colony, I think it is the duty of this House to do it. When one class is called upon to suffer for the sake of the other parts of the colony, the least that the other parts can do is to provide some protection for those who are suffering.

MR. MONGER: It will take twelve or eighteen months to erect chilling works; and what are we to do in the meantime?

MR. ILLINGWORTH: We must put up these works as soon as we can, if it is deemed desirable to put them up; but our first duty is to protect our own stock and herds in other parts of the colony, by inoculating them as quickly as possible. Personally, I do not know anything about tick, but I am able to judge of what these reports say; and the inference is that East Kimberley is infected with tick; that the cattle there do not die with tick because they are already inoculated and immune; that the only way of preventing tick from spreading is by inoculation; and that the only assistance we can give to those people in the North who are suffering from having their cattle locked up is by the erection of chilling works. I do hope the House will carry the amendment, and let us have more light thrown on the subject by a Select Committee. The tick cannot be kept in East Kimberley, but is liable to spread, if it has not spread already. To prevent disaster, which according to Mr. Hancock's report is imminent, it is recommended that stock should be inoculated. That course and the erection of chilling works are suggested in order to give some assistance to East Kimberley, and to benefit the community generally. There ought to be more light on the subject, and, therefore, I intend to vote for the appointment of a Select Committee.

MR. KINGSMILL (Pilbarra): In explaining my reasons for supporting the appointment of a Select Committee, I shall not keep the House more than a minute. In the first place, I support the amendment because of the great diversity of opinion on the matter. On the one hand, Mr. Hancock states that 50 or 70 head of cattle, or whatever may be the number, have died from tick fever or red-water; and, on the other hand, a member, in whom we all have reason to have confidence, says the cause of death was over-driving. In the second place, I think this House ought to give Mr. Hancock the right of reply. Mr. Hancock has been placed in an altogether disadvantageous position. As pointed out by the hon. member for Central Murchison (Mr. Illingworth), Mr. Hancock has had to listen and be dumb. The appointment of a Select Committee would enable Mr. Hancock to give evidence, and afford him an opportunity of rebutting many of the accusations and insinuations made against him in the House.

MR. WILSON (Canning): I move that the debate be adjourned until to-morrow.

Put and passed, and debate adjourned accordingly.

ADJOURNMENT.

The House adjourned at 10.50 p.m. until the next day.

Legislative Assembly,

Thursday, 14th July, 1898.

Papers Presented—Question: Small-pox on Steamer, and Landing of a Medical Officer—Question: South Wharf at Fremantle, Increased Facilities—Question: Immature Fish, Protection in Swan River—Question: Sheep Yards at East Fremantle—Question: Railway Material exposed at Fremantle—Shipping Casualties Inquiry Bill, in Committee—Interpretation Bill, in Committee—Motion: Tick in East Kimberley, Removal of Restrictions; Amendment (passed)—Crown Suits Bill, in Committee—Divorce Amendment and Extension Bill, second reading (moved); Amendment (debate adjourned)—Adjournment.

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

PRAYERS.

PAPERS PRESENTED.

By the PREMIER: Municipal By-laws of Kalgoorlie, Fremantle, and Perth. Also (later in the sitting), Tick in East Kimberley, further Correspondence.

Ordered to lie on the table.

QUESTION: SMALL-POX ON STEAMER, LANDING OF A MEDICAL OFFICER.

MR. HUBBLE asked the Premier:—Why, in view of the fact of a case of smallpox on board s.s. "Sultan," now on her way to Fremantle from Singapore, *viâ* North-West ports of this colony, Dr. Maunsell, a passenger from Onslow, was allowed to land at Carnarvon, and, if the Minister were not aware of the facts, whether he would cause inquiries to be made. Whether Dr. Maunsell was on leave of absence when the incident occurred. Also (without notice and by leave): Was Dr. Maunsell on leave of absence at the time he left the boat at Carnarvon?

THE PREMIER (Right Hon. Sir J. Forrest) replied:—Dr. Maunsell received no permission to land at Carnarvon *ex* s.s. "Sultan." The facts of the case are as follow:—Dr. Maunsell, who is Health Officer at Onslow, was coming to Carnarvon for the sake of his health, and it was not until some time after the ship was on her way from Onslow to Carnarvon that the case of smallpox was discovered on board. Dr. Maunsell immediately took every precaution which suggested itself to him to protect the health of the passengers on board. Before he landed at Carnarvon he had an antiseptic bath, and fumigated every stitch of clothing he had on him. It is the duty of all Health Officers to board ships entering their port flying the yellow flag, and they have always been allowed in this colony, and in other ports of Australia and in England, to return on shore after disinfection, and, so far as the Principal Medical Officer is aware, no injury to the public health has ever resulted from this custom. As to the second question, I may say that no leave of absence from duty as Medical Officer at Onslow was either applied for or granted. The doctor went on board the steamer at Onslow in performance of his duty; and, not feeling well, he then determined to run to Carnarvon jetty and catch another steamer on the return journey, as there was no pressing work at Onslow requiring him to remain there. His absence being only for a day or two, he did not think it necessary to ask leave for such a short absence.

QUESTION: SOUTH WHARF AT FREMANTLE, INCREASED FACILITIES.

MR. HIGHAM asked the Director of Public Works:—When the additional points on the South Wharf would be placed in position, so as to increase its working capacity, and enable a fourth steamer to be satisfactorily worked.

THE DIRECTOR OF PUBLIC WORKS (Hon. F. H. Piesse) replied that a conference had been arranged with the Fremantle Chamber of Commerce for Monday next, when this question would be considered and definitely settled.

QUESTION: IMMATURE FISH, PROTECTION IN SWAN RIVER.

MR. KINGSMILL asked the Commissioner of Crown Lands:—(1) Whether, in view of the suitability of the estuary of the Swan River as a breeding ground for fish, it was his intention to protect these waters by the prohibition of the taking of fish therein by nets or other fixed engines. (2) If not, why not? (3) Whether he was aware that, under the present conditions, large quantities of immature fish were being destroyed.

THE COMMISSIONER OF CROWN LANDS (Hon. G. Throssell) replied:—(1 and 2) The question of closing the Swan River estuary from net fishing for a period of two years is now under consideration, and the Department is awaiting information as to the number of men whose means of livelihood would be interfered with by such a regulation. (3) The Minister has been informed that immature fish are being destroyed, and has already approved of a recommendation for increasing the minimum size of the mesh to be used.

QUESTION: SHEEP YARDS AT EAST FREMANTLE.

MR. HOLMES asked the Commissioner of Railways:—(1) Whether he was aware of the alleged fact that a number of sheep

were yesterday bogged in the East Fremantle railway sheep yards, and that the services of a number of men had to be secured to rescue them. (2) If the allegation were correct, when action would be taken with regard to the condition of the yards.

THE COMMISSIONER OF RAILWAYS (Hon. F. H. Piesse) replied:—(1) I am not aware that the sheep were bogged, but I am aware that the stockyards are in a very unsatisfactory condition in consequence of the continued wet weather, and instructions have been given to have the level of the ground within the enclosure raised. (2) The erection of new yards at Owen's Anchorage, for which instructions have also been given, will relieve these yards.

QUESTION: RAILWAY MATERIAL EXPOSED AT FREMANTLE.

MR. HIGHAM asked the Commissioner of Railways, when the large quantity of valuable goods and plant now in the open near the East Fremantle Station would be removed to the new stores.

THE COMMISSIONER OF RAILWAYS (Hon. F. H. Piesse) replied that he understood the Government storekeeper intended removing this material to the new site as soon as possible, and every effort was being made by the Public Works Department to have the site ready at an early date.

SHIPPING CASUALTIES INQUIRY BILL.

IN COMMITTEE.

Clauses 1 and 2—agreed to.

Clause 3—Interpretation:

MR. KINGSMILL: Was it intended, in the definition of "ship," to include yachts and small pleasure boats not propelled by oars?

THE ATTORNEY GENERAL: The word "ship" included every vessel not propelled by oars, and therefore included yachts.

MR. KINGSMILL moved, as an amendment, that yachts and boats used for pleasure be excluded from the definition.

THE ATTORNEY GENERAL: If the hon. member would limit his amendment to yachts below five tons, such a proposal might be considered.

MR. KINGSMILL altered his amendment to read: That the words "excepting yachts not exceeding five tons" be added to the definition of "ship."

MR. LEAKE: Surely the Attorney General was not serious in his intention to accept the amendment. The Committee were dealing with what was part and parcel of the Merchant Shipping Act, and the definition in that Act was that given in the Bill. It was not to be supposed that such an omission should have escaped the notice of the draughtsmen of the British Act.

THE ATTORNEY GENERAL: The definition in the Bill appeared to be ample, and he doubted whether the amendment proposed could be legally carried into effect. The Bill adopted the provisions of the Merchant Shipping Act, and to go outside that law would be *ultrâ vires*.

MR. KINGSMILL: If assured that yachts and pleasure boats did not come within the category of vessels used in navigation on the high seas, he would withdraw the amendment. But without that assurance, he must press it. To include yachts would be doing a great injustice to that portion of the community who took their pleasure on the waters along this coast.

THE ATTORNEY GENERAL: If an accident happened to a yacht, there ought to be an inquiry as in the case of other ships.

MR. LEAKE: Whose certificate would the Attorney General propose to suspend, in the case of a yachting casualty? Would the Attorney General report a yachting accident to the Board of Trade?

THE ATTORNEY GENERAL: Certainly.

MR. KINGSMILL: Who would be the responsible person?

THE ATTORNEY GENERAL: The person in charge of the yacht would be responsible.

MR. KINGSMILL: It would be difficult to decide who was in charge.

THE ATTORNEY GENERAL: The Committee could not go outside the Imperial Act.

MR. KINGSMILL: After that assurance from the Attorney General, he would withdraw the amendment.

Amendment by leave withdrawn.

Clause put and passed.

Clauses 4 and 5—agreed to.

Clause 6—Powers of person making inquiry:

MR. HIGHAM: The person appointed to make the preliminary inquiry should have authority to appoint a deputy, for which power there was no provision in the Bill. It would be impossible for one authorised person to do all the inspecting.

THE ATTORNEY GENERAL: This was a serious business, and the responsibility of it ought to be upon the chief officer, who was the Collector of Customs. It would be seen by the preceding section, however, that the Minister had power to appoint "any person" for the purpose of making the preliminary inquiry.

Put and passed.

Clause 7—agreed to.

Clause 8—Court for formal inquiries into shipping casualties and conduct of officers:

THE ATTORNEY GENERAL: The clause provided that the tribunal of the formal inquiry should consist of the Collector of Customs, the Government resident, and the resident or police magistrate. In some cases an officer was both Collector of Customs and resident magistrate, and to remove the difficulty here presented he moved as an amendment that after the word "port" in line 13 of sub-clause (*f*) the following words be added "provided that in case at the nearest port the chief collector of customs shall be Government resident or resident and police magistrate, then the court shall be formed of the chief officer of Customs and a justice of the peace."

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

Clause 9—Assessors at formal inquiry:

MR. LEAKE: This clause provided in sub-clause (3): "It shall be the duty of the person (other than an officer of Customs), who has applied to a court to hold a formal investigation, to superintend the management of the case." What was the particular reason for this exception which, so far as he knew, was not in the English Act?

THE ATTORNEY GENERAL: The exception was provided for in the English Act.

MR. LEAKE: The words "Board of Trade" in sub-clauses 4 and 5 should read "the Minister."

THE ATTORNEY GENERAL: The object was to save time. When an inquiry was held, the report should be transmitted as quickly as possible to the Board of Trade. Sending it through the Minister would mean delay.

MR. LEAKE: The fact that the report was sent to the Minister did not prevent its being sent to the Board of Trade. Supposing, for the sake of argument, that some ultimate proceedings were taken, and it was necessary to ascertain that a report had been made, and had reached the Board of Trade; then it would be impossible to prove that the report had reached the Board of Trade. Some difficulties might be involved if the report were not made to the Minister; and it would be well to say "the Minister or Board of Trade."

THE ATTORNEY GENERAL: Having considered the matter with the officers of the Law Department, it was not thought necessary to make any alteration.

MR. LEAKE: There was a diversion in sub-clause 7, from the wording of the English Act. The sub-clause would make it appear that the order for the payment of costs was part and parcel of the proceedings.

THE ATTORNEY GENERAL moved, as an amendment, that in sub-clause 10, line 2, the words "some town-hall or other suitable public building, and, unless no other suitable place is available, shall not be held in a court ordinarily used as," be struck out.

Put and passed.

THE ATTORNEY GENERAL moved, as a further amendment, that in line 5 the words "Local Court or other suitable buildings" be inserted after "court."

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

Clause 10—List of Assessors:

THE ATTORNEY GENERAL moved, as an amendment, that the following new sub-clause to stand as sub-clause 3, be added: "If duly appointed assessors should not be available at the port at which any inquiry is about to be held, a certificated master or engineer of any British ship in port shall be deemed to be duly appointed assessors for the purpose of such inquiry." This would be necessary in some of the ports, where it might not be easy to obtain assessors.

Amendment put and passed.

MR. LEAKE asked why the limitation of three years was inserted in this clause. The list of assessors should be in force until revoked.

Clause, as amended, agreed to.

Clause 11—agreed to.

Clause 12—Jurisdiction to be as if the matter had occurred within ordinary jurisdiction of court:

MR. LEAKE: This clause required some alteration. In sub-clause 3 the words, "in a British possession," should be struck out.

