political prosperity, for our commercial prosperity.

THE COMMISSIONER OF RAILWAYS (Hon. B. C. Wood): I move that progress be reported.

Motion put and and passed.

Progress reported, and leave given to sit again.

ADJOURNMENT.

The House adjourned at 10·31 o'clock, until the next day.

Legislative Council.

Wednesday, 17th October, 1900.

Question: Agricultural Land, Northampton District—Question: Teaching Trade Routes in Schools—Question: Albany Harbour, Dredging—Question: Kuralee Station Refreshment Rooms—Question: Sparks from Railway Engines—Return: Pastoral Leases, Northampton District, motion; Return presented — Constitution Act Amendment Bill (Reduction of Electors' Probationary Period), first reading—Electoral Act Amendment Bill, first reading—Trustees Bill, second reading — Land Act Amendment Bill, first reading—Circuit Courts Judge Bill, first reading—Municipal Institutions Bill, in Committee to Clause 299, progress—Adjournment.

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

PRAYERS.

QUESTION—AGRICULTURAL LAND, NORTHAMPTON DISTRICT.

HON. J. M. DREW asked the Colonial Secretary: 1, Is the Government aware that a very keen demand exists for agricultural land in the Northampton district? 2, Is there any land suitable for settlement held in the district as pastoral leases? 3, Is it true that a large area of land suitable for agriculture is held on pastoral lease? 4, Do the Government recognise that agricultural settlement is of greater value to the State than if such land is held for pastoral purposes? 5, What reasons are assigned for the non-progress of land settlement in the district? 6, Has a State railway been built to this district, and for how many years has it been in existence? 7, Is it recognised that, in order to recoup the colony for its expenditure on the railway, it is desirable that agricultural land shall be made available for the people? 8, Is it the intention of the Government to resume all lands suitable for settlement, and when? 9, Has the land in other districts of the colony held by pastoralists been resumed for settlement? 10, If so, why has not a similar course been long since adopted in the Northampton district? 11, At what date (approximately) is it expected the lands of the district will be made available for selection? 12, Is the Government aware that in its neglect in not resuming pastoral leases the progress of the district has been practically prevented? 13, Is it a fact that the greatly increased demand for land in the district is owing, in a great measure, to the voluntary efforts of Contract Surveyor Dreyer.

THE COLONIAL SECRETARY replied:—1, Yes, the Government is aware that a demand exists, and on account of this demand the Surveyor General was sent to the district in September last year to report on and make recommendations for dealing with these lands. 2 and 3, Yes, a fair proportion of land held under pastoral lease is suitable for agriculture. 4, Yes. 5, the demand for land in this district has not, in the past, been great, and doubtless has been checked by its being a mining district, applications often having been refused on account of land containing indications of minerals. 6, Yes, 21 years. 7, The railway was built more for the mining than for the agricultural industry, but the Government recognises the desirability of any agricultural land being made available for selection. 8, The lands in the Appertarra and Nonga Agricultural Areas, near Northampton, have been resumed from pastoral leases. The Government is awaiting the report of an officer now engaged in classifying the lands and improvements on pastoral leases in this district before deciding on any further resumptions. 9, a small proportion of land, formerly held under pastoral lease, has been resumed for agricultural areas in other districts of the colony. 10, The

same has been done in the Northampton District, *vide* reply to question 8. 11, The lands referred to are already available for selection (*vide* notice published in the *Government Gazette* of 10th March, 1899) subject to pastoral lessee's claims for improvements, but after receipt of the report referred to in the answer to question 8, the advisability of resuming further portions for an agricultural area or areas will be considered. 12, No. 13, Mr. Dreyer's efforts, while employed as a contract surveyor in the district, have tended considerably to increase the amount of land selection.

QUESTION—TEACHING TRADE ROUTES IN SCHOOLS.

HON. W. MALEY asked the Colonial Secretary: 1, Who authorised the issue of instructions to school teachers, contained in the September number of the *Education Circular, re* Fremantle *versus* Albany. 2, If politics and fiction were taught daily in the State schools.

THE COLONIAL SECRETARY replied:—1, The *Education Circular* is issued under the general authority of the Minister for Education, and is edited by the Inspector General. It is a means of communicating on various matters of departmental concern to the teachers. 2, No.

QUESTION—ALBANY HARBOUR, DREDGING.

HON. W. MALEY asked the Colonial Secretary: 1, Whether the Government had provided for a reclamation scheme in conjunction with the proposed extensive dredging of Princess Royal Harbour. 2, If not, why not.

THE COLONIAL SECRETARY replied:—As the dredge to be sent to Albany is a bucket-ladder dredge, and not a pump dredge, the cost of using the material lifted for reclamation purposes would probably double the cost of the work as a whole, and it is thought scarcely probable that this would be justifiable.

QUESTION—KARALEE STATION REFRESHMENT ROOM.

HON. G. BELLINGHAM asked the Colonial Secretary: 1, If plans had been prepared for a refreshment room at Karalee Station on the Eastern Railway line. 2, In view of the holidays coming on, and the large increase of traffic, when did the Government intend opening the said refreshment room.

THE COLONIAL SECRETARY replied:—1, Particulars of the arrangement of the Murray Bridge refreshment room are being obtained from South Australia, and plans will be based thereon. 2, On completion of the lease held by the proprietor of the Boorabbin refreshment room, viz., 30th June, 1901.

QUESTION—SPARKS FROM RAILWAY ENGINES.

HON. H. LUKIN asked the Colonial Secretary, Whether the Government were taking any immediate steps to prevent a recurrence of the disastrous bush fires caused by sparks from railway engines throughout the Eastern Districts during last summer.

THE COLONIAL SECRETARY replied:—Everything possible is being done in this matter, the gravity of which is fully recognised by the Railway Department.

RETURN—PASTORAL LEASES, NORTHAMPTON DISTRICT.

HON. J. M. DREW (Central) moved:

That a return be laid upon the table of the House, showing—1. The names of the chief holders of pastoral leases in the Northampton District, and the area of land held by each. 2. The length of time the land has been held. 3. (*a.*) The quantity of land applied for under the conditional purchase sections of the Land Act for the five years ended 31st December, 1898. (*b.*) The quantity granted under the said sections for the same period. (*c.*) The quantity applied for and the quantity granted under the same sections during the year 1899.

In moving for this return, he would have the sympathy of every member who recognised that the continued development of the agricultural industry was essential to the colony's progress. During the federation campaign, one of the strongest arguments used by the anti-federal side was that Western Australia had not yet reached that stage of agricultural advancement which would enable her to compete successfully on equal terms with her sisters in the East; and the provision of the sliding scale in the Federal Constitution for the special benefit of Western Australia further emphasised the fact, if it needed emphasis. In view of the circumstances—in face of these

conditions—it behoved us to inquire whether there were in any portion of this colony extensive areas of agricultural land, closed or practically closed against settlement; and if we discovered that there were, then it was our duty to see they were made available for selection as far as practicable. In the Northampton district there was a large extent of land held under pastoral leases; and these pastoral leases, in some instances, almost fringed the township. How long they had been held he could not say, for the date of their original occupancy was beyond the memory of the oldest inhabitant; but they were held, and they continued to be a bar to settlement. He believed that much of this land had been reported upon by the Surveyor General as being suitable for mixed farming. He knew that the Minister of Lands visited the locality in the early part of this year, and promised the people he would throw open these areas for selection under the conditional purchase sections of the Land Act; and he (Mr. Drew) could perceive no obstacle to prevent the speedy fulfilment of that promise. On the occasion of the Minister's visit, the two pastoralists concerned announced their willingness to surrender all the land held by them under pastoral leases in the vicinity of the town, provided they were compensated for all improvements, and provided also that the land was afterwards disposed of only under the conditional purchase sections of the Act; and under all these circumstances, the delay of the Minister in carrying out his pledge was inexplicable and scarcely calculated to increase public confidence in the administration of his department. In other portions of the colony the Government were sparing neither trouble nor expense to encourage the cultivation of the soil; but in regard to the Northampton district, they appeared to be dead to all sense of the necessities of the situation, and apart from throwing open a small portion of the people's Commonage—something like 1,400 acres—the Government had done nothing to help settlement. That the people would avail themselves of the land when it could be had was shown by the fact that the portion of the Commonage thrown open was taken up in small blocks in a very short time. The Colonial Secretary had stated that the Nonga and Appertarra agricultural areas had been resumed for the purposes of encouraging settlement. No doubt these areas had been resumed, but was the Colonial Secretary aware that a large proportion of this land was not fit to grow "doublegees"? Glowing descriptions of Western Australian land had been circulated in Great Britain by the Government, but in his part of the colony the people knew that, so far as their district was concerned, the whole thing was a snare and a delusion. The land was practically closed against selection; and the return asked for would supply valuable information in regard to the neglect of the Government in the matter of helping on the permanent settlement of the colony.

Question put and passed.

RETURN PRESENTED.

