and the inclusion in our Standing Orders of the draft Standing Orders which hon. members will find included in the committee's report.

Question put and passed.

ADJOURNMENT—SPECIAL.

The COLONIAL SECRETARY (Hon. H. P. Colebatch—East) [4.54]: I move—

That the House at its rising adjourn till Tuesday next.

Question put and passed.

House adjourned at 4.55 p.m.

Legislative Assembly,

Tuesday, 24th September, 1918.

The SPEAKER took the Chair at 4.30 p.m., and read prayers.

[For "Questions on Notice" and "Papers Presented" see "Votes and Proceedings."]

ADDRESS-IN-REPLY—PRESENTATION.

Mr. SPEAKER: I have to inform hon. members that I presented the Address agreed to by the House in reply to His Excellency's Speech on opening Parliament and His Excellency has been pleased to reply in the following terms:—Mr. Speaker and Gentlemen of the Legislative Assembly: In the name and on behalf of His Most Gracious Majesty the King, I thank you for your Address. (Signed) William Ellison-Macartney, Governor.

QUESTION—SHEEP FARMING AT DALWALLINU.

Mr. JOHNSTON (without notice) asked the Colonial Treasurer: In view of the great interest the hon. gentleman takes in the progress of the Dalwallinu district, which is an important part of the Irwin electorate, can he say how many sheep-owners and how many sheep there are at and around Dalwallinu?

The COLONIAL TREASURER replied: There is a fine lot of grass around Dalwallinu, but unfortunately there are not many sheep. So far as I could ascertain when I was there last Friday there were only two residents in the immediate vicinity who kept sheep. I think the total is something over 2,000.

BILL—INTERPRETATION.

Report of Committee adopted.

BILL—CRIMINAL CODE ACT AMENDMENT.

In Committee.

Resumed from the 19th September; Mr. Stubbs in the Chair, the Attorney General in charge of the Bill.

Clause 2—agreed to.

Clause 3—Amendment of Section 19:

Hon. P. COLLIER: Has a court or a judge any power to-day to commit children under the age of 18 to an industrial school? Are the courts not compelled to discharge such children altogether, or to commit them to an ordinary prison?

The ATTORNEY GENERAL: Under the State Children Act there is a power, but none under the Code. The Chief Justice last year had two youthful offenders before him, and he said he lacked the power to send them to a reformatory prison or school. He, therefore, discharged them on their own recognisances.

Hon. W. C. ANGWIN: How are children under 18 brought before the Criminal Court? I understand that such children are provided for under the State Children Act, and that any child under 18 can be charged before the Children's Court and before that court only.

Hon. P. Collier: If the offence was a serious one, I take it that the Children's Court would not be in a position to deal with it?

The Attorney General: I think not.

Hon. T. WALKER: We specially provided the Children's Court for the trial of all offences committed by children. Now we are going to provide machinery for sending up children of any age to the Criminal Court.

The Attorney General: I see that under the State Children Act the age is 18.

Hon. T. WALKER: This procedure may be the means of branding as criminals for the rest of their lives children of tender years. Even in serious charges some consideration should be shown to children. I am entirely opposed to placing these cases straight into the hands of the police.

The Attorney General: This section is to avoid all that.

Hon. T. WALKER: It passes by the Children's Court, where we have some secrecy.

Mr. Munsie: We are supposed to have it.

Hon. T. WALKER: That certainly was the object of the State Children Act. This Children's Court at all events is less public and less sever upon youthful criminals than would be the case if the charges against them were heard at the Criminal Court. Even the oldest criminal law we have gives some mercy to children. Without repealing the State Children Act we are now attempting to override it, and give the police an opportunity of entirely ignoring it. This clause will have the effect of making the State Children Act a dead letter, and the severity of our criminal law more emphatic.

The ATTORNEY GENERAL: The State Children's Court has not jurisdiction to hear cases under the existing law in respect to certain offences. Children under the age of 18 years may be sent on to take their trial and there are two courses to follow, either to send them to gaol or release them. This clause amends Section 19 of the Code which sets out

a number of cases in which children may be dealt with. This clause proposes to insert a paragraph which will enable a child to be sent to an industrial school for a period or until the expiration of the sentence, whichever is the longer. The object of the clause is to give fuller effect to the State Children Act so that children now dealt with under the Code may be dealt with in the way the member for Kanowna desires. It is not for the purpose of allowing the police to send children to the Criminal courts but to give the Criminal courts the power which the State Children's Court has at present.

Hon. P. Collier: Has a judge no alternative but to release or send to prison?

The ATTORNEY GENERAL: The Chief Justice himself says, "We have no such thing as a reformatory prison" and we are bringing in an amendment in the Prisons Bill which will enable us to have a reformatory prison which we have not now. We have industrial schools, and if a boy is sent there and escapes there is no means of getting him back, but if he is sent to a reformatory prison and escapes he can be got back.

Hon. T. Walker: We know the jurisdiction given in the State Children's Court, to the justices. There are extremely few cases that come outside that category of cases.

The ATTORNEY GENERAL: The State Children's Court cannot hear cases of rape; such cases have to be sent to the sessions. That court cannot hear cases of murder or felony cases.

Hon. T. Walker: This clause will permit all cases to go to the other court.

The ATTORNEY GENERAL: Certainly not.

Hon. T. Walker: It does not limit it at all.

Mr. Pilkington: It limits it to convictions on an indictment which are only convictions in the Supreme Court or the sessions.

Hon. T. Walker: Sexual offences have been heard in the Children's Court.

The ATTORNEY GENERAL: Because many of them are not indictable.

Hon. T. WALKER: This Bill makes them so, so that they can be taken into the Supreme Court. Children can be indicted, imprisoned or sent to an industrial school. This Bill makes it possible to place children amongst criminals. I would increase the jurisdiction of the Children's Court instead of taking away its authority and increasing the power of the criminal court. I would keep children out of the criminal court whatever their offence. The object of the Bill is apparent, to send children to a reformatory prison or an industrial school. If a child is guilty of a sexual offence let that child be treated by those who have some sympathy with children.

The ATTORNEY GENERAL: There are two sets of offences; minor offences and major offences. The major offences are indictable and are sent on to the sessions or the Supreme Court. The Children's Court can try all minor offences. Those offences which are called major offences go from the magistrates or the Children's Court to the sessions or the Supreme Court. That court has not the power to send a child to an industrial school or a reformatory prison unless this clause is passed. The member for Kanowna changes his ground and says instead of allowing the court that power he would take away the jurisdiction of the Supreme Court and give it to the Children's Court.

Hon. T. Walker: All children should be tried by the Children's Court.

The ATTORNEY GENERAL: This remedial measure is not to alter that law at all. Now the Supreme Court has power to deal with children indicted of certain offences and to punish them by sending them to gaol. The court hesitates frequently and releases a child, thereby doing a wrong to the child and to the community. This clause is to give the court power to send a child to a reformatory prison or an industrial school. Now they have either to send the children to gaol or release them. I would give them a third opportunity to send them to a reformatory prison or an industrial school.

Hon. P. Collier: Am I right in assuming that a misdemeanour comes under the category of a minor offence?

The ATTORNEY GENERAL: There are some misdemeanours that are indictable.

Hon. P. Collier: This Bill proposes to alter many of those cases now called misdemeanours.

The ATTORNEY GENERAL: Those cases still go to the sessions.

Hon. P. Collier: At present it is competent for the Children's Court to hear these cases?

The ATTORNEY GENERAL: No, unless a special statutory power is given to the magistrates to deal with them summarily.

Hon. P. Collier: I know that the Children's Court repeatedly hears charges against sexual offenders, youths under 18 years of age.

The Attorney General: The charge may be neither a crime nor a misdemeanour, but only an offence.

Hon. P. COLLIER: I should prefer to see the jurisdiction of the Children's Court extended so that that court will be able to hear all charges against boys and girls, rather than that those charges should be heard in the Criminal Court, as apparently they have to be at present, and will still continue to have to be even under this measure. I agree that it is desirable to extend to our judges the power to send children to industrial schools rather than to prison, but it is still more desirable to provide machinery whereby all charges, for major as well as minor offences, preferred against children would be heard by a court other than the Criminal Court, which is so very much in the public eye. I consider child offenders should have their cases heard within the more friendly and homely surroundings of the Children's Court. Many children have found their way into the Criminal Court through mere momentary lapses. I agree with the member for Kanowna that the circumstances of a trial in the Criminal Court cannot be conducive to the after welfare of a child. I hope the Minister will consider the necessity, in this connection, for amendment of the State Children Act.

