as a board, and no distinction should be made.

MR. GREGORY: Reduce the chairman's salary to £600.

MR. EWING: No; better increase the others to £800.

THE PREMIER: The chairman of a board always received more than the other members.

MR. EWING: No; each member of the New South Wales Civil Service Board received £1,000 a year.

THE PREMIER: Not so in Queensland, where the chairman received £1,000, and the other members £800.

MR. CONOLLY: The chairman was in a similar position to the Chief Justice.

MR. EWING: True; but he was not therefore entitled to a higher salary.

MR. GEORGE: The chairman would have much office work to do.

MR. EWING: There would be a secretary and a staff. The junior members of the board must also be good men.

MR. MORAN supported the clause as drafted. He trusted that the words of the Premier, indicative of the right hon. gentleman's lack of interest in the Bill, would not damp the ardour of Government supporters. The country had demanded this reform, and most hon. members had promised it at the last two general elections. The present uncertain method of appointing civil servants was highly disadvantageous to the colony, and it was time that Ministerial or parliamentary patronage was abolished. How could a Minister give the same attention to civil service appointments and promotions as a board? The Bill would make civil servants a disciplined army, would place them under strict rule, and would give every man of ability a chance of entering the service.

SIR JAMES G. LEE STEERE: It was incumbent on him to speak on this question, for, while addressing his constituents, he had advocated the appointment of such a board; but, after hearing the arguments used, and considering the cost to the country which the board would involve, he had altered his opinion, and did not intend to support the Bill. It did not appear that the board would have any effect in reducing the number of civil servants, if their numbers were at present too large. Apparently the course pursued under similar Acts in other colonies was for the head of a department to make a requisition to the board to the effect that he wanted a clerk, engineer, or other officer in his department; and all that the board could do would be to select a person to fill the vacancy. The board could not go through a department and reduce the number of officers, unless such reduction were suggested by the head of the department. The good derivable from the Bill was not so great as to counterbalance the expense to which the country would thereby be put; and that was his principal objection to the measure.

MR. DOHERTY agreed that the Bill was somewhat premature. He intended to move that the Chairman do leave the chair.

MR. MORAN: Was the hon. member in order?

MR. DOHERTY moved that the Chairman do leave the chair.

MR. MORAN: The hon. member was a fine specimen of a democrat!

Motion put and negatived.

MR. LEAKE moved that progress be reported.

Motion put and passed.

Progress reported, and leave given to sit again.

ADJOURNMENT.

The House adjourned at 6·27 until the next Tuesday.

Legislative Council,

Tuesday, 26th September, 1899.

Question: Roads Boards Conferences—Question: Registration of Firms Act—Paper presented—Municipal Loans Validation Bill, second reading, in Committee, reported—Executors' Commission Bill, second reading—Bills of Sale Bill, second reading resumed and concluded—Patents, Designs, and Trade Marks Bill, second reading—Roads and Streets Closure Bill, Committee postponed—Adjournment.

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

PRAYERS.

QUESTION—ROADS BOARDS CONFERENCES.

HON. F. T. CROWDER asked the Colonial Secretary: 1, If the Government have considered the resolutions of the Roads Boards Conferences held in Perth in 1898, and Coolgardie in 1899. 2, If it is the intention of the Government this session to introduce an Act to amend the Roads Act. 3, If the Government intend, as far as possible, to embody the recommendations of the Roads Boards Conferences in such amending Act. 4, If it is not the intention of the Government to introduce an amending Act this session, will they state when it is their intention to introduce such an Act.

THE COLONIAL SECRETARY replied: 1, Some of the resolutions have been dealt with and replies sent to the secretary. The sub-committee appointed by the Conference have also examined the books prepared by the Public Works Department, which have since been printed and issued. The remaining resolutions are still under consideration; 2, It is doubtful whether the Government will be able to introduce the Amending Bill this session, owing to the many important measures yet to be dealt with and the resolutions passed by the Conference; 3, Yes, as far as consistent with powers of Roads Boards; 4, Next session.

QUESTION—REGISTRATION OF FIRMS ACT.

HON. F. T. CROWDER asked the Colonial Secretary, If it is the intention of the Government to introduce, during this session, a Bill to amend the Registration of Firms Act, "giving power to enforce the penalties provided by the principal Act."

THE COLONIAL SECRETARY replied: Yes; it is ready. The Government, however, are not responsible for the drafting of the principal Act.

PAPER PRESENTED.

By the PRESIDENT: Auditor-General's special report on expenditure in excess of Parliamentary sanction, year 1898-9.

Ordered to lie on the table.

MUNICIPAL LOANS VALIDATION BILL.

