

**Legislative Council,***Tuesday, 12th September, 1899.*

Paper presented—Sale of Liquors Amendment Bill, third reading—Companies Duty Bill, second reading resumed and concluded—Roads and Streets Closure Bill, first reading—Rural Lands Improvement Bill, first reading—Bills of Sale Bill, first reading—Excess Bill, second reading, in Committee, reported—Customs Consolidation Amendment Bill, in Committee, new Clause, reported—Divorce Bill, second reading (moved)—Truck Bill, in Committee, reported—Permanent Reserves Bill, in Committee, progress—Bills of Sale Bill, Discharge of Order—Insect Pests Amendment Bill, second reading, in Committee, reported—Adjournment.

THE PRESIDENT took the Chair at 4:30 o'clock, p.m.

**PRAYERS.****PAPER PRESENTED.**

By the COLONIAL SECRETARY: Correspondence relating to the construction of a railway between South Australia and Western Australia.

Ordered to lie on the table.

**SALE OF LIQUORS AMENDMENT BILL.**

Read a third time, and returned to the Legislative Assembly with amendments.

**COMPANIES DUTY BILL.****SECOND READING.**

Debate, on motion for second reading, resumed from 30th August.

HON. F. M. STONE (North): I do not think this Bill recommends itself to the House, and I feel sure from the way the Colonial Secretary introduced the measure, that his heart is not in the proposals contained therein. I should have liked to move the rejection of the Bill, but for reasons I shall give to hon. members afterwards, I feel I could not go to that extreme length. This is a Bill to tax, not only mining companies, but all companies carrying on business in the colony. If a tax of this kind is required, we should have gone in for equal taxation, by means of an income tax. In many of the local companies, people have placed money for investment, and derive an income from the dividends, and in this way, in some institutions, the money of widows and children is invested. Under the Bill such persons would be taxed, whereas other wealthy people would escape so far

as any taxation on their incomes is concerned. Although the tax may only amount to a few pounds, we would, in many cases perhaps, see unfortunate widows who could ill afford the money, called upon to pay this duty, whereas, as I have said, rich persons would in many cases escape scot-free. Hon. members should have regard to the manner in which this Bill affects private companies. People who have turned their business into a public company would, under this Bill, be taxed, whereas another firm who have not taken this course, but whose profits may be 20 times the amount of that derived by the public company, would escape taxation. If taxation of this kind has to be imposed, it should be imposed all round. Hon. members are well aware that the original intention of the Bill was to tax gold-mining companies; but instead of keeping to that object, the Government seem to have become afraid, and included all companies. It is right that the dividends of gold-mining companies should be taxed; and there would have been many difficulties in the way of having a gold tax, because, under such a law, the unfortunate prospector would have had to pay in the same proportion as the rich company.

HON. R. G. BURGESS: But alluvial gold would have been excluded.

HON. F. M. STONE: A gold tax of the kind would have been a burden on many persons, and would not have been right, whereas a dividend tax connected with gold-mining companies is perfectly proper, because these companies are taking the gold out of the land. And what do we get for that gold taken away? Simply the wages that are paid to the miner. The Government are spending enormous sums for the benefit of gold-mining companies: railways have been constructed, cheap freights arranged, and a water supply started for the benefit of the goldfields; and the whole of the gold is taken away, without any return. The dividends are not paid in this country but, to the extent of two-thirds, go to foreign parts, and the only benefit we get from gold-mining companies, so far as money is concerned, is the wages paid for the labour employed in the mines. If the Government had the courage of their opinions, and had brought in a Bill simply

dealing with the gold-mining companies, there would not have been a word said against it; but we find they were afraid to tackle that, for some reason or other, and they bring down this Bill to tax all other companies, whether local or foreign. It may be said that in Victoria there is a company dividend tax, and that in Queensland there is a company dividend tax, but the circumstances of this colony are different. We have spent in Western Australia enormous sums for the benefit of these gold-mining companies. The Governments may in the other colonies tax these companies for the purpose of revenue, and we know there is an income tax in Victoria. That, I submit, cannot be argued as a reason why we should follow in their steps. There is a difference in this Bill (and I do not know why it was made) between foreign and colonial companies. Colonial companies pay on the dividend, and foreign companies will pay on the profits. Take the foreign banks here, which invest a large amount in the colony. They would have to pay on the profits, and it has been pointed out to me that it will be very serious for those banks, because if the profits are very small there may be a run upon those banks, through the fact being published to the world, and we may perhaps have a repetition of what occurred in previous years, when the bank failures took place. When in Committee I shall propose to alter that, and to insert the clause which originally stood in the Bill. I do not know for what reason it was struck out, or why it was altered. That provision was that companies should be taxed on their dividends proportionate to their assets in the colony.

HON. R. G. BURGESS: Are you in favour of the Bill?

HON. F. M. STONE: I am not in favour of the Bill. I have pointed that out, and am telling members the reasons why I feel I am unable to move the rejection of the Bill. I have said these gold-mining companies should pay something towards the revenue of the colony, and why should I move the rejection of the Bill, seeing that, if the Bill were rejected, those companies would go scot-free? I have thought considerably over it. At one time I had almost made up my mind to move the rejection of the Bill, but I saw that for another 12

months we should be unable to collect any revenue from those companies, and the adoption of such a course would have involved a loss of considerably over £100,000 to this colony. Having had so much spent on them and so many advantages given, I do not think these companies would object to pay a dividend tax. I do not like the Bill, but I have felt myself bound not to move its rejection. I intend to move, when the Bill goes into Committee, that the clause with reference to all other companies be struck out, and that the Bill be confined only to gold-mining companies. I trust the House will adopt that course. I tell the leader of the Government in this House that if I am not successful, I shall have to fight the Bill right through to the bitter death, if he will not accept what I think is a compromise. I defy him to get up and say it was not the intention of the Government, when they introduced the Bill, to get at the gold-mining companies, and not at the whole of the companies. Although members are against the Bill, they feel that, as the gold-mining companies should contribute something towards the revenue of the country, it is not our duty to throw out the Bill because it is framed in the way it is, but we should pass the second reading, and then in Committee alter it to suit the views entertained by, I feel sure, every member of the House.

HON. A. B. KIDSON (West): Like the last hon. gentleman who spoke, I am very strongly opposed to the principle contained in the Bill. Before dealing with the principle I feel it my duty to say a few words on the manner in which this Bill is drafted. We have a good many Bills introduced into the House, and considered by the House, which have been badly drafted, and the House on many occasions—or some members of it—have put their heads together with a view to endeavouring to lick those Bills into shape. I for one have finished in that respect, and I do not intend to waste my time in endeavouring to rectify Bills which are badly drafted when they are brought before this honourable House. With regard to the drafting of the Bill, I can assure the leader of the House that, if the measure were passed into law in its present condition, it would be absolutely unworkable. I do not believe the

Government would be able to recover the duties, and, even if they could, they would have the greatest difficulty in doing so.

**THE COLONIAL SECRETARY:** The measure has been in operation in Queensland for nine years.

**HON. A. B. KIDSON:** I have not seen the Queensland Act, but it must have taken a very different form from the Bill now before the House.

**HON. R. S. HAYNES:** It was drafted with a steel pen.

**HON. A. B. KIDSON:** The hon. member means that it must have been drafted with scissors. The Bill must have received considerable mauling at the hands of another place. In many instances the provisions for the recovery of these duties are to my mind, at all events, unworkable. The incidence of taxation proposed to be introduced is absolutely bad. It is in the nature of class legislation, and absolutely inequitable. It is needless, perhaps, for me to mention the principal reason why, because it has been stated so often, but at the same time it is not out of place for me to do so, because it will draw the attention of members who may perhaps have forgotten it, and it is this, that the Bill applies to all companies. Take the case of private limited companies. We have a private company carrying on precisely the same trade as a private firm. What is the result? We find that the private limited company, composed of a few individuals, is taxed and a private firm goes scot-free. That shows the method of taxation is bad. I also desire to come to another point, which I think I am entitled to do, namely, that I think the method in which the Bill has been introduced in Parliament is wrong. The Government in introducing the Bill, in my opinion, have not taken the course which, I understand, is always taken in the British House of Commons in regard to the introduction of a Bill in connection with taxation. They should first of all have introduced a Budget speech and intimated to Parliament that they proposed to increase or reduce taxation, and thereupon that taxation should have been introduced into Parliament. But the method adopted here seems to me to be entirely wrong. It appears to me the Government have been on a fishing expedi-

