

THE PREMIER: The City Council have no power to dispose of public reserves.

MR. GEORGE: But the Council have disposed of reserves.

THE PREMIER: The City Council may give a lease of public lands, but cannot dispose of them for any length of time. The Government, on the other hand, can sell reserves, and, by a simple proclamation, withdraw them from public use and give a title to private purchasers. Such a state of things ought certainly not to be allowed; and if this Bill be passed, no public reserve can be diverted from its original purpose, unless by Act of Parliament. In Committee, hon. members may think it advisable to add other lands to those mentioned in the schedule, and that can easily be done.

Question put and passed.

Bill read a second time.

ADJOURNMENT.

The House adjourned at 10:38 p.m. until the next Tuesday.

Legislative Council,

Tuesday, 15th August, 1899.

Paper presented—Question: Albany Harbour (Princess Royal)—Question: York-Greenhills Railway Receipts—Dog Act Amendment Bill, in Committee, new clause, reported—Supreme Court Criminal Sittings Bill, second reading, resumed, Amendment negatived, Division (passed); in Committee, reported—Sale of Liquors Amendment Bill, first reading—Weights and Measures Bill, first reading—Truck Bill, first reading—Adjournment.

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

PRAYERS.

PAPER PRESENTED.

By the **COLONIAL SECRETARY:** Return re Midland Railway Company.

Ordered to lie on the table.

QUESTION—ALBANY HARBOUR (PRINCESS ROYAL).

HON. F. T. CROWDER asked the Colonial Secretary: 1, If the Govern-

ment are aware of orders having been issued to the Harbour Master at Albany instructing him not to take ships drawing 26½ feet and over into Princess Royal Harbour. 2, If so, why was the order issued, seeing that there is a depth of 30 feet of water at the mail steamers' anchorage?

THE COLONIAL SECRETARY replied:—No fresh orders have been given during the last twelve months. I may add that there is a misconception as to the depth of water in Princess Royal Harbour. I have ascertained from the Chief Harbour Master that 30 feet of water are not to be relied on; at most there are 27 feet of water in Princess Royal Harbour. An order has been issued by the Chief Harbour Master that vessels up to 26ft. 6in. draft only are allowed to come into the harbour at present.

HON. F. T. CROWDER: That shows the necessity for another dredge.

QUESTION—YORK-GREENHILLS RAILWAY RECEIPTS.

HON. R. S. HAYNES, without notice, asked the Colonial Secretary when the return in reference to the earnings of the York-Greenhills Railway would be ready. It would require a microscope to find the receipts.

THE COLONIAL SECRETARY said he would inquire into the matter.

DOG ACT AMENDMENT BILL.

IN COMMITTEE.

Consideration resumed from 9th August.

New Clause:

HON. F. T. CROWDER moved that the following new clause be added to the Bill:

The registering officer, on the registration of any dog, shall deliver to the person registering the dog a metal disc of a size, shape, and colour to be prescribed annually, and to be annually varied, on which shall be inscribed the date of the year and the registration number and district of the dog registered. The collar to be worn by a dog shall not be required to bear any inscription, but the disc shall be kept suspended from the collar in such a manner as to be plainly visible; otherwise the dog shall be liable to be destroyed as if unregistered; and the absence of such disc shall be *prima facie* evidence of non-registration.

The owners of cattle or sheep which were destroyed by dogs would be able to discover the owners of the dogs if it were made compulsory that discs should be attached to dogs' collars. The clause would commend itself to hon. members, especially those desirous of checking the damage done by dogs in the country.

HON. C. A. PLESSE: The doubts which he had in reference to the clause being workable had been removed since he had had an opportunity of seeing dogs, which had been brought over by settlers from South Australia, wearing the discs, which were not objectionable in appearance. The discs would be a great help in many cases, not only to find out the owner of the dog, but the disc showed at a glance that the dog was licensed.

THE COLONIAL SECRETARY: Whatever doubts existed in his mind as to the desirability of providing that dogs should wear discs had been removed by the remarks of Mr. Plesse. He (the Colonial Secretary) had an idea that the discs might be torn off by dogs clambering through fences and about the bush. He had thought of suggesting to Mr. Crowder the necessity of withdrawing the proposed new clause, and allowing the Bill to pass as it stood, then Mr. Crowder could subsequently bring in a Bill to provide that town dogs should wear discs. However he would not make that suggestion now. Although the Council affirmed this principle last session, it was possible that the insertion of this new clause would lead to the throwing out of the Bill in another place. There was a strong feeling in another place against this provision, especially among leading members who were acquainted with the subject. He did not know that members should be guided by that. Many evils would be removed if we insisted on dogs wearing discs, as the ownership of a dog would be readily ascertained in this way.

New clause put and passed.

Preamble and title—agreed to.

Bill reported with amendments, and report adopted.

SUPREME COURT CRIMINAL SITTINGS BILL.

SECOND READING.

Debate resumed on the motion of the Colonial Secretary for the second read-

ing, and on the amendment by the Hon. F. M. Stone to substitute "this day six months" for "now."

