government have not got to the stage of screening themselves from responsibility and moral obligations, even if they can quibble about the law and try and get out through a loophole. There is an honourable attitude the Government should adopt. If a private person entered into a contract to pay one of his employees a pension after 10 years' service and on the completion of that service refused to do so, there is no doubt as to how the Government would criticise his conduct. They would assuredly say that he was at all events morally bound to pay that pension; then one might well ask what is the opinion of the private person towards a Government who would do so mean and unjust a thing towards their own faithful servants as has been shown to have been done here in the past.

The ATTORNEY GENERAL (Hon. J. L. Nanson): The long address of the member for Kanowna may, so far as its legal aspect is concerned, be answered almost in a single sentence. If there be a legal obligation on the Government to pay pensions in cases like this that obligation can be enforced by legal means. The proper place to obtain an interpretation of the Superannuation Act is a court of law, not the floor of the House. We make laws and the courts interpret them. I do not propose to follow the hon. member in the elaborate legal arguments which we have listened to, no doubt with a considerable amount of interest and some amount of enjoyment; but I may say that the Government have not the slightest wish to avoid their legal obligations, and, even if they wished to do so, they could not do it. On the other hand, the member for West Perth very properly dealt with this matter rather on the ground of policy, and if it should be the wish of the Parliament of the State that pensions be paid to officers under these circumstances I can only say that Parliament has a very effective means of seeing its wishes carried into effect. None knows that better than the member for Kanowna. This is not the time to go into the merits of this particular case, for it is possible it may yet come before the law courts; but if there is no intention of obtaining a legal interpretation, if it is intended merely to ask the House to express the opinion at a later date that this pension shall be given as a matter of grace, then when the papers have been placed on the Table, and the facts are in the possession of members, that will be the time to go into the case of this gentleman, Mr. Joyce, and decide whether, in the opinion of the House, an exception should be made. So far as the legal question is concerned, that is, of course, capable of being argued, and if the House look at it merely from the point of view of weight of probability, the fact that there has been a series of Attorney Generals and law officers of the Crown who have held a view contrary to the opinion of the member for Kanowna on this case, will not, I think, dispose members, merely on his *ipse dixit*, to decide that his interpretation of the law is correct, and that all the previous Attorneys General and Crown Law officers were incorrect. But even supposing the hon. member is right in his interpretation there is a simple means of obtaining an interpretation that will put the matter beyond all question.

Mr. DRAPER (in reply): I certainly cannot fall in with the suggestion of the Minister for Mines that I should not press the motion. The point to my mind is apart entirely from any legal question. The legal luminaries on both

sides of the House seem to disagree. Speaking as a layman, I desire from a commonsense point of view to have these papers laid on the Table so that we shall be able to understand the position of a case which, I am informed, is not *sub judice*. The very fact that it is not *sub judice* provides the reason why this particular case was selected.

Question put and passed.

Case of W. P. Smith.

Mr. SWAN (North Perth) moved—

That all papers relating to the application of William Pugh Smith, formerly employed in the Government Printing Office, for an allowance under the provisions of the Superannuation Act, be laid on the Table of the House.

He said: Before placing the facts of this case before members I might refer to certain remarks made by the Premier when I suggested to him that this motion should be accepted as formal. The Premier then stated that the case was likely to go before the law courts and it would not be in the best interests of the country that the papers should be tabled. I do not agree with that principle. The man concerned in this case is a poor man and if he has a just claim to a superannuation allowance the Government should pay that allowance without forcing him into the law courts. In discussing the last motion the Attorney General suggested that the law courts provided the proper place for an interpretation of the Superannuation Act. So far as this case is concerned I do not agree with him. Undoubtedly, the Superannutaion Act makes the Governor-in-Council the final appeal, but if the man concerned has established a reasonable claim to the pension the Government should let this House know their reason for refusing it. That is my object in submitting the motion. In some respects it is similar to the one submitted by the member for West Perth, but in other respects the gentleman whose case I am referring to has very much stronger claims. It is not necessary to deal at any great length with the question, but I will place the actual facts before members, and I hope their sense of justice and equity—this is more a case for equity than for law—will influence them to support me in getting the papers laid on the Table. The facts briefly are that Mr. Smith first entered the Government Printing Office in March, 1879, and was continuously employed there until February, 1908. During the whole of the 29 years there was nothing, so far as I can learn, against his work or character. When a man has given 29 of the best years of his life to the service of the country, the least we can expect from the Government is a liberal interpretation of the law, rather than that they should shelter themselves behind a saving section of the Act in order to prevent their being compelled to grant the claim of a person who is qualified to receive superannuation allowances. In 1893 Mr. Smith was appointed foreman in one of the composing rooms in the Government Printing Office. He subsequently became sub-overseer and in July, 1901, was appointed an overseer. As I pointed out that made his total service 29 years. He was on the permanent staff of the office and enjoyed the same privileges as the other permanent hands in the department. In the latter part of 1907 Mr. Smith was obliged, owing to illness, to apply for sick leave. His illness necessitated a rather serious operation, and absence from office for a period of six months. When he returned he found that on the Estimates for 1907-8, while his position as overseer was mentioned, there was no provision made for salary, which practically meant that the position of overseer had been abolished. He consulted the Government Printer, and explained that he had received no official notification that the position had been abolished; all he heard was that there were certain accounts at the Treasury waiting to be collected by him. Realising that it was intended to abolish the office of overseer, and having regard to the state of his health, he applied for a superannuation allowance under the Act of 1871. His application was not entertained by the Treasurer, but he was offered compensation in the shape of a lump sum which he had to accept, being

informed that if he did not accept it he would not get anything at all.

The Minister for Works: When did he leave?

Mr. SWAN: In the latter part of 1907. In addition to length of service Mr. Smith based his claim for a pension on the fact that other officers of the Government Printing Office, whose claims were not as strong as his, had been granted pensions. That is where I think a matter of this kind ought to come under the notice of the House, because, in my opinion, the Government are not dealing fearlessly with this question of pensions. One hon. member stated earlier in the day that it gave the Ministers an opportunity of looking after their favourites, and I conscientiously believe that that is so.

The Minister for Works: You do not.

Mr. SWAN: I recognise the responsibility of what I am saying, and I believe that the Government pay more regard to the people who stand well with them than they do to men like Mr. Smith, who have no particular claims on their generosity, no claims except those of equity and justice.

Mr. Brown: What did he get?

Mr. SWAN: I do not know the amount; it was a small sum.

The Minister for Works: It would be a pretty large sum if he had 29 years' service.

Mr. SWAN: I have no scruple about mentioning the names of those who are in receipt of a pension for service in the Government Printing Office, and I think the House should know who they are. That is the reason, too, why I have placed another motion on the Notice Paper. We should know how the Government are dealing with all these pensions. Mr. R. Pether, who retired in 1901, and Mr. W. W. Watson, receive pensions of £300 per annum. Mr. Watson was retired before he reached the age of 60. Mr. George Jefferson, foreman bookbinder, retired in 1905 on a pension of £60. The most recent pension was granted to Charles Bishop, who held the position of superintendent and whose office was abolished in 1906. Mr. Bishop is now drawing a pension of £180 per annum. It will, therefore, be seen that Mr. Smith should be treated in a similar manner, because in his case, too, his position was abolished. I understand that there is a uniform system in connection with the payment of these pensions, and that the final decision rests with the Governor-in-Council. My contention is that the Government are not dealing out even-handed justice, and I want to know why, in the case to which I am referring, treatment was not meted out similar to that which was extended to others employed in the Government Printing Office, and, perhaps, whose service was not so long, or whose record in the service of the State was not so good. I think a man who has given 29 years of the best part of his life to the State is entitled to have any Act of Parliament that applies to him liberally interpreted. I do not propose to go into the legal aspect of the question as has been done by other members in the previous case. I recognise probably from a legal standpoint Mr. Smith has an uphill battle to fight in order to get his rights, but as far as the questions of justice and equity are concerned his claims are undoubted. The reason I am asking that the papers should be laid on the Table of the House is to give members an opportunity of forming the opinion as to whether the Government have dealt with Mr. Smith in a just and honourable way. I would like to quote Section 7 of the Public Service Act, 1900, which sets out—

> The public service includes all persons employed in the public service of Her Majesty, with the exception of persons employed at a daily or weekly wage, or whose employment is expressed to be temporary, or who, not being in the professional or clerical division are not continuously employed for at least one year.

Section 40 of the same Act reads as follows:—

> All officers who have been continuously employed for a period of two years, and whose service it is not intended to dispense with at an early

date, shall for all purposes of this Act be treated as permanent officers.

The following section of the Constitution Act, 1899, may be quoted, as Mr. Smith joined the Government service when the State was a Crown Colony, and the section has an important bearing on the case—

> . . . . . Nor shall anything in this Act affect any pension or superannuation allowances which at the commencement of this Act are by law chargeable upon the public revenue of the Colony, but all such pensions or superannuation allowances shall remain and be so chargeable, and shall be paid out of the Consolidated Revenue Fund, and all rights and benefits which at the commencement of this Act are by law claimed by or are accruing to any civil servant of the Government are hereby reserved and maintained.

Notwithstanding the provisions of that Act, I am prepared to admit the possibility of the Government beating Mr. Smith at law for the pension he has claimed, but I am not prepared to admit that they are not from the point of justice and equity obliged to consider Mr. Smith's claim. The Premier, in a very offhand way, suggested that the matter was likely to come before the law courts. It is up to the Government of the day, whoever they might be, to pay a little more consideration to the claims of men in the service, and to cases like that of Mr. Smith. Not only in this case but in many others the Government have forced good and faithful servants of long standing to fight their cases in the law courts rather than face the responsibility of giving them a fair deal. A notice in the *Government Gazette* of 23rd February, 1906, exempted certain officers of the Printing Department from the provisions of the Public Service Act, 1904, but the office which Mr. Smith held at the time, namely, overseer, was not among them. It is possible to spend much time on this motion, but I hope it will be settled to-night, and I hope also that the Government will see their way clear not to unduly oppose it. I think it is only a fair and reasonable proposition that we should know what the policy of the Government is with regard to these questions of pensions and superannuation allowances. I submit with the greatest confidence the motion standing in my name.

