directly interested. Those I particularly refer to are the members for Toodyay and Beverley, who are directly interested in the result of this division.

The Chairman: The names will be on record and there is no necessity to state them now.

Mr. Scaddan: I am drawing attention to the fact that those members should not vote.

Division resulted as follows:—

Ayes	.. .. ..	15
Noes	.. .. ..	22
Majority against	..	7

AYES.

Mr. Bath	Mr. O'Loghlen
Mr. Bolton	Mr. Price
Mr. Collier	Mr. Scaddan
Mr. Foulkes	Mr. Swan
Mr. Gill	Mr. Troy
Mr. Heitmann	Mr. Walker
Mr. Holman	Mr. Hudson
Mr. Johnson	*(Teller).*

NOES.

Mr. Angwin	Mr. Mitchell
Mr. Brown	Mr. Monger
Mr. Carson	Mr. Murphy
Mr. Cowcher	Mr. Nanson
Mr. Daglish	Mr. Piesse
Mr. Davies	Mr. Quinlan
Mr. Gordon	Mr. Underwood
Mr. Gourley	Mr. A. A. Wilson
Mr. Hardwick	Mr. F. Wilson
Mr. Harper	Mr. Layman
Mr. Jacoby	*(Teller).*
Mr. Male	

Amendment on amendment thus negatived.

Mr. Scaddan: The Standing Orders are absolutely rotten.

Mr. Monger: I wish to call the attention of the Chair to the fact that the leader of the Opposition has said that the Standing Orders are absolutely rotten. Is that appropriate language to use.

The Chairman: I do not know what the hon. member is referring to.

Mr. Monger: The hon. member was referring to the division which has just taken place. Is it right that members should cast reflections across the floor of the House?

The Chairman: A member is not in order in reflecting on the Chair.

Mr. Monger: Was the leader of the Opposition in order in casting reflections upon members on this side of the House and upon the Standing Orders?

Mr. Scaddan: I was not in order, and I withdraw.

Amendment (Mr. Angwin's) put and passed.

The clause (77) as amended agreed to.

Progress reported.

BILL—PARKS AND RESERVES AMENDMENT.

Received from the Legislative Council and read a first time.

House adjourned at 11 p.m.

Legislative Council,

Tuesday, 25th October, 1910.

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

QUESTION — BULLFINCH GOLD FIND.

Hon. B. C. O'BRIEN asked the Colonial Secretary: Whether, in view of the vast importance to Western Australia of the recent sensational gold finds at Southern Cross (the pioneer goldfield of the State), the Government have taken any steps to advertise the same broadcast?

The COLONIAL SECRETARY replied: The Government have taken steps to disseminate authentic information in England and elsewhere about the recent gold discovery at Bullfinch in the Yilgarn Goldfield, and advices have been received from the Agent General that the find has been given full publicity to in the British Press.

QUESTION — PARLIAMENT, COST OF.

Hon. J. T. GLOWREY asked the Colonial Secretary: Will he lay on the Table a return giving the total details of all costs incurred in maintaining both Houses of Parliament (separately) from the opening of the present session to this date, the said return to include the proportion of members' salaries for the said term, cost of *Hansard* staff, and of the producing of *Hansard*?

The COLONIAL SECRETARY replied: Yes, if a motion is carried accordingly.

QUESTION — PUBLIC SERVANTS AND DEFENCE FORCES.

Hon. J. W. KIRWAN asked the Colonial Secretary: 1, Whether, in connection with the statement of the Colonial Secretary on 19th October that two warders employed in the Fremantle Prison had been asked to resign from the Defence Force as it interfered with their duties and that one of them named Wise had been dismissed for refusing to resign, the Minister had noticed the following statement made in the Commonwealth Parliament by Senator Needham on the 19th October and published in the *West Australian* of the 20th October:—"The man in question (Wise) had been employed as a warder in the Fremantle Prison for three years and a half, and two years ago he joined the Australian Garrison Artillery. Sometimes he was on night duty and sometimes on day duty. When on the former he attended parades on Saturday afternoon, and when on the latter he attended parades one night in the week. During his period of service as a soldier he had not asked for one minute's leave to attend to his duties as a member of his corps. He was told by the prison authorities that the fact of his attending these drills and parades was interfering with his duties as a prison warder, and he was asked to resign either from the forces or from his position in the prison. Warder Wise declined to do either, in view of the fact that he had discharged his duties as a member of the Garrison Artillery during his leisure hours." 2, Would the Minister secure from the Comptroller General specific instances of where Warder Wise's duties as a member of the Defence Force interfered with his duties as a warder? 3, What reply has been sent to the telegram sent by the Minister for Defence on 13th instant respectfully urging reconsideration of the case in the interests of the defence of the Commonwealth?

