see that their steps are pretty well dogged, and the chances are, when they find themselves in that position, they will hurry out of the country as quickly as they came in. No harm is done to anybody by this Bill, and honest people are protected. I will admit the Bill does not go far enough. As it is at present cast, there is not much advantage in providing police supervision on a conviction on indictment. There is already an analogous provision in the system known as the ticket-of-leave, by which a man is enabled to leave prison before his sentence has expired, subject to certain restrictions. He has to report himself to the police, and is, consequently, under police supervision; and this Bill is not required in a case of that kind. But where a person is summarily convicted before a magistrate he, instead of being sent to prison, may under this Bill be placed under police supervision. There can be no injustice in that. It is less hardship to a man to be put under police supervision than to go to prison for six months. I do not say that the period of supervision should be as much as two years, but even if we make it only twelve months it will do good. I ask hon. members not to imagine this Bill is going to deprive any person of his living, but to believe that it will protect the honest and law-abiding section of the community from the depredations of certain gentlemen whom we do not desire to see amongst us.

On the motion of MR. VOSPER, the debate was adjourned until Tuesday, 23rd August.

ADJOURNMENT.

The House adjourned at 8.57 p.m. until the next day.

Legislative Council,

Wednesday, 17th August, 1898.

Papers presented—Question: Perth Local Court Officials—Question: Stock Inspection at the Irwin—Crown Suits Bill, in Committee—Return ordered: Electors for Legislative Council — Return ordered: Suits in Local Courts—Return ordered: South Perth Ferry Steamers—Criminal Law Amendment Bill, discharge of Order—Police Act Amendment Bill, second reading, in Committee—Divorce Amendment and Extension Bill, second reading (moved)—Fire Brigades Bill, first reading—Warrants for Goods Indorsement Bill, first reading—Jury Bill, in Committee.—Adjournment.

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

PRAYERS.

PAPER PRESENTED.

By the COLONIAL SECRETARY: Perth Mint and Perth Observatory, Return of Expenditure.

Ordered to lie on the table.

QUESTION: PERTH LOCAL COURT OFFICIALS.

HON. R. S. HAYNES asked the Colonial Secretary:—1, If any complaints have been made to the Attorney General about the neglect of duty of some of the officials in the Perth Local Court. 2, If so, what steps will be taken to prevent a recurrence of the inconvenience and annoyance suffered by the public.

THE COLONIAL SECRETARY (Hon. G. Randell) replied:—1 and 2, Yes; the parties are being dealt with.

QUESTION: STOCK INSPECTION AT THE IRWIN.

HON. R. S. HAYNES asked the Colonial Secretary:—1, Whether the Government have decided to remove the stock inspector at the Irwin. 2, Whether, in view of the fact that large quantities of sheep, cattle, and horses from the northern portion of the colony meet at this point for conveyance to Perth, the Government intend to take any, and

if so, what steps to prevent the danger of the spread of scab or tick.

THE COLONIAL SECRETARY (Hon. G. Randell) replied:—1, Yes; he has been removed. 2, As the only tick-infested area in the colony is under strict quarantine, and scab has been eradicated, there is no necessity for a stock inspector to be placed at the Irwin.

CROWN SUITS BILL.

On the motion of the COLONIAL SECRETARY, the House resolved into Committee to consider the Bill.

IN COMMITTEE.

Clauses 1 to 16, inclusive—agreed to.

Clause 17—Execution in ejectment and detinue.

HON. R. S. HAYNES moved, as an amendment, that sub-clause (2) be struck out.

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

Clause 18—*Fieri capias* to be issued.

HON. R. S. HAYNES moved, as an amendment, that the clause be struck out.

Put and passed, and the clause struck out.

Clause 19—Agreed to.

Clause 20—Lien on real estate may be filed:

HON. R. S. HAYNES moved, as an amendment, that sub-clauses (2) and (3) be transposed.

Put and passed.

HON. R. S. HAYNES moved, as a further amendment, that in sub-clause 3, in the Bill as drawn, in line 5, the words "or protected by caveat" be inserted after "unregistered."

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

Clause 21—Lien on personal estate may be filed; ninth schedule:

HON. R. S. HAYNES moved that the clause be struck out.

Put and passed, and the clause struck out.

Clauses 22 to 32, inclusive—agreed to.

Clause 33—Execution against the petitioner:

HON. R. S. HAYNES moved, as an amendment, that all the words after the word "same" in line 5 be struck out. This was a consequential amendment on those made in previous clauses.

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

Clause 34—agreed to.

Clause 35—What claims within this act; breach of contract; torts:

HON. R. S. HAYNES moved, as an amendment, that in sub-clause (3), line 1, after the words "public work" the words "without limiting the meaning to the words" be inserted.

Put and passed.

HON. R. S. HAYNES moved, as a further amendment, that in the third line of the same sub-clause, after the word "telephone," the words "steamboat, dredge, harbour works, quarries, water works, jetties, cranes," be inserted.

Put and passed.

HON. R. S. HAYNES moved, as a further amendment in the same sub-clause in line 5, that all the words after "Government" be struck out.

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

Clauses 36 to 39, inclusive—agreed to.

Schedules 1 to 7, inclusive—agreed to.

Eighth schedule:

HON. R. S. HAYNES moved that the schedule be struck out.

Put and passed, and the schedule struck out.

Schedules 9 to 12, inclusive—agreed to.

Preamble and title—agreed to.

Bill reported with amendments, and the report adopted.

RETURN: ELECTORS FOR LEGISLATIVE COUNCIL.

HON. A. P. MATHESON moved "That a return be laid on the table of the House, showing the total number of electors now qualified to vote at the election of members of the Legislative Council for each of the eight provinces of the colony." His reason for submitting this motion was, he said, that a few days ago this question was brought up in the House, but was not proceeded with because in the opinion of some hon. members the House was not in possession of sufficient data on which to discuss the matter properly. Under such circumstances, the House should be placed in

possession of the necessary data with as little delay as possible. A considerable number of residents in the colony felt they were not adequately represented in this House; and an opinion on the question could be formed only after data had been placed before hon members, showing the proportion in which that representation was provided.

Motion put and passed.

RETURN: SUITS IN LOCAL COURTS.

HON. F. WHITCOMBE moved, "That a return be laid upon the table of the House showing the amount of money involved, and the number of suits entered upon, in the respective Local Courts at Dongarra, Greenough, Northampton, and Mullewa from June 30th, 1897, to June 30th, 1898."

Put and passed.

RETURN: SOUTH PERTH FERRY STEAMERS.

HON. R. S. HAYNES moved, "That (1) a return be laid upon the table of the House, showing the tonnage of the various steamers carrying passengers from Perth to South Perth; 2, the crew engaged in each steamer; 3, the qualification of each master, and length of service at sea." He said he wanted to follow up this return by a motion later on. Numbers of people were carried by the steamers between Perth and South Perth. The steamers were very small—he did not say they were over-crowded, but they were filled to their full carrying capacity—and it was absolutely essential that skilled men should be placed in charge of these boats. He had been informed that the harbour master had licensed a person in charge of one of the boats—he would not say which—who had never been a day at sea. If that were correct, the sooner we took the licensing of the harbour boats out of the hands of the harbour master the better. He hoped his information was not correct.

HON. J. W. HACKETT: Licensed as to what?

HON. R. S. HAYNES: As master of the vessel, and the boat carried large numbers of passengers. One of these boats met with a trivial accident the other day. The wind caught the vessel and carried it to the Yacht Club jetty. If a competent man had not been in charge, the people might have rushed to one side of the boat and some one might have been drowned. He moved this motion in order to draw the attention of the Colonial Secretary to the fact, and he was sure that the Colonial Secretary would see that proper care was taken in regard to the safety of persons who travelled between Perth and South Perth.

THE COLONIAL SECRETARY (Hon. G. Randell): There was no objection at all to this motion. It was no doubt in the interests of the people who travelled by this means of conveyance. There was a Licensing Board established by law, consisting of the Commissioner of Police, the Resident Magistrate of Fremantle, and the harbour master, and this board could call upon any competent person to examine the hull of a vessel, and also have the engines overhauled. The master of a boat must undergo an examination to show that he was qualified, and the engineer had also to undergo an examination to show that he was able to take care of the engine. It was not necessary that the captain of one of these boats should have been at sea. He might have been on the river all his life and yet be a competent navigator of a boat.

HON. R. S. HAYNES: The man he (Mr. Haynes) referred to had never been on a boat, steamer, or anything else.

THE COLONIAL SECRETARY: Speaking from his own knowledge, a sailor was a very incompetent man to put in charge of a small boat.

HON. R. S. HAYNES: That was not the experience of the people at South Perth. There were master mariners in charge of two of the boats.

THE COLONIAL SECRETARY: These masters must hold certificates from the Fremantle Licensing Board. He would have much pleasure in giving the information.

