On the motion of the PREMIER, progress was reported, and leave given to sit again.

ADJOURNMENT.

The House adjourned at 11·50 p.m. till next day.

Legislative Council,

Tuesday, 24th August, 1897.

Question: Water Supply for Perth and Suburbs—Companies Act Amendment Bill; first reading—Court of Criminal Appeal Bill; first reading—Police Act, 1892, Amendment Bill; second reading; President's ruling on procedure; in Committee—Hainault Gold Mine, Limited, Bill; second reading; President's ruling on procedure; referred to Select Committee—Commonwealth Bill; in Committee—Adjournment.

THE PRESIDENT (Hon. Sir G. Shenton) took the Chair at 4·30 o'clock, p.m.

PRAYERS.

QUESTION—WATER SUPPLY FOR PERTH AND SUBURBS.

HON. R. S. HAYNES (for the HON. G. RANDELL), in accordance with notice, asked the Minister of Mines if he could inform the House what steps the Government were taking to ensure an adequate supply of water for the city of Perth and suburbs?

THE MINISTER OF MINES (Hon. E. H. Wittenoom) replied:—I have received the following letter on this subject from the Metropolitan Waterworks Board, and I may also inform the hon. member that a bore is about to be put down by the Government at Subiaco and Leederville:—

The Hon. E. H. Wittenoom, M.L.C., Legislative Council, Perth.

The Metropolitan Waterworks,
St. George's Terrace,
Perth, August 23rd, 1897.

SIR,—

In reply to your question of the 24th inst., I have the honour to inform you that a new 21in. main is in course of being laid from the Mount Victoria Reservoir to Mount Eliza, and will be completed by the end of September, the capacity of which would enable us to put four million gallons of water per day into Mount Eliza Reservoir, *if we had it*; but the present capacity of the Mount Victoria Reservoir would only justify us in drawing one million gallons per day.

Twenty-seven miles of new reticulation pipes have been laid in the city during the past nine months.

A bore is also being put down in Wellington Street to try and obtain an extra supply of water.

The present consumption is 650,000 gallons per day; and we anticipate that it will require 1,500,000 gallons to supply the city for the summer months.

I have, etc.,

For the Metropolitan Waterworks Board,
WALTER H. JONES,
Secretary.

In addition to that, I may say the Government is about to start, or has started, a bore to try and tap water at Subiaco and Leederville, hoping by this means to supply these suburbs with water during the summer months.

COMPANIES ACT AMENDMENT BILL.

Introduced by the HON. H. G. PARSONS, and read a first time.

COURT OF CRIMINAL APPEAL BILL.

Introduced by the HON. A. B. KIDSON, and read a first time.

POLICE ACT, 1892, AMENDMENT BILL.

SECOND READING—PRESIDENT'S RULING ON PROCEDURE.

THE PRESIDENT: In accordance with the request made to me yesterday, I will give my ruling on the point which was raised. I have looked carefully into the matter, and the decision I have arrived at is as follows:—As the latter portion of the third clause refers to the Western Australian Turf Club, who enjoy certain powers and privileges under a private

Act, I consider that this clause, conferring on them further powers, cannot be introduced into the present Bill. It is therefore optional for the hon. member either to abandon Clause 3, or withdraw the Bill and introduce a fresh one, omitting that clause.

HON. R. S. HAYNES: I ask for leave to withdraw the Bill, and I shall seek to introduce it in a different form. Nothing will be gained by introducing the Bill again this session, unless I see some probability of the Bill being dealt with.

HON. S. J. HAYNES: I would like to mention that when the hon. member was introducing this Bill the other day, he referred to certain proceedings which had taken place in the police court. He drew attention to the fact that, after the first offence, a person could be brought up under the category of a rogue and vagabond. The Hon. C. A Piesse thought it necessary to whitewash his brother. I did not think it was necessary at the time, but I have been talking over the matter since, and it appears that some annoyance has been given to others. The Hon. R. S. Haynes referred to a previous Director of Public Works having been charged under the Act. I do not know to whom he referred, but I desire to mention the name of a previous Director of Public Works, Mr H. W. Venn. That gentleman was once "wickedly" involved in a sweep with some ladies on a racecourse, and proceedings were taken against him, but those proceedings were subsequently abandoned. It is a thing that any gentleman might have been engaged in. No reflection was cast on Mr. Venn, and I desire to say that no reflection, I believe, was cast on any other Director of Public Works.

HON. R. S. HAYNES: There was nothing further from my mind at the time than to apply the term to any other Director of Public Works. I was pointing out what serious consequences might ensue if a man was convicted of innocently wagering, by being treated as a rogue and vagabond, and I mentioned that incident to show that the Act should be amended in this particular. I suppose I shall have to meet an objection in reference to Mr. Wright, but I repeat that nothing was further from my mind. I was not referring to anyone in particular. In fact, I may express my amazement at the remarks made by the Hon. C. A. Piesse. I will ask you, Mr. President, not to put my motion to withdraw the Bill, but when in committee I shall endeavour to strike out Clause 3, as you have stated that I can proceed in that manner.

HON. S. J. HAYNES: I support the second reading of the Bill, with the third clause struck out. Attention has been drawn by the hon. member who introduced this Bill to the harsh provisions of the Act, and I think they are very harsh; therefore I have much pleasure in supporting the measure.

Question put and passed.

Bill read a second time.

IN COMMITTEE.

Clauses 1 and 2—agreed to.

Clause 3 -Western Australian Turf Club may make By-laws regulating betting:

HON. R. S. HAYNES moved that this clause be struck out.

Question put and passed, and the clause struck out.

Preamble and title—agreed to.

Bill reported to the House, with an amendment, and report adopted.

HAINAULT GOLD MINE, LIMITED, BILL.

SECOND READING—PRESIDENT'S RULING ON PROCEDURE.

THE PRESIDENT: I was requested to give my ruling as to whether this is a private or a public Bill. I have carefully considered the provisions of this Bill, and the surrounding circumstances, and I have come to the conclusion that it comes under the head of what is known as a hybrid Bill, and in this opinion I am supported by a ruling given in the House of Commons. A similar question was raised there, and the Speaker then ruled that Bills introduced as public Bills which involve private interests are subject to the same examination as private Bills. I have written the following ruling:—In my opinion this is a hybrid Bill, and comes under the regulations of Bills introduced as public Bills which involve private interests, and are therefore subject to the same examination as private measures. When, therefore, it has passed

the second reading, it must be referred to a Select Committee, to whom the Council may give power to call for persons, papers, and records.

THE MINISTER OF MINES: I take it that I can go on with the second reading.

THE PRESIDENT: Yes; you can go on with the second reading debate, and after the Bill has passed its second reading it must be referred to a Select Committee.

HON. R. S. HAYNES: As I moved the adjournment of the debate, I will make a few remarks on the second reading. Most of the objections to this Bill, as a public Bill, are taken away by the ruling which you have just given. It seems to me that the Government has been in the habit of introducing legislation having a retrospective operation, which is highly objectionable. I remember in the case of Baker v. Traylen, that a breach of the Constitution had been committed, and an action was pending in the Supreme Court against Mr. Traylen for that breach. Parliament passed a Bill stopping the action, amending the Constitution, and saying that, although persons might have committed a breach of the Constitution to that date, it would not be taken notice of. I was associated with the Attorney-General and Mr. James in the case, and I do not wish to appear before the bench and fight out a case on a Bill having a retrospective operation again. The case which the Minister of Mines puts before the House does not, in my judgment, call for special legislation. The case made out by the Minister was that a lease had been granted to the Hainault Company, and for non-payment of rent the lease was forfeited. The agent of the company had paid the rent within the prescribed time, but, it is so alleged, under a wrong number, and the Government, believing the rent was not paid, gazetted the lease as forfeited. It might be that the money was not paid, and that the lease was properly forfeited. It might be that the Government gave the company an opportunity to pay the money, and that letters were written saying that the money was not paid, and drawing attention to it. I do not say that was the case, but it might have been so. The lease was gazetted as forfeited, and by Section 48 of the Goldfields Act of 1895 the gazetting of a forfeiture of a lease is said to be conclusive proof that it is forfeited, and that the land is open for selection. It is erroneous to suppose that because the Government puts in a *Gazette* notice by mistake that a lease becomes forfeited, that that is conclusive proof. Under the notice which appeared in the *Government Gazette* was the name of the Minister of Mines. That point is now before the Court and will be decided directly. A person named Ramsden held a lease. Austin jumped it. The jumper succeeded in ousting Ramsden. A recommendation was approved by the Minister declaring the lease to Austin, and seven days after that Austin had the right to peg it out. Austin pegged it out too soon, and Ramsden, knowing this, waited until the preferent right had expired and pegged it out also. The Court, sitting in appeal, held that the lease should be given to Ramsden. While arguing the case in Court, out came a *Gazette* notifying that the lease was granted to Ramsden. Strange to say, a month after that there was a notice in the *Gazette* that the lease had been forfeited. First it is gazetted to Ramsden, then it is forfeited, then it is granted to Austin, and it is erroneous to say under those circumstances that the gazettal of a forfeiture is conclusive proof that the land had been forfeited. The Court has held that a *Gazette* notice must be supported by certain proofs and certain facts. If the Government did it in error, no person acquires a right, and the Government need not take action.

THE MINISTER OF MINES: There can be no harm in having the Bill, then.

HON. R. S. HAYNES: I trust that our Courts deal out justice. If the facts given by the Minister are correct, the company is not entitled to the land.

