Legislative Assembly,

Tuesday, 19th July, 1898.

Question: Private Contract for Public Work, and the conditions—Question: Geraldton-Cue Railway Service, Irregularity — Papers presented—Gold Mines Bill, second reading (moved)—Fire Brigades Bill, second reading; referred to Select Committee—Divorce Amendment and Extension Bill, second reading (debate resumed), and Amendment moved—Adjournment.

THE SPEAKER took the chair at 4.30 o'clock, p.m.

PRAYERS.

QUESTION: PRIVATE CONTRACT FOR PUBLIC WORK, AND CONDITIONS.

MR. VOSPER asked the Director of Public Works,—1, Whether the printed Government conditions of contract had been carried out in their entirety by such contractors who had carried out works for which public tenders were not invited. 2, Whether all such private contracts had been satisfactorily carried out. 3, If not, whether the bondsmen had forfeited the amount of their bonds. 4, Whether all the workmen engaged in such private contracts had been paid their wages in full. 5, Whether any complaint reached the Minister of non-payment of wages in connection with any of these contracts.

THE DIRECTOR OF PUBLIC WORKS (Hon. F. H. Piesse) replied,—1, Yes. 2, Yes. 3, The necessity for forfeiting amount of bonds has never arisen. 4, I am not aware of any case where they have not been paid in full. 5, No complaints have ever reached me.

QUESTION: GERALDTON-CUE RAILWAY SERVICE, IRREGULARITY.

MR. SIMPSON, for Mr. Wallace, asked the Commissioner for Railways,—1, Whether he was aware that the railway service between Geraldton and Cue was not maintaining schedule time. 2, If so, whether he would make inquiries as to the causes of delay at wayside stations, and on the road.

THE COMMISSIONER OF RAILWAYS (Hon. F. H. Piesse) replied: 1 and 2, I am aware of the irregular running of the trains on this line, and the matter has been taken up specially with the view to effecting an immediate improvement.

PAPERS PRESENTED.

By the MINISTER OF MINES: Return as to erection of public mining batteries, as ordered.

By the COMMISSIONER OF CROWN LANDS (per the Commissioner of Railways): Divisions of colony proposed under the Land Bill, revised plan; also, return showing unpaid rents on timber concessions, as ordered.

By the PREMIER: Statement showing comparison between the estimated and actual revenue and expenditure for 1897-8; also, similar statement as regards general Loan Fund.

Ordered to lie on the table.

GOLD MINES BILL.

SECOND READING (MOVED).

THE MINISTER OF MINES (Hon. H. B. Lefroy), in moving the second reading, said: For some considerable time, those engaged in the gold-mining industry in this colony have been anxious that the Government should propose new legislation on this subject. It is necessary to alter in some instances the Act as it now stands, and in other instances to modify the provisions. This Bill has been introduced with that object in view; and I look on it as a privilege that it has fallen to my lot to have the honour of introducing the Bill to the Assembly. The Bill, as hon. members notice, is stated as "An Act for the regulation of gold-mining," because it provides for gold-mining in every way, both on private and Crown lands, throughout the colony. The new title is given, so as to consolidate all the other Acts on the subject, which are hereby repealed—both the Act in regard to mining on the goldfields and the Act passed last session in regard to mining on private property. The Bill is divided into five parts for convenience. These parts are:—Part 1, Preliminary. Part 2, Mining on Crown land. Part 3, mining on private land. Part 4, Administration of justice, and Part 5, Miscellaneous provisions, common to all. No doubt

one of the most important interpretations set forth in the interpretation clause is that at the head of the list; the interpretation of the word "alluvial." I may inform hon. members that this interpretation has been derived from the labours and efforts of the Mining Commission. It was the interpretation adopted by that body, which comprised men practical in mining, from different parts of the colony. No doubt this matter will be discussed in Committee. It is not for me to say whether the interpretation is a happy one or otherwise, but the Government consider, at any rate, that the labours of the Mining Commission, which sat for such a length of time are worthy of every respect, and that their interpretation of the word "alluvial" should be embodied in the Bill, on presentation to the House. There are not many new definitions. The word "claim" in Part 2, that is the part relating to mining on Crown land, has an application different from "claim" in that part of the Bill dealing with private property. This clause also interprets the meaning of the word "owner," which is the interpretation contained in the Victorian statute of 1897. It also provides that "private land" shall mean any land alienated from the Crown, whether freehold of conditional purchase. Any land held under the provisions of Part 2 shall be deemed private land within the meaning of Part 3 of the Bill. No land leased on the goldfields shall be deemed to be private land for the purposes of the Bill. No man can apply for a parcel of leased land, as private land, although all the rights of a private owner have been granted to the lessee under Part 2, subject to the rights of the Crown. "Warden," it will be noticed, has this interpretation:

> "Warden," in part 3, means the warden of the goldfield in which the private land is situate, or, in case the land is not within a goldfield, the warden whose principal office is nearest in a direct line to the land in question, or the Under Secretary for Mines, who, and whose office in Perth, shall, for the purposes of part 3, be deemed a warden and a warden's court respectively.

That interpretation has been inserted because it is recognised that there may be some difficulty in dealing with private lands throughout the coastal districts. Any person wishing to buy a portion of land there would have to go to the warden on the nearest goldfield, which might be some distance off, and it has been thought wise to make the Under-Secretary for Mines a warden until a warden has been appointed for that particular district. The other clauses up to clause 7, are not new, but hon members will notice that in clause 7 the appointment of a new officer —new to this colony—is provided for; that is, the appointment of a ranger. It provides that:—

> The Governor in Council may from time to time appoint officers, to be called wardens, who shall have and exercise the jurisdiction hereinafter conferred upon them, and also registrars, surveyors, rangers, bailiffs, clerks, and other officers necessary to carry into effect the provisions of this Act.

The object is to appoint a person who will go round and see that the labour conditions on mines are being carried out; in fact, it will be work which the ordinary individual would probably not care to do. There are instances in which people occupying lands are not carrying out the provisions of the Act, and private individuals do not like to interfere with them; but these rangers will have distinct duties placed upon them. They will be inspectors, and see that the Act is carried out as far as possible.

MR. LEAKE: Are their duties defined by the Bill?

THE MINISTER OF MINES: No; by regulation. Part 2 of the Bill deals entirely with mining on Crown lands. The first clause (8) in this part deals with miners' rights, and the privileges conferred on miners by those rights. The same clause also provides for consolidated miners' rights to be granted to associations of persons; and this clause is slightly altered from the present law, being modified to a certain extent, and is virtually the same as the present Victorian Act. Clause 9 relates to the privileges conferred by a miner's right. No miner can be interfered with when prospecting on his prospecting area. The labour conditions in prospecting are defined later on, as one man for 12 acres for the first 12 months; and, after the first 12 months, the same as on a lease or claim. As soon as payable gold shall have been discovered, it will be necessary to report the same to the warden of the goldfield. If the discovery is outside a declared goldfield, the discoverer has the

privilege of reporting the discovery directly to the Under-Secretary of Mines. It is considered that in some instances, where gold might be discovered in new districts outside the present goldfields, it would be more convenient, instead of the discoverer going to the warden, the discoverer should come straight to Perth, and make his application to the Under-Secretary of Mines. The discoverer would then be on the spot to notify the Government of the new discovery, and, if necessary, a new goldfield might be proclaimed.

MR. VOSPER: The discovery could be telegraphed.

THE MINISTER OF MINES: Yes, of course. This clause also deals with prospecting reward claims, alluvial or otherwise. The holder of a prospecting area who shall report payable gold shall be allowed to apply for a reward claim, which shall be either called an alluvial or reefing reward claim. The labour conditions of these claims are provided for later on.

MR. GREGORY: What is the prospecting area?

THE MINISTER OF MINES: Twenty-four acres is the prospecting area. Any person who shall be the holder of a miner's right, or any person in conjunction with others who shall each be the owner of a miner's right may, under a consolidated miner's right take possession of as many leases as the regulations shall permit on Crown lands. They shall be allowed to take this land for several purposes, amongst these being the construction of new races, dams, and wells, and also the cutting and removing of timber, and further for residence or for business. The holders of such miner's right shall be entitled to take possession of land and occupy it only for the purpose of residence, subject to the approval of the warden as to locality, and they shall be allowed to take up only such of the surface of the land as shall be provided by the regulations. Under the present law, if a man takes up a quartz claim, he has the right to the alluvial. This Bill provides that, before the claim is registered, a man may object before the warden, who then, if he thinks fit, has the power to restrict the area of an alluvial claim; and then the objector shall have the right to take up the residue of that area. That is to say, when a man applies for a claim, an objection may be made before registration that the applicant should have an alluvial claim, but not a reefing claim; and the warden can then say to the applicant: "You must restrict your application to the size of an ordinary alluvial claim." The objector then has the prior right to take up the residue of the land around the alluvial claim as granted.

MR. VOSPER: Not the whole residue.

THE MINISTER OF MINES: Such proportion as he may be entitled to take up as an alluvial claim, but no more. Clause 11 provides for the privileges of registered claim-holders. After a claim has been registered it may be desired to divide it, encumber it, or assign it. A claim, as we know, is granted now under a miner's right, and it is provided in the Bill that if the holder wishes to encumber the claim, let it, sell it, or dispose of it, the party to whom he disposes of it must also have a miner's right. The money paid for a miner's right is the fee paid on the lease of the land from the Crown; and if anyone takes over a lease he must, through the miner's right, pay the same fee. The clause also provides that adjoining owners may amalgamate their claims, should they wish to do so, under one miner's right. Now we come to the labour conditions. It is provided that for every prospecting area from the third day after marking off, there shall be one man employed for every 12 acres, and for over 12 acres two men. I might mention before going further that this is a new departure, seeing that the labour conditions are now embodied in the Bill, and not contained in regulations. It is considered well to have these labour conditions distinctly laid down by Act, and I hope that members will approve of the provisions now submitted in this Bill by the Government. The clause goes on to provide in respect of ordinary alluvial claims for one man's ground up to eight men's ground, and to set forth that no claim shall be larger than 200 feet square.

MR. LEAKE: What does "70 feet square" mean?

THE MINISTER OF MINES: It does not mean 70 square feet, but 70 feet square, and I think members will under-

stand what that means perfectly well. The clause further provides for what may be called second-class alluvial land. By this is meant land that has been abandoned, and in such case a larger claim may be held by a miner. In fact, the Bill sets out that of abandoned land a miner may hold double the quantity that he would be entitled to in the case of new land. Now we come to the point in regard to deep leads. It is considered wise, where gold exists at considerable depth, to give a larger area to work on than where it exists at shallow depths. This has been rather a difficult problem to work out, but I think the intention will be clear. If you have half-a-dozen men taking claims up close together, they cannot be granted an extension after they get down, say, 130ft. or 70ft. But there may be the case of a man who goes on to a new alluvial find, and takes up a prospecting area. He may go down and find alluvial at a depth on that prospecting area; and he has a full right to work on that prospecting area in the first instance, no one else being allowed to come there. If that man finds gold after going down, say, 70ft., 100ft., 130ft., or 200ft., he will be allowed to take up on his prospecting area an alluvial claim as provided for that depth as laid down in the Bill. That is to say, that for every increase of depth he will be allowed a larger area to work on. If alluvial be found under 70ft., the holder of the claim will be allowed one man's ground. If it be 150ft., that also may be worked by one man, besides the ground allotted to one man under this Bill.

Mr. Vosper: He spreads as he sinks.

The MINISTER OF MINES: He spreads as he sinks, but if men have taken up their claims altogether, in the first instance, they cannot spread. The Bill provides that if a man takes up a prospecting area, and discovers gold at a depth, he gets a larger claim at the surface. That depth will be established as the depth of the alluvial in that particular line of country, and anyone coming in later will be allowed to take up an alluvial claim at that depth. Clause 13 applies to claims which shall be deemed to have been abandoned, and any prospecting area or claim which shall be unoccupied without lawful exemption shall be deemed to be abandoned, subject entirely, however, to the rights of the previous occupant if he can prove any rights. The fact of the land being abandoned without exemption will, at any rate, make it under this Bill abandoned ground, unless the previous occupant can come forward in some way and prove that the ground is not abandoned.

Mr. Gregory: When is ground sufficiently worked?

The MINISTER OF MINES: When it is sufficiently worked under the Bill, and when the labour conditions are fulfilled. Only custom seems to have provided that three days' grace shall be given. There is nothing laid down either in the Mining Regulations or in the Act allowing a man to be absent for three days. If he is absent he is really liable, even under the present law. It has been a custom, though not a written one, to allow three days' protection in these cases, and the custom has en established here for some considerable time; but I cannot find any record of it. This clause is taken from the Victorian Act. If a man had any machinery on his land, it would not be looked upon as abandoned ground; at any rate, it would not be so considered straight away. Exemptions may be granted under this Bill by the warden for six months, on any claim or authorised holding. The grounds for exemption from labour are much the same as now. One or two provisions are new. It is provided that, before a man can get an exemption, he must do certain things. No exemption can be granted on the ground of scarcity of labour until the applicant has advertised three times. He has to post up a notice at the warden's office, and to forward a copy of this notice to the nearest labour organisation. That is to enable men, if there are any about, to go on the work. A man is not allowed to obtain exemption for want of labour unless he can distinctly prove that he cannot get the men to do the labour. He must be able to satisfy both the Court and the public that he is not able to get the men, or else he cannot claim exemption on that ground. This is also new. Before hearing any application the warden or registrar may grant interim protection for a fortnight for a fee of 10s. That is not provided in the present Act.

A MEMBER: A very useful provision.

THE MINISTER OF MINES: This has been done under the present Act in certain cases. The existing law does not distinctly lay down that this shall be done, but the omission is rectified in the present Bill. I think it is a very wise and a very useful provision. [SEVERAL MEMBERS: Yes.] Any person may also appear on the hearing of an application for exemption and give evidence in opposition to the granting thereof. That does not appear in our present Act, though it has been a common practice.

A MEMBER: Without notice?

