Clause—put and passed.

Clauses 11 and 12—agreed to.

Clause 13—Amendment of Section 97:

Mr. GEORGE: The reason why this had been brought forward could be understood. There were reasonable grounds for it and there should be some provision to preserve a decent ratio of votes, in comparison to the total membership of the union. The clause had been framed to deal with unions which might have members working in different parts of the State and who might find it difficult to attend meetings. Assuming the head quarters were in Perth and the Perth members represented probably ten per cent. of the whole, and of that number only half appeared to pass a resolution, that would not be considered a reasonable ratio of the number of members in the union.

The Attorney General: Everyone in the union must vote by ballot.

Mr. GEORGE: Although that was so a matter that was thrashed out or dealt with by probably half a dozen members would not be regarded as entirely just as if it had been dealt with by double or treble the number. There ought to be a provision inserted that at least 25 per cent. of the members should vote.

Mr. O'Loghlen: Twenty-five per cent. would not take action if they did not think it would be endorsed by the other seventy-five per cent.

The Premier: It has to be subsequently endorsed by ballot.

Mr. GEORGE: Exactly; voting without the opportunity of hearing the argument. In connection with some of the union matters the members did not vote against the unions because they felt they hardly dared to do so.

Clause put and passed.

Clause 14—agreed to.

Clause 15—Amendment of Section 109:

Mr. GEORGE: This clause involved reference to and dealings with the Railway Commissioner's Act, and as it was a matter that would take considerable time, the Minister ought to agree to report progress.

The ATTORNEY GENERAL: As it was his desire to add a new clause he would agree to the suggestion. He moved—

That progress be reported.

Motion passed; progress reported.

House adjourned at 10.11 p.m.

Legislative Council,

Tuesday, 28th November, 1911.

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

ADDRESS-IN-REPLY — PRESENTATION.

The PRESIDENT: Hon. members I have His Excellency's reply to the Address, which is as follows:—

> Mr. President and hon. members of the Legislative Council. In the name and on behalf of His Majesty the King I thank you for your Address. G. Strickland, Governor, 28th November, 1911.

PETITIONS (2)—DIVORCE AMENDMENT BILL.

Hon. C. SOMMERS presented a petition from 3,640 citizens of the State, also a petition from the Bishop of Bunbury, against the provision in the Divorce Amendment Bill granting divorce for desertion.

Petitions received and read.

Hon. C. SOMMERS moved—

That the petitions be printed.

Hon. J. F. Cullen: Did the mover of the motion intend that all the names should be printed?

Hon. C. SOMMERS: Only the petitions without the signatures.

Hon. J. F. Cullen: There could be no objection then.

Question put and passed.

PAPERS PRESENTED.

By the Colonial Secretary: 1, Annual report of the Woods and Forests Department; 2, By-laws of the Wickepin Roads Board; 3, By-laws of the municipality of Beverley.

MESSAGE—ASSENT TO SUPPLY BILL.

Message from the Governor received and read assenting to the Supply Bill, £460,000.

MOTION—SITTING HOUR.

The COLONIAL SECRETARY (Hon. J. M. Drew) moved—

That for the remainder of the session the House, unless otherwise ordered, shall meet for the despatch of business at 3 p.m. on all sitting days.

The motion had been tabled at the request of several members who had submitted to him a list of 13 or 14 members who had expressed a wish that the House should meet earlier than usual. There was no difference of opinion amongst members as to the necessity of meeting earlier, but there was a difference of opinion as to the hour. Some preferred 2.30 p.m. while others regarded 3 p.m. as early enough. He supported the motion, not because of any advantage to him as Minister—it might be a disadvantage; but he was prepared to sacrifice himself—but as a country member he had often advocated an earlier sitting. He felt for members coming from long distances, and who came to do business and perhaps had to return to their homes not having done the business they would like to have done if the House had sat an earlier hour. There might be some objection to the motion on the part of City members, who might complain of the necessity of having to leave their businesses an hour and a half earlier than usual, but it must be remembered that country members came here and abandoned their businesses for a week almost, therefore they were entitled to primary consideration. There was a fair amount of legislation before the House and more was coming down, and it was hoped that the session would close before Christmas.

Hon. F. DAVIS (Metropolitan-Suburban) seconded the motion.

Hon. M. L. MOSS (West): It was to be hoped that the House would not agree to the motion, although, from the observations of the Colonial Secretary, it seemed that this motion was cut and dried, because 13 members had approached the Minister on the subject. Except during the debate on the Address-in-reply the House had never sat once after tea this session, and he thought he was correct in stating that on very few occasions had the House sat until a quarter past six; there was no business from another place for the Legislative Council to deal with. If we were to sit late on Tuesday and Wednesday there would be no difficulty in members from the country getting away by five o'clock on Thursday. On looking at the matter from a personal standpoint it would be impossible for him, during the next three weeks, to attend before a quarter past four in the afternoon. Never before had there been an obligation at so early a period in the session to attend before the usual time. While he was anxious to assist members from the country, his own business was such that he could not get here earlier, during the next three weeks, than a quarter past four; no doubt the business would go on very well without him but members could not accuse him of shirking his Parliamentary duties. To have the motion sprung on the House so early in the session was not right and he would vote against it.

Hon. J. W. KIRWAN (South): As one of the members who spoke to the Colonial Secretary on this matter it was due that he should explain the reasons why he asked the Colonial Secretary to bring forward the motion. He readily agreed that certain members of the Chamber would be inconvenienced by the proposal. There were the business and professional members who had a great deal of work to do, and it would put them to some inconvenience to ask them to come here at three o'clock, but those members should take into account the position of many country members. Whilst it was a matter of inconveniencing City members for an hour or an hour and a half, it meant to many members situated like himself, a matter of inconveniencing them for 24 hours. It had over and over again happened that he had come from Kalgoorlie, arriving here on Tuesday and perhaps the House had only sat for half an hour, and then possibly adjourned for a week. The result had been that, in order to put in his attendance for that half-hour, he had left his home at Kalgoorlie not knowing if important or unimportant business was to come before the House, and it had caused him some days' delay. He asked members living in the City to take into account the position of country members. The Eastern Goldfields train left at five o'clock, the Murchison train left at six, the train to Albany at seven, and if the House met at three o'clock these members would be able to catch their trains on days when the House adjourned for the week. Whilst it would inconvenience some hon. members to the extent of an hour or an hour and a half, it would convenience other hon. members to the extent of 24 hours. There were two other considerations that ought to be taken into account when dealing with this matter. One of those was that it would be an undoubted gain to the gentlemen who had to report the proceedings of this House and another place, and would possibly facilitate better reports appearing in the Press not only in the City but also in the country. Not only would it facilitate the Perth newspapers reporting Parliamentary news, but it was very essential in the case of the country papers that the telegraphed accounts of the proceedings of Parliament should be put on the wires as early as possible, so that the whole of the community should know exactly what had been done by their representatives in Parliament. Further, he would point out that there was a still larger consideration, and this motion, although a very simple one on the face of it involved a very important matter so far as the representation of the whole of the State was concerned. It was this: if facilities were given to country members to get through their work as quickly as possible the country would be better represented in this Chamber. Country members who came from a distance would agree that there was very often a considerable amount of difficulty in getting men who would be an acquisition to this House to stand for Parliament, because of the great inconveniences that were attendant on continuing to reside in the country and at the same time attending to one's duties in Parliament. The earlier hour of meeting would facilitate the work of those members, and would encourage others to come forward, who now perhaps were reluctant to stand for Parliament. He claimed that no matter how closely a member of the House might desire to keep in touch with his constituents, he could not keep in touch with them as closely as the man who resided amongst them. It was essential that as many as possible of members who lived amongst their constituents should be placed in Parliament. For these many reasons he hoped that the proposal of the Colonial Secretary would be carried.

Hon. D. G. GAWLER (Metropolitan-Suburban): As one of those rather seriously affected by the motion he would like to say that personally it would be a matter of great inconvenience to attend at so early an hour. There was involved not only an hour or an hour and a half, but the giving up of the whole afternoon. This early meeting of the House would break into a day and mean the sacrificing of the whole afternoon.

Hon. J. W. Kirwan: To country members it means giving up a whole day.

Hon. D. G. GAWLER: The hon. member and those in the same position with him were to be sympathised with. One could readily realise that to them coming to the House for a few days in the week and finding that the House rose early was a waste of time, especially if members were unable to catch their train on the last sitting day of the week and had to wait 24 hours before they could catch another. Mr. Kirwan had mentioned that if an alteration were brought about it might help the country members to attend. The same argument cut a different way for the town members, inasmuch as to the town member it would be a great inconvenience to give up the whole afternoon. If the Colonial Secretary could see his way clear to alter the motion he would be prepared to meet early on Thursday, which would enable country members to avoid being delayed in the city for an extra 24 hours. He moved an amendment—

That the words "on Thursdays" be inserted between "business" and "at" in the last line, and that the words "on all sitting days" be struck out.

Hon. Sir E. H. Wittenoom: If the motion is carried will the House rise at 5 o'clock on Thursday afternoons whatever business is under way?

The Colonial Secretary: No, the House would not rise at 5 o'clock, but probably members would have an opportunity of discussing measures and getting through some business.

Hon. A. G. JENKINS (Metropolitan): The amendment would meet with his support for the reasons given by Mr. Gawler and Mr. Moss. Personally he would be glad to meet the wishes of country members, but it must be remembered that frequently country members were busy on their farms or attending the shows and the town members had to make a house in order that the House might sit. He could understand Mr. Kirwan's remarks if this were the beginning of the session, when perhaps the House would be sitting for half an hour and adjourning for a week, but now the House was likely to sit every day and every evening till the end of the session, and no good object could be attained by sitting earlier. Very often there would be a difficulty in getting a House. A few days ago he had arrived at a quarter past five and found that the House had adjourned and that he had missed his attendance. If the House had sat at 3 o'clock many other members would no doubt have been in the same position. As it was, the House was sure to sit on Tuesday evenings and Wednesday evenings in future, and if members sat on Thursdays at 3 o'clock it would enable country members to catch their trains. In the circumstances he hoped that country members would not insist on the House meeting on Tuesdays and Wednesdays at 3 oclock, but would vote for the amendment.

