into a public school and teach religion to children whose parents might be away.

WANT OF QUORUM.

MR. LEAKE called attention to the state of the House.

THE SPEAKER, finding there was not a quorum present, after the usual interval, declared the House adjourned.

ADJOURNMENT.

The House was thus adjourned, by a count-out, at 10.58 p.m., until the next Tuesday.

Legislative Council,

Tuesday, 12th July, 1898.

Papers presented—Election: Central Province—Question: Niagara and Bardoc Dams—Return: Government Vessels at Fremantle—Motions (2): Leave of Absence—Summary Jurisdiction Appeal Bill, second reading—Juries Detention Bill: Postponement of order—Pollution of Rivers Bill; second reading; in Committee (progress reported, clause 2)—Prevention of Crimes Bill; second reading; in Committee—Lodgers' Goods Protection Bill; second reading; in Committee (progress reported, Clause 1)—Adjournment.

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

PRAYERS.

PAPERS PRESENTED.

By the COLONIAL SECRETARY: Petitions of Right, Return; Electric Light at Fremantle and Midland Junction; Estates purchased by Government, Report; Rabbit Question, Report; Public Abattoirs, Proceedings taken for establishing; Collie and New South Wales Coals, Report on Comparative Values; Rottnest Prison, Report, 1897; Gaols and Prisoners, Report, 1897; Fremantle Prison, Expenditure of Labour and Value of same; Mining Commission, Report; Pearl Shell Fisheries, Regulations under "Immigration Restriction Act, 1897"; Land Titles Department, Report, 1897; By-laws of Perth City Council, Perth Park Board, Metropolitan Water Works Board, and of various municipalities.

Ordered to lie on the table.

ELECTION: CENTRAL PROVINCE.

HON. F. WHITCOMBE took his seat as member for the Central Province, *vice* Mr. Wittenoom, resigned.

QUESTION: NIAGARA AND BARDOC DAMS.

HON. R. S. HAYNES asked the Colonial Secretary:—1, What was the amount of the tender accepted for the construction of the dam at Niagara? 2, What was the actual cost when completed? 3, What was the amount of the tender accepted for the dam at Menzies? 4, What was the actual cost? 5, Is it capable of holding water? 6, Is the dam at Bardoc capable of holding water?

THE COLONIAL SECRETARY (Hon. G. Randell) replied:—1, £24,314, 17s. 2, Not yet known. Calculations from detailed measurements are being made by contractor, and also by the departmental engineer. Contractor's claim not yet submitted. 3, £14,199 16s. 6d. 4, £19,511 3s. 3d. 5, Certain cracks in the concrete allow water to escape slowly, but cost of necessary repairs, now in hand, will be comparatively small. 6, Yes.

RETURN: GOVERNMENT VESSELS AT FREMANTLE.

Ordered, on the motion of the HON. H. BRIGGS, that a return be laid on the table showing: 1, The names, tonnage, and crews of each of the vessels owned or chartered by the Government now lying at the port of Fremantle. 2, What was the original cost of each. 3, What has been since expended on each for repairs. 4, What is the cost of upkeep of each. 5, What work has been done by each during the past six months?

MOTIONS: LEAVE OF ABSENCE.

On motions by the Hon. F. M. STONE, leave of absence for a fortnight was granted to the Hon. D. McKay; also

leave of absence for one month to the Hon. H. J. Saunders, on account of urgent private business.

SUMMARY JURISDICTION APPEAL BILL.

SECOND READING.

THE COLONIAL SECRETARY (Hon. G. Randell), in moving the second reading, said: This Bill is entirely of a legal character. I have some diffidence in moving the second reading, inasmuch as several members of the legal profession are in the House. I believe it is generally known, not only to the legal profession, but to others, that appeals from the decisions of a magistrate in the outlying districts are frequently made from himself to himself. He is Chairman of the Quarter Sessions, and he is frequently called upon to review the decisions which he has already given. It is intended by this Bill to alter that state of things, and to make all appeals returnable to the Supreme Court of the colony, the same as at present prevails with reference to the appeals from the Police Magistrate at Perth, and I believe also at Fremantle. This is the principal feature of the Bill. The rest of the Bill is entirely occupied with the machinery for carrying this principle out. No new principle is involved, the Bill going very much on the same lines as the Police Act of 1892. Section 5 provides for security being given by the appellant, and section 6 provides for the suspension of the appellant's imprisonment pending appeal, while the remaining sections deal entirely with procedure. The Bill relates not only to appeals from the summary jurisdiction of the Police Act, but also to appeals from decisions given under the Wine and Spirit Act. Appeals under the latter Act are now brought before a judge of the Supreme Court. Under the present Bill these appeals will be dealt with under the procedure laid down for summary cases generally. It is proposed to take them to the Full Court by this Bill. I will say no more about the Bill, except that I desire to strike out clause 2 when it goes into Committee, or, what perhaps will better meet the views of the members of the legal profession, I will ask that the Bill may be referred to a Select Committee. Clause 2 provides that a "Court of Summary Jurisdiction" shall include the justices and the resident magistrate sitting at a licensing meeting. My own opinion is that it is unwise not to allow of appeals from the decisions of the licensing benches.

