Legislative Council,

Thursday, 15th November, 1906.

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

PRAYERS.

PAPER PRESENTED.

By the COLONIAL SECRETARY: Annual report of Government Railways to 30th June, 1906.

BILL—LAND TAX ASSESSMENT.

MACHINERY MEASURE.

ASSEMBLY'S REQUEST FOR A CONFERENCE.

The Legislative Assembly having requested a free conference on the subject of the Council's suggested amendments, the Message was now considered in Committee.

THE COLONIAL SECRETARY (Hon. J. D. Connolly) moved—

That a conference be agreed to, as requested by the Legislative Assembly in Message No. 28.

Though aware that conferences of both Houses were not frequent—in fact, there was only one occasion on which a conference had taken place in the State—he trusted that members would not offer any objection to this request. Mr. Kingsmill yesterday contended that it was unconstitutional to ask for a conference at this stage, and maintained that no dispute had arisen between the two Houses, and to support his argument the hon. member quoted from *May*. With all due deference to that well-known authority on parliamentary practice, on this occasion *May*, being compiled on the practice and usages of the House of Commons, had no bearing on the motion. The hon. member quoted some cases half a century or a century back; but as Australia was barely in existence then, they could hardly have any bearing. In a case of this kind we were more particularly guided by our own Constitution Act and our own Standing Orders. Of course it was laid down in the Standing Orders that in all cases not provided for in the Standing Orders or any sessional or other orders, the rules and customs of the House of Commons should be followed so far as they could be applied to the proceedings of the Council. It was only in cases where our own Standing Orders or our Constitution Act did not govern the matter that we followed the procedure laid down in the House of Commons; but the procedure in this case was clearly laid down in our Constitution Act, and therefore May's precedents had no bearing.

HON. R. F. SHOLL: Where was it in the Constitution Act?

THE COLONIAL SECRETARY: In Section 46. Mr. Kingsmill also said that a conference could only be asked for when a dispute arose between the two Houses. Without saying for a moment whether there was a dispute or not—and by the way there was—Standing Order 218, which was identical with Standing Order 246 of the Assembly, provided that no conference should be requested by either House upon the subject of any Bill or motion of which the other House was at the time in possession. The Standing Order clearly implied that a conference could be asked for by the Assembly at any time while a Bill was in their possession. The Assembly having seen fit to ask for a conference on the Land Tax Assessment Bill, which was in their possession, they were perfectly within their rights, and the message was rightly before us. There was a dispute between the two Houses, inasmuch as the Assembly sent down a Bill in a certain form, and the Council rejected it in that form and asked for it in another form. Naturally a conference was the best way to bring about a settlement. The Council should be rather pleased than otherwise to receive this message asking for a conference at this stage, because it certainly showed a better spirit on the part of another place to say, as they said in this message, "We have sent you a Bill; you have thought fit to amend it; will you now confer with us, and we shall see what agreement we may come to?" The other course would be

for the Assembly to say: "We disagree to your amendments; we will not agree to them;" and then, after telling us that, to ask for a conference. The more reasonable course to pursue, and the course that was more likely to have the best results, was the course suggested by the Assembly.

HON. R. F. SHOLL: The Assembly had not discussed the merits of the amendments as yet.

THE COLONIAL SECRETARY: The Assembly had sent their ideas in the Bill. We had altered the Bill, and given our ideas. Now, without rejecting our ideas, the Assembly said, "Let us come together and discuss what is the proper course to adopt." They did this instead of rejecting our ideas first of all, and conferring afterwards. Mr. Kingsmill raised another point, that the matter should be minutely set out in the message.

HON. J. M. DREW: No; Mr. Kingsmill said that it need not be minutely set out.

HON. M. L. MOSS: Mr. Kingsmill said it need not be set out minutely, and the Assembly carefully followed that by saying nothing.

THE COLONIAL SECRETARY: Our Standing Orders said it should be set out in general terms.

HON. M. L. MOSS: That was what the hon. member said, also that they had done it so well he need not comment on it.

THE COLONIAL SECRETARY had misunderstood the hon. member. However, it had no great bearing on the question. The hon. member quoted the practice of the House of Commons. He (the Colonial Secretary) would remind members that there was no Standing Order in the House of Commons which governed a conference between the two Houses. It had grown up by practice and agreement between the two Houses. No conference had taken place with those two Houses since 1851, he thought, so it was quite evident that *May* had very little bearing on the matter before the House. There was another point he wished members to particularly note. It must be remembered that the Bill under discussion was a Money Bill, and the procedure in a Money Bill was somewhat different from that in relation to an ordinary Bill, and in consequence the amendments made by the Council were simply requests. If the Assembly disagreed to all the amendments to this Bill, being a Money Bill it came down again, and unless the Council backed down from their original position and took what the Assembly sent first, then, as laid down in *Blackmore*, the Bill would be laid aside.

HON. M. L. MOSS: What guarantee had we that the other House would not agree to these amendments if they were discussed? That was the point.

THE COLONIAL SECRETARY was justifying the course the Government had taken. He repeated it was laid down by Blackmore that in regard to a Money Bill, if all the suggestions made by the Council were disagreed to by the Assembly and the Bill came back to the Council, the Council had no alternative but to either withdraw their amendments or lay the Bill aside. It was very likely that the Assembly might have disagreed to all the Council's amendments, and in that case, if the majority of the Council did not see fit to withdraw their suggestions, the Bill had to be laid aside, and there was no possible chance of a conference. That being so, this was the natural stage at which a conference could be arrived at. If members were prepared to kill the Bill in any possible way, the objection was all right; but he could not understand members who intended to give fair treatment to the measure and act squarely in regard to it, disagreeing to a conference. Blackmore said:—

> If the House disagrees absolutely to the suggestions of the Council, the Bill must be passed in its original form by the Council or rejected.

Blackmore was an Australian authority and well known; therefore it was a reasonable course for the Assembly to send a request to this House, and he trusted the Committee would agree to the motion he had moved.

