

Walter, and prove a most valuable asset to the two municipalities concerned. The measure is one that has the concurrence of all the public bodies in the Fremantle district, and I have much pleasure in supporting the second reading.

Question put and passed.

Bill read a second time.

In Committee:

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

BILL—BREAD ACT AMENDMENT.

Second Reading.

Hon. J. E. DODD (Honorary Minister—South) [4.46] in moving the second reading said: In the baking trade there is a holiday on the third Wednesday in each month; and the employers generally and also the operative bakers believe that that holiday is in considerable danger, by reason of the fact that there exists a large number of individual bakers who bake and deliver bread themselves. As a consequence, many of the employers now find that it is necessary to compete with these individual bakers; and, as a result, the holiday is largely falling into disuse. The master bakers, or rather some of their representatives, and representatives of the operative bakers, have combined to ask the Government to introduce a short Bill making it unlawful for any baker to sell bread, bake bread, or deliver bread, upon that holiday. That is the principal amendment which this Bill proposes to make in the Bread Act of 1903. That amendment is contained in the second clause of the Bill. Clause 3 contains another amendment. There exists an award of the Arbitration Court which prevents bread from being delivered by employees before 6 o'clock in the morning; and both parties, employers and operatives, are also anxious that no bread shall be delivered by either employees or employers before that hour of the morning. The Government have accordingly sought to embody that principle in this Bill. Those are the only two amendments we pro-

pose to make in the provisions which were enacted in 1906. The other parts of the Bill are included in the Bread Amendment Act of 1906. I move—

That the Bill be now read a second time.

On motion by Hon. H. P. Colebatch debate adjourned.

ADJOURNMENT—SPECIAL.

The COLONIAL SECRETARY (Hon. J. M. Drew—Central): I move—

That the House at its rising do adjourn until Tuesday next, the 4th August.

Question passed.

House adjourned at 4.51 p.m.

Legislative Assembly.

Wednesday, 29th July, 1914.

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

PAPER PRESENTED.

By Hon. W. C. Angwin (Honorary Minister): Amendments to regulations of the Fremantle Harbour Trust.

PAPER—LAND RECLASSIFICATION BOARD REPORT.

The MINISTER FOR LANDS (Hon. T. H. Bath—Avon): I beg to lay on the Table of the House the report of the re-

classification board appointed to inquire into the prices fixed for land in the wheat belt. I would like to say in explanation that this report is the result of the investigations of a special committee appointed by the Government to investigate into this subject, and in order that hon. members might know what action was taken after the presentation of the report I have attached a minute from myself as Minister for Lands to Cabinet setting forth at some length the reasons which I have given for the recommendation which I made to Cabinet, particularly in view of the fact that the regulations differ somewhat from those which were submitted by the reclassification board. Attached, also, is the Cabinet decision with regard to the recommendations made by myself as Minister for Lands on the report of the reclassification board. I move—

That the papers do lie on the Table of the House.

Question passed.

BILL—RIGHTS IN WATER AND IRRIGATION.

Report of Committee adopted.

BILL—ELECTORAL ACT AMENDMENT.

Read a third time and transmitted to the Legislative Council.

BILL—BILLS OF SALE ACT AMENDMENT.

Report of Committee adopted.

BILL—LAND AND INCOME TAX.

Introduced by the Premier and read a first time.

MOTION—WANT OF CONFIDENCE.

Prisoner's Release, Case of Robert Bennett.

Hon. FRANK WILSON (Sussex) [4.38]: Mr. Speaker, I have to move—

The PREMIER (Hon. J. Scaddan, Brownhill-Ivanhoe) [4.39]: Before the

hon. member proceeds I would like to say that I have here in printed form the depositions in connection with this case which I would like to distribute for the information of hon. members while the debate is proceeding. Included with this printed matter are the Judge's notes.

Hon. Frank Wilson: I have no time to read them.

The PREMIER: It is not a matter of that, but it is a matter of enabling hon. members to refer to these notes and depositions instead of repeating what is in them. It is impossible to repeat them here, and unless they are stated or set out before hon. members the position will not be thoroughly understood. In order to avoid that we had them struck off in printed form for distribution in this way. If the leader of the Opposition has no objection I will have these forms distributed.

Hon. Frank Wilson: I have not the slightest objection to any information in this case being distributed. Do I understand, however, that we cannot refer to these printed forms during the debate?

The PREMIER: They are here for the purpose of being referred to.

Mr. Dwyer: It is only because of the presence of ladies in the gallery.

The PREMIER: I understand there is one point, namely, as to whether hon. members are prepared to treat this printed matter as confidential. I ask that they should do so and return the printed forms afterwards. These forms are not of any public utility, and of course hon. members will use them as they desire. I only ask that they should be treated as confidential.

Point of Order.

Mr. Taylor: On a point of order! I believe the Premier has asked leave of the House to circulate these papers, and that they should be treated as confidential. Personally, I do not think that any matter presented to the House can possibly be treated as confidential. The Premier can, of course, circulate these forms without the leave of the House on the understanding that they are treated as confidential.

The Premier: That is exactly what I ask the leader of the Opposition to concur in. I do not wish the leader of the Opposition later on to complain that I was doing something without his concurrence. It is merely desired to distribute these forms for the information of hon. members, and that hon. members may be in a position to immediately pick out any particular paragraph referred to without the necessity of the expressions contained therein being used.

Hon. Frank Wilson: On a cursory glance at this paper it seems to be a synopsis of the evidence tendered.

The Premier: It contains the depositions and the judge's notes.

Hon. Frank Wilson: A large proportion of this has already been published in the Press. Why, therefore, should we make it confidential?

The Attorney General: It is merely in order to save the reading of some of the phraseology which might shock some of the listeners.

Hon. Frank Wilson: We are not so thin-skinned as that. I think we can trust hon. members to use the right language.

The Premier: Have a look through it and see if you would make use of all the expressions contained in it.

Hon. Frank Wilson: I should not use any unfit phraseology.

Debate resumed.

Hon. FRANK WILSON (Sussex) [4.45]: In moving the motion notice of which I gave yesterday, and which reads—

That in the opinion of this House the advice tendered by the Attorney General to His Excellency the Governor, which resulted in the liberation of Robert Bennett, was not in the best interests of the administration of Justice, and is calculated to weaken the protection afforded to women and children under our Laws; and, further, that the Attorney General is deserving of censure for having tendered such advice.

let me say at once that I approach my task with feelings of the very deepest regret.

Mr. Swan: Of course.

Hon. FRANK WILSON: Whether hon. members accept the statement or not, I want here publicly to state that I should have preferred not having this duty cast upon me.

Mr. Underwood: The *Sunday Times* forced it upon you.

Member: Personal animosity.

Hon. FRANK WILSON: There is no personal animosity in the action I am taking, neither is there anything political.

Mr. Swan: Oh, absolutely.

Hon. FRANK WILSON: There is, however, a very keen and deep sense of my duty to the public of Western Australia.

Mr. Gill: In view of the approaching elections.

Hon. FRANK WILSON: I hope hon. members will not treat this subject with the levity with which they are accustomed to treat all motions submitted by this side of the House.

Mr. Underwood: We are inclined to treat you with contempt.

Hon. FRANK WILSON: When I am finished, perhaps the country will treat hon. members like the last hon. member who interjected with contempt also.

Mr. Swan: That is what you will try to bring about, but you will fail.

Hon. FRANK WILSON: I trust the hon. member will be relegated to that obscurity from which he should never have emerged.

Mr. Underwood: That is your object.

Hon. FRANK WILSON: My object is to carry out a public duty, and in doing so I have to express the firm conviction that after three years' experience the Attorney General is not fit to be trusted with the administration of justice. I regret having to express that conviction, but when I think of his attitude in connection with the release of criminals during the last three years in Western Australia, when I look through the list which was furnished to Parliament last session, when I remember the times out of number he was warned that he was proceeding in a dangerous direction in this respect, and when he failed to take notice of such warnings, I cannot but feel

concerned as to what the result of his administration is going to be to our people. This decision is confirmed absolutely I maintain, by the extravagant utterances of that gentleman about a week since in reply to some remarks that fell from the lips of the member for Murray-Wellington (Mr. George), and in which he emphasised his obstinate determination to continue the course he had laid down for himself, a course which he claimed was in the interests of humanity. The Attorney General, when speaking on this occasion used very strong language, and he then took the remarks of my hon. friend the member for Murray-Wellington as a personal attack, and he replied characterising the remarks of that gentleman as the outcome of animus. The Attorney General told the House that the greatest charge his enemies had levelled against him from the opposite side of the House, so far, had been the exercise of a more enlightened humanity. Then he went on to say that he would stand by it and that none of the intimidations would make him stop, and that unless he was removed from office he would continue to act as he had done, where he thought the facts warranted it, and that he was safe to the extent that he was sure, on investigation, the public were adequately protected he would continue that course. Is it any wonder that with such a declaration before the people of this State we have the intensity of feeling which we have witnessed during the past fortnight? Is it any wonder that the mothers of helpless children are fearful of the results of the administration which has been evidenced by the Attorney General? Is it any wonder that we have had public meetings, and is it further any wonder that I have, in keeping with the duty which is connected with that office, moved the motion which I have just read to the House? This attitude of the Attorney General is a positively dangerous one, and now we have the alarming report of a terrible outrage at Hine's Hill, perpetrated immediately afterwards. I cannot rest at night without visions of that poor child, baby in years, only $4\frac{1}{2}$ years old, walking through the bush sent out by her mother,

being cruelly assaulted by a devil in human form. Words almost fail me to express my feelings when I think of the innocent children who are constantly going backwards and forwards in the suburbs of our cities, in the far back unprotected portions of our State, in our forests, and in our mining districts, children who have perforce to travel lonely tracks, and who are beyond the guidance, the care, and the watchfulness of their relatives, and who are incurring the risk of being attacked by monsters such as the man who was liberated by the Attorney General and turned loose on the people of Australia. I want at once to take exception to any charge such as was levelled at hon. members on this side of the House that they were bloodthirsty. I want to take exception to anything that might be considered that they were full of vengeance, regardless of what the consequences might be, and I want to go further and say that hon. members on both sides of the House ought to be justified in supporting a motion of this description. This is far and away above a political fight; I have never dragged such a matter down to the level which hon. members, by their interjections at the beginning of my remarks, would have outsiders believe. This poor innocent child who was going through the bush at Hine's Hill was cruelly assaulted and ravished and left with a loathsome disease upon her person. I thank God that an arrest has been made and if the man arrested be the perpetrator of this terrible crime, then I hope that the Attorney General will not be in office to release the monster after he has served only a portion of his sentence.

Mr. SPEAKER: Order! The hon. member is not discussing the motion. The matter he has just referred to is not contained in the motion.

Hon. FRANK WILSON: I am instancing the effect of the hon. gentleman's administration.

Mr. SPEAKER: The hon. member cannot do that; he must discuss the motion.

Hon. FRANK WILSON: The Trades Hall, at any rate—

Mr. SPEAKER: Order! I am going to insist that hon. members shall adhere to the rules of debate on this motion, because I feel—I may be wrong—that a good deal of personal feeling will be excited by this subject. I hope hon. members will confine their remarks entirely to the motion. I shall insist on this as far as possible, and I hope for the good conduct of the House hon. members will note my request.

Hon. FRANK WILSON: I am quite prepared, Mr. Speaker, to render you all the assistance in my power in that direction. I have not been personal so far, certainly no further than the wording of my motion makes me personal. Of course, it is aimed at the Attorney General; it is a motion of censure upon his act. I was remarking that I was pleased to note that the matter has been raised above party politics by, for instance, the Trades Hall at Fremantle, a body who, on being asked to pass a motion endorsing the action of the Attorney General with regard to the release of this man Bennett, negatived that motion. True, it was only done on the casting vote of the chairman, but it shows conclusively that members of one of the trade organisations, to whom the Minister looks for support, were not above expressing their opinion, and that although the vote was equally divided, the chairman refused to permit it to be carried. The public meeting which was held at Midland Junction shortly afterwards, and the numerous letters filling columns of our Press morning after morning, show that the feeling of dissatisfaction is deeply rooted, and no eloquence on the part of the Attorney General will allay that deep-rooted feeling of resentment and insecurity which his action has aroused. The language of the Attorney General, I am sure, he must regret—"Oh, these dogs! How they howl and bark! How they sniff for blood! Are we human beings at all! Let us be manly."

Mr. SPEAKER: Order! The hon. member is not in order in referring to debates of the current session.

Hon. FRANK WILSON: I am just quoting from memory. Surely I can

quote from memory the remarks of an hon. member.

Mr. SPEAKER: Standing Order 123.

Hon. FRANK WILSON: I respectfully submit that that does not apply. I am not alluding to the debate. I am simply stating what the Attorney General said.

Mr. Taylor: From memory?

Hon. FRANK WILSON: Yes, from refreshed memory. I am not reading it from any printed matter. Standing Order 124 will, I think, cover it.

Mr. SPEAKER: The Standing Orders are perfectly clear. The point is covered by Standing Orders 123, 124, and 125, as follows:—

123. No member shall allude to any debate of the same session, upon a question or Bill not being then under discussion, except by the indulgence of the House for personal explanations.

124. No member shall read from a printed newspaper or book the report of any speech made in Parliament during the same session.

125. No member shall read extracts from newspapers or other documents referring to debates in the House during the same session.

The hon. member was alluding to a past debate of this session. Some little time ago he said that had it not been for the reference made to the member for Murray-Wellington (Mr. George) he would not have alluded to it. I shall give the hon. member all the liberty possible under this motion, but I require him to abide by the Standing Orders.

Hon. FRANK WILSON: I hope you will make it as wide as you can. It is not possible for any member to move a motion of this sort without referring to something which has occurred, and I again respectfully submit that the Standing Orders you have read have no application whatever.

Mr. SPEAKER: Standing Orders 123, 124, and 125 apply. I ask the hon. member to continue his speech on the lines indicated.

Hon. FRANK WILSON: Desiring to make it perfectly clear, I was pointing out that we are not out for blood, but in

the stern determination to protect innocent children. Bennett's case, which has alarmed the people of the State and disturbed hon. members so much, is only one instance of many, and I am fearful indeed of what the consequences will be if we are to go on as has been the established rule during the past few years. Seventy-four cases, 75 including Bennett's, have been brought up, and remissions of sentences have been granted to a greater or lesser degree. Is it to be wondered at that our gaols are empty, if, as soon as criminals are convicted, they are to be let loose upon the public? Is it to be expected that our police force and our detective department can be other than disheartened after the strenuous work they have to put in to bring these people to justice? What about the judges of our Supreme Court? They have not been consulted in regard to the remissions granted by the Attorney General. This is made amply clear by the remarks of an hon. member in another place in the last session of Parliament. The hon. D. G. Gawler, in speaking on this very question of the release of prisoners, quoted *Todd*, page 347—and it is well that we should weigh carefully the opinions expressed by that authority. *Todd* says—

In administering the prerogative of mercy a Governor-in-Council does not act as a court of appeal in criminal cases. For though in exercising the royal prerogative, the Governor may remit a sentence, he does not technically reverse it, nor by his action in any way pronounce it wrong. This he could only do after hearing an appeal from the finding of the court, if there were provision for such an appeal. The act of pardoning a sentenced criminal is one of pure clemency; it is in no respect judicial. And not only in capital cases where the course of procedure to be taken by the Governor is prescribed by the royal instructions, but in all cases where clemency is sought at his hands, a Governor would do well to consult informally those who could best assist his judgment; more especially the Crown Prosecutor, and the judge who has tried the case, whose advice would

doubtless be readily accorded when thus solicited.

But the Attorney General consults no one. He sets himself up as a law in this land. According to the Premier, he does not even take his chief and his colleagues into his confidence. I may perhaps be pardoned for instancing a case which just lately has come under my notice—this was certainly a case of Cabinet intervention—where there was a commutation of the death penalty to imprisonment for life. I allude to the case of Walter Surragde. This was recommended to the Governor without any reference to the judge who tried the case. Yet we have it laid down by the best authorities that even in remission of sentences, other than those of capital sentences, the judges ought to be consulted. But the Attorney General has set himself up as a court of criminal appeal. I have only to illustrate my meaning by one more case. A man was sentenced to 18 months imprisonment for receiving. He was let out after 7 months and 29 days, the reasons given being (a) first offence, and (b) exaggerated statement by the police no doubt rendered the judge more severe than he would otherwise have been. No reference was made to the judge for advice. We have here a criticism of the judges, and a condemnation of the police—that their evidence had been exaggerated, and this resulted in the sentence being more severe than it ought to have been. Clemency to the ordinary first offender for crimes such as, perhaps, embezzlement or misappropriation, may be permissible, indeed, is permissible, dependent upon the circumstances which surround the case. But let us for a moment consider the character of these remissions, and principally that of the remission of Bennett, the case I am particularly referring to. During the last two years we have had no less than three cases of attempted rape, two cases of sodomy, two cases of unlawfully and indecently dealing, and one in respect to a girl under 13 years of age. And we have the Bennett case, a case of carnally knowing. Are these the men that should be let loose on society to carry on their nefarious practices? Are these the cases in which the head of our law department,

in the person of the Attorney General, should act merely upon the dictates of his own sentimental and humane nature, without reference to those who are capable of judging of the facts. Bennett's case lasted three days. It was commenced about the middle of March, 1911, and Mr. Justice McMillan, now our Chief Justice, when passing sentence used very strong language indeed. I must take the liberty of reading the sentence delivered by His Honour, the present Chief Justice, because it covers pretty well the whole ground concisely, and, I think, proves my contention that the Attorney General's act in releasing this man is against public interests, and is likely to endanger the people in the district in which Bennett committed his unspeakable crime. His Honour, addressing the prisoner—this statement is a verbatim report published at the time—said—

You have been guilty of an awful offence, one of the most serious known to the law. If you are of sound mind there is nothing to be said in your favour. You are a married man, but, as I have said before, this is an aggravation. If your mind is sound you are not fit to live in this world, as I have never heard a more horrible, a more disgusting story than that told in your case. You have been brought to justice through the conduct of Mr. Hodges, the postmaster, and constable Walker. They acted so promptly that you were caught red-handed. Whether you are sane or not, you are a person that should not be at large. The evidence of Dr. Seed shows this. At present I intend to treat you as a sane man. The punishment must be the maximum the law allows, and that is imprisonment with hard labour for life.