THE MINISTER OF MINES: Yes Any person may give evidence opposing the grant. That is to give the public every opportunity of saying whether the exemption is fair and equitable or not. Clause 16 provides for claims under public roads. On permission from a public body, a miner may drive at a certain depth under a road within any municipality, and under any roads controlled by any public body. This, however, must be done without injuring the adjoining property, and without detriment to the public street; and the depth at which this sinking shall be carried on shall be provided for.

A MEMBER: Is it not provided for now?

THE MINISTER OF MINES: I think it is. We now come to the question of business licenses. These rights are almost similar to those held under a miner's right, except that a business license permits a man to occupy a piece of land not more than an acre in extent for the purpose of carrying on certain business. The Bill provides, as does the present Act, that no business license shall be issued to or held by any Asiatic or African alien, nor by any Asiatic or African claiming to be a British subject, without the authority of the Minister first obtained. There is some little alteration with respect to those who are to grant the licenses. Wardens, and such other persons as may be appointed, may be authorised by the Minister to do so. At present these licenses are granted by the warden. The holder of a business license can occupy on any goldfield, subject to the approval of the warden as to locality, any piece of unoccupied Crown land not exceeding one acre in extent. The object of this Bill is to confer upon the holder of a miner's right or business license the right and title to occupy a piece of land. The holder of such a right or license can occupy any piece of land; but the warden must approve of the locality. Hon. members know it is not wise to grant business licenses adjoining a town site. It only creates a great deal of friction at times; and consequently the warden will come in here and decide as to the locality. He will mark out a line within which business licenses may be granted. Business licenses may be transferred as at the present time. Now we come to the rights given to these people—that is, to the holders of miner's rights and business licenses. No person shall be entitled to institute any proceeding in any court without a right or license in his hands. That is the present law. It will be noted here that any worker for wages only need not be the holder of a miner's right for the purpose of registering any lien in respect thereof. That is a new clause. The Bill also provides that no person shall be entitled to hold any land as a residence area, for the carrying on of business, unless it shall have been registered in the manner prescribed by the regulations. Land must be registered before you can occupy it; also no person is allowed to hold more than one residence or business area. If a miner occupies a residence or business area, and does not continue to hold his miner's right or business license, the area granted to him can be cancelled. It is held under the miner's right; therefore, when the right is not continued to be held, the land becomes liable to forfeiture. If a man sells his area, the person to whom he sells must take up a miner's right or a business license, and he can retain possession of the land so long as he holds the right. There is power given to transfer; but the transferee must hold a miner's right or a business license. Clause 26 provides that if, four months from the registration, no habitable dwelling shall have been erected on one of these areas, the warden may make an order that the registration of such area be cancelled. If cancelled, no second registration shall be effected by the same person of the whole or any part of a residence or business area within a period of six months. This clause

really provides for what is called the "jumping" of business areas or residence areas. I do not know that it is a bad principle altogether to allow jumping, for I think it is only right that, if a person does not carry out the conditions under which he holds certain land, some other person or persons should be allowed to go in and do so. I do not know that the mining community love the jumper; but the term is one of opprobrium as commonly used, although jumping is often done in good faith.

MR. MITCHELL: Very often they are friendly jumps.

THE MINISTER OF MINES: These provisions with regard to miners' residence areas and business licenses are derived chiefly from the Victorian Act, and in that colony there has been a large experience in the working of these provisions, which, I think, are excellent in every way. It is also provided that a man who takes up a residence area shall have the right to hold that residence area as long as he holds a miner's right. This is a new departure in this colony, and I think it is a good one. The miner takes out a license for a residence area; and as he goes into the back-country to help in developing the mining industry, I think he does that just as much as does the man who goes with a pick and shovel to take out the gold. One class cannot get on without the other class. Clause 30 and following clauses give to a man holding a miner's right the right to take up a residence area on Crown land; that is to say, not within a declared townsite, but on Crown land only; and if that Crown land is afterwards declared a townsite, the holder of the license will still maintain his right. He may continue to enjoy it as long as he lives and holds the miner's right; and he may leave it to those who succeed him under the same conditions. No one will be allowed to buy the leased area over his head; and clause 31 gives to him the right, if he chooses, after having occupied it two and a half years, to apply to the Minister or the Governor to be allowed to purchase the fee-simple. The land is then to be appraised by the Minister or warden, or other person appointed for the purpose; and if the holder of the residence area objects to the valuation put on it, saying it is too much, and that he will not accept the land at the price, then he may continue to hold the residence area under his miner's right. Many men like to get the fee-simple of a piece of ground, because they can deal with it in a different manner as compared with land which is leased. It is not proposed to put up the residence area to auction, in the case of an application being made to purchase it by the actual occupier, nor can the Commissioner of Crown Lands put a price on it; but the clause simply empowers the holder to keep on holding it under his miner's right, and he may build large premises on it, and may sell the property, or leave it to his children, under the conditions of his miner's right; but, as I have said, if he chooses to get the fee-simple, he is allowed the option of doing so in the manner I have stated. This is a new departure in this colony.

MR. ILLINGWORTH: It is old elsewhere.

THE MINISTER OF MINES: It is a new departure here, and I think it is a just one. This provision is put in the Bill with the object of benefiting miners on the goldfields, and giving them every help which the Government can give in making homes for themselves. It also provides that, while the miner is to have the exclusive privilege of purchasing the fee-simple in this manner, yet he is not obliged to pay for it straight away, but the payment can be spread over ten annual instalments. That is a consideration in his favour. Clause 33 provides that only after the residence area has been occupied twelve months can the holder let or sell his interest in it. The clause does not proveide that a man may let his interest straight away, but before he can do so he must have been holding the land twelve months. After that period of occupation, he is to have the power to sell or transfer his right; and clause 35 provides that such sale or transfer shall be void until it has been registered in the manner prescribed. Then in case of the death of the holder of a residence area—though he may not have resided on it for 12 months at the time of his death—his executors will have the right to sell or to let the interest in the residence area. It appears desirable that where the holder of a residence area dies, and leaves a wife

and family, there should be a provision by which the executors may let or sell the interest which has been left. There are certain lands exempted under this part of the Bill; for instance, lands dedicated to any public purpose, lands reserved by the Governor, lands used as a yard, garden, cultivated field, or orchard, or land on which any outhouse or other building has been erected, or any dam or reservoir has been made. All these are to be exempted from occupation for mining purposes. Provision is made for subterranean mining under residence areas, or under gardens or buildings. The Governor is also empowered to exempt from occupation any specific portion of Crown land he may think proper to exempt. Certain rights of that sort must be provided, and of course it will only be under very peculiar circumstances that they will be exercised. The following clauses in the Bill from this point to the end of Clause 44 are the same as in the present Act, with very little alteration. Clause 43 provides for the renewal of a miner's right or business license being granted, if applied for within seven days after the expiration of the previous right or license, provided the applicant pays a penalty of five shillings in the case of a miner's right which has lapsed, and twenty shillings in the case of a business license which has lapsed. Of course a person must take out a miner's right or business license, which lasts only 12 months, and the holders are allowed seven days after the expiration of the 12 months to apply for renewal, if they think fit, and subject to a fine. Incorporated companies may apply for miner's rights, and these companies must register in the district. Coming next to provisions relating to the leasing of land, this question has received a large amount of consideration, and I think the clauses here dealing with the leasing of land are made as fair and equitable as it is possible to do. With regard to a leasehold, where the Crown once grants a lease I think that lease ought to be as absolute as possible. When once the Crown has granted a lease, the Crown ought to see that the lease is a good one, and the utmost care should be exercised so that the lease may not be granted until it is known that the alluvial is worked out of the land. That is what this Bill provides for. It provides that every opportunity shall be given for the working out of the alluvial before the land can be leased; and where it is proved that no alluvial exists, or that the alluvial has been worked out, then a lease may be granted, and that lease is made absolute.

MR. ILLINGWORTH: Suppose alluvial is found after that?

THE MINISTER OF MINES: Any alluvial found afterwards will fall to the lessee, and I think it is only right that this should be so.

MR. SIMPSON: Do you make alluvial conditions in case alluvial is found?

THE MINISTER OF MINES: No. Once a lease is granted, then the holder of that lease becomes entitled to all the gold, no matter of what kind, that may be found within the leased area. Leases may be granted for various things; firstly, for mining purposes, and this part of the Bill does not require that a man applying for a lease shall necessarily hold a miner's right. The leaseholder is to pay so much a year for his lease, and that is a rental he pays to the Crown; so that he pays for his land just the same as a miner pays through his miner's right. It is not necessary for a person holding a lease, or applying for a lease, to hold a miner's right. I do not think we need deal with the question of leasing land for other purposes than mining at the present time; but there are certain lands exempted from leasing, namely, lands dedicated to any public purpose, lands temporarily reserved by the warden in the manner prescribed by the regulations, lands reserved by the Governor-in-Council for alluvial mining, and lands lawfully occupied by the holder of a miner's right or business license. As to residence areas and business licenses, the Crown having leased that ground under a miner's right does not propose to touch it, so long as it is held in that way. The Crown may grant a lease of land only if it is Crown land, and the application for a lease shall be made to the warden in the way provided in the Bill. A person also may apply, in the first instance, for an interim lease for a year; and it is provided in clause 52 that in no case shall the warden recommend the

granting of a lease for a year, unless the existence, upon the land applied for, of a seam, lode, dyke, or quartz reef or vein, shall have been proved to his satisfaction.

MR. ILLINGWORTH: Tell us what is a seam or a dyke?

THE MINISTER OF MINES: When we get into Committee, I will try to answer any questions asked me; and as I expect the hon. member considers he knows better than I do, it would be no use for me now to give him such information. The Bill provides that "alluvial shall be all gold except such as is found in a seam, lode, dyke, or quartz reef or vein." Therefore it is necessary to provide that no lease shall be given of land for mining, except where there is a seam, lode, dyke, or quartz reef or vein in it. I think I understand what the meaning of these terms is, almost as well as the member for Central Murchison. We can get all these definitions from geological works, if we want them. As I have said, there is a provision that an interim lease may be granted for a year, and at any time during the term of the year for which the interim lease has been granted the lessee may apply for an ordinary lease. Without going into the details of this part of the Bill, I may state that the provisions sought to be laid down here are that, before an application is made for a lease, a person has to prove the existence of a lode; that the warden has to be satisfied there is no alluvial on the land; and that as there may be no alluvial, but may probably be a reef at a depth, therefore the person may be given an interim lease for a year to enable him to discover and sink for a reef. Directly he discovers the reef, he can apply for a lease of the ground for mining.

MR. ILLINGWORTH: And he can take up 24 acres of alluvial ground too.

THE MINISTER OF MINES: Every provision is made for the working of the alluvial, and there is every opportunity provided for objecting. It is provided that these matters shall be heard before the warden, and every ventilation is given. An interim lease gives power to do nothing. The clause also provides that if a person takes up a lease, and there is alluvial upon it, he shall have the right to occupy the reefing portion of the ground, and the alluvial men shall be allowed to take off the alluvial; then, as soon as the alluvial is gone, a lease of the land shall be granted to the first applicant. I do not think a lease is much good to a man unless he knows that there is a reef on the land. This clause will stop the taking up of a lot of salt-bush country, and the floating of it as gold-mines. That has not done much good to the colony in the past. Underground leases may be granted, and they may be limited to such a depth as the Governor-in-Council may think fit. The clause provides for underground leasing as well as surface leasing. The labour conditions which will be noticed here in clause 60, are as they at present exist, one man to every six acres or fraction thereof.

Provided where the land applied for shall not previously have been wholly or in part the subject of any prospecting area, claim, lease, or application for lease, or have been the subject of any prospecting or claim, lease, or application for lease, shall have been abandoned for twelve months and not re-taken by two men for any area up to 24 acres shall suffice for the first twelve months.

Provided it is new land, or abandoned land, for the first twelve months, two men are sufficient for 24 acres. And the same provisions come in here as in regard to claims. If the land within the lease is not worked according to the regulations, on every working day except a public or bank holiday or during any period of exemption, the lease is liable to forfeiture. No specific time is laid down. Every lease granted under this part of the Act in regard to leasing of Crown lands will have a proviso that if the lessee shall fail to observe and perform the provisions and conditions of the lease or use the land *bona fide* for the purpose for which it shall have been granted, the lease shall become voidable. I might mention here, before going further, that we have provided in this Bill that any person may, with the consent of the Minister, permit a church, school, or hospital, or mechanics' institute, to be erected on certain leased land. A leaseholder may wish, where there are a large number of men working on a lease, to put up a room where the men might have books to read, and so forth. That could scarcely be called "mining purposes," but the Bill empowers that to be

done. Restrictions and relief against forfeiture are provided in clause 62. Notwithstanding the provisions contained in this part of the Bill, the forfeiture of a lease or forfeiture of any application for a lease shall not be made until notice has been given to the lessee or the applicant specifying the breach complained of; and, a notice being given, he may apply to the warden for relief. The warden may grant or refuse the relief as he may think fit. This will not extend to the labour conditions. There is no relief from the labour conditions; but from any other conditions under the Bill, for which the land may be forfeitable, a man can apply and obtain relief. Clause 63 is a new clause, and provides that if a certain amount of money has been spent upon a lease, the lessee shall have the power to demand exemption. He need not apply for it, but he can demand it. He shall be granted by the Minister for the purposes hereafter stated, certain exemption. If he has spent £5,000 on an area of 24 acres he shall be granted three months' exemption; if he has spent £10,000 he shall be granted six months' exemption; if he has spent £15,000 he shall be granted nine months' exemption; and if he has spent £20,000 he shall be granted 12 months' exemption.

MR. GREGORY: Does that mean the money is to be spent in office expenses?

MR. LEAKE: The provision is not imperative.

THE MINISTER OF MINES: The clause provides that the money must be spent in labour, machinery, and the development of the mine generally, on the spot; and where a company has spent large sums of money in this way, I think that company should be entitled to exemption, if it can be shown that the amount of work has actually been done on the mine.

MR. VOSPER: And if there is any dispute as to the amount spent, will an assessor settle it?

