inquired into this matter, and found that it was not so. I am pleased to be able to state that the Minister for Works did not do it with the intention of alienating the sympathy of people from the Labour party. It appears that after the poll had been declared, the Minister for Works walked down the street, and there was, to his regret, an elderly lady following him, declaring in no uncertain tone that the hon. member owed her a certain sum of money for a day's work. It appears that she had washed clothes for him. I do not know whether this is true or not, but in defence of this party I will state that it was this that caused the larrikins, or rough 'uns, as they were termed by the member for Fremantle, to follow the hon. member to the railway station. This poor old lady was asking him for her 4s. 6d. for a day's washing. Let me tell this hon. member, who comes here and poses as a paragon of virtue and as an injured innocent, that I have spoken to one of the policemen who escorted him that night, and the policeman said, "Look here, I have worn uniform for seven years. I have never disgraced it, nor have I been ashamed of it until the time I was asked to look after that poor little insignificant member for Fremantle. I reckon when I was asked to see that Minister to the railway station I was ashamed of my uniform, and I had disgraced that uniform."

Question (that the Address-in-Reply be adopted) put, and passed on the voices.

ADJOURNMENT.

The House adjourned at nine minutes to 1 o'clock a.m. (Friday), until the next Tuesday.

Legislative Council,

Tuesday, 17th July, 1906.

THE PRESIDENT (Hon. H. Briggs) took the Chair at 4·30 o'clock p.m.

PRAYERS.

ADDRESS-IN-REPLY—PRESENTATION.

THE PRESIDENT: I have received the following reply from His Excellency the Governor:—

MR. PRESIDENT AND HON. GENTLEMEN OF THE LEGISLATIVE COUNCIL,—

I thank you for your Address-in-Reply to the Speech with which I opened Parliament, and for your expression of loyalty to His Most Gracious Majesty the King.

FRED. G. D. BEDFORD, Governor.

PAPERS PRESENTED.

By the COLONIAL SECRETARY: 1, Fifth Annual Return under "The Industrial Conciliation and Arbitration Act, 1902."—Report for year ended 31st December, 1905. 2, Copies of Orders in Council under Section 35 of "The Audit Act, 1904." 3, Regulations under "The Aborigines Act, 1905." 4, By-laws of the Municipalities of Southern Cross and South Perth. 5, Statement of the Receipts and Payments of the Fire Brigades Board for year ended 31st December, 1905. 6, Regulations and By-laws of the Fremantle Municipal Tramways and Electric Lighting Board. 7, Conference of Commonwealth and State Premiers and Ministers—Report of Debates, etc.

QUESTION—PUBLIC SERVICE CLASSIFICATION.

HON. M. L. MOSS asked the Colonial Secretary: Will the Government expedite the consideration of the Public Service Commissioner's classification of the clerical division of the Public Service, in order that he may make an early start with the classification of the professional division?

THE COLONIAL SECRETARY replied: Yes.

RETURN—METROPOLITAN DRAINAGE AND SEWERAGE.

HON. M. L. MOSS (West) moved—

That a Return be laid on the table of the House, showing—1, How the sum of £150,000, Item 6, mentioned in the Schedule to the Loan Act 1896, has been disposed of. 2, What sums have been paid, lent, or advanced for underground or surface drainage works since January, 1897, showing separately the amount of advances and the amount of grants—(*a*) To the Perth City Council, (*b*) To the Fremantle Municipal Council. 3, If any loans have been made, what provision has been made for their repayment. 4, What amount has been expended on the Perth Sewerage Scheme since the passing of the Metropolitan Waterworks Amendment Act 1905 (No. 2). 5, What contracts have been let for drainage or sewerage works since the end of last Session of Parliament; specifying the amount and nature of the works of such contracts. 6, A similar return as mentioned in paragraphs 4 and 5 relating to the proposed drainage or sewerage scheme at Fremantle. 7, What are the drainage or sewerage works, with their estimated costs, proposed to be undertaken during the year ending December, 1906, in Perth and Fremantle respectively.