His Honour continued—

I wish I could stop here, but unfortunately I have another duty to perform, and one which, under the circumstances, I can only call a repulsive one. Under a recent Act of Parliament, I am bound to pass a further punishment. You have committed an offence under Section 185 of the Criminal Code, which provides that you

must be sentenced to a whipping. I say this is a repulsive task, not because of any objection I have to flogging, but because I venture to say no judge in any other State would order a flogging to a man in your condition. Whether you are insane to the extent of not being responsible for your actions is a matter that will be considered by the experts. I am sure you are a man of weak mind, and the numerous operations you have passed through would tend to increase your mental infirmity. After considering all the facts, I have no doubt as to what will be the condition of your mind after this punishment, but I must do as I am directed to do. The punishment to be inflicted is a whipping. It would be better if the word "flogging" was used. But the law has fixed the number of strokes, which must not number more than 25, and I must also express what kind of weapon is to be used. I have looked through the records of the past 10 years, and I find the only weapon used is the cat-o'-nine-tails. I therefore direct it for you. I can find no record in which the number of strokes has been less than nine. I am going to use my discretion to the fullest extent in this regard. I can use discretion as to the number of strokes and will order nine strokes of the cat-o'-nine-tails. I will communicate the whole of the facts to the Attorney General and I have no doubt the fullest inquiry will be made as to your mental condition. Perhaps you will end your days in a more suitable place.

I shall have to refer to this a little later on. The Attorney General has stated that the judge was affected by the common hysteria which he alleged characterised the passing of the flogging clause in our Criminal Code. I want to ask hon. members if there is the slightest evidence of hysteria in the judgment which I have just read. The Attorney General then goes on to tell us that he has been inquiring into this case ever since he took office, and he finds that this man Bennett was habituated to drink. There is no evidence to show that this is a fact. The

only evidence during the trial which was before 12 jurors, was the statement by the accused himself that he had had a few drinks on the day in question—a very common excuse, I am sorry to say, that falls from the lips of unfortunates in a similar position. The hon. member for Murray-Wellington, it will be remembered interjected—"What time of the day did it happen? Was not it ten o'clock in the morning?" The Attorney General replied that the man was drunk or was suffering from the effects of drink. What do people who are well acquainted with this man Bennett, know on this point, and what do they say about him? We have Mr. Crosbie, speaking at the indignation meeting at Midland Junction the other night, saying, it was absolutely incorrect to state that Bennett was a drunkard, or that the crime was committed when drunk. He said he had known Bennett personally for many years and had never known him to be under the influence of liquor. We have the evidence of Mr. P. Sampson, a Justice of the Peace, who also sat upon the case when it was tried in the Police Court before the Magistrate, Mr. Cowan, and Mr. Sampson is very emphatic that there was no evidence of this man being a drunkard or having committed the crime through the effects of drink. He said—

Mothers were afraid to let their children venture outside their gates for fear of violation. The whole town was terrorised. It has been said that Bennett was a drunkard. He had lived within 200 yards of him and had never seen him under the influence of liquor. Then someone interjected—"Was not it his first offence?" And Mr. Sampson said he was prepared to say that it was not his first, his second, or his third offence. Mr. Sampson continued—

When ordered to leave the town by an indignant parent who was a near neighbour, Bennett left without a word, except of apology.

An interjector asked—"What did he come back for?" and Mr. Sampson replied—"They all knew, only too well, what he came back for." In addition to this I am

told that His Honour the Judge, during the course of the trial, expressed the opinion that there was no evidence of the prisoner having been under the influence of liquor, which would cause him to perpetrate such a dastardly outrage on this young child. Then the Attorney General says—"If not drunk, then the prisoner was insane, and Dr. Ferguson Stewart has given evidence as to his insanity." I want to point out to the House that this plea was set up at the trial. The offence was acknowledged and admitted, but the defence was a plea of insanity. Twelve jurors and a judge tried the plea of insanity; the defence was admitted, because the man was caught red-handed committing the act. Twelve jurors and the judge sat and tried the plea of insanity, and they determined that Bennett was sane, and we have this corroborated by the words of His Honour the Judge who summed up his remarks as I have just read them—"As to whether you are insane or not, you are a person who is unfitted to be at large." The Attorney General claims that in acting as he has done, he has only obeyed the direction of the judge who, so the Minister says, stated that he was to consider the question of the man's release, that the whole of the case had to be considered. I desire again to refer to the final clause in the judge's verdict, and to show how clearly it refers to the mental condition of the prisoner only, and as to whether, under such circumstances, he ought to undergo that portion of the sentence embraced in the nine strokes of the cat-o'-nine-tails. After relating his repugnance to sentencing the prisoner to be flogged, and stating his belief that in his then condition of health the prisoner might not withstand the punishment, he said—

I will communicate the whole of the facts to the Attorney General and I have no doubt the fullest inquiry will be made as to your mental condition. Perhaps you will end your days in a more suitable place.

Does that carry any instructions or suggestions to the Attorney General that he should consider the advisability of letting this monster loose on society after only

a few years of his life sentence had been served? Does not it rather point to the fact that the judge realised that the medical experts must decide the question as to the sanity or insanity of this prisoner, and that if after all he were found to be insane, the flogging would be remitted, and he would probably be incarcerated in an asylum or some place other than the gaol at Fremantle. I am sorry to think that the Attorney General should by an interview in the evening Press, try to mislead the public in this connection, and also should try to mislead this House as to the intentions of His Honour the Judge who heard the case. Why were the words "as to your mental condition" withheld? Why was not it shown that the judge was most emphatic that this man was not fit to be at large, whether he was sane or insane. This was not the first offence of which Bennett had been guilty according to those who are in a position to tell. There is the strongest presumption that he has been guilty of tampering with children on more than two or three occasions, I am sorry to say. Mr. Sampson had no hesitation in making that public statement at the meeting which was held at Midland Junction and the newspaper of the district, the *Swan Express*, published a very strong article, pointing out the uneasiness which was being felt in the district with regard to young children—children of tender years, and also stating that Bennett's name had been coupled with many such previous outrages, and that in consequence he had been ostracised by his fellow workmen. And they pointed out this significant fact, that one indignant father had taken the law into his own hands, because he could not get sufficient evidence, had given this man a sound thrashing and ordered him out of the town; but that he left the town and returned to continue his abhorrent conduct. Again, I would like to remind hon. members that it is a marvellous circumstance that as soon as Bennett was arrested, these attacks upon the child life at Midland Junction ceased. There have been five or six cases with strong presumption that Bennett was at the bottom of these attacks, and as soon as the pri-

soner was arrested and put in safe keeping these abominable cases ceased for the time being. The crime for which Bennett was convicted occurred no longer, and it must be a matter for congratulation that we have public-spirited men like the postmaster, who made it his business, when his suspicions were aroused, to watch this man and track him down until he was caught red-handed. Two or three months prior to his being caught, a young girl was outraged in the church reserve near the Midland Junction town hall. No arrest was effected. The little girl was very seriously injured, so much so that she had to undergo an operation. The child was at first uncertain in her wounded condition as to who was the brute who had maltreated her; but subsequently she was able to say "Bob Bennett." She recognised him, but she was wavering and the evidence was not considered to be sufficient to convict the man, or even to prosecute him. But now that he was caught, now that he was brought in on evidence that was undoubted, why was not he left to pay the penalty? Why was not he left in safety rather than allowed to leave Western Australian shores and proceed to another portion of the Commonwealth possibly to repeat the crimes of which he has been guilty in the past. It is of course very difficult to obtain proof in these cases, and as I said, the postmaster is to be commended for his action. He saw this man loitering about, and he watched him from an upstairs window in the post office. He saw the little girl who was of rather simple mind, passing from the house down the street, and he heard Bennett call out to her—"Come in here, dear, and I will give you sixpence." The child passed on and took no notice, but on her return this brute immediately renewed his attack and asked the child to go into the urinal. He stopped her, took her by the left hand, and put his other hand on her shoulder and walked her off into the lavatory where the offence took place. Hodges immediately telephoned to the police station and police constable Walker with great promptitude scaled the fence of the town hall reserve and

seized this man while he was actually busy violating the young child. Of course it is not desired that hon. members should indulge in unsavoury details. I do say, however, that the blood of any right-thinking man in this community must boil when he considers that a human fiend of this description, who has worked such a terrible injury, not upon a child of the better class, but a child of the class which are unable to watch their young ones, is allowed to go free after being sentenced to imprisonment for life. Of course, indignation was worked up to a very high pitch. Had this man come before the police court on the following Monday (it was a Saturday when he was arrested), there is no doubt that he would have had a very rough time of it. Fortunately, however, for Bennett the court did not sit on the Monday because it was a public holiday. Notwithstanding this, a crowd of some hundreds of men had gathered outside the court in Helena-street on the Monday, thinking that the case was coming on, but these men were obliged to slowly disperse. If this had not been so it is probable that the crowd, which had learned the circumstances, would have acted in such a way that this man's life would have been in jeopardy. I have it on excellent authority, as I have said before, that this is not the only case in which Bennett has been convicted of this sort of deed. The Press has on more than one occasion very fully voiced this opinion. They have, of course, commended the witnesses in the case, but they have pointed out that the testimony was absolutely complete, and formed a perfect chain of most damning evidence. They pointed out the similarity which existed between the case of this poor child and what had occurred previously, and made reference to the remarks of the police magistrate, Mr. Cowan, who also could not contain himself when remitting the case to a higher court. In committing the accused for trial on a charge of unlawfully knowing this child, Mr. Cowan took the unusual course of addressing the prisoner upon the enormity of the offence with which he was charged. He said that it was not for him to determine the man's sin, but that the evidence against him seemed to be

abundantly clear. He went on to say that if a jury found him guilty, and he were the judge trying the case, the full penalty of the law would be carried into effect. Mr. Sanderson, who was sitting with him on the bench, concurred with the magistrate. The magistrate went on to say that it was intolerable to them that women and children could not trust themselves in the street without fear of offences of this description being committed. Did the Attorney General inquire fully into the case, as he professes to have done? Within six months after he assumed office he tells us that this case came under his knowledge, and that he had been considering it ever since. What steps did he take to ascertain the facts concerning the previous career of Bennett, for instance? What steps did he take to ascertain this man's previous history, a man with such a verdict delivered against him and in such scathing terms and language? Surely, it was the duty of the Attorney General to have exhausted every fount of information, the Press, the neighbours even, the people amongst whom this man resided in Midland Junction, before ever attempting to release this man from prison. Did the Attorney General inquire of the police? The man must have been well known to the police. Did he refer to the judge who tried him, and did he consult the police magistrate? The Attorney General says that petitions came in for the release of this person the moment he assumed office, or shortly afterwards. From whom did the petitions come in? Were there any petitions at all of any moment? Did the Salvation Army, Mr. Speaker, send in any petition? I am bound to think not. I know that an attempt was made to get up a public petition, and that all efforts to do so absolutely and utterly failed. The mayor of Midland Junction would have nothing to do with it. He said that he would very much rather supply the rope to hang the man than to move his little finger to obtain his release. The Attorney General claims that his mission is to help criminals to reform. Is he going to do that by releasing them upon the public? How can we have any confidence in any administration of this description which affords no other means of

curing criminals than to turn them adrift upon the unsuspecting public? The man Cort, who was convicted of forgery and uttering, has just been released, in May, after serving four years out of his seven years' sentence. This man had 13 charges of uttering against him between 1903 and 1910, and 13 convictions.

Mr. SPEAKER: Order! The liberation of Cort is not the subject of discussion.

Hon. FRANK WILSON: I am using it as an illustration.

Mr. SPEAKER: I cannot allow a discussion upon any subject outside the scope of the motion, or any departure from the motion.

Hon. FRANK WILSON: I must, of course, obey your ruling, Mr. Speaker, but it prevents me from driving home my point, namely, that the Minister is deserving of censure and that he is incapable of properly administering justice in this State.

Mr. SPEAKER: I will read the motion. It is, "That in the opinion of this House the advice tendered by the Attorney General to His Excellency the Governor, which resulted in the liberation of Robert Bennett, was not in the best interests of the administration of justice, and is calculated to weaken the protection afforded to women and children under our laws; and, further, that the Attorney General is deserving of censure for having tendered such advice." The motion is very specific, and pertains to one particular subject and no other. I must, therefore, confine discussion to the motion.

Hon. FRANK WILSON: May I be permitted to say, then, that this man Cort has been re-arrested, and I will leave it at that. It has been argued that Bennett would probably have been found guilty only of indecently dealing, although he was actually caught, according to the evidence, in the very act. This is according to the evidence of the police constable. Further than that, he was heard to utter a threat that he would murder this child if she did not stop her crying. Police constable Walker in his evidence said that, on reaching the town hall he jumped over the fence, and as he alighted, he heard a

child in the urinal making a sound between a cry and a moan. This was followed by a man saying, "Shut up, or I'll shoot you." Before the constable reached the door the cry was repeated. Walker immediately attacked the door, but was only able to open it slightly. He was, however, able to see that Bennett had the child in a position which left no doubt in his (witness's) mind that Bennett was attempting to ravish her. Yet, we are told, in the face of all this, that this human fiend would probably have been found guilty of indecently dealing only, the maximum penalty for which is three years' imprisonment. We have been told that if the present provisions of the Criminal Code providing a court of appeal for criminal cases had been in vogue, this is probably the sentence he would have received. Surely the Attorney General has forgotten the fact that there has always been a court of Crown cases reserved on questions of law in Western Australia, and that if Bennett had been convicted on wrong evidence of this charge of carnally knowing the child, that is, evidence which would naturally support a charge of indecently dealing, he could then have had the conviction quashed. He could have appealed to the court of Crown cases reserved on a point of law, and he could have had his conviction quashed. But, Mr. Speaker, his counsel did not take that course. He was satisfied, evidently, that the man was rightly convicted, and he let him go on the sentence which had been pronounced by the judge, that of serving a life sentence in the gaol at Fremantle, and of enduring his flogging in addition. I want to say at once that I am not altogether concerned in the many instances where clemency is shown by the Attorney General. We can afford to pass over minor cases, but we cannot afford to let a case like Bennett's case, which is causing so much concern in this country, pass by without censure, and without notice such as we are taking this evening. I am pleading for the protection of all children in Western Australia, not for the children of any one class, but more especially for the protection of the children of our workers. It is the children of the working

class who are most in danger. It is the children of the working men and working women of Western Australia, who cannot be properly looked after by their parents, and whose parents cannot afford to give them that natural protection that the well-to-do classes give to their offspring. It is the children of the back-blocker, the children of the lumper, the children of the timber worker in the lumber camps, of the miner and the tradesman, and of the small farmers in the outback blocks, who have not got the ordinary protection that we have in the larger centres, that I am concerned about. I am also concerned about the children of the widow who has to go out and earn her living, the children of the motherless, the children of the father who has to go to his work and leave his children at home, and whose children have perforce to be left in the security of the laws of our country. I am appealing on behalf of the wives of the unemployed who have to go to work to maintain the household because the husband is not in a position to do so, and who have left behind their little ones unprotected except by the laws of our country. These are the people who will suffer if we do not put our laws into force and make the punishments for these terrible crimes such as will make them prove a deterrent to others. It is not that a judge actually wants to sentence a man to death or imprisonment for life, but it is a duty he has to perform to the country in the interests of society in order that he may deter other evil-doers from following a like example. One could, perhaps, amplify this subject. Mr. Speaker, for a considerable time, but I do not intend to do that. I do want, however, before I sit down, to point out that the Minister for Works, at any rate, is not in sympathy with the action of the Attorney General, for he told the mayor of Midland Junction, when spoken to some time ago about the proposed release of this man Bennett, that there was no fear whatever of Bennett being released. I believe that the Minister for Works thought he was stating a fact. Why did he not follow the matter up?

Mr. George: He never knew.

[25]

Hon. FRANK WILSON: Why did not the Minister for Works consult his colleague and point out the intense feeling that existed in his own electorate? Why did not the Minister for Works point out that he had given his word that there was no fear of this man Bennett being let loose upon the community, and thus prevent the ill-advised act of the Attorney General? Then we have let this man loose to go elsewhere. Of course, I know that the Attorney General has stated that this was not a condition of the release. Possibly it was not. Nevertheless, the man has gone to Victoria, and it was known that he was to leave on the morning of his release. We have no power to do a thing of that sort. Certainly, it has been done oftentimes in minor cases, but certainly not in a case of this sort. The hon. Mr. Gawler made it perfectly clear that it is beyond our power to grant a prisoner his release on the condition that he leaves our State. That hon. member said—

There is one more fact I wish to refer to, namely, that in two or three cases hon. members will see that the prisoner was let out on condition that he left the State. I would like to point out, and it is an important point to bear in mind, that the proviso to No. 10 of the instructions to His Excellency the Governor reads as follows:—

Provided always that the Governor shall in no case, except where the offence has been of a political nature, unaccompanied by any other grave crime, make it a condition of any pardon or remission of sentence that the offender shall absent himself or be removed from the State.

I do not know that that condition was made. We know, however, that the prisoner has left, that he left on some understanding that the Salvation Army, both here and in Victoria, should be responsible for his future conduct. We have it in an interview telegraphed from Melbourne and published in our Press that the Salvation Army in Victoria take no responsibility whatsoever, that no representative of the Salvation Army met this man on his arrival at Melbourne, that there was no need to offer

him a home, that the Army did not find him employment, that he obtained employment somewhere on his own account, and that the army did not take any responsibility in regard to keeping a watch on him as to his future conduct. How could the army do so? How could anyone be responsible? The moment that man stepped out of the gates of the gaol he was at liberty to go away and do as he liked, subject to the laws of this State and of the Commonwealth. I think I have said sufficient to show that my contention that the Minister has erred is a sound one. I hold that the Attorney General has failed to administer the law in the interests of justice, that justice has been meted out to a criminal, that justice has been denied to the public. By his actions, the Attorney General has undoubtedly weakened the protection afforded to women and children by the laws of our State. We have evidence of similar crimes being perpetrated elsewhere, and they are likely to become numerous if men of the temperament of Bennett are led to believe that they have only to wait, that if caught they will be let off with a light sentence. I maintain that in his advice as to the exercise of the Royal Prerogative the Attorney General's sympathies, which I realise are great, have unfortunately been for the criminal, apparently. His sympathies are, unfortunately, for the criminal, and apparently override his sense of justice and of duty to the public. I maintain that such action is calculated to undermine the best efforts of the officers of the Criminal Investigation Department, and is certainly calculated to belittle the authority of our Judges. Believing this, as I honestly do, and realising that our first duty is to the women and children of our State, I have no alternative but to submit this motion for the acceptance of the House. In doing so, let me deprecate the remark of the Attorney General to the effect that the women of Western Australia are not his judges. I wonder who are the hon. gentleman's judges in a case of this sort. If the mothers of our children are not his judges, who are his judges? To whom does he look to exonerate him from the

acts and consequences of his maladministration? I submit the motion.

