Legislative Council,

Tuesday, 23rd November, 1897.

Papers Presented—Question: Water Boring by Metropolitan Waterworks Board—Motion: Leave of Absence—Dog Act Amendment Bill: third reading—Underground Surveyors Bill: recommittal—Cemeteries Bill: in committee—Hawkers and Pedlars Act Amendment Bill: third reading—Local Inscribed Stock Bill: second reading; in committee—Width of Tires Act Amendment Bill: second reading (moved); Division (*m.* negatived)—Bankruptcy Act Amendment Bill: second reading—Local Courts Evidence Bill: second reading—Adjournment.

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

PRAYERS.

PAPERS PRESENTED.

By the MINISTER OF MINES:—1. Estimates of Revenue and Expenditure on account of the Consolidated Revenue Fund for the year ending June 30th, 1897-8. 2. Financial Statement delivered by the Right Hon. Sir John Forrest, on 16th November. 3. Report of Metropolitan Waterworks Board for 1897.

QUESTION — WATER BORING BY METROPOLITAN WATERWORKS BOARD.

HON. A. P. MATHESON, in accordance with notice, asked the Minister of Mines:—1. If it was true that the Metropolitan Waterworks Board had been obliged to abandon a bore in Wellington street; and, if so, the depth at which it was abandoned. 2. Whether the cause of failure to continue the work arose from hardness of the ground, or the incompetence of the officials of the Waterworks Board. 3. Whether a second bore had been put down in the neighbourhood of the first bore. 4. Whether it was not a fact that the Public Works Department had for some time back recognised that it was more satisfactory to put down water bores by contract than departmentally. 5. Whether the Government exercised any control over the expenditure of the Metropolitan Waterworks Board; and, if so, why the Metropolitan Waterworks Board attempted to bore for water themselves instead of by contract, in view of the experience of the Public Works Department.

THE MINISTER OF MINES (Hon. E. H. Wittenoom) replied:—1. The Board did abandon a bore in Wellington street at a depth of 600ft. 2. The failure to continue the work did not arise either from the hardness of the ground or the incompetence of the officials of the Waterworks Board. 3. A second bore has been put down, and is now completed to a depth of 850ft., with a flow of 300,000 gallons per 24 hours. 4. The Government have let contracts for certain bores with a view of testing whether it is better able to do this class of work by contract than departmentally. It is not, however, yet possible to arrive at a definite conclusion, the contracts having only recently been entered into. 5. Matters of expenditure and revenue are controlled by a board appointed under the Metropolitan Water Supply Act, 1896. The Government authorise the expenditure, but do not exercise control over the expenditure of the board.

MOTION—LEAVE OF ABSENCE.

On the motion of the MINISTER OF MINES, leave of absence for 14 days was granted to the Hon. R. G. Burges.

DOG ACT AMENDMENT BILL.

Read a third time and *passed*.

UNDERGROUND SURVEYORS BILL.

Order of the Day, for third reading, read.

MOTION FOR RECOMMITTAL.

HON. A. P. MATHESON: I desire to move that this Bill be recommitted, and my reason for doing so is this, that since the Bill was passed through committee, I have received a communication from Coolgardie, and my correspondent points out that if Sub-clause 4 of Clause 5 is left in the condition in which it has been passed, it will cause a considerable injustice to a large number of underground surveyors who are now practising on the fields. From what my informant says, it appears there is only one other place where certificates are granted for underground surveying in Australia, and that is in Victoria. Therefore any person practising as an underground surveyor who comes from any of the other colonies would have to read up all the

knowledge on intricate questions required by the board of examiners, which are really not necessary for the practical work and which they have previously passed in, to enable them to pass the examination. Sub-clause (*c*) of paragraph 4 leaves it a matter of doubt whether a man who is at present practising, and who could practise in another colony, would have to pass an examination to practise his profession.

HON. R. S. HAYNES: I second the motion, and I do so because I think the hon. member in charge of the Bill will see that some injustice will be done if the Bill is allowed to pass in its present form. The Bill prevents any person, except a person certified by a board, from giving reports or doing anything which ought to be done by an underground surveyor. Up to the present time no certificate has been required for an underground surveyor, but the work has had to be done, and that work has fallen to the lot chiefly of licensed surveyors. There are some dozen or more gentlemen on the goldfields who have performed all the work in the past—I think satisfactorily. They have given up business in Perth, and started in Coolgardie and other places on the fields, and the consequence is that, if this Bill is passed in its present state, we shall take away from these gentlemen their livelihood at once. [A MEMBER: They can pass the examination.] They cannot, for this reason. I understand that already a board has been appointed by the Government, who are authorised to issue licenses to underground surveyors, and that board has already made rules, and amongst these rules the board has decided that applicants must pass an examination in geology. I do not know what the nature of the examination may be, but if the papers are set by the Under-Secretary of Mines, no doubt they will require a great deal of skill in answering them. At the same time, to call upon a person to pass an examination in geology, not knowing the test required of him and the books to read up, would make it impossible for licensed surveyors to submit themselves for examination. With the exception of this knowledge of geology, I think the licensed surveyors, who have had experience in this work of underground surveying, are qualified for certificates; but they may have no knowledge of geology. The Legislature should not depart from the principle which guided this House and the other House when passing other Bills, not to deprive a man of his livelihood. When the Medical Act was passing through the Legislature some twenty years ago, there were certain persons practising medicine here who were not qualified, and a saving clause was inserted entitling those persons, who had not passed an examination, to continue to practise medicine, and not calling upon them to pass an examination at all. Those gentlemen who had hitherto been carrying on their business were allowed to be registered as medical practitioners. This principle of not depriving a man of his livelihood was followed in that Act, and also in the Dentists Act, which was passed subsequently to the Medical Act. By the Dentists Act, a board was appointed for examining applicants, but those persons who had been practising dentistry, if they came in before a certain date—before three months I think it was — were entitled to be registered. It was the same way with the chemists. All persons practising as chemists before the Act came into force were entitled to be registered. And so it was with the lawyers, although many men were admitted who were not entitled to be admitted, but as they had practised before the Act came into force they were allowed to be admitted. The same principle has guided all these Acts, and it would not be safe to pass this Bill through the House without making some provision of the same kind for surveyors. I know of one gentleman who gave up an important Government situation here and started business at Coolgardie as an underground surveyor. He has been most successful, and I only instance this gentleman to show how unfair it would be to deprive him of his livelihood. I ask that a clause may be inserted in the Bill setting out that persons who have been practising six or twelve months before this Bill becomes law, and who registers within that time, shall be entitled to a certificate. No harm can be done, because these gentlemen are qualified quite as much as the gentlemen forming the board that is to examine them. From my knowledge of the positions held by the gentlemen who have been appointed to the board, the ap-

plicants would be more qualified than they. We must have a board of some kind, and I congratulate the Government on the *personnel* of the board. It is the best the Government could have selected. My object in speaking is to safeguard the rights of certain persons. If any person who has been practising before this Bill becomes law wishes to come in and register as an underground surveyor, he should be allowed to do so.

HON. G. RANDELL: I support the recommittal of the Bill for the reasons given by the Hon. R. S. Haynes. It is well within my knowledge that Parliament has always safeguarded the rights of persons who were to be dealt with under an Act of Parliament. It had been my intention to move an amendment to paragraph three of Clause 5, to this effect:—"Provided, however, that any person of good character now practising as an underground surveyor shall be entitled to a certificate without undergoing an examination;" but as the Hon. R. S. Haynes has intimated his intention of moving some amendment, I will leave it to the hon. gentleman.

HON. F. T. CROWDER: You have put no time in your amendment.