The Attorney General: I am prepared to consider that, but not to amend this Bill in that respect.

Hon. P. COLLIER: The bench of the Children's Court need not necessarily be constituted, for serious cases, as it is at present, of honorary magistrates, to whom I am not prepared to give the power to deal with all classes of offences by children. The bench might include a stipendiary magistrate, or even a Supreme Court judge.

Hon. T. WALKER: I suggest to the Attorney General that we amend this clause by making it compulsory to hear all charges against young children in camera, in secret. The judge of the Supreme Court would then be acting practically as if he were sitting in the Children's Court. There should be no publicity, such as now brands a boy forever.

The Attorney General: The judge now has it in his power to hear a case in camera.

Hon. T. WALKER: But that power is so often forgotten, and the Press is admitted and publication takes place, with the result of an everlasting monument to the boy's fall at the very beginning of his life. What I propose is an innovation, but, I think, a good one.

The Attorney General: You propose that the Criminal Court should compulsorily hear such cases in camera?

Hon. T. WALKER: Yes, and that there should be no publication of the proceedings.

The ATTORNEY GENERAL: We have had important suggestions from the leader of the Opposition and the member for Kanowna, and I do not like to decide on those suggestions while here on my feet. I should like to obtain the opinions of the judges and of the Crown Law Department on those suggestions. The leader of the Opposition himself saw difficulties in connection with his proposal as he was proceeding with his speech. The clause as it stands certainly represents a reform, and should be passed. At a later sitting in Committee on this Bill, I will inform hon. members of the conclusions at which I shall have arrived regarding the suggestions made.

Hon. P. COLLIER: I understand the Court at present has power to order all non-interested persons out of court and to prohibit the publication of evidence?

The Attorney General: Yes, where the court thinks proper.

Hon. P. COLLIER: That is a power which the judges are loth to exercise, and naturally so. There would be a public outcry against them if they attempted to make the courts anything in the nature of a Star Chamber. The proceedings of the Children's Court, however, are never published.

The Attorney General: Unless the Children's Court chooses to give the information.

Hon. P. COLLIER: Under Section 22 of the Act constituting the Children's Court the matter is entirely optional. However, the policy of the Children's Court has been to exercise that power; and if a similar provision were included in this Bill our judges might accept it as an intimation that Parliament desired them to exercise that power more frequently. Certainly, there would be no outcry as regards the cases of children under 18 years of age, since the exercise of the power in similar circumstances by the Children's Court has been endorsed by the general public and by all who come in contact with that court.

Hon. T. WALKER: Though not prepared to move an amendment, I should be glad to have the Attorney General's assurance that this clause will be re-committed. The power to prohibit publication of evidence and to exclude all non-interested persons is so rarely exercised by the judges that one may say it is never exercised. Its exercise in the case of children who are charged ought to be made the rule, and not the exception. Will the Attorney General promise to re-commit this clause?

The Attorney General: It requires no promise or consent from me.

Hon. T. WALKER: Yes, it does, because the Attorney General can oppose the re-committal.

The ATTORNEY GENERAL: The member for Kanowna is now opposing the clause on logical grounds, which rather appeal to me. When I give the Committee the result of my consideration of his suggestion and of that of the leader of the Opposition, it will be optional for either myself or another member of the Committee to move a new clause of the desired effect. If I do not move the new clause myself, I assure the member for Kanowna that I will afford him an opportunity of doing so.

Hon. P. COLLIER: I would like an explanation of paragraph (b). This paragraph appears to give power to pass on to a higher court for sentence a person who in a lower court has been found guilty of an offence.

Mr. PILKINGTON: I cannot make head or tail of this paragraph. The provision in the Code is, shortly, that a person convicted of any offence may be discharged on entering into his recognisances. To that it is proposed now to add "or if the offence is indictable, may be committed for sentence before some court of competent jurisdiction." I cannot see what meaning that has. A man may be sent to another court for sentence although already convicted. Surely there is something wrong. The paragraph may be attached to the wrong clause. At any rate, as it stands at present, it is not capable of any meaning.

The ATTORNEY GENERAL: If hon. members will look at Section 19, Sub-section 7, of the Code, they will find that it reads, "A person convicted of any offence upon summary conviction may, instead of being sentenced to any punishment to which he is liable, be discharged upon entering into his own recognisances with or without sureties, in such amount as the justices think fit, that he shall keep the peace and be of good behaviour for a term not exceeding one year." The clause in the Bill now proposes that if the offence is indictable the offender may be committed for sentence to a court of competent jurisdiction. That is to say that the offender may be sent to another court to be sentenced.

Mr. Pilkington: But the man has already been convicted for a summary offence and he is to be sent to another court to be sentenced again.

The ATTORNEY GENERAL: At the present time a lower court may do two things.

It may sentence a man to punishment, or it may discharge the man on his own recognisances. Now we want to add "or if the offence is indictable, may be committed for sentence before some court of competent jurisdiction."

Mr. Pilkington: That is, for the offence for which he has already been convicted.

The ATTORNEY GENERAL: A court is not allowed to look at the previous history of an offender until a decision has been arrived at. Then it may be found that the man is an old offender, and the magistrate sees for the first time that the punishment he can inflict is inadequate, in view of the previous convictions which have been disclosed. As the law stands, the magistrate can only sentence the offender to the term prescribed, or let him go. If it is in his power to send him to a higher court, it will then be possible to give the offender greater punishment. The amendment provides that the offender may be committed for sentence to some other court of competent jurisdiction.

Mr. O'Loghlen: Could the other court hear the evidence and re-try the man?

The ATTORNEY GENERAL: The object is to send the offender to a court that can give him an adequate sentence.

Hon. P. Collier: I think you will find that Section 16 of the Code covers it.

The ATTORNEY GENERAL: Section 16 apparently does not seem to cover it. The amendment is particularly wanted by the Crown Law authorities.

Mr. PILKINGTON: It is very plain what Subsection 7 of Section 19 of the Code means. It means that a person may be convicted of a trifling offence, so trifling that the magistrates are allowed to discharge the offender on his entering into his own recognisances. It is now proposed that if a person is convicted, he may be discharged, "or if the offence is indictable may be committed for sentence before some court of competent jurisdiction." It cannot be indictable if he is convicted for a summary offence.

The Attorney General: The term of imprisonment that can be imposed by the lower court is limited.

Mr. PILKINGTON: But the offence is the offence for which the person has been convicted. The lower court is already a court of competent jurisdiction, and there is no sense in that court sending a case on to another such court. After a magistrate has heard a case and decided to send it to another court of competent jurisdiction, the case will go to that court, and that court will know nothing at all about it, inasmuch as it will not have a line of evidence. I would suggest that the paragraph be deleted, at any rate for the present. I cannot make head or tail of what was in the mind of the draughtsman.

The ATTORNEY GENERAL: I am inclined to think that Section 16 of the Code covers the procedure. It seems to give wider power than Paragraph (b) in the Bill, which only relates to offences that are indictable. I am inclined to agree that Paragraph (b) should stand over, and if I am advised that one paragraph is not covered by another I shall bring it up in another form.

Hon. T. WALKER: I move an amendment—

That Paragraph (b) be struck out.

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

Clause 4—Amendment of Section 182:

Hon. P. COLLIER: This amendment gives power to arrest certain offenders without warrant. I can easily imagine that there may be reasons why a police officer should have power to arrest without a warrant, but at the same time it is an important departure from the section which has been in the Code for so many years. I would like the Minister to give some reason why the amendment should be carried.

The ATTORNEY GENERAL: The offences mentioned in the section of the Code are those we know of as unspeakable and it very often happens that unless the perpetrator can be caught in the immediate vicinity, or caught in the act, a difficulty will arise.

Hon. P. Collier: The wonder is that it has existed so long in the Code.

The ATTORNEY GENERAL: There are several cases where police constables have seen an offence committed and have taken the law into their own hands and made an arrest. The amendment will merely legalise that which has been a practice.

Clause put and passed.

Clause 5—Amendment of Section 185:

Hon. T. WALKER: We require some explanation from the Attorney General as to the necessity for this amendment. I would like to know why we should substitute "crime" for "misdemeanour."