HON. R. S. HAYNES (Central): This Bill proposes there shall be monthly sittings of the Supreme Court for the trial of prisoners, and no doubt the member of the Government who introduced it was actuated by the best motives. I take it the object of the Bill is to prevent prisoners being detained in gaol for an unusual length of time, and so far as the motive is concerned, I quite agree with it, but before we pass such a Bill as this let us see whether or not it will lead to the end which the Government have in view. I scarcely think it will. At the present time the Judges are employed sitting on the civil side. The two Courts are sitting all day for the trial of cases in *nisi prius*, and the third Judge generally takes bankruptcy work in Chambers. At other times one Judge sits at *nisi prius* and two other Judges as the Full Court. While the Judges are not in vacation not only they, but the Courts, are fully occupied. We have no place where a Criminal Court could be held unless we hire a room somewhere. I think it derogatory to the position of a Judge and the administration of justice to hire rooms in theatres and churches for the purpose of conducting either civil or criminal cases. One feature the House may look at before passing the Bill is this: at the present time criminal cases are heard every four months. A jury is summoned and on the average the calendar lasts from about seven to 14 days. During that time, owing to the wretched system we have of summoning juries, jurymen are brought from Rockingham, Wanneroo, Swan, and Fremantle. Forty-eight jurors are summoned, and have to be in attendance from seven to 14 days; and anyone knowing anything about jurymen is aware that they are very loud in their complaints about being summoned. I think assize courts ought to be held at Fremantle, Perth, and at York. What you propose to do is to summon a jury every month, with one exception, so you will treble the inconvenience the jurymen now suffer from, for they will have to attend. The process of summoning 48 jurymen will be gone through, although there may be only one or two cases for

trial. Where are the Judges going to sit? What Judges are the Government going to get to try the cases? None whatever. Moreover, the Judges themselves have full power to appoint any time for the sitting of a Criminal Court.

HON. F. T. CROWDER: They have never done it.

HON. R. S. HAYNES: Have they ever been asked?

HON. F. T. CROWDER: You do not want to ask them.

HON. R. S. HAYNES: Without asking them you are going to compel them to do it. One would have thought you would have asked the Judges, and although there is such a high authority as Sir Richard Webster that it is not wise to take Judges into consultation in regard to the passing of laws, I think there is very little in support of such contention. When you ask where Judges are to sit, it is only fair and showing proper respect to consult them. As a member of the Bar I do not know I am much called upon to take the part of some of the Judges, because—and I say it with a great deal of regret—at all events from one member of the Bench the Bar do not receive the respect they ought, and the same with regard to the witnesses; but, notwithstanding that, one must have sufficient respect for the Court and not ask the Judges to sit at times which perhaps may be inconvenient to them, and may interfere with other business. I see no reason whatever for the Bill. It is said prisoners will languish in gaol, and I would ask what is to prevent a prisoner from languishing in gaol?

A MEMBER: Bail.

HON. R. S. HAYNES: I know of an instance where a man remained in gaol until somebody suddenly remembered he was there, and he was brought up before a Judge and discharged. As a rule there is what is called a gaol delivery.

HON. D. K. CONGDON: This would make it a monthly delivery.

HON. R. S. HAYNES: You say it should be a monthly instead of a quarterly delivery?

HON. D. K. CONGDON: Yes.

HON. R. S. HAYNES: There is no quarterly delivery now, although the effect of the present system is practically so, and the position of affairs shows the Criminal Acts need to be consolidated

and brought up to date. No inconvenience whatever is suffered by prisoners in gaol, and I impress this upon members. A prisoner who is committed for trial has a right to apply for bail. It is the duty of the magistrate, if the prisoner has satisfied him, by bond or otherwise, that he will appear and take his trial at the session, to liberate him on bail. Magistrates who know their business invariably grant bail. Some magistrates who do not know their business refuse, and there are others who refuse from a mistaken view of the law; but the cases are very rare indeed. In every case where a magistrate has refused bail, and I have immediately applied to a Judge of the Supreme Court, very low bail has been granted. I say this from an experience extending over 14 years. In the whole of that 14 years I have only made about 20 applications, and I think I have had the bulk of the criminal work. You can see there are very few cases of hardship; indeed none if the prisoner will apply to the Judge. It will be said in reply: "Yes; that is very well indeed where a prisoner has money and is able to employ counsel." The answer is this. If a prisoner is waiting in gaol two or three months and pleads guilty, or is found guilty by the jury, the Judge before whom he is tried always takes into consideration, in determining the amount of sentence, the time the prisoner has been in gaol awaiting trial.

HON. R. G. BURGESS: Supposing the prisoner is found innocent?

HON. R. S. HAYNES: If a person unable to obtain bail is discharged at the conclusion of his trial he will have had to suffer imprisonment—I will not use the word "imprisonment," but "restraint," because it is scarcely imprisonment, in the sense in which we use the term—because he was unable to obtain bail. I admit that there may be cases of hardship, but they are very few. There are very few prisoners committed for trial who are not guilty. Say there are on the calendar 50 cases; in 40 of them there will be convictions, even if the prisoners have not pleaded guilty. In nearly 80 per cent. of the cases they are guilty. I do not mean to say they are guilty and get off, but guilty and convicted. I express no opinions as to the others. There is no reason on

that score to hold monthly sittings. In matters dealing with agriculture, stock, and so on, members of the House are always willing to listen to and be guided by the arguments of those members who are engaged in agricultural and pastoral pursuits, and surely, in those cases which are purely legal, members may at all events pay some respect to the united opinion of the legal members of the House.