THE COLONIAL SECRETARY said he had pleasure in placing on the table the return asked for in the motion, as follows:—

1 and 2. Dalgety and Co., 136,400 acres; 118,700 acres held for 27 years, and 17,700 for 21 years. J. Williams, 52,000 acres; 50,000 for 27 years, and 2,000 for 24 years. W. D. Moore, 22,000 acres; 12,000 for 27 years, and 10,000 for 21 years. Executors of late McK. Grant, 22,000 acres held for 20 years. H. A. Lee Steere, 27,400 held for 27 years. E. F. Lacy, 10,000 acres held for 27 years. W. Rosser, 6,000 acres; 3,000 for 19 years, and 3,000 for 20 years. 3. (*a.*) 28,740 acres, (*b.*) 9,169 acres, (*c.*) 43,612 acres applied for, 4,677 acres approved; *a*, *b*, and *c*, including homestead, grazing, and poison leases.

He might say that the Under Secretary, in forwarding the return, made the following remarks:

I forward herewith the particulars for the return asked for by the Hon. J. M. Drew. I may mention that there is no district registered in this office as the "Northampton District," but I have taken leases in the vicinity of Northampton, which I understand are what Mr. Drew refers to. I might also mention that the Land Act only came into force on the 1st January, 1899, therefore, in supplying the information asked for in Item 3. (*a.*), I have taken corresponding sections of the Land Regulations of 1887. I might also add that a large proportion of the land which was applied for during last year, and which is not yet approved, is pending inspection, and no doubt a good deal more of it will be approved. I also forward herewith the answers to Mr. Drew's questions.

Ordered that the return do lie on the table.

CONSTITUTION ACT AMENDMENT BILL.
[REDUCTION OF ELECTORS' PROBATIONARY PERIOD.]

Introduced by HON. A. P. MATHESON, and read a first time.

ELECTORAL ACT AMENDMENT BILL.

Introduced by HON. A. P. MATHESON, and read a first time.

TRUSTEES (COLONIAL SECURITIES) BILL.
SECOND READING.

HON. M. L. MOSS (West), in moving the second reading, said: This Bill originated in the other branch of the Legislature, where it passed through all its stages, and it has been sent on for the concurrence of this House. I have been asked to take charge of the Bill, and I do so with a great deal of pleasure, because I think the placing of the Bill on the statute book will be of great benefit to the country. It may be interesting to hon. members to know that the statute law of this colony, regulating this important branch of law, is not found in the statutes printed in 1895, the whole of the statute law at the present time being found in what are known as the Imperial Adopted Statutes. These were enacted many years ago, in the 22nd and 23rd year of the reign of the present Sovereign, and many of the matters dealt with in the existing law have been amended from time to time in England. In the first place, the absence of statute law relating to trusts and trustees is productive, to my knowledge, of a great amount of inconvenience; and hon. members will admit that it is desirable that anybody should be able to easily find the statute law on an important subject like that relating to trusts. The Bill is practically a transcript of the English Trust Act of 1893, as amended by the Act of 1894, which was the work in England of the Statute Law Revision Committee, a permanent body which exists for the purpose of bringing the statute law up to date. This body carefully watches all decisions at law, and at frequent meetings these decisions are noted and recommendations are made to the Imperial Parliament, on the basis of which recommendations the law is amended from time to time. The Trustee Act is one of the measures dealt with in England in 1893 on the recommendation of the Statute Law Revision Committee; and no doubt if this Parliament sees fit to adopt the result of the labours of the Statute Law Revision Committee, great benefit will accrue to the colony. It is needless for me to mention that on that Statute Law Revision Committee are the best minds in England upon the subject they have from time to time to deal with. I do not know that we can do better, in dealing with an important legal subject of this kind, than follow in the footsteps of those men.

HON. A. P. MATHESON: Is this *verbatim?*

HON. M. L. MOSS: Pretty well. I intend to point out where there are any alterations. It is not my intention to ask the House to go into Committee on this Bill for another week, because I think there are some defects which I shall also point out to the House; and it is surprising to me that the Bill should have gone through the other branch of the Legislature with those defects apparent on the face of it. If you look at the schedule of this Bill, you will find that there are four statutes which it is proposed to wholly repeal, going back as far as the 17th year of the reign of the present Sovereign. It is proposed to repeal absolutely Act 17, Victoria No. 10, and, after making a very careful scrutiny, I think the re-enactment this Bill contains will be sufficient to cover the ground of that Act. But to come to the next item in the schedule, it is proposed to wholly repeal Acts 22 and 23 Victoria, No. 35, and 23 and 24, cap. 38. It is here I think there is a very serious blot in the Bill. I do not think the framer intended that these two Acts should go. In fact, for the information of hon. members I may say that I this afternoon conferred with the gentleman who introduced this Bill into the Assembly, and I think he admits that a mistake has been made there. It is for that reason I do not propose to ask the House (if they will agree to the second reading) to go into Committee on the Bill, because I desire to confer further with that gentleman, and the results of that conference will be made known when we get into Committee. The Bill is a re-enactment or consolidation of the existing laws, but there are some clauses

in it which do not at the present time appear on the statute book, and it is only fair I should be perfectly candid with the House and draw their attention to them. In the first place Clause 9 is an altogether new provision. It says:

> A trustee having power to invest in real securities, or on mortgage of real estate, may invest, and shall be deemed to have always had power to invest, on mortgage of property held for an unexpired term of not less than ninety-nine years, and not subject to a reservation of more than a nominal rent, or to any condition for re-entry, except for non-payment of rent.

I may tell the House that at the present time trustees in this colony derive their power of investment either under the document creating the trust or under what is known as the Trustee Investment Act. That does not give trustees power to invest on any leasehold security. Whether the House will agree, as has been agreed in another place, to the insertion of such a clause as Clause 9, is a matter of very small concern to me, because I am quite willing, as far as that clause is concerned, to abide by the decision of the majority of the House. It does not affect the principle of consolidating this important branch of the law. It may be a question whether it is desirable to give trustees power to invest in leasehold property. However, it is an alteration of the existing state of affairs, and accordingly I point it out.

THE COLONIAL SECRETARY: Is Clause 5 the same?

HON. M. L. MOSS: I would not say with regard to Clause 5, but I believe Clause 5 pretty well contains the provision in the Trustee Investment Act of 1887. However they can be easily compared, and if there is any difference I undertake to point it out to the Committee. I regard Clause 10 as a very good one. It provides:

> (1). A trustee lending money on any security on which he can lawfully lend shall not be chargeable with breach of trust by reason only of the proportion borne by the amount of the loan to the value of the property at the time when the loan was made, provided—
>
> (*a*.) That, in making the loan, the trustee was acting upon a valuation of the property made by a person instructed and employed independently of any owner of the property, and whom he reasonably believed to be a competent valuer; and
>
> (*b*.) That the amount of the loan does not exceed two-thirds of the value of the property as stated by such valuer; and
>
> (*c*.) That the loan was made under the advice of the valuer expressed in the report.

I want to draw the attention of hon. members to this. In England that section appears in the English Trustee Act of 1893. I am quoting now Chitty's English Statutes, and I would like to call the attention of the House to the foot-note with regard to that section. Clause 10 is a reproduction of Section 4 of the old English Trustee Act of 1888. The foot-note to which I refer says: "Trustees could not safely advance more than two-thirds of the actual value of agricultural land, or one-half the value of houses." And there are cases the author cites for these propositions. The foot-note also says: "If the value of buildings depended on external circumstances—*e.g.*, trade—one-half might be too much." There are cases in support of that proposition also. "The 'two-thirds rule' has been held to be not enforcable with exact strictness. But as it is now statutory, it may be more rigidly enforced." I think the House will agree with me it is very desirable that a trustee dealing with trust money should know exactly what he can do in lending that money. I think this has been considered a wise provision in England, where it has existed since 1893, and in my opinion it is very fair. A trustee takes the advice of an absolutely independent person with regard to the amount of money he should lend from the trust upon a particular property he is prepared to advance upon. On taking that opinion and acting in a perfectly *bonâ fide* manner he is protected; he is deemed to have acted within the four corners of his trust. That is certainly a matter which the Legislature in this colony may well step in and deal with, and I do not think we can deal with it in a better way than it has been dealt with in the old country. That clause is a slavish copy of Section 8 in the English Act. Clause 12 does not appear in the English Act, but still I am of opinion that it is a very desirable alteration, and one which certainly should be made.

HON. A. P. MATHESON: What about Sub-clause 2 of Clause 10? That surely is not in the English Act.

HON. M. L. MOSS: Yes it is, absolutely. Sub-clause 10 of course has application to the lessor's title, and will apply where trust money is invested upon leasehold property. With regard to that, when we get into Committee, the Committee can consider whether or not they think it desirable that leasehold property shall be included as one of the classes of property on which trust money can be lent. If the Committee come to the conclusion that such power should not be given to trustees, Sub-clause 2 of Clause 10 will have to be eliminated from the Bill. At any rate, it appears on the English statute book. Clause 12 says:

In the discharge of all duties, as well as in the exercise of all discretions implied by or expressly cast upon a trustee, he shall exercise and be alone responsible for the want of due care and diligence.

I think the law at the present time presses with very great severity upon a trustee. A trustee is in a worse position than a paid agent. At the present time a trustee is responsible for everything that may go wrong. He has to indemnify the trust property in all cases. A paid agent is only responsible in case he is guilty of negligence, and I think that where trustees act, and their position is a purely honorary one, the law throws upon them a responsibility that is grossly unfair. Clause 12 is inserted with the object of making a trustee only responsible in case he acts without due care and without diligence. Therefore that is a matter that the Committee may deal with, but as it is an innovation and an alteration of the law, I specially point it out. Clause 23 is a very important matter. That clause is in the English statute. It provides:

A trustee may insure against loss or damage by fire any building or other insurable property, including rent to any amount (including the amount of any insurance already on foot) not exceeding three equal fourth parts of the full value of such building or property, and pay the premiums for such insurance out of the income thereof, or out of the income of any other property subject to the same trusts without obtaining the consent of any person who may be entitled wholly or partly to such income.