Mr. LAYMAN (Nelson): I second the motion.

The PREMIER (Hon. J. Scaddan—Brownhill-Ivanhoe) [5.51]: I do not recollect, during the period of nearly three years of my holding the position of head of the Government, any matter submitted for the consideration of this Chamber which has given me so much thought as this motion has given me. I regret it because, in my humble opinion, this is one of those matters that could be dealt with better than in the direction in which the matter is now being dealt with in this Chamber. I recognise, of course, that the leader of the Opposition is at all times within his rights in taking advantage of any opportunity to belittle the Government and the Government's administration of affairs of State, and thus obtaining for himself some party advantage. I would like, however, to be able to look upon that gentleman in the light of a statesman, rather than in the light of a mere party man who would use a case of this nature for the purpose of attracting to himself some support in the country.

Hon. Frank Wilson: Did I do that?

The PREMIER: I assert that the hon. member did that, and I am going to prove it.

Hon. Frank Wilson: I did not; and what has this to do with the case, anyhow?

The PREMIER: It has everything to do with the attitude adopted by the leader of the Opposition.

Hon. Frank Wilson: I was not personal.

The PREMIER: In the first place, I wish to make a few remarks on the political aspect of the question. When I reached the Chamber to-day, I had a letter placed in my hands. The letter is not marked "confidential"; otherwise I would not read it to the House. It is as follows:—

29th July, 1914.

To the Hon. the Premier.

Dear Sir,—On behalf of the National Council of Women, we came in the hope of seeing you for five minutes to

say how much we regret to see from this morning's paper that a party question is to be made of the action taken by the Attorney General over the case of Robert Bennett. The Attorney General sent for us this morning and treated us most courteously; but we found ourselves unable, in spite of the information he laid before us, to agree with his point of view. We beg of you most earnestly, in the name of large numbers of women (and, we have reason to know, of men also) not to bring party politics into the question.

Hon. Frank Wilson: Hear, hear. And the Premier makes it a no-confidence motion.

The PREMIER: The letter continues—

The moral issues which are at stake far transcend the political, however important. The welfare of the children of the State is our reason for addressing you, and we earnestly trust that you will accede to our request. It is our intention to see the leader of the Opposition (to whom we shall not mention our interview with Mr. Walker) and to beg of him also to lay aside all political feeling in dealing with the matter.

(Signed)

President, Edith D. Cowan.

Hon. Sec., Roberta H. M. Jull.

Hon. Frank Wilson: May I, with the indulgence of the Premier, make an explanation? I saw these two ladies for a few moments before I came into the House. I told them I had no intention of making this a party question, but the Premier had said to me that it was a no-confidence motion. By his action, I said, he had perforce made it a party question, so far as members supporting him were concerned.

Mr. George: That is right.

The PREMIER: May I pursue my point? This letter was handed to me, as I say, when I reached the House. I believe it was written at my office after I had left for the purpose of attending a meeting within the precincts of this Chamber. I would willingly remove this

question from any political sphere, if it were possible. But the leader of the Opposition, by his action, has made it impossible. An ordinary motion, questioning any act of administration of the Government or of any Minister, might be debated in the ordinary form, and is regularly submitted. As a matter of fact, during this very session we have had motions submitted disagreeing with, or calling in question, administrative acts of the Government; and I suppose we shall always continue to have them. But I have never before had placed in my hands, prior to a notice being submitted, an intimation that it would be placed on the Notice Paper when the House was meeting. On this occasion, I did have such an intimation. I have it here.

Hon. Frank Wilson: That is as a matter of courtesy.

The PREMIER: I received the following intimation from the leader of the Opposition:—

29th July, 1914.

Dear Mr. Seaddan,—Will you kindly note I intend giving notice of motion, as per copy herewith, when the House meets this afternoon.

Yours very truly,

(Signed) Frank Wilson.

Hon. Frank Wilson: That is as a matter of courtesy.

The PREMIER: A matter of courtesy? When it is the intention of the Opposition to table a vote of want of confidence in the Government is the only occasion when such courtesies are extended to the Premier of the State.

Hon. Frank Wilson: Oh, no.

The PREMIER: Will the leader of the Opposition indicate any other occasion when, in submitting a motion which merely required to be discussed from a non-party standpoint, he has at the same time intimated to the Premier that it was intended to submit such a motion? Since the hon. gentleman has been leader of the Opposition, he has never done so except on this occasion; and the very wording of the motion is nothing short of an attack upon the Administration.

Hon. Frank Wilson: You are trying to get out of it.

The PREMIER: I am prepared to shoulder my responsibility as head of the Government.

Hon. Frank Wilson: Deal with the case.

The PREMIER: I am dealing with the case. I am taking up the proper attitude, that of replying to an attack on a colleague who will have my support while he sits with me. Now, what is the motion that has been submitted to the House? It reads as follows:—

That in the opinion of this House the advice tendered by the Attorney General to His Excellency the Governor, which resulted in the liberation of Robert Bennett, was not in the best interests of the administration of Justice, and is calculated to weaken the protection afforded to women and children under our laws; and, further, that the Attorney General is deserving of censure for having tendered such advice.

May I ask the leader of the Opposition through you, Sir, whether he knows of any case in political history where such a motion, condemnatory of a Minister, has not been accepted as a vote of want of confidence in the Government as a whole? Would he have been prepared, when he was Premier of this State, to sit in his place and allow a motion of that kind, censuring a member of his Administration, to be debated without accepting the responsibility as head of the Government?

Hon. Frank Wilson: Accept it, then. I am not objecting to your accepting it.

Mr. SPEAKER: Order! I do not think I am justified in allowing the Premier to discuss the intention of the leader of the Opposition and so amplify the terms of this motion. The motion is now in the possession of the House. It has been accepted as a vote of want of confidence by the Government. I think that is all that remains to be said on the point, except that the motion must be discussed. I will read Standing Order 132—

No member shall digress from the subject matter of any Question under

discussion; and all imputations of improper motives, and all personal reflections on members, shall be considered highly disorderly.

In view of that Standing Order, I think the Hon. the Premier's duty is to discuss the motion, and not to discuss the leader of the Opposition or the intention of the leader of the Opposition.

The PREMIER: May I respectfully point out, Sir, that the leader of the Opposition in submitting the motion endeavoured to lead this House, and through this House the country, to believe that there was no political motive? He used the words that the motion had no political import. No political import. None whatever. Am I, in my position as head of the Government, not entitled, when attacked by a censure motion, to show that the leader of the Opposition had political motives? That is not personal. It is a political matter.

Mr. George: It is highly disorderly.

The PREMIER: In defence of my Administration, I claim the right, notwithstanding the protestations made to the House by the leader of the Opposition, the right to show that he did tender this motion from a party standpoint, as leader of the Opposition, and tender it as a vote of censure on the Government. If I am not entitled to do that, I might as well sit down. I am trying to show that imputing motives in connection with a motion of censure—

Mr. SPEAKER: I have not said that the Premier's remarks imputed improper motives. I merely quoted the whole of the Standing Order, which says that no member shall digress from the subject matter of any question under discussion. What is the object matter of this discussion?

Mr. Bolton: No-confidence.

Mr. SPEAKER: I have always allowed latitude whenever it has been desirable to do so, and I will not curtail the Premier's remarks beyond what is necessary. I certainly restricted the leader of the Opposition in his remarks, and I am going to be absolutely fair towards every section of the House. I am giving the Premier the same consideration as I have

given to the leader of the Opposition. I must ask him to confine his remarks to the motion.

The PREMIER: I want to know my position before I continue. I am here to defend the Government against a motion of want of confidence, and I think I am entitled to show the grounds on which the leader of the Opposition has based that motion. When you, Mr. Speaker, prevent me from speaking in a certain direction, may I point out that the leader of the Opposition himself introduced the subject when he tabled the motion. If he is entitled, when submitting his motion, to give his reasons, and he excuses himself from a political point of view, am I not also entitled to show that he did introduce the subject from a political point of view. If I cannot proceed to show that the hon. member did proceed from political motives, it is useless to go any further and we might as well close up the debate at once.

Mr. George: He said there was nothing personal or political in his action.

The PREMIER: He said in one breath that it was not political and in the very next breath—and I made a note of the words myself—he said that when he finished his speech he believed the country would treat the hon. member who interjected in a way that would place him outside this House. There is the evidence that the hon. member was introducing political questions.

Mr. George: You are begging the question.

Mr. SPEAKER: I heard the remarks of the leader of the Opposition clearly; he made that remark in answer to an interjection by the member for Pilbara.

Mr. George: Why not let the Attorney General take his own stand?

The PREMIER: May I proceed to respectfully point out that I am not dealing with any subject outside the motion.

Mr. SPEAKER: I do not know what the remarks of the leader of the Opposition may have made have to do with the subject under discussion. The matter contained in the motion is the subject under discussion, not the motives the leader of

the Opposition may have had in moving the motion.

Mr. TAYLOR: According to your ruling, Mr. Speaker, this motion is being discussed as an ordinary motion, as provided for under the Standing Orders, but if the leader of the House accepts it as a no-confidence motion, that widens the area of debate.

Mr. Bolton: Absolutely.

Hon. Frank Wilson: No.

Mr. TAYLOR: So that all the ramifications of the Government can be dealt with. In this case, because the motion is aimed at censuring one Minister only—

Hon. Frank Wilson: Confine it to that.

Mr. TAYLOR: It has been accepted by the Premier as a motion of want of confidence, and that in itself widens the area of debate.

Hon. Frank Wilson: No.

Mr. SPEAKER: The member for Mount Margaret has raised another point. I would like to know whether he can quote a Standing Order in support of it?

Mr. TAYLOR: It is a precedent which has been established here since Responsible Government, and not only here but in every Parliament of the Commonwealth, the Commonwealth Parliament itself, and in the Mother Parliament of Great Britain, that greater privileges are allowed in connection with a no-confidence motion than on any other. There is always a wider range of debate than on any other motion before the House.

Mr. George: Why bring in extraneous matter?

Mr. SPEAKER: I am not responsible for the rules of this House. I am bound by the Standing Orders, which have been prepared by this House for its own guidance, and I am endeavouring conscientiously to conduct the business of the House in accordance with those Standing Orders. I would ask the Premier to proceed with his remarks.

Mr. E. B. Johnston: Suspend the Standing Orders.

Mr. SPEAKER: Hon. members must recognise that my position is very difficult. I want to be fair towards every member. My object is to direct

the business of the House in accordance with the Standing Orders, and I think hon. members should endeavour to help me.

Mr. Taylor: It is quite a simple task.

The PREMIER: May I state that, as leader of the House, I will always support you in the upholding of Standing Orders, but when you hold that because I am showing that the hon. member has tabled this motion from a political point of view, in opposition to his assertion that he has not done so, you cannot blame me for quoting him or imputing political, not improper motives. I am merely answering his own statement.

Mr. SPEAKER: Will the leader of the Opposition state whether he made the remark that the motion had a political significance?

Hon. Frank Wilson: I cannot remember; you had better refer to *Hansard*.

Mr. McDOWALL: On a point of order, may I draw attention to New Zealand procedure, a copy of which I have here. It states that the leader of the House may rise and declare how he intends to treat any motion or amendment proposed by the Opposition. If that be so, the Premier, if he likes, can treat this motion as one of want of confidence.

Mr. SPEAKER: That has not been disputed. On referring to *Hansard* I find that the report of the remarks of the leader of the Opposition is as follows:—

Let me say at once that I approach my task with feelings of the very deepest regret.

Mr. Swan: Of course.

Hon. Frank Wilson: Whether hon. members accept the statement or not, I want here publicly to state that I should have preferred not having this duty cast upon me.

Mr. Underwood: The *Sunday Times* forced it upon you.

Member: Personal animosity.

Hon. Frank Wilson: There is no personal animosity in the action I am taking, neither is there anything political.

Mr. Swan: Oh, absolutely.

Hon. Frank Wilson: There is, however, a very keen and deep sense of my duty to the public of Western Australia.

Mr. Gill: In view of the approaching elections.

Hon. Frank Wilson: I hope hon. members will not treat this subject with the levity with which they are accustomed to treat all motions submitted by this side of the House.

Mr. Underwood: We are inclined to treat you with contempt.

Hon. Frank Wilson: When I am finished, perhaps the country will treat hon. members like the last hon. member who interjected with contempt also.

Mr. Swan: That is what you will try to bring about, but you will fail.

Hon. Frank Wilson: I trust the hon. member will be relegated to that obscurity from which he should never have emerged.

Mr. Underwood: That is your object.

Hon. Frank Wilson: My object is to carry out a public duty, and in doing so I have to express the firm conviction that, after three years' experience, the Attorney General is not fit to be trusted with the administration of justice. I regret having to express that conviction, but when I think of his attitude in connection with the release of criminals during the last three years in Western Australia, and when I look through the list which was furnished to Parliament last session, when I remember the times out of number he was warned that he was proceeding in a dangerous direction in this respect, and when he failed to take notice of such warnings I cannot but feel concerned as to what the result of his administration is going to be to our people.

The only references of a political nature are contained in the reply to an interjection. I want to point out that on a motion of no confidence every latitude is allowed; that is, when the motion is expressed in general terms. This, however, is a definite motion, and it has been accepted by the Premier as one of no-confidence. What I am asking is that the Premier shall discuss the motion in the

manner that was insisted upon when the leader of the Opposition was addressing the House.

Sitting suspended from 6.15 to 7.30 p.m.

The PREMIER: May I explain to the Chamber that, owing to the manner in which this motion was submitted, I was forced to accept it as one of want of confidence in the Administration as a whole; as I said at the outset, due to the fact that the leader of the Opposition has on this occasion adopted a different procedure from that usually followed in the case of a protest against an administrative act, in that he forwarded to me a letter notifying that he proposed to submit this motion. This is not the procedure usually adopted, unless it is intended as an attack on the Government as a whole.

Hon. Frank Wilson: No; it is the usual procedure adopted in cases of this sort.

The PREMIER: Yes, the procedure adopted in cases of this sort, cases of motions of want of confidence in the Government.

Hon. Frank Wilson: No, no.

The PREMIER: And I accepted it as such. May I, for the purpose of showing that I was justified in that attitude, remind the hon. member that on one occasion the then leader of the Opposition, my colleague, the Minister for Lands, tabled a similar motion, petitioning His Excellency the Governor to disallow certain regulations which had been gazetted by the then Minister for Education, the present leader of the Opposition. Sir Newton Moore was Premier at the time. That was a simple motion, which should have been moved and considered without party feeling, a simple motion of disagreement with regulations made under an Act. But notwithstanding that no notice was given, the then Premier immediately made it a party question, and announced to the Chamber that he would treat it as a motion of no-confidence in his Government.

Hon. Frank Wilson: It was open to him to do that if he liked.

The PREMIER: Exactly. On another occasion a direct attack was made on the

administration of the then Minister for Lands, the member for Northam (Hon. J. Mitchell), and on that occasion, without there having been any previous notification that it was intended to submit such a resolution, the then Premier accepted it as a motion of want of confidence in his Administration, because it was a direct attack on one of his colleagues. And I rightly hold, as he held, that so long as I sit side by side with a colleague, and a motion of censure is made against that colleague, I must accept it as a vote of censure upon myself and the Government.

Hon. Frank Wilson: Then why did you not adjourn the House last night?

The PREMIER: If I am not prepared to do that, then one of two things must be done by me: either I must ask my colleague to tender his resignation or I must tender my own.

Hon. Frank Wilson: That is your business.

The PREMIER: That is just the position, and I am trying to show that under the circumstances there was no other alternative for me. So long as I am prepared to retain confidence in my colleague I must accept a motion of this sort as a direct attack on the Administration.

Hon. Frank Wilson: Then why did you proceed with the business of the country?

The Minister for Lands: For the same reason as you had. You did not adjourn.

The PREMIER: I did not consider it necessary to adjourn the business of the country on this motion. As a matter of fact I was not in the Chamber when the motion was submitted.

Hon. Frank Wilson: You ought to have been. You had my note.

The PREMIER: As a matter of fact I did not receive the hon. member's letter until after the motion was submitted and the public business proceeded with. I was not aware that the motion had been submitted until someone drew my attention to it. I took the first opportunity of allowing the matter to be submitted to the Chamber, for last evening before the House adjourned, we arranged, together with the Clerk—and subject to your approval, Mr. Speaker—that this should be the first motion for consideration to-day.

Let me also refer to the statement made by the hon. member. First, I want this to be clearly understood: I do not give place to the hon. member or any other member on the Opposition side or on this, or to any person outside either, in the desire to protect the welfare of our women and children. Not one scrap do I concede to any member as being more desirous of that than I; and I will go further and say that I will repeat exactly those words on behalf of my colleague, the Attorney General. The hon. member said he could not rest at night, that after this Hines' Hill tragedy he could not sleep, could not rest at night. What has the Hines' Hill tragedy to do with this motion? It seems to me it is fortunate for Bennett that he happens to be out of the State, for otherwise the hon. member, for the purpose of his motion, would probably have accused Bennett of this latest crime as well. But it so happens Bennett is not here, and in order to get the sympathy of members and of the country, the hon. member drags in the horror of the Hines' Hill tragedy. Every hon. member deprecates that horror as much as the hon. member himself, and everyone regrets it exceedingly, and knows the proper action to be taken. But is it British justice to accuse a man on *ex parte* statements before he appears in court? Do we desire to encourage, as the hon. member is doing, the hysteria that often arises in the public mind even before a man is arrested or the details of the crime known? One might expect it from some persons outside, but from a member of Parliament and the leader of a party, we expect caution in pre-judging an accused man.

Mr. George: He is not pre-judging, but condemning the crime.

The PREMIER: What has the crime to do with this case? What object has the hon. member in introducing the Hines' Hill tragedy here? Is it not to inflame the public mind against the Attorney General? What other object has the hon. member in view? He says he cannot rest at night. He has rested for three weeks on this very question. It is three weeks since the announcement was made that Bennett had been released, yet it was only yesterday that the hon. member tabled

his motion of censure. Is the crime, if it can be called a crime, any worse than it was three weeks ago?