HON. F. T. CROWDER: They are half the House. (General laughter.)

HON. R. S. HAYNES: If so, they are the better half. I am sure other hon. members will pay due respect to the unanimous feeling expressed by the legal members.

THE COLONIAL SECRETARY: It appears to me that this is more a practical question than a legal one.

HON. R. S. HAYNES: I have had more to do with criminal cases than most members of the House, but to me personally the Bill does not matter a whit. It does not affect the practitioners in the slightest degree. But I am looking at it in this way: if you pass this Bill you will be interfering with the whole of our civil procedure, and at the present time the trial of civil cases would be interfered with to a deplorable extent. We are a month behind. We are now in August, and some time last week the cases for the July sittings commenced. If we are going to hold monthly sittings in the Criminal Court, where shall we be?

HON. F. H. PIESSE: Have another Judge.

HON. R. S. HAYNES: The hon. member says "Have another Judge," but I say "Have another Court house." Where will you put the Judge? There is no room for him to go to. There is no Court for him unless you are going to hire a theatre; which seems to be the only thing you can do. I ask members not to support the Bill, but to vote for the amendment of Mr. Stone. I do not take this course on the ground that the proposal in the Bill is derogatory to the Court, and that the Judges ought to be asked. I think there are cases where perhaps the House can move without consulting the convenience of the Judges, and I do not wish to make a charge that the Government intend to show any disrespect to the Judges. I

am acting on the broad principle that the Bill would interfere with the administration of justice on the civil side, and would in the end be impracticable. It would lead to endless expense and a summoning of juries to no good purpose, jurymen being brought 40 or 50 miles to try prisoners who in the end may plead guilty.

HON. S. J. HAYNES (South-East): I shall support Mr. Stone's amendment. So far as the town in which I live is concerned, we do not want monthly sittings at all. I am pleased to say we have not had a case for, I think, the last 12 months, so fortunately the Bill will not affect Albany. When a member like Mr. Haynes, who has had a very large practice in different ways, tells us that if the Bill is passed the inconvenience to the public will be aggravated, and when we have gentlemen like him and Mr. Stone saying the Judges have power to hold special sessions, there is no necessity for the measure, and I shall support the amendment.

HON. A. B. KIDSON: (West): I intend to support the amendment which has been moved by Mr. Stone, that this Bill be read a second time this day six months, and in doing so I cannot help saying that I think the Government must have been very hard up for something to do to frame a Bill of this nature, which really, after all this House has heard on the best authority, will be absolutely useless or have no effect, because, as it has been pointed out, the Judges at the present time have the power to appoint sittings at any time and any date they may think fit. And I do not take the same ground that Mr. R. S. Haynes has taken, namely, that he does not look on the bringing forward of the Bill as an act of discourtesy to the Judges, because in my opinion it is most discourteous.

HON. R. S. HAYNES: I said I acquit the Government of any intention of discourtesy.

HON. A. B. KIDSON: I do not know whether the Government intend to be discourteous or not; I cannot tell what is in the mind of the members of the Government, or what is their intention; but, whether the Government intended to be discourteous to the Judges or not, all I can say is that the effect of such

legislation as we are asked now to pass, can be no other than what has been characterised by Mr. Stone, an insult to the Judges.

THE COLONIAL SECRETARY: Oh, no.

HON. A. B. KIDSON: I say so advisedly, and I have a right to my opinion as much as the leader of the House has to his. I say so because the Colonial Secretary in moving the second reading of the Bill was not in a position to say whether the Judges had been asked if they were in favour of the measure or not, nor have they been approached with a view of getting them to alter the dates of the Criminal Sittings to the dates provided by this Bill. I cannot understand why the Government have taken the course they have without applying to the Judges, and asking them to meet the views of the Government in this matter. Why is that? We have not heard a word from the Colonial Secretary or one reason why this has not been done, and I ask hon. members to think of this, and of the discourtesy that will be shown to the Judges. If any discourtesy was shown to any hon. member individually, he would be the very first to object to it; and I ask hon. members therefore to place themselves, if they can for a moment, in the position of one of the Judges—seeing that the Judges have the power to exercise the right of determining when Criminal Sittings shall take place—and say whether or not they would feel that an act of discourtesy had been shown to them, if a Bill like this were passed without reference to them.

HON. C. A. PRESSE: That would depend on how we acted.

HON. A. B. KIDSON: If this Bill be passed without any reference to the Judges, it is an act of discourtesy towards them, which is absolutely unwarranted. If the Government had asked the Judges to alter the dates of the Criminal Sittings, and the Judges had refused to do so, then there would have been some ground for bringing in this Bill.

HON. R. S. HAYNES: Then the Judges would have been insulted.