HON. S. J. HAYNES: Having listened carefully to the Leader of the House, he could not come to the conclusion that the hon. gentleman had in any way answered what seemed to him the unanswerable arguments used yesterday by Mr. Kingsmill. Apparently the Leader of the House said that this was the

best mode to adopt. Our Standing Orders, however, provided what in his (Mr. Haynes's) opinion was a much more reasonable mode. They provided that where amendments or suggestions by this House were sent to the Assembly, those amendments or suggestions might be agreed to or disagreed to by the Assembly. If the Assembly disagreed to them, they sent them back to the Council stating that they could not agree to them, and the Leader of the House asked the Council on behalf of the Government not to insist on their amendments.

HON. J. W. HACKETT: What Standing Order was that?

HON. S. J. HAYNES: That was the practice of the House. The Leader of the House argued a very extreme case. For instance, he said if the Assembly disagreed to all our suggestions, there was nothing for us to do but to drop the Bill; but the hon. gentleman was anticipating the very worst. We could reasonably assume that the Assembly would agree to the whole of our amendments, or at any rate the greater portion of them. According to his reading of the Standing Orders we should have an opportunity rightly or wrongly of considering the amendments again, and of saying whether we would insist upon them or not. Yesterday it was clearly pointed out that a conference took place only when it was a question practically of dire necessity. There was no evidence at all at present that the Assembly disagreed to what we had done. Had the necessity arisen? Our Standing Orders not being particularly clear and not particularly full with respect to conferences, we had to fall back, as quoted by the Leader of the House, on the practice of the House of Commons, and the hon. gentleman in referring to that practice said Mr. Kingsmill quoted a precedent of half a century ago. That very reasoning was in favour of not agreeing to this conference, for during half a century a matter of this sort had never cropped up in the House of Commons, and no conference had ever taken place by reason thereof. Therefore there was no precedent for this. Surely the proper course was to ascertain in the first instance whether another place would agree to our suggestions or not. If the conference took place we should be practically landed as we were at present. Managers would be appointed if this motion were carried, and there would be five from one House he supposed and five from the other. Would those managers bind their respective Houses? They would not bind them at all. They would go back to their Houses and the matter would be discussed. The debate had been engaging the attention of this House seriously and very attentively for some time past, and he felt that no good service would be rendered by a conference as suggested. It seemed somewhat unreasonable to ask us to agree to a conference at the present juncture. There was no disagreement, and no evidence of any disagreement. The Leader of the House did not dare to say that our suggestions had been in any way debated in the other House. We had no official notice of it. As common-sense men we saw what was going on, and we knew that all the discussion was on the question of a conference. We could only imagine why a conference was suggested. There was no solid basis for the suggested conference, and he would certainly oppose agreeing to a conference, being perfectly satisfied that the occasion had not arisen.

HON. M. L. MOSS took precisely the same view as Mr. Haynes, and was in thorough accord with the expression of opinion that fell from Mr. Kingsmill yesterday. He had known of no measure for many years which received greater attention or greater discussion in this Chamber than the Government proposals in regard to this land taxation. It was not possible for any member of the Government or any section of the public to cast up at this House the slightest statement or suggestion that this measure was treated in an off-hand manner in any respect. It was scant courtesy to this House, after the labours of every member here day after day and night after night in connection with this matter, that those labours had not been sufficiently recognised, and that a reasonable attempt had not been made to agree to these amendments. In all his parliamentary experience, now extending over close upon ten years in this State, in the ordinary course of events in dealing with ordinary Bills, and not a Bill under Section 46

amending the Constitution, these questions had been discussed and an effort made to ascertain the ideas of the Chamber making the amendments. The procedure well known to members was that when these efforts had been made a message generally came down giving the reasons why the Assembly were unable to agree to the amendments made by the Council. He was at a loss to understand why there should be a departure from the ordinary rule in relation to an important Bill like this. It would be idle for us to shut our eyes to what had been reported in the public Press. He knew it was an improper thing and contrary to parliamentary practice to refer to what took place in another Chamber. He was going to do it in another way, which would be perfectly constitutional, by referring to what we saw in the public Press. Taking the Press as an authority for the statement he was about to make, we knew that many members of another place were dissatisfied with the course proposed by the Government, that prominent public men in the other House condemned the proposal, and urged that a legitimate attempt be made to agree or to disagree to the Council's amendments and the reasons given. According to the reports, members of another place stated that members here were bound to mention the fact that no attempt had been made to agree to the resolutions of the Council. It was scant courtesy to members who sat here night after night, and took part in all divisions on this measure, that our message was not thought worthy of due consideration in the Assembly. On the second reading of this Bill he moved that it be read that day six months, and the amendment was lost by one vote. He had never hesitated to say he was a strong opponent of this land taxation, and some friends had blamed him here for refraining from carrying out his threat to have another test division. He refrained for this reason. If he could succeed in cutting out a number of exemptions and in making the burden of the tax fall fairly and evenly on the shoulders of the whole community, he would agree to a Bill which he regarded as highly unpalatable. But he would not vote for the Bill in its remaining stages unless those exemptions were cut out, and the amendments made here agreed to by another place. And if as the Colonial Secretary said, Blackmore laid it down conclusively that if the Assembly did not agree to the amendments the Bill would be put aside, he (Mr. Moss) would cheerfully agree to laying aside the Bill if an attempt was made to pass it into law as it came from another place. He would take such responsibility as might rest on him for voting to lay the Bill aside, being satisfied the Bill was unpalatable throughout the community. One could readily justify himself for endeavouring to prevent class legislation of an obnoxious kind and full of exemptions. It would be unfair to deny that the position taken up by the Assembly was theoretically correct. No doubt we had full power to appoint managers. None disputed that, and the Colonial Secretary's arguments went no farther. Evidently neither Mr. Kingsmill nor Mr. Haynes disputed the existence of the power to confer. It was a question of expediency, a question whether the usual routine had been pursued, and whether the course usually taken as a last resort in case of a deadlock should be taken before the Assembly made a fair and legitimate attempt to agree with amendments made here after full consideration. That was the question in a nutshell. There was no need to recapitulate the arguments of Mr. Kingsmill and Mr. Haynes. It was highly undesirable and inexpedient, though theoretically correct and quite possible, to agree to a free conference which might end in smoke. When five members from the Council attempted to effect a compromise at the conference, their action would not bind the Council. Every member had his mind fully made up on the Bill, and would be prepared to vote again as he had voted already. Similarly with the question of the amount of the tax. Dr. Hackett had greatly assisted the Government in the advocacy of this measure, both here and in the newspaper he controlled, and that assistance was doubtless largely instrumental in smoothing the way of the Government; for all must recognise the power of the chief journal in the State. The hon. member appealed to members to do nothing which would strangle this measure in its incipient stages, and admitted it was proper to reduce the amount of the tax from