The MINISTER FOR WORKS (Hon. Frank Wilson): The hon. member has stated that the Government have a strong objection to placing papers of this description on the Table of the House. I want to state that the Government have no objection at all to the House being given all the information possible, and all papers that can be properly laid upon the Table are public property. There is nothing whatever to hide. With regard to this matter I suppose that after due inquiry Mr. Smith received the retiring allowance which was his due. I have no information about the matter at the present time.

Mr. Swan: The motion has been on the Notice Paper long enough.

The MINISTER FOR WORKS: I want to point this out to the hon. member that if he is going to make the House a court of appeal for every civil servant whose services have been dispensed with, or who has been dismissed, he is taking on a big contract. I can assure him that the House will soon get tired of dealing with these cases.

Mr. Swan: I am prepared to accept the judgment of the House, not that of the Minister for Works.

The MINISTER FOR WORKS: I think the House will accept the judgment of the Minister for Works when the papers are laid on the Table. I do not think the Minister for Works has ever been proved to have been unjust in his dealings with the officers of the service. Some of those retired officers who have received pensions, and about whom the hon. member complains—Mr. Pether, for instance—spent almost their lifetime in the service of the State.

Mr. Swan: I made no complaint.

The MINISTER FOR WORKS: The hon. member drew comparisons between Mr. Smith and other officers of the Government Printing Office now drawing pensions.

Mr. Swan: Quite justifiably, too.

The MINISTER FOR WORKS: I do not think so. Mr. Pether, after serving the State nearly the whole of his lifetime, from boyhood to a very old age, was retired under the Superannuation Act. That was done long before our time. The hon. member has argued that we have treated Mr. Smith unjustly. The papers, which are at the present time in the possession of the Crown Law Department, will show how Mr. Smith was treated. Mr. Smith is taking legal proceedings through his solicitor, Mr. Curtis, and the same thing may be said with regard to this file as was said in connection with the previous case, namely, that as far as they can be produced, without interfering with the law proceedings which are being taken, the Government will have no objection to placing the papers on the Table of the House.

Question put and passed.

Sitting suspended from 6.15 to 7.30 p.m.

Mr. Troy called attention to the state of the House; bells rung and a quorum formed.

Return of allowances and refusals.

Mr. SWAN (North Perth) moved—

That there be laid upon the Table of the House a return showing, (1) The names of those in receipt of allowances under the Superannuation Act, (2) The names of applicants who have been refused the allowance, (3) The reasons for the refusal.

He said: In connection with this motion I understand the only objection put forward by the Government is the fact that no limit is set to the period the return shall cover. I would like to know from the Premier whether he would be prepared to allow it to go without discussion providing I make it from 1900 onwards.

The PREMIER (Sir Newton J. Moore): There is no objection to supplying the information. However, the hon. member has been made aware of the difficulty to be encountered owing to the fact that no limit is set to the period. So far as paragraphs 2 and 3 are concerned the acquiring of the information will mean a terrible lot of work without any commensurate advantage. In the first instance clerks will have to hunt up the files to find out who have applied for pensions and, in the case of refusals, the reasons for those refusals. There might be pages of these in scores of files. It would entail a very large amount of investigation. However, I have no objection to the first paragraph.

Mr. Swan: If I were to limit the retrospective scope of the return to 1900 there should not be very many cases.

The PREMIER: There is the difficulty in the first place of finding out who has applied.

Mr. SWAN: The information asked for in the first paragraph would be of no use without that referred to in paragraphs 2 and 3. I am prepared to accept an amendment making the return cover only the period since 1900, but I think we should be placed in possession of all the information respecting the allowances granted since that year.

The Premier: No register is kept of applicants, and the only way of obtaining information will be by consulting the personal files.

Mr. SWAN: Still, I think we should have the information. However, if the Premier desires it I shall proceed in the ordinary way. There is not a great deal to be said in connection with the matter. The arguments used in the last case apply in a large measure to this one. I am of opinion that if applicants for pensions have been refused this House should be placed in possession of the reasons for such refusal. There is not only the case of Mr. Smith, already dealt with, but I know of a number of cases of men who have been in the service as long as was Mr. Smith. I know of one case in the Railway Department: that of a man who, I believe, was the first engine-driver in this country under the Imperial Government. He was refused a retiring allowance after 29 years of service. We recognise that the Governor in Council has power to refuse these pensions or allowances. Possibly it is legally right, but in my opinion it is morally wrong. I do not think it will be inflicting any hardship to ask that in all cases of refusal the

papers disclosing the reasons of such refusal shall be placed on the Table.

Mr. Draper: That is, since 1900?

Mr. SWAN: Yes. I recognise that if no limit were placed on the scope of the return it would entail a great deal of work, but seeing that I am prepared to accept an amendment making the return cover only the period since 1900, I do not think any reasonable objection can be taken. I will content myself with moving the motion.

Mr. SPEAKER: Is it the pleasure of the House that the hon. member be allowed to add to the first paragraph of his motion the words "since 1900"?

Motion thus amended.

The PREMIER: It is only a question of the labour entailed in acquiring this information. As I have said, no register is kept of persons who make application for pensions and, consequently, it will be necessary for many personal files to be searched in order to find out what officers have applied and whether any of them have been refused. If the House so desire, the information will be furnished. It is only a question of employing extra clerical assistance. I have no other objection to the motion.

Mr. DRAPER (West Perth): I hope the alleged necessity for extra clerical assistance will not prevent the information being granted. I should hardly have thought extra clerical assistance was necessary. The Government should have the information at their fingers' ends. They should know those who, since 1900, have left the service, and they should also know whether those who left it received anything. It would not be a difficult matter to trace those who had received anything, whether by allowance or by pension, and the information will undoubtedly be of value to the House when the question of the Superannuation Act comes up at a later stage. I sincerely hope the information will be given.

The MINISTER FOR MINES (Hon. H. Gregory): To make the return more complete I move the following amendment:—

That the words "and the compensation, if any, paid on retirement" be added.

Amendment passed.

Question as amended agreed to.

PRIVATE BUSINESS, ARRANGEMENT.

Postponement of Orders of the Day.

Order of the day read for the resumption of the adjourned debate on the motion by Mr. Piesse for a return in connection with the contributions by local bodies under the District Fire Brigades Act.

Mr. SCADDAN: Before proceeding with the Orders of the Day he desired to draw the attention of the leader of the House to the manner of arranging Orders of the Day on private members' day. Notice of this particular Order of the Day had not been given until the 23rd August yet it was placed on the Notice Paper as a formal motion on the 24th August, preceding other notices and Orders of the Day. It was accepted as formal, but the member for Katanning had debated the motion. He (Mr. Scaddan) then drew attention to the fact, and eventually the debate was adjourned. He contended that this should not have appeared on the Notice Paper as the first Order of the Day. The same thing applied to Orders of the Day 2 and 3. In accordance with their precedence the first Order of the Day for to-day should have been that set down as No. 4, namely the Workers' Compensation Act Amendment Bill, to be followed by No. 5, the Tributers' Bill. They appeared as the second and third Orders of the Day on Wednesday, the 17th August, some considerable time before the member for Katanning even gave notice of his motion which was to-day Number 1 on the list. What method was adopted in arranging the Orders of the Day for private members' business? The whole thing was becoming an absolute farce. If there was a day set apart for the transaction of private members' business, the business should be dealt with in accordance with the rotation in which notice was given, and the Notice Paper should not be cut about as it had been cut about this session, or, for that matter, last session also. Last Wednesday something

happened. Even by now he had not been able to clearly understand it. It was understood on that occasion before the tea adjournment that the Orders of the Day were to be proceeded with after the adjournment, but through some misunderstanding the Premier continued with notices of motion. Were we going to follow the practice of cutting about the Orders of the Day in regard to private members' business as the Government desired, or was the business of private members to be in the hands of private members and kept in proper order? If not the latter, private members' day might as well be cut out, because it was an absolute waste of time discussing a lot of abstract motions. Much of the discussion was in order to avoid reaching the Orders of the Day.

The PREMIER (Sir Newton J. Moore): The Notice Paper for Tuesday and Thursday was arranged by him on Friday night last, but he had not interfered in any way with the Notice Paper for Wednesday. He understood that as a rule the two Whips fixed the Notice Paper for private members' day.

Mr. Underwood: Your two Whips.

The PREMIER: No.

Mr. Scaddan: You have never consulted us.

The PREMIER: The Government consulted nobody on the point. He had not altered the Notice Paper. He gathered that the Clerks simply took off the Government business, and private business went on in the order already on the Notice Paper. His attention had been drawn last night to the Notice Paper, and he had said it was not for him to fix the Orders of the Day for private members' day.

Mr. Scaddan: How did it come about that the first three Orders of the Day preceded the Workers' Compensation Act Amendment Act Bill?

The PREMIER: That was the order followed on the previous day's Notice Paper. As a matter of fact if members looked at the Notice Paper for the preceding Wednesday, the 7th September, they would see the Orders were in the same arrangement, and that the Notice Paper had not since been altered in any way.

Mr. Bath: The Workers' Compensation Act Amendment Bill was the first private members' business given notice of during the session.