Hon. C. A. PIESSE (South-East): As one of the country members affected by the change he had intended to support the motion, but he now felt pleasure in giving his support to the amendment. On previous occasions an endeavour had been made to fix the hour of meeting at 3 o'clock, and the same reasons had been given as those put forward to-day.

The COLONIAL SECRETARY (Hon. J. M. Drew): Reference had been made to the House sitting only about fifty minutes on one occasion during the past week or so, but he did not think he was to blame for that. He had been prepared to go on with the business, but either the adjournment of the debate had been moved or progress had been reported for the good reason that members wished to give the Bills full consideration. The amendment moved by Mr. Gawler seemed to be a fair compromise. If there was any possibility of an adjournment over the week he would oppose the amendment, but so far as he could see the House would be sitting continuously until Christmas. The chief trouble in the past had been the difficulty of country members attending the Thursday sittings and catching the trains to their homes, but the amendment would, he thought, get over that difficulty. In the circumstances it was only right that he should accept the amendment. He asked leave to withdraw his motion.

Hon. F. DAVIS (Metropolitan-Suburban) : As seconder of the motion I protest against its being withdrawn.

The PRESIDENT : The amendment is now before the House.

Hon. J. W. KIRWAN (on amendment) : Whilst anxious to assist members who lived in the city he would suggest that they might help the country members by making a slight alteration in the amendment which was before the House. What would happen now was that if the House met at 3 o'clock on Thursdays there would be about an hour and a half in which to transact business and then those members who had to catch the 5 o'clock train would have to leave. Might he suggest for the consideration of members who had made this suggestion that the system adopted by the Federal Parliament in similar circumstances should be adopted. The system adopted there was that members of that Parliament who lived in Sydney caught the train to New South Wales, while others caught the train to Adelaide, and in order to facilitate that being done, an early sitting took place on Friday, Parliament meeting at 10 o'clock in the morning. He did not know whether 10 o'clock would be too early for hon. members here, but he would suggest 11 o'clock or noon would be better than 3 o'clock. He could see no earthly reason why that proposal should not be adopted. The idea of late sittings of Parliament had come from those times when Parliament consisted of men of leisure, or men who were engaged in business or professions, and who were not paid and did not want to be paid. All that was changed, and the conditions now were somewhat different. The position was that all members of Australian Parliaments were paid, and in most cases paid very well, and out of consideration for this fact, the inconvenience that the individuals might suffer of an hour or so might well be taken into account. He would suggest that perhaps those members who desired an alteration should agree to meet at 2 o'clock on Thursday, and he would move an amendment to the motion now before the House to that effect.

The PRESIDENT : That can be moved subsequently.

Hon. J. W. KIRWAN : Was not the amendment now the original motion ?

The PRESIDENT : The original motion has not been withdrawn ; there was one dissentient voice.

Hon. J. D. CONNOLLY (North-East) : Having had some years experience as leader of this House, he was always ready to fall in with the suggestion which the leader might make as to the hours of sitting. To his mind, he should be the judge as to the hours the House should sit; he was in charge of the business, and if he thought the House could get through it in the sitting hours suggested, it would be becoming on the part of members to accept the proposal. The hon. member who had just sat down, when speaking on the original motion, stated on behalf of the country members that they should be able to get away by the 5 o'clock train, and that they could do so if the House were to meet at 3 o'clock. Then, in order not to spoil the whole day, an amendment was moved exactly falling in with the views expressed by the hon. member when he first spoke. It was too early for the hon. member to argue about the business before the House; the leader of the House knew what business had to come before it, and he would certainly always support him because he knew the hard task that the Minister had before him. He had a difficult department to administer, and he had to acquire a knowledge of every Bill that was brought before Parliament. It was asking a good deal of that hon. gentleman to meet at even the hour suggested by Mr. Kirwan for the reason that his mornings were taken up entirely with interviews, and he had his answers to questions to prepare, and he (Mr. Connolly) knew from experience that the hour betwen 2 and 3 o'clock would be appreciated by the Minister if the House was not asked to meet before 3. The amendment moved by Mr. Gawler was a very fair compromise, and the House should adopt it.

Amendment (to insert the words "on Thursdays") put and passed.

Hon. J. W. KIRWAN (South) moved a further amendment--

That in line 3 the figure 3 be struck out, and 2 inserted in lieu.

Hon. J. A. DOLAND (Metropolitan-Suburban): The House should really stretch a point in order to meet an hour earlier. Personally, he would rather meet any time in the day than in the evening, and by meeting at 2 o'clock members would obviate certainly an hour's sitting at night and accomplish something that would be very beneficial to all. It would not inconvenience hon. members if they met at 2 o'clock, and therefore he hoped that the amendment would commend itself to the House.

Amendment put and negatived.

Hon. D. G. GAWLER (Metropolitan-Suburban) moved a further amendment—

That in the last line the words "on all sitting days" be struck out.

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

BILL—DEPUTY GOVERNOR'S POWERS.

Read a third time, and transmitted to the Legislative Assembly.

BILL—APPELLATE JURISDICTION.

Report of Committee adopted.

BILL—VETERINARY.

In Committee.

Resumed from the 23rd November.

Clause 21—Qualifications of Practitioners:

Hon. J. F. CULLEN: In the proviso in favour of gentlemen now practising the time given them was too short. It read: "Provided that until the first day of May, 1912, the board may register any person who has been continuously practising as a veterinary surgeon in Western Australia for seven years on his passing the prescribed examination, etc." It might be taken as a moral certainty that an examination could not be prescribed very much before May next; it would take months for the machinery of this Bill to be created. What kind of fair play would it be to gentlemen practising now to say that in April next they would know what kind of examination they would have to pass before the 1st of May, otherwise they would be for ever excluded from the profession to which they belonged. The Minister ought to agree to extend the date to the 31st December, 1912. He moved an amendment—

That in line 10 the words "first day of May" be struck out, and "thirty-first day of December" be inserted in lieu.

The COLONIAL SECRETARY: No objection would be offered to the amendment.

Amendment put and passed.

Hon. M. L. MOSS: At the last sitting he had quoted the provisions inserted in the Pharmacy and Poisons Act when first qualification became necessary for practising the business of a chemist and druggist, and had quoted also the provisions in the Dentists' Act saving the rights of persons practising dentistry in the State before the Act came into force. In both those cases the rights were protected of persons practising in Western Australia for 12 months before the passing of the respective Acts. Surely there had never been so drastic a provision as that before the Committee. It meant that not only must a man have been practising in the State for seven years, but that he would still have to pass the prescribed examination. There were, perhaps, men perfectly well qualified to carry on this profession, and yet quite unable to pass an examination, owing to the fact that many years had elapsed since they left their books. It was the duty of Parliament to protect the vested rights of those persons. He moved an amendment—

That all the words after "been" in line 3 down to "diploma" be struck out, and the following subclauses inserted in lieu:—(a) Continuously practising as a veterinary surgeon in Western Australia for three years; or (b) continuously practising as a veterinary surgeon in Western Australia for 12 months on his passing the prescribed examination

in diseases of the horse and other domesticated animals in lieu of holding such diploma.

To allow the proviso to pass in its present form would be to inflict a large amount of injustice upon persons satisfactorily practising their professions to-day.

The COLONIAL SECRETARY: The strongest opposition would be offered to the proposed amendment. Either the Committee desired a Bill to regulate the practice of veterinary surgery, or such a Bill was not required. The clause was the heart of the Bill, and if this were mutilated the Bill would be worse than valueless, because it would give a certificate of competency to incompetent persons. Notwithstanding what had been done in the case of dentists and of chemists vested rights could scarcely be claimed in the present instance, because they were more than off-set by the rights of the community. There was the danger that people would be victimised by incompetent persons who would secure protection under the proposed amendment. In order to succeed in the lowest examination in veterinary surgery a candidate was required to pass in 12 subjects; yet under the clause he would be required to pass merely an examination in the diseases of the horse and other domesticated animals. In answer to a communication by Mr. Le Souef, Professor E. A. Kendall of the Melbourne Veterinary College had written stating that the term of continuous practice required in Victoria was seven years, and that in Western Australia it should be made 10 years, in order to keep down the list of applicants and to keep out the more recent undesirables who, he expected, had been exploiting the profession in Western Australia. Professor Lowrie also had expressed the opinion that the leniency of the proviso in the clause would defeat the purpose of the Bill for some years to come, and that there was no reason why a cheap back-door entrance should be provided for men who in the past had thought fit to practise without qualifications. Professor Lowrie's advice to delete the provision had not been adopted, and the proviso still stood.

Hon. M. L. MOSS: The effect of the proviso would be to disqualify nearly every person practising veterinary surgery in Western Australia to-day, and so would afford an excellent opportunity for qualified veterinary surgeons of Victoria and South Australia to come over here and deprive those already here of their practices. Personally he paid no attention whatever to the letter from the university professor, whose one idea, of course, was to make the standard as high as possible. He knew of persons who, practising this profession, were able to do so with every satisfaction to the owners of animals attended and who, notwithstanding, would find it impossible to pass a prescribed examination. If it was thought necessary to protect the interests of dentists and chemists who dealt with minor operations, there was not so much danger to the community in giving protection to those who practised as veterinary surgeons.

Hon. A. G. JENKINS: Some form of examination was necessary to prevent the foisting of a lot of incompetent men on the community. Making the period three years would enable a lot of incompetent men, particularly in country districts, to register. The period of seven years was too long, and the word "continuously" should be struck out to enable men who had given up the practice to submit themselves for examination. If the amendment were withdrawn he would move in the direction of enabling any who had practised prior to the passing of the Act to submit themselves for examination. Because we passed a bad law in regard to dentists and chemists, there was no need to perpetuate it in our legislation. Men with a thorough knowledge of animals could easily pass the examination, which would be a practical one.

