changing of the court. At the present time the Act provides that a man may bring a defendant either to the court where he resides, or to the court where he resided during the last six months, or to the court nearest the place where the action wholly or in part arose. But the plaintiff has no choice of court other than those mentioned. The Bill provides that the plaintiff may take his court anywhere. Suppose a man has a creditor at Northam; he may bring his case in the Northam local court, and serve upon the defendant wherever he may live. Unless the defendant objects, the plaintiff can obtain his judgment in the court of Northam. The advantage is this: In 90 out of every 100 cases no defence is entered, and so far as justice is concerned it does not matter in what court the judgment is obtained, so that suing in the court at Northam would facilitate and cheapen matters, and in the event of no defence the judgment obtained there would be just as good as if obtained anywhere else. But we do not forget the defendant. If he objects to the court he can file an affidavit and say, "I want this case tried nearest to where I reside, or nearest to where the action arose." Automatically, as it were, the clerk of the court transmits the papers to that other court, and the court selected by the defendant is the court of trial, giving leave, of course, under circumstances where special matter is concerned, to either party to appeal to a judge in chambers for an alteration in the court. For instance, if a creditor living in Northam desires to sue in the court at Northam, but the defendant does not desire to go there, urging an objection to having it tried where the plaintiff lives, on the score of prejudice or other difficulties, then the matter can be taken to a judge in chambers, just as can be done now. Those are the main features of the Bill, the cheapening of process all the way through and the allowing of judgment to be taken by default in the same way as in the Supreme Court. There are no complications about the measure, and I think I need not explain it any farther at this stage. Whatever matters require further explanation I will deal with them as we come to them clause by clause. I move—

That the Bill be now read a second time.

On motion by Mr. Mitchell, debate adjourned.

House adjourned at 4.42 p.m.

Legislative Assembly,

Thursday, 16th November, 1911.

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

SWEARING-IN.

Mr. F. Gill (Leederville) took the oath and subscribed to the roll.

QUESTION—DOG POISONING, PINGELLY.

Mr. TAYLOR (for Mr. Lander) asked the Premier: 1, Has his attention been drawn to the wholesale poisoning of dogs at Pingelly? 2, Will he take action to have those guilty of such actions brought to justice, if possible?

The PREMIER replied: 1, No; but several complaints have been received respecting individual cases of dog poisoning. 2, The utmost vigilance will continue to be exercised by the police in the Pingelly district in regard to the complaint.

QUESTION—POLICE FORCE SALARIES.

Mr. TAYLOR (for Mr. Lander) asked the Premier: 1, How many men are there in the police force being paid at the rate of 6s. 6d. per day? 2, What is the longest period a man has been kept upon that rate?

The PREMIER replied: 1, None whose total remuneration is 6s. 6d. per day; but five who, in addition to the actual pay of 6s. 6d. per day (seven days per week) —which is the rate paid to recruits under tuition, whilst qualifying for the police force—are provided with free lodgings in barracks, and who also have the services of a cook. The period of service at this rate is limited to six months. 2, Six months (since the adoption of the new scale of pay which came into operation on 1st July, 1910).

Mr. PRICE: Following up the hon. member's question I should like to ask the Premier if quarters are provided free? I understand that a charge is made.

The PREMIER: The answer distinctly states that they are provided with free lodgings in barracks, and that they have the services of a cook.

QUESTION—MIDLAND JUNCTION WORKSHOPS, WAGES.

Mr. TAYLOR (for Mr. Lander) asked the Minister for Railways: 1, Are there any men employed in the Midland Junction workshops receiving less than 8s. per day? 2, If there are, what are they engaged at?

The MINISTER FOR RAILWAYS replied: 1, No. 2, Answered by No. 1.

CHAIRMEN OF COMMITTEES—TEMPORARY.

Mr. SPEAKER announced that he had nominated Mr. Male (Kimberley), Mr. McDowall (Coolgardie), and Mr. Price (Albany), as temporary Chairmen of Committees.

BILL—DWELLINGUP STATE HOTEL.

Introduced by the Premier and read a first time.

BILL—HEALTH ACT AMENDMENT.

Second Reading.

Hon. W. C. ANGWIN (Honorary Minister), in moving the second reading, said: I wish to point out that the principle of this Bill is really to carry out what Parliament previously decided. It will be remembered that during the last session Parliament on two occasions decided by a majority vote that the local authorities should not be held responsible, without their consent, for providing hospital accommodation for those suffering from infectious diseases. Unfortunately, this action of Parliament did not coincide with the wishes of the Minister then controlling the Health Department, and seeing that under our present system of Government it is almost impossible to do anything whereby we might remove a Minister without condemning the whole Government, it is necessary to take action to prevent any Minister administering this Health Act in years to come acting in the same high-handed manner in setting aside the wishes of Parliament. The Assembly adopted on two occasions the deletion of certain words in the Health Bill, but, unfortunately, through some misunderstanding these words were retained in the Bill when it was sent to another place, and in another place other words that had been struck out of the Bill in the Assembly were again introduced and added to the words that appeared in the Bill in error, and therefore could not properly be dealt with by the members of another place. The result was when the Act became law and was printed it contained words the Assembly had not agreed to, words that the Assembly had deleted from the Bill when it was under consideration. That being the case it was thought the Government would take no steps to enforce a provision in an Act of Parliament that both Houses had not agreed to, but we found it different. Several local bodies were called on to provide and maintain hospitals for infectious cases contrary to the wishes of Parliament though the words still appeared in the Health Act. Not only this but