This matter was of great importance to the people of the West Province. In 1896, when a Loan Act was passed which authorised the raising of three millions of money, a large portion of which was for works in connection with the Coolgardie Water Scheme, for railways and for other large public undertakings throughout the State, provision was made in the Schedule for £150,000 to be applied towards the first works for underground drainage for Perth and Fremantle. The presence of that item in the Schedule was very much in the nature of a silver-coated pill, to justify the Perth and Fremantle members in agreeing to a considerable expenditure of money. Ten years had elapsed since then, and, until the last 12 months, very little headway was made in connection with the underground sewerage of Perth and Fremantle; in fact, nothing had been done at Fremantle, and very little on a comprehensive basis had been done in Perth until within the last 12 months. It was within the knowledge of members that large sums of money were granted to the Perth City Council, to carry out what was called a surface drainage scheme. That ran into many thousands of pounds. The people in the West Province thought they had a well-founded grievance against the Government—not only this Government but preceding Governments—and the fear was entertained that the money authorised to be raised during the last session of Parliament for drainage work in the metropolitan area would be expended in the city of Perth, and that the work at Fremantle would be again hung up. The people of Fremantle thought that the works at Fremantle and Perth should go on simultaneously, and members would agree that in a populous centre like Fremantle, a shipping port visited by ships from oversea, there was a great probability of infectious diseases taking root there. It was of great importance to the people that their lives and the health of their families as well should be safeguarded as far as possible. Numbers of people in Fremantle were anxious to obtain the information asked for. He wanted to know what had become of the £150,000, and also what amounts had been spent in Perth and Fremantle respectively. More than that, the people of Fremantle were extremely anxious to know what work it was intended should be undertaken in the West Province during the year ending December 1906.

THE COLONIAL SECRETARY (Hon. J. D. Connolly): There would be no objection whatever to the information being laid on the table. The return would be completed at the earliest date.

Question put and passed.

PAPERS—RAILWAYS CONSTRUCTION, SOUTH-WEST.

HON. G. RANDELL (Metropolitan) moved—

That the final plans showing the routes of the spur lines of railway now being constructed, viz. Katanning-Kojonup, Wagin-Dumbleyung, and Goomalling-Dowerin Railways, be laid on the table of this House.

It was stated that the Government intended to lay the sleepers simply on the surface of the ground, without ballast or any attempt at draining the lines. As the country was boggy in wet weather, the trains would probably crush the sleepers into the mud. He would be glad to see plans and specifications, particularly of the Katanning-Kojonup line.

THE COLONIAL SECRETARY (Hon. J. D. Connolly): The plans were ready, and could be tabled almost immediately, though they might disappoint the hon. member, for they would show merely the routes and not sections of the lines. They were not the working plans. Probably the railways would not be ballasted; for if ballasted, they could not be constructed for £1,000 a mile.

HON. G. RANDELL: Let the plans be accompanied by some general information.

THE COLONIAL SECRETARY: That would be given in the return moved for to-day by Mr. Sholl. These lines, though not ballasted, were being constructed with a due regard to safety; and if the spur-line system were to be extended, they must be cheap.

Question put and passed.

CHAIRMAN OF COMMITTEES, ELECTION.

THE COLONIAL SECRETARY (Hon. J. D. Connolly): At the beginning of this session you, sir, having been raised to the position of President, it now devolves on me to move that the Hon. W. Kingsmill be elected Chairman of Committees. I am sure that during his career in the Chamber he has endeared himself to every other member. Not only that, but his long experience of Ministerial office has given him that full knowledge of the procedure and the Standing Orders of this House which will enable him worthily to discharge his duties as Chairman. I am quite certain that he will acquit himself to his own satisfaction and to the satisfaction of the Chamber. I move—

That the Hon. W. Kingsmill take the Chair as Chairman of Committees.

HON. J. M. DREW (Central): I have much pleasure in seconding the motion; and I feel certain that Mr. Kingsmill, with his long parliamentary experience, his tact, and his well-known impartiality, will worthily fill the Chair which you, Mr. President, have vacated.

Question put and passed.

THE CHAIRMAN-ELECT (Hon. W. Kingsmill): I have most heartily to thank members for the honour they have bestowed on me in appointing me Chairman of Committees.

PRISONS ACT AMENDMENT BILL.

SECOND READING.