SECOND READING.

THE COLONIAL SECRETARY (Hon. G. Randell), in moving the second reading, said: The necessity for the introduction of this Bill has been caused by some mistakes made by the municipalities of East Fremantle and Victoria Park. It appears the municipal councils have gone through all the necessary formula—advertising, signing the rates, calling for tenders, and getting the consent of the people of the two municipalities—but by some means or other a mistake has been made, and although tenders have been handed in and accepted, the municipalities are not able to float the loan either under Section 185 of the Municipal Institutions Act of 1895, or under Section 2 of the Act passed specially in the interest of new municipalities in 1898. The section of the principal Act enables municipalities to borrow, after they have been in existence for two years and have presented two annual statements, 10 times the amount of their rates, taking the average for, I think, the past two years. The amending Act enables a municipality, before it has been two years in existence, to borrow the estimated amount of their revenue for two years. By some oversight on the part of each of the two municipalities referred to, these Acts were not complied with. In the case of East Fremantle the municipality had not been in existence quite two years, and in the case of Victoria Park a larger sum was borrowed than they had a right to borrow. Under the circumstances the Government though it right at any rate to introduce a clause referring to East Fremantle, and the clause referring to Victoria Park was added at the instance of the member for the district in the Lower House. Hon. members will appreciate the difficulty in which these municipalities have been placed, and will be desirous of assisting them; otherwise, in the case of Victoria Park, no loan could be obtained until after December, 1900, and the municipality would have to go through the same formula as it has already gone through, and incur the expense, which is considerable, of advertising the loan. No objection is taken to the Bill by the people of these municipalities, and it is desirable that the Legislature should assist to the extent required, to enable those works to be commenced which have already been planned, and for which the money is forthcoming. The persons who

tendered for the loans want to be quite sure there is proper security, which without this Bill would possibly not exist, and serious difficulty might arise afterwards. The intention of each municipal council is *bona fide*, seeing that they overlooked or rather misconstrued the Acts, and thereby involved themselves in difficulty. It is possible also that the municipalities may be liable to penalties or some loss, if they do not give effect to tenders which have been properly called for, responded to, and accepted.

Question put and passed.

Bill read a second time.

IN COMMITTEE.

Clause 1—agreed to.

Clause 2—Repeal of 62 Vict., 26, s. 2:

HON. W. T. LOTON: If Section 2 of the Municipal Act of 1895 were repealed, what provision was there for borrowing by municipalities?

THE COLONIAL SECRETARY: In Clause 3 of the Bill, substituted words were inserted for the section repealed.

Clause put and passed.

Clauses 3 to 5, inclusive—agreed to.

Bill reported without amendment, and report adopted.

EXECUTORS' COMMISSION BILL.

SECOND READING.

HON. S. J. HAYNES, in moving the second reading, said: This Bill will, I think, present itself favourably to hon. members. At the present time there is provision for allowing administrators and trustees reasonable commission or compensation for their services, but there is no provision to that effect in the case of executors, the latter of whom should have equal, if not more, consideration than the former. An Act similar to this has been in operation in South Australia for about 20 years, and also, I believe, in Victoria and New South Wales. The invariable practice in making a will is not to make any provision to compensate the executor for the trouble he is put to, and it is known to lay members as well as to professional members, that executors are put to a great deal of trouble and expense, and, in fact, may suffer serious loss without receiving any recompense, while all that can be recovered under the present law is the actual cash out of pocket. The present law is also detrimental to testators, who no doubt choose their executors whose integrity, honour, and business capabilities they have every confidence will result in the interests of those mentioned in the will being profitably attended to. At present when an executor finds he has serious and heavy duties to perform under a will, he very often, of his own accord, or perhaps under advice, renounces the will, with the result that administration has to be taken out, and an administrator may be appointed whom the testator would not have chosen. An administrator, having been appointed, can, by getting bondsmen, go to the Court, and for the very same services which would have been rendered by an executor, obtain fair compensation for his time and trouble. It may be said that testators, if they anticipated executors might renounce, could appoint such a company as the Western Australian Trustees, Executors and Agency Company; but some testators object to companies and prefer individuals, and provision should be made for such cases.

HON. J. W. HACKETT: Can an executor who has renounced be made an administrator?