The ATTORNEY GENERAL: Section 185 of the Code deals with the defilement of girls under 13. The first part of the section provides that any person who may have unlawful carnal knowledge of such a girl is guilty of a crime, while the second part of the section provides that any person attempting such an offence is guilty of a misdemeanour, and is liable to imprisonment for three years, with or without whipping. If hon. members will turn to Section 187 of the Code they will see that any person who attempts to have unlawful carnal knowledge of a girl under 10 is guilty of a crime, and is liable to 14 years imprisonment There does not seem to be any adequate reason why there should be this discrimination, and it is thought advisable to make the punishment up to 14 years for each offence. If that is done I will suggest that Section 187 be repealed, because the greater will include the lesser.

Hon. T. WALKER: I scarcely think the Minister's explanation sufficient. To say that there is no difference between a child of ten and a child of 13 does not carry conviction to me. In a climate like ours there are to be found girls absolutely matured in every sense at 12 years of age. It is a well-known fact that in a hot climate such as we have, some girls at 12 years of age have matured every function necessary for mother-

hood, etc. They have the passions of a woman. They have not the same discretion, and they need protection, it is true, but they have all the passions of a matured woman. We must be careful how far we go in apportioning crime to one sex only. In the past we have not legislated exclusively through emotionalism, but have taken into consideration all the factors associated with the offence. We are not doing that now. We are rendering ourselves liable to create crimes and criminals. Anything deterrent of crime I am desirous of assisting to the utmost. There can be no question that girls at 12 and 13, having attained maturity, have their allurements and passions, and, to make a mere attempt—which can easily be imagined, and easily be fortified with some species of evidence—a crime of the same gravity as that of actual carnal knowledge, is wrong.

Mr. Pickering: The evidence must be supported.

Hon. T. WALKER: True, but some circumstantial evidence in support can almost always be obtained. We must be careful. It would be dangerous to render liable to prosecution for a crime any man who for the time being might fill the imaginative eye of a young girl just entering upon womanhood. We require to protect decent members of society from the accusations of hysteria. We have all known or read of accusations of the sort which had but little foundation in fact. We have also to remember that on sexual matters there are very few who can exercise an untrammelled judgment. The imagination is inflamed, even in the wisest, oldest and most experienced of us when dealing with sex matters, and to be accused of the crime is almost to have a conviction recorded against one.

Mr. Pickering: When on the second reading you spoke of how difficult it was to obtain a conviction.

Hon. T. WALKER: I did not. To be accused of a sexual offence is in itself to bring judgment upon a man. The subject more or less colours and inflames all our instincts.

Mr. Harrison: That is why young girls should be protected.

Hon. T. WALKER: But you do not protect them by making this a crime. The hon. member is familiar with the old saying, "I might as well be hanged for a sheep as a lamb." If we make the misdemeanour of an attempt an actual crime, then one overstepping the bounds of decency is likely to remember that he has already committed a crime, and that he can do no more if he goes the whole way. There is a danger in that respect. We must not forget that very often girls of 12 and 13 are women, and very seductive women at that, and that through the precocious instincts which come with early development and maturity they may be the unwitting causes of attempts, real or imaginary. But there are two elements. Humanity consists of both sexes, and we have to be fair to both, and to apportion our punishment to the actual wrong. To make an attempt the same crime as actual carnal knowledge is not acting with discretion, discernment, and hard, cold judgment. We should be, not preventing those offences, but really inflaming the passions by severities of this kind. It would be worse than if we left the law as it stands. As I remarked the other day, we in Western Australia have nothing to be ashamed of in this respect, in comparison with the other States of Australia. Of course it is a blot to have any degenerates at all amongst us, but we have not in the State bestial lunacy to the extent that we need enact legislation such as proposed in the clause.

The ATTORNEY GENERAL: The cases quoted by the member for Kanowna are abnormal cases. We are legislating for the whole community, and because of that we must have regard to those abnormal persons who would injure a young girl who was not abnormal. Is it too much power to give a judge, in the case of a man who makes an attempt upon a young girl, to permit him to sentence that man up to 14 years' imprisonment?

Mr. PICKERING: In my opinion any imprisonment that will prevent men from committing these offences should be a lengthy one. The longer such persons are restrained from the perpetration of these offences, the longer will the prospective or possible victims have immunity from them. I am in favour of the intention which underlies this clause.

Hon. W. C. ANGWIN: It appears from the remarks of the Attorney General that he only has consideration for the girl. Has he not in mind the boy of 13 years of age, who can be sent to prison for 14 years?

The Attorney General: A judge could send such a boy to a reformatory.

Hon. W. C. ANGWIN: In reality it is the girl who may be to blame.

The Attorney General: The court takes all the circumstances into consideration.

Hon. W. C. ANGWIN: I do not agree that there are only isolated cases concerning girls. In Australia there is a large number of girls who reach the age of maturity at 13 or 14. We must take the opposite sex into consideration as well. The present legislation dealing with this matter could well stand, though I would be in favour of increasing the term of imprisonment to seven years. We do not want to make a boy at 13 years of age a criminal under this clause. I move an amendment—

> That the words "and the word 'crime' for the word 'misdemeanour' and" be struck out.

The ATTORNEY GENERAL: I want the clause as it stands. The judges are there to exercise their discretion in these cases, and to make the punishment fit the crime. I can imagine a very great difference between an offence by a boy of 13 upon a girl of 13, and a deliberate assault by a man of 40 upon a girl of 13. Under the section we have already passed the court will have power to send the boy to a reformatory or industrial school, but in my opinion such cases would be few and far between. The case which we desire to legislate for generally is that of the vicious brute who goes into a household, and takes a child under 13 and desecrates her. I would forgive

anyone who shot such a man on the spot. I am not going to allow a particular instance to guide our judgments as to the sentence which should be imposed. It is not supposed that the court would sentence a boy of 13 to 14 years imprisonment, for what term of imprisonment would be left to impose upon a man of 40, by contrast with that to be imposed upon a boy of 13? Moreover, a judge will not usually impose the full penalty unless the case is a gross one, and I hope the Committee will agree to this full penalty being given in every gross case. We should not legislate for particular instances, but for the general good.

Hon. T. WALKER: It is the Attorney General who is legislating for particular instances. He referred to the vicious brute in the case. Who made him a vicious brute?

The Attorney General: I should like to put him out of harm's way.

Hon. T. WALKER: Out of society? The Attorney General is part of that society which made the vicious brute. In cases of sexual offences we should have indeterminate sentences, and this is the time when we should discuss this matter. There may come over a man of 40 a moment of temporary insanity. This man may have been one of good moral character up to that moment and be not immoral afterwards. His momentary madness, however, makes him commit an offence, which is on a level with that which would be committed by a brute, and yet he is to be sent to gaol for 14 years.

Sitting suspended from 6.15 to 7.30 p.m.

Hon. T. WALKER: The Attorney General said that we could not attempt to make laws for abnormal people. Does the Attorney General consider criminals normal people? The moment a person commits a crime such as we are considering, he is abnormal to a degree. No one would think of injuring a child of 10 years of age. I question if we can cure the disease or wrongfulness by altering the word "misdemeanour" to the word "crime" and lengthening the term of imprisonment. We shall do the very opposite. Those who have made lifetime studies of the question are the people I am following in the attempt I am making to have the Bill made rational. I draw attention to a work of extreme value, "A History of Penal Methods," by George Ives, a work of large circulation and one that is written in no emotional strain, but with a view of obtaining truth from gathered statistics and generalisations of the facts of history. On page 360 of this work he says—

> And so when some accident or some private feud reveals a case of sexual abnormality, and thus sets the clumsy indiscriminating law in motion, there can be little doubt but that it prompts and brings about those very practices it is supposed to stay.

He gives a footnote here which is as follows:—

> That is, among the neurotic, unbalanced, sexually "neutral" temperaments. The pronounced natures will probably not be influenced one way or the other.

When people talk of victims—I am arguing for the victims—very often the law makes the victims. It is the effect on the nervous system of the neurotic that creates a tendency to these crimes. It arises from an unbalanced system. One more quotation—

> Assaults exhibit various degrees; there may be outrage done by some half-wild beast, taking advantage of a lonely place; or it may be begun by that kind of man, and others, less guilty, but yet perhaps intoxicated and present, may be led on and drawn to the crime. Or again it may assume an altogether different character, and be the outcome of insanity, the irresistible impulse of an abnormal man, which nothing can deter or terrify, and from which he cannot abstain. Many of the offences against children are of this kind, and also some acts of sensuality with animals.

