

Legislative Council.

Wednesday, 13th September, 1899.

Paper presented—Executors' Commission Bill, first reading—Motion: Leave of Absence (debate)—Truck Bill, third reading—Excess Bill, third reading—Customs Consolidation Amendment Bill, third reading—Insect Pests Amendment Bill, third reading—Divorce Bill, second reading, resumed and concluded—Bills of Sale Bill, second reading (moved)—Adjournment.

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

PRAYERS.

PAPER PRESENTED.

By the COLONIAL SECRETARY: Report of the Commandant of local forces, year ending June, 1899.

Ordered to lie on the table.

EXECUTORS' COMMISSION BILL.

Introduced by the HON. S. J. HAYNES, and read a first time.

MOTION—LEAVE OF ABSENCE.

HON. H. BRIGGS moved that leave of absence be granted to the Hon. H. G. Parsons for one month, on account of illness. It was due to the Council to say he had several letters from Mr. Parsons, one being from him on his way home from Borneo, where he was in a very weak and invalided state, having caught Borneo fever and was very ill. He had since received a letter from London, where Mr. Parsons had been detained on his business for several weeks, and had been laid up entirely, through the fever. He (Mr. Briggs) had no knowledge beyond that conveyed in the letters. He did not know what Mr. Parsons had communicated to the President, but the hon. member spoke most hopefully of being able to return to the colony very shortly, and to undertake the duties of a member of the House.

THE PRESIDENT: A letter had been received by him, in which Mr. Parsons said he had been laid aside by sickness, but hoped to take his seat before the session terminated.

HON. A. G. JENKINS: On behalf of the constituency he represented, and for which Mr. Parsons was his fellow member, he emphatically protested against

this continued leave of absence being granted to members. If Mr. Parsons was so ill as to necessitate such an extensive leave of absence, it was strange he should go from Borneo to London to get well. He (Mr. Jenkins) would have thought the hon. member would have come back to Australia, his home, where he would have stood an equally good chance. In the past, members had used their positions in this House to further their private ends in London and on the Continent, simply for advertisement purposes. It was not fair to Mr. Matheson, or himself or the district, that the whole work of this large and important province should be thrown upon the shoulders of two members, and there had been a great deal of talk in the district. Mr. Parsons had been absent now from the colony for several months. Supposing this leave were refused, he would still have two months from to-day before it would be possible for the House to declare his seat vacant; so, if he were in earnest, there was ample time for him to take his seat. He (Mr. Jenkins) was strongly opposed to this extended leave of absence.

HON. F. M. STONE: It was with extreme regret he heard the remarks which fell from the hon. member, Mr. Jenkins, because no member had worked so hard as Mr. Parsons, at a great loss to himself. He had been present at almost every meeting of the Council. He had to come a considerable distance to attend, and he worked well in the interests of his constituents. If his constituents were against granting any leave, there was an easy remedy, namely, to call upon him to resign; but he did not think they would be adverse to granting leave when the member was in such a state of health as had been stated. If his constituents were against granting this leave, why were they not against hon. members not attending every meeting of the House? In a week or a fortnight important matters might come on. Constituents were often unrepresented, and the same objection would apply to such a case as to the absence of a member from Western Australia.

HON. A. P. MATHESON said his sympathies were entirely against extending leave of absence to Mr. Parsons. He was not concerned in what the hon. gentle-

man might be doing away from this colony; he might be concerned in his private affairs, or he might be ill; but we had to bear in mind that the question of leave of absence for a member was discussed last session, and it was practically the unanimous opinion of the House that if a member wished to remain away for a whole session, either for private business or for amusement, or because his illness was of such a nature that he could not return to the colony, it was incumbent upon him to resign his seat, so that during the whole session his constituents might not remain unrepresented as far as he was concerned. He failed to see that the position of the hon. member (Mr. Parsons) was different from that contemplated in the discussion last session. The hon. member was away, and as far as he (Mr. Matheson) could judge, there was no possibility of his returning this session. If in one session we came to a fixed determination in regard to the line of conduct to be taken in such a case as this, and then admitted an entirely different line of conduct in the next session, it practically brought the matter down to the level of a farce.

HON. J. W. HACKETT said he would vote for the leave of absence granted, in the hope that this was the last time leave would be asked for under the circumstance. When leave, involving absence during the whole of a session, had in the past been asked for, he had protested, but there always seemed a feeling that it was unfair to begin to make an example. For his own part, however, he should in the future vote against any proposal which meant leave of absence for the whole session. In no elected House in Australia was such leave of absence granted so lavishly as in the Legislative Council of Western Australia, and this worked an injury to the House, showing as it did how little members thought of their position. The feeling was caused that a Chamber of Legislature could not be of much importance when leave of absence was granted so readily to members. Mr. Stone had certainly set up a new constitutional doctrine which was assented to by Mr. Saunders, and both of the gentlemen had trespassed on the House in the way of leave of absence; and their cases had been used as precedents. The unconstitutional doctrine set up was that no

member need pay any attention to the Constitution Act, or to the rights of the House, until his constituents rose in a body and demanded his resignation. Such a doctrine as that was entirely novel, and without any reasonable foundation. Indeed, the true doctrine was the reverse of that set up, because the constituency was without redress, and had to put up with non-representation or misrepresentation, the power really lying in the Chamber itself to grant or refuse leave of absence, and the House as well as protecting itself was expected to protect the constituencies. The novel doctrine alluded to was suggested in the last debate on the subject, and had evidently been taken up with avidity by Mr. Stone and Mr. Saunders, both of whom, it was to be hoped, thoroughly enjoyed themselves during their long leave of absence from the House. Their enjoyment, however, meant a loss to the provinces they were supposed to represent, and now they fell back on the utterly impossible appeal that, unless the constituency took action, nothing could be done in the matter. It was urged by them that only a general meeting in the province could object to their leave of absence; but how, for instance, could a general meeting be got in the province represented by Mr. Stone? Such an idea was absurd, and, whether absurd or not, it was not a constitutional view. The House had to see that members attended to their duties, unless for good and lawful excuse. He would not, on this occasion, vote for refusing the leave of absence to Mr. Parsons, but he hoped to be able to join in refusing all other applications in which leave was asked for the whole of the session.

Question put and passed.

TRUCK BILL.

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

EXCESS BILL.

Read a third time and *passed*.

CUSTOMS CONSOLIDATION AMENDMENT BILL.

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

INSECT PESTS AMENDMENT BILL

Read a third time and *passed*.

DIVORCE BILL.

Debate on second reading, moved by Hon. F. M. Stone, resumed from previous day.

HON. J. W. HACKETT (South-West): I rise with a full sense of the responsibility which devolves upon any one who takes a view contrary to that which has been adopted and pressed on the House by Mr. Stone. I believe that to a large extent, if we merely consulted our feelings, we would be found in sympathy with the hon. member in the entire Bill, and even in going further than the measure proposes; but when we bring to bear, I do not say religious principles, but considerations of social morality and of the general well-being of the community, we are forced to look into the matter more closely, and I believe the majority of hon. members will come to an opinion somewhat contrary to that which has been pressed on our attention. I shall not detain the House very long this afternoon, because this matter was threshed out very fully and effectively last session, when all the arguments which could be advanced for or against were used in a debate which extended over two days. That debate is still on record, and in the memory of most hon. members; but I must congratulate Mr. Stone on the moderation he has shown in the Bill now before the House; a moderation exercised, no doubt, in view of the debate of last session. This is a very different measure indeed from the Bill brought up to us from another place last year, and which commanded a majority of dissentients in the Legislative Council; but even this Bill goes too far, and I use the words "too far" advisedly, for reasons which I shall explain in a moment. I am prepared to go with my friend Mr. Stone in so much of the Bill as is covered by Sub-clause *a*, putting woman on an equality with man in the matter of adultery as a ground of divorce; and I am prepared to take no hostile step in regard to the measure, if we receive the hon. member's assurance that he is willing to drop Sub-clauses *b* and *c*. That step would make divorce solely consequent on an act of adultery; and I

say frankly at the outset, that I shall move that the Bill be read this day three months, and will not withdraw the amendment unless I obtain an assurance to the effect I have indicated. I consider that this offer is a large concession; because, not only are the feelings and judgment of a large number of our community offended by the fact that divorce should be permitted on any ground whatever, but even those who are in favour of divorce must feel many misgivings as to the operation of such a law as that proposed, judging by what has resulted in the other colonies where more "liberal" divorce Acts, as they are termed, have been passed. Prior to dealing with the merits of the Bill, I must urge that there is no immediate hurry or haste necessary in regard to this legislation. Whatever may happen, it is certain that a Commonwealth will be established for Australia, and there is the strongest ground for belief that within some time, be it long or short, this colony will naturally ally herself with her sisters in the south, east, and north; and when that Commonwealth is formed, the control of the marriage laws is one of the powers allotted to it, and it is a power which is almost certain to be exercised at the very earliest date. Few things are really more desirable or essential than that the marriage laws, which regulate the status of husband, wife, and children, and the conditions under which the contract may be dissolved, should be uniform for the whole of Australia. This relieves us of a certain amount of responsibility, and should we throw out the Bill this afternoon, it will be with the feeling that in a very much shorter time than, probably, many of us suppose, this colony will be joining the other colonies in framing marriage laws on a uniform basis for the whole of Australia. I am prepared, I say, to vote for the Bill if Mr. Stone will confine its operation to the adultery sub-clause. I do that, not because it may be right, or because it may be wrong, but because since 1863 we have been acting under the present Act with amendments. Under that Act a man is allowed divorce if only adultery be committed, but a woman cannot obtain a divorce unless a number, of complicated circumstances happen, all of more or less infamy and wickedness. That law has not been pro-

tested against so far as I can find by any section of the community, not even by any of the churches of this colony; and that being so, I cannot see how we can fall back on the religious argument in any degree with regard to granting women release from their husbands on the simple ground of adultery. That is the law of the land, and it has not been objected to, so far as I can find out, except perhaps in an occasional newspaper article or an occasional speech. I cannot conceive of any reason on which the two sexes should be placed on a differential basis as regards divorce.