though both Houses had refused to insert certain words, some of the local authorities were called upon to construct hospitals for infectious cases for the express purpose, so I have been informed, of testing whether by law the Minister had power or not to enforce a provision in an Act, which provision Parliament had never agreed to. Therefore I think it is necessary that we should ask this Parliament, not to pass anything new, not to put anything new in the Health Act, but to agree to the provision the last Parliament agreed to. It is true—and it might be used in the debate on this Bill—the Minister did not use the words of the section in which the words struck out by the Assembly were included, but he used Section 203 which gives the Commissioner of Public Health the same powers in dealing with infectious cases as every local authority in the State. It was under the provisions of these powers or by-laws which the Commissioner could make that the Government, no doubt acting on the solicitor's advice, considered they had power to enforce a section with which Parliament had disagreed. Members will notice that by this Bill nothing contained in Section 203 of the Health Act, whereby the Commissioner has power to make by-laws, shall affect any provisions of this section from which the Commissioner's power had been removed. If hon. members will agree to that it will make the position clear as far as infectious cases are concerned with every local board of health. I might say it came as a surprise to me, knowing the decision of hon. members on this question, that the City of Perth should have been called upon to construct a hospital seeing we have already hospitals in Perth sufficient to carry out the duties required of them. There are one or two other amendments in the Bill it is proposed to make to render the position more clear with regard to registering nurses in midwifery cases. It is now impossible to register any nurse as a midwife unless she has been 12 months as a midwife or probationer prior to getting a certificate. The Bill provides that any nurse who has served three years in some recognised hospital as a general nurse can present herself for examination after she has been a probationer for six months in a midwifery class. The Bill also provides that the registration board may have greater discretion in regard to registering any nurses who hold certificates of midwifery from any other portion of the British Empire. Those are the principal things this Bill proposes to amend. Seeing they are purely machinery clauses, I feel confident members will agree to the second reading. I have much pleasure in moving—

That the Bill be now read a second time.

Mr. ALLEN (West Perth): I rise with considerable pleasure to support the Bill. I congratulate the Honorary Minister on having introduced this amendment. Local governing bodies have always felt the Act as it stood was a hardship and unfair to them. It was not until the hon. member called their attention to the fact that the provision referred to was not the intention of Parliament that they became aware that power did not rest in the hands of the Commissioner to compel them to provide hospitals for these infectious cases. Therefore the Bill will be welcomed by local governing bodies. I would like, however, to point out one phase of the case, that is the question of making up the revenue in which the hospitals will be deficient, and which, of course, the Government will have to provide, because I believe the hospitals have collected several thousands from the local governing bodies from this particular source.

Mr. MITCHELL (Northam): I have no objection to the Bill, but I think it would be well for the Minister to postpone the Committee stage until the next sitting of the House. Bills should not go through all their stages at one sitting. Members require time to consider the provisions of even a small amending Bill like this. As the member for West Perth has said, money will have to be provided, and the Minister has not said a word on that point.

Hon. W. C. Angwin (Honorary Minister): It is merely carrying out the wishes of Parliament.

Mr. TAYLOR (Mount Margaret): I desire to move the adjournment of the debate if the Honorary Minister will allow it, and I do not wish to give my reasons. I move—

That the debate be adjourned.

Motion passed; the debate adjourned.

BILL—CRIMINAL CODE AMENDMENT.

Second Reading.

Debate resumed from the previous day.

Mr. MITCHELL (Northam): The Opposition, of course, approve of this Bill because, as a matter of fact, it is prepared on the lines of a Bill drafted by the late Attorney General (Mr. Nanson). I think it is a measure that will find approval throughout the country. I congratulate the Minister for Justice on the way in which he introduced this, his first Bill in the House. It makes very necessary provision for dealing with habitual criminals. I entirely approve of the idea of making these men work. They should be compelled to work. I do not see why the ordinary taxpayer should provide for the upkeep of these men, and I hope that the work they do will cover the cost of their food and the upkeep of the prison also. The Minister said he proposes to have outside work done. Work in the open will do much good for these people, and there is much work to be done in this country. Clearing roads and preparing water supplies and work of that character could be undertaken. I have no objection to these men being taken into these occupations, but I know members on the Government side do not wish them to come into competition with ordinary work. However, there is plenty to do in this country without bringing them into competition with other people. It is intended to appoint committees to assist the Comptroller. The Minister did not make it quite clear just what authority a committee would have. This is a new departure for this State, and I daresay it is a very good proposition. I believe it will work well, particularly if a committee is appointed from people resident within a reasonable distance of where these men are confined. Another provision requiring consideration is that dealing with the question of remunerating the prisoner for the work he does. The Governor may prescribe the remuneration or allowance to be paid or granted for the work of habitual criminals. I hope the Minister will tell us that he will keep back the cost of keeping these men before paying them anything. It is perfectly obvious to everyone that it is impossible to say by regulation just what is possible to be paid to each individual. Some will work better than others, and each should be rewarded just to the extent of the value of his work. It might be possible to use the committees to assess the value of the work done. I understand these habitual criminals will be placed in prisons that will be established in various parts of the country. The Minister did not say what would be the cost of these prisons, but I take it it will not be very great. If these men are to be paid they should not be paid more than the value of the work each individual does, and each individual is entitled only to what he earns less the amount necessary to cover the upkeep of the prison and his food. I hope when we come to Clause 12 the Minister will tell us in Committee what he intends to do in connection with the fixing of the rate of pay he proposes the prisoners to have the right to. The Bill is almost identical with that prepared by the late Attorney General, and we, of course, do not wish to offer the slightest opposition to it. In fact, we entirely approve of the measure and I congratulate the Minister on having brought it down this session.

Mr. DWYER (Perth): I also wish to congratulate the Minister for Justice on having introduced this measure. I desire, however, to draw the attention of the House to the fact that last session there was passed an amendment of the Criminal Code, which renders it obligatory on the part of the judge to impose a sentence of whipping in certain cases. It seems to me

first of all that it is rather an extraordinarily harsh proceeding in these days of advanced civilisation, and secondly, it seems very hard on the judge to be obliged, whether he thinks the punishment merited or not, to impose a sentence of whipping, and finally in regard to habitual criminals, more particularly with regard to those dealing with sexual offences, ample provision is made in the Bill before the House for dealing with those cases. I think therefore that the law passed last session might very well be modified or repealed. I brought forward this suggestion so that it might be considered by members when the Bill is in Committee. With regard to the clauses dealing with the Court of Criminal Appeal, I think nothing but satisfaction will be experienced on all sides. I will read an extract from a speech made by Lord Loreburn, the Lord Chancellor, in 1906, when moving the second reading of the Criminal Appeal Bill in England. He said, and the same thing applies to us at the present time—

> In civil cases the facilities for appeal were enormous; in fact he thought it open to question whether there were not too many facilities. It might well be that some restriction would be advisable, but no one ever thought of proposing that there should be no appeal at all. In the Criminal Courts however the law was almost exactly the reverse. . . . . To put an extreme case, a man might be tried for his life and have no appeal, while over a question of £100, on the interlocutory proceedings alone the case might be carried to the House of Lords. Surely such a state of things was an absurdity.