I think it will surprise members when I say that as the law stands at present the trustee of property which is liable to be destroyed by fire cannot safely insure that property. If he does so, he is liable to pay the amount of the premiums out of his own pocket. That has been regarded as a wrong state of affairs, and in England they have altered it. I would like to read this foot-note on that clause:

The first two sub-sections re-enact Trustee Act, 1898, s. 7. The third sub-section re-enacts s. 12 of the same Act. Prior to that Act, there was considerable doubt whether a trustee, even under special circumstances, was justified in insuring; as the case generally cited in support of that proposition (*Ex parte Andrews*, 2 Rose, 412) did not altogether bear it out. And premiums could not be paid out of income without the consent of the tenant for life.

I do not think any hon. member could have any doubt that such a state of affairs is undesirable; it is undesirable in the interests of the trustee, and in my opinion it is most undesirable in the interests of those persons having a benefit under the trust. I think this is a power that should be conferred on a trustee. It is nothing in his pocket, and it is a protection to the trust property. The clause is a new one, and I think the House may well agree to its being enacted. Sub-clause 2 is new. It gives power to a trustee to lend for any period not exceeding seven years. The clause is there, and as I am moving the second reading, I point out that I think the Act in force in this colony, the Settled Land Act of 1892, gives a person entitled to the income of property all the power that this sub-clause gives. I have already pointed out that the schedule to the Act is to my mind very deficient, and I propose in regard to it to confer with the gentleman who introduced the Bill into another place, so that I may bring an amended schedule before the Committee this day week. I do not think that on a matter of this kind I can usefully say anything more, or throw any more light upon the subject. In the main the Bill is a consolidating measure, and there are many other minor alterations in the existing law which, of course, I have not pointed out, but it may be a sufficient guarantee to hon. members that there is nothing very radical proposed in it, to know that it is almost a *verbatim* copy of the English Trustee Act of 1893, which was the work of the Statute Law Revision Committee in England. I have much pleasure in moving the second reading of the Bill.

Question put and passed.

Bill read a second time.

LAND ACT AMENDMENT BILL.

Received from the Legislative Assembly, and on motion by the COLONIAL SECRETARY, read a first time.

CIRCUIT COURTS JUDGE BILL.

Received from the Legislative Assembly, and on motion by the COLONIAL SECRETARY, read a first time.

MUNICIPAL INSTITUTIONS BILL.

IN COMMITTEE.

Clauses 1 and 2—agreed to.

Clause 3—Repeal of Acts:

HON. R. S. HAYNES explained that it was proposed to take the Bill as amended by the Select Committee appointed to consider its provisions.

Clause put and passed.

Clause 4—agreed to.

Clause 5—Reference to Acts repealed:

THE COLONIAL SECRETARY asked Mr. Haynes to call the attention of hon. members to the alterations which had been made by the Select Committee.

HON. R. S. HAYNES: The words in pencil on the sides of the clauses were the words in the Bill at the time it was introduced in the first instance, and were the words the Select Committee recommended should be struck out. Those underlined in red had been inserted by the Select Committee.

HON. F. WHITCOMBE moved that progress be reported, on the ground that the arrangement which seemed to have been made between the Select Committee and the officers of the House was a clumsy one. It was difficult to follow the amendments made by the Select Committee; and as the Bill had only been placed in the hands of hon. members on the previous afternoon, no time had been afforded for consideration of the suggested amendments.

HON. R. S. HAYNES expressed the hope that the motion to report progress would not be carried, but that the Committee of the whole House would proceed with the consideration of the Bill, this afternoon having been specially set apart for the purpose. The Bill as now printed contained the amendments recommended by the Select Committee; and, as he had already explained, the words which had been struck out had been written in pencil on the side of the clauses, so that if any hon. member thought the words ought to be replaced, it would be competent for him to move in that direction. A great number of the amendments were merely consequential, and did not require much time to thoroughly understand them.

HON. M. L. MOSS: It would be a great pity to report progress, because the municipalities throughout the colony were crying out for the Bill, which, so far as he could see, was very explicit; indeed, the Clerk of the House must be complimented on the manner in which the amended measure had been prepared for hon. members. He (Mr. Moss) had never seen a Bill presented to Parliament bearing evidence of so much trouble having been taken, or so clearly as the present Bill; and to report progress would simply mean that the Bill would not go through this session, and the responsibility for that would rest with the Council. The duty of hon. members was perfectly plain, namely, to put their shoulders to the wheel, deal with the Bill, and send it to another place as soon as possible.

THE COLONIAL SECRETARY: It would be impossible to find time to send the Bill to another place this session if the amendments recommended by the Select Committee had to be printed in distinguishing type. He understood from the Clerk that the Government Printer had said it would take at least a week or more, probably ten days, to reprint the Bill in that way; and hon. members would find no difficulty in dealing with the clauses, because if any information were required, either the Chairman of the Select Committee or himself would be able to afford it.

HON. A. P. MATHESON: Much sympathy might be felt with Mr. Whitcombe, because it was impossible to look into these amendments as the clauses were dealt with If Mr. Haynes would explain the reason for each amendment recommended by the Select Committee, that would perhaps meet the necessities of the case.

HON. F. WHITCOMBE: There seemed to be an idea that because the Bill had to be sent to another place within a limited number of days, members of the Council had to give it no consideration whatever. If that were so, it would be better to pass

the Bill *en bloc;* but it was certainly not fair that a measure of this importance should be placed before hon. members at twenty-four hours' notice.

SIR G. SHENTON: The simplest course would be for Mr. Haynes, who was in charge of the Bill, to explain the Select Committee's amendments as the clauses were considered. It would then be open to any hon. member to move that the original words be inserted in lieu of those recommended by the Select Committee.

Motion to report progress put, and negatived.

Clause put and passed.

Clause 6—Interpretation:

HON. R. S. HAYNES: In this clause the Select Committee had made some amendments defining "way" and "street," and the word "property" had been inserted instead of "land." "Street" had been defined as a thoroughfare 66 feet wide, and "way" as any thoroughfare less than 66 feet wide. These amendments were simply for drafting purposes.

HON. J. W. HACKETT: What was the "second system of valuation" provided in the Bill?

HON. R. S. HAYNES: That had been struck out by the Select Committee. When the Bill was originally drafted—not as introduced in the House—two systems of valuation were proposed, one on the value of the property and the other some frontage system.

HON. J. M. SPEED: There was no frontage system at all. When the Bill was originally drafted, it included a proposition that there should be rating by foot frontage, but that clause was struck out before being presented to this House. The person who struck it out, however, failed to strike out the third portion, and the amendment now proposed became necessary. In the next place, a distinction was made between "road" and "way."

HON. M. L. MOSS: "Way" was defined to mean all thoroughfares less than 66 feet in width. Would Mr. Haynes explain what effect that would have on the later clauses of the Bill which referred to the making of thoroughfares that were under 66 feet in width?

HON. R. S. HAYNES: There was a provision dealing with that.

HON. M. L. MOSS: In many of the municipalities in the country there were large numbers of streets under 66 feet in width, in reference to which it was highly desirable that municipalities should have the power to expend money for the purpose of making, and for the upkeep.

HON. R. S. HAYNES: They had the power. Part X. dealt with it.

HON. M. L. MOSS wanted to make certain that the municipalities would have the power to expend revenue for the purpose of making ways less than 66 feet, and keeping them up.

HON. R. S. HAYNES: Clause 232 would give the information.

HON. M. L. MOSS (after looking at the clause): Yes; he thought that clause was sufficient.

Clause put and passed.

Clauses 7 and 8—agreed to.

Clause 9—Municipalities to be body corporate with common seal:

HON. R. S. HAYNES: Clause 9 originally in the Bill was a simple proposition in law, and it was absolutely unnecessary, so the Committee recommended that it be struck out, and the present Clause 9 inserted as a new clause. By some oversight it was omitted in another place. It was a clause incorporating the mayor, councillors, and citizens, who should be incorporated so that they could sue and be sued.

Clause put and passed.

Clause 10—agreed to.

Clause 11—Power of Governor to declare municipalities:

HON. R. S. HAYNES: The words "or roads boards concerned" had been inserted by the Committee after "municipalities," paragraph *c.* of Sub-clause 2. The provision was not compulsory, but it only gave power in cases where circumstances warranted it. Later on he would call attention to paragraph *i.*, which provided that the Governor might "declare any municipality having in the year preceding such declaration a population of 20,000, and a gross revenue of £20,000, a city; and that the mayor thereof shall be designated the Right Worshipful the Mayor of ——." That was a matter that was discussed in Committee. At present the words in regard to the mayor were "His Worship the Mayor." It was suggested that where there was a population of 20,000, the mayor should be called the

"right worshipful." That was a matter entirely for the House. He expressed no opinion.

HON. J. W. HACKETT moved that the word "some" be inserted between "or" and "roads," paragraph *c*.