Mr. TAYLOR: The member for Katanning gave notice of his motion on the Tuesday preceding the first private members' day, and on the following day, which was private members' day, spoke to the motion, whereas the member for Subiaco, and he (Mr. Taylor) had notices of motion already on the Notice Paper, and it was surprising that the motion of the member for Katanning should appear at the head of the Notice Paper. There had been a hitch as to the procedure, and to get over the difficulty he (Mr. Taylor) had moved the adjournment of the debate.

Mr. SPEAKER: The motion of the member for Katanning was in the first instance purely a formal one, but the hon. member in moving it made a speech which caused a reply, so the motion in the ordinary way was adjourned. As a formal motion in the first instance it occupied the right position. This explanation was necessary in order to clear the Clerk.

Mr. SCADDAN: The complaint did not apply to this motion only; it applied to the next two Orders of the Day—the Marriage Act Amendment Bill and the debate on the Federal conference for the prevention of tuberculosis, both of which preceded items of which notice had been given on the first day of the session, such as the Workers' Compensation Act Amendment Bill, and the Tributers Bill. There are other motions on the Notice Paper of which prior notice had been given, but which could only be discussed on a later day.

Mr. SPEAKER: If it be the desire of the House, any Order of the Day can be postponed.

The Premier: I am willing to do that.

Mr. UNDERWOOD: It was not so much a question of postponing Orders; it was a question of arranging the Notice Paper; and this had been going on ever since he had been in the House. He had never seen a bit of work done on private

members' day, this meaning four years' absolute waste and rubbish.

Mr. SPEAKER: The hon. member must not reflect on the House. It was for the House to decide. Any Order could be postponed.

Mr. GEORGE: The question was more important than merely postponing the Order. It appeared the arrangement of the Notice Paper was practically a go-as-you-please. Surely there must be some rule by which the arrangement of the Orders was carried out, by precedence or arrangement.

Mr. Taylor: They should come in the order they are submitted to the House.

Mr. GEORGE: Following the order of precedence might at times be inconvenient to hon. members, but if that was to be the rule we should thoroughly understand it, and members would avoid the unpleasantness of making out that the Notice Paper was manipulated for the purpose of throwing them out of their stride.

Mr. Taylor: It looks very much like it.

Mr. GEORGE: There might be some justification for it; but surely there was some system by which members could understand how the matter was to be regulated; and if that system existed it should be explained. If it required immediate improvement, let it be improved so that members need not display the feeling that must be engendered under the present system. Parliament had not been working for so many years without some rules for its guidance in this particular.

Mr. Underwood: The rule is to block the Opposition. That is the only one so far as I can see.

Mr. GEORGE: No one desired that there should be insinuations against any member, but there was nothing wrong in asking that members should know how the business was to be conducted. If the system did not fit the requirements of the House, there was power to alter the system so as to remedy any faults and so as to avoid raising feelings of animosity. Members could not discuss matters in the best interests of the country in a calm way if there was the belief that there was any gerrymandering with the Notice Paper.

Mr. SPEAKER: The hon. member was allowed to make an explanation, but there was no question before the House.

Mr. GEORGE: The question was that, although we might postpone this Order of the Day, it would not remedy the complaint of the member for Ivanhoe, and it would be better for public business if we could finish that complaint and remedy it.

Mr. SPEAKER: The Order of the Day had been read; he was ready to proceed.

Mr. COLLIER moved—

That the Order of the Day be postponed.

Mr. HOLMAN moved—

That the first three Orders of the Day be postponed.

Mr. SPEAKER: If the member for Boulder gave way there was nothing to prevent us dealing with the three Orders.

Mr. Collier: It was preferable to deal with each Order separately.

Mr. Holman's motion lapsed.

Motion (Mr. Collier's) put and passed; the Order of the Day postponed.

Order of the Day for the second reading of the Marriage Act Amendment Bill read.

The PREMIER (Sir Newton J. Moore) moved—

That the Order of the Day be postponed.

Previously it was the practice of the Whips to arrange the Notice Paper for private members' day; but latterly the Clerk arranged the Notice Paper in the order of precedence, and if the Clerk had made a mistake in any direction, it was done unwittingly. It was insinuated that the Notice Paper was fixed up with a view to putting certain measures lower down than the positions to which they were entitled, but that was absolutely incorrect. It might be possible at a later stage for a suggestion to be made to the Standing Orders Committee with a view to getting the benefit of their advice in regard to some proposal to deal with the Notice Paper on private members' day.

Motion passed; the Order of the Day postponed.

Order of the Day read for the resumption of the adjourned debate on the motion by Mr. Heitmann for a conference of State medical officers for the purpose of devising systematic and uniform methods for combating tuberculosis.

The PREMIER (Sir Newton J. Moore) moved—

That the Order of the Day be postponed.

Mr. HEITMANN: This was a non-party matter, and the discussion should take but a very short time. Since the motion was introduced doubtless the Government had discussed it with the officers of the department, and would know whether or not they were prepared to accept the motion. Members who had given consideration to the question would agree that the adoption of the motion would do much good. It was to be hoped the debate would be proceeded with.

Motion passed; the Order of the Day postponed.

BILL—WORKERS' COMPENSATION ACT AMENDMENT.

Select Committee.

Order of the Day, for the consideration of the Bill in Committee, read.

Mr. DRAPER moved—

That the Bill be referred to a select committee.

He said: I will, in as few words as possible, convey to the House my reasons for this motion. Some members appear to think that the passage of the measure will be delayed if this course is adopted.

Mr. Scaddan: Hear, hear.

Mr. DRAPER: I do not agree with them. My reasons for the motion are these. This Bill, it is true, was introduced to the House some two years ago and I think I am correct in saying it did not get beyond the first reading. Last year it passed its second reading and reached the Committee stage.

Mr. Bath: On a point of order. Is the hon. member in order in speaking to the motion. A motion for the reference of a Bill to a select committee is not debatable.

Mr. SPEAKER: I thought the hon. member was making an explanation.

Mr. Bath: He cannot make an explanation.

The Premier: Surely a member can give his reasons for asking that the Bill should go to a select committee.

Mr. Bath: He has no more right to do that than the Premier has to enter into an explanation when he moves that the House should adjourn.

Mr. DRAPER: I desire to place my reasons before the House.

Mr. Walker: But you have no right to.

Mr. SPEAKER: Objection has been raised to any reasons being given and, under the Standing Orders, the hon. member cannot give any.

Motion put, and a division taken with the following result:—

Ayes	24
Noes	19
Majority for	5

AYES.

Mr. Brown	Mr. Layman
Mr. Butcher	Mr. Male
Mr. Carson	Mr. Mitchell
Mr. Cowcher	Mr. Monger
Mr. Daglish	Sir N. J. Moore
Mr. Davies	Mr. C. F. Moore
Mr. Draper	Mr. Nanson
Mr. George	Mr. Osborn
Mr. Gregory	Mr. Piesse
Mr. Hardwick	Mr. F. Wilson
Mr. Harper	Mr. Gordon
Mr. Jacoby	(*Teller*).
Mr. Keenan	

NOES.

Mr. Angwin	Mr. O'Loghlen
Mr. Bath	Mr. Scaddan
Mr. Bolton	Mr. Swan
Mr. Collier	Mr. Taylor
Mr. Gourley	Mr. Troy
Mr. Holman	Mr. Underwood
Mr. Horan	Mr. Walker
Mr. Hudson	Mr. A. A. Wilson
Mr. Johnson	Mr. Heitmann
Mr. McDowall	(*Teller*).

Motion thus passed.

Ballot taken, and the result handed to the Speaker.

Mr. SPEAKER: There are six names, three having an equal number of votes.

I will read the Standing Order relating to such a matter. It says—

> In case of doubt arising from two or more members having an equality of votes, the Speaker shall determine which shall be chosen, provided that if the number of the committee be increased beyond five the number in this order mentioned shall in like manner be increased.

The six members are Messrs. George, Hudson, Male, Monger, S. F. Moore, and Swan; the first three, Messrs. George, Hudson and Male, are appointed. I shall call upon Mr. Swan to act on the committee as the fourth elected member.

Mr. COLLIER: May I ask what the voting was for each member? I would like to point out that the count was performed by only one member, and by the Clerk.

Mr. SPEAKER: That is the custom.

Mr. COLLIER: I am aware it is the custom. but I would like to have some safeguard. In taking a division of this House we do not entrust the counting to one member. As a member of the House I desire to know what the voting was; I am entitled to the information.

Mr. SPEAKER: I have never known such a statement to be made before. I would ask the hon. member to see for himself, because I do not think it is advisable to read out the numbers.

The Premier: I do not think such a practice has ever been indulged in before in this House.

Mr. COLLIER: As a member of the House I claim that I am entitled to know what the voting was.

Mr. SPEAKER: I have told the hon. member that he is at liberty to see for himself what the votes were.

Mr. COLLIER: The House is entitled to have the information. I would like to know, Mr. Speaker. on what Standing Order you base your decision to refuse to give the information to the House. What objection is there? It may be true that it has not been the practice, but nevertheless I am within my rights in my desire to get the information. I am at a loss to know why there should be any reason in preventing the House from being given the information as to what the actual voting was.

Mr. SPEAKER: I think the hon. member knows the meaning of the word "ballot"—a ballot shall be secret. The information is available if the hon. member wishes to have it for himself. I do not think it would be advisable to give it to the House. I would certainly not be justified in reading it out to members; it would be most unfair. Elections take place here as they do outside. I admit the hon. member is entitled to the information, and if he wants it it is here.