THE ATTORNEY GENERAL moved, as an amendment, that in sub-clause 3, the words "in a British possession," be struck out.

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

Clauses 13 to 15, inclusive—agreed to.

Clause 16—Delivery of certificate cancelled or suspended:

THE ATTORNEY GENERAL moved, as an amendment, that the words "whose certificate is cancelled or suspended by the court held under this Act" be struck out. It was his intention to add at the end of the clause the words, "at the commencement of the inquiry," so that a master, mate, or engineer would deliver up his certificate before the inquiry were commenced.

Amendment put and passed.

THE ATTORNEY GENERAL moved, as a further amendment, that at the end of the clause the words "at the commencement of the inquiry" be added.

MR. JAMES: Supposing the court overlooked this matter, and did not ask for the delivery up of this certificate before an inquiry was commenced?

THE ATTORNEY GENERAL: It was the usual custom to deliver up the certificate before the inquiry was started.

MR. JAMES: Supposing the matter were overlooked?

THE ATTORNEY GENERAL: The Collector of Customs was a man skilled in this work, and was not likely to overlook such matters.

MR. LEAKE: It had been the practice hitherto that any person charged before the court should hand up his certificate, and in the event of that certificate being cancelled or suspended, it was marked accordingly. The consideration of this question bore upon clause 9, sub-clauses 4 and 5, which related to the Board of Trade. The Committee had already provided that the court should report to the Board of Trade.

MR. JAMES: What about sub-clause 3 of clause 11?

MR. LEAKE: The hon. member was not present when reference was made to the report being sent to the Board of Trade. If the report were made to the Minister and the certificate were suspended for three months, the Minister could return the certificate at the expiration of those three months. But if the court sent a copy of the proceedings and a statement that the certificate had been suspended to the Board of Trade, the party whose certificate had been suspended for the three months would not get it back, perhaps, for six or twelve months. Hence the necessity for inserting the word "Minister" in the clause. The Minister should be the controlling power immediately above the court, and the medium through whom communication should be made with the Board of Trade, instead of the matter being reported to the Board of Trade by the court directly.

THE ATTORNEY GENERAL: Sub-clause 3 of clause 11 clearly made it mandatory on the part of the court to send a full report of the case, with the evidence, to the Board of Trade; and also, if the court determined to cancel or suspend any certificate, to send the certificate so cancelled or suspended to the Board of Trade with the report. Somebody would have to send the certificate home, either the Minister or the court. The court must necessarily suspend the certificate for a period long enough to allow it to go home to the Board of Trade and come back.

MR. LEAKE: If the suggested alteration were made, the Governor or the Minister would occupy relatively the position which the Board of Trade occupied for this purpose.

MR. MORAN: Had the Minister power to withhold sending the certificate home?

MR. LEAKE: No.

MR. MORAN: Had the Minister the full power of the Board of Trade at home, or must the certificate go home to be dealt with?

THE ATTORNEY GENERAL: When the report had been made and the suspension of a certificate ordered, the certificate must go to the Board of Trade, together with the report. That was in order to prevent a man going home and pitching a plausible tale about having lost his certificate. It was to prevent the Board of Trade from being imposed upon. He moved, as amendments, that all the words after "engineer," in line 1, up to and inclusive of "Act," in line 2, be struck out, and that the words "at the commencement of the inquiry" be inserted after the word "demand," in line 3.

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

Clause 17—Regulations.

THE ATTORNEY GENERAL moved, as an amendment, that the words "for the fees to be paid to the assessors and" be inserted after the word "and," in line 2.

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

Schedule, preamble, and title—agreed to.

Bill reported with amendments.

INTERPRETATION BILL.

IN COMMITTEE.

Clauses 1 to 4, inclusive—agreed to.

Clause 5—Effects of repeal in Acts passed since April 13, 1853:

MR. LEAKE: What was the object of the special reference to the 13th April?

THE ATTORNEY GENERAL: Prior to that date, there was no statutory interpretation, and this provision was only to affect subsequent Acts.

MR. JAMES: Was not the law now as expressed in sub-clause 1? Why not strike out the words, "passed after the thirteenth day of April, one thousand eight hundred and fifty-three"?

THE ATTORNEY GENERAL: They might be struck out, if the hon. members wished, but the words would do no harm.

MR. LEAKE: How would the clause affect an Act passed before the 13th April, 1853?

THE ATTORNEY GENERAL: Then common law came in.

Put and passed.

Clause 6—Citation of Acts:

MR. JAMES: At present we had the right to cite an Act by the year in which it was passed, without reference to the regnal year; and the same practice obtained in the sister colonies. He moved, as an amendment, that the words "year or" be inserted before the word "regnal" in sub-clause 1, line 3.

Put and passed, and clause as amended agreed to.

Clause 7—agreed to.

Clause 8—Sections in Second Schedule may be incoporated in Acts by reference:

MR. JAMES asked whether, by the 2nd schedule, the Shortening Ordinance was repealed. In past Acts there had been constant references incorporating certain sections of the Shortening Ordinance; but there did not appear to be anything in this Bill providing that those old references should apply to it.

THE ATTORNEY GENERAL: This was a reproduction of the Shortening Ordinance.

MR. JAMES: Yes; but there were on the statute-book certain Acts which referred to schedules in the old Shortening Ordinance. It was now proposed to wipe out the Shortening Ordinance; therefore to what would those old references then refer?

THE ATTORNEY GENERAL: They would have reference to previous Ordinances or Acts.

Put and passed.

Clauses 9 and 10—agreed to.

Clause 11—Meaning of power given by an Act to make by-laws:

MR. JAMES: Some clauses of the Bill were made to apply to "any Act, whether passed before or after the commencement of this Act." Would it not be better that all the clauses should be made to have the same effect? The rules laid down by the various clauses of this Bill should apply to all past Acts, because each separate clause constituted a separate enactment; and the Bill required several alterations to effect that object. Clause 9, for instance, required modifying in that way, to make it clear that it applied to any Act heretofore or hereafter passed.

THE ATTORNEY GENERAL: If the hon. member would move to make that principle general in its application, he would be happy to adopt the suggestion.

MR. JAMES moved, as an amendment, that the word "board" be inserted after the word "officer," in line 2. The object

was to make it clear what the word "officer" referred to.

Put and passed.

MR. JAMES moved, as a further amendment, that the following words be added to the clause: "and further to enact that the production of a copy of the *Gazette* containing what purports to be a copy of such instrument shall be evidence in all courts of law of the due and proper making, granting, or issuing thereof." It was a usual and convenient provision that the production of the *Gazette* should be a sufficient proof in such cases.

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

Clauses 12 to 18, inclusive—agreed to.

New Clause:

THE ATTORNEY GENERAL moved that the following new clause, of which he had given notice, be added:—

19. When a power is discretionary and when not.—Where in any enactment a power is conferred on any officer or person by the word "may" or by the words "it shall be lawful," or by the words "shall and may be lawful," applied to the exercise of that power, such word or words shall be taken to impart that the power may be exercised or not, at discretion; but where the word "shall" is applied to the exercise of any such power the construction shall be that the power conferred must be exercised.

MR. LEAKE said he hesitated to agree to this clause, which he was afraid was going too far. In cases where such expressions as "shall" had been used, perhaps somewhat loosely, on previous occasions, the new clause might have the effect of putting a forced interpretation on existing enactments which hon. members, on more mature consideration, might regret. The interpretation of these words had better be left to the courts, because, after all, such language must be construed in view of the context. Whilst the word "shall" might properly be imperative in one instance, it ought not to be in another. This was an attempt to limit the right of interpretation to meet a particular or peculiar set of circumstances, and he hesitated to agree to the insertion of the clause. No doubt the clause looked perfectly harmless, but goodness knew what the effect might be if practically tested!

THE ATTORNEY GENERAL: The clause was taken from the Imperial Act, and it was practically the statutory interpretation of the law as carried out by the courts. Although the power was contained therein, the courts might go outside that to say whether it should be mandatory or discretionary. The clause provided that the word should have this particular meaning, except the context was utterly repugnant.

Put and passed, and the clause added to the Bill.

New Clause:

MR. JAMES moved that the following new clause be added:—

20. This Act shall, unless the contrary intention appears, apply to every Act hereafter to be passed, and, except as herein otherwise specially provided, to every Act heretofore passed.

If this clause were adopted, it would require a prior clause of the Bill to be modified to make the intention clear. There were cases in which it was specially stated that certain sections should apply only after a certain date, and such sections were, of course, excepted. He would like to express the strong dissatisfaction he felt at the drafting of the Bill. It was certainly not the sort of drafting members were entitled to expect in 1898. Defective drafting of this kind from time to time put Ministers in charge of a Bill in an unfair position. The Attorney General could not be expected to look after the drafting as well as the general principle of the Bill; but there was no doubt that on many occasions the House had just grounds for complaint in regard to the way in which Bills were drafted.

Put and passed, and the new clause added to the Bill.

Schedules and title—agreed to.

Bill reported with amendments.

MOTION: TICK IN EAST KIMBERLEY, REMOVAL OF RESTRICTIONS.

Debate resumed from the previous day, on the motion moved by MR. MONGER, "That, owing to the absence of any sickness or mortality in East Kimberley cattle, the restrictions now existing be removed, so that the consumers, as well as the producers, may benefit by the large number of fat stock available there." Also, on the amendment moved by Mr. HARPER, that the subject matter of the motion be referred to a Select Committee.

MR. WILSON (Canning): My reason for having moved the adjournment of the debate yesterday was to enable hon. members to have the fullest information that can be laid before them in connection with this tick question. The Premier this afternoon has laid on the table the latest reports, and also a copy of a telegram from the Inspector of Stock, which, I regret to say, fully bears out Mr. Hancock's report, already handed round to hon. members. This matter is, if possible, assuming a more serious aspect day by day, and it therefore behoves us to consider the question very carefully, and not come to any hasty conclusion as to relaxing the quarantine restriction, as proposed in the motion of the member for York (Mr. Monger). What has struck me is that the supplemental reports have not been laid on the table sooner. The Premier, in reply to the hon. member for Yalgoo (Mr. Wallace), said yesterday that he had no further information on the question. I credit the Premier with having said that in all seriousness.

THE PREMIER: I did not say that. I said there was a telegram.

MR. WILSON: If I remember the words aright, the Premier said that he had no further information.

THE PREMIER: I said I had seen a telegram in the morning, which had gone to the office of the Commissioner of Crown Lands.

MR. WILSON: The telegram is dated 11th July, whilst one of the reports is dated the 12th. To-day is the 14th, and this information has been practically sprung upon the House. Considering the importance of this matter, it was the duty of Ministers to keep members posted with the latest information, so that no mistake might be made. If the Commissioner of Crown Lands, under whose supervision this matter directly comes, happens to be indisposed, then some other Minister, or the Premier himself, ought to take the trouble to place the reports and other correspondence before members. I have little reason to change the opinion I held last session when the question was before the House. I then stated fully what I thought about the matter; and when we consider the clear and comprehensive statement made by the member for Ashburton (Hon. S. Burt), and when we see an old parliamentarian like himself looking with some sort of suspicion on Select Committees, we are perfectly justified in threshing out the question in the Assembly, and coming to some conclusion here. I do not propose to oppose very strongly the appointment of a Select Committee, more especially if the *personnel* of the Committee be such as will, in my opinion, tend to elicit all the information possible on this serious question. I hope the Committee, if one be appointed, will lose no time in taking the work in hand, and will sit day by day until the inquiry is finished, and in as short a time as possible report to Parliament the result of their labours. In upholding the quarantine in East Kimberley, Parliament has done its duty to the public generally, and has also acted in the interests of stockholders themselves. If this terrible pest is allowed to extend to the west coast, and then probably to the southern coast—presuming it is now in East Kimberley only—it would be a foolish act, calculated to cause an enormous loss to the people at large.

MR. MORAN: The ticks are here now

MR. WILSON: I should be sorry to think that; I hope not.

MR. MORAN: The Stock Inspector says they are.

MR. WILSON: Viewing this matter from the standpoint of the public generally, the question arises as to whether we should close our ports to meat from the eastern colonies or close our ports against cattle from our own tick-infested country rather than shut out cattle from the eastern colonies. It would be better to close our markets against cattle from the tick-infested country. If the door is not open to the cattle from the east, we shall very soon have a great advance in the price of meat, and the whole of the public on the goldfields and elsewhere will be crying out against our legislation.

MR. MORAN: Close the door to eastern meat, throw open the northern country, and the price of meat will come down directly.

MR. WILSON: I cannot agree with the hon. member for East Coolgardie (Mr. Moran). The number of cattle in the northern districts is limited.

MR. MORAN: The Northern Territory means North Queensland as well, in this respect.

THE SPEAKER: Order! Order!

MR. WILSON: The number of fat cattle in our pastoral districts is limited. We have it on the evidence of an hon. member well acquainted with the subject that there are only 7,000 or 8,000 fat cattle ready for market at the present time. In addition to that, these cattle, in the opinion of the expert from Queensland, and also in the opinion of our own Inspector of Stock, can only be considered fair stores. We have very little to depend on in the future if we close our ports to eastern markets cattle. There is another serious aspect of the question which affects my district and all the districts in the South-West portion of the colony. We have been agitating for some time to have the dairy industry inaugurated in Western Australia, with a view to the establishment of large butter factories. I believe steps are now being taken by the Government with that object. If tick-infested cattle are brought down to the South-West district, what is going to be the result to the dairying industry? The result would be that the industry would have to be given up, because after milch cows became infected they would be useless.