HON. R. G. BURGESS: You have changed your mind since last year.

HON. J. W. HACKETT: It was the whole scope of the Bill I objected to last year. I do admit certain considerations, namely, that the contamination of the household is greater if it is the mother than if it is the father who commits adultery. We all know that, as a matter of simple common sense.

HON. C. A. PIESSE: Why should it be?

A MEMBER (interjection not audible to reporters).

HON. J. W. HACKETT: I am going to discuss this matter in a serious spirit, and will not reply to the silly interruptions of the hon. member. When he wishes to show himself at his silliest, he usually makes interruptions in regard to a serious question which excites our solemn feelings, such as a Divorce Act. The family is contaminated at its fountain source where the woman goes wrong. There are children who are really bastards, who are brought up with others who may be legitimate, and to the father is committed the charge of other persons' children. A state of things such as this is inadvisable to dwell upon, but it saps the entire morality of the family, and the entire family feeling to its very foundation. So much was this the case that, according to the old English feudal law, and especially the statute of treasons, the penalty of high treason was associated with the act of adultery on the part of the Queen and one or two members of the Royal family; the feeling being that the inheritance was at stake, both as regards the inheritance of land and the inheritance of the Crown. However, that is another question altogether. I say that on moral grounds, on grounds of

absolute justice and fairness, I cannot conceive any reason alleged why the woman, even though her sin be the greater, and may have more serious consequences, should not be allowed a divorce in the case of adultery by her partner, in the same way as divorce is allowed to her partner in the case of her own adultery. I have further to add this, and it has great weight with me—my hon. friend, Mr. Haynes, indicated it in some degree, and it is this, that this law has been made by men for women. When women get their vote—as they will, I am sure, shortly—no doubt they will take steps to set this matter right, and put it on a fair and equitable basis; but, in the meantime, we must all remember that this law, giving the man superior privileges, and placing the woman's morality in a different condition from the man's, is a law made by men for women, in which women have had no voice whatever. Therefore, in a very sense of shame that a law should be passed which presses more hardly on the weaker sex, I am prepared, in addition to my other reasons, to vote for granting divorce on the ground of adultery on the part of the man. But with regard to the other questions, I cannot see how the hon. member can expect us to go so far. He has very wisely dropped the vast conglomeration of offences which enabled divorce to be obtained by one side or the other as embodied in the Bill of last session; but he has adopted two of them, namely, desertion and insanity, and I must say, seriously, that I cannot understand why he should, after very full consideration, have included desertion and insanity and have left out some of the other causes. But to deal with the weakest joint in the hon. member's chain first, namely, insanity, the hon. member informed us he was willing to grant divorce on that ground, and in fact threw it out like a child to the wolves, hoping that if we worried that sufficiently we would be inclined to accept the second part of his clause, namely desertion. Of course insanity seems to me a perfectly monstrous ground of divorce.

HON. C. E. DEMPSTER: Why should a woman be kept united to a madman?

HON. J. W. HACKETT: Why should she be united to a man who offends her in half a dozen other ways? In the first place, I presume, proceedings would not

be taken until the man or woman was insane; that, of course, stands self-evident. In such a case, where a man proceeds against an insane wife, there are two fundamental conditions to a fair trial. In all fair judicial trials two fundamental conditions are essential, namely, that the party proceeded against shall be aware of the offence, and shall be able to plead. Both of these are wanting in this clause, which allows divorce for insanity. The case is tried against a poor creature, be it man or woman, when he or she is unable to know what is taking place, and cannot instruct any defender on his or her behalf, judgment being pronounced when he or she is in absolute darkness as to the grounds charged against him or her, and the penalty that is to be inflicted. That is one consideration amongst many. As to the case Mr. Dempster has mentioned of a man being united to a mad woman for life, or a woman being united to a mad man for life, if the hon. member will reflect for a few moments, he will see half a dozen equally revolting circumstances a wife may have to put up with which are not treated of in this Bill, but which involve their living together exposed to associations of the most repulsive character. I will not go into it; but half a dozen will occur to the hon. member himself, whereas, at all events, in a case of insanity they do not repel, disgust, and excite evil feeling. I am sure the hon. member will not press that question of insanity; but he gave us to understand he would press the ground of desertion. I hope he will also come to what I may call a better frame of mind with regard to desertion, and allow that to go by the board also, and then I dare say he will succeed in carrying this Bill in a fairly and tolerably unanimous House. But then desertion seems also to be taken a step too far, unless it is forced upon us by the stronger will of the Federal body. The Bill says he or she may obtain a divorce "on the ground that the respondent has, without just cause or excuse, wilfully deserted the petitioner, and, without any such cause or excuse, left him or her continuously so deserted during seven years and upwards." That is to say, just cause or excuse has to be alleged. Supposing a party, assumed to have deserted, had a

just excuse, he would come back and find that the evil had been done, the mischief being there. This question of desertion is a serious matter. If a man comes back and finds his former wife married a second time, there is this highly undesirable, not to say disgraceful, state of things, that a woman has really two husbands and two families.

HON. J. E. RICHARDSON: So she has under divorce for adultery.

HON. J. W. HACKETT: Yes; but when adultery is committed we may assume that the crime is so flagrant and shameful that it destroys all connubial feeling between husband and wife. In the case to which I refer, the wife or husband may return, and there may be a revival of the old affection by the husband either for the wife or the children; and what takes place? The woman will be living there in practically the same town or place as the husband, and she may have two families, one over which the second husband claims full rights, and the other over which the first husband claims full rights. Can you conceive of a position more unhappy or more likely to lead to evil consequences, to the children especially? for, after all, it is the children we should chiefly consider in this case. Take into consideration the position of the wife to whom the first husband returns, and the position her children will occupy for years afterwards. The stain will grow on them. The stain of divorce is bad, but the stain will be rendered tenfold blacker by the circumstances I have mentioned. Is there not strong ground for pausing before we add the ground of desertion to the ground of adultery? After all, what I urge is that we should not go too fast in this matter. Probably, if federation comes about, we shall find we are compelled to go the whole distance, but at least we can make our steps as few towards that undesirable end as may be. There seems to be an idea in the minds of some hon. members that the mere fact of a judge pronouncing a decree of divorce entirely alters the relations of husbands and wives; but how can that be? There is no doubt that makes it legal to marry, and has some effect upon the children's status; but the sin, if it be a sin, is there, and the evil effects, if there are evil effects, are there. All the consequences remain untouched by the

mere fact of a judicial decree being pronounced. We cannot, in other words, put the parties back into the same position they were in before. No amount of Supreme Court decrees can do it.

HON. R. S. HAYNES: A widow can re-marry.

HON. J. W. HACKETT: There is no reason why she should not.

HON. R. S. HAYNES: You cannot put a dead husband back.

HON. J. W. HACKETT: You can apply your own objection, whose relevancy I do not quite see at the moment.

HON. R. S. HAYNES: You do not want to see it.

HON. J. W. HACKETT: What I would urge upon the House is to be especially careful about lowering the position of the marriage tie. It is easy to lower it, but very difficult to recover the position. It is said that if a man or a woman is deserted, it will lead to his or her immorality. That, I believe, is the strongest point the hon. member put. He has forgotten that every blow struck at the, I will use the word "solidity," though I would like to use the word "sanctity," of the marriage tie makes for immorality; and a much worse state of things could not be found than in the Eastern colonies, where divorces are granted by hundreds and hundreds. In other words, when marriage is looked upon merely as a light contract which can be readily shaken off, men and women enter into it simply to gratify their passions for the time being, with the full knowledge that they can, when they like, break the relationship and enter into another of the same kind. In my opinion, and it is almost the unanimous opinion of the Judges of the English Court, every step taken in extending the divorce law leads to a great increase of gross immorality; and evidently from the circumstances of the case. I do hope we shall be careful before we tamper with the one fundamental institution which has prevailed in all ages, and which has become so much the common property of mankind that it may almost be said to be universal. It is the one institution to which society has attached itself, and to let it go would mean the disruption and destruction of our whole present social system. These steps to extending the divorce law are easily taken,

but they are not easily recovered; descent is easy, but ascent is almost impossible. As we come down, there we stay; and we never rise in regard to the divorce law. Like the grave, all is taken and nothing given back. Animated by these considerations, I move that the Bill be read a second time this day six months.

HON. S. J. HAYNES (South-East): I could not go so far as was proposed in the Bill introduced last session; but on this occasion I must support the measure as moved by Mr. Stone. The additional grounds provided for divorce are reasonable and humane, and not too broad. The first sub-clause of Clause 1, allowing either of the sexes divorce on the simple ground of adultery, is one to which I believe the House will agree, seeing that it simply extends ordinary fairness to the woman; and the second proposed ground of desertion for seven years and upwards is also reasonable. Mr. Hackett has put the case on the other side very strongly and seriously, and certainly this is a Bill which ought not to be approached lightly or frivolously. I take it that Mr. Hackett's objection to desertion, as a ground for divorce, rests on a supposition that the assumed deserting party might come back after seven years, with some just or reasonable excuse for his absence.

HON. R. S. HAYNES: What has the absent party been doing in the meantime?

HON. S. J. HAYNES: It must be remembered the proposed ground of divorce was not absence, but desertion, and that seems to have escaped Mr. Hackett. That desertion has to be proved before the Supreme Court of the colony; and, under these circumstances, it is impossible, certainly very improbable, that a case should arise such as that to which Mr. Hackett alluded. Before the Court would find there had been wilful desertion for seven years, evidence would be insisted on that reasonable search had been made for the missing party; and unless that evidence were forthcoming, the Court would not find there had been desertion. It has recently been held in the Supreme Court of either Victoria or New South Wales, where the requisite period of desertion is shorter, that in a case where a husband left his wife with her consent, and had

been away for some years, there was no desertion.