tion, and are on a fishing expedition. They want to ascertain whether Parliament will grant this taxation, and, if Parliament will not, they will frame their Budget accordingly; but, if Parliament will, they will frame it upon the assumption that this taxation will be available. I believe the Government were afraid to adopt the course they should have adopted, because no doubt they came to the conclusion that the incidence of taxation in this Bill would lead to great contention in Parliament, and they did not feel inclined to endanger their position by introducing it in the manner I have suggested they should have done. It is, further, general taxation with reference to all companies, and it is not warranted. With regard to taxation upon gold, I am in favour of that. I believe every member of the House and of Parliament is in favour of it, but I do not think the majority of members are in favour of the taxation of these companies, nor that the Government are justified in the course adopted. That, I believe, is the view of the majority of the people of the colony. The taxation the people of the colony are at present experiencing is not only heavy, but very much too heavy, for the population we have at the present time. Had the Government proposed to introduce a tax of an equitable kind and proposed to take the duties off other things it would have been a very different matter, but they have not attempted to do that. What they wanted to do was to impose further taxation upon the people in addition to all the other taxes from which we are suffering at the present time. I have taken the trouble to ascertain from the proper authority the relative revenues and populations of the different Australian colonies, and I may say that when the figures came to hand they rather startled me. The population of Western Australia at the end of 1898 was 168,129, and the revenue £2,754,747; the population of New South Wales was 1,346,240, and the revenue £9,482,096; in Victoria, population 1,175,460, and revenue £6,887,463; in Queensland, population 498,523, and revenue £3,768,152; in South Australia, population 367,800, and the revenue £2,633,727; in Tasmania, population, 177,340 (more than our population), and revenue £908,006; in New Zealand, popu-

lation 743,463, and revenue £5,079,230. The disparity between the revenue and population of this colony, and the revenue and population of the other colonies, is something enormous. Worked out per head, it means in Western Australia £16 7s. 9d.; in New South Wales, £7 0s. 10d.; in Victoria, £5 17s. 2d.; in Queensland, £7 11s. 6d.; in South Australia, £7 3s. 2d.; in Tasmania, £5 2s. 4d.; and in New Zealand, £6 16s. 7d.

HON. J. W. HACKETT: Are you distinguishing between taxation and revenue?

HON. A. B. KIDSON: I am taking revenue, which is enough for my purpose: it all comes out of the pockets of the people in some way. The amount of revenue per head of the population in Western Australia is double that of any of the other Australasian colonies; and that fact alone, leaving the question of taxation aside, is sufficient to make members pause before they inflict any further taxation. At the present time the people of this colony cannot stand any further taxation, and unless it becomes absolutely necessary for further taxation to be imposed, the Government have no right whatever to introduce such a Bill. If the Government have been extravagant in the past, it is the fault of the Government, and it is not the province of Parliament to support them in their extravagance, more especially in view of the immense revenue the colony is deriving at the present time. If that revenue is not sufficient for the wants of the Government, the sooner we get a Government for which the revenue will be sufficient, the better.

HON. R. S. HAYNES: See the money they are wasting in Fremantle!

HON. A. B. KIDSON: That may be funny, but I do not see the humour.

HON. R. S. HAYNES: It is true, though.

HON. A. B. KIDSON: In introducing the Bill, the Colonial Secretary said, amongst other things, that the Government must have money, but the hon. member did not give any reasons why.

THE COLONIAL SECRETARY: I think I did mention the reasons.

HON. A. B. KIDSON: I certainly looked very anxiously for the reasons, but I never heard any; and, whether the Colonial Secretary did or did not say why the Government wanted the money, I think the reason is that the Government

have entered into works which were not warranted at the time, and, in order to provide the necessary funds to carry out these works, they want Parliament to pledge themselves to further taxation. The Colonial Secretary also said, as another inducement to hon. members to support the Bill—though I must admit it appeared to me at the time a very childish argument—that there would be a reduction in the customs duties. If the hon. gentleman had told us that there had been a very heavy reduction of customs duties, and that, in consequence, it was necessary to get taxation in another direction, that would have been some argument in favour of the Bill; but he simply tells us that there may be a reduction. I leave it to hon. members, with any sense of right or wrong, to say whether that is a good reason for introducing the proposed legislation. There has not been a reduction in the customs duties, because we see from the last month's returns that the customs revenue has gone up. Another reason the Colonial Secretary gives for the Bill is that an overdraft of £200,000 has to be paid off; and that is due to extravagance. On the one hand, the Colonial Secretary tells us we must pay this overdraft off, while on the other hand the Government are making a great song about having reduced the overdraft to a considerable extent during the last few months, out of the present revenue. If the Government can reduce the overdraft to the extent they say, out of the present revenue, then there is no warrant for inflicting this further proposed taxation on the people. I say "on the people" advisedly, because, though in the first instance the taxation will fall on dividends, in the end it will fall on the people. I agree with Mr. Stone that it would have been much more satisfactory, if the Government had tackled the question manfully. They wanted to tax gold in some shape or form, either directly or indirectly; but, to put the thing in a nut-shell, they had not the pluck to do so, and in order to attain their end, they included within the operation of the Bill, other incorporated companies, leaving it to Parliament to exercise its discretion, no doubt with a strong hope on the part of the Government, that Parliament would exclude those other companies. Another point raised by the

Colonial Secretary is that the Government realise the necessity for increased taxation. But why do we want increased taxation? Are we not taxed enough?

HON. F. T. CROWDER: We want to develop the country.

HON. A. B. KIDSON: Has the Colonial Secretary given any reasons as to why increased taxation is necessary?

HON. R. G. BURGESS: The Colonial Secretary did give reasons.

HON. A. B. KIDSON: I listened carefully at the time, but I heard no reasons given.

HON. R. G. BURGESS: The Colonial Secretary said the customs would be reduced.

HON. A. B. KIDSON: Whatever reason the Colonial Secretary gave, I am convinced the reason could not be a good one, having regard to the immense taxation which we pay at the present time. The Colonial Secretary also said it would not do to interfere with the fiscal policy of the Government; but we do not know what the fiscal policy of the Government is for the ensuing year.

HON. F. T. CROWDER: It is a good policy.

HON. A. B. KIDSON: If it is anything like the fiscal policies of the past, I do not think the policy of the ensuing year will be a good one; at any rate I do not see how it can be said there can be any interference with the fiscal policy of the Government, when the policy is not before the country. The Colonial Secretary also stated it was necessary for us to do our duty to the country, and see that the revenue is sufficient. We have done our duty to the country, and with the present population the revenue ought to be more than sufficient. I would like to refer to one or two clauses of the Bill which appear to be somewhat—

HON. A. P. MATHESON: Peculiar.

HON. A. B. KIDSON: Peculiar. First of all in connection with Clause 2, which includes all associations without exception; if hon. members consider for a moment, they must come to the conclusion it would be advisable to except certain associations from the operation of the clause. At the end of the same clause, life assurance companies are singled out, and to me it seems hardly necessary to take that course. As to Clause 4, I should like to learn some reason as to

why a distinction is drawn between local companies and foreign companies in the taxation of dividends and profits.

THE COLONIAL SECRETARY: It is simple enough.

HON. A. B. KIDSON: I am delighted to hear that; but according to the clause, only the dividends of local companies are taxed, while, in regard to foreign companies, the profits are taxed. Perhaps the Colonial Secretary will be able to tell us how, under Clause 5, it is proposed to tax the profits of, say, steamship companies doing business in this colony. That is a problem I have endeavoured to solve, and others also have thought it over without being able to arrive at a conclusion; and this is a matter which has caused a great deal of discussion.

HON. C. E. DEMPSTER: These companies are incorporated in the colony.

HON. A. B. KIDSON: I am talking of foreign companies who are registered under power of attorney. How can the profits earned by these companies in this colony be arrived at? I also think that in this clause it will be found necessary to insert the word "net" before "profits." Another point worthy of consideration is raised by Clause 10, under which it is provided that it "shall not be lawful for a company, or for any person on behalf of the company, to distribute any dividends or profits chargeable with duty until the duty in respect thereof has been paid." Has it been thought out as to what effect this clause will have on companies? To me it seems the clause will have the effect of preventing, if they can be prevented, those companies paying a dividend until after they have sent returns to Western Australia from the old country, say, and the duty has been paid here.

HON. R. S. HAYNES: The dividends are distributed in England.

HON. A. B. KIDSON: That is the point I am coming to.

HON. R. S. HAYNES: It is the drafting of the Bill.

HON. A. B. KIDSON: According to the Bill as drafted, all companies are prevented from paying dividends until the duty is paid here, and I take it that the dividends of English companies are paid in England. How it is proposed to get at the foreign companies, if they do not pay the duty in this colony before they

pay the dividends, I am at a loss to understand.

HON. C. E. DEMPSTER : Sue the attorney.

HON. A. B. KIDSON : But, according to the Bill, the attorney cannot be sued.

HON. J. E. RICHARDSON : The Bill does not say that the duty has to be paid here.