Mr. George: What can be called a crime if this is not a crime?

The PREMIER: "What is the matter with the leader of the Opposition?"

Mr. George: Nothing. He is all right.

The PREMIER: "Why does he not butt in with a no-confidence motion, or at least move the adjournment of the House as a protest?"

Hon. Frank Wilson: Are you reading from a newspaper?

The PREMIER: Yes, from the *Sunday Times* of July 26th, last Sunday.

Mr. George: What about Standing Order 125?

The PREMIER: This has nothing to do with a debate at all. I will read it again.

What is the matter with the leader of the Opposition? Why does he not butt in with a no-confidence motion, or at least move the adjournment of the House as a protest against the Bennett scandal? Such a proceeding would be welcomed by every healthy-minded man and woman in the community. It would bring such a pressure of public opinion to bear on the sorry fustian and maudlin sentimentality of the Attorney General that the gaol delivery of dangerous criminals would forthwith stop. Frank Wilson once tabled a no-confidence motion on the question of the State steamers. But tampering with the administration of justice is more dangerous to the community than the purchase of 50 State steamers.

And the hon. member comes here and complains that he has not been able to sleep at nights. Has he suffered insomnia for three weeks? If so his place is not here, but in a doctor's consulting room. Yet this is done for the purpose of getting the sympathy of members with his motion of censure.

Hon. Frank Wilson: I have that all right.

The PREMIER: Let me assert that such matters should be considered calmly. While the crime is a serious one, perhaps the most serious in the criminal calendar, at the same time there are occasions when

prominent public men should weigh carefully anything they desire to say. But the leader of the Opposition in tabling his motion does not confine his remarks or his criticism to the particular charge on which Bennett was found guilty, but takes *ex parte* statements, circulating in the district and elsewhere, that Bennett was guilty also of two or three similar crimes. If those people knew of it, it was their duty to have brought the Criminal Investigation Department on the spot, and had Bennett tried and condemned. But the Attorney General cannot be concerned, nor can any other administrator, with *ex parte* statements, whether made on the public platform or anywhere else. He has to take what he knows to have been proved, and nothing else, and no judge or jury is allowed to take into account such statements either. What does the hon. member mean by bringing in these *ex parte* statements? Is it for the purpose of obtaining from the Attorney General an assurance that he will never again release a man from gaol? That ought to be the hon. member's object, if anything at all, judging by his motion. Or is it rather to inflame the public mind at this particular juncture. One can commend an hon. member for expressing his indignation at any action with which he disagrees, and in connection with a case of this kind, perhaps in stronger terms than otherwise; but he ought to remember that British justice provides that when delivering a sentence on any person or condemning him to any punishment *ex parte* statements should not be taken into account, and that we should at least give him the benefit of any doubt which exists before inflicting the penalty. The hon. member does not want me to inflict a penalty on a man for a crime of which he has been found guilty, but he wants to inflame public opinion against that individual and against the Attorney General in particular, and the Government in general for having done something in the nature of extending an act of clemency towards the prisoner. One would imagine by the tone of the hon. member and others supporting him in this agitation, that instead of Bennett having committed the crime, it was my colleague, the Attorney General, who had done so.

One would imagine that the crime had been removed from the shoulders of Bennett and placed on those of the Attorney General. What is alleged against the Attorney General? That he, in his humane feeling, extended an act of clemency towards a person convicted of a crime. Let me say right here that I rather commend the Attorney General for being over-indulgent in this direction than I would, if he had done as past Attorney Generals have done, kept a man in prison until he went mad and eventually died in the lunatic asylum. At any time I would rather err on the side of leniency towards a criminal than have it on my mind that I was responsible for his insanity and death. Yet this actually occurred in this State, and the man to whom I refer was released by the present Attorney General at the earliest opportunity he had, but too late. This life might have been saved, and the mind remained sane had the previous Administration dealt with him humanely. The Attorney General knows nothing of Bennett as an individual; he has never met him. It cannot be claimed that it was an act of clemency because of any personal friendship or political leaning or support. It is merely an accusation that the Attorney General was over-indulgent in extending leniency towards this man. But in regard to the other case I mentioned, it can be said that the act of clemency was absolutely declined, perhaps because that particular person was suffering a penalty for having caused some little financial difficulties to some who were then sitting on the Treasury bench. Put these two cases side by side, and let us ask which would the Attorney General rather have on his mind; an act of the nature mentioned, or the accusation which is hurled against him to-day. The hon. member said that he was out with the determination to protect the women and children of the State.

Hon. Frank Wilson: Hear, hear, every time.

The PREMIER: I have heard that before.

Hon. Frank Wilson: And you will hear it again, a good many times.

The PREMIER: But actions speak louder than words.

Hon. Frank Wilson: Every time.

The PREMIER: And where was the protection which women and children were receiving at the hands of the Opposition when they had charge of the Administration. Is it not a fact that we may protect one in the direction the hon. member suggests by keeping an offender in prison, but that we might also neglect for too long the mother who has lost the bread-winner and is left to starve or go out to work and leave the children unprotected. We provided that children who have lost their bread winner shall have the care and protection of their mother. When the hon. member talks about the care of the women and children, he ought to keep in mind the past history of the State. He said that in no fewer than 74 cases remissions of sentences have taken place since the present Attorney General took office. I anticipated that some such statement would be made, and I have to admit that such is the case—to be precise the number is 72. But one would imagine from the statement of the hon. member that there had never been any remission of sentences on the part of the previous administration, and that we are the only Government who have been guilty of taking such action. I want to compare our term of office with that of our predecessors, seeing that we now hear so much about the remission of prisoners' sentences. From the 1st October, 1909, to 30th September, 1911—this period represents the last two years of the Liberal Administration—they received 118 petitions for the release of prisoners; they granted 53 and they refused 65. From the 1st October, 1911 to 20th September, 1913—the first two years of the Labour Administration—188 petitions were presented, of which we granted 72 and refused 116. A comparison works out thus: during the two years of Liberal Administration petitions granted, 44.91 per cent., Labour 38.3 per cent.; refusals, Liberal 55.09 per cent., and Labour 61.7 per cent.

Mr. George: Did the Liberals let men of this sort out?

The PREMIER: Men of all types.

Mr. George: Men of this sort?

The PREMIER: Yes, and every other type.

Mr. George: You prove it.

The PREMIER: It can all be proved. I want the House to remember that, though we hear so much about the Attorney General running amok in allowing criminals out of our gaols, the percentage during our two years, compares more than favourably with that of our predecessors during the last two years they were in office, but less was heard about it, for what reason I will allow hon. members to draw their own conclusions. The hon. member asked—"Is it any wonder that our gaols are empty if criminals are let loose as soon as convicted." It is not correct that criminals are let loose as soon as convicted. Thorough inquiries are made by the Attorney General in every case, and I have gone through quite a number with him during the last few days to satisfy myself on this point.

Mr. George: Did you go through the Bennett case?

Mr. SPEAKER: Order! The general administration of the Attorney General's department is not under discussion. The release of this particular individual, and of him only must be discussed.

The PREMIER: I will get it all in if I have to move an amendment.

Mr. SPEAKER: The Premier can move an amendment; but I cannot allow such discussion on this motion.

The PREMIER: I merely quoted the hon. member's statement.

Mr. SPEAKER: Order! A statement made by any hon. member does not necessarily open up another question for discussion; but that is what is happening now.

Mr. George: What does he mean by saying that he is going to get it all in.

The PREMIER: I said, if I had to move an amendment.

Hon. Frank Wilson: Have an interview with the Press.

The PREMIER: The leader of the Opposition made some reference to the procedure and asserted that it was the duty of the Attorney General to confer with his chief and his other colleagues in such cases. He said it was necessary

for the Minister to take his colleagues into his confidence, and that in the case of the commutation of the sentence of death inflicted upon one Walter Surridge, the Attorney General had commuted the sentence, without even conferring with the judge who inflicted the penalty. This is absolutely incorrect. The Attorney General saw the judge, and he sent along a letter without expressing any opinion as to whether the prisoner should suffer the extreme penalty of the law or whether the sentence should be commuted to one of imprisonment for life. The fact remains that the Attorney General did consult the judge, and it was after great consideration that the Executive Council commuted the sentence. When dealing with the question of procedure, the hon. member forgot that the procedure adopted by the present Administration and Attorney General is on all fours with that adopted by previous Governments and Attorney Generals. It has not been altered in one iota, and for the purpose of showing this I propose to read the procedure as laid down by previous Attorney Generals. This is dated 14th May, 1909, when Sir Newton Moore was Premier and the present leader of the Opposition was a member of the Administration—

The procedure in relation to the remission of sentences for offences against the laws of the State in non-capital cases.

Mark that, "non-capital cases."

1. Every petition by or on behalf of a convicted person for the remission by the Governor of the sentence passed upon him shall be addressed to the Governor and shall be forwarded in the first instance to the Attorney General. 2. The Attorney General shall—(a) So far as practicable admit the petition to the judge, magistrate, or justices by whom the petitioner was sentenced for a report; (b) obtain from the Comptroller General of Prisons the prison record (if any) of the petitioner; and (c) obtain from the Commissioner of Police a report on the character and antecedents of the petitioner. 3. The report of the judge, magistrate, or jus-

tices shall deal generally with the case and specifically with reference to the matter of the prayer of the petition. 4. The petition with the Attorney General's recommendation thereon and the reports and record obtained as aforesaid appended thereto shall be forwarded by the Attorney General to the Governor. 5. On receipt by the Attorney General of the Governor's decision, the Secretary to the Crown Law Department shall inform the petitioner, and if the petitioner is in prison, the Comptroller General of Prisons, of such decision.

That was minuted to the hon. the Premier of the day by the Attorney General who said—

The above practice has been followed I think with considerable advantage to the administration of justice and I leave it as a guide for you. Of course it always remains for any succeeding Chief Law Officer of the Crown to institute any other procedure he thinks fit.

May I also explain that that procedure is common to every State of the Commonwealth, and that so far as recommending His Excellency the Governor to remit any portion of a sentence or to extend clemency to any prisoner in our gaols, it is practised by every Administration in Australia by a recommendation being made direct to the Governor by the Attorney General. It is also practised by the Commonwealth. If we hold in our gaols a Commonwealth prisoner, the Attorney General proceeds in exactly the same way, except that he makes his recommendation to the Federal Attorney General who considers it and recommends the Governor General to deal with the case. The procedure is exactly the same as when the hon. member occupied a seat on the Treasury bench, and when he was Premier, and he took no steps to make a change. There is a confused idea on this point, because it is recognised under constitutional practice that the Minister who shall be responsible for all advice tendered to the Governor shall be the Premier, the head of the Administration, and no Minister is entitled to advise the

Governor on any matter except through the head of the Government; but on this matter, and this alone, the procedure is as I have explained it, and as I have said, it is adopted throughout the Commonwealth. The hon. member said that if it had been merely a case of embezzlement or something of the kind, one could understand the Attorney General extending clemency and remitting a portion of the sentence; but in a case of this kind he had no right to give consideration to the petitions which were lodged. It might be interesting for the hon. member to know that the Attorney General is sworn to observe the law of the land and to mete out justice with an even hand to all subjects; and if he is satisfied on any point submitted to him for consideration, notwithstanding that it has been before the courts, and if he is upheld by the Crown Law authorities that some mistake has been made, he is expected in giving effect to the law of the land, and to see that justice is done. In this particular case hon. members will, notwithstanding the fact that this is a most disgusting case, one that almost makes one's flesh creep, if they will peruse the paper which has been submitted to them, find that there is a marked distinction between the nature of the crime of which Bennett was found guilty and the actual crime that took place. May I explain by way of illustration that the law of the land to-day is that if a person wilfully takes the life of another person he shall suffer the penalty of death, but he may set out with the set determination of taking a person's life and may even proceed a good distance along the road towards the accomplishment of this, but if he should be prevented from actually completing the deed, then the penalty is not death, but a sentence of imprisonment for a specified period. Just as in this case, if the deed is not completed, and it was not, then the sentence that can be imposed is three years' imprisonment, and that is the maximum penalty. Bennett, however, had more than three years' imprisonment. Here we have the leader of the Opposition, in order to work up public passion and help him in this particular motion, taking into account *ex*

parte statements made with respect to the previous career of this particular individual. The Attorney General, who is charged with the responsibility of considering only the law and the facts as they appear to him, cannot take into account, he is not allowed to do so, any *ex parte* statements made, either in the Press or on the public platform.

Hon. Frank Wilson: Have you not got the records of the police courts?

The PREMIER: The hon. member also says that this case was heard in March, 1911. There was also another case heard in 1911. This was a case of an individual in Fremantle who was charged with indecently dealing with a child of the age of 16. But what imprisonment did this man receive? He was found guilty by the judge and the jury, but he never served a single hour in prison. He was bound over in his own recognisances in a sum of £100 to come up for sentence when called upon. Then, again, in that same year we had a similar case in Perth.

Mr. George: Was any influence at work to prevent this man from being punished?

The PREMIER: Let the hon. member follow me. I was pointing out that in a similar case such a punishment had not been inflicted.

Mr. George: It ought to have been.

The PREMIER: Moreover, we were not in office at that time.

Mr. George: I do not care who was in office.

The PREMIER: It does not matter now, of course.

Hon. Frank Wilson: Did the judge bind the prisoner over?

The PREMIER: Yes.

Hon. Frank Wilson: Then what had the Government to do with it?

The PREMIER: I suppose his friends looked after him. In this case of indecently assaulting the girl the penalty was three years' hard labour. In fact, there is only one other case on record where any term of imprisonment exceeding seven years has been imposed. In that case it was not a matter of attempting to carnally know a child, but one in which the act was actually committed. In the Ben-

nelt case, however, there is not a tittle of evidence that the man actually committed the crime, but that he merely attempted to do so.

Mr. George: My word.

The PREMIER: I know the hon. member can see mountains where none exist, but I have the evidence here.

Hon. Frank Wilson: The verdict was wrong.

The PREMIER: If hon. members will turn to the printed sheet they will find on page 3 in the second column—

Hon. Frank Wilson: The judgment was wrong.

The PREMIER: A statement by the girl herself, the only evidence for the Crown as to the actual deed. If the hon. member will read the constable's statement, he will find there the circumstances as they occurred, and the witness's statement that the act did not take place.

Mr. George: What about the judge's notes?

The PREMIER: We know what is in them. Hon. members will find what did occur, and the girl's own statement when she said, "That is all he did." It is the same with the judge's notes.

Mr. George: No.

The PREMIER: Yes, they are exactly the same.

Mr. George: Read the medical practitioner's statement.

The PREMIER: If hon. members will turn to page 6 in the second column dealing with the cross-examination they will find what she said. Surely, under these circumstances, hon. members might leave alone for the moment the public feeling in the matter, and take into account the actual evidence in the case, and also remove from their mind the public hysteria which is so much due to the statements which have been made about the case. I say they have no right to take this hysteria into account when considering the action of the Attorney General in releasing the prisoner.

Mr. George: It was the same three years ago.

The PREMIER: I know exactly the hon. member's attitude, and what is in his mind. Possibly, either the hon.

member or myself might, if we found a child of ours being so treated by a brute, act in such a way that there would be no need for the law to be put in force against the man, but against us for taking the law into our own hands.

Mr. George: You said that three years ago.

The PREMIER: And I repeat it here. Further, other circumstances have to be taken into account. In this particular instance it is not a matter of the Attorney General merely extending clemency in the ordinary fashion, but of his taking into account the law as laid down in the Criminal Code. He will be able to show, when the time comes for him to speak, that, under the Criminal Code, the case was one for, at the very most, three years of hard labour. The House may rest assured that I am not holding any brief for Bennett or for those of his kidney. As a matter of fact I would like to clear them out of this State altogether, and at the present moment we have a splendid opportunity of sending them along to the Balkans. I want members, however, not to be drawn away by the attitude of the leader of the Opposition, who has brought forward a lot of other cases which have nothing to do with this, in his effort to arrive at a decision on this particular question. The leader of the Opposition said that there was no hysteria in the House when the matter of the Criminal Code was being discussed three years ago. No hysteria! I hardly know what term to apply to the hon. member for Murray-Wellington (Mr. George) on that occasion.

Mr. George: The Premier need not worry about me. I am all right.

The PREMIER: The leader of the Opposition might remember that there is such a thing as British justice, and that if there is one man in the community who is charged with the responsibility of seeing that every man receives exactly the same treatment, that man is the Attorney General. I say, notwithstanding that I may have feelings on the question as a layman, and that every member of the House and of the public may also have such feelings, that the Attorney General

is not allowed to be swayed by any lay opinion, and that his opinion has to be based upon law and procedure, and that this basis in a case of this kind is different in making a recommendation to the Governor than in another case. It is entirely a matter of law, pure and simple, and he is charged with administering the law fearlessly and squarely between all parties. The leader of the Opposition says that the Attorney General's attitude is one of sympathy to the criminal, and that it overrides his sense of justice to the public. That is rather a bold statement to make. If it were proved that he had more sympathy in this case than in any other, there might be some justice in such an assertion. But that cannot be urged against the Attorney General for a moment. As a matter of fact notwithstanding the charge that he is allowing criminals to go at large, there is less actual crime in Western Australia than when the Attorney General took office. One would imagine that if these men were not fit to be at large crimes in Western Australia would increase materially.

Hon. Frank Wilson: You say that Bennett ought to be at large.

The PREMIER: I am not expressing an opinion.

Hon. Frank Wilson: Why don't you?

The PREMIER: I suppose the hon. member would like me to do so. I am prepared, however, to say that the Attorney General has acted in accordance with the law, and that is all I am expected to say in answer to the leader of the Opposition.

Mr. George: Your private views are different.

The PREMIER: I recognise that hon. members may be easily misled in the matter. If I were permitted I could read a number of cases of a similar nature which have been tried in our courts during the last ten years. I could tell hon. members of a case almost similar to this, but with the difference that the act positively took place, was uninterrupted, and that after being sentenced the prisoner was released after only eight months. I did not hear

any public outcry, or any statements about what might have happened previously. I say, as a matter of fact, that there is a tendency in this State, even in official circles, to load up the Press and the public mind against a man who is on his trial with *ex parte* statements regarding other crimes that he is supposed to have committed. Men are tried for offences for which their lives are at stake, and have to stand up against public opinion owing to an attitude taken similar to that adopted by the leader of the Opposition. What we should claim, and what every individual has a right to claim, is that the case should be tried on its merits before a judge and jury, and that there should be no influence brought to bear by the public or a hostile Press or by the hostility on the part of any members of Parliament. Every case should be treated absolutely on its merits. There is a tendency, as I say, even in official circles to have *ex parte* statements made to the Press, practically saying that a man is guilty of a crime before he is tried, and bringing up other cases as well in order to make it appear that he is guilty.