1½d. and ¾d. to 1d. and ½d.; and when he (Mr. Moss) abandoned his intention to prevent the Bill getting past the report stage, he did it on the assumption that the compromise would be effected, and that all the exemptions which the Council had struck out should be finally eliminated from the measure. In the circumstances, he would vote against any free conference.

HON. J. W. HACKETT: Had this been only an abstract question, he would have listened with the greatest interest to a debate involving questions of Standing Orders and constitutional procedure; but this matter was far more than formal, far more than a question of mere expediency; and it might prove far more than a question whether we should assert our rights or insist on our Standing Orders being followed. Apparently the root of the Government attitude was a desire to preserve the Bill, to secure that sum of money which was absolutely needed for carrying on the affairs of the country; and in spite of Mr. Moss's complaint of scant courtesy, there was evidently a desire on the part of the Government to act as courteously as possible towards the Legislative Council. We could not know the precise motive or object of another place; but in political life he (Dr. Hackett) had learned to give credit for the best intentions. It was a saying of Lord Melbourne, after a life spent in the service of his country, that he was astonished to find what good fellows men were at heart; and he had every opportunity of becoming acquainted with the darker as well as the brighter side of of human nature. Mr. Kingsmill had opened the ball in this discussion by stating that the procedure of the Assembly was unconstitutional. That word would probably be found in *Hansard*. If that view had been justifiable, the consideration of the Assembly's message could have been prevented. The President, however, had ruled otherwise; and the procedure was undoubtedly perfectly constitutional, however inexpedient or however contrary perhaps to all practice. It must be remembered we were now dealing with a peculiar procedure. The hon. member (Mr. Kingsmill) declared that conferences were to be asked for under certain conditions only, mentioning five conditions and pointing out that this was not parallel to any of them. But if the hon. member would again have recourse to *May*, he would find those conditions were stated as instances or examples merely, and that the real interpretation was given a page or so afterwards, where *May* laid down that any matter of importance might be discussed between the two Houses by way of conference. Conferences were now almost exploded. For over 50 years they had not been heard of in the Imperial Parliament, because the procedure either by message, by select committee, or by joint meeting of two select committees, had ousted conferences. But the procedure still existed, and though perhaps a little old-fashioned and requiring to be furbished up, it might prove peculiarly advantageous in dealing with this question. Granting that one House could approach the other with a request for a conference on any question of public importance, at all events any question directly or indirectly arising out of a Bill, we had to consider what it was best to do in an undoubtedly anomalous state of things. The anomaly arose in reference to a provision in our Constitution existing in only two other Australasian Constitutions —by joint agreement in South Australia and in the Commonwealth Parliament— by which in the case of a Money Bill, instead of the differences being fought out on the question whether the second Chamber had a right to make amendments, it was to be settled by a procedure fixed on a firm basis of statute law.

HON. M. L. MOSS: Was the hon. member satisfied this was a Money Bill?

HON. J. W. HACKETT was undoubtedly using the phrase too loosely; but the Bill came under Section 46 of the Constitution Act. He was using the phrase "a Money Bill" in its general sense.

HON. M. L. MOSS was not satisfied that the machinery Bill came within Section 46 of the Constitution Act.

HON. J. W. HACKETT had called it a Money Bill instead of using the long phrase, "in the case of a proposed Bill which according to law must have originated in the Legislative Assembly." Such a Bill when it came here might at any stage be returned by the Council to the Assembly; and the whole difficulty of the position grew out of the phrase

"at any stage, with a message requesting the omission or amendment of any items or provision therein." As a fact, we had no Standing Orders providing for sending down Bills with requests. Perhaps that phrase "Bills with requests" would obviate any mistake. There was no provision in our Standing Orders or in those of the Federal Parliament for communications connected with Bills sent back with requests for the omission or the alteration of terms or provisions; and until we obtained such Standing Orders, there must be the greatest doubt as to the proper course of procedure. If no one else took action, he would be obliged to request the Government to do what should have been done some years ago, that was to appoint members of a joint committee to deal with the Standing Orders of both Houses of Parliament. They were defective in many clauses and far from explicit in others, whereas the most important of all particulars, the Standing Orders in connection with the communication between the two Houses, found no place at all. He trusted the Government would give their support to the course which he felt sure would be endorsed by the authorities and officials of both Houses of Parliament.

HON. M. L. MOSS: There were plenty of analogous Standing Orders.

HON. J. W. HACKETT: The hon. member was mistaken. The analogy was altogether destroyed by the words "at any stage." He found no unity of agreement as to how these words should be construed. It was the opinion of his late honourable friend, Sir James Lee Steere, that only one message could be sent back at one stage. Something like that, although not exactly the same, had been decided by Sir Frederick Holder, the Speaker of the House of Representatives in the Federal Parliament. That being so, it behoved the Government to walk in a most wary manner in dealing with this matter. We had before us the language of Mr. Blackmore, who was now the clerk of the Senate in the Federal Parliament, and who was for many years clerk of the Assembly in South Australia; a constitutional parliamentary authority unsurpassed by any inhabitant in Australia. Mr. Blackmore's opinion was of particular importance in this respect, because he belonged to the only other colony or province of Australia which had an arrangement similar to our own, and his opinion was—

> In such a case as the above, where the House has agreed absolutely to the suggestions of the Council, it would not be held of good faith for the Council to offer farther suggestions.