THE COLONIAL SECRETARY (Hon. J. D. Connolly): The task of moving the second reading of this my first Bill is rather easy; for, as members will observe, the measure is very short. The Bill, as the title indicates, is to amend the Prisons Act 1903, from which a few words were omitted; and this omission Clause 3 is intended to supply, by providing that—

Section fifty-nine of the principal Act is hereby amended by inserting after the word "escapes," in the second line thereof, the following words: "or attempts to escape."

A certain punishment was prescribed for the man who escaped, but none for the man who attempted to escape. Clause 2 provides that—

Section twenty-one of the principal Act is hereby amended by adding a subsection, as follows:—

(10.) For taking the photograph, finger prints, measurements, and other particulars of any prisoner, and recording the same.

The principal Act, by an oversight, does not provide for taking these particulars, either on a prisoner's admission to the gaol or on his discharge. This is done now; but there is a doubt as to the legality of the process, and this short amendment is introduced with a view to making it unquestionably legal.

MEMBER: This will not mean a new billet for somebody?

THE COLONIAL SECRETARY: No. We have already the apparatus and the photographer. I move that the Bill be now read a second time.

Question put and passed.

Bill read a second time.

IN COMMITTEE.

Bill passed through Committee without debate, reported without amendment, and the report adopted.

JURY ACT AMENDMENT BILL.

MAJORITY VERDICTS.

SECOND READING MOVED.

HON. W. KINGSMILL (Metropolitan-Suburban): This Bill is almost as short as the last which we have considered; and, generally speaking, its object is to bestow on the deliberations of juries in civil cases that privilege which is bestowed on the deliberations of other bodies out-

side the processes of the law. The Bill proposes that the principle of majority rule shall be applied to juries. And when we consider for a moment to what large issues majority rule applies, both in ordinary life and, to take cases that come nearer home to us, in parliamentary procedure, I think that the step which is advocated in this Bill will not appear unreasonable. Let us consider, for instance, the momentous issues which are decided in Parliament by bare majorities, such as the question often most vital not only to the fortunes of one or two people as in law suits, but to the fortunes of a whole people—an amendment of the Constitution of this or any State where the bare majority of the actual members of the House is sufficient to ensure that the amendment shall or shall not take place. And again let us remember—perhaps it is not quite so important a question, still it is one which often has far-reaching effects—that when the fate of the Government of the country is being decided, the changing of the Government from one set of hands to another set of hands is fixed very often, not by actual majority of the members of the House, but by a majority of those present. It may be well claimed too—and I think hon. members will support me in this contention—that the present system in civil cases, where the case has to be heard before a jury, has in some cases been productive of very serious miscarriage of justice. Such miscarriage may be obtained in two ways—either by that natural obstinacy of character which seems to characterise some jurymen, and which obstinacy seems to be accentuated by a knowledge of the power that one man may have to sway the deliberations of twelve, or again, and I hope this has not been a frequent cause of miscarriages of justice, by the fact that the jury may be tampered with. It is well known that such cases have happened; and while I will not say there have been many instances here, yet in other States there have been many such cases. This is a menace to the jury system, and to those jurors who come under such temptation; and the present Bill will go far to remove the danger. Let us too consider that this step which I am advocating is no new one. In by far the most populous and important States of Australasia it is the law; the principle embodied in this Bill has been in force there for many years. In New South Wales the principle embodied in this Bill has been the law for no less a period than since the year 1847; in Victoria it has been the law since 1890, and in New Zealand since 1880. In those three States, which form, as I have said, the most populous portions of Australasia, this principle has been embodied in their jury law; and it is a significant fact that although in that period there have been many amendments of the jury law relating to the qualifications of jurors and kindred subjects, and in which alterations touching this principle could have been embodied, yet no endeavour has been made to alter the principle in those States, the principle which is laid down in this Bill. Therefore I think I am justified in stating that the principle has stood the test of time, and that it has stood the test in places where it would be most likely to be attacked if experience showed it to be a wrong one. I have to thank a legal gentleman of this town, Mr. C. T. Russell, for his kindness in drafting the present Bill for me; and I may tell hon. members that it is modelled to a great extent on the Act which has been longest in force, and which therefore has received the fullest meed of public approbation, the Act of New South Wales. Members will no doubt remember that this is not the first time a similar Bill has been before this Chamber and before another place. On the 15th October, 1902, Mr. Purkiss, the then member for Perth, a legal gentleman formerly in New Zealand, where this measure or a similar measure had been in force for a considerable time, introduced in another place a Bill dealing with this principle. It received the very cordial support and approbation of the the then Premier and Attorney General, Mr. Walter James, who I think every member will recognise as an authority on law. Unfortunately, through the urgency of other business that measure did not reach this Chamber until the 19th December in that year. It was then introduced by Mr. Moss, who I understand undertook that task at the request of Mr. Purkiss and Mr. James; and while he pointed out that there was at least one objection to the measure,

