

business. Some allowance ought to be made for special cases such as referred to by Mr. Randell. In a subsequent portion of the Bill it was provided that contract for fees other than those in the scale was to be avoided. In the cases quoted by Mr. Randell, the contract would be avoided, and the employment broker would not be entitled to receive remuneration. Some provision should be made in the clause to provide for special cases.

Clause postponed.

Clause 16—Penalty for charging fees other than those in accordance with the scale:

Hon. G. RANDELL: The words, "or other," in line 5, were ambiguous. He moved that the clause be postponed.

Motion put; clause postponed.

Clause 17—postponed.

Clause 18—Application book to be kept.

Hon. G. RANDELL: Many applications were made to employment brokers which were not accepted. Was it intended that these should be entered in the book?

The COLONIAL SECRETARY: If an application was made to a broker and not accepted, it need not be entered in the book.

Clause passed.

Clauses 19 to 25—agreed to.

Clause 26—Fees:

Hon. G. RANDELL: Were the fees in the Eastern States lower?

*The Colonial Secretary:* Yes.

Hon. G. RANDELL: Employment brokers here were severely treated. It was to be hoped the Government did not intend to put unnecessary restrictions on them.

Hon. C. SOMMERS: The fee for giving notice of application was only 10s. in Victoria; also the annual license was only £2. He moved an amendment—

*That the figure "5" be struck out, and "2" inserted in lieu.*

This was to reduce the annual license fee from £5 to £2. In Victoria there was no competition from a Government labour bureau such as there was here.

Hon. W. Patrick: Have we power to reduce taxation?

The CHAIRMAN: I think the hon. member is in order; at any rate I rule that the amendment is in order.

The COLONIAL SECRETARY: The licensing fee was £5 under the old Act, and had been the same since 1897. It was not objected to by the employment brokers. In fact they rather welcomed it, because it was a certain guarantee of their stability and respectability. A reduction would only tend to encourage persons not altogether desirable. The £5 fee was both a deterrent and a source of revenue we could not afford to throw away at the present time.

Hon. G. RANDELL: The fee would tend to keep a more respectable class of employment brokers. As it was in the present Act he would support the retention of the fee.

Amendment negatived; clause put and passed.

Progress reported.

#### BILL—VERMIN BOARDS.

Received from the Legislative Assembly and read a first time.

*House adjourned at 9.9 p.m.*

### Legislative Assembly,

*Tuesday, 8th December, 1908.*

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

#### PAPERS PRESENTED.

*By the Minister for Mines:* Regulations re demurrage on trucks on Government Railways.

*By the Premier :* 1, Return of cost of upkeep of Government motor car; additional information. 2, Papers relating to grant of land to Friendly Societies (ordered on motion by Mr. Foulkes).

# URGENCY MOTION--TUBERCULOSIS IN CATTLE.

## *Milk Supply.*

Mr. JACOBY: Mr. Speaker, I desire to get permission to move the adjournment of the House on an urgency motion to deal with the proposed slaughter of part of a dairy herd on Thursday next as proposed by the Central Board of Health.

Mr. SPEAKER: Will the hon. member hand up his notice in writing? It should have been in my hands prior to the House proceeding to business.

Mr. Jacoby: I discussed it with you this morning.

Mr. SPEAKER: I am satisfied that this is a matter of urgency, but I desired to have the notice in writing, so that I could place it before members. I will put it to the House in the usual way.

## *Point of Order.*

Mr. WALKER: I object to the matter being put to the House unless it is in writing, because it is the province of the House to decide whether it is a matter of urgency or not. The Standing Orders provide that seven members shall rise in their places, and by so rising justify that the matter is one of urgency, but in the circumstances, unless the motion is expressed in writing, we are not in a position to judge whether it is a matter of urgency. It must be the province of the House to decide whether it is a matter of urgency, otherwise it would not be necessary for members to rise. If it be solely in the province of the Speaker to decide the point, then it is sufficient for him to put the matter straight away, but I contend it cannot be put until it is read from the Chair and the House has had an opportunity of deciding whether the matter is one of urgency.

Mr. Jacoby: What is the Standing Order?

Member: Standing Order 47A.

Mr. JACOBY: There are sufficient members in this House who will support my application. It is an oversight on my part not having put it in writing. I was not aware that it was necessary to put it in writing, and had you, Mr. Speaker, when I saw you this morning, requested me to do so, I would have done it.

*Several members :* Write it out now.

Mr. SPEAKER: The hon. member had better put it in order. In reply to the member for Kanowna I rule that the Speaker has the right to say whether a motion is a matter of urgency or not. As is prescribed by the Standing Orders, in every occasion it is necessary to put it to the House to see whether seven members rise to support the hon. member, but the Speaker has the right to rule whether it is urgent or otherwise. The member for Swan informed me to-day that he was going to move on a matter of urgency, and I thought he knew the rule, but probably it has been adopted since he was previously in Parliament.

## *Dissent from Ruling.*

Mr. WALKER: I regret to have to interrupt the business of the House, but I am compelled to move—

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

It is just as well for the matter to be once and for all settled. I know you, Mr. Speaker, have taken the view of the subject you have now expressed in your ruling. I submit that that ruling has never been given in any other Assembly. I submit in the House of Commons it is, or has been, the province of any member, as a matter of urgency, to, at any time during the sitting of the House, rise in his place and move the adjournment. I may state that the subjects are not always in these cases limited to matters of urgency. It was necessary for an hon. member to notify Mr. Speaker of his intention. It was unnecessary to ask for the approval of any hon. member in the House; he simply did it upon his own responsibility. In Australian Parliaments the rule was subjected to some abuse. In New South Wales they had a

Standing Order to prevent that abuse, something similar to the one we have adopted, excepting that they recognised, of course, the general principle prevailing in the British Parliament, that of individual liberty of members to bring any thing before the House. That limited the members in New South Wales to those who were to join with the mover in the approval of his motion to four. It was proposed here that we should have nine. Nine was the original proposal and afterwards the number was limited, upon amendment, to seven, and at that we now stand. What was the object of getting seven members to rise in their places? It was not to testify that the motion was in order; it was to justify the mover that he was right in his motion. I sincerely trust that in this matter we shall have regard to the purposes for which these motions are moved, and that we shall consider the ancient liberties of Parliament. When I speak of these, I speak of the individual liberty of members. There are motions that have to wait their regular course before they can be reached on the business paper; it is no matter whether it is a motion introduced by the Government, or in the regular course of business, or introduced in this urgent manner; all of them must be in order. The Government themselves cannot move a motion if it is out of order. It is the province of the Speaker to decide that point, and that point only. He has to decide whether a motion—when submitted from whatever source, and of whatever character—is in order. If he decides that the motion is out of order, of course it transgresses some law of Parliament or Standing Order, and then the motion, however urgent it may be, cannot be put. Having decided that a motion is in order, that is to say it has fulfilled all the formalities requisite to constitute its being in order, the Speaker's province is ended. He cannot decide then whether this matter is sufficiently urgent to be debated, although in order. That is not his province. If it were, then there would be no need of the members rising in their places: it would be simply nonsense for them to do so; absolute nonsense. What are members asked to rise in their places

for? The Speaker has decided that the motion is in order and that it is urgent, and if it is urgent and important, what are the seven members to rise in their places for? There is no object, and it reduces the Standing Order to an absolute farce.

*Mr. Jacoby:* I find that provision is in the Standing Orders.

*Mr. WALKER:* I know it is there, but it is there for a purpose. Seven members have to rise. What for? To decide a question of urgency, and if they have to decide a question of urgency they take it out of Mr. Speaker's hands. It is not left to Mr. Speaker's discretion as to whether the matter is urgent. It is argued if a member did move his motion, and the motion having been read from the Chair, if the member cannot get seven members to support him, then the motion is not of sufficient importance or of sufficient urgency to warrant the time of the House being taken up. Can any member or Speaker conceive any object of the seven members rising apart from that? An hon. member, having decided that a matter is important, submits it to the House and allows the House to say, not by a vote of the whole, but by a vote of seven members, that it is of so much importance that it should be considered there and then. So like all other motions, if in order, it is submitted for the House to act upon it, and Mr. Speaker cannot go further, and rightly so. He cannot be expected to know all the details of every motion submitted, or to be able to judge as to the urgency of every motion which any hon. member might be able to put before him. It is not to be expected of him. Nor shall it be the function of the House to impose such a duty upon him, because it may be that if not properly apprised of the subject and the details, he might prevent some matter of extreme urgency being debated and so do wrong to the country and to the House; and to provide against that there is the provision of the seven members rising, which takes the responsibility away from Mr. Speaker. Let us look back to the object of moving these adjournments of the House; the object is to ventilate subjects that will not wait, that cannot wait.

They are motions that must be moved upon the spot there and then, to prevent harm being done. Take the motion of the hon. member. It is to prevent the destruction of property, rightly or wrongly I do not know, but there is a threat to destroy the property of certain dairymen in and around this City, and if we had to go through the formalities of an ordinary motion, wrong might be done before we could take action. To enable matters of this kind to be discussed as they arise we have the power to move the adjournment of the House. Mr. Speaker is not supposed to know everything that is transpiring in the country. Some individual member may know of a certain thing and it is his duty to bring forward such a motion. In the old British Parliament he could do it without anyone standing in his place to support him; he did it as a right. Now, that right in the Colonial Parliament has been taken away, but it is to this extent retained, if he can get seven members to testify to its urgency, then Mr. Speaker and the House are bound to accept it, and the debate proceeds. If we leave it to Mr. Speaker to decide, then, of course, these motions in the cases of some speakers may cease. There may come a time when the Speaker may take partisan views, or his habits of life cause him to think lightly of some subjects as not of urgency, that may upon analysis be of the utmost importance. It is not a matter that should be left in the Speaker's hands. The motion cannot be read in that form if it is read intelligently. The Standing Order 47A reads—

"A member wishing to move 'That the House do now adjourn' under No. 47 shall first submit a written statement of the subject proposed to be discussed to the Speaker, who, if he thinks it in order, shall read it to the House; whereupon if seven members rise in their places to support it, the motion shall be proceeded with."

Here seven members have an obligation to perform, and it is to justify to the House that the motion is of sufficient urgency. That is their function after the Speaker's function has ceased. The Speaker's function is to say that the motion is in order, and that seven members

shall justify as to its urgency, when it becomes the property of the whole House. On these grounds, Mr. Speaker, I submit, your ruling, that the function of deciding that the question of urgency rests upon you, is inaccurate.

THE ATTORNEY GENERAL: I wish to point out that the hon. member has correctly represented, to a certain extent, that which the Standing Order provides. He has correctly pointed out that under a former practice in the British House of Commons any one member could rise and move a motion, "That the House do now adjourn," to enable him to discuss a matter of urgency. It seemed wise to those who framed the Standing Orders that our Parliament and other Parliaments should take away that right and to say instead, that he must also have seven other members of the Assembly who will rise with him. Before, it was in the province of a single member, whereas now it is only within the province of eight members. To that extent our rule has changed. But the very same practice must prevail as prevailed before as to the general duty of the Speaker towards the House in preventing subjects which are not of urgency suspending the business of the State. It is that duty which the Speaker discharges under the power and authority of the Standing Orders; that where provision does not otherwise obtain we are to govern our practice by the rules, forms, and practice of the House of Commons. Now if we turn to *May*—

*Mr. Taylor*: We have otherwise provided.

THE ATTORNEY GENERAL: I have pointed out that our practice and the Imperial practice is one and the same. Originally any member could rise in his place. Then it seemed wise for us to make it seven others—that he must have seven supporters. In other words we substitute eight for one. But we do not take away from the Speaker the powers and authorities he derives under our Standing Orders. The rules, forms, and practice of the House of Commons shall continue to govern our procedure. I draw the attention of hon. members to

*May*, the 11th Edition, page 361, where it is stated:—

“Considerable laxity formerly arose in debate upon questions of adjournment and although efforts were made to enforce a stricter practice it was not until the 27th November 1882 that Standing Orders 22 and 23 were passed, which restrict debate on all dilatory motions, such as motions for the adjournment of a debate, or of the House during any debate, or that the Chairman report progress, or leave the Chair, to the matter of such motion; and which forbid members who move or second any such motion, from moving or seconding a similar motion during the same debate.”

*Mr. Walker*: That has nothing to do with it.

The ATTORNEY GENERAL: I will show you that it has. The next succeeding paragraph reads:—

“The Standing Orders also empower the Speaker, or the Chairman, if he be of opinion that such dilatory motions are an abuse of the rules of the House to put forthwith the question thereon from the Chair, or to decline to propose the question thereupon to the House.”

Those Standing Orders are really only declaratory to see that the business of the House is not delayed by reasons of dilatory motions that as a matter of fact should be treated as ordinary motions. If in the opinion of the Speaker the matter is urgent he still cannot put it to the House until he gets eight hon. members thinking the same. Otherwise we say it shall not be discussed. On the other hand eight hon. members may think it a matter of urgency but if the Speaker does not think so he can rule it out.

*Mr. Holman*: It does not matter, then, if 49 hon. members think so.

The ATTORNEY GENERAL: It is open to anybody to make a motion that the ruling of the Speaker be disagreed with. If this power were not given the Speaker we might have a small number of hon. members blocking the wheel, which it would be easy to do if eight hon. members took it into their heads to concert in the matter.

*Mr. Holman*: But supposing we had two different motions on two different days; one with the Government against it and the other with the Government for it?

The ATTORNEY GENERAL: The hon. member surely does not grasp the situation. If the Government supported it and the Speaker ruled that it was not a matter of urgency he has an absolute power to rule it out. But the hon. member suggests the impossible situation of repudiating the decision of a chairman while still holding that his decision is right. I submit, Sir, that to rule other than you have indicated it to be your intention of ruling would simply mean putting it in the hands of any eight members in this House, who choose to do so, to block all public business. Because they could so arrange that each could rise in turn to support the others on a motion to adjourn the House. It is perfectly true that the practice of the British House of Commons, which is directed to obviate and prevent such an evil as that, is the one your Honour is bound to follow.

*Mr. SPEAKER*: I have already ruled, and I think I can verify my ruling in a very few words.

*Mr. Walker*: May I be allowed to reply?

*Mr. SPEAKER*: It is a matter for the House to vote upon, whether I am correct in my ruling. I venture to say the Attorney General has put the case in a nutshell much better than I could have done; because it is his profession. But when I state to hon. members the bare facts it will appeal even to the ordinary lay mind. A meeting of the Standing Orders Committee was held in September, 1906, when it was agreed to vary the practice of former years in dealing with questions of urgency. The committee in their report stated:—

“The practice of discussing matters of urgency under cover of a motion for an adjournment of the House is one of the methods adopted by the House of Commons to give opportunity for the ventilation of public questions apart from the financial and legislative business of the House. The right to initiate such discussion is by no means without

restrictions. The matter must be definite and of urgent public importance: it must not deal with the privilege or the conduct of certain officials, nor anticipate debate on matters already set down for discussion. The question whether the matter be definite and free from other disqualifications is decided, like other questions of order, by the Speaker: but the question of urgency must necessarily be a matter of opinion and, dependent on time and circumstance, is submitted to the House, the support of 40 members being necessary before discussion can proceed."

Now in our Standing Orders we provide that seven hon. members shall rise in the first instance. It is within my province to say whether it is a question of urgency or not. I then submit the motion to hon. members, who may differ from that opinion and say it is not a matter of urgency, and vote against it. I move in the ordinary way that leave be given to an hon. member to move his motion, as should have been done in this case. The hon. member told me he was going to move a motion of urgency. I did not think it was my duty to say to him that it should be submitted in writing, because in view of his long experience I took it that he would put it in that form. Also it is a matter of courtesy to acquaint the Leader of the House as well as the Speaker, and in no instance has any such motion been made in this House without acquainting the Leader of the House not only as a matter of procedure but as a matter of courtesy. I said to the hon. member that it would be only fair to acquaint the Leader of the House. He said he had already done so. In support of my ruling I will quote from *Ilbert*, page 64:—

"The questions of urgency and of importance are, in ordinary cases, for the House to decide by giving or withholding its support. But the Speaker does not allow the motion to be made if in his opinion it is not definite or the matter is obviously not important or not urgent."

May I add further that the member for Murchison sought to have a matter of

urgency discussed during last week, which in my opinion was not urgent.

*Mr. Helman*: That was a matter of privilege.

*Mr. SPEAKER*: I am here to say whether these are matters of urgency or otherwise and when it comes to a question of an hon. member's private character or anything of that nature I do not think it is either privilege or urgency: therefore I had to rule against the hon. member. I have been most liberal in my interpretation of any motion of urgency and therefore I now hold and rule most firmly. I am supported by authorities of the very best that can be found. Now in addition, the committee also decided, as has been mentioned, with regard to seven members rising. It had not been prescribed for in any other matter. It was previously ruled upon by the Speaker who would say whether it was a matter of urgency or not. But our committee of 1906 liberalised the mode of procedure and stated that seven members should rise. Now I rule that I have the right obviously to decide whether it is a matter of urgency, and that being so I have ruled that this motion is in order.