HON. A. P. MATHESON: The Colonial Secretary was a little at fault in regard to the examination. He (Mr. Matheson) had the Act before him, and all that the board pretended to do was to satisfy themselves in a general way as to the respectability and trust-

worthiness and the nautical skill and ability of a person applying for a certificate. If an examination were held, it would be a good thing.

Motion put and passed.

CRIMINAL LAW AMENDMENT BILL.

DISCHARGE OF ORDER

On the motion of the HON. A. B. KIDSON, the order of the day, for the second reading of the Bill, was discharged.

POLICE ACT AMENDMENT BILL.

SECOND READING.

HON. R. S. HAYNES, in moving the second reading, said: I would like to point out that last year a similar measure to this was introduced into this House, and passed without much discussion. There was no opposition on the Government side of the House. Clause 1 simply gives the title of the Bill, and clause 2 says that section 2 of the Police Act 1892 Amendment Act 1894, No. 2, shall be and is hereby repealed. The section referred to simply makes betting a crime. A person who makes a wager in a public place, for the first offence, is liable to a penalty not exceeding £50, or six months' imprisonment, and for a second offence a person must go to prison, and the term of imprisonment can be twelve months. If a person wagers a new hat with another person in the street he is liable to a fine of £50, and if that same person bets a pair of gloves with a lady he is liable to twelve months' imprisonment. The only person prosecuted under the Act was a Minister of the Crown, and the anomaly of the law was brought into public notice then.

HON. J. W. HACKETT: He was not prosecuted; he was only threatened.

HON. R. S. HAYNES: I thought he was brought up. I may be wrong, but my impression is that the summons was taken out and dismissed. I am pretty certain Mr. Sholl and Mr. C. T. Mason were the magistrates.

HON. J. W. HACKETT: It was a half-crown bet with a lady.

HON. R. S. HAYNES: Yes, it was. It showed the absurdity of the Act. The only object I have is to amend that section which has only once been put into force. One person was fined under it, and then the Police Magistrate animadverted strongly on it, and said that if the police brought another case like this he would have to order them to put the law in force and prosecute nearly everybody. The Act has been inoperative, and we do not want an Act on our statute book which is inoperative. There is really no necessity for such an Act. Clause 3 I was rather loth to put into the Bill, but it was owing to the importunities of the present Agent-General. He had a great idea about Aunt Sally and such games. Clause 3 says:

> Sub-section six of section sixty-six of the Police Act, 1892, shall be and the same is hereby amended, by the addition of the following proviso at the end thereof:—Provided always, that nothing in this sub-section contained shall apply to any person playing or betting at or with any instrument known as a wheel totalisator worked upon a racecourse during the progress of any race meeting held under the auspices of any club registered by the Western Australian Turf Club.

The Bill with this clause in it passed this House last session, and went to the Assembly. The Assembly did not care a snap of their fingers about clause 3, and I did not want it in the Bill. It was only in deference to the late leader of this House that I allowed it to go into the Bill. The Assembly disapproved of clause 3, and said that they would pass the measure without that clause, and in my absence Mr. Wittenoom, the then Minister of Mines, insisted on the amendment because he thought that I would insist upon it. I was ill at the time, but had I been here I should not have insisted upon it. It was not clause 3 that I wanted, but clause 2, which repeals the section which makes wagering a criminal offence If a person makes a wager, for the first offence he can be fined £50, and on a second occasion he may be brought up as a rogue and a vagabond and punished as such. I move the second reading of this Bill, and I ask the House to affirm the principle. In committee, clause 3 can be struck out.

HON. A. B. KIDSON: Why did you include clause 3 in the Bill at all?

HON. R. S. HAYNES: Because it was printed.

THE COLONIAL SECRETARY: I am, of course, totally opposed to wagering in any form, whether for a pair of gloves or

for £1,000. I believe it to be an immoral act.

HON. R. G. BURGES: You cannot stop it, though.

THE COLONIAL SECRETARY: I do not know whether, if I could I would do so, because the stopping of it might encourage other evils. I feel it my duty to say that I am wholly and entirely opposed to the Bill, and I cannot vote for the passing of it. Clause 3 I shall deal with later on.

HON. R. S. HAYNES: I am not going to press that clause.

THE COLONIAL SECRETARY: I believe betting is injurious to the morals and well-being of any people, especially as it sets before the young a bad example, and induces them to indulge in this evil. It grows with their years, and becomes a passion later on. It is destructive of the best interests of the young, and the community at large. I believe section 2 of the Police Act Amendment Act was introduced in another place by a member because he had been considerably fleeced at a race meeting.

HON. R. G. BURGES: Yes.

THE COLONIAL SECRETARY: I do not quite remember the circumstances.

HON. J. W. HACKETT: It is quite true.

THE COLONIAL SECRETARY: It was received with favour by the Legislative Assembly at the time.

HON. R. S. HAYNES: They turned suddenly moral.

HON. J. W. HACKETT: A bookmaker "welshed."

THE COLONIAL SECRETARY: The idea, I believe, was to put down the bookmaker, but they have not been able to accomplish that object. I had the good fortune last night to get a paper from South Australia, which contained a report of a discussion in the South Australian Legislature upon the question involved in clause 3, and the whole tone and tendency of the speeches was opposed to the legalisation of the totalisator, and the evils that had resulted in consequence of it. The speeches were made in opposition by all parties, not merely by ministers of religion, upon whose views members might not lay great stress; but members of the House who were fond of racing, and who are men of the world, and men of business, spoke from one point of view, and that was condemnatory of the totalisator becoming law.

HON. R. S. HAYNES: The bookmaker oppose the totalisator.

THE COLONIAL SECRETARY: The totalisator had to a certain extent prevented the big bookmakers making large profits, but in the place of one big bookmaker, 20 smaller ones had sprung into existence, and the evil was affecting the people of the colony to such a large extent that the whole tone and tenor of the arguments in the Legislative Council and the Legislative Assembly of South Australia were entirely opposed to the legalisation of the totalisator, as it there appeared to be against the interest of the community at large. I do not know what the result of the debate was in the South Australian Legislature, because it was not concluded in the paper which was sent to me. Mr. Howe is known to many members of this House; he is not particularly squeamish on things in general, and he is very fond of racing, but he objects to the legalisation of the totalisator.

HON. R. S. HAYNES: It is not the totalisator that this Bill deals with; it is the wheel totalisator.

THE COLONIAL SECRETARY: I do not think there is much difference between them.

HON. F. WHITCOMBE: You have never tried.

THE COLONIAL SECRETARY: It is a form of betting, and I think members should not legalise any form of betting whatever. I hope hon. members will be willing to strike out this clause.

HON. R. S. HAYNES: I do not press it.

THE COLONIAL SECRETARY: This totalisator will give people an opportunity of investing their half-crowns and shillings, and it will have a tendency to injure many. The principle of betting will be deeply embedded by this totalisator in the minds of young people, and as they grow older they will become more intoxicated with the desire to bet. The country is flooded at the present time with race meetings, which I do not think are any benefit to the country.

HON. R. G. BURGES: We must have some amusement.

THE COLONIAL SECRETARY: The Canning Park Racing Club stopped their

alternate race meeting, they were so impressed with the evils which were being established in their midst, and they thought it was time enough to stop. Hon. members laugh. They think the club believe these alternate meetings were not in their interests.

HON. J. W. HACKETT: They wanted a monopoly.

THE COLONIAL SECRETARY: I think horse racing is a most injurious kind of sport. My opinion is, and I am backed up in it by no less a person than Mr. Bradbury, that any one who has to do with horse racing will come to the bad some time in life. I strongly object in principle to legalising anything like betting, or the wheel totalisator, or any other totalisator, as they are opposed to the best interests of the young people of the colony.

HON. F. WHITCOMBE: It is rather amusing to listen to the representative of the Government opposing the totalisator, when the section it is proposed to repeal was introduced upon the proposal of a member of the present Government some years ago, and the Government has not altered a great deal since. When the restriction on betting was first imposed, it was a member of the Government who was the first person prosecuted under the Act.

THE COLONIAL SECRETARY: Serve him right!

HON. F. WHITCOMBE: We should not consider this matter from the point of coddling. People will still bet, from the age of 10 years upwards, and I know hon. members of this House within my hearing have been betting within the last few days. If we, as members, are prepared to make small wagers, we should not prevent others from doing the same. People who go to race meetings know what the wheel totalisator is. People put their money on a number and receive a ticket, and they pay a certain commission to the man who runs the wheel. They know what the chances are against them, and they go into the matter with their eyes wide open. I think it would be the biggest mistake in the world for Parliamentary bodies to try and interfere with people's amusements, so long as these amusements are properly carried on within reason. If all the Parliaments in the Australian colonies sought to put down betting and horse racing, they would be working for an object which they could not achieve. Horse racing seems to belong to the Australian people more than any other people in the world. Anyone who goes to a horse race goes in for some speculation, and we should not endeavour to limit it by the suggestion of the Colonial Secretary. The Government might as well try to extend the principle of preventing the investment of money by any person under the age of 21 years, in mining script. There is just as big a gamble in script as in horse racing or in the wheel totalisator.