still he was of opinion that, even when that objection was considered, the compensating advantages were so great as to render the Bill one which should be acceptable to this Chamber. It was spoken to by only three other hon. members—the Hon. Mr. Loton, the Hon. Mr. Randell, and the Hon. Mr. Thomson—and while they in the main approved of the measure, they took up a stand which I think was a very reasonable one, and one with which I am inclined to agree; that was that for a measure which was not a measure of urgency, it was unreasonable to expect that this Council should consider it and pass it on the very day that Parliament was to be prorogued. For that reason alone Mr. Randell moved that the Bill be read that day six months; and in spite of the support which Mr. Thomson gave it, the Bill unfortunately met with that fate. It was not shelved because of any defect in the principle, but simply because it was considered inadvisable that the measure not being a measure of urgency should be brought down to this House and its passage demanded at such a late hour in the session. I am inclined to agree with those reasons for the rejection of a measure; but such reasons do not exist now. I am of the opinion that this Bill is a good one. Mr. Purkiss, in his opening remarks, said that from all classes of the community, both legal and lay, he had received assurances that such a Bill was requisite in the interests of the community; and personally I may say that a great majority of those with whom I have come in contact are of the opinion now that such a measure would be of benefit to the State. I regret—and this is only one of many occasions on which I have had cause to regret it—that I have not had the advantage of belonging to that high and honourable calling, the law, because I feel that an amendment which is so much of a legal character should come from a legal gentleman rather than from myself. But we must remember that the principle which underlies this Bill is not a legal principle; it is one connected with the liberties and the rights of the subject; and that being so, may I as a layman plead that as my excuse for bringing in an amendment in this very desirable direction. To take the Bill shortly clause by clause, I may point out that Clause 2 contains the essence of the Bill. It provides that—

> Where the jury, upon the trial of any civil cause or of any issue or issues in such a cause, have remained six hours or upwards in deliberation, if all the jurors do not agree as to the verdict to be given or the answer to be given to any question submitted to them by the Court or presiding Judge, or as to the amount of damages to be assessed, the decision of two-thirds in number of them as to any such verdict or answer shall be taken and entered as the verdict, finding, or assessment of the jury as a whole.

It will be noticed that what is considered a reasonable time for deliberation is to be given before a jury is to be asked to arrive at a majority verdict. Instead of a three-fourths majority as exists in other States, a two-thirds majority is provided for in the Bill, and for this reason. Civil cases are tried in this State before either a jury of six or a jury of twelve; and of course if a jury of six is empanelled, it is very obvious that a three-fourths majority cannot be obtained because you cannot divide jurors into halves, though perhaps it might be an advantage if that could be done in regard to some of those obstinate jurymen of whom I have spoken. That difficulty will show why the proportion is fixed at two-thirds instead of three-fourths for a majority verdict. Clause 3 gives the procedure to be adopted when, after twelve hours' deliberation, two-thirds of the jury cannot arrive at a verdict. I think it is reasonable to suppose that every member will be of opinion that it would be an advantage if we could do away with those disagreements of juries which do so much to prolong litigation, and which have the consequent effect of largely increasing the cost. This Bill would do a great deal of good in this direction. Clause 4 is taken from the New South Wales Act, without I think any difference or variation. Clause 5 states the time for the Act coming into operation. I commend the Bill to hon. members with these remarks—that briefly it is the law in Victoria, New South Wales, and New Zealand; that in those three populous States it has stood the test of time for a great number of years; that it will undoubtedly have the effect of lessening the probability of disagreements which so often occur in a jury; that it will render a person, who may be so inclined, less able to tamper

with jurors; that it will do a great deal to discount the natural, or unnatural, obstinacy on the part of jurors which sometimes exists; that, in short, the whole process of litigation in civil cases will be very much advanced thereby. I know some hon. members who are in favour of abolishing the jury system altogether in civil actions. I regard that as too extreme; but if we adopt the principle of this Bill, we shall have gone a long way in a reasonable and very desirable direction, and still have maintained the grand old English system of trial by jury. I have pleasure in moving the second reading of the Bill.