HON. R. S. HAYNES: There is no appeal.

THE COLONIAL SECRETARY: The Bill proposes to allow of such appeals being made. There is nothing in the Bill very novel or very important, except that an act of justice will be done by making appeals from magistrates to be heard by the Supreme Court instead of by the magistrates themselves.

HON. F. M. STONE: I am glad to see this Bill introduced, as it is one that is badly wanted. It, however, requires some little alteration. Clause 3 provides that appeals shall be to the Supreme Court, while Clause 7 provides that appeals shall be set down before the Full Court. There is a direct contradiction here. The Colonial Secretary says he proposes to strike out the words "Full Court" and to substitute "Supreme Court"; but that would not altogether meet the case. It would be absurd for the Full Court to have to listen to trumpery cases of appeal.

HON. R. S. HAYNES: Cases of assault, perhaps.

HON. F. M. STONE: Perhaps five or six witnesses would have to be heard on a trumpery assault case. There should be appeals on questions of law, in which some very important question was involved to the Full Court, but not in trumpery cases. It would be only right that this Bill should be referred to a Select Committee and the whole matter thoroughly threshed out, which could not, I feel sure, be done in the House. There are a great number of Acts dealing with appeals, all of which would have to be gone into. I hope, as a result, that we shall have a Bill which will do away with the confusion that at present exists. It is difficult under the present system to know what court to go to. If you go to the Supreme Court you are told that you ought to go to the Full Court, and if you go to the Full Court you are told that you ought to go to the Supreme Court. I hope all this confusion will be done away with, as well as these appeals from Cæsar to

Cæsar. I support the second reading of the Bill, and I shall be glad to see it referred to a Select Committee.

HON. R. S. HAYNES: I am afraid I cannot support the second reading. I was very glad to see a measure introduced for the purpose of dealing with these appeals, and I do not know any subject or any procedure in law which is more vexing than the question of appeals from the inferior courts. Half the time is taken up in preliminary matters, so much so that it once drew a remark from a learned judge who was asked what was the practice in appeals, to which he replied that it was the practice to waste half a day in discussing preliminary points when the real question could be settled in a very few minutes. There are a number of Acts dealing with appeals. There is not the same difficulty in dealing with them now that there used to be; but it seems to me that whoever is responsible for the framing of this Bill knew absolutely nothing about appeals. There is a splendid Act in England, "The Summary Jurisdiction Act," from which some clauses have been taken. If that Act had been adopted the procedure would have been simple and straightforward; but they have taken a portion of it and introduced clauses from some other Acts, or perhaps the drafter who drew the Bill made them up himself. To show the absolute absurdity of the Bill I need only take a case. Say a man is charged with an assault at Kimberley, is fined £5 or £10, and appeals to the Supreme Court. The prosecutor must bring his witnesses from Kimberley to the Supreme Court to prove the assault. If he does not, a conviction will be given against him, and he will have to pay the costs of the case, amounting perhaps to hundreds of pounds. In case of an appeal the appellant will have to give his recognisances for £20 to pay the costs if a verdict is given against him; but will that cover the expense? Supposing a case occurred at Roebourne and an appeal were made, the cost of bringing witnesses to Perth and other expenses would amount to at least £200. Supposing the offence were one of drunkenness, or a breach of the by-laws under the Municipalities Act, or a breach of the licensing laws, the appellant, by paying £20, would be able to compel the prosecutor to bring his witnesses to Perth. The defendant might be a man of straw, yet the prosecutor must come to Perth. All the defendant has to do is to give notice of appeal and enter into the security named, and if the plaintiff does not appear in court to prove his case the appeal is dismissed with costs. An appeal is a re-hearing, therefore you have to prove it in exactly the same way as if it were a first hearing, and, unless this is done, the defendant is entitled to have the case dismissed with costs. I know the difficulty of appealing from Cæsar to Cæsar, but there is a way out of it. I take it that the police magistrates are men of honour, who take the evidence down fairly, and who may be trusted to do their work properly. But if there is a question of law and there is an appeal, the case is brought to the Supreme Court, and there it is argued. We have that law in operation already. If it is a question of fact on which dissatisfaction is expressed, and I am asked for my opinion, I generally reply:—"If you think the judge will change his mind, appeal." How often do we find that the judges go wrong? Not once in ten times. I see that the Hon. A. B. Kidson laughs. Perhaps he thinks differently.

HON. A. B. KIDSON: They are wrong pretty often, I think.

HON. R. S. HAYNES: I have found them very accurate.

THE COLONIAL SECRETARY: I am glad to hear the hon. member's testimony.