The COLONIAL SECRETARY replied: 1, Yes, I have noticed the report of the statement referred to, but it does not appear to have been made in connection with any statement of the Colonial Secretary. 2, His duties as warder were interfered with by having to be granted time off; to change duties with brother officers; and having frequently, whilst on night duty, required his hours of duty changed to enable him to attend to his military duties, which was unfair to the other officers, and naturally caused discontent. 3, Following is the text of the reply sent:—"Regret delay replying your telegram thirteenth. Warder Wise was requested to resign military forces, as duties interfered with prison duties. State Commandant was consulted, and agreed without hesitation to grant free discharge, recognising nature of two duties must clash. See Section 77, amendment Defence Act. Wise was warned of consequence, but persisted in refusing, and was dismissed for disobedience of orders Comptroller General. In view of section referred to, there appear to be no grounds for reconsideration."

QUESTION — ESTATES REPURCHASED, PARTICULARS.

Hon. J. W. KIRWAN asked the Colonial Secretary: 1. What has been the total number of acres acquired and the money paid for land this year for purposes of closer settlement? 2, Whether it is not likely to seem inconsistent to persons at a distance, and liable to be a bad advertisement for the State, to continue to pay high prices for land whilst Government agents are at the same time publishing announcements far and wide

that there are in this State vast areas of good virgin land at low prices awaiting to be taken up by settlers? 3, Whether for the reason indicated in the last question, and in view of the fact that the purpose of the proposed Land Tax Bill now before the Commonwealth Parliament is to break up the large landed estates of Australia and so promote closer settlement, the Government do not think it advisable to delay the purchase of further estates for closer settlement purposes until it can be seen whether the proposed Federal tax will achieve the object of its authors?

The COLONIAL SECRETARY replied: 1, About 47,168 acres at a cost of £104,732. 2, No. 3, The Government think it is advisable to purchase land for closer settlement when opportunity offers of doing so at a reasonable price.

BILL—FISHERIES ACT AMENDMENT.

Introduced by the COLONIAL SECRETARY and read a first time.

BILL — GERALDTON MUNICIPAL GAS SUPPLY.

Read a third time and *passed*.

BILL—HOSPITALS.

Report of Committee adopted.

BILL—JURY ACT AMENDMENT.

Second Reading.

Hon. W. KINGSMILL (Metropolitan): My object in bringing this small Bill again before the Chamber is to correct what I think must be recognised by hon. members as a somewhat glaring defect in that magnificent edifice, the law of the community, which has been raised through past ages. I have heard very often people go so far as to speak in disrespectful terms of the whole jury system as applying to civil cases; and while I do not propose to go so far as some friends may have advised me, and introduce a Bill abolishing the jury system in civil cases, still I think the system might with advantage be modified. The Bill provides that in civil causes, after a jury has deliberated for what is considered a sufficient time, that is six hours, without coming to a conclusion, the judge may accept a majority verdict instead of a unanimous verdict. If hon. members will cast their minds back for several years they will recollect many instances wherein verdicts in civil cases have been delayed, juries discharged, fresh trials called on, and fresh costs incurred and the whole process of litigation rendered more expensive by the fact that a unanimous verdict was asked for instead of a majority verdict. It is peculiar, in civil cases at all events, where liberty and life are not at stake, that rule by a majority, by an absolute majority may I say, asked for in other ordinary courses of life, is not considered sufficient in cases of law. This is not the first time that this Chamber has had the opportunity of deliberating upon this question. A good many years ago a Bill to this effect was introduced in the Legislative Assembly and passed that House practically without any opposition. It was introduced by Mr. Purkiss, the then member for Perth. Unfortunately that Bill reached this Chamber in the last day or two before the close of the session, and several hon. members, realising the Bill was not a matter of urgency, and that it was too late in the session to consider other than matters of urgency, refused to consider the measure, so the Bill was rejected, not because of any inherent fallacy in it, not because hon. members did not believe in the principle the Bill contained, but simply because of the unfortunate fact that it came down, as other Bills have the habit of doing, a few days before the close of Parliament. I introduced this Bill in 1906 in this House, and it passed the Council; but very much the same fate overtook it, I am sorry to say, in another place. I understand the Government of that day, in 1906, which differed in some small particulars from the Government of to-day, were not altogether in accord with the measure. As a matter of fact the then Attorney General was not backward

in voicing his antagonism to the principle.