Hon. Frank Wilson: That is a serious charge.

The PREMIER: The hon. member knows it is true. Take the case of the man Jacobson who has been acquitted. A certain section of the Press practically convicted him before he was brought back to Western Australia, and when he was acquitted that section of the Press immediately asked for compensation for him and howled because of the action which had been taken against him at the outset. I did not hear the leader of the Opposition asking for justice in that case. He did not lose any sleep over it. Is that the attitude for politicians and public men to adopt in a State like ours? If we claim that we are dealing out British justice with an even hand, we have no right to condemn a man unheard, or to listen to *ex parte* statements when dealing with a matter of this nature. I am not allowed to refer to other cases. I desire to point out that the Attorney General, who has to judge how far a penalty

should proceed, has to take into account the penalty suffered by others in similar circumstances, as well as the provisions of the Criminal Code, and after consulting his law officers, he is entitled, if he is absolutely satisfied that justice is not being meted out, to take that action which he thinks he ought to take.

Mr. Elliott: Without consulting the judge?

The PREMIER: Does the hon. member assert that he did not consult the judge?

Mr. George: Did he do so in this case?

Mr. Elliott: Not yet.

Mr. George: Did he consult the judge?

The PREMIER: I am not going to pursue the case any further except to say that I am perfectly satisfied that the Attorney General can make out a good case for his action in this and every other matter where he has recommended His Excellency the Governor to extend some mercy, and in some cases, in many of them, he can show excellent results from his actions. May I also explain that the Attorney General, the moment public feeling was aroused in this matter, came to my office and volunteered to give me his resignation. I told him, what I am asking members to do here, that people must first listen to a man before they find him guilty, before you convict him. I told the Attorney General that I would go into the case for myself, and that if I was satisfied he had acted honestly and straightforwardly and in the proper exercise of his judgment, without any other consideration influencing him, then, although I might not be able to go as far as he goes, still, if he had acted fairly and squarely, with an open mind, for the purpose of meting out what he considered to be British justice to this individual, I would not for one moment listen to his resigning. I went into the case, and want to say right here that, although it is such a revolting case, the Attorney General acted as only a man could act under similar circumstances unless he was going to be swayed by public hysteria and such feeling as existed at the moment.

Mr. George: Did you consult the Judge?

The PREMIER: I wish to say now that I will share with the Attorney Gen-

eral the responsibility of his action in this matter. If he is to fall over it, I am prepared to fall with him. But if the public understood the position as I understand it, if they would go through the files, if they would make the same inquiries as were made by the Attorney General and myself, then, instead of pursuing this individual as they are doing, trying to hound him off the earth altogether, they would give him an opportunity, as we ought to give every individual, of reforming. I can point to public men in Australia holding high positions to-day, who, if they were to be judged by their past, would not be holding public positions, but would be in gaol. I can point to others who, if they were to be penalised because of public rumours, would also be in gaol. I say that, because a friend of mine told me a few days ago that if I had my deserts, I would be serving ten years in Fremantle gaol.

Mr. George: What, you?

The PREMIER: Yes. Let me say that I am not alarmed about these matters at all; knowing, as I do, what the public will say, particularly in regard to public men. But as regards these men in public life, I say they paid their penalty and perhaps are, in some respects, the better for their experience. They were given further opportunities. But those very men declaim against giving an opportunity to others. I will assert, side by side with the Attorney General, that I would rather have it on my head that I extended some mercy in the direction of allowing a man another chance to reform, than I would have it on my head that by refusing to do so I had driven a man to the lunatic asylum and then into the grave. When we are judging this case, let us judge it fairly and squarely, on its merits. The Attorney General does not stand alone in the matter: I stand side by side with the Attorney General. I deplore such cases as this. I recognise, with every man in the community, that we want to rid ourselves of such people; and so far as the law will permit, we will pursue those people and inflict proper punishment upon them. But when it comes to a question of deciding on the merits of a case, of extending mercy, and of considering the law,

and how it should be applied, I am prepared to submit to the superior knowledge of the Attorney General in such matters. The Attorney General having satisfied himself, I am prepared now to decline to accept his resignation, and I am prepared to stand or fall side by side with him.

Mr. George: Is that the Attorney General's defence?

The Attorney General: Give me an opportunity of hearing my accusers first.

Mr. GEORGE (Murray-Wellington) [8.21]: I wish to assure the Attorney General that in speaking on this motion my desire is to try to avoid making any accusations except such as I feel to be necessary. During the Premier's speech to-night I have been thinking of a debate which took place in this House some three or four years ago. I remember perfectly well—and hon. members who were in the Chamber at that time will also remember—that debate, which was on this very question. There had been an outrage on a little child in Beaufort-street, Perth; and there had been other outrages of a similar nature in the neighbourhood of Perth. Whether the Premier chooses to call it public hysteria or not, it is the sort of feeling of which no man need be ashamed, and with regard to which no woman need feel otherwise than proud that a man is prepared to stand up in defence of the children of this State. The Premier himself used a notable expression in the course of the debate to which I have referred. He practically confirmed the same opinion this evening, and there is not one man in this Assembly—I doubt if there is one man in the whole of this great Continent of Australia but would feel exactly the same if the case were under similar conditions to those here in question. The then member for Claremont, Mr. Foulkes, had drawn attention to this particular offence; and in the course of his speech he said—

A certain number of offences of a sexual character have been committed during the past few months, and it has had the effect on the community that a great number of persons who have been shocked with the enormity of these offences are really afraid to let their

children go about, not only in the country districts, but in the urban communities.

The hon. the Premier, who was then the leader of the Opposition, interjected—

There would be no second offence if anything happened to one of mine.

The Premier: Hear, hear. I say it now.

Mr. GEORGE: The hon. gentleman knows perfectly well the feeling that is stirring every member of this Chamber, and is stirring Western Australia, and is making its influence felt on the other side of Australia. It is not a question of trying to exact an eye for an eye, or a tooth for a tooth, in accordance with the old Mosaic law. It is a matter of the people of the community saying to themselves, "We have law, we have rules laid down for law and order to protect not only ourselves and our property, but to protect what is dearer to us than anything else, and that is the little children whom we have brought into being." If the people of this State feel that law and order are failing to protect those whom the people brought into being, then, I ask the hon. gentleman, how long will it be before men who have the same feelings as he himself expressed, as we all naturally entertain, will feel it their duty to become administrators of the law themselves? The hon. the Premier himself said, "There would be no second offence if anything happened to one of mine." I do not wish to speak at length, but I can refer hon. members to that debate. They will find that members on the other side of the House, as well as members on this side of the House, supported the view taken by the then member for Claremont, who also supported me when I brought forward a motion affirming that in the case of offences of this sort we should have recourse to the aid of the surgeon to prevent the risk of similar contamination in the future. However, what I am sorry about, as regards the trend of this debate, is that the Premier has thought fit to make the motion, as it were, a party motion. This is not a party question. The protection of the children of this State belongs as much to the Opposition

as it does to members on the Government benches, and neither the members on the Ministerial side nor members on this side would have a right to possess the confidence of the people of this State unless they were prepared to throw on one side entirely their political views and see that the law shall be administered as it ought to be for the protection of those who cannot protect themselves. I do not want to go into the details of this case. They are simply horrible. If we were sitting *in camera*, if this were strictly an assemblage of men and we could discuss the matter amongst ourselves, it would be very easy indeed to take this evidence that the Premier has had printed, and to dissect it and find sufficient in it to show that the verdict was right. We know there are portions of the evidence that can be used—I will not say twisted, but used—to make out that no offence had been committed. But the evidence of the medical practitioner is sufficient to show to any man who likes to read between the lines—

The Attorney General: Ah!

Mr. GEORGE: What guided the Judge in his charge to the jury, what guided the jury in the verdict that they returned, and what guided the Judge in the sentence that he inflicted.

The Premier: You would make a nice jurymen.

Mr. GEORGE: That does not make any difference whatever. If I were as absolutely incompetent to be a jurymen as any man on God's earth could be, it would make no difference whatever to this particular matter with which we are dealing. It is not my competency or incompetency, it is not my passion or my lack of passion, that is in question. The question here is what are the real facts of this particular case? There cannot be a single doubt, I think, in the mind of any hon. member that the jury who heard the evidence arrived at conclusion which commended itself to their judgment. That conclusion was confirmed, if I may use that term, by the words of the learned judge when passing sentence; and the only point on which the learned judge desired the case to be brought before the

Attorney General was as to whether or not a whipping should be inflicted. Hon. members who recollect the debate on this very question of the infliction of flogging—and my friend the member for South Fremantle (Mr. Bolton) voted with me on the question—will know perfectly well that the debate was a strong one. Many members, among them the member for Pilbara (Mr. Underwood), referred to an instance which I gave, in the course of my few remarks, about the flogging that stopped garrotting. I know that I used this matter of flogging as an illustration in this way, that I was perfectly sure criminals of this sort, maniacs if you like to call them so—I do not mind what you call them, but in any case they are a danger to society—were amenable to nothing but flogging. As I said before, this is a question, not of politics, but of common humanity, of the duty upon every man to protect his wife and protect his children. And it is on that ground, and on that ground alone, that I took the action I did take some weeks ago, and arranged with my colleague the leader of the Opposition to move the motion which he has submitted to-day. We fear that the Attorney General does not grasp as fully as he should the feeling of the majority of the people of this State. He may be right in law. I am not a lawyer, and I am not here to chop logic. I am only here to express as far as I can what I believe are the feelings of the common people, with whom I rank. We want our children to be protected, and if the Attorney General by his actions weakens the protection which should be afforded to those children, then the Attorney General is not fitted for the position that he holds. With that forensic skill which he possesses, the hon. gentleman may no doubt be able to throw over this question a glamour that we cannot, and do not desire to attempt to, surround it with; but he cannot get away, nor can the Premier with all his special pleading get away from the commonsense view. They are tearing away the protection which we believe the law ought to give, and which we believed the law did give, and which we believe and know is necessary for our children and for our women.

I do not think there is much to be gained by a lot of talking on this question. The facts are very simple. A scoundrel pollutes a girl's body and ruins her soul, as I stated the other evening, and is put into gaol properly for the longest period that the judge can give him, and after he has served three years the Attorney General liberates him. If the man is not a criminal, he is a maniac, and if he is a maniac he should not be at large. It does not matter to me whether the man be a criminal or a maniac, he is a man who, once inside, should have been kept there. The justice which is necessary to protect the rights of children holds the man to be a scoundrel and it should be upheld, and if that is not done, by Heaven, we are doing an injustice to the people of this State. In the debate to which I have already alluded, the Attorney General, who was then sitting on this side of the House, and also the Premier, referred to what were called sexual maniacs. If Bennett was one he should have been kept in confinement, so as to make it impossible for him to carry on this peculiar form of mania any longer. Whichever way we look at it, here we have a man who has done a wrong of that sort, who has been before the court and has had his trial before a jury, and sentenced by a judge, and who has now been liberated on what, to my mind, seems to be flimsy pretences, and turned into another State with no guarantee as to his future conduct. I am aware of the references which have been made by the Attorney General to my friend, Major Head, of the Salvation Army, a gentleman I have known for many years, and whom I respect as much as I respect any man. Colonel Hoskin, of Victoria, I also know very well, and I have intense admiration for him and his work, and I feel sure that whatever these gentlemen undertook to do, they would do to the utmost. We find, however, in regard to this particular man, that when he was liberated it is true that he was put on the departing steamer by Major Head, but so far as we know—and perhaps the Attorney General can throw more light on the subject—he was not

met by any one in Melbourne, nor was any responsibility taken with regard to him on his arrival in Melbourne. He was a married man, who was not living with his wife, but that is beside the question, and in Melbourne he passed on to his parents and became practically a free man at his home. When the Attorney General referred to the few remarks I made on the Address-in-reply, he stated that the Salvation Army authorities in Melbourne—I am speaking from memory—were going to take charge of Bennett and hold him in duranee vile, so that they could control him. The hon. member who is a lawyer knows well that no undertaking which Bennett would give could compel him to surrender his liberty to these people. If he had been held by them in custody he could have claimed his liberty, and if they had refused to grant it he could have secured his release by means of a writ of *habeas corpus*. I give credit to the Attorney General for his kindness of heart and sympathy, but I think he has made a serious mistake. I give him credit for the chivalry he displayed when he took all the blame on himself by stating that he had done this himself, and that if there was any blame it should rest with him and not with his colleagues. Therefore, I regret that the Premier should have thought it necessary to regard the motion as one of want of confidence against the Government, when really what is wanted throughout the country is not so much the Attorney General's blood, but that we should have some sort of security that if similar cases occur, the error committed on this occasion will not be repeated.

Mr. DWYER (Perth) [8.37]: I am sure that to approach a matter of this kind is a painful thing for any member of this House, because the offence with which Bennett was charged was one of those horrible and revolting, and almost inexplicable crimes. There is no doubt that a man who commits such a crime is an unspeakable person, and for my part, I have no hesitation in saying that a person who commits such an offence is unfit to remain within the pale of civ-

ilised society, but that rather he should be segregated from all other human beings. In approaching this motion, which unfortunately has been so framed as to leave no option to the Government but to accept it as one of want of confidence, we have to look into matters apart from all personal feeling. We have to throw away those feelings of horror, and all ideas of revolt, and consider the matter from a legal aspect, and put ourselves as far as we can in the position of jurors, to hear and determine the case on the evidence submitted. When one of these crimes is committed there is no doubt that the veneer of our civilisation is torn away, and we feel the necessity to wreak vengeance on the offender. It is equally true that our feelings of vengeance are so strong that we seem to consider that the person who would be guilty of such an offence ought to be treated as if he were outside the pale of law and order. But if we owe a duty to ourselves, as we do, and a duty to the community to protect them, and above all to protect the morals of the young people, we also owe a duty to the law and its administration. I will endeavour, and I believe I will be able to prove to the satisfaction of the House before I sit down, that had the law at the time of Bennett's conviction existed as we find it to-day, there would not have been any necessity for this motion. The Criminal Court of Appellate Jurisdiction would have done exactly as the Attorney General has done, not, perhaps, because they would have wished to do it, but because they would have been compelled to do it. My attitude, and I think it is the attitude of many members, is that, while we would not necessarily have done the same as the Attorney General did, yet if we had had to judge the case in an official capacity on the evidence adduced before the court, and to decide whether the punishment, in the event of guilt, fitted the crime, I think we would have come to the same conclusion as the Attorney General. We have to view the matter in the light of the evidence presented to the court, and I wish to say a few words with regard to the ad-

missibility of evidence of commission of similar offences, and the manner in which the public mind has been inflamed against Bennett. There is no doubt that at the time Bennett was charged with this offence a number of similar offences had been committed in the same locality, and it may or may not be true that Bennett was the criminal who was guilty of all these horrible offences. There is a well known rule in law, which is indisputable, that evidence of these acts cannot be placed before a jury, and we have to consider in our judgment to-night whether on the evidence as properly placed before the jury in this particular case, what conclusion we would have arrived at had we been the jurymen. The commission of offences of this description has inflamed the public mind, and the Press as well, and there is an atmosphere of hysteria obtaining all round. The effect is that as soon as a culprit is found to have committed one offence, all the other offences are attributed to him, and he is made to pay the penalty as if he had been guilty of all. Perhaps, speaking as a layman, no one will object to that. We have our own ideas as to whether Bennett was, or was not, guilty of these offences. What I wish to impress upon the House is that the evidence of Bennett's connection with these offences, which was not obtainable, could not be placed before the jury properly, and therefore it was not placed before the jury. All that was placed before the jury is contained in the confidential document—confidential only in a certain sense—which has been placed before members. The charge against Bennett was laid under Section 185 of the Criminal Code, which says—

Any person who has unlawful carnal knowledge of a girl under the age of 13 years is guilty of a crime and is liable to imprisonment with hard labour for life with or without whipping Any person who attempts to have carnal knowledge is guilty of a misdemeanour and is liable to imprisonment with hard labour for three years.

In connection with this section, it is necessary that I should read Section 6, which

explains the meaning of the term "carnal knowledge," and I shall read it out notwithstanding the fact that there may be a word or two in it which may shock the susceptibilities of some of those who are present, but even at that risk the section must be read because of the injustice which has been done to the Attorney General. The section reads—

When the term "carnal knowledge" or the term "carnal connection" is used in defining an offence, it is implied that the offence so far as regard that element of it, is complete upon penetration.

If Bennett was guilty of the major offence, if the evidence bore it out, he had no right to be released, but if, as I hold is the case, the evidence shows he was not guilty of the major offence, but that he was guilty of some other offence, for which a lesser term of imprisonment is provided for by law, his release had to be made.

Hon. Frank Wilson: Why did he not appeal?

Mr. DWYER: The explanation is simple. It is only since the present Government came into office that the criminal appeal side of the Supreme Court was established.

Mr. Taylor: And it is not retrospective?

Mr. DWYER: No.

Hon. Frank Wilson: But there was the Court of Crown Cases Reserved.

Mr. DWYER: That deals with points of law; this is a question of fact and not of law.

Hon. Frank Wilson: It is a question of evidence.

Mr. DWYER: It is a question of fact, and there was no possibility of bringing the case before the Court of Crown Cases Reserved. In any case, even if there had been a possibility, it was for the prisoner's counsel, and not for the Government, to take that action, and I think the hon. member will admit that no prisoner should be prejudiced in any way merely because his counsel did not take a course which he might have taken.

Hon. Frank Wilson: You have been arguing for ten minutes that he did not have a chance of appealing.

Mr. DWYER: I have been trying to impress upon the leader of the Opposition that there was no avenue of appeal at the time the offence was committed, and that there was no appeal for any similar cases until the Government established the Criminal Appeal Court.

Hon. Frank Wilson: I am advised to the contrary.

Mr. DWYER: We have the Court of Crown Cases Reserved, where points of law are argued, but this case was altogether depending upon a question of fact. In this case, the Court of Criminal Appeal would have to consider whether there was sufficient evidence before the jury to convict Bennett of the offence with which he was charged, or whether the evidence would simply convict him of the minor offence.

Mr. George: The judge would not have sentenced him to imprisonment for life unless he was satisfied on that point.