If we are going to legislate on sound principles we must not forget these facts. I have as much horror of the man described by the Attorney General as anyone in the Chamber. A man who will take advantage of the hospitality of a friend to defile his child makes me shudder. He is a degenerate from his birth, not a normal man. No normal man could think of such a thing; he is distinctly abnormal. Who could descend to such bestial conduct as that?

Mr. Mullany: What do you propose to do?

Hon. T. WALKER: I propose to isolate such.

Mr. Pickering: Permanently?

Hon. T. WALKER: Until he is cured. There may be temporary cases of insanity of that kind as there are temporary cases of insanity intellectually.

Mr. Pickering: The authority you quoted just now said they are incurable.

Hon. T. WALKER: There are cases where in a given state of health a man loses control of his impulses and he is irresponsible whilst those passions are on and whilst that state of health is his. To make that man a permanent criminal on that account cannot be defended on any grounds whatever. It is increasing the number of victims. They are cases for special consideration. It does not alter the facts by altering the names. We do not cure such a man by a term of imprisonment. He comes out ultimately a worse man. Let me refer to an argument which has been used during the debate, a case which occurred in my term of office. A man for an offence of violating or attempting to violate—for that was the offence the evidence disclosed—was sent to prison and let out after he had served a little over two years. That man associated with criminals all the time he was in gaol and became a companion of Fremantle prisoners and got into trouble, not over a sexual offence, but over an offence akin to fraud, and in consequence of his companionship with another man in Fremantle gaol who was not let out on the prerogative of mercy, but he served his full sentence, he fell into trouble in the East. That was pointed out as an example. The man was never guilty of a sexual offence, but his companionship in gaol with criminals of that type made him a criminal of a like character.

As the outcome of that he is now back in gaol. Thus the method of long terms of imprisonment fails to cure. The indeterminate sentence is proposed by this Bill for all cases of sexual dereliction. Men of that type ought to be kept under perpetual surveillance. They are neurotic, and diseased in all the moral nerve centres. They should be let out only under expert assurance that it is safe for the general community. Instead of, in such cases, increasing the term of imprisonment among criminals, where vice is rampant, and where the perversions of the abnormal are rendered still worse, let us have institutions where these cases can be given special observation and treatment. Release should take place only on the expert advice of those in charge of such institutions. The publication of the evidence taken at the trial of such cases, and the fact that the sentence of the law appears to some of us to be brutal, have a bad effect on weak-natured members of the community, who are in consequence tempted to sexual abnormality. The passions of the pervert are stimulated, and the result is not to make our children safer but, on the contrary, to place them in greater danger.

Hon. R. H. Underwood (Honorary Minister): Then, if we do not prosecute at all in such cases, everything will be right?

Hon. T. WALKER: No; but treat such cases in a different manner. Would the Honorary Minister punish with imprisonment and flogging a lunatic?

Hon. R. H. Underwood (Honorary Minister): I would prevent him from committing the offence again.

Hon. T. WALKER: But a man who commits an act from lunacy is not held criminally responsible. This kind of sexual lunacy, however, is christened "crime," and the lunatic is punished vindictively. We ought to take a different view of the facts. When these human aberrations are discovered, we should take charge of them, controlling them, and as far as possible preventing them from inflicting wrong upon others, but at the same time remembering that the unfortunate member of the human family is a member of the human family, and that he should be treated for his moral insanity just as others are treated for their intellectual insanity. I ask the Attorney General whether, at this stage, we could not introduce the indeterminate sentence method, so that the offender in this respect should be placed in custody, but humane custody, and treated according to his needs, being set free only when those who are experts in the nervous system of man can give their certificate that the man is fit to be at large.

Hon. W. C. ANGWIN: Every member of this Chamber is in accord with the Attorney General regarding the cases to which the hon. gentleman referred. But it is wrong to attach to a boy of 13 or 14 or 15 years the name "criminal." I agree with the Attorney General that those beasts who enter a home and destroy a young girl should be punished, and punished severely. But we should also protect the boy, and that is my only reason for moving the amendment. A boy of 13 or 14 might not be the guilty party, but might have been drawn away by the girl; and therefore he should not be stigmatised as a criminal to the end of his days. Let us protect the boy as well as the girl.

Mr. ROCKE: Every member of the Committee acknowledges the sad fact that our community comprises beings of an abnormal stamp. The question needs to be viewed from a dispassionate standpoint. This Chamber must not take the responsibility of denying to our girl-children the protection which the clause proposes to grant them. It is true that in Australia girls come to maturity at the age of 12; but they are still children then, and they are children at 16 years, and even at 18. The question raised by the member for North-East Fremantle in relation to boys represents an extreme view. I do not believe that any judge would sentence a boy of 13 to a term of imprisonment covering years.

Hon. W. C. Angwin: I am dealing not with sentences but with the branding of the boy with the name of criminal.

Mr. ROCKE: Our judges have discretionary power, and are men of understanding, and they will deal with such a case in the best interests of the boy. In very few instances is a boy the culprit in these cases, it is almost invariably a man of mature years. If such a man entered my family, there would be no occasion for a criminal court to deal with him; any father who failed to take such a case into his own hands would, I consider, be failing in his duty. Very seldom is evidence given to show that these cases have arisen from nymphomania. They arise from the preponderance of the beast in the male. If by putting such a man away for a time we can protect our girls, this clause has my whole-hearted support.

Hon. P. COLLIER: The question is admittedly a difficult one, and I should be quite with the Attorney General regarding the cases to which he referred, where a man of mature age was guilty of violating, or attempting to violate, a child under the age of 13. In extreme cases of the kind it might be necessary that the court should have power to sentence the offender to a term of imprisonment extending beyond three years. We know there may be cases in which it would be necessary, not out of any spirit of revenge or vindictiveness, but in order to protect society, that the offender should be placed where it would be beyond his power to repeat the offence, for an extended period. From that aspect the Attorney General would appear to have a good argument for increasing the maximum penalty from three years to fourteen; but, having regard to the provision of the Bill dealing with the indeterminate sentence, that argument is entirely obliterated. Under Clause 26 the Attorney General proposes to take all the power that is necessary in order to shut off from society individuals who might possibly be guilty of offences of this kind. The powers taken in Clause 26 are extremely wide and they render the arguments in support of the present clause null and void.

Clause 26 reads—

> When any person apparently of the age of 18 years or upwards is convicted of any indictable offence not punishable by death (whether such person has been previously convicted of any indictable offence or not), the court before whom such person is convicted may if it thinks fit, having regard to the antecedents, character, age, health, or mental condition of the person convicted, the nature of the offence or any special circumstances of the case—(a) direct that on the expiration of the term of imprisonment then imposed upon him he be detained during the Governor's pleasure in a reformatory prison; or (b) without imposing any term of imprisonment upon him, sentence him to be forthwith committed to a reformatory prison and to be detained there during the Governor's pleasure.

That clause entirely provides for the cases, or possible cases, instanced by hon. members who have spoken. We know very well that the indeterminate sentences will be mainly brought into requisition to deal with offenders of this kind. That being so, the court has power, even if a man has never been convicted before, to order him to prison for an indefinite term or until the individual may with safety be released. In view of the wide powers contained in that clause the need for the increased term of imprisonment provided for in the clause under discussion appears to be non-existent.

The ATTORNEY GENERAL: In connection with Clause 26, hon. members will see that one of the subclauses provides—

> An indeterminate sentence shall commence and become operative on the expiry or sooner determination of any sentence involving deprivation of liberty which the convicted person is undergoing or has been sentenced to undergo.

So that in the ordinary course certain terms are necessary as a punishment for offences. The punishment of merely three years is totally inadequate. It is not compulsory for the judge to make use of the indeterminate sentence. The words are "The court may." We have already passed through this Chamber the Interpretation Bill which defines the word "may," and in this measure now it appears in its true meaning, purely at the discretion of the court. The objection of the member for North-East Fremantle to the word "crime" was that a boy of 13 might be branded as a criminal. The word "crime" does not only connote criminal. A man, or even a boy, may be a criminal who has committed a misdemeanour, or who has committed the major thing we know as a crime. A person who is guilty of misdemeanour is liable to be called a criminal, just as one who has committed a crime, so I see no reason to alter the word. The member for South Fremantle has placed the whole position very well. It is entirely a matter for the discretion of the judge. If a boy under the circumstances indicated came along, the judge would not make a criminal of him. He would send that boy to a reformatory school or to a reformatory prison. But he would have the power to make the punishment fit the crime. The judge exercises a discretion which it would be impossible for the Legislature to exercise. The offence described by the member for North-East Fremantle would be reasonably punished by sending the offender to a reformatory. There are varying degrees of crime, and the only person who can interpret them properly is a judge, and to give the judge power to carry out that interpretation, we must adequately represent in our statute what is the maximum penalty. I very much object to the minimum penalty clause. I have been asked to provide that the minimum punishment shall be two years.