AN HON. MEMBER: What about the action against the Government?

HON. R. S. HAYNES: I have nothing to do with that. If the Government is to bring in Bills of this kind, there will be no legislation. There is what is known as wire-pulling instead of legislation. Of the two, I prefer to have a case fought out in open Court. What opportunity will these jumpers have of being heard? There is no person to defend their case.

AN HON. MEMBER: There ought not to be jumpers.

HON. R. S. HAYNES: You say these persons are jumpers, and you will not let them prove they are not. I remember the Londonderry case, and a special Act was passed to remedy it.

THE MINISTER OF MINES: You voted for that Bill.

HON. R. S. HAYNES: I was not a member of the House at that time, therefore I could not have voted for it. I am not dealing with the facts of this case, but with the principle underlying them, and the same principle underlies many others. If, as the hon. gentleman says, he can prove the facts, let them give the other parties an opportunity of disproving, if they so desire.

THE MINISTER OF MINES: What about the other men's title during this time?

THE HON. R. S. HAYNES: Which men?

THE MINISTER OF MINES: The original holders, who have done nothing wrong.

HON. R. S. HAYNES: You start on a wrong assumption. You only know that they have done nothing by what somebody has told you. You know that a mistake has been made by an officer of the department, and how do you know that he has not bungled and given you wrong information also? I hope it will not be thought that I do not believe that what the Minister is saying he does not think is correct. We should not usurp the functions of a Court of Justice. I know it will be said that I am taking a side that is unpopular. It might be said, "You are appearing for the jumper." I may say I have never appeared for a jumper in my life: I have always been on the other side. I have refused, over and over again, to have anything to do with a jumping case, and I am not upholding the jumpers now. The Supreme Court upholds them, and tells you they are good persons who see that covenants are carried out. The Government are endeavouring to pass this Bill to deprive a jumper of privileges which he has had given him under an Act of Parliament, and it does not seem to be fair play at all. This is not a case of jumping. In this case a lease was declared forfeited, and some persons holding miners' rights went on to the land which the Government declared forfeited. They saw in the paper that the lease was declared forfeited. How was it possible for them to find out that the lease had been improperly forfeited? The Government did not know that it was improperly forfeited. Outside of the House I have heard a great many rumours about the payment of this rent. I have heard that it was not paid. The Minister may have heard the same. If that is so, a strict and searching inquiry should be made into the matter. Is it right to deal by an Act of Parliament with a case which the Supreme Court can decide? Are we not introducing into the colony a very bad principle; stopping persons from proceeding with actions in Courts of law? The Courts very firmly set their face against such proceedings. I see no reason whatever for the Bill. If the facts can be supported by strict evidence, as they should be supported, then the Hainault Company has nothing to fear. If they turn out not to be the facts, then we ought not to pass this Bill. There should be a proper tribunal to find out what the facts are—not this House, but the Supreme Court. It would be much better for us to let them settle their dispute in the Supreme Court. If, before the Bill goes through, the actions are dealt with in the Supreme Court and the Court finds there is nothing in the case, what position would we be in? The Court will say, "The Legislature will not trust us to do our duty." I think the Supreme Court would express, in strong terms, that it should not be forestalled in such matters. As to the fact that the Minister accepts as true law that a *Gazette* notice forfeits a lease, that very question is now awaiting decision, and will be decided in the next few days.

THE MINISTER OF MINES: We know what we meant when we made the clause.

HON. R. S. HAYNES: Many persons make clauses to carry out certain things, but the Supreme Court says they do not carry out those things. If there was no breach in this case, there was no reason for the *Gazette* notice. A Minister of Mines—and there have been Ministers of that description—might gazette a notice a day before leaving office, say, for instance, that the Great Boulder should be forfeited, and one of his friends might go and take it up. I would like to hear a person go and argue before the Court that the Great Boulder was forfeited under such circumstances. It is said that the credit of the colony is at stake over this matter.

I suppose the next time that an action is brought against the Government to recover damages over a railway accident, the Government will bring in a Bill saying "We will stop all actions against the Government this year." I object to stopping actions when litigation has begun, and I will vote against any Bill like this, and work against it in every way. Any one who has the interest of the colony at heart will stand up against the Government trying to introduce retrospective legislation.

THE MINISTER OF MINES: I will just say one or two remarks in reply to the hon. member who has spoken so earnestly on the matter. After it is all boiled down hon. members will see the position from a practical point of view, and consider it in the same light as the Government does. As to our stepping in in a case of this kind, I think it is entirely for the Parliament of the country to say whether it will make laws of this nature or not. The Parliament represents the people, and has the interests of the people at stake, and I think the members of both Houses, who constitute the Parliament of the country, have a perfect right to introduce legislation which will be for the protection of the country and the individuals of it. I agree with the Hon. R. S. Haynes that it is a serious matter to interfere with parties who have started a case in the Supreme Court, and looking at it from that point of view I do not think the Government would be justified in doing that; but there are exceptional circumstances which show that the Government is taking the right and proper steps. The original holders of this lease have done no harm or wrong, they have committed no breach of the conditions of the Goldfields Act, and without any fault of their own they have actually had their property forfeited. The hon. member may say that the notification of forfeiture in the *Gazette* is not conclusive proof, but I say the section was put there so that it should be conclusive proof for everybody. It was forfeited by the Governor-in-Council, not the Minister of Mines.

HON. R. S. HAYNES: The *Gazette* notice only shows the Minister's name.

THE MINISTER OF MINES: And that protects the possibility of the fraud which the hon. member says might take place in forfeiting such a lease as the Great Boulder. The Governor through all Acts, as hon. members know, is intended to mean the Governor with the advice of the Executive Council, so that when the Governor advertises a forfeiture it is not done by the individual. It is absolute, conclusive proof that the advertising of a forfeiture reduces the lease to which it applies into Crown land. These leaseholders who had complied with the Act and paid their rent—it is a fact that they had paid their rent: the receipts can be produced, and any particulars required the department is willing to give them — these unfortunate leaseholders have their peace of mind disturbed, their rights interfered with, and they run the risk of losing their lease. Is that right and fair? Supposing they went to the Supreme Court, and through some intricate point of law they were beaten?

HON. R. S. HAYNES: They could go to the Privy Council.

THE MINISTER OF MINES: Probably it would end in an action against the Government of the country, and, if the mine was worth £100,000, the Government might have to pay the amount. It is no fault of the original holders that their rights were forfeited. The late peggers-out have had none of their rights interfered with. What they did was done with their eyes open: they knew the Government had cancelled the forfeiture. There is just the point whether they were not legally in possession according to the Act. The Bill is introduced to give to those fairly entitled to it just and fair rights, without depriving anyone of anything, and Parliament is asked to pass it to prevent any annoyances. No doubt the Hon. R. S. Haynes thinks, from his standpoint, that it is a matter for appeal. He has taken a great deal of interest in it, but he has not spoken from a broad point of view. No doubt he has his reasons for it. [HON. R. S. HAYNES: None whatever.] We are endeavouring to do justice by restoring to the right holders of the property this lease. Those men have spent large sums of money in developing the property. If we are to have people investing their moneys here, we must give them secure titles. Because of an error in the department, no one should be put to the trouble and expense of defending actions in the Supreme Court. I hope hon. members

will assist me in carrying the second reading of the Bill.

HON. C. E. DEMPSTER: I shall support the second reading of this Bill, inasmuch as I consider the circumstances exceptional. The Minister has explained the circumstances very clearly, showing that these second claimants have legally no rights at all. They were fully aware of the whole of the facts of the case, and it can only be looked upon as a case of jumping. In the first place it would be unfair to allow room for proceedings against the former occupants of the mine, and it is not right to allow the Government to be open to action. In the first instance the original holders may suffer, and in the second place the Government may suffer. We know that speculative actions are brought into Court, and this may be a case of that kind, and the man who brings the action may not have the means of paying the expenses in the event of losing, and the costs would then have to come out of the pockets of the defendants.

Question put and passed.

Bill read a second time.

REFERRED TO SELECT COMMITTEE.

THE MINISTER OF MINES moved that the Bill be referred to a Select Committee.

Agreed to.

THE PRESIDENT: The Select Committee will consist of three members, according to the Standing Orders; but, in balloting, hon. members should only put down the names of two members, as the mover of the motion is a member of the Select Committee.

HON. R. S. HAYNES: As this is an important matter, I move that the Select Committee consist of five members. It is the first hybrid Bill that has passed through this House, and as it deals with the interests of other persons it should be watched very closely indeed.

HON. S. J. HAYNES: I second the motion. There is a great deal in what has been submitted to the House, and it would be a wise precaution if we could have a larger committee than three.

Question put and passed.

THE PRESIDENT: Hon. members will put down four names on the ballot paper, as the mover of the motion for a Select Committee is always a member of that committee.

A ballot having been taken, the President declared the Hons. H. G. Parsons, A. H. Henning, G. Randell, and H. J. Saunders elected.

THE MINISTER OF MINES moved: "That the Select Committee have power to send for persons and papers, and report to the next sitting of the House."

HON. R. S. HAYNES: The next sitting of the House is to-morrow night, and this motion would simply reduce the proceedings of the Select Committee to a farce. What is the object of making inquiries into this matter that I suggest should be made? The papers, the men, are all at Kalgoorlie: how in the name of common sense can the committee report to the next sitting of the House? It is making a farce of the whole thing. I hope the Minister will have more respect for the hon. members who think that other persons' interests should be looked after. After the President has ruled that all the proceedings which are followed in the case of a private Bill are to be followed here, in all fairness the inquiry before the committee should be a proper one. I hope the Minister will deal fairly and candidly with those who think the matter should be inquired into.