*Mr. Walker*: I dissent from your ruling. May I have the privilege of seeing the work you have quoted from?

*Mr. JACOBY*: I would like just to inform the House that the Standing Order referred to is not within my experience. It was passed by the last Parliament and I do not know that I am particularly in love with it. Because in past Parliaments we had no difficulty about these matters and have often prevented subjects being discussed which were really matters for ordinary motions. But I was not aware of the exact terms of the Standing Order until my attention was drawn to it this afternoon.

*Mr. DAGLISH*: I should like to know from the member for Kanowna whether his point of order was not in respect to whether the particulars of these motions or statements should be in writing. I was under the impression that that was the point of order raised by the hon. member.

*Mr. Taylor:* That was his first point. The second arose out of that.

*Mr. Walker:* My point is that the Speaker is not the person to decide urgency.

*Mr. BATH:* In regard to this point I find a great difficulty in deciding what the Standing Order means or what the committee intended when they framed it. It certainly is a great deal more ambiguous than the original Standing Order. I find that in the amended Standing Order—which was drafted as the result of an amendment I moved in the House—it is provided that a member wishing to move that the House do now adjourn, shall first submit a written statement of the subject proposed to be discussed to the Speaker, who if he thinks it to be in order shall read it in the House. The question hinges on what is meant by the term “in order”—whether it conforms to the Standing Orders and Rules of the House or, failing that, to the precedent of the Imperial Parliament. Standing Order 47 already provides that it must be a question of urgency.

*The Treasurer:* Unless it is a matter of urgency it would not be in order.

*Mr. BATH:* It is provided under Standing Order 47 that it must be a question of urgency. Then the amendment to the Standing Order says the Speaker must decide whether the motion is in order, whether it conforms to the rules of the House. Therefore the question is whether the committee in drafting this amendment intended Mr. Speaker to say whether it conforms to the rules of the House as to a matter of urgency and as laid down in Standing Order 47, or whether it is that the decision should rest with the seven members who rise to support the motion. The ambiguity is intensified to a great extent by the amendment, for there is no stipulation or no explanatory matter as to the reasons why they should rise in their places or for what particular purpose. The construction can be taken both ways. If we interpret it that it is in Mr. Speaker's province to say the motion shall be in order, in conformity with the rules of the House, and that his decision goes so

far as to decide on the question of urgency, I would say at once that his ruling is right; but when we have added to the Standing Order the provision that seven members must rise to support it, and there is no stipulation as to the purpose of the proposal, a different complexion might easily be placed upon it. We have to find out the interpretation placed on the Standing Order by the committee who drafted the amendment and see whether there was any discussion in the House when the proposed addition was submitted for their approval and find out what the intention of the House was with regard to it. I am quite in doubt as to what the Standing Order intended, and the point of order just taken only emphasises the ambiguity of the supplementary Standing Order with which we are dealing.

*The PREMIER:* It seems to me the whole point rests on the words “who if he thinks it in order.” That is the crux of the question. It has been pointed out by the Leader of the Opposition that Standing Order 47 really only refers to the time when the motion shall be considered. If the authority quoted by the Speaker can be accepted as correct, it is very conclusive, for it says, “The Speaker may rule the motion out of order if he thinks it obviously not urgent.” If that ruling is to be accepted it seems to me we must support the interpretation Mr. Speaker has placed upon the Standing Order. As has been pointed out by the Attorney General if any other conclusion were arrived at, it would be possible for seven members each day the House met to take charge of the business. According to the interpretation of the member for Kanowna the Standing Order means that it is left in the hands of seven members to say whether the motion is urgent or not. My view is that Mr. Speaker having decided the matter is one of urgency, seven members rising in their places confirm the decision he has arrived at. If seven members do not rise then it is very apparent the House does not consider the question one of urgency.

*Mr. HUDSON:* I confess that the interpretation of the Standing Order and

its amendment presents a difficulty. Standing Order 47 provides:—

“A motion that the House do now adjourn for the purpose of debating some matter of urgency can only be made after petitions have been presented and notice of questions and motions given, and before the business of the day is proceeded with; but only the matter in respect of which such motion is made can be debated, and not more than one such motion may be made upon the same day.”

There are two aspects. One is that it must be a matter of urgency. It is provided also that the time at which a man shall be heard is before the business is proceeded with. In the amendment to that Standing Order it is provided that the mover shall first submit a written statement of the subject proposed to be discussed to the Speaker. I take it that the object of the written statement is, not to determine the urgency, but to determine whether or not the motion is in order so that the limits of the debate may be defined by the Speaker under the provisions of Standing Order 47. It is the duty of the Speaker, if he thinks the motion is in order and complies with the rules of the House and also, as was suggested by the quotation cited by Mr. Speaker when giving his ruling, does not infringe any rule, is not a reflection on any member, and is not already appearing as a motion on the Notice Paper or something of that kind, to submit it. But I cannot bring my mind to the belief that it was intended that a matter of urgency is a matter of order. Those two propositions would have to coincide in order to give Mr. Speaker the opportunity, or the right, to say whether the subject matter was one of urgency or not. I admit there is a difficulty in the matter and the solution I see is this, that if it is entirely within the province of Mr. Speaker to say that the matter is urgent or not, the rising of seven members to support the motion which the Speaker has determined is in order is useless. It would be useless if the Speaker had full power and control of the matter of urgency, but if he has not there is reason for finding the words in the supplementary Standing

Order. I must confess that, as the Leader of the Opposition has said, the whole thing is ambiguous and I see great difficulty in determining it.

Mr. BUTCHER: I think we have drifted back to the original question. The member for Kanowna (Mr. Walker) was absolutely correct in his contention in the first instance. His objection was to the effect that Mr. Speaker was submitting the motion to the House without first receiving it in writing from the member for Swan. We have got away from that question, for we have now reached the one as to whether a question of urgency is to be decided by the Speaker, or by the mere fact that seven members rise in their places in the House to support the motion. I believe Mr. Speaker now has the motion in writing before him, and I would suggest that in order to save the time of the House, he should leave the subsequent question in abeyance and let seven members in addition to the mover, rise in their places or allow the House to decide whether the question is one of urgency or not. We will by that means save considerable time, and we should allow the other question to be decided later on.

Mr. TAYLOR: I have listened to the arguments advanced by the Attorney General and the Premier in reference to the reading of Standing Order 47A. I must confess that before the new Standing Order was brought into force we had some difficulty for many years in deciding this very point; but I think it will be found from the debates that took place when this new Standing Order was submitted to the House that it was intended first that the member should submit in writing his motion to Mr. Speaker who would then see whether it was in order and in conformity with the rules of the House. His duty, however, was there to cease; for, after he had read the motion to the House, he would have to submit the motion as an urgency one if seven members rose in their places. That was the intention of members when they supported the amended Standing Order and that should be the ruling given in the present instance. In my opinion the only interpretation of the amended

Standing Order is that all that is necessary to show urgency is that seven members should rise in their places.

*Mr. Butcher:* After the Speaker has decided it is a question of urgency.

*Mr. TAYLOR:* No; all the Speaker has to decide, when the motion is submitted to him in writing, is that it is in order and does not clash with any of the rules of the House. The urgency question rests entirely with the House, with the seven members who support the mover of the motion. If members look up the debate when the question was being discussed by the House they will find that was the understanding placed upon the new Standing Order. The argument of the Attorney General and the Premier that eight members could come here every afternoon and stop the business of the country is absurd, for the House would not stand such a procedure, and the Standing Orders Committee would very soon bring into force a new Standing Order which would prevent a recurrence of any such position as that. Our Standing Orders are always made to meet cases as they arise. The onus of the urgency rests in the first instance with the hon. member who moves the motion and then with the seven members who rise in their places to support him. The question as to whether a motion is urgent or not has not to be decided by the Speaker, for all he has to rule is that it is in order. If he rules it is not in order, then what he has to do is to inform the mover of the fact and tell him that he must put it in order before it can be submitted to the House. When it is worded in conformity with the rules of the House then the Speaker must read the resolution, and if seven members support it the debate must be proceeded with. I fail to see how any argument can be advanced against this definition of the Standing Order, and it is absurd to suggest that if the interpretation I say should be placed upon it is adopted, seven or eight members could each day prevent the business of the country from being proceeded with. The adoption of such tactics would soon lead to remedial measures by the Standing Orders Committee. I cannot see any ambiguity in the Standing Order, for it

merely says what it desires to convey. It has been read several times, but I will read it again. It says :—

“A member wishing to move ‘That the House do now adjourn’ under No. 47 shall first submit a written statement of the subject proposed to be discussed to the Speaker who, if he thinks it in order, shall read it to the House.”

That is a written statement of the subject proposed to be discussed. If it was in order the Speaker would read it from the Chair, whereupon, seven members would rise in their places, making eight with the mover, who would there and then decide as to the urgency.

*Mr. Hardwick:* Take control of the House.

*Mr. TAYLOR:* It is not taking control of the House; it is to give members an opportunity, if they believe the subject of sufficient urgency, to debate it. It is idle for members to try and twist the meaning of the Standing Order. We had only one member to rise in his place previously. If the latter portion of the Standing Order, calling upon seven members to rise in their places, is not to decide the urgency, then what have these members to decide? If the Speaker decides the urgency, as in the first section of this Standing Order, as well as whether the motion is in order, there is no necessity for seven members to rise in their places. What would the seven members rise for but to indicate the urgency of the motion, having heard it read from the Chair and knowing that Mr. Speaker had already decided that it was in order. That it is in order is his function, and the urgency is the function of the seven members, together with the member who moves the motion. While I am with the member for Kanowna that his point of order that the motion should be submitted in writing is practically correct, still the position is altered now, and that is not the point which we are called on to decide. Mr. Speaker has given his ruling, the member has dissented from that ruling, and we are now discussing it. Had we decided on the first point there would have been no two opinions according to the reading of the Standing Order. We know what happens when a Chairman's

ruling is dissented from. As far as the remarks of the member for Gascoyne are concerned, the reading of the motion from the Chair and the deciding of, they cannot be accepted by the House.

Mr. DAGLISH : I intend to take a little time in saying a word or two on this question. It has to be borne in mind that though there is a certain amount of ambiguity of wording in the Standing Order 47A taken by itself, the Standing Order is really submitted as an addendum to Standing Order 47, and must be read entirely in connection with, and as an addendum to, that Standing Order. It was in that light that it was dealt with by the committee, rather elaborating the Standing Order that then existed in regard to motions for adjournment. But there is an attempt to construe the phrase which the member for Brown Hill rightly indicates may relate to Standing Order 47 as relating to every Standing Order in the book except 47. The words "in order" surely relate as much to Standing Order 47 as they relate to any other Standing Order. The Speaker has to satisfy himself that the motion is in order. We were, as I say, adding something to Standing Order 47 when it was submitted to the House and passed by the House, and under 47 no motion for adjournment is in order unless on a matter of urgency, and the first province of the Speaker, to whom the motion for adjournment is submitted, is to satisfy himself as to the urgency of the matter, and if it fail in that very first point it is entirely out of order, and cannot be submitted to the House at all. Members are really contending that the words "in order" have an entirely different interpretation in their relation to Standing Order 47, and members say that the Speaker has to satisfy himself that the proposition is in order as far as all the other Standing Orders are concerned except the one to which this specifically relates and that has to be passed by. The Speaker must not deal with the motion so far as that Standing Order 47—to which 47 particularly relates—is concerned. It is asked why the seven members should stand up to support the discussion of this motion for adjournment after the Speaker has already ruled that

it is urgent. My reply to that is that there may be many questions urgent so far as the matter of time is concerned, from a discussion of which in Parliament no particular advantage can follow. There may be matters of no great public moment, there may be matters of which it would be inadvisable for the time of Parliament to be taken up with, and in order therefore, after the Speaker has once decided that the motion to adjourn is in order, it is necessary for certain members to certify as to the importance of the question on which the adjournment is moved. And the Speaker has full power, in my opinion, under Standing Order 47, to satisfy himself as to the urgency of the matter, but he has no right whatever to express an opinion as to the importance of it. He has no right to object to any member submitting a motion to adjourn on any question that he (the Speaker) may think is trivial because it is trivial, but members have a right to object to the time of the House being taken up in discussing mere trivialities, and that power to object is given by the requirement that at least seven members must certify, if a member proposes to move as a matter of importance, that it is worth the time of the House to consider. That, at all events, as far as I can read it, is the intention of these two Standing Orders. Standing Order 47A is intended to give the Speaker power to satisfy himself before submitting it to the House in pursuance of Standing Order 47. If 47A is not an addendum to 47, and if these words "in order" do not relate specifically to the question of urgency, it would be a mere absurdity to put in 47A the requirement that the Speaker must satisfy himself that the matter is in order, because we know in regard to every motion submitted to the House it is the duty of the Speaker to satisfy himself that it is in order before it is put to the House, and this would be very unnecessary, a very superfluous phrase, "in order," if it were not intended to have a specific reference to the Standing Order it was being added to or amended by 47A. I further contend that this phrase "in order" in 47A is a specific intention to define the duties that the Speaker has to

curry out under Standing Order 47 itself. If we were to cumber every Standing Order with the duty of the Speaker in the same fashion, to simply guarantee that every matter submitted was in accordance with the ordinary Standing Orders, the rules of the House, we would be making our Standing Orders ridiculous, and this House would not have consented to make this one Standing Order ridiculous in this manner, if so specific a meaning of the nature I attribute to it was not intended. I agree with the point of order raised by the member for Kanowna in regard to the necessity of having these motions in writing; in fact, I do not think there can be any doubt whatever on that point, and after a perusal of the Standing Orders, neither do I think there can be any doubt whatever about the wording, although somewhat ambiguous in expression of the intention, of Standing Order 47A, which was to give the Speaker the power to determine the urgency; that I contend he has been given under the Standing Order.

Mr. JACOBY: It may help the House if I explain the practice that was in force previously in regard to Standing Order 47 before the amendment was made. The practice then was for the Speaker to be the sole judge as to whether a motion was of sufficient urgency to be submitted to the House. I have frequently in the olden days heard Sir James Lee Steere, in regard to questions of urgency, decide without submitting the matter to the House. He considered that the old Standing Order gave him power to decide whether the matter was of sufficient urgency, and unless he decided that it was sufficiently urgent, he did not allow it to be submitted to the House. I do not quite understand why the new Standing Order was framed, if it was not with the intention of taking the power out of the hands of the Speaker.

Mr. Bath: It used to put to the House whether the member should be allowed to proceed. I am speaking of the practice that led up to this.

Mr. JACOBY: It was never put to the House in my time, or before that.

Mr. Bath: I am speaking of the practice which led up to this new Standing Order.

Mr. JACOBY: I believe we should retain in the hands of the Speaker the power to decide the question of urgency, because he is the impartial head of the House, and from my experience, matters that are not urgent have been brought before this House. I certainly prefer the old system to the new. I do not remember that it ever worked out in an unsatisfactory manner. Whilst there seems some ambiguity in regard to the Standing Order, as to whether it actually does take away the power to decide the urgency from the Speaker, if there is that ambiguity, I prefer to retain it in favour of the old practice, leaving to the Speaker the power to decide whether the matter is of sufficient urgency to be debated by the House or not.

Mr. WALKER: I hope sincerely that this matter will be discussed apart from party bias, and on a question of reasoning and the plain meaning of words. Let me first deal with the contention of the member for Subiaco. The hon. member argued that the words "in order" used in the Standing Order would be superfluous if it did not confine itself simply to urgency; but the hon. member is well aware that there are things that regulate order altogether apart from this single question. The book from which the Speaker quoted deals with these matters of urgency in public business, and it would be interesting to read the full extract. It is a work published by the Clerk of the House of Commons for the use of members of the House. It was published in 1904 and is called the *Manual of Procedure in the Public Business of the House of Commons*, and on page 61 it says:—

"Leave to make a motion for the adjournment of the House, if made for the purpose of discussing a definite matter of urgent public importance, must be asked at an afternoon sitting, after questions, and before the Orders of the Day or Notices of Motion have been entered upon. If a member desires to make such a motion he rises in his place, says that he asks

leave to move the adjournment of the House for the purpose of discussing a definite matter of urgent public importance, and states the matter. He then hands a written statement of the matter proposed to be discussed to the Speaker, who, if he thinks it in order, reads it out."

