Other items agreed to, and the vote passed.

Vote—*Trade Marks, £700*:

MR. KEENAN: Now that the Commonwealth had taken over patents and in a large measure trade marks, would it not be advisable to have this department amalgamated with, say, the Registrar General's Department? The amount of work done here in trade marks was very little, and what the registrar did for the £400 was beyond comprehension.

THE MINISTER would see what could be done in the matter.

Vote passed.

This completed the votes for the department.

On motion by the MINISTER, progress reported and leave given to sit again.

ADJOURNMENT.

The House adjourned at ten minutes past 11 o'clock, until the next afternoon.

Legislative Council,

Tuesday, 19th December, 1905.

	PAGE
Standing Orders suspended to expedite Bills	606
Bills: Third reading (2)	606
First reading (4)	606
Bills of Sale Act Amendment, 2R., etc.	606
Secret Commissions, 2R., etc.	608
Agricultural Bank Act Amendment, 2R., etc.	611
Health Act Amendment (Mr. Brimage), 2R. moved, procedure irregular, order discharged	612
Stamp Act Amendment, 2R. moved	613

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

PRAYERS.

PAPER PRESENTED.

By the COLONIAL SECRETARY: By-laws of Bayswater Road Board.

STANDING ORDERS SUSPENSION.

THE COLONIAL SECRETARY (Hon. W. Kingsmill): Members would no doubt be aware through the Press that an understanding had been come to in another place to terminate the session at the end of this week; and in order to facilitate business, he proposed to ask leave to move for the suspension of Standing Orders. It was usual at this time of the year to do so to enable Bills to pass through their stages in one day, and to enable messages from another place to be considered on the day received. He asked for leave to move the suspension of the Standing Orders.

HON. R. F. SHOLL: Would time be given to consider any important measure that came down to the House?

COLONIAL SECRETARY: Undoubtedly.

Question passed, leave given.

On motion by the COLONIAL SECRETARY, resolved—

That in order to expedite business, the Standing Orders relating to the passage of public Bills and the consideration of Messages from the Legislative Assembly be suspended during the remainder of the Session.

BILLS (2)—THIRD READING.

Roads and Street Closure, returned to the Legislative Assembly with amendments.

Banking Companies Act Amendment, transmitted to the Legislative Assembly.

BILLS (4)—FIRST READING.

Received from the Legislative Assembly, and read a first time—(1) Land Act Amendment. (2) Permanent Reserves Rededication (No. 2) Bill. (3) Stamp Act Amendment. (4) Agricultural Bank Act Amendment.

BILL—BILLS OF SALE ACT AMENDMENT.

SECOND READING.

HON. M. L. MOSS (Honorary Minister) in moving the second reading said: The explanation of this small Bill will be somewhat technical in character, but I am certain that Dr. Hackett, Mr. S. J. Haynes, and Mr. F. M. Stone will be able to follow what I am driving at. Prior to the coming into operation of the Bills of Sale Act of 1889, which is the Statute now regulating the important legal docu-

ments dealt with by that Act, it was provided by the old amendment Act of 1892 that—

> Whenever by a bill of sale executed after the passing of this Act, the grantor thereof shall purport or covenant to grant or assign to the grantee any personal chattels within the meaning of the principal Act, not in existence at the time of the making of such bill of sale, or which the grantor may hereafter acquire, the property and legal interest in such future or after-acquired chattels shall, immediately upon the coming into existence of such chattels or on their being acquired by the grantor, be deemed to pass at law to the grantee of the bill of sale, subject nevertheless to the provisions thereof.