HON. R. S. HAYNES: It sometimes happens that facts are brought before the magistrate which were not given at the time of the first conviction. If the same facts had been brought out at the first trial the result might have been different. There is a change of front on the second hearing sometimes, and perhaps the prosecutor knows how to put his case better. That is the chief objection I have to this Bill. In New South Wales is an Act which seems to have worked very well. According to that Act, if a defendant desires or wishes to appeal, he gives notice at the hearing of the case, and asks the magistrate to take the depositions. The magistrate is bound to do this, and the evidence is read over, and signed by the different witnesses. The magistrate gives a decision on the evidence, and if either party is dissatisfied with the decision there

may be an appeal to the Supreme Court. That means this, that if a person is convicted criminally, instead of that person having to bring witnesses to the Supreme Court, all that are necessary are the sworn depositions. There is no attempt to do anything of that kind in this Bill. Other portions of this measure we have already in force in our Acts of Parliament. There is really no departure in the other portions of the Bill, but it is clumsily drawn. It is not so well drawn as that measure which was introduced by Mr. Burt last session. Already provision is made that where circuit courts are proclaimed the appeal shall be to those courts. Sub-clause 2 of clause 7 of the Bill before us says:

> Immediately after setting down the appeal the appellant shall cause notice of the fact of the appeal having been so set down to be served, by registered letter or otherwise, on the other party and on the clerk of the Court of Summary Jurisdiction from whose decision the appeal is brought.

Let us say there is an appeal from Roebourne. It will take 15 days as a fair time in which a letter can reach Perth from Roebourne. The Registrar sets the case down, but how does the person who desires to appeal know that it is set down?

THE COLONIAL SECRETARY: Sub-clause 3 qualifies that.

HON. R. S. HAYNES: I am coming to that. The Registrar may, or may not, tell the person who desires to appeal that the case is set down. If he does not tell him, the person will not know. If the Registrar does tell him, it can only be within another 15 days. If the case were set down for the next sitting of the court in 14 or 16 days' time, the sittings of the court would have gone by three or four times over before the person wishing to appeal would know that his case had been set down. The respondent to the appeal gets no notice at all. He is not given four or six or even twenty days to get to the court. The case is set down, and the man has to come down by electricity to be present at the hearing. Whoever drew the Bill can have had no experience in appeals. I am pointing out difficulties which have cropped up in appeals I have been connected with. Not even the Cemeteries Bill was as bad as this one, and there two justices of the peace had to bury a body for £5. This measure says:

> If the notice so served cannot by the ordinary course of post be served in time to give the parties on whom it is served (being within the colony) ten clear days' notice of the appeal and to enable the other party to the appeal to attend the hearing, the appellant shall apply to a judge.

But he will not know when to apply to the judge, because he will have no knowledge when the case has been set down. It goes on to say:

> The appellant shall apply to a judge or to the Master of the Supreme Court for, and either of them may make, an order that the appeal shall be set down for hearing at the sitting of the Full Court next after that required by the first sub-section of this section.

Therefore the appellant and all his witnesses may be down in Perth, and the Master of the Supreme Court can put off the case for two months. This is a matter which I have at my fingers' ends, and I say that whoever drew up this Bill absolutely knew nothing whatever about the practice of the court. Then there is clause 8—and I desire the legal members of the House to listen to this—it takes the cake: "The Supreme Court shall summon any necessary parties and witnesses." What does that mean? Who is to pay their expenses, and how is the Supreme Court to know who are and who are not witnesses? Did anybody ever see such a measure as this? Such a provision is not required at all. The court has the inherent right to do this without it being set out in an Act of Parliament. "The Supreme Court shall summon all necessary parties and witnesses, and may adjourn the hearing of the appeal, and after the hearing, may confirm, alter, or reverse the decision appealed against, or may remit the matter, with the opinion of the Supreme Court." Then the court may, on terms, dispense with the conditions in reference to the appeal. The clause says:

> If through inadvertence or unavoidable accident the conditions required by this Act precedent to appeal have not been performed, the Supreme Court may, on such terms as may be just, excuse the performance of any condition to extend the time for such performance; but otherwise if the appellant does not appear, by himself or by counsel, to try the appeal, the appeal shall be dismissed.

We do not want that at all. The court has the inherent power to do that. There

are 20 or 30 rules of court dealing with appeals from inferior courts, and whoever drew this Bill knew nothing of these rules. If the Bill had been one that we could have put into shape easily by a few amendments, I would not have had the slightest objection to have referred it to a Select Committee; but I hope the Colonial Secretary will see his way clear to withdraw the Bill, and substitute for it a comprehensive measure dealing with the whole subject. I would give what assistance I could in the matter of drafting such a Bill. The Bill before the House will do no good whatever. To make persons come down from remote portions of the colony to enter an appeal is monstrous. Suppose a man sued another for trespass, say at Roebourne, and the amount involved was £10 to £15. It would be an easy matter for the person losing the case to say, "Here is £20, I will appeal." It might suit him to come down here, as he might get a job droving, or the person appealing might be a man of straw. The respondent would have to bring his witnesses down, and if he did not, the appeal would be dismissed; or if the man did bring them down, the £20 would not nearly cover their expenses. An appeal from Roebourne and the expenses of bringing witnesses down would cost £200. Why not give the right of appeal? I fancy in Coolgardie the magistrate who convicts seldom sits to hear the appeal. The Hon. A. G. Jenkins can tell me whether I am right.

HON. A. G. JENKINS: Yes.

HON. R. S. HAYNES: The magistrate never sits.

THE COLONIAL SECRETARY: That is only in solitary instances.

HON. R. S. HAYNES: On appeal, Mr. Finnerty does not sit when the order has been made by himself, and I think it is only right to follow that practice elsewhere.