MR. MORAN: There are no dairy factories there now.

MR. WILSON: I grant that. But we have been struggling very hard to establish the industry, and the Government are, I think, prepared to offer a bonus for the establishment of factories. It would be wise for us to consider well before we do anything to endanger the successful inauguration of that industry. I think the Premier is responsible, to a large extent, for misleading us in connection with this tick question. He seems to think the tick cannot live in this climate. I remember last session he pooh-poohed the idea of tick being able to thrive in Western Australia and the Northern Territory. What does the inspector say? Mr. Hancock says, in paragraph 2 of the report: "The whole of the Ord River Valley, which is the cream of the district, is, with the exception of some patches of downs, typical tick country, very much resembling Queensland coast country." In paragraph 7 he says: "There seem to be no special conditions, climatic, geological or otherwise, that will militate against the tick invading all the coast country of Western Australia, given its opportunity for so doing."

MR. CONNOR: Is he infallible?

MR. WILSON: He is about the most infallible man on the question we have in this colony. I do not think it right to discredit the man. He has had great experience, and I do not think hon. members should discredit his report.

MR. CONNOR: Why not give credit to Olsen's report?

MR. WILSON: If the hon. member who is interjecting had small-pox in his house and called in a doctor, would the hon. member discredit that doctor's opinion? He would not. We brought this expert from Queensland especially to inquire into this matter, and I consider we should be guided entirely by what he says. He is a man of great research, and he is not afraid to voice his opinion.

MR. CONNOR: Neither was Olsen.

MR. WILSON: I am prepared to accept this report until I am shown something better to go upon. It is entirely beyond dispute that tick exists in East Kimberley. He says that country is "hopelessly ticked up." I do not think the hon. member who has been interjecting will deny that. I believe the tick is in other districts besides East Kimberley, and I think it is the duty of the Government, now we have this expert here, to continue to employ him for a few months and let him go through all the pastoral country and find out where there are ticks and where there are not. It is not right for us to close our eyes to the fact that tick may exist elsewhere. I am in favour of treating all alike. Let us know the worst and legislate accordingly. I hope the Premier will consider this matter and retain Mr. Hancock's services, and let him go through West Kimberley, the Murchison, DeGrey, and, if necessary, down South. I did hope last session that there was possibly a way out of the difficulty by the establishment of abattoirs on one of the islands off Fremantle, where cattle could be landed and killed, and the meat sent to the mainland. The evidence given in this report is against the idea. Mr. Hancock

states that an island on the coast of Queensland became infested with tick without cattle passing to it from the mainland. If an island on the coast of Queensland becomes infested, we should be endangering cattle on the mainland here, by establishing slaughter-houses on one of the islands—say Garden Island—off Fremantle. That prevents relief from that quarter. The only question now to consider is, the erection of chilling works which are proposed at Wyndham or elsewhere. If chilling works are established, cattle can be killed there, and the meat brought to market both for the benefit of the owners and the community. I hope the Government will consider this, also the desirability of establishing these works. If they can be erected by private enterprise, so much the better. I do not want to see the Government establish works and run these themselves, but I think a bonus might be offered which would perhaps induce owners of stations to establish works, and then we should have the benefit of the meat for our people. This undoubtedly would have an influence on the price of meat. I hope Parliament will see its way clear to take the duties off imported dead meat, and I hope the duty on stock will be removed; then I have no fear that we shall be able to tackle the question of getting a meat supply at a reasonable rate. I have nothing further to say except as to the Select Committee. If the gentlemen proposed to be appointed on that committee take the matter in hand and sit day by day until they get all the evidence before them, they can bring up a report in a week or a fortnight. If that is done I am in favour of the committee being appointed.

MR. LYALL HALL (Perth): I cannot understand the reason for some hon. members of the Opposition objecting to a Select Committee being appointed, provided that it be entirely free from any connection with the cattle trade. I saw a list of members to comprise that committee——

MR. SIMPSON: Has a list been prepared already?

MR. HALL: I saw a list, which was given to me by someone—I will not say who—and I certainly thought I would object to a Select Committee if the members were composed of interested persons; but the names which I understand will be submitted are names of gentlemen entirely unconnected with the cattle trade in any way. Such being the case, I cannot, for the life of me, see what is the objection to a Select Committee being appointed. I think we want more information on this subject than that supplied by Mr. Hancock.

MR. KENNY (North Murchison): By way of explanation as to the appointment of a Select Committee, I beg to inform the House that yesterday afternoon Mr. Monger called me over and handed me a list in his own handwriting, with certain names of members of the House upon it as members of the proposed committee, and asked me to ascertain if the members on this side would approve of the names. There was a slight alteration suggested in the erasure of one name and the substitution of another. I went back to Mr. Monger, and he altered the list accordingly. Mr. Monger came back, and then said he approved of it. I went back and told Mr. Monger that we also approved of it, and I was assured that that list would be accepted. Subsequently I was informed that certain members on the Government benches had made a certain alteration, and the list was then spread amongst members on the other side of the House.

MR. A. FORREST (West Kimberley): As the Government whip, I may say that the hon. member for North Murchison came over and placed a list in my hands and said——

MR. MORAN: We sent it to him first.

MR. A. FORREST: And the hon. member said that, with one exception, the list would be acceptable to the other side of the House, and that it would be acceptable to both parties. I thought that was to be the arrangement. Of course, the appointment of the committee is entirely open to the House.

MR. LEAKE: Why accuse our side of making out a list?

MR. A. FORREST: I said the Opposition whip came to me and told me that the list, which he handed to me, would be acceptable to the Opposition with the exception of one gentleman; and I, on behalf of this (the Government) side of the House, accepted that list. That is how the position stands.

MR. MORAN: I may say——

THE SPEAKER: The hon. member is out of order.

MR. MORAN: One hon. member is out of order and another one is not.

THE SPEAKER: I wish to tell the hon. member that, if he makes such remarks, I shall have to name him and suspend him from the sittings of this House. I am constantly calling the hon. member to order for interrupting, and, if he continues this conduct, I shall have to take a certain course.

MR. HALL: I cannot for the life of me see why there should be any objection to this Select Committee. We have a great deal more information on this subject to gain. This is an important question, not only to Perth, but to the whole of the colony. I submit that the appointment of a Select Committee is the best way out of the difficulty. I have it on the authority of one of the principal officers of the Stock Department that tick has been undoubtedly introduced into Fremantle, Perth, and on to the goldfields, but this officer said the tick did not exist at these places now. He said from what cause he could not say, but it was, he thought, owing to climatic reasons that ticks could not live in the southern portion of the colony. That may be so. I cannot see any harm in having this Select Committee appointed to inquire into the whole matter. The House will get a great deal more information, and, besides, the Committee will be able to examine Mr. Hancock more thoroughly, and that gentleman will be able to prove his allegations.

Question—that the subject-matter of the motion be referred to a Select Committee—put and passed.

MR. HARPER moved: That the Select Committee consist of seven members.

Put and passed.

MR. SIMPSON: Will that include the mover?

THE SPEAKER: Six members besides the mover.

A ballot having been taken, the SPEAKER announced that the following members had been elected:—Mr. Higham, Mr. Hubble, Mr. Kenny, Mr. Monger, Hon. H. W. Venn, and the mover (Mr. Harper).

On the motion of MR. HARPER, leave was given to the Committee to send for persons and papers; and the Committee was ordered to report on that day week.

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

At 7.30 p.m. the SPEAKER resumed the chair.

CROWN SUITS BILL.

The House resolved into Committee to consider the Bill.

IN COMMITTEE.

Clauses 1 and 2—agreed to.

Clause 3—Definition:

MR. LEAKE asked whether it would not be necessary to extend the meaning of the word "law officer;" because if power were given to sue in Local Courts in the districts, it would necessitate instructions being obtained from the Attorney General or the Crown Solicitor at the head office, in order to sue on behalf of the Crown. Therefore, would it not be well to give power to the Ministers to name some person, in outlying districts, who could give the necessary authority to sue?

THE ATTORNEY GENERAL (Hon. R. W. Pennefather) said he agreed with the hon. member; and, in order to meet the suggestion, he moved, as an amendment, that after the words "some other person specially authorised" there be added the words "by the Attorney General."

MR. LEAKE: Would it not also be necessary to extend the meaning of the word "court" in the definition?

THE ATTORNEY GENERAL: That appeared to be unnecessary.

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

Clauses 4 to 6, inclusive—agreed to.

Clause 7—Rules of procedure:

MR. LEAKE: There appeared to be something wrong in paragraph 2 of the clause, which said:

> All rules and orders of court in force in the Supreme Court at the time when this Act comes into operation, with reference to matters within the provisions of this Act, are hereby repealed.

The intention of the clause appeared to be that the general rules of the Supreme Court, but not the particular rules at present in force relating to petitions of right,

should apply under this Bill; whereas these words seemed to cut away the ground, by providing that the general rules should not apply under the Bill.

THE ATTORNEY GENERAL said a word appeared to have been left out, and that the latter part of the paragraph should read "until repealed."

MR. LEAKE said it appeared to be a matter of drafting, and might be left to the Attorney General to have it put right. The intention evidently was to repeal the particular rules of the Supreme Court at present in force with regard to petitions of right, as those rules would lapse when this Bill came into operation; but the words would have the effect of repealing the general rules of the Supreme Court, and thus prevent them from applying to matters under this Bill.

THE ATTORNEY GENERAL: It would be put right, later.

Clause put and passed.

Clauses 8 to 10, inclusive—agreed to.

Clause 11—Other debts and duties to be recovered by the Crown:

THE ATTORNEY GENERAL moved, as an amendment, that in the third line the words "Court a writ of summons" be struck out, and the following words inserted in lieu thereof: "Supreme Court a writ of summons, or, in case the claim or demand is within the jurisdiction of an inferior court, the ordinary process of such court." This amendment was submitted with a view of adopting a suggestion made by the member for Albany during discussion on a previous clause.

MR. LEAKE: Should not the words "or judgment" come after the word "recognizance," in the second line?

THE ATTORNEY GENERAL: The object of the member for Albany was met by a previous clause.

Amendment put and passed.

THE ATTORNEY GENERAL moved, as further amendments, that after the word "writ," in the first line of sub-clause (2), the words "or other process" be inserted; also, that after the word "agents," in the second line of the same sub-clause, the words "or bailiff or other officers of an inferior court, as the case may be," be inserted; also, that there be added to the third sub-clause, after the word "writ," the words "or other process."

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

Clause 12—Writ not to be issued without *fiat:*

THE ATTORNEY GENERAL moved, as an amendment, that after the word "writ," in the first line, there be inserted the words "or other process."

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

Clause 13—agreed to.

Clause 14—Proceedings to be the same as in actions:

THE ATTORNEY GENERAL moved, as an amendment, that there be inserted in the fifth line, after the word "Court," the words "or inferior court, as the case may be."

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

Clause 15—Persons may defend *in formâ pauperis:*

MR. LEAKE: Was there any real necessity for this clause, the object of which was met by a provision in the Supreme Court rules enabling suits to be brought *in formâ pauperis*? This clause, in assigning counsel and a solicitor to a suitor *in formâ pauperis*, went further than any law he had come across before. Perhaps the nastiest thing about the clause lay in the last two words, providing that counsel so assigned should act "without fee." There would be no objection to the clause if it were provided that fees should be paid at the expense of the Government, which would ensure a good, wholesome defence. He moved that the clause be struck out.

Amendment put and passed, and the clause struck out.

Clauses 16 to 25, inclusive—agreed to.

Clause 26—Proceedings on petition:

MR. LEAKE: The concluding words of this clause gave rather an extensive power to the Crown law officer, inasmuch as it enabled him to fix the place of trial. Suppose the cause of action arose in Perth, the officer might for some reason desire to have the action tried in Coolgardie. The power to fix the place of trial was already vested in the judges; and the clause would be of no advantage.

THE ATTORNEY GENERAL: Supposing the cause of action arose up country, the Crown might have reason for desiring to change the *venue*.

MR. EWING: Could not the *venue* be changed by showing cause to the judge?

THE ATTORNEY GENERAL: No; it would be almost impossible. It would not work. There was a good deal in the remarks of the hon. member for Albany.

THE PREMIER: We must protect the people of the colony.

MR. EWING: It was unfair that either party to an action should have the right to fix the place of trial. It should be left to the proper authority, the judge. If either party was likely to be biassed, that was always a ground for a change of *venue*. He would urge on the Government to treat suitors fairly, and let a Government trial come on in its proper place. If an action were set down for trial at Coolgardie, and if the Crown law officers had the right to say they would not have the trial at Coolgardie or wherever the circuit court might be, but would bring the case to Perth because the Crown Solicitor was here, and it would save trouble and expense, that would not be fair. It was an unreasonable and unfair power to give the Crown, even supposing the Crown would not exercise it. We should not place in the hands of the Crown a power which, if it were exercised, would be unfair. There should be no difference between private individuals and the Crown in this respect.

MR. LEAKE: This clause rather consulted the convenience of the Crown Law Department than the interests of the State. It was open to the court to fix the place of trial, and he hoped the Attorney General would not insist on the words being retained. He moved that all the words after "allow," in line 8, be struck out.

