

who will be responsible—the governing body or this House?

THE ATTORNEY GENERAL replied there would be no obligation on the part of the country—or in other words on the part of the Legislature—to pay more than stipulated in the Bill, namely, £700 for the first year, £600 for the second, £500 for the third, and, afterwards, a sum equal to double the school fees. Should the school not prove a financial success it was of course possible for the governors to make an appeal *ad misericordiam* to the Legislature, but there was no obligation on the part of the Council beyond the stipulated grant-in-aid.

The clause was then agreed to.

Clause 6.—“Governors to keep accounts “and submit to audit.”

THE ATTORNEY GENERAL moved an amendment, providing that the governing body shall also make an annual report to His Excellency the Governor, showing the condition and prospects of the school, and that such report shall be laid on the table of the House.

Agreed to, and clause, as amended, adopted.

Preamble:

THE ATTORNEY GENERAL said the select committee had recommended the advisability of the Bill showing more clearly than it did the sort of education which it was proposed should be given at the school, and thought that this could be sufficiently done by saying in the preamble that the school was to be established for the purpose of giving to boys an education similar to that given in the public schools in England. Bearing in mind Lord Carnarvon's suggestion as to the desirability of exercising caution in introducing, in the first instance, studies which are not likely to be attended with practical advantage in a local career, it had occurred to him since drawing up the report of the select committee that it might lead to misconception if it were proposed that the school curriculum should be similar to that of the public schools in England, and that the governors might thereby be led to give greater prominence than desirable to the study of the classics. He now, therefore, proposed that the class of education to be given in the proposed school should be similar to that given in the Grammar

Schools and Advanced Schools of the neighbouring colonies.

Preamble, as amended, agreed to.  
Bill reported.

#### SLAUGHTER HOUSES BILL.

##### SECOND READING.

THE ACTING COLONIAL SECRETARY, in moving the second reading of a Bill to repeal certain Ordinances relative to slaughter-houses, said the object in view was to empower the Governor to resume, on behalf of Her Majesty the Queen, any place heretofore established as a public slaughter-house. Some years ago one of these slaughter-houses was erected at Claisebrook, and the building was no longer available for slaughtering purposes, for it was the intention of the Government, in pursuance of a vote passed by the House last session, to appropriate the land surrounding the slaughter-house for the purposes of sericulture and as a recreation ground. The main object of the Bill was to empower the Governor to do so.

Bill read a second time.

Bill committed.

THE CHAIRMAN OF COMMITTEES reported that the committee had gone through the Bill, and agreed to the same, without amendment.

#### LEGISLATIVE COUNCIL,

*Monday, 11th September, 1876.*

Appropriation Bill: first reading—Dog Bill: message from His Excellency the Governor; in committee.

##### APPROPRIATION BILL.

THE ACTING COLONIAL SECRETARY, in accordance with notice, moved, The first reading of a Bill to appropriate the sum of £153,225 18s. 8d. out of the General Revenue of the Colony for the service of the year 1877.

Motion agreed to.

Bill read a first time.

THE ACTING COLONIAL SECRETARY moved, The suspension of the Standing Orders, with a view to now pass the Bill through its remaining stages.

MR. SPEAKER called attention to Standing Order No. 15, and said that as two-thirds of the members were not present, the Standing Orders could not be suspended.

Bill ordered to be read a second time on the following day.

#### DOG BILL.—MESSAGE No. 7.

THE ACTING COLONIAL SECRETARY, in accordance with notice, moved, That the House resolve itself into committee of the whole to consider the following message from His Excellency the Governor, relating to the Dog Bill:—

“The Governor returns to the Honorable the Legislative Council, with certain proposed amendments, the Bill entitled ‘An Act to amend the law relating to Dogs.’

It appears to the Governor that the clauses of the Ordinances proposed to be repealed are sufficiently stringent, and contain enactments differing but little from the proposed Act, save in the provisions relating to the slaughter of dogs.

By Ordinance 5 Vict. 14, section 5, any person may seize and detain unlicensed dogs, and, if *after notice* of such seizure, the owner does not within 24 hours claim the dog and pay the fines imposed, the dog is to be destroyed. Provision is also made for destroying all dangerous dogs, licensed or unlicensed.