HON. G. RANDELL: I will leave the matter in the hands of Mr. Haynes. I do not know whether the proposed board would be better qualified than the present one, but I think an injustice would be inflicted on the gentlemen who are at present engaged in the work of underground surveying, if the Bill is carried as it at present stands. I am in sympathy with the object which the Hons. A. P. Matheson and R. S. Haynes have in view.

THE MINISTER OF MINES (Hon. E. H. Wittenoom): It seems to me the objection taken by hon. members is met by Sub-section 4 of Clause 5, which provides that any person who has a certificate from any legally constituted board of examiners for underground mining surveying in any of the Australasian colonies would not require to go through a further examination.

HON. R. S. HAYNES: That is not the point. Section 16 makes it an offence for any person to practise as an underground surveyor unless he is registered. He can only register after he has passed an examination by the board, or unless he has a certificate from some board of standing. I contend that you should not take away the means of livelihood from the underground surveyors who are at present exercising their profession in the colony.

THE MINISTER OF MINES: The hon. member contends that any person who is now practising as an underground surveyor, whether qualified or not, should be registered. [HON. R. S. HAYNES: Certainly.] I hope hon. members are not prepared to support that idea. The Hon. R. S. Haynes has thought fit to sneer at the board.

HON. R. S. HAYNES: I said it was an excellent one.

THE MINISTER OF MINES: The board has been carefully selected in the past, and will be selected in the future from the men whom I instanced the other evening. It would be very foolish on the part of the Mines Department to select bad men when it could possibly get good ones, because in that case the surveyors would not be good men, and it is imperative that the surveyors should be of the very highest class we can get, because underground surveying is a difficult profession. I am not prepared to say that the present underground mining surveyors are not good men, but I say that no man should be allowed to practise without a license. If hon. members choose to say that underground surveyors should be licensed who are not competent, they can amend the Bill to that effect.

HON. A. P. MATHESON: The Minister of Mines has slightly confused the issue I raised, which was that the board might issue a license to any person who —as stated in Sub-section 1, Section 4, Clause 5—held a certificate from a legally constituted board of examiners for underground mining surveyors in any of the Australasian colonies. There is only one such legally constituted board in the Australian colonies to-day, and that is in Victoria. There are only a few Victorian surveyors in the colony. If the Bill were passed in its present state, the result would be that qualified underground surveyors, who would be entitled to practise their profession in New South Wales, South Australia, in Queensland, and in Tasmania, would be debarred from carrying out their profession here, though fully competent and qualified, unless they

passed an examination and got a fresh certificate. I would suggest that either the examination be made compulsory for all underground surveyors, and that you do not exclude the half-dozen Victorian men from the necessity to undergo such examination, or else that you authorise the board to license anybody who is entitled to work as an underground mining surveyor in any other colony or country, and do away with the short paragraph which provides for a certificate which is issued only in Victoria.

THE MINISTER OF MINES (Hon. E. H. Wittenoom): Mr. Matheson says I have confused his point; but Mr. Haynes is going on one point and Mr. Matheson on another. Mr. Haynes is championing the cause of those who are already practising in the colony; Mr. Matheson is referring to those who come here already qualified, and suggests that they should have to undergo a further examination by the board. The clause in the Bill dealing with this matter is purely permissive, and provides that the board "may," subject to regulations, issue a license. It is entirely permissive. If men come here from no recognised institution, it is only safeguarding interests to ask them to go through an examination. Any board of examiners would have the sense to see whether these men came from properly qualified institutions, and whether they were in a position to carry out what their certificates stated they could. In such cases I am confident no examination would be required; but in cases where there is a doubt, I think it is wise to safeguard interests, and to see that men are duly qualified.

HON. J. H. TAYLOR: The object of the Bill is to get thoroughly competent men as underground surveyors. I quite sympathise with the objections that have been raised, and acknowledge that injustice would be done to certain men who have been practising as underground mining surveyors for some time, if this Bill were passed in its present state, and that these examinations would possibly restrict the supply of underground mining surveyors in the future. The board will have a certain amount of discretion in granting certificates to underground surveyors. Those who have been practising their profession for some time must surely be able to convince the board of their capacity, and have certificates granted to them. I believe the matter could be arranged without injustice to existing interests. I shall support the third reading.

HON. H. BRIGGS: There are always two kinds of knowledge required in these examinations—a theoretical knowledge of book-work to show that a candidate has had his mind trained in that special line, and also a practical knowledge. I suggest that the first examination held by the board should be confined to practical work, and that at subsequent examinations, when candidates would be fully apprised of what was required of them, examinations both in theory and practice should be held.

Question—that the Bill be recommitted—put, and division taken with the following result:—

Ayes	...	...	6
Noes	...	...	6
A tie	...	...	0

AYES—6	NOES—6
The Hon. H. Briggs	The Hon. D. K. Congdon
The Hon. C. E. Dempster	The Hon. A. B. Kidson
The Hon. R. S. Haynes	The Hon. D. McKay
The Hon. A. P. Matheson	The Hon. J. H. Taylor
The Hon. G. Randell	The Hon. E. H. Wittenoom
The Hon. F. T. Crowder (*Teller*).	The Hon. W. Spencer (*Teller*).

THE PRESIDENT: The votes being equal, I shall give my vote with the ayes, according to parliamentary practice, so as to allow of further consideration.

IN COMMITTEE.

HON. R. S. HAYNES moved, as an amendment, that at the end of Clause 5 the following words be added:—

Provided that all licensed surveyors who shall have carried on the business or profession of an underground mining surveyor for a term of twelve months immediately prior to the coming into operation of this Act, in the colony of Western Australia, and who shall apply to be registered within three months thereafter, shall be entitled to be registered without further examination, and to have and receive a certificate accordingly.

HON. A. B. KIDSON: The amendment did not go far enough, because if underground surveying was an especially difficult profession, and entirely different from that of a licensed surveyor, twelve months practice was hardly sufficient, to judge from other professions of a similar nature, to qualify candidates to obtain a certificate. If a licensed surveyor were

also a good underground surveyor, it would be different; but he was told that the two professions had no connection with each other, and that underground surveying was almost a profession in itself. What constituted carrying on the business of an underground surveyor? A man might carry it on in conjunction with his ordinary business as a licensed surveyor, and he might have "licensed surveyor and underground surveyor" on his notice board, but he might not do any work as an underground surveyor. A man might place over his door a notice that he was an underground surveyor, and he might say he had been carrying on the business for 12 months, although not doing much business. The words "continuously and actively carried on the business of a surveyor" should be inserted, and instead of the provision for carrying on the business for 12 months, the period should be two years. A man might, during the 12 months, have only two underground surveys, and that should not be sufficient to entitle him to obtain a certificate. If the amendment provided that the board should be the judges, that might get over the difficulty.

THE CHAIRMAN: The hon. member could move an amendment on the amendment, if he so desired.

HON. F. T. CROWDER objected to the word "continuously."

HON. A. B. KIDSON moved to amend the amendment by inserting between "have" and "carried" the words "continuously and actively."