THE MINISTER OF MINES: The hon. member has not given quite the amount of reflection he might have given to this matter. To appoint the next sitting of the House as the time for reporting does not mean that the committee is to report on that day. The proceedings of the committee can be adjourned. The hon. member made the statement that the papers in this case were in the country.

HON. R. S. HAYNES: I corrected myself at once, and said the persons.

THE MINISTER OF MINES: At the present time the papers are in the office and can be made available in ten minutes. If it is desired to extend the time for the committee to report, it is very easy to ask for a postponement. I feel confident that the committee will not report until it has made the necessary inquiry. I do not wish to burk inquiry. If the other four members of the Select Committee are not satisfied with the time at their disposal, the inquiry can be adjourned. It is a matter of urgency, and I do not want time lost. In these circumstances I have fixed

the time for reporting at an early period, but a postponement can be asked for.

HON. R. S. HAYNES: That makes it impossible for those who are at Kalgoorlie to attend.

THE MINISTER OF MINES: If it is necessary, the proceedings of the committee can be postponed from time to time.

Question put and passed.

COMMONWEALTH BILL.

IN COMMITTEE.

Consideration of clauses in committee resumed at Clause 9.

THE MINISTER OF MINES had moved to strike out the words "an electorate" in paragraph 2, with a view of inserting "the Parliament of each State may determine."

HON. S. J. HAYNES now supported the amendment of the Minister. One of the strongest arguments used in support of the paragraph, as it now stood, was that it might be said if the colony was divided into several divisions, and a senator elected for each division, the senators would not represent the State as a whole. By having the colony one electorate it would be exceedingly cumbersome. The population in large centres would overwhelm the country vote altogether. He thought that Parliament would decide that the colony should be divided into electorates, and if so the people would be better represented, and the people in the country would have a better chance of having their views stated.

HON. A. P. MATHESON said his sympathies were entirely with the clause as it stood. He thought the principle of separate representation for each State a principle extremely valuable when applied to the particular Bill. But there was a very great difficulty when they had to deal with the fact that the franchise for both Upper and Lower Houses, as provided by the Commonwealth Bill, was exactly the same franchise. The Government had apparently quite left out of consideration Clause 13, which provided that the senators must be split into first-class and second-class. There were six senators provided for each State, three first-class senators and three second-class senators; and they had to retire three in one year and three in a succeeding year. Under these circumstances it would be practically impossible to split up the State into two sections. If they did that without altering Section 13, they would have two first-class senators and one second-class senator in one subdivision, and one first-class senator and two second-class senators in the other subdivision; and it would be very difficult to deal with them when they came to resign at the proper period. Coming to the subdivision into three electoral districts, he thought that represented the only possible subdivision, if they were going to subdivide at all. That would provide for one first-class senator and one second-class senator in each division. If they tried to divide the State into four, they would find themselves in an impossible position as also if they tried to divide the State into five; therefore, the only remaining proposal which was at all possible, was a division of the State into six subdivisions; but if they divided the State into six subdivisions, they would practically have an Upper House more democratic than the Lower House. If they turned to the report of the Government Actuary for the colony, they would find that under no circumstances, for another nine years, could we have more than seven representatives in the Lower House, on the basis of the present scheme; and, therefore, for the next seven years, we would practically have an Upper House returned on as democratic a basis as, or rather a more democratic basis than, the Lower House, which would reduce the thing to an absurdity. If we were going to alter the clause in any direction at all, there was only one way in which we could alter it, and that was by providing for three electoral divisions. It seemed to him that, if we were going, as a State, to make any suggestions to the delegates to the Federal Convention, it was extremely desirable that we should not make any loose suggestions, but that we should make practical suggestions which we could argue out, and which would prove that we had really considered the question. It was extremely desirable that any amendment of this clause should produce a uniform result in every State, and for that reason also he thought the amendment proposed by the Government was not at all suitable for the requirements of the case. He did

not think it ought to be left open for one State to send their representatives to the Senate on one basis, and for another State to send their representatives to the Senate on another basis. If he were in order, he would like to move an amendment that the paragraph under discussion should be altered by striking out the words "one electorate," and inserting the words "three electorates." There was another point that apparently had not met with due consideration by the Government, and that was what would happen supposing the Parliament of the State had not made up their mind as to the way in which they intended to subdivide the State when an election came due. If honourable members would turn to Section 29, they would see that in dealing with the division of States into electorates for the Lower House, a very careful provision had already been made for such a contingency, and, as the framers of this clause were providing for what they could not altogether control, they put a clause at the end that, until division, each State should be one electorate. It seemed to him that if we were going to alter this clause now, and leave the Parliament of each State either to subdivide according to taste or to make three divisions, it would be absolutely essential to have Clause 29 amended, otherwise no provision would exist for treating with the States returning any number, till the House had determined the particular sections into which each State was going to be divided. He would like to know if he would be in order in moving an amendment?

THE PRESIDENT said the hon. member could not move an amendment until the present one was disposed of.

HON. R. S. HAYNES suggested leaving in the words "one electorate" and inserting the word "only" before the word "until." He threw out this suggestion only to meet an objection raised by the hon. member (Mr. Matheson), who had suggested three electorates. He thought that would be premature, as it would not only make us divide ourselves into three, but it would make the other colonies do so too, and it might not suit them. He thought it would be better to leave each State to determine for itself how it would be divided. He saw no objection to the division proposed. He was dead against having the State as one electorate. He was in New South Wales during the time of the election for the delegates, and he was convinced that the time and expense of that election were certainly not compensated by the expression of opinion given by the people. They could have obtained exactly the same expression of opinion by dividing the colony into several electorates. The man with the most money and time careered over the whole colony. Candidates had free passes over the railways, and some of them used the privilege for advertising their wares. His electorate in this colony was quite large enough. If a man wanted to place himself and his views before the electors, he should not be compelled to travel over the whole colony.

HON. A. H. HENNING would vote against the proposed amendment, because he considered that uniformity was desirable. When we remembered that the object in creating a Senate was to safeguard State rights, he thought we ought to make the mode of election for the Senate as divergent as possible from the mode of election to the other House. There were, he thought, only three methods open to them: one was that provided by the Bill, the other by the State being divided into electorates, and the third by the Parliaments of the several States electing the representatives. He did not think that the State should be divided for the election of senators; and of the other two methods he preferred the one provided by the draft Bill before the House. If the object was to obtain representation of the State as a whole, and not of any particular locality or district in it, then that object would, he thought, be best served by forming the colony into one electorate. If it were subdivided for election purposes, local interests and parochial feeling and jealousies would be imported into the election for the Senate, and thus the whole people of the State would not have cohesion in their representation.

THE MINISTER OF MINES (Hon. E. H. Wittenoom) said the words prefixed to the clause, "until Parliament otherwise provides," were inserted with this object, that unless power were given to Parliament from time to time to alter some of these clauses, it would require an amendment of the Constitution; and, if hon.

members would look at the last clause of the Act, they would find that the process of amending the Constitution was rather a laborious one. [HON. J. W. HACKETT: And very costly.] Yes, and very costly. The words which were prefixed to Clause 29 would enable the Federal Parliament to make an alteration without altering the Constitution. That was the object of these words. He had heard no argument to convince him that the amendment he had proposed was not a good one. Individually he was in accord to a large extent with the hon. member (Mr. Randell). A Senate elected by the State legislatures would probably have the effect in these colonies, as in America, of providing a most excellent body. He was afraid that in Australia that method of election would not be thought of, and they might as well dismiss it from their minds at once. He could not agree with those speakers who thought the members of the Senate should all be elected in the same way by every State. He could not see why each State should not elect their members in the way they thought best. It was to their interest to elect good members. So long as the States were satisfied that they were well represented, he could not see that it had anything to do with the other members of the Senate how the election in any particular State was conducted. They had a perfect right to decide how they should elect their members. Their position was different from that of other colonies. Take Victoria for instance, there was not much trouble in canvassing Victoria as one electorate. There were excellent roads everywhere; and candidates could easily get round the electorate; but let anyone try and canvass the whole of Western Australia, and he would not be able to do it in two years, and by the time he had finished his round, those whom he had first addressed would have forgotten him. The amendment suggested by the hon. R. S. Haynes was superfluous. The suggestion by the hon. member (Mr. Matheson) might be adopted with advantage, but he was afraid it would not be acted upon. The hon. member had pointed out that if we adopted his suggestion we should have to amend other clauses to make them consistent.

HON. A. P. MATHESON said that he had pointed out that no amendment would have to be made, if the colony were divided into three electorates as he proposed.

THE MINISTER OF MINES (Hon. E. H. Wittenoom) thought that if hon. members directed their attention to the main principles of the Bill, without attempting to amend any others, they would be doing nearly as much as they would have time to do. If they could become agreed on the principles they wished introduced into the Bill, the members of the Convention, in drafting it, would see that the measure was consistent, and, therefore, we need not take up much time in considering it in that way. After hearing the arguments, he saw no reason for altering the amendment he had proposed, and, therefore, he should leave it to the good sense of the House to decide.