THE MINISTER OF MINES: The warden will have to settle it.

MR. VOSPER: With an assessor?

THE MINISTER OF MINES: I do not know that it would be necessary to call in an assessor on that point, but in an application for lease the applicant can call in an assessor if he likes. I think a question of this sort will be very easily settled.

MR. GREGORY: The application should be made in open court, though.

THE MINISTER OF MINES: The other grounds for exemption are the same as those provided in clause 15 in regard to the exemption on claims. Provision is also made in this Bill for the warden to grant exemption for one month, but all exemptions over that period must be granted by the Minister, just as is the case now. If the application for exemption is for a longer period than a month, the applicant can ask for, and the warden can give, an interim exemption for one calendar month, pending the decision of the Minister. "Pending the application or hearing of the application, one month's protection can be granted." The notice of the application is to be posted up, and the fact must be advertised in the newspapers, and the labour organisation in the locality be notified. Clause 65 refers to the penalty for the non-working of the land. This clause is to a certain extent the same as is at present in force, but there is a provision that for a first offence a fine may be inflicted. The lessee comes in as a first offender. The lessee can be fined, instead of having his lease forfeited. Every leaseholder may be allowed one breach under the Bill, instead of having the lease forfeited. Clause 66 is a new provision dealing with the right of a new lessee, after a certain time, to purchase the plant, etc., of voided leases. This clause is taken from the Victorian Act passed only last year, and I think it will be found a useful provision. In the event of a lease being declared void, any person who is granted the lease shall be entitled, after the expiration of the time fixed by the Governor in Council for the removal of the plant, to purchase at a valuation the whole or any portion of such plant not removed. The lessee may accept the price for it, or the matter may be submitted to arbitration.

MR. ILLINGWORTH: Compulsory sale.

THE MINISTER OF MINES: If the former lessee refuse to accept the price, it will have to be submitted to arbitration, and by that arbitration he is bound to abide.

MR. VOSPER: The former lessee has the right of removal in the first place?

THE MINISTER OF MINES: Certainly. He can take the plant away within a certain time, and if he wishes to have it valued, the new lessee is not allowed to go in and fix any price he likes. If the plant be no good, the arbitrator will put a very small price upon it, and it is very likely plant so left will be no good at all. Clause 67 deals with the removal of plant by the lessee within a fixed time, which is not less than three months. If the plant be not removed within that period, it may be sold by auction and the proceeds given to the former lessee. It will be seen that a limit of this sort must be provided, and the plant may go to the former lessee or may be left on the lease and rent paid to him by the subsequent occupier, if they like to decide between themselves that that shall be done. There is every provision to protect property under this clause, which I think ought to work well. According to clause 68, an application for a lease will not affect land by virtue of a miner's right; that is to say, if a claimholder apply for a lease, the refusal shall not affect the claim. When a lease shall be applied for of land held under a miner's right, the interest shall, by virtue of the miner's right, be in no way affected in case of abandonment or failure of such application; and, if such application be granted, the miner's right shall merge in the lease. Members will, I think, regard that as a good provision. Clause 69 deals with the amalgamation of leases, and this provision has been inserted on the recommendation of the Mining Commission to allow persons to amalgamate up to 96 acres.

MR. MORAN: Was that a unanimous recommendation by the Commission?

THE MINISTER OF MINES: I could not say for certain whether the recommendation was unanimous, but the provision was recommended in the report of that Commission. Under section 43 of the present Act, amalgamation is only allowed up to 24 acres, or the size of an ordinary lease. Clause 74 provides that, as at present, it shall not be necessary for an applicant for a lease, or a lessee, or for a transferee of a lease or any share or interest therein, to be a holder of a miner's right. The working man need not hold a miner's right, as laid down in the Bill.

A MEMBER: What about clause 73?

THE MINISTER OF MINES: Clause 73 is the present law exactly, and does not make it obligatory on the Crown to grant a lease. Clause 76 is a new clause, providing for entry for alluvial upon leases granted under the present Act.

MR. ILLINGWORTH: Within 50 feet?

THE MINISTER OF MINES: Within 50 feet. Section 36 of the present Act provides that a person may go on a lease and search for alluvial within 50 feet of a reef. Regulation 103, which was passed on 2nd April, provides also that a miner who enters upon such a lease shall do so without interference with the *bona-fide* operations and working of the lease, or with the buildings or shafts reasonably required by the lessee, and that any dispute or difference relating thereto shall be determined by the warden. All that is embodied in the Bill. Section 36 of the Act is embodied here with the regulations, and an alluvial miner is entitled to go within 50 feet of a reef, but, as now, is not allowed to interfere with the *bona fide* working of the lease. This is in relation to leases taken up under the Act of 1895.

MR. MORAN: Present leases?

THE MINISTER OF MINES: This only applies under the Act of 1895, but not prior. A lessee may apply that the lease may be subject to that entry; but there must be rigid examination, and so forth, the same as in an application for a lease under this Bill. If the present owner of a lease under the Act of 1895 come in and satisfy the warden in open court, before assessors, that there is no alluvial on the ground, or never has been, he may be allowed under this Bill to have all the privileges conferred on a leaseholder, and I think that is a very fair provision. When a lessee feels that another person can come in and occupy a part of his lease, even though it is perfectly well known there is no alluvial on the ground, there is a certain insecurity of tenure. Every Englishman likes to feel his tenure is secure, and that he has a full right and title to all that is on the land he occupies. It is, therefore, provided in the Bill that if a leaseholder shall show to the warden, after a most

rigid inquiry, in open court, that no alluvial exists on the ground, he may, after 12 months, be entitled to claim a new lease under the provisions of the Bill, entitling him to everything he finds within the four corners of his lease. I think a great many leaseholders will be very glad to take advantage of this provision. Owners of mines who live at a distance and do not understand the laws of the country, and the way in which they are worked, would have more confidence if they felt that their lease could not be touched or voided by any outside person. There would, as I have indicated, be a most rigid inquiry, and everything necessary is provided here—at any rate, I hope so. Hon. members will, I hope, discuss quietly and calmly all these matters when in Committee, and I shall only be too happy to meet them in every possible way, if it is felt by the Government that that can be done. The next clause deals with the provisions relating to leases, claims and authorised holdings, common to all, and here we have a new provision for local registration. Clause 77 provides that there shall be local registration, and a duplicate of every local registration of a lease is to be sent to the Department of Mines in Perth. A local record shall be kept on every goldfield of every lease, claim or authorised holding. I do not know whether it would suit the goldfields people, but possibly it would be just as well if the warden's office was made the court of registration, instead of allowing the different registrars' courts in the smaller districts to be courts of registration as well under this clause. These registrations will have to be made very carefully. This, I believe, was recommended by the Victorian Commission on Mining, and I hope members for the goldfields will assist me on this point. The greatest care will have to be exercised in these matters, of which we want tip-top efficient officers to take charge. Clause 80 is something new. It provides that no person shall enter on enclosed land held for pastoral purposes unless seven days' notice has been given in writing to the lessee or licensee. It is only right that the manager or owner should know that these people are going on his land. The clause also provides that the exercise of the privileges conferred by the Bill over any such enclosed land shall be subject to such regulations as may be prescribed to protect the improvements made by the lessee or licensee, and to secure him compensation for any injury to the same. Clause 83 provides that a lien for wages shall be reduced to one month instead of being for three months, as now. This clause has been remodelled to a certain extent on the recommendation of the Mining Commission, and I hope it will be approved of. The next clause deals with caveats. It applies to all leases, and authorised holdings, and claims, etc. There is nothing more of importance in this part of the Bill. The next thing we come to is mining on private property. This portion of the Bill has been drafted on the recommendation of the Mining Commission, and I think it will meet with the approval of hon. members. It has been considered advisable to adopt the Victorian laws as they at present stand. They have been brought pretty fully up to date, and we have endeavoured to frame the clauses from the Victorian Act in such a way that they will meet the requirements of this country as far as possible.

MR. ILLINGWORTH: Is this part of the Bill copied from the Victorian Act?

THE MINISTER OF MINES: Not altogether. The clauses have been well considered, and where necessary alterations have been made. This portion of the Bill starts by providing that "All gold, until lawfully acquired under the provisions of this Act, whether on or below the surface of all land whatsoever in Western Australia, whether alienated or not alienated from the Crown, and if alienated whensoever alienated, is and shall be and remain the property of the Crown." The sole right is reserved to the Crown to all land held by individuals, so that it can be mined for gold. I do not think it is generally known: perhaps a great many people do not look at their titles, or consider them sufficiently, but if they did they would find words reserving to the Crown the right at all times to search and carry away gold. The Crown has that right, and under this Bill it is proposed to exercise it. Clauses 92 and 93 are what may be called purely saving clauses. That is to say, they protect the

owner of private property. His interests are protected by these clauses in every possible way. No lease shall be granted of any mines under a privately-owned garden, orchard, or vineyard, without the authority of the owner, or unless leasing is limited to 100 feet below the surface. The Bill also provides that no mining lease shall be granted without the authority of the owner in any township or municipality, unless the depth is limited to 200 feet. If the owner agrees to the applicant coming in and sinking on that ground, he can do so; but, if he declines, the Bill allows the applicant to apply for a lease of 200 feet below the surface. In Victoria it is allowed to a depth of 400 feet. However, these are details which hon. members will no doubt discuss in Committee, and I shall be glad to have the benefit of the knowledge and experience of hon. members from all parts of the House on this question, because it is one that affects, not so much the people on the goldfields, as the owners of private property on the coast. No mineral land on the goldfields is private property. The time is not far distant, I hope, when it will be necessary to mine in our large goldfields towns, and this Bill will come in most usefully then. The Bill also provides that no one shall be allowed to mine under any private land, on which any hospital, asylum, or public building is situated, or under or within 150 yards laterally of any natural or artificial reservoir, or any waterworks, unless either the consent of the owners or trustees has been obtained, or unless the lease is limited to 200 feet. With regard to compensation, if the parties have agreed to compensation there will be no necessity to call upon them to settle, but, if they do not agree, compensation will be awarded in the manner laid down by the Bill. Protection is also given to private owners, who are allowed to inspect the works and examine how deep the men are sinking.

MR. VOSPER: Can they take an inspector with them?

THE MINISTER: Yes.

At 6.30 p.m., the SPEAKER left the chair.

At 7.30 the SPEAKER resumed the chair.

THE MINISTER OF MINES (resuming): I have already dealt with the rights of the Crown over all gold on private land, and also with the saving clauses of the Bill for the protection of the owners of private land. I now propose to enter upon that part of the Bill, commencing with clause 94, which deals with the entry upon and marking out of any private land. No person can, under this Bill, enter upon or mark out any land without the authority of a warden, a mining registrar, or a resident magistrate, An applicant, before getting a certificate entitling him to enter upon private land, must make a declaration under clause 94, to the effect that he believes the land which he wishes to enter upon to be auriferous; and it is further provided that, before he enters upon the land for the purpose of mining, compensation for the surface loss must be paid or else agreed upon. It is not necessary to have a miner's right to take up a lease under this part of the Bill; but it is necessary for a person who wishes to take up a claim or any other authorised holding to hold a miner's right, just as it is necessary under the previous parts of this Bill dealing with Crown land only. The Bill provides that no person can enter upon private land promiscuously, and at his own sweet will. He has to get official authority to do so, and having got it, he has a right to peg out and mark a claim, prospecting area, or lease—any sort of holding which he is entitled to take up or occupy on Crown land; but, after this pegging-out has taken place, he has no right to mine for gold until compensation has been paid to the owner of the land. Compensation must be paid; and is payable only for the surface right of the owner of the land. That surface right, and the compensation, shall only affect the compensation natural to surface rights, or compensation for severance of the piece of property that may be required from any other private property adjoining. There may be some compensation necessary for severance, as the outside property may possibly be injured by the severance of the part applied for under this Bill; therefore, a certain amount of compensation must be allowed. That is really one of the chief points of this Bill, that it gives the full right to enter upon private land, with the permission of certain officials, and upon making a certain declara-

tion; but, before any mining takes place, compensation must be paid. If the owner of the land is absent from the colony, or is not to be found, the compensation is assessed, and the money is to be held in trust for the absentee; or, if that person be dead, it is to be held in trust by the Minister for the executors or trustees of the deceased. Of course, power is given for the party applying and the owner of the private property to agree as to compensation. If they do agree as to the amount to be paid, there is no necessity to go into court, except for the purpose of registering the matter; or, on the other hand, if a private owner wishes to use his own land for mining purposes, although he has no right or title to the gold, and if he wishes to mine, or rather to take away the gold out of that land, he must also apply in the same way as a private individual must do under this Bill; but, of course, there can then be no question of compensation. The application will be made in the ordinary way, and there will be no necessity to assess any compensation; but, once the land has been granted to him as a lease or a claim under this Bill, he will have all the responsibilities that are incumbent upon any person who occupies a claim or lease under that portion of the Bill which provides for gold-mining on Crown lands.

MR. VOSPER: How would it be, in the event of an outsider claiming the gold, and the owner claiming the right to mine for that gold?