HON. R. S. HAYNES: That is the English law, too.

HON. S. J. HAYNES: Under the Bill the Court would have to decide that there had been wilful desertion, and not merely absence; and, therefore, it seems to me the objection raised by Mr. Hackett fails, and that the proposed ground of divorce appeals to what is reasonable and right. As to the third ground of insanity, that has not my sympathy as much as the two previous grounds; but when the Court finds a man has been insane for a period of three years, and that the insanity is incurable, I do not think it is straining social relations, or affecting them injuriously, but rather otherwise, to grant divorce under the pitiable circumstances. I have considered these three proposed grounds of divorce most carefully and seriously, and I have paid a good deal of attention to the remarks of Mr. Hackett on the subject of widening the divorce laws too much. Mr. Hackett fears that by adopting the grounds set forth in Sub-clauses *b* and *c* the divorce laws of this colony may ultimately be widened to the same extent as in Victoria or in America. I myself would certainly be one to resist anything like a relaxing of the laws to that extent; but in my opinion the effect of accepting the sub-clauses would be the reverse of detrimental from a social point of view. I need not reiterate the argument applied by Mr. Stone, when he drew attention to cases where deserted women are prevented from marrying and being happy and comfortable, and where, in some instances, they are driven into immorality. There is no doubt as to the truth of that argument, as both professional men and laymen in the House must know. Owing to the undue stringency of the divorce laws, flagrant cases of immorality take place in many instances; not gross immorality of the type we condemn, but the living together of unmarried people who would have been married in the proper and legal manner if there were a channel open to them. Stress of circumstances and the stringency of the colony's laws prevent the marriage, and there is no option but to live in immorality. That has certainly a bad effect on our social status, and I think a much worse effect than adopting

the remedy provided by the Bill, which, in my opinion, would be conducive to a much better order of things than the present. The improvements in the Bill, as compared with the Bill of last session, are of a reasonable nature, and I shall certainly support the second reading, in the hope that the majority of hon. members will do likewise.

HON. R. S. HAYNES (Central): I propose to support the second reading of the Bill. It will be remembered that last session I supported the second reading of the measure then before the House, although I did not myself feel that in Committee I would be able to approve of every ground on which it was proposed divorce could be obtained. I think the general opinion of the House is that the law requires amendment in the direction of placing the woman on an equality with the man in a matter of adultery as a ground for divorce; but the opinions of those hon. members, who think that the law ought not to be amended, are, of course, entitled to proper respect. When, however, we come to Sub-clauses *b* and *c*, which provide for divorce on the ground of desertion or insanity, I would like to hear the question debated more fully. The acceptance or rejection of these proposals is a matter for full consideration, and, as far as possible, I am keeping my mind open, especially in regard to the proposed ground of insanity. Clause *b*, providing desertion as a ground of divorce, I am somewhat in favour of, but the sub-clause, providing insanity as a ground, I am rather inclined to disagree with. There are certain reasons why insanity for three years ought not to form a ground for divorce, and I would rather see Sub-clause *b* amended so as to make insanity and confinement in a lunatic asylum for seven years tantamount to desertion.

HON. J. W. HACKETT: "Just cause or excuse" could not be pleaded in such a case as that.

HON. R. S. HAYNES: All these words in Sub-clause *b* have already received judicial interpretation. I also would like to extend Sub-clause *b*, so that if a person were imprisoned for seven years—not sentenced to imprisonment, but actually imprisoned for seven years—the wife might get a divorce. I think if a person is sent to prison for seven years, and is unable in that time to prove his inno-

cence, the wife might, if she chooses, obtain a divorce. Certain objections were taken to certain portions of the Bill. I am pleased to see the moderate tone in which the Bill has been received, and that members have approached it somewhat carefully, because it is a very serious matter for us to deal with, and inasmuch as it was debated very fully last session, if we propose to move at all, it cannot be laid to our charge that we are moving too hastily. During one session it was fully debated and rejected, and now it is brought up again. My hon. friend, Mr. Hackett, said he would ask the hon. member, who moved the second reading of the Bill (Mr. Stone), to give an undertaking not to proceed with Sub-clauses *b* and *c* in Committee, and that, if they were not proceeded with, he would support the second reading. I take it a number of members will agree with him, but in my opinion that is wrong in spirit. I do not think it is according to the rules or traditions of this House to get an undertaking from an hon. member in charge of a Bill to that effect, because there are other hon. members, perhaps, who are willing to support this; and if the hon. member approves of Sub-clause *a*, then it seems to me that, on all the principles that guide deliberations in this House, he ought to support the second reading of the Bill. Any person in favour of the most important clause of a Bill ought to support the second reading of it. I for one will keep my mind open with respect to Sub-clauses *b* and *c*, and I hope all hon. members will do the same. We are all, or most of us, agreed on Clause *a*. I am following the rules which have always obtained in this House and in all deliberative assemblies; but the hon. member (Mr. Hackett) is seeking to make a rule which would stifle discussion. The object of all these rules is to bring about discussion.

HON. A. B. KIDSON: Why cannot we discuss it now?

HON. R. S. HAYNES: If all hon. members agreed to support it, the matter would not need to be discussed. It is only when persons are talking on both sides that it can be debated. On no principle whatever can it be contended Sub-clause *a* should not pass. I pointed out during the last debate how it came

about that a woman was not placed in the same position as a man. It was for this reason. If you wanted a divorce, an action for damages had to be brought for criminal conversation, or, as it is generally called, *crim. con.* Unless you brought an action for *crim. con.* you could not petition Parliament for a divorce. The foundation of the divorce was that you had recovered damages at *crim. con.*, and *crim. con.* only lay at the suit of the husband, and not that of the wife. It was impossible for a wife to bring such an action. Mr. Justice Maule pointed out the absurdity of the law as it stood, and it was decided that, instead of there being a circuitous action and then a Bill, there should be only one action. But they did not extend the principle in any way, because at that time a woman had no legal existence in law: in equity she may have had, but in law she had no entity; and, consequently, they could not put her in the same position as a man and give her any rights. The first step towards putting women on an equality with men was the passing of the Married Women's Property Act, and the next step in this House was confirming the principle that women should have votes. We have brought woman into line, and invested her with all the rights of man, and also subjected her to the liabilities of man, and it seems to me it is monstrous to suppose we ought to place her on a different footing in regard to the law of divorce from what we place her on in relation to all other laws. She is equally liable with man, but you say that, as far as divorce is concerned, she shall not be on the same footing as man. Upon what principle could that be argued? The only principle is that it is based on the canon law. As I pointed out, the canon law forbids all divorce; therefore, inasmuch as you have departed from the principles of the canon law, and allowed divorce on the ground of adultery by the wife, and also on the ground of adultery by the husband, coupled with cruelty and desertion, it seems to me, if you extend the principle, you ought to do it in accordance with common sense. Notwithstanding the admirable way in which my hon. friend, Mr. Hackett, put it, I cannot see on what possible grounds it can be contended the law in reference to women should be different to the laws

relating to men so far as divorce is concerned. I am glad to see the hon. member has taken a step forward since the last debate. He may not, perhaps, have been opposed to it, but he certainly did not say he was in favour of any one clause, though he may have been in favour of a sub-clause similar to this. At all events he has taken this step forward, and has now avowed his intention of supporting a measure containing Sub-clause *a*. Therefore, he has expressed his opinion that he will depart further from the principle of the canon law. If we are going to put our foot out, let us put it out and settle the question once for all. Let this be a final act. Let it be understood that this shall be a compromise as far as possible, and let us see how far we can possibly go. You know how far the Legislative Assembly have gone, by the Bill which came before us. That Bill went very much further than this measure, and we threw it out. Now let us compromise matters, and let it be understood that this is the furthest extent to which parties agree to go. On the education question—a bone of contention—we have come to a compromise, and why cannot we come to a compromise on this? I ask hon. members to go as far as they can, because—mark my words—if you do not consent to this Bill, you will have a very much stronger Bill, a very much more extended principle, carried against your wishes. Whatever is passed, I for one—and I hope Mr. Stone and all other hon. members will support me—will agree that if we come to a compromise (only on that ground) I will never extend the principle; but if hon. members are going to put it to the vote and fight it out, that will be no compromise, but a victory.

HON. J. W. HACKETT: You may be all out at the next election.

HON. R. S. HAYNES: I will not be.

HON. J. W. HACKETT: Are you going for the Senate?

HON. R. S. HAYNES: I have now to deal with Sub-clause *b*, which, mark you, invests one with the right of divorce on the ground that the respondent has, without just cause or excuse, wilfully deserted the petitioner, and without any just cause or excuse left her continuously so deserted for seven years or upwards.

A MEMBER: Wilfully deserted.

HON. R. S. HAYNES: It is not a new law, but it will be read together with the present divorce law, and the word “desertion” has already received judicial interpretation. “Desertion” is the unlawful leaving of a person without means of support; therefore, it is not simply residing away, but going away without the wish and without the consent of the other party to the marriage, and remaining absent for seven years, during that seven years neither cohabiting with the party, nor yet having promised money towards his or her support. If a man went away for six years, and sent his wife some money for her support, that would preclude her from having a divorce before the expiration of seven years from that time.

HON. R. G. BURGESS: If this Bill were passed?