HON. A. B. KIDSON: In that case, if the Government, thinking in the interests of the country that the criminal sittings should be held monthly instead of quarterly, and the Judges had refused a request made to them,

then it would have been a different thing, and Parliament could do as they thought fit; but the Judges have not had an opportunity of expressing their opinion one way or another, and I ask hon. members to look at the question in that light and agree that the Bill be read this day six months. I cannot altogether agree to one or two of the remarks made by Mr. R. S. Haynes; one remark was that no inconvenience was suffered by prisoners when in gaol awaiting trial. I do not know what the hon. member was driving at, but the hon. member has had more experience in these matters than I have. I was under the impression that when a prisoner was in gaol he did suffer some inconvenience.

HON. R. S. HAYNES: Some men are better off in gaol than they are out.

HON. A. B. KIDSON: Mr. Crowder said that we did not want to ask the Judges to sit once a month; but, as a matter of courtesy, it would not have been out of the way to ask the Judges whether they were agreeable to have this Bill, or whether they would alter the date of the criminal sittings. What would have been out of the way in that? That, in my opinion, was the province of the Crown Law Department, and if that department had approached the Judges a reply would have been received very quickly; then, if the reply was against the holding of the criminal sittings monthly, the Government could have acted as they thought fit. But the Government have done nothing of the kind. It is needless to go into details as to how this Bill will affect business in both the Criminal and Civil Sittings of the Court, Mr. R. S. Haynes and Mr. Stone have both dealt with the matter. I ask hon. members to consider the whole of the circumstances of the case, and the difficulties that will arise if the Bill passes this House. There will be an act of discourtesy towards the Judges, and I ask hon. members to vote for the amendment.

HON. F. T. CROWDER (South-East): I shall support the Bill before the House and I am very sorry indeed the Judges are going to suffer all the inconvenience which has been pointed out by hon. members by holding monthly sittings of the Court. I take it that a man has a right to be brought to trial immediately; he

has no right to be kept three months, or over, before being brought to trial, and there are cases that have come within my knowledge in which persons who have been committed for trial over paltry sums of £4 or £5, and these persons had to wait three months before being brought to trial.

HON. R. S. HAYNES: The persons could have been dealt with locally if they had liked.

HON. A. B. KIDSON: They had the option.

HON. F. T. CROWDER: In all cases there is not the option. When a man is committed for trial he cannot always find bail. It is not everybody who can find bail. A man may come here a stranger without money or friends to find the bail for him, and consequently the man would have to go to gaol. Mr. R. S. Haynes made a curious remark in regard to people in gaol suffering no inconvenience.

HON. R. S. HAYNES: Some people are better off in gaol.

HON. F. T. CROWDER: If the hon. member was locked up for three months, he would see whether the loss of freedom did him no harm. I shall vote for the Bill if only for the reasons given by hon. members, because when this Bill is passed we shall see whether the Courts can carry on the business or not. If the Courts cannot do the business, then the serious attention of the Government will be brought to bear on this matter. As to acting discourteously to the Judges, I am a bit thin-skinned myself, and I cannot see where the point comes in. The Judges of the Court are supposed to carry out the instructions of Parliament: there is no getting away from that; and if Parliament think fit to say that the Judges shall hold a Criminal Court every month, the Judges are bound to carry out that decision of Parliament. The fact remains that many people do suffer, and suffer greatly in having to wait for trial, especially men who are confined for two or three months, during which time their business becomes ruined.

HON. R. S. HAYNES: If a man has a business, he can always get out.

HON. F. T. CROWDER: And a man's wife and family are left in destitute circumstances.

HON. R. S. HAYNES: Name one case?

HON. F. T. CROWDER: I cannot understand where the hardship to jurors comes in, because in these hard times jurors are very pleased to receive the 10s. a day allowance which is made to them. [SEVERAL MEMBERS: No.] Since the jury fees were raised a good many people put themselves in the way of the policemen so as to get summonses to attend as jurors.

HON. R. S. HAYNES: It will be a nice expense to hold a monthly Court.

HON. F. T. CROWDER: We have to look at the persons who suffer in gaol for three months, especially those who are innocent.

HON. A. B. KIDSON: Persons can always get bail.

HON. R. S. HAYNES: I do not say they can always get bail, but almost always they can.

HON. F. T. CROWDER: I shall support the second reading of the Bill, and I hope hon. members will do so.

HON. J. W. HACKETT (South-West): I shall certainly support the second reading of the Bill, and I am really astonished at the determined action taken by members of the legal profession under the cover of a charge of discourtesy levelled at the Judges.

HON. R. S. HAYNES: I did not do that.

HON. J. W. HACKETT: I believe Mr. R. S. Haynes was not one of those who took up that attitude; but I say several hon. members, under the cover of discourtesy levelled at the Judges, will impose a great hardship, possibly a serious injustice, on our fellow-citizens. Hon. members must know that periodical gaol deliveries of the Criminal Sittings are held here every three months, and not oftener; that means that a man who is committed for trial, however innocent he may be—and a very large proportion of accused persons are brought in innocent at our Criminal Sittings—has to undergo imprisonment for three months.

HON. A. B. KIDSON: It is the other way.

HON. R. S. HAYNES: Twenty per cent.

HON. J. W. HACKETT: Well, if only one-fifth of the prisoners are brought in innocent, or if only one per cent. is found to be innocent, that person should not have to undergo hardship in gaol any longer than is necessary.