THE MINISTER OF MINES: The first person who applies has the right to the land, just in the same way as the first person who applies for a lease of Crown land. If the owner himself is the first person to peg out and say, "I wish to mine on this land," he has the first right under the Bill, just in the same way as an ordinary individual. The owner can get a right to prospect and take up a claim, the same as any ordinary individual can do. He has to make a statutory declaration that he believes there is gold in the land. There is nothing to prevent a private individual going to work on the land and prospecting there, but the private owner has distinctly an advantage over the ordinary individual, naturally. He has the right to dig as deep as he likes, but when he brings the gold to the surface he has no further right to it. He has no right to take it away, or to make further use of it, as the gold belongs to the Crown. The owner of private property, if he thinks fit, can sink on his own land without taking up a lease or a claim; but he has no right to the gold when he finds it, and, moreover, if he does sink for gold and somebody else becomes acquainted with the fact, and believes it is likely that he will come upon gold, that other person can apply for the land. In the case of a private individual wishing to mine on the land, he must first take up a lease or claim under the Bill, or he would have no protection whatever. The compensation, as I before stated, is only calculated upon the amount of lease of surface, or severance. If a person takes up land for mining, and pays compensation, and then abandons it, in the case of the next applicant compensation will not be required, because compensation has already been paid. That is to say, if one person takes up a piece of land under this portion of the Bill and abandons it, and another person comes along and applies for that land which has been abandoned or forfeited, it is not necessary for the second person to pay compensation again. The owner has already received compensation, therefore it is not right to give him power to enforce further compensation, because he has already been paid it by the first applicant. As I have already stated, a lease can be granted, and the purchase money or compensation must be paid before the owner must consent, except in the case of the applicant of the land being the owner of the land himself. The Bill provides further that a man may take up a prospecting area. As I have explained, this part of the Bill dealing with private property entitles anyone to come in and take possession of the same amount of land as he is entitled to take under the previous portion of the Bill dealing with Crown lands; consequently, if a person likes to take up a prospecting area of 24 acres he can, as provided by clause 100, pay compensation on six acres only of the surface, with the right to mine on the 24 acres. I will explain it further. A man takes up a lease, or prospecting area of 24 acres; then he says, "I only wish to

occupy six acres," and he pays compensation for those six acres. The owner of the land has the right to make use of the remaining portion of the 24 acres if he likes. The applicant only pays compensation for the six acres, but when he discovers gold, then he is allowed to take up the rest of the 24 acres and pay the compensation. It is not obligatory under the Bill to grant a lease of private land if applied for, any more than it is obligatory to grant a lease of Crown lands. The right is withheld if the Governor thinks fit not to grant any lease of the land applied for. There might be certain circumstances arising which would make it necessary not to grant a lease. Clauses 102 and 103 contain the same conditions with reference to private lands as are provided in respect to mining on Crown land:—"Notice of intention to grant mining leases to be published in the *Government Gazette*; and leases to contain conditions *re* non-fulfilment of covenants." The terms and rent of the lease are the same as provided for in reference to leases on Crown lands; that is, the term is for 21 years, and the annual payment £1 per acre. A mining lease may be surrendered at any time, under this portion of the measure, just in the same way as power is given to surrender a lease under that portion of the Bill dealing with Crown lands. The land must be occupied and worked under the provisions, and in accordance with the provisions and regulations, just as if the land was Crown land. The work must be carried on in the same way and subject to the same inspection, and the lease is liable to the same conditions as apply to leases on Crown lands. Clause 108 probably may be one which hon. members will have some difficulty in grasping at first sight. I must admit that it was some time before I could get a thorough grasp of the clause myself, but I quite understand it now, and I think hon. members will when I have explained it to them. The clause empowers the owner of a mine to purchase a freehold of any claim or lease below the surface. If the owner of a mine wishes to take up a 24-acre lease of land, for instance, we will say in the middle of Kalgoorlie or Coolgardie, he can do so below the surface to a certain depth. The question is, how is he to get there? He has no right to the surface, and the present owner has a title to the land. This clause empowers the owner of the mine, who has purchased the rights to the 24 acres below the surface, to go to an owner and purchase the surface rights from him of a quarter of an acre of land. The purchaser can then put in a shaft and sink down to, say, 200 feet. That is the limit, and then he can commence to drive all over his area of 24 acres. This is a provision of the Victorian Act.

MR. LEAKE: The freehold is no good, unless he gets the surface rights.

THE MINISTER OF MINES: A person can purchase the freehold over a quarter of an acre of the surface, and then he has the right to drive to his lease which he has obtained below the surface. Hon. members might not at first quite understand this clause in the Bill. I must admit it is a strange provision, but it is a very good one. Say that a man obtains the right to 24 acres below the surface. To get to those rights below the surface he must purchase a quarter of an acre of land belonging to another owner, and on this quarter of an acre he can put down his shaft and drive underneath the ground. The owner of this quarter of an acre must sell it. He is bound to sell under certain conditions. This is a compulsory clause. It compels a man to sell, otherwise the Crown will not be able to get at the gold that is underneath. This clause provides further that these conditions shall not apply to any land on which a church is constructed.

MR. VOSPER: Why? Afraid of raising the devil?

THE MINISTER OF MINES: I do not think we should interfere with churches. The hon. member for the Swan smiles, but I am sure that no one has a greater respect for churches than the hon. member for the Swan.

MR. VOSPER: The churches are more likely to do him an injury.

THE MINISTER OF MINES: I do not think it right that we should compel anyone to sell a church. I have already stated that the owner of the land may apply for a lease himself, but of course in such a case there would be no compensation to pay, unless he took it from one pocket and put it into another. The clause also provides that the owner of the

land can re-enter, if the land be abandoned for twelve months and not worked for that period; that is to say, if a person takes up a claim or lease on private land, and that land is not worked within a certain time, the owner can come in again and occupy it as he did formerly.

MR. LEAKE: That will clash with the freehold rights you propose to give. Have you considered that?

THE MINISTER OF MINES: Clause 112 gives an applicant for lease the right to take up a small prospecting area, and, if a lease be granted, to take the balance in order to take up to 24 acres. That is the right I described a little further back, and it is distinctly laid down here. The applicant, if unsuccessful in his efforts to arrange with the owner, may appeal to the warden, who will arrange the amount of compensation for the whole of the 24 acres. In the first place the applicant only applies for the amount required for a prospecting area, and, if he succeed in finding gold, he applies for as much more of the 24 acres as he may think fit. He pays compensation for what he takes up as he goes along with his work. Clause 113 provides that as soon as a lease is granted the land falls within the jurisdiction of the warden, and the leaseholder becomes liable to all the conditions provided in the Bill. The warden then has a right to try all cases in connection with the land, just in the same way as wardens on the goldfields have now. Clause 114 provides for a renewal of a lease after 21 years, or after the expiration of such time as may have been originally granted by the Crown. It need not necessarily be 21 years, but it may be 12 or 15 years, as the Crown may think proper, but not more than 21 years. At the end of the term, whatever the term may be, a revaluation will have to be made with a view of reconsidering the question of further compensation, if necessary.

MR. VOSPER: Is that compensation for the extended area.

THE MINISTER OF MINES: No, the original area. Clause 115 simply provides that after a piece of ground has been applied for, no one shall be allowed to enter upon it except the applicant. That is similar to the provision in our present Goldfields Act in regard to Crown lands. Once the land is applied for the applicant has sole right to it, and no one else is allowed to interfere. Then it is provided that the owner has no right to the gold until a lease has been granted. If the lease has not been granted, and gold is found, it has to be held in trust by the registrar. Clause 116 deals with the pendency of applications for a lease, and the marking out of private land. The pendency of an application for a lease shall take place within such time as provided by the regulation, and it is set forth how long the right shall exist. Pending the application for renewal after a lease is surrendered, the land is protected for a certain time, as provided in clause 117.

MR. VOSPER: Do you abandon the royalty?

THE MINISTER OF MINES: Yes.

MR. VOSPER: You abandon the royalty?

THE MINISTER OF MINES: Oh, yes. We charge £1 an acre for the land, but there is no royalty.

MR. GREGORY: Who gets the rent?

THE MINISTER OF MINES: The State gets the rent in lieu of the gold.

MR. ILLINGWORTH: And the owner gets compensation?

THE MINISTER OF MINES: The owner gets compensation. The State gets £1 an acre for allowing the leaseholder or claim-holder all the privileges of the Bill, and for the protection given him in searching for the gold. Clause 119 and subsequent clauses simply provide for the encroachment on highways and streets, and for the power of persons to enter and inspect mines. As I stated before in another portion of my address, the Bill allows the owner to go and inspect the mine, in order to see whether the provisions of the Act are being carried out. Powers are given in the miscellaneous clauses to transfer an interest in a lease or other holding, and a register of dealings is provided in the same way as in a former part of the Bill. All the provisions in regard to amalgamation, claims and liens for wages, caveats, etc., apply to this part of the Bill as though they were repeated. The Governor-in-Council has the same power under clause 131 to exempt from mining any land he may think fit. Clause 134 empowers the Governor-in-Council to grant licenses to

construct drives through land occupied for mining purposes. This clause is only applicable where one part of a man's land is divided from another part, and in such a case he can get a license to drive from one part to another through intermediate land at a certain depth. Everything I think is provided in this portion of the Bill which is really necessary for mining on private land. The private owner is thoroughly protected, and there is every opportunity for a miner to go in and search for gold. Unfortunately the Act which was passed hurriedly at the end of last session was found to be unworkable. It was founded on the law of a colony where I think there are no gold mines, or very few, a colony where permits had been granted to mine on Crown lands. The Act now in existence, which this Bill proposes to repeal, seems to assume all through that private individuals had a permit to mine on Crown lands, which no person in this colony has, except it be on the eastern goldfields.

THE PREMIER: The right has been taken away in South Australia.

THE MINISTER OF MINES: The Act in South Australia deals with gold-mining on private land on the assumption that the owner has the right to mine on land—a right which does not exist in this colony. Clause 138, the last of the miscellaneous clauses, deals with the penalty for removing gold. This clause must be read together with clause 90, which commences this division of the Bill. The latter clause declares that all gold belongs to the Crown, and clause 138 provides a penalty for taking away without permission gold that is declared to belong to the Crown. The next part of the Bill deals with the Hampton Plains Estate, which is private property. That land, as hon. members know, was granted to the Hampton Plains Syndicate some years ago, when Western Australia was a Crown colony. The company was first granted the land with the full right to all the minerals on it, but when the grant was sent home to England for approval, the Home Government objected to give away those mineral rights absolutely. The grant came back accompanied with a clause for insertion in the Land Regulations, permitting the Hampton Plains Syndicate, or any other owner of land, to mine on their land on condition that they paid a royalty of 2s. per ounce on the gold won.

MR. MORAN: Permission to any landowner, did you say?

THE MINISTER OF MINES: To any owner of land. The Premier will correct me if I am wrong, but I think the regulation which was added to the Land Regulations was framed in England.

THE PREMIER: Yes; it was.

THE MINISTER OF MINES: And it was sent out to the Government here, who were asked to insert it in the Land Regulations.

THE PREMIER: And to proclaim it, too.

THE MINISTER OF MINES: That gave the right to every owner of land to mine on their land in search of minerals of all sorts for which a royalty had to be paid, the royalty on gold being, as I have said, 2s per ounce. I believe the only people who have claimed the advantage of that up to now are the Hampton Plains Company. The Government were bound to give the Hampton Plains Company this right, but they were also empowered to give it to any other company. There has always been a difficulty in collecting this royalty. I believe the Hampton Plains Company are desirous of letting the people go on the land and mine. The Hampton Plains Company formulate regulations dealing with gold-mining on their property, which regulations have to be approved by the Governor-in-Council.

MR. VOSPER: Have they not to be approved by this House, in the same way as the ordinary regulations are?

THE MINISTER OF MINES: It does not say so here. It provides that the regulations by this company shall be published in the *Gazette* and have the force of law, and shall be judicially noticed in every court of justice. Subject to the regulations being duly made and published, and so long as they shall continue binding on this syndicate and its assigns, the royalty of 2s per ounce now payable in respect of all gold won from the said land shall be released. I may state that the company have already made regulations, which are now in the hands of members, or members can get them if they desire. If this Bill becomes law, there is no doubt the company will have

to revise and reconsider their regulations, as it will be necessary to alter them so as to make them conform to the Bill. They cannot impose a fine of more than £10 for any breach of their regulations. There is no doubt the company have a moral right to the gold, and we want to give them permission to mine and search for it under certain restrictions. They are anxious to throw the land open to the occupation of the miner, but under present conditions they have to pay this royalty; and, if they do not, they are liable to forfeiture of their lease. Consequently, if the people whom they permit to enter on the land do not choose to pay them the royalty, they will have no way of getting it back from them. The next part of the Bill deals with the administration of justice. This part of the Bill is very much the same as the law is at present. The jurisdiction of wardens' courts as it at present exists is preserved. As to what the juridiction of a warden's court is, I would refer members to clause 148. Many clauses existing in the present Act relating to practice and procedure are omitted from the present Bill, under which provision is made for regulating the practice. Under the present state of things, half the practice is contained in the Act and half in the regulations. Ordinarily the warden sits alone; but either party in a case may require two assessors to sit with the warden; the warden and assessors then form a court, and it is provided that in cases of disagreement the decision of the majority shall prevail. In view of the fact that wardens and assessors, in exercising this concurrent jurisdiction with the Supreme Court, may be called upon to decide questions of law, provision is made for questions being submitted, pending the hearing in the warden's court, for the decision of the judges of the Supreme Court by way of a special case. The warden has concurrent jurisdiction with a judge. A person has a right to go to a judge or a warden. If he wishes his case heard before a judge he can take it to the Supreme Court.

MR. EWING: Can he compel the judge to hear his case?

THE MINISTER OF MINES: Yes. When points of law arise, the warden can state a case for the opinion of the judge in the same way as now. The Court of Mining Appeal has been preserved in this Bill, and it consists of three judges of the Supreme Court sitting together at such place as the judges may appoint. The Bill provides for an appeal being made from the decision of the warden's court to the Court of Mining Appeal, not only on a point of law, but on the whole facts of the case. That is a new provision, but I think it is a right one and I think it is a wise one. Clause 186 provides that a decision of the Court of Mining Appeal shall in all cases be final and conclusive, and shall be the subject of no further appeal. As a warden has concurrent jurisdiction with a judge, therefore, as the subject has a right of appeal from one judge to the Supreme Court, he should also have the right of appeal from the warden to the Full Court. I am only referring to judicial matters, not to administrative. Part 5 deals with miscellaneous provisions such as the power of the warden, granting injunctions, the appointment of receivers, and questions of encroachment. These matters are preserved in the Bill. Hon. members will notice that this Bill does not provide that assessors shall be sworn. There is no reason why they should be sworn. They are sitting with the warden, and the warden is not sworn.

MR. VOSPER: The warden is sworn a magistrate.