HON. F. M. STONE: Judges sit every day in appeal on cases heard by themselves.

HON. R. S. HAYNES: That practice is objectionable, but it cannot be avoided. I hope the Bill, as drawn, will not be passed, and unless the measure is redrafted, I do not think it fair to ask hon. members to sit in Committee and re-draft the Bill. There is not even the skeleton of a Bill here.

HON. A. B. KIDSON: I think there is a great deal in what the Hon. R. S. Haynes has said. It appears to me that the Bill is sent down for consideration in such a shape that it would be a waste of time in endeavouring to put it right. We are not supposed to resolve ourselves into Parliamentary draftsmen, and relieve that officer of his duties in order to put Bills into shape. It would be necessary to practically re-draft the whole of this Bill. At present it seems to be all pieces, and certainly it would be necessary to re-model the whole of the measure, and to do away with most of the clauses as they at present stand. At first sight, I did not note the deficiencies in the Bill, but after hearing the Hon. R. S. Haynes, it seems to me that he is perfectly right.

THE COLONIAL SECRETARY (in reply): Amongst some hon. members there is a desire that legislation in this direction shall take place. After my experience with the Cemeteries Bill, I do not think I should expect hon. members to meet for the purpose of re-drafting or reconstructing this Bill. I believe there is a feeling of dissatisfaction with the present state of things which allows resident magistrates to sit as courts of appeal on sentences which they have already inflicted, and as we know what human nature is, we must assume that these magistrates would be very much in favour of their first decisions, and in that way they would be biassed. I am glad to hear the Hon. R. S. Haynes—who has had a great deal of experience of magistrates—speak in high terms of the administration of justice by magistrates, which will go a long way to re-establish the administration in the good favour and judgment of the people at large. I understand from the Hon. F. M. Stone that he is in favour of legislation in this direction.

HON. A. B. KIDSON: We all are.

THE COLONIAL SECRETARY: There is a necessity for dealing with the question of appeals. In this instance I think we might pass the second reading and appoint a day to consider the Bill in Committee, and in the meantime we might have a Select Committee to go through the measure. The other mode of dealing with this Bill would be to withdraw it altogether. I am not able to say how far the

measure has the sanction of the Government as a whole, and how far I should be justified in adopting that course. From what the Hon. R. S. Haynes has said—I must pay respect to his opinion—and he has secured the approval of the Hon. A. B. Kidson, the Bill is drawn in such a way as to make it difficult to reconstruct, so as to meet the views of hon. members. Taking the whole of the circumstances into consideration, perhaps it will be advisable to ask leave of the House to withdraw the measure.

Bill, by leave, withdrawn.

JURIES DETENTION BILL.

POSTPONEMENT.

HON. R. S. HAYNES: I understand that a Bill has been introduced in another place dealing, not only with juries in the way this Bill deals with them, but dealing generally with juries. Inasmuch as all Bills are liable to be wrecked, I do not feel disposed to withdraw the measure, but I ask that the order for the second reading of this Bill may be postponed for three weeks.

Order postponed accordingly.

POLLUTION OF RIVERS BILL.

SECOND READING.

HON. F. M. STONE, in moving the second reading, said: In introducing this Bill for the consideration of the House, I may say that the measure deals with the pollution of rivers, and "rivers" under the definition mean "streams, canals, lakes, and water courses." On looking into the matter I find there has been some legislation in regard to the pollution of rivers, but it has not gone so far as I intend to go in this Bill. Under the Public Health Act no night-soil can be emptied into a river. Under the Police Act no noxious substance can be put into rivers. Outside these provisions we come down to the ordinary common law, which provides that if any person is damnified by the pollution of a river, he can put the law in motion by causing an indictment to be issued against the person who commits the nuisance for so doing. That is a very costly remedy, which is simplified by this measure. If a stream is polluted by a manufactory running any noxious substance into it, any person who is living on the banks of that stream, and who is damnified, may go before a magistrate and obtain a summons calling on the person who has polluted the river to show cause why he should not abate the nuisance. The case is then gone into, and, if the offence is proved, the person so polluting the river is called upon to abate the nuisance. If the nuisance is not abated, the person is liable to a penalty of £5 a day while the nuisance is continued. Clause 2 says:

> Every person who puts, or causes to be put or to fall, or knowingly permits to be put or to fall or to be carried into any stream so as, either singly or in continuation with other similar acts of the same or any other person, to interfere with its due flow or to pollute its waters, the solid refuse of any manufactory or manufacturing process or quarry, or any rubbish or cinders, or any other waste or any putrid solid matter shall be deemed to have committed an offence against this Act.

That deals with any manufactory on the banks of a river which is polluted by it Hon. members know that in this colony—especially in country districts—a river might be very easily polluted by a manufactory, and thus cause water which has to be used for domestic purposes to become contaminated. At the present time, if such a thing occurred, those damnified would have to proceed by way of indictment in the manner in which I have already explained; whereas under the Bill before the House, if people find the water in a river being contaminated they can go at once, without great cost and delay, and have the matter dealt with and the nuisance abated. Clause 3 says:

> Every person who causes to fall or flow, or knowingly permits to fall or flow or to be carried into any stream any solid or liquid sewage matter or filthy water shall be deemed to have committed an offence against this Act.