HON. A. B. KIDSON : Why not ask the Judges to sit oftener ?

HON. J. W. HACKETT : I am coming to that point presently, but consider the pain of mind and the sense of disgrace and the slur which attaches to a man who finds himself in gaol awaiting trial on a charge of which he knows he is absolutely innocent ?

HON. R. S. HAYNES : He can get bail.

HON. J. W. HACKETT : And supposing a man is let out on bail, he cannot associate with people with this disgrace upon him : he is ashamed to be seen and recognised by his friends.

HON. R. S. HAYNES : Those are not the sort of clients I have.

HON. J. W. HACKETT : The hon. member has all sorts and conditions of men amongst his clients ; he has not got off all the innocent men ; probably he should have got them off. We are told that the Court has the power to order more frequent sittings ; but the simple answer to that question is the query, Why have the sittings of the Court not been altered ?

HON. A. B. KIDSON : The Judges have never been asked.

HON. J. W. HACKETT : I say the Judges of the Supreme Court no doubt are persuaded that at present they have plenty to do.

HON. A. B. KIDSON : They might have tried.

HON. J. W. HACKETT : There was absolutely no need. I think the Judges prefer that direction should be given to them by Parliament rather than that they should be left to their discretion ; and if they decline to sit monthly—no doubt they would find plenty of reasons for declining, the congestion of work in the Courts is a good reason—their motives might be impugned. We have heard a great deal of the woes of men, and of late we have heard something about the woes of women, the slaves of men. We have heard a great deal more to the point about the woes of the convicted persons who are not allowed a criminal appeal. Hon. members who supported the measure granting the right of appeal to convicted persons, which so far is unknown in the Australian colonies, are now hesitating before they will allow one of their fellow citizens, who may be committed for trial on a

charge of which he is innocent, to obtain his release at the hands of the Court unless 90 days, and it may be more—sometimes it is four months—have elapsed. I shall assuredly support the Bill on another ground. I am one of those who believe that a fourth Judge is necessary, and if the result of the passing of this Bill compels the appointment of a fourth Judge, that is a sufficient reason for the passage of this measure.

HON. F. M. STONE : Where will he sit ?

HON. J. W. HACKETT : A place will be found for him ; the hon. member need not fear that. If justice is to be done, if an honest man is to be declared guiltless, that place must and shall be found. You may leave that to the country and to the voice of the people. The passing of this Bill will not only lead to the appointment of a fourth Judge, but what is more important, it will enable Judges to declare that criminal sittings will be held at other places than Perth. If necessary, a gaol delivery may take place at Coolgardie, Geraldton or Kalgoorlie.

HON. R. S. HAYNES : Or York.

HON. J. W. HACKETT : It is not essential that the Court shall be held every month in Perth. The Bill has been passed in another place where, at all events, members are solicitous that men shall have a speedy trial, and all the rights granted by Magna Charta should be literally carried out as in the old country at home, no man being denied justice or delayed in getting it.

HON. R. S. HAYNES : Assizes in England are held three times a year.

HON. J. W. HACKETT : For a person to be deprived of his liberty is a contravention of the Act. Will the hon. gentleman mention any place where so many prisoners wait such a long time as they do in this colony ? I repeat that in another place they are solicitous to afford speedy trials, and I earnestly hope this House will not by their vote place themselves in the position of denying one of the elementary rights of liberty and justice accorded to our people for hundreds of years past.

HON. A. P. MATHESON (North-East) : I think that if any member of the House has the least feeling of doubt on this subject, he must certainly support an amendment on which we find an

absolute unanimity of opinion on the part of the legal gentlemen who sit in the House. In most of these matters we are—or at least should be—content to be guided by the advice of those gentlemen who are thoroughly well posted on the subject under discussion. I have always urged that when agricultural or pastoral members express views not diametrically opposed to those upon which members have been returned to the House, the House should be guided to the utmost extent possible by the views expressed by those gentlemen.

HON. J. W. HACKETT: This question is not a legal question.

HON. A. P. MATHESON: I will deal with that in a minute. For the reason I have stated I intend to support Mr. Stone's amendment. Mr. Hackett said a great deal about Magna Charta, the liberties of the subject, and the notorious fact—I quote from him—that prisoners unable to find bail are confined in prison for three months at a time.

HON. J. W. HACKETT: I did not say that. I said either they were incarcerated or had to find bail.

HON. A. P. MATHESON: That is exactly it. He said there were scores of people who experienced delay.

HON. J. W. HACKETT: I did not say that.

HON. A. B. KIDSON: He said 20 per cent.

HON. A. P. MATHESON: Apparently it has escaped the memory of hon. members that in 1897 we passed a special Act enabling the formation of Circuit Courts. That was a measure of immense importance to the country at large, and to the province I represent. We had persistently clamoured for the measure ever since we had an opportunity of making our voices heard in Parliament at all in Western Australia, and you would have imagined that the Government, in their intense anxiety to protect the liberty of the subject, and enable persons to be tried at the very earliest date possible, would within those two years have taken steps to make this Act operative. I think I may speak without fear of contradiction when I say no steps have been taken to make that measure operative.

HON. J. W. HACKETT: You oppose the first step now taken with that object.