HON. A. B. KIDSON : Surely the hon. member knows that the duty must be paid to the Government here. Under Clause 14 every company has to do certain things, but if a company do not comply with the clause, what is to be done ?

HON. D. K. CONGDON : Send an officer to do it.

HON. A. B. KIDSON : I am afraid that would not be a good way of getting over the difficulty.

A MEMBER : The company would be liable to a penalty.

HON. A. B. KIDSON : But there is no penalty in Clause 14. Under Clause 15, the amount of duty is to be trebled. We are dealing with foreign companies, and how in the name of fortune are you to find out what the original duty is in order to treble it, if the books of the company are not here, and you have not the information at hand ?

HON. R. S. HAYNES : They do not keep their book here.

HON. A. B. KIDSON : They do not keep that class of books here. All the books are kept at home.

HON. R. S. HAYNES : Instruct the Crown Law Department.

HON. A. B. KIDSON : Every proceeding taken under this Bill against a company to recover duties is to be taken by writ, and if you go by writ you have to prove your case. Then how are you going to prove your case ? Perhaps the Leader of the House will tell us that.

THE COLONIAL SECRETARY : A person has to produce his books and all documents necessary.

HON. A. B. KIDSON : I know ; but how are you going to compel him to do it, and how are you going to recover the duty ? In the third place, how can he do it, if the books are in England ? Assuming he has his books here and does not produce them, I do not see how you can do it, because there is no penalty

if he does not produce them, and what are you going to do ?

THE COLONIAL SECRETARY : The measure has been in operation in Queensland nine years.

HON. A. B. KIDSON : There may not be many foreign companies there, or they must be very honest.

HON. R. S. HAYNES : They must be honest English companies.

HON. A. B. KIDSON : Perhaps they do not pay any dividends, or perhaps the Government do not recover any from them. If the leader of the House can show us any way out of the difficulty I shall be very much obliged, because I cannot see any way out of it. There is another point. The Shortening Ordinance has not been applied to this Bill to enable the recovering of penalties and so forth. That is going to cause a great deal of trouble, if it will not to a very great extent prevent the recovery of any penalties at all. There is another thing here. Clause 13 says : " Every person acting as trustee, agent, receiver, guardian, or committee, or otherwise in a fiduciary capacity, who receives in that capacity dividends on which a duty is imposed." The agent or any one in a fiduciary capacity is liable to pay the duty, according to the wording of that clause, a second time. I point these few facts out to the hon. gentleman, who, no doubt, will be able to rectify them when the Bill gets into Committee. I did not feel disposed to leave the matter until we get into Committee, because I thought it just as well to take the opportunity of telling him my views about it. The Government seem to me to be making themselves a sort of general auditors for the companies of Western Australia. Another argument is that because the law is in force in Queensland it ought to be in force here, but if they choose to have an Act in Queensland which in its incidence of taxation is absolutely bad (and I believe there were special reasons for introducing the Act in that colony, namely, in order to get at one particular company), that is no reason why the Bill should be introduced here, to create what would be a very inequitable state of affairs between the different companies and firms carrying on business in this colony. I also assert unhesitatingly that the taxation is not required at the present time.

HON. R. S. HAYNES (Central): I agree with my hon. friend, Mr. Kidson, that the time has arrived to put our foot down in regard to the drafting of Bills. I think the hon. the Attorney-General is the officer responsible for the way Bills come down here. From time to time this House have spoken somewhat strongly about the loose manner in which these Bills come down. Every session in which a new clause or Bill has had to be introduced, an abortion of a document has been sent down here to be passed. The time has come when we should say, if Bills are not sent down properly drafted and in a workable state, we will absolutely refuse to pass them. I sympathise with the leader of the House, because it requires a good deal of study to prepare a Bill and to meet all the objections raised in this House; but, at the same time, we have been too lenient in the past, and if the Government need an Attorney General, at all events he should be able to see these Bills are properly drafted. He seems to be neither useful nor ornamental. Bills come down here in a disgraceful manner. I enter my protest, and if a Bill in future comes down drafted in the careless, slovenly manner in which Bills that have come down to us have been drafted, I shall, irrespective of the merits of the Bill, move that it be thrown out. With regard to this Bill, the difficulty to my mind is how far we are entitled, except in extreme cases, to interfere with a taxation Bill which has been passed in another place. The members of the Legislative Assembly are personally responsible to the people, and although we have undoubtedly the right, and at the proper time should exercise that right, of vetoing any Bill which comes before us, I think we ought to be very careful before we exercise it, and for that reason I am very loth to interfere with the policy of the Government in introducing taxation. I have listened with some interest to the speeches of the hon. members, Mr. Stone and Mr. Kidson, as to the reasons why this Bill should be restricted to gold-mining companies, and for the life of me I cannot see that there is any foundation for the argument. If the Bill is to be extended to gold-mining companies, then it ought to be extended to every incorporated company. It is said, "If you extend it to

trading companies and shipping companies in the colony, why do you not extend it to the merchants carrying on business in partnership? If it is equitable to apply it to limited liability companies, it is equitable that it should be extended to private firms." I do not see that at all. If you admit that, you have to admit the corresponding proposition that, if you are going to tax companies who indulge in gold-mining, you should also tax partnerships or associations of persons not registered as companies also engaged in mining transactions. If four or five people come together prospecting and raise gold, the profits they make on the gold they win will not be taxed at all, while if they form themselves into a company the gold will be taxed. If we once admit the principle that gold-mining companies incorporated are to be taxed, you must admit the principle that trading companies ought also to be taxed. There seems to be some little reason for the contention that trading companies ought to be taxed. It is stated the object of the Government in introducing the Bill was really to levy a tax upon the gold won from the country, but that is an objectionable form of taxation, and it was thought better to tax the dividends of the shareholders of the companies. It was pointed out that these shareholders were taking gold away from the country and giving nothing in return. There is some reason in that assertion, but the same reason would doubtless apply to prospectors. However, it was pointed out that prospectors required some little encouragement, whereas companies able to declare dividends were really beyond that stage; but, if we apply that principle also to trading companies, we will find the taxation of trading companies would be justified, for this reason: I am not prepared to say at the present moment what percentage of the whole of the companies carrying on business in this country are foreign companies, but most of the companies are foreign.

HON. F. T. CROWDER: Nothing of the sort.

HON. R. S. HAYNES: I speak subject to correction, but if the hon. member assures me it is not so, I shall not accept his statement on that point, but shall get figures. I say most of the companies carrying on business in this colony are

foreign companies, and I was going to say a very large percentage. I refer to trading corporations, exclusive of gold.

A MEMBER: You are wrong.

HON. R. S. HAYNES: It is very well to say I am wrong, but bring facts to prove your allegation. If I cast my eyes where the chief opposition to this measure has arisen, namely Fremantle, I find that a very large proportion of the companies there are foreign corporations. Let us see what status the foreign companies have in this colony. They are carrying on business. They generally send over a manager and a few clerks. They draw immense sums from the colony, and what return does this colony get? Not even as much return as the colony gets from the gold won from the soil.

HON. R. G. BURGESS: You get more from the customs.

HON. R. S. HAYNES: You get more through the customs from the goldfields. You say you get duties from the trading corporations or importing companies, but I say no, because they charge them to the customers, the amount being added to the price. The importer certainly pays the duty in the first instance, but eventually it is the customer who has to pay it. Gold-mining companies cause the consumption of more dutiable articles than any other section of the community; and wages are regulated by the profit made out of the mines.

HON. R. G. BURGESS: The wages are what the workmen like, no matter what the profit may be.

HON. R. S. HAYNES: These foreign companies carry on business here with a manager and a few clerks, and most of the companies, especially intercolonial companies, have saved themselves from wreck by increase of business in this colony. Instead of sending over commercial travellers, as they used to do, they have opened branches here, and carry on business in this colony, not because they wish to expend money here, but because they find it more profitable to have the goods here for customers to select from. What expenses are banking companies put to in this colony?

HON. R. G. BURGESS: They pay a tax on their notes.

HON. R. S. HAYNES: You pay the tax; not the banking companies.

HON. R. G. BURGESS: But the tax is paid.

HON. R. S. HAYNES: You, as a matter of fact, pay the whole of the tax; they actually tax you, and make a profit out of it. These companies are drawing the principal portion of their profits from this colony, and the colony is receiving absolutely nothing in return. So far as the shipping companies are concerned, as Mr. Kidson has pointed out, the Bill is loosely drafted, and no doubt there will be great difficulty in ascertaining what the profits of shipping companies are; but the difficulty could be overcome by putting the onus on the shipping companies of showing what their profits are.

HON. A. B. KIDSON: That cannot be done under the Bill, as it is drawn.