Mr. DWYER: So far as the judge was concerned, the jury had brought in a verdict of guilty, and the judge sentenced Bennett in accordance with that verdict. If judges could mete out their sentences in accordance with their own personal opinions as to what the verdict of the jury ought to be, and not what it is, there might be no necessity for the Court of Criminal Appeal at all. It is because of cases similar to this that the necessity for a Court of Criminal Appeal has been recognised. Hence its existence here and in England and in the other States. The evidence in this case is before us, and I will just run through the material points. The offence was committed on the 28th January, and on the 31st January the magisterial inquiry was held. These dates are material because of the short time that elapsed, and because everything that happened on the 28th was fresh in the minds of all the witnesses on the 31st. The evidence of the postmaster does not go to the commission of the offence of which the prisoner was found guilty, nor does the evidence of Walker. The evidence of those two witnesses is altogether consistent with the commission of the minor offence. On page 3 we are given direct evidence by the doctor as to whether the

minor or the major offence was committed. I would draw attention to this evidence. In the fourth paragraph the witness states what he found on examination of the girl. Then he states what he found on examination of the accused. "The injury," he goes on to state—this is the most important portion of his evidence—"the injury may have been caused"—not could or would or was, but "may have been caused by partial penetration, etc." Then we have the evidence of the mother, who, it must be remembered, got this statement from the child shortly after the offence was committed and gave it to the court two days later. She says "Ethel made a statement to me. No one else was present. This was in a private room at the police quarters. She said this man Bob Bennett met her between the post office and the town hall and said 'Here, come here, little girl, I will give you sixpence for ice-cream.' She went down with him," and so on. I am just referring to these matters and hon. members can read them for themselves. And then—"At this juncture she said the policeman pushed in the door. That is all she said. She made this statement ten minutes after she returned." Will hon. members read that portion of the statement down, and say whether there is evidence of the major offence having been committed. Now we come to the girl's statement at the bottom of page 3, and the top of page 4. "He led me by the shoulder and he swore at me, saying," and so on. Now I will draw attention to the last sentence in paragraph 5 beginning "He took off," etc. In connection with the doctor's statement, there is one portion of the girl's testimony which is very material, namely, the very last sentence, beginning "Bennett hurt."

Mr. George: How do you reconcile the doctor's evidence on page 5?

Mr. DWYER: I will come to page 5 later. I want to pay particular attention to that last sentence in the girl's evidence beginning "Bennett hurt." Hon. members have the evidence as given in the police court about two days after the offence was committed, and when everything was fresh in the minds of the wit-

nesses. While there is ample evidence to convict Bennett of the minor offence, I say that no jury could possibly convict of the major offence. Will any member, viewing the principle of our law that the accused must have the benefit of any doubt, say that on that evidence a jury could convict the accused of the major offence?

Mr. George: What did the jury who tried him do?

Mr. DWYER: I am talking of this jury at the present time. Juries are very often swayed and their verdicts sometimes take colour from the atmosphere surrounding cases. At this distance of time, with the evidence before us, I challenge any impartial member to read as far as the end of page 4 where the depositions finish, and say that in his heart and soul, whilst knowing he must give the accused the benefit of any doubt, there was evidence of the commission of the major offence. And of course, under Section 575 of our Criminal Code, even if the accused be charged with the major offence, he can be found guilty of the minor offence. It says that on a charge of the offence such as Bennett was charged with, the accused can be found guilty of unlawfully and indecently dealing, or assault, and so on. Hon. members need only place themselves in the position of ordinary jurymen who hear the evidence, see the witnesses, and lend an attentive ear to what is being said. They have it all here in black and white, in cold print, and I think there can be no other conclusion come to than that, while Bennett was guilty of the minor offence, he was not guilty of the major offence. Let us take another step forward in this case, and refer to the judge's notes. It is material here to remember that while the offence was committed on the 28th January, and the depositions were taken on the 31st, the case was not tried till the 17th March, or nearly three months afterwards. And it is quite certain that on account of the furore that had been created by the nature of the offence, on account of the great public agitation prevailing, it is certain that the witnesses against the accused were not in the same

frame of mind, and were not of a disposition to review as impartially the evidence against the accused on the 17th March as they were on the 31st January, nor had they the same disposition to state coldly, impartially, and correctly, the actual occurrences. It is for that reason that I place more importance on the accounts given on the 31st January than on those of the 17th March. Take the evidence of Dr. Clark. If hon. members will look at the paragraph beginning "Found inside" they will find in the fifth line from the end of that paragraph that "The injury to the girl must have been caused" and so on.

Mr. George: Then there was an injury?

Mr. DWYER: It is material now to remember what I called attention to at the end of page 4. I drew special attention to the last sentence at the end of page 4. The girl accounts for the injury and shows how it happened. It may have happened in hundreds of different ways, but the girl gives her own account at the end of page 4. Walker's evidence is the same as that given before.

Mr. George: A little stronger, was it not?

Mr. DWYER: Unfortunately, in this case all the witnesses got stronger the further they progressed. I think that is evident to anyone reading the judge's notes and the depositions. The examination took place immediately after the happening, and I would draw attention to what the constable says he saw as regards the appearance of Bennett, the accused. Bennett's appearance was consistent with, perhaps, an attempt having been made, but not consistent with the actual event having taken place. Then there is the evidence of the girl herself, also given on page 6, and the evidence of her mother. In the evidence of the girl on page 6 it will be seen that she was cross-examined. Then there is the evidence of her mother. The medical evidence as regards the state of mind of the accused, I will not trouble about. I ask hon. members, having perused the evidence before the judge, to say whether there would not be a doubt in their minds as to whether the offence

charged had been proved in view of the definition of carnal knowledge under the Criminal Code.

Mr. George: The jury took 15 minutes to make up their minds.

Mr. DWYER: This very fact shows that their minds must have been inflamed with the common hysteria prevailing at the time; they probably had their minds made up for them.

Mr. Elliott: Why did the judge pass the sentence then?

Mr. DWYER: I am not here to answer that. I am here in pursuance of my duty to the country to draw attention to the evidence given at the hearing, and to point out what I believe is the honest truth. I saw the depositions for the first time this morning, and since reading them my opinion has changed considerably. After reading them I say that no man sitting as a jury can say there is not a doubt, to put it in the mildest possible form, that the major offence had been committed. And if there is a doubt the accused must be given the benefit of it.

Hon. Frank Wilson: Twelve men did that.

[The Deputy Speaker (Mr. McDowall) took the Chair.]

Mr. DWYER: It is quite true that 12 men found him guilty of the major offence; but hon. members can now view matters more impartially and more in the cold light of reason. We have the evidence before us as the jury had it before them, and can judge for ourselves. If such an offence were committed now, and the same inquiry held and the same evidence adduced, it would be sent forward by the Crown to the Court of Criminal Appeal. I have no hesitation in saying that if the case on this evidence had gone before the Court of Criminal Appeal, Bennett would have been found guilty of the minor offence and sentenced to three years' imprisonment. I do not see how it is possible to take any other view, and three years would have been the maximum term of imprisonment possible under the Act. There is a wrong view abroad in regard

to this. In viewing the horror of a crime we are apt to blind our own judgment. If we admit that this evidence was not sufficient to convict Bennett of the major charge—and, in my opinion, no other view can be taken of it—the position amounts to this, that the matter was before the Attorney General and he had to say what he would do in such circumstances. He is in duty bound, if he sees fit, to recommend the exercise of the undoubted prerogative of the Crown in such circumstances. The prerogative of the Crown is set out by Broom in his *Constitutional Law* at page 224—

If, notwithstanding every precaution taken, every check applied by our law, justice should in any criminal proceeding be found to have been ill-administered—if, for instance, on a prosecution by indictment an erroneous verdict should have been given, and in virtue of the estoppel, so created, no remedy by *habeas corpus* or otherwise, should be available, appeal may yet be made to the Crown for the exercise, conditional or absolute, of its prerogative of mercy, a prerogative which experience shows in our days to be exercised with a tender regard to the rights and interests of those who appeal to it. And we may accordingly conclude that personal liberty, the birthright of the subject, is by the Constitution of this country efficiently assured and guarded.

The Court of Criminal Appeal even though it exists, does not interfere with the exercise of this prerogative of pardon, and prior to the existence of the Court of Criminal Appeal there was, as in the case of Bennett, nothing to be done but to appeal to the Crown's prerogative of pardon, which was done in this case. I would not say that a sentence of three years would be sufficient for such a crime. Personally I do not think it would be; but the fault is not with the Attorney General, but with the state and condition of the law. I believe that persons guilty of crimes of this nature should have a different kind of punishment meted out to them, and if I had my way I would place it beyond

their power to commit a similar crime again.

Hon. Frank Wilson: That is what the judge said, and now you let the man out.

Mr. DWYER: The Attorney General cannot consult his personal feelings in these matters. He has the law to administer, and if a person is convicted of an offence when he can only be convicted of another offence, the Attorney General has to do his duty, and his duty he did by recommending the exercise of the prerogative of pardon.

Hon. Frank Wilson: Did the judge concur? Was he consulted?

Mr. DWYER: I do not know; but I ask the hon. member to exercise a little judgment, and to take himself from the political atmosphere which surrounds him and withdraw himself from the bias and partisanship of politics which prompted the motion.

Hon. Frank Wilson: I object to that statement, and I think the hon. member must withdraw it.

Mr. DWYER: What statement?

Hon. Frank Wilson: As to what prompted the motion.

Mr. DWYER: I think I am perfectly in order in saying so, and I repeat it.

Hon. Frank Wilson: Then I ask your ruling Mr. Deputy Speaker; the hon. member is imputing motives.

The DEPUTY SPEAKER: I do not think there is anything in the objection.

Mr. DWYER: I am imputing politics. It has a political motive.

Hon. Frank Wilson: Then there is the same in your speech.

Mr. DWYER: I have never known the leader of the Opposition to ask questions or table motions behind which there was not a political motive. This motion could have been framed in such a way as to make it non-political and non-partisan. But the hon. member has so framed it that it can be taken in no other sense than a vote of no-confidence in the Government and a vote of censure on the Attorney General.

Hon. Frank Wilson: That is what it is; a vote of censure.

Mr. DWYER: I am glad the hon. member admits it.

Hon. Frank Wilson: It is in the wording of the motion.

Mr. DWYER: I appeal to the hon. member to withdraw himself from the partisan spirit and party politics, and to read quietly through the evidence, and I challenge him that he will be compelled to come to the same conclusion as I have. I am not a sympathiser of Bennett's.

Hon. Frank Wilson: It sounds mighty like it.

Mr. DWYER: I have said I do not think that the punishment set forth in the Code is the proper punishment. I do not think the man deserves any sympathy.

Mr. George: He got it, anyhow.

Mr. DWYER: On viewing the offence of which he was guilty in the light of cold, calm reason, reading into it the provisions of the Criminal Code, dealing with the offence, nothing else was open to the Attorney General but to take the action which he took. As a member of the Labour party I am prepared to accept any responsibility which the action he took places on my shoulders.

Mr. ALLEN (West Perth) [9.10]: I would like to read the motion standing in the name of the leader of the Opposition so that we might refresh our minds as to what it really contains. It begins "That in the opinion of this House the advice tendered by the Attorney General to His Excellency the Governor, which resulted in the liberation of Robert Bennett, was not in the best interests of the administration of justice, and is calculated to weaken the protection afforded to women and children under our laws." Had the motion stopped at this, every member of this House, no matter what his political views might be, would have been in accord with it; but the motion continues, and this is the part to which our friends take exception, "and, further, that the Attorney General is deserving of censure for having tendered such advice."

Mr. Bolton: That is the no-confidence.

Mr. ALLEN: I know nothing of a no-confidence motion. I am speaking on non-party lines. It seems to me that no matter what a man's political views might

be he must feel, especially after reading the depositions contained in this confidential document, that this man should not be at liberty. I yield to no one in my desire to show clemency to a first offender, or to a man who has made a slip in life and is trying to retrieve the past. I would be one of the first to use my influence with the Attorney General, no matter to what party he belonged, to give such a man another chance to recover his lost position in life. The depositions in this case, however, are so revolting and so disgusting that one almost blushes that a man, person, or thing bearing the name of man should be guilty of such a disgusting and terrible crime. Whether he was guilty of the minor offence or of the major offence of which he was convicted, the man should not be at liberty to-day. We are in duty bound to consider the women and children, and a man once guilty of such an offence, and having reached such a low state of degradation, should not be at liberty. The public, without reading the depositions, cannot realise the degradation into which this man had fallen. Had the public known of the contents of these depositions, and been able to get hold of this man, they would have lynched him and waited for no trial. I have never read anything so disgusting and revolting as is contained in this evidence. I am not viewing the matter in any party spirit whatsoever, and had not it been for the latter portion of the motion, every member, whether on the Labour side or on the Liberal side, must have voted for it. We cannot but agree that it is in the best interests of the administration of justice, and that it is not calculated to strengthen the courts of justice or the hand of those administering justice, if a man committing such a crime as this is allowed to be at liberty. I regret that the Premier has raised the party question, because I feel that we must all agree with the first portion of this motion. There is only one place, as the judge said, for such a man, and that is within safe keeping. However, he has gone from Western Australia, and the mothers and children here can rest and be satisfied in their minds; but what about the mothers and children in Victoria!

Mr. Underwood: That is where he was born, like you.

Mr. ALLEN: I was not born in Victoria. It does not matter where I was born or where he was born; it is a pity that he was ever born to have a wife and bring children into this world.

Mr. Underwood: Victoria is responsible.

Mr. ALLEN: We are responsible for having released him, after he had been found guilty whether of the major or of the minor offence. The hon. member for Perth has given us the legal aspect of the case. I do not profess to have been able to follow him; but every layman who knows the details of this revolting case cannot but realise that the motion is a just one, and one which every member should support excepting the latter portion. I do not intend to take up any further time, but before giving my vote I wanted to say that I think it regrettable such a man should be let at large. If it is possible for such a man to be let at large after serving three years, we are only courting the public to take the law into their own hands and mete out justice to maniacs of this kind, because we can call them nothing else.

Hon. J. MITCHELL (Northam) [9.15]: I do not wish to take up very much time of the House to-night. I should like however, to say in reply to the hon. member for Perth that he has taken up a most inaccurate attitude. We have this learned gentleman trying to persuade the House that this man Bennett was guilty of only a minor offence, whereas the judge has stated, after hearing the evidence and reviewing the case, that he was guilty of a major offence, and sentenced him accordingly. Does the hon. gentleman contend that he knows as much about the case as the judge who tried it? The details of the case have been dealt with sufficiently to-night. I am not saying that the hon. member has not any right to voice his opinion in defence of the action of the Attorney General as to whether the Minister is right or wrong, but that that is for this House to say. So far, however, as the attitude of the judge is concerned, there can be no question, and no question as

to the justice of the sentence. The hon. member for Perth has endeavoured to persuade this House that the judge was wrong and that the Attorney General was right. I want to say that the attitude taken up by the leader of the Opposition was perfectly correct. When he determined to move a vote of censure on the Attorney General he naturally sent notice of it to the Premier. The Premier did not act promptly, as would usually be done in such a case, but he allowed the business of the House to go on yesterday, and, at all events, some portion of the business to-day. It is true that he went to the Press and told them that he would consider the motion of the leader of the Opposition as one of censure upon the Government, and that he would regard it as a vote of want of confidence in the Government. The action of the Premier in this regard is absolutely incorrect. If he intended to accept the motion as one of want of confidence in the Government he should have suspended all business in the meantime, and he had no right to assume that members would vote with the Government on this point. The duty of the Premier was clear, if he intended to accept the motion as one of want of confidence. In this matter the leader of the Opposition has taken up the correct attitude. He says that he disagreed with the administration of the Attorney General, and that the leniency he had shown in this case was wrong, and that he should never have liberated this man. It is not a party question, and no one has sought to make political capital out of it except the Premier. In bringing that letter from the National League the Premier made a mistake. Members of the league clearly desired the Premier to avoid making this a party question, and they wanted every member to vote according to his conscience. They wanted it kept away from party feeling as far as possible, and did not want this motion treated as a motion of want of confidence. They wanted every member of the House to be able to say what they thought of the action of the Attorney General and of the Government. The Premier brought the letter down here

to-night to show that their desire was quite the opposite. It would have been very wrong for anyone outside, either this league or any other person, to ask the Premier to treat this motion as a want of confidence in the Government. We know what that means. The whip will crack and members will follow their leaders. They will follow their leaders in any case.

Mr. Taylor: The national council are a non-political body, are they not?