I think the Minister is to be congratulated on putting an end so far as Western Australia is concerned to this state of things, which Lord Loreburn described, and rightly so, as an absurdity, because after all a man's liberty is ever so much dearer to him than his personal possessions. We know well all human institutions are imperfect and judges and juries in criminal cases are open to the same charge, if I may so term it, of imperfection, as in all other walks of life. Therefore, anything which will tend to prevent the miscarriage of justice, anything which has for its object the perfection of any institution—and trial by a jury is an institution of which we are all proud—is a measure to be endorsed by all. There may be, of course, this objection and it seems to be the only objection, that at the present time the juries know that they are the final arbiters of all facts, and knowing that they frequently give an accused person the benefit of any doubt there may be. Now under the provisions of the Bill, they may perhaps say, "Well, after all, there is the right of appeal from us, not only on points of law which the judge laid down, but also on the facts, and it may not be necessary for us to give the accused person the benefit of this doubt any longer, since he has the right to appeal." That I think is the only objection which can be taken, but, considering the preponderating balance in its favour on the other side, I think the Bill will serve to place our criminal law upon a very necessary superstructure that has been lacking up to the present time. I notice that there is a provision in the Bill which does not appear in the parent Act carried in England; I refer to the right of the Crown to appeal in certain cases.

Mr. Nanson: Which clause are you referring to?

Mr. SPEAKER: The hon. member cannot refer to the clauses.

The Minister for Justice: The hon. member may refer to them but not discuss them.

Mr. DWYER: On page seven of the Bill the proposed new Section 668, Subsection 2—

Mr. SPEAKER: The hon. member must not discuss the new sections.

Mr. DWYER: I think it is a very good provision to prevent the occurrence of acquittals on purely technical grounds and nothing more, and therefore I think a provision of this nature is very wise. I have great pleasure in giving the Bill my whole hearted supoprt, and I again congratulate those who have been the authors of it on introducing it to the House.

Question put and passed.

Bill read a second time.

In Committee.

Mr. McDowall in the Chair, the Minister for Justice in charge of the Bill.

Clauses 1 to 8—agreed to.

Clause 9—Insertion of new sections:

Mr. MITCHELL: Would the Minister for Justice inform members what powers it was proposed to confer upon the committees?

The MINISTER FOR JUSTICE: The committees would meet in localities whereever these places of confinement—not necessarily gaols in the usual sense of the word—were situated.

Mr. Mitchell: Visiting justices?

The MINISTER FOR JUSTICE: Not necessarily. They might be committees of respectable persons residing in those localities who were known to be capable of exercising a degree of intelligence, and exhibit some humanity. It would be an honour to be appointed to a committee of that kind. These committees would be appointed by the Governor, in the manner of the appointment of Justices of the Peace, and they would visit the prisoners at least once in six months, and oftener if necessary, and cases might be referred to the Minister or the Governor for report.

Mr. Mitchell: They would have nothing to do with discipline?

The MINISTER FOR JUSTICE: The discipline of the prison would be governed by regulation. It was definitely provided that wherever these prisoners were placed they would come within the Prisons Act, under the control of the Comptroller General of Prisons, therefore the management would be entirely in the hands of the Prison Department. The committees would be simply collateral safeguards, if the term could be used.

Clause put and passed.

Clauses 10, 11—agreed to.

Clause 12—Addition to new section:

Mr. MITCHELL: The clause gave power to prescribe the remuneration or allowance to be paid for the work of habitual criminals. Would the Minister tell the Committee if power were provided for making regulations to fix the value of the work done, and whether anything would be deducted for expenses.

The MINISTER FOR JUSTICE: The regulations would prescribe the kind of work to be performed by these criminals, and the amount that was to be paid for each particular kind of work. The pay would vary according to the class of work to be done. It might be taken for granted that the rate of pay would not bring the work into competition with the same class of work performed by free citizens outside the gaol. The object of paying these people was to assist in their reformation; to give them a chance of learning to be industrious, and to teach them that toil had its value. The rate of pay would be regulated according to the character of the work performed. As for possible deductions from the pay to meet expenses of supervision, the maintenance of the prisoners, and other items of expenditure, there was no intention of depriving the Government of recouperation for work performed. He desired to specially emphasise the fact that there would be complete control exercised over these men, and individual cases would be taken into consideration, provision having been made for when necessary paying the allowance to the wife or children, or others dependent on a criminal.

Mr. TAYLOR: Would the regulations to be drawn up under the clause be looked upon in the same light as prison regulations were to-day? Would the Minister tell the Committee whether it was intended to provide that in the case of a breach of discipline by a prisoner who had already earned a certain amount of pay, that prisoner might be fined a portion of his already earned money, possibly the whole of it, or even more than he had actually earned, which would have the effect of putting him on the debit side. In various prisons in Australia a prisoner sentenced to a term of two years could, under the regulations, be made to spend the rest of his life there, and, at the end of it, be heavily in debt to the State. If it was the intention of the Government to make regulations of that character he would oppose it. If he thought the clause would give that power,

and that the intention was already in the breast of the Minister to avail himself of that power, he (Mr. Taylor) would oppose the clause, for the effect would be to put a prisoner in a position which, seeing the extent to which a prisoner was under the control of the warders, should not be contemplated for a moment. A prisoner committing a serious crime within the walls of a gaol should be taken out and tried in the open court, and not in prison, not in a star-chamber, where a magistrate, accepting the word of a warder as of more weight than the oaths of a thousand prisoners, might fine the prisoner an amount to pay which would keep him laboriously engaged in the prison for the succeeding five or ten years.