Hon. P. Collier: By the deputation of women?

The ATTORNEY GENERAL: I am not going to say by whom. I do not agree with that, because it destroys the argument I have put forward, namely, the discretion of the judge reasonably exercised.

Hon. T. WALKER: I am beginning to understand the real attitude of the Attorney General. His idea is punsihment. Punishment is just as lewd as these offences—vindictiveness, passion, and unreasoning ferocity are just as much based upon the beast as these abnormal sexual offences. Civilised people do not adopt that attitude. They look at things for the ultimate good of all.

The Attorney General: You only look at the prisoner's point of view.

Hon. T. WALKER: That is a falsehood, an absolute misrepresentation of all I am advocating. It is for the human kind, not for the prisoners' victims alone, but for all. Let me read something for the edification of the Attorney General, good man as he is, moral man as he is. General Booth wrote "Darkest England." He was a man we all respected for his christian sympathy and the largeness of his heart. This is what he said—

> A fellow-feeling makes one wondrous kind, and it is an immense advantage to us in dealing with the criminal classes that many of our best officers have themselves been in the prison cell.

Mr. Pickering: There could not be such a bad influence in that case.

Hon. T. WALKER: General Booth goes on—

> Our people, thank God, have never learnt to regard a prisoner as a mere convict. He is ever a human being to them who has to be cared for and looked after as a mother looks after her ailing child.

That is not Walker, not Sentimental Tommy; it is the utterance of one of the most practical men, who was engaged in the uplifting of humanity, a man for whom I had profound respect. He is not to be sneered at or misrepresented. The world knows him too well to permit it. Yet of all prisoners he says they are men to be looked after and cared for as a mother looks after her ailing child. I have a sympathy for those who are wronged, because they are wronged, but in cases of this kind I have also a pity, not a sympathy, for the weakling, nervously exhausted and of morally defective character, who cannot restrain his passion. The thing that stands out most prominently in all the gospel stories is a case of sexual offence. A woman is taken in adultery, and in the laws of those days her

penalty was that she be stoned to death. And He, the Teacher of Nazareth, said "He that is without sin among you let him first cast a stone at her." Not one of them could do it. He told her to go her way and sin no more. That was a revolt against the old Jewish ferocity, a protest against the crude, criminal law of His day.

Mr. Harrison: Still we have the criminals with us.

Hon. T. WALKER: And always will while we try to enact this kind of legislation. If we cannot show humanity in our laws, we will not have humane creatures in society. If we create abnormalities in society, we are bound to have criminals.

Mr. Harrison: They are here already; they do not require to be created.

Hon. T. WALKER: They have come from somewhere; they have come out of the laws of severity. Abolish laws of severity and you will make people more humane.

Mr. Smith: Would you abolish the punishment of criminals altogether?

Hon. T. WALKER: I would abolish all punishment, and would adopt preventive and curative methods for all offences against society.

Mr. Smith: Why did you not attempt it when you had the opportunity?

Hon. T. WALKER: I did. I introduced the first instalment. I started the inebriate homes. It is the law to-day, yet who is carrying it out?

Mr. Smith: I suppose we have no more inebriates.

Hon. T. WALKER: No more inebriates! A woman, the other day, for the 230th time was sent to gaol for drunkenness! The proposition contained in this clause is altogether inconsistent with Clause 26. The Attorney General has said that the apportionment of the punishment must be left to the discretion of the judge. Under Clause 26 the judge can sentence a man for a day, for a month, or for a year. With proper administration of that clause a man could be imprisoned for life. Punishment for these offences should not be at the discretion of a judge, but should be by indeterminate sentence. Such offenders should not be let out until their moral fibre has been strengthened.

Mr. Pickering: Who is going to accept the responsibility?

Hon. T. WALKER: It is provided for. A board has to be created. That board will make recommendations in conjunction with the governor of the gaol, and the recommendations will go, in the first place to the Comptroller General of Prisons, thence to the Minister, from the Minister to Cabinet, and Cabinet will make recommendations to the Governor, and in Executive Council the release of the prisoner will be ordered. In the existing provisions we have every safeguard. The only danger is that we have not as yet a sufficient number of those who have studied alienology, who can tell us what is normal and what is abnormal. In these sexual cases the offender is devoid of all those qualities which in their total make a man. The defiler of a child requires isolating and watching until he is fit to be released once more; and the recommendation for his release must come from the doctors, the governor of the gaol, the special board, the Comptroller General of Prisons, the Minister, the Cabinet, and the Executive Council. What more safeguards are required? Under that system a man can be kept in prison all his life. As long as he shows any symptoms of moral insanity he remains in the prison.

Mr. Harrison: I would not like the responsibilty of vouching for his sanity at any time.

Hon. T. WALKER: I would not submit the question of his sanity to the hon. member, because the hon. member is not an expert. Yet cases of this kind have to be judged by those who cannot take the really high view necessary in such cases. Under Clause 26 we have every safeguard that society needs. Why all this talk of crime and 14 years' imprisonment with hard labour, when a man may be imprisoned for life under the indeterminate sentence?

The Attorney General: Are you going to support me in the indeterminate sentence provision?

Hon. T. WALKER: Yes, with certain safeguards. I have already advocated that principle in this Chamber. I support the amendment moved by the member for North-East Fremantle.

Amendment put and a division taken with the following result:—

Ayes	9
Noes	24
Majority against ..	15

AYES.

Mr. Angwin	Mr. Troy
Mr. Collier	Mr. Walker
Mr Jones	Mr. Willcock
Mr. Lutey	Mr. O'Loghlen
Mr. Munsie	(*Teller.*)

NOES.

Mr. Angelo	Mr. Pickering
Mr. Brown	Mr. Pilkington
Mr. Davies	Mr. R. T. Robinson
Mr. Draper	Mr. Rocke
Mr. Duff	Mr. Smith
Mr. Gardiner	Mr. Teesdale
Mr. George	Mr. Thomson
Mr. Harrison	Mr. Underwood
Mr. Hickmott	Mr. Veryard
Mr. Lefroy	Mr. Willmott
Mr. Money	Mr. Hardwick
Mr. Mullany	(*Teller.*)
Mr. Nairn	

Amendment thus negatived.

Mr. HARRISON: I move an amendment—

That a new subclause be added as follows:—"The said section is hereby further amended by adding to the first and second paragraphs respectively the following words:—'and the court may order the offender to be emasculated.'"

Of late years there have been many offences of this nature against women and girls. There is only one remedy for these, and that is the remedy I suggest. We must deal with

the fact as we find it. These people are not mentally normal, and cannot restrain themselves. The only thing to do with them is to make them undergo this operation. If a man is suffering from cancer a surgeon is called in to perform a surgical operation. The operation I have suggested will not interfere with the possibility of these people earning their living, whereas the law as it stands means the incarceration of these people for a term of years, and after their release they may be still abnormal. I would quote the case of an aboriginal. In 1901 he was sentenced to a year's imprisonment for an offence of this kind. In 1906 he was sentenced to five years' imprisonment for a similar offence, and in 1918 for an attempt to commit a similar offence he was imprisoned for 10 years. If the operation I speak of had been performed there would have been no incentive to this man to attempt to commit these crimes.

Mr. Smith: How do you know?

Mr. HARRISON: From medical advice.

Mr. Smith: Medical testimony is at variance on this point.

Hon. P. Collier: Quote your medical authority.

Mr. HARRISON: I have seen the principal medical officer (Dr. Atkinson) and I hold letters from Drs. Trethowan, Webster, and Hodge in the matter.

Mr. Troy: Read them out.

Mr. HARRISON: Dr. Trethowan says that the operation is not in itself either difficult or dangerous. Its effect was to subdue all sexual impulses and practically to abolish them, and it did not impair the strength or vitality of the patient.

Hon. T. Walker: What is the effect of emasculation?