Mr. COLLIER: With all due respect to your opinion, Mr. Speaker, that it would not be desirable to disclose this information, I would point out that there are certain rights which hon. members have, and those rights may be contrary to your opinion. I submit in this case I am perfectly within my rights in asking for the information, although, in your opinion, the information should not be disclosed. It is not sufficient for you to say that in your opinion the information should not be given, you must be backed up by some stronger authority than your opinion. As a member of the House I am entitled to the information, irrespective of whether you believe the information should or should not be given, and if I am not entitled to the information, I desire to know by what Standing Order, or by what rules I am debarred from receiving that information. I submit that we require something further than your opinion.

Mr. SPEAKER: I cannot put my hand on any authority; the question has never been raised before. On this occasion I am exercising my own discretion, and I shall leave it to the House to say whether it is the correct course to follow. I decline to give the information in the manner requested. The information is available to any hon. member who desires to see it. I need not go into details, but I venture to say that it is more politic as well as, I think, justifiable in the circumstances that it should not be disclosed to the House.

Dissent from the Speaker's Ruling.

Mr. Collier: I cannot submit to a ruling that merely says it is politic or justifiable. I shall move, therefore—

That this House dissents from Mr. Speaker's ruling.

Mr. Speaker: Will the hon. member submit the grounds and put the motion in writing?

Mr. Walker: I submit it is not necessary to write out the motion. The hon. member merely moved that your ruling be disagreed with.

Mr. Speaker: The question has been raised before when I have given a decision.

Mr. Walker: On this occasion there is no other question. The only thing the member has to write out is that your ruling be disagreed with.

[The motion was submitted in writing.]

Mr. Speaker: A motion has been submitted that the House dissents from my ruling.

The Premier: It is well within the knowledge of hon. members that the ruling you have given to-night is in accordance with rulings given on all previous occasioins when a matter of this kind has been brought before the House. In fact, you have gone further than any Speaker has gone before in inviting the hon. member to ascertain for himself the numbers. Therefore in support of your ruling I can certainly claim the practice of the House; and when we are in doubt it is only proper that we should follow the constitutional practice that has been in vogue in the House.

The Minister for Works: I should like to go a step further than the Premier in this matter. I say the action of the member for Boulder is a direct reflection on the mover of this select committee who, under our Standing Orders, is to act as scrutineer. The Standing Order you quoted as deciding the case of three members having an equal number of votes also shows how the ballot papers are to be counted. These are the words—

> And when all the lists are collected the Clerk, with the mover acting as scrutineer, shall ascertain and report to the Speaker the names of the four members having the greatest number of votes, which four members, together with the mover, shall compose such Committee.

I maintain that after that procedure has been gone through, under our Standing Orders there is no dispute.

Mr. Hudson: But the facts are not the same; there were not four elected.

The Minister for Works: There were three reported as elected, and three others reported as having tied. Then the Standing Order goes on—

> In case of doubt arising from two or more members having an equality of votes the Speaker shall determine which shall be chosen, provided that if the number of the Committee be increased beyond five, the number in this order mentioned shall in like manner be increased.

That does not do away with the fact that it is left entirely to the Clerk of the House, with the mover acting as scrutineer, who reports to the Speaker as to who have received the greatest number of votes.

Mr. Collier: I only want the result.

The Minister for Works: The hon. member is not entitled to the result.

Mr. Troy: On a point of order, is the Minister for Works discussing the question before the House?

Mr. Speaker: The question before the House is as to my ruling.

Mr. Troy: Would you mind reading the motion.

Mr. Speaker: The motion is "That this House dissents from the ruling of the Speaker."

Mr. Troy: The ruling is in regard to your refusal to give the number of votes polled. The Minister for Works is not discussing your refusal, but rather the ballot.

The Minister for Works: I am showing cause why your ruling is correct and should be upheld by the House. The hon. member is absolutely wrong in his objection. The Premier has mentioned that the usage of the House ever since it has been a House, ever since we have had Responsible Government, has been to

accept the decision of the Clerk and the scrutineer. I can vouch for that for, at any rate, 14 years back. And in addition to that I quote the Standing Orders to show that the Speaker's ruling is in accordance therewith.

Mr. Hudson: Can you give us an instance of a tie having occurred in your experience of 14 years?

The Minister for Works: I cannot call one to mind just now, but it does not affect the circumstances at all. It is provided that the Speaker himself shall decide between those who have an equal number of votes, in the case of equality of voting. The Speaker has decided that question. He has said that the member for North Perth shall be on the committee.

Mr. Troy: I must again rise to a point of order. Is the Minister for Works discussing the motion moved by the member for Boulder, namely your refusal to give the number of votes polled? That is the question, and not as to whether you are in order in declaring that the member for North Perth shall be on the committee.

Mr. Speaker: The hon. Minister is either supporting or not supporting my ruling. Surely, then, he is in order.

The Minister for Works: I hope the hon. member will now refrain from raising the same point of order again. I maintain that I am perfectly justified in showing cause why your ruling should be upheld. I contend that the Standing Orders provide—and I emphasise this point—that the Clerk, with the mover acting as scrutineer, shall report to you the result of the ballot. Once that has been reported no one can question the ballot or demand to see the numbers.

Mr. Walker: But if they report the result of the ballot do not they report the numbers polled?

The Minister for Works: To Mr. Speaker, yes.

Mr. Walker: Cannot the Speaker tell the House if he wishes?

The Minister for Works: I should say that, according to usage, he would be quite wrong in doing so.

Mr. Bolton: It would be interesting in this case.

The Minister for Works: Only to those hon. members who spoilt their ballot papers, certainly not to anyone else.

Mr. Hudson: I should like to know what information has been disclosed to the Minister which enables him to say, "spoilt their ballot papers." Is he justified in making that remark?

Mr. Speaker: I did not see the counting—I never do. I take the voting as handed to me; I get the names and it is then merely my duty to announce the result. I have done so. To give the information asked for would not be prudent. I have done as much as I can do to meet the wishes of the hon. member. He or any other member can come and see the numbers, but if I were to declare them the result would be published in the Press which, I think, would be very indiscreet.

The Minister for Works: I take exception to the latter part of your remarks—to your suggestion that any hon. member can come and examine the number of votes for himself. I want to explain to the member for Dundas: he asks, how do I know there were spoilt ballot papers. His own action when the papers were being counted showed that.

Mr. Hudson: If the hon. member suggests that I spoilt my ballot paper, I ask him to withdraw; because it is not a proper observation, and moreover it is not true.

The Minister for Works: I have suggested nothing of the sort. What I said was that the hon. member's attitude at the counting of the ballot—

Mr. Hudson: I ask for a withdrawal.

Mr. Heitmann: Describe the attitude.

The Minister for Works: When the hon. member saw that certain papers were being thrown on one side by the scrutineer he, in his own way, evinced his satisfaction; and evidently hon. members on that side of the House did not take the ballot very seriously. But the point we are discussing is as to your ruling. I again maintain your ruling was perfectly in order, and that the numbers cannot be given to the House: in-

deed I go further and say they cannot be given to any hon. member.

Mr. Daglish: I desire merely to say that if the numbers were furnished by the Clerk to the Speaker the procedure was wrong according to our Standing Orders. The Standing Orders distinctly provide that the Clerk shall hand to the Speaker the names of those appointed on the Committee and not the numbers. Personally, when I have been scrutineer I have never seen anything handed to the Speaker but the bare names of the four persons elected. In the case of a tie there would, of course, be handed to the Speaker five names, or six, or seven, or whatever number of names might have been included in the tie; but I think that in accordance with the Standing Orders in no case should the numbers be handed to the Speaker. Standing Order 333 merely appoints the Clerk as an officer to take a record under the scrutiny of one member of the House. When that record has been taken the names, not the numbers at all, are supposed to be furnished to the Speaker, who thereupon announces the names, but cannot announce the numbers, because he is not supposed to have seen them any more than any other member of the House.

Mr. Heitmann: The scrutineer took away a record.

Mr. Daglish: The hon. member knows that if I were to refer to that I would at once be ruled out of order, as we are not discussing anything but the Speaker's ruling. The member for Boulder moved to dissent from the Speaker's ruling on the ground that the numbers have not been given to the House by the Speaker. Holding the opinion which I express, and which I contend is the only opinion that can be read into the Standing Order, I am compelled to support the decision given by the Speaker.

Mr. Holman: We have heard a great deal about the terrible thing it is to give the information to the members of the House. Anyone would think it was something we were ashamed of or afraid of, to let the House know the voting. In elections inside the Chamber or outside the numbers are always given, and the mere fact that it has not been the usage to give the numbers on ballots should not prevent any member asking that the numbers be given. I maintain any member has a perfect right to ask for any record that comes before the House to be given to the House, and the sooner we do away with the fossilised idea that simply because it has not been done it should not be done, the better it will be for the House. The Minister for Works quotes 14 years' experience. I do not suppose he has ever known of a tie in a ballot for the selection of a select committee, or of any request for the numbers of a ballot being refused.

The Minister for Works: It has not been asked for.

Mr. Holman: Because a thing has not been asked for it is absurd to say it should not be given; but we realise that when a request comes from the Opposition, and when we move dissent to the Speaker's ruling, it is impossible to carry it. It is the same in other directions. Requests from the Opposition are always treated in the same way. I maintain that when a request is made that the numbers should be given to the House there is no sensible reason why the information should not be given. No calamity would happen. In any election in or outside the House the result, if requested, should always be given. What sort of a reception would a returning officer get if he gave the result of an election, and refused to give the numbers? If the member for West Perth and the Minister for Works were contesting an election with another man, and the result was given that the other man was elected, I would like to know the opinion of the Minister for Works and the member for West Perth if the returning officer refused to give the numbers. We would soon hear from them the insinuation that the thing was not straight.

Mr. Taylor: The Minister for Works would say that.

Mr. Holman: Or he would wriggle out of it in some other way.

The Minister for Works: The hon. member forgets that the Electoral Act provides for the numbers being given.