Hon. J. W. Hackett: What view did the Colonial Secretary take up?

Hon. W. KINGSMILL: The Colonial Secretary, I am glad to say, looked upon the Bill with a good deal of favour, and was kind enough to give me a great deal of assistance; I have no doubt he will do the same on this occasion; but the Attorney General of that day was not altogether friendly to the Bill; and through some means or other the Bill seemed to lag on the Notice Paper until the session passed without its having passed the requisite stages. I think I may say I am taking time more by the forelock on this occasion than I did then and I hope with a little friendly aid from another place that the Bill will become law. I do not think there can be any objection to the principle which is involved in the Bill, namely that in civil cases a majority verdict should be sufficient where juries are employed. I do not know that I am right in saying that the system of having juries in special cases is falling into desuetude. It might perhaps be a good thing if that were so, but while we have the jury system it should be made as reasonable as possible and it is with a view of repairing what is after all a defect in the jury system as it applies to civil cases that I bring in this Bill. This system of majority verdicts in civil cases has obtained in three of the most important States of Australasia for a great many years. In New South Wales it has been in existence since 1847; Victoria has adopted it for a number of years and it has also been in force in New Zealand. It has worked satisfactorily in these places and no attempt has been made to revert to the old system of unanimity. I have much pleasure in moving—

That the Bill be now read a second time.

Hon. R. W. PENNEFATHER (North): I have much pleasure in supporting the Bill. I would have had still greater pleasure if the hon. member had brought in a Bill to abolish juries altogether in civil cases. It is well known that one of the most delicate and difficult tasks that a judge has to perform is to weigh the evidence, particularly in civil cases. In such cases as we know the first consideration to ascertain on behalf of the jury is on which side the burden of proof rests; it often rests with the plaintiff, but quickly after a case has opened it falls on the defendant. It becomes a matter of battledore and shuttlecock and finally when the case is closed it is an extremely nice point to determine whether the burden of proof rests with the plaintiff or the defendant. These are the considerations to be weighed by a jury called from all parts and places whose experience is limited as regards the weighing of evidence and who do not appreciate the responsibility which rests upon them. Very often verdicts of juries under such circumstances are a farce and I therefore think that the representative of the Government in this Chamber might lay the matter before Cabinet as to whether or not Parliament should take the step of abolishing juries in civil cases. The measure as far as it has been expressed by Mr. Kingsmill will have a beneficial effect inasmuch as a trial will not become a burden in consequence of the jury having disagreed, in which case the verdict of the majority shall prevail. That will be some modicum of relief. Many cases have been fought in the courts where juries have disagreed by a majority of one only and the result has been that parties have been put to the expense of fighting the matter over again, which means ruination to men who have not the means to stand the expense. I would suggest when the measure is in Committee that the hon. member might reduce the period of deliberation referred to in Clause 2 from six hours to three hours, the period which prevails in Victoria. I do hope, however, that the day is not far distant when the two Chambers will agree upon a measure to adolish juries altogether in civil cases.

Hon. D. G. GAWLER (Metropolitan-Suburban): I have much pleasure in supporting the second reading of the Bill. I am rather inclined to think, however, that Mr. Kingsmill while dealing with this matter should have made the measure apply to criminal cases as well. I think a great many of the evils he has stated.

arising in connection with civil cases, apply also to criminal cases. We have frequently heard of juries being locked up and being unable to agree, and also where, after having been locked up for a considerable time, the majority have brought pressure to bear on the minority to make them come into accord with the views of that majority. That is not a desirable state of things. I think the principle of not requiring a unanimous opinion on the part of a jury is an excellent one. It is a matter of everyday occurrence that in debates and gatherings of all sorts we find people can never arrive at a unanimous decision. Even in our own Assembly very few questions ever pass unanimously. It is almost a matter of impossibility to get a number of persons to come to a unanimous opinion on any question. Therefore, I am much surprised that provision has not been made before for the acceptance of majority verdicts. As the subject is before the House now I would like to see it extended to criminal cases. I heartily support the second reading of the Bill.