In framing their Standing Order the Standing Orders Committee had this in front of them. It goes on to say:—

"and asks whether the member has the leave of the House. If objection is taken, the Speaker requests those members who support the motion to rise in their places, and if more than 40 members rise accordingly, the Speaker calls upon the member who has asked for the leave."

*Mr. Daglish:* Those 40 are members who support the motion just as we have seven here.

*Mr. WALKER:* Let me refer to the point and I will show that it is very necessary to have that instruction to the Speaker. It says:—

"If less than 40, but not less than ten, members rise in their places the question whether the member has leave to move the adjournment of the House may be put forthwith and determined, if necessary, by a division."

That is why it is necessary to have the support of these members, otherwise it is a matter for the whole of the House to consider. The support of 40 members places the matter beyond division.

"The right to move the adjournment of the House for the purpose of discussing a definite matter of urgency public importance is subject to restrictions."

It is here where the words "in order" come in. It is here where Mr. Speaker has to exercise his discretion, his judgment. What are the restrictions? They are given—

"1. Not more than one such motion can be made at the same sitting;

A second motion on the same evening would be out of order. The Speaker would rule it out of order.

"2. Not more than one matter can be discussed on the same motion;

3, The motion must not revive discussion on a matter which has been discussed in the same session."

It would be the Speaker's function to rule such a motion out of order.

"4, The motion must not anticipate a matter which has been previously appointed for consideration by the House, or with reference to which a notice of motion has been previously given.

"5, The motion must not raise a question of privilege; and

6, The discussion under the motion must not raise any question which, according to the rules of the House, can only be debated on a distinct motion after notice."

The Speaker has to be watchful that none of these restrictions are evaded or abused. It is his province to see that none of these restrictions apply to the motion. It is necessary that he should first decide whether the motion is in order. That is the first point—whether any of these restrictions have been ignored. If any of these restrictions appear in the motion, then the Speaker rules that the motion cannot be debated. That is the Speaker's duty. Having done that, the Speaker's purpose is ended. I am not arguing for the purpose of raising a captious point. I am endeavouring to have consistency in our rulings and in the interpretation of our Standing Orders. I have an authority which will be respected in this Assembly. I quote from the report which you, Mr. Speaker, read, and I draw particular attention to the matter of urgency. Our Standing Orders Committee reported to the House as follows:—

"The practice of discussing matters of urgency under cover of a motion for the adjournment of the House is one of the methods adopted by the House of Commons to give opportunity for the ventilation of public questions, apart from the financial and legislative business of the House. The right to initiate such discussion is by no means without restrictions. The matter must be definite and of urgent public importance: it must not deal with privilege or the conduct of certain officials, nor anticipate debate on matters al-

ready set down for discussion. The question whether the matter be definite and free from other disqualifications is decided, like other questions of order, by the Speaker"—

I want the House to believe me that I have no purpose in raising this point. It is not a party matter,

"but the question of urgency, being necessarily a matter of opinion and dependent on time and circumstance, is submitted to the House"—

That is the point I am taking. It is no invention. It is here in the report of our Standing Orders Committee and should guide the House. The report goes on to say—

"the support of forty members being necessary before the discussion can proceed. The compilers of our Standing Orders, in adopting this procedure, omitted to provide specially for the question of urgency, which was therefore left, with the others, to the Speaker. For more than ten years this course was followed without any difficulty arising, though there is reason to believe that permission to move was more than once refused. But in 1903 Sir James Lee Steere himself"—

And what higher authority has this House than that?

"felt the desirability of transferring to the House the responsibility of deciding the question of urgency, and on the 19th August of that year put the question. 'That the hon. member for Mt. Margaret have leave to move the adjournment of the House for the purpose of bringing this matter (previously submitted to the Speaker in writing) before it.' The precedent thus established has been followed ever since."

And the surprise is to hear an ex-Speaker say that it is not, and the surprise is that a departure is made by the Speaker in the Chair at the present moment. The matter in discussion was raised in 1902, and is reported in *Hansard*, Vol. XXI., page 757, as follows:—

"Mr. J. L. Nanson (Murchison): I wish to call attention to a matter of urgency; and so that I may put myself in order I propose, before resum-

ing my seat, to move the adjournment of the House.

*The Speaker:* I shall have to ask the House, first of all, whether you ought to have leave to do that.

*The Premier:* I submit the proper course would be for the hon. member to make a motion.

*The Speaker:* I gave notice during last session when some hon. member wished to take this course, that the directions laid down in *May* would have to be complied with:—

'The member who desires to make such motion, having previously delivered to the Speaker a notice, in writing, of the definite matter of urgent public importance which is to be discussed, rises in his place and asks leave to move for that purpose the adjournment of the House'

He returned therefore to the custom alluded to in this report. The question was submitted to the House. The member for Greenough (Mr. Nanson) will remember this. Now before I pass on let me mention a matter referred to by Mr. Speaker—the quotation from this little manual which says:—

"The questions of urgency and of importance are, in ordinary cases, for the House to decide by giving or withholding its support."

That is my point. The very authority quoted is my authority. Questions of urgency and of importance are in ordinary cases for the House to decide; there can be no gainsaying that; but the Speaker went on to quote again:—

"But the Speaker does not allow the motion to be made if in his opinion it is not definite or the matter is obviously not important or not urgent."

If a matter be submitted to Mr. Speaker that is manifestly or clearly of no importance whatever, it is clearly outside urgency. But mark, if it be obvious to everybody that it is an abuse and nothing more, it can come within the point of "order."

*The Premier:* Does not that give Mr. Speaker discretionary power?

Mr. WALKER: No. If the motion submitted is obviously not important or

not urgent this power is given; but questions of urgency and of importance are, in ordinary cases, for the House to decide. That is my contention. But Mr. Speaker does not allow the motion to be made if in his opinion it is not definite, or if the matter is obviously not important or not urgent. That reading has been understood by everyone who has dealt with the question. Let me refer to the time when we introduced this Standing Order to the House. We have had the opinion of Sir James Lee Steere. He gave his opinion clearly as to the advisability of transferring to the House the responsibility of deciding the question of urgency. That is an authority no member would despise. Another man capable of giving a judicial view on points of order was Mr. Illingworth. He said, when this Standing Order was under discussion—

“I am of opinion that seven would be about the correct number that would be required and should be a sufficient guarantee that the matter is a matter of urgency.”

On that occasion Mr. Daglish gave a similar opinion when the point was raised in the House. I moved the reduction of the number from seven to four. I held it would be unwise to limit discussion on very important matters that sometimes arose that were distasteful to the bulk of members, but which it was necessary to discuss. I held it might be possible that the member who might have the best right in the world to give his views might be unpopular, and might be crushed and his voice stifled: so I moved accordingly to reduce the number to four. The member for Subiaco (Mr. Daglish) said that seven would be sufficient. And on that occasion also Mr. Illingworth said—

“When this question was before the Standing Orders Committee, there was a suggestion that the number should be ten. I discussed the matter on that occasion, and suggested that the number should be seven, for the reasons that have been already named by the member for Kanowna. I think that after appointing a committee to con-

sider the question, we should do well to accept its decision, which was to recommend that seven should be the number. If a matter were sufficiently urgent, I think it would be easy for a member to get the support of seven to bring the question before the House. All that is necessary is to convince a certain number of members, seven at any rate, that the matter is sufficiently urgent to warrant the time of the House being occupied. In my opinion, we shall do well to support the recommendation of the committee.”

There was not one who spoke who did not understand about the limitation of seven members having to rise on that question of urgency. If the seven have no right to decide the question of urgency, I cannot understand what they are to be asked to rise for. The object of moving the adjournment of the House is its urgency; that it will not wait. All motions if they can wait can be put upon the Notice Paper, and there is only one difference between a motion that can be put on the Notice Paper and a motion brought immediately before the House, and that difference is its urgency. The report of the Standing Orders Committee of this House dated 11th September, 1906, said—

“The matter must be definite and of urgent public importance; it must not deal with privilege or the conduct of certain officials nor anticipate debate on matters already set down for discussion. The question whether the matter be free from other disqualifications is decided, like other questions of order, by the Speaker; but the question of urgency being necessarily a matter of opinion and dependent on time and circumstance is submitted to the House, the support of forty members being necessary before the discussion can proceed.”

This is in our own report of our Standing Orders. I place great weight upon the sound judgment of the late Sir James Lee Steere. In 1903 the late Sir James Lee Steere himself felt the desirability of transferring to the House the responsibility of deciding the question of urgency. That is settled. I follow precedents,

practice built up, and I am only objecting now to a departure. The extraordinary feature in this report, expressing the desirability of removing the responsibility to decide the question of urgency from the House, is that it is signed "T. Quinlan, Chairman." What authorities am I to follow? I am humbly trying to preserve the rules as they have been laid down. If we are going to make a new departure, well let us do it in a proper form by bringing down new Standing Orders; but if we follow the Standing Orders as laid down, as explained to us in this report signed by our present Speaker on the 11th September, 1906, if we are to follow the opinion of the late Sir James Lee Steere, if we are to follow the opinion of the late Mr. Illingworth, so long Chairman of Committees here, if we are to follow the literal wording of our own Standing Order, we cannot escape it, we must conclude that the point for the Speaker to deal with is whether a motion is in order, whether it comes within the rules laid down, whether it avoids any of the disqualifications. After he has decided the point the motion is submitted to seven members who have no other function to perform.

*Mr. Jacoby:* What particular ruling of the Speaker are you disagreeing with?

*Mr. WALKER:* He maintains that the question for decision as to urgency does not rest with the House but rests with the Chair. That is the point.

*The Premier:* That was only a chance remark. That was not the question before the House.

*Mr. WALKER:* In the course of his remarks on a point of order, Mr. Speaker gave that ruling.

*The PREMIER:* There was no necessity for any ruling in this case.

*Mr. SPEAKER:* I think the hon. member is a little in error, and if he will allow me I will make myself a little clearer. I know full well the functions of the committee to which the member has referred. I happened to be chairman of it. What I maintain and still hold is that I have to decide obviously whether a motion brought forward is or is not important or urgent, and in no instance

yet have I gone beyond that. It rests with me to say whether a matter is obviously important or urgent, and I decided that on one occasion, and only on one occasion. In every other instance the matter has been of urgency, and it has been submitted to the House. For instance hon. members might take the case of the member for Cue who they will remember recently moved the adjournment of the House on an important goldfields matter. That was obviously a matter of urgency and the House dealt with it. I differ from the hon. member for Kanowna when he says that it is not within the province of the Speaker to determine whether a motion submitted is important or urgent. The Speaker determines only whether such a motion is obviously important or urgent. That is his province, and then he submits the motion to the House. The hon. member is strictly correct with regard to his contention that the seven members shall decide after the Speaker has determined this question, and when he has had the motion put before him in writing. I have the motion of the member for Swan in my hands now and I have no other duty but to submit it to the House. I repeat that the function of the Speaker is to determine whether a motion is obviously important or not.

*Mr. WALKER:* We have differed only on the question of urgency. That is the only point. The late Sir James Lee Steere himself held the desirability of transferring to the House the responsibility of deciding the question of urgency. The whole thing is there. It must be clear and transparent that if it is a frivolous and trivial motion, in that case Mr. Speaker must decide as to its importance, but if there be the slightest doubt, Mr. Speaker must submit the matter to the House.

*The Premier:* You admit discretionary power to a limited extent?

*Mr. WALKER:* No; to an obvious extent. It must be clear and patent that there is no doubt whatever about the importance of the motion. The point of urgency is referred to the House. Then of course there can be no difference of doubt arising, but when it is clear and

obvious that the thing is not urgent, it must be left with the Speaker. Under the circumstances, Mr. Speaker, I ask leave to withdraw my motion.

Motion by leave withdrawn.

(Sitting suspended from 6.10 to 7.30 p.m.)

MR. SPEAKER: The question is that leave be given to the hon. member to move the adjournment, on the subject of the proposed action of the Central Board of Health in seeking to destroy portion of the dairy herds around Perth.

Seven members having risen in their places,

MR. JACOBY (Swan) said: Some time prior to last July an agitation arose with regard to the inspection that had been carried out by the Central Board of Health of the dairy herds supplying the metropolitan area with milk. As the result of that agitation the department took some action and an inspection was commenced of the various herds of the City. Before they had inspected some dozen or so of these herds no fewer than 91 cows were condemned as the result of tests made by tuberculin. These cows were ordered to be isolated, and shortly afterwards instructions were issued by the Central Board to the effect that all of them were to be destroyed. The public were aroused in this matter, and representations were made to the Government to the effect that first of all the test applied by the Central Board of Health was not an infallible one, and was used nowhere else in Australia, whilst generally there was considerable doubt as to its efficacy. The Central Board of Health then withheld its hand, although the cows which had been tested and condemned were put on one side as being suspected of being infected with tuberculosis and were still kept isolated. Instructions were issued by the Central Board of Health that these cows were to be branded with a special brand. The legality of these instructions was tested in the Police Court, and the court held that it was illegal to give any such instructions and that the owners of the dairy herds had no power

to brand these cows in the way required, nor was there any legal authority for the Central Board to insist upon such branding. Following upon that a deputation waited upon the Premier, the Minister for Agriculture also being present. This deputation requested that whilst the Central Board of Health and the local boards of health should retain in their hands the full control over the milk sold to the public, the control of the herds themselves should be transferred to the Agricultural Department as was the case in the Eastern States. To that the Premier returned a favourable reply, and legislation, I understand, is being prepared to give effect to the decision of the Government in that respect. Just recently the owners of these dairy herds have received notices from the Central Board of Health, and it is these notices which have led to my taking the rather unusual action of asking this House to listen to an urgency motion for adjournment in order to deal with the matter. The notice I have in my hand, is dated "Central Board of Health Office, December 3rd," and is addressed to the owner of a herd of 40 cows. About 30 of these cows have been inspected and 20 of them condemned. Instructions have been issued to this owner and to others in the following terms:—

"The Central Board of Health by virtue of the powers conferred upon it by its by-laws, hereby orders and directs you to destroy the cows named hereunder, such having recently formed a portion of your dairy herd, on or before the tenth day of December, 1908, at a place and time to be notified to and approved of by an inspector. Snailly, Pet, Long Leg Jersey, Fisher, Magpie, Polly, Red Lion, Bluey, Molly, Sucky, Blacky, Fat Red Cow, Broken Horns, Needle, Star, Maggie, Roan Strawberry, Brownie. Yellow Heifer, Alligator, and Blue Bell."

The notice is signed by the secretary of the Central Board, Mr. Huelin. As a postscript to this notice, the following appears:—

"The board will agree to this order being held in abeyance if, before the

expiration of the order, you have branded your cows as required by the board. On application being made, an officer will attend at your premises with the necessary brand."

This action is taken in order to insist upon the requirements of the Central Board regarding the branding being carried out. This branding has been declared by the courts to be illegal, and these dairymen are thus required to do something which is illegal under the Brands Act. But the point is, that the whole question is in doubt as to whether these cows that have responded to the tuberculin test are really affected with the disease of tuberculosis; and confirming the doubt that has been raised regarding this I have but to mention a specific case that came under my notice. One of these condemned cows died some two months ago, after having been condemned in July last. A post mortem examination was conducted by Mr. Weir of the Stock Department and two other qualified veterinary officers, and strange to say, although that cow was one of those ordered to be destroyed in July, she was found to be absolutely free from tuberculosis. So I am informed on reliable authority.

*Mr. Angwin:* Did the Central Board want that cow killed?

*Mr. JACOBY:* Yes. We find that elsewhere in Australia, in Europe, and particularly in Denmark and other parts of the world where dairying is followed to a large extent no strict reliance is placed upon this particular test; it is only accepted as indicating a degree of suspicion that the cow re-acting to the test may be affected with the disease. That cow is watched, and if subsequent scrutiny leads to the suspicion being strengthened she is sold for the purposes of consumption as meat, or otherwise got rid of. That is the action taken in Victoria also. But here we find the board is taking extreme measures, and acting upon a test elsewhere proved not to be absolutely reliable. And all over the world as far as the protection of the health of the people is concerned, it has been brought down to this: that the real test as to whether any particular cow should

be utilised for the purpose of supplying milk food to the people is whether there is any infection in the milk itself. If there be any infection in the milk the health authorities prohibit the milk being sold. That is really the only infallible test. The reason why I have asked this House to take into consideration this question is that here we have practically the livelihood of several dairymen in this City absolutely threatened if the orders of the Central Board are to be obeyed; and no compensation of any sort is being offered. It may be argued that all they have to do is to agree to the requirements of the Central Board of Health, notwithstanding that they are illegal, and brand these cows. But I would point out that if these cows were so branded their value for selling purposes would be absolutely destroyed whether the cows are affected or not.

*Mr. Heitmann:* Did the inspector test the milk of these cows?

