Legislative Council,

Tuesday, 23rd October, 1900.

New Member, swearing-in—Motion for Papers: Fourth Judge (adjourned)—Municipal Institutions Bill, Recommittal, Division, reported—Public Service Bill, Assembly's Message—Bills of Sale Bill, second reading; referred to select committee—Adjournment.

THE PRESIDENT took the chair at 4·30 o'clock, p.m.

PRAYERS.

NEW MEMBER, SWEARING-IN.

HON. W. G. BROOKMAN (first appearance since election), having taken the oath required by law and signed the roll, took his seat as a member for the Metropolitan-Suburban Province.

MOTION FOR PAPERS—FOURTH JUDGE.

HON. A. JAMESON moved:—

That all communications, letters, or correspondence received by the Government or any Minister of the Crown during the past three years, from any person or persons, with reference to the appointment of any member of the legal profession as a Judge of the Supreme Court or Circuit Judge, be laid upon the table of the House.

This motion was moved because the House would shortly be called on to give its assent to a Bill for the appointment of a fourth Judge of the Supreme Court. The appointment of a Judge of the Supreme Court was more important than the appointment of the Administrator of the colony or of the Premier. It was a life appointment, bearing a life pension, and practically a Judge was irremovable; therefore great caution should be used in the appointment of a Judge. That being so, members of the House felt it would be their duty to give some expression of opinion at the present time in regard to what source the Judge should come from and in a measure as to who he should be. The appointment of a Judge affected the industrial and social welfare of the community. There had been a feeling both in the commercial community and in the professional community that owing to an old custom, which in some respects might be a very good one, but occasionally all customs failed, a member of the Ministry should be appointed to a judgeship, should one become vacant. There had been a strong feeling in the community, owing to that custom, that the Minister who was likely to be appointed—he did not know that it was so—was not a fit and suitable person for the appointment. This might be unfortunate, and he might assure hon. members that he did not look on this question in a personal light: it was a matter of public policy. The selection of a Judge was one of the most important appointments in the colony, and at a time when the colony was advancing it was unfortunate that the appointment should be made a purely political one. Indeed, so costly might the selection be, for being a life appointment it might amount to thirty or forty thousand pounds, perhaps it would be well to save the colony expense by giving the applicant ten thousand pounds and letting him go, rather than that the colony should suffer. He hoped the motion would be discussed and some expression of opinion given as to who the new Judge should be. The reason he had brought forward the motion was that it was well-known that a petition had been signed by the whole of the bar—fifty members of the legal profession—who thought that the Minister was an unfit and improper person for the post. It was only proper that we should see the petition laid on the table, so that an expression of opinion could be given in regard to it, and that the colony might be made aware that the House was alive to the great responsibility and importance of the office about to be decided. Even at the present time, unfortunately, this Minister's name was being used by various sections of the Press in a way that would be unseemly, if there was any ground for what was stated, and it had not been denied that he would sit on the bench of our colony; therefore it was hoped there would be an expression of opinion, and that members would speak out on this subject, knowing full well that this was in no way a personal matter. He (Dr. Jameson) really did not know the gentleman in question, and had absolutely nothing personal against him. He thought it well, perhaps, that he should move this motion, being a professional man, and it might be that members of the legal profession might have some delicacy in

moving in the matter. The question was purely one of public policy; a matter in which the colony would be greatly affected for years to come. He had been more than surprised several times in the city of London to notice in commercial centres how very much alive many commercial gentlemen were to the decisions of our Supreme Court, and of the Supreme Courts throughout the colonies. Therefore it rested with us to take the greatest care to use any influence we possessed, or at all events to give an expression of opinion as to who this Judge should be. As this colony was advancing so rapidly, it might be well even to look outside the boundaries of Western Australia, as had been done in regard to engineers, architects, and others. In fact in regard to all professions, if we wanted an appointment made to an important position, we looked outside the boundaries of our colony; and having become a great nation, now we had federated, we might look to some of the other colonies for gentlemen to fill such appointments as that in question. The emoluments of the office, and the climate and social conditions of the colony, were such that he was sure we could obtain applications from twenty Queen's Counsel in the old country, and certainly we could get applications from the Eastern colonies. He felt very much having to bring this matter forward, but regarded it as his duty to do so. He (Dr. Jameson) sat as Chairman of the Penal Commission some time ago, and it was the opinion of the members of that commission that this same Minister had neglected to do his duty as grand jury of the colony, he being the representative of that great office, and had cost the colony immense sums of money, and an infinite amount of misery and sorrow. Therefore, he (Dr. Jameson) felt it his duty to bring this motion forward.