Mr. Holman: And our Standing Orders do not provide against numbers

being given. The Standing Order provides what the Clerk shall do when the ballot is taken, but there is no mention in the Standing Order that the result shall not be given to the House. It is a thing that goes without question that if a member desires to know the numbers he has a right to get them. The position seems to me to be absurd. It would seem to show there was something behind that should not come out, something that we are afraid of, something that is dangerous and should not be given. But on divisions in the House the results are given, and why should they not be given in the case of a ballot? The fact that on divisions we sit on each side of the House shows on which side we vote. The only difference in regard to a ballot is that it might not be desirable to know for whom each member votes. But there is no ground within reason or justice why the total numbers should not be given. We know what the result will be, but to my mind it is an absurdity that a request like this is not granted.

Mr. Bath: The Minister for Works quoted a Standing Order which has absolutely no bearing on a request for the number of votes recorded for each candidate to be disclosed, and all the Minister's reiteration that the Standing Order forbids it is so much blind argument, because simply the matter is unprovided for in the Standing Order. The Premier assured us that because on no occasion where a select committee has been appointed have the numbers been asked for, it has become a constitutional practice; but there are a number of things in the conduct of the House which may have been adopted as the practice of the House that, where they conflict with the Standing Orders or the procedure of the House of Commons, are over-ridden by the Standing Orders or the procedure of the House of Commons; and it matters nothing if in the past history of the appointment of select committees such a request has not previously been made. What we have to decide is as to whether the Speaker has a right, when the request is made, even if it be for the first time, to refuse the information to the hon. member. The member for Subiaco drew on his imagination so far as the whole of his speech was concerned. There is nothing in the Standing Order which says that the scrutineer shall not acquaint the Speaker with the number of votes recorded for each candidate, or if there is such a provision the member for Subiaco failed to mention it in his speech. As a matter of fact, where the Speaker has to decide on an equality of votes he must know the number of votes recorded in order to decide between the respective candidates.

The Minister for Works: Not necessarily; the scrutineer can report a tie.

Mr. Bath: But where a tie occurs the Speaker has either to carry a great deal of matter in his mind, or he must have the details before him as to the two candidates with the numbers.

The Minister for Works: No; he simply has the names.

Mr. Bath: As a matter of fact the Speaker has stated that the numbers are handed up to him. That at least is the practice according to the statement of the Speaker himself. We have another startling statement from the Minister for Works. He says he is prepared to uphold the ruling of the Speaker; but where the Speaker says that the information is available to one member of the House, the Minister wishes to disagree with the Speaker's ruling.

The Minister for Works: That was not in his ruling. The member for Boulder demanded to have the figures read out to the House. The Speaker ruled he could not do so.

Mr. Bath: The Speaker said the hon. member could come up to the Chair and see the information, and the Minister disagreed with the Speaker.

The Minister for Works: That was an addition to the ruling.

Mr. Bath: The Minister is prepared to agree with the Speaker's ruling when it happens to suit him, but when it does not suit him the Minister is prepared to disagree.

The Minister for Works: Your logic is unsound.

Mr. Bath: Never since I have been in the House, since 1902, has this trouble occurred in connection with the appointment of select committees until the present Government started to work points in connection with select committees, and that is the occasion of the trouble.

The Premier: I object to the statement made that the Government are working points in connection with select committees. That statement was made the other night, and I questioned it, and the leader of the Opposition was perfectly well aware that several members were voting in a different way to what occurred.

Mr. Speaker: The member for Brown Hill should not say anything reflecting on the Government.

Mr. Bath: In deference to the ruling, I withdraw; but I say the Government have adopted an objectionable practice in connection with the appointment of select committees which has occasioned heated debates. If we had always stuck to the time-honoured plan in connection with the appointment of select committees none of this trouble would have occurred. It is just this kind of conduct which has occasioned the demand of the member for Boulder. I assert again there is nothing in our Standing Orders or, failing the Standing Orders, in the procedure of the House of Commons, which justifies the refusal on the part of the Speaker to make known the number of votes, if that information is requested by a member of the House; and I defy any member to point to the Standing Orders and to the procedure in the House of Commons justifying it.

Mr. Speaker: I wish to put the hon. member correct. I did not interrupt him when he was speaking, but the hon. member said I received the numbers secured by each member on the ballot. What I intended to convey was that I always receive the numbers in the case of a division with the ayes and noes on the top of the lists signed by the tellers, but in regard to select committees it is a totally different procedure—I receive the names only of those who are selected, and nothing else. Here are the names which I have already read out—Mr. George, Mr. Hudson, Mr. Male, Mr. Monger, Mr. Moore, and Mr. Swan. According to Standing Order 333 I had to select between three of them, and I selected Mr. Swan to act with the other three, namely Mr. George, Mr. Hudson, and Mr. Male, together with the mover, to form a select committee.

Mr. Holman: If the names are always in alphabetical order, how would you know the three that tied unless you had the numbers?

Mr. Speaker: I have a perfect right to select whom I like, and I selected Mr. Swan to add to the three others.

The Minister for Works: Does not the scrutineer report to you that the first three are elected?

Mr. Speaker: That is so.

The Minister for Works: The scrutineer says certain gentlemen have been elected, and certain others have tied.

Mr. Speaker: That is the report I get.

Mr. Walker: It is a simple question that is asked. The question is, "How many votes were given to each of these men?"

Mr. Speaker: I am not aware of them.

Mr. Walker: The Speaker may not know, but the Clerk knows, and the Speaker is the mouthpiece of the House. If respectfully a respectful question is asked, which the Speaker can answer by the process of consulting the Clerk; if, in short, the information is in the Chamber, there can be nothing irregular or wrong, even if the question is somewhat unusual, in giving the answer. The ballot we have just had was in itself such an extraordinary and unprecedented ballot that it is deserving of some record, and members should know what preceded or led up to this little difficulty. If the Speaker reconsiders his decision I think he will see nothing wrong in asking his Clerk to announce the number of votes polled opposite to those names.

The Minister for Works: What is the difficulty you speak of? The ballot seems to have been all right.

Mr. Walker: There were difficulties—I will not say difficulties, but there were extraordinary features about that ballot. I do not know them but I would like to do so. In order to put an end to the difficulty I will at once raise an objection to the ballot owing to the Standing Orders not having been complied with. It is provided by the Standing Orders that before the House proceeds to ballot for a select committee the bells shall ring as in a division. That was not done; the bells were not rung. Therefore, I submit that the whole ballot is null and void and must be taken over again.

The Minister for Works: The bells were rung.

Mr. Jacoby: I came into the House in response to the bells.

Mr. Hudson: The bells for a division.

The Speaker: The Clerk says the bells were rung.

Mr. Walker: The bells rang for a division but not for a ballot.

Mr. Daglish: I distinctly remember hearing the bells ring while I was writing out my ballot paper, and they were still ringing when I put my ballot paper in.

Motion—That the House dissents from Mr. Speaker's ruling—put and negatived.

To call for Persons and Papers.

Mr. DRAPER moved—

That the committee have power to call for persons and papers, to sit on those days over which the House stands adjourned, and report on this day fortnight.

Mr. TAYLOR: The whole system of the appointment of the select committee showed how valueless any report of the committee might be. He desired to enter his protest against the whole thing.

The ATTORNEY GENERAL: On a point of order. Was the member in order to discuss the question at this stage? The Speaker had ruled that there could be no debate on the appointment of the select committee and there could be no discussion on the question now before the House.

Mr. SPEAKER: I want to admit at once that I was in error in ruling there could be no discussion when the motion for the appointment of the select committee was introduced. I have found since that a discussion could have taken place; anyhow I am sure that there cannot be a debate at this stage.

Mr. TAYLOR: There was a distinct motion and surely he was in order in debating it. There were only two matters that could not be debated; one was with regard to the adjournment of the House, and the other the call for a division. Those questions were put without discussion, but any other motion could be debated. There was no necessity for persons or papers being called for by this select committee. Standing Order 346 said, "Whenever it may be necessary the House may give a committee power to send for persons, papers and records." The member for West Perth should explain his reasons for desiring to call for these papers and persons. The objection he had to the committee was emphasised by the way in which the hon. member who made the count dealt with the ballot papers. In his 10 years' experience he had never seen such a state of affairs. The Opposition had no desire to take part in the work of the select committee. They were opposed to it.

Mr. Scaddan: It is to prevent the Bill from being discussed.

Mr. TAYLOR: It would not be in order for him to say that or he would do so. It was a pity the Standing Orders would not permit him to say what he would like, for if he could do so the House would be given something to go on with. Select Committees were appointed with the object of dealing with measures coming before the House and to enable members to do their work in the simplest manner possible, and with all the facts before them. It was in order to delay the measure that the select committee was called for.

Mr. SPEAKER: The hon. member must not reflect on the motives of the member for West Perth.

Mr. TAYLOR: He cannot deny it.

Mr. SPEAKER: I will not permit such a statement to be made. The motion is to call for persons and papers.

Mr. TAYLOR: The member for West Perth must prove the necessity for calling for persons and papers.

Mr. George: Give him a chance to.

Mr. TAYLOR: The member for Murray had his chance and perhaps was looking for another.

Mr. George: I do not know what the hon. member is "slinging-off" at me for; he hurts my feelings. Let members say what they do mean, it would relieve my mind.

Mr. TAYLOR: The member for Murray was unfortunate in going about with his conscience in his hand. One could not look at him without his thinking something was being imputed against him. The member for Murray——

Mr. SPEAKER: The hon. member must speak to the motion before the House.

Mr. TAYLOR: The member for Murray wanted to know what motives had been imputed against him. None had been imputed. All that had been said was that the hon. member had had a chance and might perhaps, be looking for another. Before the motion was carried the member for West Perth should give some reasons why the production of persons and papers was necessary.