Hon. J. D. CONNOLLY: It was a recognised principle in passing this class of legislation that vested interests should always be protected. One had no sympathy for incompetent veterinary surgeons, but it was right that those who had been practising should be protected. Though they might not hold diplomas they might be competent to carry on the pro-

fession; and having been away from college for a number of years, it was not reasonable to ask them to submit themselves for examination. If the amendwould not like to submit himself now to pass an examination the hon. member no doubt passed with ease many years ago. Captain Laurie would not like to submit himself for some minor examination under the Merchant Shipping Act. The principle set up by Mr. Moss was adopted in our legislation even so late as last year, when in dealing with the registration of midwifery nurses the registration board was permitted to register nurses already practising without asking them to submit to an examination, if they could satisfy themselves that the applicants were competent. It would be a great hardship on some of the veterinary surgeons in the State who were recognised as most competent if they were called upon to pass a written examination; in fact, it would be almost impossible for them to do it. We should adopt the principle followed in regard to the registration of nurses.

Hon. C. A. PIESSE: In view of the importance of the amendment and with the object of seeing it in print, he moved—

That progress be reported.

Motion passed, progress reported.

BILL—HEALTH ACT AMENDMENT.

Received from the Legislative Assembly, and read a first time.

BILL—LOCAL COURTS ACT AMENDMENT.

Second Reading.

The COLONIAL SECRETARY (Hon. J. M. Drew) in moving the second reading said: The object of the Bill is the simplification of the procedure of our local courts for the recovery of small debts. That there has been a necessity for legislation of this nature must be recognised by many hon. members, especially by those who are engaged in business pursuits. It is a fact that one of our legal tribunals which should be the most easy of access is the most difficult of approach owing to its being surrounded by many intricate and, I may add, needless stipulations. Complaint is frequently made, and with good reason, that it is infinitely more easy to embark on an action in the Supreme Court than in the local courts, local courts which have been established for the recovery of small debts. It is undoubtedly no simple task in Western Australia for a layman to set the legal wheels in motion for the recovery of small debts, even for £1 and £2. Roundabout processes are adopted which I am sure call for remedy as soon as possible. If a business man wants to sue a debtor for the recovery of £1, what has he to do? He has to prepare an application for a summons; he has to submit two particulars of demand and affidavit for leave to issue the summons, and a copy thereof; and also a plaint note and summons in duplicate—eight documents in all. But even then his task is not completed. He has then to apply for leave to issue summons, and then, and only after all these formalities have been complied with, can he issue it and proceed. After the summons has been served, unless he has taken the precaution of issuing a default summons, he must attend personally or by his solicitor put in an appearance at the court and ask for judgment, and that even though the defendant has not notified his intention of defending the action. In the Supreme Court such a roundabout procedure is not adopted. If I choose to bring any action against a defendant in the Supreme Court I issue a writ against the defendant, and if he fails to put in an appearance judgment goes by default. In the local court I must attend personally, or through my solicitor, and move for judgment. If a legal process is to be made effectual it should be made simple in all cases where the recovery of small debts is concerned. The object of the Bill is to simplify the procedure. Under the measure there is no necessity for giving leave to issue the summons. We abolish the affidavit and the copy thereof. which is necessary under the existing legislation. In other words, we lessen the expense of the process. At present

the Act provides that a man must bring the defendant to the court where he resides, or the court where he resided during the last six months, or to the nearest place where the cause of the action, wholly or in part, took place. The plaintiff has no choice of the court. This Bill provides that he may take his case anywhere provided there is no objection on the part of the defendant. The defendant has the right to object if it is not the nearest court to where he resides, but if he declines to object the case can be tried where the plaintiff wishes. I shall proceed to deal with the different clauses of the Bill. I direct attention to Clause 3. The definition of "return day" as it appears in the Act, is, "the day appointed in a summons or proceedings for the trial or hearing of an action or matter." To this it is proposed to add between the words "day" and "appointed" the words "fixed by a notice of trial or." It is an amendment rendered necessary by certain provisions in the Act. In regard to Clause 4, Section 12 of the principal Act is amended to provide that where the claim does not exceed £10, the magistrate may appoint two justices to try the case. He cannot do so now unless he is ill, absent, or interested, and even then he has to furnish elaborate explanations to the Minister. This course he will have to follow still in all cases where the amount of a claim is over £10.

Hon. M. L. Moss: And the bulk of the claims are for less than £10.

The COLONIAL SECRETARY: The magistrate without consulting anyone need not be ill, absent, or interested.

Hon. M. L. Moss: That is a very bad clause.

The COLONIAL SECRETARY: In all cases where the claims are in excess of £10 the present procedure is adopted. By Clause 5, Section 36 is amended, providing that every action shall be commenced in the court nearest to the place where the defendant resides or carries on business, or by leave of the magistrate's clerk in the court held nearest to the place where the defendant or one of the defendants resided or carried on business at any time within six months next before the entry of the plaint; or with the like leave in the court held nearest to the place where the cause of action or claim wholly or in part arose. Clause 5, which I am now discussing, takes the power to give leave out of the hands of the magistrate's clerk, and it does so because a different procedure is proposed by the next clause. But Clause 6, Subclauses 1, 2, 3, and 4, enables a plaintiff who brings an action for an amount not exceeding £10 to commence the action in any court, and in the absence of any objection by the defendant to the jurisdiction, it is to be regarded as the proper court. The plaintiff may select his court where he wishes. Suppose the plaintiff had lived in Geraldton and had lent a man £5 while in Geraldton and got a receipt, but then came to Perth? Under the Act he would have to sue in the Geraldton court, but under the Bill he can sue in the Perth local court. The man in Geraldton can object to that, and say that it is not the proper jurisdiction, that the Perth local court has not the proper powers of jurisdiction, and his objection would then prevail, but in 19 cases out of 20 the cases are not defended, and therefore it does not matter where the case is tried. Suppose a defendant does object to the jurisdiction of the court selected, he adds to his notice of defence, "I object to the jurisdiction of this court and say that I resided in (naming the place), and I require this action to be transferred to the court nearest to that place." The plaintiff is then given notice, and if he does not object the clerk can transfer the action in accordance with the defendant's request. But if the plaintiff files an affidavit justifying his choice, it will rest with the clerk to decide whether the action has been commenced in the proper court. Of course the magistrate has the right to exercise any power or discretion of the clerk in this direction. The object of this provision is to save expense. Clause 7 is an amendment of Section 38 of the principal Act and gives power to a judge to remove an action from one court to another. That gives the power of appeal to a judge all the time. Clause 8 repeals Sections 40 to 47 of the principal Act. These sections are the cumbersome

ones, involving the round-about process to which I alluded in my opening remarks. At present the action is commenced by plaint; then there is the issue of an ordinary summons; after that there is provision for a default summons, service of a default summons, provision for substituted service, proof of service, notice of defence to default summons, provision for cases in which some defendants give notice and others do not, and for judgment by default to be set aside. All these are to be repealed and new clauses inserted in their stead to meet the new conditions introduced. Clause 8 also makes provision that where a magistrate or his clerk is satisfied personal service of a summons would involve undue expense, he may allow service by registered post. In lines 30 to 40 or 46 of Clause 8, where a defendant has not given notice of defence within the specified time, which is within at least five days according to Form 2, the plaintiff obtains final judgment if it be a claim for a debt, and if it be a claim for pecuniary damages the case may be set down for assessment by the court.

Hon. M. L. Moss: Have you overlooked the fact that five days' notice is all right around Perth, but what about other places?

The COLONIAL SECRETARY: It is at least five days.

Hon. M. L. Moss: But look at Form 2.

The COLONIAL SECRETARY: It says five days, or such longer term; that is a matter which will be dealt with in the rules of the court. Clause 11 I direct attention to. I am selecting only the clauses in which there has been some material alteration. This clause reduces the amount of security for costs to be given in an appeal case from £15 to £30. It is the general opinion that £15 is a fair amount. It is a sweeping reduction, but it is necessary. The matter has been referred to the taxing master of the Supreme Court, and he thinks that £15 is a fair amount. In Clause 12 the words "entered or" are to be inserted immediately before the word "given" in Section 121 of the principal Act. The effect of this is that a warrant of execution may be issued not only on the application of the party in whose favour the judgment was given, but also on the application of the party in whose favour the judgment was entered. Clause 13 deletes paragraphs (a) and (b) of Section 154. They are unnecessary as they deal with phases of the jurisdiction of the court already dealt with in this Bill under Clause 6. I beg to move—

That the Bill be now read a second time.

Hon. D. G. GAWLER (Metropolitan-Suburban): This Bill provides a very much needed reform, and on the whole it has my very cordial support. I claim a certain amount of credit for having endeavoured to bring this reform about, inasmuch as I waited on the late Attorney General (Mr. Keenan) some two years ago, but I regret to say that nothing in the direction has been done until the present time. I congratulate the Government in bringing the measure forward. The two main provisions in the Bill are, it simplifies the procedure and also does away with a consisderable anomaly which existed as to what was then known as the "nearest court." There is no doubt about it that at the present time it is almost impossible for a litigant personally to obtain recovery of moneys due to him, and as the bulk of these small amounts are small trade accounts and undefended, it is all the more necessary that small storekeepers should have facility given them of collecting their accounts without undue expense. This Bill, to a large extent, supplies this want. As the Colonial Secretary has pointed out, under the present procedure it is necessary for a man who wishes to recover money, no matter how small, the man has to prepare eight documents, so that it is almost impossible for a litigant to do the work himself in these circumstances, and even a professional man is sometimes fogged over the documents that have to be prepared. This Bill will simplify the matter considerably. With regard to Clause 6, which deals with the question of jurisdiction, I confess I cannot quite understand that clause. Members will agree with me that the present practice needs considerable amendment. At present the plaintiff has to sue

in one of the courts, either where the plaintiff resides, or where he has resided for the greater part of the previous six months, or where the cause of action arose. In order to do that he has to file an affidavit setting out these facts. These affidavits are somewhat technical, and are always open to the defendant raising a technical objection. The defendant need not do that until he comes into court, and the defendant might do this without having the slightest vestige of a meritorious defence. When the plaintiff came into court he found himself sometimes confronted by a technical objection on the part of the defendant, that either the affidavit was defective or that the defendant had not resided in a certain place. It is very easy to make a technical argument on many of these points. Therefore the plaintiff was met with these entirely technical objections without the defendant having any meritorious defence; often the defendant obtained judgment and it was then open to him to prevent further proceedings. Even though the proceedings failed and the plaintiff was held to have brought the matter forward in the proper court, yet he had been put to a large expense and considerable delay. This Bill seeks to improve on that position, and, as I understand it, allows the plaintiff to issue a summons in any court he pleases, but as regards any court other than the three mentioned in the principal Act, he does so at his own risk and he can continue at his own risk provided no one objects. It seems to me that the clause contemplates that the defendant can only object if the court is not the nearest to where he resides; but according to the way in which the clause is worded, whatever court the defendant chooses, whether the court at the place where the cause of action arose, or at the place where the defendant resided within the last six months, it is still open to the plaintiff to say that that is not the nearest court to the place where he now resides. I think this point requires a considerable amount of elucidation. These are the only two points I propose to say anything about at the present moment, but no doubt other matters will suggest themselves in Committee. A new clause has been inserted providing that a magistrate may appoint two justices in his place. That clause may be open to very grave objection because most of the cases are under £10, as Mr. Moss has pointed out, and some of these cases, however small the amount, may involve a point which it would be unwise to trust to justices of the peace. However, I do not propose to make any further remarks on the Bill at this stage, but I shall attend to it in Committee. I commend the principle laid down in the Bill and I am glad the Government have made an effort to overcome these difficulties.