That opened up a wide field.

HON M. L. MOSS: The quotation was hardly applicable.

HON. J. W. HACKETT: That was so. It contemplated amendments or virtually amendments being sent to another place, and these amendments being agreed to; then a farther reference of the Bill to the Council, to make farther suggestions. It was absolutely contrary to the Standing Orders and the practice of Parliament in other parts of Australia, and of course the British House of Commons.

HON. M. L. MOSS: We were not bound by anything.

HON. J. W. HACKETT: Mr. Blackmore said:—

> If the House disagrees absolutely to the suggestions of the Council, the Bill must be passed in its original form by the Council, or rejected.

It must have occurred to the Government that if the Assembly disagreed absolutely to the amendments of the Council, the Bill was lost. He (Dr. Hackett) wished to point out that in the case of the section dealing with Bills amended by suggestion or request, we had absolutely no Standing Order to direct us; the very Standing Orders under which we appealed being directly contrary to the practice, wherever this arrangement was in force. He submitted that if an error had been made—he was not going to defend it—in the mode of procedure, would it be wise or courteous for us to meet another place, who he believed had endeavoured to deal most courteously by this House, with any stiff or strained interpretation of our Standing Orders? He thought the hon. member would agree with him so far. The whole matter was surrounded by difficulties. It was arguable, perhaps more than arguable, whether the right course had been adopted in moving Mr. Kingsmill into the Chair. Some few days ago we sent the Bill back before agreeing to the third reading, and the instructions to the Committee were that when the Bill was

returned we should go into Committee to consider it.

HON. W. T. LOTON: It had been returned.

THE CHAIRMAN: On receipt of a message from the Assembly.

HON. J. W. HACKETT: Which would have carried the Bill with it. That was not the message dealing with the amendments in the Bill upon which alone we were allowed to go into Committee, but it was dealing with a conference. This had something to do with the Bill, but it was a different matter entirely. In the present circumstances, if it was a fact that we had no Standing Orders dealing with the particular anomalies, if we were in a position in which we had no precedent, on which we had to make our own rules and regulations, which position he hoped would be removed before another session came round—if all these matters had to be taken into consideration, we might have to go so far as to meet the representatives of another place in consultation on the matter, the object of such consultation being to talk over the matter and see if a *modus vivendi* could not be arranged, to come within arm's length of one another, a report made to the two Houses, and the two Houses to then discuss the question. If that were so, and if another place objected to all our amendments and the option of the Council were the absolute acceptance or rejection of the measure, we could not doubt that there would be a majority against the acceptance of the Bill. For his part he trusted a number of the amendments, if not the great body of them, would be accepted. At the same time an act of courtesy would be performed, and we would be acting in every sense of the word well by making a Standing Order for ourselves in regard to this precedent, in allowing another place to consult us in this informal way at any stage of so important a measure as the Land Tax Assessment Bill. Under these circumstances, he was prepared to support the Leader of the House

HON. G. RANDELL: It appeared to him the course as recommended was one of expediency, and it required very careful consideration before we gave way on a question of expediency in matters connected with the public legislation of the State, because we might land ourselves in difficulties and create a precedent which might be exceedingly injurious in subsequent years. Some members still believed that the Assessment Bill was not necessary, and that it was repugnant to the feelings of a great many in the State; but it had been dealt with in this House, to bring it more into harmony with our ideas, and after careful consideration, to place the burden more fairly and rightly on the shoulders of all. Any taxation that was levied should, as far as possible, have that object in view, so that all classes of the community might share in the burden that might be necessary in the public interest and for carrying on the Government of the country. We desired to throw no unreasonable obstacle in the way of the Government in this respect. And we had also a duty to perform, for we must see whether this question of expediency, on which Dr. Hackett had dwelt considerably, would be justified in the circumstances. After reading carefully the Standing Orders for both Houses he had come to the conclusion that it was more than a question of expediency. It was a question of violating the spirit, if not the letter, of the Standing Orders which governed the transaction of public business in both Houses. We had to compare, although very much the same wording, the Standing Orders of the Legislative Assembly with the Standing Orders of the Legislative Council, and if we read these carefully we must come to the conclusion that Money Bills stood on no different ground from any other Bill after the first message had been sent. In the first message we sent we had desired that the Legislative Assembly should make amendments in a Money Bill by suggestion. After that step had been taken we were bound by the Standing Orders of both Houses of Parliament, and they seemed to be clear enough for us to understand. It was the duty of either House to consider carefully the amendments made, and discuss them in either House, and give an opportunity for members of either House to consider them in all their bearings and deal with them in the way ordinary Bills were dealt with. He saw no reason for thinking that we should adopt any other method after the first step had

been taken than in the case of an ordinary Bill. Standing Order 293 said:—

When any amendments shall have been made by the Council in any Bill which has originated in the Legislative Assembly, a schedule of such amendments shall be prepared, containing reference to the page and line of the Bill where the words are to be inserted or omitted, and describing the amendments proposed; and this schedule shall be signed by the clerk, and accompany the Bill and message.

This course had been taken. The Standing Orders certainly contemplated, though not in very plain language, that when the matter arrived at the Legislative Assembly, the Assembly should deal with those amendments; and that perhaps was where the Standing Orders required to be simplified. But apparently when these Standing Orders were adopted such a question as that now before the House was not contemplated, and no precedent had been made for it. The words "When any farther amendments have been made by the Council on amendments made by the Legislative Assembly," showed it was clearly contemplated that the Assembly would consider the amendments adopted by the Council, and having arrived at certain conclusions would convey those conclusions in the ordinary way to the Legislative Council. Standing Order 295 said:—

If the Legislative Assembly shall return such Bill with any of the amendments made by the Council disagreed with, or farther amendments made thereon, together with written reasons for its disagreeing with any such amendments proposed by the Council, the message returning the Bill shall be ordered to be printed, and a day fixed for taking the same into consideration, in a Committee of the whole Council.