Mr. COLLIER moved an amendment—

That the words "persons and" be struck out.

The committee should have power to call for papers and records, but there was no reason why they should call persons before them. The members for Murray, Kimberley and West Perth comprised the majority of the committee, and there was no necessity to call for persons as those members knew very well the opinions of all the persons whom they were concerned about. Those opinions were expressed very freely a week or two ago at a deputation to the Premier. The member for Kimberley was a part of the deputation, or if not the associations with which he was connected were fully represented there. Then, as to the member for Murray. The views that gentleman held upon the question had been, doubtless, very fully laid before him by members of the deputation, while the very fact that the member for West Perth had moved the motion showed that he had been consulted and made acquainted with the views of the deputation. The amendment was being moved in order to save the time of the select committee, and so that the report of the committee could be returned to the House in time for the Bill to be considered and dealt with this session. In order that this might be done it was to be hoped the House would relieve the committee of the necessity to call for persons. Let us consider who the committee would call. First of all would be the secretary of the Chamber of Mines, Mr. T. Maughan.

Mr. Taylor: Who has written very eloquently on the subject.

Mr. COLLIER: The witnesses would be brought before the committee at considerable expense. They would come from the goldfields, and the payment of their fares and expenses would be an utter waste of money. The three Government members of the select committee were thoroughly conversant with the opinions of Mr. Maughan. Then there was the Pastoralists' Association. The member for Gascoyne was a member of that association, and took a prominent part in the long interview by that body with the Premier. That gentleman would be able, in the course of conversations with the committee in the corridors, to acquaint the Government members with the views of his association on the Bill. So one might go through all the witnesses the committee would be likely to call. There were many witnesses who could be called and who could throw valuable light on the work of the Bill, but in view of the composition of the committee he ventured to assert those witnesses would not be called.

Mr. George: There are two members of the Opposition on the committee.

Mr. COLLIER: Yes, but there were three Government members, who would control the other two. Only those persons likely to give an opinion favourable to the views held by the Government

members of the Committee would be called.

Mr. SCADDAN: Attention should be drawn to Standing Order 334, and the question asked whether the member for Kimberley, and also the member for Murray, were not personally interested either in the passage or the rejection of the Bill as employers of labour. The Standing Order read, "No member shall sit on a select committee who shall be personally interested in the inquiry before such committee." The hon. member for Kimberley was personally interested in the inquiry, because he was one of the deputation from the Pastoralists' Association which waited upon the Premier.

Mr. SPEAKER: It would be necessary for the hon. member to have some personal or pecuniary interest. There were always two sections in the world, the employers and the employees, and the same thing would apply to every committee on the face of the earth.

Mr. BATH moved a further amendment—

That the amendment be amended by adding the word "papers."

The amendment would then read that the words "persons and papers be struck out." In the drawer which was just under the left hand of the Minister for Works were all the papers which the committee would require.

The Minister for Works: What are they?

Mr. BATH: All the papers that were necessary for this committee were in that drawer, and if they were utilised the State would be saved considerable expense. We would also be saved the expense of doing what the Government desired to do, prevent discussion on this Bill. It was evident they wanted to defeat it yet they did not have the courage to face the position. Under all the circumstances there was no need to involve ourselves in the expense of calling for persons and papers to carry out a plan of campaign already preconceived.

The ATTORNEY GENERAL: Hon. members who had supported the amendments seemed to be over-estimating the fact that the only result would be that the Committee would not have power to compel witnesses to attend.

Mr. Holman: Was the hon. member in order in debating a question before it had been put to the House by the Speaker?

The Speaker stated the question.

The ATTORNEY GENERAL: It was merely his desire to point out that if the amendment were carried the effect would not be altogether what some hon. members appeared to anticipate; it would merely be that the committee would not have power to compel the attendance of witnesses, but there would be nothing to prevent the voluntary production of evidence, either documentary or personal; and if the evidence was all one-sided—if evidence against the Bill was submitted and there was no evidence in favour of it—hon. members who were supporting the Bill would only have themselves to blame. The inquiry should be made as full and as complete as possible.

Mr. HOLMAN: The amendment moved by the member for Brown Hill would receive his support.

Mr. Collier: I accept the amendment.

Mr. HOLMAN: There was no necessity to call for persons and papers, because, as already stated, the whole thing was a preconceived idea to prevent the passage of this measure.

Mr. SPEAKER: The hon. member was attributing motives.

Mr. HOLMAN: The remark would be withdrawn. The House was asked to deal with a question which was the law in England and in the United States.

Mr. Draper: That is not correct.

Mr. HOLMAN: It is absolutely correct. This year in New York a law had been passed which fixed £600 as the amount of compensation in case of serious injury, or in the case of death. The only reason for calling for persons and papers by those who moved for the appointment of a select committee was to endeavour, by all means in their power, to prevent justice being meted out to those who were injured, or in the case of death, to those who were dependent on the victim. When the committee met, all those who could give valuable information or evidence would be overlooked,

and those who waited on the Premier a week or two ago would be called. There would be Tommy Maughan trotted down from the Chamber of Mines at Kalgoorlie, Moxon from the shipping companies, and there would be others called from the Chamber of Commerce, the Builders and Contractors' Association, the Employers' Federation, Millars' Karri and Jarrah Company, and the Pastoralists' Association, all of whom had already given their views on the matter. The subject had been fully debated, not only in this country but in many others, and had been thrashed almost threadbare; therefore, the only conclusion one could arrive at was that the object was to prevent the passage of the measure. The Government were afraid to express an opinion on the matter, and they put up members on their side of the House.

Mr. Draper: Was the hon. member entitled to impute motives?

Mr. HOLMAN: The member for West Perth was premature. What was said was that members, not the member for West Perth, were put up on that side of the House.

Mr. SPEAKER: The hon. member should not say that.

Mr. HOLMAN: The member for West Perth was not the only member on that side of the House. The question was what would the calling of persons and papers mean? It would mean that in a very short time the Estimates would be before the House. The select committee would be sitting, and they would report to the House that more time would be required for the consideration of the subject; then it would be approaching Christmas, and private members' day would be done away with, and the members of the Opposition would be voiceless. It was a standing disgrace that a measure affecting the interests of all the workers of Western Australia, which had been before the House for three years, should not be given a chance of being passed. The Government refused to take the responsibility of giving the opportunity to members to say whether the measure should go through or not. He could point to the fact that while 20 per cent. of the workers in the timber industry were injured, not more than five or six per cent. received compensation for those injuries. It was impossible, with the Compensation Act as it stood, for those people to get any compensation at all.

Mr. George: Do they not get as good treatment as from the railways?

Mr. HOLMAN: The member for Murray knew well that when he was Commissioner, and before the Act came into force, adequate compensation was paid to those who were injured. Since then, however, those injured on the railways did not get fair and just treatment. Reverting to the amendment, there was no necessity to call for those persons who had already shown by their attitude that they were going to move Heaven and earth to prevent the passage of this measure, and it was with regret that he declared that those people found very willing friends in the Government.

The PREMIER (Sir Newton J. Moore): As far as the deputation which waited on him was concerned, as head of the Government it was his duty to hear both sides, and the select committee as appointed would call evidence in order that as much light as possible might be thrown on the subject. That evidence would be printed, and hon. members could judge for themselves afterwards as to the character of the report of the committee.

Mr. Bath: What is the good if we never see the Bill again?

The PREMIER: As far as the Bill was concerned opportunity would be given to consider it. The deputation which waited on him consisted of men who represented various industries, and was it not the duty of the Government to hear both sides? The Government had always considered both sides when the occasion had arisen. Personally, he had gone out of his way to endeavour to assist in matters of this kind. The gentlemen who made up the deputation represented a great industry, and some of them represented small industries. It was pointed out that under the proposed measure a great injustice would be put upon some of the industries and they would not be able to carry on. There was no reason why the evidence should not be volun-

teered. With regard to the statement made that it was the desire of the Government to prevent justice being done to the workers, that was merely extravagant language often indulged in by the member who used it.

Mr. HUDSON: The rules of the House did not permit him to say on whom the responsibility lay for an attempt to delay the passage of the Bill, but there was such an attempt being made, and it had been made ever since the Bill had been first introduced to the House. As the member for West Perth had pointed out, it was first introduced in 1908, and last year it reached the Committee stage. There was no proposal then for a select committee; it was delayed for one night in the House and then quietly put on the bottom of the list and no further opportunity given for discussion. The Premier expressed the opinion last year when the Bill was in its second reading stage that it should not be pressed further so that members should have the opportunity during the recess of considering its provisions when they would be better prepared to deal with so important and far reaching a measure. Hon. members had expected to be able to place some reliance on the assurance given, but apparently that was not practicable; and it would not be proper to assume that the promise would be carried out in the future. The Premier had told the deputation it was his duty not to interfere with the measure, but to leave it to members themselves in order that the Bill might be considered from every point of view, and that the Government might take a neutral attitude in regard to the Bill. The Minister for Mines had deliberately stated—and no doubt had he had the numbers present he would have fulfilled his threat—he would be prepared to vote against the second reading. It would have been more manly on the part of those opposed to the Bill to have adopted this course rather than take the more sinister mode of disposing of it.

Mr. DRAPER: Much discussion might have been saved had no objection been taken to his giving his reasons for moving that the Bill be referred to a select committee.

Mr. Underwood: We know your reasons.

Mr. DRAPER: The member for Pilbara imagined he knew everything, but on this as on most other occasions he was merely displaying his ignorance. Although not intentionally, the member for Dundas had misled the House as to the effect of the Bill.

Mr. Hudson: Why did you not say so on the second reading?