HON. R. S. HAYNES: Yes. Supposing a man and woman absolutely agreed to separate, and they did separate, a deed of separation being perhaps drawn up, and they lived apart for seven years and then supposing the man agreed to contribute to the wife's support, and failed to contribute to her support, it has been held in law that would not be desertion, because at the time he left his wife it was with her consent; therefore, the words “without any just cause or excuse” would not apply to a person where the wife or the husband had been a drunkard, or the person left in consequence of some immorality, perhaps not amounting to adultery, if he had good cause, such as a judge or jury would say was quite sufficient reason for leaving. There may be various things (perhaps associating with thieves, or bringing ruffians into the house, and so on) that would be sufficient for a woman to say: “My position in society is such that I shall not continue to live with you.” That would be just cause for leaving. I will give an instance: A man married in this colony and cohabited with his wife for three or four years. He left his wife, and for 12 or 13 years lived in another colony, it being well known that during that time he lived with another woman. The wife is unable to obtain a divorce because she has not the money to send a commission over to the colonies to obtain evidence. He is actually living openly with another woman, and yet

the wife has to prove it in this Court, and she cannot do it for want of funds. That is only one instance, which is a glaring one; and I can quote others. In the meantime this woman is kept waiting for 10 or 12 years, and cannot marry, or live with her husband again. In all probability the man does not wish to live with her any more, and yet, if she could only prove a fact well known to exist, she would be entitled to a divorce.

HON. F. T. CROWDER: What does it drive her to, if she has a family?

HON. R. S. HAYNES: I will leave that to hon. members to judge. I am not dealing with this from a religious standing at all, but as it presents itself to me, after many years' experience in the law. I can assure hon. members that, so long as I belong to my present religion, I could not avail myself of any one of the grounds provided in the Bill, without leaving my church, so that such legislation would be of no advantage to me, or to the sect with which I am connected. But I am here to represent the public generally, and I feel that if this measure be passed, it will be a move in the right direction. While Mr. Stone was speaking, Mr. Hackett asked what would be the position, supposing after seven years the assumed deserting party re-appeared. Supposing the husband did re-appear under the circumstances, the ruffian ought to be put in gaol. A scamp who, without cause or excuse, leaves a woman for seven years without contributing to her support, perhaps with a large family, ought to be whipped off the face of the earth.

HON. J. W. HACKETT: That would not put the wife in a better position.

HON. R. S. HAYNES: But the Bill would give the wife the right to divorce.

HON. J. W. HACKETT: But it would not put her in a better position.

HON. R. S. HAYNES: That is the question on which we cannot agree, but I ask hon. members to be consistent. If a man now commits adultery, deserts his wife for two years, and then comes back, his wife is entitled to a divorce under the present law; and what is there worse in giving a woman a divorce on the grounds of seven years' desertion, than on the grounds provided in the present law? If a man stays away from his wife for seven years, leaving her without support, the

presumption ought to be that he has committed adultery in the meantime: that ought to be the presumption of the law, and it is one which any jury could make. If a man thinks so little of the marriage contract as to desert his wife for seven years, he has forfeited the right to be called a man at all. I am prepared, however, for any argument against the adoption of this ground of divorce; I am keeping my mind open for any good reason why the provision should be struck out. I do not like this proposed ground of insanity, because the term of three years is too short, and as I said before I would rather the Bill were amended as to make seven years in a common gaol, or a similar confinement in a lunatic asylum, desertion without lawful excuse.

HON. F. T. CROWDER: Once mad, always mad.

HON. R. S. HAYNES: Not at all; several people have been confined in lunatic asylums, and have recovered.

HON. J. W. HACKETT: By insanity, does Mr. R. S. Haynes mean confined in a madhouse?

HON. R. S. HAYNES: Yes.

HON. J. W. HACKETT: Because there are degrees of insanity.

HON. R. S. HAYNES: That is one of the objections I have to the clause; because a person may be insane for three years, but may have lucid intervals of six months. Has the three years' lunacy to be continuous? I am not much in love with this provision, but at the same time we ought to vote for the second reading on the grounds I have stated.

HON. D. MCKAY (North): I support the amendment of Mr. Hackett. When a Bill of this nature was before the House previously I voted against it, and I will vote against the present Bill. We can take Victoria as an instance of meddling with the divorce law, and in that colony a marriage certificate is very little better than a license for immorality.

HON. D. K. CONGDON (West): I voted against the previous divorce Bill and I intend to repeat the operation now. I am not in sympathy at all with the Bill, because I believe the divorce laws in the colony are all that are requisite, and I intend to support that opinion with my vote. It matters little to me what other people think, because if I think one way, I have a perfect right to support that

opinion. It appears to me that in discussing this matter at all, we are allowing the insertion of the thin end of the wedge, and giving an opportunity to the supporters of the Bill, to gain by a side issue, what they are not able to gain by direct statements to hon. members.

HON. R. S. HAYNES: Why did you not move the closure?

HON. D. K. CONGDON: I did not do that, but I have as perfect a right to express my views as has Mr. R. S. Haynes. I do so now, and I intend to oppose the second reading of the Bill.

HON. C. A. PIESSE (South-East): I do not intend to oppose the second reading of the Bill, but I hope the good judgment of Mr. Stone will lead him to strike out Sub-clauses *b* and *c*. It is absolutely necessary the women should be put on the same footing as the men in regard to adultery, and I cannot see why, because we object to two clauses, we should throw the Bill out.

HON. A. B. KIDSON (West): I shall not detain the House at very great length in addressing myself to the Bill, because the question was debated at some considerable length during the previous session. The measure then before hon. members was discussed in a most learned and able manner, and it is, therefore, quite unnecessary for any hon. member to go over the ground again. The two proposed grounds of divorce objected to by Mr. Hackett, and one other hon. member who has already spoken, were included in the previous Bill to which I have alluded, and on that occasion arguments for and against those proposed grounds, were gone into fully and lucidly; and, therefore, hon. members must surely have made up their minds which way they are going to vote. It would have been better had Mr. Stone confined this Bill to a provision placing man and woman on the same footing in regard to adultery as a ground of divorce. My own opinion, and I have expressed it on a previous occasion, is that that is a ground of divorce which should be provided by our law.

HON. R. S. HAYNES: Then why not vote for the second reading?

HON. A. B. KIDSON: On the occasion to which I am referring I voted as I shall vote now. Had the Bill then brought in dealt with that provision, and that

alone, I should have voted for it, as I would do on this occasion.

HON. R. S. HAYNES: That is Truck Act argument.

HON. A. B. KIDSON: I like Mr. Haynes exceedingly, but it would be better for him if in debating questions of this serious importance, he would refrain from making those flippant interjections he is so fond of making.

HON. R. S. HAYNES: The same argument was used in regard to the Truck Bill. You and your "flippancy"!

HON. A. B. KIDSON: I do not know whether the hon. member views this as a serious matter, but it is hard to come to the conclusion that he does. There is one point to which I would like to call attention. Hon. members must have noticed a somewhat peculiar change of demeanour in Mr. Haynes in dealing with this question, a demeanour not generally his; and I would like to warn hon. members, because I can assure them that when Mr. Haynes takes up that attitude, the arguments and remarks he makes should be carefully scrutinised. The hon. member made use of some very subtle arguments in dealing with the question, no doubt with a view of leading hon. members to vote for the second reading of the Bill; but I would warn hon. members not to be led away by those arguments, unless they wish to see either one or other of the two sub-clauses to which they are objecting, passed into law.

HON. C. A. PIESSE: We will have the sub-clauses out of the Bill.

HON. A. B. KIDSON: The hon. member may say that, but it does not follow that he will be able to carry the House with him. The object no doubt in getting the second reading passed is—

HON. J. W. HACKETT: To get in the thin end of the wedge.

HON. A. B. KIDSON: Exactly; so that the promoters of the Bill may have an opportunity of passing either one or either of the two sub-clauses objected to.

HON. F. T. CROWDER: The House will rule.

HON. A. B. KIDSON: I know that, but at the same time, we have had experience of these tactics before.

HON. R. S. HAYNES: There are no tactics in this.

HON. A. B. KIDSON: I am simply making use of the argument in order to warn hon. members of the position, or trap I may say, into which they may fall. I hope I shall not say anything to which hon. members can take exception, because I have no desire to raise ill blood in a discussion of this kind.

HON. R. S. HAYNES: You do not go a good way to show that.

HON. A. B. KIDSON: I desire to put forward my view, which I believe is held not only by myself, but by the greater proportion of the community. The view is that the grounds of divorce should be extended as little as possible, and the House should pause before it lends itself towards any extension, and thus open the door to weakening the marriage tie, which I am sure every member in the House looks on as the most sacred tie that could be possibly entered into.

HON. F. T. CROWDER: You speak of the happy, and not of the unhappy portion of the community.

HON. A. B. KIDSON: To please the hon. member I will now deal with the unhappy portion of the community. I do not know to which portion the hon. member belongs, and perhaps at a later stage, he will be able to inform the House. We all know that there are happy marriages and unhappy marriages, and I do not think that this Bill, if passed into law, would be the salve for all unhappy unions. There would still be unhappy marriages; and what does the whole thing amount too? When two people make up their minds to marry, they should, if they do not, most earnestly consider and weigh the circumstances.

HON. R. S. HAYNES: They never do.

HON. A. B. KIDSON: If two persons enter into what is the most solemn contract possible, they must abide by the consequences, not for their own benefit, but for the benefit of society. Every member believes the marriage tie to be the strongest possible tie, and further, as Mr. Hackett said, that it lies at the very root of society. That being so, is it wise to take any steps that will have the effect of loosening that tie? Before taking such a step as this, is it not well for the House to take advantage of the experience of other places? The hon. member, Mr. Hackett, has given an example of what has been the effect in

Victoria, and on a previous occasion when this matter was being debated in the House I stated what I knew to be a fact; namely, that several judges had expressed their condemnation of the Act.

HON. F. T. CROWDER: That was their opinion.