So that if a person, for instance, had an abattoir on the banks of a river, and the refuse and stuff from that abattoir ran into that river, and the water became polluted in that way, any one suffering from the nuisance could go to a magistrate and get an order to stop it. Clause 4 provides that

> Every person who causes to fall or flow, or knowingly permits to fall or flow or to be carried into any stream any poisonous, noxious, or polluting liquid proceeding from any factory or manufacturing process shall be deemed to have committed an offence against this Act.

Under that clause hon. members will see that the matter is carried further. Any poisonous or polluted liquid can be stopped being run into a stream, on application being made to a magistrate. Clause 5 prohibits drainage being run into the river. No one under this Bill will be allowed to construct a drain from a manufactory into the river so as to pollute the river. The object of the Bill is this: to prevent the rivers of this colony being polluted in any way so as to rob us of their benefits. At the present time no manufactories have been established along our rivers whereby the streams have become polluted.

HON. R. S. HAYNES: Claisebrook.

HON. F. M. STONE: But in future we shall have manufactories, and it seems desirable that we should have a means of preventing any pollution of the rivers. If we come to Perth, hon. members are aware that at the present time the City Council is running into Claisebrook all the refuse water from certain parts of Perth. The river in the neighbourhood is very low, and in summer time it is a dry mud bank, with the exception of about 100 yards, and into that 100 yards of water all the filthy drainage and sewage of certain parts of Perth run. If this is allowed to continue, before long that portion of the river will be in an awful state. Coming further into the city, we find that the Corporation of Perth intend to run a drain alongside the baths which have been erected by the Corporation. At the present time there is a small drain running into the river near this spot from a hotel, and any one coming into the city by way of the river is aware of this by the scum which lies on the top of the water for 200 or 300 yards. If the present small drain produces a nuisance, how much greater nuisance will be created if the Corporation is allowed to run the sewage from Perth into the river? Objection may be taken by the Corporation to this measure, but hon. members are aware that this Bill does not deal with the River Swan alone, but with all the rivers throughout the colony. With these remarks, I commend the Bill to hon members.

HON. F. T. CROWDER: I have much pleasure in supporting the second reading of this Bill, and I trust it will receive the unanimous approval of hon. members. For my part, I consider that a disgraceful state of affairs is being perpetrated by the City Council in polluting the Swan River. I can bear out what the Hon. F. M. Stone has said in reference to Claisebrook. For a quarter of a mile before reaching this spot the smell is disgusting, and there is not only a disgraceful smell arising from Claisebrook, but from the water at the bottom of Barrack-street, where drainage runs into the river. If we permit drainage to run into the river, it simply means this, that the whole of the beautiful River Swan will be polluted from Claisebrook to Fremantle. The whole of the river will become a stink pond, the same as the Yarra has become in Victoria. Members of the Corporation have stated that if they find that the running of urine into the river becomes a nuisance, this drainage shall be filtered. It is better to stop the nuisance now than after the river has become polluted. The engineer who is looking after this matter for the City Council gained his experience in a place where the rise and fall of the tide was 15ft. Here, in the Swan, the rise and fall of the tide is next to nothing. If we go on from day to day as we are going now, in another few months the whole of the refuse and objectionable matter from the city will be run into the river, and in less than twelve months' time we shall have nothing but a fever bed here. Most of the people of Perth who can afford it are erecting buildings along the banks of the Swan River at places between Perth and Fremantle, and the money which these people are expending will be thrown away if this drainage into the Swan River is allowed to continue. People have moved from Perth to these suburbs for the benefit of their health, and the pollution of the river which is now going on will make these suburbs very unhealthy. I strongly commend the Bill to hon. members.

HON. R. S. HAYNES: I agree with much that has been said by hon. members who have spoken in support of this Bill. The Hon. F. T. Crowder referred to the Yarra. A rise and fall of 6ft in the Yarra occurs twice a day, whereas here is a fall of only about 2ft. Yet the stuff put into the Yarra is ruin-

ing the harbour there, and would have made the place unfit to live in if some steps had not been taken to remedy it. In Sydney harbour there is an average depth of from five to one hundred fathoms, whereas here we have not a fathom of water. There is not an average depth of 3ft. on the Perth river. It is, therefore, all the more necessary to protect the waters of the Swan. The present City Council are endeavouring to run the whole of the garbage and the refuse into the Swan. I do not know who was the bright genius who suggested that that should be done, but it seems nothing less than criminal to throw the garbage into a sluggish river where there is scarcely any tide, and where the dirt will remain after the tide goes down, and cause fever. The Fremantle people seem to manage their affairs much better than we do in Perth. It would be a good idea to import the Fremantle Council, and set them to look after the matter for us. It has been found necessary in England to pass a Bill like this to protect the rivers where there is a greater flow than there is here. The English Act has served its purpose, and has never been amended.

Question put and passed.

Bill read a second time.

IN COMMITTEE.

Clause 1—agreed to.