By 10 Vict., 5, these enactments are extended, and it is made *lawful* for any constable, or other person authorised in writing so to do by a Justice of the Peace, to destroy any unlicensed dog, *without notice* to the owners or to any other person.

This extension was doubtless aimed at the dogs in the possession of the natives. These dogs are no doubt a source of annoyance and injury to the settlers, and it is now sought to make it obligatory on all constables to destroy them, and to enforce the obligation by the infliction of penalties: and, to remove all excuse, it is required that all licensed dogs shall wear collars.

The Governor cannot but think that there exist two very serious objections to the principle of this Bill; such principle being, as the Governor understands it, to enforce the slaughter of unlicensed dogs.

1st. The indiscriminate slaughter of all dogs without licensed collars must necessarily lead to revolting scenes in the streets of the several towns, and from such scenes the persons using the streets should be screened.

2nd. The Governor can fully understand that in many instances settlers are seriously annoyed by dogs in the possession of the natives. But he cannot think that this is sufficient to justify a law that in effect decrees, as the proposed Bill does, so great a carnage as the indiscriminate massacre of all dogs now possessed by the natives. The irritation that would result might lead to serious conflict

with these people, whose great attachment to their dogs is well known. As guardian and protector of the aboriginal race within the Colony committed to his care, it is the Governor's duty to pause before assenting to a measure which would be felt to be one of great hardship and oppression by those whose prejudices no less than whose interests he is bound to consider and respect.

The Governor therefore considers that the slaughter of unlicensed dogs should not be made obligatory; and submits by way of amendment that the words following the word ‘destroyed,’ in the fifteenth line of the 14th section, and the whole of the 18th section, be omitted, and that the following words be substituted, at foot of the aforesaid 14th section, for the words omitted in that section:—

‘And all constables and other persons are hereby authorised to destroy every such dog so found at large accordingly.’

Such a provision as this would be sufficient for the abatement of the nuisance complained of, while it would be free from the objections which the Governor entertains to the principle of the Bill as presented for his assent.

Referring to the details of the Bill, the Governor fears that the 4th section would lead to disputes between Roads Boards and Municipalities. The wording of the clause is also defective in this—The owner of every dog is required, from and after the 1st January, 1877, or within fifteen days *thereafter*, in each and every year, to register. Now, no registry in any subsequent year can possibly be within fifteen days of the 1st January, 1877. If the Governor understands correctly the intention of the framers of the clause it should be worded as follows:—

‘The owner of every dog shall, from and after the 1st day of January, in the year of Our Lord 1877, or within fifteen days thereafter, and from and after the 1st day of January, or within fifteen days thereafter, in each and every ensuing year, register such dog at the office of the Municipality within which Municipality it is intended to keep such dog; if it be not intended to keep such dog within a Municipality then such dog shall be registered at the office of the Road Board of the District within which such dog is to be kept; and if it be not intended to keep such dog within any Municipality or Road Board District, then such dog shall be registered at the Court of Petty Sessions held nearest to the place where it is intended to keep such dog. And the owner of every such dog shall, previous to any such registration, pay to the (here retain residue of Section 4, commencing with the word ‘Clerk’ in line 12.)’

In Clause 12, the words ‘and publicly announced’ should be inserted between the word ‘Municipality’ and the word ‘as,’ in the 4th line, inasmuch as the 5th Section of the Bill does not provide for the appointment, but for the notification of appointment.

Government House, Perth, 7th Sept., 1876.”