Hon. J. MITCHELL: If it is a question of dealing merely with the motion as it appears on the Notice Paper, it is quite another matter and members can exercise their own judgment in regard to it. In his defence the Premier was certainly very weak. He wandered all over the country and touched very little upon the case. He certainly endeavoured to throw the whole of the blame upon the Attorney General because he mentioned the procedure that was laid down in 1909 in Sir Newton Moore's time. We all admit the responsibility and right of the Attorney General to give advice to His Excellency the Governor, and that the Governor has a perfect right to ask his advice. But can the Premier expect us to believe that when it comes to a question of asking the Governor to deal with something on the initiation of the Attorney General, that the Attorney General then acts without consulting any of his colleagues? We cannot be expected to believe that that is the case. It would be entirely wrong for the Attorney General to take the course he has taken in this case. It would be entirely wrong for him to give the Governor any advice unless he went with the permission of Cabinet. It seems incredible that other Ministers did not know what was happening. Time and again criminals have been released, and members have mentioned the fact. I am perfectly sure that the Attorney General has at some time mentioned to the Premier and to Cabinet his desire in connection with this particular case. If he has received petitions time and again he must have mentioned them to some of his colleagues. There was a meeting only the other night when the Minister

for Works was approached at Midland Junction and he said that Bennett would not be released. If the Government are prepared, of course, to fix the whole responsibility upon the Attorney General, why do they say that this motion is one of want of confidence in the Government? The leader of the Opposition certainly did not make out a stronger case against the Attorney General than did the Premier. It is quite true, of course, that when the matter was first mentioned the Attorney General accepted the full responsibility for the release of Bennett. To-night the Premier has been at some pains to show that the Attorney General was entirely responsible. I think that the most unfortunate part of the case is that the Attorney General acted without consulting any of the authorities who might have been of use to him. It is not on record that he consulted the judge, or anyone else for that matter, or that he made any inquiry at all. We do not know what has happened because we were refused the papers in connection with the matter. Of course we know something what has happened since Bennett has been in Melbourne. We may be perfectly certain that there has been some correspondence between the Attorney General and some of our Federal members who have interested themselves in the case. It is not likely that a man of Bennett's character will be received very warmly there by the authorities. We know as a fact that they have objected to his presence there, and having objected, we may be certain that they have seen some of our Federal members in the matter. We are not allowed to get behind the case except so far as the Government care to enlighten us. Notwithstanding all that has been said in defence of the Attorney General's action, there are two questions to be decided. The first is, is the Government to escape censure, and the second is, are the Ministers to be considered for the future fit to control our criminals and our prisons? These two questions have got to be answered by every member sitting here. If they vote with the Government their vote is a vote of approval; there can be no doubt about that. They

cannot escape the responsibility, and they have to face it. We who are sitting here believe that the Government are deserving of censure as well as the Attorney General. We believe that the Attorney General ought not to have the control of criminals because we believe he has not exercised a wise judgment in this and in some other cases. It is not a question probably of the heart in this case, but it is a question of the head. Calm judgment has to be given upon the facts that the Attorney General has in his possession. Some people may say that his heart has run away with him, but it seems to me that he did not allow his head to exercise that discretion which was necessary. No one objects to clemency being shown in certain cases to a criminal. In many cases those who have been convicted might be well let out after serving some portion of their sentence. There have been unfortunate cases, of course, where men have been kept in prison long after they have suffered sufficient punishment for the crime they have committed, but when it comes to the wholesale releasing of criminals, I think we are entitled to say that that is neither right nor desirable, particularly as we have an Attorney General who is incapable of exercising a wise discretion in the matter. The Premier sought to show that the percentage of criminals released has been less during the past three years than it was during the previous three years. But he took his usual line of argument. He showed that 188 petitions had been received by the present Government as against a little over 100 received by the previous Administration. He says that out of that 188 they allowed out something under 44 per cent. of the prisoners, whereas the previous Government allowed out considerably over that. That proves nothing. If the Government had had 500 petitions, would they still have let out 40 per cent. if the claims were allowed to go through? I should like hon. members to realise that the responsibility of deciding is theirs. It is the responsibility of every individual in this House. It does not matter to me whether the Premier has made this a

vote of want of confidence or not, but it does seem right that we should enter a protest against his attitude in that regard, and that we should remind hon. members that whatever the Premier says, they have to say whether the Attorney General was right or wrong, and whether they approve or disapprove of his action. That is what hon. members have to vote on.

Mr. Bolton: We are quite prepared to do so.

Hon. J. MITCHELL: The hon. member says he is prepared to do so. We will see how far the hon. member is prepared to vote as he thinks right. We will see whether it is a party vote or not. I would remind hon. members that there is still another tribunal which they will have to face. They will have to go before the people in a few weeks' time.

Member: That is the reason for it then?

Hon. J. MITCHELL: It is not the reason for all this. I have a perfect right to tell any hon. member that if he follows the line given in the Premier's advice he will be very unwise, whereas if he follows his conscience I believe he will be right. Hon. members will have to face this other tribunal, and the time is drawing very near. I believe they will find that public opinion has been outraged. I believe they will find that the people will inflict just retribution upon the party sitting opposite for what has been done.

Mr. Bolton: That is the object of the motion, is it not?

Hon. J. MITCHELL: That is not the object of the motion; but, having listened to the arguments which have been put forward by members opposite, I say it is perfectly right and competent for me to remind hon. members of their responsibilities. I have little more to say on the matter. I hope that when the Attorney General replies it will not be in one of his impassioned speeches. I hope that he will state the case for the liberation of Bennett calmly and clearly; not as the Premier has done it, because that hon. gentleman evaded the question. I hope that the Attorney General will state the case in

a way which will satisfy the House and the country. Nothing that has been said so far by hon. members opposite has relieved the Attorney General of any trouble in this matter.

Mr. Bolton: That is in your judgment.

Hon. J. MITCHELL: Yes, in my judgment; and I have a perfect right to express my opinion. I have listened attentively, and now I want to hear from the Attorney General something that will enable me to judge whether the hon. gentleman was right in his action.

Mr. Bolton: Will you vote against the motion if you are convinced by him?

Hon. J. MITCHELL: Certainly I will.

Mr. Bolton: Not you. You are pledged to that motion.

Hon. J. MITCHELL: I am quite open to conviction, absolutely open to conviction. I wish hon. members opposite were as ready to judge fairly as members in opposition are. It is not a pleasure to have to deal with questions of this kind, and it is ridiculous for hon. members opposite to say that this motion has been brought forward for party reasons. If the thing had been left alone, the Press would have teemed with letters from indignant parents for the next month. The Attorney General knows full well that this motion will probably strangle the question so far as the Press is concerned. Nothing that can be done or decided here can alter the opinion which the public have formed; nothing at all. If we had wanted to make party capital out of this matter, we would not have moved in any way; we would have had no reason at all for moving. The leader of the Opposition simply faced a duty that devolves upon him, as leader of the Opposition, on all such occasions as the one we have now to deal with. I can quite imagine the righteous indignation which the present Attorney General would display if he were sitting here and the member for Greenough (Mr. Nanson) were sitting opposite as Attorney General responsible for the release of this man Bennett. However, we all know that the present

Attorney General holds the idea that he can cure criminals by showing clemency, cure criminals by letting them out. But we are here to-night to protest that the Attorney General is quite wrong in that belief of his, and quite wrong in the attitude he has taken up as regards this man, and probably as regards some other men. It is because we believe that for the future the punishment should fit the crime, that we have asked the House to deal with this matter to-night.

Mr. MULLANY (Menzies) [9.3]: I regret exceedingly that the leader of the Opposition brought forward this motion in such a manner as to practically force the Premier to treat it as one of no-confidence in the Government. Whilst I myself, with I think every member both upon this and upon the other side of the House, am desirous of doing all that can possibly be done to minimise crimes such as the one under discussion, I think we must ask ourselves whether the bringing forward of such a motion as the present one tends to have that effect. I think it could easily be shown that in all probability the effect of this motion will be the contrary one to that desired by the leader of the Opposition; that there is an extreme probability that the publicity given to this case and the bringing up of the details over again will have a bad effect upon the unfortunate degenerates who, we know, unhappily exist in every community. The effect is likely to be that some of those unfortunates will be excited by all this publicity given to the Bennett case, and that further outrages will be committed. Certainly it was very unfortunate indeed for the leader of the Opposition to mention in any shape or form this last most regrettable outrage which has occurred at Hine's Hill. Whilst I agree with the leader of the Opposition that it is necessary to try to prevent that sort of thing, I would ask the hon. gentleman to consider whether there is not a great probability that the outcry which has been raised against the Attorney General for liberating the man Bennett—be it a genuine outcry, or be it one which, as has been said to-night, has been worked

up for political purposes—may be directly responsible for the latest outrage.

Hon. Frank Wilson: Is it not more likely that the release of Bennett has caused it?

Mr. MULLANY: As a matter of fact, it is well known that people who are prone to crimes of this sort are very likely to commit such offences, as the result of hearing matters of this kind discussed. That is the influence on certain minds. To give one instance of that, I would point out that our friends the legislators who are returned for the purpose of calmly reviewing all legislation, have turned up in force. I think I am safe in saying that never before have we seen so great a number of legislators from another place in this Chamber as we see here to-night. Certainly, since I have been in this Chamber, I have never seen such a large attendance of legislators from another place. I merely instance that to show what is the effect of discussions of this nature upon a certain class of mind. However, to proceed to criticise to some little extent the utterances of the leader of the Opposition to-night. One reference which the hon. gentleman made was peculiarly unfortunate. If that hon. gentleman was not appealing to class prejudice, I would like to know what he was appealing to, when he stated that there is a much greater likelihood of the children of poor parents being subjected to outrage than there is in the case of the children of those who are better situated.

Hon. Frank Wilson: That is so.

Mr. MULLANY: I want to know what grounds the leader of the Opposition has for making such a statement as that?

Hon. Frank Wilson: Lack of protection, as I told you.

Mr. MULLANY: Do not the poorer people in this community take just as good care of their children as do those in better circumstances financially?

Hon. Frank Wilson: They cannot do it.

Mr. MULLANY: I wish to point out to the leader of the Opposition also that the children of poor people mix with and

come in contact with poor people, and I say that coming in contact with poor people they are just as safe and just as well protected as they would be if coming in contact with those in better financial circumstances. I think that reference was a most unfortunate one for the leader of the Opposition to make.

Hon. Frank Wilson: You have mistaken the point altogether.

The DEPUTY SPEAKER: Order! I must ask the hon. member to address the Chair, and not the leader of the Opposition.

Mr. MULLANY: I regret that I was carried away by my feelings, Sir. I hope it will be admitted that I have done well in commenting on the course pursued by the leader of the Opposition to-night. Undoubtedly, when the leader of the Opposition made that statement, he was not concerned about the particular case which we are discussing. He was not then concerned as to whether or not there are likely to be further outrages of this nature. He was dealing with the matter from a party standpoint, and I must say I am surprised to find a gentleman such as the leader of the Opposition making such a direct appeal to class prejudice for simply nothing but political purposes. As I stated at the outset of my remarks, I regret that the motion has come forward in the shape in which it is before us to-night. I wish to say that personally, had I been in the position occupied by the Attorney General, I do not think I would have liberated this man Bennett.

Hon. Frank Wilson: Oh!

Mr. MULLANY: However, I am not going to vote for a motion of censure upon the Attorney General, because I recognise that in that hon. gentleman we have a man who has made a study of these subjects, a man who has gone much more deeply into subjects such as this than has probably any man in Western Australia, or perhaps I might say in the Commonwealth of Australia. The Attorney General is in a position where he has to review cases that come before him. He may not listen to or be influenced by outside public opinion. I must say that the member for Perth (Mr. Dwyer), in

his speech to-night, placed an entirely new complexion upon this case from a purely legal point of view. The Attorney General in his position, we all know perfectly well, cannot be influenced by outside public opinion. If he were so influenced, he would certainly be unfitted for the high and responsible position which he holds. Therefore, whilst I myself would not have taken the responsibility of liberating Bennett, my hesitation in that respect would perhaps be due to the fact that I have not gone deeply into the subject, that I could only judge it on the surface, so to speak, not being in a position to judge the case as the Attorney General undoubtedly is. The hon. gentleman has taken the responsibility of liberating the man, and a similar responsibility in other cases; and I wish to say that if even one of the men whom the Attorney General has liberated has lived a clean and good life up to the time when his sentence would in the ordinary course have expired, undoubtedly it is a credit to the Attorney General to have set such a man a liberty and given him another chance in life. I think members here should vote not upon what they hear outside, or what they see in the Press, but upon what the discussion has led them to believe, upon the evidence which has been placed before them. For myself, whilst I do not see my way clear to agree with what the Attorney General has done, and perhaps would not myself have done it, yet I cannot feel myself justified in supporting a motion such as that brought forward by the leader of the Opposition.

The ATTORNEY GENERAL (Hon. T. Walker—Kanowna) [9.43]: There has been so much said upon this subject, and really the grounds that I had purposed traversing myself have been so ably covered by previous speakers, that I scarcely think it is necessary to detain the House at any much greater length. First, permit me to say that I feel somewhat keenly the situation I am in. I fully accept the disclaimer of the leader of the Opposition that there is nothing personal in his attitude towards me; and I feel somewhat grateful for the intersprinkled words of praise and recognition of what-

soever good qualities I may apparently possess, from the speakers upon the Opposition side to-night. But I can realise that no graver censure can be levelled against a man occupying a seat in the Government than that which has been aimed at me. Whether it is done from non-personal or non-party or non-political motives, matters little. It is a grave accusation that I am not fit for the position I hold, because of the danger I am to the children and to the women of this State.

[The Speaker resumed the Chair.]

The ATTORNEY GENERAL: What more cowardly accusation can there be against a man if it cannot be backed up by positive evidence. An accusation like that, even if it be refuted by vote to-night, is a stain on my history for the future; it will everlastingly be said that it was an accusation levelled against me, and that "for the sake of the protection of our children, and our women, we have to charge you with inability." However a man may have tried through years to fit himself for a public position, and to carry out the noblest ideals he possesses, however his record may have won the appreciation of those who know him best, there is something in the unwarranted accusation such as the leader of the Opposition has hurled against me that tarnishes forever one's own feeling in the doing of his best in life, and tarnishes the respect of his fellow men for him. One cannot but regret it the more because one feels convinced that he is creating public excitement. It is taking up the cry of, may I say with all respect, the thoughtless in the multitude. If there is one thing that the excitement of the public should not tarnish, or touch, or mutilate in any form, it is the administration of justice. That is the one atmosphere in the world which should be unperturbed. Where clearness of judgment and the healthiness of impulse are in demand, it is in the adjudication upon the fate of one's fellow creatures. Unfortunately for me, and I frankly admit it, I take this view of men of the Bennett stamp. Whether it is the result of study, the result of a different nature, or whether it is because I have

tried to keep in with the spirit, and with the progress of the times, or whatever the cause, I cannot help but make a distinction ever between the crime and the perpetrator of it. I cannot isolate myself from the lowest human monster that wears the shape of man. That may be a misfortune of mine but it is not one that comes to me lightly. It is the result of long years of study and I am convinced I am right. The lamentable feature of events such as this public agitation is clearly and demonstrably that it tends to produce in the community that neurotic state, that disease and perturbation of the nerve which, acting through sexual channels, produce these very sexual offences. That, of course, being an assertion from me may be discounted, because whatever I say must be discounted, and whatever I do must be under-valued. Therefore I have fortified myself with the statements of those who have given years, nay a lifetime, to the study of these questions. George Ives has written a history of penal methods and apropos of the present occasion it is as if he had written it in anticipation. He says—

And so, when some accident or some private feud reveals a case of sexual abnormality, and thus sets the clumsy, indiscriminating law in motion, there can be little doubt but that it prompts and brings about those very practices it is supposed to stay.

It is universally testified that undue excitement acts more directly in the production of sexual offences than almost anything else. We are drawing the attention, the imagination of the young of this State to these particular offences. We are awakening their latent impulses; we are linking impulse with imagination and we are stirring the nerves from that calm that is always an accompaniment of virtue. It is the method of being unable to act rationally, of doing good without making a noise about it, it is this very thing that is sowing in the community the seeds of an outcrop of offences of this kind. I would protect the community by humane and wise and scientific methods in

the treatment of the criminal instead of vindictive cruelty. As we hear these imputations and accusations, we feel that time has run back, and has taken us to the period when punishment was the universal order of the day, and was revelled in. The same author gives a picture of the time when a vindictive spirit punished a man, never set him free, and never believed he was capable of reform. I ask permission to read a little account of that time. The volume speaks of the time when transportation was carried on to this very State. I do not want to commit a sin similar to that of Lord Beauchamp; I only wish to go back to the time when criminals were sent to this State in shiploads. The wonder is how they have been merged into society. They became honoured and noble. Shiploads of them were brought here and all had the same chance of getting out of gaol, and once they got out of the Macquarie days they mingled with the general social life and grew to nobility and utility of character. I want to read this to hon. members—

The great prophylactic and social "remedy" of those rough times in which transportation took place was beating people in various ways. The children were beaten at home, the boys were flogged and birched in the schools; the servants were frequently thrashed in the country districts; the prisoners in the gaols, both men and women, were commonly whipped; and all disciplined men of the fighting forces were knocked about until their skins became as red or blue as their jackets, and were sometimes even maimed to death. Our forefathers made their punishments to be as public as possible. They were not over-sensitive about witnessing suffering, they believed firmly in the old deterrence theory—

The theory we have heard so much of to-night,

and did their best or worst to make the law's grim terrors tangible. Dr. Johnson observed in the well known passage: "Tyburn itself is not safe from the fury of innovation. Executions were intended to draw spectators;

if they do not, they do not answer their purpose. The old method was most satisfactory to all parties; the public was gratified by a procession, the criminal was supported by it." Why is all this to be swept away. Keeping to facts they found that pockets were being picked beneath the very gibbets on which thieves were being strangled. . . . It was expressly ordered that convicts were to be whipped as publicly as possible. Bentham desired that the "instructive ignominy" of prisoners should be witnessed by as many people as possible. Hence executions were public parades and prisoners were flogged through the open streets. In the earlier period they were not condemned to receive a definite number of strokes, but were ordered to be flogged throughout certain journeys—as from Newgate to Tyburn.

I need not read further. Hon. members will remember that not many years ago, just prior to the reign of Victoria, there were no fewer than 200 offences for which men could be hanged. That has passed away and with it the number of hangings. Criminal punishment has decreased; in other words people have grown more moral in proportion as humanity has grown more just and charitable. There can be no question about it, and therefore I deprecate absolutely this cry. I have acted in accordance with the law, but, thank goodness, it has been, too, in accordance with my heart. I have no sympathy for the crime for which Bennett was convicted; no sane man can have, but I do say that it is possible that a man in whom you have instilled a sense of gratitude, and whom you have set on the first rung of the human ladder of betterment, may be cured even of such evils that we call moral degeneration. Now let me draw attention to what has been said by the member for West Perth (Mr. Allen). He has taken these depositions and he says the filth of them, the horror that they excite, are such that it does not matter to him whether the minor or the major offence was actually proved at the trial.

In the morning's issue of the *West Australian*, a paper supposed to be calm and deliberate in its utterances, and which ought to have at least some respect for those distinctions that the law itself makes, says it does not matter to the public whether Bennett's offence be a mere indecent dealing or a case of carnal knowledge, the man ought to be in gaol.

A. R. Allen: I said in the asylum.

The ATTORNEY GENERAL: What? Is our friend coming back to that? I rejoice in hearing him say there are some people to whom the gaol is absolutely the exquisite expression of torture of humanity. It is a crime on society to put the victims of mental and moral disease in such a place. I am not going to keep the House long, or I could quote a great deal in support of that assertion. But the misfortune is that at the present time our asylums will not judge those cases fit for their walls which do not establish the external evidences of unsoundness of mind. I am endeavouring to convince the public, and I will if I am so fortunate as to live long enough, that it is absolutely necessary for us to turn our attention to prison reform in that direction, that we shall make a distinction between criminals from selfish motives and criminals from diseased nervous influences. There are numbers of people daily being hanged because they are mad, and in their madness have committed crimes, notwithstanding which there is no detection of their madness. It is asked why did I not make some such provision in Bennett's case. Unfortunately, neither the Lunacy Act nor the Prisons Act will allow me to transmit a man from gaol to the asylum.