The MINISTER FOR JUSTICE: While the clause provided that the Governor might make regulations prescribing the treatment for prisoners undergoing preventive treatment, it was distinctly stated that such treatment should be less rigorous than that of ordinary criminal prisoners. Provision was made also that the regulations so framed should be published in the *Government Gazette*, and laid before both Houses of Parliament. So far as he was concerned, his object in furthering the Bill was to treat humanely the prisoners designated as habitual criminals. If he thought the Bill would do anything like what had been suggested by Mr. Taylor he would ask that the measure be proceeded with no further.

Clause put and passed.

Title—agreed to.

Bill reported without amendment, and the report adopted.

BILL—LOCAL COURTS ACT AMENDMENT.

Second Reading.

Debate resumed from the previous day.

Mr. MITCHELL (Northam): This Bill also is one that was prepared by the late Attorney General.

The Minister for Justice: No.

Mr. MITCHELL: I think it is almost identical with the Bill left by the late Attorney General, and it seems to me, having read it, a very good measure indeed and should be allowed to pass.

The Premier: You used to keep a lot of good Bills in your lockers.

Mr. MITCHELL: If they had been locked up the Government would not have got them. However, I think the Government have done well in following the late Attorney General in this matter. This is a measure that might well be dealt with by the legal members of the House, and I hope my legal friend who sits behind the Minister for Justice will have something to say on it. In Committee I will ask the Minister in charge to explain the working of Clause 5, but otherwise I have very much pleasure indeed in supporting the measure.

Mr. DWYER (Perth): In regard to this Bill also the Minister for Justice is to be complimented on his efforts towards securing a much needed amendment in our law. Ever since the passing of the Local Courts Act of 1904, business people throughout the whole of the State have been complaining of the great trouble, inconvenience, and expense to which they are put in instituting litigation in this court. Indeed, the complaints have been from both sides, both from the plaintiffs and the defendants in the actions, but bad as the Local Courts Act of 1904 is in its cumbersome procedure, it is nothing at all compared with the regulations which have been framed under it, and I would ask for a pronouncement by the Minister for Justice that he intends at the earliest possible date to have the old regulations rescinded and new ones framed in their stead which will be workable and convenient to the general public, because there is no Act which is made more use of by the people than this Local Courts Act. The regulations seem to have been framed to make confusion worse confounded, to heap Pelion on Ossa, to show the people how expensive their law can be and what trouble they can be put to before they get a verdict, and even after they get a verdict, how difficult it is to get the fruits of it. These regulations I hope will go, and the sooner the better. In the Bill an honest attempt has been

made to better the conditions under which litigants find themselves at the present time, but in some respects the measure does not go far enough. Section 12 of the old Act reads:

> In the case of the illness or absence of a magistrate, or if a magistrate is interested in an action or matter pending in a court assigned to him, another magistrate, or any police or resident magistrate, or any two justices of the peace may, at the request of the first mentioned magistrate, or of the Minister, sit for the first mentioned magistrate, and may exercise all the powers and perform all the duties which that magistrate might have exercised or performed.

In other words, before jurisdiction in this court may be exercised by another magistrate or justices, it is necessary for the magistrate before whom the court is assigned to be ill or unavoidably absent. When it is considered that these local courts deal with claims of all values from shillings up to £100, the procedure is altogether too cumbersome, and I intend to move in Committee an amendment to the effect that where the claim does not exceed £10, the magistrate to whom the court is assigned may in any event appoint any two justices of the peace having jurisdiction in that court to hear and determine the matters at issue. By this means, petty amounts of from £1 to £10 may be adjudicated upon by these magistrates without waiting for the periodical advent of the magistrate to whom the court is assigned, who very frequently, especially in country places, does not attend the courts more than once a month. This will also prevent the congestion which frequently happens in the Perth Local Court. The magistrate there is often deluged with work which he, being neither ill nor unavoidably absent, cannot assign to anyone else. He must take the cases himself, with the result that litigants and witnesses are kept waiting, the whole machinery of the court is thrown out of gear, and everybody is in a state of vexation, merely because petty matters cannot be dealt with, as they ought to be, by justices of the peace. Furthermore, there appears to be an entirely new departure. Up to the present time it has been customary, except in the case of a default summons, to issue an ordinary summons, and to have appointed in the ordinary summons what was termed a return day. In the present bill the procedure is adopted which pertains to default summonses. By a certain time the defendant has to notify his intention to defend, or judgment goes by default, but in the event of his notifying his intention to defend some arrangement will have to be made, by regulation or otherwise, whereby a day will be appointed for the hearing of the case, and the system which now obtains of having a special return day, will have to be made to meet the requirements of the amended Act, or abolished and something better put in its place. There is some misgiving in my mind in regard to the clause dealing with the jurisdiction of the court as to locality. Under the present Act, the plaintiff may take his action to any of the following courts :—Firstly, in the court held nearest the place where the defendant resides or carries on business ; secondly, by leave of the magistrate or clerk, in the court nearest the place where the defendant resided or carried on business within six months before the action ; or, thirdly, in the court held nearest the place where the cause of action arose. As regards the first, there is obviously no exception whatever to be taken, because the defendant in 99 cases out of 100, would prefer the action to be taken there, but as regards the other two, in the past, though it was prescribed in the Act that the leave of the magistrate or clerk should be obtained, this leave was granted as a matter of course, and so far as I know no trouble was anticipated. However, it is now the intention of the Government to amend that section by allowing the plaintiff to begin his action in any court, subject, however, to this restriction, that if it is not held in the court nearest the residence or place of business of the defendant, then he (the defendant) can take exception to it. I think it would be well to enlarge that provision in the Bill so as to make it read that the case