HON. A. B. KIDSON: An opinion founded upon practical knowledge, extending over a considerable period. I had the pleasure and opportunity of reading a speech delivered some little time ago by the present President of the Divorce Court at home, Sir William Phillimore, who expressed his condemnation of extension of the divorce law. I have no hesitation in saying he is one of the greatest authorities on the subject in the British Empire, and when you hear such a man expressing his views so strongly as he expressed them against any further extension of the divorce law, I think it is time for the House to pause, especially in view of the extent to which the law has been carried in the other colonies, and of the opinion of the Judges as to the effects of it. Members seem most anxious, for some reason or other, to rush women into marriage, but no argument has been used suggesting that men should have an opportunity of marrying again in case of desertion. I would like to point out as strongly as possible, and I hope it has not escaped the minds of hon. members, that in case of desertion a wife can obtain a judicial separation and maintenance, and under such circumstances what is the object of opening the door more widely for women to get married again? I have heard no valid reason or ground put forward why the law should be made so open for them to rush into matrimony again. A person would think, that having had one trial, and had a bad time, they would think twice before rushing into matrimony again; and I repeat that I do not think the House should open the door to assist them to do so.

HON. F. T. CROWDER: That does not apply to you, in mining "specs."

HON. A. B. KIDSON: I should not take notice of the interjection, perhaps, but possibly the hon. member knows more about mining "specs" than I do, and, it may be, to his cost. It has been said the

House has nothing whatever to do with religious grounds.

HON. F. T. CROWDER: Who said so?

HON. A. B. KIDSON: The hon. member, Mr. Stone, said so, for one. He said he would not allow religious grounds to come into the question. That may be the hon. gentleman's view of the subject, but I say advisedly there is not one person out of ten thousand who enters into the state of matrimony who does not allow the religious view of the question to weigh with him. I should be sorry to think it was otherwise, and I feel confident that what I state is correct. Members must remember that from the very time of our childhood we are brought up and educated to believe that marriage is, in a sense, sanctified. Do hon. members mean to say they are going to treat this question apart from that? I defy them to do so. They may speak about it openly before the House, but I believe that in their own minds they cannot dissociate the question of marriage from what I have stated.

HON. F. T. CROWDER: It is a civil contract.

HON. A. B. KIDSON: I know it is a civil contract; but you cannot draw your mind away from the fact that there is a certain religious sanctity attached to marriage, whether it is performed in a registry office, a church, or a house. I must congratulate Mr. Stone upon the temperate manner in which he introduced the question to the House, and also Mr. Crowder upon the very able, lengthy, and lucid speech he made in support of the second reading of the Bill.

HON. F. T. CROWDER: Do not be sarcastic.

HON. A. B. KIDSON: At the same time, I must say I was not impressed to any great extent, nor do I think other hon. members were impressed by the arguments which Mr. Crowder brought forward. I took notes of his remarks, and upon looking into them I really could see no valid grounds or reasons why the House should support him in the second reading of the Bill. With regard to the question of desertion, it seems to me that only one side has been dealt with. Have members considered it from the point of view that there may be fraudulent collusion between the parties? What is to prevent fraudulent collusion between

husband and wife? If they get tired of one another, what is to prevent them from joining together, and one saying to the other, "Now look here: we will go asunder. I will go to York, Melbourne, Victoria, or Sydney or any other place. You stay here, and at the end of seven years we can part and have a divorce"? What is there to prevent that?

HON. R. S. HAYNES: The Queen's Proctor may intervene.

HON. A. B. KIDSON: The Queen's Proctor may intervene; but he cannot see into the minds of persons.

HON. R. S. HAYNES: The same objection applies to divorce now.

HON. A. B. KIDSON: They do it with the intention of hiding what they are doing. What would be easier than for two persons to do a thing of that kind?

HON. R. S. HAYNES: The Queen's Proctor intervenes under the present system.

HON. A. B. KIDSON: When he has some ground to go on, but he has to find it out first, and if persons put their heads together, and one of the persons goes to Victoria and the other remains here, how is the Queen's Proctor to find out what arrangement has been come to between them?

HON. R. S. HAYNES: How is it found out in cases of adultery?

HON. A. B. KIDSON: It is very rarely found out. The instances in which the Queen's Proctor intervenes are very few, as is very well known. Mr. Haynes reminded the House he had had many years' experience of the law. I am not going to dispute that, nor am I going to dispute that he has had greater experience of the law than any other hon. and learned member of the House; but what I say is, we have had the experience of the Judges who have tried these cases, and who have worked under this Act, which I do not think the hon. member has done, and, as I have said before, we have had the fiat of one of the greatest authorities on the subject at home, and I think we are entitled to place their views considerably more in the scale than, perhaps, the views of the hon. member.

HON. R. S. HAYNES: Sir Richard Webster says that Judges are bad guides. The Colonial Secretary quoted it.

HON. A. B. KIDSON: I believe the hon. member (Mr. Haynes) did not agree with that assertion.

HON. R. G. BURGESS: No, he did not.

HON. A. B. KIDSON: I am entitled to claim that the hon. member should agree with me on this occasion.

HON. R. S. HAYNES: You convinced me I was wrong on that occasion.

HON. A. B. KIDSON: Whether he agrees with me or not matters little, but I think the House will agree that those persons who have worked under this law, and have had an opportunity of judging of the merits and demerits of the case, are the best able to express an opinion.

HON. R. S. HAYNES: Judges have not condemned the law, as a rule.

HON. A. B. KIDSON: I think perhaps the House should attach some importance to the opinion given by those to whom I have referred. I do not propose to labour the question any further, for it has been debated before in detail and at considerable length; but I would ask members to pause before they allow this Bill to pass into law, and so open the door to extend the grounds upon which the marriage tie may be widened and loosened. I ask them to pause before doing that, and before following the hon. member (Mr. Haynes) in his appeal to them to vote for the second reading of the Bill. I think the pledge asked for by Mr. Hackett perfectly fair. He asked for a pledge that Mr. Stone would drop the objectionable sub-clauses in the Bill, and said that in the event of that being done he would support the second reading. Mr. Stone maintained a stolid silence, and gave no answer to that request. Mr. Hackett said, unless that pledge were given, he would press to a division that the Bill be read this day three months. Under the circumstances, I ask members to support the suggestion of the hon. member, Mr. Hackett.

THE COLONIAL SECRETARY (Hon. G. Randell): I only propose to say a very few words on this matter, and in doing so I would like to congratulate the Hon. Mr. Stone upon the moderation of the Bill which he has introduced to the House; moderation as compared with the Bill introduced to the House last session, which members were not prepared to support. I must confess I have

some sympathy with the second sub-clause, but not sufficient to vote for it, at the present time, at any rate, even if we go into Committee, for the reason, as Mr. Kidson has alleged, that to a certain extent it will be a loosening of the marriage contract, and that is undesirable under present circumstances. I think the whole, or nearly the whole, of the members of the House are agreed we might safely place women upon the same footing as men. There seems to me scarcely any dissentient voice in this respect, and I think Mr. Stone would be well advised to consent to the withdrawal of those two sub-clauses, and secure the passing of the Bill. I am anxious to see the Bill passed for the very reason that it is only logical, right, and just that a woman should be placed on the same footing with regard to our marriage law as a man. Either that, or else we ought to go backwards and prohibit divorce altogether. I am not prepared to do that, neither do I think the people of any civilised country are prepared to do so. I think that laws of divorce must exist, and there are many causes which are proper subjects for divorce.

HON. J. W. HACKETT: Divorce does not exist in Ireland.

THE COLONIAL SECRETARY: In no part?

HON. J. W. HACKETT: Neither North nor South.

THE COLONIAL SECRETARY: That is an exception. There are several circumstances that have been mentioned to-night under which it would be cruelty on the part of the laws of the country to compel a man and wife to live together. If they were separated, and chose afterwards to re-enter into the marriage contract, they could do so. Marriage and divorce have divine sanction. Some of the arguments used here to-night would reduce the marriage contract to a simple State contract, whereas in my opinion it is the most solemn contract that human beings can enter into. We cannot shut our eyes to the fact that marriage is now entered into with a good deal of levity, and when Parliament sanctioned marriages in registry offices, that certainly took away the religious element from the marriage ceremony there performed, because we know that religion does not enter into any of the words which are

pronounced by the registrar, and which make a man and woman husband and wife. The sacred institution is essential to the well-being of the community, and should be well guarded; and from the tone of the debate I am satisfied the law in this respect is perfectly safe in the keeping of hon. members. I intend to vote for the second reading of the Bill, whether the two sub-clauses objected are withdrawn or not. The Bill ought to go into Committee, because I feel convinced that there is not the slightest chance of these two sub-clauses being carried; and I should advise the hon. member in charge of the Bill to promise that he will expunge them.

HON. A. G. JENKINS (North-East): I fail to follow the arguments of those hon. members who contend that because a portion of a proposed law happens to be bad, and the greater portion of it good, the whole Bill should be thrown out. That is not the tone nor the spirit in which proposed amendments of the law should be met. It is not possible, I suppose, in any House of Parliament, to have a perfect Bill framed to meet the wishes of all members; and unless measures of the kind are allowed to go into Committee, and the bad portions expunged, I fail to see how we can ever get good amendments of any standing law. The first proposed ground of divorce seems to meet with practically the unanimous approval of hon. members, and on that ground they ought to vote for the second reading of the Bill. If their case against the two remaining sub-clauses is so strong that they are able to throw them out, where can be the harm in granting a privilege to women which hon. members acknowledge should be given? Hon. members will, to a certain extent, stultify themselves if they vote against a Bill, portions of which they approve of. I intend to vote for the second reading of the measure, and after the very able arguments used by certain hon. members in favour of Sub-clause *b*, I fail to see why that sub-clause should not be debated more fully in Committee. I shall do my best to assist in making Sub-clauses *a* and *b* law, but I am not in favour of Sub-clause *c* as at present drawn. I think it rather too wide, and too sweeping, and I hope the hon. member in charge of the Bill will see his way to amend the provision.