*Mr. JACOBY:* I am not aware whether that test has been made or not. I presume the Honorary Minister will be able to inform the House on that point. But a second test was made with the tuberculin invention some time ago. All the dairymen directly interested have applied to be informed as to what was the result of that inspection but the department have refused to give any information regarding the result. I understand that gentlemen in this State, not personally interested in this matter but who are qualified veterinary gentlemen, say that if this order of the Central Board be carried out it will mean nothing less than a ruthless destruction of property. To show that such drastic means are not necessary to protect the health of the people, I will read a report of the recent medical congress held in Melbourne. The question of milk supply and consumption was dealt with, and Dr. Seed on his return told a *West Australian* reporter that in dealing with the question of milk supply it was affirmed by congress that the milk supply should always be under municipal control. The report of the interview continues:—

"It was held by Professor Allen that the best methods of securing a pure

milk supply would be to divide the milk into three different classes. In the first class would be guaranteed milk, which would be obtained under the best possible conditions and would only contain a small number of bacteria. The second class would be known as inspected milk. This would be a good milk containing a comparatively small number of bacteria. The third class would be milk of less purity, and the opinion was held that all milk in this class should be pasteurised before being sold to the public. Professor Allen alluded to the necessity for careful distribution of all milk and the care which should be taken by the purchaser until it was consumed."

None of the dairymen object to such a system of inspection; but they do object to having their cows destroyed as a result of tests which are not scientifically demonstrated to be absolutely accurate. I want to point out the hardship which has been inflicted upon these dairymen. The cows were ordered to be isolated in July last. Since then they have had to be hand-fed and have cost approximately 10s. per week, or a total of about £11 per cow. In addition, the unfortunate owners have had to put up with the entire loss of any profit from the sale of milk from these cows. A qualified officer—unfortunately I am not in a position to mention his name—a veterinary surgeon, informed me that this is the only country in the world where the tuberculin test is recognised as final; elsewhere it is used merely as a guide to the general health of the herd. If the action of the Central Board of Health is justified on its merits, we must recollect that only a portion of the herd of the metropolitan area has been tested—a very small portion. If the remaining herds of the metropolitan area are tested in a similar way, it will mean practically that the whole milk supply of the metropolitan area will be lost, as arguing from analogy we shall find the same degree of infection through the rest of the herds, if the tuberculin test is accepted as infallible. In connection with this matter I have been in communication with the Premier asking him to introduce a measure to establish an insurance fund

to be raised on the dairy herds of the State, and that the proceeds should be devoted to compensate those owners of dairy cows whose property has to be destroyed in order to protect the general health of the public. This fund will be contributed to by the owners of dairy herds. I feel sure that the principle of such legislation will appeal to the Government and to members of this House. I also hope to see it applied, not only to the milking herds, but also later on to the orchards of the State; so that where it is necessary in the interests of the whole that the property of an individual should be destroyed, all those benefiting by the destruction should contribute towards the fund to compensate the sufferer. This is sound in principle and I hope it will soon find a place in the statute book. Why I mention it now is this, that it may be deemed necessary, even only as the result of suspicion, to destroy a certain proportion of these condemned cattle and I would ask that the unfortunate owners should be compensated, that the value of the cows should be repaid to them, considering the great loss they have been subjected to up to date. If necessary, and perhaps it would be wise to do so, the Government should treat this compensation as an advance out of the insurance fund to be subsequently established by statute. We should recognise that these men have been trading with these particular cows—most of which have been imported from the Eastern States and have been allowed to land, having passed inspection, if there is any—and have built up their businesses by the use of the animals and now we destroy the cows in order, if we can accept the testimony of the Central Board of Health authorities, to protect the people of the State. Compensation should therefore be paid to the owners. Although there may here and there be cows which should be destroyed, still I am not convinced, and in fact I am very doubtful on the matter from what I have read, that the tuberculin test can be accepted except as an indication of, rather than actual, danger.

Mr. Heitmann: How then will you find that the danger exists?

Mr. JACOBY: By inspecting the milk. If the milk is sound there can be no

danger in using it, no matter how much suspicion there is as a result of, the test. If inspection is made as elsewhere in the world, surely it should be sufficient in Western Australia. We find that even where there is some degree of unsoundness in the milk the Medical Congress recommend, not that the milk should be prevented from going into consumption, but that it should be pasteurised, subjected to a heat of, I think, 150 degrees Fahr., and then be allowed to go into use. I feel sure members will agree with me that I have justified my position of asking that the House should consider this question. If any further delay takes place interference will be of no use, for on Thursday the cows will be destroyed, and a similar campaign will be instituted among the rest of the herds in the metropolitan area. It seems as if there is some sense of disappointment on the part of the Central Board of Health through having lost the case with regard to the branding of the cattle, and it may be that this has in some sense led to their taking the present means of dealing with the owners in another way. Under the Act they have the power to insist on the destruction of the cows, but now they are saying to the dairymen—and it is an illegal action on their part—that if they will brand their cows there will be no need to destroy them. The dairymen in reply to this say that the cows may just as well be destroyed, for if once they are branded their only value will be that of their carcase.

I beg to move—

*That the House do now adjourn.*

THE HONORARY MINISTER (Hon. J. Mitchell): I am bound to admit the position is a serious one for these dairymen; but the House will agree I am sure with the contention that we have some consideration beyond the owners of the cows. There is no doubt that the cows have been tested in the only manner known and, so far as the contention of the test not being accurate is concerned, it has been proved that it is almost infallible. I think that in only one per cent. of cows has the test been known to fail. We have to consider the general

public in connection with the milk supply, and it seems to me the food of the people should be one of the first considerations of the Government. The food should be kept pure and good. Probably there is no greater source of infection than the milk supply. It is the desire of the Central Board of Health to become helpful to the dairy-owners, and it is no pleasure to them, as the hon. member suggested, to deal with the owners as they have done. There is an Act of Parliament, the Health Act of 1898, which provides the power under which the board have conducted their business. Since we admit it is necessary to have a pure milk supply, and the authorities say the only way to guarantee that is by testing the cows used to supply the metropolitan area with milk, members will surely agree that the only possible means of ascertaining whether the supply is good or not has been adopted.

*Mr. Gill:* Have they tested the milk?

THE HONORARY MINISTER: Yes, in some cases; but it would be a big order to test the milk every day from all dairies.

*Mr. Jacoby:* They do it everywhere else.

THE HONORARY MINISTER: That is hardly correct. In America they follow the system the hon. member suggested as to grading the supply. Their milk might be good or indifferent; but in this country of ours where the animals are free from disease we should guarantee the people a good supply, and the Central Board of Health are doing their duty by attempting to achieve that result. I have received telegrams from the other side to show what is done there, and it appears that they adopt just the same methods that we do here. They do not test the milk here, although there are now and then isolated tests. The Health Act provides for the supervision of the herds. That Act is in force here as in the other Australian States. Then, too, in regard to quarantining cattle. It is unfortunate that the owners should have been allowed to hold the animals in quarantine since July; but that plan was adopted for their own protection. They

were permitted to quarantine the animals because it was hoped that subsequently some of the cows would be found to be healthy. As to the branding of the cattle. It was decided in the law courts here that the Central Board of Health have no power to brand cows. The Central Board of Health clearly have the power to order the destruction of animals; but the officials told the owners of condemned cows that if they would brand them the order for their destruction would be withheld for some time. That was also done to help the owners. It is impossible for the Central Board of Health to keep a staff of men watching all the cows to see that they are not utilised for the milk supply of the metropolitan area, and they thought it would be better to allow the animals to be branded so that the milk from them should not be utilised. After branding, these cows would be turned out and there would be no occasion for further inspection. It was for this reason that they offered the owners the choice between branding and destruction. Surely that shows they want to be friendly and helpful and are not desirous of destroying the animals. If I had the choice I know I would gladly accept the offer and have the cows branded rather than destroyed. Only those cows which are obviously diseased are destroyed. Some cows which are really affected look perfectly well.

*Mr. Heitmann:* Have they tested the milk?

The HONORARY MINISTER: Yes; and germs of tuberculosis were discovered in one case, while in another the test was applied and the animal died. Where the cows are diseased sometimes the milk is pure; but surely members would not like the risk to be taken, of milk from a diseased animal going into consumption.

*Mr. Taylor:* Was it wise to give the people the choice between branding and destruction?

The HONORARY MINISTER: I think it was; and it clearly showed the desire of the Central Board to help the owners. As to the necessity for branding. It is clear that it would be impossible to keep inspectors following each of

these cows every day. The infected animals must be marked in this manner. I am prepared to admit freely that a cow that has been branded is not worth as much as a cow that has not been branded, but that is a misfortune of the trade. The owners of cows must exercise the choice, and if they do not exercise that choice the Central Board have decided that the cows must be destroyed. As to transferring the control of dairy herds from the Central Board of Health to the Agricultural Department, it is true a deputation did wait on the Colonial Secretary and asked that this transfer should take place. And the public interests will be as well protected under the Stock Department as they were under the Central Board of Health. The Stock Department have a duty to the public the same as the Health Department have, and I hope they will recognise their responsibility and act up to it.

*Mr. Taylor:* They will not be so vigilant as the Health Department.

*Mr. Jacoby:* The Central Board of Health will still have control of the milk supply.

The HONORARY MINISTER: The member for Swan referred to a cow which died some time ago after the tuberculosis test. It was proved that the cow died, but not of tuberculosis. This is one of the exceptions that go to prove the rule. This cow did respond to the test, and the member for Swan knows perfectly well that this test has to be applied when the cow is healthy, when all conditions are normal, and when the surroundings are as is usually the case. If the test is applied when the cow is suffering from some disease, then the test is not infallible and may set up inflammation. The inspectors who make the tests are supposed to be competent men and I believe they are. I believe they are quite careful in every case where they apply the test. We admit the test is not infallible, but we say it is as near to it as possible. It is the only known test that can be made, and if the same test is made all the world over, Western Australia must surely follow the example of the older countries and the countries where experience has taught them that this is the test to apply. This

test is carried out in England and America, and everywhere where there are cows, so I believe. The hon. member suggests that there should be compensation. He is very ingenious when he suggests that he will relieve the Treasury of any liability. He suggests that there should be an insurance fund, and he further says that in the case of the cows which are to be destroyed an advance could be made from the fees which could be collected in the future. He said that an advance to compensate the owners of the cows now under consideration and which the Central Board say must be destroyed next Thursday. I do not think that is at all feasible. I do not see how fees to be collected can be applied to compensate a man for cows which have been destroyed. The insurance fund is a good idea, and I think some means should be devised so that compensation could be paid to the owner of cows that are destroyed. To my mind I think it would be dangerous to adopt the system of compensation for orchards or for diseased cattle. For that reason I think the stock owners should take into consideration the suggestion of having an insurance fund in order that they may provide some means of protecting themselves from great loss in this connection. I want to tell members what they do in the Eastern States in similar circumstances. The Colonial Secretary wired to the other States and I will read to members the replies from Brisbane, Sydney, and Melbourne. The Brisbane telegram reads as follows:—

“No compensation for stock condemned under Live Stock or Slaughtering Acts, but compensation is given under Dairy Act if upon post-mortem examination stock is found free from disease. There is also power to give up to one-half of actual current values in the case of cattle slaughtered under Diseases in Stock Act, but in most cases the stock is isolated and owners are urged in their own interests to destroy, thus in many cases avoiding compensation.”

In Queensland apparently they are not restricted as in the other Eastern States. Sydney wires as follows:—

“Compensation is only paid in cases where animals after slaughter are found not to be diseased. This would be in very few cases.”

*Mr. Taylor:* What is that in reply to?

The HONORARY MINISTER: I will read you the wire which was sent directly. Melbourne wires as follows:—

“No compensation is paid to owners of diseased cattle which are slaughtered or quarantined.”

This is the wire that was sent to the Eastern States that brought the replies I have read:—

“Do you pay compensation for dairy cows destroyed under Dairy Supervision Act as a result of clinical diagnosis of tuberculous or tuberculin test reaction.—Huelin, Secretary, Central Board.”

It is perfectly evident that in Sydney and Melbourne they are very careful not to let the milk of cows that re-act to the test go into consumption. It seems we have fairly good grounds for following the custom which applies there. There are great dairy countries in the Eastern States not only supplying themselves but they also export over a million pounds worth of butter yearly. The Health Act under which the Central Board of Health control the dairy herds was passed by Parliament, and the Central Board of Health is charged with administering that Act. Apart from that, we believe the Central Board are right in protecting the public on the question of their food supply. I hope the member will see that the Central Board are acting as they should act in connection with the herds. In connection with branding the cattle they ought to be commended for doing so, and I hope the member will see that there is no need now for going further with the motion.

Mr. GORDON (Canning): I support the motion moved by the member for Swan in reference to compensation being paid for the destruction of dairy herds. The Honorary Minister must remember that in the other States the tuberculin test has been applied for many years and the herds have been subject to the test for many years, therefore the percentage

that is cast out every year under the test is very small. I think there is some blame due to the Health Department for not having gone into this matter years ago. The Health Department should have held these tests for many years past, and then we should not have had such disasters to our herds now. Here is the case of a dairyman with 40 cattle; 30 have been tested and 20 have been condemned to be killed. It is appalling to think of the distress which will be brought about in cases such as that. There are many herds that the test will have to be applied to and the hardship created amongst the dairymen will be very great. The cost of keeping these cows since July is very great, and something should be done instead of forcing these cows to be branded with a brand that will condemn them either for their carcasses or for other purposes—it is not my wish that the milk from the cows should go into consumption—there is no reason why the carcasses should not be put into consumption. The fact of cows being branded will condemn them. These cows when fattened and taken to the butcher will not bring the price that they otherwise would bring. Butchers will put their own prices on; they will say, "I do not want these cows; they are suffering from tuberculosis," and they will get them at their own price. In these cases the owners will have to submit to whatever price the buyer likes to put on the cattle. I think the Government might well buy the cows at present suffering from the disease, take them over at a fair price, put them away in one part of the State, fatten them, and then get rid of them.

Mr. Hopkins: What about using them in the refreshment room?

Mr. GORDON: I have tasted bad enough meat on Government dining cars. There is no reason why these cows should not be fattened and then put on the market without being branded. If a man gives sufficient guarantee that in a certain time these cows shall be fattened and disposed of and will produce the hide with the brand on it, there is no reason why he should not be allowed to do so without being subject to further loss.

This loss will not apply only to dairymen but to chaff merchants who supply the food for the dairy cattle. A chaff merchant told me to-day that if this action was proceeded with, half the dairymen around Perth would be insolvent, and I quite believe it.

Mr. Heitmann: Better that they should be insolvent than that our children should die.

Mr. GORDON: I am not advocating that the milk should be put into consumption. The hon. member has no consideration for the hard worker; the fact of members opposite trying to talk the motion out this afternoon shows that. These dairymen have children as well as other people and they do not want their children to die or to be starved. Here is an instance of a man with 40 cows, he loses 20. What is he going to do? After all it is not his fault, for the cows looked as healthy as any other cows. There is the case of Manning, a dairyman at South Perth, who has had a reputation of selling good milk for 20 years past. He has been supplying Parliament House for nearly the whole of that time. Twelve of his cows have been condemned. We have all been drinking tuberculosis milk. The Government should take steps and continue in the action they have taken. They should do what is being done in the Eastern States. But the department in the past have been very lax, and it is not fair that the dairymen in and around Perth should suffer the whole of the loss.

Mr. BATH (Brown Hill): Undoubtedly the matter ventilated by the member for Swan shows that under the regulations some of the dairymen have suffered a certain amount of loss owing to the action of the Central Board of Health. But after all, such a result is inseparable when we know that milk is not only a very fruitful source of infection, but that is the very infection if permitted to go unchecked or without any exercise of any authority or inspection by the Central Board of Health. it would mean that the disease, which is very serious and very prevalent, would increase tenfold; and so long as we have the source of infection in

milk supplied by dairymen to a large degree without any care being exercised on the part of the consumers whether the milk is pure, so long will it be necessary for the Central Board of Health to do the very thing against which the member for Swan is protesting. We all say we do not want infected milk distributed and consumed by the public, but the experience of the past shows that dairymen, so long as they can escape inspection, are not at all solicitous of the welfare of the community, and put this milk into consumption.

*Mr. Jacoby:* That does not apply to them all; only to one or two of them.

*Mr. BATH:* The probability is, in the circumstances that the whole have to suffer for the unscrupulous character of the few.

*Mr. Jacoby:* Why make them suffer?

*Mr. BATH:* Because there is no possible opportunity—

*Mr. Jacoby:* Test the milk.

*Mr. BATH:* The hon. member in advocating that we should test the milk must do it by the only practical means that has been suggested or, as a matter of fact, put into effect in other parts of the world, ensuring that no hardship is done to those who do their best to prevent infected milk going into consumption; and that is to establish municipal milk depôts. That seems to me the only practical way of overcoming it. It will mean that there will not be the need to destroy the herds, but all the milk must go through the depôt, and the milk from infected cows will not be allowed to go into consumption.