HON. R. S. HAYNES: I would not gainsay one word of the hon. member in regard to the Bill, which is very loosely drafted and reflects great discredit on the person responsible for it. American, French, German, and other foreign countries carrying on business here, are no doubt getting the advantage of being exempt from a law which does not apply to private individuals, and they pay nothing to the State. It is said that local companies should not be taxed, and there may be some reason in that contention; but the interests of the few must suffer for the interests of the many; and, in the few cases of local companies, no very great hardship will be inflicted, because they do not pay very great dividends, while the amount which they contribute will be more than compensated for by the reduction of taxation which must necessarily ensue. Local companies have an advantage, which can scarcely be understood or appreciated without some little thought. Three or four persons may go into partnership, and enter into a speculation, standing to make a very large profit, while it does not appear there could be a heavy loss; but, in consequence of unforeseen circumstances, serious loss may occur, involving the whole of the property of the members of the partnership. Such may be the result of a private venture; but in a limited liability company, the liability is, of course, limited, and though such a company may go in for a speculation, involving a loss much more than its capital, the shareholders



are not liable for more than the amount of their shares.

HON. F. T. CROWDER: But it may mean ruin.

HON. R. S. HAYNES: It may mean ruin to the shares, but it does not touch the pockets of the shareholders, except to the value of their shares; and in nearly every instance of local companies, the shares are called up, or mostly paid up, and the shareholders know the exact limit of their liability. Is that not the greatest advantage a man could have?

HON. A. B. KIDSON: Why should he not have it?

HON. R. S. HAYNES: Why should a foreign company have the advantage? Foreign companies in this are not responsible in any way beyond the limit of their shares, even though a heavy loss be made, which has to be borne by the people of the colony, while the company can snap their fingers. It is impossible to put limited liability companies on the same footing as partnerships; and, if gold-mining companies are to be taxed, then, in common justice, all limited liability companies carrying on business in the colony, should also be taxed. I regret it has been thought necessary to introduce this measure, because I think the taxation might have been obtained in another way. But I am not responsible for the way in which the taxes are levied; and if taxes are not raised in this way, they will be in some other, because out of our pockets the taxation has to come. The Government, in this measure, are not taxing investments, but only absolute profits distributed amongst shareholders; and I think the principle a good one, although I am sorry the Government have found it necessary to introduce the measure.

HON. A. P. MATHESON: The Bill affects a good deal more than dividends.

HON. R. S. HAYNES: It affects profits.

HON. A. P. MATHESON: Which are very different from dividends.

HON. R. S. HAYNES: Dividends and profits are taxed, and if we tax the one, tax the lot; and, as a matter of fact, the money will come out of the pockets of those who are best able to pay. Whilst protesting against the form of the Bill, I think hon. members generally are in favour of the principle; and in the hope

that the measure will be carried, I tender my services in assisting to put it into something like shape.

HON. A. P. MATHESON (North-East): I intend to support the Bill in practically the condition in which it is presented to the House: but I want, if possible, to see Clause 5 altered. From what fell from Mr. R. S. Haynes, I think it is perfectly clear that neither he nor other members of the House sufficiently realise the difference that exists between profits earned, by a mining company for instance, and dividends declared. Taking mining companies alone, it is a frequent practice for directors to set on one side during the first few years of their existence, a considerable sum of money for the purpose of providing winding gear, pumping machinery, and so on, to use in the extraction of gold. Under Clause 5, as at present drawn, every penny of profit—that is to say, every penny the directors put on one side for the purpose of supplying plant—will be taxed in exactly the same way as if it had been paid as dividend to the shareholders.

HON. F. T. CROWDER: Quite right, too; why not call up their capital?

HON. A. P. MATHESON: The hon. member asks, "Why not call up their capital?" The answer is that they do not call up their capital, presumably because there is no capital to call up.

HON. F. T. CROWDER: It is profit.

HON. A. P. MATHESON: It is impossible, when a company starts in business, to say exactly the amount of working capital which will be required. In the hon. member's own business, if ever he had one, he could not, when he started, tell the exact amount of capital he would require to sink, in order to make the business profitable. He had to prepare, I have no doubt, for unexpected contingencies; and the same must be done in mining companies.

HON. F. T. CROWDER: Profits are the same as dividends.

HON. A. P. MATHESON: I expected the hon. member to say that, because he never understands any point. I am endeavouring to explain to the balance of the members of the House, who may appreciate the point, that profit, which is not distributed, is an absolutely distinct thing from dividends.

HON. F. T. CROWDER: It should be distributed, then.

HON. A. P. MATHESON: The hon. member is evidently accustomed to living from hand to mouth; but, fortunately for shareholders in companies, that is not the policy which directors usually adopt. They look to providing a sinking fund, not only for the purpose of buying machinery, but also for the purpose of providing working expenses in the event of their getting into a poor part of the mine. It is not at all an unusual thing, in an ordinary mining company, for the board of directors to have to contend for a year or more with the absence of profits altogether.

HON. R. G. BURGESS: A private banking company is just the same.

HON. A. P. MATHESON: The same remark applies, of course, to a banking company, but I take the case of a gold-mining company, because that is easier to explain. For months and months, mining companies may have to deal with a portion of a mine in which no rich gold is found, and every prudent board are in the habit of putting on one side a certain sum to provide for contingencies, so that they may avoid the necessity, that would otherwise arise, of reconstructing the company. Nothing is more detrimental to the interests of gold-mining in any country, than the necessity for the reconstruction of companies, because that at once shakes confidence in mining interests. A prudent board of directors use every possible means to avoid such a course; and for that reason amongst others, I absolutely fail to see why mining companies should be put in a different category to any other commercial undertaking, and taxed on profits which are not divided. The principle of a tax on divisible profits, I am perfectly prepared to agree with, but I cannot see my way to agree to a principle of taxing profits which have not been divided. Let us take the case of banks which, in the Bill, are placed in the same category. In the same way as gold-mining companies, banks, I understand, put a certain sum of money aside as a reserve fund to meet contingencies or losses, and in order to equalise their dividends. That being the case, surely it is extremely unfair to expect those banks to pay income tax on that amount of their profit which will never be divided.

Dealing with the Bill itself, there seems to me in Clause 2 a serious mistake in the definition of "dividend." The word "interest" is included, and I am perfectly certain the Government never intended that an income tax should be paid on interest, in the ordinary acceptance of the word. If "interest" is not used in the ordinary acceptance of the word, there should be some qualification removing "interest" in the ordinary acceptance of the word, from the "interest" indicated in this sub-clause. "Interest," as I understand it, is money paid year after year to a person who has lent money to carry on a given concern, and is not profit in any sense. It is a part of the working expenses, and has to be provided for in advance, and can never be divisible. Mr. Kidson called attention to Clause 13, in which the tax imposed by this Act, can be collected from "every person acting as trustee, agent, receiver, guardian, or committee, or otherwise in a fiduciary capacity," but he did not call attention to the fact that the Bill, after bringing in the responsibility of the company and agent in Clauses 14, 15, and 16, suddenly goes back in the most incomprehensible manner in Clause 18, to make some provision for trustees of property. They also have to pay a dividend, and presumably that was not the intention of the Bill, but the Bill absolutely fails to say so, both in this clause and in Clause 19, though curiously enough, the marginal note of Clause 19 goes out of its way to explain what does not exist in the clause itself, and to supply the necessary words, namely, "the principal, whether married or under disability or not, is also liable if the trustee, agent, etc., does not pay." That is the curious part: they are apparently liable whether the company pay or not. It is absolute folly to attempt to make provision in this Bill for dividends in foreign companies. What possibility is there of the Government being able to recover one single farthing of the money distributed out of the colony? Are we going to employ a staff of Government lawyers in all other countries of the world to pursue people who receive dividends? Surely there is sufficient in this Bill, if we pass the stringent provisions already made for extracting the income tax from the company. What further need is there of rendering it possible for this Government

to disturb the peace of mind of married women and orphans by their trustees and all sorts of other people, who probably never had any opportunity of becoming acquainted with the terms of the Bill? Surely it is sufficient to provide that the company must pay. Then, again, in Clause 14 there is a provision that a company shall, when required, in writing, permit a person to inspect and take copies of its minute books. With the majority of foreign companies there are no books whatever kept in this colony that would be available for any such purpose. No foreign company dreams of keeping minute books in, or sending copies of minute books to, this colony, neither do they keep copies of their books of account except to the extent to which they concern the business in the colony. It seems to me the Bill is simply a network of ridiculous clauses, although the intention of the Bill is undoubtedly a good one.

Hon. D. McKAY (North): When first I read the Bill I thought it hardly worthy of the support of the House; but there are two points I could not get over. The first is that the Colonial Treasurer wants revenue, and he has a deficit to be reduced. The second point is that the Bill gets at those who can best afford to contribute. I shall support the Bill.

Question—that the Bill be read a second time—put and passed.

Bill read a second time.