HON. M. L. MOSS (West): It is true that in 1902, at the request of the then Premier, I introduced into this Chamber a Bill of this kind which came from another place; and the mover has been fair enough to point out that, although I supported the Bill then, I did point out to the House where I thought it was necessary to carefully consider the alteration then sought to be made. I think a perusal of the speech I made on that occasion will indicate clearly that I did to a certain extent point out dangers ahead in the adoption of this system. Whatever views one held in 1902, it is quite competent, I think, that from farther experience those views may be modified, and I am going to point out to the House a few of the disadvantages which I think will accrue if this radical change is made. There are other aspects of this question than those put forward by Mr. Kingsmill. In regard to the arguments he used as to deciding the fate of a Government or how an alteration of the Constitution Act shall be brought about, I do not think the cases are altogether parallel with the one we have under discussion at the present time. It has always been necessary in connection with Parliamentary Government and the decision of any question in a deliberative assembly, that the majority must rule, and I do not wish to depart in any way from that principle. However, I think we have to look at this question from other standpoints, and I am going to put my views before members so that they may have full knowledge of the other side of the question. The hon. member points out that in New South Wales, Victoria, and New Zealand this system has been adopted. I want to point out that in no other part of Australasia has it been adopted, and in regard to Britain they have never gone so far as is proposed in the measure now under consideration. The mischief that arises in these civil trials at the present time is not so much that they are obliged to have a complete and unanimous verdict, as it is this wrong system that exists in Western Australia in the summoning of juries. I have pointed out to the House before that the system is as bad as can be. Dr. Hackett, when I introduced a measure last session to include Fremantle and Swan in the Perth jury district, asked me—and I am going to mention it now—whether it was intended to introduce a Bill to deal with the question this session, if the then Government remained in power. I told him I was not prepared to make a promise. The trouble is this. In New South Wales, Victoria, and New Zealand the method of getting a jury for civil trials is the same as that adopted for getting a jury for criminal trials; and we in Western Australia are on parallel lines with these other States in bringing a jury together for the purpose of deciding criminal cases, but we have not got on parallel lines with them in regard to civil cases. The method adopted in criminal and civil cases in Victoria, New South Wales, and New Zealand, and the method in regard to a criminal jury in this State, is as follows: A panel is summoned consisting of about 48 names. These names are brought out of another box in Court, and six in a civil case, or 12 in a criminal case, if they are not challenged, can form a jury. I am going to show where our system is so wrong. We do not resort to that panel of 48 in the case of civil trials in this country; but in the case of a jury of six, 18 names are taken out of the jury list and the names are put on a small piece of paper into a ballot box, and these the Sheriff deals with in the following manner. Long before a trial takes place each party is given a written list comprising these 18 names, and each of them has the right to privately strike out six names, and it may happen, and of course it frequently has happened, that the plaintiff may strike out six, and the defendant may strike out six different names, leaving six to try that case. We

know perfectly well that with six, eight, or ten jurymen living in a small community like Western Australia it is the easiest thing possible, if people stoop to the work of doing it, to go round a week before the trial, and find out who are on that jury—the hon. gentleman referred to tampering with jurymen, which has existed in some cases, no doubt—and the result is that, it being so easy to ascertain whom the jury comprises, the system lends itself to tampering right up to the hilt. The proposal made is not, in my opinion, the way to deal with the matter. A far better effect will be achieved in this matter if we resort to the system of a panel of 48 for trying all civil cases. It should be done in this way instead of as at present. There is no reason why civil cases should not be taken one after the other, exactly in the same way as is done in regard to criminal cases. Let me point out that in New South Wales, Victoria, and New Zealand, when this majority verdict is taken it is a verdict of three-fourths. There are no juries of six in those States. There are juries of four and juries of twelve. At any rate I speak with absolute certainty upon that point with regard to Victoria and New Zealand, particularly New Zealand; and if one man is standing out against three, the majority is, when you come to look at it, a different thing from four against two; for in one case the majority is in proportion very much larger than is provided in this Bill. But what I want to point out clearly to the House with regard to these States is that they have a very much larger population.