Mr. HARRISON: The doctor says that it has often been suggested as a penalty for sexual offences, but it is doubtful whether any legislature would pass such a law. The penalty for rape is death by hanging but it is seldom enforced. Dr. Webster says that the only reasons why the operation would be considered undesirable are the various circumstances of the cases to which my letter referred. He quite agreed with the view that this form of physical punishment should have a salutary effect, just as flogging was responsible, so far as is known, for the decline in the practice of garrotting many years ago. I have no letter from Dr. Atkinson, but he agrees that the mental powers of such a man are abnormal, and that he is out of the usual conditions in which the average man is found. The only way in which such an individual could be saved and restrained was to destroy in him sexual desires, which could be done by means of an operation. This was not a dangerous course, and if properly carried out by scientific medical men would prove effective. Dr. Atkinson further states that the patient, if only suffering from this one lack of balance, could then be released, and would be able to go through life with every chance of never getting into prison again. Are we not going to refine our society by weeding out these men? The member for Kanowna says that all these subjects are mentally unbalanced, and that medical science should be brought to bear to enable them to become good citizens. Are we going to make these people better citizens?

Hon. P. Collier: Not by your method.

Mr. HARRISON: The member for Kanowna did not tell us what his methods were but simply made this statement. I am putting forward a direct method of——

Hon. T. Walker: Butchery.

Mr. HARRISON: Operations of this kind have to be performed for various reasons, and they do not impair the health of the patient, but, on the contrary, in some cases improve it. Are we to ensure the safety of the vast majority of the community?

Hon. T. Walker: It should be done before these persons commit the offence. When are we to start?

Mr. HARRISON: My object is the practicable one of preventing a repetition of the offence.

Hon. P. Collier: What remedy would you advocate for the abnormal girl?

Mr. HARRISON: Let us try this legislation for one sex first. The Bill is not for all time; we can amend it. The member for Kanowna said that in all probability this abnormal condition had existed from birth. A lecture on criminology which I heard 16 years ago concluded with the statement that the lecturer would recommend the smothering of habitual criminals.

Hon. T. Walker: Who was the lecturer?

Mr. HARRISON: I am not going to say. Six hundred criminals descended directly from one criminal pair in New York. Would it not have been a good thing if the progenitor of those 600 criminals had been prevented from propagating them? The operation contemplated by my amendment does not affect the health of the patient for more than 10 days.

Mr. Smith: The American case you quote was not one of sexual crime.

Mr. HARRISON: No; but my object is to prove that for the sake of the community certain individuals should be prevented from propagating their kind.

Mr. O'Loghlen: But a footnote on that page of the book from which you are quoting states that from criminally disposed parents some great geniuses have sprung.

Mr. HARRISON: The amendment I urge will empower the court, where they think necessary, to call in the aid of medical science. According to the member for Kanowna, long terms of imprisonment do not cure, and the more vindictive the punishment the more likelihood of the menace increasing. If that statement is correct, where is the use of conviction and imprisonment? I believe the view of the general public is the right one. Only a surgical operation will remove this ulcer from the body of the community. The member for Kanowna further stated that these persons should not be liberated until permanently cured. Now, my amendment proposes the only practicable cure. Again, the member for Kanowna says that during incarceration one man may stimulate, or perhaps make, 20 perverts. If by this simple operation we can effectively isolate the man from the community, without incurring either the expense

of keeping him or the risk of his contaminating 20 others, why not adopt it? According to the member for Kanowna, anything whatever might be done to a beast who entered a man's house for the purpose of violating his daughter. Here again, my amendment provides a simple and effective remedy, and one far more effective in the deterrent sense than imprisonment can be. I am also backed up by the member for North-East Fremantle, who said that anything was good enough for these abnormal men. That hon. member must be with me in the desire to give the court power to direct an operation where necessary. I hope the Committee will carry the amendment.

Mr. PICKERING: I support the amendment of the member for Avon, who put his case admirably in answering the argument of the member for Kanowna for the kind and considerate treatment of sexual offenders. The member for Kanowna has admitted that the number of these offenders is very small; and those few should be operated upon for the benefit of the community as a whole. The protection of little girls driving along bush roads to school, is peculiarly essential; and the simple operation proposed by the amendment affords a safeguard. The Kellerberrin case demonstrates that imprisonment is not a cure.

Hon. P. Collier: The trouble there was that the offender had not been given an indeterminate sentence.

Mr. PICKERING: In this matter I have no confidence in the opinions of experts. The member for Kanowna wishes to do away with the need for inherent self-control. That is the hon. member's doctrine.

Hon. T. Walker: No. The very opposite.

Mr. PICKERING: The first remedy is the best remedy. Let us put it beyond the power of such persons to repeat the offence.

Mr. JONES: Before coming to any conclusion as to the amendment, I require to know a little more definitely from either the member for Avon or the other medical expert, the member for Sussex, whether the operation of emasculation will have the desired effect. On this point even the medical testimony quoted by the member for Avon does not carry conviction to me. I have been led to believe that the sexual perversity which the clause under consideration deals with, emanates from the brain, and that the operation, according to many medical authorities, will not bring about the effect which the member for Avon seems to anticipate from it. I would like to know from either of the two medical experts who have addressed themselves to this subject whether they are absolutely sure of the statements they have made.

Mr. PICKERING: I can give an answer from the point of view of farming. I have here a statement by Mr. Maitland Leake, who says that as a farmer his experience of these matters is limited to animals which, when castrated, lose all sexual desire, but remain useful though harmless. That is also my experience in connection with animals. The hon. member who has spoken knows that I am not a medical expert, and that the expert testimony I can quote is that of the three medical men alluded to by the member for Avon.

Mr. SMITH: I would be prepared to support an amendment of this sort, but only on one condition, and it is, that I would have to be satisfied that the proposed emasculation of the offender would be effective. I am by no means satisfied that an operation of this sort would be effective. In fact, from what I have been able to gather from medical men in this city, opinions on the subject are fairly evenly divided. Therefore, until the House has some definite and skilled knowledge to go upon, it is useless discussing the amendment. I would propose that the matter should be referred to a committee of medical practitioners, who should be asked to report to the House.

The CHAIRMAN: I cannot accept such an amendment.

The MINISTER FOR WORKS: I congratulate the members for Avon and Sussex on having the courage to advocate views which I am pleased to say are obtaining greater support as the years go by. In my opinion it is idle to say that one authority proves one thing, and another authority another thing. We are here not as experts but as types of different citizens who are expected to bring to bear upon this and other subjects such brains as the Almighty has given us, and the education which we have obtained, and the experience we have gained throughout our lives. There is not a member in this House who will gainsay that offences against women and children are increasing in number. But I do not care what the numbers are, one of these offences is enough for me, and seeing that throughout Australia there has been a considerable amount of namby-pambyism on the subject of the punishment that should be meted out to offenders, if we in this State have the means of preventing such offences and do not take those means which lie at our doors, we are not fit to hold the position we fill. One hon. member asks what proof we have that this operation would be effective. We have no proof that it would be effective, except what we can learn, as has been stated by the member for Sussex, from our dealings with animals under our care, it does not matter whether they be sheep, horses, cattle, cats or anything else. We can only judge that though mankind is a higher class of life, the effect would be similar. If we had a venomous snake running around in this Chamber and did not want to kill it, and by removing its poisonous fangs we would prevent it from doing mischief, we would take the opportunity of extracting those fangs. If we had an animal with vicious propensities and we had the power to remove them we would do so. If we had a child which showed a tendency to develope a vice and it was in our power to curb that vice we would take steps to do so. The same thing applies to an individual who may be a danger to the community. In regard to that individual we should have the right to deal with him for the protection of the community in which he lives. One hon. member said it would be more merciful to kill him. It might be more merciful to the community to kill him, but we have not yet arrived at that

stage of dealing with either the infirm or incapable or the malformed in the same way as we do with the animals we have mentioned. We have not even arrived at the stage when the practice of eugenics is carried out as it should be, for the raising of the standard of the human race. We can but move slowly in these matters. It is nearly 24 years since I had the temerity to raise my voice in the old Chamber on this subject, but during the past few years the women of the State have been looking for their kingdom. Thank God, they are coming into it. They have their vote, and they are going to use that vote to see that for themselves and their children there shall be that protection which they have a right to expect. It might be easy for some hon. members to sneer at the different women's organisations.

Mr. O'Loghlen: You are looking for something cheap now.

The MINISTER FOR WORKS: I am above that.

Mr. O'Loghlen: Your remark is uncalled for.

