

CAPITAL PUNISHMENT FOR OFFENDERS OF HEINOUS CRIMES

Motion

HON FRANK HOUGH (Agricultural) [2.01 pm]: I move -

The Government take such action to apply a citizens initiated referendum to decide if the courts should be empowered with the discretion to impose capital punishment on offenders convicted beyond reasonable doubt for heinous crimes.

It is important that I read the motion slowly because if people understand the motion, they will know that it is quite different from the hysteria of people who say that we should hang all offenders and then we will get the guilty. Edward Koch, the former Mayor of New York City, made a very good statement when speaking of the death penalty. He said -

It is by exacting the highest penalty for the taking of a human life that we affirm the highest value of human life.

This motion concerns capital punishment, so some members have probably already dismissed it. It is therefore important that I clarify what the motion is about. The motion is not about giving the masses the right to prescribe options for criminals. It is not about empowering lynch mobs. It is about expanding the sentencing options of our judiciary, which had these expanded options until the Labor Party removed them.

Hon Nick Griffiths: The Parliament removed them, but it was an initiative of the Labor Party.

Hon FRANK HOUGH: The Government of the day removed them. This motion is about empowering judges to use their discretion to prescribe the harshest punishment for those heinous crimes that warrant it. The existing penalties are not adequate.

Hon Nick Griffiths: My recollection is that the law provided a mandatory penalty, not a discretionary penalty.

Hon FRANK HOUGH: I have just covered what the motion is about. Before the minister comes forward and says that I am offering a populist motion on capital punishment, I will refer him page 7 of the One Nation blue book. This is not something that I came up with today; I was involved with this three or four years ago. It states -

- (4) working toward enabling legislation for a binding referendum on capital punishment where the penalty would be mandatory:

The other larger book we have runs to about 80 pages. The Labor Party would probably do well to grab a copy of this book and get some policies out of it, rather than governing from crisis to crisis. On page 36, the book calls for a binding referendum on capital punishment, where the penalty would be mandatory.

To be fair to the Government, I thought I should find out what its attitudes on the matter are. I copied a statement dated 7 August 2003, which states -

The Opposition leader, Simon Crean, says Bali bomber Amrozi deserves to die for his crime if the Indonesian judicial system deems it necessary.

I thought that was fair enough, and that we had a supporter already. However, I did not stop there. I looked at the Labor Party policy document on civil reform, which shows that the federal Leader of the Opposition has not read his own party's policy. On page 8 the document reads -

- (17) Labor reaffirms its unequivocal opposition to the death penalty.

It is all right for Simon Crean to advocate putting to death people in other countries and say "God help you", but I am talking about Australia and this is very close to home. One Nation is not about managing from crisis to crisis. I had a look at the Liberal Party, which is more conciliatory. It looks as though it is moving into the stance of the Labor Party, which is very encouraging. Hon Peter Foss is quoted in a media release dated 1 March 2002 as saying that judges should hand down sentences that were the norm for a particular crime and met reasonable community expectations. Hon Peter Foss is on the right track there. I added to the bottom of the media release a note to the effect that general community expectations for the death penalty is around 85 per cent. The honourable member did not say that, but I added it to give it a little credence.

Sue Walker, a member in the other place, has said that the Gallop Labor Government planned to do away with the charge of wilful murder because it felt that it should be scrapped. However, Ms Walker says that the offence of wilful murder is the most serious offence in the Criminal Code and should not be downgraded to murder. That is fantastic; the Liberal Party also is showing some toughness and moving towards the One Nation stance. I go a bit further. Sue Walker has also commented on the Government's program to reduce levels of

imprisonment. I say to the Government that my motion will reduce imprisonment substantially. I thought it was important to cover those few areas because I thought the minister would start criticising populist policies. These are popular policies. They have been part of our party's policy for four years and will continue to be part of our policy.

I believe we should have a two-part move to introduce a citizens initiated referendum. Not one parent, sister or loved one who has suffered from a heinous crime would not stand by what I am proposing. The only person I know of in recent months who probably would oppose it - I was most surprised by this - is a magistrate from South Australia, whose son was killed in the Bali bombing. Many other people have been involved. Hon Bruce Donaldson is waiting for me to describe what happened.

Last week I went to Bali. I nominated to the Parliament beforehand that I would visit Bali and that I hoped to have a meeting with Amrozi and Imam Samudra. I wrote to General Made Mangku Pastika, who is the Chief of Police in Bali. He very kindly wrote back to me and said that I should go to the Public Prosecutor's Office and gave me the address of, and a contact in, the Public Prosecutor's Office. I went to the Public Prosecutor's Office. Members should not say that our public service is rotten, because I have seen something that is absolutely appalling compared with our public service. Again, I started off with General Pastika and then I went to the Public Prosecutor's Office, which referred me to Mr Max Takaria at the District Court. I went to the District Court and Mr Takaria said that it was not his responsibility and that I should see the chief of the District Court, Mr Suriada. A day and a half had passed by the time I wound up with Mr Suriada. Members can guess what happened then. Mr Suriada said that it was not a matter for his department and that I should go to Mr Satya at the chief justice department. I made an appointment early on Friday morning and I got a call back mid morning while I was not in the hotel informing me to ring before 12 noon. I rang at five minutes to 12 western standard time. Mr Suriada had gone home for the weekend because it was the Hindu festival weekend. He was not due back until Monday afternoon. I then had to wait until after 1.00 pm on Monday to speak to him. Members can guess what happened - he referred me to General Mangku Pastika. At that stage my hair had turned white and I decided that I would do other things. I decided not to get involved with the public service in Bali. I had spent hundreds of thousands, if not millions, of rupiah, which was the equivalent of a couple of hundred dollars.

I stayed at the White Rose Hotel, which is located some 150 metres from the bombsite. I drove past the bombsite many, many times. I had not wanted to have a look at it because I do not feel right about those sorts of things. In the end, I walked up and looked at the memorial to the 88 Australians and the 60 or so Balinese and the other people who were killed. Just about every nationality in the world was represented, from Nigerians to Africans, Swedes, Germans, Dutch and French. There were two here and three there. There was also a fair few Poms. It was heart wrenching to read the inscriptions. One fellow at the hotel at which I was staying said that every piece of glass at the hotel had been smashed by the bomb blast. Glass went everywhere. He is now deaf. He said that many people had been working at the time. People talk about the spin-off of the bomb affecting about 200 people. I also saw another guy walking along the street. A friend was with us at the time. She is a Chinese businesswoman whom I have known for 25 years and have spent time with up there - I was with my wife as well, incidentally. She said that this man had been burnt in the bomb blast and had been about halfway up the street past all the taxicabs when the bomb went off. She said that there are many more people like that around Bali. I guess it is sad to see people like that.

That was our nineteenth trip to Bali. People who know the Balinese people know that they are hard traders when selling something but soft and honest as the day when the deal is done. I put my shirt out to be dry-cleaned on the Saturday morning and must have left 10 000 rupiah in the top pocket. My shirt came back dry-cleaned and with a pin through the 10 000 rupiah, which was hanging on it. They deal hard when they are on the streets, but when a deal is done a deal is done and Bob's your uncle.

My heart goes out to a country of people who have that type of soft heart and tenderness. That happened. They are very angry. They are more than happy for Amrozi, Samudra and all the other people on death row to be taken out of their society and totally out of their lives. I asked how the punishment would be performed in Bali. Apparently, the people who are to be executed are taken down to the beach. A pole is put in the sand and a chair is placed in front of the pole. A red heart is placed on the chest of the person to be executed. Of the 12 riflemen, one has a bullet and the other 11 have blanks. The back of the person is towards the ocean. The riflemen line up and bang. For a very soft and tender group of people they are very angry. That anger will never leave them.

Those murderers killed not only people but also a society and an economy. Those who are lucky enough to maintain their jobs in the hotels are on half pay. One guy said that he drives in from Uluwatu and that he must spend nearly all his pay on fuel by the time he has driven home again. If he does not get a tip, his family does not eat. These people wear lovely white shirts. They are beautifully clean and shaved and their hair is impeccable. I will get off the Bali issue. That awful incident has wrecked not only many people's lives but also

a country in the short term. Australians going to Bali should not have any fear because the people there are right behind them.

I will list four good reasons for stating that capital punishment should be reintroduced and then I will talk about what issues we should put to a CIR. I will then cap off my argument by offering three good reasons to dispel the myths surrounding capital punishment. Firstly, victims need rights, but they are not currently recognised. A few months ago I said we should bring back the birch. The argument I put for corporal punishment was based on the justice system being heavily biased towards the needs and rights of criminals. Nothing has really changed since I made that speech a couple of months ago, but that is why I feel this issue should be addressed. It is one thing for a person to be hurt following a break-in or an assault, but it is something else altogether to suffer as a result of a heinous crime.