HON. R. S. HAYNES: We ought as far as possible to have uniform laws. If Parliament looked after one set of persons, it ought to look after another. He would read the provision made in the Medical Act to hon. members, for it was well that they should walk in the footsteps of those gentlemen who carried on the destinies of this country years ago. Prior to the 12th July, 1869, a man could call himself a doctor, practise as one, and sue for his fees. An Act was then brought into force forming a board of duly qualified men, and that board was entitled to grant certificates, and register persons who were qualified. Only those persons qualified in universities were entitled to be registered at all. Therefore no person, who was not qualified in some university or some hospital, could obtain a registration from the board to practise medicine; but Parliament, in passing the Medical Act, made a provision to safeguard those persons who were practising medicine before the Act came into force. These persons could have been quacks, for all he knew. The provision in the Act provided that "any person who was actually "practising medicine in this colony before "the 1st day of July, 1869, shall also on "payment of such fee as aforesaid be en- "titled to be registered on producing to the "Colonial Secretary a declaration accord- "ing to the form in the schedule to this "ordinance signed by him, or upon trans- "mitting to the Colonial Secretary in- "formation of his name and address, and "enclosing such declaration as aforesaid;" and the declaration was as follows: "I, "residing at , hereby declare "that I was practising as a medical prac- "titioner at , in the district of , "before the first day of July, 1869." If a person practised medicine before—it did not say for 12 months, or 3 months, or any time before the Act came into force—but if he practised medicine before the Act came into force he was entitled to register under the Act.

HON. J. H. TAYLOR: Compel the surveyors now practising to make a declaration that they had practised.

HON. R. S. HAYNES: The board had power to make all regulations of that sort, and they could provide that a declaration should be made. He would endeavour to frame an amendment to meet the wishes of the Hon. A. B. Kidson and the Hon. J. H. Taylor.

HON. A. B. KIDSON, by the leave of the House, withdrew his amendment.

Amendment (Mr. Kidson's), by leave, withdrawn.

HON. R. S. HAYNES asked leave to withdraw his amendment with a view to substituting another.

Amendment (Mr. Haynes's), by leave, withdrawn.

HON. R. S. HAYNES moved to add a new sub-section, to read as follows:

Provided that all licensed surveyors, who shall actually have carried on or practised the business or profession of an underground mining surveyor in the colony of Western Australia, for the space of 12 months immediately prior to the coming into operation of this Act, and who shall apply to the board to be registered, and make a full declaration

setting forth the facts above stated, within 3 months thereafter, shall be entitled to be registered under the Act, and receive a certificate accordingly.

THE MINISTER OF MINES said he could not agree to the amendment, because it would impair the efficiency of the Bill. The object of the measure was to endeavour to secure a thoroughly good class of surveyors, and to provide that no one should carry on business who had not undergone an examination. The importance of this matter seemed to have only occurred to hon. members quite recently. Hon. members were not prepared with their amendments, or to make any objection, until they came into the House that afternoon. If it was the pleasure of the House that the amendment should be added to the Bill, it was not for him to say more. The reason he took exception to the amendment was, that the Act would have to be administered by the department over which he presided. Therefore he wanted it to be an Act such as it purported to be. He had not heard a single argument of any force that would convince him that the amendment was necessary. The only hope he had of being able to carry out the Act without impairing its efficiency, was the safeguard in Clause 9, which stated: "If it appears to the board that any surveyor licensed under this Act is charged or may be reasonably charged with committing any one or more of the following offences or with incurring any one or more of the following disqualifications, the board shall inquire into the same, and if a majority of the board then present find any such offence proved, or any such disqualification to have been incurred, the board may suspend the license of the accused for a period not exceeding three years, or may cancel the same absolutely." That gave a little protection to the department; therefore it might be possible to prevent the harm that this amendment might probably cause. In the meantime, to enable him to give some consideration to the matter, and to see what effect the amendment would have on the remainder of the Bill, he moved that progress be reported.

Progress reported, and leave granted to sit again on the following day.

HAWKERS AND PEDLARS ACT AMENDMENT BILL.

Read a third time and *passed*.

CEMETERIES BILL.

IN COMMITTEE.

Clauses 1 to 5, inclusive—agreed to.

Clause 6—prohibition of burial in closed cemetery:

HON. A. P. MATHESON: This clause was a most remarkable one, and it was difficult to say what it meant. It seemed to indicate that any person who lived within a mile of a townsite and assisted at the burial of a body in any other place than the town cemetery, should be fined £50. That meant to say that if a person died at Northam, and it was desired to bury the body at Perth and an undertaker was employed, unless that undertaker lived within a mile of the town boundary he could not assist at the burial, as the clause at present stood. It did not seem to convey the meaning the Government intended it to have.

THE MINISTER OF MINES: The clause was taken from the Victorian Act, and to his own mind it was perfectly clear. Persons living within a mile of a townsite were compelled to bury their dead in the cemetery. As to carrying a body from Northam, in Clause 8 the Governor had power to allow a burial to be performed in different places.

HON. R. S. HAYNES: A verbal amendment might get over the difficulty.

HON. A. P. MATHESON: Why should the clause apply only to persons who lived within a mile of a townsite? It ought to apply to any person within a townsite.

HON. R. S. HAYNES: The clause said "in or within a mile of a townsite." The burial within a cemetery was the only safeguard against poisoning, because in a public cemetery it was impossible to bury a body unless a certificate of death had been obtained, and it was in giving the certificate of death that the murderer was bowled out.

THE MINISTER OF MINES moved that the consideration of the clause be postponed.

Clause postponed.

Clauses 7 to 11, inclusive—agreed to.

Clause 12—Trustees may make by-laws:

HON. R. S. HAYNES asked that the consideration of this clause might be postponed, as the Hon. J. W. Hackett wished to move some amendments.

Clause postponed.

Clauses 13 to 20, inclusive—agreed to.

Clause 21 (with marginal note referring to the Victorian Cemeteries Act, 1890, section 18):

HON. G. RANDELL asked the reason for the reference in the marginal note to the Victorian Act.

THE MINISTER OF MINES said the reference to the Victorian Act showed the source from whence the clause was taken. A great deal of the Act was taken from the Victorian Act.

HON. G. RANDELL preferred to have the reference struck out, as it was not part of the Bill.

Put and passed.

Clauses 22 to 39, inclusive—agreed to.

Clause 40—Regulations:

HON. R. S. HAYNES said that no provision was made for a penalty, if a corpse were buried without a certificate of death. This was considered necessary elsewhere. Provision might be made for this in the Registration Act, but he did not think it was. In any case provision to that effect should be made in this Bill. As the Bill was to be recommitted, he asked the Minister to consider the matter in the meantime.

Put and passed.

Clauses 41 and 42—agreed to.

Progress reported, and leave given to sit again on the following day.

LOCAL INSCRIBED STOCK BILL.

SECOND READING.

THE MINISTER OF MINES (Hon. E. H. Wittenoom), in moving the second reading, said: The object of this Bill is to give people in Western Australia an opportunity of investing their money in Government bonds. At the present moment there is some difficulty in finding a method of investing money at times, especially in investing trust moneys or moneys placed in the hands of the Supreme Court; and although it is legal in many cases to invest trust moneys in freehold lands, and occasionally in bank shares, these are not always negotiable securities or securities that can be readily realised. Under these circumstances, the Government have decided to create stock in which people here can invest their money with Government security, and obtain a reasonable rate of interest. The amount of money in the Savings Bank is now so large that it ought to be reduced. A sum of over one million sterling is in the hands of the Government in the Savings Bank, on which there might at any time be a run. That, I think, is not expedient. If this Bill is passed, people who own money in the Savings Bank may be induced to invest that money in locally inscribed stock, for which a little higher interest would be given than for the money in the Savings Bank, and the money would be used for the development of the colony. The principle of the Bill is that the Government may issue locally inscribed stock for sale at the Treasury. At no time can more of this stock be sold than the amount of loans authorised by Parliament. It can never under any circumstances exceed the amount of moneys authorised by Parliament to be raised on loan. Notice will be given in the *Gazette* when any of this stock is for sale, and a notice will be posted at the Treasury, so that the public will have every convenience for knowing when there is an opportunity of making these investments. The stock will be issued for the sum of £10 or any multiple of it as may be convenient, and will be redeemable at par at the end of a number of years, which will be named in the *Gazette*. Under no circumstances will that number of years exceed 50, and probably in most cases it will be considerably less than that period, and the interest will not exceed the rate of 4 per cent. All moneys obtained will be chargeable against the consolidated revenue of the colony. Any persons holding a certain amount of money in the Savings Bank may apply for inscribed stock and may have that transferred to him instead of money, so that he will be able to have the money invested in this stock. The Treasury has power to place aside so much of the consolidated revenue half-yearly as will be necessary for paying the interest, and after four years a sinking fund of one and a half per cent. will have to be arranged for repayment of these loans. This sinking fund is to be invested in the hands of trustees, who will have the power of investing the money in either imperial or colonial stocks. There is a provision for making the necessary regulations by the Government, as also for the punishment of any forgeries that may be committed in connection with the stock, or of any people