Hon. F. M. STONE (North) seconded the motion.

The COLONIAL SECRETARY (Hon. G. Randell): As no other member apparently intended to speak to the motion, he moved that the debate be adjourned until to-morrow. He was not prepared to go on with it now.

Hon. W. MALEY seconded the motion for adjournment.

Motion for adjournment put and passed.

MUNICIPAL INSTITUTIONS BILL.

RECOMMITTAL.

Order read, for third reading of the Bill.

Hon. R. S. HAYNES moved that the President do leave the Chair for the purpose of having the Bill recommitted, in order to consider amendments to Clauses 1, 142, 156, and 219.

The President: The only notice of amendment was one by the Hon. F. Whitcombe.

Hon. R. S. Haynes said he understood that certain matters would be recommitted. They were merely formal.

The President: The rule of the House was that, if a Bill was to be recommitted, notice should be given of the purpose for which it should be so recommitted.

Hon. M. L. Moss suggested to Mr. Haynes that he should ask for a suspension of the Standing Orders.

The President: It was not a matter of Standing Orders, but of procedure. Were the amendments only formal?

Hon. R. S. Haynes: That was all.

The President: If the House did not object, the amendments could be dealt with.

Hon. J. W. Hackett said he thought there was an understanding in regard to the matter.

The President: Amendments should appear on the Notice Paper, so that members would have an opportunity of voting as to whether they would allow a Bill to be recommitted for the purpose of effecting those amendments.

Hon. R. S. Haynes: The amendments were only formal; as to the mayor presiding, and so on. One clause was passed because the Committee did not quite understand it, as it stood.

Hon. F. Whitcombe: Would the motion include the amendment of which he had given notice?

The President: The amendment of which the hon. member gave notice could be dealt with. The Bill was only recommitted for two purposes—the amendment standing on the Notice Paper, and the clauses which it was agreed in committee should be further dealt with.

Motion put and passed, and the Bill recommitted accordingly.

IN COMMITTEE.

Clause 1—Short title and commencement:

HON. F. WHITCOMBE moved that all words after "1900," line 2, be struck out. After the assurance of Mr. R. S. Haynes last week that this Bill was not introduced to remove disqualifications from any one person to contest the office of mayor of Perth, he did not see any object in departing from the ordinary rule whereby a Bill came into force after it had been passed by Parliament, unless this was to come into force on the 1st December, when the new mayors would take office. Had the Bill been introduced for the benefit of one individual, he would have objected. He might congratulate the colony upon the extreme amount of thought and consideration the Council had given to the Bill. The Bill was thrown down for members on Tuesday afternoon last week; it was afterwards considered by a select committee which sat twice, and on Wednesday it passed through the committee stage, being forced through in two sittings. Either we could do our work with the utmost speed, and therefore we ought to get a greater amount of payment than members elsewhere, or else this House ought not to further exist.

THE CHAIRMAN: Was the hon. member speaking to the amendment?

HON. F. WHITCOMBE: If the Council were prepared to rush a Bill through, and to have it brought into force immediately it had been passed, that was an excellent reason why the Council should no longer exist, and why the amendment he proposed should be carried.

MR. R. S. HAYNES assented to the amendment.

HON. J. M. SPEED: When was the Act to come into force?

THE COLONIAL SECRETARY: When assented to by the Governor.

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

Clause 142—General and special meetings of ratepayers:

HON. R. S. HAYNES: Under this clause meetings might be called at the request of one-third of the council, and the select committee also thought that at the request of twenty-one ratepayers the mayor should call a meeting. Therefore he moved that the following words be added to Sub-clause 1, "or upon the request in writing of twenty-one ratepayers."