THE MINISTER OF MINES: At any rate there is no provision made for swearing assessors in this Bill. I understand that in admiralty matters before the Supreme Court, assessors are not sworn, and it is not considered absolutely necessary to have them sworn under this Bill.

MR. VOSPER: What provisions have you made for Mining Boards?

THE MINISTER OF MINES: There is no provision for Mining Boards under the Bill. We have adopted the recommendations of the Mining Commission, wherever we have thought it advisable to do so, and as far as possible wherever we thought it would meet with the wishes of the House. I am sure the Government are cognisant of the amount of labour thrown into mining matters by this Commission. We have been very pleased to adopt all the suggestions we could that were made

by the Commission, but in this case we thought it inadvisable to do so. With regard to the miscellaneous provisions, the first clause in part 5 which provides for the suspension of pastoral leases on the proclamation of a goldfield is a new one. Under this Bill pastoral leases may be cancelled on payment of compensation for improvements. That was not provided for under the old Act, but it is provided for under the Bill. If gold is discovered on pastoral leases, and it is necessary to proclaim a goldfield, the Government have the power to cancel the pastoral leases and to grant compensation for any improvements that have been made. This Bill deals only with gold-mining and the privileges conferred on the holder of a miner's right. It is provided in clause 192 that any Asiatic or African alien found mining for gold on any Crown lands shall be liable to a penalty not exceeding £10, and the warden shall, in his discretion, cause such person to be removed from any goldfield, and whether such person has or has not been prosecuted for an offence against the provisions of this section.

MR. VOSPER: What is the penalty?

THE MINISTER OF MINES: The hon. member has a penalty in his mind, I believe. Clause 193 provides a penalty for the unlawful removal or displacing of posts marking mining leases. No provision of this kind was made in the old Act, and it has been thought desirable to have a clause of this sort, as provided in our land regulations. Clause 195 is new, and provides for a register of buyers of and dealers in gold, and records of sales and purchases are required to be made. This clause has been recommended by some Chambers of Commerce on the goldfields, so as to have some record of the dealings in unwrought gold of every kind. There is also a penalty provided for breach or nonobservance of this provision, the offender being liable to a fine not exceeding £50. I have now dealt with the chief provisions of the Bill, and I thank hon. members for having listened to me. The contents of the Bill are voluminous, but the subject is an important one, and there are many provisions in the Bill which were previously placed in the regulations. For my own part, I think it is not wise to make many regulations, and that the Government ought to be very particular in framing regulations.

MR. ILLINGWORTH: The fewer they frame, the better.

THE MINISTER OF MINES: As far as I am concerned, whilst administering the Mines Department, I shall be most careful in recommending any regulations for the consideration of my colleagues, and the approval of the Governor-in-Council; and I shall be particularly careful to see that any regulations made shall refer to administration, and be framed for that purpose only. I can assure hon. members that I have given the greatest consideration to this Bill, which has occupied me a considerable time in its preparation; and I have been ably assisted in this matter by the Secretary for the Law Department, who has thrown his whole heart and all his zeal into the subject.

MR. ILLINGWORTH: What about the Secretary of Mines?

THE MINISTER OF MINES: The Secretary of Mines has also assisted me in framing the Bill, and has made many recommendations. Hon. members must be aware, at the same time, that it requires a considerable amount of legal knowledge to place all one's ideas into a Bill of this kind. This measure has been framed with great care, and with every consideration. There has been only one feeling, and that is to see that even-handed justice is dealt to all those who are exercising their rights in searching for and winning gold in this colony. I have a full sense of the responsibility that is placed on me in having brought this Bill before the House, and in now asking hon. members to read it a second time; and the Government hope that hon. members generally will assist in every possible way in trying to make this a good workable Bill, such as will meet with the approval of all sections of the community who are interested in mining, and such as will help to foster and encourage gold-mining in this colony and give confidence to all those who are engaged in it. I hope all hon. members will approach the subject in the same spirit in which I have dealt with it. There are many subjects for debate in the Bill, and I hope members, in dealing

with them, will do so with all care, apart from passion or any feeling of that kind. I believe the sole desire of this House, as it is of the Government, is simply to frame a good Bill which the gold-mining community of this colony can work under with a full sense of safety and security. I lay this Bill before hon. members with full confidence, and I trust that all the mining members of the House will give it careful consideration, as I know they will. I am casting it forth now on the troubled waters of debate——

MR. SIMPSON: Will it come back "after many days?"

THE MINISTER OF MINES: I feel certain that this Bill will come back, and I am certain the House is determined to help me and to help the Government in making a good Bill of it. I am sure the Government will do all they can to assist hon. members in doing so. I feel sure the Bill will come back, and I hope the seas in which it goes forth will remain unruffled, and that the debate, although keen and eager, will be at the same time calm and wise. I move that the Bill be now read a second time.

MR. MORAN (East Coolgardie): There is a general wish amongst mining members to have the debate on this Bill adjourned for some time. One or two members, and especially the member for Yilgarn (Mr. Oates), who is away, have suggested that a month will be a convenient time to allow for the Bill being considered in the mining districts.

THE PREMIER: A month! Oh, no.

MR. MORAN: I do not want to push the adjournment for a month. I am satisfied of the importance of allowing this Bill to go to the goldfields for consideration; and I will move, formally, that the debate on the second reading be adjourned for a month. If the House thinks a fortnight sufficient, I will agree to that; but I move that the adjournment be for a month.

SEVERAL MEMBERS: A fortnight.

THE SPEAKER: Does the hon. member agree to move for a fortnight's adjournment, as that appears to be the general wish of the House.

MR. MORAN: Oh, very well. Say a fortnight.

Motion—that the debate be adjourned for a fortnight—put and passed. Debate adjourned accordingly.

FIRE BRIGADES BILL.

SECOND READING.

Debate resumed, on the motion of the Attorney General for the second reading of the Bill.

MR. ILLINGWORTH said there were provisions in the Bill which it was desirable for the Government to reconsider, and he asked whether the Attorney General desired to go on at present.

THE ATTORNEY GENERAL said he intended to move that the Bill be referred to a Select Committee.

THE SPEAKER: The Bill has not been read a second time. That must be done before the Bill can be referred to a Select Committee.

Question—that the Bill be read a second time—put and passed.

Bill read a second time.

SELECT COMMITTEE (PROPOSED).

THE ATTORNEY GENERAL moved that the Bill be referred to a Select Committee.

Put and passed.

A ballot having being taken, the following members (in addition to the mover) were elected:—Mr. Gregory, Mr. Illingworth, Mr. Solomon and Mr. Wood; the committee to report on the 26th July.

DIVORCE AMENDMENT AND EXTENSION BILL.

SECOND READING.

Debate resumed, on the motion by Mr. Ewing for the second reading, and on the amendment by Mr. Illingworth to substitute "this day six months" instead of "now."

MR. GEORGE (Murray): In rising to support the second reading of this Bill, I feel that it is one upon which there must be great diversity of opinion. The cause of this diversity of opinion will probably be found in the fact that hon. members, as well as people outside this House, have not felt inclined to dive deeply into the question, and to fully consider what I believe will be one of the great problems, if not of the present generation, certainly

of the time to come, namely that of dealing with social matters without any fear of what outsiders may think, or of what the opinion of the world may be. So far as I understand this Bill, it seems to me that it is intended principally to protect the woman; to give her a right of appeal when injustice may have been inflicted upon her, whether by her own foolishness, by her lack of experience, or possibly by some suasion brought to bear upon her antecedent to her marriage. It seems to me, as far as the burden of matrimony is concerned, that the great burden, and the great toil, and the great anxiety, fall more upon the wife than on the husband. In the English race, perhaps more than any other, we find the love of children, the love of home, and the other sentiments indissolubly connected with them; and surely, when it has fallen to the happy lot of a woman to produce offspring, it should be her right, in common with the lower animals, to protect them against any of those evils which may arise from the faults or errors of her mate. Looking at this Bill, I see that it states, first of all, that a petitioner, whether male or female, may ask, either for a dissolution of the marriage, or for a judicial separation; and I believe that, in the bulk of the cases in which the provisions of this Bill are sought to be availed of, it will be found that the greater number—of female petitioners, at any rate—will pray, not for divorce, but for that which the law should have the right to give them, and which a humane law, at any rate, would give them,—a judicial separation from a mate who has proved either unfaithful or unfit to be the protector or the looker-after the home or the children. The first clause in this Bill—sub-clause (*a*)—is one which I think very few persons, either men or women, will disagree with. It is a cause for the dissolution of marriage which is laid down in the text-books to which hon. members have pointed with more or less force in this House; and I do not think it is at all necessary that we should pursue that question any further. With regard to sub-clause (*b*) of the first clause, which provides that where there has been desertion—where a woman has deserted her husband, gone away from her home, leaving, perhaps, a young family on his hands, or where a husband has left a young family for his wife to support and look after—after a certain time has elapsed, the injured party may claim a divorce or a judicial separation. I think very little argument of any force or weight can be brought against a clause of that sort, which applies to cases where the desertion has been such that it can be clearly proved that the whole burden of the support of the children or of the maintenance of the home has fallen on the woman; or where, on the other hand, the wife has abandoned her wifely duties and left the husband with the children on his hands. With regard to sub-clause (*c*)—habitual drunkenness, with cruelty or neglect—surely there is no one, I do not care what religion he professes or whether he has no religion at all, who would desire to see a habitual drunkard held to his home, putting his bad example before his children, and dragging his wife down from her former happy and respectable position to live in a miserable fashion. Surely if a man has so lost his self-respect as to become a habitual drunkard, the least that can be done to him is to sever the tie which he, at any rate, has disregarded, and to let the woman go free, regain her self-respect, and bring up her children properly.

MR. ILLINGWORTH: No.

MR. GEORGE: The hon. gentleman, with his usual desire to pose as the Solon of the Assembly, ejaculates something or other which is, as usual, very irrelevant to the matter in hand. The hon. member, the other evening, was very emphatic on the point that in Scotland it is not necessary to register marriages.

MR. ILLINGWORTH: I did not say so.

MR. GEORGE: The hon. member did say so; and I beg to contradict him most strongly on that point.

MR. ILLINGWORTH: I said the marriage was good without registration.

MR. GEORGE: The hon. member said most distinctly that in Scotland, if any man chose to ask a woman to be his wife, and she consented and they clasped each other's hands and said they were man and wife, that was sufficient, and the registration of such a marriage was not compulsory.

MR. ILLINGWORTH: I did not say that.

MR. GEORGE: That is what the hon. member did say. I know a little about

that matter, and I took the trouble of searching up the law books; and, if the hon. member, who talked about *ultra vires*, and said he was not a lawyer, and then tried to explain something about what he said he did not understand, and did not very well succeed in so doing, wishes to learn a little about the law in that respect, he will find that, in the Marriage Act of 1856, it is stated most conclusively that, although persons may pass as man and wife by joining their hands—"hand-fest," as it is called in Scotland—it is compulsory, if that marriage is to be legal, it must be registered within three months. Now perhaps the hon. gentleman will be kind enough to hold his peace while I deliver myself of what I have to say. Sub-clause (*d*) provides that if the respondent has been imprisoned for a period of not less than three years, that shall be a ground for divorce. There are very few crimes in any colony or country, except very serious or perhaps political crimes—and thank goodness we have none of these here yet, and I hope we never shall—which would be punished with imprisonment for three years. If the crimes are very serious, such as assaults against the person, or such as render a man unfit to be at large for three years, that man is unfit to be the husband of a respectable woman, or the father of decent children. The sooner the better the State says to such a man "You have abrogated those claims you took upon yourself when you married, and we will at any rate let the woman go free, and see if she cannot train her children better than you have done."

MR. MORAN: He is the father of the children, all the same.

MR. GEORGE: The mere fact of his being the father is a very small matter. The member for East Coolgardie (Mr. Moran) speaks about such things in a very light sort of fashion.

MR. MORAN: No; I think this is a very serious matter.

MR. GEORGE: And it is a very serious matter. If a father has risen to a sense of his responsibility, surely he will keep himself from the pollution of habitual drunkenness, or from being put to gaol by an indignant country.

MR. MORAN: What about wrongful imprisonment?

MR. GEORGE: I do not vote for woman suffrage for reasons I have already given, but no man respects woman more than I do. A woman's sympathy naturally goes to her husband, and if a woman feels that her husband has been wrongfully imprisoned, she will be woman enough to wait until he is released.

MR. MORAN: He must wait, anyhow.

MR. GEORGE: No doubt he must wait if he is in gaol, and the woman, whose sympathies are with him, will wait till he comes out. In the great majority of cases, a woman would take care that when her husband came out of gaol under such circumstances, she would not be without a smile of welcome in order to assure him that he had not been forgotten. Clause (*e*) lays down as grounds for divorce, attempts to murder, and inflicting grievous bodily harm. These are crimes not only against the woman herself, but against the community at large. For any man who raises his hand against a woman to inflict grievous injury, no punishment in the world is too great. If he should have thrashed the woman, or attempted to degrade her in the presence of her children, she ought to have the right to pray for divorce or judicial separation. Then a sub-clause provides that if a respondent has been for three years insane, and is, in the opinion of the court, incurable, that shall be a ground for divorce. Surely that is a matter in which the State should interfere, if we have to go into social legislation at all. Who would wish to hand down to children any incurable disease, whether it be insanity or any other infliction? We do not wish to see round about us a population rising for the purpose of filling those lunatic asylums, for which we keep voting increased sums year by year, and yet they are inadequate. We should wish to prevent an increase of population, if the population raised is likely to be unhealthy or insane. These grounds for divorce set down in the Bill commend themselves to me as grounds upon which a man or a woman would have just right to appeal for relief. A good few references to Scripture have been made in the House on this subject. I am very sorry, indeed, these references have been made when we are discussing a matter of this kind. It is not exactly the

religious view we should take. We ought not to take the religious views spouted out of pulpits, or given away in the streets by persons who are half frantic by what is called religious mania. We ought to legislate from a common-sense point of view, and endeavour to make the best of the country so far as social matters are concerned. It is said, "the devil himself can quote Scripture for his own ends," and it is possible to find quotations out of Holy Writ to deal with almost any circumstance that may arise. Those gentlemen who parade their religion and bring the Bible here, I consider desecrate that book, which they reverence and I reverence.