## IN COMMITTEE.

THE ACTING COLONIAL SECRETARY said His Excellency's message was so explicit that it was unnecessary to trespass on the time of the House by offering any remarks upon it. Some of the amendments proposed by the Governor were so obviously expedient and desirable that hon. members could scarcely hesitate to adopt them. His Excellency considered the latter portion of clause 14—"and all persons are hereby authorised, and all constables specially ordered and required to seize, kill, and destroy every dog found at large" (contrary to the provisions of the Act)—as well as the 18th clause, which inflicts a penalty on a constable neglecting to do so—His Excellency regarded these provisions unnecessarily severe, and did not consider it desirable that the slaughter of unlicensed dogs should thus be made obligatory. It was believed that the mere authorisation to destroy these dogs would be sufficient for the abatement of the nuisance complained of. Moreover, it seemed inconsistent to His Excellency that, while according to the 14th clause it was rendered necessary to give twenty-four hours' notice to the owner of an unregistered dog before destroying him, according to the 18th clause no such notice was required. Strict instructions would be issued to the police to carry out the provisions of the existing Ordinances dealing with unlicensed dogs, and he believed this would result in the abatement of what the framers and supporters of the Bill principally aimed at—the natives' dog nuisance. Commending His Excellency's message to the favorable consideration of the committee, he would content himself by simply moving the adoption of the following address in reply:—

"MAY IT PLEASE YOUR EXCELLENCY,—

The Humble Address of the Legislative Council of Western Australia. SHREWETH:

That this Council has considered the Bill intitled 'An Act to amend the law relating to Dogs,' with the amendments proposed by Your Excellency to be made therein, and beg to signify herewith that they agree to Your Excellency's suggestion that Section 4 should be amended by striking out the first eleven lines thereof, and by inserting in lieu thereof the words suggested by Your Excellency, viz.:

'The owner of every dog shall, from and after the 1st day of January, in the year of

Our Lord 1877, or within fifteen days thereafter; and from and after the 1st day of January, or within fifteen days thereafter, in each and every ensuing year, register such dog at the office of the Municipality within which Municipality it is intended to keep such dog; if it be not intended to keep such dog within a Municipality then such dog shall be registered at the office of the Road Board of the District within which such dog is to be kept; and if it be not intended to keep such dog within any Municipality or Road Board District, then such dog shall be registered at the Court of Petty Sessions held nearest to the place where it is intended to keep such dog. And the owner of every such dog shall, previous to any such registration, pay'

They further agree that in Clause 12, the words 'and publicly announced' should be inserted between the word 'Municipality' and the word 'as,' in the 4th line, inasmuch as the 5th Section of the Bill does not provide for the appointment, but for the notification of appointment.

They further agree that the words following the word 'destroyed,' in line 15, Section 14, be struck out, and the words 'and all constables and other persons are hereby authorised to destroy every such dog so found at large accordingly' be added after the said word 'destroyed.'

They further agree that Clause 18 should be omitted."

MR. STEERE said, before proceeding to discuss His Excellency's message, he wished to point out what he considered unfairness on the part of the Governor, in keeping the Bill under review for about a fortnight after its third reading without communicating to the House the objections he entertained towards its provisions, and now, when most of the country members—who were chiefly interested in the measure—had left town, returning it to the House with proposed amendments which altered the whole scope of the Bill. His Excellency stated in his message that the principle of the Bill differed but little from the existing Ordinances. He begged leave to differ from His Excellency on that point. The main features of the present Bill were so far novel that the fees accruing from the registration of dogs were to be applied in future to the destruction of unlicensed dogs, whether native or otherwise, under the direction of certain local bodies, and that all registered dogs should wear collars. No such provisions were made in any Ordinance now in force. He would also like to offer a few remarks with regard to another objectionable practice which appeared to be growing up under

the present constitution—if he might so call it. He alluded to the practice of Bills, after receiving due consideration and deliberation in their passage through their various stages in that House, being again reconsidered and discussed by the Governor in Executive Council, and sent back with amendments affecting not merely the principle of the measures, but their very details. This seemed to him quite a novel practice, and altogether foreign and contrary to the spirit of the constitution, and it was one which had never been adopted until the present session. He had been surprised to listen to what had fallen from the hon. the Acting Colonial Secretary, in support of His Excellency's contention that the mere authorisation to destroy dogs—without rendering their destruction obligatory—would answer every purpose the framers and supporters of the Bill had in view. Why, the hon. gentleman had told him half a dozen times in the course of the present session that, unless the provisions of the Bill in this respect were made compulsory, the Bill would be of no use at all. Yet, now, he had the inconsistency to state that he believed a permissive enactment would result in the abatement of the nuisance sought to be remedied. It was true that under existing Ordinances the police were "authorised" to destroy unlicensed dogs, but did they do so? No. Nor would they ever do so, until it was rendered obligatory on their part. He had not been at all surprised,—when His Excellency's message, depicting the revolting scenes likely to be witnessed in the streets consequent upon the indiscriminate slaughter of unlicensed dogs under the provisions of the Act, was read to the House,—that hon. gentlemen found it impossible to restrain their risible faculties. It was somewhat singular that no such revolting scenes had ever harrowed the feelings of "persons using the streets" in the neighbouring colonies, where similar enactments were in operation. Such objections to the provisions of the Bill were simply ludicrous.