HON. A. B. KIDSON: Or bazaar lotteries.

HON. F. WHITCOMBE: Yes; the same spirit is carried into bazaar lotteries in aid of the churches.

THE COLONIAL SECRETARY: They have been stopped lately.

HON. J. W. HACKETT: There have been very few of late in Perth.

HON. F. WHITCOMBE: In my district they always have lotteries at bazaars, and they have a lucky-bag too, which is a speculation. Why should not the Government go further and shut up the betting establishments and put an end to the whole thing? As far as betting is concerned it is an innocent amusement. I hope Mr. Haynes will not withdraw this clause. I hope it will go to the vote.

HON. R. S. HAYNES: It must be put now, as it is in the Bill.

HON. F. WHITCOMBE: I would like to see this Bill extended beyond race meetings. If anybody is to be allowed to run the totalisator, the same kind of amusement ought to be allowed at foot races and bicycle sports.

HON. R. S. HAYNES: Horse races are held under the control of the Turf Club.

HON. F. WHITCOMBE: I do not see why this Bill should not be extended beyond horse races. If people do not go to the totalisator they will go to the bookmaker, and on the totalisator you do get some odds. The desire of those in authority seems to be to bring all the boys of this colony up in long shirts like so many girls, and teach them only

what is laid down in the catechism and the prayer book. We shall never get a nation built up, if our boys are taught like that. There is more harm done by betting-men than by the totalisator. With a wheel totalisator there is cash gambling, whereas with a bookmaker the gambling is on credit, and the latter is the cause of most of the embezzlements of which we hear. A young man, with what may be nicely called an inspiration for sport, exercises that inspiration by promising now to pay so much money, in the hope that, in time, he will be in a position to pay; and then, not being able to pay, he has to raise the money, and the embezzlement occurs. In cash betting that never happens; and on that ground alone I should be in favour of machine betting being adopted as far as possible in the colony, and the insidious advance of the betting men stopped. It is the betting man who books a bet and keeps it booked, and forces the unfortunate clerk, who may happen to have taken a wager, to lose his billet or get the money from somewhere. I hope the Bill will be passed as it stands.

HON. F. M. STONE: When a similar Bill was previously before the House I voted in favour of it. At that time betting was carried on to an enormous extent in this colony. You could not go to a small race meeting without hearing the odds so roared out as to make it difficult to hear oneself speak. You could not depend on racing being carried out fairly and honestly: it was swindling from beginning to end.

HON. R. S. HAYNES: What is it now?

HON. F. M. STONE: It is the same now. But why I shall vote for this Bill is that it is a perfect farce to have an Act which is broken every day. We see betting advertisements in the newspapers every day, and see betting shops throughout Perth and the other towns, and yet we do not hear of a single prosecution. It seems to me that the present Act is a perfectly dead letter, and I would rather see it struck off the statute book than that people should break the law every day without any notice being taken by the authorities. The Government appear to think there is no necessity to prosecute people for betting. I hope clause 3 will be struck out, seeing that it simply legalises the spinning-jenny.

HON. R. S. HAYNES: May I be allowed to explain? The spinning-jenny is a different instrument altogether from the wheel totalisator. The spinning-jenny is an instrument with a spindle which turns round and points to four or five horses, and the gentleman who works it can make the spindle stop pretty well where he likes. In the wheel totalisator there are certain numbers up to 30 or 40, and tickets are given out at one shilling each; and the winnings are handed over to the man who wins on the turn of the wheel, less ten per cent. Some person must win the money, and the object is to enable the West Australian Turf Club to register meetings, and give the right to use the wheel totalisator at those meetings. Large sums will be paid for that right, and the money will go towards racing prizes. I do not, however, press the third clause.

HON. F. M. STONE: From the explanation given by Mr. Haynes, it would seem that the wheel totalisator could be very easily worked.

HON. J. W. HACKETT: It is manipulated quite easily.

HON. F. M. STONE: The man in charge need only have a gentleman in the crowd running with him, and he may be able thus to drop the whole of the proceeds into his pocket.

HON. R. S. HAYNES: The man cannot tell who has the winning ticket.

HON. F. M. STONE: There has been no argument in favour of the clause, and I hope it will be rejected.

HON. R. S. HAYNES: I am not arguing in favour of it.

HON. A. B. KIDSON: When a similar Bill was before the House last session, I with pleasure seconded the motion for the second reading, and I support this Bill with pleasure. I cannot help expressing surprise at Mr. Whitcombe's remarks, because I was unaware this House had a member who was such a terrible gambler, apparently, as the hon. member would make himself out to be. I was also surprised at some remarks Mr. Whitcombe made about children. He said that if young people would bet, why, let them bet, and if they would waste their substance, why, let them waste their sub-

stance. I do not know how far the hon. member is prepared to carry that proposition—whether he would carry it to the extent of saying: "Well, if they will get drunk, let them get drunk." I do not know whether the hon. member would apply the proposition to his own children, if he has any; but, as far as I can judge, I cannot think any person, in an ordinary position in life, would ever treat his own children in such a way, or allow other children to be so treated. It would be wise to strike out clause 3, which could have none other than a bad effect on the class to which Mr. Whitcombe has referred, that is, the children. Where wheel totalisators are carried on at a racecourse, all the little boys come with their sixpences and shillings to wager with the idea of making more money. Such a provision would inculcate a spirit of gambling, which is very much to be deplored. I do not go to the extent of Mr. Randell, because it is utterly impossible to make persons moral by Acts of Parliament. At the same time, these matters can be regulated, and to the extent of regulation I go.

Question put and passed.

Bill read a second time.

IN COMMITTEE.

Clause 1—agreed to.

Clause 2—Repeal:

THE COLONIAL SECRETARY (Hon. G. Randell): In the course of twelve months Mr. Haynes would be asking this House to repeal this clause, or, at least, to reinstate the section which he was now asking the Committee to repeal. So great would be the evil resulting from the removal of the restriction on betting, that Mr. Haynes would alter his opinion. At any rate, he (the Colonial Secretary) protested against this clause.

HON. R. G. BURGES said he would sooner see clause 2 struck out of the Bill than clause 3, because, in his opinion, the former would do the more harm. The Act was originally introduced because the bookmakers cried out the odds to such an extent as to cause a nuisance. It was said that this Bill would prevent welshing, but the present law provided that money lost in betting could not be recovered legally. Clause 3 might perhaps do a little harm, but if people did not spend their money at the totalisator, they might spend it more foolishly. The remedy was to be found in bringing up children and educating them in a proper way. Clause 2 meant legalising betting to the ruination of hundreds of people, and there would be the roaring of the odds all over the racecourse again.

HON. R. S. HAYNES: No.

HON. R. G. BURGES: It was well known that people now betted, not in tens and twenties, but in hundreds and thousands of pounds; and it would be better to let the law stand as at present. On the other hand, the wheel totalisator was not a disastrous affair.

THE COLONIAL SECRETARY: It had been most disastrous in the other colonies.

HON. F. WHITCOMBE: The wheel totalisator had never been objected to in the other colonies. It was the other totalisator to which exception was taken.

HON. R. G. BURGES: The experience in France was that the totalisator did more harm than the betting; but, of course, the wheel totalisator was a different thing.

HON. A. B. KIDSON: It was the same thing, on a small scale.

HON. F. WHITCOMBE: It was different altogether.

HON. R. G. BURGES: The wheel totalisator had nothing to do with the horses, but was only a sort of harmless amusement. The West Australian Turf Club would never allow the game to be carried on upon any course in otherwise than a just and proper way. He moved that clause 2 be struck out.

HON. W. T. LOTON: Under the section which it was proposed to repeal, there was now almost as much betting, if not quite as much, with the bookmakers as before the present Act was passed. The only difference was that visitors to the races were not annoyed by the shouting out of the odds; but, while the bookmakers did not shout out, they took bets all the same, only more privately. He was in favour of allowing the Act to remain as at present, because, although it did not stop betting, it did repress the nuisance to a certain extent. It was impossible to put betting down, except by inculcating better principles in the early stages of education.

HON. R. S. HAYNES: Clause 2 was passed unanimously when a similar Bill was before the House on a prior occasion.

THE COLONIAL SECRETARY: No.

HON. R. S. HAYNES: At any rate, there was no discussion on the clause, all the discussion being on clause 3 on that occasion. The Act was passed, not in consequence of the shouting of the bookmakers, or in consequence of bookmakers running away, but in consequence of a certain gentleman being fleeced over a game of cards. This Bill was introduced at the instance of the Turf Club. If the repeal of the Act brought about the shouting of bookmakers on the racecourses, then the objection of Mr. Loton would have great force and effect; but the repeal of the Act would not bring about the shouting of the odds on the racecourse. The Turf Club proposed to register bookmakers, and assign a place for them. At the present time any person could go and bet on a racecourse if he did not shout the odds.