who seek to secure the stock by false means. We have precedents for this Bill. It is very similar to those in most of the other colonies, which are found to be of very great convenience to people who desire to invest their money in securities of a thoroughly reliable character, and that may be readily realisable. In using Western Australian moneys for the development works in the colony, instead of money from London, it may be said that it will stop the influx of foreign capital, but this has not been found to work prejudicially in the other colonies. I now move that the Bill be read a second time.

HON. A. P. MATHESON: I think the motive of this Bill is excellent. No one can question the desirability of providing means by which people can invest their money in Government trust funds locally; and moreover it is all the more worthy of commendation when we consider the large sum which is invested in the Savings Bank, which presents a very great element of danger in case of a panic or sudden depression of stocks in the colony. Any Bill that is introduced for the purpose of lessening that risk deserves our strongest support. When the Bill goes into committee I shall, however, move an amendment with reference to Clause 9, which provides that the trustees "shall invest the sums appropriated for the formation of a sinking fund in imperial or colonial securities." The term "colonial" securities is an extremely broad one. I can hardly imagine that it means to express anything more than colonial Government securities.

HON. R. S. HAYNES: What are imperial securities?

HON. A. P. MATHESON: Imperial Government securities, I suppose.

THE MINISTER OF MINES: That is intended to be the meaning of the phrase.

HON. A. P. MATHESON: I shall move that the word "Government" be inserted, so as to prevent any misapprehension as to the meaning of the clause. As it at present stands, the clause might lead people to conclude that the sinking fund might be invested in mortgages of a land bank, or mortgages on freehold security. They are all colonial securities, but I do not think that they are the kind of securities that one would recommend for a Government sinking fund. With reference to Sub-section 2 of Clause 7, I do not quite see why the money placed at the disposal of the Treasurer under the provisions of this Bill should be "accounted for in the same manner as if it had formed part of the current annual revenue." Such money would certainly not be current annual revenue, even though it might be accounted for as if it were. I have much pleasure in seconding the motion.

Question—put and passed.

Bill read a second time.

At 6·30 p.m. the PRESIDENT left the Chair.

At 7·30 p.m. the PRESIDENT resumed the Chair.

IN COMMITTEE.

Clauses 1 to 8, inclusive—agreed to.

Clause 9—Investment of sinking fund and income thereof:

THE MINISTER OF MINES moved that in line 3 after the word "colonial" the word "Government" be inserted.

Put and passed, and the clause, as amended, agreed to.

Clauses 10 to 14, inclusive—agreed to.

Clause 15—Regulations:

HON. A. H. HENNING moved that after the word "published," in line 5, the words "and not inconsistent with this Act" be inserted.

Put and passed, and the clause, as amended, agreed to.

Clauses 16 and 17—agreed to.

Preamble and title—agreed to.

Bill reported with amendments, and report adopted.

WIDTH OF TIRES ACT AMENDMENT BILL.

SECOND READING.

HON. F. T. CROWDER: This Bill was introduced by the Minister of Mines.

THE MINISTER OF MINES: Introduced by whom?

HON. F. T. CROWDER: By you.

THE MINISTER OF MINES: I made a mistake, then.

HON. F. T. CROWDER: There is no doubt the Minister of Mines introduced this Bill, and it was thought that the hon. gentleman intended to move the second reading, and to see the Bill through. However, as he does not intend to move the second reading, rather than

see the Bill fall through I will move it. Hon. members are aware that last session, or the session before, a Bill was introduced to amend the Width of Tires Act of 1895; but that Bill was thrown out by this House, because it was pointed out then that the roads throughout the municipalities and towns were being destroyed by the narrow tires. This Bill has been introduced with the object of allowing the farmers in remote districts a further period of two years in which to alter their tires as specified in the original Act. There is no doubt that, so far as Perth and Fremantle, and all the corporate towns from Guildford to Fremantle are concerned, the narrow tires have destroyed the roads to the extent of thousands upon thousands of pounds. We find in this Bill that the following districts are exempt:—"Municipalities of Perth, Victoria Park, Leederville, Subiaco, Fremantle, North Fremantle and East Fremantle, Guildford, and the Perth, South Perth, Claremont, Cottesloe, Peppermint Grove, Canning, and Fremantle Roads Boards;" so that the farmers in the outlying districts, such as Wagin and the Williams, will have two years in which to comply with the original Act. I commend the Bill to hon. members, and trust they will support it.

HON. J. E. RICHARDSON: I beg to second the motion.

THE MINISTER OF MINES: I am exceedingly sorry to have to oppose this Bill, and I do so chiefly in consequence of the statements which have fallen from the hon. gentleman in moving the second reading of this Bill. I have had considerable experience on this question of roads, both in the town and country districts, and I have taken an active part in endeavouring to have the provisions of the Width of Tires Act brought into force. The hon. member told us that the narrow tires have destroyed the roads to the extent of thousands upon thousands of pounds, and he also stated that it was quite right that this Bill should be brought in, in connection with towns and cities where there are macadamised roads, but as there are no macadamised roads in the country it will not affect them. [HON. F. T. CROWDER: Very few.] I admit there are very few macadamised roads in the country; but let me tell the hon. member and those members who are interested in this Bill, those very roads which are not macadamised do need protecting. It is on unmacadamised roads that the narrow tires do the most damage. Where roads are macadamised the narrow tires do not do much damage, but where the roads are sandy or gravelly the narrow tires cut into them like a knife. I have seen bush roads worked for years with wide tires, and they have been kept as smooth as a bowling green; but, as soon as the narrow tires get on to them, they are cut up. It is to the interests of all concerned that the wide tires should be used in all parts of the country. If all hon. members have had as much experience as I have—I am sure the hon. member in moving the second reading spoke sincerely—they would not advocate the narrow tires on bush roads. Therefore I regret exceedingly that I feel compelled to oppose the second reading of this Bill. I do so in the interests of all concerned—those who have to trade on the roads, the Government who have to find the money, and the roads boards who have to keep the roads in order.

HON. C. E. DEMPSTER: If this Bill were to operate immediately, it would work very unjustly on a large section of people throughout the colony, who should be given a longer time to wear out the vehicles now in use. It would be very expensive for them to get new tires of the width named so soon.

HON. D. McKAY: I shall oppose the Bill, as I think it would be creating a great hardship to a number of people.

HON. R. S. HAYNES: The Bill has passed through the other House without a division. The farmers in the outlying districts say that the Bill would entail no hardship on them, as they are allowed an extra two years in which to get the tires widened in accordance with the provisions of the Bill. I hope hon. members will support the Bill on behalf of the farming community.

HON. G. RANDELL: This Bill received very careful consideration in another place, and though I was opposed to the widths adopted, as I think they were nearly half an inch too wide for the diameter of the arms, yet I think that the Bill would not work unfairly and that no great hardship would accrue if it were carried. It is desirable that the wheels

should be increased in size as early as possible. I believe that already a large number of farmers have complied with the regulations of the Act.