THE ATTORNEY GENERAL said he would like to accept the suggestion; but he must point out that in small towns up-country, there was not the same extent of jury panel as in large centres like Perth and Fremantle.

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

Clauses 27 to 30, inclusive—agreed to.

Clause 31—Securities for costs may be required in certain cases:

THE ATTORNEY GENERAL moved, as an amendment, that after "suit," in the first line, the words "in the Supreme Court" be inserted. The effect of the amendment would be that security for costs could be asked for only in a civil action by the Crown.

Amendment put and passed.

MR. EWING moved, as a further amendment, that the words in lines 4 and 5, "or is without visible means of paying the costs of the suit if unsuccessful," be struck out. Power was given to a judge of the Supreme Court to order security for costs for the Crown in a case where the Crown was successful. The cost of a Supreme Court action would amount to between £100 and £150, so that the effect of this clause would be that any poor person who was injured in a railway accident, or any poor person who desired to sue for a breach of contract or for any other lawful cause of action, would be compelled to give security in the Supreme Court for an amount of between £100 and £200. This was a provision which existed in no British-speaking country, and he believed he was correct in saying it existed in no country in the civilised world. The direct consequence of the provision would be that unless a man were comparatively wealthy, he could not bring an action against the Government. If this provision were justifiable at all, it was justifiable on principle; and, if we believed it was right to compel a litigant to give security for costs against the Government, it was right to compel a litigant to give security in an action by a private individual. The Premier had urged the Committee to treat the Crown with liberality, to give the Crown certain concessions. He (Mr. Ewing) thought the feeling of the House was in favour of limiting the liability of the Crown, so that the Crown could not be unduly harassed; and there was a clause in the Bill limiting the amount of damages which could be given against the Crown. He (Mr. Ewing) was willing to do a fair thing by the Crown, but he would endeavor to do a fair thing by the poor client.

THE PREMIER: And the lawyer.

MR. EWING: It would make very little difference to the respectable lawyer.

THE PREMIER: Were there any decent lawyers?

MR. EWING: That was a very high-class retort, and hardly a retort he would expect from the Premier of the country to members of an admittedly honourable

profession. He believed there were respectable and decent lawyers.

THE PREMIER: All were not, though.

MR. EWING: This provision would make no difference to the respectable branch of the profession. There would always be men found who would back a litigant, whether security had to be provided or not. It was shown conclusively that when a man went to law with the Government, if that man had a good case he succeeded against the Crown. It was scarcely within his (Mr. Ewing's) knowledge that the Government of Western Australia had won a case. It could not be said that all juries were prejudiced, and it could not be said that the Supreme Court was prejudiced. If it was not possible to point to an instance in which the Government had been harassed by improper and unfair actions, then there was no necessity for the clause, because juries found in almost every case that the plaintiff was entitled to succeed. He urged that the words he proposed should be eliminated, as if they remained they would take away from a poor person a right of action, no matter how good a cause of action be had, or how great a wrong he might suffer.

THE ATTORNEY GENERAL: We ought to go as far as the judicature in England. The English law provided that where a person, apparently without visible means of support, brought an action in the Supreme Court he must give security for costs. If the plaintiff had a good case, and was willing to stand by its merits, it did not matter to him whether it was tried in the Supreme Court or in the local court.

MR. EWING: Would the hon. member allow an action to be brought for any amount under £5,000?

THE ATTORNEY GENERAL: Yes.

MR. EWING: The Bill did not say that.

THE ATTORNEY GENERAL: The Crown was quite willing to take the responsibility of the local magistrate doing his duty. He wanted to protect the Crown from persons bringing speculative actions.

MR. EWING: Most difficult questions in law sometimes arose in these suits.

THE ATTORNEY GENERAL: Being prepared to stand by the clause, he asked the Committee to pass it.

MR. EWING: Sacrifice the Bill rather than let this clause remain.

MR. LEAKE: The clause contained a very unusual provision. It might be the means of denying justice to a deserving person, which was an absolutely foreign principle to the constitution.

THE PREMIER: We were not assuming that these speculative actions would be brought in every case.

MR. LEAKE: The Crown had the power of attachment, which the individual suitor had not. That was sufficient protection for the Crown against the man who brought a speculative action. If the plaintiff did not succeed, then the Crown could get hold of him.

THE ATTORNEY GENERAL: What would be the good of that?

MR. LEAKE: The Government might put him in gaol, just to encourage the others. He did not see the necessity for the clause. If the hon member wished to strike it out, he would help him to do it. Take the case of a working man who had been injured by machinery; he had no visible means of support, only the clothes he stood up in.

MR. GEORGE: He had his union at his back.

MR. LEAKE: Not having had much experience of unions, he did not think they would back one of their number to the extent of paying all his costs. The member for the Murray (Mr. George) championed the poor man pretty often; therefore he (Mr. Leake) now asked for that member to support him in this case.

THE PREMIER: If this clause was to be of any effect, the words proposed to be struck out must be retained. He did not see why an uncertificated bankrupt, or a person who had within twelve months from the commencement of the suit liquidated or compounded with his creditors, or was a person without fixed domicile in the colony, should be made to give security more than a man who was without visible means of paying the costs if unsuccessful. It seemed to him they were all in the same boat, that they were all impecunious, and were at the mercy of the speculative attorney. This was not a matter that affected the Government in any way. What he was advocating was in the interests of the people. It was they who paid the costs, not the Government, and he main-

tained that the people who provided the revenue should be protected to some extent from being dragged into court by every speculative person who thought he might have a chance of getting something out of the Government.

MR. LEAKE: Why did not the Premier protect the private individual?

THE PREMIER: The private individual had a far better chance than the Government in court. The Government did not get the consideration of courts or juries that private individuals did.

MR. GEORGE: Because the little ways of the Government were known.

MR. EWING: The Premier was not only libelling the lawyers, but the judges and citizens generally.

THE PREMIER: The irascible attorney had better keep quiet. Seeing that in this Bill the Crown was placing itself almost in the position of a private citizen, some amount of courtesy should be shown to it. He did not think the clause was an unreasonable one. Those who went into court should do so on even terms. If a person lost an action he should pay the costs, but at present this was not the way in which things were managed; it was all one sided; it was not fair play at all. If a party lost his suit, he had nothing to pay. If he won, the other side had to pay him and also his attorney. That was about the state of things at the present time. He hoped the clause would remain. Governments were never unfair; they did not want to commit an injustice. If it was possible to settle a case on anything like reasonable terms, they would do it. They did not want to go into court. The reason why they did not often settle their cases was on account of the immense demands made on them. If it were not for the attorneys these cases would always be settled without any trouble. The Government were not trading with their own money, but with that of the people. They would always be willing to meet a reasonable proposition, but the unfortunate suitor was not as a rule his own master; he was advised by his solicitor, and the Government had no chance of coming to a settlement. He knew numbers of cases where the Government had been anxious to settle but had been prevented from doing so by the extortionate demands made by the solicitors.

MR. EWING: The Government made offers in open court.

THE PREMIER: The hon. member should keep quiet, and not be so irascible. He (the Premier) knew of a number of cases which had been brought against the Government within the last 10 or 12 years. The Government had been always anxious to settle as soon as possible, and when the Government dealt with individuals a settlement was generally possible; but that would not make costs for lawyers, and the law expenses would not be so great as if a settlement were deferred. Hon. members might rest assured that the Government were not desirous of oppressing the poor man who had a good case. Their object would be to satisfy him, and they would be able to satisfy him, if he were left to himself. For these reasons he (the Premier) hoped these words in the clause would be retained, although, if hon. members opposite were able to get a majority in favour of having the words struck out, he would accept it in the generous way he always accepted defeat.

MR. GEORGE supported the striking out of the words in question, although it pained him to differ from the Premier. He was a little closer in touch with the class of persons who were likely to bring these actions than the Premier was, as the right hon. gentleman's exalted position necessarily kept him apart from poor men. He (Mr. George) was glad to be able to say that among the working classes in Western Australia and elsewhere there were as honest men as were to be found on the Treasury benches.

THE PREMIER said he had never uttered a word about that.

MR. GEORGE: Having been an employer for a number of years and a workman too, he spoke of a class whose virtues and whose failings he knew; and he considered himself better able to judge of what was due to them in such a case than was the Premier. The Premier had said the public paid in these cases; but he (Mr. George) did not think the public would object to pay in order to enable people to obtain their rights. The loss to each individual of the community would be little, while the loss to the individual

who was bringing forward the suit might be such as to ruin him for life. The Premier had said the Government could generally settle these cases in five minutes, if it were not for an attorney. He (Mr. George) did not believe this was correct. He knew cases where, if there had been a little common sense and a little common honesty on the part of those representing the Crown, the matter would have been settled. It was futile for the Premier to say these cases would have been settled in five minutes. In one case in which he had been an arbitrator the officer who was acting for the Government pursued tactics so disgraceful that he deserved to be kicked out of the country, and particularly for attempting as he did to impose on illiterate persons. He (Mr. George) would support the striking out of the words, because if a workman got injured and happened to have a large family, and was not able to put down the necessary sum to cover costs, he would practically be debarred from obtaining justice against the Government who had injured him. Who was to be the judge as to the man having visible means or not?

THE PREMIER: The judge of the court had to settle that.

MR. EWING: The Premier would not trust the judge, according to what he had said.

THE PREMIER: Who said that?

MR. EWING: The right hon. gentleman said so, a few minutes ago.

MR. GEORGE: This provision in the clause might press hardly on a poor man with a family, who might have had sickness in the house and no money saved for the purpose of meeting this demand for costs. A number of persons in such circumstances, if they got hurt through any fault of the Government, would not be able to bring actions for compensation; and this provision for preventing their going into court with their claims was another application of the money-bag argument. He (Mr. George) would oppose any attempt to bring the money-bag argument into matters which had for their basis honest worth.

MR. ILLINGWORTH: The principle of the Bill was that the State should be placed in the same position as an individual with reference to actions for compensation; and if that was not the intention, he had no sympathy with the Bill. Every citizen should be able to make his claim against the Government in the same way as he could make it against a private citizen; yet this clause took the position that the Crown should be able to demand from every man who proposed to enter an action for damages, proof that the claimant was able to pay the costs if he lost the case. It was insinuated that the effect would be to stop dishonest individuals from getting up actions against the Government, and obtaining the assistance of some designing lawyer in the operation; but a man must have some reasonable cause of action before he could start at all, and even the so-called pettifogging lawyer must see a chance of getting damages out of the Government before he would take up such a case. Should this House legislate for the whole community, just with the object of preventing a dishonest lawyer from taking up a bad case against the Government? There were hundreds of men in this country who were liable to injury, and as the State was the largest employer of labour in the country, employing at the present time between six and seven thousand men, many of these persons were liable to be injured. It was difficult enough under present circumstances to have their cases heard in court; but the Government proposed to impose this further bar, that before a claimant could enter the Supreme Court against the Government he must give proof that he could pay the necessary costs. That was always the barrier which the rich man put against the poor man in every action, whether just or unjust. The State had every necessary protection, and even a private individual had more protection against claimants than was really necessary; but the Government, as representing the State, were now asking to have special rights and privileges as to costs. A working man having perhaps a large family, and not always well educated, nor knowing perhaps how to proceed in obtaining compensation against the Government even if entitled to it, was to have this additional barrier set up against him. Such a claimant would in most cases exhaust his

little funds by first employing a lawyer, and when he attempted to take his case into the Supreme Court, having exhausted his funds in carrying the case up to that stage, the poor claimant was to be met with this further barrier, that if he was not rich enough to pay the fees he must not enter the court. It should be the object of Parliament to keep the fountain of justice pure, and give to every man equal rights before the law: and as many persons in the community had to stand the contingency of injury through accident under a Government which might be negligent in conducting the public services, such persons should have the same right of action against the Government as they would have against an individual who had caused them damage in the same way. It was not desired that the Government should make money by shutting out just actions from being heard in court, and by stopping a man at the door of the Supreme Court and saying "Where is your security for costs?" He (Mr. Illingworth) hoped the clause would be struck out.

MR. LEAKE: If it had not been for the observations made by the Premier, he (Mr Leake) would not have thought it necessary to speak again on this question. The Premier's remarks were like the wail of a disappointed litigant more than anything else; and there was nothing to justify the right hon. gentleman's attack on the legal profession. He (Mr. Leake) did not mind a little badinage, such as he sometimes got from gentlemen like the member for West Perth (Mr. Wood), or the member for West Kimberley (Mr. A. Forrest). Members might chaff the profession as much as they liked, but they should not say unkind things about it. It was dangerous to sneer at either the court or the jury. In actions at law, people did get justice as a rule; and it might be said that, in Government suits, other people got justice and the Government paid for it. That was what the Government did not like, perhaps, but it was the case. They would not settle claims, and they always repudiated their liability. He (Mr. Leake) had several actions pending at present against the Government, and he was not sorry this was so, because the Government were invariably in the wrong, and would not settle even when they knew they were in the wrong.

MR. GEORGE: The Government did not pay their debts.

MR. LEAKE: Oh, they paid right enough. But as to the kind of defence they set up, take, for instance, the way their land resumption cases were conducted. It was not the fault of the Premier, of course, but the result of the stupidity of the Government servants that those cases went so much against the Government. The Government officers acting in such cases knew, as individuals, that they had nothing to lose, and they rode the "high horse," and attempted to dictate terms to ordinary citizens in such a manner as showed that the opportunity of doing so was too tempting. Invariably the Government engineers or experts were contradicted flatly by outside people who gave evidence in claims against the Government, and consequently the Government generally "went down" through the stupidity of their servants.