I was reluctant to mention this issue today, but I received authorisation from Mr Noble Patterson from Nyabing. I spoke to Mr Patterson five months ago, and he rang me today when he saw that this matter would be raised. Noble is an 82-year-old ex-farmer and he has two sons farming in Nyabing. When he rang me at 9.30 this morning, I told him I would not say anything about what happened, but he said to do it by all means, that it was important to him. Mr Noble Patterson is the father of the young lady who ran out of fuel one evening on the Canning Highway near Melville Motors, and who was coerced into a car by a couple who said they would help her. For those who have not guessed it, the name of the persons who picked her up was Birnie. I asked Mr Patterson how he felt about capital punishment, and he said, "They should shoot the bastards!" He said that every day when he wakes up, the first thought that goes through his head is about his daughter, and there has not been a day since that time when he has not thought about his daughter 20 or 30 times a day. He told me that he sees her girlfriends walking around Nyabing and Perth, who are now married with kids, and he has been deprived of that also. She was a beautiful young girl. He said that the death penalty would at least help him get rid of that hate. Mr Patterson said he heard that David Birnie got sick in prison and was raced to hospital so he could be fixed up because he was having a heart attack. Mr Patterson sits in Nyabing and does not get counselling and help, but we try to keep the last drop of life in that low-life animal. He should not be in a jail; he should be in a cage. He should really be in hell, actually. My heart goes out to someone like that. As I said, when Mr Patterson rang me this morning, he said that not a day goes by when he does not think about his daughter. He is 82 years of age and it must be a tough call. He sounds as though he is a tough guy. My mother lost two sons - my two brothers - in accidents: one was killed in a drink-driving accident and the other was involved in a shooting accident. When I look at my mother I think that she must be very tough. Life is a tough call when our kids are killed. Mr Noble Patterson's two sons, who are farmers, pay tax, some of which goes towards keeping Birnie in the luxury to which he has become accustomed. He has a computer and a television. It adds insult to Mr Patterson's "injury" to be contributing towards the upkeep of people like Birnie. There should be a more appropriate word than "murderer" for people like him.

I undertook most of my research on interstate cases to avoid opening local wounds. It is more difficult to talk about people in our own State who have been murdered in heinous crimes. One case that made me feel sick occurred in New South Wales in 1992. Members will remember Ebony Simpson, a blond-haired primary school student, who lived in rural New South Wales. She was abducted on her way home from school by a fellow called Peter Garforth, a known felon with 76 charges against him. Garforth dragged young Ebony into the bush, taped her mouth and legs and, like an animal, raped her for hours. We cannot imagine how a little nine-year-old girl felt in that situation. He then threw her like a piece of garbage into a dam while she was alive with her hands and legs taped. I have a nine-year-old grand-daughter. If that had been her, I would have found a way to get into the jail to carry out revenge. I probably should not raise these points in here. However, they are important. I do not want to brush over these incidents because it is not right to say that someone killed someone, therefore he should be put to death. We should talk about it. If anyone wants to refer to these cases, they can have these copies of the information on the cases I have cited here today. I was talking to my wife last night about that incident and she posed the question of whether a few moments of perverted pleasure was worth more than a person's life. That is what murder is all about.

To take this issue one step further, animals do not get any pleasure from killing. They kill only to survive; they do not kill needlessly. Killing is a part of survival. Are murderers less than animals? That is a valid question.

Hon John Fischer: Animals don't kill for sport.

Hon FRANK HOUGH: No. On the day that Peter Garforth murdered Ebony, he should have been in jail. He was subject to the New South Wales truth in sentencing law. I am sure members will remember the other case in New South Wales from October 1997 when two young schoolgirls, Nichole Collins aged 16 and Lauren Barry aged 14, were abducted by two hardened criminals, Leslie Camilleri and Lindsay Beckett. Camilleri and Beckett had over 200 convictions between them. Nichole and Lauren were repeatedly raped over a number of hours before being driven over the border into Victoria. They were both brutally stabbed to death. When the

schoolgirls were murdered Beckett was on bail for two charges of sexual assault. Camilleri was on 10 charges of sexual assault. All the offences were against minors. Beckett should have been in periodic detention but he never showed up. For the crimes, Beckett received a life sentence with a minimum of 35 years. Camilleri will spend the rest of his life behind bars with an indefinite sentence.

In both cases the perpetrators knew very well that they were doing wrong. They made the choice to rape and murder and they will continue to live at the expense of taxpayers. Not only will they do so, the poor parents of the girls will pay taxes to fund their time in jail. To those men the little girls were just playthings. I refer to people like that as human garbage. Perpetrators of such heinous crimes - for those who do not know - are entitled to support programs including counselling and rehabilitation. They can even obtain compensation for injuries. Some of these perpetrators were bashed in detention. Garforth was bashed twice in jail and lodged a claim with the Victorian compensation tribunal for \$50 000 for each assault. Obviously, it was not paid. There was certainly no compensation paid to the parents of the two little girls.

The crimes that occurred in New South Wales can happen here; there is no question about that. Similar crimes have occurred in Western Australia but I prefer not to cite them because it is too close to home.

Punishment must fit the crime. Capital punishment is waived as a sentencing option because the perpetrator has a right to live. However, it means that more embittered relatives are thrown on the heap. The heap is growing! When someone is murdered - a heinous crime - we always think about the parents or relatives. However, it does not stop there. Let us remember dreadful crimes, such as those committed by the Birnies. Let us think of the poor copper who had to go out to the crime scene. He or she went home that night and tried to have dinner with his spouse. He or she needs counselling. Those people have to front up to that. The coroner is next. The coroner has to determine the reason for death. He has to look at the corpse of a nine-year-old to determine what some rotten swine has done. Next is the judge who has to try the case. Judges are not inhuman; they listen closely to cases to determine what happened. What about the 12 jurors? They become part of the case. It does not stop there. What about the friends and relatives? What about the people up the street who did not personally know little Jane but who remember her as a pretty little thing? We must not forget the counsellors who have to talk to these people about their problems. The counsellors need counselling afterwards. It is a huge chain reaction created by some rotten pig who has a total disregard for human life. We say, "What about the poor parents?" Well, what about the poor copper, the poor judge, the poor jury, the poor coroner, the poor best friends, the poor relatives and the poor kids at school who need counselling when little Jane or little Jimmy does not turn up? It is not just one person who is the problem. Look at the Bali situation, when 88 Australians were killed, and at the thousands of people who were involved in the clean-up back in Perth, such as those from the football clubs. How can we sit back and say, "Well, the perpetrators of the Bali bombings are locked up for life and are out of society." Why should they be funded to stay in jail? That is not what it is all about. We should send them to the other land. How can we feel safe when the justice system allows sexual predators to go on parole?

In a just society, those who take a life should forfeit their own. I must qualify that. I am not talking about a person who drives a car when he is drunk and kills someone. I am not talking about a person who accidentally kills someone who walks across a crossing in front of his car. I am not talking about a person like my neighbour many years ago when I lived in the Crestwood estate in Thornlie, who backed out of his driveway and ran over my other next door neighbour's baby girl who was riding a little bicycle on the footpath. I am talking about people who commit heinous crimes. When I say that in a just society those who take a life should forfeit their own, I do not want to get into the semantics of talking about a person who turns around in a bar and punches someone in the head in anger. That is not murder. I am talking about predatory, planned, smoking-gun crimes that are committed by people who are gruesome murderers and can be found guilty beyond a reasonable doubt.

In 1762 Jean-Jacques Rousseau wrote in his book *The Social Contract* -

Again, every rogue who criminally attacks social rights becomes, by his wrong, a rebel and a traitor to his fatherland. By contravening its laws, he ceases to be one of its citizens; he even wages war against it. In such circumstances, the State and he cannot both be saved: one or the other must perish. In killing the criminal, we destroy not so much a citizen as an enemy.

In our society, the hands of our judges are tied when the crimes tend toward the extreme end of the scale. We know that, because we have removed capital punishment. The ropes that bind the judges are put there by the civil libertarians, who weigh the value of a vicious criminal's life neatly and equally against that of the innocent victim. Is the life of Peter Garforth - he is the person who murdered Ebony Simpson and has 76 previous convictions - worth more than the lives of his victim and her family? What possible excuse can we utter to preserve this man's life, apart from the fact that we are not able to impose capital punishment? In my estimation, that is nowhere near good enough. Garforth's crime, and crimes like it, showed absolutely no regard for the

victim. Perhaps little Ebony pleaded for her life or called for her mum; however, we must bear in mind that her attacker targeted and handpicked her. In the research I conducted into this matter, I read about sex crimes perpetrated by gangs and individuals that made me physically sick. Although I have more dot points on the cases I have referred to today, I do not want to be any more explicit than I have been, as I believe members can see my point. I read about how these criminals showed no remorse for their actions and later bragged about their crimes not only to their mates but also to police officers and anyone else who cared to listen. I can only regard those people as human garbage.

I do not know whether I could put the argument any better than Charley Reese, an American syndicated columnist, put it. He said -

When I think of all the sweet, innocent people who suffer extreme pain and who die every day in this country, then the outpouring of sympathy for cold-blooded killers enrages me. Where is your . . . sympathy for the good, the kind and the innocent? This fixation on murderers is a sickness, a putrefaction of the soul. It's the equivalent of someone spending all day mooning and cooing over a handful of human feces. Sick and abnormal.

I have covered the fourth area, terrorism, which brought this matter to light. While I was in Bali, the news referred to the events of 11 September and 12 October and said that everyone in Bali was concerned about 13 November. God help us - tomorrow is 13 November. If anything happens tomorrow, I do not think it will be in Bali or America; I suggest it will be in Australia or England. I do not know whether the Balinese philosophy or Dreamtime will come true, but when I was in Bali the people were concerned about tomorrow. I am not concerned because I do not believe that lightning strikes twice in the same spot. It will be a dreadful thing if anything does happen tomorrow.

In addition to heinous crimes on children and premeditated murders, I believe the crime of terrorism is increasing and for which we must be prepared. If an act of terrorism happens in our country, it will be no use trying to address it by getting up in arms in three or six months time. Our organisation should have the trigger set already. That is why I believe it would be smart for Western Australia to take a good look at this issue. I will read part of the motion again -

. . . the courts should be empowered with the discretion to impose capital punishment on offenders convicted beyond reasonable doubt . . .