*Mr. Jacoby:* We would not object to that.

*Mr. BATH:* I notice the Melbourne municipal authorities have adopted the recommendation of the medical congress, I think, and have decided to establish such a thing. It seems to me the only practical solution of the difficulty.

*Mr. Jacoby:* We decided that on Wednesday.

*Mr. BATH:* I do not know whether we could rely on the municipal authorities of Perth to carry it out in a practical fashion with due regard to the health of the community, but we would have to put it in the hands of some authority who

would see that milk from infected cows was not sent into consumption; and if that were done, it would get over the difficulty of having such a large staff in the Central Board of Health, and of having heavy expense, while it would have a good effect on the consumers wherever it was brought into force. The suggestion of an insurance fund for the protection of dairymen who would be affected by the Central Board of Health, seems to me a good one. I am not conversant with the subject, and have no knowledge of the views of the dairymen on the question. After all, they are the people who have to accept the scheme, and unless it were made compulsory by Act of Parliament, they would have to be willing to provide the fund before it would be of any effect in compensating dairymen whose herds were destroyed owing to the tuberculin test. But in the circumstances the Central Board of Health, which has the duty cast on it of carrying out this work, is only fulfilling its duty by testing the herds and in the exercise of that authority by ordering that those beasts suffering from tuberculosis and reacting from tuberculin tests should be destroyed.

*Mr. HARDWICK (East Perth):* While recognising the importance of protecting the public health, I think it would also be an improvement if compensation were given to those dairymen. I have a number in my constituency, and they have been to me with numerous complaints about the treatment meted out to them by the Central Board of Health. I am rather inclined to think that the staff of the Central Board of Health, in some cases, have exceeded their duty. One thing we should endeavour to do for the dairymen adjacent to Perth is to give them some compensation. If they were to get some compensation for these cattle that were destroyed, I feel they would assist the Government, or assist in giving a pure supply of milk; but as it is at present, when a dairyman has an animal that perhaps shows some slight form of disease, he is not anxious to communicate that knowledge to the Central Board of Health, feeling sure that in the event of its happening to be tuberculosis, the ani-

mal would be destroyed. I think, in the interests of public health, it would be for the benefit of the people of the State if the Minister in charge of this department were to arrange that dairymen should get some compensation for animals that are destroyed. I do not say they should get anything near the full value of the beast, but say half, or perhaps a third. In this way we would assist in eradicating the disease, and in having these particular cases reported.

Mr. HOPKINS (Beverley): It seems to me that a large number of people engaged in the dairying industry are by no means satisfied that the cattle in question are suffering from tuberculosis; and, I think, in the circumstances this country could very well afford to take four or five of this herd, say those in the worst condition, and have them slaughtered at the abattoirs under the supervision of the Stock Department, and have a careful post-mortem examination made, and advise the House of the result. This is a peculiar country in regard to dairy cattle. I have seen some of the finest cows that have come to the State sold in the metropolitan markets at £15. As the season advances and the cows dry off, seeing that feed on the coast is £7 10s. a ton, the dairymen cannot afford to feed them and they are turned out into the bush to make the best living they can on scrub and wire grass and all kinds of indigestible fodders, to which cows from the Eastern States are altogether unaccustomed. Though local cows would probably live all right on it, it comes hard on the imported cows. Consequently I have seen cows that fetched £15 resold inside of 12 months for 50s. Now, while they are in this very low condition, probably as the result of indigestion and other complaints to which they are liable in the circumstances, if the test is applied it is quite possible the results may be obtained that Dr. Cleland and other experts say they have perceived; but I think it would have been a better course simply to request the Stock Department to take out of the herd, of which 20 have been condemned, of this bad lot,

two or three, and have them slaughtered at Robb's Jetty to demonstrate not only to the House, but to the community, that the cattle are unfit. If they are well and healthy I suppose there will be no reason for slaughtering the rest of them. After all, the dairyman is to be deeply sympathised with in any country, let alone in a country where he has to pay £7 10s. a ton for his fodder, or a country not adapted for cattle raising. That applies particularly to the district around Perth. The cattle become emaciated and low in condition when turned adrift to earn their living, and when the spring food comes along they are naturally thrown to the river frontages, and the not unnatural result of getting among marshy swamps is that they catch cold, become lungy; but in due course they make shake it off. I think that in many instances we will find that they are precisely the same as human beings. One day they suffer from colds, and in the course of a month they shake them off. I believe the Honorary Minister is desirous of being fair to all parties, and I would suggest that a couple of these cows be slaughtered. Perhaps the experiment may be extended and four may be taken, but it is not the desire of members of Parliament to see any great favour conferred on the whole community at the expense of one poor struggling dairyman. There are no dairymen in this country under any obligation to me, but I speak of men with whom I come into touch, a class of the community who practically work from three o'clock in the morning until all hours of the night. Dairying is the most thankless task to which we can put any man, and where the dairyman is catering for a metropolitan supply the conditions are more than I can explain to the House with my limited capabilities. However, I would like to see the experiment I suggest carried out by the Stock Department, so that if we have done an injustice to this particular dairyman, or this calling, I have not the slightest doubt the Honorary Minister and his colleagues will see that in every instance justice is done.

Mr. GILL (Balkatta): The hon. member has hit the nail on the head. I have had a few conversations with dairymen with regard to this matter, and I am of opinion that the trouble is that the dairymen in the metropolitan districts have no confidence in the inspectors who are attending to this particular business. In fact, I have had several instances brought under my notice where cows have been condemned by some of the health inspectors, and afterwards, when these people have gone to the trouble of getting some of the stock inspectors along, the latter have certified that the cows were absolutely healthy. I cannot say whether the statements made are correct, but they were made in good faith. With such a state of affairs, it is no wonder dairymen have no confidence in the inspectors attending to the business on behalf of the Health Department, and I am confident the dairymen around this district would be perfectly content to abide by the decision if the suggestion of the member for Beverley be carried into effect. My experience is that the dairymen have no desire to foist any milk on the public that is not fit for human consumption. They express the opinion that any cow condemned is unfit, provided the test is satisfactory, and should be destroyed. They have no desire that anyone should take milk liable to cause suffering.

Mr. Underwood: They would sell it every time if they were not caught.

Mr. GILL: I suppose it is human nature. I do not suppose any of us are exempt from that. It is the laws that keep us in order; there are many things that might be done if it were not for the laws. There is one question the member for Swan touched on, and I am sorry the Minister did not reply to it; it would have been more satisfactory had he done so. I refer to the second test made some time after July. According to the member for Swan, the result of this second test has been asked for, but no reply has been received. If that is the case, it is somewhat unsatisfactory. In fact, it is very unsatisfactory to those who have condemned cows.

I am not altogether in love with the Health Department, I candidly confess. Only the other day I was talking to one of the inspectors attending to this class of work. I heard nothing of the matter we are discussing to-night, but I mentioned this matter of inspecting cows, and he said there was great need for it. The thing had been neglected for so long that some of them had got into a bad state. But I am of opinion that the Health Department is going to the other extreme. It is undoubtedly a fact that there is a great difference of opinion between the inspectors of the Central Board of Health and the inspectors in the Stock Department, and it is right and reasonable that the Minister should give fair consideration to the appeal of the dairymen. If the cows are in bad health I think it is the duty of the department to destroy them; if they are not fit for milking purposes they are certainly not fit for the table. A cow is practically condemned as soon as you put the brand on it, and this seems to be a point that the Health Department are trying to score over the court which decided that they had no right to put a brand on the cow. As I have said, if the cows are not fit for milking they are not fit for food. Consequently I would like to see them destroyed. But before condemning them I would like the Minister to give consideration to the suggestion made by the member for Beverley which would be very satisfactory. If it is true that in one cow which was killed a few months ago there was no sign whatever of tuberculosis, this shows that there is something lacking and it is necessary that some inquiries should be made into the methods of the Health Department. I do not see what we could do in the present instance; but I hope the Minister will give the matter further consideration, and I think the dairymen will be satisfied to abide by the decision of such a test.

The HONORARY MINISTER: May I explain that some cows have been subjected to a second test because some of them had not re-acted after the first test. I understand the second test was made within a few weeks of the first, and be-

cause of that it was not of much use. I would like to explain that the trouble may be local and the general health of the cow may be good. It may be of course that such trouble is local, and the animal may be free from disease. That is why in the Eastern States they allow these cows to go into consumption. I would just like to refer to one paragraph from a report signed by the President of the Central Board of Health, Dr. Cleland, the Chief Inspector of Stock, and the Veterinary Surgeon, Mr. Crossley, who acted with the Central Board of Health. This report was made to the Colonial Secretary and reads:—

"We are of opinion that if the animals referred to in paragraph "B" were quarantined as recommended there is no reason why they should not be used for breeding purposes with certain precautions and strict surveillance. By this means the heavy loss to the State otherwise inevitable might be saved."

I would be perfectly willing if the owners so desired that several of these animals should be slaughtered in order that we may be satisfied as to the value of the test. I understand that the hon. member for Beverley asked that three or four of these cows should be slaughtered if the owners so desired. They could be slaughtered to-morrow in the presence of the chief inspector and the owner, and I think it will be found that these cows that have re-acted to the tuberculin test will be proved to be affected by the disease to some extent. We will be perfectly willing to have several of the animals slaughtered in the presence of the veterinary surgeons of the two departments. This order might be withheld, but it should not be necessary to withhold it.

*Member:* You have the power to do that.

The HONORARY MINISTER: No. We have not the power. If the owners request that this shall be done we will be found perfectly willing to do it.

Mr. ANGWIN (East Fremantle): I may say the only request made by the Central Board of Health is that the animals be branded. These cows have been isolated since July and no brand has been

used; and I cannot see how a brand is going to stop the milk from going into consumption. It is as easy to milk a cow that is branded as one that is not branded. It appears clearly to me that the Central Board of Health have acted illegally and now they are taking another step which I think the Minister should countermand. We should be quite certain that the cows are suffering from tuberculosis before we take such drastic action. How can they tell by killing one cow whether another cow is affected? You cannot tell by killing one man whether another man is suffering from any disease. The hon. member for Swan has dealt with a hardship which will take place on the 10th December unless the Minister countermands the order that has been given by the Central Board of Health, that unless 20 cows are allowed to be branded before the 10th they will be killed.

*Mr. Jacoby:* Ninety-one altogether.

Mr. ANGWIN: In my opinion the Central Board of Health have condemned these. If they brand a cow it can go about where it likes but if you do not brand it you must kill it; that is their argument. I am certainly of opinion that the Minister believes that the Central Board of Health do not know what they are doing.

Mr. JACOBY (in reply): I cannot say that I am satisfied with the attitude of the Minister for Agriculture on this question, because, considering that so many men are to be affected—and some of them absolutely ruined if this order is put in force—we might have had some promise from him to do something. What is to be the position if 91 cows are killed and any of them are found to be absolutely sound—

*Mr. Hopkins:* The Government will pay for them.

Mr. JACOBY: Will they?

*Mr. Hopkins:* Yes. Absolutely. They cannot help themselves.

*Mr. Taylor:* You will have to kill some of the officers of the department first.

Mr. JACOBY: I would like to refer to what Dr. Seed stated recently in speaking on this question of the milk supply. He said that the question of the spread of tubercular disease through milk was ex-

haustively dealt with by congress, and it was held that the danger of contracting tubercular disease in this way was very small. I submit that an authoritative expression from a scientific congress of doctors is of far more value than the opinion of the Central Board of Health, which has only one doctor on its board. This congress is competent to express an authoritative opinion, and the opinion I have just read is that which they have given. The only opportunity of having a post mortem examination of these cows is the one I referred to of two months ago. The cow in that case was found to be sound, and yet the cow was destroyed and the owner was debarred the use of it. Now why should he not be compensated?

*Mr. Hopkins:* So he should be.

*Mr. JACOBY:* But we have heard nothing from the Minister about it. I have already suggested that we should establish an insurance fund as the only way out of the difficulty. The proceeds of the stock tax could be devoted towards certain purposes. The Minister sees some difficulty in connection with putting in a retrospective provision that cows to be destroyed should be compensated for. But it is only a fair proposition, and I cannot understand my hon. friend who according to the Auditor General has shown so much resource in finding money for other expenditure, baulking on a simple thing like this that has behind it all the elements of justice. I would like the Minister to inform the House what will be his attitude on this question provided the cows that are to be slaughtered are found to be absolutely free from disease.

*Mr. Hopkins:* Pay for them.

*Mr. JACOBY:* I welcome the suggestion made by the member for Beverley that certain cows should be purchased by the Government and a certain average number taken and slaughtered. Then if it is found that a fair proportion are not affected by tuberculosis, we will have some reason for dealing with cows other than by destroying them. I hope the Minister and the Premier will take this subject into serious consideration and see whether they cannot do something effective; something that will have the effect

of preventing these men from sacrificing so many of their cows. I beg leave to withdraw the motion.

Motion by leave withdrawn.

#### BILL—VERMIN BOARDS.

Read a third time and transmitted to the Legislative Council.

#### BILL—BRIDGETOWN-WILGARRUP RAILWAY.

On motion by the Premier, report of Committee adopted.

#### BILL—HEALTH ACT AMENDMENT.

Received from the Legislative Council, and on motion by the Premier read a first time.

#### BILL—FINES AND PENALTIES APPROPRIATION.

##### *Second Reading.*

The TREASURER (Hon. Frank Wilson) in moving the second reading said: This measure is the outcome of certain action which was taken last year by the Fremantle municipality against the Government for the recovery of certain moieties of fines which had been imposed in the police court of that town. Hon. members will remember that the action was taken by the Fremantle Municipal Council. The Government defended the action, feeling that they were not justified in paying this money without the sanction of Parliament. The court decided against them and therefore they had to pay the money. And in consequence they felt bound in equity to treat all municipalities alike and refund to them the moieties accumulated since 1902 to which they were entitled.

*Mr. Taylor:* Does it amount to very much?

The TREASURER: To £4,814.

*Mr. Taylor:* Perth was the largest I suppose?

The TREASURER: No, Perth has collected its own right through. There is

an item on the Estimates this year which includes the £4,814 and provides a further sum of £1,800, representing this year's fines to be refunded to these municipalities up to the end of this month when, I hope, it will be ended by the passage of the measure I am introducing. It makes up the item to £6,614 in all. Going back into the history of this matter I may explain that prior to 1892 the fines and fees under the Police Act went, one-half to the Crown and the other half to the informer. In 1893 the succeeding year an amendment was introduced which provided that the municipality in which these offences occurred and the fines were recovered should take one-half while the other half went to the informer. This went on till 1902 when, owing to the objections held by many people to informers being paid one-half of these fines, it was abolished and the informer's half went to the Crown. In all cases in which the police were the informers one-half of the fines went to the Crown also. So the municipality got one-half and the Crown got the other half. Then it was provided—later on, but I think in the same year—by the amending of the Justices Act, repealing an old Act of 1850, that the informer should get nothing. So the intention was that the Crown should get the lot. But when this repeal came about the fact was overlooked that the fees which the Crown was deriving represented that portion which originally had gone to the informer. And although it was fully intended to introduce an amending Bill to make this clear, the practice of paying one-half to the municipalities was continued and the Crown took the other half. But the repeal of the old Justices Act I refer to really meant giving the whole of the fines to the municipalities: so that the Crown when judgment was given against it was doing wrong in retaining the half-fines which originally had gone to the informers. The city of Perth, as I have said, collected the whole of the fines right along from 1902. But none of the other towns did so until last year when Fremantle discovered that there were moneys due to that municipality and instituted the proceedings I

have mentioned, securing a verdict against the Crown which resulted in the payment of a large sum of money. And now we find that not only are the municipalities all eager for these moieties, but the Pharmaceutical Council have recently followed the example and now threaten to recover the fines collected under the Pharmacy Act. The Act provides that the fines recovered under the Pharmacy and Poisons Act shall go to the administration of that Act. But the administration consists in issuing authority to the police to take certain action to prosecute. As a matter of fact the council never takes any action itself beyond writing a note to the police.

*Mr. Taylor:* The Crown has to prosecute?

The TREASURER: The Crown prosecutes, provides the upkeep and the expenses of the police court and maintains all the machinery. Therefore the council cannot have any claim upon the fines and there cannot be the slightest argument adduced why they should receive any portion of these fines.

*Mr. Bath:* Do not the verdicts generally provide for costs?

The TREASURER: Oh yes, if they recover a verdict they get their costs.

*Mr. Draper:* If they can get them.

The TREASURER: Well, of course if there is nothing to levy on then they have to go without. But they can claim their costs just the same as can any public department.