MR. GEORGE: Say, through ignorance.

MR. LEAKE: No; the word "stupidity" was preferable, because it was not so offensive. He would support the amendment; and, in fact, the clause was not a strong one, as a coach-and-four could be driven through it if one liked to do it. It was wrong to deny justice to any person merely because he happened not to have visible means of paying the costs of an action against the Government. It must not be forgotten that the Government were now employers of labour to an enormous extent.

THE PREMIER: The judge had to be satisfied on all the facts.

MR. LEAKE: It could be shown that this clause was not worth a fig. The day labourers employed by the Government in the handling of machinery and of explosives were the very class of impecunious people who came within the scope of the Employers Liability Act and the Mines Regulation Act. This was a matter of principle; and whatever the Committee did, let it be what was fair. Speaking as a public and professional man, no injustice would be done by striking out the words.

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

Clauses 32 to 35, inclusive—agreed to.

Clause 36—What claims are within this Act; breaches of contract; torts:

THE ATTORNEY GENERAL moved, as an amendment, that in sub-clause 3, after the word "Government," the words "out of moneys voted and appropriated by the Legislative Assembly of Western Australia" be struck out.

MR. LEAKE: Had the Attorney General satisfied himself that the clause protected the State, as the State was now protected, against actions for wrong ful dismissal?

THE ATTORNEY GENERAL: The statutory rights of the Crown were all preserved in clause 5.

MR. EWING: This clause was really unnecessary. Without the clause the law would remain that the Government could be sued on any action for which a cause of action would lie at the present time. It was provided that the plaintiff must show that a contract was entered into by or under the lawful authority of the Governor on behalf of the Crown or of the Executive Government; and then it was provided that public works meant certain works specified which were constructed by the Government out of moneys voted and appropriated by the Assembly for the purpose.

THE ATTORNEY GENERAL: The latter was the provision dealt with in the amendment.

MR. EWING: If these words were going to be struck out, he failed to see the use of the clause at all. Why should the rights that at present existed in an individual be taken away? He believed with the member for Albany (Mr. Leake) that the clause would have the effect of allowing persons to sue for wrongful dismissal.

THE ATTORNEY GENERAL: The clause would not have that effect.

MR. EWING: If the Attorney General said the clause would not have that effect, he (Mr. Ewing) was satisfied, but, as he had said, he saw no necessity for the clause. Members all knew the difficulty of forming a list of things which would comprehend everything intended, and there ought to be no interference with rights that existed under the present law.

THE ATTORNEY GENERAL: The clause defined clearly what were causes of action. Actions could be brought for breaches of contract and in tort, and that covered every ground with the single exception mentioned in clause 5, which protected the Crown's rights. This clause practically put the Crown on the same level as the subject, so far as actions were concerned. The definition of public works embraced every possible work the Government did or could perform. He moved the amendment because it was not fair to put on a plaintiff the onus of proving that Parliament had authorised the money for work done under contract.

Amendment put and passed.

MR. LEAKE again asked the Attorney General whether he had considered the effect of the clause on the right to sue the Crown for wrongful dismissal.

THE ATTORNEY GENERAL assured the hon. member that he had considered the matter.

MR. LEAKE: Under this clause the Crown could be sued for wrongful dismissal, as clause 5 did not protect and save the existing rights of the Crown. But the clause was useful, because it removed once and for all any doubt there might be as to the right of the subject to sue in tort. Under the Petition of Rights Act in England, the Crown was not liable in tort. Under the old Act of 31 Vic., No. 7, it had been held that an enactment gave a subject no right to sue in tort. The words in the old Act were, "In any case of dispute or difference touching any claim," but under this Bill the words were "any claim or demand." He suggested to the hon. member for the Swan (Mr. Ewing) that the clause had better be left as it stood in this respect.

THE PREMIER: The clause was very necessary. In 1895 the late Attorney General (Mr. Burt), speaking on this subject, said:—

> References will probably be made to the limitations, but hon. members would easily see the necessity for this. Suppose there was no limitation, and a pilot ran one of the big mail steamers on to the rocks and wrecked it. An action for damages in a few of these cases would ruin any Government, no matter how flourishing its finances might be. That was a case where the Crown could not be held responsible.

That one illustration was sufficient to show the necessity for some limitation in

regard to actions that could be brought against the Crown. As to the Government's liability to be sued in tort or wrong, the late Attorney General, speaking in 1895, said that there was no such right of action on the part of the subject in the colony of Victoria. It would be seen, therefore, that Western Australia was a little bit in advance of that great colony. Then in England, which was supposed to be the home of liberty, there was no right on the part of the subject to sue the Crown. Seeing that this Bill went further than the law of England or that of the colony of Victoria, no one could accuse the Government of Western Australia of illiberality in its provisions. There was also the opinion of the member for Albany in 1895, in which he complimented the Government on the Bill, and said:—

> It might be said that, under this Bill, the rights of a subject against the Crown have been considerably limited; but when the provision as to torts is considered, it will be seen that the present Bill gives the subject a much wider scope than he has under the English law. Although the subject is limited in his actions against the Crown, the provisions are sufficiently liberal not to prevent a person damaged in a railway accident, or any other public work, from recovering damages from the Crown in the ordinary course of law. The Attorney General has mentioned an instance where, without certain limitations, the colony might be placed in a most peculiar position, and it is only to guard against possibilities of this kind that limitations are proposed.

The member for the Swan, he thought, would see that the limitation was necessary, or the door would be left too wide open.

Clause, as previously amended, agreed to.

Clauses 37 to 40, inclusive—agreed to.

Schedules 1 to 5, inclusive—agreed to.

Schedule 6—Section 12:

THE ATTORNEY GENERAL moved, as an amendment, that after the word "summons," in line 2, the words "or other process," be inserted.

Amendment put and passed.

THE ATTORNEY GENERAL moved, as a further amendment, that after "Australia," in the margin, the words "or in the local courts," be inserted.

Amendment put and passed.

THE ATTORNEY GENERAL moved, as a further amendment, that after "summons," in line 4, the words "or process," be inserted.

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

Schedules 7 and 8—agreed to.

Schedule 9—Section 21, sub-section 1, and section 22, sub-section 1:

THE ATTORNEY GENERAL moved, as an amendment, that in the margin, after "Australia," the words "or in the local court," be inserted.

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

Schedules 10 to 12, inclusive—agreed to.

Title—agreed to.

Bill reported with amendments.

DIVORCE AMENDMENT AND EXTENSION BILL.

SECOND READING (MOVED).

MR. EWING (Swan), in moving the second reading, said: In rising to move the second reading of this Bill, I realise that I, perhaps, have taken upon my shoulders a great responsibility. I feel that one should always be careful in dealing with what we deem, and always have considered, one of the most sacred contracts that can possibly be made; and I trust, if I dwell at a little length upon this measure, and on what I consider to be the circumstances that render it desirable that it should be introduced, I shall be excused. It appears to me there is no doubt that certain sections of the community look upon this Bill with disfavour. There are certain religious bodies in the community, part of whose creed it is to look on the marriage contract, not as a contract, but as a sacrament. We know that persons belonging to these denominations are very earnest; therefore we have to deal with the matter with the utmost and deepest respect for their religious convictions; and therefore it appears to me the Bill has a religious aspect as well as a social one. That the Bill has a religious aspect is more forcibly brought home to me by the fact that this morning we see in the columns of the newspapers that the Anglican Bishop of Perth has issued a pastoral to his clergy telling them to do, what?—to preach on next Sunday night, not on the Divorce Extension Bill about to be introduced by me; not to comment on its provisions or

the desirability of such legislation; but to preach in opposition to the measure, whatever their religious convictions may be. I thought the day when people were directed, notwithstanding their religious convictions on a question, to preach that which they might not really believe had passed; and I trusted that an age of wider liberality had opened in the nineteenth century, when we should never fear that we should be dictated to as to what we should, or what we should not do. It seems to me that, as a member of the Anglican Church, it is in no way inconsistent with the religion I have been taught; and I know many of the great advocates of this Bill in New South Wales have been members of the Anglican communion and strong members of the Church of England and Anglican Synod. I know Sir Alfred Stephen, the author of the Bill in New South Wales, was a member of that church; and many of the leading men in the colony, members of the Anglican Church, believe that there is nothing in the Scriptures which forbids any of the provisions of this Bill. I also believe there are many clergymen of the Church of England—I will not say clergymen of the Church of Rome, but clergymen of the Church of England who think this. I know instances of them, and I happen to be the son of a clergyman; and I know that, when this Bill was being discussed in New South Wales my father was strongly in favor of its provisions. He spoke on the public platform in favour of the Bill; he spoke in the Anglican Synod on this Bill, and did his level best to prevent a resolution being carried antagonistic to it there. I know another clergyman—the Bishop of Grafton and Armidale now—was also in favour of the Bill, which was practically the same as the one before the House; therefore I think it is not conclusively proven that even in the Church of England this measure should be condemned from a religious point of view. It seems to me that in the Scriptures—and I do not propose to go very deeply into this aspect of the question, because I feel that I am not competent—the expressions are somewhat doubtful. Certainly, in the Old Testament, Moses lays down that divorce is justifiable, and it is also said by our Saviour that divorce under certain conditions is reasonable, and should be allowed. Under the old dispensation it was allowed, and under the new dispensation denied in some cases, and in some cases allowed. There is a document which appears to bear very strongly on this case. It is a report which was prepared in the reign of Edward VI., upon this question as to whether divorce was lawful or unlawful. The question was referred to a select committee, composed, among others, of Archbishop Cranmer, Bishops Ridley and Latimer, Peter Martyr, Judge Hales, Scory, Coverdale, and others of note, members of the Civil Law, and members of the Ecclesiastical Law. By these distinguished persons it was finally resolved that "the Scriptures forbade not divorce, or re-marriage, for grave and weighty causes. Especially they held that it was lawful for desertion persisted in for years, for gross cases of hatred, indicated by cruel actions of one spouse against the other, or by continued and probably incurable bitterness, in deeds or words, apparently unrestrainable." These are the words of the ecclesiastical committee appointed for the very purpose of inquiring whether it was lawful to grant divorce. It appears to me that ecclesiastical authority is considerably divided on the question, but the ecclesiastical committee, which found that divorce was not denied in Scripture, is sufficient for my purpose. I think, therefore, I may pass over the religious aspect of the question. I have been talking as if I admitted—and I did admit for the purpose of argument—that the marriage ceremony was a sacrament and a sacrament only. But that is the point I wish to argue at some little length. The position I take up is that, though the marriage contract is a most solemn one, it remains a contract still, and, as no marriage contract can be solemnised or celebrated without the authority of the State, there is no inherent ecclesiastical authority to unite persons in matrimony. That which is done by the law of the community can be dissolved by the law of the community; and it cannot be claimed that that which is done by the statute law of the colony is a sacrament of the Church. At one time, no doubt, marriage was to

a large extent a sacrament. At one time the Church had sole control of the matter. It was entirely in the hands of the bishops and priests, and the records of marriage appear to a large extent to have been kept by those persons. Recent legislation seems to have been on the principle that marriage should be placed under the control of the Legislature. We have enacted that no clergyman by reason of his ecclesiastical office can celebrate a marriage. We have said that before a person can celebrate a marriage he must have a certificate from the State that he is qualified to perform the ceremony: he must be registered on the books of the State as being authorised to celebrate the marriage. Now, if the State has taken on itself the sole responsibility in regard to marriage——

MR. ILLINGWORTH: It has not.

MR. EWING: I submit to my hon. friend that no man by reason of his ecclesiastical office can perform the marriage ceremony.

MR. ILLINGWORTH: The State may marry no one.

MR. EWING: But an officer of the police court can marry some one.

MR. ILLINGWORTH: He only registers the act.

MR. EWING: He performs an act which, under the law of this community, is a legal marriage. He causes persons to come before him. The mere repeating of the words of the marriage ceremony does not constitute the contract, but the fact that the persons have complied with the law of the community—that is what makes the marriage; and whether the person before whom the parties are married is an ecclesiastic or a layman, whether he is authorised ecclesiastically to celebrate marriage, or is only a registrar of the court, still the marriage performed by him in this country is equally valid and equally lawful. Therefore, I submit that marriage, inasmuch as it is authorised by the State, and that the manner in which it is celebrated is laid down by the Legislature and must be in compliance with the law of the country, cannot be looked upon as a sacrament of the Church. The Church might marry a person a dozen times over, but that would be no marriage until the civil portion of the ceremony was carried out. Again, with reference to the position taken up by the Roman Catholic Church, I know that the opinion of Roman Catholics on this point is almost undivided. I know that a Roman Catholic priest will not re-marry a divorced person. No good Catholic will take advantage of the laws of divorce. It appears to me that the Roman Catholic Church is highly inconsistent in regarding marriage as a sacrament.

MR. LEAKE: You are treading on dangerous ground.