HON. A. P. MATHESON (North-East): I have waited with much anxiety to hear from some hon. members who oppose the second reading of the Bill some logical reason against the two Sub-clauses *b* and *c*, which appear to provoke most of the hostile comment we have had this evening. One would have thought, after the debate which took place on the subject last session, that hon. members would have posted themselves with good and logical reasons with which they might hope to convince members who took an opposite view; but, so far as I have listened, we have heard nothing dealing with the Sub-clauses *b* and *c* except sentiment. It seems that hon. members who oppose the sub-clauses, to a great extent overlook the fact that, whether you deal with the question of divorce solely from a point of view of a religious ceremony, or whether you deal with it from a point of view of a civil contract, the fact remains that we have recognised in this colony offences for which we are prepared to grant divorce. This strikes at the root of the whole matter, when we recognise that divorce should be granted under certain circumstances. The next step it seems to me is to consider whether any other circumstances are equally valid grounds for divorce, or whether they are not. If they are not equally valid, then we have to consider whether such other offences justify to a smaller extent, the same principle of divorce. Applying one's self to the subject from that point of view, and dealing with Sub-clause *b*, we find there, so far as I can understand it, simply an amplification of an existing principle. I understand that in the case of a woman seeking for divorce at the present moment, desertion is taken into account, if coupled with adultery; and, therefore, when Mr. Stone brings forward a Bill simply enlarging the scope of the existing desertion provision, it cannot possibly be urged that it is introducing a new principle. It is for the House to consider whether the mere fact of adultery, taken as an offence alone, is a very much greater proportionate wrong against a man or a woman, than desertion for seven years. It is from that point of view I think the question should have been argued. We ought to have had pointed out to the House the relative injustice to the woman, or to the man as the case

may be, of adultery and desertion. Then, dealing with Sub-clause *b*, if once we admit, and we have admitted already in the case of a woman, that desertion is a thing that should be taken into account in determining the question of divorce, it seems to me not an illogical thing to say that desertion, which is caused by an act of Providence—and that, I take it, is what confinement in a lunatic asylum amounts to—should also be taken into account. That is an involuntary desertion on the part of one of the parties to the contract, for which not the party but Providence is responsible, and it might fairly be contended that that ground should be taken into consideration in deciding whether either party is entitled to a divorce. It is to that point of view I should have expected, in a logical assembly like the Legislative Council of this colony, the arguments would have been addressed. In place of that we have had a lot from the sentimental point of view, and heard a great deal about the “root of society”; but the “root of society” is already affected, and the question we have to discuss is the proportion in which we should cut out the cankers that exist at the “root.” I am not prepared to say at this moment whether I shall support Sub-clause *c* as it stands, but I earnestly appeal to hon. members to allow the Bill to go into Committee, when the opponents of Sub-clauses *b* and *c* may address themselves logically to the question as though their auditors were intelligent people, as to whether those sub-clauses shall remain in the Bill or not.

At 6-30, the PRESIDENT left the Chair.

At 7-30, Chair resumed.

HON. E. McLARTY (South-West): I have listened with a great deal of attention and interest to the many able speeches which have been delivered on this important question, and it gives me a great deal of pleasure to observe the earnest way in which members have approached the subject. I have noticed an absence of that spirit of levity which so very often marks discussion in this House, and it is very proper members should approach such an important and serious question with the greatest earnestness.

I intend to support the second reading of the Bill, even if it were only with the object of the first sub-clause being passed into law. I believe there is a unanimity of opinion that the divorce law is unfair as it stands at the present time, the husband being able to obtain a divorce for adultery while the wife has not the same course open to her: therefore, on the grounds of common justice, I feel I shall be doing right in voting for the second reading, and for the passing of that sub-clause. I also feel there is a great deal in the arguments used by Mr. Stone and other members with regard to Sub-clause *b*. There is much to recommend it, but at the same time I feel I should not be doing right in giving my support to the passing of that sub-clause. I have known instances—or at all events an instance—where a man and wife have been separated for a great number of years, being completely lost to each other, and have come together again and lived very happily.

HON. F. T. CROWDER: Did the man desert her?

HON. E. McLARTY: A person—I will not say whether the man or the wife—was absent many years without sending any communication, and the one was, as it were, dead to the other. They came together again and I believe lived happily. This might often be the case. Again, I think there is a great deal in the argument used by Mr. Kidson that this sub-clause, if passed into law, might lead to collusion. It is just possible a man and his wife, if tired of each other, might decide to go to different places and remain apart without communication for seven years, and then they would be perfectly free. Then there are other reasons why we should not pass that sub-clause, therefore I shall in Committee vote against it. As to Sub-clause *c*, I certainly shall not support it, and I think Mr. Stone will hardly press it upon the House, because I believe there is, at all events, a large majority who would not support it. I do not intend to labour the question. It has been very fully and very ably discussed, but I wished just to express my views. I shall support the second reading, but not Sub-clauses *b* and *c*.

HON. C. E. DEMPSTER (East): I have listened attentively to the able discussions that have taken place on the

Bill. I have come to the conclusion that, if divorce of any kind is admitted, this Bill is a desirable one, as it will meet those cases referred to, and I think every member of the House will allow they deserve consideration, and that there are cases in which it would be most undesirable to insist upon the man and woman living together. I think the Bill sufficiently safe-guarded to prevent it from encouraging a wish to separate. It would be so difficult under the Bill to obtain a divorce that it would be a most painful ordeal to go through for either husband or wife, and therefore they would only make use of this law in extreme cases. That divorce is necessary under some circumstances I think members will admit. I have known an instance of a wife deserting her husband, leaving him to provide for two or three children as he best could, while she went off with another man; and why should a man in that position be debarred from marrying again? I think it would be impossible to bring that man and his wife together again, and expect them to live together in happiness. Everyone will agree that divorce is desirable under certain circumstances. Taking that view of it, I certainly shall support the second reading of the Bill. It may be desirable, and I think it is, to increase the term of lunacy for some years, but I think no one will contend that if a man or a woman were a lunatic it would be desirable to bring the parties together again, and it would be very undesirable for a man or a woman to be debarred from marrying again if they wished to.

HON. R. G. BURGESS: After three years.

HON. C. E. DEMPSTER: You could lengthen the time. I think if a man or a woman has been mad for over three years, there is not much probability of their ever recovering to a sufficient extent for the parties to live together.

HON. R. G. BURGESS: It would be a nice thing to be put on the world.

HON. C. E. DEMPSTER: That requires to be provided for in some other way. I do not see any other clauses that are at all objectionable.

HON. W. T. LOTON (Central): Without attempting to reiterate the arguments which have been used on one side or the other, I think the arguments against the

full Bill are very much stronger than those for it. I shall give my support to the Bill so far as Sub-clause *a* of Clause 1 is concerned. I do not think it is desirable to make divorce too easy, and to extend it. I do not look upon marriage as a civil contract, but as a sacred contract, and to my mind it is very frequently entered into without due consideration. I think the more liberty you give to dissolve that contract, the less consideration will be given to it by some parties, before they enter into it; and the greater the liberty given for divorce, the lower we shall gradually go in the direction of looseness of morals and of society generally. Without further comment, I desire to inform the House of my view at this stage of the proceedings, and whatever arguments may be adduced will not alter my mind at the present time and cause me to go any further than I have stated.

HON. H. BRIGGS (West): I should not have made any remarks on this subject, as it was so thoroughly well debated on the last occasion, but for the fact that I seem thoroughly out of touch with all the observations that have hitherto been made. I desire for my own satisfaction to place on record my views with regard to divorce. It has been mentioned by Mr. Crowder that marriage is simply a civil contract, and if it is a civil contract entered into between two adults for the furtherance of their mutual happiness, I think it ought to carry with it the liberty of divorce. I think it is that view of a civil contract, with power to separate if the conditions are not fulfilled, if both mutually wish it, that leads to most of the arguments we have heard this evening. I believe a duly consummated marriage ought to be absolutely indissoluble. Even in the case of adultery, I think the separation, as it is called, from bed and board, or a judicial separation without any right of remarriage, is the utmost limit to which we are warranted in relaxing the bond of matrimony. I ground this belief on the origin of the institution of marriage. We have heard a great deal about colonial law, law in this colony, and British law, and the Divorce Act introduced in 1857. One learned member has talked to us about the canon law. We have heard of all this different law, but we ought to go to

the foundation of marriage, and that is the divine law. Beyond that we cannot go. Looking at the divine law, there is no right of granting divorce. We are told the permission that was given was given to a set of people because of the hardness of their hearts. The highest counsel is that the marriage vow shall be kept inviolate.

THE COLONIAL SECRETARY: Matthew does not say so.

HON. H. BRIGGS: I refer to the three occasions on which it is mentioned. The first occasion of course is in Genesis, where it is given in the words of Adam, who is speaking prophetically of what marriage rests on. The hon. the Colonial Secretary refers us to Matthew. There it is given in the words of the Almighty himself; and St. Mark gives us the foundation of the marriage obligation in the words of our Saviour. I admit that nothing I say will have any effect on those who have cast themselves beyond the pale of Christianity.

HON. A. P. MATHESON: What about the 24th chapter of Deuteronomy?

HON. H. BRIGGS: I am not speaking of the Jewish law.

HON. A. P. MATHESON: It is Scripture.

HON. H. BRIGGS: I am speaking of Christianity, and Deuteronomy was the law of a particular race. Anything I say in regard to this question is bounded by the principles of the Founder of Christianity; and nothing, I say, will have any effect on those who have cast themselves beyond the pale.

A MEMBER: What about Solomon?

HON. H. BRIGGS: Solomon was under the Mosaic dispensation.

THE COLONIAL SECRETARY: The words in St. Matthew are the words of the Saviour himself.

HON. H. BRIGGS: The words in Mark are the words of the Saviour, but the words in St. Matthew are the words of the Creator.

THE COLONIAL SECRETARY: I was referring to the 7th chapter of St. Matthew.