Question—that the Bill be read a second time—put, and division taken with the following result:—

Ayes	4
Noes	5
Majority against ...	1

AYES.	NOES.
The Hon. F. T. Crowder	The Hon. H. Briggs
The Hon. C. E. Dempster	The Hon. D. McKay
The Hon. J. E. Richardson	The Hon. G. Randell
The Hon. A. H. Henning (*Teller*).	The Hon. E. H. Wittenoom
	The Hon. W. Spencer (*Teller*).

Motion thus negatived, and Bill rejected.

BANKRUPTCY ACT AMENDMENT BILL.

SECOND READING.

HON. A. B. KIDSON: It is with great pleasure I rise to move the second reading of this Bill. The question has been discussed and considered not only by the largest traders throughout this colony, but also by the different Chambers of Commerce as well. Before proceeding to deal with the provisions contained in the Bill, I should like to give a few reasons why I have introduced this measure to the House. Some considerable time ago meetings of the Perth and Fremantle Chambers of Commerce were held, and sub-committees were appointed for the purpose of considering and reporting upon the working of the Bankruptcy Act. I had the honour of being appointed a member of the sub-committee by the Fremantle Chamber of Commerce, and Mr. Randell was a member of the sub-committee appointed by the Perth Chamber of Commerce. The sub-committees so appointed jointly went into the matter very carefully and prepared a report, which was forwarded to both Chambers of Commerce. The effect of that report was that the present Act was found to be unsuitable in its working, too cumbersome, too expensive, and too full of red-tapeism for the carrying out of its provisions. The sub-committees inquired into the working of the various Bankruptcy Acts of the Eastern colonies, and finally decided that the South Australian Bankruptcy Act was the Act which had given the greatest satisfaction to all parties. I do not propose to repeal or interfere in any shape or form with the existing Bankruptcy Act. I should like hon. members to understand that clearly. The present Act will not be interfered with or touched in the slightest degree. The only object I have in view is to add to the Bankruptcy Act that portion of the South Australian Act—adapted, of course, to our local requirements—which it seems advisable should be introduced here, because that portion of the South Australian Act is the portion of the Act which has worked so admirably. In fact, very few bankruptcies in South Australia are carried out under the other portions of the Act. Nearly every insolvency in South Australia now is conducted under part 11 of the South Australian Act. The working of that portion of the South Australian Act is embodied in the present Bill before the House, with the result that proceedings will be very much simplified. It does away with a lot of useless, and in my opinion unnecessary, formalities which belong to our present Bankruptcy Act, and simplifies the procedure as far as it is possible to simplify it. It does away with the necessity for a petition. It does away with the greater part of the red-tapeism of the Official Receiver, and provides that a debtor who finds himself in difficulties can call a meeting of his creditors without appealing to the court at all. At the meeting thus called by the debtor, a certain majority of the creditors can carry a resolution either for a composition or else for the execution by the debtor of a deed of assignment in favour of his creditors. Before a composition can be binding it must be approved by the court; but the Bill does away with the unnecessary formalities which appertain to the present Bankruptcy Act. There is no provision in the present Act for the registration of deeds of assignment. These deeds are of very frequent occurrence, and it is necessary that there should be some provision not only for their registration, but also that the carrying out of the deed by the trustee should be under some official supervision. At the present time there is no judicial supervision over the acts of the trustee. It is very desirable that there should be. This Bill provides for the registration of these deeds of assign-

ment. All that the trustee does is subject to the supervision of the court. He is tied down, so that the creditors are protected in every way in regard to the moneys he receives and in regard to the accounts. At present a creditor for £50 or over can refuse to assent to a deed of assignment and thereby incur the terrible expense of putting the estate in bankruptcy. Under this Bill a certain majority of the members could bind a dissenting minority. Cases such as I have mentioned are continually coming before me in my professional capacity. Only the other day every creditor in an estate but one agreed to assent to a deed of assignment, and had practically signed the deed, but one creditor held out and refused to sign. The estate was accordingly thrown into the Bankruptcy Court, and a tremendous expense incurred. The fees are very heavy, and very large commissions have to be paid after the estate goes into bankruptcy. All this would be avoided if the majority were not bound by the dissenting minority. It is very advisable that something of the kind should be done. The most important traders throughout the colony are dissatisfied with the present state of affairs. They feel that they should be at liberty, if they so desire it, not that they should be bound, to have to a greater extent than they have now the control of a debtor's estate. At present they have not the control of the estate. Directly a man files a petition, or has a petition filed against him, the estate goes into insolvency, and it is a case of good-by for a very considerable period, so far as the creditors are concerned. Representations have been continually made to the Chambers of Commerce, with the result that these sub-committees were appointed by the Perth and Fremantle Chambers to which I have referred, and their report was unanimously adopted by the Chambers. The Chambers of Commerce practically support the Bill, with some amendments that will be suggested later on. The Hon. R. S. Haynes has authorised me to say that he is in favour of the Bill. He was going to second it, but he had to leave. He thinks that the Bill is absolutely required in the colony. One great point in its favour is, as I have pointed out, that the Bill will not interfere with the present Act. If persons desire to take advantage of the present Act, they can do so. There is nothing to prevent it. If, on the other hand, they desire to take advantage of this Bill, they can do that. It is optional with them which they will do. There is nothing absolutely binding upon the creditors or upon the debtors. Either can do as they please. The creditors generally are dissatisfied with the working of the present Act. Numerous instances have come under my notice within the last few months of this dissatisfaction. For a considerable period this dissatisfaction has existed in connection with the working of the Act, especially on the part of the persons who are most interested, viz., the creditors to whom the debtor's estate belongs. If the estate belongs to the creditors they should have a voice in its management. That is the desire that I have endeavoured to carry out and embody in this Bill. I have arranged the Bill in such a way that it shall form a portion of the principal Act, so that the two may be read together, as the Act in South Australia is. That Act is divided up into a number of parts, and creditors have the option of taking one course or the other. In the session before last a Bill was passed, having practically the same object as this Bill, in the Lower House. It was brought up to this House for consideration, and introduced by the Hon. R. S. Haynes, and seconded by myself; but unfortunately it did not pass into law, for the simple reason that it was brought up at the end of the session with 50 other Bills, so that it was absolutely impossible for the House to give proper attention to that Bill; therefore it was shelved. That Bill did not meet with my approval, although I seconded the motion, because I felt that something must be done soon to meet the wishes of the persons most interested in the estates. That Bill was based upon the New Zealand Act, which is not to be compared with the South Australian Act. As a piece of draftsmanship the South Australian Act, on which this Bill is based, is as fine as anything I have ever seen. It provides for every contingency. The man who drafted it must have been an exceptionally clever man. Had I known when I undertook the task of framing the Bill what was before me I should have hesitated a little,

because the amount of labour that has been cast upon me has been very considerable, inasmuch as I have had to compare every section in the South Australian Act with the Act in this colony. I am sure the present Bill will meet with the approval of the trading community. It is very badly needed now, because at the present time the Bankruptcy Act is being evaded to a very large extent. It is to legalise the deeds of assignment and bring them within the purview of the court that this Bill is introduced. The present Bill will do away with the formalities of the Act. It seems to me the acme of perfection. It leaves the estate in the hands of the creditors, and yet the court has the supervision of the estate, so that no fraud can be perpetrated. If a creditor or debtor has been guilty of fraud, he can be brought before the court for examination. Every precaution is afforded that is possible.

HON. G. RANDELL: To both debtor and creditor?