Mr. DRAPER: Not having been in the House he had no opportunity of saying so at that stage. The Bill was entirely an experiment, and it went further than any Workers' Compensation Act introduced in any of the British dominions. The House had been told the Bill was the same as the English Act; and, again, it had been told it was the same as the New Zealand Act.

Mr. Hudson: Portions of it are identical with those Acts.

Mr. DRAPER: The hon. member meant that the part of the Bill referring to the definition of workers and one or two other provisions were the same as the English Act; while the part which related to sickness was the same as the New Zealand Act. In the English Act the definition of "worker" was much wider than in the Bill. No records were available which would serve as a guide in regard to the Bill. As an instance, if the Bill were passed anyone sending a suit of clothes to be cleaned would have to insure the man who did the work against injury in doing it. That was only one instance; there were others. In the English Act one week was provided for during which a workman could not obtain compensation. In the New Zealand Act, which passed two years after the English Act, it had been found necessary to insert a period of one week. In the Bill before the House no time whatever was provided for. With regard to sickness the hon. member relied entirely on the English Act, and sought to include in the schedule pneumonoconsosis. In the New Zealand Act, passed at the end of 1908, that disease had been specifically mentioned as applying to miners; and as a result of experience in New Zealand, within twelve months after the passing of the Act that

portion of it was expressly repealed. Was this fact not in itself significant that evidence should be adduced as to the wisdom of passing the Bill?

Mr. Hudson: Could that not be dealt with in Committee.

Mr. DRAPER: Seeing that we had not the necessary evidence it could scarcely be dealt with in Committee.

Mr. Bath: You cannot bring evidence from New Zealand.

Mr. DRAPER: The necessary evidence would be forthcoming before the select committee, to show that the ordinary rate of insurance under the existing Act before diseases were included had been 1½ per cent. on the amount of wages, whereas, after the diseases were included, the insurance had risen to, roughly, 3½ per cent. It would be found that in Kalgoorlie the amount paid for insurance after the inclusion of diseases would probably be more than doubled. Having regard to these facts, could it be said that it would be wise to pass the Bill without full and ample knowledge of what the result would be on the trade of the State?

Mr. TROY: Indulging in heroics the Premier had said the Government were desirous of securing every opinion as to the merits of the Bill, and had given that as his chief reason why the Bill should go to a select committee. Why did not the Premier and members of the Government side of the House admit the truth, namely, that the Government had not the courage to openly fight the Bill? Their intention was to shelve the Bill in order that it might never pass the House. If the Premier desired to have the opinions of hon. members on the Bill the House was the place for those opinions. He objected to Bills of this nature being shelved.

Mr. SPEAKER: That was not the point before the House. The question was as to the leaving out of the word "persons." The select committee had already been appointed.

Mr. TROY: It was to be regretted that the Speaker had not drawn the Premier's attention to that matter, and also the attention of other members who had spoken. The Government had all the information, and had had it ever since the Bill was first introduced. Deputation after deputation had approached the Premier and put forward their views in regard to the measure. The Chamber of Mines had deluged the House with articles showing the reasons why the Bill was not acceptable. He did not agree that there was any necessity for persons being called at all, because hon. members already had all the necessary information.

Mr. WALKER: If the amendment were allowed to pass hon. members would never see the Bill again this session. He agreed with the Premier that all possible information should be sought; but the Bill had been before the House for three years, and to say that this was the time to start making inquiries was absurd. The Bill had been discussed again and again. Members ought to dispense with this long inquiry which, as had been suggested, would probably include picnics to England and New Zealand and America, and the sending for persons and papers to all parts of the world. The House had sufficient information to allow the Bill to be considered in Committee without delay. He would support the amendment.

Mr. UNDERWOOD: Objection must be taken to this shirking of responsibility. If the Government were opposed to the Bill, let them vote against it. That was the only manly position they could take up. The member for West Perth had considered the Bill for three years, and had all the information, and upon that information had based his speech. In fact the hon. member endeavoured to get two opportunities for speaking against the Bill. But one must recognise it was absolutely useless for any private member on the Opposition side to get a Bill through. Worse than that, it was a waste of time and a waste of the money of the country. It was up to the Government to deal with these motions straight out, or prevent them going on the Notice Paper. The Government should either make the business all Government business, or give private members' motions a fair opportunity of being discussed, and, if they disagreed with them, vote against them so as to let the public realise what they (the Government) did think on any question. This was only an electioneering

job. Possibly, there were many members, even the member for Murray, frightened to go to their electors and say they opposed the Bill. They were not anxious to be in the position of saying they either opposed it or supported it. As a matter of fact they were anxious to kill the Bill but did not want to take the responsibility for doing so.

Mr. GEORGE: It was all tommyrot to say he was afraid to go before his electorate on this or any question. What had he done that members should have such a "set" against him, and should always go for him?

Mr. Horan: It is of no interest to us, anyhow.

Mr. GEORGE: There were some places to which he was afraid to go. He would be afraid to go to some of the bars frequented by some of those who interjected. He was at a loss to know what the last two hours had been spent on. If the amendment were carried the House would be going back on a decision already arrived at. The voice of the House had been given, and if the Opposition did not like it they must "lump" it. Their cry was that the majority should rule; and the majority having voted for a select committee, the minority must accept the voice of the House. The motion before the House was that the committee should be able to carry out the functions for which it was elected, but it could not do so unless it could call for persons and papers. When members claimed one after another from the Opposition that those appointed on the select committee must necessarily be prejudiced and incapable of giving a fair consideration to the question, there must be some reasons not so far expressed to the House, or members were not unprejudiced enough to give their reasons.

Mr. Bath: It shows you are in the bag; that is all.

Mr. Collier: At a thousand a year.

Mr. GEORGE: It was information for the hon. member that he (Mr. George) had never had to sail under any other person's name. It would make no difference if we talked all night on this question. If a matter was raised and a division was taken, the majority gave the decision; but if on every occasion there was to be this sort of debate, we would never get through our business in a year.

Mr. Swan: You did not respect the decision of the House the last time you were elected to a select committee.

Mr. GEORGE: When a division was taken it would be more fitting if the decision were accepted. The amendment was evidently to make the selection of the committee a farce, but all that could have been said in half a dozen words. We should get on with business. The throwing about of innuendoes was not conducive to carrying on the work of the country or upholding the dignity of the House.

Amendment put, and a division taken with the following result:—

Ayes	19
Noes	25
Majority against ..	6

Ayes.	
Mr. Angwin	Mr. O'Loghlen
Mr. Bath	Mr. Scaddan
Mr. Bolton	Mr. Swan
Mr. Collier	Mr. Taylor
Mr. Gourley	Mr. Troy
Mr. Holman	Mr. Underwood
Mr. Horan	Mr. Walker
Mr. Hudson	Mr. A. A. Wilson
Mr. Johnson	Mr. Heitmann
Mr. McDowall	(*Teller*).

Noes.	
Mr. Brown	Mr. Keenan
Mr. Butcher	Mr. Male
Mr. Carson	Mr. Mitchell
Mr. Cowcher	Mr. Monger
Mr. Daglish	Sir N. J. Moore
Mr. Davies	Mr. S. F. Moore
Mr. Draper	Mr. Murphy
Mr. George	Mr. Nanson
Mr. Gordon	Mr. Osborn
Mr. Gregory	Mr. Piesse
Mr. Hardwick	Mr. F. Wilson
Mr. Harper	Mr. Layman
Mr. Jacoby	(*Teller*).

Amendment thus negatived.

Mr. SCADDAN moved a further amendment—

That "fortnight" be struck out, and "week" inserted in lieu.

It was all very well for the member for Murray to raise objection. That hon. member was not very attentive to his

duties when a member of a select committee. The Government, who stated they were not desirous of putting anything in the way of opposition to the Bill, would agree to the amendment, which meant that the committee must report in a week's time instead of in a fortnight's time. It was desired that the committee should report at the earliest possible date; and if they were unable to complete their report in a week, and the House was of opinion they were making every effort, an extension of time should be granted; but all the evidence could be obtained by next Wednesday.

Amendment put and a division taken with the following result:—

Ayes	19
Noes	25
Majority against ..	6

AYES.

Mr. Angwin	Mr. O'Loghlen
Mr. Bath	Mr. Scaddan
Mr. Bolton	Mr. Swan
Mr. Collier	Mr. Taylor
Mr. Gourley	Mr. Troy
Mr. Holman	Mr. Underwood
Mr. Horan	Mr. Walker
Mr. Hudson	Mr. A. A. Wilson
Mr. Johnson	Mr. Heitmann
Mr. McDowall	*(Teller).*

NOES.

Mr. Brown	Mr. Keenan
Mr. Butcher	Mr. Male
Mr. Carson	Mr. Mitchell
Mr. Cowcher	Mr. Monger
Mr. Daglish	Sir N. J. Moore
Mr. Davies	Mr. S. F. Moore
Mr. Draper	Mr. Murphy
Mr. George	Mr. Nanson
Mr. Gordon	Mr. Osborn
Mr. Gregory	Mr. Piesse
Mr. Hardwick	Mr. F. Wilson
Mr. Harper	Mr. Layman
Mr. Jacoby	*(Teller).*

Amendment thus negatived.

Question put and passed.

BILL—TRIBUTERS'.

In Committee.

Mr. Daglish in the Chair; Mr. Walker in charge of the Bill.

Clause 1—agreed to.

Clause 2—Definition.

Mr. KEENAN: Did the word "regulations" in the clause mean regulations under the Bill or under the Mining Act?

Mr. WALKER: Under the Mining Act.

Clause passed.

Clause 3—agreed to.