Clause 2—Prohibition as to putting solid matters into streams:

HON. J. W. HACKETT: A Bill of this kind was necessary, yet he would draw attention to the word "stream," which was the essential word in the whole Bill. According to the definition set out in clause 7, the word stream included "rivers, streams, canals, lakes, water-courses." This Bill was a transcript of the Imperial Act. Of course a stream in the United Kingdom meant a running body of water which could be used for domestic purposes, the watering of stock, and many other purposes; but unless the Bill clearly signified that the word stream meant "a running body of water," some curious difficulties would be caused by the interpretation of the word. The word was made to include "water-courses," but if the water-course was a dry one, much more far-reaching results might follow than the Bill intended. A very similar clause was contained in the Police Act which was first considered in this House some years ago, and a clause similar to the one in this Bill was struck out on the ground that it would prevent all the wool-washing and scouring on country stations. It might even prevent farmers from permitting the liquid drainage of their farmyards from running down into water-courses, and it might also prevent the drainage from mines after it had passed the washing tables from being dealt with in a similar way. All this would be prevented by the Bill before the House. Unless some alteration were made in the Bill, the estuary at Fremantle could not be considered other than as coming within the definition of "stream." In his opinion, until it passed the heads of the Swan River it was a stream. Unless we altered this clause it would prevent any discharge from the buckets of steamers into the river.

HON. R. S. HAYNES: Quite right, too.

HON. J. W. HACKETT: It would not be possible to prevent that altogether unless we introduced another Bill.

HON. R. S. HAYNES: It was done in England. How about the Thames?

HON. J. W. HACKETT: In England, they had a special Act dealing with it. He had been speaking to a number of persons in view of steamers coming up the river from Fremantle to Perth, and the general belief among practical persons was that, under the present Bill, it would not be possible to deal with the refuse of steamers. He thought, therefore, that we should make the definition of the word "stream" clearer.

HON. F. M. STONE said that this Bill only altered the law in so far as it provided for a summary procedure. If a farmer took his sheep into a stream and washed them there, and thereby polluted the stream, he might be indicted now; under the Bill he was liable to be summoned. If we struck out the word "water-course" it would not alter the law as it at present stood, because we would still be able to proceed against the farmer by indictment. The only new provision the Bill made was that a farmer might be proceeded against in a summary way. The Bill, in fact, made it cheaper to take whatever steps might be necessary to prevent the pollution of a stream. People were

not allowed to pollute rivers at present under the Police Act and under the Public Health Act. If the steamers were coming up to Perth, provision would have to be made to prevent them from polluting the river. If the steamers were allowed to throw everything overboard, we should not be able to live in the place.

HON. J. W. HACKETT: The hon. member had misunderstood him. His intention was to hinder the steamers from doing that.

HON. F. M. STONE: If the word "watercourse" was struck out, a man would still be liable to indictment for polluting a stream.

HON. J. W. HACKETT: How about the mines?

HON. F. M. STONE: An indictment would also cover the pollution of a stream by drainage from a mine.

HON. A. B. KIDSON: There was a great deal in the criticism made by Mr. Hackett. If this clause were carried out it would interfere with the shipping, and put difficulties in the way of shipping coming to Fremantle. We did not want to do that. If the hon. member wanted the clause to remain in the Bill he suggested that a limit should be placed, say, at Claremont, leaving the river from Claremont to Fremantle open. If the ships went to Fremantle, and polluted the river in the way complained of——

HON. R. S. HAYNES: They would be liable under the present Act.

HON. A. B. KIDSON: Any sewage thrown into the river or the harbour from the shipping went away with the tide. There was a strong tide at Fremantle, more than sufficient to carry away any refuse of this kind. He thought it would be a great pity to oppose any obstacles in the way of shipping where there was no necessity for it, because the tide was sufficient to take away any unpleasantness. No unpleasantness had been occasioned so far by the ships; why, therefore, should the House provide against something that did not exist?

HON. F. M. STONE: Clause 2 referred to manufactories, and had nothing to do with the shipping. The Act from which this Bill was taken had been in force in England since 1871, and had not been amended.

HON. J. W. HACKETT: It did not apply in the cases to which he had referred. There were special provisions for dealing with special cases, such, for instance, as docks.

HON. R. S. HAYNES said he could see no objection to section 2, which did not refer to manufacturing, but to shipping. The definition of the word "stream," perhaps, required some modification. The present Bill made the procedure against anyone for polluting a stream more easy than it now was. The offence did not consist of putting garbage into the river, but polluting it. Throwing a handful or a bucketful of cinders into the river would not be an offence.

THE COLONIAL SECRETARY: Under the present Act, throwing cinders into the river was an offence.

HON. R. S. HAYNES: The Bill seemed to be a step in the right direction. If it injured the farmers or miners in any way we could protect them afterwards, but he did not think that the Bill would injuriously affect either. It would help us, however, to keep our rivers clean.

HON. J. W. HACKETT: The Committee could not get past the word "stream." Trouble arose sometimes from the interpretation clause being at the end instead of at the beginning of a Bill. If the Bill were passed as it stood, we would probably be preventing its ultimate passage, unless the objections he had taken were removed. As the Bill at present stood it seemed to be fraught with such serious possibilities that, if it were carried, it would be regarded with the greatest possible disfavour, instead of, as it ought to be, with the greatest possible favour.