#### ROADS AND STREETS CLOSURE BILL.

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

#### RURAL LANDS IMPROVEMENT BILL.

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

#### BILLS OF SALE BILL.

Received from the Legislative Assembly, and, on motion by HON. R. S. HAYNES, read a first time.

#### EXCESS BILL, 1897-8.

##### SECOND READING.

THE COLONIAL SECRETARY (Hon. G. Randell), in moving the second reading, said: I somewhat regret to have

to introduce, or at least to move, the second reading of a Bill of this description, principally because it goes into such large figures. At first sight it is a bit alarming. One sees that £399,000 have been expended above and beyond the votes of Parliament for the year ending June 30, 1898. But I am glad to say there is another side to the question which may be more acceptable to hon. members, for while there is an over expenditure of this large sum of money, there is an under-draft of £484,000 in round figures. I also regret this Bill is so late, but it is impossible to avoid that under the circumstances. Under our Audit Act three months' notice has to be given to the Treasurer, I think, to prepare the accounts and submit them to the Auditor General, and, of course, the preparation of the Auditor General's report also takes a considerable time. Close attention has to be given to it, and it has to be perfectly exact in every particular; therefore, it is impossible, while our financial year ends as it does in the middle of the ordinary year, for the Auditor General to furnish us with the Excess Bill at an earlier date than at present, unless some other mode of operation can be arranged by him, by which a portion of his report can be given to Parliament while we are sitting. I believe there is an intention on the part of the Colonial Treasurer to request the Auditor General to see if he can devise some means by which we may be enabled to place before the Legislature this session the Excess Bill for the year ending 30th June, 1899. The loan votes have been exceeded to the extent of £336,643 0s. 4d., but a very large portion of that money has been spent on account of necessary additions to our railways and tramways—more especially railways. From page 25 it will be seen that additions and improvements to opened railways cost £1,399 12s. 9d., £52,179 has been expended on rails and fastenings, and £261,498 7s. 9d. on rolling stock, or a total of £315,077 0s. 6d. I believe these items were received earlier than expected, and are therefore included in the Excess Bill now before hon. members. I suppose that while we are a gold producing colony, and developing as we are, it will be almost impossible to do without presenting to Parliament Excess Bills of this class from year to year. It

is impossible that matters can be so arranged in countries in such an abnormal state, as to enable a Treasurer to exactly see his way in regard to items of expenditure. Under the circumstances we shall continue to find that, in regard to some estimates, the moneys will not be wanted, while in other items larger expenditure will be required. I propose to read to hon. members presently a few of the larger items which are included in the Excess Bill, and it will be seen that many are entirely owing to the rapid development which this colony is making, and are necessary on account of the large increase in the gold production and the influx of population. The year 1897 was, to a certain extent, a boom year, and the expenditure then added very considerably to the excess. It was only at the end of the first half-year of 1898 that we began to realise that there was any necessity for reducing expenditure, as far as possible, so as to bring that expenditure within our means. I was very happy to tell hon. members last session that the Government had, to some extent at any rate, during the last three months of the year succeeded in reducing the deficit, and I do not know that it is necessary for me to say much on the items in the Bill. It is a very considerable time since the 30th June, 1898, and the interest in the items has to a certain extent passed away. If we could have the Excess Bill introduced nearer to the time of the expenditure of the money, a deeper interest would be taken in the measure than can be taken when the expenditure has occurred 14 or 15 months before.

HON. R. G. BURGESS: Why not bring in the measure sooner?

THE COLONIAL SECRETARY: I hope we will be able to some extent to reduce the amount shown in the Excess Bills, and I think we may reasonably expect that to take place. Every effort is now made to carefully examine expenditure, and to see that there is prospect of that expenditure being met. As hon. members know, a considerable reduction has taken place in the expenditure of the country. The Civil Service has been considerably reduced in many directions; in fact, it has been so much reduced as to make it apparent that now and then extra officers will be necessary to carry out the duties of the different departments. I

suppose we shall all be pleased to see the development which has taken place, is of such a character as to enable us to fill up offices which are vacant at the present moment, and the performance of the duties of which in some instances is entailing extra work on officers in the service. I mention again that the underdraft on the ordinary estimates is £484,309 8s. 9d., and therefore there has been a net saving of £63,881 15s. 2d. Amongst the principal items of the Excess Bill is the preparation of the electoral rolls, and I mention this because while the sum is not large, it is an expenditure of £897 occurring in this year. The next item is one which is also the result of the development in the colony, and of the large population which has gathered on the goldfields; and it arises from the necessity of coping with circumstances which brought about a good deal of sickness and disease. The medical vote, including grants to hospitals on goldfields, as well as the maintenance of the hospitals in Perth and Fremantle, amounts to £38,120 17s. 9d. The extra cost of police, as might naturally be expected, has contributed to the excess by the sum of £3,898 13s. 10d., and gaols also, I am sorry to say, by £6,256 14s. 2d. The Government printing, which has very largely increased, owing, in a great measure, to Parliamentary work, is increased by the sum of £3,193 0s. 3d.; and the expenditure on charitable institutions shows an excess expenditure of £2,991 0s. 5d., while the excess expenditure on defence is £2,138 3s. 7d., and on customs, £5,865 10s. 6d. The miscellaneous expenditure, including subsidies to municipalities, £17,668, and purchase of lands, £25,000, amounts to £74,418 14s. 6d. The excess expenditure on railways and tramways, to which I have already referred, amounts to £79,893, and on public works to £46,693 10s. 3d., and that on public buildings to £38,173 2s. 8d.; on educational expenditure, £6,100 7s., and on posts and telegraphs, £34,419 7s. 1d. These are some of the larger and more important items, and all indicate the progress the colony was making in 1897-8. Full particulars are given in the Auditor General's report as to the overdrafts and underdrafts, and hon. members can from that report obtain every information in connection with the Excess Bill. The money has been in

most cases, though I am not prepared to say in all cases, wisely expended. At any rate, it has been expended with the view of promoting the prosperity of the country, and I hope the Bill will pass.

HON. A. P. MATHESON (North-East): It is hardly worth while to criticise the expenditure sought to be authorised in this Bill, because, as the Colonial Secretary has pointed out, it is over 15 months since the expenditure was incurred; but glancing through the Bill, I must say it struck me as extraordinary that some of the extremely large sums have been expended without Parliamentary authorisation. Nobody recognises more clearly and fully than I do, that it is impossible to carry on a Government, especially under the conditions which prevailed in the year in question, without there being a very large amount of unauthorised expenditure; but that authorised expenditure should be in small sums.

HON. R. G. BURGESS: Then you would block railway development while waiting.

HON. A. P. MATHESON: The expenditure on the railways consists of a number of small sums, and I was looking more particularly at certain specific items on which I do not think expenditure should have been incurred without the sanction of Parliament. Take, for instance, the expenditure under the head of "Purchase of Perth Lots A7 and A8, £16,000." I would ask the House if that is not an expenditure for which the concurrence of Parliament should have been obtained. It seems to me that no reasonable Government could possibly attempt to justify an expenditure of a sum of money like that on the purchase of two lots of land, without the sanction of Parliament. Nobody can pretend that the blocks of land would run away, or that there was such competition for the land, that there was not time to bring the matter before Parliament; but, if I interpret the Bill rightly, that sum of money was spent absolutely without any authority to the Government. In the same way further, down on the same page, we find under the head of "Land resumed, Perth Town Lots 23 and 24, £6,083," without any alphabetical number attached, so that unless I am mistaken, it would be impossible for any member of the House to identify the blocks. Then in the matter

of purchasing school sites, I wish to call attention particularly to the fact that, as a rule, if a district requires a school, unless it be in a Government surveyed township, the person who is cutting up the estate, is usually willing to provide a site if pressed. As a general rule it is nearly always absolutely unnecessary to purchase a school site anywhere. Where there is a Government township, there are nearly always reserves provided which can be utilised for the purpose of schools; and, in cases where land is being subdivided by a private individual, or by a land company, that individual or company will nearly always be found ready to present a school site for the purpose of securing settlement. I make these remarks particularly in regard to the Ascot school site, which apparently was purchased for £100. No doubt hon. members will be surprised to learn that I offered the Government a site for that school on the adjoining Swan location, but this was declined, I understand, because the Government expected to get a more convenient site on the block in question; but I certainly never understood the Government were going to pay for that site. The site I was prepared to present to the Government, in order to secure contiguity of the school to families resident on the estate, was certainly as convenient, in my estimation, as the site which the Government subsequently purchased. This was before the present Colonial Secretary took office; and I repeat that owners of estates are usually only too glad to give sites for schools. We find on page 14 that the sum of £17,000 was paid for harbour improvements at Bunbury, without any authorisation whatever. I again submit that enormous sums like this should not be expended without Parliamentary sanction, and I do not think that any rate of progress in the colony would justify such expenditure. Take the item of £2,033 expended on Geraldton hospital, as shown on page 15. Nearly everybody in the House must be aware one-half of the hospital at Geraldton—probably the very wing for which this money was utilised—has never been occupied to this day. I have no doubt Mr. Loton could confirm the statement, that a large wing of the Geraldton hospital has been built in the last year or two

which has never been occupied. Probably if a vote had been taken, members representing Geraldton and that district would have protested against the expenditure of that money. It is clear that if the hospital has never been used, it must have been vastly in excess of the requirements of the district. Before sitting down I may say it is absolutely useless to criticise this expenditure, but I feel matters have been allowed to go on in such a slipshod way in reference to expenditure in the colony, that it is time someone protested most strongly against the practice of using large individual sums of money without Parliamentary authorisation.