HON. A. P. MATHESON: No Judge has been appointed to go on circuit. When Mr. Hackett says I am opposing the first step to make the Act operative, he is asserting what is not correct. This Bill is introduced with the object of having a Court to sit in Perth, and not to enable the Judges to go upon circuit, or to put into effect the Act passed two years ago, which the Government have persistently ignored. What we want, and what the whole country wants, is another Judge, another Supreme Court building, and travelling Circuit Courts established throughout the provinces. I appeal to members not to support the Bill, and it must be perfectly clear that, so far from facilitating Circuit Courts, which we all want, the Bill will operate in a directly opposite way.

HON. C. A. PIESSE: Sentiment again.

HON. A. B. KIDSON: There is no sentiment about it.

THE COLONIAL SECRETARY (in reply): I am certainly somewhat surprised at the position taken up by the hon. member who has just resumed his seat. I rather anticipated I should have his warm support in a Bill of this kind, judging from my knowledge of him and his previous actions in this House. However, I am disappointed, and it is not the first time in my experience. Mr. R. S. Haynes acquitted the Government of any attempt to inflict dishonour upon the judges. The object in view in introducing the Bill was purely to make the law more speedy, and do justice in such cases as have been mentioned this evening. My opinion is exactly opposite to that of Mr. Matheson, for I believe that, if the Bill be carried, the result will be a considerable lessening of the hardships and difficulties under which jurors, witnesses, and prisoners labour. I am certain it will. It has been urged that perhaps there may be one case. If there is no case I presume no session will be held, and notice will be given to that effect.

HON. R. S. HAYNES: Supposing there is one case and the prisoner pleads guilty, you have the jury there.

THE COLONIAL SECRETARY: We run the same difficulty in the case of Quarter Sessions.

HON. R. S. HAYNES: You have a number of prisoners there.

THE COLONIAL SECRETARY: Prisoners are brought up from Fremantle day after day and week after week, I may say, and warders and police are in attendance, expense being thus incurred when a large number of cases have to be tried at the Supreme Court. I think that not very long ago the sessions lasted 21 days, and as Mr. Haynes said to-night, they often last from seven to 14 days. Anything the House can do to mitigate that state of things should be done. I repudiate entirely that there is any offence offered to the Judges. It would have been most indiscreet to approach the Judges upon a question of this sort. Parliament are the authors of the laws, and it is the duty of the Judges to carry out those laws to the best of their ability, and in the interests of the colony. I have gathered some information as to what the practice is in other parts of the world. The Supreme Court Act of 1890 in Victoria says:

Subject to the Rules of Court, sittings shall be held in Melbourne for the trial of causes and questions or issues of fact on such days and by so many Judges as may be necessary for the trial of causes and questions or issues of fact as soon as possible after they are ready for trial, excepting from the twentieth day of December to the first day of February following, and except on Sundays, public holidays, and during the time when sittings in other bailiwicks shall prevent the attendance of a Judge for the trial of causes in Melbourne.

HON. R. S. HAYNES: That is the same as we have here.

THE COLONIAL SECRETARY: The Act further says:

Sittings shall be held for the hearing of criminal trials at such times and in such places as are now or shall hereafter be fixed by law.

That clearly shows that Parliament decide the times and places when and where the Judges shall attend to administer the law. In fact we admit the principle here. The law fixes that quarterly sessions shall be held, and the Judges are not consulted about that, I should say.

HON. R. S. HAYNES: There was one Judge when that was passed. This was a quarterly session at first.

THE COLONIAL SECRETARY: Quarterly sessions are held before Judges and not before magistrates. I find that in England there is this state of things: the Judicature Act of 1875 says:

The expression "assizes" shall in this section be construed to include sessions under any

commission of oyer and terminer, or gaol delivery, or any commission in lieu thereof issued under the principal Act.

Power of Queen in Council over circuits.—The Queen in Council has now full power over circuits, counties and assize towns, so that any circuit may be suppressed, any area added to or taken from a circuit, and district whatever appointed to have an assize town for its centre, and any assize town deprived of its privileges.

That is under order in Council which is the same as an Act of Parliament.

HON. R. S. HAYNES: More effective than an Act of Parliament out here.

THE COLONIAL SECRETARY: Of course if we were to proceed exactly on this principle the Executive Council would order the Judges. I think that would be a great indignity to place upon the Judges. The fountain of all law is the Parliament, and it is better to introduce a Bill of this description fixing what shall be the times and seasons when these sessions shall take place. I trust members will see this is a practical question, and that there are no legal matters about it at all. This is a question whether we shall have monthly sessions or quarterly, and I think the good common sense of members of the House will see that the Bill must work out in the interests of all concerned. The legislation will perhaps lessen to a very large extent the strain upon the Judges which must follow upon a Court being held for say 14 days, or even as long as 21 days. I believe it will give satisfaction all round. I think I am correct in saying, though I have no authority for doing so, that the Central Criminal Court in London sits almost continuously. At any rate it sits monthly, and I think almost continuously for the home counties.

HON. A. B. KIDSON: Does the Court sit under an Act?

THE COLONIAL SECRETARY: I believe so.

HON. R. S. HAYNES: It is under an Act.