Question put and passed.

Bill read a second time.

BILL—CRIMINAL CODE AMENDMENT.

Second Reading.

Debate resumed from the 23rd November.

Hon. W. KINGSMILL (Metropolitan): I do not suppose that any hon. members will be found in this House who will oppose, at all events, the principles of this Bill, and very few who will oppose the details. They will not oppose the principle, because the principle of the whole thing is, after all, a purely humanitarian one, and I venture to say that they will not oppose the details, because the details are wrapped in such an obscurity of draftsmanship that it is very hard for a lay member to grasp what they are. I listened with a great deal of interest to the introduction of the Bill by the leader of the House, and I cannot say I gained from his remarks any elucidation of the abstruse portion of the measure. I gathered from his remarks, and those portions of the Bill which are most easily digested, that one of the main principles aimed at is the amplification of the system of criminal appeals. It has, I understand, been admitted that this departure is one which has received the approval of both the late Government and the present Government, and therefore it is likely to be supported on that account also. With regard to this principle of criminal ap-

peal, the leader of the House said that one of the special features, a feature which I understand is almost unique, is the question not only of appeal by the criminal affected, but also by the Crown. I have always understood that one of the principles wherein the administration of British justice differs from the administration of justice in other countries is that the greatest benefit of the least doubt is given to the criminal, and furthermore that the principle obtains that no criminal shall be tried twice for the same offence. I would ask the leader of the House if this right of appeal by the Crown is not likely to infringe somewhat on the latter of these two principles.

The Colonial Secretary: No.

Hon. W. KINGSMILL: I am glad to hear from the leader of the House that it is not so. The next principle is that known as the indeterminate sentence. This is, I believe, the more classical name of this particular class of sentence. To those unfortunates who are in the position of gaining experience of the indeterminate sentence it is, I believe, known as the Kathleen Mavourneen, for the reason that the sentence "may be for years and it may be for ever." But however that may be, wherever it has been tried, and as the history of criminology shows, it has been a great success, not only as a deterrent from crime but as a reformative agency. It is gratifying that this country recognises, as other countries have done, that after all these habitual criminals are, in many instances, more to be pitied than hated, and this is a step in the right direction, but it is a step the taking of which involves great consequences to the community, and consequences which I maintain were not sufficiently dealt with by the Minister when he introduced the Bill. The country which is foremost in the world in this particular class of penology is the United States, and the two principal criminal settlements of Elmira and Concord are still taken as examples to the rest of humanity, but I would ask the representative of the Government in this House if in placing this legislation on the statute-book—there is no doubt it will be placed on the statute-book—the Government have sufficiently considered the cost of it. I think my hon. friend will agree that the cost is likely to be extreme indeed, because for this State alone, and the comparatively small number of habitual criminals which we may hope to have in the community, a settlement, even on a small scale, on the lines of those to which I have already alluded, will be an undertaking which will be a very large one indeed, and will cost a great deal of money, and it will have to be inititated in face of the fact that we not only need a prison of this sort but we need a new ordinary labour prison as well at the present time. I think Mr. Connolly and the present leader of the House will agree with me from their experience of the office of Colonial Secretary, that the Fremantle prison is unsuitable, both by reason of its construction and its position, for the purpose to which it is put, and the next undertaking which will have to be put in hand by the Colonial Secretary's Department, the Hospital for the Insane and the Old Men's Home having been provided and completed, will be that of providing a suitable and up-to-date labour prison for the class of criminals who do not and will not come within the purview of this proposed legislation. That being so, the introduction of this system involves an amount of expenditure that will need to be seriously thought of before it is undertaken. There is another feature on which I would like a little more enlightenment, and that is in regard to the constitution of these committees of citizens who are to sit in moral analytical judgment on these unfortunates who are undergoing indeterminate sentences. On reading the term "a committee of citizens" one's mind went back to the days of the French Revolution, because the words have a revolutionary and bloody sound about them. However, these ladies and gentlemen, whoever they may be, will have a very hard task in front of them, and the Colonial Secretary might have at some greater length dealt with the duties and personnel of these committees of citizens at each place of preventive detention. Great difficulties have always been found in putting into effect this principle in even

an incomplete form. Hon. members who have taken any interest in the subject will no doubt remember that at intervals for years past this system of working prisoners away from their prisons has been tried and always given up for two reasons, firstly because of the immense expense in proportion to the work achieved, and secondly the great difficulty in keeping the prisoners under proper control. The last experiment was, I believe, that undertaken during the few years I had control of the administration of the Prisons Department, when we established the settlement at Hamel. To that settlement good conduct prisoners were sent and were employed to clear the ground for settlers who would later use the areas for intense culture, but the greatest difficulty was found in keeping those prisoners under proper control. Finally on account of that fact, and the further fact that the cost of the experiment was altogether disproportionate to the benefits derived, the settlement was abandoned. However, I recognise that this is a very important step, and a step taken with a facility and assurance in another place that gives rise to some amount of surprise considering the immensity of the question involved. I believe it occupied only a short time indeed in going through another place. I beg to cordially support the principle of the Bill now before the House.

Sitting suspended from 6.15 to 7.30 p.m.

Hon. J. D. CONNOLLY (North-East): Like the previous speaker I heartily congratulate the Government on the introduction of this Bill and in doing so I am congratulating the late Government and myself to a certain extent because this was a Bill that was promised in the late Premier's Policy Speech and a Bill which I myself was largely instrumental in having drafted. I am not prepared to add that this would have been the exact form of the Bill as proposed by the late Government. The first part of it relating to criminal appeals pertains entirely to the Attorney General's department, while the latter part, dealing with the conduct and treatment of prisoners belongs to the department controlled by the Colonial Secretary. It is therefore more in connection with the latter part of the Bill that I have to deal. All the recommendations were on the file and were sent to the Parliamentary Draftsman, but they had not materalised into a printed Bill up to the time I vacated office. Generally speaking, so far as the principle of the Bill is concerned, it is on the lines that I advocated. There is, however, one very serious omission which I will touch upon later, and it should certainly go side by side with the treatment of the criminal, the indeterminate sentence man, and that is the influx of criminals. It will be noticed that provision is made that a person shall not under this Bill be sentenced only for an offence that he has committed in the past, or in other words, being an habitual criminal, it is provided that a man shall not be convicted unless he commits an offence subsequently. He may have been a very bad criminal, convicted on numerous occasions, but he cannot be convicted under this Bill unless he commits an offence and comes before the court again. He can then be tried for that offence and also for being an habitual criminal. In the other States they have an Influx of Criminals Act in force and immediately well-known criminals leave those States, that is the end of them so far as those particular States are concerned, because they take care that those people will not return. The result is that we are being saddled with all the habitual criminals of the Eastern States. It is a serious matter and I would draw the attention of the leader of the House to it. In the report of the Commissioner of Police—I do not know whether this year's report has been laid upon the Table—but certainly in that officer's report for last year and also the year before, may be found some particulars with regard to this subject and the Crown Law Department are in possession of full information, so that I do not think there will be any trouble in having a Bill put through during the session to deal with the matter. The question is urgent and if we do not deal with it, all the well-known criminals of the

Eastern States will come here and we will not be able to get rid of them. If such an Act were in force we could easily close our doors to them. I regret that so far as I can see this matter has not found a place in the Bill which is before us now. I dare say some provision might be made in the present measure. I cannot say whether it would be necessary to have a seperate Bill to deal with it. With regard to the first part of the Bill, that is the right of appeal in criminal cases, I am in sympathy with it and I heartily endorse it. It does seem strange that we should have been so long in passing a provision of this nature. A person may be found guilty and fined in a small amount and he has the right of appeal, yet one who is sentenced to imprisonment for the term of his natural life has no right of appeal so far as the court is concerned. True there is the King's prerogative, or he may appeal to the Executive Council of the State, but that is not an appeal on the facts, it is only an appeal for mercy. It does seem strange that this provision should not have been brought forward before, and I am pleased it has made its appearance even now. It has been the law in England for a considerable time, but I am not aware whether it is in force in the Eastern States. Like Mr. Kingsmill, while I heartily appreciate the principle contained in this Bill, I must express surprise at the very large order which it contains. It is indeed a very big thing if it can be carried out. It was with no little surprise that I noticed how lightly the matter was passed through in another place. I can only account for that by the fact that the Ministers in the other House were not administering that particular department which the Colonial Secretary controls, namely, the prisons of the State. It is provided in the first place that the prisoners shall be detained in some place of confinement set apart by the Governor by proclamation. I really fail to see where these prisoners are to be detained. It would be quite unfair and useless to sentence a man to a perpetual term unless we are prepared to try and reform him. The Fremantle prison is a very big building, but it is not, as Mr. Kingsmill mentioned, adapted for a modern prison. True, there was a certain classification initiated during my term of office, some five or six years ago, when the new wing was built, but it is not a classification of prisoners in the sense accepted by any authority on penology.