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

Clause 156—Meetings, Chairman etc. of Committee:

HON. R. S. HAYNES moved that in line four, after "present," the words "the mayor shall be *ex officio* officer and chairman of all committees, and in his absence." The mayor, who was elected by all the people, should be on all committees to represent the people, and if he attended a meeting he should preside. It would seem improper for the mayor to sit at the table of a committee meeting which was presided over by a councillor, and perhaps be ruled out of order by that councillor.

HON. A. P. MATHESON: Clause 153 already provided that the mayor should be *ex officio* a member of all committees.

HON. R. S. HAYNES: In that case he would alter his amendment to read "the mayor shall be *ex officio* chairman of all committees, and in his absence."

HON. J. M. SPEED: This provision would put the mayor in a false position. In a large municipality the mayor could not devote the whole of the time required for committees, and it was absurd for a mayor to go to a committee and absolutely know nothing about the business before that committee. If the mayor were paid a salary it would be a different thing altogether, but under the Bill a mayor would not be paid a salary; and if a mayor had to devote two-thirds of his time, which he would have to do in Perth and Fremantle, it would be asking too much of him.

HON. J. W. HACKETT: What was the mayor returned for?

HON. J. M. SPEED: Not to devote the whole of his time to the city.

THE COLONIAL SECRETARY: It was not intended to be obligatory on the mayor to attend all meetings, but he could attend if he chose, and if he attended he should preside at the meetings.

HON. J. W. HACKETT: The municipal constitution of South Australia and Western Australia was very different from the municipal constitution of the other colonies, where the mayor of a municipality was an officer of the council.

In South Australia and Western Australia the mayor was elected by the citizens, who represented them on the council, and he should represent them in committees. Mr. Speed had put his hand on a blot in the Bill when he referred to the appointment of mayors who could not devote their time to the work of the city. As to the mayor being chairman of committees, that was a very desirable thing, because he could explain to one committee what another committee was doing and bring all committees into harmony. In South Australia, where mayors had proved a success, the mayor always attended committees, and excellent work had been done, contrasted with some of the work done in Western Australia.

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

Clause 219—Enhanced value of property to be taken into account and deducted from compensation:

Hon. R. S. HAYNES moved that the clause be struck out. The thanks of the Committee were due to Mr. Moss for ferreting out this new blot in the Bill, which had been overlooked.

Hon. J. M. SPEED: What was the reason for striking out this clause? When the Bill was before the Committee on a previous occasion Mr. Haynes had said the clause did not mean anything. The evident intention of the clause was to debar any member of the community from gaining an advantage to the disadvantage of the whole of the community. It was a provision for the betterment principle, which had worked beneficially in other places. This betterment system was adopted in New South Wales, when the street in front of the Sydney General Post Office was widened, and he believed it was tried with beneficial results.

Hon. R. S. HAYNES: Not so. Reading the clause casually, he previously thought the principle was that if land was taken away from the owner for the purpose of constructing works of a municipal character, and the construction of those works had raised the price of land at the time the committee or the arbitration board were sitting to decide the value of the land, the increased value of the land which arose by reason of the municipal works being erected should not be taken into account, and therefore the council ought not to pay for the increased value which was only due to the council's having resumed land. But he saw now that the clause provided that if a portion of a person's land was taken away, say for the purpose of straightening or widening a street, when the committee or arbitration board came to compensate the owner for the amount of land taken, they were to consider the fact that there was a broader street than before. It was patent to everybody that a person on the opposite side of the road was equally benefited, but such person would pay nothing, while the unfortunate man who lost his land would have to pay everything. This was a new clause, and he believed it was attributable to Mr. Speed. Directly he had heard that, he received the clause with doubt; and on examination, the conclusion he came to was that the clause was a delusion and a snare. It was "playing to the gallery," and was one of those things he would sit upon until the hon. member remembered he was here to represent not only the "gallery" but the respectable portion of the community.

Hon. M. L. MOSS: It was a pleasure to know that his advocacy with regard to the clause had made Mr. Haynes a convert to the view that the clause should be struck out. The clause was an attempt to put the municipalities upon a better footing than the Commissioner of Railways or the Commissioner of Crown Lands, with respect to the resumption of land for railways or any other public purpose. He did not think the municipalities throughout the colony desired this. The object in view was to give full fair value for land compulsorily taken. If the betterment system was to be carried out, he would assist Mr. Speed to bring about the adoption of that principle; but if Clause 219 had been drafted to achieve that object, it had been drafted in a very clumsy manner, for it would merely penalise the man whose land had been taken, whilst other persons in the locality would be benefited to quite as great an extent, if not greater, by the resumption of land.