MR. PADBURY said that when the hon. member for Wellington introduced the Bill, the notion could never have entered his head that the police should, to the terror of passers-by, take out their revolvers and shoot every dog they saw in the streets infringing the provisions of

the Bill. He (Mr. Padbury) did not think His Excellency knew so much about the dogs of natives in the bush as some hon. members did, and he was quite sure, on the other hand, that the hon. the Acting Colonial Secretary quite agreed with himself (Mr. Padbury) and the hon. member for Wellington, as to the nuisance which these dogs are. He thought it was the duty of the settlers to aid and assist the police in the destruction of these dogs. They could not expect the Government to chew their food for them. At the same time, he maintained it was the duty of the Government to do all in their power to protect the settlers from the ravages of the useless mongrel dogs which now roamed about the country. It was no use giving instructions to the police to destroy them, unless care was taken to see that the instructions were strictly carried out.

THE ATTORNEY GENERAL, before proceeding to discuss the paragraphs of the proposed address, *seriatim*, craved indulgence to offer a few remarks in reply to what had fallen from the hon. member for Wellington. While regretting that the matter under consideration had not been brought forward at an earlier period of the session, he thought the House would readily acquit His Excellency of any intention to postpone it until country members had left town; all that could be said with regard to that was, that it was unfortunate hon. members who took a deep interest in the question were not present to take part in discussing it. As to the course pursued by His Excellency with reference to the Bill being contrary to the principle of the glorious constitution under which we live, hon. members should bear in mind that the Governor had a grave responsibility cast upon him with reference to the legislative measures passed by that House. The Home Government and the country looked to him to exercise careful revision of these measures—to exercise, in fact, the functions which, under a bi-cameral system of Government, appertained to the Upper House. Hon. members should also bear in mind that His Excellency was the first who had an opportunity of perusing bills in a complete form as amended in their passage through the House. In this respect His Excellency enjoyed an advantage which for some

reason or other was not enjoyed by hon. members themselves; and he did not see why, next session, this should not be altered, for when a bill was cut up a good deal in committee it was very difficult to comprehend its full bearing until the amendments adopted had been printed and incorporated in the Bill. Under the practice now obtaining, His Excellency was the first who had an opportunity of considering measures in a complete shape, and to take away from him the right of exercising the functions alluded to would be to reduce him to a nonentity. The hon. member for Wellington had said that the two main principles of the Bill were the appropriation of license fees for certain purposes by local bodies, and the provision that dogs should wear collars. Now His Excellency had not touched these principles at all; but with respect to the several modifications which His Excellency recommended for adoption, he thought His Excellency had exercised a very wise discretion.

MR. STEERE: The hon. gentleman talks as if this Bill was something novel in the way of legislation. How do people in the other colonies get on with such a law in operation? They don't complain of its being a nuisance. The fact of the matter is, the hon. gentleman does not know anything all of what he is talking about, and if he had the interest of the settlers and of the Colony at large at heart, he would not have found such fault with the Bill and tried to upset it as he has done. I think it is rather factious on the part of the Government to bring forward these amendments, seeing that there is no necessity for them. I have the Victorian Act before me, and the clause in the Bill which has led to this discussion is word for word—except one or two verbal amendments by the hon. gentleman himself—the same.

THE COMMISSIONER OF CROWN LANDS maintained there was no parallelism between this Colony and Victoria. There was no other colony of the group situated as we are with respect to the native population. In Victoria they had almost ceased to exist, and were located in native reserves under the protection of the Government, where they had no necessity for dogs to worry the sheep, or to disturb the equanimity of the white settlers. The only colony that he knew

of which was in any way situated like ourselves as regards the native population was Queensland, and he was not aware that such an Act as this was in operation there. In taking Victoria for his guide, the hon. member had not at all hit on the right nail.