Hon. W. Kingsmill: The prison should not be in the town.

Hon. J. D. CONNOLLY: As my friend very correctly remarks the prison should certainly not be in Fremantle. Undoubtedly a mistake was made six or seven years ago when that new wing, costing about £18,000, was erected. Undoubtedly that money should have formed the nucleus of a prison reformatory or a new prison higher on the hill. There should have been erected there a separate penal establishment. No doubt my friend, Mr. Moss, had something to do with the prevention of the erection of such a building there.

Hon. M. L. Moss: I am sure I had not.

Hon. J. D. CONNOLLY: The hon. member is not quite as energetic in the interests of the West Province as I gave him credit for. I was going to compliment him on the manner in which he and the member for Fremantle had been successfully protecting the interests of their town by preventing the removal of such an establishment from Fremantle. They have lost several institutions and have prevented the penal establishment from being started for many years to come. During last session in another place a promise was made that a Royal Commissioner should be appointed to inquire into the working of the Fremantle prison. There was a good deal of complaint as to the management of that institution and after the House prorogued last session I set about to secure the services of a person who would be a thoroughly competent man with experience to conduct the inquiry. The man above all others, whose services I would have liked to obtain for this task was Captain Neitenstein, undoubtedly the best authority on prison reform in Australia. He was Comptroller

General of Prisons in New South Wales until a couple of years ago. Unfortunately, he had left for England and was residing there so that his services were not available. The next best man in my opinion was the Comptroller of Prisons in Queensland, Captain Pennefather, who is a capable man with vast experience of prison management, and who has made a great success of prison management in his State. The Government was successful in obtaining his services and he was appointed as a Royal Commissioner and brought to this State where he conducted a very exhaustive examination into the working of the Fremantle prison. In his report Captain Pennefather recommended a great number of reforms, and a majority of these, I am pleased to say to the credit of the Prisons Department were of a minor character. I would urge the Colonial Secretary, as I have suggested to him privately, that Captain Pennefather's report should be laid on the Table, as it is a very interesting document. This gentleman reported that he could make no recommendations as they would be of no avail because the prison was not a suitable building, and before we could conduct the prison system in a proper way it would be necessary to start at the bottom and build an up-to-date prison. As I said before, this would be a very big undertaking. A great reform has been made in this direction in New South Wales, and I notice that a great portion of this Bill, so far as it relates to indeterminate sentences, has been taken from the New South Wales Act. To-day there are more up-to-date prisons in New South Wales than I suppose there are in any other part of the southern hemisphere. They are quite out of the ordinary so far as prisons are concerned, and there are a number of prisons for women which are no more like a modern prison than a palace is like a cottage. I know of one women's prison situated near South Head, in Sydney, where each prisoner has her own little room and small flower garden. This is the idea which prevails right throughout the criminal world, so to speak, that the gaol should be more of a reformatory than anything else. That system is certainly on its trial and whether it will work out as the authors intended for the good of the whole community and the people concerned remains to be seen. They have made very drastic alterations in their prison methods in New South Wales during the last five or ten years, but a remarkable fact struck me recently when looking into the matter. I noticed that in Victoria they have not adopted these modern methods; indeed, they have not the modern prisons there which are to be found in New South Wales. The population of these States is somewhat similar and in New South Wales, speaking from memory, they have 2,000 odd prisoners while in Victoria they have 1,200 to 1,300 Now it would appear from these facts that this new system of prison management has worked out for good, because you have a greater percentage of criminals in the one State than in the other. I do not say that this lenient treatment the prisoners receive has anything to do with that at all, but it is an interesting point that strikes one at once. The whole principle and the whole success of the new Bill will lie in its administration. If it gets a sympathetic adminstration it will succeed, but I warn the Colonial Secretary that he cannot hope that it will be a great success in this State ; he cannot expect that it will attain anything like the success that it would in New South Wales. For this reason : In Western Australia we have one common gaol capable of holding from 500 to 600 persons, and at the present time there are, I believe, fewer than 200 prisoners confined therein. When you have only 200 prisoners to deal with, and all in one prison, it is utterly impossible to effect a proper classification. You require separate gaols for the different classes. In New South Wales they have quite a dozen big gaols in which they classify the different criminals, keeping the first and youthful offenders from contact with the habitual criminals ; but in a place like Fremantle although you may have divisions for the first offenders and for the life sentence men the men have to meet every day in

the course of their work. It means that to be successful you would require to have a separate prison for every little batch of 20 to 30 criminals. I regret that there is nothing sought to be done under the Bill for the first offender. After all, he is the person to whom we ought to devote the most attention, for he ought to be the most hopeful case. When I went into the Colonial Secretary's office, I was full of enthusiasm for the reform of prisoners, and prepared to give every assistance I possibly could to any society that would promote this object. I read up many works on criminology and prison reform, and, as I have mentioned privately to the Colonial Secretary, he will find some very useful works on these subjects, which I obtained from England. But we cannot in this State carry out the ideas which we find expressed in the model prisons of the United States, where there are 80 or 90 million people as against our little quarter of a million. I must confess that I am not so enthusiastic to-day about the reformation of the old offender. I have personally taken a very deep interest in prisoners. I have seen men in the prisons, and I have seen to it that they got work when they came out. sometimes putting my hand in my own pocket in order to send them into the country; and the result has been that on my next visit to Fremantle I have met there my old friends whom I thought far away in the interior. Moreover I have learned from men who have been chaplains in prisons in other countries that their experience has been very similar to mine, so that with all their enthusiasm they have not been able to effect very much. At the same time, if we can reform but a few of these prisoners it is well worth the efforts made. If it were possible to do something for the first offender I think it would be worth while to spare no endeavour in this direction, and in my opinion the State would be well warranted in establishing a separate prison for this class of offender. Almira and Concord, the two model prisons in the United States, are run for prisoners between the ages of 15 and 25, prisoners convicted only of certain minor offences, men for whom there is a chance of reform; and these institutions are run on the lines of a reformatory, carrying no resemblance whatever to a prison. In this respect we did something by the passing of the State Children's Act. In that measure provision was made that no child under the age of 18 years should be sent to a prison. There, at all events, something was achieved. I notice in the Bill, and it is a remarkably good thing, that prisoners may be handed over to societies. That is what we want badly, namely, someone to take charge of these prisoners when they leave the prison. Fortunately, we have not many women prisoners in the State, a fact due largely to the existence of one or two very good institutions whose chief object is the care of women. There is the Salvation Army, which cares for both men and women, but particularly women, and there is also the Home of the Good Shepherd. Not only do these two institutions receive the women at the prison gate, but they take them from the police court and keep them in a comfortable home. The Home of the Good Shepherd has over 100 of these women, which they keep at their own cost. I have no hesitation in saying that the great majority of these women would be in the Fremantle prison to-day if they were not in that home. But there is this weakness about the system: Whilst these good sisters and the ladies of the Salvation Army may go to the police court and receive from the magistrate women who otherwise would be sentenced, most of these women, immediately they have been washed and cleaned up, and feel a little better after their spree, turn round and decamp, and that is an end of the matter. I am pleased to see that this is amended in the Bill. In future the provision will be the same as in the State Children's Act, namely, that the offender will first be sentenced and will be given the alternative of serving her sentence in the home, so that if she leaves that home she can be arrested without warrant and taken back again. At the present time a good deal could be done in this direction in regard to the

men. In the past practically no assistance has been forthcoming for the discharged male prisoners, who are much more numerous than the women. There is an excellent system in force of paying the prisoners for the work done; the result is that a long sentence prisoner often has as much as £10 or £12 when he comes out, in addition to which he gets a new suit of clothes, a decent rig out. Unfortunately, some of his friends are usually waiting for him, and very often that is an end to the money and, perhaps, to the man's liberty too. Sometimes the Salvation Army take these men in hand, and the prison regulations provide that in such cases the money may be handed over to that body. There has been recently established a branch of the Vincent de Paul Society, which has done very excellent work in the other States. Under the regulations a prisoner's money may be handed over to these societies with the prisoner. The work done by these societies tends greatly to the good of the community. I would suggest to the Colonial Secretary that, apart from the men under indeterminate sentences, he give whatever encouragement he can to these societies to meet the prisoners at the prison gates. There is no question that every principle expressed in the Bill is of the very best. The success of the measure will depend upon its administration, upon the sympathetic treatment it may receive. I warn the Colonial Secretary that he must not rely too much upon the officials, for the reason that after all a jailer—I am not referring to a valued officer like Mr. George, who recently retired on the score of ill-health—but the ordinary jailer is, after all, a jailer born and trained to guard prisoners, a stern disciplinarian, with the result that the reformation of prisoners is entirely out of his line. I believe Mr. Hann, the new superintendent of the Fremantle prison, will prove very sympathetic in matters of this kind. If any good is to come out of the Bill the Comptroller General of Prisons, and more particularly the police, must be kept out of it as much as possible. I say give an ex-prisoner a chance to reform, let him understand that he is no longer to be treated as a criminal, and, I believe, good will result. What does more harm than anything else with an ex-prisoner is the idea that he is being constantly watched by the police. Frequently have I counselled the Superintendent of Police to warn his men not to spy upon ex-prisoners. Another matter mentioned in the Bill is that prisoners will be employed at some useful occupation. There is an idea abroad—a very erroneous one—that if prisoners are employed it is taking the bread, so to speak, out of the mouths of men outside. But it must be remembered that the taxpayer, the man who works outside, has to find the money for the upkeep of the prisons. If the prisoner does not work and keep himself in the prison, the man outside, the bricklayer, or someone, is paying taxes to keep him idle. I have never been in favour of the idea of keeping men idle in prison; I have always insisted on teaching prisoners a useful trade, teaching them something in the nature of hard work, not teaching them printing or some dying trade, but teaching them so that they will learn a smattering of carpentry or something of that kind that will make them better men when they come out, and better able to take positions in the country. It is only by getting them into the country and not allowing them to hang about the towns that good can be done for them. The idea that the earnings of these persons will be paid to their wives and families is very laudable, and I trust the Colonial Secretary will not hesitate to employ these men at as remunerative work as possible. It is often said why do we not employ our prisoners in clearing the land. It is a very erroneous idea. There is no profit in employing prisoners in that way. Prisoners are prisoners and must be supervised. If we turn them out into the open country we want about twice the supervision we need inside, consequently there is no profit in it. By putting them into a big workshop, one warder walking along the top can supervise about 40 or 50, but outside it takes one warder for four or five men. That is why it is not a practicable idea to use prisoners to clear land. It is almost as cheap to do it with

free labour. Again, we must remember that if we send a gang out we would need 50 or 60—and we need as many warders to supervise 20 as 50 or 60—but it is utterly impossible to get that number out of the prisons of Western Australia. There is a very small percentage of men who are physically capable of undertaking such work as that, which reduces the number considerably; again, they must be men of a good character and likely not to be troublesome, otherwise it would be farcical to send them outside. During the gold boom certainly we had 400 in the prison at Fremantle, but we have not 200 now. We may have got the number then but we could not get them to-day. I did not intend to speak at any length, I simply rose to say a few words on the Bill. I heartily endorse the principle which it contains and I shall watch its effect on the prisoners. The Bill is good and the principle is good, and it depends entirely upon sympathetic administration.