This section enabled after-acquired property to be legally transferred by way of security. By the Bills of Sale Act of 1899, the right to assign this class of property at law has been taken away; and in the case of the stock-in-trade of a trader, which is here to-day and gone to-morrow, the security by way of bill of sale is not now of much value, as at law property acquired either in addition to or in substitution for that contained in the original security cannot be covered to meet all emergencies. With the law in this condition the original security becomes of very little value. With the object of enabling these securities to cover after-acquired property the provision quoted from the 1892 Act was enacted. The late Attorney General (Mr. Walter James) did very good work in 1899 by consolidating all the Acts relating to bills of sale; but I am afraid that in preparing the work he escaped notice of Section 5 of the Amendment Act of 1892; and he provided by Section 7 of the present Bills of Sale Act that "The assignment of all other after-acquired property shall have the same effect as provided by the rules of common law or equity." I want to show to the House that the general rule or maxim of law was that a man could not grant that which he had not got; so the effect of the provision in the 1899 Act was to confer a mere equitable title to after-acquired chattels, and that until a mortgagee has taken actual possession or obtained a legal assignment, by succeeding in getting the mortgagor to execute a second mortgage, he has only an equitable right to the property, the legal right remaining in the hands of the mortgagor. This position now obtains, and we cannot allow such a state of things to continue. The matter came under my notice in the course of a transaction which passed through the Crown Law Department. The Government were financing a firm in the making of pipes. Some large amount of money had been advanced to the firm, while the pipes were being constructed. The Government held a mortgage over the stock-in-trade (present and future-acquired) of the manufacturers. It suddenly dawned on the authorities of Crown Law Office that although the Government had advanced a very large amount of money, the State had no security over the after-acquired property other than a mere equitable interest. In order to protect the revenue and make the security properly available, they were compelled to go to the person whom they were accommodating and get him to execute a second security. Hon. members will see that in many instances this might become impracticable, because one might not always be able to get a mortgagor so favourably inclined; and I think the House will agree with me that the condition of affairs from the time the Amending Act was passed in 1892 to 1899 was much more desirable than the state of affairs now. We shall be able by means of this Bill to give a proper legal assignment of future-acquired chattels. Mr. Stone and Mr. Haynes will bear me out in this, that under the condition of affairs existing to-day we cannot do this in respect of after-acquired property. If the mortgagor were dishonest and made an effort to obtain farther advances from another lender, the holder of the original security would find, under the present law, that his security was seriously impaired. Clause 2 is a re-enactment of the provisions in the 1892 Act, and provides that "Whenever by a bill of sale executed before or after the passing of this Act, the grantor thereof shall purport or covenant to grant or assign to the grantee any chattels within the meaning of the principal Act not in existence at the time of the making of such bill of sale, of which the grantor may thereafter acquire the property and legal interest in such future or after-acquired chattels, shall immediately on the coming into existence of such chattels or on their

being acquired by the grantor be deemed to pass at law to the grantee of the bill of sale, subject nevertheless to the provisions thereof." This is made retrospective, and it is legislation which the House need not hesitate to pass on that account, inasmuch as it only gives legal effect to that which borrowers are at present equitably bound to do. I am afraid it is rather difficult for me to explain this Bill to lay members of the Chamber; but it is very important that it should become law, because the state of the law now very seriously affects the validity to a certain extent of bills of sale purporting to cover future-acquired property. Thousands of these documents have been executed, and I have no hesitation in recommending to the House this Bill, and expressing the hope that it will pass its second reading.

Question put and passed.

Bill read a second time.

IN COMMITTEE, ETC.

Bill passed through remaining stages without remark, and forwarded to the Legislative Assembly.

BILL—SECRET COMMISSIONS.

SECOND READING.

THE COLONIAL SECRETARY (Hon. W. Kingsmill) in moving the second reading said: Firstly, it will be well for me to state the reasons which prompted the bringing in of this measure. Hon. members will recollect that some little time ago in the State of Victoria the suspicions of the Government having been aroused as to certain relations which existed between the importing agents of butter in England and the shipping agents of some lines of steamers which carried that butter from Australia, a Commission to inquire into what has become famous in history as the "Victorian butter scandals" was initiated. By the inquiries made by that Commission, a state of affairs was brought to light which was in the highest degree, I am sorry to say, disgraceful to the commercial community of Australia. This being so, the Government of Victoria thought it requisite that some drastic notice should be taken of such a state of affairs; and therefore when the last Premiers' Conference was held in Hobart at the beginning of this year, the Premier of Victoria brought before his colleagues from the other States the necessity for proclaiming to the world at large that whatever the methods in Australia had been in the past, no possible recurrence of such methods should be allowed in the future. With that idea it was resolved at the Premiers' Conference to introduce in the Parliaments of all Australian States measures prohibiting in future the taking or the offering of agents' secret commissions to the detriment of principals, and to the detriment of the commercial morality and the reputation of Australia. An agreement was entered into by the Premiers; and it is in pursuance of that agreement that this measure has now reached us from another place. As to the other States, we find on inquiry that New South Wales, South Australia, and Tasmania are not yet able to introduce this measure, having been prevented by stress of business. However, in Victoria a similar measure has gone through, the Bill we are now considering being an exact copy of the Victorian Act. The Commonwealth Parliament has also seen fit to pass an Act with the same object. The sphere of operation of the Act, however, as members will understand, differs from the sphere of operation of this Bill. The scope of the Federal Act is confined to operations between two States, or between Australia and any foreign country. This Bill deals practically with the internal transactions of Western Australia. I think that nobody can cavil at the objects of the Bill or at the reasons which have rendered it necessary. It is really a Bill to avoid double-dealing. I should like to disabuse any member's mind in which the idea may be present that the Bill will in any way result in restriction of trade. That is not so, and it is not possible. The Bill will in no way restrict honest trading; but it most certainly will place a very great and very proper restriction on improper trading. It is really a measure against bribery and fraud, and is not to be feared by any but evil-doers. With these few remarks, I leave the Bill to the House, with the explanation that although some clauses of the Bill seem extremely general in their application, when they are read with those other clauses which act as safeguards to these generalities, members will see the net result is that only those