HON. F. M. STONE: How about bicycle meetings?

HON. R. S. HAYNES: The Bill did not apply to bicycle meetings, because where a bicycle meeting was held would be a "place" within the meaning of the Betting Suppression Act, which was still in force. This Bill did not sweep away all objections against betting. The only section which was swept away was one which was not in force in any of the Australian colonies or in England.

HON. F. T. CROWDER: A racecourse was a public place.

HON. R. S. HAYNES: Under the Betting Suppression Act, the Hon. James White, chairman of the Australian Jockey Club, which was a similar body to the West Australian Turf Club, was summoned before a police court in Sydney, and charged with being the owner of a place where betting was carried on, namely, the Randwick Course. The magistrates held the offence proved, because Mr. White was chairman of directors; but, on appeal, the case was quashed. The Bill did not attempt to interfere with the law so as to legalise betting. The Turf Club, which was the only body affected by the Bill, would take every care that persons attending their race meetings were not inconvenienced, and it rested with the club to register meetings, or to revoke the registration of any meeting. For every bookmaker in Perth at the time the Act was repealed, there were now one hundred; that was, there were about ten bookmakers in the city then, and now there were about 1,000. The Legislative Council had, on a previous occasion, approved of the principle of the measure, and there were no changes in the circumstances of the colony to justify an alteration of that decision. The Bill on the last occasion would have pased but for the unfortunate third clause, and that clause he was not now pressing.

HON. A. P. MATHESON said he would support clause 2, and he failed to see how anyone could logically do the contrary. The Colonial Secretary had expressed great regret that this clause should be introduced, but if that hon. member thought for one moment, he would see that the logical remedy lay entirely in the hands of the Government. If the Colonial Secretary was prepared to get up in his place and say the Government intended rigidly to enforce the clause it was now proposed to repeal, he would be saying something that was logical, and probably would secure more support. But, as a matter of fact, it had been conclusively proved already that the section in the Act was absolutely impracticable, and no Government could possibly enforce it. The only thing to do under the circumstances was to remove the section from the statute book.

THE COLONIAL SECRETARY said after what had fallen from two or three hon. members, he would like to explain that he was not expressing the views of the Government in his remarks on this Bill. So far as he knew, the question had not been discussed by the Government. He expressed purely his own feelings, to guard against his being misunderstood as voting in any way in support of betting, believing as he did that betting was an unmitigated evil, dangerous in its consequences to the good of the community at large.

HON. F. T. CROWDER: Why did not the Government put down betting? They had the power.

THE COLONIAL SECRETARY: The Legislature passed laws, but those laws

had to be administered by the police, magistrates' courts, and Supreme Court. The view he took was that the Government had nothing to do with the administration of the law, which was in the hands of others. If there were difficulties in the way of carrying out the laws, or if the administration was neglected, that was not the fault of the Government.

HON. D. K. CONGDON said that when the Amendment Act was before the House in the session before last, he opposed it as a measure which, in his opinion, infringed on the liberty of the subject.

HON. F. T. CROWDER: The same as the Early Closing Bill.

HON. D. K. CONGDON said he voted for the Early Closing Bill because he was asked by his constituents to do so, but in the present instance, he would use his own judgment. He was quite in favour of the repeal of the section, which had never been carried into effect, and was absolutely a dead letter. He knew that it was brought forward to serve the purpose of one particular gentleman; at any rate, it had never served the purposes of the country.

HON. A. B. KIDSON said he would be very sorry indeed if the clause were struck out, seeing that, if that were done, the House would be acting in an inconsistent manner. The clause practically constituted the whole of the Bill, the principle of which had been affirmed by the passing of the second reading. It was agreed by everybody that the present law was inoperative, and that people, if they wanted to bet, would bet in spite of all Acts of Parliament. He never betted himself, and did not often visit racecourses, but he could say that betting went on there just as much as, or more than, it did before the passing of the section which it was now sought to repeal. The betting was carried on, not only by the lower classes, but by those in higher society who ought to show a better example.

HON. R. S. HAYNES: From the Governor downwards.

HON. A. B. KIDSON said he would mention no names. Instead of shouting out the odds, the bookmakers now said them in a hoarse stage whisper which everyone within a hundred yards could hear. When a section of an Act was absolutely inoperative, that section ought to be repealed.

HON. F. T. CROWDER: As the introducer of the Act, which it was sought by the present Bill to annul, and as he intended to vote for the clause as it stood, it would be as well for him to say a word on the matter. In introducing the Bill some two sessions ago, his desire was that if it became law, the Government should see the law was administered. But he found that from the very start the Government had in no way endeavoured to see the law carried out. In the olden days the betting was bad enough, but in the present day it was worse. It was done on the quiet now, and there was more swindling perpetrated under the present system than in the old days when betting was legal. Seeing that, as had been said, the law was an interference with the liberty of the subject—and he abhorred any legislation which interfered with that liberty—he would vote for the clause as it stood.

HON. H. BRIGGS: The clause ought to stand as drawn. It was not wise to legislate beyond the general conscience of the people, and the general feeling of the people was to indulge in slight wagers. It was a great evil when the law was slighted, as was the case in regard to betting on the racecourse. Bookmakers came round whispering the odds, and men in society made bets. A great evil was done to the general community by having a law against betting which was not enforced. Under the Bill betting would be under some kind of direction. Rules and regulations would be issued by the Turf Club, and the noisy men would be driven off the course.

HON. E. McLARTY There was just as much betting carried on now as when the Act was passed. At the same time the Bill was a step in the right direction. It was not the duty of the House to legislate in any way by which people could be led astray. He did not agree with the hon. member who said that if young people wanted to bet they should be allowed to do so. Young people should not be allowed to go to the bad. It had been said that the Government had not carried

out the original Act, but there were many Acts on the statute book which were passed to prevent things being done when those things were carried on just the same as ever. There was an Act passed to prevent stealing, but people went on stealing just the same.

HON. F. T. CROWDER: But they were prosecuted for doing so.

HON. E. McLARTY said he would vote for the clause as it stood.

Clause put and passed.

Clause 3—Amendment of Police Act, 1892:

HON. F. M. STONE moved that the clause be struck out.

HON. R. S. HAYNES: This was not the principal portion of the Bill. He did not see much harm in the clause, but it was a question entirely for the Committee to say whether the clause should be passed or not. He did not intend to withdraw it. The wheel totalisators were carried on during the intervals between the races, and he understood the principle was that so many cards were given out corresponding to numbers put on the wheel. The wheel was turned round, and the money paid over to the person holding the number at which the wheel stopped, less 10 per cent. commission.

HON. F. T. CROWDER: It was generally the man who owned the wheel who held the winning number.

HON. R. S. HAYNES: One of the chief sources of income to a race club was the amount received for allowing these spinning-wheels to be carried on upon a racecourse, and the money which these clubs received was spent in prizes for the races. It had been suggested that races might be held in the bush, and that these spinning wheels would be used there for the purpose of taking people down, but race meetings where these wheels could be used must be authorised by the Turf Club.

HON. F. T. CROWDER: Last year the Perth Race Club sold the right for the spinning jenny for £360.

HON. R. S. HAYNES: That was one of the strongest arguments in favour of the clause as it stood. There must be a certain amount of money for prizes. He would rather see the money spent on the spinning jenny than in colonial beer.

Clause put and negatived.

Preamble and title—agreed to.

Bill reported with an amendment, and report adopted.

DIVORCE AMENDMENT AND EXTENSION BILL.

SECOND READING (MOVED).