Hon. J. W. KIRWAN (South): I sincerely trust Mr. Kingsmill will be successful in getting the Bill through this session. With reference to the remarks that have been made by Mr. Pennefather and Mr. Gawler, I would like to remind those hon. gentlemen that if they favour this Bill it would perhaps be better not to introduce into it any matters that are likely to be of a contentious nature. If any matters be introduced into the measure that are of a contentious nature, there will not be much probability of the Bill passing through this session. The Bill in its present form would perhaps be a very good forestalment of the requirements advocated by those gentlemen. I do hope the Government will see their way not only in this House but possibly in another place to facilitate the passage of a measure of this kind. I believe it is in accordance with public opinion. One hears so frequently comments concerning the jury system, and if it has failed in criminal and civil cases, it seems to me that some reform is necessary. This measure would be a forestalment of those other requirements referred to by the hon. members who have spoken, requirements in the direction of applying the majority rule to verdicts, also as regards abolishing juries in civil cases, and in some cases applying the majority system even to criminal cases. I think if the Bill passes in its present form it will be an excellent beginning, and it will possibly lead to still further reform, and perhaps more desirable reform in the future.

Hon. F. CONNOR (North): I would like to say a few words in support of what Mr. Pennefather has said. I think the present jury system in civil cases is a disgrace to justice. I think there is more jerrymandering and more injustice done by juries knowingly—and I go that far—than it is possible to believe. I have had some experience in the matter, so I can speak feelingly. I know of a case where there were thirteen witnesses, and I think eleven of them were professional witnesses. It was a case in connection with a brewery. The thirteen witnesses swore one way, and the plaintiff, who asked for damages, swore the other way; the judge practically told the jury they would have to decide in favour of the defendant, but the jury gave damages for the plaintiff in the face of that direction. They brought in their verdict on the question of fact, and the party who lost the case asked the lawyer to appeal, but the lawyer replied that there was no use in appealing for the reason that the judge would not interfere, as the verdict had been given on a question of fact. That is only one instance of many. I have often wanted to bring this matter under notice, but it was a somewhat delicate subject, and would have been better handled by a legal gentleman. I hope the Government will see their way towards taking the matter up, or I hope some legal member will move in the direction of introducing this legislation, and if he does so I shall be pleased to give him my best assistance. I intend to support the Bill which is before the House at present.

Question put and passed.

Bill read a second time.

In Committee.

Clause 1—agreed to.

Clause 2—In civil causes two-thirds majority to be accepted:

Hon. R. W. PENNEFATHER moved an amendment—

That in line 2 the word "six" be struck out and "three" inserted in lieu.

The Victorian Act provided for the deliberation of three hours instead of six hours as proposed in the clause. If a jury could not make up their minds in three hours it seemed scarcely right to lock them up for six hours.

Hon. C. SOMMERS: The Committee should hasten slowly in such a matter. It would be wise to let the clause stand as printed. Mr. Kingsmill deserved to be congratulated on having undertaken to introduce the Bill, because it was an amendment of the Jury Act, which had been long needed, and if it passed through Parliament the community would have cause to thank the hon. member.

Hon. R. W. PENNEFATHER: This provision had been in force in Victoria for about 30 years. If a jury retired and found they could not agree, they knew they could not return a majority verdict under six hours, therefore the provision might frighten some of the jury into giving way. That was a pressure that could be used against the interests of justice; a three hours' limit would work in the interests of justice.

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

Clause 3—New trial on disagreement:

Hon. J. W. LANGSFORD: Twelve hours was mentioned before a new trial could be granted if two-thirds did not agree; should not the time be reduced by one-half as was done in the previous clause?

Hon. D. G. GAWLER: It might be well to reduce the twelve hours to three hours, as was done in the previous clause.

Hon. A. G. JENKINS: That would make the clause work too easily. If a jury knew they would be discharged in three hours they would sit the time out. The time might be reduced to six hours.

Hon. D. G. GAWLER moved an amendment—

That in line 1 the word "twelve" be struck out and "six" inserted in lieu.

Amendment passed; the clause as amended agreed to.

Clauses 4, 5—agreed to.

Title—agreed to.

Bill reported with amendments.

BILL—GAME ACT AMENDMENT.

In Committee.

Hon. W. Kingsmill in the Chair.

Clause 1—agreed to.

Clause 2—Within a certain period no person to have in his possession the dead body of any native game, etcetera:

Hon. F. CONNOR: Would this clause affect the fauna?

The Colonial Secretary: Yes; it covered all native game.

Hon. F. CONNOR: Some provision would have to be made for opossum skins that would come in for several months yet.

The Colonial Secretary: Six months' notice had been given.

Hon. F. CONNOR: Only one month's notice. Provision should be made for three months before the clause came into operation.

Hon. J. W. Kirwan: It would have to be proved that the animals were unlawfully killed.

Hon. F. CONNOR: The animals might have been killed lawfully three months previously. Two months' grace should be given at least. People who dealt in skins should have an opportunity of unloading.

Hon. J. W. Kirwan: Could not they prove that the animals were lawfully killed?