Hon. J. M. SPEED: The Premier himself was in favour of, he did not say this particular clause, but the betterment system. The clause was practically an epitome of that system. If Mr. Moss was not satisfied with the way in which the

clause had been drafted, it was open to him to draw one which would satisfy the municipalities, because it was admitted that municipalities required some measure of the kind. In almost all municipalities, especially the older ones, certain improvements could not be effected. There were many streets which could be widened, but the amount of compensation that would have to be paid rendered it an impossibility for the municipalities to carry out that work. This proposal was a simple way of getting over the difficulty. Although people owning land adjoining that resumed might have their property increased in value, they would have to pay higher taxation.

HON. F. WHITCOMBE: So would the man whose land was resumed.

HON. J. M. SPEED: The man whose property was resumed lost nothing, but would be in exactly the same position as before.

HON. D. MCKAY: The owner lost the land without receiving proper value for it.

HON. J. M. SPEED: The owner got proper value, because he had exactly the same value as before.

Amendment put and passed, and the clause struck out.

HON. R. S. HAYNES moved that the Bill be reported.

HON. C. SOMMERS said he had an amendment to make.

THE CHAIRMAN: The Bill was recommitted only for certain proposed amendments.

HON. C. SOMMERS: It was understood that the amendment be intended to bring forward would be moved at the express wish of the Coolgardie Municipal Council. It was only by an oversight the amendment was omitted when the Bill was in Committee.

HON. R. S. HAYNES: Mr. Sommers spoke to him with reference to the question of contract for removal of nightsoil, but unfortunately he found that the Committee had struck both clauses out of the Bill, being of opinion that the insertion of such a new clause as that referred to would be against the title of the Bill, and practically be a violation of the Health Act. If Clause 293 would be a violation of that Act, this new clause still more fell under that criticism. He could not assent to the amendment, because it would be a violation of the Health Act, and moreover there would be an opportunity to insert the amendment in the Health Bill when the amending Bill came before this House.

HON. J. M. SPEED rose to refer to a clause.

HON. R. S. HAYNES: An amount of latitude was allowed to a member in charge of a Bill, but that ought not to be exceeded. He did not see why amendments that had been fully threshed out should be again brought before the Committee.

THE CHAIRMAN: The Bill was recommitted only for certain proposed amendments—one stated on the Notice Paper and other formal ones under the charge of the member who had conduct of the Bill.

HON. J. M. SPEED: Might one ask the ruling of the Chairman with regard to Clause 219? Was that a formal amendment?

HON. R. S. HAYNES: It would be sufficient for the Chairman to answer by saying the Committee had passed the amendment, and if the hon. member had any reason to oppose it, his proper time was when the matter was before the Committee.

HON. J. M. SPEED said he hoped the Chairman would be able to give his ruling without the able assistance of the hon. member.

THE CHAIRMAN: Perhaps the hon. member (Mr. Speed) would have an opportunity of dealing with the matter on the third reading.

HON. J. M. SPEED: That would mean that the Bill would have to be recommitted.

THE CHAIRMAN: Yes; if the House consented to it.

HON. J. M. SPEED said he would give notice of motion that the words referred to be reinserted. He moved that progress be reported.

HON. R. S. HAYNES: If the Committee liked to be played with, of course they would be in favour of progress being reported; but he took it that the Committee would go on with the business. To adopt the course advocated by Mr. Speed would be childish.

Motion (progress) put and negatived.

Question (to report the amendments) put and passed.

Bill reported with further amendments, and the report adopted.

PUBLIC SERVICE BILL.

ASSEMBLY'S MESSAGE—IN COMMITTEE.

Consideration resumed, as to the reasons for the Legislative Assembly disagreeing to the Council's amendment to strike out Clause 19; the Colonial Secretary having previously moved that the amendment be not insisted on.

HON. A. P. MATHESON: If we refused now to adopt the suggestion of the Assembly, the Bill might be thrown out.

HON. J. W. HACKETT: The Assembly could give way.