Amendment put and passed.

HON. F. WHITCOMBE suggested that paragraph *i*. be struck out. He did not see any necessity to distinguish between the Mayor of Perth, the Mayor of Fremantle, and the Mayor of Geraldton. Why did we not call a mayor "Lord Mayor" at once?

HON. J. M. SPEED: If it would please the municipalities to have the provision at present contained in the Bill, why should we not agree to it? It was a matter of no moment, but the provision was passed by the Municipal Conference, and it seemed absurd to take that provision away from them, especially as it was of no consequence except to the men themselves. As we all knew, people had a great liking for titles, or at least many had, and he thought there were many in the Legislative Council who liked the honorary title that appeared before their name, and the titular letters after the name, in consequence of their being members of this Chamber. The provision might cause more and better men to come forward for municipal positions.

HON. M. L. MOSS: The labour party would excommunicate the hon. member.

Hon. J. W. HACKETT: Whilst opposed to the retention of this ridiculous ornament to be given to the mayor in certain cases, he was of opinion that the rest of the paragraph should stand. He moved that all the words after "city," line 4 of paragraph *i*., be struck out.

Amendment put and passed.

Sub-clause as amended put and passed, and the clause as amended agreed to.

Clause 12—Adjustment of rights, etc., between old and new municipalities, etc.:

HON. R. S. HAYNES: The words "the whole or" had been added, in order to make the clause read more accurately.

HON. J. W. HACKETT: The first four lines ought to be struck out, for there was no sense in them.

HON. R. S. HAYNES said he could not see any nonsense in them.

A MEMBER: Let progress be reported.

HON. R. S. HAYNES: Some person in this House, he understood, wanted to stop the Bill, but he (Mr. Haynes) was free and independent in the matter, and he meant to see the Bill through.

HON. J. W. HACKETT: What did "the whole of" refer to? The whole of what?

HON. R. S. HAYNES: The whole of the boundaries of the municipalities, or a portion of the boundaries.

HON. M. L. MOSS: Let the matter be made plain by having the words, "the whole of an existing municipality."

HON. J. M. SPEED suggested that the words "the whole" be struck out.

HON. A. P. MATHESON moved that in line 2 the word "of" be inserted between "whole" and "or." That would make the clause clear.

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

Clauses 13 to 25, inclusive—agreed to.

Clause 26—Signature of petition; proportion altered from one-fourth:

HON. R. S. HAYNES: It had already been explained that the word "land" had been substituted for the word "property" throughout the Bill, and it would be unnecessary to refer to this amendment again.

Clause put and passed.

Clauses 27 to 39, inclusive—agreed to.

Clause 40—Qualification of mayor and councillors:

HON. R. S. HAYNES: The Select Committee had struck out the words "whose name appears on the electoral list in any municipality as owner or occupier" as unnecessary. Under the Bill as brought in, unless a person was actually on the roll he was disqualified from acting as councillor. The principle of the Bill was that the occupier should be the person to exercise the right of voting, and not the owner; and while the owner did not appear on the roll at all, he might have considerable interest in the city, and it was right he should not be disqualified from acting as councillor by reason of his name not appearing.

Clause put and passed.

Clause 41—Disqualifications:

HON. R. S. HAYNES: The Select Committee had struck out the words "no female, no minister of religion," because it seemed improper, and open to severe censure, that women and ministers of religion should be bracketed with bankrupts and criminals. He knew of

no reason why a female should not sit in the council if the ratepayers thought she was fit for the position, and there was no reason also why a minister should not sit if the ratepayers desired his services. He objected to the idea that because a person followed the profession of religion, he should, therefore, be deprived of exercising a right enjoyed by every other member of the community. It was a contemptible thing to disqualify females and ministers of religion, and the Select Committee were unanimous in the decision to strike out the words.

Hon. F. WHITCOMBE: A minister of religion by virtue of his office, was not in any way eligible for the office of councillor or mayor.

Hon. R. S. Haynes: Let the ratepayers decide.

Hon. F. WHITCOMBE: It was very proper the ratepayers should be prohibited from deciding in such a matter, and he moved that the words, "No minister of religion," be inserted at the beginning of the clause.

Amendment put and negatived.

Hon. T. F. O. BRIMAGE: By Section 40 of the original Act he understood that no man could be nominated as mayor for more than three years. Had that provision been struck out?

Hon. R. S. HAYNES: Under the old Act there was a disqualification by reason of having held the office of mayor for three years, but the Select Committee, at the instance of the Municipal Association, which had for three consecutive years discussed the matter, removed that disqualification. He was pleased that this amendment was the outcome of the consideration of all the municipal councils throughout the colony, and he saw no ground on which this disqualification could rest. In New South Wales, Victoria, Tasmania, and Queensland, there was no such disqualification, and in those colonies the mayors were elected by the municipal councils. He could quite understand in Sydney and in those other places, where the council elected the mayor, such a disqualification might be advocated, because rings might be formed.

Hon. T. F. O. Brimage: The same here.

Hon. R. S. HAYNES: But here the citizens elected the mayor. It had been stated that this clause was introduced for the purpose of benefiting a certain gentleman in Perth, but that was absolutely untrue, because the Bill was drafted at a time when that gentleman had expressed his intention of resigning the mayoralty. The same clause was drafted last year, and no objection was then taken, and he (Mr. Haynes) would be the last person to submit a Bill brought in for the benefit of any individual. The election of mayor was for the citizens alone, and the safeguard lay in that.

Hon. T. F. O. Brimage: But the town clerk might pack the votes.

Hon. R. S. HAYNES: That had never been heard of in Perth, but if there were such a danger, a clause might be inserted to prevent such packing. He, however, challenged and contradicted the statement that the town clerk packed votes.

Hon. T. F. O. Brimage: That was not said of the Perth town clerk.

Hon. R. S. HAYNES: Every opportunity would be afforded the member of testing the question at the right time.

Clause put and passed.

Clause 42 — Disqualification on the ground of interest:

Hon. R. S. HAYNES: The Select Committee had amended the clause so as to provide that "such disqualification shall not extend to any mayor or councillor, by reason of his being beneficially interested in any newspaper in which the council inserts advertisements, or by reason of being a proprietor or shareholder, or a shareholder in any duly incorporated company, having at least twenty-five *bona fide* shareholders." This was a proper provision, because the House of Lords had held there could be what were known as one man companies, namely, companies consisting of, perhaps, one man and his six children.

Hon. M. L. Moss: Make the number twenty, the same as under the Constitution Act.

Hon. R. S. HAYNES: It would be preferable if the number were five hundred. The acts of members of Parliament were open to more criticism than those of members of councils, and too much care could not be taken in seeing that councils were free from the influence of these companies. Had he his own way he would disqualify such electors altogether. In the Supreme Court, if a company were interested in which the

Judge was a shareholder, possibly amongst hundreds of others the Judge at once left the bench; and it was not right that municipal contracts should be let to any company in which, perhaps, the mayor held shares.

HON. A. P. MATHESON said he would like to ask the hon. member for a legal definition of *bona fide*. The amendment was a most important one, and in his opinion it would be well that members of town councils should have no interest whatever in newspapers that received advertisements. Some newspapers in this colony were carried on by limited liability companies exactly in the way the hon. member described. There might be one or two shareholders owning the whole of the effective shares, and to bring these companies within the verbal limits of the law, the balance of the shareholders might consist of some 25 children and ladies without any apparent rights at all.

HON. R. S. HAYNES: A *bona fide* shareholder was not a bogus shareholder.

HON. A. P. MATHESON: There might be shareholders in a large company in which one or two owned all the shares except "B" shares.

HON. R. S. HAYNES: The words "*bona fide*" appeared in all Acts like this.

HON. A. P. MATHESON: When one spoke of 25 *bona fide* shareholders he imagined 25 shareholders with *bona fide* interest in a company—not perhaps equal shares, but proportionately equal shares—but in this case companies might be registered although they had really only three or two *bona fide* shareholders, or perhaps only one, and in order to get over the difficulty with regard to the number of 25, "B" shares might be distributed in large quantities to people under 21 and to ladies. He did not think the hon. member's amendment quite got over the difficulty. The clause must be made more stringent to be effective.

HON. M. L. MOSS: Whilst in accord with Mr. R. S. Haynes, he thought the clause would not carry out the purpose the hon. member had in view. In the case referred to, it was held that a child owning one share on which no premium might be paid was a *bona fide* shareholder. If the Committee were anxious to do away with what they considered a very serious abuse, the only method of getting over the difficulty was to disqualify a mayor or councillor if he held any share in a limited liability company which received money from the corporation.

HON. R. S. HAYNES: Personally he would support with all his heart the suggestion made; but he must respect the opinion of others, and the view of the majority was that the disqualification should not be very much greater than it was in this House. He could better say what was not a *bona fide* shareholder than what was a *bona fide* shareholder. If it were shown that there were only eight or ten *bona fide* people owning shares, and, that in order to get advantage of this provision shares were presented to this person and to that in order to make up the required number of 25, and those persons who received transfer shares were not *bona fide* shareholders, the Court would find that they were not *bona fide* shareholders. It was a question of fact to be decided by a jury. The words "*bona fide*" were used in the Constitution Act. They operated as a lever and prevented opening the door to fraud. It would be better to leave the words as they stood. A proposal to altogether shut out people interested in companies would not be carried. He did not object to the big companies, because individual interests were so small, but he did not think we ought to go below 25.