MR. STEERE: I don't think the hon. gentleman who has just spoken knows what he is talking about, either. I did not say that the Bill before the House was altogether the same as the Victorian Act, but only this particular section of it. The hon. gentleman says he does not know whether such an Act is in existence in Queensland; I tell him there is, and that the very words which His Excellency proposes to omit are embodied in the Queensland Act. In fact, there is no single provision included in the Bill before the House which is not in force in the other Colonies.

MR. PADBURY: If there are no natives in Victoria, there are plenty in South Australia and New South Wales. I saw a great number of them there, when visiting those colonies a short time ago, but I never saw a native with a dog in his possession.

MR. CROWTHER said the object of the Bill was to get rid of the useless curs which swarmed the country districts, to the great loss of the settlers, and to give the sheep-farmer a chance to live. These dogs were kept by the natives to worry sheep, and not for the purpose of assisting them to earn a subsistence. So long as it was simply a matter of duty on the part of policemen to destroy these dogs, they would simply tell the natives not to bring them into town; but this would in no way abate the nuisance in the country districts.

THE ATTORNEY GENERAL moved, That the address in reply to His Excellency's message be considered paragraph by paragraph.

Agreed to.

Paragraph 1—adopted.

Paragraph 2:

THE ATTORNEY GENERAL moved, as an amendment, That the following words be struck out,—“inasmuch as the 5th section of the Bill does not provide for the appointment, but for the notification of appointment.”

MR. STEERE said the motion was one of those hypercritical amendments

which the hon. gentleman had delighted in, during the discussion upon the Bill. It was altogether unnecessary, but he had no objection to it.

Amendment adopted, and paragraph agreed to.

Paragraph 3:

MR. STEERE moved, That this paragraph of the address in reply be struck out, and the following words inserted in lieu thereof:—"As regards Your Excellency's suggestion to substitute certain words for the last paragraph of section 14, they do not agree; though they think that, if it be considered too rigorous to oblige all persons and all constables to destroy unregistered dogs, it might still be rendered obligatory on all constables specially ordered in writing by a Justice of the Peace to do so."

THE ATTORNEY GENERAL: I do not think it is competent for the hon. member to bring forward any such proposition as this. We have a plain duty to perform,—either to agree to the amendments suggested by His Excellency or to disagree with them. We cannot say we agree with this proposition and that, provided Your Excellency make such and such further amendments.

MR. STEERE: I think it is quite competent for us to make any amendments we like. It is all very well to say, we must accept the message in its entirety, or reject it altogether; but I am not going to have it thrust down my throat in that way. I maintain that we may accept portions of it, and express our dissent from the remainder.

THE ATTORNEY GENERAL: I agree with that; but we cannot make any further alteration in the Bill. There are four paragraphs in the message; we may agree to the adoption of one or of two, or of three paragraphs, and disagree as to the rest, but we cannot propose any fresh amendments in the Bill.

MR. STEERE: I am not making any fresh amendments in the Bill: I merely propose to make an amendment in the Governor's message.

THE ATTORNEY GENERAL: I contend it is not competent for the hon. member to do any such thing. Under our present constitution, His Excellency occupies a position with regard to this Council analogous to the position of the House of Lords towards the House of

Commons. When the House of Lords' bills are returned from the Commons they must be returned without any amendments thereto, and all the Commons bills returned therefrom with the Lords' amendments thereto must be agreed to without any amendment, or rejected altogether. It is not competent for the House of Commons to meddle with the amendments agreed to by the Lords. In the same way, I maintain it is not within the province of this House to propose any amendment upon amendments submitted by the Governor to the House by message.

MR. STEERE: Bills amended in the House of Lords are returned to the Commons, and there agreed to or altered. Why, the hon. gentleman himself has made an amendment in the previous paragraph.

THE ATTORNEY GENERAL: That was only in the proposed address in reply to His Excellency's message, and it in no way affected the meaning of the amendments proposed by the Governor.