THE COLONIAL SECRETARY: These cases go to show there is nothing in the arguments used by certain members.

HON. R. S. HAYNES: We do not dispute that Parliament has the power.

THE COLONIAL SECRETARY: I hope members will dismiss from their minds the thought that Judges ought to be consulted in these matters. Members will see the difficulty the Government

would have been placed in if the Judges had been consulted and had disapproved of the proposed change. I take it that the Judges would not be pleased to be consulted, and I hope members will not allow the point to weigh with them.

HON. R. S. HAYNES: It is a question of convenience.

THE COLONIAL SECRETARY: I trust hon. members will agree to the passage of the Bill. It is brought in with a very good object, has passed through another place under severe criticism; and I think we may well pass the Bill here. No evil can result from it, and certainly the measure will do good.

HON. R. S. HAYNES: No good will result from it.

THE COLONIAL SECRETARY: It absolutely must result in good.

HON. R. S. HAYNES: I give my opinion.

THE COLONIAL SECRETARY: The Bill must prevent the undue and almost barbarous detention of prisoners awaiting trial. Some member said something about inconvenience; but I may say that prisoners awaiting trial are kept separate from other prisoners.

HON. R. S. HAYNES: They always were.

THE COLONIAL SECRETARY: The Government have been endeavouring to do this for two reasons: that it is not well for persons awaiting trial to communicate with prisoners on long or short sentences; and persons awaiting trial ought not to be placed with prisoners undergoing sentences.

HON. F. M. STONE: On the amendment—

THE PRESIDENT: The hon. member has no reply.

HON. D. MCKAY (North): I cannot see that any good will result from the passage of the Bill; if the measure becomes law another Judge will have to be appointed, as the present Judges will be unable to do the work.

Amendment—that the Bill be read a second time this day six months—put, and division taken with the following result:—

Ayes	8
Noes	9
				—
Majority against	...			1

AYES.
 Hon. R. S. Haynes
 Hon. A. B. Kidoon
 Hon. A. F. Matheson
 Hon. D. McKay
 Hon. J. E. Richardson
 Hon. H. J. Saunders
 Hon. F. M. Stone
 Hon. S. J. Haynes
 (Teller).

NOES.
 Hon. R. G. Burges
 Hon. D. K. Congdon
 Hon. F. T. Crowder
 Hon. J. W. Hackett
 Hon. W. T. Loton
 Hon. H. Lukin
 Hon. C. A. Piesse
 Hon. G. Randell
 Hon. W. Spencer
 (Teller).

Amendment thus negatived.
 Question put and passed.
 Bill read a second time.

IN COMMITTEE.

Clause 1—Short title and commencement:

HON. F. M. STONE moved that in line 2 between the words "sittings" and "Act" there be inserted "and Quarter Sessions."

HON. J. W. HACKETT: How could Quarter Sessions be held every month? He congratulated the hon. member on his change of front.

THE CHAIRMAN: The amendment seemed to be moved with the intention of evading the provisions of the Bill.

Amendment put and negatived.
 Clause put and passed.

Clause 2—Criminal Sittings to be held in every month except January and February:

HON. F. M. STONE moved that in line 2 after "Perth" there be inserted "and all Circuit Courts and all Courts of Quarter Sessions shall be held monthly." To be consistent these words should be inserted. We had listened to a most eloquent appeal from Mr. Hackett, but the eloquence was thrown away. Mr. Hackett argued that a great injustice was done to persons awaiting trial; that this injustice should be removed, and persons should be brought to a speedy trial, which meant that persons should be brought to trial at once. This Bill did not provide for that, because a month might elapse before a person was brought to trial. The Bill would not do away with the great slur which the hon. member referred to as being cast on a man awaiting trial. A man might be committed for trial on the second of the month, and would have to remain in prison the whole month, therefore the Bill would not do away with the great injustice, or the great slur which Mr. Hackett talked about. This Bill was for the more speedy trial of accused persons; but according to the Bill a person awaiting trial might

still wait three months to be tried by the Quarter Sessions. The Government had done nothing up to the present for the speedy trial of accused persons, and why had not Mr. Hackett brought forward a Bill before now that Circuit Courts might be appointed? Why had not the Government taken steps to create Circuit Courts? Suddenly it was discovered that a great injustice was being done to persons awaiting trial, although this great injustice had been going on for 60 years. If Mr. Hackett was in earnest, he would agree to the amendment which he (Mr. Stone) had proposed that there should be monthly trials of accused persons throughout the colony. If we were going to be consistent we must have Circuit Courts and Quarter Sessions held monthly for the speedy trial of accused persons. In this Bill provision was only made for Perth, which appeared to be the favoured part; but at Geraldton, Roebourne, Coolgardie and Kalgoorlie, or any other place where Courts of Quarter Sessions were held, men awaiting trial might remain in gaol for three months.

HON. R. S. HAYNES: And 106 degrees in the shade up there.