HON. J. W. HACKETT said he was aware of what the amiable member opposite (Mr. Matheson) was driving at. That hon. member was not actuated by the idea of improving or purifying the register of shareholders in this colony or having a higher class of mayors or councillors, who were above suspicion, but he was paying off an old grudge, which he had ample reason to pay off, and which he would have a good deal more reason to pay off if he did not repent and try to attain to the position it was desired to see mayors and councillors occupy—that of being beyond partiality and reproach. He (Mr. Hackett) was astonished that Mr. Haynes, after arguing at some length as to the choice with regard to mayors being left altogether in the hands of citizens, now urged a contrary course, which would limit the choice of the citizens in a most material degree. He agreed with Mr. Haynes that the citizens should have the widest scope possible in

the election of mayors and councillors. These trivial and artificial disqualifications should be limited as much as possible, and above all in a little community such as Western Australia, and in the smaller communities in this colony. Probably the very best men, the most enterprising men, the men of means, of character, and of reputation, the men of capacity who made a little money, were the men who formed the small joint stock companies which he was glad to say were to be found in every one of our smaller towns, and who were the main basis of the prosperity of those towns. If we did anything beyond what was absolutely necessary to discourage the formation of these companies, or to prevent men of repute joining them (the very men we desired to see in our municipal councils), the sooner the Municipal Act was redrafted altogether, and we understood what we were doing, the better. He would move that the number of shareholders required to form a company should be what it was for many of our small joint stock companies; a very respectable number—20. That was the number which prevailed in our Constitution Act.

HON. F. WHITCOMBE: Why not strike out the whole clause?

HON. J. W. HACKETT: No. There were many arguments in favour of striking out the whole clause, but he bowed to the views of others, and would content himself with limiting it. In the convention a somewhat similar clause was proposed, and the convention was about divided into two parties. One class wished there to be no allusion whatever to disqualifications of this kind, whilst another followed the example of Mr. Haynes, and desired that the number of shareholders should be so large that practically a man's interest would be of no importance. Several thousands were mentioned as the number of shareholders, but the better feeling of the convention was that it was desirable to leave the question in the hands of the people. He should vote against any limitation as to the number of years for which citizens should be able to elect their mayor or councillors. He moved that the word "five" be struck out.

HON. R. S. HAYNES said he would bow to the feeling of the House. The amendment was only a small one, and he agreed to accept it.

HON. A. P. MATHESON: Mr. Hackett had spoken with some warmth with reference to the few remarks which fell from him, and he must say the hon. member had caused him considerable surprise. He would freely admit, since Mr. Hackett had called attention to the matter, that the *West Australian* newspaper was in his (Mr. Matheson's) mind a paper owned by a company which exactly coincided with a description which fell from Mr. Haynes.

HON. J. W. HACKETT: It was a positive blow at him (Mr. Hackett).

HON. A. P. MATHESON: The hon. member imagined this was of more importance to him than was the case. He never dreamt of striking a blow at the hon. member, and he was most careful not even to look in that direction.

HON. J. W. HACKETT: Too careful.

HON. A. P. MATHESON: Of course, if the cap fitted he regretted it, and he regretted that any words of a strong nature by him annoyed the hon. member in the way they did.

HON. J. W. HACKETT: It was Mr. Matheson's object to annoy.

HON. A. P. MATHESON: The hon. member thought he had no object in life but to annoy the hon. member.

HON. J. W. HACKETT: That was the hon. member's chief object, and he had reason for it.

HON. A. P. MATHESON said he very rarely thought of the hon. member, except when that gentleman spoke.

THE CHAIRMAN: The hon. member should address himself to the Chair.

HON. A. P. MATHESON said he bowed to the Chairman's ruling, but he was replying in regard to some license which was allowed to Mr. Hackett.

HON. J. W. HACKETT: The hon. member had his innings first, and should not have two.

HON. A. P. MATHESON: The hon. member thought that he (Mr. Matheson) had certain objects in view, but he could assure the Committee that such was far removed from his mind.

HON. J. W. HACKETT: Oh, for shame!

HON. A. P. MATHESON said he thought he might ask the protection of the Chairman from these interruptions.

THE CHAIRMAN: It would be better if we proceeded with the business.

HON. J. W. HACKETT: Hear, hear.

HON. A. P. MATHESON said he was willing to get on with the business, if the Chairman would stop the interruptions. With regard to the clause, Mr. Hackett did not seem to be aware that although not perhaps *verbatim*, the clause was in effect copied from the articles of association of nearly every limited company. The directors of a company were elected by the shareholders in exactly the same way as the mayor and councillors were elected in a municipality. The two positions stood on all-fours, and there was hardly an article of association drawn up by any legal member of the House which did not contain nearly an identical clause, limiting the right of any councillor to contract with the company in which he was interested. To allow a mayor or councillor to contract with a company in which he was interested was going further than the ordinary custom of commerce in Great Britain, which was to bar such traffic as the clause proposed to bar. The question arose whether 25 members were too many or too few, and he would strongly urge the Committee to insist on the clause as it stood.

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

Clause 43—Qualification and disqualification of auditors:

HON. T. F. O. BRIMAGE moved that the following words be inserted at the beginning of the clause:—"No person shall be qualified to be nominated as mayor for more than three consecutive years, and." Three years was quite long enough for a man to hold the position of chief councillor, because in new towns a man who was fairly successful could take charge of the council, and if he had a brother and a couple of sisters, their husbands and wives could control the chief seat of the town for some considerable time.

HON. G. BELLINGHAM: What were the councillors and ratepayers doing to allow that?

HON. T. F. O. BRIMAGE: The ratepayers could not help themselves, and he would refer as an instance to Boulder, where the present mayor had held the position for three years, and would hold it longer if he could. That mayor had his brother as town clerk, much against the wishes of the ratepayers.

HON. M. L. MOSS: What were the councillors doing?

HON. T. F. O. BRIMAGE: The councillors seemed to be under the mayor in every way. Mr. Haynes was under a misapprehension in thinking any reference had been made to Mr. A. Forrest, because as a matter of fact, it was not within his (Mr. Brimage's) knowledge that Mr. Forrest had been Mayor of Perth for three years.

HON. R. S. HAYNES: It was not meant that the hon. member had made any such reference.

HON. T. F. O. BRIMAGE: The town clerk and the mayor were really the two gentlemen who made up the rolls, and they could get dummy blocks, and put ratepayers on the rolls or leave them off.

HON. R. S. HAYNES: What about the revision court?

HON. T. F. O. BRIMAGE: If the hon. member had read the *Kalgoorlie Miner* that morning, he would have seen what power the revision court had in that district. He was not well up in these matters, but from his municipal experience he thought three years was an ample period.

HON. A. G. JENKINS: The amendment ought not to be carried. Some remarks made by Mr. Brimage were extremely out of place, and no member should use the House for airing his private grievances against gentlemen who were not members. Mr. Brimage had referred to the Mayor of Boulder City in the most scathing terms; but that mayor, who was one of his (Mr. Jenkins') constituents, had the respect and esteem of most of the residents of Boulder City; and to accuse him of packing the rolls and making billets for his brothers, and his "sisters and his cousins and his aunts," came with extremely bad taste from a gentleman who lived in close proximity, and was chairman of a neighbouring roads board or municipality. The Committee ought not to be misled by anything which had fallen from Mr. Brimage in regard to Mr. Hopkins, the Mayor of Boulder City, because the fact that Mr. Hopkins had enjoyed the confidence of the ratepayers for three years was extremely to his credit.

Hon. C. SOMMERS: The amendment was one which ought not to be accepted by the Committee, because if the principle were applied to mayors, it might just as well be applied to members of Parliament. Safety lay in the fact that the election was in the hands of the ratepayers and it was in very bad taste for Mr. Brimage to attack the Mayor of Boulder City, who was one of his (Mr. Sommers) constituents. The Municipal Conference on three different occasions had confirmed the desirability of removing the disqualification in the old Bill.

Amendment put and negatived, and the clause passed.

Clause 44—Declaration by councillors to be signed and entered in minute book:

Hon. R. S. HAYNES: The original clause dispenses with the oath of allegiance, but the Select Committee thought it proper that a mayor, councillor, or auditor should take the oath, and this clause was taken from the present Act.

Clause put and passed.

Clause 45—Supervening disqualifications:

Hon. R. S. HAYNES: The words "or ceasing to be disqualified as required by Section 40" had been inserted by the Select Committee, on the ground that a person who had no interest in a place ought not to hold a seat. The point had cropped up in one municipality, where a member of the council had sold out his interests and gone away, but never resigned.

Clause put and passed.

Clause 46—agreed to.

At 6·30, the Chairman left the Chair.

At 7·45, Chair resumed.

Clauses 47 to 51 inclusive—agreed to.