HON. H. BRIGGS: That is not the portion I was referring to. I was referring to the passage where the Pharisees came tempting Christ, and the question came in as to "every cause"; but I will pass away from that. I found my first reason against divorce on divine law, and my

second reason is associated with children. We have heard so much about the man and the woman that I desire to bring into prominence the family, the sanctity of which I believe to be of vital importance. Parents should keep together, in order that their children may be nurtured and educated; and if people are at liberty to fall apart, and there is any idea of permanent separation, then there is a tendency to loosen the bonds of society. Every little passing difference might deepen into aversion, and that confidence and security destroyed which ought to be the basis of the marriage union. The sanctity of marriage is founded on divine law, and for this reason and the sake of the children, I oppose the divorce in any shape; and I shall vote for the amendment that the Bill be read this day three months. We heard piteous stories and sad cases which no doubt exist, but the great Master who made the law knew that these things would occur, and I feel that they are but as "dust in the balance" against the evils which would come from making the law of divorce unduly lax.

Amendment put and negatived.

Bill read a second time.

BILLS OF SALE BILL.

SECOND READING.

HON. R. S. HAYNES (Central), in moving the second reading, said: This Bill is of considerable importance to the whole community, especially to the mercantile and trading community. The measure aims at introducing a somewhat better tone into commercial dealings, and endeavouring, as far as possible, to prevent frauds which occur, notwithstanding the present Act was passed for the purpose of suppressing such frauds. The Bill is somewhat a departure from the Act, because, amongst other provisions, it increases the security of persons trading on credit, and it prevents a dishonest debtor from making away with his property after he has become indebted to a trader. It frequently happens that a person carrying on business in a large town has occasion to obtain advances and credit from banking institutions, or wholesale merchants. Up to a certain point the creditors do not press for any security, but there comes a point when one of the creditors seeks to obtain some

security. The debtor complains that if he gives security, it will interfere with his credit, and practically ruin his business. And the creditor, being importuned in this manner, allows the debt to exist perhaps for a long time, while the debtor becomes more and more embarrassed, and disposes of the whole of his business, or executes a mortgage or a bill of sale to some favoured creditor. Perhaps the debtor obtains an advance from some person on a bill of sale, and thereby takes away the security which the creditor had looked on as his own, and this puts out of reach of the creditors the assets which ought to have been distributed for the purpose of paying debts. Under the present law all that can be done; but a new departure in the Bill provides that, before the debtor can execute a bill of sale, and deprive the existing creditors of the claims they undoubtedly have against his assets, he must allow the bill of sale to remain in Court for seven or fourteen days; I forget exactly the time.

HON. R. G. BURGESS: Is that gazetted, or published in the daily newspapers?

HON. R. S. HAYNES: The fact will be published in the *Trade Circular*.

HON. R. G. BURGESS: But one might not see the *Trade Circular*.

HON. R. S. HAYNES: But all business people ought to take the *Trade Circular*. If a creditor become aware that a debtor is about to, or has, executed a bill of sale, he may apply to the Court, and the Judge may, if satisfied that the execution of the bill of sale will take the assets out of the reach of creditors, refuse to register the bill of sale until the debtor discharges the debt due to the creditor.

HON. F. T. CROWDER: A man would never get an advance under these circumstances.

HON. R. G. BURGESS: It would be a very expensive proceeding.

HON. R. S. HAYNES: It would not be expensive, and as the debtor would know the bill of sale would have to lie for seven days, he would be careful not to attempt to take the assets out of the disposal of the creditors under any mortgage, without making provision for the payment of creditors. This provision will act as a lever on the debtor, and prevent him doing what is frequently done now, namely, perpetrating a swindle.

HON. F. T. CROWDER: Make him call a meeting of his creditors, and get permission to have an advance.

HON. R. S. HAYNES: Persons who get advances on bills of sale over personal property and stock in trade are generally very nearly calling in their creditors, and it would be better that a meeting should be called, than that one creditor should swindle the majority. I think hon. members will see that I am introducing this Bill for the purpose of preventing these frauds, of which we have examples every day in the Courts of justice. The measure does not affect the legal profession, but is entirely in the interests of the honest portion of the trading community. The present Act is absolutely incomplete, and under its provisions dishonest people have found means of getting out of the payment of their debts, and perpetrating the very class of fraud aimed at by the Act. There is one other departure in the Bill, and that is in regard to debentures. At present the law is that any limited liability company carrying on business in Western Australia may issue debentures, which may be perfectly private, and of which no one hears or knows anything. Such companies can charge the whole of their book debts and every portion of their assets without giving publicity whatever.

HON. A. P. MATHESON: They are obliged to keep a register at the company's office.

HON. R. S. HAYNES: They may keep no register whatever of the dealings in their office, although the Act prescribes that they shall do so, and the debentures are good, notwithstanding no such register is kept. A company may lead anyone to suppose that all their assets are not charged, where, as a matter of fact, the assets may be overcharged, and they may issue debentures at a discount of 50 to 75 per cent.

HON. F. T. CROWDER: Give us an example.

HON. R. S. HAYNES: The Mackenzie Grant Trading Company, at Coolgardie, purchased camels, stores, and other things, nearly all on credit, and when the creditors here endeavoured to get their money, the holders of debentures in England, issued at 50 per cent. discount, walked in and took everything, the creditors here having

to pay the costs of resisting the debenture-holders' claims. The Act says that the company shall keep at their office a register, in which shall be entered the whole of the debenture and mortgage transactions, and therefore a bill of sale given by any limited liability company need not be registered: all they have to do is to enter the transaction in the books. But bills of sale or debentures are perfectly good, although they are not entered in the books, and even if there are no books in which to enter them. It is true that directors of companies are liable to a penalty of from £20 to £50 for non-compliance with the law; but all they have to do is to run the risk of having to pay £50, while they may plunder to the extent of half a million. This is a point I made clear when I introduced the Bills of Sale Amendment Bill, which I withdrew last night in favour of the present Bills. The measure now before the House is comprehensive and well-drawn, and I need not say it is not drawn by the Government draftsman.

HON. J. W. HACKETT: Is the English Act not the same?

HON. R. S. HAYNES: The English Act is very similar, except in the matter of the debentures.

HON. J. W. HACKETT: Who drew the Bill.

HON. R. S. HAYNES: It is drawn by Mr. James, M.L.A.; it has been debated very fully in another place, and has received the approbation of that House. The Bill will apply to a bill of sale and debenture issued after 1st March, 1900. It will not affect any prior to March, 1900, and it will not affect personal security at all. I would very much like to see the Bill come into force at once, and affect all existing securities, but perhaps it would be better, in the interests of the trading community, that it should not. The present Acts are repealed, and definitions are given to bills of sale. I do not think there is very much difference in the expression "bills of sale" in the interpretation clause. The exceptions are much the same as under our present Act, except that they are more clearly defined. "Contemporaneous" advance means an advance of money by the grantee to or at the request of the grantor, or the sale of goods or property upon credit, or the drawing,

accepting, indorsing, making, or giving of any bill of exchange, promissory note, and the execution of any guarantee, bond," and so on. Under the present Act, under certain circumstances, a promissory note or guarantee at the bank is not sufficient consideration for a bill of sale. "Any unpaid purchase money shall be deemed a contemporaneous advance if the bill of sale be executed within twenty-one days after the sale in respect of which such purchase money is owing." The hon. member will see this is necessary, because the bill of sale has to remain in the office for 14 days. You accept the bill of sale, and you have to let it lie in the office 14 days before it can be registered. You hardly expect a mortgagee to lend money until you know the security is completed. That is only a necessary amendment. A bill of sale should contain the names of the grantor and grantee. The requisites for a bill of sale are very much the same. The document has to state "the place where the chattels therein referred to, other than after acquired property, are situated." That is a new portion. It is for the purpose of giving more information to the parties who seek to see what property of the debtor is covered, and to more clearly ear-mark. There is some difference between this and the English Act, this being somewhat looser than in the English Act. In the English Act it is necessary that the bill of sale shall contain an exact inventory of all the goods assigned. I discussed that question with the gentleman who drafted the Bill, and he thought the provision in the English Act too stringent to be introduced here, consequently we decided not to insert it. "Future crops and progeny of stock may be included in bills of sale." That is the same as in the present Act. Clause 8 has reference to the attestation and registration of bills of sale. That is the same as under the present Act. The conclusion of Clause 8 is as follows:—"Upon the expiration of fourteen days from the filing of such copy bill of sale, the same shall be registered by the Registrar, unless within the meantime a *caveat* has been lodged as hereinafter mentioned, in which such registration shall be made forthwith upon the removal or withdrawal of such *caveat*." The Bill says 14 days, but in Committee I intend to move that the period be

reduced to seven days. Clause 9 defines before whom affidavits may be sworn. Clause 10 gives the periods of registration, and here there is some departure. I do not think I need refer to it further than to say that Sub-clause 1 says seven days from the day of execution, if executed at a place not more than 50 miles distant from the city of Perth; and Sub-clause 2 says 14 days from the day of execution, if executed at or within 50 miles of the municipality of Albany, Southern Cross, Coolgardie, Kalgoorlie, Menzies, Geraldton, or Cue, and so on, those being towns where there is a railway; or if executed at a place outside such limits, but not more than 200 miles from Perth. Thirty days under 500 miles, 60 days over 500 miles, and in East Kimberley I think it is 21 days after the date on which the bill of sale would in the ordinary course of post arrive here. Clause 11 says the Registrar shall file and keep "register book." Clause 12 deals with the lodging of caveats, which is somewhat important. The clause says:—

1. Any creditor of the grantor or of any one of the grantors may, within fourteen days from the presentation of a bill of sale for registration, lodge with the registrar a caveat objecting to the registration of the bill of sale therein referred to. Such caveat shall be in the form or to the effect set forth in the Third Schedule hereto. 2. The caveator shall forthwith apply by summons to a Judge of the Supreme Court, and, if on the hearing of such application it shall appear that the caveator is a creditor, the Judge may direct the bill of sale not to be registered until such creditor has been satisfied, or may make such order as to costs or otherwise as to him may seem just. In the absence of, or subject to such order, the caveat shall lapse at the expiration of 10 days from the lodgment thereof.