HON. F. M. STONE, in moving the second reading, said: For the information of hon. members, I may tell them that the law with reference to divorce at present is this, that the husband can obtain a divorce from his wife on the ground of adultery, but the wife cannot obtain a divorce from her husband unless the adultery is coupled with cruelty or desertion. This Bill proposes to alter the law in that respect, and add some further grounds for divorce in addition to the ground of adultery. It proposes to allow the wife to obtain a divorce on the ground of adultery by the husband, and she will not have to prove that the husband has been guilty of cruelty or desertion, but the wife is placed in the same position as the husband is now. Another ground of divorce under this Bill is desertion for six years either by the husband or the wife. The third ground is three years' habitual drunkenness and habitually leaving the wife without any support—that is, with reference to the husband. As to the wife, the grounds are six years' habitual drunkenness and habitual neglect of her domestic duties, or rendering herself unfit to discharge her domestic duties. The fourth ground is if the husband or the wife is under a commuted sentence for a capital crime, or under sentence of penal servitude for ten years or upwards; or, being the husband, has within seven years undergone frequent convictions for crime, and been sentenced in the aggregate to imprisonment for five years or upwards, and leaving his wife habitually without means of support. The fifth ground is that within one year previously the respondent has been convicted of having attempted to murder the petitioner, or of having assaulted her or him with intent to inflict grievous bodily harm, or on the ground that the respondent has, during that period, assaulted or cruelly beaten the petitioner. The sixth ground is that of insanity for three years, and that the per-

son is, in the opinion of the court, incurable. Hon. members will see that the Bill will alter the wife's position as to the adultery of her husband. She can obtain a divorce without proving cruelty or desertion, and there are also five new grounds. In addressing hon. members, I do not propose to deal at all with the religious aspect of this question, but I propose to deal with the Bill from a broad view, in this way: Is the Bill required? Is it expedient to alter the law as it at present stands, and to alter it as the Bill proposes, or in any one of the ways the Bill suggests? In dealing with these two points, I intend to go through the different alterations which the Bill proposes. Take the first alteration: that is, that the wife shall be enabled to obtain a divorce on the ground of adultery alone. It has always struck me as to why there should be a difference between the husband and wife obtaining a divorce on that ground. Why should not the wife be in the same position as her husband? Why should she have to go further and prove cruelty and desertion? It means that under the present law, unless a wife can prove cruelty and desertion she has to put up with her husband living in adultery; and the husband can live with another woman in the same house as his wife is living in, and she has no means of coming to the court and getting relief by divorce. Certainly she may get a judicial separation, but look at what the wife has to put up with? A wife would have to see that going on from day to day, and have no means of putting an end to her marriage, so as to be able to marry again. On the other hand, if the wife committed one act of adultery, the husband could get release at once. Surely hon. members are not going to allow the wife to remain in a different position in this respect from that of her husband. It is not as though this has not been complained of, or that some alteration of the law has not been asked for. It is a daily occurrence with us lawyers to have to deal with these matters, and in this I will be borne out by the legal members in this House.

HON. R. S. HAYNES: Hear, hear.

HON. F. M. STONE: I am glad to have the support of Mr. Haynes because he is one who has had considerable experience in these matters. It is almost an every-day occurrence for lawyers to be consulted by women as to whether they can get a divorce. We are obliged to point out to them that while a husband can get a divorce if there be adultery on the part of the wife, he can live in adultery as long as he likes, so long as he does not raise his hand to his wife or desert her. Certainly the wife can get a judicial separation, but of what good is that? It simply means that the wife lives apart from her husband, who goes on in his adulterous course while she lives as best she can. A wife can leave her husband without going to court for a judicial separation, and the fact of her being able to get such a separation does not really place her in any better position. The Bill puts the wife in the same position as the husband, and I do not think any hon. member will object to that. Even if hon. members should object to the other grounds of divorce set down in the Bill, they will not object to putting a wife on the same footing as a husband. Now I come to the second ground of divorce, namely, desertion. At present the law recognises desertion to a certain extent. If a woman does not hear from her husband for over seven years, she can marry again, and, should the husband return, she cannot be prosecuted for bigamy. On the one hand, the law allows such a woman to marry, and, on the other hand, if the first husband turns up again, the children of the second union are declared illegitimate. There are numbers of such cases. A husband may clear away after a few months of married life, and nothing be heard of him for a number of years. In ten years' time, perhaps, the wife is able to marry again and get a home for herself. In another five years, perhaps, after she has borne children, the first husband returns, and the unfortunate children are declared illegitimate, and the second marriage void. Surely hon. members are not going to allow such a position of affairs to continue, but will say that, if a husband or wife, under these circumstances, comes to court and proves desertion, the marriage may be dissolved, and the innocent party allowed to marry again. I

have had many cases under my notice in which the wife has not heard of her husband, not for six years, but for ten years.

HON. R. S. HAYNES: She perhaps may have heard, but be doubtful as to whether the man she hears of is her husband or not.

HON. F. M. STONE: That is so. I have known a case where the husband has not been heard of for ten years, and the wife has come to me to ask whether she could marry again. I have had to explain the position she would be in should her husband return. In some cases the women take the risk and marry, and in other cases they do not take the risk. It may be that a woman in all good faith marries a man who is an infinitely better man than the husband who has deserted her, and yet, should the husband return, the unfortunate children of the second union are punished. It is not the woman but the children who are punished, and I do hope members will see their way to vote for desertion as a ground for divorce. Now I come to the ground of drunkenness.

HON. R. G. BURGES: Don't get married at all.

HON. F. M. STONE: I believe that many women and many men, if they knew what they were going through in the course of two or three years, would never dream of marriage.

HON. J. W. HACKETT: You speak feelingly.

HON. F. M. STONE: I speak feelingly because I have had these cases before me. Because I am placed in a different and better position, is no reason why I should be narrow-minded, and not feel for others who are not in such a fortunate position.

HON. R. G. BURGES: Others can feel the same.

HON. F. M. STONE: No doubt, others can feel the same. Because people are happily circumstanced in marriage, is no reason why relief should be refused to others who are not happily circumstanced.

HON. A. B. KIDSON: "Marry in haste and repent at leisure," is an old saying.

HON. R. S. HAYNES: The Bill gives six years in which to repent.

HON. F. M. STONE: The Bill allows a considerable number of years to repent at leisure.

HON. R. S. HAYNES: The parties do not object to repenting, but object to keep on repenting.

HON. F. M. STONE: The next ground provided for divorce is habitual drunkenness for three years.

HON. J. W. HACKETT: What does habitual drunkenness mean?

HON. R. S. HAYNES: There is a legal definition of it.

HON. J. W. HACKETT: Not for the purposes of divorce?

HON. R. S. HAYNES: Yes, for the purposes of divorce.

HON. F. M. STONE: All the decisions cannot be put into the Bill. We can only put in the words on which decisions are based.

HON. R. S. HAYNES: In *Bishop on Divorce* the definition of habitual drunkenness is "A fixed habit of drinking to excess to such a degree as to disqualify a person from attending to his business during the principal portions of the time usually devoted to business," and "wasting his estate and leaving his wife and children unprovided for."

HON. J. W. HACKETT: Is that the definition?

HON. R. S. HAYNES: Yes.

HON. J. W. HACKETT: It is not very clear.

HON. R. S. HAYNES: It is clear to lawyers.

HON. F. M. STONE: The ground given in the Bill is three years' habitual drunkenness, and leaving the wife without means of support. How often do we see cases where the husband is drinking day after day, and the poor unfortunate wife working at the wash tub, not only keeping the family, but providing the husband with money for drink?

HON. J. W. HACKETT: Such women never ask for a divorce.

HON. F. M. STONE: Pardon me, there are many women in that position. The husband goes on drinking until the wife is obliged to leave him. If she could get a divorce, she could clear away altogether; but, as the law now is, the husband can follow her from place to place.

HON. A. B. KIDSON: Let her get a protection order.

HON. F. M. STONE: There are circumstances under which it is impossible to get a protection order. A husband may be a drunkard, and yet never assault his wife, and it is only where a woman is in fear of her life that she can get a protection order. The husband may go on drinking and follow his wife about, while she is unable to do anything to protect herself. She cannot get free from him; she cannot get a judicial separation, and she cannot get a divorce. She is tied to the man for life, and may put up with his drunkenness for years, until at last her heart is broken, and she feels that she must get away from him. But a husband, under such circumstances, can go wherever his wife is. He can go into her house, and if she establishes a small business for the support of herself and her children, he can follow her into that place and ruin that business.

HON. D. McKAY: She took him for better or for worse.

HON. F. M. STONE: "She took him for better or for worse"—that is the argument that is always used at the beginning of a discussion of this question. If there be anything in the argument that marriage is for better or for worse, why is divorce allowed in cases of adultery? If a man and a woman start together for better or for worse through life, then according to that argument they could never get a divorce for any cause. A man may be the biggest blackguard under the sun, and may commit adultery and every crime short of a capital offence, and yet his wife cannot get release.

HON. D. McKAY: Lots of women would not take release if they had the chance, because of the children.

HON. F. M. STONE: Then the Bill does no harm. The Bill does not compel either the man or the woman to get divorced. It simply provides that in certain instances, if release is wanted, release can be had.

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

At 7.30 the PRESIDENT resumed the chair.

HON. F. M. STONE: Before the House adjourned for tea, I dealt with the ground for drunkenness. I now will refer hon. members to the fourth ground of divorce—that of a commuted sentence for a capital offence. Just let us see what this means. Here is a husband or a wife who commits a capital offence. He or she may be sentenced to be hanged, and the Executive, for some reason or other, commutes the sentence to imprisonment for life. Take the case of the husband: what does it mean to the wife? She has for the rest of her years to drag out her life tied to that man. She is not able to marry again under the present law, and she is tied to her husband, and cannot do anything in the way of getting a better man, or getting a better home for herself, but she is kept tied to her husband until the man dies or she dies. Surely the House will recognise that such a thing should not be—that once a man or a woman commits a capital offence, the wife or the husband should be able to go to the court and get relief from that marriage. I do not think for a moment hon. members will say nay to that. I do not think it would be the wish of hon members that people should be tied together in such circumstances. In all common justice and in common humanity, the inoffending party should be able to go to the court and get relief from the marriage. What would this mean in the case of the wife? Perhaps she may be a young woman, and married only a few years, and her husband commits a very serious offence, and perhaps on account of his youth, as is very often the case, his sentence is commuted. Surely in such a case this House will not say that this woman shall go on for the whole of her life unable to marry, unable to meet with a good and true man who will find a comfortable home for her, but that she should be tied like a slave to the man, and cannot marry again, but has to go on earning her own living, although she may have hundreds of chances of a home being found for her, and thus the rest of her days being ended in peace and happiness. I hope the House will pass that ground, because it appears to me that where a man or a woman is capable of committing such a

serious offence as a capital crime, the innocent party should no longer be tied to the offender. Then we come to the further ground of five years' imprisonment. Surely when a person is imprisoned for five years——

HON. R. S. HAYNES: Five years on a capital charge or 10 years penal servitude.