Clause 52—Qualification of electors:

Hon. R. S. HAYNES: Amendments had been made in this clause. The words "as owner or occupier," in line 2 of Subclause 1, had been struck out, as they were not necessary. The next amendment was that a person who had, on or before the 1st September, paid all sums due and payable should be entitled to have his name on the list. He thought that under the present Act rates were to be paid by the 30th June, but the Committee disagreed with that, and inasmuch as later on they made a provision that rates should be paid by moieties at intervals of six months, we had a right to extend the time, and to allow a person to be placed on the roll, if he had paid his rates on the 1st of September. The matter was much discussed, and the Committee came to the conclusion that this was the proper course to adopt. The next thing was that there was a proviso at the end of the clause, which read thus:

> Provided that in no case shall the owner of land and the person in occupation thereof be both separately enrolled or inserted in such list in respect of such land, or any part thereof; and provided also that the person in occupation of any ratable land shall be entitled to be enrolled in respect of such land instead of the owner thereof.

That meant carrying out the principle that the occupier of the house should be the person entitled to vote, and if there was no occupier, then the owner could vote.

Hon. J. E. Richardson: The landlord was on the roll now.

Hon. R. S. HAYNES: No; the occupier. He (Mr. Haynes) had always thought the landlord should be the person to have the vote, as he paid the rates, but he was answered by the statement that the landlord would get the rates by raising a man's rent. It was much better for landlords to pay the rates themselves, because if payment of the rates were left to the tenants, and the tenants did not pay them, the landlords had to pay them. The only reason for putting in this proviso was that the owner and occupier should not both be on the roll.

Clause put and passed.

Clauses 53 to 70, inclusive—agreed to.

Clause 71—Rearrangement of roll on division of municipalities:

Hon. J. M. SPEED moved that after the word "require," in line 15, "save as by this Act provided" be inserted. Also that the following be added to the clause:

> Provided that any person whose name appears on the rate books of the municipality shall, up to and inclusive of the day of any election, upon payment of all rates (including health rates) for the current year, and upon production to the Returning Officer of a certificate signed by the Town Clerk, Treasurer, or other authorised officer of the municipality to the effect that such payment has been made, be entitled to vote at any such election, and to be enrolled on the said roll, and to the number of votes for which he is enrolled.

The amendments should be taken together, as one depended on the other. He pressed

them upon the Committee, for every man who was a ratepayer should have every facility given to him to have his name placed on the roll. The Council had the same right to get the rates under any circumstances. Unfortunately if a man paid his rates after the time specified, he was not entitled to exercise his right of voting, and it was only a reasonable thing that if one paid up to the day preceding the election he should have the right of exercising the franchise. He did not think the tendency of legislation in this or any other of the colonies was towards depriving a man of his right to vote. In many instances a man might through poverty or circumstances over which he had no control be absent from the colony, or be in some part of Western Australia where he would not be able to obtain the notice, because a notice could be left on a man's land. Another point that several members had mentioned was that it was possible to bribe ratepayers by paying the rates for them. It was not right for members of this House, or any other House, to allege that ratepayers of the colony were open to bribery and corruption. Even if they were, what safeguard would a man who bribed ratepayers have for the man voting in the way desired? People would vote by ballot. This amendment could prejudice no one, and, if it were passed, a large amount of money would be collected which hitherto had not been received.

HON. C. SOMMERS: It was to be hoped the amendment would not be carried. As a councillor having had experience in this and other colonies, he knew that the difficulties of getting the money were quite cumbersome enough already. This Bill was a great improvement upon the last. The last Bill provided that all rates should be paid in advance; that was to say on the 1st January, but they were collected as soon afterwards as people could pay them. Under this Bill the rates would be paid in two moieties, and surely that showed that the municipalities were desirous of meeting the wishes of the ratepayers by relieving them of payment of a large sum of money in advance. And instead of making the last moiety payable on the 1st June they made it payable on the 1st September. He was surprised at Councillor Speed advocating such an amendment as that proposed. If it were carried, there would be a difficulty in making up the rates, and no one would know who was entitled to vote. Moreover, the passing of this amendment would open the door to bribery and corruption. It would be open for any man, when he knew there was going to be a close contest, to go round, or send his agent round, and pay small amounts of rates in order to enable people to vote. There were men, including councillors, who would not pay the rates until they were forced to, and the only thing that made them pay at all was the fact that they were going to be on the roll. Councillor Speed urged that if the amendment were adopted it would enable the councils to get in money; but if there was no election coming on, the councils would not get the money.

HON. J. M. SPEED: The money was not obtained now.

HON. C. SOMMERS: It was all very well to say that municipalities had the power to levy distress, but no council liked to exercise that power, and it was only in very urgent cases that some could be induced to do it. The hon. member was going totally against the wishes of three Conferences which had been held, and he was advocating something altogether undesirable.

HON. J. T. GLOWREY opposed the amendment. Members who had had experience in the other colonies would know the position he was taking was a correct one, that the total amount of rates had to be paid up in March or April, and Mr. Speed had made out a very weak case.

HON. F. WHITCOMBE supported the amendment, because an instance had come within his knowledge in the last few days, where a ratepayer had been debarred from voting because of the neglect of his agent to pay rates. If a person were responsible for rates, there was no reason why he should not have a voice in electing the municipal officers; and if that person did not pay, it showed fault on the part of the officers of the municipality whose duty it was to enforce payment. If ratepayers who had not paid their rates were debarred from voting, it would be just as reasonable to prevent parliamentary electors from exercising the franchise in the event of their

owing money to the Government. There would be no difficulty in compiling the rolls, because when they were made out, the amounts due could be inserted opposite the names of the persons, thereby enabling the returning officer at any moment to see whether an elector was in arrears, and the elector could produce his receipt. It would be absolutely unfair if a ratepayer were debarred from voting, provided he paid up his rates to the time.

Hon. A. P. MATHESON: The amendment by Mr. Speed was well worthy of support. Mr. Sommers and some hon. members appeared to think that voting was a sort of reward to gentlemen who paid their rates; that view, however, was totally wrong, because the vote was inherent in the property.

Hon. R. S. Haynes: What was the meaning of "ratepayer"? Did it mean "rate-ower"?

Hon. A. P. MATHESON: The fact that a man owned property entitled him to vote, the occupier in most cases paying the rates, and to deprive a man of his right to vote, simply because the rates had not been paid, was preposterous. If there were a land tax in this colony, would hon. members be prepared to say that a man who had not satisfied that tax should not be allowed to vote at parliamentary elections? The municipality had the right to come down on the property for the rates at any time, and if the municipality did not do so, the officers were neglecting their duty to the rest of the ratepayers. If the question were analysed, it would be found that the vote was given to the occupier or owner of the land, without any reference to rating at all, and the rolls had every ratepayer on, whether those ratepayers had paid their rates or not, the owner having to pay the rates whatever happened. As the amendment provided that the ratepayer might go with the receipt in his hand, all the scrutineer would have to do would be to compare that receipt with the roll; and that would be no more trouble than verifying the elector's name.

Hon. J. M. DREW: It was most advisable that some such amendment as that proposed by Mr. Speed should be passed. In various parts of the colony ratepayers, through carelessness or otherwise, omitted to pay their rates, but if they did pay the rates before the date of election, or on the day of election, they should be entitled to vote.

Hon. R. S. HAYNES: This matter had been discussed at great length by the Select Committee, and the clause was the result, not only of the opinions of the members of the committee, but also of deliberations by the municipal associations throughout the colony. Why should hon. members take on themselves to upset the whole of the machinery of the Act which had been in operation for the past 30 years, and introduce quite an innovation? There seemed to be some misconception as to what was the qualification of a ratepayer, some hon. members appearing to think that a ratepayer was a rate-ower. The ratepayers who paid their rates, had the votes, but now it was sought to introduce a system by which a rate-ower would be entitled to exactly the same privileges as a person who paid his rates promptly. If the amendment were passed, ratepayers would neglect to pay until the last day before the election, and the council would have to wait until the end of the year before they could get money to carry out municipal improvements. The amendment held out an inducement to every ratepayer to hang back with his rates until November, and if that were done, what was going to become of municipal works for which estimates had to be made out in the previous year? Municipalities were entitled to get from the Government in July so much in the pound, according to the amount of rates paid, and not according to the amount owing; and the Select Committee went as far as they could when they extended the time for payment from the 1st June to the 1st September, and passed a clause providing the rates should be paid in moieties every six months. That was only by way of compromise, because some of the committee strenuously objected, and it would be unfair to ask hon. members to stretch the clause further. The chief point was in the confusion that would arise on the day of election, when every person would be rushing in with their receipts for the payment of rates; and the question would arise as to which ward they belonged. In Perth, for example, he paid his rates, but how was one to know whether he paid in respect of one ward or another.

We had to remember the difficulty there was in voting now, especially towards the evening, and what would the difficulty be if we had this system? There seemed to be too much playing to the gallery.

HON. J. M. DREW: Playing to the ratepayers.

HON. J. M. SPEED: Apparently Mr. Sommers wanted the House to do the work which he should do himself as mayor, or whatever position he occupied in connection with the council. It was not the duty of the council to abstain, through fear of unpopularity, from getting in the rates. It was their duty to get them in, and they had the power to do so. As to what had been said by Mr Haynes, what was it all about? It was all about five weeks and a few days. Up to the 1st September people had the right to pay and to have their names on the list, and under these circumstances why not give them the balance of the time? He thought he knew as much about the work of municipalities as Mr. Haynes or Mr. Sommers, and he was quite satisfied that what he advocated could be done. Moreover, it was quite possible that the advantages to the ratepayers would far more than compensate for the little inconvenience experienced by the town clerks or other officers in having to spend half an hour perhaps the evening before the election, in preparing a report to show what certificates had been issued. The objection raised emanated from the town clerks, and not the municipalities themselves. But the question was not what was convenient for the town clerks, but what was to the advantage of the ratepayers.