is to be heard either in the court which is nearest his residence or place of business, or nearest to the place where he resided or carried on business within six months, or where the cause of action arose. Because it seems a very strange anomaly that while two sub-sections of the old Act are left practically in the same state, and the plaintiff will be compelled by affidavit to prove his rights to take the defendant there, yet in the other case he is not so compelled, and if the Act is meant for the convenience of litigants, I should think restrictions as to place might well be removed except when the defendant objects. If he objects and notifies his objection, then his objection should carry weight, and if the case comes under any of these three sub-sections of Section 36 of the old Act, then the plaintiff should as a right, without leave or permission of the magistrate or defendant, have his choice of these three courts, namely, that held nearest to the place where the defendant resides or carries on business, that held nearest to the place where the defendant resided or carried on business within six months before the summons was issued, or the court held nearest to the place where the cause of action arose. In each of these three cases, if the action is started in the court to which they apply, the plaintiff should be perfectly within his rights in bringing on the action, but if it is outside these three, then the defendant has a right to object and be heard. On the whole this Bill is a very honest and successful attempt to amend and improve an Act which has worked out very awkwardly and troublesomely in practice, and I hope that the Minister will consent to the few amendments I have outlined and make it a little more workable ; furthermore, that he will let us know that he intends in a short space of time to have all these regulations amended and new ones substituted, because the fault lay more with the regulations than with the Act, and that when he is doing this he will also attempt to cheapen the process. In many instances where the amount is much less than might be sued for in the Supreme Court the plaintiff has to pay much larger fees than he would have to in the Supreme Court. There is an entirely anomalous position, for which there is no justification.

The MINISTER FOR JUSTICE (in reply): I do not wish to take up the time of the House. We shall have to discuss the matters referred to by the hon. member when we come to the clauses in which his suggested amendments might be introduced. The Bill is by no means a perfect Local Courts Bill, neither does it remove all the anomalies that exist in the old Act. It purposes to facilitate actions in the local court, and to simplify the procedure. It is purely a Bill relating to procedure. It is my intention, if I am spared to hold this position, to consider the whole of the local courts legislation, and also to deal with the magistracy and the whole system of justices of the peace, etcetera, in a comprehensive style. I do not desire to promise too much, but certainly the embryo, as it were, is forming for such an undertaking as that. It is a great work; it is immediate work. Altogether we are too archaic in the law governing our local courts. Simplification is necessary in more directions than that pointed out by the Bill under discussion, but we cannot do everything at once. This session is too short. I could not undertake a great measure now; there is only time to do that which is necessary, and this is a necessary matter. We cannot reach a comprehensive measure for several months to come, and a comprehensive measure will require lengthy debate. It would involve many principles in which members would want a good deal to say, so we can only deal with a measure of that kind when we have time before us. Hence this is only to take a step, an important step I admit, in the right direction. In the further legislation no doubt all the anomalies referred to by the member for Perth will be dealt with, and a lot of the old cobwebs will have to be swept away.

Question put and passed.

Bill read a second time.

In Committee.

Mr. McDowall in the Chair; the Minister for Justice in charge of the Bill.

Clauses 1 to 4—agreed to.

Clause 5—Insertion of new section after Section 36; plaintiff to be permitted to choose court, etcetera:

Mr. DWYER moved an amendment—

That after "residence" in line 2 of Subsection 3 of the proposed new Section 36a the following words be inserted:—"or where he resided or carried on business at any time within six months next before the entry of the plaint, or where the cause of action wholly or in part arose."

The object of the amendment was to give the plaintiff the power he now had of choosing the court, except that he would no longer need to get the leave of the magistrate, and it would further give him the right of choosing either of three places without the defendant objecting. The defendant could only object if the court was outside either of these three places. By the amendment the defendant would be unable to take exception to the choice by the plaintiff of the following courts:—the nearest place to the residence of the defendant, where the defendant had resided or carried on business for six months previously, or where the cause of action, or any part, arose. Outside those three places the defendant could object to the choice by the plaintiff, and the plaintiff would have to give reasons before the magistrate.

The MINISTER FOR JUSTICE: The amendment was scarcely needed. The object of the addition to Section 36 of the Act was in some instances to take it out of the power of the plaintiff to choose his own court. In the old Act the plaintiff had the power to choose his own court; and provided the court chosen was the nearest place to where the plaintiff or defendant resided, or where the defendant carried on business for six months previously, or where the cause of action, or any part of it, arose, the defendant had no say, except where there was any very specific reason warranting a magistrate to alter the place of trial. The Bill now proposed that the defendant should also have a choice of court because the plaintiff was given a wider choice of courts. The plaintiff could now start an action in any court in the State. In 99 cases out of a hundred the debtor never intended to pay, in which circumstances it did not matter where judgment was obtained; but it might happen the defendant had a good defence, that there were elements in the action which ought to go to trial, therefore the Bill gave the defendant the means of protesting against the trial taking place at any court chosen by the plaintiff, and was given the right to say where he resided, and to require the action to be transferred to the court nearest to that place. The hon. member's amendment was to go further than this, and was that because the cause of the action, or part of it, arose at some distant locality, the defendant could require the case to be tried at that locality. There was objection to that. A defendant residing in Perth might be sued by a plaintiff residing in Kellerberrin, and if the defendant required the action to be tried at Geraldton, where the cause of action might have arisen, there would be great delay and increase of expense, which might cause the plaintiff to prefer to drop the action. It was justice that a defendant should have the trial where he could defend himself, and where he could get to the court with the least trouble and inconvenience, and the Bill gave him that power.

Mr. Dwyer: You are giving him too much; more than he has now.

The MINISTER FOR JUSTICE: At the same time the Bill gave more power to the plaintiff by enlarging the choice of courts where action could be started. The plaintiff having taken a court outside those courts that were called proper courts, provision must be made for the defendant. If the plaintiff chose one of the proper courts then the defendant had no say. What was a proper court? According to the principal Act a proper court was (a) the court held nearest to the place where the defendant, or one of the defendants, resides or carries on business, (b) the court held nearest to the place where the defendant, or one of the defendants, resided or carried on business at any time within six months next before the entry of the plaint, and (c) the court

held nearest to the place where the cause of action or claim, wholly or in part, arose. If it was contended that the plaintiff had not commenced his action in the proper court then it could be said, and only then, by the defendant "You must come nearer to where I live." The clause gave facilities to the plaintiff to go outside any one of those conditions and start a case where he liked, but if he did that he did it at the risk that the defendant might object and get it removed into that court nearest to which he resided. The matter did not need the amendment moved by the hon. member.