That Standing Order seemed to clearly indicate the method which should be adopted by the Legislative Council in the case now before us. He had heard what Dr. Hackett had said, but he did not think it could be contended for a moment that our Standing Orders permitted the transmission of such a message as we had received from the Legislative Assembly, at the present moment. He entirely agreed with what fell from the lips of the Chairman of Committees last night, that they had not exhausted the means by which an agreement could be arrived at between the two Houses on this question. He was not prepared to say what the reasons were which had influenced the Government. The hon. member had said we should give the Government the benefit of good intentions, and he (Mr. Randell) thought the House were quite willing to do so; but those good intentions were not apparent. A member of the Ministry, he believed, said "Precedents to the wind," or something like that, and that he would not take any notice of them: but the retort was made that he was a gentleman who was very fond of precedents. We must pay attention to precedents. Apparently the words the hon. gentleman used indicated that he was sensible he was not on good ground in the course he advocated, and that therefore he must fall back upon the question of expediency, and urge that, as Dr. Hackett had put it, we should believe an act of courtesy had been performed towards the Council. The procedure would be a dangerous one in view of what might take place in future, and this House ought to reject the overture which had been made. He was sorry we should have to do so, but that would not close the question. The Legislative Assembly could retrace their steps and adopt the proper procedure to get this question before the House in a proper manner. He thought the amendments made in this measure by the Council would make it fair, just, and right to the great body of people throughout the State, and the Assembly should have an opportunity of discussing them. He could not help thinking that the Government wished to avoid that discussion for some reason not apparent. We knew by the reports in the public Press that there was a very strong opinion in the Assembly that the proper course was not being pursued, and it was only justified on the ground of expediency, and the desire to get an opinion from the managers appointed before the Assembly had an opportunity, which should never be denied them, of discussing the question in all its bearings and arriving at conclusions thereon. He had not the slightest desire to embarrass the Government. He was rather anxious that the Bill should pass with the amendments which had been made by this House, and which would, in his opinion, improve the Bill very considerably. The Government should not take it that this House endeavoured in any way to direct their

policy or interfere with their taxation proposals. We knew that the government of the country must be carried on, and he was sure the House would assist the Government to the best of their power, but at the same time would exercise the right of criticising measures, and if the measures were not for the best interests of the community at large they would reject them.

HON. F. CONNOR: Nearly every member, he thought, had talked about discourtesy. Discourtesy had been shown to the Assembly, which had not yet had an opportunity of expressing their opinions on the amendments sent by the Council. It would have been much better if the Government of the day had allowed the popular House, called another place, to express an opinion and tell us whether we were right or wrong. Very few measures had had the consideration which this particular measure had received from this Chamber. It had been threshed out and there had been division after division. We had given our best time and attention to it, and the best of our ability, to make it so that it would be in the best interests of the country; yet we were asked to swallow all that we had done without the opinion of the people's House, the other place, being obtained. If there had been any discourtesy it had been on the part of the Government in asking that we should reconsider our decisions without those decisions having been discussed in the place where they were entitled to be discussed.

HON. J. W. LANGSFORD: One hesitated as to what was just exactly the method he ought to adopt, when experts on constitutional law so differed amongst themselves. He had always in life endeavoured, where he could not find the pathway made plain, to follow the lines which seemed to appeal to one's common every-day experience.

HON. G. RANDELL: The line of least resistance.

HON. W. LANGSFORD: Not always the line of least resistance. He had a recollection of a conference which was held between the two Chambers in, he thought, the first week he had the honour of being a member of the Council. There was a deadlock, and, as far as he could judge, each House had entrenched itself behind its irreducible minimum, and it was as a last resource that this conference was agreed to. If he recollected rightly the result of that conference was nil. From the words read to us by Mr. Kingsmill last night it appeared that conferences were held often as a last resource. If they were to be of any value, why should they not be adopted in the first resource before we had absolutely and irretrievably occupied a position. We had a request, which no member had said was unconstitutional, and he did not think that we should place ourselves in any danger if we acceded to it. His belief was that the amendments made by this House would have to be considered by the Assembly either before or after the conference. He did not know why this procedure had been adopted. This House would not be bound by anything the managers might do. Any report the managers had to make to this House must be fully considered. He did not take it that this was a reply to the amendments we had sent to the Assembly. The Assembly's reply in reference to those amendments must be considered by this House at a later stage. We should congratulate ourselves on the position the Assembly were taking up. It rested with the Assembly what should become of the Bill, and they were endeavouring, so far as he could judge, by means of a conference to meet the wishes of the Council. If this message was rejected absolutely, could we consider a similar message for a conference at any other stage this session?

THE CHAIRMAN thought so.

HON. J. W. LANGSFORD: In the same terms as this message?

THE CHAIRMAN: The form of the message to the Legislative Assembly would be variable at the will of the House.

HON. J. W. LANGSFORD: In matters of this kind, where constitutional authorities disagreed, he relied upon his own experience, and that was that it was best to meet those with whom he wished to confer, and not to do so as a last resource.

HON. C. SOMMERS saw no reason why a conference should be held. Members of the Assembly had had no opportunity of discussing the Council's amend-

ments. Had that opportunity been given, and possibly the Assembly disagreed to some of them, then it would be reasonable to ask for a free conference. A free conference was not binding, and it seemed a waste of time now.

HON. W. T. LOTON: This was not in his opinion a special Bill. Usually if we made amendments in a Money Bill we then put them in the form of suggestions and asked the Assembly to agree to them. In granting a conference we would create a most undesirable precedent. No instance had been quoted of a similar course being taken in any Parliament of Australia or England. There was no case of a conference being granted at this particular stage of a Bill. Why, therefore, should we agree to establish a precedent? What would be the position in the future? The Government, at any time, instead of having the Council's suggestions discussed in the Assembly, could ask for a conference. They could say, "This is rather a ticklish Bill, and probably we can get our way better by having a conference, instead of allowing members of the Assembly to discuss it first." The Standing Orders were clear in regard to this matter, that when a message from the Council containing amendments reached another place the Bill was considered; but in this instance the Bill had not been considered. The message was inaccurate in saying that the Bill had been considered. It seemed to him that the course taken on this occasion was an attempt to appoint a joint committee of both Houses after the Bill had been discussed in Committee. With all due deference to Dr. Hackett's knowledge of constitutional law, he was astonished that such a message should emanate from a Government in an Australian colony, to ask for a conference on a Bill at this stage.