SEVERAL MEMBERS: No, no.

MR. GEORGE: Whether members agree with me I care not, but I say that when those persons bring the most sacred book in the world, and by its aid attempt to bolster up a cause with hardly any foundation, they really desecrate that book, and are bringing it to a level at which I am sorry to see it. I suppose most of us are what are called men of the world. We have had our little day, and, perhaps, some of us are still having our little day. We have knocked about in strange countries, and in strange company. We have probably acquired opinions, some of which are worthless, and some of which are fruitful for good; and I ask hon. members whether unsuitable marriages are not within the experience of everyone of us. By this I mean marriages which have been forced on, perhaps, for expediency or for motives of cupidity, or probably by the parents in the desire that the girl or the man should make what may be considered a marriage of convenience to raise their position, or it may be marriages brought about from the baser motive of what I may call "landing the cash." I do not suppose that there is a member in the House but who has seen such marriages. I have seen a young girl united to a fellow with one foot in the grave, and another foot that ought to be in the grave. We have all seen cases, and I am not ashamed to speak of them here, where it has been known the husband was literally rotten with disease, and yet a girl has been forced into a marriage simply for the sake of gaining position. It is no use being blind to these facts, which we can see every day. I have seen cases—perhaps members also have—where a poor woman has prayed for release, and were it not for her sense of religion, would have committed suicide rather than bring into the world offspring which she knew would be diseased. If clergymen are to preach at us as they have been doing during the last few days, and to talk to us in the newspapers as they have been, let them see to it that when persons unsuited by disparity of age, by ill-health, or other causes, come before them to be married, they stop such unions at the altar, and say, "We will have none of them." If the great example of religion which was referred to by the hon. member for Central Murchison (Mr. Illingworth) must be brought before us, do not members think that in a matter of this sort the clergy should be men enough, and God enough, if it came to that, to say they would have none of such marriages? The Saviour of the world who could purge the money chambers, would surely purge the world of that which strikes at the strength and root of our social system, more than all the filthy lucre ever made. If the clergy do their duty, instead of preaching and prating about this question, why do they not deal with the matter properly and use their powers to prevent unequal marriages, which are a sin against the human race, and an unpardonable sin against the great Author of good. It may be said that this Bill would probably result in persons entering into collusion for the purpose of dissolving the bond into which they have entered. I myself do not believe that the Bill would have anything like that kind of effect. If anything, the Bill would act on both parties to the marriage in a different manner. It would cause them to think, as all married persons should think, that there must be bearing and forbearing on both sides if they hope for happiness. I do not believe that the Bill would be availed of by the large majority of people. I believe that the number would be very few, and surely if these people do not wish to live together for any sound cause, why should they be chained in bonds of hatred and contempt? Is it not better that a husband and wife who detest each other, and cannot live together, should separate, the

wife or the husband with the children, as may be decided? It is a crime against human nature, and against future generations of the world, that there should be kept together two persons who are dissatisfied with each other, and hate each other—a union which might lead to their bringing forth offspring with all the bad qualities of the divergent parties. I hope the House will pass the second reading of this measure, and that when it goes into Committee any endeavours made to alter it will be made with the idea of improving its provisions, and certainly not with the idea of casting it out for any reasons that pastor or parson has up to the present given.

THE PREMIER (Right Hon. Sir. J. Forrest): This is the second time a measure of this kind has been before the House.

MR. A. FORREST: A Divorce Bill was introduced last year, but Parliament was prorogued before the Bill reached its second reading.

THE PREMIER: At any rate, this is the second time a measure of this kind has been before the House. I did not understand from the hon. member who introduced the measure that he considers it a pressing matter for this colony. He gave many instances of unhappy marriages in other parts of the world, but he did not give us to understand that there is any great necessity for the measure in this colony. Nor did he tell us that the people here are anxious that it should become law. So far as I understand the object of the hon. member for the Swan (Mr. Ewing), it is to give relief to women in this country. He certainly said very little on the other side, and did not seem to lay much stress on giving relief to men; in fact, that seemed to be the general tenour of the speech of the hon. member, and also of the member for the Murray (Mr. George), who has just sat down. The latter would lead us to believe that all the wrong-doing and all the bad things are on the side of the men, and that they are a lot of brutes.

MR. GEORGE: I am one of them myself, you know.

THE PREMIER: And that all the ladies of the world are angelic creatures, who never do anything that is wrong, and never give their husbands any grounds for expressing disapproval. The reason why I mention this is not to argue on behalf of one side or the other, but to draw from it a conclusion. The hon. member who introduced this measure told us that it was to give relief to women from drunken and dissolute husbands. If that is the case—and we must apply it to this colony, I think, because we are not legislating for New South Wales or any other place, but for Western Australia—I would like to ask him whether he is bringing this measure forward at the request of any large number of the women of Western Australia?

A MEMBER: Do you want to know the exact number?

THE PREMIER: I do not suppose the hon. member would undertake this task in the interest of only a small number of individuals. It must be in the interest of a considerable section of the women of this colony who are labouring under this great disability. Is the hon. member sure that this measure meets with the approval of the women of this colony? In so serious a matter of social legislation, if the hon. member cannot show some good necessity for it, I do not think that he is justified—I will go so far as to say that—in bringing it before hon. members, and asking the House to approve of it.

MR. JAMES: Why don't you allow women to vote?

THE PREMIER: The hon. member can deal with that question by-and-by. At the present I am dealing with divorce I want to know if the women have asked for this Bill?

MR. EWING: Give them a vote, and they will soon let you know.

THE PREMIER: When the hon. member ceases, I will go on. I must ask him not to be so impetuous. He can have his say directly. I do not believe that the women of this colony have made any representations whatever to the hon. member who introduced the Bill. I do not believe that he represents the women of this colony, and I am convinced that if the Bill were adopted at the present time they would be opposed to the measure he is bringing forward ostensibly in their interest. I wish to ask him if this measure is necessary in this colony, and also if it is urgent?

MR. GEORGE: The question is if it is a good measure; because if it is, it is urgent.

THE PREMIER: If this measure were made law, we should be building up a fine community in this colony! We should have a man and wife living together for years; then we would have them no longer man and wife, meeting here and there every day, and after awhile, perhaps, in another capacity.

MR. EWING: Was that your experience in Melbourne?

THE PREMIER: I had no experience in Melbourne, and I do not want the hon. member to bring his experience of Sydney here and thrust it down our throats whether we want it or no. If he brought this measure forward in the interests of women to save them from their drunken and dissolute husbands, he should have taken some means to ascertain their feelings in the matter. We know he has not done anything of the sort. He was only about five minutes in the colony before he introduced the measure. He brings it from New South Wales with its large population and 40 years of self-government, and tries to thrust it down the throats of people in this colony whether they want it or no.

MR. GEORGE: There is no duty on it, you know.

THE PREMIER: I have always been, and I suppose always will be, averse to rapid social changes. I prefer to go slowly in these great social movements, rather than to rush headlong forward, not knowing where the road will take me. I prefer, as I have said so often in this House, on great social matters of this kind—because it is a great social matter—to follow the legislation of the mother country rather than to go in advance of her. They have not got as far as this in Great Britain yet, and when they have it will be time enough for us to follow in their footsteps. There is no necessity for us to consider the matter at present. There are, no doubt, cases of hardship under our present marriage laws—everyone will admit that. A man would be foolish who did not admit that there were great miseries and hardships resulting from ill-considered marriages; but it is not a sufficient argument for us to overturn this great social system which has existed for so many generations in our own country, and which is part of the well grounded social life of all of us. The member for the Murray (Mr. George) seemed to think that the foundation of the Christian faith had no place within the walls of our Legislature. I should be very sorry indeed—I do not profess to be any better than my neighbours—but I should be very sorry indeed that that remark should go uncontradicted, when our whole system is based on the Bible, and our ideas of right and wrong are derived from that book.

MR. GEORGE: I did not disparage the book or the religion.

THE PREMIER: The hon. member for the Murray (Mr. George), who has been married, and who has a happy home, knows very well that he swore before his God that he would be true to his wife until death parted him from her.

MR. GEORGE: That is so.

THE PREMIER: The hon. member knows that if he parted from his wife he would be as big a perjurer as could be found.

MR. GEORGE: I admit that.

THE PREMIER: Because there is no more solemn act than the marriage service he went through. Yet he says we should leave the Bible out of the question. I do not agree with him. If we are a Christian people we are bound to believe in the Christian dispensation. The words of our Saviour are clear—that is, if we believe in what He said, but, of course, if we do not believe in what He said, there is an end of it—His words are as clear and emphatic and distinct as can be, yet people will try and get round them. They allege that these words were used under certain conditions, and do not suit us now, and that if the present circumstances had been in existence at that time, something different would have been said. I believe there was evil in the world then, just as there is now, and that men and women through all the ages have been very similarly constituted. Human nature is much the same wherever you go. In all social questions of this character—social revolutions I call them—my motto is "go slowly." If such a measure has not been found necessary in the United

Kingdom with its 40 millions of people —that great country, the home of science, art, culture and learning——

MR. GEORGE: Whew!

THE PREMIER: The hon. member can whistle, if he likes, but these are true words. If such a measure has not been found necessary in the home of art, of science, of culture, and of learning, in the country to which we are all so proud to belong, surely it is good enough to be without such a law in Western Australia, with only 170,000 people. The existing law is sufficient for us, unless some grave and great reason—some pressing necessity, something most urgent—is brought forward to justify an alteration. In that case I should be very willing to give the proposition most careful consideration. These are my views in regard to this question, leaving out the religious part altogether. (MR. GEORGE: Hear, hear.)—I am opposed on other grounds besides religious grounds to the measure. I am opposed to the Bill introduced by the member for the Swan (Mr. Ewing) because it has not been asked for; because the women of the colony do not want it—in fact, all the women I have met, although I have told them the Bill is intended for their benefit, have expressed themselves as very much opposed to it. That is the opinion entertained by the women of Perth on this subject—that is, all I have met have expressed to me and to my friends similar views. In conclusion, I object to the Bill because it has not been asked for; because the women of the colony do not desire it; because, in my opinion, it is not necessary, and if introduced, it would do more harm than good.

MR. QUINLAN (Toodyay): I need scarcely tell the House that I am opposed to the Bill, not only from my religious convictions, but also from the fact that for one instance where benefit would be derived from the change, there would be a hundred instances in which the reverse would be the case. As has been stated by the member for Central Murchison (Mr. Illingworth), it has been decreed by the greatest of all authorities that divorce should not be granted for the causes named in the Bill. I think that the hon. member for the Swan (Mr. Ewing)—who I believe was sincere, if I may judge by the manner in which he introduced the subject—would be wise in adopting the suggestion of the Premier to withdraw the Bill. I desire to compliment the hon. member on the gentlemanly manner in which he introduced the subject, treading as he had to do on dangerous ground when referring to different religions, but I think no exception whatever can be taken to the kindly manner in which he carried out his task. I hold that the children would be injured instead of benefited if the Bill were made law. It has been urged that children are degraded by the example of a drunken husband or a drunken wife; but I hold that if this proposed law were passed, they would be much more degraded from the fact that divorce would be made so easy. Supposing a man who had five or six children got divorced, and then took another wife and probably reared another family; and imagine the boys or girls of the former marriage meeting their father and another woman and another family! I think we should look a little deeper than my hon. friend proposed to do when introducing this measure. I also agree with the reference made by the member for Central Murchison (Mr. Illingworth), when he said that it was possible that collusion might be adopted between a man and woman who wished to get rid of one another, and perhaps marry again, and who agreed to take advantage of the provisions of the Bill to secure their purpose. On all these grounds, therefore, I shall oppose the second reading of the Bill.

MR. LEAKE (Albany): I do not propose, in dealing with this Bill, to plunge into the depths of ecclesiastical history, or to review, as some hon. members have done, the religious aspect of the case. I am going, if possible, to express my views upon the Bill as it is presented to us. The chief alteration of the law which is made in this Bill is contained in the first clause, and sub-clause (*a*) gives to both husband and wife the same remedy in a certain event. In that respect, then, we are not going beyond what is admittedly the legitimate sphere of divorce; but objection seems to be taken even by those who view this question from a religious aspect, not to the principle of divorce, but to the principle of re-marriage. The law from time im-

memorial has recognised the dissolution of the marriage tie, and the judges do so at the present moment; but what is objected to is re-marriage. So far as I am concerned, and I suppose we nearly all express our personal views on this matter, I should be willing to support any proposition made in the Bill to prevent re-marriage; and I would go perhaps one step further even than the clerics themselves, and say I would be satisfied with a provision for judicial separation only.

THE PREMIER: They can get that now.

MR. LEAKE: Yes. Let it be observed that re-marriage is not made compulsory under this Bill.

MR. MORAN: Made legal, though.

MR. LEAKE: If any person has such strong convictions upon the question, he may surely be left to the dictates of his own conscience and not seek a re-union. Marriages by divorced persons are not of great frequency, at any rate in this colony, and it often happens that persons who are forced into the divorce court are the last persons to again seek the advantages of the marriage law. So, if we look at it strictly from a practical point of view, there is not such a great objection to the Bill. The importance, in my mind, of sub-clause (*d*) lies in the fact that it extends the advantages to persons who are desirous of living apart—I venture to put it to the House in that way—not so much to divorced people, but to prevent people being compelled, in certain events, to live together.

MR. ILLINGWORTH: We have got that far now.