HON. A. P. MATHESON: If the State required employees to be insured, the State should carry out the insurance. He understood that the State was practically liable, under a certain Act, for compensation when an employee had been in the service for a certain period, and the State now sought (through this clause) to get out of the responsibility by trying to make employees insure their lives.

HON. F. M. STONE: Clause 19 would work a great injustice to a considerable number of civil servants. A warden on the goldfields might be transferred to another position, and on the new position being gazetted the officer would have to insure his life, at an age when the premium would be very heavy indeed. Supposing a civil servant were already insured, and a higher appointment were offered him, the officer might have to insure again for a higher amount, and at an age when the premium would be much higher.

HON. A. JAMESON: It had been pointed out by the Colonial Secretary that this clause would not work any hardship; but on the temporary staff of the civil service there were 60 or 70 per cent. of the employees of the service and it was no breach of professional etiquette to state that a large number of the members of the temporary staff would not be able to pass the medical examination. The amendment to the Truck Act, which was passed only the other day, was to get over a similar difficulty: to prevent insurance for medical services. It was for the Assembly to give way in this matter, and he hoped members here would stand firm.

HON. W. MALEY: In the civil service the Government did not require able-bodied men so much as men of intellect; in another place was one of the strongest men in intellect in the country who was bodily weak; men should not be deprived from entering or remaining in the civil service or of changing their positions because some officers were not physically capable of passing a doctor's examination.

HON. T. F. BRIMAGE: Supposing a civil servant was appointed to a position at a salary of £150 a year, and he proved himself a good man; after two years a vacancy might occur in another department at a much higher salary, in the meantime a death perhaps occurred in the officer's family, which would probably affect his assurance, and for that and other reasons the officer would not be able to pass an examination for insurance to obtain the higher position. The officer would then have to retain the smaller salary, although perhaps competent to fill the higher position. He had spoken to several civil servants who appeared to be opposed to the clause, and he did not think there were many who were in favour of the Bill.

THE COLONIAL SECRETARY: On the whole this clause would operate favourably for the civil servants; at any rate it would operate beneficially for the country. It was desirable that we should have civil servants competent to discharge the duties which devolved upon them, and oftentimes civil servants required more stamina for their work than men who worked at the anvil or the bench: the mental strain on officers in the civil service at times was great. The object of the clause was to prevent the difficulty which cropped up from time to time, when a civil servant died leaving a family in circumstances of distress, of an application being made to the Government for assistance. The system of insurance inculcated habits of thrift and encouraged a man to provide for his family if death overtook him: those were laudable objects and deserved the consideration of members. The only way in which the clause could work a hardship might be in connection with some members of the temporary and provisional service who

would not be able to pass an examination to enable their lives to be insured; but no principle had ever been adopted in the world without working a hardship to some. The rule had always been that the greater should be benefited, even though the lesser were affected injuriously. The civil servants were beginning to recognise that they would obtain some advantages under the Bill.

HON. J. W. HACKETT: They preferred this clause being struck out.

THE COLONIAL SECRETARY: That was not what he understood. Were members willing to jeopardise the Bill by insisting on the striking out of the clause?

HON. J. M. SPEED: The first reason given by the Legislative Assembly for disagreeing to the amendment was, "in order to provide for the families of civil servants, the Assembly is of opinion that compulsory insurance should be adopted." Probably the majority of members of this Chamber were of that opinion; but if we were going to have compulsory insurance, let us have it as State insurance. It would be pernicious for us to allow private companies to step in, in the way this clause proposed, to reap the benefits from civil servants, and make them pay all sorts of unequal premiums, as they would have to do if this clause were passed.

Question—that the amendment made by the Council be not insisted on—put, and a division taken with the following result:—

Ayes	6
Noes	16
Majority against ...	10

AYES.	NOES.
Hon. R. S. Haynes	Hon. G. Bellingham
Hon. D. McKay	Hon. W. G. Brookman
Hon. E. McLarty	Hon. J. T. Glowrey
Hon. G. Randell	Hon. J. W. Hackett
Hon. W. Spencer	Hon. A. Jameson
Hon. R. G. Burges (*Teller*).	Hon. A. G. Jenkins
	Hon. W. Maley
	Hon. A. P. Matheson
	Hon. M. L. Moss
	Hon. J. E. Richardson
	Hon. H. J. Saunders
	Hon. C. Sommers
	Hon. J. M. Speed
	Hon. F. M. Stone
	Hon. F. Whitcombe
	Hon. T. F. Brimage (*Teller*).