MR. EWING: I do not think I am treading on dangerous ground at all. I want to discuss the question rationally and reasonably. I know that there are Roman Catholics in this House both in front of me and behind me; and that they will have no objection if I discuss the matter freely and impartially. I want to show them that the position they take up is to a large degree inconsistent. It is denied by the Roman Catholic Church that the clergy of the Wesleyan body, for instance, are ecclesiastical authorities. The Roman Catholics even deny that the clergy of the Church of England are real clergy. They assert that the Anglican clergy have usurped their offices, without being entitled to fill them. Granting that position, how can a marriage which is celebrated by a clergyman, whose authority that particular branch of the Christian Church denies, be a sacrament of the church in the eyes of a Roman Catholic? I fail to see how it is possible. If the Roman Catholic Church denies the authority of the Dissenting churches, as they are very often called—the Wesleyans, the Congregationalists, and the Church of England—as clergy, how can they say that the marriages these Dissenting clergymen celebrate are marriages at all? Of course there is no necessity for the Roman Catholic Church to take advantage of this divorce law. If any man's religious principles stand in his light, then he may plead them as justification for not taking advantage of the divorce law. I am sure that my friends on the other side of the House—some of whom I know to be Roman Catholics—will not think I am endeavouring to bring in sectarian feeling; but as I have spoken of the Anglican Church, I feel I must speak of the Roman

Catholic Church, because this is a religious question. I admit that to a large extent it is looked upon as a religious question, and I would be shirking my duty if I did not deal with this aspect of it. It seems to me, not only does the Roman Catholic Church deny the authority of Wesleyan clergymen in ecclesiastical matters, but the Church of England takes a similar view. How then can either of these churches say that a marriage celebrated by Wesleyan ministers can possibly be a sacrament? Before leaving this aspect of the question I would like to repeat that I am a member of the Anglican Church, that my father was a minister in that church, and that I have known hundreds of the leading members of that church, who believe that this Bill is justifiable—that divorce under the conditions set out in this measure is justified in the Scriptures, just as firmly as the Anglican Bishop here believes it is not. I respect the actions and the feelings of any person who is in such a dignified and high position as the head of the Church of England in this colony; but I think it would have come much better from him had he said to his clergy: "Preach on the Divorce Bill that is being introduced by Mr. Ewing;" for I am not aware that there is any Article in the Church of England that makes it necessary that a clergyman should be opposed to divorce. If the Anglican Bishop had said: "Preach on the question; give your views to your parishioners;" I should have treated the matter with very much greater respect than I now do when I find that the Bishop has taken upon himself the responsibility of saying to his clergymen: "Whatever may be your religious or your social views on this question, preach against the Bill introduced into the Assembly by Mr. Ewing." Again, I would like to refer hon. members to the fact that, so far as the Church of Rome is concerned, the very head of that important Church—a church from which I differ, but that does not prevent me from realising that a Roman Catholic has just as much right to his convictions as I have to mine— the very head of that church reserves to himself the right, practically, of granting divorce. The Bishop of Rome has the power to nullify a marriage; and that power is exercised, and has in the past frequently been exercised, particularly in high circles.

MR. LEAKE: In cases of royalty.

MR. EWING: In cases of all kinds. I think the Bishop of Rome has the power to divorce persons for certain reasons. I know how I will be met. I may be told that the Pope has not the power of granting divorce, but only the power of declaring a marriage null and void. The Hon. J. F. Cullen, speaking on the question in the New South Wales Legislative Council, said in answer to Mr. Slattery:—

> When I was speaking upon this question some months ago, the hon. member for Queanbeyan said the head of the Church of Rome had never claimed the power to do more than declare a marriage null and void ab initio. I said: That is a back-handed, indirect, and disingenuous way of granting a divorce.

Now what is the effect, if that power is vested in the Bishop of Rome—the power to declare void *ab initio* any marriage which he deems, or which his church deems, is not a true celebration of marriage? His church believes only in the religious celebration of marriage, and therefore his church would be able to divorce every Protestant who is married in the community, provided the jurisdiction of that church were enlarged to that extent. There are mixed marriages between members of the Roman Catholic and other denominations, and I believe the Roman Catholic Church does not approve of mixed marriages in many cases; I believe also that most persons think it is undesirable to have mixed marriages, because the effect is generally bad on the children. If the Church of Rome declares these to be unlawful marriages then the Pope would have the power of declaring any such marriage to be void *ab initio*; so that, in fact, the Pope claims the power to grant divorce. It appears to me, and I think it is a matter of history, that in numbers of cases this power has been exercised; and in some cases where the Pope of Rome has refused to exercise his ecclesiastical right, that right has been exercised by the authorities of the Anglican Church. I believe that some divorces which were refused by the Pope were afterwards granted by the Anglican Church, and I think I am not wrong in my recollection of history in that matter. Therefore, both the Anglican

Church and the Pope of Rome do assert that a right is vested in them of dissolving the contract of marriage. Leaving the religious aspect of the question, and looking at the Bill as a whole, it appears to me that it falls within the words of the committee to which I have referred, and I think we know the names of Archbishop Cranmer, Bishops Ridley and Latimer, Peter Martyr, Judge Hales, and others. We know that these men were not likely to report that the Scriptures contained that which they believed the Scriptures did not contain; and therefore I put the greatest weight on their report, which says that for desertion persisted in for years, for gross hatred indicated by cruel actions of one spouse against the other, divorce is justifiable. I think that is the outcome of the judicial proceeding, the outcome of the consideration of the question by the greatest authorities in those days upon church matters, as far as England was concerned. Therefore they say that for desertion, for cruelty, for bad treatment, divorce is justifiable; and if I can show that this Bill, which I am asking the House to read a second time, is within the four corners of the principles laid down by that committee, then I have every reason to say that the Bill should not have the ban of the church held over it; but I believe on the contrary that it is a Bill consistent with the principles of Christianity, and that it will forward the interests of morality, that it will promote the interests of the rising generation, and will have a lasting effect for good. The first ground of divorce is adultery.

MR. ILLINGWORTH: The only one.

MR. EWING: My friend says it is the only one; but, from a Scriptural point of view, divorce is either lawful or forbidden, and there is no half measure about it. In the Old Testament it is said to be lawful. In the New Testament it is forbidden, but in some places it is not. At the present time in this country the provision for divorce is coupled with desertion or cruelty; but the first intention of this Bill is to extend the principle so as to allow divorce for adultery only. The next ground is that where there has been wilful desertion without any lawful excuse for three years or upwards, a divorce may be granted. It appears to me that this is the very thing which the committee I have referred to decided was one of the "weighty reasons"—they held that divorce was lawful for desertion persisted in for some years. Therefore this provision is distinctly within the purview of the report presented by that committee. Surely it does seem reasonable that if a man has taken upon himself the burden of the marriage contract, he has agreed that he will keep not only his wife but his children to the best of his ability; therefore if he leaves his wife and his children without the means of a livelihood, if he leaves them to find their way through the world as best they can, if he leaves them practically without a head and without a father, it is surely placing a load on that woman's back if the Legislature prevents her from getting a divorce in order that she may marry someone else if she desires and is able to do so. There are few men who are ready to take the responsibility of a large family by marrying a deserted mother in such a case; but there are cases in which it is desirable to separate the parties, and to wipe out, so far as the family is concerned, the father who has proved himself no father to them. I submit this is a reasonable condition, that a woman who is deserted by her husband for three years or upwards, if she has an opportunity of marrying again, shall be allowed to marry, if only in the interests of the children, for the purpose of providing a decent home for them, instead of having to slave for the rest of her life in trying to provide them with a home and a subsistence. The next condition is that a divorce may be granted on the ground that for three years and upwards either party has been a habitual drunkard, and if the husband either leaves his wife habitually without the means of support or has been guilty of repeated acts of cruelty towards her; so that if a man has been a habitual drunkard for three years and upwards, and in addition to that has treated his wife with cruelty, or has left her without support for that time, this is a ground for divorce. Looking at the interests first of the wife, what is the home of the habitual drunkard? If divorce for desertion is justifiable, I submit that divorce for habitual drunkenness is a thousand times more justifiable, because the presence in the home of a drunken husband who treats his wife and children badly is

worse than his absence. I do say that this provision is in the interests of the children; for as children are brought up, and as they see their parents do, so are they inclined to regard such a state of things as the ordinary condition of married life; and if they see a father who is a habitual drunkard, time after time making his home miserable and ill-treating his wife, they will think such conduct and such misery are the natural conditions of life, and will be very apt to become drunkards when they grow up.

MR. ILLINGWORTH: No; they will sign the pledge.

MR. EWING: The hon. member must know that, unfortunately, children brought up in those conditions have no opportunity of knowing what the pledge is; that they have not an opportunity of knowing what the principles of decency are, nor will they learn them in such a home, and it is really in the home that the child-life and the future life are influenced for good or ill. The youth who passes his childhood in the home of drunken parents is almost certain to grow up with a very poor view of the duty which, as a man, he ought to perform when he undertakes the responsibilities of married life, and of the duty he will owe to his wife when he takes one.

MR. ILLINGWORTH: It is not true to fact. Some of our best men have come out of drunken homes.

MR. EWING: Yes, but far more remain in the drunken homes and go from bad to worse. I do say that in the interests of the children themselves, that in the interests of decency and morality, and in the interests of future generations, we should, if we possibly can, remove those children from the evil atmosphere that exists in the home of the drunkard; and we may do that by allowing the wife to have an opportunity of taking them from that wretched home and placing them in a home of her own, where she may bring them up in such a way that they can become respectable citizens. Does the member for Central Murchison (Mr. Illingworth) think that a man's life will be better if, in his childhood, he is kept in the home of a drunken parent? Does the hon. member believe it is not better to remove that child from evil influences and squalid conditions? Surely the hon. member must know that one cannot see an evil condition existing and live in the midst of it, and still not absorb a portion of the evil that exists there!

MR. ILLINGWORTH: It is not true to fact.

MR. EWING: I may say that a man who is born in the higher circles of society has a better chance in life than the man who is born in the slums of London. Why? Because his environment is better, whereas in the slums of London a man is face to face with evil in his daily life, and is so surrounded with evil influences that they must make him a worse man than he would be if placed in more favourable conditions.

MR. GEORGE: And yet there are decent men coming from there, too.

MR. EWING: Undoubtedly, and there are good men who rise above the evil conditions surrounding them—men whose mental calibre is such that no weight of conditions will weigh them down. But I do say the ordinary individual is a creature of the circumstances in which he lives; that if a young man be brought up amongst evil surroundings and debasing examples, he will probably show, in his future life, the bad results of his environment; that if a child be brought up amid the misery and squalour of a drunkard's home, where the wife is ill-used and the children are neglected, the probability is that when that child reaches manhood and enters the married state, he will be likely to follow in the steps of his father by going to the public-house, neglecting his home, perhaps beating his wife as he had seen his mother beaten by her drunken partner, and generally following in these evil courses which will have been a training to him in his early years. Surely it is better to allow a decent wife to take her children away from the evil influences of a home made wretched by a husband's drunkenness and cruelty, and give her a chance to bring them up in such better way as she may be able to do. Surely it will be for the benefit of the children to allow the mother, if she can, to elevate and make them better in the future; and it will also be for the benefit of the community that this should be done. Again, there is a provision in the Bill that

if a man be sentenced to a certain term of imprisonment for crime, that shall be a ground for divorce. I shall not read all the clause, which will no doubt be stringently dealt with, should the Bill get into Committee, as I hope it will. If a man be sentenced to five years' imprisonment, and his wife and children be left during that term without the means of livelihood, that will form a ground of divorce.

MR. MORGANS: Suppose the man be given a ticket-of-leave?

MR. EWING: A man has to be imprisoned for not less than three years, and be then still in prison, before there is ground for divorce. Attempt to murder or violent assaults by either party to the marriage are also grounds for divorce. Surely it will be conceded that if the matrimonial conditions come to a stage when either party to the marriage brutally assaults the other, or attempts to murder, there should be a separation. What would the law do if a man attempted to murder another? It would bind the offender over to keep the peace, and separate the two as far as possible. And why? Because the result of their meeting would probably be the commission of a felony. And will it be urged that because the church says "marriage is a sacrament," two persons who are threatening one another's lives should be kept together? The community, in urging such a condition of affairs, becomes accessory to any crime which may be perpetrated.

MR. ILLINGWORTH: The community does not urge that.

MR. EWING: Then, if either party to the marriage has been insane for three years, and, in the opinion of the court, is incurable, a divorce may be obtained.

MR. GEORGE: I should say there needs a Bill to regulate who should marry.

MR. EWING: There are certain other clauses providing machinery for the working of the Bill. There is a provision that in granting a divorce against the husband, the latter may be ordered to pay his wife and children sufficient for their permanent maintenance. In other words, there is extended to the wife and children, who are the innocent parties, all the advantages, while all the disadvantages are taken away. Other clauses of the Bill deal with modes of procedure, etc., and these, I do not think, at this stage would be interesting to the House. This is the Bill which the church says is bad. This is the Bill which two representatives of our most important religious bodies say is bad. I was always under the impression that the object of Christianity was a great social work.

MR. ILLINGWORTH: You need not define Christianity: you do not know anything about it.