The motion states that the courts should be empowered. I do not suggest that members of Parliament select the crimes that would receive capital punishment; the judicial system is a more obvious choice for selecting those crimes and I suggest that terrorism would probably be right at the top of that selection. Many people in the community and many members in the Chamber will have great difficulty with this motion, which is why it is in two parts. Several people have already thrown it on the scrap heap and said what their policy is. This issue must be looked at in a more professional way and a more pragmatic approach must be taken to it. This is why a citizens initiated referendum - a CIR - is the first swing of the pendulum. I want members of this Chamber to have a conscience vote on this motion. Some 100 years ago all members of Parliament were Independents. That achieved a democratic result. I cannot expect to get a democratic result here because of the party machines. If members do not like the motion and the Caucus does not agree with it, contrary to how the members feel, they do as they are told or they will not get endorsed at the next election. I am trying to remove that threat from the cowards who are not prepared to stand up and honestly represent their constituents.

I would like to know where the constituents of members who vote against this motion stand. I have spoken to people in the community and I have not found anyone who opposes it. Obviously members opposite are dealing with a different group of people than I am. Community newspaper surveys agree with me. I have taken the time to let those members off the hook who want to be cowards and not support this motion. Their excuse is that they will not support this motion based on party lines. I do not believe this is a party line issue; I believe members' constituents are saying to them that they should put forward this type of proposal. I can look a lot of members in the eye and ask whether a majority of their constituents agree or disagree with me. Members cannot look me in the eye and say that their constituents do not agree with me. That is why I have put in the safety valve of a citizens initiated referendum.

One member in the House has said that members are elected to Parliament to represent the people, which is true. The community should have a say on issues such as capital punishment. Everyone over 18 who is eligible to vote has been touched by, associated with or affiliated with a crime. Those people are able, capable and intelligent enough to make their own decisions. I would totally oppose using a CIR for issues such as genetically modified organisms or stem cell research. Members are briefed on issues such as GMOs and even then it is still confusing. The broader community could not be expected to vote on GMOs, stem cell research, taxation or the running of the Government. These are issues for which we have professionals and the public service to advise us

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on. The issue I am talking about is a civil issue. Another issue is water. The Water Corporation is doing a crappy job. I do not know whether I am allowed to say that in Parliament. "Crappy" is not a dirty word. It means something is not quite fixed.

Hon Nick Griffiths: It's not very parliamentary.

Hon FRANK HOUGH: It might not be parliamentary to you, minister, but it is to me. If you are that pathetic, why not leave the Chamber?

Why do we not get proper water from the Water Corporation? Why do we have restrictions? Why not ask the people how to fix these problems? We can ask people for their views in these areas. A broader community input can be sought with CIR in several areas. When the community tells us what to do, they cannot criticise us. If 85 per cent of the community state to the Government that they want capital and corporal punishment, then so be it. That would mean that the usual 15 per cent - or is it five to 10 per cent? - would be opposed to it, but we cannot please everyone. When this motion I have moved is put, support will go hiding. At the end of day, it will be like the hounds of the Baskervilles. It will be the Scarlet Pimpernel in this Chamber. We seek him here. We seek him there. We seek him everywhere. Where can he be, that damned elusive Pimpernel? Will members vote with Frank Hough? No. "I'm indisposed." Will the minister become the Scarlet Pimpernel?

Hon Nick Griffiths: I'd rather you did not seek me. I'll stay here, thank you very much

Hon FRANK HOUGH: Democracy is achieved indirectly in Australia and its States. The people do not have a direct input on every decision and the decision-making processes at governmental level. Possibly, they should not have that direct input because they have elected representatives - parliamentarians - to do it for them. We need to go to a CIR for many reasons. We must remember that people in the broader community are just as smart as, or are smarter than, us. They have the same feelings. We must have their input. That is why it would be very hard to make a mistake with a citizens initiated referendum on a matter like this.

I looked up some material on CIRs the other day, and I recalled a comment made by Ted Mack a couple of years ago. For members who do not know him, he is a former member of the House of Representatives. He summed up the defects of our system in his presentation to the Samuel Griffith Society at its 1995 conference. Ted Mack said -

The centralisation of power within the major parties, the overwhelming of parliamentary government by the rigid party system, the negativism and personal abuse inherent in adversary partisan politics, the domination of public decision-making by small élites, major party collusion depriving the public of choice, the now institutionalised 'broken promise syndrome', the failure of governments to be able to handle organised minority groups, and undemocratic electoral systems where only by chance, or usually in spite of devious manipulation, does the resulting government reflect the will of the people.

Ted Mack got it fairly well right. Members could go back 100 years when we were all Independents and -

Hon Norman Moore: Are you an Independent?

Hon FRANK HOUGH: No. I am a member of One Nation, and I am espousing One Nation policy based on the broader community's opinion, honourable member.

Hon Norman Moore: Are you bound by One Nation policy?

Hon John Fischer: Of course; they're all good policies.

Hon Norman Moore: I wanted to know whether you're bound by them. I'm not in that position.

Hon FRANK HOUGH: If the Liberal Party wants to, it may join our 78-page summary of the policies. I went into the policies fairly deeply.

Hon Norman Moore: The issue you raised is whether politicians are bound by party policy. I want to make it clear who is and who is not.

Hon FRANK HOUGH: The last motion was defeated 28-2. Several members approached me afterwards and said that they would have loved to have voted with me but could not do so because they liked their jobs and would not get nomination. One of our party's firm beliefs is that, although we have a policy book, our responsibility is first and foremost to the electorate.

Hon Bruce Donaldson: Why do you call it the little blue book?

Hon FRANK HOUGH: The little blue book is a condensed version of the larger book -

Hon Bruce Donaldson: I have seen the small one.

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Hon FRANK HOUGH: That is a more explicit -

The DEPUTY PRESIDENT (Hon Adele Farina): Order, members! I draw members' attention to the fact that we are dealing with motion No 23. Hon Frank Hough should speak to the motion.

Hon FRANK HOUGH: I apologise for having drifted off.

Any opportunity to get input from people should be welcomed. That is one of the reasons citizens initiated referenda are very important in this particular area. CIRs were first introduced at a national level in Switzerland in 1874. In 1998 all states of the Federal Republic of Germany introduced direct democracy. Since 1967, the Bavarians have used CIRs to vote on 14 measures. The voters of North Rhine-Westphalia, Hessen and Rhineland-Palatinate have invoked direct democracy mechanisms -

[Quorum formed.]

Hon FRANK HOUGH: I thank Hon Bruce Donaldson and you, Madam Deputy President. At least now I get a better crowd.

In a speech given at the fifteenth conference of the Samuel Griffith Society, Professor Geoffrey de Q. Walker warned that even Russia has surpassed Australia in the advance to direct democracy. Russia's constitution requires a binding referendum if a petition carries two million signatures. I looked at where the Russians are going with interest. In Russia, the Greens recently collected 2.5 million votes on a petition that related to nuclear waste and the restoration of two environmental agencies that were abolished in May 2000 by President Putin. The Central Election Commission ruled that 700 000 signatures were invalid because they had technical errors, failed to include voters' passport numbers and the like and knocked it on the head. Although Russia was heading towards CIRs, when one was held it was knocked on the head when it did not go the Government's way. One would hope that if we have a CIR, it will go further than that. Article 79 of Uruguay's constitution provides for a CIR system. In 1989, a measure seeking the repeal of the law was placed on the ballot by citizen petition for the first time. Since 1989, Uruguay has used the referendum system on 12 occasions. It is not something that people use every day but when needed for touchy issues.

The 12 members of the convention created to put forward new constitutional arrangements for the European Union have also established a forum to advocate the inclusion of CIR in any future European Union constitution. That is very interesting. In the United States, 28 states plus the District of Columbia have adopted CIR. Professor Geoffrey de Q. Walker states that the CIR adoption in Kentucky and Mississippi is a significant development because the political elites in those states have traditionally used relatively hierarchical power structures to keep people power at bay. Meanwhile in New York, Governor George Pataki has renewed his call for CIR in his state. To quote him, it is to "renew our allegiance to the sacred principle that all power ultimately rests in the hands of the people". When George W. Bush was Governor of Texas, he made a similar statement, which was, "Initiative and referendum make government more responsive to its citizens, neutralise the power of the special interests and stimulate public involvement in state issues." That is very good. I hope George W. Bush lives up to that.

Let us look at what has been done in Australia. Direct democracy has been publicly advocated in Australia since the 1890s. For one reason or another, Australia has not been able to get its act together. Prior to World War I, Queensland seemed poised to introduce CIR, but war changed everything. Geoffrey de Q. Walker explains that this was because Labor had become ambivalent in its attitude to democracy. It had linked up with Socialist International and let the union movement dominate its agenda. Historian Bill Gammage wrote that direct democracy lagged because the war had killed off the generous, the brave and the public spirited, leaving behind the sullen, uncommunicative and haunted. The idealists were dead and with them any hope that Australia could be made into a model democracy. Since then, the desire for direct democracy flared strongly again in the 1970s when the Democrats introduced the first of a number of Bills into the Senate. Since the 1970s, draft legislation to introduce CIR has been introduced or prepared in every State except Victoria and the Northern Territory. It seems that Australian elites have grown accustomed to a system in which their actions and decisions go mostly unchallenged. There can be a long time between elections, and in their arrogance, elites often subscribe to the idea that average people are incapable of grasping facts and making decisions on important matters that affect their own lives. That is a lot of rot. Like their English counterparts back in the mid 1880s, the Australian elites are fearful of giving a voice to the great unwashed. As we have already seen, the elites of other countries have not been so intimidated by direct democracy. Whether the issue is capital punishment or any other issue, in the interests of democracy the people have the right to be heard by those who formulate the law.