people whom I have alluded to—those who act dishonestly—will be affected by the measure now under consideration. Taking the clauses seriatim, Clauses 2 and 3 may practically be read together. They deal in the first place with the receipt or the solicitation of a secret commission by an agent, which act is constituted a misdemeanour, and also with the gift or the offer of a secret commission to an agent, this act also being constituted a misdemeanour. I should like to explain that there was in another place quite a long debate about the presence in the Bill of the word "corruptly." This word corruptly is practically the essence of the measure. Members will notice that although this is a Bill for the prevention of secret commissions, yet nowhere in the Bill does the word "secret" occur. The idea of secrecy—that is the hiding from the principal of a nefarious arrangement between his agent and some third party—is implied by the word "corruptly," which we find in Clause 2. Without that word "corruptly," the Bill becomes void and of no account.

Hon. J. A. Thomson: Does the Victorian Act contain that word?

The COLONIAL SECRETARY: This Bill is an exact copy of the Victorian Act. How certain members of another place found time to advocate the striking out of the word corruptly" passes by my comprehension. Clause 4 provides that secret gifts to certain relatives or to partners of an agent are deemed gifts to the agent. This is a necessary provision, to avoid evasion of the law by the agent himself not receiving gifts or secret commissions, but receiving them through a third party. The clause also provides that secret gifts which are received by certain relatives or partners of the agent shall be deemed to be received by the agent himself. Clause 5 deals with the most reprehensible practice of giving false invoices, false receipts, or false documents of any sort in connection with any business transaction, thereby deceiving the principal to such transaction. This is now declared to be a misdemeanour. When I am speaking of misdemeanours I should like members to recollect that hitherto, when frauds of this sort have occurred, there have indeed been remedies by civil process; but the Bill, while not destroying these remedies by civil process, will bring dishonest agents under the scope of the criminal law. In Clause 6 provision is made for putting out of court the gift or receipt of a secret commission in return for advice given; and I should like to call attention to the definition of the words "advice given," which will be found at the end of the Bill. The words strike me as a very pleasing euphemism; and they are translated at the end of the Bill as follows:—

> The words "advice given," and words of the like effect, shall include every report, certificate, statement, and suggestion intended to influence the person to whom the same may be made or given, and every influence exercised by one person over another.

Hon. M. L. Moss: Fairly sweeping.

The COLONIAL SECRETARY: It is fairly sweeping, and it ought to be. Clause 7 is the converse of Clause 6, as Clause 3 is of Clause 2; that is, it deals with the offer or solicitation of secret commissions in return for the advice of which I have already spoken. Clause 8 deals with trustees. Members know that very often the trustee appointed under a will wishes to resign, that he may appoint some other trustee in his place. This clause absolutely forbids such transactions as the following:—Suppose that A wishes to resign as trustee of a will, and he is approached by B, who says, "If you make me trustee I will give you so much, or I will do you such and such a favour." That in itself must surely be evidence that there is more in the trusteeship than meets the eye; and farther, I think members will agree with me that it would be most improper for a retiring trustee to accept from a man who wished to take his place a gift as the price of the trusteeship.

Hon. M. L. Moss: In Victoria a number of trustee companies were proved to have paid private trustees to hand over estates.

The COLONIAL SECRETARY: Clause 9 deals with the aiding and abetting of offences within or without West Australia. Clause 10 deals with the liability of directors etcetera acting without authority, and provides that when any director or any other officer of the company, or a person acting for another, does any deed ostensibly on behalf of the company, but really on his