HON. S. J. HAYNES: I have never known of such a case, but no doubt that might be done under certain circumstances. For instance, the executor might be a son of the testator and might take out letters of administration, but that would necessitate trouble and expense and give rise to the grave difficulty of obtaining bondsmen, people, in many instances, being chary of becoming bondsmen, as the consequences of a testamentary bond are sometimes very serious. We all know the difficulties which often occur to executors and administrators in the discharge of their duties, though they are acting from the best of motives, and when there is a deficiency and the administrator cannot pay, the unfortunate bondsmen "drop in." Every professional man in the House must have found difficulty in obtaining bondsmen who could justify themselves in regard to their position, before the Registrar of the Supreme Court. The interpretation clause of the Bill defines "court," or "the court," as "the Supreme Court of Western Australia, or any Judge thereof"; "the estate" as "the real and

personal estate within this colony of any person deceased"; and "will" as comprehending "testament" and "codicil," and "all other testamentary instruments of which probate can be granted." Clause 3 reads:

> Every executor shall, within twelve months from the date hereof, or from the date of the grant to him of probate, whichever shall have last happened, or within such further time as the Court may allow, deliver at the central office of the Supreme Court a statement and account verified by his declaration of all the estate of the deceased and of his administration thereof.

That is a condition precedent to the granting of the commission referred to in the next clause. An executor must file his accounts and have them in proper form, before he can get the proposed allowance. Clause 4 provides:

> The Court may allow to any executor of the will of any deceased person, whether probate of such will shall have been granted to such executor before or after the date hereof, on a petition being presented by any such executor, such commission or other remuneration out of the estate of such deceased person, either periodically or otherwise, as shall be just and reasonable for his pains and trouble therein.

The sub-clause to that provides that a Judge or Court should take into account any gift or allowance which the testator may have made in his will, because there is nothing to prevent a testator at the present time making a reasonable provision or reasonable allowance for his executors. Some do, but in numbers of instances no provision whatever is made, and sometimes wills have by reason of accident been made out in haste, and such provision has not been properly considered and inserted. No unfairness will be done to the estate, because every gift and allowance made in the will would, as I say, be taken into account by the Judge or the Court. Then Sub-clause 3 provides that "no such commission or other remuneration shall be allowed to any executor who shall neglect to deliver the statement of account required by section 3." That is also a good provision, as it will cause executors to do what they fail to do at the present time, namely, to file their accounts. It will, in my opinion, cause them to wind up estates with greater despatch than they do now, and by so doing they would protect the estates. The provision will be an inducement to executors to attend to their work promptly, and make the estates available as speedily as possible for those interested in them. Clause 5 provides that the Court can make rules for carrying out the Bill. I think the provisions are reasonable. Every member of the House will know what trouble executors are put to sometimes; and I would urge members to support the second reading on the ground of reasonableness, also in the interests of testators or the estates of testators, because the Bill would in many cases cause a person to accept the office of executor, and so the testator would secure the person originally contemplated to carry out the trusts of his will, and attend to the best interests of those interested therein. As I mentioned before, similar provisions to these have been in force in South Australia for about 20 years, and to my knowledge the measure has worked exceedingly satisfactorily. I have worked under it there myself. An estate is protected by a Judge or Judges of the Supreme Court from undue charges in the way of commission or compensation, and every regard has to be paid to an allowance that might be made in the will of a testator. I beg to move that the Bill be read a second time.

HON. A. B. KIDSON (West): I think the hon. member who introduced this Bill is deserving of the thanks of the House, because the principle it involves is one which I feel sure will commend itself to all of us. As we know, the duties belonging to executors are in many instances of a very arduous and difficult nature, not to say responsible, and for these reasons it is only right executors who hold this important office should receive some remuneration for the duties they have to fulfil. But I think there is one point which should receive consideration from members. A short time ago this House passed a measure imposing duties upon the estates of deceased persons. Estates under a certain maximum were exempt from those duties, and it seems to me that unless we exempt estates under a certain maximum we shall be taxing estates which the House do not desire to tax. In connection with the estates of deceased persons, I think the amount named as the maximum was £1,500, but in this Bill there is no maximum fixed, and the principle

which it is intended to apply will apply to all estates, no matter what the amount of those estates may be. Persons will see that, if we exempt estates under a certain value from charges of the nature of death duties, and allow commission to be inflicted upon those estates under £300—we do not know what the commission will be, for it will be fixed by a Judge and will probably amount to from 2½ per cent. to 5 per cent.—we shall be inflicting upon those small estates an encumbrance which, in my opinion, it is not the desire of the House should be inflicted. I would not fix the sum at £1,500, because perhaps in a case of this kind that amount would be almost too high; but estates under a fixed sum should be exempted from this charge.

Question put and passed.

Bill read a second time.

BILLS OF SALE BILL.

SECOND READING.

Debate on motion for second reading resumed from September 13.