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

Ayes	5
Noes	16
Majority against ...	11

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

Amendment thus negatived.

Second amendment put, and negatived on the voices.

Clause put and passed.

Clauses 71 to 105, inclusive—agreed to.

Clause 106—Voting in absence, in certain cases:

HON. R. S. HAYNES: An amendment had been introduced, the Committee having altered the Bill to change the system of proxy voting as it at present existed in municipalities. That system was open to grave objection. A person went canvassing, and asked others to appoint him as agent to vote for them in their absence, there being in such cases no such thing as voting by ballot, nor was there any secrecy about it. It was proposed to introduce a system of what was called "absent voting," voting by post, and to put it on exactly the same lines as the system adopted for absent voters in elections for the Legislative Council or Assembly. The same principle had been adopted in Victoria, and he supposed it was good. It was thought that in parliamentary elections no voting could take place until after the writ had been issued. Here the Committee thought there was no limit to the time in which a person could get votes of people who were absent. If one were going to stand as a candidate, there was nothing to prevent a person from going round and soliciting votes; and the Committee thought it right to limit the time during which that could be done to a month previous to the date of election.

Clause put and passed.

Clauses 107 to 123, inclusive—agreed to.

Clause 124—Penalty for receiving or offering reward as to vote:

HON. R. S. HAYNES: The only amendment made by the Committee was the striking out of the words "or a court of competent jurisdiction."

Clause agreed to.

Clause 125—agreed to.

Clause 126—Appointment and remuneration of officers:

HON. R. S. HAYNES: Clause 126 gave power to any council of any municipality to dispense with any of its officers. Under the present law a doubt had been expressed by some of the learned Judges as to the right of a municipality to

dismiss its officers. A Bill was brought in, giving a council power to dismiss them for misconduct or neglect, and as a lawyer he took exception to those words "misconduct or neglect," because frequently a council might want to get rid of a town clerk or other officer, and not wish to brand him as being guilty of misconduct or neglect. A council might be dissatisfied with such officer, and ought to have the same right as ordinary people to get rid of him. Of course, if the council dismissed him improperly, that council would be liable for damages. Under the Act it appeared that a reason had to be assigned, and a Select Committee thought it advisable to strike the words out.

Clause put and passed.

Clauses 127 to 132, inclusive—agreed to.

Clause 133—Remuneration on resignation, or abolition of office:

HON. R. S. HAYNES: In this clause the Select Committee had struck out the words "or to any other person on behalf of such officer or servant," and had inserted "or in case of death to the personal representative of such officer or servant, for the benefit of his wife or next of kin."

Clause put and passed.

Clause 134—Auditors to be elected:

HON. R. S. HAYNES: The Select Committee had amended the clause by empowering the Government to appoint an auditor at any time to inspect the books of municipalities. Inasmuch as the Government paid a subsidy to the municipalities of so much in the pound, it was only proper there should be the right to inspect municipal books, and see that the warrants sent in were correct.

HON. J. W. HACKETT: Who was to put the Government in action?

Hon. R. S. HAYNES: The Auditor General would have the right to send his officers at any moment to inspect municipal books.

HON. C. SOMMERS: The clause was a good one, because at present no steps seemed to be taken by the Government to see that the subsidies were properly expended. In other colonies it was usual to elect a local auditor, who acted in concert with the Government auditor; and his idea was that two auditors should be elected, one to retire annually, so as to insure always having an auditor with some knowledge of the business of the particular council.

Clause put and passed.

Clauses 135 to 141, inclusive—agreed to.

Clause 142—General and special meetings of ratepayers:

HON. R. S. HAYNES: The Select Committee had made a slight amendment in the clause, directing that the annual meeting of ratepayers should take place one week before the annual election. He hoped at no distant date to introduce a measure by which the citizens could have their wishes respected by the various municipalities, because at present there was merely this annual meeting, which acted only as a slight check.

Clause put and passed.

Clauses 143 to 146, inclusive—agreed to.

Clause 147—Adjournment of meetings:

HON. R. S. HAYNES: The only amendment made by the Select Committee in this case was a provision that the meeting had to be adjourned at the expiration of a quarter of an hour, instead of, as originally provided, half an hour, in the absence of a quorum.

Clause put and passed.

Clauses 148 to 166, inclusive—agreed to.

Clause 167—Purposes for which by-laws may be made:

HON. R. S. HAYNES: The original Clauses 166 and 167 had been struck out as unnecessary. These clauses provided for the municipalities having perpetual succession in office, and that was already provided for.

HON. A. G. JENKINS: The municipality ought to be given power to deal with camels.

HON. R. S. HAYNES: Power was given to deal with all animals.

Clause put and passed.

Clauses 168 to 194, inclusive—agreed to.

Clause 195—Mode of testing validity of by-law:

HON. R. S. HAYNES: This was a new provision inserted by the Select Committee, allowing a person a very easy remedy of disputing the validity of a by-law, by applying to the Supreme Court and there depositing twenty pounds. At

present proceedings had to be taken by action at law, the by-law having to be broken and the question finally settled in the Court of Appeal.

HON. M. L. MOSS: In numbers of cases there could be no appeal, because the fine was under £5.

HON. J. M. SPEED: Did the court mean "one judge" or "three judges"?

HON. R. S. HAYNES: It meant the Full Court, or a Judge in Chambers under certain circumstances.

Clause put and passed.

Clauses 196 to 201, inclusive—agreed to.

Clause 202—Vesting of property in local council:

HON. R. S. HAYNES: This was a new provision introduced by the Select Committee, vesting property in the local council and giving them power to sell, with the consent of the Governor. It was right that in all these matters the municipality should get the consent of the Governor.

Clause put and passed.

Clause 203—Power to lease for purposes of cricket, etc.:

HON. M. L. MOSS moved that after the word "football," line 4, there be inserted "lawn tennis, bowling." Part of the reserve known as the Fremantle Park was in charge of a tennis club, in respect of which the Fremantle municipality was extremely anxious, he believed, or at any rate the club was anxious, to get a lease to further improve the ground.

HON. R. S. HAYNES: There was no objection to the amendment.

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

Clauses 204 to 218, inclusive—agreed to.

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

HON. M. L. MOSS moved that the clause be struck out. The principle embodied in the clause was a very mischievous one. If, by the resumption of land for the purpose of carrying out municipal and other works, the whole of the property in the locality benefited by those works contributed equally, one could have no objection, but the principle contained in Clause 219 was this: Assuming for the sake of argument that a portion only of a person's property was resumed, the balance of the property would probably have some enhanced value, and that enhanced value had to be taken into account in reducing the amount of compensation payable to that person for the land compulsorily taken. That placed such person at this disadvantage compared with others, that, whereas the people who owned the property round about the land resumed might be equally benefited, the person whose land was taken compulsorily was to have his compensation reduced.

HON. R. S. HAYNES: It was the betterment clause.

HON. M. L. MOSS: No; because the principle of the betterment clause was that all the land about, which was enhanced in value, contributed something in the shape of increased taxation.

HON. R. S. HAYNES: That ought to be the case.

HON. M. L. MOSS: But unfortunately Clause 219 operated against one man and to the benefit of the whole of the other persons in the locality; and that was a new principle. Why in reference to land taken for municipal purposes was there a desire to adopt any different principle from that which applied to the Government in respect of land taken for railway or other purposes? Where property in a locality was improved by the expenditure of money, if the whole of the people were going to contribute equally in taxation as a consequence, that would be right, but it was wrong to single out the man whose land was taken compulsorily and to reduce his compensation, though he might derive no greater benefit than other people whose property was adjacent. The principle was bad in the extreme.

HON. R. S. HAYNES said he could not consent to the striking out of the clause. The clause did no more than the existing law. He had had considerable experience in land resumption cases—not so much in this colony as in New South Wales—and the principle laid down there, and which had been laid down in England and here too, was that if the works for which the land was resumed had in effect raised the price of land, the person whose land was resumed should not take advantage of that increment and get the increased value. Supposing land in Wellington-street were taken from one; if that person got the full fair market

value of his land, what more did he want? On no principle could this clause be objected to. It simply meant that one should get only the full fair price of the land which was taken away.

HON. M. L. MOSS: The clause did not say that.

HON. R. S. HAYNES: That was what it meant.

HON. M. L. MOSS: Clause 218 provided that "for the purpose of ascertaining the amount of compensation to be paid for any lands taken under this Act, the sections of the Land Resumption Acts of 1894 and 1895, relating to compensation, are hereby incorporated with this Act." Under the Land Resumption Acts the full fair value of the land was the basis of the estimate of compensation. And under those Acts one was not to take into account the enhanced value of the property consequent on the construction of any particular work. But he wished to point out that Clause 219 of this Bill went further, for it provided that having considered first what was the full fair value of the property, there was to be another calculation to see whether the property had increased 25, 30, or 40 per cent. in value, and having arrived at what was a fair value we were going to reduce the compensation by 30 or 40 per cent.

HON. J. M. SPEED: Quite right.