HON. A. B. KIDSON: Yes. The first meeting of creditors is called by a circular which is sent round by the debtor. At that meeting the creditors can pass an extraordinary resolution for a composition. The resolution must be passed by seven-eighths of the creditors in value and three-fourths in number, which seems to me to be a very fair proportion. If seven-eighths of the creditors in value and three-fourths in number are present at the meeting of creditors, by proxy or otherwise, and a vote in favour of composition is carried, it is, subject to the other provisions to be mentioned later on, binding on all the creditors, including a dissenting minority. A second meeting must be called for the purpose of confirming this composition. The resolution at the second meeting must also be passed by a similar majority to that at the first meeting, and then the composition must be approved by the court, so that every safeguard is provided against anything being done hastily. Every creditor will have an opportunity of objecting to the composition, if he has reasonable grounds for doing so. Sub-clause 4 of Clause 7 says:—

> Any creditor may, within 14 days from the filing of such certificate, apply to the court to appoint a day to consider the composition or scheme, which day shall not be earlier than 21 days from such filing, and notice of such appointment shall be given by advertisement in the *Government Gazette*.

That provides for the court considering the resolutions, and subsequently hon. gentlemen will see that the court may approve or disallow of these resolutions on any reasonable grounds shown. By Clause 8 it will be seen that

> The creditor may, by special resolution at any meeting under this part of this Act or any adjournment thereof, resolve that the debtor execute a deed of assignment under this Act to a trustee to be named in such resolution.

Creditors may, by this clause, decide that the debtor execute the deed of assignment to a trustee in favour of the creditors, and subsequently, by Sub-clause 6 of Clause 12—

> After the execution of the deed by the debtor, a notice of the deed, containing the name, residence, and description of the debtor, and the name of the trustee, and specifying where the deed is lying for inspection and execution, shall be given to the registrar of the court wherein the certificate of the last mentioned resolution was filed.

So that the registrar has official notice immediately. Again, as a further safeguard, Sub-clause 7 says:—

> The deed shall be assented to by three-fourths in value and one-half in number of the creditors.

The resolution has first of all to be passed; and the deed, when it is drawn up and completed, and filed by the debtor, has to be signed by three-fourths in value and one-half in number of the creditors; so that is a double-barrelled safeguard. Then by Sub-clause 9, with regard to creditors residing within the colony, assent shall be given within ten days of the execution of the deed by the debtor; and, as regards other creditors, within six months from the execution of the deed. That provides really for execution of the deed for creditors outside the colony, if they desire to execute the deed. By Clause 10 hon. gentlemen will see there is a very necessary provision given to the chairman of a meeting. The chairman, who signs the certificate in connection with the deed, may from time to time grant a warrant under his hand

> Authorising the person named therein and his assistants to seize all the personal estate of the debtor, and the warrant shall have the same force and effect and confer the same power and authorities as a warrant of the court to seize the personal estate of a debtor,

and shall continue in force till superseded by a fresh warrant, or by the order of the trustee under the deed, or by a receiving order being made against the debtor.

Hon. gentlemen will see that is a necessary provision to have, because in the case of a debtor who tries to make away with his property, or some of his property, he is forestalled by the chairman granting a warrant without any trouble of going to the court. The chairman simply has to sign his name to a paper, issue a warrant, and it goes forth to a constable, who may seize any property of the debtor he may find. By Clause 14 every deed that has been executed, and until the same shall be set aside, shall release the debtor practically from all provable debts. As soon as the deed is properly executed, the debtor really gets a release without all the useless formalities of going to the court to get a release, as under the present law. By Clause 20, creditors really have the same rights as creditors in bankruptcy. They are placed on precisely the same footing. I would like to mention one thing which I forgot to mention just now, that directly a trustee is appointed under a deed, the whole of the property of the debtor vests immediately by operation of this Bill in the trustee, in the same way as property vests in a trustee in bankruptcy. That does away with a lot of expense and trouble. Directly the deed is executed, the whole of the property of the debtor vests in a trustee without any to-do, thereby saving a great deal of expense. Clause 23 is a very important provision, protecting creditors. It says:—

Any creditor or trustee may, upon making affidavit that he suspects the debtor has not fully disclosed his estate and effects, or had within two calendar months prior to the execution of the deed made a fraudulent preference to any creditor——

This is a frequent occurrence. It is difficult to enumerate the times that this does occur, as it takes place in nearly every case in bankruptcy. The clause goes on to say:—

or that the debtor has concealed, or is making away with, or improperly or fraudulently dealing with the property of the debtor or any part thereof, cause the debtor to appear and be examined in the court.

That is the protection which I stated just now, so that in every way under this Bill the creditors and the estate are protected to the very last degree, and so far as it is possible to protect them. Clause 26 practically provides for the duties of trustee. It defines what duties the trustee under the deed has to perform, and all those duties are conveniently set forth in a number of sub-clauses, so that there can be no mistake or doubt as to what the trustee's duties are. A sub-clause also provides for the punishment of the trustee in the event of his not carrying out any of his duties under the deed. For instance, according to one sub-clause, supposing a trustee retains money not in accordance with the Bill, and the Bill provides that he shall pay the money into the bank at certain fixed times, if he does not do that he will have to pay interest at the rate of 20 per centum on the money that he has retained in hand, so that there is every inducement for trustees to comply with the Bill. The court, in the event of its being shown that the trustee has retained any money, can remove him from office, and he shall then have no claim whatever for remuneration, and the court may order him to pay to the creditors all costs and expenses. So that in every way creditors are protected, not only in respect of the debtor, but in respect of the trustee also. Sub-clause 2 of Clause 26 provides for that which I mentioned in addressing my remarks to the House at the commencement; that is to say, the trustee shall within fourteen days from the execution of the deed by the debtor file in the court a true copy of such deed, with the schedules and debtor's declaration, and all assents and statements relating thereto, which shall be open to public inspection. This deed, as soon as it is signed, has to be lodged and filed in court, and every creditor who desires to inspect the deed, and who wants to see what it is, can make inquiries at the Supreme Court and get a copy of the deed by paying a small fee for it. That is a very useful provision. Clause 27 gives further protection to the creditor. It says:—

The Court may at any time, within twelve months from the execution of the deed by the debtor, declare such deed to be void on the ground that the provisions of Section 12 of this Act, or some or one of them, have not been complied with, or on the ground of fraud, or of any wilful and material error or omission in either of the schedules annexed to the deed.

In the event of any fraud on the part of the creditor, or debtor, or trustee, application can be made to the court to set aside the deed. There is another provision, a very important one. Trustees —of course there is no doubt about it, all trustees do so—look to the "main chance" to see how much they can make out of an estate. We cannot blame them for doing so. They not only do it in bankruptcy, but in deeds of assignment. Under Clause 36 the trustee of any deed may retain out of the estate, as a remuneration for his care and trouble in and about the execution of the trusts thereof, such a sum of money or percentage as may be allowed by the court, or fixed by the deed and approved by the court. It has first to be put in the deed what remuneration the trustee shall receive, and then it comes before the court for approval. Creditors sometimes, in a burst of generosity, may give a trustee more remuneration than they think it wise that he should receive, after mature consideration. Before the deed is binding on anybody, the court has to approve of the remuneration to the trustee. Clause 41 says that no corporation or body corporate shall make any composition or deed of assignment under this Act. That is to say, no company can take advantage of the provisions of this Bill. It is for firms and individuals. Clause 42 mentions the duties of the Official Receiver, and it will be seen that amongst other things he has to enforce the observance by trustees of all deeds of assignment. That is a pretty big order, but personally I think it a very good thing. It keeps trustees up to their work. If they are inclined to go too fast, the Official Receiver is there to stop them, and he, being an independent person, will look after the interests of the creditors. Both the Official Receiver, Mr. Wainscot, and the junior Official Receiver, Mr. Clarke, are efficient officers, and perform their duties admirably. Clause 51 provides that if a debtor is hauled before the court—a refractory debtor, and we do meet with such occasionally—he has to answer any questions on oath put to him. The clause says:—

> Any debtor shall, in any examination in the court, be compellable to answer any question put to him, notwithstanding such answer may tend to criminate him.