Hon. F. CONNOR: They might have been lawfully killed, but the skins were in their possession.

The COLONIAL SECRETARY: The power to proclaim a close season was already given in the original Act. A proclamation was issued in May last making a close season for opossums as from the 1st September, and this provision had been threatened for over 12

months. A proclamation was issued 12 months ago, but withdrawn, or there would have been a slaughter of opossums. The Bill would not come into force until the 1st January at the earliest; therefore people would have four months to dispose of their skins. The Bill would not apply to anyone unless the skins had come unlawfully into possession.

Hon. J. W. Hackett: Has any information been received with regard to an opossum farm?

The COLONIAL SECRETARY: There has been correspondence from Sydney in regard to the question of an opossum farm and also from the director of the Zoological Gardens. Such a farm would probably turn out a favourable proposition.

Hon. F. CONNOR: In the form in which it appeared the Bill was a mistake. Much of the country in the home of the opossum was now being ringbarked and the timber killed. Once the timber was ringbarked the opossum went away. Where land was being surveyed for settlement and timber was being killed the provision should not apply. To prevent the animals from being killed in such places was an economic waste, for the value of the skins was lost and the opossums were not retained in the district. But few realised the great assistance to settlers of the State had been the killing of opossums and the selling of their skins.

The CHAIRMAN: The hon. member must connect his remarks with the clause under discussion.

Hon. F. CONNOR: All that was intended by him was to protest against the indiscriminate way in which the provisions were to be applied. Some alteration should be made in the regulations whereby the economic loss to the country, which would be brought about by the application of the clauses in the Bill, would not result.

The COLONIAL SECRETARY: Over eighteen months ago a proclamation was issued with regard to this question and declaring a close season for opossums, but it had then been decided that there was no close season for opossums as they bred all the year round, and that the only way out of the difficulty, and to prevent them from being exterminated, was to apply a permanent close season for two years. It was very necessary that something should be done or a valuable industry would be lost to the State. He moved an amendment—

That in line 13 after "pounds" the words "for each bird or animal" be inserted.

Hon. W. MARWICK: There were parts of the State where the kangaroo was a nuisance to the farmers, and within the last few days several kangaroos had been killed in some of his wheat fields. If the Bill applied to the whole of the State a man would be stopped from killing on his own property an animal which was becoming a great nuisance. The same remarks applied to the opossum. Mr. Connor had been quite right when he said that the opossum went away when ringbarking started. There was no doubt about it that, in the early days of their settlement, farmers obtained a considerable sum by killing the opossums and selling their skins. It was a source of revenue to them. Would it be unlawful, if this Bill were passed, for a man to kill kangaroos in his own paddocks? On the Eastern Goldfields line the kangaroos destroyed a great deal of the crops.

Hon. E. McLARTY: The penalty was too small, the sum being fixed at only £2.

The Colonial Secretary: If the amendment be carried it will be £2 per bird or animal.

Hon. E. McLARTY: There should be protection for these animals as, in most of the settled districts, kangaroos were getting very scarce and in fact in the South there was not one now where there used to be twenty. Very soon they would be exterminated.

The COLONIAL SECRETARY: The Bill was only brought in for the purpose of enforcing a penalty for the breach of a closure. So far as kangaroos were concerned the closure only applied to certain parts of the State.

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

Clauses 3 and 4—agreed to.

Progress reported.

BILL—ELECTORAL ACT AMENDMENT.

In Committee.

Resumed from the 21st October.

Clause 13—Amendment of Section 33:

The COLONIAL SECRETARY: Exception has been taken to the clause, which referred to the price of the rolls being fixed at not more than one shilling. The reason for the amendment was that the same charge should be made as was made by the Commonwealth. The latter prices varied, for whereas the charge for a roll for a principal division was two shillings, that for a subdivision—equal to our Assembly—was sixpence. A supplementary roll for a division was sixpence, and a supplementary roll for a subdivision was threepence. It was imperative that the amendment should be made, if we were to bring the Bill into line with the Commonwealth. If this were not done the people here would purchase all the rolls from the Commonwealth instead of from the State. The clause stated that the sum should not exceed one shilling; probably the price would be less in actuality so as to conform with that of the Commonwealth.

Hon. J. W. LANGSFORD: The clause might safely be struck out. It was mentioned that probably the price would be fixed in accordance with the number of names. If that were done some members would be let off lightly, and others would be penalised. The cost of the rolls meant a great deal to a candidate at election time. The existing Act met the case, and he would vote against the clause.