Why specifically CIR and capital punishment? There are three good reasons. Since capital punishment is the harshest penalty that can be legally prescribed, the most obvious way to ascertain whether society wants it as a penalty should be through a mechanism of direct democracy. As we have seen, CIR is probably the most

obvious. The law is sovereign and we must abide by it because we all live within the limits set by the justice system. It is only right, fair and democratic that all of us who live under the law be given the opportunity to have our say on the types of punishment that we see as fit and adequate. The majority of us make conscious decisions to live within the law. We choose actions because we are aware of the consequences. For most of us the consequences are daunting. However, that is not true for everyone, as we know. If, in our estimation, the rewards for doing the crime outweigh the punishment, a number of us would be willing to break the law. Consider the words of Edward Koch, former Mayor of New York, about the death penalty. He said -

Had the death penalty been a real possibility in the minds of . . . murderers, they might well have stayed their hand. They might have shown moral awareness before their victims died . . . Consider the tragic death of Rosa Velez, who happened to be home when a man named Luis Vera burglarized her apartment in Brooklyn. "Yeah, I shot her," Vera admitted. ". . . and I knew I wouldn't go to the chair."

What a courageous man! He had no fear of death, because he would not go to the electric chair for killing the woman.

When we give the decision making power to the people, a very interesting thing happens. A majority of the power is taken out of the hands of the ruling elite. This means that popular decisions can be implemented and changes made to a system that might otherwise suffer inertia. Inertia is often the product of failure, or the fear of implementing a change otherwise necessary or timely. By initiating referendums, citizens can place important issues on the agenda that the Government might not otherwise include, or might put on the back burner because they might offend someone and the Government was frightened to go ahead with them. Letting the people decide the relevant issues allows decisions to be made that otherwise would not be made due to the personal convictions of the ruling elite. Decisions made through citizens initiated referendums relieve the elected representatives of having to vote on issues according to their own conscience. When this happens, the convictions of the majority of the electorate are left out in the cold because the representatives' convictions run counter to those of the electorate. I covered that fairly well earlier on. The democratic process is enhanced by citizens initiated referendums because they curb the Government's executive and legislative influence. As Woodrow Wilson once said -

Liberty has never come from the government. Liberty has always come from the subjects of government. The history of liberty is the history of resistance. The history of liberty is a history of the limitation of governmental power, not the increase of it.

I have put up a reasonably good case for CIR. I will make a couple of other points, beginning with the cliches of the myths against capital punishment. The argument in favour of capital punishment is based on justice and on the nature of a moral community that requires each person to respect the life and liberty of others. Those who commit vicious crime destroy the basis on which a moral community rests. Some will argue that criminals forfeit their rights to citizenship or even life. There have always been a number of cliches surrounding capital punishment, and they are nothing more than myths. There are five such myths, and I will go through them. The first is that innocent people can be put to death under a regime of capital punishment. This is always a possibility. In life there is no exactitude. This will mean that judges will have to exercise more discretion in handing down the death penalty. It also must be considered that juries are made up of people who are generally unwilling to condemn another human to death unless the evidence is absolutely, unequivocally and completely damning. The crime must be proved beyond a reasonable doubt. So long as any doubt exists or so long as the members of the jury oppose capital punishment, the criminal cannot be sentenced to death.

Another flawed argument is that violence does not solve anything. Throughout history, violence and the use of force have settled more issues than any other action. It is both historically untrue and immoral to say that violence solves nothing. Lesser punishments were handed down to Peter Garforth, Leslie Camilleri and Lindsay Becket to no avail; they went on to rape and murder children. Capital punishment would have set them dead in their tracks. I rest my case on that.

Another flawed argument is that murder cannot be cured by the death penalty. People who utter that line conveniently forget that murder, as defined in any dictionary, is the unlawful killing of a person with malice and often aforethought. The death penalty is prescribed as lawful punishment. It is not a crime of opportunity or an action performed out of malice. There is a difference. Any person who refuses to see it is merely duelling with semantics, and that is what this little minority group that we always bow down to and appease is doing. Instead of looking after the masses, we listen to the little group of agitators. Executing a murderer will not bring the victim back or bring satisfaction through revenge. If that is true, neither is putting away a perpetrator for life. Resurrecting the victim or revenge has never been the object of capital punishment and it is absolutely stupid to say that it is. Capital punishment is about justice; it is about pointing the finger at a person and saying that he must be responsible for his crimes and must wear the consequences. How can we expect anyone to take

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responsibility for his actions if we have a justice system that does not value the lives of the innocent and instead lets people off for heinous crimes?

Obviously the death penalty is based upon the eighth State of Australia, which is called the United States. Correspondingly, I heard recently that Australia was about to become an additional state of the USA. A lot of the research I have is from the USA. Another myth that is untrue is that capital punishment has a racial bias. The people who make movies in America - for instance, *The Green Mile* - always show that Negroes or Hispanics are being put to death. In America just over 48 per cent of death row inmates are white, 40 per cent are black and seven per cent are Chicano. The remainder are either Asian or native American. Of the persons executed in the United States, 53 were white and 18 were black. We certainly cannot put a racial bias on that by saying that only blackfellas are put to death, because the greater percentage of those executed are white; even Hispanics were not shown in those figures. Of the people sentenced to death in the USA, just under 2 000 were white, 1 500 were black, 28 were native American and 33 were Asian. The fact is that the death penalty does not discriminate in respect of race; it discriminates in respect of the heinous crime that is committed.

I said that 38 states in America have the death penalty, but that has increased. There was a very strong move against the death penalty in the United States several years ago. We have also looked at it in Australia. To be perfectly honest, I believe hanging to be barbaric. The electric chair is also barbaric. I would also not like to face a firing squad because I always think that if the firing squad missed by a couple of inches, I would be left hanging there wondering what was happening. That is why the death penalty in America had a reducing effect during the period when the use of the electric chair and hanging were more prevalent. It has gone back up to 38 states in America because a greater number of people are now being put to death in America by lethal injection. Lethal injection is not regarded or seen to be as barbaric as perhaps the electric chair, hanging or facing a firing squad. There were sometimes problems when the electric chair would go a bit haywire and would only half cook the person, and there were a number of times in the early days of the United States when the hangman failed. Lethal injection is, I guess, more clinical.

Why should people be put to death for heinous crimes? We have to think of the healing process for the people who are left behind. I refer to my trip to Folsom Prison of April-May this year. I spoke with the psychiatrist at the prison. One of the factors that assists greatly in the healing of a victim's relatives and parents is when they know that the perpetrator or murderer has been forever removed from society. They feel that that is a major factor in the healing of people affected by the crime. That is worth taking note of.

They have everything in the United States! Not only do they have McDonalds but also other things. There is a web site of a guy who calls himself Deadman Talking. Dean Philip Carter is currently on death row at San Quentin Prison. People can write to him. He puts information up on his web site every day. Dean Carter is totally innocent! I do not know whether any members have spoken to prisoners, but everyone in jail is innocent. No people who are in jail say that they did the crime; they all say that they are innocent. They say that they happened to be in the right place at the wrong time. Such a person will say that, although people say that he had a loaded gun and three people dead in front of him, he was sure that his twin brother who was removed at birth had done it and that he is innocent.

Hon Bruce Donaldson: Pauline believes that everyone whom she met in jail is innocent.

Hon FRANK HOUGH: Yes. I am unable to comment on that because I am not privy to what she said. I would be foolish to make a comment. However, everyone in jail is innocent. If someone finds someone in jail who is not innocent, there is a problem. However, Dean Philip Carter is totally innocent! Carter is on death row for the brutal rapes and strangulation murders of four southern Californian women - Tok Chum Kim, 36, Jillette Mills, 25, her housemate Susan Knoll, 33, and Bonnie Guthrie, 24. An additional murder charge is pending in Oakland, California for the murder of Janette Cullins, 24. Mills, Knoll and Guthrie were murdered within three days of each other. Carter is yet to be tried on the last charge. They were found at the site. Carter was apprehended while driving one of the victim's cars while fleeing from California to Arizona. In the car were items from all the dead people - their IDs, wallets and everything else. People call them trophies. Carter was a drug dealer prior to the murder spree. One of the things that gave him away was not only being caught with all the victims' gear but also, shortly prior to being caught, being filmed at an ATM with a gun at the head of one of his victims while she was removing her money from the ATM. He maintained his innocence, saying he found the car, but the gear from all three women - from different locations - was in the back of a car belonging to one of the women, and some items were also found in his apartment. Can members believe that some sickos write to him because they believe he is innocent? Some people write to Dean Carter and say they sympathise with him. His mum and dad were divorced when he was 18, which makes him mentally unstable. His father was an Eskimo, which does not help; that is another problem. His mother nicked off with another bloke, which makes him a bit more stupid. However, he maintains he is not guilty and he is on death row in St Quentin Prison after being convicted of three murders, and is awaiting sentencing on a fourth, which he will also deny.

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Hon Derrick Tomlinson interjected.

Hon FRANK HOUGH: It will mean he is on a quick train to nowhere. Hon Peter Reith made a contribution to the fifteenth conference of the Samuel Griffith Society and said -

Direct democracy is a process that enables the public to initiate and then make or repeal laws by referendum. Such a process is undeniably democratic. It should be embraced more fully at local, State and federal levels of government in Australia. It would encourage a more transparent political system by encouraging debate. It would make it hard for the politicians to sweep issues beyond public view. It would motivate public interest in political issues and so erode apathy. Successful referendums reflect the views of the otherwise silent majority, and are thus a counter to noisy minority groups who sometimes can have undue influence. By giving the public an opportunity to directly influence law-making, the system would also thereby improve the integrity of the law. And it would be very popular with the electorate . . .