The MINISTER FOR WORKS: Let me tell the hon. member that the women of the State have made their voices loudly heard, and the hearts of those in the country are with their friends in the city. One hon. member asked by way of interjection whether this method had been successful as a deterrent. I take it that the hon. member has no personal experience or knowledge of the countries where the operation is performed. I have had some experience of the southern shores of Europe and the northern coast of Africa, and I have heard from correspondents that outrages never occur in those places where are these individuals who are subjected to this particular form of surgical operation. I do not think it is necessary to say any more on the subject. I am given to understand that methods can be adopted which are not so drastic as the use of the knife, but which bring about the same effect. To my mind it does not matter what is done, so long as something is done to deal with these people. I would be a happy man indeed if any way could be found to deal with these people differently from what has been suggested here. But that there is need for something of the kind I am absolutely certain.

Hon. F. E. S. WILLMOTT (Honorary Minister): I cannot support the amendment of the member for Avon for various reasons. From the little experience I have had, and from what I have read about the subject, I do not agree with the opinions expressed by the Minister for Works. I find that emasculation is not sufficient, that the eunuchs have a further operation performed before they are put into the harems. Would the hon. member go to that length? That is what it means. It means that he wants that operation performed for the prevention of certain things. From what I have read, that is only possible by following it up with a second operation. That takes place in Turkey to-day. If the position is as I have explained it, we shall be no better off after emasculation as suggested by the amendment. In cases like this we require to be absolutely sure of our ground. In respect of first offenders, no such operation would be dreamed of; only when a man has been found to have no control over himself would the operation be suggested. I cannot support the amendment, because everything I have read leads me to believe that a second operation is necessary. The very cases under discussion would be those in which the first operation would be quite useless. I quite agree that nothing is too bad for such offenders, but we require to go further into this question with medical experts and learn definitely whether the operation would have the required result. This is one of those questions which we should leave to specialists more competent to judge than are we.

Mr. HARRISON: I do not suggest that it be left to hon. members. The administering of the law would be left with the court; it would be for the court to decide whether one operation or two were required. The medical advice I have in mind states that after a very few weeks the desire would cease and the ability would cease. The amendment is very simple, and I claim for it the vote of the member for Nelson on the score of what he has just said.

The ATTORNEY GENERAL: Whilst I do not altogether agree with the amendment, I am glad that the discussion has taken place. This is the first time I have heard the question discussed in Parliament. The further question arises as to how much knowledge of the subject is possessed by those hon. members who have discussed it. I have practically no knowledge of this phase of the subject myself, and so I would not attempt to discuss it, and I doubt whether other members who have discussed it are much wiser on the point than am I. As to the proposed operation, I do not know whether such treatment is lawfully done under ordinance in any part of the world.

Mr. Smith: In Turkey.

The ATTORNEY GENERAL: I doubt it. It has been said that it is in practice in America, or at least is there talked of. I venture to think it is talked of. If it were the practice in any part of the world, I think some amongst us would be able to quote chapter and verse. I will take occasion to inquire from the United States whether any such movement is afoot there, and whether any of the States of that union have discussed it. I suggest to the member for Avon that, having raised the discussion, he might very well withdraw the amendment.

Amendment put and negatived.

Clause put and passed.

Clause 6—agreed to.

Clause 7—Repeal of Section 188 and substitution of new provisions:

Mr. ROCKE: I move an amendment—

That in line 3 of Sublause (1) "sixteen" be struk out with a view to inserting other words.

I want to raise the age of consent to 18. The intention of the measure is to give increased protection to young girls. Although a girl of 16 may be physically developed, she is not mentally developed to such an extent that she

should have the right of the disposition of her body.

Hon. P. Collier: She might be 40 and not mentally developed.

Mr. ROCKE: I must admit that. Of course hon. members who have in mind only young girls secure in in the protection of comfortable homes will think that the protection I seek to provide is not necessary. But it must be remembered that many young girls have not homes of their own, have not even mothers to look after them. Fortunately, members generally are showing an inclination to give greater consideration to our young girls and I hope, therefore, the amendment will be agreed to.

Amendment put and negatived.

Hon. P. COLLIER: A distinction is made in regard to girls under 16 as against those under 13, who are dealt with in the preceding clause. In regard to girls under 13, the penalty for the offence is imprisonment for life, and for the attempt at an offence the penalty is 14 years, but in regard to girls under 16 the penalty is the same for the attempt as for the actual offence.

The Attorney General: The difference is on account of the age.

Hon. P. COLLIER: The attempt upon a girl under 16 is not regarded as so serious as an attempt upon a girl under 13, and so the penalty provided is five years, as against 14 years. But should we not discriminate between the attempt and the offence in respect of girls under 16?

Th ATTORNEY GENERAL: In the original wording of the provision the offence is called a misdemeanour and the punishment is two years, both for the offence and for the attempt. The section now is divided into two distinct portions, one dealing with the attempt upon a girl under 16 and the other dealing with idiots and imbeciles. We seek to increase the penalty from two years to five. If we increased the penalty from three years to fourteen years, in a case of a girl under 13, I thought relatively we should at least increase the penalty in the case of a girl under 16 to five or seven years. As the offences were joined together it was agreed to make the penalty five years. If we are going to separate the offence, from the attempt to commit the offence, I should be inclined to increase the penalty to seven years and give five years for the attempt. Judges, of course, would discriminate between the attempt to commit the offence and its actual committal.

Mr. SMITH: Why is the period of six months stated as being that within which a prosecution can be launched for the offence? That seems to me to be an unreasonable length of time.

Hon. P. Collier: It is three months in the Act now.

Mr. SMITH: If there is going to be a prosecution surely the person against whom the offence has been committed could make up her mind to launch a prosecution earlier than that. To my mind the clause introduces a rather dangerous practice. It might mean that the person charged would have ver great difficulty in procuring evidence in hi defence after the lapse of five or six months Probably it is desired to allow such a tim to elapse as to determine whether or not th girl concerned is going to suffer as a resul of what has taken place. In my opinion th sooner a prosecution is launched in such case the better.

The ATTORNEY GENERAL: The perio of three months is at present fixed under th Code, and applies both to the attempt and t the offence. Many cases have come befor the authorities in which the girl concerned hoping that nothing would come of the hap pening, remained silent until her conditio betrayed her to her mother, often after th three months had expired. The extension o the time to six months is to provide for suc cases. As a rule there are no witnesses i these matters. It is easy to make an allega tion but difficult to establish it by proof, an after proof is given from the one side it i difficult for the other side to disprove it. I my opinion the clause would be of benefit t the community at large, and will show th kind of person who commits these offence that he, and not the unfortunate girl alon will be called upon to suffer.

Mr. SMITH: I move an amendment—

That the proposed new sub-section 3 b amended by striking out the word "six" and inserting "four" in lieu.

I think a period of four months would b quite sufficient to provide for the case quoted by the Attorney General.

Amendment put and negatived.

Clause put and passed.

Clauses 8, 9—agreed to.

Clause 10—Amendment of Section 194:

Mr. FOLEY: I move an amendment—

That the words "For the purpose o prostitution" be struck out.

If it is a bad thing for young women to b found in brothels for one purpose it is jus as bad for them to be found there for anothe purpose. The Legislature should not make i possible for the keepers of these places t have any girl under the age of 21 upon thei premises for any purpose whatever; fo them to do so should be an illegal act.

Hon. P. COLLIER: I question the wisdon of the whole clause. We know there are, un fortunately, many girls under the age of 2 who have definitely taken to the life of th unfortunate class. We have also seen girl of 18 and 19 convicted of this very offence A girl who has proved by her actions that sh is determined to follow that life, all efforts a reformation having failed, where is she going to find a home or going to live? If these girl are turned out of these houses what are they going to do?

The Attorney General: Have they drifte at that age to a brothel?

Hon. P. COLLIER: We see by the polic court reports that they are there. There ar girls under 21 years of age there: if they ar driven out of these houses they are a greate danger to the community. They will pursu their mode of life in the streets and parks t the greater danger to the community.

Mr. Rocke: It will prevent the augmentation of their numbers.

Hon. P. COLLIER: It will do nothing of the kind.

Mr. Rocke: I mean it will prevent numbers from going into these houses if the provision is under 21 years of age.

Hon. P. COLLIER: All the laws will not prevent this kind of thing if a girl is of that wayward disposition. If we have a statute saying that a girl must not go into one of these houses if she is under 21 years of age, that will not keep her straight until she is 21.

Mr. Smith: What about brothel keepers who entice young girls?