own authority, he shall become personally liable, in so far as this Bill is concerned, for the consequence of that act, and is thereby guilty of a misdemeanour. Clause 11 prescribes the penalties. Members will see that the maximum penalties, at all events, are fairly severe; and I think, considering the safeguards laid down in other portions of the Bill, that they should be severe. Any person—and the usual meaning is attached to the word "person"—who shall be convicted of a misdemeanour under this Bill shall be liable, if a corporation, to a penalty not exceeding £500, and if any other person, to imprisonment not exceeding two years, with or without hard labour, or to a penalty not exceeding £500, or to imprisonment and penalty as aforesaid; and shall in addition be liable to be ordered to pay to such person and in such manner as the court directs the amount or value, according to the estimation of the court, of any valuable consideration received or given by him, or any part thereof, and such order shall be enforceable in the same manner as a judgment of the court. With Clause 12 begin some of the safeguards against what I have described as generalities in this measure. Clause 12 gives power to the court to direct the withdrawal of trifling or of technical cases. It has been argued that this clause is in contradiction to Clause 18, whereby the consent of the Attorney General must be obtained before an action can be started. But I do not think that will be said, when I explain that what may be practically a good *primâ facie* case when brought before the Attorney General may on investigation by the court turn out to have a good deal less in it than was thought at first; and therefore power should undoubtedly be given the court to order the withdrawal of the case, when the court deems such a course necessary. Clauses 13 and 14 deal with witnesses. Clause 13 provides that a witness shall not be precluded or shall not be protected from giving evidence which tends to incriminate himself; that the procedure as laid down in the clause shall be followed—namely, a person who in the judgment of the court or justices answers truly all questions which he is required by the court to answer, shall be entitled to receive a certificate stating that such witness has so answered; and any answer by a person to a question by or before the court shall not, except in the case of any criminal proceedings for perjury in respect of such evidence, be in any proceedings civil or criminal admissible as evidence against him. On obtaining a certificate, should the witness who has apparently been guilty of some breach of the Bill be proceeded against, it is only necessary for him on his trial to produce the certificate which he has obtained from the court before which he gave evidence in order to stay the proceedings brought against him. Clause 15 lays down what is known as custom. While in itself custom shall be no defence in any action brought under the Bill, the clause is reasonable, because some business customs are extremely bad, and should not be recognised by any court as being a legitimate defence against prosecution. Clause 16 lays down that the burden of proof that a gift is not a secret commission shall be on the accused. Clause 17 is important, because it is, as it were, a sort of statute of limitations in regard to the Bill. It lays down the principle that no prosecution for an offence under the Bill shall be commenced after the expiration of two years next after the commission of the offence or six months next after the first discovery thereof by the principal or the person advised, as the case may be, whichever expiration first happens. That is to say, suppose a dishonest agent B has been swindling in the manner laid down in the Bill his principal A and a year from the time the swindling has occurred it comes to A's knowledge that such swindling has taken place, the time limit is reduced to 18 months, because A must take action within six months of the discovery of the commission of the crime, otherwise his case will not be heard; and it is necessary that some limitation should be made in cases where so much depends on documentary evidence and so much depends on personal interviews. Some limitation should be placed on the time within which a prosecution under the Bill should be brought about. Clause 18 provides that the consent of the Attorney General to a prosecution shall be first had and obtained. In this particular this Bill resembles the Act

dealing with libel. Clause 19 provides that every information for an offence under the Act shall be on oath. In the case of an offence under most Acts the information may or may not be on oath at the discretion of the justice before whom the information is laid. Clause 20 is the interpretation clause of the Bill, and defines the meaning of the words "agents," "principal," "trustee," "valuable consideration," "contract," and other terms which are used throughout the measure. I have again to point out to members that I do not think in any way the Bill is calculated to act in restriction of any honest trader. It is brought in as the result of the consideration by the heads of the Governments of the various States of Australia to remedy a state of affairs which has been published throughout the world and it has been considered well that the publication of the offence and what may be regarded as the atonement of the offence should be also published throughout the world. I have much pleasure in moving the second reading of the Bill.

Question put and passed.

Bill read a second time.

IN COMMITTEE, ETC.

Clauses 1 to 16—agreed to.

Clause 17—Limitation of time for prosecution:

Hon. W. PATRICK: Two years after the commission of the offence or six months after the first discovery of the offence was altogether too short a time.

The COLONIAL SECRETARY: In most cases where fraud had been committed, if it were going to leak out at all it would do so within two years of its commission. This clause was to ensure that the evidence for the defence shall be available. There was a necessity for as much uniformity as possible in this law throughout Australia. The Premier's conference had practically agreed to it. It had been passed in one State and would be passed in others. Victoria had laid down two years as the limit or six months after the discovery, which was a reasonable time.

Hon. C. A. PIESSE: The Government were to be congratulated on having placed the provisions clearly in the Bill. In the past there was generally a provision that the Acts Shortening Act should apply. The time stated in the clause was quite sufficient.