He probably made that speech after he had left the Parliament.

In conclusion, if any member wishes to respond to my remarks, I ask him to read my motion, which states -

The Government take such action to apply a citizens initiated referendum to decide if the courts should be empowered with the discretion to impose capital punishment on offenders convicted beyond reasonable doubt for heinous crimes.

I do not ask for support for this motion; I expect support for it. I do not expect any smart alec replies to my remarks. I hope everyone treats this matter with respect. A citizens initiated referendum should be held because some members may not have the courage to stand up and be counted. As we say, there will be no “talking heads” in here. I suggest that people who do not have the courage of their convictions leave the Chamber rather than vote against the motion. I expect support from both the Government and the Opposition. It is not an enormous request of the Government. If the Government is not prepared to run with this, I suggest that the Opposition run with it because it will certainly help it win the next election. I do not want to help the Government get back into office or ensure that the coalition remains in opposition. However, if parties find out what the broader community wants, they will concur with me. I am basing my views on information provided in the community newspapers and the surveys I have carried out, which indicate that my views represent those of only 85 per cent of people! If the Morgan Gallup poll can tell us how 10 million people will vote based on a sample of 785 people, surely my surveys, which test a sample double that number, have as much credence or more. I do not phone the same galahs every time I hold a survey. Companies like Morgan Gallup press a button that connects with the same clowns every time. I do not think Morgan Gallup knows where country areas are so it probably surveys people along the coastal belt and around Midland and Kalamunda. It probably rings people in Geraldton or perhaps Bunbury to seek the views of country folk. I can say with confidence that I represent the views of a greater percentage of people than people surveyed in a Morgan Gallup poll. People know their own mind. Hon Paddy Embry brought in the results recently of a survey in community newspapers. I think he said that 20 000 people paid postage on their reply. The results indicated that about the same percentage of people as I indicated support capital punishment.

In conclusion, I ask for the support of the Chamber.

HON NICK GRIFFITHS (East Metropolitan - Minister for Housing and Works) [3.27 pm]: In my response to Hon Frank Hough I intend to read the motion and I intend to be respectful in my response. I thank him very much for his observations. It is fair to say that there is a time and a place for capital punishment. There were times in history when capital punishment was appropriate. However, it is not appropriate in Australia at this time. Whether a jurisdiction within a country has capital punishment is a measure of the degree of civilisation of that society. Australia is at a level of civilisation at which capital punishment is not appropriate.

Hon Frank Hough’s motion reads -

The Government take such action to apply a citizens initiated referendum to . . .

I will deal with that part of the motion shortly. We are elected through democratic processes, and Governments are formed. Governments put forward measures to the Parliament for the Parliament to say yea or nay to. Most legislative measures that come before the Parliament are presented by the Government. However, our system allows non-government members to bring forward measures. That occurs from time to time. We are elected to make decisions. In the context of how our system operates, a citizens initiated referendum is not appropriate. The proposition is that there be a referendum to decide whether courts should be empowered with the discretion to impose capital punishment on offenders convicted beyond reasonable doubt of heinous crimes. Capital punishment in Western Australia was done away with as a matter of law in 1984. I will stand corrected on the

date. As a matter of practice, capital punishment ceased in the early to mid 1960s. I cannot remember the precise date. When Western Australia had capital punishment as a matter of law, it was not a matter of judicial discretion. As I recall, if a person had been found guilty of a particular offence, such as wilful murder, that person was sentenced to death as a matter of course; it was a mandatory penalty. It is to my mind interesting if the member is suggesting that we go back to the system that existed before, to refer to a discretion that gives the judiciary the say about whether capital punishment should occur in circumstances when a death penalty is warranted. If the Parliament decides that capital punishment, or any form of punishment, should be necessary, particularly a punishment as severe as capital punishment, I would think it appropriate that it be the subject of mandatory sentencing. Although we do not have mandatory sentencing in many circumstances, if a matter is so serious as to warrant the death penalty, it would be the proper role of the Parliament to tell the legal system that is the result that should occur. I say that in the context of the opposition to capital punishment, which I mentioned when I commenced my remarks.

Hon Derrick Tomlinson: Although there was mandatory sentencing there was a discretionary power to commute.

Hon NICK GRIFFITHS: Yes, but it was an executive power, not a judicial power. That is why, for almost two decades when we still had capital punishment on the books, there were no executions.

The next part of the motion deals with the imposition of capital punishment on offenders “convicted beyond reasonable doubt”. One would think that, at the very least, that should be the case if one were to proceed down the path of the member’s proposal. It is the case that the legal system sometimes gets it wrong. The member would be well aware of a very recent example of the legal system getting it wrong. It is also the case that our legal system - that is, the British legal system as applied in Canada, the United Kingdom and Australia - has got it wrong on a number of occasions in recent decades when people who had been convicted beyond reasonable doubt and hanged have posthumously been found not guilty and have been pardoned. The case of Timothy Evans in the United Kingdom is a prominent example of that. That case - and others, but that case was predominant - led to the United Kingdom moving down the path of doing away with capital punishment.

Hon Derrick Tomlinson: Fortunately in a recent case in Western Australia the court got it right on manslaughter but wrong on conviction, and avoided the death penalty.

Hon NICK GRIFFITHS: I note the member makes reference to another prominent case.

The last part of the motion deals with heinous crimes. Hon Frank Hough spent some time in his speech giving examples of very nasty crimes, and he certainly disclosed his abhorrence of those awful events. I have no doubt that every member in this Chamber agrees with the member’s abhorrence of the evil acts to which he referred. However, the member tended to drift into the possibility that capital punishment could be imposed in areas that are very abhorrent but are not areas that in the last century the society of Western Australia has thought were appropriate for the application of capital punishment. It should come as no surprise to the member, therefore, that the Government opposes the motion.

HON JOHN FISCHER (Mining and Pastoral) [3.36 pm]: The use of citizens initiated referendums to deal with many of the concerns that confront the citizens of this country has a long history. Citizens initiated referendums have certainly not been confined to any one issue. However, there is no doubt that the motion moved by Hon Frank Hough has encapsulated one of the most emotive issues and probably the one that is most often used to call for a CIR. For the benefit of the uninformed, CIR has also been defined as “community initiative in referendums”; it is the same thing as a citizens initiated referendum. As we all know, a number of pieces of legislation that have been enacted by this Parliament over a long period of time - for example, the Financial Administration and Audit Act - impose checks and balances on everything that the Government does so that the public can be assured of accountability on issues such as taxation and many others. However, the only real check and balance that we in this Parliament face is when we are required to go to the polls. To put it another way, a dishonest or incompetent majority Government could play havoc with our finances, our elections and our environmental concerns by making legislative changes that the balance of elected members were powerless to stop. That should not happen, and I hope it never does. However, to ensure that this scenario does not happen, and to provide the Parliament with ongoing checks and balances, I firmly believe in the initial part of the motion moved by Hon Frank Hough with regard to a CIR, because the voters should have the right to question the Government on its legislation and direction through the official means of a citizens initiated referendum.

The history of citizens initiated referendums nationally and internationally has been well covered by Hon Frank Hough. However, to comment further on the use of CIRs by Parliaments in Australia, it is interesting to note that in July 1987 the Federal Liberal Party pledged, if elected, to examine the possibility of introducing voter initiated referendums. In addition, in a green paper on direct democracy presented by Hon Peter Reith to federal Parliament in the spring of 1998, he said -

Following its success in Switzerland, Alfred Deakin argued for its adoption -
That is, for citizens initiated referendums -

into our Constitution at the time of its conception. It was defeated by one vote.

In 1902 it became part of the Labor Party Platform and remained there until removed at the party's Perth Conference in 1963.

It is rather amazing that, when subsequently in power, the federal Liberals did nothing; Peter Reith in particular did not follow up the issue of CIR with legislation. I guess the least said about the Labor Party's views on CIR the better, other than that the Gallop Government has abrogated its stated direction on CIR.

It is pertinent to the motion moved by Hon Frank Hough, and members may be aware, that South Australia recently conducted a constitutional convention. Before and after the convention, a firm by the name of Issues Deliberation Australia Ltd conducted statewide polls on the issues considered at the convention and IDA's results paper was issued in August 2003. It is pertinent to go through the process that occurred at the convention, as it is extremely recent and relevant to what could occur in Western Australia. The results paper stated -

Twelve hundred and one potential delegates (voting age residents of South Australia) were initially interviewed between June 16 and June 22, 2003. These respondents were typical of respondents in other random sample surveys conducted by Newspoll, and reflected a spread of demographics and opinions that might be found in the general population at that time:

- 49% were male, and 51% female;
- 42% were employed full time, 17% part time, with the remainder not in paid employment (this category includes homemakers, students, retirees, and unemployed people);
- 24% claimed to have a household income of \$60,000 or more, 30% an income of \$30,000 to \$59,000, 31 percent a household income of less than \$30,000 (15 percent refused to provide income information).
- 74% lived in the Adelaide metropolitan area, 26% in regional South Australia.

Their occupations included a diverse range - students, homemakers, pensioners, administrators, lawyers, doctors, nurses, mechanics, authors, artists, teachers, psychologists, and those looking for work.

The convention reduced the 1 201 potential delegates to 323 representative South Australians who attended the constitutional convention, which was named "South Australia Deliberates: The Future of our Parliament." As I said, the convention comprised a very good cross-section of South Australian adults. John Davis, the project director for the convention from Newspoll, in commenting on the sample, said -

Comparing the profiles of the 1,201 people in the pre-deliberation survey and the 323 convention delegates, on a number of factors such as gender, geographical area, household income, and peoples' claimed political affiliations, the two profiles are almost identical.