Mr. ALLEN: Would the Minister for Justice explain what would happen in a case such as this—if a man contracted a debt in Perth, and then went and lived in Kalgoorlie, could the plaintiff sue him in Perth, and if he took the objection that he was being sued in a court which was not the court nearest his residence, could he compel the plaintiff to go to Kalgoorlie?

The MINISTER FOR JUSTICE: If the plaintiff first lived in Perth and then went to Kalgoorlie he could, if he liked, sue in the local court in Kalgoorlie, but he would do so at the risk of the defendant, who still lived in Perth, objecting to go to Kalgoorlie, because that would not be the proper court.

Mr. ALLEN: The Minister had reversed the position; apparently he had not understood. The position was that if a man contracted a debt in Perth and went to live in Kalgoorlie, could the plaintiff sue him in Perth, or would he have to go to Kalgoorlie to sue him?

The MINISTER FOR JUSTICE: There were three courts which were called proper courts and one of them would be the court nearest to the place where the cause or action or claim, wholly or in part, arose, and in that court the plaintiff could sue. If the debt was developed in Perth the creditor could sue in Perth, which would be the proper court.

Amendment negatived.

Clause put and passed.

Clauses 6 to 14—agreed to.

New Clause:

Mr DWYER moved that the following be added to stand as Clause 15:—

Section 12 of the Local Courts Act, 1904, is hereby amended by striking out the second paragraph thereof, and substituting the following: In any case where the amount of the claim or the value of the subject matter in dispute does not exceed £10, the magistrate to whom the court is assigned may appoint any two justices having jurisdiction in the district in which the court is held to hear and adjudicate thereon, and the said justices may exercise all the powers and perform all the duties which that magistrate might have exercised or performed.

The object was to give a kind of summary jurisdiction in small claims. At the present time the position was—the case of a court like Pinjarrah might be quoted—that the court was held once a month and the magistrate could only go there once a month. There was a date appointed for the sitting and litigants had to wait until the magistrate arrived. If the amendment was agreed to, then when the amount did not exceed £10 the magistrate could request, or could appoint, any two of the local justices to sit and determine the matter at issue. If the amount exceeded £10 it was right that the magistrate should sit and determine the case.

The CHAIRMAN: The amendment was in a dual form.

Mr. DWYER: The Minister had now said it was quite necessary that the words proposed in the amendment to be deleted should be retained. With the permission of the Committee he would withdraw the first part of the amendment, namely, that proposing the deletion of certain words, and simply move the remainder of the amendment, to the effect that in any case where the subject matter did not exceed £10 the magistrate might appoint two justices to sit and adjudicate upon it.

Amendment amended accordingly, to read as follows:—Section 12 is hereby amended by adding the following subsection: "In any case where the amount of the claim or value of the subject matter in dispute does not exceed £10 the magis-

trate to whom the court is assigned may appoint any two magistrates having jurisdiction in which the court is held to hear and adjudicate thereon, and the said justices may exercise all the powers and perform all the duties which that magistrate might have exercised or performed."

Mr. MITCHELL: This was an important amendment, and consequently it should have appeared on the Notice Paper. Standing Order 284 specially provided for this. In the circumstances the Minister might reasonably report progress to allow of the amendment being placed upon the Notice Paper.

The MINISTER FOR JUSTICE: There were possibilities of debate on the amendment. Sometimes as many points of law were involved in a £5 cause as in others of £500, and it was not always wise to leave these matters to justices.

Mr. Dwyer: They can imprison up to six months.

The MINISTER FOR JUSTICE: It was not at all certain that they ought to have that power. As the hon. member had expressed a desire for an opportunity for further consideration of the amendment no objection would be offered to a postponement.

Progress reported.

BILL—DIVORCE AMENDMENT.

In Committee.

Mr. McDowall in the Chair; Mr. Hudson in charge of the Bill.

Clause 1—agreed to.

Clause 2—Amendment of Section 23:

Mr. DWYER: This clause went to the root of the whole Bill. Under the existing law a husband could obtain a dissolution of his marriage on proof of adultery on the part of the wife, but before the wife could get a divorce or dissolution of marriage on similar grounds it was necessary for her to show that the offence had been of an aggravated character. The object of the clause was to so cheapen our divorce laws that the wife would be placed on the same level as the husband in pleading adultery. The clause would have no other effect than that of breaking the happiness of many homes, and, therefore, he felt bound in conscience to oppose it. Certain differences in the natures and financial status of the parties to the marriage contract not only justified, but rendered necessary, the apparent inequality of the existing law. On the other hand there was no reason whatever why the law should not remain in its present form. The second portion of the clause did not seem so objectionable. It was to the effect that wilful desertion on the part of either the husband or the wife should be good ground for application for divorce. He did not know of any place except America where an attempt had been made to make divorce so cheap as it would be under the Bill. He moved—

That in Clause 2, all the words after "Act," in line one, to "bestiality," in line five, inclusive, be struck out with a view to inserting the following words in lieu: The following words are inserted after the word "upwards," in line 14.

The object of the amendment was to retain the law as it stood at present, except that in the case of desertion for three years or upwards the innocent party might take divorce proceedings.

Mr. Hudson: You object to equality as regards adultery but wish to admit equality as regards desertion.

Mr. DWYER: There was not and could not be any equality as regards adultery. It was physically impossible.

The CHAIRMAN: The amendment of the member for Perth was not clear. The mover must write out his amendment so that the Chair might know exactly what he desired to effect.

Mr. Mitchell: As the amendment is difficult to understand let progress be reported.