Hon. J. W. KIRWAN: It was to be hoped the Colonial Secretary would not insist upon the passing of the clause. Without the stipulation "not exceeding one shilling" the price might go up unreasonably.

The Colonial Secretary: In that case they would go to the Commonwealth and get the same roll for sixpence.

Hon. J. W. KIRWAN: The words quoted guaranteed a limit to the price charged.

Hon. F. CONNOR: There was no necessity for the clause. If the Colonial Secretary insisted upon any alteration in the existing section, then he should set another maximum to the charge.

Hon. J. E. DODD: Unanimity with the Commonwealth rolls could not be brought about in regard to this House. Furthermore, the rolls of the Legislative Council were more bulky than those of the Legislative Assembly, and those who had to contest Legislative Council elections had to find a greater quantity of rolls than had candidates for the Assembly elections. That being so it would not be wise for the Committee to agree to the removal of the maximum price.

Hon. C. SOMMERS: There was no saying what height the price might reach if the clause were agreed to. He remembered a period when the price was half-a crown per hundred names on the roll. Certainly the maximum should not be above one shilling.

The COLONIAL SECRETARY: At the present time it would not make much difference whether the clause were agreed to or struck out, because Commonwealth rolls were at a lower price than the State rolls. The only purpose of inserting the clause was to bring about that complete co-operation with the Commonwealth of which he had spoken. He would have no objection to the striking out of the clause.

Clause put and negatived.

Clauses 14 to 23—agreed to.

Clause 24—Amendment of Section 66:

Hon. J. W. KIRWAN moved an amendment—

That the following subsection to Section 66 of the principal Act be added: (6.) On the receipt by the President or Speaker, as the case may be, of a petition signed by a majority of the electors on the roll for any province or district asking for a fresh election on the ground that the sitting member has ceased to be a true representative of their views, the President or Speaker, as the case may be, shall declare the seat vacant, provided each signature to the petition is properly witnessed by another elector.

The COLONIAL SECRETARY: On a point of order, was the amendment in order seeing that it was an amendment of the Constitution Act and foreign to the

title of the Bill? Being and amendment of the Constitution Act it would have to pass the second and third readings by an absolute majority of the House, whereas no record had been kept of the voting at the second reading of the Bill to see whether or not it had secured such absolute majority.

Hon. J. W. KIRWAN: Probably what the Colonial Secretary has said was quite correct, inasmuch as the amendment was an amendment of the Constitution. But an amendment of the Constitution could be proposed in a Bill of this character. Of course it would have to be carried by an absolute majority, but there were no Standing Orders against an amendment of the Constitution being included in a Bill of this character.

The CHAIRMAN: The amendment was in order. Anticipating possible discussion he had looked up authorities on the subject, independent of the Standing Orders, which went only part of the way. *May*, on pages 457 and 458, defined those amendments in public Bills which were inadmissible. Most certainly under *May's* definition this amendment was admissible. He would point out, however, not only to members of the Committee, but also to members of the Standing Orders Committee, that a peculiarly anomalous position arose, inasmuch as that, while an amendment of this sort to a public Bill of this character was undoubtedly in order, still hon. members must see that if it became law it would be ineffective. He need say no more than that no record had been kept of whether the second reading of the Bill had been passed by an absolute majority. That being so hon. members would see that even if passed, such an amendment would not be effective. However, that had very little to do with the question before the Committee. The amendment could be discussed because undoubtedly it was in order.

Hon. J. W. KIRWAN: If the amendment were carried it could be made effective.

The CHAIRMAN: There was no occasion to debate that point, because the ruling was that the amendment was in order. All other remarks given in the ruling had been simply explanatory.

Hon. J. W. KIRWAN: That was clearly understood, but for the information of hon. members he would point out that he would not have presented such amendment if he had thought that on its being carried it would be ineffective. True, it would be ineffective on the assumption that the Bill would simply go through the ordinary process and become law without its being treated as an amendment of the Constitution. In order to make the amendment effective it would be necessary for the Bill to pass by an absolute majority of both Houses. He fully recognised the difficulties in connection with bringing forward the amendment in a Bill of this character. The chief reason that had prompted him to do so was that at numbers of election meetings addressed on the goldfields he had been asked whether he would favour the institution of this principle in the legislation of the country, and he had always replied in the affirmative. This principle was generally known as the "recall," giving to electors the power of dismissal of a member in the event of that member ceasing to represent them. The matter had been discussed for a great number of years at public meetings on the goldfields, and this was the first opportunity that had arisen for him to bring the matter forward in fulfilment of pledges given when a candidate, not only for the Council, but also for other political positions. A new principle was involved in the proposal so far as Australian legislation was concerned. He was not bound to the exact wording of the proposal, as it was extremely difficult to draft a provision of this character, but members should discuss the principle rather than the exact wording. It was a principle advocated by the Labour party in various States of the Commonwealth and elsewhere for a number of years; but it was a reform that might well be adopted by any party, and there could be no reasonable opposition to it. In the proposed subsection the petition asking for a fresh election must be signed by a majority of the electors on the roll, so that it would be extremely difficult to get a petition of