MR. LEAKE: No, we have not; and it is mainly for that reason I have risen to speak on the subject. I ask hon. members to carefully note that it is proposed to extend the causes either for dissolution of marriage or for separation, in several particulars. There are wilful desertion by the petitioner for three years; habitual drunkenness, with cruelty or neglect; sentence for crime; violent assaults; and insanity. It is not possible, under the present law, to get a separation, even in the majority of these instances; and it is therein that the importance of these proposed enactments lies. And, after all, there is safety in clause 2; for whilst clause 1 gives a right for parties to dissolve the marriage tie in the event of proving any of the causes mentioned in the sub-clause (*a*) of clause 1, clause 2 says:-

> If, in the opinion of the Court, the petitioner's own habits or conduct induced or contributed to the wrong complained of, the petition may be discussed; but in all other cases under this Act, if the Court is satisfied that the case of the petitioner is established, the Court shall pronounce the decree prayed for: provided that where the petitioner's case, if for the dissolution of the marriage, has failed or the petition been dismissed, but a case for judicial separation has been established, the Court may pronounce a decree for such separation.

It is the court, you will notice, and not the jury, which has the power to determine what form the decree shall take; and it is not because a man or a woman asks for a divorce on the grounds mentioned in clause 1, that he or she is going to get it. The petitioner may be met with this little surprise, that, although he or she has proved something, yet the judge who really has to decide this question may say, "No; notwithstanding I have the power to grant a divorce, I will grant you only a judicial separation." In many instances, perhaps, this is not what either party may want—he or she may want divorce; and, with this knowledge before them, I think petitioners will hesitate to go into the divorce court to ask for that which they may not get, or to take the chances of getting that which they do not want, that is a judicial separation, when they really want a divorce; so that there are ample safeguards in the Bill itself, even though it become law. Many judges set their faces against granting divorce, and they insist upon the strictest possible proof. Moreover, when there is any idea of collusion between the parties, there is power for the Queen's proctor to intervene, he being a sort of social detective, who may step in and give evidence for preventing these collusive dissolutions of marriage. The only difference, and I suppose all hon. members know it, between a diverce and a judicial separation is that a divorced person can re-marry, but the judicially separated persons can not. That is the whole question, and throughout this debate I venture to predict we shall not hear an attack made, nor have we heard any attack made outside, upon the principle of judicial separation. It

is only on the question of divorce, and that, too, because of the question of re-marriage. It is not that people generally object to parties being separated at all; it is not the dissolution of the marriage they object to; but, underlying the whole thing, and this is what we are told in the churches, it is re-marriage that is objected to. Undoubtedly both sides—all who are in favour of this Bill and all who are against it—should, I think, be much impressed with the argument which has been advanced, and which ought to be advanced, namely, the possible effect which divorce may have upon the children of the marriage. That is the great trouble, in my mind. But if parents are depraved, they are not fit to have the care of children; and in all cases, whether in divorce or in separation proceedings, it is open to the court to decree which of the parties shall have the custody of the children; and, with all knowledge of the facts given in evidence, the court is able to make a proper and fair order. Those children, we may be quite certain when the circumstances justified that course, would be removed from the baneful influence of the offending party to the marriage contract. Again, if parents are unhappily depraved, it follows as a natural consequence that the children who are brought up in the same sphere must necessarily be depraved also; therefore, in such case, really no damage can be done to the children. Extreme cases have been put, that a divorced man or woman might live in the same place and have practically two families, who are opposed in feelings and interests to one another; but I say, unhesitatingly, that this is an extreme case, such as is not often met with in a man's experience, because it very seldom happens. If persons are divorced, they almost invariably separate, and they seldom live contiguously in the same country afterwards. Divorce is feared in the social world, as it may be in the religious world; and we know perfectly well that there is always a certain stigma attaching to any person who has to go through the court, whether for absolute divorce or applying for judicial separation: and I unhesitatingly reject the statement that people will rush into the courts, and fill them with their pleadings for separation from one another. The alleged increase of evils which it is said must necessarily flow from the passing of this Bill is really no more than bare assertion. There has been no proof, and no statistics have been quoted, and I think it is because they cannot be obtained. It may be because Melbourne puts up a fairly good average that people are flocking there for one particular purpose. I have said what is in my mind on this very important question, and I tell the House it is my intention to support the second reading. I am not particularly wedded to all the enactments in the Bill, and I should not object to seeing it declared that either all the provisions of sub-clauses from *a* to *f*—all the different grounds—were not made grounds for divorce, but for judicial separation only; but I certainly think facilities should be extended for granting judicial separation where we know people cannot live happily together. The experience in this colony—and I am speaking as a lawyer now—is that there are not a great many divorces in our courts; very, very few. Take the cause list for the last few years, or examine the records of the court, and I do not think it will be found that there have been a dozen decrees absolute for divorce during the last twelve years, and very few decrees for judicial separation either. If hon. members object to people being separated, why do they not attack the Act which gives magistrates summary jurisdiction in cases of aggravated assault to make an order which, in fact, is a judicial separation? There cannot be much harm in a judicial separation when magistrates are allowed summarily to deal with the matter.

MR. QUINLAN: But it does not give them power to marry again.

MR. LEAKE: I am not advocating the power to marry again. I do not pledge myself one way or another on that. I do not feel sufficiently strong, because my experience in these matters is that when a person is joined in an unhappy marriage, he or she is not likely to run the risk a second time. We might as well look at the question from the practical and social point of view as from a religious point of view. I urge hon. members to try and look at it calmly and dispassionately, and say if there is that under-

lying evil in the Bill that is set up. I have given my reasons for supporting the Bill. I firmly believe in many instances it will give relief, where relief is urgently required—relief which in the name of humanity and Christianity should be given; and I venture to predict that it is more likely that good than harm will result. These are my reasons for expressing my intention to support the extension of grounds for separating people. Again I say I am not advocating dissolution of marriage; but, even so, remember that the objection is not to dissolution, it is not to the separation of married people, but to the question of re-marriage; and that, after all, may fairly be left to the churches to teach, and to the individuals who are concerned to practise.

MR. JAMES (East Perth): It is a pleasure indeed to those who believe in womanhood suffrage to hear from the leader of the Government an expression of anxiety to know what is the feeling of that neglected quantity in this community—the women. When the question of womanhood suffrage has been brought up in this House, the right hon. gentleman has told us in no uncertain tone—if he does not throw any light on the subject, he puts an amount of warmth and noise into it—that women are not supposed to express an opinion on matters of public concern; that their opinions are adequately expressed by hon. members under the existing franchise. I hope the Premier will bear in mind, when discussing the question of womanhood suffrage, which will be brought up in this House in a short while, that he believes that women are entitled to be heard on this one question. I am not one of those whose pride of race is founded so much on narrow ignorance, to believe that the race to which I belong contains all the best and purest and noblest in the world. My pride is on a deeper and broader foundation than on vain glorious boasting. I am not one of those who think that England is the home of all science, when we know that the best and greater part of it rests on the Continent. England has never been the home of learning, but it is very quick in adopting the views of others. That is why I expressed astonishment when I heard the right hon. gentleman express the views which he did. Because England has produced a Newton and a Darwin, that does not prove that England is the home of science and art and learning.

THE PREMIER: You have your opinion. I have mine.

MR. JAMES: I always feel a bit anxious about those who found their pride and attachment to the British race on reasons so unreliable and so easily refuted as these are. It does not satisfy me by having a question like this supported by what has been done in the old country with its 40 millions of people. I could quote the 70 millions of people in America, but this is a question that each country should decide for itself. The right hon. gentleman was entirely wrong, as usual when he referred to me as one who tries all sorts of experiments which are dangerous. He referred to me as if I was prepared to support the whole of the Bill. He is entirely wrong, as he usually is. When I come into this House to support a Bill wholly, I do so after mature consideration; not because it is supported elsewhere, but because I believe it is right. I call to my aid, no doubt, the experience of other countries, but I do not follow those other countries as the right hon. gentleman does when he starts on a policy of his own. The Bill itself is one to extend divorce. The principle we have to consider is: Does our divorce law require any amendment? The extension of the amendment will be dealt with in Committee. We have to ask now: Does the existing law require amendment? I think it is entirely wrong, if we are agreed on the general principle that some amendment is required, to oppose the Bill because some of the amendments may be wrong. One is placed in this difficult position, that you think it may be wrong when conditions have arisen between a man and wife, when the tie becomes such that the parties to the marriage contract fail to discharge their duties to their children, and their social duties, when the marriage which ought to be elevating and ennobling becomes degrading—then are we not apt to think, when this state of affairs has arisen, that the time has come when this hollow mockery should be terminated, and people should not be compelled to live together all their lives in misery? We cannot

overlook the fact that marriage has been so many centuries sanctified as a religious ceremony and right. We cannot hide from ourselves that before marriage was sanctified as a religious ceermony, the world was not so moral as it is to-day. We must believe that the religious element is largely responsible for the improved moral and elevated position we live in to-day. We cannot help seeing how much we owe to the fact that marriage altogether has ceased to be a civil contract, and has become a religious ceremony. There have been speeches in the churches, and the church has a right to express a decided and strong opinion on this question, and we should listen to the views there expressed with the utmost respect. We have to thank the churches for giving that elevated position to marriage which it holds to-day, and which has been accomplished by the churches. It is because I recognise this, that I am not prepared to support anv but the first ground for divorce set out in the Bill, and I ask the hon. member for Central Murchison to support it also on that ground. Because a man has the right to divorce for adultery, should not a woman have that right also? But she has to establish adultery and cruelty or desertion. That is not in accordance with divine teaching. If the Bill should be supported on divine teaching, we ought to be consistent, and say: Remove this bar against women, and not give a privilege to a man which is not given to a woman. Whatever may be my individual opinions on the other issues involved, it is a question of such great importance that I readily acquiesce in the teachings of those who know better. But I am determined to support this Bill for the purpose of endeavouring to amend the law of divorce—that law which enables a man to get a divorce on grounds not available to a woman. I ask every hon. member whether the law of divorce does not require amendment in the dirction suggested in the first subclause of clause 1? Admitting that, why should we not honestly and fearlessly vote for the Bill, relying on our strength, when the time comes, to strike out those portions we think undesirable? I ask members to do that, in the hope they will act on the suggestion. I hope they will not take up the position that they are men and represent men only—with due respect to the Premier—but that now they have the opportunity of removing that disgraceful stigma from the statute book, which gives men privileges women have not, they will vote as they ought to vote, and place the sexes on an equal footing.

THE ATTORNEY GENERAL (Hon. R. W. Pennefather): I do not wish, in this debate, to record a silent vote; therefore I shall trouble the House with a few expressions of opinion in regard to how I shall vote. The member for Albany (Mr. Leake) has properly pointed out, in clear and bold terms—and he emphasised his remarks by repeating them—the true principle that underlies legislation of this character, which is, not so much the consideration of separating a man from a woman or a woman from a man, as the rights of those whom they have brought into the world. The State regards the rights of children as inviolable. Children have a right, naturally, to the protection of their parents; and I unhesitatingly say that, if a legislature places in the hands of either of the parents a weapon by which they can sever the tie of matrimony, it is putting a temptation in the way of a person to take advantage of an opportunity of which, but for the temptation, they would never think of doing. "How oft the means to do ill deeds make ill deeds done"; and, if the right of divorce is not extended, temptation is not extended. It may be—in fact there is no doubt about it—that there are instances in this country, as there are in other parts of the world, where you meet with degraded beasts of either sex; but is the legislation of the whole country to be conducted with a view to their service? Are the rights of those who have not descended to that degree of degradation not to be regarded? Though some hon. members do not pay much deference to the teaching of the churches on this subject, I would remind those hon. members that the church has been the guardian of civilisation from its earliest dawn.

MR. ILLINGWORTH: Every church.

THE ATTORNEY GENERAL: The church has been the guardian of learning. Every church has done that, in its capacity: and the pastors of our churches,

who have made a study of the subject, seek not to conserve the interests of one side or of the other; but their interest is, I take it, for the benefit of the whole community. And when they say, in their wisdom, that to extend facilities for divorce further than they have gone at present is undoubtedly placing temptation in the way of those weak and suffering mortals who have not strength enough, perhaps, to wean themselves from the evil habits which they have contracted or have the manliness to pull themselves together and go in honest, decent ways, surely their opinions are entitled to some consideration. There is no doubt that this subject is viewed as much from the social as from the ecclesiastical standpoint. There are many cases where a husband and wife, out of temper, it may be, having temporarily separated, and not having the temptation to obtain an easy divorce, have afterwards come together by the good counsel of friends, or, if the separation has been caused through drink, by the kindly assistance of those who help to reclaim people from intemperate habits. Such a couple may again create a happy home; and I do not think it is for the interests of this community that we should extend the facilities for divorce any further than we already find them on the statute-book.