Mr. HUDSON: As member in charge of the Bill he was entitled to some consideration. Admittedly, notice of amendments should be given, but there was no difficulty whatever about the proposition put forward by the member for Perth. It was necessary for him to first move the deletion of certain words, but it was not necessary for him at the same

time to propose that other words be inserted. The proposition to delete certain words having been carried, he could then move that certain words be inserted. Although he was the member in charge of the Bill he had had no opportunity of making an explanation or answering the argument advanced by the member for Perth. True, the Bill involved some complicated questions, but there were not likely to be many opportunities during recess of dealing with private Bills. Probably it would be a fortnight before the measure came forward again, and then it would have to go before the Legislative Council. He had anticipated that there would be some sentimental objection in the minds of certain people to allowing the wife to present a petition for divorce on the grounds of adultery. Women should have the right on moral grounds. But there was no desire to see the Bill wrecked, and he was prepared, if hon. members would apply these to the Bill now, rather than to the technicalities of their amendments, to accept an amendment to insert after "adultery" the words of the Victorian Act, "in conjugal residence or coupled with circumstances or conduct of aggravation, or of repeated acts of adultery." If any member would move in that direction he would accept it.

Mr. Male : Put the amendment on the Notice Paper.

Mr. HUDSON : One could understand this simple amendment in a few seconds. It would meet the argument of the member for Perth who urged that there should be aggravation.

Mr. Underwood : The member for Perth is not the only member here.

Mr. HUDSON : But our opportunities for dealing with the subject during the present session were exceedingly limited. He would take the Bill as it stood rather than have it adjourned. Next session he proposed to deal with the question on a more comprehensive basis.

The Premier : Give the Committee a chance and see what they will do.

Mr. HUDSON : If I am going to have the Bill put into the waste paper basket—

The Premier: You are putting it there yourself.

Mr. HUDSON : If the Premier would give assurance that the Bill would be treated as an ordinary Order of the Day he would let it go as it stood.

The Premier: If you do not stonewall you will have the third reading on Tuesday next.

Mr. HUDSON : Taking that as an assurance from the Premier, he was content to let the Bill go as it stood.

Mr. MITCHELL : Standing Order 284 required that the amendment must go on the Notice Paper.

Hon. W. C. Angwin : Your colleagues used to violate that every day.

Mr. MITCHELL : The matter was in the hands of the Premier. If the Premier desired the Bill to be considered next Tuesday it could be placed high on the Notice Paper. It was too important a Bill to have pushed through. We should not enter on this class of legislation hastily without every member giving the matter fair consideration. Members should have the opportunity of understanding the purport of the amendment ; and the request to have it placed on the Notice Paper was perfectly reasonable. In any event, dealing with it now was contrary to the Standing Orders.

The Premier : It will be on the Notice Paper next Tuesday as business already transacted.

The CHAIRMAN : Standing Order 284 read :—

> Amendments merely of a verbal or formal nature may be made, on motion, in any part of the Bill, at any time during its progress through the House, or in Committee of the whole House.

That Standing Order had nothing to do with the ordinary amendments provided for in Standing Order 182. He ruled against the hon. member. The Committee must go on with the business.

Hon. H. B. LEFROY: It would be convenient for members to have the opportunity of considering the amendment beforehand. Years ago in this Parliament amendments of this character were never allowed to be introduced without

notice, and it was a good rule. He was sorry to hear the late Government had made lapses in this direction, and passed amendments without proper notice being given.

Mr. Underwood: Was the hon. member in order in discussing this question after there had been a ruling on it?

The CHAIRMAN: No.

Mr. TAYLOR: There having been so much confusion in connection with this clause, notwithstanding the fears of the member for Yilgarn that the Bill would have no other chance of being dealt with this session, it would be wise if progress were reported so that the amendment might be placed on the Notice Paper and members know exactly how they were dealing with it. How could members see how the words of the principal Act proposed to be inserted would apply in conjunction with this clause? Members would be voting on something they did not understand the full purport of. Notwithstanding the interjected opinion of the Premier, the amendment was the crux of the clause, and progress should be reported so that members could have the full opportunity of knowing where they stood. The confusion of members was appalling. Opportunity should be given to deal with the subject intelligently as a people's Parliament should.

Mr. UNDERWOOD: One could sympathise with those members who were confused, and with those who could not deal with the matter without a week's notice, but he felt confident to deal with it now. The question of making the laws of divorce equal on both sides had been under discussion for 20 years, and anyone who had not heard of it had not been paying much attention to divorce legislation. Certainly we should give women the same rights as men in this particular. There was a great deal of false sentiment with regard to matrimony. No doubt the ceremony most went through when committing the offence had a tendency to increase that sentiment. After all, matrimony was a fair and square agreement; at least, we should endeavour to make it one. Bernard Shaw got very near the position when he contended that man desired to have as many women as he could, and went on to say that if one man had more than one woman other men would not be able to get any. It was because of this we had come tacitly to an agreement that the women must be divided up equally; and dividing the number of women in the world by the number of men, it would be found, came out at one each. Marriage was absolutely necessary for the rearing of children. The mother had all the pains and trouble of bearing the children, and it was the duty of men to provide a living for them. If it were not for that, we would not need any marriage laws at all. A man owed a duty to his wife, the duty of loyalty, just as she owed a duty to him, and he was strongly in favour of giving her the same rights that the man possessed. The member for Perth and many others had told the Committee that the marriage laws of America were a disgrace to civilisation, yet no one, so far as he was aware, had come forward to show where there had been any deterioration in the social life of America through these divorce laws. His opinion was that an easy system of divorce improved rather than deteriorated the morals of the people. There was a great deal of misery in this world through people who were unsuited to each other, being compelled to live together the whole of their lives. If it was found that they could not get on with each other peacefully and happily, and in a manner which was essential to the proper rearing of children, it was far better that they should separate legally, and it was also better, if there were no other means, that the children should be taken care of by the State. It was not his intention to support the amendment, and he hoped the clause would be passed as it stood. If that were done he was certain that the great moral deterioration of the people which the member for Perth expected through the carrying of the clause would not come about; it would be a considerable improvement on the existing laws.