HON. F. M. STONE: If a person were committed for trial in Perth or Fremantle, he could be tried within a month. We should go the whole hog and provide that throughout the colony all accused persons should be brought to a speedy trial, not within a month but immediately. There was just as much injustice to a person having to remain in gaol for a month as three months. It had been said that Judges need not have been approached on this matter. Had the Judges refused to sit, had they refused to appoint a Commissioner to sit time after time when it had been found necessary, although the Judges had never been approached on this matter; but the Government had not under the Circuits Courts Act, although that law had been in force for two years, appointed a Circuit Court Judge to try cases throughout the colony. He hoped the Committee would be consistent and agree to the amendment which he had proposed.

HON. R. S. HAYNES said he liked to take an expression of opinion of the House, and when he had done that to bow to it, but there was not a full number of members present.

THE CHAIRMAN: Only three members were absent.

HON. R. S. HAYNES: The remaining three would no doubt have voted against the Bill. The arguments advanced by Mr. Hackett seemed to take the House somewhat by surprise, and the arguments appeared to be unanswerable. Mr. Hackett drew a pretty picture of a poor man who was innocent, but who had been committed for trial, and had to wait a long time in prison.

HON. J. W. HACKETT: Waiting to be defended by the hon. member.

HON. R. S. HAYNES: And when this poor man got out on bail, the finger of scorn was pointed at him; he was crushed. He (Mr. R. S. Haynes) might say, he had not met that man yet. Mr. Hackett had appealed to the humanity of members not to allow this unfortunate ideal man to waste away in prison, but to provide that he should come up quickly and get his "dose" as the man would term it.

HON. F. H. PLESSE: Who called it a dose?

HON. R. S. HAYNES: The prisoner. To be consistent we should apply the Bill everywhere, and if the humanity of the House was so great that criminal sessions were to be held every month, and we must go to the trouble of having a large array of jurymen to try cases, and incur the expense of a new Court, let the same principle be applied to Roebourne, where the temperature was sometimes 110 in the shade. Men there had to wait three months, and why should they not be tried every month? If the men up there came to Perth, and were sent to Fremantle gaol, they would be out in a month, and could enjoy the balmy breeze of the locality, the result being that we would have all the rogues in and around Perth and Fremantle.

HON. J. W. HACKETT: No doubt that would be better for the hon. member.

HON. R. S. HAYNES: Better for himself, and also for Mr. Hackett, who would have more people to read his paper. He hoped the House would pass the amendment.

HON. A. B. KIDSON: The House would be consistent in passing the amendment. If there was one member who desired to be consistent it was Mr.

HACKETT. That gentleman had spoken a great deal about Magna Charta and the liberty of the subject, but did he mean to convey the idea that the provisions of Magna Charta and the liberty of the subject were only to be extended to those persons who were to be placed upon their trial at Perth or Fremantle, or did he intend that such provisions should be extended throughout the colony? They should be extended throughout the colony if the Bill became law at all. He supported the amendment.

HON. S. J. HAYNES: The Bill was not required at all, and if the amendment were passed it would make the position of affairs still worse. It was possible that what was required in Perth would not be required in the country.

HON. J. W. HACKETT: If there was any doubt as to the object of Mr. Stone in moving the amendment, the eyes of members would be opened by the new-born zeal of that gentleman and Mr. Kidson in favour of the immediate trial of accused persons. It might be reasonable that Quarterly Sessions should be put upon the same footing as Supreme Court sittings. If that were so, he trusted the hon. member would advocate a gaol delivery of the lesser criminals as well as the greater. Such a proposal should be made in a separate Bill, for he thought the hon. member was the champion Bill procreator in the House.

A MEMBER: Incubator. (General laughter).

HON. J. W. HACKETT: The hon. member brought forth his own offspring, and a very abundant little brood it was. He was accustomed to the work of introducing bills.

HON. F. M. STONE: Let the hon. member try to get one through.

HON. J. E. RICHARDSON: As he voted last time against the proposal to hold Courts monthly, he could not support this amendment; especially in the interests of Roebourne. It was a hardship that men should have to travel 30 or 40 miles to act as jurors, and he did not know where the thing would end if there were to be sessions every month.

Amendment put and negatived.

Clause agreed to.

Preamble and title—agreed to.

Bill reported, and report adopted.

SALE OF LIQUORS AMENDMENT BILL.

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

WEIGHTS AND MEASURES BILL.

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

TRUCK BILL.

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

ADJOURNMENT.

The House adjourned at 5.55 o'clock until the next day.

Legislative Assembly,

Tuesday, 15th August, 1899.

Petitions presented (2), re Education Bill—Question: Railway Employees and Grievances—Question: Judges, as to Increase—Paper presented—Electoral Bill, first reading—Return ordered: Lighting of Wharves, etc., Fremantle—Weights and Measures Bill, third reading—Truck Bill, third reading—Resolution: Ivanhoe Venture G.M. Co., Compensation, Motion to Postpone; Division—Dividend Duty Bill, Amendments on Report—Customs Consolidation Amendment Bill, in Committee, reported—Permanent Reserves Bill, in Committee, reported—Public Education Bill, in Committee, reported—Adjournment.

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

PRAYERS.

PETITIONS (2) RE EDUCATION BILL.

MR. WOOD (West Perth) presented a petition signed by 2,792 persons of various religious denominations in his electorate, praying for a continuance of the present education system.

MR. OLDHAM (North Perth) presented a similar petition from his electorate.

Petitions received and read.