Hon. G. RANDELL: The principal embodied in the clause was the time within which prosecution should take place. Since he had been in Parliament he had never seen a Bill that had puzzled him so much as this measure, even after the lucid explanation of the Colonial Secretary. He thought the results from Bill would be nil—no prosecutions.

Clause put and passed.

Clauses 18, 19, 20—agreed to.

Preamble, Title—agreed to.

Bill reported without amendment, and the report adopted.

Read a third time, and *passed*.

BILL—AGRICULTURAL BANK ACT AMENDMENT.

SECOND READING.

The COLONIAL SECRETARY (Hon. W. Kingsmill) in moving the second reading said: I simply have to explain that this is one of those periodical Bills in connection with the Agricultural Bank which they must be by this time quite used to. As hon. members are aware, the Agricultural Bank has a capital which is fixed by statute, and as the operations of that bank extend, so it is found necessary from time to time to extend the amount of the capital. Such a time has now been reached. The Director of the Agricultural Bank, a gentleman who is well known to hon. members and also throughout the whole of Western Australia, has found it necessary to again approach the Treasury in order that the limit of his authorisation may again be raised. As it now stands, the authorisation of the bank is £500,000. The amount of loans approved of is £463,700, less cancellations of £24,619, an actual amount of £439,081, leaving a balance available of £60,919, while there are now lying in the office applications for loans approximating £25,000, leaving a balance available of only £35,919 for farther applications. The amount applied for during the expired perion of the present financial year, that is five months, amounts to £61,500, and it is pointed out that if this rate is maintained the existing authorisation will carry on the bank's operations only about three months. That being so, it must be obvious to hon. members that it will be

necessary to again increase the capital of the Agricultural Bank, which I am sure is doing much good work for the settlers and the State generally throughout Western Australia. With this idea the Bill is introduced, and it is proposed by the Bill to raise the amount the Colonial Treasurer is authorised to advance for the purposes of the bank to a sum not exceeding in the aggregate £600,000. I do not think I need say more in recommending the measure to the House. I have much pleasure in moving the second reading.

HON. C. A. PIESSE (South-East): I have much pleasure in supporting this Bill, and I think the Government are fully justified in asking us to increase the amount of authorisation for the purposes of the Bill. There is not the least doubt that the security offered is the very best, and that it protects the State against any possible loss. In fact it seems to me that there cannot possibly be any loss, unless something very unforeseen happens to the country. The institution is a particularly well managed one, under a proved manager, and the State is fortunate in having in that capacity such a man as Mr. Paterson. I have much pleasure in supporting this measure.

HON. C. E. DEMPSTER (East): I have much pleasure in supporting the measure, and am pleased to see evidence that the Government intends to do what it can to advance the interests of agriculture in this State. I think that every effort should be made in the direction of extending the operations of this bank, which has done so much good in the past.

HON. R. F. SHOLL (North): What becomes of the profits of the bank? Do they go into the Consolidated Revenue as repayment to the State?

THE COLONIAL SECRETARY: If the hon. member means the mode of redemption of loans to borrowers, Section 10 of the principal Act of 1894 provides how any surplus is to be carried to the redemption account. [Section read.]

Question put and passed.

Bill read a second time.

IN COMMITTEE, ETC.

Bill passed through the remaining stages without remark.

BILL—HEALTH ACT AMENDMENT.

SECOND READING.

HON. T. F. O. BRIMAGE (South) in moving the second reading said: The object of the Bill is to enable health rates to be collected by municipal councils and roads boards at the same time as general rates. As the law now stands, municipal councils are the local boards of health for the municipalities, but at present roads boards are not boards of health in respect of their districts. At the present time roads boards have to send out two notices annually; they have to make up a health rate notice in December, and a roads board rate notice ending 30th June. They also have to keep separate receipt-books and separate rate-books; and the reason this Bill is introduced is with a view to enabling roads boards to issue their health notices on the same day as their rate notices. Clause 3 provides:—

> Nothwithstanding anything contained in the principal Act, every municipal council, and every road board of a road district declared a health district under the provisions of the last preceding section, may and shall under its local governing Act make and levy on all rateable land in the district, and cause to be collected, in addition to the rates which it may be otherwise authorised to make and levy, such general health rates and sanitary rates as may be authorised by and required for the purposes of the principal Act.

Hon. members who live in a roads board district will remember that they get two separate notices, one in December and another in June; and it is to avoid this double sending of notice that the amending Bill is introduced. I would like to add that the Bill has been drafted by the Parliamentary Draftsman, Mr. Sayer, and the Government are not opposed to it; in fact I am assured by Mr. Moss that they will support it. I have much pleasure in moving the second reading.