HON. F. T. CROWDER: That is allowing every twopenny-halfpenny creditor to levy blackmail.

HON. R. S. HAYNES: The hon. member may make that statement, but I think it is a very proper precaution. If you mean by levying blackmail that a creditor can get payment of his debt, I quite agree with you, but I have not heard that getting payment of a just debt is levying blackmail. If the debt is due it ought to be paid. It is not nice gruel to take, but still we have to take it at times. The clause further says:

(3.) No bill of sale shall, unless the time is extended by a Judge, be registered after the

expiration of thirty days from the presentation thereof.

(4.) A creditor may, by notice in writing, withdraw his caveat, and a Judge may direct such removal whenever the debt is satisfied.

(5.) For the purposes of this section, "creditor" means a person to whom the grantors, or one of the grantors, is either jointly or separately indebted on any account whatever, and whether the debt be due or to accrue due, secured or unsecured.

I would be prepared to strike out the words "secured or unsecured," because I think the secured creditor ought not to be allowed to ask for the payment of his debt except for the balance for which he is not secured.

HON. J. W. HACKETT: Has not the caveator to give any security for costs?

HON. R. S. HAYNES: I am quite agreeable that shall be done. Clause 13 says there shall be paid to the registrar certain fees. Clause 14 says a Judge may extend the time or amend an error. Then there are Clauses 15, 16, 17, and 18, which deal with the renewal of registration, the period being reduced to three years. At the present time it may be three years in some cases and five years in others. Clauses 22, 23, 24, and 25 deal with satisfaction, and there is nothing new in them. Clause 26 deals with the effect of registration. This is an important clause, because it is an alteration of the present law. At present an unregistered bill of sale or a bill of sale void under the Bills of Sale Act is only void against the trustee in bankruptcy or an execution creditor, and, as I pointed out earlier, limited liability companies have the advantage of not being called upon to pay all their debts, but only to pay up to the amount of their capital. They may execute a bill of sale or debenture without registering it, and in addition to that they may execute any document they like, and in case of liquidation a document given by them, although it does not comply with any of the requirements of the Bills of Sale Act or any other Act, is not void against an execution creditor, or any fraudulent disposition made by them (fraudulent under the ordinary Bankruptcy Act) is not voided at the suit of the Official Receiver on behalf of the general body of creditors. If a man goes insolvent or bankrupt, a trustee is appointed, and all fraudulent dealings are void against him. A trading

company, instead of going bankrupt, goes into liquidation, which is exactly the same. Instead of a trustee being appointed, an official liquidator is appointed, but, strange to say, fraudulent deeds executed by that company in order to defeat the just claims of creditors are not void against the official liquidator. But I cannot see why such an anomaly in the law exists. That came out in the case I refer to. Mr. James was engaged on one side and I on the other, and it was in consequence of that case we saw the way in which frauds might be perpetrated very easily by companies. I think Mr. Stone had the first case; but although we thought that was the limit to which these frauds by companies could be carried, we found subsequently it was not, and as far as I can see there is no limit until we put a limit to it in this Bill. Clause 26 says :

Every bill of sale, unless complying with the terms of section six of this Act, and every debenture, unless complying with the terms of section fifty-three of this Act, and duly registered and renewed in the manner and time herein provided, shall, upon the expiration of the time, or extended time for registration or renewal, be deemed fraudulent and void as against :

- (a.) The trustee or liquidator under the law relating to bankruptcy, insolvency, or winding up of the estate of the grantor.

That is the most important innovation in this Bill.

- (b.) The assignee or trustee acting under any statutory assignment for the benefit of the creditors of such grantor.
- (c.) All sheriffs, bailiffs, and other persons seizing the chattels, or any part thereof, comprised in any such bill of sale.

That is the same as our present law. The difference now is that a liquidator, in a winding up, is invested with the same powers as a trustee in bankruptcy, and an assignee acting in an assignment for the benefit of creditors. These provisions are absolutely necessary for the purpose of protecting the trading community of the colony. The clause says "so far as regards the property in or right to the possession of any chattels," and so on, it shall be deemed void. The concluding portions of that clause are the same as the concluding portions of the present Bills of Sale Act. "Application of

doctrine of apparent possession" : Clause 27 says :

Until the expiration of the time, or extended time, for registration of any bill of sale, or so long as such bill of sale continues to be registered hereunder, the chattels comprised in any bill of sale shall not be deemed to be in the possession, order, or disposition of the grantor within the meaning of any Act relating to bankruptcy or insolvency for the time being in force.

That is practically the same as our present law. Clause 28 says :

No bill of sale shall be valid or effectual against any purchaser *bona fide* and for valuable consideration without express notice, unless such bill of sale shall, within the time aforesaid, be duly registered and renewed under the provisions of this Act.

HON. F. T. CROWDER: What is the meaning of that?

HON. R. S. HAYNES: If you purchase certain property from another person, and you go to take possession of it, you search and see there is no bill of sale over it. You will get a good title if there is no bill of sale registered. Under the present Act, if you purchase property from a person who has practically sold it to another person who is in possession of it, you get no title. Supposing I have a house full of furniture and I borrow some money from a friend and execute an assignment of the whole of that property, in that case the property is no longer mine, but it belongs to the person to whom I have sold it, and I am renting it. It may be, then, that I go to another person and say "I will sell you the whole of this furniture." An innocent person might go to the Supreme Court and see no bill of sale, and take possession of the property, when the person to whom it had been assigned would come along and assert his rights.

THE COLONIAL SECRETARY: If it has not been registered?

HON. R. S. HAYNES: Yes; and we propose to alter that. This is only a clause to prevent a swindle being perpetrated on an unsuspecting person. I admit there are some people who have a morbid desire to assist persons to swindle, though they are the first to squeal when swindled themselves. Clause 29 providing that chattels are liable to distress for rates, is a very proper one, and so is the next clause which limits extent of liability over rent. At the present time there is no provision limiting the power of the

landlord to distrain, and it frequently happens that a person gives a bill of sale over his property, connives with the landlord, who then puts in the bailiffs and charges four or five months' rent, with the result that the mortgagee, instead of finding some security, loses the whole. There is no further material alteration by the Bill in the present law, until we come to Clause 58, which deals with the registration of debentures and reads:

Every debenture issued by any company or other incorporated body registered or incorporated or carrying on business in Western Australia shall be registered under this Act in the following manner:—(1.) A written notice in the form and containing the information indicated in the Fifth Schedule hereto shall be presented to and filed with the Registrar, who shall indorse thereon the date of such filing. A copy of the debenture, or if a series of debentures be issued, a copy of one debenture of each series shall accompany and be filed with such notice. (2.) Upon the expiration of 14 days from the filing of such notice, the debenture shall be registered by the Registrar, unless in the meantime a caveat has been lodged as herein mentioned, in which case such registration shall be forthwith made upon the removal or withdrawal of such caveat. (3.) Registration of a debenture, or of a series of debentures, may be renewed by the holder of any debenture, or by any officer of the company or body issuing the same. The renewal of registration of any one debenture of a series shall be deemed a renewal of all the debentures of such series.

Then it is provided that certain clauses of the Bill shall apply to debentures, and a debenture is put on the same footing as a bill of sale. A debenture has exactly the same effect as a bill of sale, and I do not think it is open to anyone to object to their being put on the same footing. The Bill has been drafted by Mr. James, who deserves the thanks of the commercial community for the trouble he has taken with a measure which has been submitted to bank managers and most of the leading business people, and has received their hearty approval.

HON. F. T. CROWDER: It has not been submitted to the Chamber of Commerce.

HON. R. S. HAYNES: I do not know whether it has or not, but the last Bills of Sale Bill was submitted to them, and I do not know there is any great difference between the measures. I have looked through the Bill very carefully, and it seems to have been most carefully drafted. It shows in this respect a striking con-

trast to bills drafted by the professional draftsman of the Government.

HON. R. G. BURGESS: There have been a hundred different amendments made in the Bill before the House.

HON. R. S. HAYNES: Certainly; and I am going to move more amendments. I am speaking now as to the way in which the Bill has been drafted, and the amendments such as altering terms from 14 days to 7 days, and so on, do not affect the drafting. I shall be glad indeed to accept any amendment hon. members wish to propose to carry out the spirit of the Bill. I leave the measure to the House with the earnest hope that it will be accepted and passed, so that it may come into operation after March of next year.

On motion by HON. F. M. STONE, the debate was adjourned.

ADJOURNMENT.

The House adjourned at 8.30 until the next day.

Legislative Assembly,

Wednesday, 13th September, 1899.

Question: Discharge of Ballast, Albany—Question: Police Protection, Pilbarra Goldfield—Bank-note Protection Bill, first reading—Return ordered: Goods Indented through Agent General—Motion for Papers: Caroline Leases at Bulong (negatived)—Motion: Railway Truck Weighing (withdrawn)—Motion: Schools for the Goldfields, Amendments passed—Papers presented—Municipal Institutions Bill, in Committee (formally), progress—Police Act Amendment Bill, second reading continued and adjourned—Wines, Beer, and Spirit Sale Amendment Bill, in Committee (formally), progress—Motion on Petition: Railway Engine Drivers, etc.—Land Act Amendment Bill, Order discharged—Constitution Acts Amendment Bill, in Committee, Clauses 18 to end, reported; Schedule 2 referred to Select Committee—Patents, Designs, and Trades Marks Bill, second reading, resumed and concluded—Mines Regulation Amendment Bill, second reading, in Committee *pro forma*—Adjournment.

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

PRAYERS.