HON. W. KINGSMILL: In Victoria the number is six.

HON. M. L. MOSS: Six in Victoria. I know that in New Zealand the number is four. I want to point out that in Victoria, New South Wales, and New Zealand there is a larger population than in Western Australia. The hon. member says that operates in favour of the system he advocates. That is exactly where it does not do so, for this reason, that in the case of a population of half-a-million, as in Melbourne, there is less opportunity of being able to know who is on the panel of 48 than there is in Perth with a population of 40,000 or 50,000, where there would be greater opportunity of squaring the jury or tampering with them in the way the hon. member indicates. It was with that object in view, with the object of widening the choice, that I got the House to agree to include the Swan and Fremantle in the Perth jury district. There is a good deal in the speech which the hon. member has delivered, and I want to do what I can to get the administration of justice as clean and as pure as possible. I think it is a scandal if tampering with jurymen is taking place here or elsewhere, and we should do what we can to put it down. But the question is, does the House think this the better way of doing it, or that it can be achieved with greater success if we adopt the system of having a panel of 48?

HON. W. KINGSMILL: Why not adopt both?

HON. M. L. MOSS: I object to tampering with a thing in this speckled, piebald way. I believe that if we have the majority verdict it is open to this: we have six or eight men who comprise that jury, and if a system of tampering is going on, all one has to do in order to secure a verdict is to tamper with four men and he gets his majority verdict, but if he has to get six men it is a more difficult matter. I want to point out that one juryman or two jurymen, as the case may be, may have saved many a plea against the Government of this country, and may have saved verdicts against many men who go before a jury but are not able to excite the same amount of sympathy with that jury, or the majority of them, as is the case with a poor person who may be engaged in litigation. Of course the arguments the hon. member has given us are very telling in their character, but there is another aspect of the question which I think the House ought not to lose sight of. I know, as the result of having been engaged for many years here in a good deal of litigation, that in many of those cases—I particularly refer to accident cases—a great amount of sympathy, natural sympathy, is excited for the unfortunate man who may be injured, and frequently these cases are decided upon motives of sympathy and the evidence is left in the background. How many times have we listened to Judges of the Full Court making this statement: "We may not have come to the same

conclusion, but we cannot say there is absolutely no evidence. There is a little more than a scrap of evidence, and the jury are the judges." One or two jurymen hang out and are not led away, and they have prevented many unjust verdicts.

HON. W. KINGSMILL: Juries are only human, after all.

HON. M. L. MOSS: True. I hope members will understand that personally this is a matter of no concern to me, but it is just as well that the arguments of the other side should be put before the House. In my opinion the system we have of knowing practically who may comprise the jury beforehand, instead of having a panel of 48 as we have in criminal cases, is one whereby we are giving in the case of dishonest people greater facilities in the way of tampering with the jury and squaring them. The hon. member has used the argument that this legislation is proposed with the idea of cheapening and ending litigation; and I do not want the House to suppose for one moment, because I have given my opinion in the way I have, that I stand up in favour of prolonging litigation. I think it is eminently desirable that we should get a just decision in every case as promptly as possible; but I feel thoroughly convinced that this is not the proper way to achieve the result the hon. member has in view. It is a fact that in 1902 I introduced a Bill, but I think if the hon. member will look at the end of my speech he will see I pointed out to the House then that there could be some arguments adduced against it, and I believe, as the result of some four or five years' experience since then, that this is not the way to deal with that question. I believe that, if the hon. member will approach the Government with the idea of getting a panel of 48 instead of our system of obtaining juries in civil cases, there will not be the some opportunity of tampering with the members of the jury and of squaring them as, it is indicated, is probably being done.

HON. W. KINGSMILL: It goes on during the trial, sometimes.