Hon. P. COLLIER: That is a different matter. There are sections in the Code providing for that and I would make the penalty severe against harpies who trap girls into brothels. But there are girls who are so abandoned who at the age of 18 are living with Chinamen. They have passed through the ordinary brothel, gone further down to the stage where they consort with Chinamen.

Mr. FOLEY: It is to meet such cases as that instanced by the leader of the Opposition that I would like the words deleted. If the words are left in, then the keeper of a brothel can have girls under 21 years of age in the house for any other purpose. If a girl under 21 is allowed to be in a brothel for any purpose at all it is wrong.

Mr. Teesdale: Would they be there for any other purpose?

Mr. FOLEY: Certainly. It is quite possible for the keeper of a brothel to have a girl there as a servant. If we can prevent women taking girls into brothels we shall be doing some good. If a girl is in a brothel long enough she will fall to the depths that others in the house have fallen to.

The ATTORNEY GENERAL: The penalties in respect to brothels are not very heavy. I notice, according to the Code, any person who detains a woman or girl against her will in any brothel to be carnally known by a man is guilty of a misdemeanour, and the penalty is not exceeding two years. I am glad my attention has been called to this, and at the first opportunity I shall have the penalties made more severe. I had not noticed it before. Girls who are in brothels are not mentally deranged or morally insane.

Hon. T. Walker: Absolutely degenerate to a degree.

The ATTORNEY GENERAL: On the first chance I get the penalty in these cases shall be raised.

Hon. W. C. Angwin: It can be altered in another place.

The ATTORNEY GENERAL: That is so. It would be very difficult to prove, if a girl was in a brothel, that she was there for the purposes of prostitution, especially if she were hostile. If the clause is to be effective at all I think it will be better to strike the words out. In regard to the point raised by the leader of the Opposition, it is difficult to know what to say. If we are to pay heed to it and carry the argument to its logical conclusion, it means the legalisation and systematisation of brothels.

Hon. P. Collier: To all over 21 years of age you do that by this clause.

The ATTORNEY GENERAL: It is open to that argument but it is no more than laying down penalties. It might be said that the fixing of a penalty recognises a brothel. But we can declare certain things to be offences. It is unlawful to keep brothels but they are there and they are a sore on the community. All we can do is to keep these places within bounds, and one of the bounds to make use of is not to allow any girl under 21 years of age to be there for any purpose whatsoever if we can help it. Therefore, I recommend to the Committee to strike the words out.

Hon. P. COLLIER: Neither the clause nor the amendment touch the matter I have raised. This is a new provision, and its effect will be to intimate to the brothel keeper, to some extent, that she may carry on her business with girls over 21 years of age. But what does the Attorney General propose to do as regards the girls—and there are any number of them—over 21 years of age who have taken up this kind of life? He has not touched that point. Really, this clause is not required at all, if it is illegal to keep a brothel. The Attorney General can remove all those girls now, without this clause. The Police Department have, under the Criminal Code, ample legal power to close up all brothels.

The Attorney General: They do it every now and again.

Hon. P. COLLIER: In view of the Criminal Code, the clause is entirely superfluous. If it is illegal to keep girls or women of any age in a brothel, it is illegal to keep girls under the age of 21 years in such places; since the greater includes the less. We know, however, that certain provisions of the Criminal Code remain a dead letter. The Criminal Code is administered very elastically.

Mr. Teesdale: If those places are conducted quietly and circumspectly, quite right too.

Hon. P. COLLIER: Yes. The clause is mere verbiage. It will prove a dead letter. If, however, it is to be actively administered, it will entail hardship on prostitutes over 21 years of age. They would simply have the alternative of living in the streets and parks, or of returning to a virtuous life.

Hon. T. WALKER: The clause is likely to create or intensify the very evils which it purports to remedy or abolish. From time immemorial we have had women devoting themselves to this kind of life. We are now dealing with one of the strongest passions of human nature, a passion which throughout all human history has exhibited itself in the form of prostitution. Once, indeed, as we learn from Herodotus, every woman of Phœnicia had to prostitute herself for a period in the service of Ashtaroth as a matter of religious duty. In India the same thing still obtains in the case of the temple girls.

Mr. Foley: But it is not so in our country.

Hon. T. WALKER: As a fact, the men of this country, while pretending to be monogamists, are polygamists to the backbone. That is a physiological fact; and prostitution is the

natural outcome of that fact. There are those who argue—I am not one of them—that were it not for these so-called women of pleasure, not many of our homes would be so sacred as now they are. However, Section 209 of the Criminal Code gives all the power required, quite without this clause we are now discussing. That section provides a penalty of as *much as three years' hard labour for the keeping* of a brothel. If that section is not or cannot be carried out, what is the use of this clause? Instead of having these women housed under conditions allowing of the practice of a measure of cleanliness and sanitary precaution, loose women would, under this clause, be driven into the highways and streets and parks, where the evil cannot be overtaken. Thus it is one gets hotbeds of disease. The serious diseases which undermine the strength and health of communities have their origination in the streets; and so all the medical men of large cities say. Hence the policy of statesmen has been to gather the evil where sanitary precautions are available, and where abnormal cases can be readily dealt with. In this respect one cannot but admire the sanity of the Japanese, who use their heads instead of consulting their feelings. In the Japanese yoshiwaras, redemption is not only possible but is achieved.

Mr. Foley: Does the hon. member favour registration and segregation?

Hon. T. WALKER: I am decidedly in favour of segregation of women of the unfortunate class under proper inspection and with a certain degree of isolation from streets, parks, public places, and hotels. That would be a step towards the general good of the community. Legislation of the nature of the present clause is entirely useless. The strongest appetite of human nature cannot be followed into all its devious ways and by-paths

The Attorney General: Since you introduced the Criminal Code of 1913, why did you include in it Section 209?

Hon. T. WALKER: I made the amendment for a specific purpose, and I do not now wish that section changed.

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

Clause 11—agreed to.

Clause 12—Amendment of Section 210:

Hon. P. COLLIER: This amendment introduces something new. It deals with gaming houses really, but the first paragraph in the concluding lines says, "The averment in the indictment, information, or complaint that the place was kept for gain, shall be deemed to be proved in the absence of proof to the contrary." Is this not entirely reversing all the recognised principles of British jurisprudence in that the person is adjudged to be guilty until he proves to the contrary?

The ATTORNEY GENERAL: It hardly goes as far as the leader of the Opposition says. Section 210 of the Code deals with keeping a common gaming house and places where persons resort for the purpose of playing at games of chance. Under the law as it exists it has to be proved that the keeper of that house keeps it for gaming. It is always quite simple to prove that a man keeps a house where people resort for the purposes of playing games of chance because that is a parent. But to prove that a man who keep the house makes something out of it is a ver different thing. The keeping of betting an gaming houses is highly objectionable and cannot be said to be necessary for the soci fabric. The object, therefore, is that whe the police alight on a house and the men r sorting there are strangers and are playin games of chance, it is then for the perso keeping that house to prove that he is n keeping it for gain. There are many cas where the law throws the onus on the opposi party. The circumstances are bad here b cause the owner of the house is surrounded b persons playing a game of chance. When tho conditions appear, it is a fair thing to ca upon the man to prove that he is not keepin the place for gain. If the proposed new se tion went so far as to say that he had to pro they were not playing games of chance, the the comment of the leader of the Oppositic would be justified. But having found the doing something which it is unlawful to do i the first instance, if he is an innocent ma it is the simplest thing in the world for hi to prove that the games were not being playe for gain.

Mr. FOLEY: Everything hinges on t question as to whether a man should be co victed for keeping a gaming house, and on the Crown prove that, penalties are provide under the existing law. The Bill proposes t do more. If the prosecution have not prove that the house is kept for gaming purpose the man has to prove that he did not kee it as a gaming house. If a man is charge with an offence and the onus of proof rests c those making the charge, and the charg breaks down, that is all that should be aske On the subject of gaming, my opinion is th rather than make the position harder f people who do keep gaming houses, especiall in regard to betting on horse races, I woul prefer to see betting carried on in a properl conducted shop than in the street, as happen at the present time. The amendment is pu ting a hardship on any man keeping a gamin house.

Clause put and passed.

Clauses 13, 14, 15—agreed to.

Progress reported.

CHAIRMEN OF COMMITTEES, TEMPORARY.

Mr. SPEAKER: I desire to announce tha I have appointed the member for Leonor (Mr. Foley), the member for Toodyay (M Piesse), and the member for Hannans (M Munsie) temporary Chairmen of Committees.

House adjourned at 10.35 p.m.