MR. EWING: That is possible. I am only giving my opinion, and the hon. member can afterwards explain to us what Christianity really is. I will not presume to say what Christianity is, but will leave that to the hon. member who knows so much about it. I will only lay down what I believe to be the underlying principle of Christianity. I believe the underlying principle of Christianity is, and one of Christianity's greatest works in the nineteenth century is, the bettering of the social condition of the community. I believe the object of Christianity is to make us better men and better women. Why are Sunday-schools started? In order that our children may be brought up and made decent and respectable men and women. Why should members of the Church, simply because marriage happens, in their opinion, to be a sacrament, say: "No matter what the social consequences are to the community, no matter what the consequences are to individuals, no matter what the consequences are to children and future generations, we will bind husband and wife together so firmly that it will be impossible for them to separate." It does not matter whether they try to murder one another, or bring their children up in such a manner as to guarantee a generation of vagabonds in the future. Simply because the Church says "marriage is a sacrament," a condition of affairs is not to be created which, in my humble opinion, it is one of the first objects of Christianity to banish from the world. I firmly believe that this Bill will have a tendency to improve future generations, and make a better race of coming Australians. It will make the conditions of life happy, while at present they are unhappy. It will prevent hundreds of unfortunate women from being

worked, troubled, annoyed, tormented, and driven, in many cases, to despair, by drunken, useless, reprobate husbands. It will prevent——

A MEMBER: Prevent suicide.

MR. EWING: As an hon. member says, it will prevent suicide in many cases, and sometimes worse than suicide. The result of this Bill, whatever its religious aspects may be, will be the development of a better race in the future. With that conviction in my heart, I have introduced the measure, which, I trust, will become the law of the community. To pass this Bill would be a good work—a work, the beneficent influences of which will be felt in the future. The churches, in opposing this measure, are ignoring a great factor in the advancement of our social conditions, one which is becoming a great influence, which would have an upward tendency on the community. For the sake of a little dogma, and perhaps a little narrowness—and, may be, a little definitionising—the churches say that this great social work at our hand shall not be done, because, in their opinion, the marriage tie is indissoluble. I trust the second reading will be carried, because I am convinced the Bill will be fraught with great good. As a member, and I believe a good member, of the Anglican Church, I submit this Bill to the House, feeling I am in no way departing from my religious principles, or the religious principles of the Church to which I belong. I have very much pleasure in moving the second reading of the Bill, and trust it will be passed through the House without serious amendment.

MR. ILLINGWORTH (Central Murchison): I must compliment the member for the Swan (Mr. Ewing), who has brought in this Bill, and whose sincerity cannot be doubted. That he has at heart what he conceives to be a great good, and that he really desires to remove what all deem great evils, I have not the slightest doubt. I believe he is sincerely desirous, as I trust all members in the House are desirous, that the homes round about us should be happy, and that people should live under conditions, not only good for themselves, but good for the State at large. I compliment the hon. member on the very able way in which he has placed this measure before the House. I have heard debates on the marriage question elsewhere, and I never heard better arguments than those adduced by the hon. member. I never heard this question handled in a more honest, straightforward, clear, and definite manner. Hon. members will probably understand that I hold different views from those of the hon. member for the Swan. I hope that gentleman, to whom I listened with the closest possible attention, will consider some other views on this great question, which I desire to place before the House, and that he will weigh them with the same honesty as he advocated his own views. His case has been honestly presented from the light which he has, and with the object which he desires to attain. In the first place, I want to say that my sympathies are in complete harmony with his own. I have been connected with social work for something like forty years. It has been my lot many times to go into the kind of homes which this Bill is intended to remove. I have been there under circumstances which were harrowing in the extreme. I have seen things which, if related, would harrow the House, and I could occupy the whole night in describing them. Consequently, I am not without experience. If there were any possibility of my mind being moved from certain deep-seated convictions, my sympathies to-night would be altogether on the side of this Bill. But, looking at the measure we have to deal with, and at the grave question that is involved, I am met, first of all, with the difficulty that this Bill is *ultra vires*.

MR. EWING: *Ultra vires?*

MR. ILLINGWORTH: I am not perhaps using the words in the lawyers' sense. I am not of the learned profession, and I may not put the construction on the words that the legal profession would. I use the expression, however, to indicate what I mean. We have, for instance, had before this House to-night a Bill based on an Imperial Act, and it was asserted over and over again by legal members that it was necessary to keep in harmony with that statute. In other words, it was asserted that we were not at liberty to legislate just exactly as we thought best, but were bound to work in harmony with the Imperial statute.

That, I suppose, is our position as a colony. What I want to say is that, from my standpoint, there is on the marriage question a law that is higher than any law passed by any assembly in any country from the time of Adam to the present day. That law is the law, within which, and in harmony with which, all statutes and all legal enactments affecting the question of marriage must be framed. I am not going to speak from the standpoint of the Church; but I may be at liberty to express my faith, seeing the member for the Swan has expressed his. I do not recognise the authority of any church as a church. I do not recognise any senate as having the power either to make or unmake laws, which have been made and promulgated by any other body with power in itself. When I take up this book (the Bible), which I reverence so much, I hold in my hand a law which to my mind, though, perhaps, not to the mind of others, is absolute and supreme. And as I can read the law from this book, I should harmonise all other legislation with the law which is herein written, because just as in this House I am bound as a legislator to oppose any legislation which is contrary to the Imperial enactments, so in all questions of this character I am bound to oppose all laws that are not in harmony with the divine law, which I hold this book to be. I speak to those who hold the standpoint that I hold myself. I speak at present from the standpoint on which this book may be laid aside, and the subject discussed from a human standpoint. The hon. member for the Swan (Mr. Ewing) has been pleased to appeal to this book, and I am pleased that he has done so, because it would be an unfair representation of the subject if he had not done so. I ask hon. members to listen while I read. My authority is the law of Jesus Christ our Saviour. We all hold views as to who he was, and what he was, and what was his authority. There is not a second opinion in the House, or without it, as to the wisdom of Jesus of Nazareth. I think there is not a second opinion as to the wisdom of the man who delivered such an address known as the Sermon on the Mount. I take it that all legislation since that sermon was delivered has been framed from that standpoint—on the great principles there laid down. I would be satisfied to trust my destiny, and the destiny of the world, from a legal standpoint, to the main principles laid down in that sermon. In the Sermon on the Mount this statement occurs: "That whosoever looketh on a woman to lust after her has committed" a certain crime with her. When we come to the statement contained here in Matthew—because I am treating this book as it is treated in the State schools, and am not claiming for it any other than the opinions there expressed, and I only claim for it the opinion that the world admits as one of the wisest views taken from it—I am reading from the 19th chapter of Matthew, beginning at the 3rd verse—

> The Pharisees also came unto him, tempting him, and saying unto him, Is it lawful for a man to put away his wife for every cause? And he answered and said unto them, Have ye not read, that He which made them at the beginning made them male and female, And said, For this cause shall a man leave father and mother, and shall cleave to his wife: and they twain shall be one flesh? Wherefore, they are no more twain, but one flesh. What, therefore, God hath joined together, let not man put asunder. They said unto him, Why did Moses then command to give a writing of divorcement, and to put her away? He saith unto them, Moses because of the hardness of your hearts suffered you to put away your wives, but from the beginning it was not so. And I say unto you, Whosoever shall put away his wife, except it be for fornication, and shall marry another, committeth adultery; and whoso marrieth her which is put away doth commit adultery.

I quote this from St. Matthew in justification of the standpoint, that any law which proposes to dissolve the marriage bond for any cause other than the cause herein named, is *ultra vires* against the principle of the highest law, and the only law, that legalises marriage. I say the State does not marry, that in no country does the State marry; and here is the vital objection to the argument which has been raised. All that the State has to do is to register a marriage. When the State issues or gives a right to a minister of religion, or to a registrar or magistrate, all the right that the State gives is a right to register. There was a time in our history when no such registration existed, and in those days the State took no notice of marriage. It had nothing to do with marriage. It never

made marriage, or unmade it. There is no statute on the question. And, because during the last three hundred years or so it has been deemed wise that in the interests of children there should be registration of marriage, surely we are not going to take upon ourselves to say that nearly three hundred years ago the State obtained the right to deal with the question of marriage which did not exist through the thousands of years that went before. I say, moreover, that under the Jewish dispensation, if we go back to the ancient law, the State did not marry, and it only took notice of the fact. To-day in portions of Great Britain—in Scotland—there is no religious service necessary, no State service is necessary, and marriage is accepted by law for legal purposes if two persons say in the presence of each other—a man has simply to say, "This is my wife," and the woman, "This is my husband," and then for all State purposes that is the marriage.

MR. EWING: Is it a sacrament?

MR. ILLINGWORTH: I have never stated yet that marriage is a sacrament. I do not state it now. I am not here to argue for the special views that any religious denomination holds. I am presenting my own opinion. What is assumed in the Bill is that the State has power to marry. I say the State never had; it has not, and never can have the power to marry. All the statutes on the statute book of the State on this question do not give the State power to marry, but take a recognition of the marriage; and it is not the consummation nor is it an ordinance of marriage, but it is the registration of the marriage.

MR. EWING: The Registrar of the Court can perform the whole ceremony.

MR. ILLINGWORTH: A marriage is lawful even if performed by a minister, a registrar, or a magistrate, without any form whatever, in this colony, and every other colony in Australia. The part that the State has to see to is that persons have no disqualification, and that the marriage is registered on conditions such as will protect the offspring and the relations; and all the State has to do is to register, which primarily has to do with property. Certain churches say this is a sacrament, and if you choose to do so you can have the rite performed, and persons of certain faith naturally ask the blessing of the sacrament as they judge it and use it. Suppose in the Anglican Church that the necessary affidavit is taken in regard to the relationship, and suppose the clergyman does not read the marriage service, if the documents are signed in reference to the relationship and the registration is complete, it is a marriage. The State gives no instructions. The State never issued a form of marriage. There is no such thing as a form of marriage on the Statute Book. Therefore, I say the State does not marry, but only registers marriage.

MR. EWING: Who does it?

MR. ILLINGWORTH: The individuals marry. It is a contract between the parties, which the State has never yet attempted to regulate; the church has attempted to regulate; the church has so far taken up the question, and filled up a great want which in many cases exist; but that want does not exist with many people in the country.

MR. GEORGE: You say they do not register in Scotland.

MR. ILLINGWORTH: In some cases they do; in others they do not.

MR. GEORGE: It is the law there.

MR. ILLINGWORTH: I say a marriage is legal in Scotland. I will give an illustration——

MR. GEORGE: The law of the British Isles is that you must register a marriage.

MR. LEAKE: That does not touch this question.

MR. ILLINGWORTH: When hon. members have done I will proceed. The next thing I want to say is this: I admit fairly, fully, and completely that there are many very hard cases—severely hard cases—that it would be advisable to help if we had the power to help them. This Bill has that object in view, and so far as that object is concerned, I am in sympathy with it, if the Bill itself was not *ultra vires*, for the reasons which I have given. Looking altogether from that phase of the subject, which influences my mind, and which probably does not influence other hon. members—looking to the other side of the question, we, as legislators, admitting we have the right,

which I deny, to deal with the question of marriage in the way I am speaking of it, here is a question I would ask hon. members to consider: Is it not possible, in endeavouring to alleviate the hard cases which undoubtedly exist, to create greater mischief than you mend? That is the primary thing, and I am looking at it simply from an every-day standpoint. That is really the question—the question that will have to be discussed.

MR. EWING: If you establish the fact that the Bill will do more harm than good, we will drop it.

MR. ILLINGWORTH: I started with the proposition that it will, and if I do not believe it would, I would not say anything about it. The other question I am dealing with, the other phase of the question, if it could be established, that more good would be done than harm, it would be worth while risking doing some harm to alleviate some of the hard cases this Bill endeavors to relieve. It is my deep-seated conviction that this Bill will do more harm than good. I am sorry to have to quote from memory; but I shall be able to verify the statement if required later on. The Chief Justice and two other justices of Victoria have refused to grant divorces over and over again on the ground that these divorces were asked for by collusion for purposes of evil; and they declared themselves absolutely against the Act.

MR. EWING: What about Sir William Windeyer, in New South Wales?

MR. ILLINGWORTH: There are differences of opinion among judges, as there are differences of opinion among members in this House. The hon. member has advanced his set of opinions; I am advancing mine. It is for the House to decide which set of opinions is best. When such a man as the Chief Justice of Victoria, on the one hand, states from his place on the bench that an Act is doing a vast amount of harm, I may be entitled to hold the opinion that this Bill may do more harm than good. It will do some good, I admit; but I fear that it will do more harm than good, and that it is not a wise policy or a just policy to increase evils in probably a vain attempt to remove evils that exist. The very fact that divorce will be easily obtainable on small or at least comparatively small issues, will have a tendency to weaken the solemnity of the marriage contract, and to lead people to enter lightly into what ought to be a very calm and earnest engagement. This is practically what is going on. Cases have been brought up before the Court in which it has been shown that these very results have been brought about. This Bill would have another evil effect. It would ruin a number of children; and that would be the greatest ruin of all. You will simply cause children, who are no parties to the crimes of their parents, to be practically thrown upon the world, and you will remove the responsibility from the parents on to the State. The children would be likely to become neglected and be thrown on the State. The principal argument used by the mover of this motion was that marriage is carried out by the law of the country, and therefore can be abrogated by the law of the country. I touched upon that, and need not, therefore, go over the ground again. I say that the country does not make the contract. All that the country does is to register the contract. The country has no more to do with it than a registry office has to do with the contract which is registered there. Consequently I say that the answer to the proposition laid down by my friend—that that which is done by the law of the country, can be abrogated by the country—is completely upset by the fact that the State does not make the contract. The first cause for a divorce—that of adultery—laid down in sub-clause (*a*) is an admitted cause by the law which I hold to be supreme. Cause (*b*) is on the ground that the respondent has, without just cause or excuse, wilfully deserted the petitioner; and, without any such cause or excuse, left him or her continuously so deserted during three years and upwards. What is to happen if this is made law? Two people get dissatisfied with one another. The husband says: I will go away for three years, and then you can get a divorce. Divorces are applied for again and again, for no other cause than that the wife and husband happen to disagree.