HON. J. W. HACKETT said that, under all the circumstances, the amendment of the Minister of Mines was the most useful they could propose. It certainly lacked definiteness, and there was much force in what had been urged by two members (hon. A. B. Kidson and hon. A. P. Matheson) that it would be well to have a definite proposal; but there was this objection, that if it took the shape of the amendment moved by the hon. member (hon. A. P. Matheson), it was certain not to be adopted. Such an amendment would not only bind ourselves but bind the other colonies as well, and would have no chance of being carried. Some hon. gentlemen were determined to continue the single electorate system, while others desired that the electorates should be divided. He thought the best way would be to accept the amendment of the Minister of Mines, and leave the Senate to be elected directly by the country, but in such a way as Parliament might provide. Section 10, which had probably escaped the attention of the House, gave power to the Parliament of the Commonwealth to make laws prescribing a uniform manner of choosing the senators. His main object in supporting the amendment of the Minister of Mines was that it would leave the door open for discussion, whereas, if they accepted the amendment moved by the hon. member (Mr. Matheson), for deciding what number of electorates the colony should be divided into, it would be thrown out by the Convention.

HON. A. P. MATHESON could not agree with the Minister of Mines that it was desirable that loopholes should be left open for all sorts of suggestions. It seemed to him that the Government proposed to do what they had proposed to do several months ago when the delegates went to Adelaide. They went there without any idea whatever as to what they were going to propose or to discuss. They were simply prepared to shape their views, as far as the public could judge, on the views of other people. He did not think that was a position which gave satisfaction to the people at large. As to the reminder from the hon. member (Hon. J. W. Hackett) of a provision in the Act enabling the Parliament of the Commonwealth to make laws prescribing a uniform manner of choosing the senators, he might say that he had read through the reports of the Commonwealth debate very carefully, and he gathered that the general construction placed on that clause was not that the Federal Parliament was going to prescribe any divisions, or any method for electing senators, other than that set out in Clause 9, but that they might possibly provide regulations for travelling booths and returning officers, and so forth, meaning the minute details of the election, which would otherwise be settled by the different States.

HON. J. W. HACKETT: Some of the best lawyers held that it covered the whole ground.

HON. A. P. MATHESON: If the mode of election was going to be revised later on by the Federal Parliament, it was hardly worth while to make a fuss over it now. It was clear to him that the members of the House were not in accord with the amendment which he was suggesting, and, therefore, he thought perhaps it would be just as well for him to let it drop.

Amendment (moved by the Minister of Mines) put and passed.

Clause 10 Mode of election of senators:

HON. J. W. HACKETT moved, as an amendment, that the words "in the several States of senators" in the last line, be struck out, and that the words "of senators in the several States" be inserted in lieu thereof.

Amendment put and passed.

Clauses 11 to 14, inclusive—agreed to.

Clause 15—Qualifications of senator:

HON. A. B. KIDSON drew attention to subsection one of section 31, from which they would observe that it would be competent for any person qualified to be an elector in some State of the Commonwealth to stand as a candidate for any other State. It should be the desire of this colony at all events, and he thought of all the other colonies, to preserve their status as States as far as possible. The qualifications of a senator were the same as those of a member of the Lower House. The qualifications of the latter would not affect this colony one way or the other, perhaps, but the qualifications of a senator might affect us very considerably. We would have only six senators, and we would not like to have anyone representing us whom we did not know. He thought it was a bad principle to allow any person outside of a State to stand as a candidate for that State, and most particularly for the position of a senator.

THE MINISTER OF MINES: He would not be elected.

HON. A. B. KIDSON did not think he would be, but that was not the point. It was possible that he might be elected. We did not want to leave the door open so as to allow any person outside the colony to come into the colony as a candidate for election in the Senate. The whole principle running through this federation was that the States should be preserved intact as States, but it was certainly not preserving the States to allow persons to come from some other State to represent us. It seemed to him that the principle was wrong. It was an important point. He proposed to amend Clause 31 when he came to it, but he thought he would rise at this stage to draw the attention of the House to the matter. The individuality of the States should be preserved.

HON. J. W. HACKETT asked the hon. member to indicate the form of the proposed amendment.

HON. A. B. KIDSON said he proposed to amend Clause 31 as follows, "he must be of the full age of 21 years, and must, when chosen, be an elector entitled to vote in the State at the election of members of the House of Representatives."

HON. J. W. HACKETT: It was the same as the American, practically.

At 6·30 p.m. the President left the chair.

At 7·30 p.m. the President resumed the chair.

HON. R. S. HAYNES said it was necessary to amend the clause in some way or another. If they turned to Clause 31 they would see that it said that the qualification of a member was that he should be of the full age of 21 years, and must, when chosen, be an elector entitled to vote in some State at the election of members of the House of Representatives, or a person qualified to become such elector, and must have been for three years at the least a resident within the limits of the Commonwealth as existed at the time when he was elected. He objected to the words "must have been "for three years at least a resident within "the limits of the Commonwealth as "existed at the time when he was elected." Clause 3 of the Bill provided for the Constitution, naming the colonies, and it said that it shall be lawful for the Queen, with the advice of the Privy Council, to declare by proclamation that on and after a certain day not later than six months after the passing of the Act the colonies shall be united in a Federal Constitution, and on and after that day the Commonwealth shall be established under that name. The Commonwealth of Australia would consist of such colonies as, at the next sitting of the Convention, would agree to federate. Assuming that they did not federate, which was most probable, then the three or four colonies which did federate would form the Commonwealth, and if Western Australia joined afterwards, in order that a person could represent this State, he must have lived for at least three years in the Commonwealth. If Western Australia did not join at once, any person living in this State would be debarred from sitting in the Commonwealth. The clause required some amendment. He was not going to father the Bill, or assist in amending it, but he simply threw out the point.

HON. J. W. HACKETT considered that Clause 114 might assist them.

HON. R. S. HAYNES said Clause 114 set out that the Parliament might from time to time admit to the Commonwealth any of the existing colonies, and might from time to time establish new States, and upon such admission or establishment make and impose such terms and conditions, including the extent of representation in either House of Parliament, as it thought fit. That certainly would not assist them.

HON. J. W. HACKETT did not think that Clause 114 did assist them much, but it contemplated making it an unpleasant matter for those colonies which did not come in at first. The colonies which joined afterwards would be subject to additional difficulties and penalties. He did not know that Clause 31 bore the meaning attached to it by the hon. member. The qualification for both Houses was that the candidate should be of the full age of 21 years, and either an elector or a person qualified to become an elector, and must have been for three years at least a resident within the limits of the Commonwealth as existed at the time when he was elected. If Western Australia did not join with the other colonies entering, then no Western Australian elector, unless he was an elector in one of the other colonies, or unless he put in a residence of three years in one of the other colonies that belonged to the Commonwealth, would be able to stand for election. He thought that was obvious.

HON. R. S. HAYNES pointed out that the clause might mean that Western Australia would be a portion of the Commonwealth before election.

HON. J. W. HACKETT said, supposing this colony went into the federation a year after the Commonwealth was established, and entered without special conditions being imposed, and if a person had been three years an elector in the State, or a resident of the State, it appeared to him it should date back, and the Commonwealth existing at the time he was elected should include Western Australia.

HON. A. H. HENNING said that, if the contention of the Hon. R. S. Haynes was correct, at the first election under the Commonwealth no one would be eligible, because no one would have been a resident for three years in the Commonwealth.

HON. G. RANDELL recognised the inexpediency of amending the Bill further than was absolutely necessary in their own interest, but he thought the Conven-

tion of 1897 had departed from the phraseology of the Bill of 1891, sometimes not with advantage. He proposed to strike out Clause 15, with a view of inserting the old clause as passed by the Convention of 1891, and which read, "That "the qualification of a senator should be "as follows:—He must be of the full age "of 30 years, and must, when chosen, be "an elector entitled to vote in some State "at the election of members of the House "of Representatives of the Common-"wealth, and must have been for five "years at least a resident within the "limits of the Commonwealth, as existing "at the time when he was chosen." He proposed to make one alteration in this clause, which was to substitute the word "three" for the word "five," making the residence condition three years instead of five years. It was scarcely likely the electors of any State would elect a man who had not been a resident, or who did not belong to the State. The men who would be elected would be those who had been prominent before the public, and were well known and could be trusted. He thought the old clause was far better than the new one. It provided that a senator must be of the full age of 30 years, and it had been admitted by several hon. members that 30 years of age was a more mature age for a senator than 21. They also wished to have the Senate distinguished from the House of Representatives.

HON. A. B. KIDSON thought the remarks which had fallen from the Hon. G. Randell bore out his contention, that it was not at all likely that the difficulties he suggested would come into play. What would be the object in departing from the recognised principle of federation? The hon. member said there was not much chance of any person from outside coming into the State, and standing for election. If there was no chance, what was the use of departing from a generally recognized principle of federation? With regard to the question of persons outside coming into the colony and endeavouring to get elected, at the late Victorian election a newspaper—he believed the *Age*—ran certain ten delegates on a ticket, so the Hon. J. W. Hackett had informed him.

HON. J. W. HACKETT said he only mentioned a newspaper. He said that it was possible for a newspaper, or a party, or a politician to run ten men.

HON. A. B. KIDSON said the ten gentlemen run by the newspaper got in, to the exclusion of all others, and yet in the face of that fact were they going to allow a vital principle like this to affect the colony? This was one of the vital principles of federation, and they should not depart from it.

HON. G. RANDELL said his amendment was open to amendment.

HON. A. B. KIDSON said they should make the clause read as they wanted it to. It seemed to him that the amendment he intimated he was going to propose in Clause 31, sub-section 1, could be inserted in the clause.