*Mr. Bath:* But would not the State be recouped for the police in any action in which it was successful?

The TREASURER: The Attorney General tells me that the police do not get any fees for attending and prosecuting. At any rate the fact remains that the police force is largely utilised in all cases to prosecute. With regard to railways for instance, whenever there is a prosecution taken up on behalf of the railways, it is done by the Crown Law Department. The Railway Department get all their legal advice free and I am quite sure hon. members will realise that fines cannot in any sense be considered equivalent to the legal advice obtained free from the Crown Law De-

partment. And even if a man be wanted to take a case up-country on behalf of the Railway Department he is sent up by the Crown Law Department. So, in connection with the Railway Department the fines ought to go to the Crown. Again, referring to the action of municipalities I want to point out that the old Act was taken from a custom which obtains in the old country. There the municipalities support their own police force; that is, all the provincial municipalities do. They conduct their own local courts and naturally the fines go to the municipalities whatever they may be. But it is quite contrary to the custom in Australia. There is another matter which I want the House to take particular notice of. It is that the Act only provides that this moiety of the fine shall go to the municipalities in which the offences are committed and the fines recovered. So it is only the larger towns in which police courts exist which are able to claim the fines, while all the smaller municipalities, such as the hon. member for East Fremantle referred to, cannot get any portion of the fines whatever. The municipalities of Leederville, North Fremantle, Victoria Park, South Perth, North Perth, East Fremantle, Cottesloe, and such municipalities as those, where there are no courts, have no right to receive any money from fines inflicted for offences committed in their districts if the offenders are taken into the central court. In such cases the fines go to the Crown. It is inequitable that those municipalities should be deprived of the fines, even if Perth and Fremantle and other large municipalities are to receive them. Of course I say at once there is no reason why any of the municipalities should receive the fines, for they have not to bear any cost of upkeep. The police protection is in the hands of the Government, the courts have to be maintained by the State; therefore there cannot be any logical or reasonable claim to make because the municipalities happen to have in those centres a courthouse which was built by the Government. This seems to me to be the whole of the case. I may mention that in the

other States there are various methods of dealing with the question. In South Australia the municipal and district councils receive fines under special Acts, and the informers get a moiety under specific Acts. In that State this contribution is deducted from their subsidy, in proportion to the value of the ratable property, towards paying one-half of the upkeep of the police. Members therefore will see at once that the municipal and other councils in South Australia are not so well off as those in this State where nothing is subscribed towards the upkeep of the police. In Victoria the Government take all the fines and there is no provision for local authorities.

*Mr. Hudson:* The city of Melbourne and the town of Geelong are specially authorised to take fines.

The TREASURER: My information goes to show that the Government take them all.

*Mr. Hudson:* That is so, apart from the law relating to the municipalities of Melbourne and Geelong.

The TREASURER: In New South Wales the local governing bodies take the fines, as also in Queensland. In Tasmania, the Government take the fines; so it is pretty evenly divided. In two States the local bodies take them, in one State the local bodies have to contribute to the upkeep of the police; and in the other cases the Government take the fines. In my opinion the fines should certainly go to the Government. The amount represented here is some £7,000 or £8,000 per annum. Up to the present the municipalities, with the exception of the City, have not been getting their share, and therefore we are not taking away anything they have been receiving. The outside municipalities have just awoken to the fact that they are able to obtain some part of the fines and the result is that we have to distribute nearly £5,000. With what is due to the present we shall have to distribute altogether about £6,600. This sum the municipalities, with the exception of Perth, have not been in the habit of receiving until last year.

*Mr. Hudson:* How do you arrive at that amount?

The TREASURER: That is the calculation of the Crown Law Department as to the total amount. The Railway Department have been in the receipt of fines, and that sum will account for some portion of the estimated total per annum. I am not asking the House to adopt anything that will take away what municipalities—with the exception of Perth—have been receiving in the past.

*Mr. Inghin:* Kalgoorlie has had it.

The TREASURER: It is a fair thing in the circumstances as the State bears the cost of the courts, the police force and the prosecutions, and as the boards are given legal advice free, that the fines should go into the Treasury.

*Mr. Hudson:* What about the proviso?

The TREASURER: That is put in because it is necessary under the Wines, Beer and Spirit Sales Act that we should have informers. In that case one-half the fine goes to the Treasurer and one-half to the informer. If the police act as the informers the whole fine goes to the Treasury. In cases of sly-grog selling someone must be called in to assist the police. I beg to move—

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

Mr. BATH (Brown Hill): The Treasurer has made out an excellent case why certain municipalities which have not received their portion of the fines, through the fact that they did not indulge in the luxury of a police court should, by some amendment either in the existing Act or by a measure such as this, receive what they are entitled to.

*The Treasurer:* Why should they receive anything?

Mr. BATH: The Treasurer has not made out a case why the Government should appropriate the whole of the funds and the municipalities receive nothing. It seems to me that there is altogether too much centralisation of the revenue, too much desire on the part of the Treasurer—as indicated in the last few years—to take away as much as possible from the municipalities by the reduction of subsidies, by further reductions as provided for in the Estimates, and now by the proposal to go further

still and deprive them of what they are entitled to, even if they have failed—outside one or two municipalities—to apply for in the past. In those circumstances, while perhaps I would not so strenuously object to the Crown taking a moiety to recompense them for their expenditure in the upkeep of the police, courthouses, magistrates, etc., I think that in justice this House cannot support this Bill in its present form for the appropriation of the whole of the fines to Consolidated Revenue.

*The Attorney General:* Your views could be met by an amendment in Committee to pay one moiety of the fines to the Government and one to the local governing body.

Mr. BATH: If I were to vote for the second reading, when the Bill reached the Committee stage I might have very little chance of having the Bill drafted in a way which would allow a just distribution of the fines. I do not want to run the risk of finding, if the second reading is carried, that when I move in Committee an amendment to appropriate a moiety for the Crown and a moiety for the local body, it will be voted down by a Government majority. What we want to do is to encourage more and more local government, and as far as possible the expenditure of money in the outside districts, and not centralise the revenue in Perth. We should no longer permit, as has been done in the past, the expenditure of a good deal of our money in the metropolitan area and in central places through the State, and allow the outlying districts to receive very scant treatment from the Treasurer. I am in favour of the appropriation of many sources of revenue to local bodies, so long as these bodies are placed on a more democratic basis than at present, and are given powers they do not possess now. Holding that view I cannot see the justice of the Treasurer's claim that we should support the Bill; that the Crown is entitled to all fines, and that in future the municipalities should be deprived of the portion to which they are now entitled.

*The Treasurer:* Should they not bear some of the cost then?

Mr. BATH: I have no objection to the fines being divided, one portion to go to the Crown and the other to the local bodies.

*The Treasurer:* What do they do for the fines?

Mr. BATH: I know what they can do with the revenue if they receive it, and what they could do if they received the subsidy they have received in the past. I am satisfied, even if they do not do a great deal to earn these fines, they will be able to spend the money wisely. I am sure that under many Acts the local governing bodies do a great deal towards prosecuting offenders and bringing them to justice. They have inspectors under the various Acts whose duty it is to administer the law and bring offenders to justice, and if we pass this Bill the local governing bodies will still have these duties to perform, and the Crown will take all the fines. I am not in favour of that, and if no more cogent reasons can be advanced by Ministers in favour of the measure I will not feel justified in supporting it.

The ATTORNEY GENERAL (Hon. N. Keenan): The Leader of the Opposition has stated that in his opinion an equitable arrangement would be one in which one moiety of these fines was paid to the local authority and one moiety to the State. This proposal apparently would not have met with his support in 1904 when an amendment was made to the Roads Act. Was not the hon. member at that time in office? Section 123 of the Roads Act, 1902, which was repealed, appropriated the police fines to the revenue of the roads districts.

*Mr. Angwin:* Police fines only?

The ATTORNEY GENERAL: Fines recovered under the Police Act. Apparently, however, the hon. member did not then at any rate look upon the position in the same light as he does now. Apparently he looked at it with the same view as the Treasurer does now, inasmuch as the work was done by the State and paid for by the State, and that therefore it was not a source of revenue which

should be allocated to the local authorities.

*Mr. Angwin:* This Bill goes farther than that one.

*Mr. Bath:* I was not in office when that Act was passed.

The ATTORNEY GENERAL: If the hon. member were not actually in the Government he was a supporter—

*Mr. Bath:* I was in the Chair when it went through Committee.

The ATTORNEY GENERAL: I am not putting it up as being anything he has to regret.

*Mr. Bath:* We were not in office in January, 1904; it was not until August.

The ATTORNEY GENERAL: At any rate the hon. member was a member of the House. He will at least admit this, that I prefaced my remarks by inquiring whether the amendment to the Roads Act was passed when he was in office. I am not such an old member that I can speak with authority on things that have gone by. It is clearly the principle laid down as one we should not depart from wholly or ought to observe wholly. There we said these fines were not to be appropriated by the local authority, that the whole of them were to be handed over to the State.

*Mr. Brown:* That is what you said in 1906 when you introduced the Municipalities Bill.

The ATTORNEY GENERAL: I have no doubt I did because I entertained the same view on that occasion, and I am again giving expression to it to-day. The question we have to ask is this, whether it is a reasonable proposition that the local authorities should obtain the whole of the police court fines, not merely in those cases in which they originated the prosecution, as for instance a prosecution by a health inspector, or any other such prosecution, but in those prosecutions wholly initiated by the Crown of an ordinary offender brought up on Monday morning charged with being drunk or disorderly, and is fined, and the fine is handed over to the municipality. Provision was made originally in the Act of 1876 that all police fines incurred and recovered were to be included in the ordinary revenue of municipalities except so much as was payable to informers. It

amounted to the appropriation of half of the penalties to the municipalities, because the other half was payable to the informers, and if an informer was a police officer then the money was paid to the Crown. That provision was contained in the Acts of 1900 and 1906. It was continued not in accordance with the views of the Government, but by the Bill being amended in Committee, and to my mind being improperly amended, because in both cases the amendment should have been ruled out of order as it was not preceded by a Message from the Governor. It was allowed to pass and in both cases was tacked on to the Bill. In the meanwhile, as the Treasurer has explained, half the fines paid to the informer became by subsequent law abrogated, and the result was that the municipalities acquired the whole. The Perth municipality leading in greediness—

*Mr. Brown:* You are talking rot.

The ATTORNEY GENERAL: I hope the hon. member will explain it to the House when he has the opportunity. I should be glad if he would do so. I know that I am not talking rot. I know from the very outset, Perth was enabled by having a more intimate knowledge of the State to receive the whole of the police court fines immediately after the 1902 Act was passed. That was the Act which repealed the payment of any portion of the fine to the informer. As the Treasurer has pointed out it has continued to the present day. The Fremantle Municipality brought an action by petition of right against the Crown claiming that they were entitled to this unpaid moiety. The Crown defended the case on the ground that no appropriation had been made by Parliament. The decision of the court was in effect that these fines were handed over by the clerk of the court to the municipalities and not to Consolidated Revenue and on that ground there was no appropriation required. It was a position which arose almost entirely on the practice which had been in vogue of paying over directly from the clerk of the courts to the municipalities instead of the clerk of courts paying into the Treasury, and the Treasury paying back to the municipalities. However, I am not

dealing with that question. The Crown had to honour not merely Fremantle but all the municipalities which were similarly placed.

*Mr. Brown:* Why not set up a counter claim?

The ATTORNEY GENERAL: The hon. member has no knowledge of legal procedure or he would know that that could not be done.

*Member:* You are afraid to face the question.

The ATTORNEY GENERAL: I do not know that there is any question to fear. It is a question whether we are legally entitled to do it? The mere fact of one or two persons taking evidence in a semi-responsible way is not sufficient to warrant us taking it away from them. I wish to point out that we were obliged to honour not merely the claim of Fremantle but the claims put forward on behalf of other municipalities. We were not going to sit idly by and see those who were more generous suffer. Therefore, we were forced to pay Fremantle and we paid in every case. I would ask the House to consider this question. Under the provisions of the Municipalities Act it is provided that all fines and penalties incurred and recovered under the provisions of the Police Court Act, 1892, except so much as may be payable to an informer, is part of the revenue of any municipality. The effect is, as the Treasurer has pointed out, it does not mean that these municipalities that most require it receive anything at all, but it simply means that the larger municipalities which are fortunate enough to have a courthouse in their midst are the only municipalities which benefit. It is that state of affairs that should commend itself to the House. It does not assist struggling municipalities.

*Mr. Scaddan:* What about Kalgoorlie?

The ATTORNEY GENERAL: I am speaking against the interests of Kalgoorlie because undoubtedly Kalgoorlie receives a large amount per annum.

*Mr. Scaddan:* It is the first time you has shown independence of the municipality of Kalgoorlie.

The ATTORNEY GENERAL: It is about time I began to show the hon. member something. I hope I have shown the

hon. member something, and I hope he will not be disappointed. In this case what happens is that large municipalities are the sole bodies that receive anything and the sole bodies entitled to receive anything; and the question the House has to ask itself is whether this state of affairs shall continue?

*Mr. Hudson* : What about roads boards?

The ATTORNEY GENERAL : In 1904 there was an amendment of the Roads Act passed which repealed Section 123 of the Roads Act of 1902, appropriating police fines to the benefit of the State. Therefore the position is most extraordinary and anomalous. There are a few municipalities entitled to the advantage. There are countless roads boards prohibited from enjoying the advantage and there are smaller municipalities that do not enjoy the advantage possessed by a municipality that has a police court in its midst.

*Mr. Bath* : We will provide that they will get police courts.

The ATTORNEY GENERAL : How can the hon. member do it? He cannot do it by legislation. He suggests that one moiety should be paid to the State, and let me say that had the municipalities been content with the moiety they were receiving all those years, I would never have stirred action against them, but it is the excessive greed of taking the whole lot and leaving the State to bear the burden that brought on the necessity of dealing with the matter.

*Mr. Walker* : Does this Bill spring from the Crown Law Offices?

The ATTORNEY GENERAL : Yes, but I am now speaking as a member of the House.

*Mr. Walker* : You were beaten on that last Bill.

The ATTORNEY GENERAL : If I was I am satisfied now that the view I put forward might have been accepted. I cannot imagine how any hon. member can rise here and justify the municipalities taking the whole of the fines.

*Mr. Scaddan* : Why penalise the other municipalities because of the greed of Perth?

The ATTORNEY GENERAL : We have to face the position that a legal decision has been given under which the municipalities have been declared to be entitled to these fines, and we must bring in legislation or pay. The member for Ivanhoe must see that the hands of the Government are forced and forced not by the small municipalities whose wants might urge them on to such a course, but forced by those large municipalities who are least in want of revenue of this character. The procedure of payment by the clerk of the court to the municipalities has been stopped. When a fine is inflicted it becomes the property of the Crown and is paid into the Treasury. It is not for the clerk of the court to take on a certain function of paying out that which should be paid into Consolidated Revenue. I am not pointing out to the Leader of the Opposition that the Bill has been brought down to allow the smaller municipalities to have some share. I do not know how you will arrive at it because a prosecution would never take place in these small municipalities.

*Mr. Bath* : You know where the offence is committed.

The ATTORNEY GENERAL : An extraordinary position arises. These fines are given apparently because of services rendered. If we pay the small municipalities for the trouble and expense incurred in another municipality we are giving them something they never had anything to do with and we are putting an extraordinary premium on these small police offences. The municipality with the greatest number of drunks on Monday morning would receive the largest amount of money as penalties.

*Mr. Walker* : I am afraid if the Government get the fines they will have all the drunks of the City up on Monday.

The ATTORNEY GENERAL : But it never can be supposed to be desirable that this position of affairs should continue—that the municipality which has most to be ashamed of should get the most revenue. This is justified merely because the court-house is maintained in that municipality; and as a return for the expenditure and trouble these fines were passed on to municipalities in whose

midst the court-house stood. I do hope hon. members will see that the present state of affairs is beyond question indefensible. The grabbing of all the fines imposed in a police court by those favoured municipalities that have court-houses is a procedure no one can endorse. It is proposed to substitute a provision by the Treasurer that the State should take them.

*Mr. Johnson:* That is grabbing all.

The ATTORNEY GENERAL: The hon. member knows the state of things as well as anybody. But I am asking hon. members to view it in this light. It may be said that the proposal of the Treasurer is somewhat drastic. I do not think that criticism is justified. But even if it were to be stated, it would only justify those who held that opinion in amending the Bill brought down to the House, by providing that the moiety of fines be paid to the State as prior to 1902, and the other portion paid to the municipalities in which the conviction was obtained. It would not justify hon. members in endeavouring to continue the present state of affairs.

*Mr. Walker:* You are violating the principle embodied in the Bill altogether.