HON. F. M. STONE: I have gone astray on that point. A person has to be imprisoned for five years on a commuted capital offence before a petition for divorce can be presented. A sentence may be commuted to imprisonment for life, but before a wife can go to the court for divorce, the man must have been in prison for five years. It is the 10 years penal servitude that I meant. Surely when a person is convicted and sentenced to 10 years penal servitude that sentence must have been given for a very serious offence, and this House will allow the wife—because I think in most cases it would be the wife—to come to the court and say, "My husband has been convicted of this serious offence, for which he has got 10 years penal servitude," and the right ought to be given her of coming to the court and asking to be relieved from her marriage. The position of the wife is this: the whole of the time the man is in prison she has to work and slave to keep herself. She may have children whom she may have to work for, and she may have chances of marrying again, and having a more comfortable home than she had before, and yet, under the present law, she cannot do this. Now we come to sub-clause 5. Under that clause if the husband or the wife attempts to murder one or the other, if this Bill becomes law, he or she would be entitled to come to the court and get relief from the marriage. Surely when a husband or a wife is placed in that position, this House will not compel these people to live together. That is what it means under the present law.

HON. J. W. HACKETT: Oh, no; be fair.

HON. R. S. HAYNES: She could get a judicial separation at an expense of £150.

HON. F. M. STONE: Unless she goes to the court and gets separation, the husband can follow her wherever she goes and live with her. When a husband attempts to murder his wife, in all justice allow the wife to go free if she wishes it. The law does not allow her to do it. She may have a forgiving nature, and she may forgive a man for attempting to murder her; but under this Bill allow her the right to go to the court and be relieved from such a man if she so desires it. The House, I am sure, will feel that it is not right and just that a woman should be tied to such a man. The House will not adopt such an argument. I feel sure that hon. members are with me when I say that, under such circumstances, let the wife go free if she wants to, and let her marry again if she wants to. We now come to the ground of insanity for three years, which, in the opinion of the court, is incurable. It seems to me strange that the law did not go further and prevent a man and woman from coming together if they wished to after that. When a man is put into a lunatic asylum, that man ought to be prevented from living with his wife afterwards. The result goes down to the children. I would have gone further than this ground goes. Once a person is found to be insane, before that person is put into an asylum—before that person is found to be insane—there has to be an inquisition. Under these circumstances, I think even without the protection clause the court should grant relief. I should like to go further and say that the two persons should not come together again, because we should see awful results in such cases. I have gone through all the grounds on which divorce can be granted under this Bill, and I trust I have convinced hon. members that this measure is required, and not only that it is required, but that it is necessary we should pass it. Some hon. members may be in favour of the first ground of the Bill; if so I would ask those hon. members to vote for the second reading, and not throw out the Bill because there are other clauses in it they object to. When we go into committee these grounds which some hon. members may object to can be debated, and if necessary can be struck out. From the way hon. members have received my arguments with reference to the first ground of divorce, I may say that this House is almost unanimously in favour of it. Coming to the second ground, that

of desertion, I have given very strong reasons why this should be included in the Bill, and if hon. members are in favour of it, by all means pass the second reading; and if hon. members object to other grounds they can strike them out. I think I have shown to hon. members that there are many cases in which this Bill will prevent a great deal of misery. I think I have shown that the several grounds for divorce which are mentioned in this Bill are absolutely necessary, and I do hope that hon. members will deal with the measure in a broad-minded spirit; that they will not stick to the narrow-minded view "for better or for worse." If we go into that, then there should be no divorce and no separation, but we should simply compel the husband and the wife to keep together notwithstanding that the man may have committed every crime in the calendar.

HON. D. K. CONGDON: Or the woman either.

HON. F. M. STONE: Yes. Look what the result would be. We know it is a very common thing for a married woman or a married man to live under circumstances which, if this Bill were passed, they would not continue.

HON. F. WHITCOMBE: Question.

HON. F. M. STONE: I say without contradiction that people would be enabled, under this Bill, to get married again and live happily and comfortably.

HON. J. W. HACKETT: They did not live happy and comfortable before.

HON. F. M. STONE: That was either the fault of the wife or the fault of the husband; but there would be one guilty party and it would not do to punish the innocent party by preventing that person from living happily afterwards. I quite admit that there will be more cases under the Bill where the wife is concerned, and we ought to look at it in that way. We ought to put the wife on a proper footing. The Bill, to a great extent, is to relieve the wife. It is all very well for the man, as he can go away; but the unfortunate wife is left behind with, perhaps, three or four children for whom she has to slave, and some members of this House would compel her to live in slavery. That is what it will come to if this Bill is rejected. Under this Bill she has a chance of getting out of her slavery.

HON. R. S. HAYNES: She can always get a judicial seperation.

HON. F. M. STONE: That cannot help her.

HON. R. S. HAYNES: It will help the lawyers.

HON. J. W. HACKETT: Who is to keep the children?

HON. F. M. STONE: If she gets the divorce, the husband.

HON. J. W. HACKETT: Not if she gets a divorce.

HON. R. S. HAYNES: Yes; she can get permanent alimony.

HON. J. W. HACKETT: So she can now under a judicial separation.

HON. R. S. HAYNES: But what use is it to her?

HON. F. M. STONE: The judge can protect the children by making the husband keep them. But the man who is willing to marry the wife after the divorce is willing to keep the children. I hope hon. members will see the Bill in its proper light. There are many cases at the present time wherein a man, although not able to marry a woman who has been badly treated by her husband would keep her and her children now, and the House should allow such a woman to obtain a divorce and marry the man who is willing to keep her and her children. I think I have gone through all the arguments, and I hope I have convinced hon. members in favour of the Bill—if not, of a considerable portion of it. I hope that the religious question will be left out of consideration, and that the Bill will be dealt with from a broad point of view—from the point of view as to whether it is required, and whether it is necessary, and whether we should alter the law as it stands to-day. I submit I have proved the necessity for the proposed legislation, and now leave the Bill for the consideration of the House.

HON. D. McKAY: This Bill might be considered commendable by hon. members on humane grounds, which, I think, may probably be the object. But, to my mind it is questionable whether the operations of this Bill would not do more harm than good. The Bill would, undoubtedly, tend to greater laxity in mar-

riage responsibility, which I consider under our present law is quite lax enough. Under those circumstances I do not feel inclined to support the second reading of the Bill.

On the motion of the HON. J. W HACKETT, the debate was adjourned until Tuesday, 23rd August

FIRE BRIGADES BILL.

Received from the Legislative Assembly, and, on the motion of the COLONIAL SECRETARY, read a first time.

WARRANTS FOR GOODS INDORSEMENT BILL.

Received from the Legislative Assembly, and, on the motion of the COLONIAL SECRETARY, read a first time.

JURY BILL.

IN COMMITTEE.

Clauses 1 to 7, inclusive—agreed to.

Clause 8—Exemptions:

HON. J. W. HACKETT: Amongst the exemptions was "persons holding office under the Imperial or Colonial Government." This was an exemption which had been excised from earlier Bills, and the following words substituted, "persons employed solely and exclusively in any department of the public service." Under the clause as it stood, any person who did, perhaps, an hour's work in a year for the Government, would be able to claim exemption from serving on juries. Indeed, when such exemption was the law, one gentleman at Fremantle, who gratuitously wound up a Government clock just outside his place of business once a week, claimed exemption and got it. He moved that the words "holding office under the Imperial or Colonial Government" be struck out.

THE COLONIAL SECRETARY: These innocent words which it was proposed to omit, would in no way injuriously affect the Bill. Lower down in the clause it would be seen that the exemptions were further guarded by the words referred to by Mr. Hackett, namely, "persons employed solely and exclusively in any department of the public service." This clause was taken from 35 Vic., No. 8, section 9, and he could not conceive of the words objected to doing any harm.

HON. R. S. HAYNES: There were sufficient exemptions already, and, if it were true that one out of every 12 white people in the colony was employed by the Government, the clause as it stood would throw a great burden on that portion of the population which was not in the civil service. The words "employed solely and exclusively in any department of the public service" covered every person who ought to be exempt from serving on juries.