HON. G. RANDELL said he would support that amendment.

HON. A. B. KIDSON said he would try to rectify the hon. member's amendment.

THE MINISTER OF MINES said he was opposed to any amendment in connection with this matter. So far as he could glean from the debates, this clause was the result of a system. It was made clear that the qualification of a senator and an elector for both Houses should be the same. This clause was arrived at after a deal of careful deliberation, and he did not think there was the smallest possible chance of altering it.

HON. G. RANDELL would test the feeling of the House by moving to omit the words "those of a member of the House of Representatives."

HON. J. W. HACKETT hoped the hon. member would not press his amendment, for the reason given by the Minister.

HON. G. RANDELL thought the same reason applied to the first amendment in reference to the one electorate.

HON. J. W. HACKETT said he did not think it did, as very great support was given to the proposal to amend paragraph 1 of Clause 9, but there would be no support whatever given to the amendment of the hon. member. If they looked at the reports of the debates, they would see that this proposal was carried unanimously and without debate.

HON. G. RANDELL was quite sure that Mr. Glynn, of South Australia, and several others, were strongly in favour of

30 years, and he thought some of them spoke on it.

HON. J. W. HACKETT believed the clause dealing with the qualification of members was agreed to without debate. He was not present at these proceedings in the Convention itself. He was only going by the printed report. In the constitutional committee which fashioned the clause there were a few minutes' debate, but no support was given to keeping the age at 30 years. It was obvious that if they adopted the Hon. G. Randell's amendment, they would be taking a retrograde step. The people should have the widest possible choice. He would point out that nearly all the leading men in England would have been disqualified for the Senate, if this qualification of 30 years had been in force there, as all the leading members of the House of Commons were under 30 years of age when they entered Parliament, except such gentlemen as the late Right Hon. W. H. Smith, who never came to the front rank; but all those who were in the front rank of politics in England entered Parliament early in life.

Amendment put and negatived.

Clauses 16 to 23, inclusive—agreed to.

Clause 24—Constitution of House of Representatives:

THE MINISTER OF MINES (Hon. E. H. Wittenoom) moved, as an amendment, that the words "subject to the provisions of paragraph three" be inserted after the word "members" in the third line. The object of this amendment was to make certain that the reference should be to the paragraph in which it said that every State should be entitled to five representatives at least, so that there should not be the least chance of there being any misunderstanding. Under paragraph 3 this colony would be entitled to five representatives; whereas, according to our present population, we would only be entitled to three.

Amendment put and passed.

HON. A. P. MATHESON moved, as a further amendment, that the word "five" in the last paragraph be struck out, and that the word "twelve" be inserted in lieu thereof. His reason in suggesting this amendment was to take the opinions of hon. members.

HON. J. W. HACKETT was sure the hon. member did not intend to press the amendment. We were now getting five representatives, which was two beyond our quota according to our population. We were entitled to only three senators and we were given five. It was proposed by the Bill of 1891 that one senator should be elected to every 30,000 of the population, but the minimum was proposed to be fixed at four. There was a hard struggle over this clause in the constitutional committee, and rather to the surprise of the delegates, and especially of those who voted for the five as against the four, the former was carried. The delegates from this colony thought that they were getting more than they were entitled to. South Australia, under the Bill of 1891, would now be entitled to nine members, but under the Bill of 1897 their number had been reduced to seven.

HON. A. P. MATHESON said that his reason for making the suggested alteration was in order that he might elicit the views of hon. members. His idea was that five members in the Assembly was very much less than this colony would be entitled to in proportion to the amount of revenue we would be providing for the federated States.

HON. J. W. HACKETT remarked that it might fluctuate.

HON. A. P. MATHESON said it had been estimated that this colony, with its small population of 5·65 of the whole, would be contributing close on 20 per cent. of the total revenue of the Commonwealth, always assuming that we went into it, and we should be getting a representation of only five members out of seventy-two, or only eight per cent. of the total representation. Though it might be logical from a population basis it was absolutely inadequate if we considered the amount of assistance that we should be contributing towards the maintenance of the Commonwealth. He thought that too much stress had been laid on the mere population basis. Though a very desirable thing, and entitled to every respect, population was not the vital thing in carrying on the business of the State. They could not carry on the business of the State without funds, and these were practically the most important part of the whole question. He had not fixed on the number twelve by mere chance. There was a feeling in the Convention that the representation of the Lower

House should be double that in the Senate. There was no logic in that, but he was inclined to favour it, and twelve would be double the number of representatives we would have in the Senate.

HON. A. B. KIDSON opposed the amendment. He did not think it would be wise to attempt such an alteration. There had been such a big fight to get equal representation in the Senate that, if they attempted to get a larger representation in the Lower House than they already possessed, the larger States might turn round and say, "Then you will have to take your chance in the Senate," and they would probably attempt to get the representation in the Senate lowered. There was no chance of getting such an amendment passed. He quite agreed with the hon. member (Hon. A. P. Matheson) that funds were a very important question, but here there was a deeper question at issue still.

Amendment put and negatived.

Clause 25—Alien races not entitled to vote:

HON. A. H. HENNING moved, as an amendment, that the words "not entitled to vote" in the fourth and fifth lines be struck out, and that the words "disqualified from voting" be inserted in lieu thereof.

THE MINISTER OF MINES (Hon. E. H. Wittenoom) said that, while he had not any particular objection to the amendment, he would point out that these amendments were all brought forward without any notice whatever. One of the rules of the House was that, when an amendment was proposed, without notice, the House was not bound to consider it. He took the trouble to table all the amendments he proposed, so that hon. members could see how they would fit in and assimilate themselves to the Bill. It was extremely difficult to give amendments the consideration that was their due, unless this course was taken. If the Bill was one for which the Government were responsible, he would not entertain such amendments for a moment.

HON. A. H. HENNING said that the meaning of the clause only occurred to him at the last moment, but he submitted that it was an important matter.

HON. G. RANDELL believed the disqualification in this clause was intended against a race. He had not heard of any law disqualifying a man from voting, so long as he had been qualified by naturalisation. He would like to point out that we in this colony were handicapped to a certain extent by alien races, and there would probably be a large number of people here who would have to be deducted in case of an election. The alien races would have to be deducted from the total population, from a voting point of view. We might suffer considerably in that respect, much more probably than any other colony, excepting Queensland, which had a large alien population in her borders. He believed the words of the clause were intended to apply strictly to the alien races, such as the Chinese and the Afghans, etc.

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

Ayes	4
Noes....	10
Majority against ...	6

AYES.	NOES.
The Hon. C. E. Dempster	The Hon. H. Briggs
The Hon. A. B. Kidson	The Hon. F. T. Crowder
The Hon. A. P. Matheson	The Hon. R. S. Haynes
The Hon. A. H. Henning (*Teller*).	The Hon. D. McKay
	The Hon. G. Randell
	The Hon. J. E. Richardson
	The Hon. H. J. Saunders
	The Hon. W. Spencer
	The Hon. E. H. Wittenoom
	The Hon. J. W. Hackett (*Teller*).

Amendment negatived.

Clause 29—Electoral divisions:

HON. A. P. MATHESON said that in the last line of this clause would be found the sentence to which he had called attention before. He expressed his surprise that the Minister of Mines had not proposed that that sentence be struck out.

HON. G. RANDELL did not think we should allow the Parliament of the Commonwealth to interfere in the forming of electoral divisions. This clause would take away from the States a right which they ought to enjoy, and which they ought to be careful to keep. He moved, as an amendment, that the first five words of the clause "until the Parliament otherwise provides" be struck out.

HON. J. W. HACKETT said that this matter was debated in the Constitutional Committee, and the feeling that seemed to prevail was that with regard to the House of Representatives, which represented the population, the Commonwealth Parliament should be allowed the freest

hand possible. It was the House of the Commonwealth, so to speak, as the Senate was the House of the States. It seemed a proper thing to do to place in the hands of the Parliament of the Commonwealth power to make rules and regulations with regard to the Commonwealth members. If we went to the length that the hon. member wished us to, we should have to deal with a great many more clauses, such as that with respect to plural voting, for instance. He would oppose the amendment.

HON. A. B. KIDSON pointed out that this section applied to the division of the colony into electoral districts. This seemed to be an infringement of the rule that the States should be left intact. If the Federal Parliament were going to interfere with the electoral divisions of the colony, they would be really interfering with that which rightly belonged to the State. He would therefore support the amendment.

HON. G. RANDELL said that these words were added by the Convention of 1897. It seemed that the Parliament of the States would be in a better position to know what divisions to make. In Clause 121 it said, until the qualification of the electors of the members of the House of Representatives became uniform throughout the Commonwealth, only one half the votes for and against the proposed law should be counted in any State in which adult suffrage prevailed. That was put in to meet the case of South Australia, where adult suffrage did prevail. They could not interfere with the suffrage of the State, and it was protected by this provision in the clause. He hoped the clause would be amended in the direction he had indicated.

HON. J. W. HACKETT said the argument of the Hon. A. B. Kidson applied exactly. If they tried to grasp power over the population House, their power in the Senate would be limited.

HON. A. B. KIDSON thought that instead of the Federal Parliament prescribing what the districts should be, the Parliaments themselves should determine.

THE MINISTER OF MINES asked the hon. member if he thought he would ever carry his amendment.

HON. A. B. KIDSON thought it was very probable.

HON. J. W. HACKETT did not think even the Western Australian delegates would vote for it.