The ATTORNEY GENERAL: I am not defending the proposal to pay the moiety to the State. I am merely pointing out that those who hold this view are not justified in continuing the present state of affairs.

*Mr. Walker:* You are suggesting that way out of it.

The ATTORNEY GENERAL: I am not suggesting that any hon. member who considers the existing facts and comes to the conclusion that they are not facts which he can endorse, that it is not a course of procedure he can give his consent to—I am not suggesting that such hon. member would be justified in rejecting this Bill. The most he would be justified in doing would be the amending of it in the direction he thinks wise. That is the whole extent of my observations, and I do hope that hon. members will address themselves to the consideration of this question in the way I have indicated, and not allow themselves to be actuated or influenced by considerations

of a parochial character, because they happen to be representatives of these few favoured localities that derive an excess of award under the existing conditions.

Mr. BROWN (Perth): Whether or not my remarks are parliamentary, I want to say the Attorney General is talking a lot of rot. We have heard here to-night the Attorney General telling us that none of these outside municipalities are going to get the fines at all, but that it is the Perth grab; and it seems to me, such is his sympathy with Perth, that the City ought to be under water. Two years ago he left this clause out of the Municipalities Bill. This is his definition of what takes place: that if a person gets drunk at Leederville and is fined at Perth, the latter place benefits, and *vice versa*; showing that whenever a crime be committed and a fine imposed, the municipality in which that fine is imposed gets that fine.

*The Attorney General:* Read the section again.

Mr. BROWN: That was your definition. I think it is a waste of time for the House to discuss a small Bill like this, and I intend to move that it be read this day six months. The House, when approving of this measure before was constituted almost exactly as it is to-day. It is a grab-all policy, a beg, borrow, and steal policy; and it seems to me that at the present time the Ministry is making a dead set at Perth. We have heard nothing to-night but Perth. All other municipalities have received the same benefits. Two years ago the Attorney General brought down to this House the Municipalities Bill, and left out the very clause relating to these police fines. I then moved for its reintroduction and my motion was successful. Those gentlemen who were in favour of the re-insertion of that clause and who are still in the House are Messrs. Barnett, Cowcher, Davies, Gordon, Hayward, Heitmann, Horan, Hudson, Johnson, McLarty, Male, S. F. Moore, Troy, Walker, Ware, and Hardwick. In all, nineteen were in favour of the retention of this particular clause, and it will be interesting to note the attitude of the sixteen gentlemen still in the House on the Bill to-night. Perth

and other municipalities are contributing a good deal to the machinery under which these fines are secured. I think the salaries alone of the Perth officials, the health inspectors, the traffic, weights and measures, and other officials run into £1,200 or £1,500 a year; and the paltry sum received from the police court fines does not nearly pay these salaries. Yet this paternal Government would absolutely rob the municipalities of the fines recovered, not through any exertions of the police constables at all, but through the officials of the municipalities. If the corporation is paying these large salaries to secure convictions surely they are quite as entitled to the fines as are the Government, seeing that the fines are recovered by the efforts of the municipality.

*Mr. Scaddan:* But they do not pay court fees.

*Mr. BROWN:* I say that the reduction of subsidies we have had in the past and are likely to have in the future should be sufficient. I am quite sure the whole of the municipalities would prefer to have their subsidies reduced in a legitimate manner than be robbed in this petty, surreptitious way—this taking away of all these small amounts. We are also shown here that the whole of the fines do not go to the municipality; provision is made that one-half of the fine should go to the informer. I do trust that seeing how paltry an amount it will be attempted to save, the Government will withdraw the Bill. However, I move—

*That the word "now" be struck out and "this day six months," be added to the motion.*

*Mr. HUDSON (Dundas):* The Attorney General when dealing with this Bill asked us not to consider it in a parochial spirit as those municipalities which are in receipt of large sums under the present system would be likely to do. I think, representing as I do a constituency which receives a very small sum in this direction and has but very few court-houses, I cannot be accused of considering the Bill in a parochial spirit. I rather intend to deal with it on principle. It is a strange thing to find the Government in

a mood to acquiesce in the amendment of their measure in Committee in a manner which would reduce the amount of revenue to be received. It is to my mind a sign of weakness in the principle of their proposed methods of raising revenue. The issue seems to have been clouded somewhat by the Attorney General when he dealt so minutely with the fines recovered under police Acts; because that is only a small part of the question. This measure is a comprehensive one. It provides that all fines and penalties under any Act, for any offences against the provisions of the by-laws or regulations are in future to be paid into Consolidated Revenue. Leaving out this question mentioned by the member for Perth, of the payment of fines under police Acts and the penalties for which the police prosecute, I would draw the attention of the House to the provisions of the Municipalities Act and of the Roads Board Act, and to the position of the boards of health as well. The Attorney General said there was no provision in the Roads Board Act for the payment of penalties—that it had been struck out by amendment. But the Roads Board Act provides that all penalties recovered for offences against the Act or any by-law made thereunder—that is the principal Act of 1902—shall be paid to the board for the district in which the offence is committed.

*The Attorney General:* Where is that?

*Mr. HUDSON:* That is in Section 199. The same thing applies to the Municipalities Act, under which fines for all offences against those particular Acts are to be paid to the council or the roads board. So although the amount may be small—in fact the whole sum involved is only £6,000 and the Attorney General and the Treasurer say that the larger portion of it is related to and collected in the principal centres of the State—I would point out that it is a hardship to take away not only the subsidies from the roads boards and municipalities in the back country, but also to inflict further hardships by taking away a source of revenue they have under these particular Acts now. Therefore I said I was opposing the Bill on principle,

and I think with the Leader of the Opposition that we should encourage local governing and local policing; that is what it means. The enforcing of the by-laws of a municipality or roads board has to be done by the inspectors and officers of the municipality or roads board. They do their own policing and they do most of their own work in that connection. In fact, they make the laws and fix the penalties. We delegate to them that authority and surely we could allow them to take any penalties they make under their by-laws and which affect their own districts. That is the principle. The amount involved is very small when applied to those outlying districts, but after all it seems to me as the member for Perth put it, that the effect of this Bill is rotten when we find an attempt is made to take from the small municipalities and roads boards this small source of revenue, one of the few left to them.

*The Treasurer:* But they have not got it now.

*Mr. Angwin:* They should have it.

*The Treasurer:* Roads boards and small municipalities do not have it.

*Mr. HUDSON:* Perhaps the Attorney General will tell me I am wrong, and that Section 199 of the Police Offences Act is repealed.

*The Attorney General:* It only refers to offences under the Roads Act.

*Mr. HUDSON:* The Attorney General is attempting to confuse the police court fines under the Act. Fines under the Act have to be collected in the police court, and the Attorney General knows it.

*The ATTORNEY GENERAL* (in explanation): Section 123, Subsection 6 of the Roads Act, 1902, is *ipsissima verba* with Section 325, Paragraph 1 of the Municipalities Act, and says:—

“The ordinary income of a board shall be made up of, . . . 6, all fines and penalties incurred and recovered under the provisions of the Police Acts for any offence committed within the district, except such as may be payable to any informer.”

By Section 11 the Roads Act, 1904, repealed Section 123, Subsection 6. On the other hand Section 199 of the Roads Act, 1902, refers to all penalties recovered

from offences against this Act, namely the Roads Act.

*Mr. Hudson:* Or the by-laws thereunder.

*The ATTORNEY GENERAL:* It means offences created by the Roads Act, and the penalties in respect of these offences were payable and remain payable to the roads boards, but the penalties inflicted under the Police Acts, representing 99 out of 100, were taken away by Section 11 of the 1904 Act.

*Mr. HUDSON:* I maintain that the intent of this Bill is to deprive the municipalities and the roads boards of any penalties that may come to them under these particular sections I have mentioned, or by any by-laws they may make; and to show clearly that it was my intention, I urged that, because they made their own by-laws and inflicted their own penalties and did their own administration, their own policing, they were entitled to receive the penalties inflicted in their particular districts. I did not attempt to say they were still entitled to be paid the fines recoverable under the Police Act. In the back country places, perhaps the Treasurer is not aware that many of the offences are offences against the Municipalities Act or by-laws, or against the Roads Act. Many of them are not under the Police Act. They are not all drunks in the back country, even if the principal part of the police revenue from Perth is from drunks; and I submit for the reasons I have given that this Bill should not pass, and that we should throw it out peremptorily.

*Mr. DRAPER* (West Perth): I must express my surprise at the concluding remarks of the Attorney General who appealed to this House not to regard this measure from a parochial standpoint, because two more parochial speeches than those delivered by the Treasurer and the Attorney General have seldom been delivered in this House. To ask the House to pass a measure, a small measure of this kind, by pointing out to hon. members that possibly only one or two large municipalities derived any benefit from the present law, involves tactics that are beneath contempt. I will go further and say that the speech delivered

by the Treasurer was extremely misleading. I do not suppose he for one moment intended to mislead the House; but if he did not intend to do so, then he must be driven to the alternative of admitting having received bad advice as to what the effect of the measure would be. To accuse Perth members of having an insatiable greed comes with extremely bad grace from any member of the Ministry sitting on the three nearest seats to mine. If the Attorney General for one moment cast his mind back he would realise what Perth members have done, he would recollect that they have advocated that municipal subsidies should cease entirely in order to help the finances, although I am well aware that a measure of that kind would not coincide with the views of the majority of members of the House who represent constituencies with different interests. I submit that when an accusation of that sort is made, it comes with especially bad grace, when upon the Table of this House last session, there was laid the report of a select committee which the Attorney General characterised as an irresponsible body, a report which showed that a large sum of money was probably due to the Consolidated Revenue from at any rate three municipalities by reason of the grants given by the Government to those municipalities, grants in the way of subsidies to which they were not entitled. In respect of the merits of this Bill it has been stated by the Treasurer that all the costs of enforcing these penalties are borne by the Government. Surely the Treasurer must be aware that there are many penalties recovered in the police court in which the police are not the only persons prosecuting, and that there are many offences for which police prosecutions take place in respect of offences against the Health Act, or other matters such as weights and measures. The prosecutions under the Health Act are of the greatest importance, and although I know I shall be accused of being parochial, I shall venture to give a parochial instance, but only as an instance, and nothing more. In the municipality

of Perth at the present time, in order to secure effective administration of the Health Act, large salaries are paid. There are two inspectors at the rate of £3 a week; a superintendent of health at £250 per annum; a Government analyst at £125 per annum, and in addition, there is a retaining fee of £200 for the city solicitor. I do not ask the House to believe that the retaining fee to the city solicitor is paid solely in respect of prosecutions for these offences. I merely mention it as an example to prove that the municipalities do at any rate go to considerable expense in order to enforce the provisions of the Health Act, and to show that it is only fair that when they have recovered fines in respect of these offences they should receive them. Unless the Government are able to assure me that this Bill will be amended in such a manner as to make it fair not only to Perth, but to all other municipalities concerned, I certainly intend to vote against it.

Mr. CARSON: I move—

*That the debate be adjourned.*

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

Ayes	..	..	21
Noes	..	..	23

Majority against .. 2

#### AYES.

Mr. Barnett	Mr. Layman
Mr. Carson	Mr. Mitchell
Mr. Cowcher	Mr. Monger
Mr. Darglish	Mr. N. J. Moore
Mr. Davies	Mr. S. F. Moore
Mr. Gregory	Mr. Nanson
Mr. Hayward	Mr. Osborn
Mr. Hopkins	Mr. Price
Mr. Jacoby	Mr. F. Wilson
Mr. Keenan	Mr. Gordon
Mr. Mate	(Teller).

#### NOES.

Mr. Angwin	Mr. Johnson
Mr. Bath	Mr. McDowall
Mr. Bolton	Mr. O'Loughlin
Mr. Brown	Mr. Scaddan
Mr. Collier	Mr. Swan
Mr. Draper	Mr. Taylor
Mr. Gill	Mr. Underwood
Mr. Hardwick	Mr. Walker
Mr. Heltmann	Mr. Ware
Mr. Holman	Mr. A. A. Wilson
Mr. Horan	Mr. Troy
Mr. Hudson	(Teller).

Motion thus negatived.

Mr. CARSON (Geraldton) : I was not prompted to move the adjournment of the debate, as will be seen by the fact that I am against the Bill in its present form. I think that had the adjournment of the debate been granted it would have provided a means of shelving the Bill. In its present form it is unfair to the municipalities who have to pay officers to bring actions before the courts in connection with health matters, the inspection of weights and measures, etcetera, and therefore the municipalities are entitled to some portion of the fines. Even where there are no police courts in a municipality the local body should receive a proportion of the fines. If the second reading is passed I hope the Bill will be altered in Committee so that the smaller municipalities will receive their moiety.

[Mr. Daughlish took the Chair.]

Mr. ANGLIN (East Fremantle) : The Attorney General in discussing the Bill treated only with one portion of the question and that was in regard to the fines under the Police Act. Previously to the taking of office of the present Attorney General the smaller municipalities received a proportion of the fines due to them from penalties imposed under the Police and other Acts, but the present Minister gave as his opinion that the fines should not be paid back to the municipalities, because they could not be recovered in a police court in such municipalities. That meant that municipalities having no police court were not entitled to the fines. Previously to that it was always held that if a person were fined for a breach of the law in a municipality and the fine was recovered the municipality in which the offence was committed was entitled to it. With their usual system of grabbing all they can put their hands on from the weaker districts, the Government have now said that fines have to be recovered in a police court in the municipality in which the offence is committed before that municipality is entitled to receive the fine. For instance, if I were prosecuted and unable to pay the fine and had no means for the Government to recover on, then the municipal-

ity could not receive it, but if I paid the fine it would be recovered. The word "recovered," in my opinion, means payment. The Attorney General has robbed the small municipalities of the amount to which they are entitled. As a representative of East Fremantle I have asked the Government for from £80 to £100 to which the municipality is entitled and which would have been paid by any other Government. So far as fines recovered under the Police Act are concerned, the arguments used by the Attorney General have some force, for the police are paid by the State and if they lose a case the State has to pay for it. In other cases, however, under the municipal laws, if they are lost then the municipalities have to pay the costs; consequently, they are entitled to receive any fines inflicted. They should receive the fines when there is any breach of their by-laws or of any Act which they administer. I intend to vote now as I did in 1904 and that is to hand over to the Government all the fines collected under the Police Act, but I will not vote that all fines, no matter under what Act they are recovered, should go to the Government, especially considering that the municipality have to pay the cost of administration. The cost to the municipalities of administering certain Acts is very heavy, and the Government have gone too far in trying to grab the small amount the local body should receive on that score. I hope the Treasurer will look at the Municipal Act in the manner Parliament intended he should, and that is that all fines recoverable from any person should be paid to the municipality in which the offence was committed. Of course this only refers to fines paid, for if a man has no money he cannot pay the fine. The Government have ruled that the fine must be recovered in the police court. Well, if that is so, why do they not build a police court in every municipality? Unless the Government agree only to take the fines recovered for offences committed under the Police Act, I will oppose the Bill.

Mr. UNDERWOOD (Pilbara) : I intend to support the Bill for the reason

that it seems to me to put all local bodies on the same footing. I agree to a great extent with the remarks of the Attorney General as to the greed of municipalities.

*Mr. Scaddan:* What about the squatters?

*Mr. UNDERWOOD:* They seem to have been unable to look after themselves on this question. In the out-back districts where we have no municipalities we get nothing. While none of these fines are returned to the district I represent, then surely Perth and Fremantle can do without them. The large towns have been well treated in the past. They have great improvements made practically at the cost of the whole of the State, and now they want to continue to grab. Yet there is no suggestion to assist these out-back districts, who after all are keeping the City going. I will support the Bill also to avoid the rather degrading spectacle of mayors of local municipalities fighting for the local "drunk," struggling in their robes and chains to try the "drunk" and get the fine, and possibly after all the "drunk" will "take it out." Then there is the difficulty of allocating the fines to the correct places, to the particular municipalities that have the degradation of supplying the "drunk." To avoid that, as the State has the lot now, they might just as well keep it. If there is sufficient money in the Treasury we have a chance of getting subsidies and the money can be returned; but if there is not sufficient the subsidies will be cut down. It will make little or no difference to the municipalities whether these fines are paid or not, for if the Treasury have not the money they cannot grant the subsidy. It is unfair to the roads board districts that they should receive nothing.

*Mr. Angwin:* They receive something.

*Mr. UNDERWOOD:* Perhaps I know nearly as much as the hon. member, and I repeat they receive nothing. What the roads boards do not receive the municipalities are not entitled to.

*Mr. Scaddan:* They do receive it.

*Mr. UNDERWOOD:* We can afford to overlook the assertions of the member for Ivanhoe (*Mr. Scaddan*). As to the offences committed under the Roads Act it

appears to me, and will appear to every member, that the roads boards are entitled to certain fines, and I intend when the Bill is in Committee to move an amendment providing that fines obtained under the Acts of local governing bodies should be entitled to be paid to those bodies. The fines collected under other Acts should be returned to the State. I intend to support the second reading.