It is interesting to note that that cross-section of people came up with the results and the implications that they put to the convention, which I will note very shortly. There were slightly more males than females - 51.7 per cent and 48.3 per cent respectively - and their ages ranged from 18 to 88 years, with slightly fewer of the under 35-year-old age group represented in the deliberative sample of 323, and slightly more of the over-50-year-olds. They approached the deliberation task with what is recorded as dedication and a good perspective. The results paper goes on to say that the final results were post-weighted to compensate for any under representation and over representation.

Sitting suspended from 3.45 to 4.00 pm

Hon JOHN FISCHER: Before the suspension I was speaking about the constitutional convention that was held in Adelaide earlier this year and about the make-up of the delegates. It is important to inform members of the outcome of the convention. I had just explained the make-up of the 1 201 people who were involved in the convention and of the 323 delegates who were also contemplating the issues that were raised. The final results were post-weighted to compensate for under-representation and over-representation, which is the normal practice for all Newspoll random sample surveys. Among other things, the summary results of the surveys refer to the findings of the pre and post-survey deliberation survey results of the 1 201 randomly selected voters. The voters were surveyed about their opinions on various aspects of parliamentary reform eight weeks prior to the deliberations and a subset of 323 delegates who attended the convention completed the post-deliberation survey.

It was noted that the representatives left the constitutional convention with a much greater appreciation of the current systems of Parliament in South Australia and of the way their elected representatives represent them. This was reflected across multiple measures of opinion.

Turning to the actual survey results, the parts that interest us here today are those relating to citizens initiated referenda, on which the following details were given. Consistent with their desire to have a say in the political system, the representative South Australians endorsed citizens initiated referenda both before and after their deliberations, with no change in their pre and post-opinions on this issue. After their deliberations, 64 per cent of the people polled were in favour of citizens initiated referenda. When asked about the circumstances under which the citizens initiated referenda should operate, the delegates were strongly in favour of the application of CIR to the initiation of new laws and to change existing laws, although there was a slight decrease in the percentage after the deliberations of the convention.

Additional questions about CIR were asked in the post-deliberation survey to gauge opinions about the type of citizens initiated referenda supported. Strong support emerged for the cautionary step-by-step approach. The result was that 37 per cent of delegates supported direct CIR, and 61 per cent judged direct CIR to be a bad idea. Interestingly, 49 per cent thought that indirect CIR was a good idea, and 48 per cent thought indirect CIR was a bad idea. However, the sizeable majority of 71 per cent thought a two-step system - this requires a wider system of circulation before a referendum is held - was a good idea. When asked the type of system most preferred in South Australia, 13 per cent selected direct CIR, 20 per cent selected indirect CIR, 42 per cent selected the two-step version, and 23 per cent did not want CIR at all.

Following the completion of the post-deliberative questionnaire, delegates were asked to write their most important single priority for parliamentary reform. In the final group discussions of the 23 groups into which the delegates were broken up, delegates were asked to make recommendations. They were specifically asked, "What would you want the parliamentary steering committee and the South Australian Government to hear about your opinions on parliamentary reform in this State?" The answer to those question were analysed for recurring themes and formed the basis for the qualitative results produced. This data has not yet been exhaustively analysed, and a final report will be released. As I said, this convention happened recently. The following preliminary assessment was made of the main themes. On the question of main priorities of parliamentary reform identified by individuals, the number one priority was optional preferential voting; second, the introduction of citizens initiated referenda; third, four-year terms for the upper House; fourth, an independent Speaker; and fifth, the strengthening of accountability and transparency of Parliament. So it went. Strangely enough, contrary to what many people may think, the next item was an increase in the number of MPs in the lower House. Other priorities were multi-member electorates, a true House of Review and the introduction of the unicameral system. My point is that the second most important recommendation from the South Australian constitutional convention was the request for citizens initiated referenda.

When considering its history, CIR has always had very strong support from the voting public in Australia. It seems that both major political parties have used CIR in their policies from time to time. Strangely enough, when they get into power and into a position to introduce the system, there is a lack of memory about these policy documents.

As I mentioned, the 323 delegates at that convention were broken up into 23 groups, each consisting of approximately 15 randomly assigned delegates. They met over a weekend to discuss key priorities for reform. Interestingly, the issues that came out as number one priority was optional preferential voting; second, four-year terms for members of the Legislative Council; third, strengthening the accountability and transparency of Parliament; and fourth, citizens initiated referenda. Therefore, CIR was high on the list under both methods of assessment used at the convention. It is obvious that South Australians currently believe that CIR should be introduced into that State.

Strong support for citizens initiated referenda in South Australia came from various organisations that canvassed its introduction in many ways, including a brief but informative flyer that offered arguments both for and against. Citizens initiated referenda will not interfere with the political process; in fact, they will give the community control of the reins that will guide a Government back on track should it deviate too far from the purpose for which it was elected, particularly if that deviation is caused by minority pressure groups or non-elected powerbrokers. That is extremely relevant to the motion put forward by Hon Frank Hough. Some minority pressure groups and behind-the-scenes powerbrokers bring unreasonable or self-serving pressure to bear on parliamentarians and parties when there is a small margin between those who do and those do not form Government. The introduction of CIR is probably one of the most effective ways to equal that out. It will also mean that people will not be rendered powerless when great changes are made between elections. People must be allowed to express their concerns in an orderly, meaningful and democratic way, and at the relevant time. Unfortunately, after four years it is often too late to undo what could have easily been prevented. The

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community must have the ability for greater input - certainly greater input than it currently has - into decisions that affect them.

One of the handouts that goes with the promotion of CIR states that with the process of initiative and referenda, the noisy minorities will have to get more genuine support for their arguments and that the wishes of the majority will be heard. Further, parliamentarians will know exactly where they stand with the public and what is required of them. A venue for utilising community commonsense will be opened up and the re-emergence of the principle of government of the people for the people and by the people would surely be widely welcomed. Much of the undue influence exerted by non-elected powerbrokers could be challenged in a non-party political manner. The Government that installs this system will cause an upsurge in the acceptance of politicians within the community. Governments at all levels would benefit by the introduction of CIR because it would create an atmosphere of teamwork between communities and parliamentarians instead of the distrust and cynicism that currently exist. The Government that allows the community an equal right to initiate referenda will engender greater trust in that Government.

There is no doubt that these are the views of the great majority of the people in South Australia. The discussions I have had with my constituents are pretty much representative of the way Western Australians view the need for CIR. There are numerous advocates for CIR in Western Australia. I refer to a recent article by Joe Propryczny in *Business News*, the heading of which is "More power to the people". I would like to read the whole article, but it would probably take too long. It is an extremely relevant article to the issues of CIR and to the motion put forward by Hon Frank Hough. The article reads -

Do Western Australia's 91 MPs wield too much power over longstanding community customs and traditions?

Mark Twain would probably say they do, as it was he who penned that one liner about people not being safe while legislatures were in session.

The determined manner in which Attorney-General Jim McGinty has, among other things, moved to ensure homosexual couples can adopt children and gain access to in-vitro fertilisation is prompting some to believe Twain perhaps understated matters.

Mr McGinty can be confident that his planned changes to the Family Court Act and the Acts Amendment (Lesbian and Gay Reform) Bill will soon become law.

The reason is that it's party policy and Labor maintains tight discipline over its MPs - they must vote as caucus dictates, otherwise they lose endorsement.

The PRESIDENT: I think I can pre-empt Hon Bruce Donaldson. I was wondering what relevance Hon Frank Hough's point had to the motion at hand.

Hon Bruce Donaldson: That was not to be my point of order.

The PRESIDENT: If it was not, I am raising that one. Is there an additional point of order?

Hon Bruce Donaldson: I draw your attention to the state of the House, Mr President.

The PRESIDENT: That too!

[Quorum formed.]

The PRESIDENT: I am sure that the member who has the call, having attracted a quorum, will relate his comments to the motion in the name of Hon Frank Hough. I am sure that he will then keep a quorum.

Hon JOHN FISCHER: Thank you for drawing my attention to the fact that I may be straying slightly, Mr President. However, I am trying to make a case for the introduction of a citizens initiated referendum, which of course would be implemented by the Government of the day to allow the courts to take such action that they believe is within their discretion. I believe my point is relevant to the issue of how and why a Government should be instructed by the majority of people. As I have outlined, it is the convention in South Australia.

The PRESIDENT: I had not picked up the member on the basis that there are two parts to the argument. Indeed, a citizens initiated referendum is one part. Obviously, the motion pertains to a citizens initiated referendum for the purpose of achieving a particular end rather than all other possible ends that citizens initiated referenda might produce. I merely remind the member of that in respect of his comments.

Hon JOHN FISCHER: Thank you, Mr President.

The article I was quoting goes on to say that the briefest definition of a citizens initiated referendum is -

The right, properly constitutionally entrenched, of citizens to demand that a binding referendum be held.

Of course, had some of the initial policies of the major parties been followed and CIR been introduced, we would know exactly what the public of Western Australia felt about capital punishment. Over the years various people have called for the introduction of CIR on this subject, which is most definitely covered by the motion of Hon Frank Hough. As I said initially, a CIR would certainly cover many other subjects, but capital punishment is probably one of the most emotional subjects that a CIR can involve. I believe that in many cases Governments are particularly concerned about what the result of such a referendum might be. If CIR were introduced, they would be bound to act on it.