Clause 4—Penalty when tributes not signed:

The MINISTER FOR MINES: When the Bill was in the second reading stage he had informed members that up to then he had not had an opportunity of going carefully through the various clauses. Evidently the chief object of the measure was to bring tributers under the Workers' Compensation Act. The Bill purported to be an amendment of the Mining Act, and one would imagine that the hon. member who brought the measure forward would have had the definite object in view of trying to better the condition of the tributers. There appeared to be nothing in the earlier clauses which would have that result. In the latter clauses——

The CHAIRMAN: The hon. member must keep to the clause under discussion.

The MINISTER FOR MINES: One would assume that there was nothing new in the measure, but under the present regulations, which had been in force for many years, not only were there the provisions mentioned in the Bill, but also many others, for the benefit of the tributers. It was provided in the regulations that any tribute entered into must be registered.

Mr. Troy: Has that been done?

The MINISTER FOR MINES: It must be done before the transaction was recognised.

Mr. Walker: Clause 7 provides for registration.

The MINISTER FOR MINES: The provisions of Clause 4 were included in the present regulations. There were also additional provisions in the regulations, and he would like to know whether the Bill was brought forward with the object of superseding the present regulations.

Mr. Walker: Clause 1 shows that the Bill is to be read with the principal Act.

The MINISTER FOR MINES: Was it desired that the provisions should refer

to those engaged in gold mining only, and that anyone working any other mineral was not to be protected by this admirable measure? If it were desired that the Bill should supersede the regulations, members should realise that the latter were much more complete than the provisions in the Bill. Provisions were made in the regulations for registration, and every tribute that would be brought within the scope of Clause 4 of the Bill would have to be considered under the regulations by the warden, who had to approve of the registration and see that certain things were specified, such as the term of the lease, the area of land, etcetera.

Mr. Taylor: The Bill will not affect the regulations.

The MINISTER FOR MINES: One would imagine that the reason for bringing forward such a measure was that the regulations were not complete. Perhaps, the hon. member in charge of the Bill would explain how the measure made the provisions for the tributer better than those that had existed for some time past. Possibly the chief motive was that the tributers could be brought under the provisions of the Workers' Compensation Act.

Mr. WALKER: The Bill only aimed at giving more definiteness to certain parts of the work of tributors, and more particularly bringing them under the Workers' Compensation Act. The Bill was to be read as a part of and not in any sense superseding or repealing the existing Mining Act and its regulations. That was set forth in Clause 1, and it made definite certain matters which had been left haphazard.

The MINISTER FOR MINES: It seemed that the only advantage over and above the present regulation was that there was going to be a specified term of six months, whereas the regulations only provided for three months. It would be a wiser course to amend the regulation. The member for Kanowna would recognise the disadvantage of having a large number of small amending Acts.

Mr. WALKER: The attention of the Minister might be drawn to the report of the select committee on sweating, dated 3rd December, 1906, and which was signed by M. F. Troy, J. Veryard, W. T. Eddy, and W. D. Johnson. Under the heading of "Tributing," the following was to be found, which covered the clause under discussion:—

> The evidence adduced in Kalgoorlie was principally confined to the tribute system of mining development. Your committee feel that although certain provisions are made in the mining regulations which, to an extent, minimise abuses, further regulations are necessary to protect the tributors from being subjected to unfair conditions. Chief amongst these is the practice of subletting. Evidence was adduced which conclusively proved that in the subletting of tributes the middleman or tributor exacts conditions which in cases justify the allegations of sweating. We find that many tribute agreements are not registered, and subtribute agreements, as far as our investigations go, have never been registered.

This clause practically carried into effect what was recommended by the sweating select committee.

Mr. TROY: Would the Minister for Mines say that he took no notice of the report of that select committee?

The Minister for Mines: Yes.

Mr. TROY: The majority of the members of that committee were members of the Ministerial side of the House. The committee arrived at their conclusions after a good deal of evidence had been taken. The fact that the Minister had not done anything in the matter showed that his interest in this question was not very great.

Clause put and passed.

Clause 5—Payment for special development work:

The MINISTER FOR MINES: The clause provided "that every tribute shall provide that all development work done at the express request or by the express order of the lessee or holder of the claim shall be paid for in cash at the current rate of wages." Would the hon. member explain what was meant by "express request, or by the express order of the lessee"? If a tribute agreement was entered into for certain development work,

would it be held that the request for that development work was the express request of the lessee?

Mr. WALKER: What was set forth in the contract was not at the express request of the lessee, inasmuch as it was an agreement between the parties to the contract. The clause meant that anything outside or during the course of the working of the tribute, expressly requested by the lessee should be paid for; it should not be construed as part and parcel of the contract, it should be something outside the contract, and should be paid for at the current rate of wages.

The MINISTER FOR MINES: The definition the hon. member had given did not meet with his (the Minister's) concurrence. So as to make it read more clearly he moved an amendment—

That in line 3 after the word "claim" the words "other than such as the tributer has by the terms of the tribute expressly agreed to" be inserted.

Mr. Walker: I will accept that.

Mr. SCADDAN: It was to be regretted that the member for Kanowna had accepted the amendment. A tribute was let for a specified period, and the lessee would take all kinds of precautions to make the tributer do as much development work as possible under the terms of the agreement. When any party of tributers did any development work in a mine that development work was not only of advantage to the tributers but of subsequent advantage to the mine, and certainly portion of the expense should be borne by the lessee. It might be that after three or four months had been occupied in development work, and two or three months remained under the agreement, that the tributers in the period in which they worked recovered just sufficient gold to recoup them for the development work that they had carried out; then the company came along and worked the particular lode which, in all probability, had been discovered by the tributers, and reaped the advantage of it. In these circumstances the company should certainly bear a portion of the expense, irrespective of whether it was in the agreement or not. We allowed too much to go into these tribute agreements, and it was astounding to find the kind of agreements which the Mines Department had accepted of recent years. They had even gone to the extent of making provision that the tributer should pay the lease rent. In one case the warden extracted a promise from a man that he would refund the deposits paid by the tributers, but he could not get the Mines Department to assist him in getting that promise fulfilled. Now the Minister proposed to make the position even worse.

Mr. HOLMAN: Every tribute which was taken benefited the person holding the ground. In Western Australia there were hundreds of acres of the best gold mining leases which were held by speculators, and that class of men he would term "boodlers," who never spent a solitary penny on those leases in their lives other than the few pounds which they expended at the beginning. Those men were parasites, and the sooner they were put out of the mining industry the better. The time had arrived when we should not only give tributers fair recompense for the development work they did, and which they did not receive any benefit from, but we should insert a clause in the Mining Act to prevent tributers from fulfilling the labour covenants. Then we would do away with a good many of those parasites who lived on the work of the tributers who, on the other hand, had done so much to open up the back country. He was sorry the member for Kanowna, who had introduced the measure, should be willing to agree to the amendment.

Mr. WALKER: Perhaps the clause and the amendment were a little bit misunderstood. There was nothing to prevent people entering into a contract. What was agreed upon under a contract was a matter between the parties, the lessee and the tributer, and this could not be circumscribed or limited by legislative enactment. The point was that the moment the tribute was taken there should be no insistence upon developmental work without its being paid for. We could not prevent the contracting parties agreeing upon the terms between themselves. How was it possible by Act of Parliament to prevent people coming to an agreement in regard to the working of a tribute.

Mr. Scaddan: You could refuse to register.

Mr. WALKER: A certain amount of developmental work was inevitable under the contract. He was inclined to accept the amendment, only on the score that it was the original agreement between the two parties. Everything done at the express request of the lessee should be paid for as developmental work.

Mr. TROY: The amendment would provide a lever by which the owner of a mine might force the tributer into unfair conditions. The amendment looked innocent enough, but he knew of his experience that many men, owing to their having dependents upon them, were compelled to take tributes no matter how vicious the terms might be. Unfortunately this sort of thing happened only too frequently, and these men would be forced into unfair conditions through the operation of the amendement. There was in the vicinity of Kalgoorlie a notorious character, a man named Griffiths, well known to members of the House, who had held leases for years, never paying any rent other than what he got from the tributers. Such men as Griffiths would be well served by the amendment. It was the tributers who were really developing the mining industry, and frequently when they had done the necessary developmental work their tributes were closed down on them.

Mr. JOHNSON: The Committee should not agree to the amendment. If, as stated, there was no harm in the aemndment then the clause was useless. The amendment would be interpreted as an invitation to the parties to contract themselves out of the provisions of the measure.

The MINISTER FOR MINES: Members were wrong in saying the object of the amendment was to defeat the purpose of the clause. The member for Kanowna desired that development work other than that mentioned in the tribute agreement should be paid for at the current rate of wages, and the amendment was to make it clear there should be no mistake in that regard. It merely carried out the object of the member for Kanowna. It might be possible to go further in regard to development work under tribute, but it was necessary to have something clear and concise. It was necessary to give the tributer more protection than was given him in the past. The object of the amendment was to make the clause perfectly clear.

Mr. HARPER: It was pleasing indeed that the member for Kanowna had agreed to the amendment, which was in the interests of the tributer. No Act of Parliament could come up to what was required by tributers. Tributing was a most speculative undertaking. Tributers were experienced miners as a rule, and they often knew more about the mines in which they worked than the management of those mines, and they often made successes. That being the case, the less done by Act of Parliament in regard to tributing the better it was in the interests of tributers. Tributers had made comparatively large fortunes in many parts of Australia, though unfortunately it might not have been the case in Western Australia.

Mr. SCADDAN: Apparently the Committee were going to accept the amendment, and it would mean a serious blow to the Bill and to tributers generally. As he intended to move an amendment to the next clause it would be well to have progress reported. It would not do to rush things and discover afterwards we were doing a lot of harm.

Mr. WALKER: It would be as well to report progress.

Progress reported.

House adjourned at 10.48 p.m.