HON. G. RANDELL: That is pretty stiff.

HON. A. B. KIDSON: It is pretty stiff, but it is quite necessary. Some debtors are up to all kinds of tricks and little devices, and sometimes the creditors are done out of the estate in this way.

HON. A. P. MATHESON: Are you going to torture him?

HON. A. B. KIDSON: The Bill does not go so far as that, but it gives him a little mental torture by putting him before the court to be examined. If a man has done nothing wrong, he has nothing to fear by going before the court.

THE MINISTER OF MINES: You will cross-examine him?

HON. A. B. KIDSON: Yes; very severely cross-examine him. In many instances the creditors do not get the estates. It is a most extraordinary thing —I do not know whether hon. members have met with the same experience as I have—but in some instances I have seen men go through the court, and get what is called "whitewashed," and come out, and in a few days you see them driving about in their traps and buggies. I do not know how it is done. These men could not ride in buggies before, or they dared not do it, but, as soon as they have gone through the court, they drive about the town in their carriages. In many instances some property must be kept back, so that in the Bill every freedom is given for ascertaining whether any property is being hidden.

HON. F. T. CROWDER: Many creditors wink at it.

HON. A. B. KIDSON: I do not know whether they wink at it or not, but it takes place, and it seems to me an extraordinary thing that creditors should wink at it, because they suffer the most by not getting paid.

HON. F. T. CROWDER: They get paid on the quiet.

HON. A. B. KIDSON: If they do, there is an end of it. We cannot do more than we are trying to do by this Bill. I can hardly reconcile the fact in my mind that creditors do do that. At any rate this is a very salutary provision, because the debtor has to stand the test of cross-examination, and he has to do that on oath, and if he swears what is not correct he will have to stand the consequences. I do not know whether it is necessary to go into further details. I have picked

out the salient provisions of the Bill. The other provisions merely carry out the details of the measure. I hope hon. members will pass the second reading, and allow the Bill to go through this House, and I hope the Bill will become law. This is a matter which has been agitating the minds of those persons interested for some time past. Of course persons who are not traders are not so much interested in it, but the biggest traders are deeply interested, and a great number of them have had personal acquaintance with the working of the present Act. The Act from which this Bill is taken has worked extremely well in South Australia. I am told that in the other colonies they are dissatisfied with their insolvency laws at present, and they are turning their attention towards this Act in South Australia, which I believe has worked better than any Act in the Eastern colonies. As I mentioned just now, this Bill will not interefere with the present law, and if any creditor or debtor wishes to take advantage of the present Act he can do so. In South Australia, when a creditor has been guilty of fraud, or has gone insolvent under suspicious circumstances, creditors have forced him into the bankruptcy court. There was a case reported in the newspapers recently, which occurred in South Australia. The creditors were not satisfied with the deed of assignment — it was a very big estate in South Australia—and they moved to have the deed set aside, and to place the estate in bankruptcy. The same thing can be done under this Bill. If the creditors are dissatisfied, or not satisfied with the disclosures made, the court can place the estate in bankruptcy. The present Bankruptcy Act can remain in force, and creditors can take advantage of it if they like. The present bankruptcy law deals in a very hard manner with small bankrupts, and this will be an immense boon in the cases of small estates. Take a small bankruptcy of, say, £200: the fees are very large before the person can get into the Bankruptcy Court at all. He has to sign all kinds of papers, and has to pay big fees, and small bankrupts cannot find the fees to get into the Bankruptcy Court. With the fees under the present Bankruptcy Act, an estate with assets valued at £150 would come out with about £30 or £40 at the end of the bankruptcy. My desire is to cut down the fees as much possible. The great object I have in view is to simplify the law, and when hon. gentlemen have read through the Bill I am sure they will agree that this measure does so. Hon. members know that I am not likely to attempt to introduce any legislation of a startlingly novel nature; nor am I likely to endeavour to amend any Act in force here unless, in my opinion, there is a strong necessity for it. The reason I have brought forward this Bill is that after very mature consideration, and having carefully gone into the matter, I have come to the conclusion that such a measure is necessary. I have not thought over it for a day: it has been under consideration for eighteen months, and it has the approval of gentlemen in very good positions indeed. All persons connected with this class of legislation have given their approval to the Bill. The approval of the Chambers of Commerce has been given to it, and I hope I shall end up by having the approval of this House, and that of the Legislative Assembly. I know there is a strong feeling in favour of this legislation in another place. I have had an opportunity of speaking to several members of the Legislative Assembly.

THE PRESIDENT: The hon. member should say "members in another place."

HON. A. B. KIDSON: Hon. members in another place are strongly in favour of this Bill, and a good number of them are members of the Chamber of Commerce, and they know what the trend of opinion has been amongst those bodies. I hope hon. gentlemen will pass this Bill, and that it will become law. If it does, Parliament will have conferred a great boon on a large section of the community. Hon. members will have assisted in simplifying the laws in bankruptcy, and in carrying out the views of those persons interested. [A MEMBER: What about Clause 52?] That is a very important clause, and I thank the hon. gentleman for drawing my attention to it. By it the creditors are protected against the solicitor, and I think it is very generous on my part to put such a provision into the Bill. The clause reads as follows:—

No person intending to become bankrupt shall sell or dispose of any portion of his

estate for the purpose of enabling such person to pay his costs of and incidental to such bankruptcy; and any solicitor or agent receiving the proceeds of any estate, knowing the same has been sold for the purpose aforesaid, in payment of such costs, shall be liable to refund the same to the Official Receiver or trustees in such estate. In every case the costs of the bankrupt's solicitor shall be liable to taxation, and such solicitor shall refund to the trustees or Official Receiver any amount received by him from the bankrupt in excess of the amount allowed on such taxation, or receive from the estate of such bankrupt any amount so allowed in excess of the sum which he shall have so received.

HON. F. T. CROWDER: I notice you put in the word "knowing," to cover yourselves.

HON. A. B. KIDSON: There was no necessity to be afraid of this. If a solicitor takes this money on account of costs, the bill of costs is liable to taxation, and he will have to refund any balance.

THE MINISTER OF MINES: It is their nature to be knowing.