I reflect again on the power of vociferous minorities to counteract the wishes of the people of Western Australia. That has already been covered, but we should reflect on the fact that some of the measures passed in this Parliament were introduced by CIR. It is time that we in this Parliament recognised that we represent the people who vote for us and apply ourselves to governing for the people and not for certain voluble individuals or sectional interests. The availability of CIR to voters would ensure that we did our job properly.

In summary, CIR is the way to reintroduce integrity into the parliamentary process and regain the respect of the voting public. It will also give the voting public the opportunity to ensure that politicians honour their pledges, particularly those made during election campaigns. It will be a means to keep us honest and to promote transparency in our dealings. I fully support the motion of Hon Frank Hough for a citizens initiated referendum to decide whether the courts should be empowered with the discretion to impose capital punishment on offenders convicted beyond reasonable doubt of committing heinous crimes. I have no doubt at all that most of the voting public in Western Australia support the introduction of CIR for this and for other issues. The only reason it will not be put in is that the Government is concerned that the result will totally turn its opinion of capital punishment on its head. Until 1963 it was part of the policy of the Labor Party, and the quicker it can be implemented, the more true representation we will see in this Parliament of the people who put us here.

HON DERRICK TOMLINSON (East Metropolitan) [4.22 pm]: I am sure members will agree that this is an interesting motion. It has three parts, rather than two. The first part calls on the Government to take action to apply a citizens initiated referendum. There are no provisions under Western Australian statutes for citizens initiated referenda. The first part of this motion requires the House to decide whether a statute for citizens initiated referenda is desirable. The second part calls for a referendum to be held to decide whether the courts should be empowered with a discretionary capital punishment power. The second part of the motion raises two questions - whether it is desirable to have capital punishment available to the courts; and whether that punishment should be discretionary rather than mandatory, as was the case in days of yore.

The third part is that the punishment be for offenders convicted beyond reasonable doubt of heinous crimes. What are heinous crimes, and should the option of capital punishment be available for heinous crimes? We must then apply the question of whether there shall be a citizens initiated referendum for that particular purpose and that particular purpose only, because the motion does not call for citizens initiated referenda as a general rule; it asks for a citizens initiated referendum on the question of the option of capital punishment for heinous crimes.

As far as heinous crimes are concerned, as you well know, Mr President, this nation was founded on a very respectable British justice system, which, when the colony of New South Wales was proclaimed on 26 January 1788, provided for 220 offences that were punishable by death. One of those offences was, of course, grand larceny. Grand larceny was stealing goods above the value of 20 shillings, or £1 - \$2 in current value.

Hon Paddy Embry interjected.

Hon DERRICK TOMLINSON: Stealing a sheep or breaking the bough of a tree in the king's park - not the one up the road, but in the royal park - was punishable by death. The poor fellow who faced a penalty from the Department of Conservation and Land Management for breaking the bough of a tree some little while ago would have been liable on 26 January 1788 to a penalty of death for breaking that bough. Heinous crimes are a foundation of Australia. Less heinous crimes, such as petty larceny, were punishable by transportation for five, seven or 10 years or life. Petty larceny was stealing goods worth less than 20 shillings. My great-grandfather came to Western Australia as a guest of Her Majesty Queen Victoria because he committed the less than heinous crime of stealing a lead pipe to the value of two shillings and sixpence; hence, he was transported under the Pentonville scheme.

Hon Ed Dermer: Have you given the lead pipe back yet?

Hon DERRICK TOMLINSON: I will not tell members what happened to that lead pipe, but I can tell them that my sinkers work very, very well! However, that is beside the point.

Hon John Fischer: That is a heinous crime!

Hon Frank Hough; Hon Nick Griffiths; Hon John Fischer; President; Hon Derrick Tomlinson; Hon Norman Moore

The PRESIDENT: Order, members! I think we are coming nearer to the definition of heinous crime.

Hon DERRICK TOMLINSON: As I pointed out, the punishment for petty larceny at that time was transportation, in this case to the colony of Western Australia, where, as I recall, my great-grandfather was set to work at Port Gregory in the Northampton lead mines. There is something of a poetic irony in that: he was convicted of stealing a length of pipe worth two shillings and sixpence, transported to the colony of Western Australia and set to work in the lead mines of Northampton.

Hon Frank Hough: What year was that?

Hon DERRICK TOMLINSON: As I recall it was 1863 - five years before the last convict was sent to Western Australia.

Hon Frank Hough interjected.

Hon DERRICK TOMLINSON: I will not go into my great-grandfather's guilt or innocence, except to say that one of the best judges in England sent him here. He came here and established a dynasty. One could say that the best judge in England was a man of considerable discretion and discernment.

Let us go back to the first question, because there are four questions. The first question is whether there should be citizens initiated referenda.

Point of Order

Hon FRANK HOUGH: Hon Derrick Tomlinson must have a different copy of the motion from the one I have. There are no commas or full stops in my motion; it is one question. He said that there were three or four questions, but I clearly see just one question.

The PRESIDENT: There is no point of order. People may see the motion in many different lights. Indeed, there are many different lights to come.

Debate Resumed

Hon DERRICK TOMLINSON: Since I am being called up on points of grammar, we should have a look -

Hon Frank Hough interjected.

Hon DERRICK TOMLINSON: No, I will not go into it. What the honourable member is saying is correct. There is a single question, which within it poses four questions. The first of those questions is whether it is desirable to have citizens initiated referenda, because it asks the Government to take such action so as to - the motion left out the "so as" - apply a citizens initiated referendum. For a Government to take such action as to apply a citizens initiated referendum, it must legislate for a process of citizens initiated referenda. That is the first question. Is it desirable that this House recommend to the Government that it apply citizens initiated referenda? That is a question worthy of debate.

I listened very carefully to what Hon Frank Hough and Hon John Fischer had to say. During the 1980s, citizens initiated referenda became very popular as propositions in political debate in Australia. There was a popular embracing of the notion of citizens initiated referenda across the whole spectrum of political persuasion. In the debates I followed, the unresolved question was always the size of the sample of the population that was sufficient to request a referendum and for it to be initiated. Some people argued that 11 per cent of the electorate should be sufficient to initiate a referendum. In California, something like 11 per cent of the registered voters is sufficient to initiate a citizens initiated referendum. Others would argue that 11 per cent is only one in nine of the population, and that this is not sufficiently representative of the total population to justify such an initiative and so on. It foundered on that. It also foundered on the matters on which citizens should be empowered to call for referenda. Should it be a plenary power? Should citizens initiated referenda be open to all matters of public interest or should it be limited to a prescribed range of matters? Hon Frank Hough's motion is asking that the Government take such action as to apply a citizens initiated referendum to decide whether there should be a discretionary authority of capital punishment for offenders convicted of heinous crimes. It is a very limited proposition. It is not a proposition for citizens initiated referenda; it is a proposition for the Government to apply citizens initiated referenda legislation to a single question. If we are to legislate for citizens initiated referenda, it should go beyond a single issue. I am not arguing for or against citizens initiated referenda. This was a matter of considerable public ferment and a very popular movement in the 1980s. It has diminished somewhat, but it is kept alive by a few interest groups. That does not discredit it in any way. It is an idea worthy of consideration. In fact, one example of a healthy modern democracy is the Swiss system of government, which allows citizens initiated referenda in its cantons. If a sufficient number of cantons call for a referendum, it is initiated. That is an example of how it works in a modern political system. Of course, we saw the consequence of the citizens

initiated referendum in California, when the Government was forced to curtail tax increases. Perhaps in a case such as that I would be more sympathetic to a citizens initiated referendum.

The next question is whether we should have a discretionary authority for capital punishment. The Minister for Housing and Works pointed out that, while it was not until about 1984 that the then Labor Government introduced legislation to abolish the death penalty, the last person executed under Western Australia law was Eric Edgar Cooke in 1964. The mandatory death penalty available under Western Australian law was for wilful murder. Murder was punishable by mandatory life imprisonment. Of course, at that time, capital punishment was available for wilful murder, and I think it was still available for treason and for fleeing in the face of the enemy or desertion - except that I think it was an arbitrary judgment and a summary penalty for desertion in the face of the enemy. I do not know whether punishment with the death penalty is still available for treason; I assume not. It has been a long time since we in Australia executed somebody for treason, if we ever did. I certainly cannot recall an occasion. However, is wilful murder necessarily a heinous crime? I suppose if we say that the taking of a life intentionally, with malice aforethought, is heinous, certainly the wilful murder of children with malice aforethought, by a person of sane mind, would be countenanced as a heinous crime. I will refer to a couple of the crimes recently experienced in Western Australia, such as the so-called Greenough murders, where the offender not only murdered a woman and her three children, but also committed other atrocities. The popular view of that would be that it was a heinous crime.

Had much of the evidence been made public that was not published by the media, there would have been a popular outcry demanding the death penalty for that person. Likewise, the crimes committed by the infamous Mr and Mrs Birnie were heinous. We tend to think of murder as being heinous. Would we extend the death penalty to apply in rape cases, especially if it were the rape of a child? What about the rape of a two-and-a-half-year-old child? I cannot think of anything more heinous. Shall we allow the courts the discretion of the death penalty in that sort of case?

I do not think anyone would hesitate to say that the people who were responsible for the attack of September 11 in New York were guilty of a heinous crime. The people who flew the planes executed themselves, but those who planned it were equally guilty. If we were to experience something similar and, for example, someone were to perpetrate an attack on a building in Perth that caused the death of hundreds of people and maimed a large number, that would be a heinous crime. Should the courts have the option to choose the death penalty in that case? The question of heinous crime depends on whether the circumstances provoke a feeling of revulsion in the public. Whether a crime was heinous is circumstantial, is it not?