HON. F. M. STONE (North): I do not propose to dwell long on this Bill, which appears to be one it has been very necessary to introduce, the object of it being to consolidate and amend the existing Acts. There is one principle in it which I do not care about, because it seems to me it may work great hardship. That is with reference to the lodging of caveats. Under Clauses 11 and 12 a bill of sale is lodged at the Supreme Court office within the period allowed for registration, and then it has to be kept there for a further term of 14 days to enable any creditor to lodge a caveat during that time. No doubt that is a protection for the creditor, and perhaps in some cases where bills of sale are given for the purpose of evading creditors the provision would be advisable. On the other hand, we have to look at this: Suppose a person had some important business transaction and it were necessary that it should be fixed up on a certain day, he would go to some financial institution to obtain an advance, and the deeds could be signed and everything be ready for registration. He might want to fix the thing up on the following day, but under this Bill he would have to wait 14 days before a bank would advance the money, because a caveat might come in in the meantime, and prevent the bill of sale from being registered. Perhaps it would be more advisable for me to speak on these clauses in Committee. I have seen the member who introduced the Bill in another place, and I trust the hon. member in charge of the Bill will not go into Committee at once, but allow it to remain over for a week, when I shall have an opportunity of going into the matter with the member. There are also certain other alterations desirable. In relation to these caveat clauses the hon. member agreed with me they would doubtless work a great hardship in many cases, and we wish to avoid that. Of course, on the one hand, there is the creditor, but it would be far worse for a bill of sale to be prevented from being registered for 14 days when a person may wish to finance himself at once. With these remarks, I support the Bill.

Question put and passed.

Bill read a second time.

PATENTS, DESIGNS, AND TRADE MARKS BILL.

SECOND READING.

THE COLONIAL SECRETARY (Hon. G. Randell): In moving the second reading of this Bill, which is one of considerable importance, I do not intend to speak long, as the measure is highly technical. The Bill is, to a large extent, for experts, for patent agents and persons engaged in commercial pursuits. The object of the Bill is to amend and consolidate the laws now in existence for patents, and for the registration of designs and trade marks. It will be found that those laws are scattered over some six Acts, and it is interesting to observe that the Bill proposes to repeal three clauses, at any rate, of an Act passed in 1623, in the time of James I., entitled the "Statute of Monopolies." I think such a long existence as that says something for a statute. As I have said, these subjects are at present distributed over the Acts to which I have alluded, the five besides the one I specially referred to having been passed in 1884, 1886, 1888, 1892, and 1894. If for no other reason than to consolidate the present laws, I think the Bill would be acceptable not only to the Legislature, but to the general public.

HON. F. WHITCOMBE: We are conservative, if nothing else; and we ought to stick to the old law.

THE COLONIAL SECRETARY: Yes; that is right. The hon. member will find, when he goes through the Bill, that we do adhere to the old law.

HON. F. WHITCOMBE: You are asking us to repeal one of the oldest of the laws.

THE COLONIAL SECRETARY: The Bill is almost a transcript of the English Act, although there is one alteration in Clause 14, taken from the Queensland Act, and not contained in the English Act; and this opportunity is embraced of introducing the amendment. That is the only alteration of any moment throughout the whole Bill. The latter part of the Bill is the law as it at present stands, and the other portion of the Bill is the patent law of England at the present time. The Bill is divided into six parts, Part I. of which is under the head of "preliminary" and deals with general definitions, and with the repeal of the Act to which I have already referred, with, of course, the usual saving clause which is attached to all repeals, that no matters undecided at the present time shall be affected. Part II. deals with "patents," and provides that any person, whether a British subject or not, may make application for a patent for an invention in regard to which he has given a specification. With his application he must furnish a specification sufficiently definite to enable the examiner to ascertain whether it is desirable or right that the patent should be granted. By Subclause 1 of Clause 8, the "application must be accompanied by the instrument by which the invention is assigned by the inventor to the sole applicant, or the applicant who is not the inventor, as the case may be." A provisional specification must be first furnished, and afterwards a complete specification. The examiner has to have these particulars so as to reasonably satisfy himself as to the originality or otherwise of the invention. At present that is not done, and a patentee under the English Act has to take the risk of fighting anybody who chooses to come along, and challenge the patent on the ground that it is not a novelty. This alteration, as compared with the English Act, is intended to protect, to some extent at any rate, the patentee himself against unreasonable opposition; and once the examiner has satisfied himself on the point, the inventor may pretty safely assume that his right to the patent will not be challenged by another person. But the clause is specially in the interests of the public, or the investing public. Inventors generally apply to a capitalist, or perhaps a syndicate, for assistance in meeting the necessary expenses involved in bringing out a patent, and the operation of this clause will to some extent protect those persons from spending their money on an invention which might afterwards turn out worthless; because if this preliminary investigation did not take place, and the certificate of the examiner not given, capitalists might find they had wasted their money. As I have already said, Clause 14 is found in the Queensland Act, though not in the English Act, or in the Acts of the other colonies. At the same time, a similar provision is to be found in nearly all the Patent Acts of the United States of America, and also in the German Patent Law, and it is supposed that England will probably follow the example at no very distant date. In Clause 17 are set forth the grounds on which persons may oppose the granting of patents, and this provision has been widened somewhat, as may be seen by reference to Sub-clauses *d*, *e*, and *f*. The sub-clauses provide that the granting of a patent may be opposed on the ground that the "invention is not novel, or, on the ground that the invention is already in the possession of the public, with the consent or allowance of the inventor, or on the ground that the invention has been described in a book or other printed publication published in Western Australia before the date of the application, or is otherwise in the possession of the public." That I think will be recognised as an enlargement of the opportunity to contest patents, and will operate very beneficially. At any rate, it will not allow a person to come from another country where he has either seen or read of some invention in operation there, and obtain a patent for that invention in this country. The Registrar who is appointed under the Bill receives the applications, which he refers to the examiner, and the examiner has afterwards to report to the Registrar as will