Question put and passed.

Bill read a second time.

#### IN COMMITTEE.

Clauses 1 and 2—agreed to.

Schedule A — Consolidated revenue funds:

HON. A. P. MATHESON asked what were the purposes to which two blocks of land mentioned on page 9, Perth town lots A7 and A8, had been put, and what Perth town lots 23 and 24 had been allotted to? In addition, he would like some explanation why in that year the Government found themselves obliged to pay arrears of rent due to the West Australian Land Company.

THE COLONIAL SECRETARY: With reference to Perth lots A7 and A8, members would remember that at the time they were purchased the offices of the Government were distributed all over Perth in various private buildings, and even then scarcely room enough could be found. He had no special information on the point, but he understood the Government at that time thought it necessary to purchase those blocks of land for the purpose of making a beginning to erect public offices. St. George's Hall was occupied, and he believed every available place throughout the town was occupied by the Government, and it was found very difficult to carry on the work. It was anticipated the state of things then prevailing would continue, and the Government felt themselves justified in expending this money to have a convenient place on which to erect large public buildings. He believed it was intended to put the Public Works Department there.

HON. A. P. MATHESON: The land was still vacant.

THE COLONIAL SECRETARY: At the end of 1897 things began to wear a different aspect, and it was necessary to exercise the greatest economy. Public servants were discharged on all hands, and the service was reduced. He believed there was an overture made at one time to make an exchange. The Government were to purchase the Town Hall, and give this land in exchange with a sum of money, so that a new hall for the city of Perth might be erected. However, the negotiations did not come to a head, and the land was still vacant. With regard to Perth town lots 23 and 24, he was thoroughly in ignorance in regard to them. He was not sure whether they were purchased on Mount Eliza. He knew a considerable piece of land was purchased on the Mount for the purpose of protecting the outlook of the park for the public, so that enterprising gentlemen could not come and erect buildings and deprive people of the view of the river and the hills.

HON. J. W. HACKETT: They had to be bought out.

THE COLONIAL SECRETARY: Yes; they had to be bought out. With regard to Geraldton, the new wing of the hospital was not occupied, or only partially so, but negotiations were in hand. The old hospital required renovation and cleaning, and probably the new hospital would be occupied presently. It was, he believed, another of those cases which occurred at the time when we were running away with the idea that prosperity was going to continue for a number of years, and when it was not deemed necessary to exercise the greater care now shown over the expenditure of the colony. The lesson had been a very good one, and the Government would profit by it.

Schedule A put and passed.

Schedule B—General Loan Fund:

THE COLONIAL SECRETARY: A large proportion of this was expended under the 60th Vict., No. 43, Special Act.

Put and passed.

Title—agreed to.

Bill reported without amendment, and report adopted.

At 6:28 the PRESIDENT left the Chair.

At 7:30, Chair resumed.

## CUSTOMS CONSOLIDATION BILL.

## IN COMMITTEE.

Consideration resumed from 29th August.

## New Clause:

HON. R. S. HAYNES moved that the following be added, to stand as Clause 3:

Any person feeling aggrieved by any order or conviction made by any Justice of the Peace under the "Customs Consolidation Act, 1892," may appeal against such order or conviction under the provisions of the "Police Act, 1892," or the law for the time being regulating appeals against orders or convictions made by Justices in Petty Sessions assembled.

THE COLONIAL SECRETARY accepted the new clause, which he regarded as an improvement to the Bill.

New clause put and passed.

Preamble and title—agreed to.

Bill reported with further amendment, and report adopted.

## DIVORCE BILL.

## SECOND READING.

HON. F. M. STONE (North), in moving the second reading, said: This Bill varies considerably from the measure I introduced last session. The Bill of last session, which was not passed, contained a number of proposed grounds of divorce which are not in the Bill now before the House. I have narrowed down the grounds of divorce to three; the first of which places the wife in the same position as the husband, rendering it necessary for her to prove cruelty or desertion in addition to adultery. The second ground of divorce provided in the Bill is wilful desertion for seven years, and the third is insanity which, in the opinion of the Court, is incurable. Under the Bill of last session, there were several other grounds of divorce, including attempted murder, assault, drunkenness, desertion for three years; and I mention these facts in order to remove any idea there may be that I am trying to re-introduce that measure.

HON. R. S. HAYNES: Would you not make seven years' imprisonment desertion.

HON. F. M. STONE: Not under this Bill. Imprisonment was one of the grounds in the other Bill. This is purely desertion: that is when one or the other is left without any reasonable excuse, and continually deserted for seven years and

upwards. I mention this is not on the same grounds as the other, so that there will be no mistake. It will be seen this Bill does not go anywhere nearly as far as the Bill last year, and I do not think members will have the objection they had to that Bill, for that reason. From what I remember of the debate that took place every member was in favour of placing the wife on the same footing as the husband. Sub-clause *a* does that. Sub-clause *b* puts it on the ground of desertion, and Sub-clause *c* on the ground of lunacy. I am sure members are favourable to placing the wife on the same footing as the husband. I know objection has been taken to this Bill on religious grounds, but the same objection might be taken to the present law, and those gentlemen who have taken exception to the Bill are not in favour of divorce at all. As we have a law giving divorce to the husband on the ground of adultery I do not see why the wife should not be placed in the same position. Why should she have to prove that the husband assaulted her, or that he is guilty of some cruelty, to enable her to get a divorce? Surely if the husband is living in adultery with another woman, as one knows is often the case, the wife should be able to get a divorce without having to go to the absurdity—for it is an absurdity—of proving he has continually slapped her face or done something of that kind. I think I shall have no difficulty in getting the Bill passed through if I confine myself to that particular clause, but to my mind we ought to go further, and I have made desertion for seven years another means for enabling either a husband or a wife to get a divorce.

HON. F. T. CROWDER: The term is too long.

HON. R. G. BURGESS: We will not have it at all.

HON. F. M. STONE: I fix that period for this reason: If a husband or wife has deserted, and the person remaining has not heard of the other for seven years, the law concludes them to be dead, and entitles either the wife or the husband in such a case to marry again; and they cannot be prosecuted for bigamy.

HON. R. S. HAYNES: Notwithstanding the decision of the Chief Justice to the contrary, it has been ruled in *Regina v. Tolson* that a woman may marry

within seven years if she believes her husband to be dead.

HON. F. M. STONE: Take a case where a husband has wilfully deserted his wife, and the wife has heard, after seven years, that he is dead. She marries again in good faith. The husband, in eight or nine years, turns up, and the children of the second marriage are illegitimate. The wife is placed in the very unfortunate position that she is married to another man, and her other husband turns up and claims her. If this Bill passes this House and another place, the wife, under those circumstances, if she has heard that her husband is dead, can wait for seven years, and then apply to the Court and get a divorce. Perhaps the statements as to his death may not be strong enough to warrant the woman in getting married at once. Her husband may have gone to a distant country, and she may have heard in a round-about way that he is dead. Any way, she will be able to go to the Court and set at rest any difficulty of that kind arising from her husband's turning up again, putting an end to the second marriage, and placing her children in such an unfortunate position. She would, I say, be able to go to the Court, get a divorce, and marry again. I have known scores of cases where wives have been deserted, and have not heard from their husbands for years and years. They have wished to marry again. I have been consulted and have told them exactly what the law is. In some cases they have said they would risk it, and that they were pretty certain their husbands were dead, as they had not communicated with them at all. They had never known where the husband was or anything about him. The woman will say, "What shall I do? I have been having a hard fight with the world to get my living. I have struggled on, and now I have an opportunity of getting married to a man whom I know to be a good man. I shall be able to live in comfort for the rest of my life. The law allows me to marry that man, but look at the unfortunate position you tell me I am in if I marry. My husband may turn up out of pure spite." The husband may turn up, not with the intention of claiming the wife at all, or providing for her, but out of the same spite that caused him to leave her in the

first instance. He may turn up simply for the purpose of putting her and her children in such a wretched and unfortunate position. These are matters which happen as the law exists at present. I feel very strongly on this ground of desertion because I have had so many cases coming under my notice where the wife would be able to marry, and where in some cases she has taken the risk. I do not think that should happen. In my opinion where a man has deserted his wife and left her without any means for years and years the wife should be placed in the position of getting free from that unfortunate marriage and be able to live a better and happier life in the future. I feel very strongly that desertion should be included in this Bill. I have almost risked the fate of the Bill in placing it there, because, as I have said, members are in favour of the first sub-clause. They are in favour of women being placed on the same footing as the husband. In nearly all cases the desertion is by the husband, the wife seldom deserting the husband.