If we were to hold a citizens initiated referendum I hope it would not be for that single purpose. We would need to be cautious about defining offences that should be eligible for capital punishment rather than simply say it should apply to heinous crimes. Rape is a heinous crime. Should it be mandatory that every rapist be executed?

Hon Frank Hough: Most people would say yes.

Hon DERRICK TOMLINSON: I would say yes. I think it is the worst crime of all; it is even worse than murder. However, I do not think we would get much popular support for that.

Hon Frank Hough: We would from women.

Hon DERRICK TOMLINSON: A large number of women would support it. Many women would find the notion of "legal murder" offensive. That is the nature of a pluralist society.

Hon Frank Hough: Capital punishment is not a heinous crime.

Hon DERRICK TOMLINSON: Some people would see it that way. The late Ron Saw wrote an excellent article for the *Bulletin* describing the death of Ronald Ryan, the last person hanged in Victoria. The article described his feelings when he witnessed the execution of Ronald Ryan. Disregarding all the political ferment that related to the execution of Ronald Ryan, the description of the execution engendered in any thinking and feeling reader a sense of revulsion. That was the way Ron Saw felt on witnessing the execution and that is the way he conveyed it in the article. It is one of the finest pieces of journalism I have ever read.

Hon Frank Hough: I said that I thought death by hanging or the electric chair was barbaric. I think that lethal injection is the only method that should be administered.

Hon DERRICK TOMLINSON: Choose your weapon. The question is not whether execution is by hanging, lethal injection or by being cuddled to death. It is a question of the taking away of life. Some people regard life as sacrosanct.

Hon Frank Hough: Not criminals who commit heinous crimes.

Hon Frank Hough; Hon Nick Griffiths; Hon John Fischer; President; Hon Derrick Tomlinson; Hon Norman Moore

Hon DERRICK TOMLINSON: I think the member is getting right to the point of his argument: it is the word "heinous". Any motion to be entertained by this House would have to take that word and apply it to particular crimes.

The next question is the one that seems to be entertaining most of the minds in this Chamber. It is whether the penalty should be discretionary. Do we allow judges to decide whether a crime is sufficiently abhorrent to qualify as heinous and then to impose a death penalty? In one respect, judges are given discretion every day. Under statute, judges have available to them maximum penalties. Judges impose the penalty they think is appropriate to a crime according to the circumstances and the mitigating factors etc. That imposes upon judges the power of God to decide between life and death. Is it fair to give that awful responsibility to a judge? Pragmatically, that is what judges are there for; that is what they are paid for. In human terms, it is not a decision I would like to impose upon anybody. It is something akin to a doctor who has to decide whether it is worthwhile continuing to resuscitate a patient. At what stage does he turn off the switch to allow the process of dying or living to continue?

Hon Frank Hough: If someone detonated a bomb at Subiaco Oval and 2 000 people were killed, would you have great difficulty?

Hon DERRICK TOMLINSON: Who was playing?

Hon Frank Hough: East Perth.

Hon DERRICK TOMLINSON: If you asked me, I would have no difficulty in saying that the perpetrator should be executed. The reason I would have no difficulty in saying that is that I was outraged by a couple of the crimes to which I referred when I said that those people should hang. As a matter of fact, on the steps of the Parliament in about 1990 I said that about a 14-year-old boy who had cut the throat of a seven-year-old with such severity that the head was attached to the body by only a thin flap of flesh. So revolted was I by that crime that I said on the steps of Parliament House that there are some cases for which the death penalty is justified. However, whenever I get to the stage of being so revolted and think that the crime is so heinous that the person should die, I then say, "Well, am I going to be the one who pulls the switch?" That is the real test. Are we willing to be the one who commits the execution?

Hon John Fischer: But do you not have a commitment to your constituents to be able to make decisions like that?

Hon DERRICK TOMLINSON: Fortunately I have a cop-out here, because I can say that in this matter I have to represent my own conscience. That is a cop-out; I admit to cowardice. I will not go on at length, because I know that Hon Frank Hough wants a few moments to respond. In some respects this motion is very confused, although I think it has been moved with good intent. We must ask four questions. Does this body of decision makers - legislators - think that citizens initiated referendums are worthwhile? If we are to have a citizens initiated referendum, should it be initiated by the Government for a single purpose? If a citizens initiated referendum is to be for a single purpose, what do we mean by a heinous crime? When does a crime become heinous?

Hon Robyn McSweeney: When people rape, murder and pillage.

Hon DERRICK TOMLINSON: When people rape, murder and pillage in times of war they are heroes. It depends entirely on the circumstances. The next question is that if we are to have the death penalty for heinous crimes, should it be a discretionary or a mandatory penalty? There are too many questions for us to bend our minds to. I would have been happier had Hon Frank Hough stuck to the single question of a citizens initiated referendum, because that is a matter very worthy of not merely our consideration but also public consideration.

HON NORMAN MOORE (Mining and Pastoral - Leader of the Opposition) [4.52 pm]: In commenting on this motion I must say at the outset that I have the same view as Hon Derrick Tomlinson about the motion. The motion is confusing, because it deals with a number of confusing issues. The notion that the Government should take action to apply a citizens initiated referendum is a contradiction in terms. A citizens initiated referendum is initiated by citizens, not the Government. The member is suggesting that the Government initiate a CIR. Perhaps the member should reword the motion to say that the Government should initiate a referendum, and he could then move another motion at some other time to say that he wants citizens initiated referendums to be included in the laws of Western Australia. The notion that the Government should initiate a citizens initiated referendum is a contradiction in terms and a bit of a nonsense. However, I understand what the member is trying to do, and perhaps a simple amendment may fix that up if that is what the member wants to happen. However, because at this time we do not have citizens initiated referendums, it would be necessary for the Government to initiate such a referendum; therefore, it would be a government initiated referendum if we were to have one. Frankly, I do not have a problem with having a government initiated referendum on the issue of capital

punishment. I add that I think I know what the result would be. It would be about 55 per cent for and 45 per cent against. It might even be more than that. When I first came into the Parliament, it would have been about 95 per cent for and five per cent against, but I think the attitude of the community has changed since that time. I would not be unhappy if a referendum were held. If it were conducted properly, with a proper and sensible debate, we might get a meaningful result.

The motion seeks to empower the courts with the discretion to impose capital punishment. I have been concerned for many years about the amount of discretion that the courts already have on a range of issues. How often do we hear people complaining about the lack of discipline in the court system and that many determinations of the courts are too lenient? What we want in this country is more certainty in the outcome of the court process rather than less. I do not want to leave to the discretion of the courts the decision whether capital punishment should apply to a particular offence. That is a decision that the Parliament should make. I think Hon Nick Griffiths has the same view. I say to the mover of the motion that if we were to leave that discretion to the courts, nobody would be hanged and there would be no capital executions as a result of the motion. I do not believe that anybody running a court these days would use the discretion to apply capital punishment to an individual.

The motion includes the phrase “beyond reasonable doubt”. I do not know what beyond reasonable doubt means. I know what the member is trying to get at. Perhaps if a crime worthy of capital punishment were witnessed by 5 000 people who were all prepared to swear on a stack of Bibles that they had absolutely no doubt that a certain thing had happened, then those circumstances may come under the definition of beyond reasonable doubt. However, there have been many murder cases in which there continues to be a reasonable doubt about whether the accused person was guilty of the offence. John Button is a classic example. On several occasions the courts found that he was guilty of murder beyond reasonable doubt, but ultimately the Supreme Court found that he was not. Without reflecting on the courts, I found it difficult to contemplate the verdict in a recent murder trial. No body has been found, yet a person has been found guilty of murder. I would have thought the case was based on circumstantial evidence. Again, where do we draw the line on what is a reasonable doubt and what is not a reasonable doubt? There have been many occasions in the past, and we have heard a couple of examples today, when people have been executed for a crime and it was found afterwards that they had not committed the crime. If the member can convince me that there is some sort of definition of beyond reasonable doubt that would ensure that anybody convicted of committing a crime did do it and there could be no question about that person having done it, there would be some circumstances in which I would support capital punishment. There have been some murders and terrorist attacks and so on, the perpetrators of which I believe were deserving of capital punishment.

The motion also refers to “heinous crimes”. Again, this is an issue of definition. What is a heinous crime? I suspect the definition is in the eye of the beholder. It is a very subjective term and would mean different things to different people. Some crimes and some murders are so horrendous that every member of this Chamber would regard them as heinous crimes; however, there are other crimes on which people would have a difference of opinion. Again, who would decide that a crime in Western Australia is regarded as heinous so as to allow somebody to decide that the offender must be executed for that crime?

The motion leaves so many questions unanswered that it is very difficult to support it. I know why the honourable member has moved it in the way he has: he does not want a simple, straight-out debate on capital punishment. He wants the debate to be about asking the people. I have an open mind on the notion of asking the people through a citizens initiated referendum. I have been for and against it during the course of my political career. At the moment I do not have a particular view. People could vote for popular decisions in citizens initiated referenda, which could turn out to be wrong decisions. If a referendum were held on bringing water from the Ord River to Perth on a day as hot as it is today, 99 per cent of the voters would agree with it. However, they might not have realised it would cost them \$7.50 for a glass of water. A popular decision could be made that would unreasonably burden the State. I have some doubts about whether the issues would be debated decently; that cannot be guaranteed. A referendum could have been held recently on poll taxes and 97 per cent of people would not have supported having a poll tax - although there is no such thing as a poll tax in Western Australia. That issue was completely clouded by a newspaper that took no notice of the facts or of the reality of the situation.

Debate interrupted, pursuant to sessional orders.