Hon. J. F. CULLEN (South-East): I listened with great interest to Mr. Connolly, and more especially because I also have watched very closely the evolution in New South Wales in dealing with the unfortunate sections of society. Perhaps the popular opinion may be described in this way, that the bad people are in gaol and the good people are out, but closer investigation shows that there is need for a criminal court of appeal. The sentences of some of those in gaol have perhaps been graded because they have been too honest to look less guilty than they were, or it may be that they were not successful in securing a smart lawyer. I am sure that one of the most interesting developments in connection with this section of the community is the growth of opinion in favour of a criminal court of appeal. I welcome the provision for that in this Bill. A matter more important still is the provision for redemption by work. As education enlightens society we are coming to rely more on reformatory measures than on penal measures. Punishment cannot be altogether dispensed with, but it is upon reformatory measures that we must chiefly depend. Some of the most interesting of Mr. Connolly's remarks were with regard to new developments. It is not generally known that the foundation of the new system in New South Wales was the creation of a State Children Department. The old barrack treatment of children, crowding them by hundreds into a stuffy building and putting them under routine government, was swept away some 20 years ago, and in its place came a department which treated the children as nearly as possible on family lines. As far as possible the State children, who otherwise would has drifted into ignorance and crime, were divided out amongst families that were of the right character to keep them and train them; and thus the foundation was laid for an improved condition of things in New South Wales. Then came the classification of prisoners, with special segregation of young offenders. Of course, as Mr. Connolly points out, classification can only come about as the State grows. While Western Australia has its one gaol it is impossible to have proper classification. I was interested in the remarks of the hon. member about the foundation work done by the previous Administration in regard to this Bill. Possibly that Administration was not as expeditious when it had gathered its information and prepared the way for this legislation as it might have been; on the other hand, I think the present Administration has been a little too precipitate. It has adopted the foundations laid down by its predecessors and has built too hastily. The Bill leaves out many things that will have to be provided for by an amending Bill. It sketches out an improved system, that is to say a humanised system, and it just throws it down without having counted the cost, without having made any provision, as far as intimation is yet given, for working the improved system. However, that can be remedied; and I for one welcome the effort the new Administration has made towards a more humane system of treatment of prisoners; and I hope when an attempt to work this system reveals the need for amending Bills they will not hesitate at all, will not be deterred by the possibility of being rebuked for

not having foreseen these needs, and that they will come down with the amending Bills making the system as workable as possible.

Hon. Sir E. H. WITTENOOM (North): In supporting the second reading of this Bill I intended to make several remarks, but I find that most of them were anticipated by the very excellent and thorough speech that fell from Mr. Connolly. He has evidently got a very good grip of the measure, and has seen the many defects that are in it as well as the several advantages connected with it. It is intended here to deal with habitual criminals, and efforts will be made to try to reform them. It is a step in the right direction, and I congratulate the Government on doing it, but I have very little hope of its being successful. I have had some little experience with criminals, and I must say that anything in the shape of reformation will be very hard to gain. At the same time the effort is well worth trying, and I can only hope it will be successful, but nothing is surer than this, as Mr. Connolly says, that if this remedy is to be carried out by the same class of officials as are in the gaol it will never be successful. It has been written and argued and pointed out by those who have had experience that the same officials cannot carry out the reformatory work and also the duties in connection with the gaol and stern discipline, so that in these circumstances I think we will find that the progress made with reformation will be very small until we build a separate reformatory for these criminals to go into. Another matter deserving approbation is the fact that money is to be allowed the prisoners on what they earn. I have always contended that if it were possible prisoners should do some work that was remunerative, and that, after paying the cost of their own keep, something should be set aside to provide them with a little start in life after they leave the gaol. The fact of prisoners having to pay their own expenses, I think, will to some extent operate as a deterrent to their going into gaol repeatedly. I cannot understand anything more annoying to a man than to find that, after being put in prison for a crime, he is obliged to keep himself while there. It will have a deterrent effect. In any case, the prisoners will be putting in useful labour and will be providing themselves with some money for the time when they leave the gaol. But the great point the Government should devote themselves to in any scheme of this kind is with regard to the first offenders, and I am heartily in accord with the First Offenders Act. The first offence of a young man or a man of any age may be committed in an unreflective way, and if an opportunity is given to reform, a man often returns to the good life which he had previously lived. The First Offenders Act is an admirable institution and I suggest to the Government that they should continue to deal with the first offenders as they have been doing in the past; give them every chance to reform after their first error. With regard to appeals in the criminal court, that is a step in the right direction, but so much has been said in approval of it that I will not weary the House further with any remarks on that subject. I am of opinion that gaols should not be made too attractive, they should be looked upon as places of punishment and not places of resort or comfortable homes for a short time. I have heard it freely expressed by men that during the winter months and months when they would rather not work they commit some minor crime and get some three or four months in gaol; they say they could not go to a better home. Their meals are regular, the work is not too hard, they have good board and lodging and they are made to be healthy whether they like it or not. Under these circumstances, if it is made too pleasant men with so little energy and with so little ambition will take advantage of these opportunities which they seem to like so much. I do not propose to take up further time, I only again say that it is with much pleasure I support the second reading of the Bill.

On motion by Hon. J. A. Doland debate adjourned.

BILL—DIVORCE AMENDMENT.

Second Reading.

Hon. M. L. MOSS (West) in moving the second reading said: This Bill originated in the Legislative Assembly and being so far as regards a large portion of the measure a transcript of a Bill that passed through this Chamber some ten years ago of which I was the then mover, I have been asked by Mr. Hudson, the member for Yilgarn, to undertake the fathering of the measure in passing it through this Chamber, and I do so with a very great amount of pleasure indeed. In 1901 when my Bill was introduced and passed through this Chamber I was then confronted by arguments on all hands that the West Australian Parliament might just as well leave this question alone. Divorce was one of the matters which the Federal Government had been invested with authority to deal with and that in course of time a comprehensive measure dealing with the divorce laws of Australia would be dealt with by the Federal Parliament. So far no attempt has been made to deal with this important question by the Federal Parliament and this Bill, although it does not go so far as I am personally prepared to go, removes from the statute-book a blot that should have been removed a long while ago. In order to understand accurately the position of the divorce law in Western Australia it is necessary to go back and ascertain what the position was in England prior to the coming into force of the Divorce Act of 1857 in England, because our present law is almost entirely a transcript of the Act passed in 1857 in England. Down to the end of 1857 the theory of the law of England in regard to divorce was exactly the same as the theory of the Roman Church. Divorce was not recognised and there was no measure on the statute-book of England that allowed persons to procure divorce. While the law in England remained like that there was a means adopted, and it was a means that could be adopted by persons only of considerable wealth, of obtaining dissolution of marriage. The conditions which were necessary to satisfy the Imperial Parliament were these: a divorce known as a divorce *a mensa et thoro* had to be obtained from the Ecclesiastical Court and which is known as a judicial separation, separating the parties, but they were not entitled to marry again. That was the first condition that persons about to procure divorce had to comply with. Having obtained this judicial separation, a *mensa et thoro* from the Ecclesiastical Court, they had to bring an action for damages against the adulterer in the civil courts. Having procured damages, the next step was to go to Parliament and get an Act passed. Having obtained the dissolution *a mensa et thoro* and damages as required, a person had to proceed to the Imperial Parliament. A special Act of Parliament had to be procured in each case enabling the marriage to be dissolved so that three suits were necessary, one in the Ecclesiastical Court, one in the civil court and one before the Parliamentary tribunal and of course, as has been repeatedly said, divorce became the remedy for the rich and the poor were driven to bigamy. When I introduced my Bill in 1901 in Parliament I quoted from an address to a prisoner by a very eminent judge in England, Mr. Justice Maule. The man was convicted of bigamy and Mr. Justice Maule put the absurdities of the existing law in a way not quickly to be forgotten. The prisoner's wife had robbed him and run away with another man, and this is what the Judge said—

> You should have brought an action and obtained damages, which the other side would probably not have been able to pay, and you would have had to pay your own costs, perhaps a hundred or a hundred and fifty pounds. You should then have gone to the Ecclesiastical Courts, and obtained a divorce *a mensa et thoro*, and then to the House of Lords, where, having proved that these preliminaries had been complied with, you would have been enabled to marry again. The expense might amount to five or six hundred or perhaps a thousand pounds. You say you are a poor man. But I must tell you that there is not one law for the rich and another for the poor.

That was the scandalous state of the law

in England before 1857 and consequently the new law enacted a great reform on that disgraceful state of affairs. Here was a law for the rich people and attention had been very pertinently drawn to it from time to time in England by this celebrated address to the prisoner by Mr. Justice Maule and attention had been drawn to it by a Royal Commission which reported on the divorce law. That report had been before the country for five or six years before the law at present in force in England was put on the statute-book. No one would expect, knowing the delay which had taken place in the reform brought about in a country like England, a perfect measure to be placed on the statute-book. The glaring inequality of punishing a woman on the commission of a particular offence where a man guilty of the same offence is allowed practically to go scot free, is one of the blots that the Bill attempts to remove. In Scotland it has been the law since the sixteenth century——

Hon. W. Patrick: Nearly 400 years.