HON. R. G. BURGESS: I do not agree with you.

HON. F. M. STONE: The wife very seldom deserts her husband. If she does desert him, he is able to earn his own living, and it does not affect him so much as it does the wife, because the wife in some cases has two or three children, and when the husband clears out and leaves her with those children, for whom she has to struggle along, she is in a far worse position than a husband deserted by his wife. Supposing a woman does desert the husband. The wife clears off, the husband not knowing where she has gone to, and after seven years he is able under the law to marry again. Look at the unfortunate position in which he places the woman whom he marries, that position being absolutely through no fault of her own. The husband may marry in all good faith, as I have pointed out, because he may believe his wife to be dead, not having heard of her for perhaps 15 or 20 years; and look at the unfortunate position this woman and her children are placed in. It may be that he will be married for five, 10, or 15 years, living a happy life, and children may be born to him, those children being a credit to both parents; and



consider the position when his former wife turns up. The children are illegitimate. The woman is cast forth in the world again, and is no wife. The finger of scorn can be pointed at her as a woman unmarried and with children, although in good faith she married that man, and that man married her in good faith, thinking his former wife was dead, although not having a certificate of death. Perhaps she might be living in a country where we are unable to get those proofs, but from which he may have received letters, telling him she was dead. We often see in the courts and often read in the papers that letters have been sent to persons from abroad telling them that either wife or husband is dead. The man marries again, and as I have pointed out, the parties are in this wretched position, through absolutely no fault of their own. Their children are pointed at as illegitimate, through no sin of their father or mother, but simply because the law does not allow divorce and re-marriage on the grounds I have indicated.

HON. J. W. HACKETT: You would make mere absence the same as desertion?

HON. F. M. STONE: The ground set forth in the Bill is wilful desertion for seven years and upwards.

HON. J. W. HACKETT: But say a husband does not desert his wife, though he be absent seven years?

HON. F. M. STONE: I do not see how, under the circumstances you could come to any other conclusion than that he had deserted his wife. Suppose a man leave his wife with sufficient money to keep her for twelve months, that would not be desertion; but suppose that man continue away from his wife for another seven years, leaving her without means of support, or any information as to his whereabouts, or as to whether he be alive or not, there could not be the slightest doubt that he had deserted her.

HON. J. W. HACKETT: I am speaking of mere absence.

HON. F. M. STONE: If what I have described is what the hon. member means, that would be desertion. A frequent case is where a husband clears off, leaving his wife without any means of support; but it very seldom happens that a husband goes away without any intention to desert, but who, after being away

six or seven months, determines to desert, and continues away for seven years or over. As to the third ground, I am not very strong about it, and in Committee, if there be a desire shown by hon. members to strike it out of the Bill, I would not press the provision. At the same time I think that incurable insanity ought to be a ground for divorce; and it should be remembered that there will have to be very strong proof that the insanity is incurable.

HON. J. W. HACKETT: You cannot prove that.

HON. F. M. STONE: Then there could be no objection to the clause. On none of the grounds set forth in the Bill, are people bound to go for a divorce, the measure only enabling those who desire to do so, to apply to have their marriages set aside. I would go further myself, and say that if a person became insane, there should be a law preventing that person resuming the marriage state again.

HON. J. W. HACKETT: On what ground?

HON. F. M. STONE: On the ground that children might result from the re-union.

HON. J. W. HACKETT: Why not provide for all hereditary diseases as well as insanity.

HON. F. M. STONE: Perhaps we are going deeper than the Bill contemplates.

HON. J. W. HACKETT: But that is the whole point.

HON. R. S. HAYNES: Insanity is the least hereditary of all hereditary diseases.

HON. F. M. STONE: It would be far better, if, in the case of insanity, a husband and wife were not allowed to come together again, for the reason I have indicated. As to all hereditary diseases not being included in the Bill, that is no argument why one hereditary disease should not be provided against. This law will be a step in the right direction, and we do not object to passing one moral law because we cannot pass all moral laws at once. I believe the clause should be passed, but if the House be against me, I am quite willing to be bound by an expression of opinion.

A MEMBER: That would be giving the Bill away.

HON. F. M. STONE: No, it would not, because there remain the other two grounds proposed. I would not give up the two first proposed grounds of divorce

because the ground of insanity was rejected by hon. members.

HON. A. B. KIDSON: Why not withdraw the clause providing insanity as a ground of divorce?

HON. F. M. STONE: I will not withdraw that clause until I have heard the opinions of hon. members. In any case, I would urge that the Bill be allowed to go into Committee, when the clauses can be thoroughly discussed; and if I see the House is against me on the third ground of divorce, I will not press it. I have given very good reasons for the grounds of divorce proposed in the Bill; but if hon. members do not believe in the grounds of desertion or insanity, the sub-clauses providing these can be rejected in Committee, leaving the clause which places the husband and the wife on an equality in regard to the ground of adultery.

HON. J. W. HACKETT: Will you explain what would happen if, in the case of assumed desertion and re-marriage of the supposed deserted party, the assumed deserting party turned up with a just excuse or reason?

HON. F. M. STONE: If a man remain away from his wife for seven years, and never communicates with her, I do not see where a just reason or excuse could come in.

HON. J. W. HACKETT: Then strike the words out of the clause.

HON. A. B. KIDSON: Remember the case of *De Rougemont*.

HON. F. M. STONE: Unless it was shown that there had been wilful desertion, the aggrieved party could not re-marry.

HON. A. B. KIDSON: How could it be known that there had been wilful desertion?

HON. R. S. HAYNES: Oh, let the deserted wife wait 50 years, in order to see whether her husband turns up or not!

HON. F. M. STONE: If the party turn up with a just cause or excuse, there has been no desertion without just cause. It has to be proved there has been desertion without just cause:

HON. J. W. HACKETT: But what if just cause or excuse for desertion be proved after re-marriage has taken place?

HON. F. M. STONE: If a man has left his wife for seven years, and never

provided a penny for her maintenance, or communicated with her, where could be his just excuse for desertion?

HON. J. W. HACKETT: I did not put that case. The case I put was that of a man who showed he had a just excuse.

HON. F. M. STONE: A wife cannot get a divorce without proving wilful desertion. Under the present law, supposing a man were living in England, and his wife in this colony got a divorce on the ground of adultery, it is possible that man could come here and prove that he had never committed adultery. The same difficulty arises under the present law in regard to adultery.

HON. J. W. HACKETT: You have not even touched the point I raised.

HON. F. M. STONE: I have shown that the same objection would apply to the ground of adultery for divorce.

HON. R. S. HAYNES: The same objections as are raised to this Bill, were raised to the introduction of the steam engine. It was then asked what would happen if a cow got in front of the engine.

HON. F. M. STONE: If the ground taken by Mr. Hackett were good in regard to desertion, then he ought to have the courage of his convictions, and bring in a bill repealing the divorce laws altogether.

HON. J. W. HACKETT: I only wanted to know the meaning of the words "just and lawful excuse," because they seem to me superfluous.

HON. F. M. STONE: If the words are not considered necessary, they can be struck out. It might be urged that this Bill was in advance of legislation in England; but it must be remembered that in Scotland the grounds of divorce set forth in the Bill are in force; and we know how very strong religious feeling is in Scotland. Members may say that the marriage laws are very lax in Scotland, but now in that country they are under the same marriage laws as are in force in the colonies. That old idea as to marriage between two persons has long since exploded. In Scotland they are just as strict under their marriage laws as we are, and in that country—perhaps it is a surprise to some hon. members to find it is so—they have desertion as a ground of divorce, so we are not giving anything new in this Bill; we are not providing

any further ground, but are simply following a very old country, and a country which, as I say, has as strong religious reasons for being against the granting of divorce as perhaps this country has.

HON. J. W. HACKETT: Would you legitimise the children born before wedlock, as they do in Scotland?

HON. F. T. CROWDER: That is the French law.

HON. J. W. HACKETT: Is it not Scottish?

A MEMBER: No.