HON. W. MALEY (South-East): I am somewhat surprised that this Bill should be introduced, but I suppose, as it meets with the approval of the Government, that it is in order. I should like to refer to Clause 2, which provides for power being given to declare health districts. Every roads board may be declared a health district. It must be obvious that taxation levied on people for health purposes would press heavily on people in thinly settled districts who

would get no direct benefit from it. This appears to me to be an inequality and an injustice we should not permit, though I quite perceive the wisdom of the roads board being a health body in places like Wagin and Katanning, where there is distinct settlement in the shape of towns. Apart from that, I see no particular objection to the Bill. I rather think it is a step in the right direction, but I hope in Committee the measure will be amended to inflict no hardships.

Hon. R. F. SHOLL (North): Clause 3 appears to be amending taxation that does not now exist.

PROCEDURE IRREGULAR—RULING.

The PRESIDENT: This is not a private Bill. It is an amending public Bill dealing with the levying of a public rate. Therefore it cannot be introduced in this House. It must be introduced in another place.

Hon. M. L. Moss: Under what Standing Order is that?

The PRESIDENT: The Assembly Standing Order 309 says:—

With respect to any Bill brought to the House from the Legislative Council or returned by the Legislative Council to the House with amendments whereby any pecuniary penalty, forfeiture, or fee shall be authorised, imposed, appropriated, regulated, varied, or extinguished, the House will not insist on its privileges in the following cases:—(1.) When the object of such pecuniary penalty or forfeiture is to secure the execution of the Act, or the punishment or prevention of offences. (2.) Where such fees are imposed in respect of benefit taken or service rendered under the Act, and in order to the execution of the Act, and are not made papable into the Treasury or in aid of the public revenue, and do not form the ground of public accounting by the parties receiving the same, either in respect of deficit or surplus. (3.) When such a Bill shall be a private Bill for a local or personal Act.

This is a public Bill, and deals with power to levy a rate.

Hon. M. L. Moss: With all respect to your ruling, the imposition of a health rate is for the purpose of a service of a local body, and is not paid into the public revenue of the State.

The PRESIDENT: *May* says—

And the Commons also agreed to another Standing Order, whereby they surrendered their privileges so far as they affected private and Provisional Order Bills sent down from the House of Lords, which refer to tolls and charges for services performed, not being in the nature of a tax, or which refer to rates assessed and levied by local authorities for local purposes.

This is an amending public Bill. We cannot call a Roads Board Bill a private Bill.

Hon. M. L. Moss: I am satisfied. All I desired to see was whether we were giving away any of our privileges.

The PRESIDENT: We are not in this case. *May* clearly lays it down.

DISCHARGE OF ORDER.

On motion by Hon. T. F. O. Brimage, order discharged.

BILL—STAMP ACT AMENDMENT.

SECOND READING.

Hon. M. L. MOSS (Hon. Minister), in moving the second reading, said: This measure is for two objects. It is one of the taxation proposals of the Government, and it is anticipated that a considerable amount of additional revenue will be derived. Also it is intended to carry out the promise made by the Premier when he delivered his policy speech, that he would by legislation validate all outstanding promissory notes held to be invalid in consequence of being improperly stamped. We have Clause 15 in fulfilment of that promise, and it provides that if any person at the commencement of the Act is the holder of an unstamped bill of exchange or promissory note, the proper stamp duty may be affixed and the stamp cancelled to the 1st April, 1906, by any officer appointed by the Governor-in-Council under the Stamp Act Amendment Act 1902. It is necessary that this should be done to get over certain technical defences which have been set up in actions on dishonoured promissory notes. The present Stamp Act provides that a promissory note may only be stamped by the maker of that promissory note and at the same time the promissory note is made; but there are numbers of those documents in the offices of mercantile people which did not bear stamps at the time of making and which were only stamped by the payee after the receipt of them. The Government do not desire that people should be able to get out of their liabilities by technical points of this character, and this clause appears in the Bill to carry out the promise of