Question thus negatived.

Further question—that the amendment made by the Council be insisted on—put and passed.

Resolution reported, and the report adopted. Message accordingly transmitted to the Legislative Assembly.

BILLS OF SALE BILL.

SECOND READING.

HON. F. M. STONE (North), in moving the second reading, said: I do not propose to take up the time of the House long in moving the second reading of this Bill. Last year Parliament passed a Bills of Sale Act, and it has now been found necessary to make some amendments in it. These amendments have been submitted to the gentleman who was the framer of that Act of last year, and some of them are proposed by himself, whilst others have his concurrence. With reference to Section 5, it is proposed by Clause 2 of this Bill that the expression "bill of sale" shall not apply to the transfer or assignment of a registered bill of sale. That is to say, if a bill of sale is registered under the Act and you take an assignment of that bill of sale, there will be no necessity to register it.

HON. M. L. MOSS: That was in the old Act.

HON. F. M. STONE: Yes; but not in the Act of 1899.

HON. M. L. MOSS: In the English Act.

HON. F. M. STONE: Section 5 of the Act of 1899, with reference to contemporaneous advances, provided that the advance had to be made within three days of the registration. Apparently that was found to be unworkable, because in many cases advances have to be made on execution. Take, for instance, the fields of Coolgardie and Kalgoorlie. Persons there may wish to advance money on bills of sale, and want to settle the matter straight away. Under the present Act one has to wait until the document has been sent to Perth and registered, and then make the advance within three days. Or, take the North, say Geraldton: one may wish to make an advance as soon as the bill of sale is executed, but a person has to wait under the present Act until the bill of sale comes down here, and three or four days might elapse before one could obtain that advance. It seems to me that an advance could be made at the time of the execution of the bill of sale. In Section 7 the words with reference to the assignment of future acquired property——

Hon. M. L. Moss: What is the object of Sub-clause *c*?

Hon. F. M. STONE: I have not reached that yet. I will deal with that directly. At present I am at Sub-clause *d*.

Hon. M. L. Moss: Sub-clause *c* is before that; at the bottom of the page.

Hon. F. M. STONE: Sub-section 4 of Section 6 says:

The sums, if any, thereby secured, and the true rate of interest, if any, payable, and in case of a security for a running account, open guarantee, or proposed further advances, the maximum amount of the balance or advances to be covered.

By Sub-clause *c* of Clause 2 it is provided that "maximum" shall be inserted in lieu of "true." Sub-clause *d* deals with the assignment of future property. Section 7 of the Act of 1899 says:

The assignment of all other after acquired property shall have the same effect as provided by the rules of common law or equity.

We propose to make that quite clear by striking out those words and inserting in lieu thereof the following:

Where a registered bill of sale purports to grant any chattels not in existence at the execution thereof, or which the grantor may thereafter acquire, the property and legal interest in such chattels shall, upon the coming into existence thereof, or upon their being acquired by the grantor, as the case may be, vest, both at law and in equity, in the grantee, subject to the provisions thereof and of the principal Act. and the possession of such chattels by the grantor or any person claiming through him shall to all intents and purposes be deemed the possession of the grantee.

That is the law under the old Bills of Sale Act. Sub-clause *e* deals with Section 32, which says:

Every bill of sale hereafter given absolutely or by way of security shall be fraudulent and void as against all sheriffs, bailiffs, and other persons seizing the chattels, or any part thereof, comprised therein in the execution of any process of any Court under any writ or warrant of execution issued within three months from the registration of the said bill of sale on a judgment or order entered, made, or obtained in respect of a liquidated debt incurred by the grantor before the registration of the said bill of sale, and also against every person on whose behalf such process shall have issued, except as by the last preceding section mentioned.