THE COLONIAL SECRETARY: Those words did not cover Imperial officers and Imperial agents.

HON. R. S. HAYNES: The Imperial Officers were public servants, and the exemption in the Bill was quite sufficient to cover them. A carpenter or builder, who might be employed at, say, ten shillings a month to open a gate, would not, of course, come within the exemptions under the clause.

HON. A. P. MATHESON said he failed to see why persons holding office under the Imperial Government should not be exempt. There was, for instance, the Master of the Mint. Could he be said to be in the public service of the colony?

HON. R. S. HAYNES: "Public service" did not mean only the public service of the colony, but the British public service, and the Master of the Mint would be exempt.

HON. A. P. MATHESON: As there seemed to be a doubt, the exemption might be limited to "persons holding office under the Imperial Government," The arguments, so far as he had heard, applied only to the colonial Government officials.

HON. A. B. KIDSON: The difficulty might be got over by striking out the words "or colonial."

HON. J. W. HACKETT asked leave to withdraw his amendment in favour of that suggested by Mr. Kidson.

Amendment, by leave, withdrawn.

HON. A. B. KIDSON moved, as an amendment, that in line 6 the words "or colonial" be struck out.

Put and passed.

HON. F. M. STONE moved, as a further amendment, that in line 8 the word "managing" be struck out. All solicitors' clerks should be exempt from serving on juries. They were acquainted

with the cases which came into court, and discussed these cases amongst themselves, so that it would be dangerous to allow them to serve on juries.

THE COLONIAL SECRETARY: To exempt solicitors' clerks would be a very wide extension of the exemptions. If solicitors' clerks were exempt, why not clerks of insurance companies and banks?

HON. A. B. KIDSON: It would be an advantage to legal professional men to have lawyers' clerks on juries. But would it be right to have as a juryman a clerk who knew all about the case, and whose principal, perhaps, was acting as solicitor or counsel on one side or the other?

THE COLONIAL SECRETARY: Possibly that would not happen.

HON. A. B. KIDSON: It was more than possible it would happen, with the number of solicitors' clerks at present in Perth and Fremantle.

HON. R. S. HAYNES said he had several clerks in his employ, some of whom attended to the criminal work. He might be called to defend a criminal and find one of his own clerks on the jury; perhaps the very clerk who had prepared the brief in the case. There was no doubt a prisoner would not challenge such a juryman, but would take every advantage of his presence. It would, however, be a very undesirable state of things, because there was no doubt the clerk, under the circumcumstances, would take the side that paid for his bread and butter.

HON. F. M. STONE: No doubt the Crown Solicitor would challenge any solicitor's clerk who was called on to a jury, and the result would be that the clerk would be at the courts drawing ten shillings a day as a juryman and doing nothing for the money.

Amendment put and passed.

HON. F. WHITCOMBE moved, as a further amendment, that in line 12 the word "journalist" be struck out. "Journalist" was rather a vague word, which would be taken advantage of by a large class of persons to get exempt from serving on juries. Taking the average interpretation of the word it included a class of somewhat intelligent men whom it would be just as well not to relieve from serving on juries.

HON. J. W. HACKETT: The word "journalist" did seem a little wide.

HON. R. S. HAYNES: It covered a multitude of sins.

HON. J. W. HACKETT: It covered a multitude of sinners. There was a large crowd of persons who, on the strength of writing a paragraph now and then, called themselves journalists. The real grievance was that editors, who must be at their place day by day, could not be spared to serve on juries. And then reporters were still more seized upon with the greatest avidity to form juries, with the result that a newspaper office was frequently thrown into confusion. The practice had grown up, when a reporter was drawn on a jury, of sending him down a note book and a pencil, and telling him to report the case; in fact the reporter paid no attention to the case as a juryman, and was altogether about as unfit a man for the position as could be imagined. If the clause could be confined to journalists on active work, there would be no objection to it.

HON. A. B. KIDSON: Confine the clause to journalists employed in connection with newspapers. Let the clause pass now, and on re-committal any amendment could be made.

HON. F. WHITCOMBE: Very few journalists would come under this qualification. He never knew a reporter who had fifty pounds of his own. That was a saving provision.

HON. J. W. HACKETT: Reporters were a well-to-do and much-marrying class. The best thing to do would be to move the postponement of the clause.

HON. F. WHITCOMBE asked leave to withdraw his amendment.

Amendment, by leave, withdrawn.

HON. A. P. MATHESON moved, as a further amendment, that the words "bank managers" be struck out. Bank managers should no more be exempted than a manager of a commercial business. Banks were run for the benefit of the shareholders.

HON. R. S. HAYNES: And the public generally.

HON. A. P. MATHESON: And the public generally. He failed to see why business conducted by individuals

should be placed on a different basis from those conducted in the interests of a company. He failed to see why his manager should have to serve on a jury when a bank manager had not.

HON. R. S. HAYNES: The clause as it stood would only affect five persons.

HON. A. P. MATHESON said his public duties compelled him to be away from his business for several hours a day, and because he was unable to attend to his business owing to public duties, and his manager or managing clerk had to attend in court as a juryman, his business would have to be suspended. If this amendment were not carried he would move subsequently that managers of commercial businesses should be exempt.

HON. R. S. HAYNES: Bank managers ought to be exempted from serving on a jury, not because the shareholders would be inconvenienced, but because the general public would be inconvenienced. People had occasion to see bank managers every hour of the day, and a bank manager's absence might entail a serious loss to a person, perhaps involving that person in bankruptcy.

Amendment put and negatived, and the clause as previously amended agreed to.

Clauses 9 to 20, inclusive—agreed to.

Clause 21: Six jurors may be challenged or objected to by either party without cause:

HON. R. S. HAYNES moved, as an amendment, that the words "provided that when two or more accused persons are jointly indicted and jointly defended, they shall not sever in such peremptory challenges or objections," be struck out. This was not the rule in England or in any part of the Australian colonies, and it would be a bad precedent to establish here. Party feeling might be running very high, and five or six persons might be indicted, and a juryman called might suit one of the indicted persons but not another. Every person should have the right of challenge. If six persons were sitting in the dock and did not engage the same counsel, each person could challenge six persons. But if all employed the same counsel they lost the right of challenge.

THE COLONIAL SECRETARY: Six persons would have the right to challenge thirty-six jurors, and if there was a scarcity of jurors the panel might be exhausted.

HON. R. S. HAYNES said he had never seen six persons challenged on a jury in all his experience in this colony. The panel could not be exhausted, because the judge could take any persons sitting in the court to act as jurors.

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

Clauses 22 and 23—agreed to.

Clause 24—Limit of attendance of jurors:

HON. F. M. STONE: Jurors in criminal cases were limited to five days' attendance. There was no provision for jurors summoned in civil cases.

HON. R. S. HAYNES: Jurors in civil cases were summoned for a particular case.

HON. F. M. STONE: There ought to be some provision in regard to civil jurors.

HON. R. S. HAYNES: It was not possible to put in a clause in reference to civil jurors. In a criminal court, jurors were summoned for the panel, but in civil causes they were summoned for certain cases. It was not a good system, because it gave jurors an opportunity to find out, and know something about the case before they came into court. The practice in New South Wales was that 24 jurors were summoned for the panel, and they were there for a week. Eight jurors were called on for one case. Two of the jurors were struck out by either side, and the remaining four tried the case. The jurors did not know what case they were going to sit upon. In this colony jurors were summoned for a particular case, and in some instances they knew all about the case before it came on.

Put and passed.

Clause 25—agreed to.

Clause 26—Special jury:

HON. R. S. HAYNES: The making of an order for a special jury was becoming a matter of course in this colony.

HON. F. M. STONE: Common juries were often better than special juries.

HON. R. S. HAYNES: In one case in which he was engaged, the other side had summoned a special jury, and he (Mr. Haynes) had summoned a common jury.

It was a significant thing that the parties were more satisfied with the common jury than with the special jury. Many persons empanelled on a common jury were to be seen on a special jury. There should be some provision by which the court or judge ought not to grant a special jury unless in a case of importance. So long as some indication was given to the judge of what the Legislature desired, that was all the amendment needed in the clause. A person could not get a special jury as a matter of course, either in the other colonies or in England. In the case of a special jury a litigant had to pay twice the amount of money, and for what? Why, for the same men; and it was curious that special jurymen were also summoned on common juries.

HON. F. T. CROWDER: A juryman was a better man when he got more money.

HON. R. S. HAYNES said he hoped the hon. member in charge of the Bill would draw the attention of the Attorney General to the point which had been raised, with a view of carrying out the suggested amendment on recommittal.

Clause put and passed.

Clauses 27 to 43, inclusive—agreed to.

Clause 44—Verdict of two-thirds majority in civil cases:

HON. R. S. HAYNES said this was a departure he would be very sorry to see accomplished. He had known of instances where one juryman had firmly and resolutely stood out against the other eleven, and in some cases it afterwards proved the eleven were wrong.