On the motion of the HON. J. W. HACKETT, progress was reported, and leave given to sit again.

PREVENTION OF CRIMES BILL.

SECOND READING.

HON. F. M. STONE, in moving the second reading, said: Hon. members are well aware that at the present time we seem to have a very undesirable class of people in this colony, so that respectable people in Perth, Fremantle, or at Kalgoorlie are almost afraid to go out at night. We hear time after time of people being knocked on the head or robbed, and

people hardly dare go into the streets for fear of what may happen. I propose to deal with gentry of that kind by this Bill in the following way:—A magistrate, in addition to any punishment he may give such persons as come before him, can award them up to 12 months' police supervision, which means that the offender will have to inform the police, after he has finished his term of imprisonment, where he resides, and what town he goes to when he leaves for any other place, as also his arrival at that town and his new place of abode, so that the police will alweys knows where these undesirable characters are residing, and where they can put their fingers on them. In a place like this, where there is a large floating population—people are here to-day and gone to-morrow—it seems desirable that we should have an Act of this kind, so as to put a stop as much as we can to the crimes that are being committed in our midst. The police are unable sometimes to prove a garrotting case up to the hilt; they then charge the supposed offender with having no visible means of support, or they prove that he has house-breaking instruments in his possession.

HON. R. S. HAYNES: That is an offence.

HON. F. M. STONE: In such a case the magistrate would give the offender three or six months' imprisonment. If this Bill becomes law, the magistrate will be able, in addition to the sentence of imprisonment, to place the offender under police supervision for 12 months after he comes out of gaol, so that he would be continually under the eyes of the police. I have made a difference in the case of persons convicted before the Supreme Court. Conformably to the English Act, if a person has been convicted twice, the judge can give police supervision up to seven years, whereas if a man has only been convicted once he can only get one year's police supervision. Police supervision only interferes with a man's liberty to this extent: that he is obliged to report his residence when he leaves a town and when he arrives. It has been found advisable to pass a part of the Bill in England, giving power to the judges after a second conviction to place the offender under police supervision. It has been found to work well in England. I have spoken to a police magistrate in Perth, and he says that, in his opinion, the principle would act very well here, and would perhaps be the means of stopping a good deal of what was going on.

HON. R. S. HAYNES: I shall support the main features of the Bill. I do not like clause 2, however. Clause 1 provides that where a person has been twice convicted he may be placed under police supervision for seven years. I do not object to that, because a criminal, having been twice convicted, has repeated his offence, and police supervision might in such a case be advisable. A judge is always very careful about administering anything beyond the sentence, and great care would be exercised before placing a man under police supervision. A judge is entitled to inflict flogging, but how often does it do it? Clause 2 gives a magistrate the power of placing a man who has been convicted of his first offence under police supervision for twelve months. The offence might be a comparatively trivial one, and I think that such a penalty should not be inflicted in the case of first offenders. If by any mistake a man under police supervision did not report himself, he might be sent to prison for twelve months. This would be all very well in the case of a man who had been twice convicted, but if it were the case of a man convicted of only one offence, it would be giving the magistrate too much power. I have pleasure in supporting the Bill, but in Committee I shall ask hon. members to strike out clause 2.

Question put and passed.

Bill read a second time.

IN COMMITTEE.

Clause 1—Person twice convicted may be subjected to police supervision:

HON. J. W. HACKETT: Conviction in another colony or in this colony?

HON. F. M. STONE: In this colony.

THE COLONIAL SECRETARY: As the clause stood, it would only refer to conviction in this colony.

Put and passed.

Clause 2—Person convicted before court of summary jurisdiction may be subjected to police supervision:

HON. R. S. HAYNES asked the hon. member in charge of the Bill to withdraw this clause. Let it be seen first how

clause 1 of the Bill would operate. The provision in clause 2 was not in force in England yet; and, if not extended to England, why should we extend it to this colony? Too much power would be placed in the hands of magistrates by this clause. In this connection he did not refer to Perth, but to the country districts.

HON. F. M. STONE said he was anxious to get this clause passed. It was practically impossible to pick out offences for which magistrates should have power to impose police supervision in addition to imprisonment; therefore, it was best to deal with the matter generally. Mr. Haynes had said that magistrates in this colony were seldom wrong; therefore, if at present a magistrate could give three years' imprisonment, there was no harm in allowing him to award police supervision in addition to imprisonment. The object he had in view was that in many cases the police could not prove that prisoners were implicated in certain crimes. There were numbers of persons "loafing" about towns who, it was known, committed crime, but it could not be brought home to them, and continually these persons got off. The only means the police had was to charge such persons, either with having housebreaking implements in their possession or with being rogues and vagabonds, and having no visible means of support. The police knew that these persons were committing crime, but it was impossible to sheet it home to them. The class of men who would be treated under this clause were those who looked out for drunken persons and the unwary, and who watched for people going out to church on Sunday so that they could commit their robberies. The Police Magistrate, in speaking to him, said that he would be able to deal with these persons under the Bill which was now before the House. Surely hon. members could trust a police magistrate. To get over the difficulty pointed out by Mr. Haynes, he would accept a suggestion made by the Hon. F. Whitcombe, to insert the words "to a term of not less than three months" after "imprisonment" in the second line of the clause.