Question put and division taken, with the following result:—

Ayes	...	...	4
Noes	...	...	8
Majority against		...	4

AYES.	NOES.
The Hon. C. E. Dempster	The Hon. H. Briggs
The Hon. A. B. Kidson	The Hon. F. T. Crowder
The Hon. G. Randell	The Hon. J. W. Hackett
The Hon. A. P. Matheson (*Teller*).	The Hon. A. H. Henning
	The Hon. D. McKay
	The Hon. H. J. Saunders
	The Hon. E. H. Wittenoom
	The Hon. R. S. Haynes (*Teller*).

Amendment negatived.

Clause 30—agreed to.

Clause 31—Qualification of members of the House of Representatives:

HON. A. B. KIDSON moved that subsection 1 be amended by striking out the word "some" in line three, and substituting the word "the;" also to insert the words "that he represents" after the word "State." This would make the clause read, "He must be of the full age "of 21 years, and must, when chosen, be an "elector entitled to vote in the State that "he represents at the election of members," etc.

THE MINISTER OF MINES did not see the least objection to the principle, if there was any chance of carrying it. He had not the slightest fear that anyone would be elected who did not belong to the colony; still there was just a fear.

HON. J. W. HACKETT would vote against the amendment. It was the narrowest exhibition of parochial feeling to introduce an exclusion of that kind. They intended to be Australians, and the establishment of this barrier at the beginning was opposed to the principles of federation. It was not right that they should begin by raising artificial barriers, when the main object of the Commonwealth Bill was to throw them down.

Question put and division taken, with the following result:—

Ayes	...	...	4
Noes	...	...	7
Majority against		...	3

AYES.	NOES.
The Hon. C. E. Dempster	The Hon. H. Briggs
The Hon. A. B. Kidson	The Hon. F. T. Crowder
The Hon. G. Randell	The Hon. R. S. Haynes
The Hon. A. P. Matheson (*Teller*).	The Hon. A. H. Henning
	The Hon. D. McKay
	The Hon. H. J. Saunders
	The Hon. J. W. Hackett (*Teller*).

Amendment negatived.

Clause 32—Disqualification of Senators:

HON. G. RANDELL asked the Hon. J. W. Hackett the exact meaning of the words, "A member of the Senate shall "not be capable of being chosen or of "sitting as a member of the House of "Representatives." He took the meaning to be that a person must resign one position before accepting the other.

HON. J. W. HACKETT said that was the meaning.

Put and passed.

Clauses 33 to 40, inclusive—agreed to.

Clause 41—Writs for general election:

HON. G. RANDELL said he could not find in any part of the Bill what he thought should appear in this clause. In the second paragraph it provided that the writs should be issued within ten days of the expiry of a Parliament, or from the proclamation of a dissolution. Nothing was said about the time for the return of the writs. He would like to know whether any provision was made for their return. The writs expressed on the face of them when they were to be returned. Possibly it might be that the distances might interfere with the returns being made all at once, and that they would be made at different dates.

HON. J. W. HACKETT understood the writs to contain the usual conditions and instructions to the sheriff or to the returning officer.

THE PRESIDENT said the time for the return of the writ was fixed by the person who issued it, in this colony.

Put and passed.

Clauses 42 to 51, inclusive—agreed to.

Clause 52—Legislative powers of the Parliament:

HON. A. P. MATHESON moved that the words "or without the consent of any "State when in the opinion of Parliament "it is desirable for the welfare of the "Commonwealth that any railway should "be constructed or extended" be inserted at the end of paragraph 34. He said the paragraph was one which gave the Commonwealth power to construct and extend railways with the consent of the State or States concerned, and it was perfectly clear that some power would have to be taken by the Commonwealth to construct or extend railways without the consent of the States. He did not know whether hon. members had gone into the question of the Commonwealth, but if the matter were considered they would see it was proposed that the capital should be situated in a small separate State, and that State was to be situated in some interior part of Australia, so as to be removed from any chance of attack by a hostile nation; therefore it would be necessary to place the Commonwealth State in communication with the other States by railway. Some little piece of railway might not meet with the approval of the State through which it ran, and it would be necessary to provide for that contingency. He thought it was desirable that this colony should show that it had taken this matter into consideration, and was prepared to make suggestions to facilitate such a thing.

HON. G. RANDELL would like to draw the attention of hon. members to the list of subjects on which the Parliament of the Commonwealth was to have authority. There were many subjects on which the interests of the State and the Commonwealth might clash. He did not know whether it would be in the best interest of all concerned to allow the Commonwealth to interfere with the regulations for trade and commerce. It was a question whether they should hand over the postal and telegraphic internal communication of the State, but it would be difficult to separate one portion of the department from another. Immigration and emigration seemed to be committed to the care of the Commonwealth. It was a subject of vital importance to a State, and one which a State should be allowed to manage in its own way. He would support South Australia in her demand that the control of all those rivers running in more than one State should be given to an interstates commission. He understood the Hon. J. W. Hackett to say that in Canada only a few subjects were handed over to the Dominion.

HON. J. W. HACKETT had not referred to Canada, but it was the other way about. A certain number of subjects were reserved to the States, and the rest were handed over to the Dominion. In

the Constitution Bill they did the very opposite.

THE MINISTER OF MINES (HON. E. H. Wittenoom) pointed out that the States had full power to deal with all the subjects that were in the clause, but if laws passed in the Commonwealth and in the States clashed, the Commonwealth took priority. In Clause 53 they would find it provided that the State had exclusive powers as against the concurrent powers. Immigration and emigration were given over to the Commonwealth, he felt confident, to enable it to deal with Asiatic and alien races. If this colony was at all affected in this way they would have to be very careful indeed with the clause. He believed these were the very words which had kept Queensland out of the federation. There was, however, nothing to stop a State from legislating on the subject, so long as the Commonwealth did not interfere with the way in which it dealt with the question.

HON. J. W. HACKETT said if immigration and emigration were to be taken over by the central authority, what would apply to one part of the Commonwealth would apply to all parts. Suppose there was legislation in one State to keep out lunatics or paupers, it would be absurd for another State not to have the same restrictive legislation. With regard to posts and telegraphs, he was in favour of giving them over to the Commonwealth. That would form the subject of a warm discussion, but he was not at all sure that the Convention would agree to hand them over: it was quite on the cards that the Convention would rescind this paragraph.

THE MINISTER OF MINES said the very strongest objections had taken place all through the debates to giving the Commonwealth power, without express provision being made in the Bill, therefore it would be futile to carry the amendment. What would be the use of going against the express wish of a majority of members of the Convention?

Amendment put and negatived.

Clauses 53 and 54—agreed to.

Clause 55—Appropriation and Tax Bills:

THE MINISTER OF MINES moved to amend the clause by striking out the words "laws imposing taxation and." The clause would then read:—"The "Senate shall have equal power with the "House of Representatives in respect "of all laws, except laws appropriating "the necessary supplies for the ordinary "annual services of the Government, "which the Senate may affirm or reject, "but may not amend," and so on. It was an important amendment which was required to give the Senate a power which would be very much to the advantage of the States. It was really a good amendment, but it was a question whether it would be carried. It would give the Senate equal power with the House of Representatives on any matter of taxation. He could not say this was a democratic amendment, but it was one to which the ordinary democratic views would apply. In this way they might possibly have some protection. They must see they were fully protected in the Senate, which would be their safeguard.

HON. J. W. HACKETT said he would vote for the amendment mainly with a view to sending it forward to the Convention. With regard to the attitude that the delegates would take up, it would be impossible to make any pledges. That attitude, especially with regard to the whole of these financial clauses, would have to be settled largely by what happened in the Convention, and it would be greatly influenced by the attitude assumed by the more important colonies. Our side might ask more than the other side would be willing to grant, and yet a compromise might be arrived at which would be of advantage to all the States of Australia. With that reservation, he would certainly support the amendment.

Amendment put and passed.

Clauses 56 to 58, inclusive—agreed to.

Clause 59—Signification of Queen's pleasure on Bill reserved:

THE MINISTER OF MINES moved, as an amendment, that the words "two years," in the third line, be struck out, and that the words "one year" be inserted in lieu thereof.

Amendment put and passed.

Clauses 60 to 68, inclusive—agreed to.

Clause 69—Immediate assumption of control of certain departments:

HON. J. W. HACKETT suggested that the word "telephones" should be added. We could not take over the posts and telegraphs without the telephones. If we took one we would have to take the three.

HON. G. RANDELL asked the hon. the Minister of Mines whether the phrase "ocean light-houses" was a correct one?

THE MINISTER OF MINES believed that the word "ocean" should have preceded "light-ships," and not "light-houses," and that it was an error.

HON. J. W. HACKETT thought perhaps it was intended to distinguish the ocean light-houses from the river light-houses, which were to be found in some of the other colonies.

Put and passed.

Clauses 70 to 90, inclusive—agreed to.

Clause 91—Expenditure:

THE MINISTER OF MINES moved that this clause be struck out. It seemed to him unnecessary.

HON. A. P. MATHESON said some reason should be assigned why a clause, limiting the power of expenditure of the Commonwealth, should be struck out. It was desirable to place some limit on the amount that the Federal Parliament could spend. The clause seemed to him a very good one. It limited the annual expenditure of the Commonwealth in the exercise of the original powers given to it by the Constitution to the sum of £300,000 during the first three years; and the annual expenditure in the performance of the services transferred from the States to the Commonwealth to a million and a quarter.