HON. M. L. MOSS: That was the opinion of the hon. member.

HON. F. WHITCOMBE: Before work for which land was resumed was completed, it would be impossible to say what increased value would accrue to the land, therefore it was pure speculation what amount should be taken off the payment under arbitration. It would not be right for the man who was unfortunate enough to have land where the municipality required it, to lose the accruing value, when his neighbour on either side would benefit. The clause seemed to be an imposition upon the man who was unfortunate enough to have land required by the municipality.

Amendment put, and a division being called for, it was taken with the following result:—

Ayes	3
Noes	10
Majority against	7

AYES.	NOES.
Hon. H. Lukin	Hon. G. Bellingham
Hon. M. L. Moss	Hon. T. F. Brimage
Hon. F. Whitcombe (*Teller*).	Hon. J. W. Hackett
	Hon. R. S. Haynes
	Hon. S. J. Haynes
	Hon. A. G. Jenkins
	Hon. G. Randell
	Hon. C. Sommers
	Hon. J. M. Speed
	Hon. J. T. Glowrey (*Teller*).

Amendment thus negatived.

Clause put and passed,

Clauses 220 and 221—agreed to.

Clause 222—Width of street, etc.:

HON. R. S. HAYNES: The words underlined in the clause were the suggestions of the Select Committee, introduced at the request of the Municipal Conference. The clause provided that no street should, after the passing of this Act, be set out unless the width of such street was 66 feet at the least, and no council should declare any street of lesser width: "Provided that the council shall have power to dedicate to the public use any surveyed street not less than 25 feet in width, on which allotments have been laid out and sold, and which shall have been set out before the passing of this Act, and shall have been in unrestricted public use for at least twelve months." The object of the clause was that there should be no roads under 66 feet in width. Some years ago, when he introduced a clause to make the width of roads 66 feet wide, "land-grabbers" came along and got 33ft. roads.

HON. C. SOMMERS: What about a street less than 25 feet in width, which was laid out three months ago, and in which people had bought land in anticipation of the council taking it over?

HON. M. L. MOSS: In that case they would have been acting against the present law.

HON. C. SOMMERS: It was possible the clause, as it stood, would do an injustice to innocent people.

HON. M. L. MOSS: The fear of Mr. Sommers was hardly well founded, because the law since 1895 had been that no street should be less than 33 feet in width, and if people laid out streets of less width, they were acting against the law.

Clause put and passed.

Clause 223—agreed to.

Clause 224—Dedication of streets not less than 25 feet in width:

HON. R. S. HAYNES: This was a new clause providing that any munici-

pality declared after the passing of the Act should have power, with the consent of the Governor, to dedicate to the public use a surveyed street or way, not less than 25 feet in width, which had been in unrestricted public use for at least twelve months, and on which allotments had been laid out and sold. The clause rather enlarged the present law, if anything.

Clause put and passed.

Clauses 225 to 228, inclusive—agreed to.

Clause 229—Power of Governor to appoint control of bridge or ferry at boundary of municipality:

HON. R. S. HAYNES: The amendment made by the Select Committee was not of much importance, as it merely empowered the Governor, with the consent of the council, to control a bridge or ferry.

HON. J. W. HACKETT: There might be two councils.

HON. R. S. HAYNES: The clause meant the municipal council; but he would make a note of the point raised by Mr. Hackett.

Clause put and passed.

Clauses 230 to 243, inclusive—agreed to.

Clause 244—Power to plant trees:

HON. R. S. HAYNES: The original Clauses 244 and 245, which dealt with the right to procure material for streets, had been struck out of the Bill by the Select Committee. It was thought that while power might be given to roads boards to take gravel, if a council desired to excavate and procure sand or gravel, they ought to pay. No doubt some councillors thought they should have this right, but it was an enormous power to hand over to a municipality.

Clause agreed to.

Clauses 245 to 249, inclusive—agreed to.

Clause 250- Local authorities to unite in maintaining common boundary:

HON. R. S. HAYNES: This and the following clause were new, and were taken from the Local Government Act of Victoria. They gave power to councils to unite to maintain a common boundary, and also to enter into agreements with other local authorities, for maintaining works. The original Clauses 252 and 253 had been struck out by the Select Committee because the ground was covered by the present Clauses 250 and 251.

Clause put and passed.

Clauses 251 to 270, inclusive—agreed to.

Clause 271—Footways may be flagged, kerbed, and paved at expense of owner:

HON. R. S. HAYNES: The only amendment made in this clause by the Select Committee was to allow the council to recover the cost of footways before two justices "or by action in the Local Court."

Clause put and passed.

Clauses 272 to 275, inclusive—agreed to.

Clause 276 — Council may require owners and occupiers to make and repair crossing:

HON. C. SOMMERS moved that in line 3, after the words "crossing place," the words "used by vehicles" be inserted. He had promised Mr. Matheson, who was not present, to bring forward this amendment.

HON. R. S. HAYNES: The amendment would restrict the power of the council very much, and there was no reason why the owner should not repair a footway as well as a crossing place used by vehicles. He understood that one council had improperly caused some persons to make a crossing up to a dead wall, but it would not be proper to restrict the powers of the council in the way suggested.

Amendment put and negatived, and the clause passed.

Clauses 277 to 279, inclusive—agreed to.

Clause 280—Construction of main sewers, etc.:

HON. R. S. HAYNES: It was only right the consent of the Governor should be obtained, and words with that object had been inserted by the Select Committee.

Clause put and passed.

Clauses 281 to 284, inclusive—agreed to.

Clause 285—Council may contract for lighting streets:

HON. R. S. HAYNES: At the end of the clause there was a proviso "That no contract for the supply of electric, gas, or other light for any term exceeding three years, shall be entered into or made by a council without the consent of the Governor first had and obtained." Some councils, it appeared, entered into con-

tracts for longer periods, and though this clause was somewhat like closing the door after the horse had been stolen, still it was only right something should be done.

Clause put and passed.

Clauses 286 to 288—agreed to.

Clause 289—Council may contract for water supply:

HON. R. S. HAYNES: This was a new clause taken from the Local Government Act of Victoria, giving the council power to contract for any period not exceeding three years with the owner of waterworks, or any other person, for the supply of water.

HON. J. M. SPEED: This clause gave power to the Council to contract for any period not exceeding three years with the owner of any waterworks or with any other person, for the supply of water. He moved that the word "but," in line 3, be struck out, and there be inserted in lieu, "and may so contract for a period exceeding three years, providing that."

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

Clauses 290 to 294, inclusive—agreed to.

Clause 295—Council may construct pounds and abattoirs:

HON. R. S. HAYNES: The clause that stood previously as 295 had been struck out by the committee.

Clause put and passed.

Clauses 296 to 298, inclusive—agreed to.

Clause 299—Council may erect weighbridges:

HON. R. S. HAYNES: The words "within the municipality" were necessary, and had been inserted.

Clause put and passed.

On motion by HON. R. S. HAYNES, progress reported and leave given to sit again.

ADJOURNMENT.

The House adjourned at 9·22 o'clock, until the next day.

Legislative Assembly,

Wednesday, 17th October, 1900.

Referendum Irregularities at Kalgoorlie, Removal of a J.P.—Question: Special Train between Geraldton and Northampton, Cost—Question: Chief Mechanical Engineer, etc., Railways—Perth Electric Tramways *Lighting and Power Bill, Select Committee's Report*—Land Act Amendment Bill, third reading—Circuit Courts Judge Bill, third reading—Payment of Imperial Courts Judgment Bill, first reading—Kalgoorlie Tramways Bill, first reading—Leederville Tramways Bill, first reading—Papers: Publican's License, Kookynie — Petition (Railway), Claremont Residents—Motion: Eight-hours System on Railways, Division—Procedure on Motion in absence of mover, Remarks by the Speaker—Council's Resolution: Railway towards Norseman, Remarks by the Speaker — Motion: Government Printing Works, Minimum Wage—Papers: Resident Magistrate at Boulder—Motion: Fremantle Lunatic Asylum, the mad assault—Paper presented, Railways Report — Truck Act Amendment Bill, second reading, in Committee, reported—Motion: Payment of Members, further debate, Division, Amendment passed—Administration (probate) Bill, second reading—Conspiracy and Protection of Workmen and Property Bill, second reading—Dividend Duty, Petition for Repeal, negatived—Slander of Women Bill, second reading, in committee, reported—Compensation for Accidents Bill, second reading, in committee, reported—Adjournment.

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

PRAYERS.

REFERENDUM IRREGULARITIES AT KALGOORLIE.

REMOVAL OF A J.P.

THE PREMIER: I beg to inform the House that, in accordance with a resolution of the House passed on the 10th instant, "That in view of the unsatisfactory replies to the inquiries made by the Government in connection with the improper use of voters' certificates at the recent referendum, further steps be taken," His Excellency the Administrator, by virtue of Section 9 of the Justices Appointment Act 1895, has prohibited Mr. William Robert Burton, a justice of the peace for the magisterial districts of East Coolgardie and Esperance, from acting as such justice.

QUESTION—SPECIAL TRAIN BETWEEN GERALDTON AND NORTHAMPTON, COST.

MR. MITCHELL asked the Commissioner of Railways: Whether he had any statement to make in regard to the charges made by the Railway Department for a special train conveying a doctor from Geraldton to Northampton and back on