MR. STEERE: I think, from a common sense point of view, the House should be allowed to make these amendments. We may not be able to agree to the very words of His Excellency's message, and surely it is competent for us to propose such a modification as would be acceptable to His Excellency himself, as I believe this would be.

THE COMMISSIONER OF CROWN LANDS: I think we might say, "we agree with so much of your Excellency's amendments as recommend this, but we do not agree with your other amendments for this reason"—and then introduce the words which set forth the cause of disagreement.

THE ATTORNEY GENERAL: I think so too.

MR. STEERE: When the two Houses of Parliament at home cannot agree, either House may demand a conference with a view to reconcile differences. Perhaps I had better not proceed any further with this amendment to-night, and confer with His Excellency to-morrow, and see whether our views cannot be made to accord. Unless these words which I propose to add—with reference to rendering it obligatory upon constables specially ordered by a Justice of the Peace to destroy unregistered dogs, to do

so—unless this condition is accepted by His Excellency, I would sooner see the Bill thrown out altogether, for I think it would be utterly worthless.

The committee divided (*vide* "Votes and Proceedings," p. 127), and there being an equal number for the amendment and against it,

THE CHAIRMAN OF COMMITTEES gave his casting vote with the Ayes, and the amendment was therefore adopted, and the paragraph, as amended, agreed to.

Paragraph 4:

MR. STEERE moved, That all the words after the word "that" in the first line, be struck out, and that the following words be inserted in lieu thereof: "Clause 18 should not be struck out, but they are willing to insert the words 'when specially ordered in writing so to do by a Justice of the Peace,' between the words 'constable' and 'shall' in the first line."

Committee divided; votes equal (*vide* "Votes and Proceedings," p. 127).

THE CHAIRMAN OF COMMITTEES gave his casting voice with the Ayes, and the amendment was therefore carried.

Paragraph, as amended, agreed to.

Resolution reported.

## LEGISLATIVE COUNCIL,

*Tuesday, 12th September, 1876.*

Duty on Transfer of Land Bill; second reading; in committee. Dog Bill: message from His Excellency the Governor; in committee.

### DUTY ON TRANSFER OF LAND BILL.

#### SECOND READING.

MR. BURT, in moving the second reading of a Bill to enforce the payment of duty on the transfer of land brought under the operation of "The Transfer of Land Act, 1874," in the same manner as duty was chargeable under the system of common law conveyance, said the House

was already in possession of the grounds upon which the Bill had been brought forward, and he therefore need not detain the House by any further explanation of the principle of the Bill. The object of the Bill was very clearly set out in the preamble, which, in fact, might be said to embody the main argument in favor of the introduction of the measure. The Bill merely sought to empower the Registrar of Land Titles to levy and collect—in addition to the fee for registering a transfer—a transfer duty of £1 for every £100 of the consideration for such transfer. This was provided for in the first clause of the Bill. The second clause inflicted a penalty of £50 upon the Registrar for neglecting to collect the transfer duty, and the third clause provided that the value of the consideration to be paid in respect of the transfer shall be ascertained by oath of the parties, such oath to be administered by the Registrar. There was a penalty of £50, in addition to five times the amount of the excess of duty which would be legitimately chargeable, for any false statements. The fourth and last clause provided how the penalties shall be enforced and recovered, and the moneys received dealt with. These were the provisions of the Bill, the second reading of which he now begged to move.

MR. RANDELL asked whether the payment in respect of the assurance fund would be collected by the Registrar of Land Titles, in addition to the transfer duty; also, whether any person who did not wish to sell his land, but merely bring it under the operation of the Act, would have to pay the proposed duty.

MR. BURT said the assurance fund would still be payable as at present. As to the duty, that, of course, would only be payable when the land was actually transferred from one person to another, and upon the value of the consideration paid for the transfer. If there were no money consideration, there would be no duty payable.

Bill read a second time.

#### IN COMMITTEE.

Clause 1—"Registrar at Office of Titles shall, in addition to fee for registering a transfer, collect the transfer duty imposed by 5 Vict., No. 13, as amended by 38 Vict., No. 7."

Agreed to.