HON. G. RANDELL: After the very lucid and able way in which the hon. member has explained the Bill to the House, it is not necessary for me to say very much about it. It is pre-eminently a question for legal members. I am quite sure, whether the Bill is passed into law or not, the hon. gentleman who has introduced the measure will receive the thanks of the mercantile community. This matter has been agitating the mind of the commercial public for a considerable time, and the Bill is approved by the Chambers of Commerce of Perth and Fremantle, and, as the hon. member has stated, by other chambers in the colony. Therefore the Bill has the approval of business men. The present Bankruptcy Act proceeds very much on the idea that creditors are not able to take care of their own; but this Bill proceeds on the opposite idea, that those interested in an estate are most likely to take care of the estate, and manage it economically for their own benefit. In providing for deeds of composition and assignment, this Bill has met a great want. To a large extent this Bill is based on the law in force in South Australia, and in my experience the Parliament of this country is pretty safe in following legislation that has taken place in the colony of South Australia. The Acts drafted there are — [HON. A. B. KIDSON: Models] — I think I may say they are models. At any rate they are far in advance of the Acts framed in many other places, and when they have been adopted in this colony they have given immense satisfaction. I need only mention the Torrens Act or Real Property Act as one instance in which this colony has followed the law in force in South Australia. I think that, if there is a fault in this Bill, it is that it is almost too conservative. We find ourselves confronted with the Official Receiver in many instances in this Bill. Possibly it is a good safeguard. The trustee to a certain extent is under the superintendence of an official who is in the pay of the Government, and, as the hon. gentleman has stated, trustees are not infallible. I believe that many of the trustees appointed do try expeditiously and economically to work the Bankruptcy Act, whenever it has come under their control. I do think that it is desirable that creditors should have a large say in these matters. The provisions which the hon. member has made in this Bill, so far as I am able to judge, will meet the circumstances of the case in this country. I say the Bill is conservative; and, when we read the interpretation clause and see that an extraordinary resolution has to be passed by seven-eighths in value and three-fourths in number of the creditors, that will bear out what I say, that this is a conservative measure. On going through the Bill I see that trustees are under the surveillance of the court, and a great many things are done to protect the creditors, and I also see that the debtor is protected from the vexatious interference of creditors. If this Bill is added to the Bankruptcy Act we have in operation now, it will be a great boon to the commercial community. On going through the measure I do not notice much to find fault with. It seems singular that a Bill of 59 clauses should be required. It shows that the Hon. A. B. Kidson has had a large amount of labour devolving upon him, the result of which, if this Bill is passed, will entitle him to the gratitude of debtors and creditors and of the entire community. I support the second reading of the Bill.

HON. A. H. HENNING: I can indorse all that the Hon. A. B. Kidson has said as to the satisfactory character of the

arrangements between creditors and debtors that exists under the South Australian Act, and to the satisfaction that the working of that Act has given. The principle involved in that Act seems to be that the debtor should consult those who are more interested in the estate than he is, because when he becomes insolvent he practically quits the estate, and it is for the creditors themselves to say what is the best that can be made out of a bad job. That principle is so far observed in the South Australian statute that it is impossible for a debtor, unless he is imprisoned for a debt, to declare himself a bankrupt and petition for adjudication till he has first called his creditors together and consulted them as to his future movements. I think that should be so. I regret that the whole of the South Australian Act has not been included in this Bill, with the view of substituting it for the law as it at present stands in this colony.

HON. A. B. KIDSON: It would not be carried.

HON. A. H. HENNING: I do not see why. If the trading community feel so greatly the hardship of the present system, it is for them to assist in repealing the present Act.

HON. A. B. KIDSON: We must go slowly and get more later on.

HON. A. H. HENNING: If we were to ask for the whole Act now, the chances are that we should get it. I know no power behind the trading classes that is antagonistic to the Bill. All that the hon. member said about the unsatisfactory working of the Act at present is warranted.

HON. C. E. DEMPSTER: The member for Fremantle deserves the thanks of the House for introducing this Bill. The very fact that the Act in South Australia has worked so satisfactorily is a sufficient reason for its being introduced here. The present Act in this colony has worked most unsatisfactorily. All those who have had anything to do with it will bear me out in saying that. You may depend upon it that four-fifths of a bankrupt estate will be swallowed up in expenses, if it is administered under the present Act. I hope the Bill will receive the support of the House.

Question put and passed.

Bill read a second time.

LOCAL COURTS EVIDENCE BILL.

SECOND READING.

HON. A. B. KIDSON: This Bill is to facilitate the taking of evidence in local courts. I should like to point out clearly and concisely the reasons which have moved me to introduce this Bill. As we all know, local courts are situated at nearly every small place throughout the colony. There is one at Menzies, one at Mount Malcolm, and they are scattered about everywhere. They are at long distances from Perth and Fremantle, the big trading centres. The difficulty I have found, and that those who carry on the same profession as myself have found in taking evidence and issuing summonses in such local courts, is this. A man, say at Mount Malcolm, may issue a local court summons for £50 damages against a resident of Perth or Fremantle. It may be a case of blackmail. A case came before me within the last ten days in which a summons was issued for damages amounting to £25 or £40 by a person on the goldfields against a man in Fremantle. There was no doubt that the summons was issued maliciously. The defendant had either to go to the goldfields to defend this blackmailing summons, or remain in Fremantle and pay the piper. These were the only two alternatives open to him. It would have cost him as much to go to the spot to defend the case as to pay the summons, and therefore, in the instance I am speaking of, that course was taken, and instead of going to the trouble and annoyance of taking that long journey the defendant paid the money. It also acts *vice versâ*. A person in Fremantle or Perth can take out a summons against a person on the goldfields under precisely similar circumstances. Quite a number of these cases have come under my notice, and I know the expense and trouble people have been put to. The Bill is not a creation of mine, but is taken from an admirable law in New Zealand, where they have had the same difficulty that confronts us here. They found there that persons had taken advantage of the situation and had issued blackmailing summonses in order to recover money which was not due. In the case to which I have just referred, the defendant made an agreement with a person to work for a salary. He paid him the salary agreed upon for three

months, at the end of which time, finding the man was not doing so well as he might have done, the defendant paid him off. The man got nettled, and issued a summons against his employer at Fremantle for damages for dismissal and for commissions that had never been agreed to be paid. All that had been agreed to be paid was a salary. The defendant could not afford time to go to the goldfields to fight the case, and he paid the money. This Bill enables a person who is sued to apply to a magistrate to be examined on the spot where he is, in order to save him the trouble of going a long distance to the local court. No hardship will be inflicted on anybody, because the other party will have notice of the examination that is about to take place, and will have the right of examination and cross-examination either by himself or by his solicitor. The preamble is very significant:—

> Whereas a failure of justice is often caused by reason of parties and witnesses in actions in local courts being resident at a distance from the place where the hearing of such actions is had, and by reason of such parties and witnesses being unwilling or unable to incur the expense of attending to give evidence at such hearing, be it therefore enacted.

There is no doubt that the fact recorded in the preamble is correct. Words of that nature are not often put into Acts of parliament, but they have been embodied in the preamble on account of their importance. The second clause provides that—

> Whenever a civil action shall have been commenced in a local court, and any person, whether a party to such action or not, shall be resident more than twenty miles from the court house where the trial of the action is appointed to be had, or shall be about to go beyond such distance, and to remain beyond such distance at the hearing of such action, it shall be lawful for the party desiring to use the evidence of himself or of such person at the hearing, to give notice of such desire to the magistrate thereof, or the clerk of the magistrate for the district in which it is intended that the examination hereinafter mentioned shall take place, and he shall specify in such notice the name or names of the person or persons intended to be examined.

This clause provides for two cases—that of a person resident more than 20 miles from the court house where the action is being held, and that of a person who is about to go away on his own business beyond that distance. Clause 3 provides that as soon as a magistrate or clerk receives an intimation that a person wishes to be examined, he must at once advise the other party to the case when and where this examination is to be held. Section 4 provides that a person can be examined and cross-examined in the same manner as if he were a witness at a trial. Section 7 provides that the hearing of the case may be adjourned from time to time, so as to enable the magistrate before whom the examination has taken place to transmit the written evidence or notice of non-appearance. In this way both parties will receive equal justice. That is the sum total of the Bill. I think it is a very good Bill. I have reason to believe that it has worked admirably in New Zealand, and has been a great assistance; and I sincerely hope that it may come into force in this colony, because it is more applicable here than even in New Zealand, owing to the very long distances that these local courts are from the trading centres. We want to provide an Act which will do away with the injustice that at present exists. I have seen this injustice occur at Fremantle. If there is any amendment, it can be inserted when the Bill goes into committee. I now beg to move the second reading of the Bill.

HON. H. BRIGGS: I second the motion.

Question put and passed.

Bill read a second time.

ADJOURNMENT.

The Council adjourned at 9·20 p.m. until the next day.