HON. M. L. MOSS: I cannot speak with any degree of accuracy as to whether such a thing has taken place in this State, although I must admit that there has been a rumour from time to time, and I can well credit that with the system which prevails here it is possible. If we had this panel of 48, no one but the Sheriff would know who was likely to be summoned. The 48 people would be in attendance at the Court, the names would be drawn out of the ballot-box, and there would be a limited number of challenges permitted as in criminal cases, taken on the spur of the moment.

HON. W. KINGSMILL: A very good idea.

HON. M. L. MOSS: In Victoria, New South Wales, and New Zealand, where there is a population five times as great as in this State, they have both the 48 panel and the majority verdict. There is less likelihood of knowing a person on a jury among half-a-million people, as exists in the case of Melbourne and Sydney, and there is no likelihood of knowing who is on that panel until the very morning the jurymen come into the Court, and the challenges, instead of taking place privately and beforehand, take place in the Court in the presence of all the parties concerned. I believe that in order to get rid of the opportunity of tampering with a jury this panel of 48 would be a much better system of dealing with the matter than would be this majority verdict which the hon. member proposes. After having given the matter great consideration—and I may say the hon. member before he introduced the Bill discussed it with me—I feel constrained to vote against the second reading, because I believe that in the best interests of pure administration of justice the Bill will not be a satisfactory way of dealing with the question.

SIR EDW. H. WITTENOOM (North): I have listened to the arguments from both the previous speakers, and have come to the conclusion that I shall be in favour of voting for the second reading of the Bill. I may premise my remarks on it by saying that I am not a great upholder of the jury system in any circumstances, because very often it is the means of causing a great miscarriage of justice, and in saying this I speak of both civil and criminal trials. When we witness such efforts as we have seen in the Supreme Court of this State, in cases where each party challenges the best men among the jurors, it seems to me that the jury system is a failure to a large

extent. It will have been noticed that, especially with those who represent defendants, the practice is to challenge every good man on the jury that they possibly can, so that they shall not have a good jury to try defendants; and I am sure the general opinion is that, if a man who is to be tried happens to be guilty, he will have a better chance of getting off when tried by a jury than if tried in any other way. I think that more justice would be done and greater satisfaction would be given, if all trials could be conducted before three Judges, instead of having a jury empanelled at all. However, the law of the country is that trials shall be by jury; and although Mr. Moss has placed before us a state of affairs which there is not the slightest doubt requires amendment, I think that what is proposed in the Bill is something in the direction of improvement. There always appears to be a want of finality in law trials. Anyone who takes a case into court desiring to get justice done and to obtain his rights, will find that there seems to be no finality, because first he has to go to one court where a jury hears the case, and if the jury happen to disagree his case has to be heard again before another jury; then there is some other procedure to stave off a final decision, and so it is absolutely useless trying to get finality in a case. Thus, unless a litigant in these circumstances has a long purse, he cannot get his rights recognised by the law. If the public will have a system of trial by jury, then let us have something that will ensure finality under the jury system. If, as has been suggested, one or more persons on a jury may be "squared" by interested parties, it is better we should have a larger number of jurors from whom a panel may be chosen to try a case, and in that way we should be more likely to get finality, and have satisfaction so far as it can be obtained in trials at law. Or else let us alter the system altogether. I am in accord with Mr. Moss when he says it is absurd that we should know before a case comes on who are the six men selected to try it. If there were 48 men out of which a jury could be chosen, there would be less opportunity for tampering with jurors. I do think, however, the Bill before us is a move in the right direction, because there is more probability of having some finality in numbers of cases which are now sent on to a second jury. Under these circumstances I support the second reading of the Bill.