Hon. M. L. MOSS: It has been the law of Scotland that divorce for adultery is competent for either side and in Scotland malicious desertion has also, from that early period, been a ground for divorce. I do not know that the sanctity of the marriage tie is less regarded in Scotland than in England. There has been in various parts of Australia, I think New South Wales, Victoria, Tasmania and in the Dominion of New Zealand, legislation dealing with this important subject and legislation in these States and in New Zealand goes very much further than in this proposed Bill. This Bill intends to give the right to have the marriage dissolved for adultery by the husband and for desertion for three years and upwards. Looking at the Victorian Divorce Act these are the grounds for divorce in Victoria in addition to those in the Bill: habitual drunkenness for three years and leaving the wife and family without means of support, or the husband being guilty of cruelty towards her, or the wife being an habitual drunkard, or that one of the parties is undergoing imprisonment for not less than three years and is still in prison under a commuted sentence for a capital crime or under sentence for penal servitude for seven years or being a husband has within five years undergone frequent convictions for crime; or that one of the parties has been convicted of having attempted to murder or assaulted with attempt to inflict grievous bodily harm; and I believe lunacy, followed by detention in a lunatic asylum for a prescribed period. This Bill does not go nearly so far as that; but as far as I am concerned I can think of nothing so much calculated to entice immorality as a man or a woman tied to another serving a life sentence or one confined in a lunatic asylum for ten or fifteen years.

Hon. J. D. Connolly: But the person might be out in a year.

Hon. M. L. MOSS: Having charge of this Bill it is not my intention to try and kill it by proposing too many amendments but if any member, when the Bill is in Committee, desires to follow the lines of the Victorian divorce law I am prepared to consider any amendment in the direction I have indicated. There has been a considerable amount of opposition to the Bill on the part of some ministers of religion in Perth and elsewhere, and petitions were presented to-day by Mr Sommers which are to be printed, therefore it is necessary that no attempt should be made to unduly rush the Bill through the House and the Committee. I want to see the petitions printed so that members can give them the weight which they are entitled to. Personally, whatever may be in the petitions, and I desire to pay the greatest amount of respect to the opinions held by people, particularly opinions that arise from a religious belief, these people are entitled to the greatest amount of respect and consideration, although that may be so, I have formed very definite opinions on this question and it seems to me almost amounting to a scandalous shame that a woman should be penalised for the commission of an offence and that a man should go scot free for the same offence, therefore the Bill should be supported by members on that ground alone. In the second portion of the Bill there may be

room for difference of opinion, but I will go the whole length of saying that if there has been brutal desertion for a period of three years—and in this connection I trust to place persons who have been continuously separated for three years by order of a magistrate in the same position—that also should be a ground for divorce. With these observations I think I have fully explained the principles contained in the Bill, which only deals with these two questions. At the same time, there should be no desire on the part of this House to rush the measure on to the statute-book; reasonable opportunity should be afforded to have expressions of opinion all round the House and outside, and if it is desired to send the measure to a select committee by all means let it go, so that it cannot be said that reasonable opportunity was not afforded to those who object to its provisions to make known their opinions in a full and proper manner. I move—

That the Bill be now read a second time.

Hon. D. G. GAWLER (Metropolitan-Suburban) : I have much pleasure in seconding the motion for the second reading of this Bill. My hon. friend has complained that in connection with the preceding Bill, which he introduced, he was met with the argument that the Federal Parliament had power to do what he was then asking power to do, and that the Federal Parliament was the proper body to attend to this matter. I think that the same argument is applicable to the present Bill, but a delay has occurred in connection with the Federal measure. I am sorry that the Federal Parliament has not used its powers in this matter, which is one in regard to which there should be some uniformity throughout Australia, because it arouses a large amount of bitter feeling. When this matter comes up for argument again in the Federal Parliament it is possible that the same bitterness and the same delay will take place as has already been experienced. This Bill is a very important measure affecting the whole life and happiness of everyone in Western Australia. The action taken by the churches, I for one am pleased to see. I thought at one time that the churches were going to lie back and not take any action, but I am pleased to see that they have awakened to their responsibility in this matter. Undoubtedly marriage may be looked upon as a holy bond in which the guidance of the church is most necessary, and I am prepared to treat the opinions of churchmen in this matter with the greatest respect, but we must remember that apart from marriages by the church there are a number of civil marriages, and many people look upon these marriages as a civil contract, and, therefore, not to be met with the same argument as are marriages which are celebrated in the church. Although I welcome the opinion of the churches in this matter with the very greatest respect, still, with the very greatest respect I must differ from the opinions expressed by the churches. A large and influential petition has been presented to the House, and, no doubt, will be received with the greatest respect. I believe it is signed by some 3,600 persons, and whilst no doubt the time for obtaining signatures was very short, still, it must be remembered that there are 171,000 members of the Christian church in Western Australia, and the number of signatures on that petition represents a very small proportion. I admit that they have not had a great deal of time, but that does not affect the argument that the petitions were signed by only a few of the churchmen in the State. The two main principles in the Bill are the equality of the sexes and the facilities for divorce. With regard to the equality of the sexes there is not much that need be said. I think we have the support of the churches for that portion of the Bill, and I think there is very little doubt that the people as a body have come to a realisation of the equality of the sexes. In the days of Rome the wife was the chattel of the husband. He had power over her life, her property and her person, and he could, if he wished, put her away from him on the slightest pretext. The divorce laws in Rome varied very

considerably. At one time divorce was allowed to either party, but as the church gained more and more power in this matter certain sacred influences crept in and the laws were modified ; but it was always held in those days that owing to the important nature of man's name, his fame and his fortune, he should be able to say that his wife should not commit adultery, and that was why she was put on a lower plane than he was. I have always been unable to see why a wife should be bound to resist sin, and the husband allowed to sin with impunity. It seems an insult to the woman, and I can see no argument in favour of it. In those days of ancient Rome they went very much further by punishing the wife and the co-respondent, and prohibiting the marriage of the guilty parties. My ideas may be somewhat radical, but I think there is a good deal to be said for both those views. I particularly feel that it is a matter worthy of the consideration of this House as to whether a party to adultery should not be refused leave by the court to marry again. As regards the facilities for divorce, my friend has alluded to the laws in the various States. I will not repeat what he has said further than to say that the extracts which he read show how much wider are the grounds of divorce in New South Wales, and that law is also the same in Victoria and New Zealand. In Queensland is somewhat narrower. There the husband has the right to petition on the ground of adultery, but it is open to the wife to petition for certain species of adultery, for unnameable offences, and for adultery coupled with desertion. There is only one aspect of that I would like to comment on, and that is that where the facilities for divorce are great one would naturally expect to see a greater number of marriages. I would like to show the result of these Acts in the other States. I will give the number of divorces in each of the States, and also the marriage rate per thousand of the population. I think that where divorce is more easily obtained, in fact it is an argument used by the church, marriage becomes more easy and is more lightly entered into, but these figures will show that it does not seem to have promoted more marriages, and I think that is an argument in favour of introducing the legislation in this State. For instance, in Victoria the divorces in 1910 numbered 148, whilst the number of marriages per thousand was 7.86; in New South Wales the divorces numbered 275, and the marriages per thousand 8.68; in Western Australia the divorces were 13, and the marriages per thousand 7.55; in South Australia the divorces were 12, and the marriages per thousand 8.72, and in Tasmania the divorces were 12, and the marriages 8.9 per thousand. Those figures show that in those States where marriage is more easy the marriage rate is no higher, or very slightly higher. Personally, I agree with Mr. Moss in regard to this matter, and I am prepared to go further than this Bill and include such causes as habitual cruelty, habitual drunkenness, and incurable lunacy.

Hon. J. D. Connolly: How can you tell when lunacy is incurable?

Hon. D. G. GAWLER: It is just as possible to say what incurable lunacy is as to say what lunacy is. Expert opinion is frequently called in to prove whether a person was a lunatic when he committed a crime, and if expert opinion can be relied upon in cases like that it could be relied upon in divorce cases, although I agree that a certain time should elapse to make sure no injustice was being done. The case of a wife tied to an incurable lunatic is the most hopeless and wretched to contemplate. In regard to facilities for divorce, I should like to urge hon. members to recall those individual cases of hardship which have come to their own notice. There must be many members who know of homes where the husband is a drunkard, and what misery and wretchedness is caused by the man coming home sodden with drink, incapable of doing anything, giving way to foul language, coupled very often with the brutal treatment of his wife; they can picture cases such as those, they can imagine the position of the wife trying by her own earnings to keep things together; they can imagine the children ashamed of the sight of their father, and the mother doing her