MR. GEORGE: If they want to separate they had better separate, hadn't they?

MR. ILLINGWORTH: No. If this Bill were made law the State would be

giving a distinct opportunity for collusion; and persons might come together at their own sweet will. I would call that by a very ugly name if I were to speak my mind. Cause (*c*) is habitual drunkenness, with cruelty or negligence, for three years. It is easy to charge a person with drunkenness if he or she is willing to be so charged. It is difficult to prove that drunkenness is real and genuine. Is it right to close the door against the penitent, because he has been three years a drunkard? Is it right to separate a man from the choice of his brighter and better days by the law of the land simply because he has been a drunkard for three years? The Bill says that the moment the three years are up, the woman can go and marry somebody else. Our own law provides for this very case. The member for the Murray (Mr. George) asks if I would force these people to live together. I say that our present law enables them to live apart. St. Paul, who was a wise man, whose judgment is surely worth something, says that, in such cases, where the parties are judicially separated, "let her remain unmarried." This Bill proposes that the respondent shall marry again. Under sub-clause (*d*), divorce is allowed on the ground that the respondent has been imprisoned for not less than three years and is still in prison, or has been sentenced in the aggregate to imprisonment for three years or upwards, and has left his wife habitually without the means of support. I have heard of persons being imprisoned who were not guilty. I have heard of persons who have been convicted, and in a few years it has been proved that they were innocent. It would be very hard on such innocent persons on coming out of prison to find their homes broken up, and their wives married to other men. The Bible allows divorce for the cause named in sub-clause (*a*), and distinctly forbids it for any other reason. The experience of centuries proves that those marriages are the happiest which are the most permanent. I say it is most dangerous to interfere with the permanency of the relationship. I maintain that it is better that a few should suffer under the present system than that the permanency of the institution itself should be endangered. Then we come to sub-clause (*e*), which provides for divorce

> On the ground that within one year previously, the respondent has been convicted of having attempted to murder the petitioner, or of having assaulted him or her with intent to inflict grievous bodily harm or on the ground that the respondent has repeatedly during that period assaulted and cruelly beaten the petitioner.

We hear of such assaults being committed every day. If a woman thinks she is in danger of her life all she has to do is to appeal to the court for a separation. The law already provides for such cases. It is now proposed to legislate in another way altogether. The fear of being grievously assaulted is now urged as a reason why a woman should be allowed to remarry, but I deny that the reason is a sufficient one. The last of the sub-clauses, which allows of divorce on the ground of insanity, I would rather not say very much about, for reasons which some hon. members know. But I do not consider that insanity is a sufficient ground for divorce. Shall we legislate in such a manner that after a man has been in a lunatic asylum for a few years he may return to his home to find his wife married to another, and his children in somebody else's keeping? I say that the Bill is not required, and that it will create more evils than it will remove. Some of the evils which the Bill proposes to remove are removed by the existing Act. I contend that the House has no power to deal with marriage, but only with the registration of marriage, and that the Act which provides for a judicial separation under certain conditions is all that is required. The religious question is one for the conscience of the individual, and is a matter between him and his church: consequently it is a matter which this House has no right to interfere with. For these reasons, which I think are substantial reasons, I move, as an amendment, that the Bill be read a second time this day six months.

MR. MORAN (East Coolgardie): I second the amendment. The House has listened with the greatest interest to the introducer of the Bill, who has put his case very ably before the House: and the House is also indebted to the hon. member who has just spoken (Mr. Illingworth) for the able manner in which those argu-

ments were rebutted. But, in rebutting those arguments, the member for Central Murchison has taken his own standpoint: that is, that as a believer in the Founder of Christianity he takes the law of God, the law of Christ, as the higher law which governs all other laws; and, consequently, he has argued that from his point of view this Bill is *ultra vires*. I submit that is rather a strained interpretation; for, suppose most of the members of this Assembly, as might possibly be the case, would not be recognised by a Jewish community then, although this country happens to be one in which the Christians are, for the nonce, more numerous than the Jews, yet the position would be that the law held by the hon. member to be the supreme law, from his standpoint, would not be recognised by a Jewish community, not would it be recognised by a community consisting mainly of persons who had no belief in religion. Therefore, this Bill is *ultra vires* only in that it is against the Christian doctrine; and in that respect the argument of the hon. member is very circumscribed, because it will not apply to all religions. If we affirm that the Christian doctrine is to be the sole foundation of all our law, in arguing all questions in this Assembly, then as that doctrine is not believed in by the Jewish community nor by those who do not profess Christianity, the effect must be that the Christian doctrine will not be generally accepted as the basis of all legislation. We know that the Jewish people do not look upon Christ as the Son of God, nor as having any authority over them.

MR. ILLINGWORTH: They admit he was a wise man.

MR. MORAN: But the hon. member cannot take the position in this Assembly that a law which controverts the opinion of a wise man is *ultra vires*, for, before you can admit that anything is *ultra vires* as against the law of God, you must be prepared to recognise the law of God. I say that, as an individual, I am in accord with the hon. member entirely, for I hold that divorce is against the law of Christianity, and, what is more to me as a legislator, I believe that anything which is against the law of God as accepted by all Christians must be against the good and the welfare of the State. I firmly believe that if you contravene in any way the law of God, or the law of Christianity as laid down, that if you endeavour to controvert any of its teachings, or if you carry into practice any of those moral obligations which are against this law, then you are doing an injury to the State. Notwithstanding the fact that the other night I was not inclined, nor am I now, that we should have any particular Christian doctrine inculcated during particular hours in our public schools, yet none the less am I a firm believer that any Christian country which endeavours to legislate against the accepted doctrines of Christianity—and I believe it is a hard matter to prove that the Christian doctrine tolerates any divorce, almost to the extent of free-love—is a country which must suffer from such action. It may be open in this country, or in any country, to inflict one's own religious beliefs upon an Assembly; but possibly, it is not a good argument to bring them forward, and it is only tolerable to do so because we are a Christian community. Apart from that, I ask is it a good thing for this Legislature to lay down rules and regulations by which divorce may be granted for almost trivial circumstances, and so bring about such undesirable results as that children of a divorced father may be walking along the street with their mother, and may see on the other side their father walking along with another woman who is not their mother, and with them other children who are not their brothers or sisters, although their own father is beside them, so that these children of divorced parents may thus see somebody else occupying the place which their father should occupy. That is the way the matter presents itself to me, apart from the religious question. The opinions of some judges who have expressed strong conclusions on the point have been quoted in the debate. It has been said by one of the ablest judges in Australia, after administering the divorce law in Victoria, which is like that proposed in this Bill, that the facility for obtaining divorce there is doing a great deal of harm. I ask any hon. member does he not think this divorce question is becoming a curse to Australia? Do we not see all over Aus-

tralia at present that the greatest evil which can possibly be inflicted on society is resulting from the facility provided for divorce? It is an abrogation of the dreadful responsibility which persons take upon their shoulders when they enter into the marriage state. It is making light of a serious thing—making it light as air. It is making marriage an ordinary formality, as is proposed under this Bill, whereby people who have not perhaps come to the full use of reason, and may not have had the home training and restraints which are desirable in the bringing up of children, may come together and marry—for what purpose? We know that young and inexperienced persons do rush into the marriage state; and, under this Bill, this state will become no better than a tolerated system of living together for a short time. What condition has morality fallen into in some of the States of America? Do we not hear or read almost every day of instances perpetrated in that country, showing that to-day there is practically a condition of free-love existing over a large part of America? And, if we introduce the same system here, the result will be the bursting up of the family tie, doing away with all sense of parental responsibility, and ignoring those higher sentiments which tend to elevate mankind, and promote that love of family which has inspired men and has built up the Australia we have to-day. It is love of wife and family that makes a man fight for his country, and makes him zealous in building up a home in a new country. The ambition of any man, worthy of the name, is to do good, first and foremost, for those whom he has been responsible in bringing into the world. This Bill proposes to wipe away all those high and noble feelings. The hardships described by the member for the Swan do exist, and there is no doubt as to that hon. member's earnestness. This Bill might do some little good. It might give liberty to some people and rid them of a burden, which, however, it may have been ordained they should bear. We cannot arrive at a state of perfection in this world; and we cannot be always legislating to set right the immoral man. These are my earnest and sincere views on the question. I honor and admire the member for Central Murchison (Mr. Illingworth) for basing his views on the Sermon on the Mount. A man is better for a higher and nobler conception of his existence. Everything that is good and valuable in a State springs from something higher and better than a regard for mere animal existence. I admire and respect a man who believes in his own religion and acts up to it. I have a thorough, profound, and fully-expressed contempt for a man who has no higher conception of his being than that he is in this world for a while, and that so long as he lives with good outward show, all is well. I cannot possibly support the Bill. I may be told by the member for the Swan that I cannot vote for the Bill because I am a Roman Catholic. But that is not a fair argument. It does not follow that because the Chief Justice of Victoria happens to be a Roman Catholic his views on divorce have to be discounted. It would ill-become a young practitioner to question on religious grounds the sincerity of one so high in his profession as Chief Justice Madden, when he gives a legal opinion from the bench. I should be sorry to have to regard the opinions of the member for the Swan as less worthy of consideration because he goes against the doctrines of his own, the Anglican Church. We cannot, for the sake of independence, despise altogether or discount the opinions and teachings of those large and learned bodies the churches, which contain all that is dearest to us. The churches must be treated with the greatest respect. They are the repositories of knowledge, experience, and learning, which it is their particular mission to garner up. It is their mission, as it was the mission of their founder, to look below the surface and have regard to the moral welfare of every State and every individual. If we differ with the churches let us differ with profound respect, and only for the very gravest reasons. We cannot afford lightly to depart from the teachings, even of any particular body. It is not the mission of the churches to merely look after our moral and spiritual welfare. The churches are, after all, the mainspring of the great charity organisations which look after the material welfare of the needy. The churches, one and all, should have the one end and aim, namely, to do all possible to make

people's lives happy in the world. It is a bad argument to say that the opinions of a learned man in any profession are discounted by the fact that he is a Roman Catholic, an Anglican, a Presbyterian, Wesleyan, or a member of any other Christian body. It is not fair to introduce that phase into the debate. An honest man is entitled to be treated as an honest man, no matter what his religion be. If a man in the position of Sir John Madden gives a judicial opinion, that opinion should be received with respect, no matter what his religion may be.

MR. EWING: Still, in this case, the opinion is coloured by his religious belief.

MR. MORAN: That is where I do not agree with the hon. member.

MR. EWING: It must be coloured.

MR. MORAN: I do not for a moment imagine that because any of the judges in Western Australia belong to any particular religious denomination their judgments are in any way coloured because a litigant happens to belong to the same denomination.

MR. EWING: It was not a judgment by Sir John Madden.

MR. MORAN: It was a judgment, and a very important judgment.

MR. EWING: Not at all.

MR. MORAN: What was the judgment? It was a judgment between those who seek to make the marriage tie loose and those who seek to keep the tie firm and strong.

MR. EWING: It was only an expression of opinion.

MR. MORAN: It is very hard to arrive at a judgment without expressing an opinion.

MR. SIMPSON: Was it a judgment in any particular case?

MR. EWING: No; not at all.

MR. MORAN: If it were not, would that take away from the value of the opinion? Is Sir John Madden to say one day, when trying a case, that the divorce laws are doing harm, and on another day, when not on the bench, say the reverse? If the hon. member for the Swan is acquainted with logic—and I believe he is—he knows that generalisations are made after a wide experience of individual instances. It is because Sir John Madden has seen so many individual instances that he is prepared to generalise. His experience in the Divorce Court tells him that the present law of divorce in Victoria is doing an immense amount of harm, and tends to break up the foundations of the State, by loosening the foundations of the family tie. I have much pleasure in seconding the motion that the Bill be read this day six months. I treat with the greatest respect the opinions of the hon. member who introduced the Bill. No one who heard him could doubt his sincerity. I ask him, in common fairness, to treat those who oppose him in the same fair spirit, and not say our opposition is because of our religious denomination. To me, as a Roman Catholic, this Bill has no interest. I could not take adantage of the measure, no matter how liberal its provisions, without violating tenets which I hold. My opinion on the Bill is given as that of a member of the State of Western Australia. The hon. member who introduced the measure does not hold there is anything higher in marriage than a civil contract; and I do not discount his opinion because he is an Anglican. His arguments are no better, and no worse, for his religion. Two and two make four, no matter who says it. I treat the arguments from that standpoint. I ask hon members not to endeavour to give the question a religious colouring.

MR. EWING: It must have a religious colouring; it is partly a religious question.

MR. MORAN: If the hon. member believes it to be a religious question, why does he not leave it to religious men, and let lawyers keep their noses out of it? Let the shoemaker stick to his last. I have said what I believe, and I have much pleasure in seconding the proposal of the hon. member for Central Murchison.

On the motion of MR. GEORGE, the debate was adjourned.

ADJOURNMENT.

The House adjourned at 10.53 p.m. until the next Tuesday afternoon.