Mr. PRICE: There could not be any reason for the pleas advanced by hon. members that the consideration of the Bill, or the clause in question, should be

postponed to a future date. It embraced one simple principle, the principle of placing men and women on an equal footing with regard to the divorce laws. He was surprised that any hon member should seriously propose in this age of enlightenment and civilisation to place a woman on an altogether different plane from that occupied by a man with regard to divorce.

Mr. Dwyer: It is because of enlightenment that I propose it.

Mr. PRICE: Because of the power of the dark ages which had held them down. We were asked by the member for Perth to make it possible to allow the conditions to continue whereby a man could break every moral law and by licentious and loose living, be morally degraded, and at the same time, say to the woman, "you shall not free yourself." We said to that woman who had tied herself in all good faith to that man, "unless he thrashes you, unless he leaves you, or is cruel to you by striking you, or in some other similar way, we compel you to live with him." We should not allow her to do that. Every honest woman should have the opportunity of freeing herself from such an uncongenial companion.

Mr. Dwyer: And get another.

Mr. PRICE: Let her do that. If a man could do it, why not a woman? He could not follow the reasoning which said that a man could be guilty of all the crimes in the moral calendar, and that a woman who had tied herself to that man should not be allowed to free herself. He hoped that the member in charge of the Bill would insist upon forcing the Bill through, and if necessary divide the Committee.

Mr. B. J. STUBBS: The conscientious objection which was held by anyone to divorce laws was appreciated by him. But he could not see why we should have different laws governing one party to the marriage contract. It was an absurdity on the face of it to say that one of a party to that contract could go and commit adultery with impunity and unless he took the step that the member for Albany had pointed out, of either inflicting physical punishment upon his wife or else deserting her altogether, that he could go on inflicting mental cruelty, and other cruelty as well, and that she should have no redress. The man could go further. He could practically neglect his wife, and keep her in the home almost as a slave to prepare meals. Cases had been known where men had refused to give their wives sufficient decent clothing to enable them to make themselves presentable to the public. This kind of thing could go on, and the female partner would have no redress. This was an age when every friend of advancement should rise and assist to place women upon the same plane as men, and the present iniquitous law should be wiped out of existence.

Mr. DWYER: For the information of the member for Albany, it might be pointed out that in addition to her rights by virtue of the Divorce Act, a wife was also protected under Statute 60 Vic., No. 10, to the extent that if the husband deserted her or treated her cruelly, or did not provide reasonable maintenance for her, she could go before a court of summary jurisdiction and ask from that court for a separation and maintenance, and the custody of the children, and all the necessary costs. The only thing was that she did not get the right to marry again The wife was sufficiently well protected. He (Mr. Dwyer) based his objection on the higher scale, and he believed, rightly or wrongly, that the placing of this amendment on the statute book would have the effect of producing a moral deterioration which would cause every member who had been the means of placing it there to blush with shame for ever in the future.

Mr MALE moved—

That progress be reported.

Motion put, and a division taken with the following result:—

Ayes	.. .. ..	12
Noes	.. .. ..	18
Majority against	..	6

Ayes.	
Mr. Allen	Mr. A. E. Piesse
Mr. Broun	Mr. A. N. Piesse
Mr. Dwyer	Mr. Taylor
Mr. Lefroy	Mr. Turvey
Mr. Male	Mr. Layman
Mr. Mitchell	*(Teller).*
Mr. Moore	

Noes.

Mr. Angwin	Mr. Mullaney
Mr. Bolton	Mr. Price
Mr. Carpenter	Mr. Scaddan
Mr. Collier	Mr. S. Stubbs
Mr. Gardiner	Mr. Swan
Mr. Gill	Mr. Underwood
Mr. Hudson	Mr. Walker
Mr. Johnson	Mr. Heitmann (*Teller*).
Mr. Lewis	
Mr. McDonald	

Motion (progress) thus negatived.

Amendment put and negatived.

Clause put and passed.

Clauses 3 to 5—agreed to.

Title—agreed to.

Bill reported without amendment; and the report adopted.

House adjourned at 5.20 p.m.

Legislative Council,

Tuesday, 21st November, 1911.

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

PAPERS PRESENTED.

By the Colonial Secretary: 1, Report of Registrar of Friendly Societies and Government Actuary; 2, Regulations under the Electoral Act, 1907; 3, By-laws of the Victoria Park local board of health; 4, Gaol regulations; 5, Copies of reports of the Railway Advisory Board on certain railways.

BILLS (2)—FIRST READING.

1, Deputy Governor's Powers.

2, Veterinary.

Introduced by the Colonial Secretary.

MOTION—STANDING ORDERS, LAPSED BILLS.

Hon. W. KINGSMILL (Metropolitan): I beg to move—

That for the greater expedition of public business it is in the opinion of this House desirable that Standing Orders be adopted by this House similar to those in force in the Commonwealth Senate providing that the consideration of lapsed Bills may be resumed at the stage reached by such Bills during the preceding session.

It is almost unnecessary for me to say that I am getting rather tired of introducing this motion, this being the fourth occasion on which it has been introduced to this House, and I have no doubt it will be the fourth occasion on which the House will pass it. There is not any personal or political aggrandisement to be reached by the passing of a motion of this sort; such is not the case; but from the treatment received elsewhere one would think that members in another place had the object of nipping in the bud any political ambitions which they might think members had, in consequence of the careful apathy which has been extended in regard to this motion which will now have been before them, I have no doubt, for the fourth occasion. The only object I have, and the object which any member of either branch of the Legislature should have, is that if any member sees that the system of political government, or the system of administration can in any way be improved by his pointing out a way, then I take it the plain duty of that member is to do so as quickly as possible, and keep on doing so, as I intend to do, until some tangible result is achieved. That is the only excuse I have for bringing forward this motion again, and it is a perfectly legitimate excuse. Let me again mention that the main object of a motion such as this is to save the time and money