HON. J. W. HACKETT said the clause might go by the board. It had been described by Sir Samuel Griffith as perfectly childish. The hon. gentleman ridiculed the idea of appointing a Commonwealth, and giving it an allowance for pin money. The clause was inserted by the Right Hon. G. H. Reid, who was an ardent freetrader, and who was haunted by a spectre throughout the whole of the Convention proceedings that the duties which he had taken off in New South Wales would have to be re-imposed. The only source of revenue that the Commonwealth could depend upon was the customs and excises, and the right hon. gentleman saw very clearly that, in order to provide a sufficient revenue from customs, taxation would have to be imposed of a protective character. The right hon. gentleman made an attempt, most futile he (Hon. J. W. Hackett) thought, and childish according to Sir Samuel Griffith, to save his policy by prescribing that the Commonwealth, no matter what crisis it might be going through, no matter what danger it might have to face, should be able to spend no more than £300,000 a year during the first three years in the exercise of its original powers. The right hon. gentleman even went a step further, and not only declared a manifest absurdity, but endeavoured to make an enactment that would compel us to treat facts as if they were not facts, and to limit the annual expenditure of the Commonwealth in the performance of the services transferred from the States to a million and a quarter. He would read a few lines from the comments made by Sir Samuel Griffith on this clause:—

> Until uniform duties of Customs are established, separate accounts are to be kept of the transactions of the Commonwealth with respect to the States, showing the revenue actually collected in each State, and the disbursements actually made within it in the discharge of the duties transferred from the State to the Commonwealth. The collections would include customs and excise duties, and postal and telegraphic receipts. The disbursements would include the cost of collection of this revenue, and the cost of administration of the Post and Telegraph Department, defence, ocean beacons and buoys, ocean lighthouses and lightships, and quarantine. The rest of the federal expenditure is to be apportioned to, and charged against, the States in proportion to population, and the balance is to be paid to the States monthly. Subject to a doubt whether the expenditure on defence, buoys, lighthouses and quarantine should not be included in the expenditure to be borne from the beginning in proportion to population, this proposition seems to be reasonable, and to be adapted to cause the least possible disturbance to the finances of the colonies until the financial policy of the Commonwealth has been determined. But it is evidently only a provisional arrangement. The objection that the "new" federal expenditure may be made so large as to impose serious loss upon the States is met by a proposal that this expenditure shall not exceed £300,000 a year for the first three years. With all respect for the propounders of this proposal, it appears somewhat incongruous to establish a sovereign Legislature, and in the same breath to tell them that they shall not have command of more than £300,000 a year. Such a sum, in the event of any sudden emergency, would be wholly inadequate. It would, indeed, be certainly inadequate in the event which must be contemplated as both possible and desirable, of the establishment of a federal capital within three years. The risk to the State revenues is indeed unavoidable, but so long as the scheme for a monthly return of the surplus revenue actually collected is in force, it is practically not a serious one, having regard to the fact

that until the financial policy of the federation is settled there is little probability of any large expenditure on federal account.

The provision just referred to (in Sec. 91) is followed by another, that the total yearly expenditure of the Commonwealth in the performance of the services and exercise of the powers transferred from the States shall not exceed £1,250,000. This amount is an evident error, the average total expenditure of the six colonies on posts and telegraphs for the past ten years being (according to the Convention tables) £1,944,541, and for 1896 £2,273,037 (including £200,791 for interest on works), while the average annual cost of collection of customs and excise has been £249,508, and the present annual cost of defence is £460,777. In any case the Federal Parliament must be trusted to authorise such expenditure as it may think necessary. A sovereign State with an annual allowance for pocket money would certainly not need two Houses of Parliament and an elaborate constitution.

The Premier of New South Wales forgot everything but freetrade, while he was endeavouring to force this clause down the throats of the Convention.

A. MEMBER: The majority passed it.

HON. J. W. HACKETT: Aye, and a majority would rescind it.

HON. G. RANDELL said the figures given by Sir Samuel Griffith showed the futility of limiting the expenditure of the Commonwealth Parliament by any hard and fast line. He had no doubt that means would be found to limit that expenditure in a proper way. He remembered reading, when a boy, that the whole expenditure on the Executive Government of America was only £25,000 a year.

HON. J. W. HACKETT pointed out that, in case of foreign invasion, we should not be able to defend ourselves, if the expenditure were limited as proposed in the clause under discussion.

Question put and passed, and the clause struck out.

Clause 92—Payment to each State over five years after uniform tariffs:

THE MINISTER OF MINES moved, as an amendment, that the words "aggregate amount to be paid to the whole of "the States for any year shall not be less "than the aggregate amount returned to "them" be struck out, and that the words "amount to be paid to each State for any "year shall not be less than the amount "returned to each of them," be inserted in lieu thereof. He said in Clause 90 a system was set out whereby it could be ascertained what the receipts and disbursements were in connection with the States. First of all it provided that the revenue collected from the State should be placed to its credit, and then to the debit of that account should be placed the cost of collecting that revenue, and the balance would be credited or debited to that State. If it was a credit balance, then out of that a proportionate amount, according to the population, would be deducted to pay for the costs of the Commonwealth in the exercise of its original powers, and the balance of what was left would be paid month by month to such State. Hon. members would see in Clause 92, that there was a provision to do something during five years, and then afterwards there was a long and intricate series of sub-sections. There was no doubt that the whole question of finance would have to be reconsidered to a very large extent. The conclusions at present arrived at, even to those who understood them, did not give satisfaction. The Hon. E. Barton himself said that the very best draftsmen in the world could hardly understand Clause 92. Having found out for the first year or two what the returns would be for Western Australia, during the next five years, whatever other arrangements might be made, we should never get less than the amount we received in the year which preceded that period. We should then know practically to some extent what our means would be. Clause 93 provided that, after the expiration of five years each State should be prepared to contribute to the revenues an equal sum per head of its population. We could not reasonably expect any different arrangement from this. After five years we should be in a better position to contribute on a population basis. However, during the five years after the imposition of uniform duties, we should not get less than the amount we received in the year preceding that. That was as far as we could go under the circumstances. He thought our best plan was to make the clause read in such a way as would give our delegates an idea of what we wished, and he felt confident then that, when this clause came to be considered, our interests would be as well provided for and cared for as we could either hope or expect.

Amendment put and passed.

THE MINISTER OF MINES moved, as a further amendment, to strike out the whole of the sub-sections in the clause.

HON. A. P. MATHESON said he had intended to speak to the previous amendment made by the Minister, because it was not often he had the pleasure of thoroughly approving of an amendment made by the Minister in the Bill. With reference to the striking out of the sub-sections, he would call the attention of the House to the fact that Sub-sections 1, 2, and 3 provided an extremely favourable mode of handing over revenue to the State, if it could be preserved. The amendments which he had given notice of provided for the limitation in each clause of the period in which the colony could take advantage of these sub-clauses. He had given particular attention to the sub-clauses, and he might explain the way in which they worked. The gist of the whole thing lay in Sub-section 2, which said:

> For the purpose of ascertaining the proportion of revenue from customs and excise collected in each State, there shall, for the first year after the imposition of uniform duties of customs, be shown in the books of the Treasury of the Commonwealth the total amount collected in each State for duties of customs and excise.

After the total amount had been ascertained, the balance, after deduction of expenses, was returned to the State, and no question of the population basis came into play at all. The remaining two sections, which the Minister of Mines very properly suggested should be struck out, altered the previous good adjustment to a large extent, by requiring the distribution during the first year to be calculated by statistics collected during two, three, or four years. This clause would work disadvantageously to this colony. Practically speaking, if the first three paragraphs could be retained, we would be in the position of receiving back each year the total amount of the customs and excise duties collected in this particular State. He had alluded once before to the very great disparity that existed between the populations and the amount of revenue they would be giving up to the Commonwealth. It was something startling. If hon. members referred to the tables prepared by the actuary, they would find the disparity did not diminish in any appreciable extent as years went on. He did not think it possible for them ever to dream of entering the Commonwealth unless some system of finance was adopted by which they could receive an equitable return of what they contributed to the Commonwealth. In these circumstances he proposed to move the amendment of which he had given notice.

THE PRESIDENT said, as the Minister had moved that the sub-sections be struck out, this amendment would take precedence, and, if carried, the amendment suggested by the hon. member would fall through.

HON. A. P. MATHESON said he wished in the first paragraph to strike out "for a period of five years."

HON. J. W. HACKETT said that meant that the balance over was to be repaid to the State. That was the proposal of the Bill of 1891, which found no support.

HON. A. P. MATHESON wished in the second paragraph to strike out the words "for the first year after the imposition of uniform duties of customs," which meant that everything which was collected in the State should be credited to the State. In paragraph 3 he proposed to strike out "During such first year." As explained to him by the Hon. J. W. Hackett, the Commonwealth was anxious to do away with books and with the collection of the excise.

HON. J. W. HACKETT said the hon. member's amendment meant the maintenance of border customs houses, which must disappear.

HON. A. P. MATHESON said the duty of excise was mainly on wines and spirits made in one colony and imported into another. These duties were collected in the customs houses and credited to the State in which the consumption of the liquor took place.

HON. J. W. HACKETT said then they would want border customs houses at once.

HON. A. P. MATHESON said it would be better to waive the collection of that duty as far as this colony was concerned, because the duty would diminish each year as the vintage increased. This would be the chief thing for which the border customs houses would be kept up. It might possibly occur that some goods would be imported into one colony and afterwards exported to another; but the amount would be so trifling that it would

be wiser and better to waive any desire to obtain these small duties.