the Premier during his policy speech. As indicated by Clause 6, it is also intended that on and after a date to be fixed by proclamation, probably the 1st January next, the Governor-in-Council will declare that the duty on bills of exchange and promissory notes shall be denoted by impressed stamps instead of adhesive stamps. The necessary dies are made to effect this reform. It will also be noticed that there is due provision made in this clause for parts of the State to be excluded from this proclamation where, in the opinion of the Governor-in-Council, the people may not be able to get supplies of impressed stamps. Most members will agree that the Government have lost a considerable amount of revenue in the past by permitting the duty on promissory notes and bills of exchange to be denoted by adhesive stamps. In many instances, particularly at the time of the passing of the amending Act of 1902, these stamps were put on and cancelled by the payee; and in many instances where bills were not put into a bank they were not stamped at all. The law contained in the Stamp Act now lays down the position that if the payee of a bill takes it without the proper stamp duty being on it and without the stamp being properly cancelled, the note is not to be made available for any purpose whatsoever; but we are quite satisfied that there were cases where it was impossible to procure stamps, and we provide in Clause 12 that if a person makes a note or accepts a bill not properly stamped he shall incur a penalty of £50, and the person who takes or receives it is not entitled to recover thereon or to make the same available for any purpose, until it is duly stamped. That is a great advance on the present position; because the existing law provides that the note is not available at all for any purpose and is absolutely defective. If it is proved, as set out in Clause 12, Subclause 2, that the note is insufficiently stamped, the Treasurer has power to stamp it to 28 days after it has been received. It is also provided that the persons authorised under the amending Act of 1902 are empowered to cancel these stamps. The result will be that, if an unstamped bill comes into the possession of the payee, he will be entitled to take it to one of these officers and get it stamped within 28 days. It will not relieve the maker of the note of the penalty, but the document will become available, and the Treasurer may exercise discretion as to whether the person should be penalised. Our experience tells us that in the back country, which will be excluded from the operation of the impressed stamps, it is impossible to get proper bill forms. Clause 12 has been put into the Bill to provide for cases of that character. Clause 14 is important, and is largely aimed at the practice which has grown up in this State of large numbers of land bills which never go into the bank, but which the land broker holds in his office safe. They are generally made by the people who are making progress payments at the land broker's office. A person may get all the bills retired at the broker's office, and in the great majority of cases they are never stamped at all. We are going to penalise the person who takes one of those bills without the proper duty being on it. I am sure the House will agree with me that, if it is intended to put a duty on these documents, it is grossly unfair that one section should stamp a bill and put it into the bank, while those operating in land or any other commodity and giving long terms for payment should have their bills free of stamps. In the circumstances we subject them to a penalty of £20 in the case of non-stamping. Clause 16 enables us by proclamation to prescribe the use of impressed stamps on documents other than bills of exchange and promissory notes. Clause 6 provides that by proclamation in the *Gazette* the duty on Bills and promissory notes is to be denoted by impressed stamps, and after the date fixed by proclamation, which I have informed the House is to be the 1st January next, we may find it expedient to extend this principle of impressed stamps to other classes of documents when the time is ripe. This measure will enable us to extend the operation of these impressed stamps to other documents. Clause 17 is rather important, so far as the public are concerned. It is the intention of all the fire insurance companies carrying on business in this State to adopt a uniform fire policy with uniform conditions. I may illustrate, that by

saying that some insurance companies do not take upon themselves the responsibility of paying for losses occasioned by lightning. I presume many members of the House have from time to time read some of the conditions—and they are drastic indeed—in force, and which are printed on the backs of these policies. With the idea of putting these policies on a proper basis, the insurance companies have agreed for uniform policies, with uniform conditions; and loss by lightning is one of those which they are going to undertake. There will be a certain benefit to the public from the adoption of these uniform policies. The insurance companies now ask the Government to allow these to be issued without the imposition of duty, and the Government is prepared to do so, so long as it does not for new policies which may be taken out and the payment evaded. The clause provides: "If the companies doing business of fire insurance in this State adopt a uniform fire policy, to be approved by the Colonial Treasurer or other person appointed by him, the Colonial Treasurer or other person appointed by him may at any time within 13 months after the commencement of this Act, exempt from stamp duty any policy issued in such form in substitution for any existing policy covering the same property and for the same amount." The period of 13 months is given for this reason. Most policies have operation for 12 months, and a period of 13 months is provided in order that policies in existence should be allowed to expire, with one month to boot. A period of two years is allowed under Section 18 for the taking of proceedings for the institution of penalties provided by the Act. It has been suggested that six months would be sufficient; but it is necessary that the period should be two years for this reason. Many bills have a longer currency than six months; many of them run up to three years or more; and we propose to make the period two years; then, if after two years the bill is not properly stamped, we will be able to take proceedings to institute the penalties provided by the Act. If this is not done, the clause will be of very little avail. Any bill of less currency than six months will generally find its way into a bank and be discounted; and a bank will not discount a bill unless it is properly stamped. The schedule contains many new duties, the majority of which are on the same basis as this of the State of Victoria; but as there are numerous increases of duty, I shall briefly draw attention to these. An affidavit or declaration is subject to a duty of one shilling. Appraisements, on page 8, are all new; bills of exchange and promissory notes, as I have already explained, have been practically doubled, the duty being now on the same footing as in Victoria. In the word "company" I will make a short explanation to the House of what we have done. Under Section 26 of the Companies Act, which is an exact transcript of the Imperial Companies Act, it is provided that any payment which has been made for liabilities except for money, or money's worth, shall have a full face value of the share; or if it is issued as a fully-paid-up share it must be filed with the Registrar of Companies. The section provides:—