Hon. R. F. SHOLL: If the course suggested by the Leader of the House were taken, it might be taken on any Bill. When we asked the concurrence of the Assembly in our amendments, it was usual for the Assembly to consider them and to agree or disagree to them; but this particular Bill was returned to the Assembly a fortnight ago, and was not considered in the Assembly until the Council declined to deal with the Land Tax Bill. Apparently the Government had some reason for not bringing the Assessment Bill before the Assembly prior to the discussion of the other Bill by this House. If a conference were allowed, the Government would be able to evade the discussion in the Assembly of the amendments suggested by the Council. He did not object to a conference, but the time had not arrived for a conference. There should first be free discussion in the Assembly with regard to the merits of the amendments. Then if the Assembly disagreed to our amendments, it was time to ask for a conference. That was the common-sense way of looking at it. He opposed the idea of holding a conference until the amendments requested by the Council had been discussed in the Assembly.

THE COLONIAL SECRETARY: There was no need to say any more on the constitutional aspect of this question, but the procedure, notwithstanding what Mr. Randell said, was in perfect order. That being so, it came back, as Mr. Sholl said, to common-sense. Some stress was laid on the want of courtesy exhibited to this House. No member was more anxious to uphold the privileges of the House. If he thought for one moment that we were giving away any of our privileges by agreeing to this motion, he would not ask the House to agree to it. Instead of want of courtesy, the Assembly had shown the greatest respect for this House by asking for a conference at this stage rather than by disagreeing to our suggestions and then asking for a conference. It was idle for members to shelter themselves behind the Standing Orders and to say they were in favour of the Bill but would not give it farther consideration by agreeing to a conference. What was to be lost by a conference? Talking the matter over among the managers of the two Houses did not bind the Houses in the least, but it would certainly tend to a better understanding. He was surprised at members here complaining that members of another place were treated with want of courtesy. It was amusing to hear members say that it was our duty to look after the privileges of another House. He had made the motion perfectly clear, and had quoted from Blackmore to show that it was on account of the Government being desirous of saving the Bill that the conference was

asked for. It was laid down by Blackmore that if the Assembly disagreed to all of the amendments made by the Council, and if the Council chose to insist on their amendments, then the Bill must be laid aside.

HON. M. L. MOSS: That did not bind us.

THE COLONIAL SECRETARY did not know whether that bound us, and the hon. member could not say until we had the ruling of the President; but we knew it was laid down on the highest constitutional authority in Australia, namely the clerk of the Commonwealth Parliament, Mr. Blackmore.

HON. M. L. MOSS: It did not matter what the President ruled, if it was disagreed to, the majority decided.

THE COLONIAL SECRETARY: That was tantamount to saying "We have a majority; if the President gives an adverse ruling, we can disagree with him."

HON. M. L. MOSS knew nothing about that. It was for the House to decide in the end.

THE COLONIAL SECRETARY: Could the Council justify themselves in the eyes of the people if they sent back a message to the Assembly and said: "You ask for a conference to talk it over with you, but we shall not meet you"?

HON. R. LAURIE: The debate had shown that the House now considered they had fixed this measure up in such a manner as would be acceptable to the House if it came back in the position in which it left us. That being the case, he failed to see where this House would be giving away much of its privileges or losing much of its dignity in allowing a number of managers from this House to meet a number of managers from the other place. That course appeared perfectly constitutional, and if adopted would perhaps create a better understanding between the two places. That had been sought from time to time, and it was one of the reasons why both Houses were sitting under one roof.

HON. J. M. DREW: Had it had that effect?

HON. R. LAURIE did not know that it had, but if the managers from this place could show the managers from another place that we had good and sufficient reasons for making this a measure which would be acceptable to the country and for the benefit of the country, we should be doing good work. If the views of the Council were not acceptable to the views of the other place, the measure would have to go back to the other place and be considered, and if the amendments were rejected the Bill would come back here, and he had not the slightest doubt from what he had heard this evening that the measure would be accepted by this House. He did not see why we should not have a conference first as well as last.

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

Ayes	...	...	9
Noes	...	...	11
Majority against		...	2

AYES.	NOES.
Hon. G. Bellingham	Hon. F. Connor
Hon. J. D. Connolly	Hon. V. Hamersley
Hon. J. T. Glowrey	Hon. S. J. Haynes
Hon. J. W. Hackett	Hon. W. T. Loton
Hon. R. Laurie	Hon. W. Maley
Hon. R. D. McKenzie	Hon. M. L. Moss
Hon. W. Patrick	Hon. G. Randell
Hon. C. A. Piesse	Hon. R. F. Sholl
Hon. J. W. Langsford (*Teller*).	Hon. J. A. Thomson
	Hon. J. W. Wright
	Hon. C. Sommers (*Teller*).

Question thus negatived.

The COLONIAL SECRETARY moved that the Chairman report that the Committee had considered the message and had decided not to agree to the request contained therein, and asked leave to sit again on the receipt of a farther message from the Legislative Assembly.

Resolution reported; the report adopted.

BILL—MUNICIPAL CORPORATIONS.

IN COMMITTEE.

Resumed from the previous day.

Clause 376—Manner of making up rate-book:

On motions by the Colonial Secretary, paragraph (*a*) was amended by striking out the words "or the capital unimproved value of," also the words "when the system of valuation on the capital unimproved value is adopted," these amendments being consequential.

Clause as amended agreed to.

Clause 377—agreed to.

Clause 378—Notice of valuation:

HON. R. D. McKENZIE moved an amendment—

That the word "and," in line 2, be struck out, and "or" be inserted in lieu.

The Kalgoorlie council pointed out that the clause would compel rate and valuation notices to be served on both owner and occupier. By the existing Act they could be served on either. The clause would increase and complicate the work. The Victorian Act provided for the alternative notice.