HON. F. M. STONE: If a man and a woman come together I certainly would legitimise the children. We are dealing with a Bill which is, to my mind, endeavouring to legitimise children born under the circumstances I have related. I am not going to touch on religious grounds at all. If I do touch on the religious objections there are to the Bill it simply means there should be no divorce at all; that a woman might live in the most open adultery, in the most gross circumstances, and the innocent party be tied down for life to that woman. Take a case. A man may marry a woman believing her to be a true woman. But he finds after marriage that before her marriage she was everything that was bad, and she immediately goes to the bad again, committing adultery openly. But he is not allowed to divorce her. That is the religious ground. That is the extent to which those who have taken up religious objections to the Bill are prepared to go.

HON. R. S. HAYNES: They must go.

HON. F. M. STONE: They must go. They hold that there shall be no divorce at all; that whom God has joined no man shall put asunder. That is the text all the clergymen go on. Their objections are that there shall be no divorce at all. As I said, if we look at the religious grounds we shall have to go to the extreme case I have pointed out. I hope members will pass the second reading of the Bill, which does not go anywhere near the provisions of the last Bill. Perhaps that Bill went too far. There were, as I stated then, certain grounds I did not like myself, but the Bill came down to me from another place, and I was bound to take it as it was on the second reading. If it had gone into

Committee, members would have found that on many of the grounds for divorce I was not particularly in favour of it. But these grounds I have picked out. I hope I have been able to convince members they are reasonable grounds, grounds we should give divorce upon, and that there can be no objection to. As I have said, if there is objection on religious grounds, do away with divorce altogether. We must look at the grounds more as men of the world, in a broad sense. Is it necessary we should add these grounds to the present divorce law? Are the circumstances such that there should be divorce upon those grounds? I am of opinion that if members will quietly think over the matter, leaving the religious grounds out of the question, they will find that divorce should be granted, and that no evil will result from our passing such a law, but much good (perhaps not so much good to the husband as to the wife), and we will not hear of cases where men and women break through the law as it at present stands, and are almost obliged to live in adultery; because I believe if a man and woman have married after there has been a desertion for seven years, it would be very hard indeed for them, especially if they have been happy and have had children, to part from one another. They may go to another country and assume another name, and if we do not pass this measure we shall, to my mind, be sanctioning persons living in adultery under circumstances which will be very sad indeed, and which are due to no fault of their own. We should endeavour in every way to remedy the existing state of things by looking at the matter in a broad light, and leaving the religious grounds out of the question, because I do not see what this House has to do with religious grounds. If we take the religious grounds, we are bound, I repeat, to go a step further and do away with divorce laws altogether. I hope members will now pass the second reading of the Bill. Let us go into Committee and hear the opinions and objections of hon. members to the other two sub-clauses, because I am certain they are all in favour of the first sub-clause of the Bill; and even if we pass that it will be a step in the right direction. I trust that they will not now throw out the second reading and jeopardise the whole measure

by doing so, but will rather consent to the Bill going into Committee, and place on the statute book a law which, at any rate, will make the wife equal to the husband.

HON. F. T. CROWDER (South-West): I have much pleasure in seconding the motion. My views in regard to the laws of divorce are too well known in the Council, I think, for me to weary members by reiterating them this evening. I intend to vote for the second reading, and when the Bill reaches the Committee stage, as I am sure it will, I shall be prepared to debate the clauses as they come on. I accept the Bill as the best we can possibly get at the present time. When the Bill was before the House on a previous occasion I was in favour of it in all its clauses, but seeing it is impossible at the present time to carry that Bill with the whole of the clauses in, I am prepared to support this Bill as a compromise.

HON. J. W. HACKETT: I move the adjournment of the debate until to-morrow.

Motion put and passed, and the debate adjourned.

#### TRUCK BILL.

##### IN COMMITTEE.

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

Clauses 1 to 11—agreed to.

Clause 12: Penalty on agent of employer:

HON. A. P. MATHESON: In Sub-clause 1, it had evidently been necessary to provide expressly that the agent employed by the principal should be liable to the same penalty as if he were the employer. That was absolutely logical, and met with his approval; but, according to the opinion of certain legal gentlemen in the House, such a provision was absolutely unnecessary, for when dealing with the Customs Consolidation Bill, he had called attention to the fact that, under a certain clause, the principal was liable to a certain penalty, and there was an omission to provide that the agent should also be liable. He was then informed that it was unnecessary to have such a clause inserted.

HON. R. S. HAYNES: When the Customs Consolidation Bill was before

hon. members, he thought that Mr. Matheson's desire was to make the master liable for the act of the agent, and he (Mr. Haynes) then pointed out that the master was always liable for the act of the agent, as, for instance, under the licensing law, if the act done was in the scope of employment of the agent. The clause now before the Committee was drawn in order to meet such a defence as that the servant delivered goods without the knowledge of the master, and that the delivery of the goods was not within the scope of the employment of the servant.

THE COLONIAL SECRETARY: The employer had a right to expect protection from the acts of his servant or agent.

Clause put and passed.

Clause 13—agreed to.

Clause 14: Provision as to second and third offences:

THE COLONIAL SECRETARY: By some mistake, words had been copied from the New Zealand Act, but which words did not appear in the English Act. He moved that in line 4, the words "the conviction of" be struck out, and "the commission by" inserted in lieu thereof; that in line 5 "for" be struck out and "of" inserted in lieu thereof; and that consequential amendments be made in the sub-clause.

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

Clauses 15 to 20, inclusive—agreed to.

Preamble and title—agreed to.

Bill reported with amendments, and the report adopted.

#### PERMANENT RESERVES BILL.

##### IN COMMITTEE.

Clause 1—agreed to.

THE COLONIAL SECRETARY moved that progress be reported, he having promised certain hon. members that the Bill should not be considered in Committee that night.

Motion put and passed.

Progress reported, and leave given to sit again.

#### BILLS OF SALE AMENDMENT BILL.

##### DISCHARGE OF ORDER.

HON. R. S. HAYNES moved that the Order for consideration in Committee be discharged, in consequence of a similar

measure having come up from the other Chamber.

Motion put and passed, and the order discharged.

#### INSECT PESTS AMENDMENT BILL.

##### SECOND READING.

THE COLONIAL SECRETARY, in moving the second reading, said: This is a short Bill for the purpose of altering the title of the present "Secretary for Agriculture" to "Secretary to the Department of Agriculture." This is necessary in consequence of the change recently made in the department, which was previously only a *quasi* Government institution. It is now a Government department under the Commissioner of Crown Lands, and it is necessary that this Bill should be introduced. The Bill also extends the power to the Governor to appoint "any such other officer" as he may think fit.

Question put and passed.

Bill read a second time.

##### IN COMMITTEE.

Passed through Committee without debate, reported without amendment, and report adopted.

##### ADJOURNMENT.

The House adjourned at 8.45 p.m. until the next day.

## Legislative Assembly,

Tuesday, 12th September, 1899.

Papers presented—Question: Loans to Improve Suburban Blocks—Question: Purchase of Material through Agent General—Question: Railway Free Passes for Fire Brigades—Joint Committee, Commonwealth Bill, Extension of Time—Constitution Acts Amendment Bill, in Committee, Clauses 5 to 18, progress; Divisions (5)—Adjournment.

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

PRAYERS.

#### PAPERS PRESENTED.

By the PREMIER: 1, Correspondence as to delay of vessels at Fremantle harbour; 2, Drawback Regulations under Customs Consolidation Act.

Ordered to lie on the table.

#### QUESTION—LOANS TO IMPROVE SUBURBAN BLOCKS.

MR. WILSON asked the Commissioner of Crown Lands: 1, Whether loans were granted for the purposes of improvement to holders of suburban blocks; 2, If not, why not.

THE COMMISSIONER OF CROWN LANDS replied: Yes.

#### QUESTION—PURCHASE OF MATERIAL THROUGH AGENT GENERAL.

MR. WILSON asked the Premier: Whether all goods purchased outside the colonies, on behalf of the Government, were ordered through the Agent General's office in London.

THE PREMIER replied that they were, with but very few small exceptions.

#### QUESTION—RAILWAY FREE PASSES FOR FIRE BRIGADES.

MR. HIGHAM, in accordance with notice, asked the Premier: Whether he intended to place on the Estimates a sufficient sum to defray the railway fares of the various fire brigades taking part in the annual competitions.

THE PREMIER replied: The Government does not consider it necessary to do so. The matter is governed by regulation, by which tickets at single fare for the double journey are allowed to clergymen and accredited delegates to conferences, etc., when the distance to be travelled is not less than 25 miles, on production of the certificate of the secretary of such conference. The concessions are only allowed when not less than six delegates are travelling to any conference. Any accredited delegate is allowed a ticket for his wife, if accompanying him, at the reduced rate.

#### JOINT COMMITTEE, COMMONWEALTH BILL—EXTENSION OF TIME.

THE PREMIER (Right Hon. Sir John Forrest) moved that the time for bringing up the report of the Joint Select Committee, appointed to inquire