MR. WALLACE (Yalgoo): I shall support the Bill, and had intended to do so silently; but, having heard the remarks of the Premier, I have been induced to rise to reply to them. I heard the Premier ask if the member who introduced this Bill had the wishes of the women of Western Australia with him; and the Premier also asked him if it was urgent or necessary that such a measure should be introduced. I think that to both questions I can reply very clearly. I take it, sir, that, when the present Divorce Act was introduced, it was designed to afford some protection to the contracting parties in a marriage; and the very first subclause of clause 1 of this Bill is a proof that the hon. member introducing it, and those supporting him, desire to give to the woman the rights to which she is entitled. Why the Legislature has allowed the present Act to remain so long on the statute book I do not know; and I think the House ought to be pleased, and ought to congratulate the member for the Swan (Mr. Ewing) for discovering that unfairness and injustice to the woman, in giving a husband the right of petition, but depriving a wife of relief. And, with regard to the other question of the Premier, as to whether the member for the Swan had the good wishes of the women of Western Australia with him, the fact that the Bill is supported by our learned friend the member for East Perth (Mr. James), whom we all look upon as the true representative or champion of the women of Western Australia, surely entitles us to answer that question in the affirmative. There are many clauses that I agree with; in fact, I agree with the majority of them. We have heard authorities on the various clauses. We have heard the member for Central Murchison (Mr. Illingworth), whom we look upon as an authority on all matters connected with the churches and their rights. I do not intend to keep the House long, so I will skip everything down to sub-clause (*f*), which contains a provision entitling the husband or wife to petition for divorce on the ground of incurable insanity. There are cases of the sort, which bring sadness to many homes; and the passage into law of even that one subclause (*f*) would be hailed with delight by many women, who, instead of being tied for life to an insane husband or wife, and living in perpetual misery, could, by resorting to the protection given them by this Bill, obtain a divorce, and live the remainder of their lives in comfort. Another matter mentioned was the danger of collusion; but this, I am pleased to see, is guarded against in clause 2. The member for Albany (Mr. Leake), as a lawyer, clearly pointed out that the court has a right to decide whether the party petitioning for divorce induced or condoned the crime because of which he or she is petitioning for a dissolution of marriage. Then in clause 4 there is a precaution taken against the printing or the insertion in the newspapers of the evidence in connection with divorce cases, from which it will be seen that the member introducing the Bill not only had a desire to liberalise the marriage law, but to protect the morals of the younger section of the community from contamina-

tion. We know that these divorce cases are anxiously looked for by the younger people; and I am very pleased to see that this clause prohibits the publication of any evidence in connection with those cases. Clauses 8 and 9 deal with fraudulent pretensions by parties to a suit. This guards against such practices as are common in other law suits, and which would, I dare say, become common in divorce cases, where the respondent, being a person of means, does away with his or her property for the purpose of evading the payment of the costs in respect of such suits. Clause 10 deals with the costs of intervention. The clause provides: "The court may make such order as to costs of any person who shall intervene or show cause against a *decree nisi* in any suit or proceeding, or of all and every party or parties thereto, occasioned by such intervention." That gives an opportunity to persons who take an interest in cultivating the morals of the people, and who are in a position to prove that a petition for divorce is based on false representations, of exposing cases of collusion. As far as I am able to judge, the Bill, taken as a whole, is a good one; and I speak as one who has long viewed the present Divorce Act as an injustice to the weaker sex. The religious aspect of the question, I am very pleased to see, has been left entirely in the hands of the introducer of the Bill (Mr. Ewing), and the member for Central Murchison (Mr. Illingworth), and both gentlemen were quite capable of dealing with it. I do not desire to say any more, but I shall give my support to the Bill, and I must again express my unqualified appreciation of the good intentions of the member for the Swan in introducing such a measure, and my approval of the principle of the Bill as a whole.

MR. VOSPER (North-East Coolgardie): It was not my intention to take part in discussing this Bill; but, after having heard the remarks made by hon. members, it occurs to me that it is our duty to say something in reference to a measure which the Premier has justly styled "a social revolution." I observed, while the Premier was speaking, he referred in somewhat glowing terms to the legislation which we derive from the mother country. Although I am probably the last man in this House to bow down in blind adoration at the shrine of the mother country, because she simply happens to be the country from which we all sprang, I must confess that I was a great deal more in sympathy with the right hon. gentleman than the member for East Perth (Mr. James), who seems to think that because he is an Australian native he is doing something of a very manly character in belittling the country from which we derive our laws. I think the Premier was perfectly right in referring to the mother country as the home of science, of literature, of culture, and of art. At any rate we owe to her some of our greatest men, philosophers like Herbert Spencer, scientists such as Huxley, Tindall, and Darwin, and a great roll of illustrious statesmen, ending with the late Mr. Gladstone: names that will last when our existing civilisation shall be no more. Indeed, we need never be ashamed of the laurels gained by men of British race. We should treat with becoming reverence the experience of the mother country in matters of legislation. The member for the Swan (Mr. Ewing) has shown that this question of divorce was fully considered in the reign of Edward the Fourth, and that it has been under consideration in Great Britain for a considerable length of time. I am not unwilling, therefore, to be guided by the experience which the mother country has obtained.

MR. MORGANS: They are very conservative there.

MR. VOSPER: I am frequently taunted with being a rash radical, but I am also a little conservative. I do not believe in knocking down the props and destroying the building before you can erect something more worthy of the times in its place. Above all things, you must remember that Great Britain is one of the greatest countries on the face of the world, and that it owes its greatness to its homes. Its great men have been reared in homes probably unrivalled in the world. That is a matter we should not forget: that family life has been fostered by legislation for generations past. We should be careful how we depart from laws laid down by our ancestors. The member for Albany (Mr. Leake) just now pointed out that the social stigma attaching to divorce would have the effect of preventing people from

rushing rashly into the divorce court. That is true, so long as the social stigma exists; but that social stigma has been created by the memory of the race—the result of habit, due to past legislation; but once you destroy that legislation you will probably do away with the stigma, and I am strengthened in this by the knowledge that in Amercia, where they have tried this experiment, the social stigma attaching to divorce has ceased to exist. Divorce has been made a matter of common allusion in the newspapers. It is a constant joke at Chicago, one of the principal cities of Illinois. When the trains come in, the conductor cries out: "Ten minutes here for a divorce!" But not only is it made a subject for mirth in the comic papers, it is also dealt with in standard American works by serious writers, who have collected statistics on the subject, and they give numbers of cases showing how the law of divorce operates in some of the States. I have read of divorced persons living in the same town, having two families, who have even become on friendly terms with one another. So callous has the public become on this subject that it is looked upon as a matter of very secondary importance indeed. In making these remarks, I am only referring to portions of the United States. Each State has its own marriage law. The same remark applies to Austria and Hungary. There you have 22 distinct languages, and almost as many churches, each church with its own system of marriage and divorce. The Moravian will have one system; the Lutheran a second; the Catholic a third, and the member of the Greek Church a fourth. There are 16 or 17 different religions in that country, each of which has its peculiar system of divorce. The result is that throughout Austria and Hungary there is less regard for the marriage tie than anywhere else. The highest number of illegitimate births also is recorded there. This shows that divorce has a very direct bearing on the morals of the people. It was also pointed out by the member for Albany (Mr. Leake) that a person who had been the victim of an unhappy alliance would probably hesitate before entering into a second contract of the same kind; but the Bill introduced by the member for the Swan (Mr. Ewing) would minimise the risk, because the alliance would be so very easily dissoluble. The reason why persons hesitate now in forming a second alliance, if the first one has proved bad, is that it is as difficult to get out of a second contract as out of the first; but that difficulty would be done away with if this Bill were to become law. Again, it was said that there are no statistics to guide us in the matter. In view of the chaos and worries of a session like this, when there are so many matters before our consideration, it would be rather surprising if members felt so strongly on a matter of this kind as to bring up statistics. Some of the members who oppose the Bill are doing so on religious grounds. I am not opposing it on religious grounds. I do not care whether marriage is a religious or a civil contract. It is a very solemn and a very important contract, whichever it is; and one which has a bearing not only on the welfare of the individuals who make it, but on the welfare of the State, and more especially on that of the children. It is for that reason that we should be extremely careful in dealing with laws affecting marriage and divorce. I must crave the patience of the House to read an extract from an old *Morning Herald*, dealing with the proceedings in a Victorian divorce court:—

> Five divorces were granted by Justice Hodges in Melbourne last week, and it is noteworthy that in no case had provision been made before marriage for the establishment of a home. In the first case the marriage had no sooner taken place than the husband was arrested for embezzlement, and sent to gaol for six months.

Under these circumstances, the Bill proposed by the member for the Swan (Mr. Ewing) would be one of the grounds for divorce. I know a precisely similar instance, where a man was sent to prison for three years a week after his marriage. He and his wife and family are living respectably in Perth now, and it would be difficult to find a happier family anywhere. Had the Bill been in force at the time, the mother would have been turned out with an unborn child, and its future would have been jeopardised.

MR. EWING: She need not leave her husband unless she liked.

MR. VOSPER: Supposing a woman were left as this one was left, her friends

and relatives would urge her and assist her to get a divorce, and a life of misery might have been prepared for both of them. As it happens, they are together, and I think their example and others of a similar character go far to show that the best thing that people can do in similar circumstances is to persevere and make the best of their bargain.

The next couple had been married nearly six years, and had only lived as man and wife in a home of their own for two days. The wife said she preferred to live with her step-mother, though she is now living at Brunswick with another man, who gave evidence as to their relationship. In the third case the husband and wife lived apart for the first six months; and in another the evidence was that the parties had never lived together in the same house during the seven years since their marriage. One of the petitioning wives was asked if she could say why her husband had deserted her. "Only that he was tired of me," was her reply "He said five years was quite long enough to live with any woman." Another was a dressmaker, who had married a worthless fellow, only to be told that he had no money, and that she must lend him some to look for work. He never attempted to support her, and now wrote from up-country, rejoicing at the step she was taking, and reckoning that he had "had the best of the deal," telling her at the same time that he was enjoying himself "immense."

Of course the Bill would cut both ways. It would relieve a woman from the encumbrance of such a man, but it would also relieve the man of the serious responsibility which he had incurred when he married; and I say that a cold-blooded, heartless man like that should be held to his responsibility. All these cases have occurred since the passing of the Act in Victoria, and that Act is on all fours with the Bill introduced by the member for the Swan (Mr. Ewing). We should, therefore, be careful before passing it in this colony. I confess that, looking at these sub-clauses, I was at first much inclined, in spite of all I have now said to the contrary, to agree to the second reading of the Bill; because I think it is necessary that some remedy should be given for such crimes and offences against the State as are set forth in the sub-clauses of clause 1. But I submit it would be possible to legislate in such a manner as to bring about an effectual remedy, without going to the extreme length of actual divorce. Take, for example, adultery, desertion, habitual drunkenness with cruelty or neglect, also sentence for crime or violent assaults, and the case of incurable insanity, after it has continued for three years. The argument has been already used that, in the case of a sentence for crime extending over three years, divorce might well be granted to the other partner in the marriage tie. But, with regard to habitual drunkenness as a sufficient cause for divorce, there are many men in this colony, and out of it too, who have been drunkards at one time or other, but afterwards have become so reformed that they are now as fit to take a seat in this Assembly as is any member here. It seems to me a hard thing that a man should, by his drunkenness, inflict misery on his friends, and especially on his wife; but there are women whose affection is only increased by the misery they have to suffer from a drunken husband, and such women seem to understand instinctively that the man who is a habitual drunkard is more or less a diseased creature, and one who needs nursing back to a state of sanity and moral health. I say that to divorce merely on the ground of habitual drunkenness would condemn many a man to life-long misery and degradation, because whatever opportunity of reform there might be in his case would cease to exist. All these cases can be met by extending the facilities for judicial separation. In the case of drunkenness, a judicial separation for an extended term might give opportunity for reform; in the case of conviction for crime, it would also give opportunity for reform; and if there be a case of insanity that is regarded as incurable—we know there are such cases now in the asylum at Fremantle—it should be remembered that if a patient, who may be regarded as incurable, be placed under the care of a specialist in this kind of malady, that patient may recover, whereas if placed under the care of a doctor of another kind, the patient may continue a lunatic for life. It would be shocking cruelty if, because a husband is labouring under a mental disease, he is to lose his rights under the marriage law; therefore, I say insanity should not be made a sufficient ground for total and absolute divorce. If the insanity continued for ten or twelve years, such a case would be different; but in-

sanity continued for three years should not be a sufficient ground for granting a divorce. I will go so far as to say that if we were to frame a law in such a manner as to permit of judicial separation for a lengthy period, on any of the grounds set forth in the Bill, upon the understanding that, at the end of the specified period, say five years, it should be competent for either of the parties in the marriage contract to apply to a court and obtain a divorce, such a law would do all that is required. But to provide for granting a divorce, say after three years, would be too harsh a provision, and one liable to abuse. If we provided for five years' judicial separation before a divorce could be granted, there would then, if the same conditions were continuing, be more reason to ask for a divorce; whereas to give an absolute divorce on the grounds set forth in these sub-clauses of clause 1 would not only be rash but morally wrong. As to clause 2, providing that if a case for judicial separation has been established the court may pronounce a decree for judicial separation, this has been quoted as a means of reassuring those members who, like myself, may be timid about accepting this Bill. But what is to prevent collusion between the parties applying to the court? Everyone knows there is nothing so difficult to prove as collusion in matrimonial cases unless perhaps it be a charge of perjury. Collusion or perjury is invariably hard to prove, and the provision in clause 2 would be difficult to administer.

MR. EWING: It so seldom exists.

MR. VOSPER: That may be so. In the case of the week's record of divorce in Melbourne, which I have read to the House, those might be called cases of collusion; yet we see that the judge had no alternative before him but to grant, in each case, the decree prayed for. Clause 1 of this Bill would, to a great extent, be a dead letter. Referring to what was said by the member for East Perth (Mr. James), I listened with sympathy to his appeal in connection with sub-clause (*a*) (clause 1), for giving the same right of divorce on the ground of adultery to either man or woman. It is a grave injustice that a woman is not allowed to go into court and obtain divorce on the same ground as a man can obtain it under the present law. That is an absurd distinction, and not only absurd, but morally unjust; and if this Bill contained nothing but the proposal that the sexes should be placed on equality, in regard to the grounds for divorce and the grounds for judicial separation, I think every member of this House would give to the Bill in that form a hearty support. But this is a Bill for widening the avenues of divorce, and, therefore, I feel bound to oppose it. Yet I venture to express a hope that, sooner or later, the hon. member (Mr. Ewing) will see fit to bring in a Bill for placing the sexes on equality in regard to adultery as a ground for divorce. I have been unable to give great consideration to this Bill; but my cautionary instincts are against it, and I ask hon. members to weigh carefully the remarks made against the Bill, and to cautiously consider a measure which, as the Premier has aptly said, involves a social revolution.

MR. OLDHAM (North Perth): I move that the debate be adjourned.

Put and passed, and the debate adjourned to the next sitting.

ADJOURNMENT.

The House adjourned at 10.37 p.m. until the next day.

Legislative Assembly,

Wednesday, 20th July, 1898.

Motion: Leave of Absence—Motion: Civil Service, and Proposed Board of Management; Amendment (passed)—Motion: Supreme Court House, New Building—Public Education Bill, further considered in Committee, clause 39 to new clauses Message: Supply (temporary)—Paper presented—Shipping Casualties Inquiry Bill, third reading—Interpretation Bill, third reading—Adjournment.

The SPEAKER took the chair at 4.30 o'clock, p.m.

PRAYERS.