that character, and only in rare circumstances, indeed, would it be obtained, that was to say, in circumstances where the feelings of the electors were particularly outraged. Ostrogorski, the author of *Democracy and the Organisation of Political Parties*, put the matter very effectively, but in the opinion of that writer dismissal could be pronounced by a number of electors equal to less than half the voters at the last election. This was different to the proposal in the amendment before the House, which necessitated a majority of the whole of the electors on the roll. This author also contended that if the duration of Parliament were to be extended it would not be likely to be so injurious if a system such as the "recall" system were brought into effect, for it would ensure that Parliament was thoroughly representative of the electors.

Hon. J. W. Hackett: For the moment.

Hon. J. W. KIRWAN: It would mean that a member, while sitting for a constituency, would be a continuous representative; but if on any occasion that member got out of touch to any great extent with the feelings of his electors, the electors would have the power to express their opinion on the point and so get a fresh election. Of course there was nothing to prevent the member in the circumstances standing for re-election. Ostrogorski put it—

> But would not the long duration of the parliamentary mandate, extending to six years and more, make the mandate-holder too independent towards his constituents? Would it not weaken his sense of responsibility? The latter is not unimpaired even in the present day, under the regime of more frequent elections. It does happen that in important conjectures a member behaves in a way which a great number of his constituents, perhaps the majority of them, entirely disapprove. But when he seeks re-election, the political situation has radically changed, the grievances of the past are thrust into the background by the pre-occupation of the present, and, under cover of these, the member gets off scot-free and can begin his old game over again. In any event, the punishment does not follow the offence; justice in electoral matters walks with a halting step, as it does elsewhere. What would happen if the term of the mandate were prolonged? The reader will remember that among the various cures for the political disease proposed in the United States, there was one for ensuring the continuous responsibility of the representative by giving his constituents the right of unseating him at any moment, as Bentham had already suggested. Heroic as this remedy, which clashes with our habits, may appear, I hold that it deserves serious consideration. To keep the representative up to the mark, and to get the electors to have an eye always on him, is not a result to be despised if it can be obtained by this plan. It would be a better means of keeping the member in the right path than the imperative mandate, for this makes the mandate-holder a machine and destroys real responsibility, whereas dismissal, coming after the event, would leave him his liberty, that is his responsibility, but would render it genuine, would give it a sanction by making removal follow on misbehaviour. No doubt if the principle of dismissal were adopted, its application would have to be subjected to precautions against the improper use that might be made of it;

In the amendment these precautions were more than supplied—

> thus dismissal would have to be pronounced by a number of electors equal to not less than half of the voters at the last election:

That was not sufficient precaution to safeguard the rights of the member, so in the amendment it was provided that the petition must be signed by a majority of the electors, and, furthermore, a signature must be witnessed by another elector. Of course, further on there would be the necessary penalties in the event of any falsity or misrepresenting of signatures. The writer proceeded—

> If the member no longer possesses the confidence of half the electors of his constituency, it is only right that he should lose his seat.

Not only would this proposal be a safeguard to the electors, but it would also be

of great advantage to individual members of Parliament. It invariably happened that at elections candidates made many promises, and frequently it occurred that when a member got into Parliament he saw that on some particular points it might be necessary to change his views. A man who did not change his views did not progress: but if the question be of vital concern to the member's constituency, the proper course for the member was to resign and offer himself for re-election rather than misrepresent the view of his constituents. In England, where the standard of politics was very high, that was very frequently done; and in Western Australia, if the system laid down in the proposed clause were adopted, it would cause a member to act with greater freedom; because if the member found it necessary to alter his views on any particular point he would have less qualms of conscience about doing it, because he would feel that if it were a matter of vital concern to his constituents they would be able to apply this system to him and so intimate to him that he was misrepresenting them upon that particular point. Therefore, the principle would create a feeling of more than satisfaction to individual members of Parliament. It was at present very difficult for constituents to indicate to their members that the latter was not representing them.

Hon. B. C. O'Brien: That particularly applies to the Legislative Council.

Hon. J. W. KIRWAN: Yes; because of the length of duration of a member's seat in the Council.