HON. M. L. MOSS: Though it would involve more work, this was an excellent alteration. In most cases the owner had to pay the rate, particularly for weekly and monthly tenancies; yet the tenant received the notice, of which the owner was not aware during the thirty days allowed for appealing. In Perth and Fremantle it was usual to serve notices on both owner and occupier.

HON. S. J. HAYNES: Certain tenants received notices and failed to pay the rates, which the council neglected to enforce; and one owner had thus been obliged to pay four years' rates which he had not known to be outstanding.

THE COLONIAL SECRETARY: Owners who paid rates were entitled to this protection. If the owner's name and address were unknown, the notice was addressed to "owner."

Amendment negatived, the clause passed.

Clause 379—agreed to.

Clause 380—(Alteration or amendment of rate) amended verbally.

Clause 381—agreed to.

Clause 382—(Council authorised to strike rates) amended consequentially.

Clauses 383, 4—agreed to.

Clause 385—Provision in case of newly-proclaimed municipalities:

THE COLONIAL SECRETARY moved an amendment—

That the words "from the date of the constitution of the municipality" be inserted after "year," in line 5 of Subclause 2.

The council might thus prepare a statement and estimate for the remaining period of the current financial year, from the date when the council was constituted.

Amendment passed; the clause as amended agreed to.

Clauses 386, 7, 8—agreed to.

Clause 389—Appeal to Local Court:

THE COLONIAL SECRETARY moved an amendment—

That the words "or nearest to" be inserted after "within," in the last line of Subclause 1.

In a municipality where a Local Court did not sit, an appeal would lie to the nearest Local Court.

Amendment passed; the clause as amended agreed to.

Clauses 390 to 395—agreed to.

At 6·30, the CHAIRMAN left the Chair.

At 7·30, Chair resumed.

Clauses 396 to 401—agreed to.

Clause 402—Discount on rates for prompt payment:

HON. J. W. LANGSFORD had intended to move that the clause be struck out, but he found that inasmuch as it required a by-law to be made, and left the matter in the hands of the Council, he would not do so. A book-keeping entry was necessary to make any slight reduction by way of discount, which more than counterbalanced any good result that would be effected by the discount.

Clause passed.

Clauses 403 to 421—agreed to.

Clause 422—The registration of purchaser:

THE COLONIAL SECRETARY moved an amendment—

That the words "whether executed before or after the commencement of this Act" be struck out, and the following inserted in lieu: "Or any certificate of sale and a copy of the order for such sale under Part XIX. of the Municipal Institutions Act 1900."

This was necessary to enable a transfer to be registered which had been executed under the present Act, for the Registrar of Titles now refused to register titles under the present law.

Amendment passed; the clause as amended agreed to.

Clause 423—Notice of sale of land to be given to council:

THE COLONIAL SECRETARY: This clause should be struck out, for Clause 502 made provision for the same thing.

Clause negatived.

Clause 424—Overdraft:

HON. J. W. LANGSFORD: The present Act restricted the council to an overdraft to the amount of one-third of the revenue. We should not increase the amount to one half. An overdraft could be obtained without reference to

the ratepayers, therefore practically it was a loan. He moved an amendment—

That in line six the words "one-half" be struck out and "one-third" inserted in lieu.

Amendment passed; the clause as amended agreed to.

Clauses 425 to 428—agreed to.

Clause 429 — Permanent works and undertakings:

THE COLONIAL SECRETARY: This clause gave municipal councils enlarged borrowing powers. Some members took exception to it on the second reading. A council could construct and purchase tramways, tramcars and motorcars, could improve endowment lands, and could construct a theatre or a grandstand.

Hon. G. RANDELL: Power to construct a theatre was given in a previous amending Act. It was no new feature.

On motion by the COLONIAL SECRETARY, clause amended by striking out the words in the proviso "and six" and inserting "six and seven," to read thus: "Provided that in respect of matters contained in Subsections 6 and 7 the consent of the Governor shall be first had and obtained."

Clause as amended agreed to.

Clauses 430 to 436—agreed to.

Clause 437—Power to demand vote of owners:

Amended on motion by the COLONIAL SECRETARY, by striking out the words "whose names are on the electoral roll," and inserting in lieu the words "owners of land situated within;" the reason for the amendment being that as none but owners were to be enabled to vote in cases of loan, this amendment enabled owners to demand a poll.

Clause as amended agreed to.

Clause 438.—Vote of owners, how taken:

Hon. J. W. LANGSFORD moved an amendment in Subclause 2, last line, that the following words be struck out: "every person entered on such roll shall have one vote and one vote only." As this could not be the intention, the words should be struck out.

Amendment passed; the clause as amended agreed to.

Clauses 439, 440—agreed to.

Clause 441—(When money borrowed, council to strike special rate),—amended consequentially by striking out all the words from "rateable land" in line 31 to the words "rateable land" in line 37.

Amendment passed; the clause as amended agreed to.

Clauses 442, 3—agreed to.

Clause 444—amended by inserting at the beginning the word "When," to read "When any municipality," etc.

Paragraph (*a*) struck out, namely the words "to be invested in the purchase of any such debentures, or"— This was now necessary as a new clause would be proposed later dealing with debentures.

Verbal amendment also made; the clause as amended agreed to.

Clause 445—Power to purchase debentures:

On motion by the COLONIAL SECRETARY, a new subclause inserted as follows:—

On the purchase of any such debentures, the same and all coupons bearing interest thereon shall be forthwith cancelled. It shall be the duty of the mayor and town clerk of the municipality to see that the same is done.

This provision would prevent any debentures from being reissued after having been purchased back by the council.

Clause as amended agreed to.

Clauses 446 to 460—agreed to.

Clause 461—Books to be entered up regularly:

Hon. G. RANDELL objected to the Minister being the authority to whom *laches* when committed should be reported. The proper authority was the mayor. He moved an amendment that the word "Minister" be struck out, with a view of inserting "mayor" in lieu.