best to retain for the father the respect of the children; and they can picture the husband coming home drunk and indulging in violence to his wife. Only yesterday members may have read of a case of a husband blackening his wife's eyes, throwing bricks at her, and then threatening to do for her for initiating proceedings against him. Cases of this kind are of frequent occurrence amongst us, and there is no need to dwell on them. Then there is the case of the incurably insane. A case occurred in Perth not more than six years ago, and some members must remember it. A husband developed hereditary insanity, but showed no signs of it until 10 years after his marriage. The wife came home one night to find the place in flames, and her maniac husband in the streets with her child laughing at the flames. The husband is now in an asylum; he has escaped once or twice, but, fortunately, has been recaptured. The young woman is in the prime of her life and is tied to that man. Here is this woman with a small child to bring up, and who can say that the rest of her life is not absolutely blasted. I submit those considerations to hon. members and I ask them to say what are the results in these homes that I have pictured? Are not the results immorality and the degrading of the coming generation, and the existence of wretched homes? I ask which is the more lowering to the standard of life? We are told that by making divorce easier we are lowering the standard of life. Which is the more lowering, to allow these homes to exist as they are doing or to allow those men and women, as the case may be, to commence life afresh with their children and escape such atmospheres as I have described. I submit that a marriage like that cannot be said to be anything else than mere hollow mockery, and it is a mockery to say that a tie like that should not be loosened. The arguments used against the step proposed to be taken by this Bill are various. We have seen them set out as fully as those interested from the church point of view can set them out. Summed up I think they are the danger of connivance and collusion, the sanctity of marriage and the weakening of the marriage tie. Connivance and collusion can hardly come in in the case of habitual cruelty or lunacy. The only danger may possibly be in regard to desertion. Hon. members will remember that there is every opportunity given to the court to inquire into whether or not there has been connivance and collusion. A period of six months, certainly three months, is bound to elapse before a decree can be made absolute, so that if any evidence of collusion presents itself it can be brought up. The sanctity of marriage is another ground suggested, and we are given the scriptual quotation "Whom God has joined together let no man put asunder." We are told that the man who puts away his wife and marries again commits adultery. Those words were uttered nearly 2,000 years ago, and at a time when the man had the right to put his wife away at will, and I submit that those Divine words were used for the purpose of forbidding a purely voluntary act of the parties; they were never intended to apply to an Act, or a decree or a court of justice. Surely hon. members will admit that circumstances have changed since that period. Cruelty, torture, and barbarism were a mere circumstance then, and a right on the part of the husband over the wife, but now in our advanced civilisation cruelty is a much more serious matter. Then as regards desertion, in those days desertion was a difficult matter. At the present time with the means of communication we have, it is much easier to get away. We have also different interpretations of the scriptures. I believe there is to be found in the New Testament two utterances, one being, "Whosoever shall put away his wife and marry another, committeth adultery," and the other "Whosoever putteth his away his wife, save for fornication, committeth adultery." I would point out that if those old quotations are now to be followed up we have already disregarded them by allowing adultery as a ground for divorce. I am speaking of the text that is put before us as a mandate that "Whom God hath joined together let no man put asunder."

These scriptural quotations are given us in support of the case of the church. I am endeavouring to point out when we examine them they are found to be not quite as strong as before. It has been urged by those interested in this matter that time should be given for reconciliation. Personally I think that is a point which might be made a great deal of. It has also been urged that we should refuse the right to re-marry. There again I agree, in order to allow the parties to come together again, as many people say they would do, it would be possible to allow time for this to be done. I should be in favour of that. Hon. members will admit that there are such things as ideal marriages and real marriages. Ideal marriages are what a great many of us would like to make them; they are what we desire they should be, but in real life I am afraid marriages are not altogether ideal. This is very often the case when the parties marry on too short an acquaintance; that may be the fault of the parents or the parties concerned. On the other hand, if they marry after perhaps fully knowing one another's faults, and vices develop later on, I submit it should not be said that in either of these cases should the parties be allowed to remain together. We have a strong protest from the churches, but what remedy do the churches propose? So far as I can see in the attitude taken up the churches propose no remedy. They admit that these evils exist, and some say that they exist in a few cases, while others say it is open to the wife to obtain a judicial separation. They will not allow re-marriage. Others say in the case of a deserter, why should not the law reach that deserter and bring him back again. In answer to the last contention hon. members will agree with me that in order to reach a deserter the arm of the law must necessarily be long and the purse must also be long. Is it possible for the wife to pursue a deserter throughout Australia and bring him back? Therefore, that ground is practically valueless. I would ask, with all respect, the members of the church to assist, and I would ask them not to pass by on the other side, shrug their shoulders, and say, "You have spoilt your lives; you must remain as you are." I would ask them to do their best to assist to pass this Bill and to remedy the defects which exist. If any proposal is made to refer this Bill to a select committee I shall consider seriously whether I shall not support it. At the same time I am sure that the course would mean delay and possibly the shelving of the Bill. If that proposal is made I shall be most happy to give it every consideration. In the meantime I cordially support the second reading of the Bill and commend it to the members of the House.

Hon. Sir E. H. WITTENOOM (North): I have listened with a great deal of interest to the speeches delivered by the last two hon. members, and I think anyone interested in the Bill will claim that they have made out a very strong case. But I must take exception to the remarks of the last speaker that the church is doing nothing towards helping the Bill.

Hon. D. G. Gawler: I did not say that.

Hon. Sir E. H. WITTENOOM: I understood the hon. member to say that.

Hon. D. G. Gawler: I said they did not propose any remedy for this state of things.

Hon. Sir E. H. WITTENOOM: It seems to me that the only exception the church has taken is with regard to the question of whether desertion for three years shall be cause for divorce. I do not think there has been any other objection made, and therefore I can hardly think that the remarks, the hostile remarks I might almost say, of the hon. member towards the church were in any way justified. Before I deal with any of the clauses of the Bill I would like to take exception to the manner in which the Bill has been introduced to this House. The Bill, I think all will agree, is most important. It is one of the most important Bills that could possibly come before us, because it affects the family home, the family welfare of every person in the country, it affects each family, each in-

dividual, and more than all it affects, to a large extent, the children, because there are none who suffer so much as the children of divorced people. There is a large section of the community that objects to divorce under any circumstances, and there is a large proportion of the community only countenancing divorce under certain conditions, and therefore under these circumstances any alteration to improve a measure like this should have the very greatest consideration. This Bill was introduced in another place by a private member. That private member may have very good reasons for it; that private member may be a faddist and may have peculiar ways on this particular question, or else he may be interesting himself on behalf of a small number of people who are particularly aggrieved in some way or another on this question. But whatever the causes may have been I am of opinion that a Bill like this should not have been introduced by a private member, but should have been given to the House with the full force and influence of the Government, and that only after the most careful deliberation and the taking of the full responsibility of the measure. A Bill affecting the whole of the country as this does should not be left in the hands of one individual, but should have been brought forward by the Government in full recognition of the responsibility.

Hon. B. C. O'Brien: Must reform stand still waiting for the Government?

Hon. Sir E. H. WITTENOOM: An important reform like this should have been taken in hand by the Government rather than by an individual. I go further and say that a question of this character which affects the whole of the community should have been undertaken by the Federal Government. If ever there was a measure which should have been dealt with by the representatives of the whole of the Commonwealth surely this is one; and had it been introduced in the Federal Parliament it would have had the advantage that it would give us one uniform code of laws in connection with divorce permeating the whole of the Commonwealth instead of, as at present, each State having its own peculiar set differing in essentials the one from the other. We have had instances of that to-night in the furnishing of quotations from the statutes of different State; therefore I think that if ever there was a subject which the Federal Parliament was specially treated to deal with it is this one of divorce. My next objection is to the manner in which the Bill was rushed through another place. I say it was rushed through with unseemly haste. It was not fully discussed, and when an effort was made to delay it in order that the views of the people might be placed before the people's House the delay was not granted, was not considered necessary, and the third reading was hurried forward in the face of some who tried to secure breathing space with a view of hearing what the people outside had to say about the measure. If ever there was an undemocratic Act it was this; and, coming from the people's House where we understand the people are the one party to be considered—when we remember this and see how the Bill was dealt with I say it was brought forward with such unseemly haste that hon. members here should be very cautious in dealing with it.

The PRESIDENT: I would like to draw the attention of the hon. member to Standing Order 393, which says that no member shall allude to any debate of the current session in the Legislative Assembly or to any measure impending therein.

Hon. Sir E. H. WITTENOOM: I bow to your decision Sir. Personally I may say I have no strong views myself in connection with this question, and I am only anxious to place a measure on the statute-book which will suit the majority of the people interested in it. I was under the impression that there would have been more opposition to the Bill than there has been, and I thought that probably the chief opposition would have come to the amendment of Section 23 of the principal Act; but from what I can glean from the papers and the petition this is not the case. The chief opposition seems to be to the making of desertion for three years a ground for divorce. For my part I am rather favourably inclined to this. I go

the length of my hon. friend who preceded me in speaking and say I think divorce should be allowed, not only for desertion but for habitual drunkenness and insanity. These are the opinions I hold. Instances have been given of the cruelty of keeping people tied together when one is suffering from one or other of these impediments. I have seen the effect of desertion. I remember many years ago, in the early nineties, when I happened to be a representative of the Government, thousands of people were pouring in from the other States to our goldfields, and the great majority of them came without their wives. In numbers of cases they not only did not go back, but they took no precautions to get their wives over, and there was a great deal of desertion going on at the time. In many cases representations were made to the Government to try and find out the whereabouts of these husbands. Under the circumstances I think the wives would have been quite justified in procuring divorce. With these examples before me I am prepared to favourably consider any measure which will grant relief in cases of desertion. At the same time, when in Committee, if it seems to be considered by the majority of the people that the time should be made longer, or if there are any representations strong enough to make me change my views, I shall be very glad to fall in with them. I do not think it is necessary that I should say anything more. This is a Bill requiring the greatest consideration, and I hope some hon. member will move the adjournment of the debate for a week to enable the public to place their views befor the House.

Hon. J. T. Glowrey: Send it to a select committee.

Hon. Sir E. H. WITTENOOM: I do not see what good that would do. I will not take up any more time, but I may say I see no reason for voting against the second reading.

On motion by Hon. J. F. Cullen debate adjourned.

House adjourned at 9.8 p.m.

Legislative Assembly,

Tuesday, 28th November, 1911.

The SPEAKER took the Chair at 2.30 p.m., and read prayers.

PAPERS PRESENTED.

By the Minister for Works: Scale of trespass and poundage fees, and special by-laws made by the Wickepin roads board.

By the Minister for Lands: Annual report of the Woods and Forests Department for the year ended 30th June, 1911.

By the Premier: 1. Papers showing charges under the Arbitration Act against the Collie Burn miners (ordered on motion by Mr. A. A. Wilson). 2. By-laws of the Beverley municipality.

By the Minister for Mines: Papers in connection with the timber tramway at Nallan (ordered on motion by Mr. Turvey.)

QUESTION—DWELLINGUP TOWNSITE.

Mr. O'LOGHLEN asked the Minister for Lands: 1, Is it the intention of the Government to survey a townsite at No. 2 State mill, Dwellingup? 2, As there is a large number of intending applicants, will the Department expedite the throwing open of town blocks in this district?

The MINISTER FOR LANDS replied: 1, The question of surveying a townsite at No. 2 State mill has not been decided, as the Railway Department has in view the erection of shops and dwellings. 2, The matter is now under consideration.