HON. G. RANDELL (Metropolitan): I have pleasure in supporting the second reading of the Bill. I give all weight to the arguments which Mr. Moss has placed before us, as he is so well able to do; but from a common-sense point of view it seems to be desirable that a majority verdict should be taken in civil actions at all events. It is recent history in this State that certain actions have failed because the parties could not get a unanimous verdict from the jury. We want justice to be administered as nearly perfectly as we can get it, and this Bill appears to me to be a step in the right direction. My only regret in regard to it is that the Bill does not also apply to criminal cases; for I cannot see why it should be absolutely necessary that 12 men must agree on a verdict. We may take it for granted that the agreement of eight or nine out of twelve jurors is a reasonable verdict, and is most likely a right one. Cases have been referred to in which one juror by standing out blocks a right verdict from being given, and so puts the country to a large expense in causing another trial to be held. Such results are bringing discredit on the jury system; and, like Sir E. Wittenoom, I have lost faith to a large extent in the jury system, for I have felt that it is much more desirable we should have Judges deciding on most cases that take place. However, there are matters of fact sometimes in which it is desirable that assessors should sit with Judges, to assist in technicalities arising out of the case, in order that the Judges may be enabled to arrive at a proper verdict. But when it is a practice, as we know, for interested parties to pick out every intelligent man in a jury and object to him, particularly in cases where intelligence is necessary to arrive at a right verdict, the jury system is being undermined by such practice. I have pleasure, therefore, in supporting the measure before us as a step in the right direction.

On motion by the COLONIAL SECRETARY, debate adjourned.

FREMANTLE JOCKEY CLUB TRUST FUNDS BILL.

SECOND READING.

HON. M. L. MOSS (West), in moving the second reading, said: The reason which has actuated me in bringing forward this Bill is that some years ago there was a body in Fremantle known as the Fremantle Jockey Club, and it had a racecourse site at a place known as Woodman's Point. That ground was required by the Government for public purposes, and in the ordinary course of events the Government paid to the trustees of the Jockey Club a sum of £1,000 in compensation for the compulsory taking of that property. The Jockey Club out of this money paid the debts due by the club, and had left in hand the sum of £250. The money was placed at fixed deposit in one of the banking institutions at Fremantle, and there is now to the credit of that fund, with accumulated interest, a total of about £288. The Fremantle Jockey Club is a defunct body. There are no members; and the trustees, Mr. E. Solomon, Mr. J. J. Higham, and Mr. R. H. Holmes, all of Fremantle, say there are no persons at the present time comprising the defunct club, so far as their knowledge goes; and it is the desire of the trustees, and of a large number of people in Fremantle, that the money now in the bank to the credit of the club fund shall be utilised for the purpose of improving what is known as part of Permanent Reserve No. A6638, situate at the top part of High Street, and utilised largely at the present time by residents of Perth and Fremantle and the intervening centres as a golf-ground. It is intended that the money shall be paid to the mayor and councillors of Fremantle, to be expended by them in the permanent improvement of this golf reserve. Hon. members may wonder why a Bill has been introduced for the purpose of enabling the trustees to pay the money to the Fremantle Municipal Council. The reason is that it may happen there are some members of the Jockey Club who are not known to the trustees; and if the trustees happened, without having parliamentary authority at their back, to pay this money to the Fremantle municipality, although the money was to be used for public purposes, that would be spending the money for purposes other than the legitimate purposes of the Jockey Club. I do not know that Parliament will have any objection to this money being handed to the municipal council, representing as it does the citizens of Fremantle, and being applied by them for the admirable purpose of improving a public reserve; but hon. members will see that it is better that the money now standing to the credit of the trustees of this defunct club, instead of remaining indefinitely on fixed deposit in a banking institution at Fremantle, should be applied for a beneficial public purpose. I feel sure that neither House of Parliament will object to the trustees paying the money in this direction. But if any member doubts my opinion, I have no objection to the Bill being referred to a select committee, in order that the House may examine witnesses and satisfy itself as to the statements I have placed before hon. members.

HON. W. T. LOTON: No necessity for that, surely?

HON. M. L. MOSS: I think there is no necessity; but if there is any doubt cast on the accuracy of the statements I have made, Parliament may clear up the matter by referring the Bill to a select committee in either House, so as to prove the accuracy of these statements.

Question put and passed.

Bill read a second time.

IN COMMITTEE.

Clauses 1, 2, 3—agreed to.

New Clause—costs of Act:

HON. M. L. MOSS moved the addition of a clause providing that the costs incurred in connection with the Bill be paid out of funds standing to the credit of the Jockey Club.

Clause agreed to.

Bill reported, and report adopted.

ADJOURNMENT.

THE COLONIAL SECRETARY moved that the House at its rising do adjourn until this day week.

Question passed.

The House adjourned at 5·46 o'clock, until the next Tuesday.