Section 31 deals with a bill of sale being void against a trustee in bankruptcy. We propose to make that point quite clear and to strike out from Section 32, "except as by the last preceding section mentioned," and to insert "except as to any contemporaneous advance and interest thereon, and except also as to any money advanced or paid, or the actual price of goods sold or supplied, or the amount of any liability undertaken by the grantee of such bill of sale or his assignee to, for, or on account of the grantor after the execution but on the security of the said bill of sale, but not exceeding the maximum amount covered thereby." So that it will make a bill of sale for a contemporaneous advance good as against a sheriff; but where such bill is given for a debt, it is not good unless registered three months at least before the execution is put in. Clause 3 deals with debentures or debenture stock. Under the present Act you require to register the debentures. Under this clause, if you register the trust deed whereby the debentures are secured, it will not be necessary to register the debentures. Clause 4 reads as follows:—

For the purposes of sections thirty-one and thirty-two of the principal Act, a contemporaneous advance shall, in connection with any registered trust deed, be the actual amount in cash advanced or paid in consideration of the issue of such debentures or stock to the company by the holders of the debentures or debenture stock secured by such deed, but not exceeding the amount mentioned in the trust deed.

A trust deed will only cover that in respect to which the debenture was issued. It is proposed by Clause 5 that this Act shall be retrospective, so that it shall deal with all transactions that have been made under the Act of 1899. That Act came into force on the 1st of March, 1900, and as I say it is proposed to make this measure retrospective in regard to all matters dealt with under that Act. I propose to refer this Bill to a select committee, because I believe it will be necessary to make some further amendments, and one wishes to make the Act as far as possible without flaw.

Hon. M. L. MOSS (West): I have much pleasure in supporting the second reading of the Bill. Legislation of this kind is exactly what we may expect when a measure dealing with an important branch of law, like bills of sale, is rushed through Parliament as the Bill of last session apparently was rushed through. Take Sub-clause *d* of Clause 2, and we find a difficulty in which the mercantile community are landed by the passage

into law of the principal Act. In 1892 in this colony a law was passed whereby a man could give a bill of sale over present and future acquired property; but for some want of consideration that provision apparently got altered, and we find the old method of dealing with present and future acquired chattels or property becoming the law of the colony, instead of the law which was enacted in 1892. I cannot understand how the principal Act came into force when there are so many lawyers in both branches of the Legislature. The old state of affairs is productive of a great amount of inconvenience to those people whose business compels them to lend money on bills of sale. Mr. Stone did not deal with Subclause *f* of Clause 2, and that provision is an important one. Last session an important departure was made that all leases or bailments of furniture or chattels are compelled to be registered the same as a document where money is advanced on security of chattel property. There is no means of showing to the world at large, when a man is in possession of chattels, that those goods are leased to him; he may only have a limited interest in them, and in business circles this is productive of a great deal of inconvenience. A man may be the reputed owner of a house full of furniture. Take the case of a hotel where a man is the reputed owner of the furniture, he gets considerable credit on this furniture, and certainly when he becomes involved or in embarrassed circumstances it comes out that the property was merely leased to him. Persons selling bicycles, agricultural implements, and machinery are put to great inconvenience. I have had placed before me the personal experience of many merchants in the colony who have suffered through agricultural machinery being sold on the time-payment system. The merchants are obliged to go to the trouble of having a properly drawn bailment duly executed; and when machinery is sold in the country there are great difficulties surrounding the document, an affidavit having to be carefully drawn up. This is a great impediment to business. Although the Bill is only a short one, I think it is a pity Mr. Stone should rush it through the committee stage to-day. I suggest that the Bill should go to a select committee, as there are one or two matters which might be included in the Bill when we are dealing with this subject. It is a pity that the law relating to bills of sale should have to be patched up session after session. The object last session was to have a consolidated Act; but now that amendments are necessary, it is as well that this Bill should go to a select committee to get one or two provisions inserted in it, so that there will be no need of patching the law up from time to time.

Hon. A. P. MATHESON (North-East): It is difficult for a layman to speak on a question of this nature, as it is distinctly a legal one; but Clause 4, to a business man like myself, seems absolutely inadmissable or impossible. Apparently, according to Clause 4, if a deed securing debentures issued by a company is registered, that registration only gives security to the exact amount of cash put up under the trust deed. Is that the intention of the clause?

Hon. F. M. Stone: Supposing the trustee shall be secured to the amount of £150,000, debentures are issued to cover the £150,000. That is the meaning of the clause shortly.