be seen from Clauses 10 and 11. Clause 10 reads:

The Registrar shall refer every application to an examiner, who shall ascertain and report to the Registrar whether the nature of the invention has been fairly described, and the application, specification, and drawings (if any) have been prepared in the prescribed manner, and the title sufficiently indicates the subject matter of the invention.

Then Clause 11 provides that "if the examiner reports that the nature of the invention is not fairly described, or that the application, specification or drawings has not, or have not been prepared in the prescribed manner," he may refuse the certificate, and then the applicant may appeal to the law officer. Afterwards the applicant may go further and appeal to the Minister, whose decision is final. It has been thought desirable to protect the issue of patents, by having the seal of the colony stamped on them. In other places the comptroller or commissioner, as the case may be, affixes the seal, but it is thought desirable in an important matter like this that every opportunity should be given to protect both the public and the patentee; and, therefore, when all steps have been taken, and the Minister has determined the patent may issue, he submits it to the Governor to have the seal attached. This part of the Bill embodies the law on the subject of patents, and the only important alteration is an attempt, I am informed, to put into statutory form a fair exposition of what a trade mark is. English Judges, it is said, have for many years been giving decisions on this question, and all the essential particulars of these judgments are embodied in the Bill, and made the test of whether a trade mark is original. The provision which appears in the Act for a deposit of £25 by any person opposing a patent, is absent from the Bill. It is thought desirable, in the interests of the public, to encourage as far as possible reasonable opposition to patents, and, therefore, the £25 deposit is not insisted on under the Bill; but it is provided that the unsuccessful party may be mulct in costs by an order, which may be made a rule of Court, as will be seen by Clause 45. Part V. deals with international and intercolonial arrangements, and these, of course, are an Imperial concern, and will not be objected to. Part VI. deals with the general proceedings at the Patents Office; and I need not enlarge more on the scope of the Bill, which is more especially one for Committee, in which each clause may be criticised and amendments moved if desired. I do, however, desire to mention, in order to save Mr. Hackett trouble, that wherever the words "in Council" appear after the word "Governor," I intend to propose that they be struck out.

Question put and passed.

Bill read a second time.

ROADS AND STREETS CLOSURE BILL.

Order read, for consideration in Committee.

THE COLONIAL SECRETARY moved that the consideration in Committee be postponed until the following day. He had laid on the table, at the instance of Mr. Matheson, plans showing the various streets which were dealt with by the Bill, and it would be undesirable to proceed in Committee until hon. members had had an opportunity of looking through those plans.

Motion put and passed, and the consideration in Committee postponed.

ADJOURNMENT.

The House adjourned at 5·30 until the next day.

Legislative Assembly,

Tuesday, 26th September, 1899.

Election: North Murchison—Papers presented—Question: Seabrook Battery, Railway Trucks—Question: Local Products and Government Contracts Question: Mining Leases, Forfeiture—Wines, Beer, and Spirit Sale Amendment Bill, third reading Bank Note Protection Bill, third reading Public Service Bill, in Committee, Clause 6 to end, reported—Industrial Conciliation and Arbitration Bill, postponement Petition, Federal League: Postponement—Motion: Leave of Absence—Agricultural Bank Act Amendment Bill, first reading—Dentists Act Amendment Bill, first reading—Annual Estimates: Appropriation Message; Financial Statement, Committee of Supply—Adjournment.

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

PRAYERS.