THE COLONIAL SECRETARY: This was a good provision, because it would make the auditor more independent than if he had to be accountable to the mayor. It would be better to allow the clause to stand as printed.

Hon. G. RANDELL: This must be an oversight. Later in the clause it was provided that the Minister could appoint a special auditor. If the amendment were passed, the word "Minister" must be struck out of the latter part of the clause also, and "mayor" inserted in lieu.

Amendment passed; consequential amendment made, and the clause as amended agreed to.

Clauses 462, 3—agreed to.

Clause 464—Annual financial statement:

HON. J. W. LANGSFORD moved an amendment—

That in Subclause 1, line 4, the words, "and from the special rate (if any) struck," be struck out.

There was a tendency in some municipalities to mix up the ordinary revenue and special rates for loans. Subclause 4 provided that a statement be made showing the amount received from any special rate for loans. As there was no need for repetition, these words might be struck out of Subclause 1.

HON. W. T. LOTON: Subclause 1 dealt with a special rate by way of ordinary income, and Subclause 4 dealt with special rates for loans. These were distinct, and should be shown distinctly in the financial statement.

HON. G. RANDELL: Had any inconvenience arisen from the existing provision, which was the same as the wording in the clause?

HON. J. W. LANGSFORD: There were instances to his knowledge where it had been confusing to have the two things in the one statement.

The COLONIAL SECRETARY: The hon. member would defeat his object if the amendment were carried. The subclause already provided that the income from special rates and ordinary income should be shown separately.

Amendment negatived; clause agreed to as printed.

Clause 465—agreed to.

Clause 466—Power of council as to expending its income:

HON. G. RANDELL had intended to move to reduce the "three per cent." to "two per cent.," but he would like this matter of the three per cents. discussed in a fuller Committee.

Clause postponed.

Clauses 467 to 475—agreed to.

Clause 476—Officers of municipality to furnish particulars of moneys received—amended by inserting the words "auditors or" after "inspector."

Clause as amended agreed to.

Clauses 477 to 485—agreed to.

Clause 486—Notice of subdivision or transfer to be given:

HON. G. RANDELL moved an amendment—

That the words "and a-half" be struck out of Subclause 2, defining a right-of-way as ten and a-half feet, thus reducing it to ten.

Amendment passed.

On motion by the COLONIAL SECRETARY, Subclauses 3 and 4 struck out, having been inserted here in error and the same provision appearing in three separate portions of the Bill.

HON. G. RANDELL called attention to the amount of deposit which an appellant must make, £10 being too high a sum, as it might prevent an aggrieved ratepayer from appealing. He moved an amendment that the amount be reduced to five pounds.

Amendment passed; the clause as amended agreed to.

Clauses 487 to 496—agreed to.

Clause 497—Rate books to be evidence:

On motion by the COLONIAL SECRETARY, Subclause 2 struck out, the Parliamentary Draftsman finding it now unnecessary. This provision did not appear in a later revise of the Victorian Act from which this clause was copied.

Clause as amended agreed to.

Clauses 498 to 504—agreed to.

Clause 505—Power of entry by officers of council—amended verbally and agreed to.

Clauses 506 to 510—agreed to.

Clause 511—amended verbally.

Clause 512—Penalty for nonperformance of provisions of this Act—amended by inserting after "by-law" the word "regulation."

Clause as amended agreed to.

Clauses 513 to 519 (end of clauses)—agreed to.

HON. G. RANDELL (referring to Schedule 1): The existing Act contained paragraphs (*c*), (*e*), (*f*), and (*i*) of the second schedule of the Interpretation Act. Should these be added to this Bill?

THE COLONIAL SECRETARY would note the point.

Progress reported, and leave given to sit again.

ADJOURNMENT.

The House adjourned at 8·32 o'clock, until the next Tuesday.

Legislative Assembly,

Thursday, 15th November, 1906.

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

PRAYERS.

ELECTION RETURN, EAST FREMANTLE.

The CLERK announced the return of writ for election extraordinary at East Fremantle, showing that Mr. William Charles Angwin had been duly elected.

MR. ANGWIN took the oath and subscribed the roll.

PRIVILEGE—MR. SPEAKER'S REMARKS AS TO ALL-NIGHT SITTINGS.

MOTION OF CENSURE.

MR. T. H. BATH (Brown Hill): Before Notices are called for, I desire to bring up a matter of privilege, and I think this is the proper stage at which to introduce it. I will preface my remarks by reading a motion which I purpose moving at the termination of my remarks:—

> That Mr. Speaker having given utterance to the following words—"It would be out of place, holding the position I occupy, a neutral one, to make any comment farther than to say that I felt it incumbent on me to make this information known to the Assembly. It will perhaps be the means of calling the attention of the taxpayers of the country to the question whether they get full value for their money in oratorical effect or monetary value"—is guilty of a breach of the privileges of this House, and is deserving of censure.

I desire to say at the outset that I have looked up some decisions of a former Speaker, the late Sir James Lee Steere; and I notice on one occasion he said it was the duty of the Leader of the Government and the Leader of the Opposition to support the Honourable the Speaker in his position in the House. But seeing that the Speaker himself occupies the position of first gentleman in the land, a position higher than that of Leader of the Government or Leader of the Opposition, it is the primary duty of the Speaker to see that no reason is given to members of this House or to the leaders on either side to depart from their duty of upholding the Speaker's authority. I say the highest duty which you, sir, or anyone holding the position of Speaker, owes to this Assembly is to be ever watchful to defend the rights and privileges of members of this House, irrespective of which side of the House they occupy. In fact, it is the duty of a Speaker, when first elected at the beginning of a Parliament, when waiting on the representative of the Crown in this State, to request of His Excellency the Governor on behalf of the Crown that the rights and privileges of the House shall be continued to them, and that the most favourable construction shall be placed on their proceedings. In that same duty, almost the first duty which devolves upon the Speaker after his election, we see in what his primary duty consists—it is to act as a defender of the rights and privileges of the House; and we can have no greater exemplification of the responsibility attached to that position than the reply of a Speaker of the British House of Commons, the mother