Hon. A. P. MATHESON: When debentures are issued by nearly every company in the British dominions, it is very rarely that the full face value of the debentures is paid to the company by the subscriber—there are many instances in which hon. members know my argument does not hold good—the discount is influenced by the rate of interest paid on the debenture. Under Clause 4, if a person has paid a company £90 for a £100 debenture, he only gets security for £90. This is the same principle that is applied to a State loan of the colony which is issued at a substantial discount. If the hon. member (Mr. Stone) has not seen the particular risk which companies would run under Clause 4, I think he should see, now that it is pointed out to him, unless the clause is intended to put companies in the inconvenient position which it is shown they will be put in, that the clause ought to be withdrawn or altered. I am strongly opposed to bringing in any law that is retrospective, and the hon. gentleman (Mr. Stone) has not given us any reason, except that the Bill is to bring everything into harmony, why

the legislation of a previous session should be upset. Unless the hon. member gives some very substantial reason for the Bill being retrospective, I shall urge the House to oppose it.

HON. F. M. STONE (North): As to Clause 4, I see the point which Mr. Matheson has made, and to a certain extent there is some doubt about it; but I promise the hon. member that when the select committee is appointed, that doubt shall be put right. As to the Bill being retrospective, this amending measure only inserts in the Act of 1899 what should have been inserted in that Act. Why should a bill of sale be upset because a slip was made in the Act of 1899? If it was intended that a bill of sale should cover a certain security, and through some flaw it does not cover it, then there is no reason why this Bill should not set the matter right. I am rather inclined to believe that these amendments should be incorporated in the principal Act. Take Sub-clause *d*, which Mr. Moss has pointed out, supposing a bill of sale was given over stock-in-trade, why should it not come under the principal Act? I have gone into this matter with Mr. Parker, and it seems there is some difficulty about giving a bill of sale over stock-in-trade.

HON. F. WHITCOMBE: How about a subsequent security on the same goods?

HON. F. M. STONE: The bill of sale will be registered.

HON. F. WHITCOMBE: But a subsequent bill of sale might be taken.

HON. F. M. STONE: I think we shall be able to deal with that in the select committee.

Question put and passed.

Bill read a second time.

On further motion by HON. F. M. STONE, Bill referred to a select committee, consisting of Hon. R. S. Haynes, Hon. M. L. Moss, Hon. F. Whitcombe, with Hon. F. M. Stone as mover; to have power to sit during any adjournment of the House, and to report on 31st October.

ADJOURNMENT.

At 6·18 o'clock the House adjourned until the next day.

Legislative Assembly,

Tuesday, 23rd October, 1900.

Papers presented—Question: Spark-Arresters on Railways—Lands Resumption Act Amendment Bill, first reading—Killing of Kangaroos for Food Bill, first reading—Slander of Women Bill, third reading—Compensation for Accidents Bill, third reading—Payment of Members Bill, discharge of order—Motion: Perth Ice Company Inquiry, Report of Committee, to adopt—Adjournment.

THE SPEAKER took the Chair at 4·30 o'clock, p.m.

PRAYERS.

PAPERS PRESENTED.

By the PREMIER: 1, Return (ordered) showing Duties Collected (estimated) on Imports from other Australian colonies. 2, Papers (ordered) as to refusal of publican's general license to E. Cooke, of Kookynie.

Ordered to lie on the table.

QUESTION—SPARK-ARRESTERS ON RAILWAYS.

MR. HARPER asked the Commissioner of Railways: At what date the locomotives running on the Eastern railway would be fitted with the most efficient spark-arresters.

THE COMMISSIONER OF RAILWAYS replied: This work was in hand, and every effort was being made to push it forward. It was, however, impossible to quote a definite date when the work would be completed.

LANDS RESUMPTION ACT AMENDMENT BILL.

Introduced by the COMMISSIONER OF CROWN LANDS, and read a first time.

KILLING OF KANGAROOS FOR FOOD BILL.

Introduced by the COMMISSIONER OF CROWN LANDS, and read a first time.

SLANDER OF WOMEN BILL.

Read a third time, on motion by MR. ILLINGWORTH, and passed.

COMPENSATION FOR ACCIDENTS BILL.

Read a third time, on motion by MR. ILLINGWORTH, and passed.