THE COLONIAL SECRETARY: There were instances on the other side.

HON. R. S. HAYNES: Rather have fifty cases of disagreement than one case of injustice. He admitted there were instances on the other side, but he had not the same opinion of juries that some people had. He regarded juries as honest, conscientious, and capable, although there was a feeling abroad that juries were none of these. In any case, juries, as a rule, could compare in intelligence with the persons who passed adverse opinions on them. He objected to the clause, the principle of which had not been adopted in England, where there had been trial by jury for hundreds of years. The only colony in which this system obtained was Victoria.

HON. F. M. STONE: In Scotland majority verdicts were taken.

HON. R. S. HAYNES: And in Scotland there was a verdict of "not proven." The Scotch law was altogether different from the English law, and it was difficult to convince a Scotchman that his was not a proper view of the case. One might suppose that such a provision was necessary in Victoria, but in Western Australia we had not arrived at that stage, because we had honest jurymen left. Sometimes a judge took a very strong and very peculiar view of the case.

HON. F. D. CROWDER: A judge did the other day.

HON. R. S. HAYNES: A judge might sum up to a jury in such a way as to lead them to take his own view, which might be a wrong view. Most of the jurymen might be weak and submit to the judge, while one or two strong-minded jurymen might see the fallacy underlying the summing up. If this clause were adopted the only safeguard —namely, the unanimity of twelve men —would be gone. England's success lay in the fact that she had a jury system and the secret of the success of the jury system was that a jury must be unanimous before it could return a verdict. Any departure from that system would ruin the first principle of trial by jury, and, if the clause were carried, he would do all he could to prevent the Bill going through. In one case he had in his mind, a judge directed a jury to bring in a certain verdict. That judge found the jury would not bring in a verdict, and, after locking them up all night, he roundly abused them, saying that the man who had stood out was a man who ought to have never been on a jury. Thereupon that juryman stood up and said: "I wanted to bring in the verdict that your Honour suggested." That story was told of the late Justice Windeyer.

HON. J. W. HACKETT: A majority verdict could be taken by consent now.

HON. R. S. HAYNES: A majority verdict was frequently consented to, no doubt, but that was a different thing from forcing a majority verdict on litigants. If a majority verdict was not good in

criminal cases, it was not good in civil cases; and no one would suggest that a majority verdict ought to be taken in criminal cases. He had known of no cases of grave injustice under the present system. However much disagreements on juries might be deplored, he could not assent to the proposition that disagreements occurred more frequently in Western Australia than elsewhere.

Clause put and negatived.

Clause 45—agreed to.

New Clause:

HON. R. S. HAYNES moved that the following new clause be added:—

> The verdict of a jury shall not be set aside or interferred with upon the grounds that the verdict is against evidence, or the weight of evidence, or that the damages awarded are excessive or insufficient, unless the court hearing the application shall unanimously so decide.

This was somewhat of a departure from the principles laid down in the British Jury Act, but the circumstances of the colony warranted such a clause being introduced. We had not an extensive bench here, and there seemed to be an easy method of upsetting the verdict of a jury. In England the practice was this, that if a party was dissatisfied with the verdict of a jury, the case went to the Divisional Court consisting of two judges. If the person was dissatisfied with the decision of that court, then the case could go on to the Court of Appeal. And if again the parties were dissatisfied, then the case could go to the House of Lords. He did not know the amount exactly which this practice entailed, but he put it down roughly at £1,000. The verdict of a jury could not be upset in England except there was first an appeal to the Divisional Court, then to the Court of Appeal, then to the House of Lords. In this colony a judge might endorse the verdict of the jury. The jury had seen the witnesses and heard them, but when the evidence which was taken down was read it did not present to the persons reading it the same effect as the evidence which had been heard orally. The two judges on appeal might say that they were of opinion that the verdict was bad, while the judge who tried the case sitting with the other judge in appeal might strongly approve of the verdict of the jury. But the two judges sitting with him could over-rule his opinion. The jury might have found in favour of the plaintiff or the defendant, and the judge who tried the case was satisfied with the verdict. But the two other judges who did not hear the evidence could over-rule the third judge and say that the verdict should not be set aside, and that there should not be a new trial. These two judges could not only say that, but they could sit as a Court of Appeal as well as a Divisional Court, and not only say that there should not be a new trial, but could say that the verdict should be the other way. If judges had to decide only questions of law, that would be a very different matter, but he was speaking in reference to questions of fact. Supposing it were a case where a person had or had not committed a trespass, that was a question of fact which any person not being a lawyer was capable of deciding just as well as a lawyer. But judges could override the verdict of a jury on a question of fact. In this colony one court could do what it took two courts in England to accomplish. Of course there was the right of appeal to the Privy Council open to the litigant, but it cost something like £500 to go to England, and that would put an appeal to the Privy Council beyond the reach of most people. This Bill, if it did pass this House, did not become law; it had to go to another place, and to be subject to review there.

HON. F. M. STONE said he hoped the hon. member will not press the clause, as it would be the means of doing what the hon. member was trying to prevent. Take the case of a judge at a trial who had heard the evidence, and had all the means of judging of the witnesses and everything else. A new trial was asked for; supposing that judge and one of the other two judges sitting in appeal agreed that there should not be a new trial, the judge who had tried the case was dissatisfied with the verdict of the jury, but the third judge who did not hear the case was satisfied.

HON. R. S. HAYNES said he had an amendment drafted to get over this difficulty, but it was altered to its present state to meet the hon. member's views.

HON. F. M. STONE: The amendment to which the hon. member referred was

that the judge at the trial should certify that he was dissatisfied with the verdict of the jury.

HON. R. S. HAYNES said he was willing to accept any amendment so long as the principle was embodied.

HON. F. M. STONE: It would be better to leave the clause as it stood.

HON. R. S. HAYNES: If it was the wish of the Committee he would withdraw the amendment, so that he could submit another one to the same effect subsequently. He thought it would perhaps be best to report progress.

Progress reported, and leave given to sit again.

ADJOURNMENT.

THE COLONIAL SECRETARY moved that the House at its rising do adjourn until Tuesday next.

Put and passed.

The House adjourned at 9.15 p.m. untill Tuesday, 23rd August.

Legislative Assembly,

Wednesday, 17th August, 1898.

Notice of Motion: Procedure as to Financial Statement—Motion (urgency): "Hansard" Reports and an Omission — Motion (urgency): Customs and Excise Duties, Suspension of Standing Orders (new Tariff and Beer Duty); in Committee—Papers presented—Question: Davies v. Commissioner of Railways, Damages—Question: Works at Mundaring, Sale of Horses—Question: Tax on Absentee Owners of Lands Unimproved—Fire Brigades Bill, third reading—Warrants for Goods Indorsement Bill, third reading—Lodgers' Goods Protection Bill, third reading—Wines, Beer, and Spirits Sale Amendment Bill, second reading—Motion: Women's Franchise, debate resumed and adjourned—Early Closing Bill, first reading—Local Courts Evidence Bill, first reading—Adjournment.

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

PRAYERS.

NOTICE OF MOTION: PROCEDURE AS TO FINANCIAL STATEMENT.

The PREMIER having given notice of the Financial Statement for the next day,

MR. LEAKE (Albany): On a point of procedure, it will be recollected that last session the debate on the Financial Statement was carried on in Committee, and I think you, Mr. Speaker, intimated that the debate should take place on the motion for going into Committee. I do not know whether you are prepared, sir, to give any rule on the subject.

THE SPEAKER: The debate should take place in Committee, after I have left the chair. I have looked through the proceedings everywhere else, and I find that is the course pursued.

MR. LEAKE: It was mentioned last session, was it not?

THE SPEAKER: I do not remember it.

THE PREMIER: Members can speak on it as much as they like in Committee.

MOTION (URGENCY): "HANSARD" REPORTS AND AN OMISSION.

MR. GREGORY (North Coolgardie): I desire to move the adjournment of the House, in order that I may draw attention to the omission of certain remarks which were made by the member for North-East Coolgardie (Mr. Vosper) in this Assembly on Thursday last, in discussing a clause in the Land Bill relating to the insurance on house properties. The member for North-East Coolgardie, speaking in reference to clause 89, stated that working men, if they insured their houses, would be apt to burn their houses down and rob the insurance companies of the money. This statement has been left out of the *Hansard* report, and I wish to draw attention to the omission, in order that we may understand what should be in the *Hansard* reports and what should not.

MR. LOCKE: I second the motion.

THE SPEAKER: My attention has been drawn to this by the hon. member (Mr. Gregory), and I have communicated with the principal *Hansard* reporter in reference to it; and he informs me that, owing to the very rapid manner in which the member for North-East Coolgardie speaks, and also the low tone in which he speaks, it is sometimes difficult to hear what the hon. member says. But so many members of the House have stated to me