> Every share in a company excepting a no-liability company shall be deemed to have been issued and to be held subject to the payment of the whole amount thereof in cash, unless it shall have been otherwise determined by the memorandum or articles, or by a contract duly made in writing and filed with the Registrar, at or before the issue of such shares.

In the Imperial Act the only method is by filing; but when our Companies Act went through in 1893 Mr. Parker, who had charge of the measure in this Chamber, provided in lieu of filing that it might be provided in the memorandum and articles of association of companies, and companies frequently give as transfers of valuable property fully paid up shares. There is no reason why these should not bear the same duty as when payment is made by money for the purchase of freehold property. Those persons availing themselves of the practice of filing have been obliged to pay the duty; those who have been astute enough to offer payment by inclusion of the fully paid up shares in memorandum or articles of association have escaped; and I took good care to see when the Bill was being prepared that no one escaped the duty, and in every case it will be necessary for duty to be paid on fully paid up shares. Conveyance or Transfers: The duty at the

present time is 6d. for each £5. There is a slight alteration, which hon. members will see, which makes the duty higher. It is provided that where a consideration does not exceed £25 the duty shall be 6d., the same as to-day; but where it does exceed £25 the duty shall be 2s. 6d. That will work out in this way. Take the case of a £30 purchase money; the duty will be 2s. 6d. on the first £25, and 2s. 6d. on the fraction of the next £25, which makes 5s. for a £30 contract. I am taking the most extravagant case. When the purchase money is £50 the duty will still remain only at 5s.; for £55 it would be 7s. 6d., there being no difference between £50 and £75. There is no desire to shirk the position. It is the intention of the Government to get the extra money, as revenue is urgently required. Exchange is a new duty, and hon. members will see with regard to that that it is an important thing, and there is no reason why revenue should not be obtained in this direction by the Government. One man gives away one piece of land in exchange for another, and in that case the duty would be a nominal one of 10s.; but if a money consideration pass, then the same duty shall be paid on the money that passes as if it were an outright purchase. This is not the case at the present time, and there is no reason why it should not be. Where properties exchanged are of equal value, there is no intention to charge the duty at the same rate as for a sale. The duty is only a charge on the additional money handed over. There is no new taxation until we come to the partition of land; and the observations I made with regard to the exchange of land apply equally to a partition of land, where we make provision that consideration in money paid shall be chargeable with the same duty as that on a sale. I do not think that there are any other increases until we come down to the last page of the Bill. At the present time if a voluntary settlement is made other than for a *bona fide* pecuniary consideration—that is to say, the consideration of natural love and affection, where the husband passes over to the wife a considerable amount of property—that is subject to either no duty or to a 10s. duty. There is a difference of opinion as to whether it is liable to duty at all. If we do not stamp it, it is not otherwise charged. Hon. members will know that in the case of settlement made during the lifetime this is subject to a heavy duty.

HON. C. E. DEMPSTER: It adds to the probate.

HON. M. L. MOSS: No; it simply falls upon those people who do not devise their property by will; they have to pay 5s. per cent. This will apply to ante-nuptial settlements and post-nuptial settlements. This duty has been in existence in New Zealand for 25 years; and the adoption of it here I think will be beneficial. These settlements should be subject to some duty; and this is a time when the Government is looking around to get additional sources of revenue. Hon. members will agree that the various duties imposed by the Stamp Act are legitimate methods of getting this additional revenue from those interested in these transactions. I cannot give the House an estimate of what the Treasurer expects to get from these increased duties, but at any rate we shall know something about it by the end of June; and we will then have half-a-year's experience to guide us. The Bill has been subjected to some criticism in another place; but I have no hesitation in recommending it to the House. The Premier has promised he will validate these promissory notes at present in existence. The Bill makes better provision for the stamping of these documents in future. I move the second reading of the Bill.

On motion by HON. G. RANDELL, debate adjourned.

ADJOURNMENT.

The House adjourned at 15 minutes past 6 o'clock, till the next afternoon.