HON. J. W. HACKETT said the whole of Riverina would be supplied from Melbourne, and Broken Hill from Adelaide.

HON. A. P. MATHESON was arguing from the point of this colony.

HON. J. W. HACKETT said that was not federation.

HON. A. P. MATHESON said they wanted to get the Bill into such a shape that they could federate, but as long as they had the revenue returned to them on the population basis, federation would be practically impossible, as their loss would be so enormous.

Amendment (moved by the Minister) put and passed.

Clauses 93 to 113, inclusive—agreed to.

Clause 114—Admission of existing colonies to the Commonwealth:

THE MINISTER OF MINES moved that the words "Parliament may from time to time admit to the Commonwealth," in the first and second lines, be struck out, and also the insertion after "constitution" in the third line of the words "may upon adopting this consti- "tution be admitted to the Commonwealth, "and shall thereupon become and be a "State of the Commonwealth." This clause had been placed in the Bill for the purpose of controlling the relations which the Commonwealth would have to the new States or colonies that had not entered before; in other words it affected those who had not, from various circumstances, been able to join at the start. Hon. members would see that if Western Australia did not join the Commonwealth at the present time, and desired to join four or five years later, the clause gave the Commonwealth power to allow us to enter on such terms and conditions as ti thought fit. The Bill of 1891 provided that the Parliament of the Commonwealth might from time to time establish and admit to the Commonwealth new States, and might upon such establishment and admission make and impose such conditions as to the extent of representation in either House of the Parliament or otherwise as it thought fit. It was practically these words he wished to replace in the Bill. If circumstances changed so much in five years' time, or they did not change a good deal, Western Australia would be bound to join under the terms of the Bill; but perhaps the Commonwealth would be glad to have this colony join, and would modify the conditions and give them better terms. As the Bill stood, this could not be done without changing the constitution.

HON. J. W. HACKETT hoped the amendment would be carried; not that he went the full length of it. He believed the gate would be kept open for them all, but certainly all the States in Australasia were entitled to receive better terms than States coming in afterwards, such as Fiji, New Caledonia, or New Guinea. He hoped the clause would undergo certain modifications in the Convention.

Amendment put and passed.

Clauses 115 to 121, inclusive—agreed to.

Preamble:

THE MINISTER OF MINES (Hon. E. H. Wittenoom) desired to move an amendment in the preamble, and it was one he hoped hon. members would endorse. It would be within the memory of hon. members that a large number of people in Perth, represented by some of the leading ministers of religion, and others connected with various associations, waited on the Government on two occasions. They requested that a clause might be inserted in the Commonwealth Bill recognising the supremacy of God; and it gave him much pleasure to propose an amendment to do so, out of deference to the very wide representations made on the subject. He moved the insertion of the words, "Acknowledging Almighty God as the Supreme Ruler of the Universe," after "constitution" in the second line.

HON. R. S. HAYNES supported the amendment: it was the only portion of the Bill he heartily approved of. If there was anything that would induce him to vote for the amendment it was the fact that a certain section of the public, a small and undesirable section, had suggested that it should be left out.

HON. G. RANDELL said there was a society of persons, in addition to those persons referred to by the Hon. R. S. Haynes, who had some conscientious principles against this amendment being made in the constitution. For his own part he was entirely in accord with the amendment, and he believed

that nine-tenths of the people of the colony of a certain belief were also in favour of it, and it was to their credit that it was so. The arguments adduced against it were very far-fetched. It was said that Parliament would be allowed to make religious laws, and that it would lead to persecution and evil results. Those who objected to this amendment were not limited to athiests, but there were persons belonging to certain religious denominations here and in the other colonies who had a conscientious objection to it. He was glad the Government had seen its way to yield to what the Minister of Mines had described as an influential deputation.

Amendment put and passed.

HON. G. RANDELL intimated that he had one or two slight amendments he would like to move, and he wished to know when he should move that the measure be recommitted.

THE PRESIDENT said it was a rule of the House of Commons that notice should be given of such amendments.

HON. G. RANDELL said the amendments were only slight ones. He wished, in Clause 84, which dealt with the exclusive power of the Commonwealth to levy duties and offer bounties, to add the words "and minerals" to the paragraph providing that the section should not apply to bounties to mining for gold, silver, or other metals.

THE MINISTER OF MINES had no objection to that.

HON. G. RANDELL said his other amendment was to insert in Clause 98, dealing with the taking over of the public debts of States, the words "with the consent of any State."

THE PRESIDENT said perhaps it would be better to take the amendments on the report stage.

HON. R. S. HAYNES said he had an amendment.

THE PRESIDENT said if there were several amendments, he would have to adopt the rule of the House of Commons.

HON. R. S. HAYNES said it was a new clause he wished to move, and it was as follows:—"Every legal practitioner "duly qualified in any State shall be en- "titled to practise in the High Court or "any Federal Court." He could not, for the life of him, understand why this clause was left out. If there was any reason for striking it out, he would not for a moment move it.

THE MINISTER OF MINES said the amendment proposed by the Hon. G. Randell in Clause 98 was intended to be dealt with in the Convention, and he believed an endeavour would be made to insert a clause making it compulsory that the Commonwealth should take over a certain amount of the loans from every State and pay the interest. If the Commonwealth had the power of raising revenue from customs and excise, and the main power of raising revenue in the States was taken away, then the Commonwealth should be compelled to take over a certain portion of the loans and pay the interest. In these circumstances perhaps the hon. member would not persist in his amendment.

Bill reported with amendments.

RE-COMMITTAL.

The Bill having been re-committed, on the motion of the HON. G. RANDELL:

Clause 84—The Commonwealth to have exclusive power to levy duties and customs and excise, and offer bounties after a certain time:

HON. G. RANDELL moved, as an amendment, that the word "minerals" be inserted before the word "gold" in the last line.

Amendment put and passed.

Clause 87—Collection of existing duties of Customs and Excise:

HON. J. W. HACKETT moved, as an amendment, that the words "and excise" be inserted after "customs" in the first line.

Amendment put and passed.

HON. J. W. HACKETT moved, as a further amendment, that the words "of customs and excise" be inserted after "duties" in the first line of the second paragraph.

Amendment put and passed.

Clause 90—Accounts to be kept:

HON. J. W. HACKETT moved, as an amendment, that the words "and excise" be inserted after "customs" in the first line.

Amendment put and passed.

New Clause:

HON. R. S. HAYNES moved, That the following new clause be added, to stand as No. 81:—"Every legal practitioner, duly qualified in any State, shall be en-

titled to practise in the High Court or any Federal Court."

Put and passed, and the clause added to the Bill.

Bill again reported with further amendments.

Report adopted.

Ordered—That the Bill, as amended, be forwarded to the Legislative Assembly and their concurrence desired therein.

ADJOURNMENT.

The Council adjourned at 10·10 p.m. until next day.

Legislative Assembly,

Tuesday, 24th August, 1897.

Address-in-Reply: Presentation—Question: Metropolitan Water Supply and Additional Reservoir—Question: Hainault Mining Lease Particulars—Treasury Bills Act Amendment Bill: second reading; in Committee—Chairman of Committees: Appointment—Message: Temporary Supply; Ways and Means—Supply Bill, £850,000: all stages—Commonwealth Bill; in Committee—Adjournment.

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

PRAYERS.

ADDRESS-IN-REPLY—PRESENTATION.

At twenty minutes to five o'clock, MR. SPEAKER, accompanied by hon. members, proceeded to Government House to present the Address-in-Reply to the Speech of His Excellency; and, having returned,

MR. SPEAKER reported that he had, with members of the House, waited on His Excellency and presented to him the Address of the Legislative Assembly, in reply to the Speech agreed to by the House on Monday last, and that His Excellency had been pleased to reply as follows:—

MR. SPEAKER AND GENTLEMEN OF THE LEGISLATIVE ASSEMBLY,—

I thank you for your Address in reply to the Speech with which I opened Parliament, and for the assurance that you will give the most careful consideration to all questions that may be submitted to you, so that your labours may tend to beneficial results and the welfare of this colony.

Government House, Perth,
24th August, 1897.

QUESTION—METROPOLITAN WATER SUPPLY AND ADDITIONAL RESERVOIR.

MR. ILLINGWORTH (for Mr. JAMES), in accordance with notice, asked the Premier Whether he was aware that the present reservoir, on the Canning Hills, of the Metropolitan Waterworks Board, was insufficient to meet the demands of the present population of Perth; if so, did he know whether any, and if so what, steps had been taken to obtain a site for a new reservoir, and to carry out the necessary works?

THE PREMIER (Right Hon. Sir J. Forrest) replied: The present reservoir is, with care and economy, capable of supplying the wants of Perth during next summer, but the question of increasing the supply must soon be faced. A site for a new reservoir has been selected, and plans and estimates are now being prepared.

QUESTION—HAINAULT MINING LEASE PARTICULARS.

MR. MORAN, in accordance with notice, asked the Premier:—(1.) At what office, and at what exact date, the payment of the rent for the Hainault lease was made. (2.) Whether it was made by cheque or cash. (3.) The name of the officer who received it, and that of the payer. (4.) Whether all the entries in the books of the department relating to this matter were in proper order. The word "payee," he explained, was a misprint for "payer," in the Notice Paper

THE PREMIER (Right Hon. Sir J. Forrest) replied:—(1.) The rent was paid at the Coolgardie Office on the 30th March, 1896. (2.) The rent was paid on this