*Mr. WALKER (Kanowna):* If I have any desire to see the Bill defeated it is because the out-back districts are practically starved owing to the lack of sympathy and consideration towards them on the part of the Government. In every possible way the Government have stripped the municipalities and roads boards of their means of existence, and now they are endeavouring to strip them a little more by taking away the fines and penalties which should come to them. This is not an attack upon Perth, for that municipality can stand it, and so can the Fremantle Municipal Council, but it is an attack of a serious character on the smaller municipalities.

*The Attorney General:* The smaller municipalities get nothing.

*Mr. WALKER:* It is not alone the police fines, for Clause 2 of the Bill reads:—

"Notwithstanding the provisions of any Act to the contrary, every fine and penalty imposed by any court of summary jurisdiction, under any Act passed before or after the passing of this Act, for any offences against or breach of the provisions of such Act, or of any by-law or regulation made under such Act shall, except as hereinafter provided, be paid to the Colonial Treasurer for the public uses of the State."

It is an extraordinary thing that there is not a municipality in my district that has not protested against this. The out-back districts are, at the present time, being neglected by the Government. Is there any guarantee that if this Bill passes that they will get any better treatment? We have had year after year a reduction in subsidies to the out-back districts. We have had grants curtailed, we have been

deprived on every occasion of Government consideration, and now this Bill is depriving them of funds hitherto paid them. I say it concerns the small municipalities more than it does Perth, Fremantle, or Kalgoorlie, and on that score I am going to vote against the second reading of the Bill. The Bill is not wanted. It is only another of those pettifogging methods the Government have adopted to irritate and annoy everyone just to get a few shillings into the State coffers. It is a roundabout dodge of imposing taxation. Hitherto the Government have not received this money. It is a new source of getting revenue. Now, what cannot be done by the existing law the Treasurer is seeking to do by the imposition of a new law. What an advertisement it is to the rest of the world, that the Treasurer is so hard up that he has to bring in Acts of Parliament to grab these small fines of the police court. It is a terrible advertisement for the State, and at the same time the country constituents are complaining of the rapacity and the meanness of the Government in the same breath; rapacity in taking everything they can from them, meanness in returning nothing to them. Under these circumstances I shall feel myself constrained not to seek to amend this measure, which is a mean little measure of no importance whatever, merely for the purpose of raking in a few extra coppers from the police courts to add to the general revenue, but to vote against it on the second reading. We cannot amend the Bill, it is bad in principle, it is injurious from start to finish, and to try and tinker with it would be to show our own folly.

Mr. NANSON (Greenough) : I cannot think this Bill is a very happy example of the draftsman's art. Clause 2 provides for the repeal of sections in other Acts not specified. We repeal those, but we do not attempt to make the statute law, dealing with the subject, as simple or as readily apprehended as it should be. It would be better for the Minister responsible, to specifically set forth in the Schedule of the Bill the various sections in the different Acts which Clause 2

of this Bill will repeal. As to the general principle of the Bill it should not be difficult to arrive at an equitable arrangement as to the division of the fines, if the amount at issue is sufficiently large as to make legislation of this kind necessary.

*The Treasurer :* It is between £5,000 and £6,000.

Mr. NANSON : As much as that. It seems to me that the general principle that should govern legislation of this kind is that in all cases, where a municipality initiates and conducts a prosecution, for example dealing with public health, then in those cases the Government should not participate in any portion of the fines ; but in all cases where the municipality neither initiates nor takes part in the prosecution, then the municipality should not participate. I put it forward as a suggestion to the Government that if this Bill passes the second reading they should give to the House an undertaking that they will submit amendments in that direction, and I fancy if the Government are prepared to do that the majority in this Chamber, I take it, will offer no opposition. It seems to me there can be no doubt the Government have an absolutely good case for retaining the fines for offences, such as drunkenness and others under the Police Act, but on the other hand where we deal with offences where municipalities have initiated the prosecutions, the municipalities should be permitted to retain the fines. I put this forward as a suggestion, in the hope that the Government will see their way to adopt it.

Mr. OSBORN (Roebourne) : I certainly intend to support the second reading with the idea suggested by the member for Greenough, that a better measure may result after the Bill has passed through Committee, a measure which will be more equitable to the parties interested. We have heard a lot, especially from the member representing Perth, about the treatment which has been meted out by the Government. It is within my recollection that the Perth municipality has been fairly dealt with in the past, and because Perth cannot continue to receive that generous treatment they seem to get their backs up and consider they are being

harshly dealt with. The Perth municipality have had to disgorge some amounts that they were not justly entitled to. They unjustly obtained money from the Government, nearly every other municipality in the State has done likewise—and all of them have had to disgorge these amounts that were wrongly paid to them. It is about this that they all feel so sore. The member for East Perth is sore about the matter. He was the principal mover when a large sum was obtained by Perth on the subsidy system. There were large sums obtained while the member for Perth was a member of the municipal council of Perth, and those sums have had to be refunded. Then, again, Perth quotes large sums of money that they have expended in officers' salaries in connection with the administration of the Health Act. I would ask hon. members to take into consideration the amount that the Government have paid to Perth in subsidies in common with other municipalities. Are those subsidies not to be taken into consideration? Are not the subsidies given to assist in the administration of the by-laws and the Acts? Of course they are. The municipality have chosen to devote the subsidies to the making of footpaths and streets, and they should not use that as an argument in this case. They should have set aside portion of the enormous subsidies, which they have been receiving in the past, to pay the salaries of the officers who have had to administer the Health Act and by-laws. It is within our recollection that until recently the municipalities have been treated more than fairly in the way of subsidies; indeed, the year before last they received 22s. 6d. on the actual revenue collected; last year it was reduced 20 per cent., and this year again there is another reduction of 20 per cent. I do not disagree with those reductions at all, because I think the municipalities have been treated fairly. In respect to the fines, I agree with the remarks of the member for Greenough. I do not think it is right that the Government should endeavour to appropriate the whole of the fines obtained through the officers of the various municipalities. I think those fines should be retained by the municipalities, and I expressed myself

in those terms only the other night at a meeting of the council of which I am a member. I then told them I could not support the idea of asking that the whole of the police court fines should be returned to the municipality. I do think that the Government are entitled to the fines obtained from other sources. I do not agree with the idea that the House should throw the Bill out on the second reading. I pledged my word that I would vote against such a procedure. It is my intention to endeavour, when in Committee, to make an amendment in the direction of securing for the municipalities the fines that are justly theirs. I trust the House will support the second reading so that something of an equitable nature may be brought about by amendment later on. I do certainly object and protest against fines under roads board by-laws being appropriated by the Crown, because I consider that those fines should go to the bodies who are called upon to bear the cost of a prosecution. If a health board prosecutes a person and the case goes against the board they have to pay the costs, and it is only fair that fines in those particular cases should go to their revenue. I hope hon. members will support the second reading, and then I think that something that will be equitable to municipalities will be evolved in Committee.

*Mr. Bolton :* You cannot trust the Government, you know.

*Mr. OSBORN :* I am quite prepared to treat every man as honest until I discover that he is dishonest. I think the interjections of hon. members on the opposite side of the House should be more charitable than they are. I think that a lot of ill-feeling and friction might thus be obviated. I can say from the short experience I have had, that any sympathy I might have felt for hon. members on that side of the House has gone from me as a result of the base insinuations I have heard from that side.

The PREMIER (Hon. N. J. Moore) : In my capacity as a private member in this House, representing as I do a municipality, and in view of the fact that on one occasion I opposed a clause in the

Municipalities Bill providing that all fines should go to the Crown, I might possibly be charged with some degree of inconsistency in supporting the measure now before this Chamber. I realise that possibly under the present Bill as it stands certain of the fines and penalties might be collected which really should be devoted to the local authorities responsible for the initiation of the prosecution. And I am quite prepared, and my colleague is prepared, to draft an amendment which will allow of the amount of the fines from prosecutions initiated by any local authority or under any Act administered by such authority to go to the local authority. At the same time we think that in cases where the Crown has to bear the cost of initiating the prosecution and the cost of the court proceedings, it is only fair and reasonable that the penalties should go to the Crown.

Amendment (six months) put, and a division taken with the following result:—

Ayes	..	..	..	19
Noes	..	..	..	24

Majority against .. 5

## AYES.

Mr. Angwin	Mr. McDowall
Mr. Bath	Mr. O'Loughlen
Mr. Bolton	Mr. Scaddan
Mr. Brown	Mr. Swan
Mr. Collier	Mr. Taylor
Mr. Gill	Mr. Walker
Mr. Heltmann	Mr. Ware
Mr. Horan	Mr. A. A. Wilson
Mr. Hudson	Mr. Troy
Mr. Johnson	

(Teller).

## NOES.

Mr. Barnett	Mr. Male
Mr. Carson	Mr. Mitchell
Mr. Cowcher	Mr. Monger
Mr. Davies	Mr. N. J. Moore
Mr. Draper	Mr. S. F. Moore
Mr. Gregory	Mr. Nanson
Mr. Hardwick	Mr. Osborn
Mr. Hayward	Mr. Price
Mr. Holman	Mr. Underwood
Mr. Hopkins	Mr. F. Wilson
Mr. Jacoby	Mr. Gordon
Mr. Keenan	
Mr. Layman	

(Teller).

Amendment thus negatived.

Question (second reading) put, and a division taken with the following result:—

Ayes	..	..	..	24
Noes	..	..	..	19

Majority for .. 5

## AYES.

Mr. Barnett	Mr. Male
Mr. Carson	Mr. Mitchell
Mr. Cowcher	Mr. Monger
Mr. Davies	Mr. N. J. Moore
Mr. Draper	Mr. S. F. Moore
Mr. Gregory	Mr. Nanson
Mr. Hardwick	Mr. Osborn
Mr. Hayward	Mr. Price
Mr. Holman	Mr. Underwood
Mr. Hopkins	Mr. F. Wilson
Mr. Jacoby	Mr. Gordon
Mr. Keenan	
Mr. Layman	

(Teller).

## NOES.

Mr. Angwin	Mr. McDowall
Mr. Bath	Mr. O'Loughlen
Mr. Bolton	Mr. Scaddan
Mr. Brown	Mr. Swan
Mr. Collier	Mr. Taylor
Mr. Gill	Mr. Walker
Mr. Heltmann	Mr. Ware
Mr. Horan	Mr. A. A. Wilson
Mr. Hudson	Mr. Troy
Mr. Johnson	

(Teller).

Question thus passed.

Bill read a second time.

[The Speaker resumed the Chair.]

## BILL—WINES, BEER, AND SPIRIT SALE AMENDMENT.

### Second Reading.

The TREASURER (Hon. Frank Wilson) in moving the second reading said: This measure is intended to have for its main object the provisions that were introduced by the Government during the last session of the late Parliament, that is, to provide for the suspension of the granting of new publicans' general licenses, hotel licenses, and wayside house licenses until Parliament has had an opportunity of considering the provisions of the new Licensing Bill that is now in course of preparation. Its term is to run until the end of the next session of Parliament, so as to give an opportunity to Parliament to consider the

general Bill until the end of the session. The remaining clauses of the Bill are a substitution of what is proposed to be called an Australian wine and beer license for what is now known as the wine and beer license, and of what is proposed to be called an Australian wine license for what is now called the colonial wine license. The present practice is that a wine and beer license authorises the licensee to sell wine and beer produced in the State of Western Australia in any quantity, of course, on premises specified in the license; and the colonial wine license authorises the licensee to sell wine the produce of the State of Western Australia; but the question has arisen in consequence of Federation as to whether these licenses do not extend to the products of the other States, and give power to sell wine and beer from the Eastern States in Western Australia. A case was tried the other day, possibly hon. members will remember it, the case of *Fox versus Robbins*, and the magistrate held that a colonial wine license was invalid under the Federal Constitution, and that the holders of colonial wine licenses were empowered to sell wine the product of other States in Western Australia. An appeal has been sent on to the High Court, but no decision has been arrived at. The Court intimated that the case should be argued before a bench constituted of all the Judges of the High Court and there it stands; but in view of this uncertainty, it was deemed advisable to add clauses to this measure, so as to have the matter at rest so far as this State is concerned. We propose to issue an Australian wine and beer license for Western Australia, or for any other State the applicant may wish.

*Mr. Hudson*: You cannot issue a license for any State.

The **TREASURER**: We can issue a license to sell wine and beer, the product of another State. We propose that the applicant may apply for a license to sell the product of Western Australia only, or he may apply for a license to sell the product of South Australia only, or he may apply for a license to sell the products of all the States, but he shall pay a fee for each State. The same will

apply to the Australian wine license. At present the fee for a wine and beer license is £5, while the fee for a colonial wine license is £2. Now we propose to make that £5 also. That will be £5 for each State. The license will state on the face of it to which State it applies. That is the second object of the measure. Hon. members will see that it is a simple measure, and I hope it will meet with a good reception, rather a better reception than the last Bill met with just now. I move—

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

**Mr. BATH (Brown Hill)**: While I recognise the need for this measure limiting the power of licensing benches, pending the carrying out of the promises made by the Government on many previous occasions, I wish to refer to the way in which the Government have repeatedly broken their promises, making even such a measure as this necessary at this late stage. When a similar Bill was introduced last August I pointed out that the Government when the Premier took over the reins of office and formed his Administration gave solemn promises to introduce a Licensing Bill during the then pending session. That promise was repeated during the succeeding recess, repeated only to be broken when the session came on; and one of the planks in the platform of the present Government when they went to the country in September last was that of a comprehensive—a good old term repeatedly used in regard to this measure—a comprehensive Bill was to be introduced in the first session of the new Parliament. Here we are in the first session of the new Parliament and we are staved off with this Bill limiting the issue of licenses by the benches, and the comprehensive measure is still in the distance. I want to know how long members of this House, whether they are supporters of the Bill or not, are to be fooled; how long members of the Ministry are going to continue making these promises, or when they are going to add some purpose to their promises and submit a Bill and allow members to decide upon it. The proposed

clause in this measure, to get over the decision given by the courts in regard to a colonial wine licence, appears to be very ingenious, but I have some doubts as to whether even this will pass muster in a Court of law if it is ever tested. Of course this opinion is given with all due deference to the Attorney General, for I am speaking merely from the point of view of a layman with no claims to legal knowledge on the subject. There is a very expressed provision in the Commonwealth Constitution in regard to discrimination in any laws passed by the States, which may have the effect of discriminating against other States, and although it is plain that separate licences could be issued, licences to sell South Australian, Western Australian, New South Wales, or Victorian wines, as the case may be, the object aimed at by the local wine grower is to ensure that if this licence is granted it shall only be for the sale of Western Australian wine; that is the effect.

*The Attorney General* : The bench will be entitled to grant licenses for the sale of any wine of colonial make.

*Mr. BATH* : Is it not possible that the benches will only grant them for the sale of Western Australian wines. That is the object aimed at by the wine grower, as doubtless the member for Swan (*Mr. Jacoby*) will be able to tell us. Surely if we admit such a proposal in this Bill we connive at a breach of the Constitution and deliberately in this State invite legal proceedings. I may say, personally, that if wines are to be drunk the Western Australian growers can produce as good, and in some instances, better wine than that produced in the Eastern States.

*The Premier* : What is your fancy ?

*Mr. BATH* : I have no fancy, but I know that the wine in Western Australia, from what I have been informed, is superior to that in the other States. As an illustration of that we know that the member for Katanning (*Hon. F. H. Piesse*) disposes of a considerable quantity of locally produced wine in the Eastern States, and it is not likely he would be able to do that if the quality of the wines did not recommend them. While we should all encourage our own

wines, it is rather an underhand way to do so by placing in this Bill a clause which appears to be an evasion of the Commonwealth constitution. This is supposed to be a Bill to restrict the issue of licences until a comprehensive measure is introduced, yet we are providing facilities for granting wine licences. If there is need for the restriction of the sale of liquor, I believe the need exists just as much for the wine and beer shops in the City and towns of Western Australia as it does for the hotels. In fact, I believe the need is greater. In a Bill of this kind, which aims at paving the way for a comprehensive Bill in the future, we should place limits upon such a measure and reserve all other matters for a future occasion when we discuss the Licensing Bill as a whole, and when every member will have an opportunity of expressing his views one way or the other against the future issue of licences, or in favour of such licences as these, as well as others which existing legislation already provides for. As I welcome the Bill, as some very slight and perhaps somewhat intangible evidence of the Government's sincere desire to carry out their promise, I will support the second reading.

On motion by *Mr. Male* debate adjourned.

*House adjourned at 10.55 p.m.*

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