Hon. J. W. Hackett: What is the object of that? The very opposite to what you are providing.

Hon. J. W. KIRWAN: It was not intended to enable members to avoid their pledges. Owing to the length of duration of the seat of a member in the Council the application of this principle was more necessary. It was to be trusted the members of the Council would see their way to agree to this clause. It would raise the Chamber considerably in the estimation of the public, and show that each member of the Chamber was thoroughly desirous of at all times representing his constituents, and no one could then accuse the House, or any individual member of the House, of being "misrepresentative."

Hon. B. C. O'BRIEN: The amendment was of a character that should commend itself to the Chamber.

Hon. C. Sommers: You only got in by a majority of one.

Hon. B. C. O'BRIEN: That showed the activity of the electors, and he was rather proud of the fact.

The Colonial Secretary: You got less than 35 per cent. of the votes of the electors.

Hon. B. C. O'BRIEN: On a previous occasion Mr. Patrick beat him very decisively, but on the last occasion the majority was only one. A Labour member had a hard fight to get into the Legislative Council. The subject of the amendment was one of the principles that labour members had laid down for themselves, and the principle was one which they would support. To be consistent, therefore, he would give the amendment his support. If the principle were adopted it would lead to good government and lead to more interest being taken in members of Parliament, and especially with regard to members of the Legislative Council, who were elected for such long periods. It was a well-known fact that the members of the Legislative Council had been accused of being lazy and indifferent with regard to their political duties.

Hon. W. Patrick: By whom?

Hon. B. C. O'BRIEN: The hon. member knew well. The amendment would bring members into closer touch with those who elected them and then the Chamber would be in a better position in the country. At the present time there was a general clamour for the extinction of the Chamber.

Hon. J. T. Glowrey: Quite the contrary.

Hon. C. Sommers: It comes from the Trades Hall.

Hon. B. C. O'BRIEN: It was a well-known fact that last session the reduction of the franchise was defeated by only two votes, and if hon. members had been honourable——

The CHAIRMAN: The hon. member must not accuse members of being dishonourable.

Hon. B. C. O'BRIEN: The remark would be withdrawn if it was not in order, but it was a well-known fact that members of the Legislative Council were supposed to be out of touch with the political affairs of the country. The amendment, if carried, would bring members into closer touch with the people.

Hon. F. Connor: What is the value of it?

Hon. B. C. O'BRIEN: The value of it was that if it were carried there would always be good members.

Hon. W. PATRICK: The effect of the amendment would be to kill the Bill, because it was really an amendment of the Constitution, and the Committee would be required to recommit the Bill and start anew. He (Mr. Patrick) was not prepared to lose the Bill for the sake of the amendment, whatever merits it might have. The proper course for Mr. Kirwan to pursue would be to allow the measure to go through and then introduce a special Bill embodying what was contained in the amendment.

Hon. C. SOMMERS: An appeal was made by Mr. Kirwan to the good sense of members, but it was to be hoped that the good sense of the Committee would show Mr. Kirwan that there were only two or three who were prepared to support the amendment. What would happen in a small electorate where party feeling ran high? Probably the action of some member would not be properly understood, and a telegram might be sent down asking him for information; the local paper might take the matter up in a partisan spirit and perhaps inflame the feelings of the electors. The state of mind that they might be in could be imagined, and possibly a petition might be taken around, and it was an easy matter as a rule to get signatures to a petition; thus in a small electorate, by a majority of a few, it might be possible to call upon a member to resign. Everyone knew what a strenuous fight had been put up in the electorate of Menzies, where the Minister for Mines had been returned by a small majority of 10 or 20 votes. Suppose his opponents, inflamed by party motives and supported by a partisan newspaper, prepared a petition for signature, what would be the result? The newspaper in such an electorate, perhaps controlled by an opponent of the sitting member, might be tempted to write down the member representing the district and perhaps misrepresent him, and in that way inflame the minds of the people. The result would be that a petition such as that suggested by the amendment would be taken round and signed. Reference might be made to charges which had been made by the leader of the Opposition in another place against him (Mr. Sommers) of undue influence with regard to certain land transactions, but the charges were thrown out. If he had been representing a goldfields electorate the opportunity might have been seized by the editor of the local newspaper and the position might have been so misrepresented that a lot of harm might have been done him. In small communities where the possibility existed of the Press giving only one side it would be a very simple matter indeed to inflame the minds of the people, and a petition might easily be prepared. The amendment was one of the most ridiculous ever introduced.

Progress reported.

House adjourned at 6.13 p.m.