HON. F. WHITCOMBE moved, as an amendment, that after the word "imprisoned" in line 2, the words, "not less than three months," be inserted.

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

Clauses 3 and 4—agreed to.

Preamble and title—agreed to.

REPORT.

Bill reported with an amendment.

HON. F. M. STONE moved that the report be adopted.

HON. J. W. HACKETT: Before the Bill came up again for consideration, the Hon. F. M. Stone might see his way to modify the severe terms of the measure. A bill of this kind would be of much value; but clause 1 really meant an addition of seven years to a prisoner's second sentence, and the first sentence might have been inflicted in another colony under circumstances which we knew nothing about, and in which the prisoner's guilt might have been doubtful, or of a very slight character. He had been unwilling to speak against the Bill or to divide against it, because he believed the object the hon. member had in view was a good one; but the provisions of the first clause were so severe that, practically, the provisions would be found to be as intolerable as a man serving a sentence within the walls of a gaol. He hoped the hon. member would look into the Bill again, and see if the object aimed at could not be served without being so draconian in these provisions.

Question put and passed, and the report adopted.

LODGERS' GOODS PROTECTION BILL.

SECOND READING.

HON. F. M. STONE, in moving the second reading, said: This is a Bill similar to that which has been in force in England since 1871, and it is for the protection of the goods of lodgers, that is, any person lodging in a house who happens to take into that house any article, say, for instance, a bicycle or a gun, and distress for rent is levied in that house, the articles belonging to the lodger shall not be liable to be seized for distress for rent, but that a lodger, upon making a declaration that his property is his own, and by paying any amount due to the person who has let him the lodging —that is, the superior landlord—his ar-

ticles may go free. In my experience, I have found that the law at present works a great hardship. There are a considerable number of persons lodging in houses in this city, and under the law any of these lodgers who takes any articles, except wearing apparel, into the room in which he sleeps, and the person from whom he has taken this lodging owes rent to his superior landlord, if that superior landlord puts in a distress, these articles belonging to the lodger may be seized and sold for that rent. In one case a great hardship came under my notice, before I had any idea of introducing this Bill. A gentleman took a room in a house, and paid for board and lodging, and furnished the room with his own furniture. The landlady who let him that lodging owed the superior landlord rent, and the superior landlord put in a distress, and, naturally, the bailiff seized the whole of the goods. The incident ended by the lodger having to pay more than two-thirds of the rent due before he could get his goods released, and he had only been a short while in the lodging-house. This Bill proposes to do away with that hardship, and where lodgers have goods of their own in particular rooms, these goods shall be exempt from distress. I really do not see why it should not be so. It was found necessary in England to alter the law twenty-eight years ago, but it has never been altered here.

HON. R. S. HAYNES: There have not been any lodgers here until lately.

HON. F. M. STONE: I think the Bill should commend itself to the House.

Question put and passed.

Bill read a second time.

IN COMMITTEE.

Clause 1—Lodger, if distress levied, to make declaration that intermediate tenant has no property in goods distrained:

HON. R. S. HAYNES said he had no objection to the general tenour of the Bill but a proviso should be inserted in this clause. It was quite right that lodgers' goods should be protected, but it was also right that a landlord should be protected against fraud. At present a person might take an eight-roomed house and say nothing to the landlord about subletting, but might sublet seven of the unfurnished rooms and keep one of the rooms himself, and the tenants might furnish the rooms. There was a case similar to this a little while ago—the case of O'Brien. O'Brien occupied one room, and he sublet six or seven other rooms unfurnished to persons who brought in their own furniture. The landlord allowed the rent to get into arrear, and when he desired to seize on the goods for rent the lodgers said, "This is mine, and that is mine," and so on. Was that fair? If a lodger wanted protection from the landlord he could give notice to the landlord that he was a sub-tenant. It protected the lodger and the landlord too. Notice should be given to the latter. He did not think his hon. friend would object to that.

On the motion of the HON. R. S. HAYNES, progress was reported, and leave given to sit again.

ADJOURNMENT.

On the motion of the COLONIAL SECRETARY, the House adjourned at 6.20 p.m. until the next day.

Legislative Assembly,

Tuesday, 12th July, 1898.

Papers presented—Question: Small-Pox (alleged) on steamer at Robb's Jetty—Question: Erection of New Supreme Court House—Question: Law Amendment, Trial of Election Petitions—Question: Voters in Electoral Districts—Crown Suits Bill, second reading—Interpretation Bill, second reading—Inebriates Bill, second reading—Divorce Amendment and Extension Bill, first reading—Gold Mines Bill, first reading—Land Bill, first reading—Health Bill, first reading—Return ordered, Timber Concessions—Return ordered (as amended), Expenditure on Ceremonial Functions—Return ordered. Agricultural Bureau Expenditure—Motion: Legislative Assembly Buildings, Temporary Accommodation—Motion: Tick in East Kimberley, Removal of Restrictions; Amendment moved (debate adjourned)—Adjournment.

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

PRAYERS.