Mr. George: You could have waited and introduced a Bill giving you the power.

The ATTORNEY GENERAL: Waited while people are rotting in gaol; waited till my fellow men got up to that standard and recognised and urged the necessity for it? No. I say you should not keep as a criminal in gaol a man who is in there simply because he is a sufferer from disease.

Mr. George: He is a menace to society.

The ATTORNEY GENERAL: They have said that of every kind of offender in days gone by. Every man was a menace to society. It was for that reason the poachers were sent from the old country to Western Australia, because they were a menace to society. Men with political opinions not agreeing with the established orthodox views at Home were sent out to Australia in convict ships, and that was the cry always: "They are a menace to society." If we can cure these people let us do so. I want my friends opposite to be fair to me. I do not take the credit they would give to me. I cannot accept their statement that I have been liberating prisoners wholesale. I cannot even go so far as to say that I have done one whit more than my predecessors have done in this respect, and in regard to these very same offences, sexual offences. I have not gone so far in the matter of liberation of such offenders as my predecessors did.

Mr. George: A pity it was not known in their time, or they would have had it, the same as you.

The ATTORNEY GENERAL: There was the difficulty. In that very year in which Bennett was sentenced to imprisonment for life, an old man was brought up and charged with dealing with his own grand-step-children, and the verdict was "guilty," just as in the case of Bennett. This old man was found guilty of indecently dealing with those who were his own kith and kin. And yet he was not sent to gaol at all, but was released upon his own recognisances.

Mr. George: Shame on those who did it.

The Premier: You were a member at the time, and you ought to have known of it.

The ATTORNEY GENERAL: Shame on those who did it. Yet I am accused of setting myself above the judge, of taking him to pieces and criticising him and ignoring him. But it was a judge who did that, the same judge who sentenced Bennett to imprisonment for life.

Hon. Frank Wilson: It was not the Government who did it?

The ATTORNEY GENERAL: No, the judge. I am not going to accuse the Government which immediately preceded this Government, but there was a Government in office at one time who, when a man was arrested and charged with an offence more beastly and brutally disgusting than even that of which Bennett was convicted—for it is the word more than anything else that shocks in Bennett's case, but this was an actual deed, where boys as well as girls were corrupted—this man was charged and then conveniently helped to escape out of the country straight off.

Hon. Frank Wilson: By the Government of the day?

The ATTORNEY GENERAL: By the authorities of the Government, and with the knowledge of the Government of the day.

Hon. Frank Wilson: What Government was that?

The ATTORNEY GENERAL: I do not wish to mention names, indeed I am trying to prevent the names of prisoners being mentioned. But let me take one or two other cases.

Mr. Hudson: The member for Murray-Wellington is enlightening the leader of the Opposition as to the particular case.

Mr. GEORGE: On a point of order. The hon. member has no right to credit me with any such explanation. I think it is altogether out of the question. He has no right to put an explanation of anything of that sort upon me, and I claim the protection of the Chair.

Mr. SPEAKER: Order! The hon. member is not justified in rising.

The ATTORNEY GENERAL: I have two cases here, both of rape. One was in 1903, but both Mr. Keenan and Mr. Nanson, my predecessors in office, reduced the sentence. Mr. Nanson finally let this prisoner, who committed the rape, go free. In another case an accused found guilty of the same offence was sentenced to seven years' hard labour on the 11th August, 1908, and was liberated in 1909. That was for rape. I was not the Attorney General.

Mr. George: Nor I, or he would not have been liberated.

The Premier: All your newspaper hacks were keeping quiet.

The ATTORNEY GENERAL: That is the difficulty. They were asleep then, and knew nothing. It is made to appear that I am unfit for my post, because I have done less in that matter than my predecessors had done.

Mr. George: You have shocked the country, anyhow.

The ATTORNEY GENERAL: The newspapers have taken it up. Unfortunately, I have those who do not admire me or care for me or respect me or have any affection of any kind for me. They are on some sections of the public Press, and they lose no opportunity of pouring out their vials of spite and wrath against me. They start these things going. And the marvel is that one paper which professes to follow the maxims of the late Mr. Vosper, a paper founded by Mr. Vosper—

Mr. George: And once conducted by yourself.

The ATTORNEY GENERAL: And once conducted by myself. I am thankful to say I knew Mr. Vosper. This book I have in my hand was given to me by Dr. Jamieson, a friend of Mr. Vosper, and I have other works which were given to me by Mr. Vosper, who held the views I hold. We have conferred often on the subject, and now the paper which that gentleman started, and which professes to hold his views, as testified to by the legend over the entrance door, that paper has gone out against his views and his sympathies, his aims and aspirations of life, and now cries all the way through for the uttermost drop of the blood of the sinner. That is the position that paper is taking, and it is glad to make me the victim. The marvel is that in a civilised State like this a paper that gets its circulation through an appeal to the vulgar senses of the thoughtless of the community should be able to dictate to the leader of a national party the course he is to take. "Go for Walker" says the paper—and he goeth. Public life is reduced to a sad strait indeed when

we have that condition of affairs. I would not care how much they went for me if they told the truth, if they stuck to facts, if they did not insinuate as well as utter what is absolutely untrue. It has been made to appear that I misled the House when I spoke the other day.

Hon. Frank Wilson: It looks very like it.

The ATTORNEY GENERAL: Why?

Hon. Frank Wilson: I have already given you the reason—because you dropped some words from the judge's statement.

The ATTORNEY GENERAL: We will come to the judge's statement by and by. It has been made to appear that I misled the House the other day in my statement as to the provisions made for care and attention to be given to the prisoner when he left the gaol. Last Sunday, in one of the papers, I was accused of having caused His Excellency the Governor to violate the rules laid down by his Letters Patent, in that I had advised him to liberate Bennett on conditions. Unconditionally, Bennett was released on the grounds already stated this evening.

Hon. Frank Wilson: Your speech in the House a week ago inferred that there were conditions.

The ATTORNEY GENERAL: Nothing of the kind. My speech told what I had done, and what Major Head had done in this matter for the purpose of doing something extra in addition to what the law requires. It is no part of the law that I should take charge of a prisoner when he leaves; it is no part of the law that arrangements should be made for him to go to Melbourne or that he should be looked after there. All these provisions were made, but for what reason? Because it was the desire of Major Head and myself that if it were possible this man should have a chance to go right; he should be taken from his old associations away from the surroundings that have produced disaster to his life and to others.

Mr. George: Did not these proposed conditions have some influence upon you?

The ATTORNEY GENERAL: I say distinctly, in the exercise of my duty as Attorney General reviewing the evidence as submitted to-night, I could do no other than release him. That was a demand made upon me by the law in the office I fill.

Mr. Elliott: Did you consult the judge?

The ATTORNEY GENERAL: I do not want to be led off my track. I am on my trial here to-night—

Mr. Elliott: You have come to this point now.

The ATTORNEY GENERAL: I have not. Let me deal with one point at a time and in my own way, as the hon. member would desire if he had to reply to a charge like this, made by a party and a crowd behind the party outside.

Mr. George: It is a great pity anyhow.

The ATTORNEY GENERAL: I want to draw attention to exactly what passed between myself and the Salvation Army. I have been accused in the Press and elsewhere of having misled this Chamber when I spoke. When I spoke the other night, I could not say all or nearly all that was necessary to be said. I was taken entirely by surprise; no warning of the attack was given to me; I had no papers with me, nothing to refer to, and I had simply to speak on the impulse, and amid a torrent of interruptions.

Mr. George: We understood that.

The ATTORNEY GENERAL: And because I did not state everything as fully as I have done since, I have been accused of changing my ground simply because I have been fuller in my explanations. This is what Major Head wrote to me—

I beg to state that whilst in the East I interviewed the head officer of our social work (Colonel Hoskin) regarding his willingness to assist the prisoner Robert Bennett. Should he be shown mercy and granted release, you will be pleased to know, the Colonel is quite prepared to have him met at the boat, and provide a home for him. He will also interest himself in the procuring for him suitable employment so that he

will not be exposed to any temptation through being friendless. I am prepared to secure his boat ticket and take charge of him just prior to the boat leaving, so that he will not be free at all in the West. A Tuesday's boat would be preferable, as the mail steamer does not touch at Albany. If at all possible I would like about three days' notice of the prisoner's discharge so as to fully complete all arrangements in good order.

It is no part of the law, or condition of the release. It is what Major Head is doing out of the goodness and bigness of his heart. Bennett goes over to Melbourne, Major Head stays with him until he leaves in the boat. When he conferred with Bennett after his release, the man wonders whether he shall go to the Army or to his relatives—to his mother and his sisters. The Major advises him to go direct to his mother, and make a clean breast of everything, and he gives him a letter to take to the Colonel afterwards. The Colonel writes back to me, not one letter but several letters, but I will venture to quote only one or two—

Re Bennett—the above-named man called in at the office to see me and I received your personal letter of introduction. I have had a long talk with him, and he informs me that he is staying with his mother and relatives at Prahran, and he is not in any immediate need.

Then he tells of the work the man has got, and the work that may open to him, and adds—

With you I truly believe that he has learned his lesson, and should prove to be a good citizen in the days to come. I understand he is writing you personally to thank you for what you have done, and also to Mr. Walker. God bless you. I am, yours faithfully, D. T. Hoskin, Colonel.

I submit that this is a full substantiation of everything I said when I spoke the other night. Let us take another misrepresentation that I misquoted the judge. I venture to say that I did nothing of the kind. The judge undoubtedly said what was attributed to him by the leader

of the Opposition, and he also said what I say. I say that in passing sentence, the judge showed his disgust with the law as it then stood, because of its severity.

Mr. George: That is the flogging.

The ATTORNEY GENERAL: We shall see about the other. I will read the judgment again, drawing special attention to the portion my friend did not emphasise.

Hon. Frank Wilson: I emphasised the lot.

The ATTORNEY GENERAL: His Honour said—

I wish I could stop there—
That is after delivering the sentence of imprisonment for life.

Unfortunately I have a difficult duty to perform, and one which I can only describe as a repulsive obligation. Under a recent Act of Parliament I am bound to pass on you a further punishment. You have committed an offence under Section 185 of the Code, and it is provided by the Criminal Code Amendment Act that in cases such as yours the Court shall, in addition to any other sentence provided by the law, pass a sentence of whipping. I say it is a repulsive task, not because of any objection I have to flogging but because I venture to say, no judge in any of the other States would think of ordering a punishment of this kind on a man in your state.

I repeat those words "on a man in your state." That is emphasised all the way through. I ask hon. members' attention to the fact that he is drawing attention to the state of the man; he is not a normal culprit but an abnormal person, and he says, no judge in Australia would be ordered to give a flogging to a man in the state Bennett was in at that time.

Hon. Frank Wilson: That is right.

The ATTORNEY GENERAL: The judgment continued—

If the evidence of Dr. Seed is correct you are a weak-minded man, and I am quite sure he is correct in saying the operations you have undergone tended to increase your mental infirmity. Even

if you are not sane at the present time, I feel convinced after hearing the evidence, that when this punishment is inflicted, there will be no doubt as to your madness after it.

Mr. George: That is the flogging would drive him mad.

The ATTORNEY GENERAL: And the punishment.

Mr. George: The flogging particularly.

The ATTORNEY GENERAL: His Honour added—

However, I must do as I am directed. The punishment says whipping. It would be much better in my opinion to use the term flogging; it would give the people a much truer idea of the meaning. According to the law the strokes must not exceed 25; but I am allowed to use my discretion. I must assume the legislators responsible for it knew the law and the nature of the punishment prescribed and the number of strokes judges award.

Mr. George: They understood it when they passed it anyhow.

The ATTORNEY GENERAL: His Honour went on to say—

I have looked through the records for the past 10 years, and find that the only implement ever used is the cat-o'-nine-tails. I therefore direct the cat-o'-nine-tails to be used. I can find no record of a number of strokes fewer than nine, and I am going to use my discretion to the fullest extent. I therefore limit the strokes to nine and direct accordingly.

Now comes the sentence I have quoted—

All the facts of this case—
not the portions in relation to the whipping—

All the facts of this case will be at once communicated to the Attorney General and no doubt the fullest inquiry will be held.

"The fullest inquiry," not as to the whipping, but the fullest inquiry. What can that mean but a review of all the case and all the facts?

Hon. Frank Wilson: As to the mental condition.

The ATTORNEY GENERAL: Of course

Hon. Frank Wilson : Why not complete it?

The ATTORNEY GENERAL: If I am to view the facts as to his mental condition, I have to consider the nature of the sentence, and that that is the meaning of the judge's words, we see by what follows—

It will be very well indeed for you if you do not end your days in prison, but in the lunatic asylum. After that—I take it that is after the inquiry—

After that the responsibility for your fate will pass from my hands.

If that is not a clear direction to relieve himself of the responsibility of the ultimate fate of the man, what is it? Yet I am accused of misrepresenting the judge, of word playing and word twisting to injure me in whose behalf? Does it help to protect the children to lie about me? Does it preserve the chastity of the little ones to falsify facts? If this is so, it will be establishing virtue by violating the truth.

Mr. Elliott: In face of that did you consult the judge?

The ATTORNEY GENERAL: I will come to the hon. member's question.

Mr. George: Who are you accusing of having violated facts?

Mr. SPEAKER: The Attorney General is addressing the Chair.

Mr. George: He accused us of having lied and misrepresented him.

The ATTORNEY GENERAL: Which is true.

Mr. SPEAKER: Order !

Mr. George: It is not true.

Mr. SPEAKER: Did the Attorney General state that members of the Opposition lied regarding him?

The ATTORNEY GENERAL: No, misrepresented and twisted the facts and violated the truth.

Mr. George: I am sorry, but you did.

The ATTORNEY GENERAL: I am asked by the hon. member for Geraldton if I consulted the judge. Repeatedly I have consulted the judges—

Hon. Frank Wilson: In this case?

The ATTORNEY GENERAL: And on some occasions—

Hon. Frank Wilson: In this case?

The ATTORNEY GENERAL: Stay a minute.

Hon. Frank Wilson: In this case?

The ATTORNEY GENERAL: Do give a man fair play.

Hon. Frank Wilson: Answer the question.

Mr. Elliott: You are shirking the question.

The ATTORNEY GENERAL: I am not. I say I have repeatedly consulted the judges in some cases, and I have been politely told by one of the judges that it is not his business, and that the exercise of the prerogative of mercy is the function of the executive of Government and outside the judiciary, and that it is the responsibility of those upon the Executive to advise His Excellency upon that, since they have given their verdict. I have been informed of that by the judge, and I have the letters down in the department, and hon. members can see them if they wish. In these circumstances you are not going to be repeatedly snubbed, if I may use that expression, and I do not mean it in its rude sense, by again sending up a case to the judge. We have the depositions. My rule is to exhaust any source of inquiry that is open to me. Nothing that I can get out do I neglect. I get the prison records, the report of the gaolers, the report of the Crown prosecutor, and I also have the advantage of the brief and the depositions, and all extraneous information that I can get hold of. I sometimes consult the police when it is necessary, and wherever a fact is doubtful, there do I make inquiries. But let us look at the nature of this case. It was absolutely unnecessary to go to the judge. Even if I had done so I could not have consulted him because the judge is Mr. Justice Mac-Millan, who is away in England at the present time, and I could not get there at the time I released Bennett. It was not necessary for me in this case to go outside my common sense or the facts revealed by the evidence. The evidence has been reviewed by the hon. member for Perth (Mr. Dwyer) and I need not go over it all again. However much members may be shocked by the enormity of the offence, its enormity does

not constitute the offence. There is a certain specified offence called carnal knowledge, that is an offence which has to be proved in the way that the Act requires. I defy any lawyer in the world to say that the facts given in the evidence or in the judge's notes establish this charge legally against this man. If they do not establish this charge, do they establish anything else? I say yes, most decidedly, and that what they do establish is a charge of indecently dealing. They establish an offence for which the maximum punishment provided in the Criminal Code is three years. I find that according to the facts, if there had been a criminal court of appeal, the verdict would have been upset, and a verdict on the minor offence would have been substituted, and that under this the maximum penalty would have been three years' imprisonment. If Bennett got the full penalty of three years, the mark system would have taken away a fourth of this, and he would only have been in gaol a little over two years. As a matter of fact, however, he had been in gaol for over three years. Now, with the law before me, and sworn as I am by oath of office to administer the law, when the law says that that penalty for the offence, which the facts prove, is only three years, could I, with a clear conscience, and mindful of the performance of my duty allow this sentence to go on indefinitely? I must obey the law, and I need not consult any judge as to that. There is the plain, clear fact. Bennett was not legally proved guilty of carnal knowledge which would have entitled him to have received the longer sentence.

Mr. Elliott: Are you reversing the jury's verdict and the judge's sentence?

The ATTORNEY GENERAL: That is repeatedly done. The judge is bound to sentence on the verdict.

Mr. Elliott: They have heard the evidence, and you have not.

The ATTORNEY GENERAL: Do not rush at me in that way. I say that the judge is bound to carry out the verdict given by the jury.

Mr. George: He need not give the maximum.

The ATTORNEY GENERAL: I want again to point out that he could give the

maximum with the knowledge that all the facts were going before the Attorney General, and that the fullest inquiry would be made, and that then all responsibility would be taken out of the judge's hands.

Mr. George: And yet the judge says he is unfit to live.

The ATTORNEY GENERAL: He did, but I cannot understand his saying so. I do not know why he said it, for, almost in the same session a man for a similar offence only got five years, and for indecently dealing another man was let off on his own recognisances by the same judge.

Hon. Frank Wilson: It is a question of circumstances.

The ATTORNEY GENERAL: Does the hon. member wish to say that he knows all the circumstances of Bennett's career and life. Let me protest—

Hon. Frank Wilson: I know a good deal about it that the Attorney General ought to know.

The ATTORNEY GENERAL: Let me protest against the method which has been adopted by the hon. member.

Hon. Frank Wilson: Protest away.

The ATTORNEY GENERAL: I know that the hon. member is indifferent, provided he can shoot an arrow into another, no matter how poisoned it may be. He cares not what else may be done in re-tort. It is not part of my duty, nor part of the hon. member's duty, to take into account rumours as to the enormities of Bennett's past life. I have been accused of misleading the public by saying that this is his first offence. I said so in the House the other night. It is his first offence.

Hon. Frank Wilson: His first conviction.

The ATTORNEY GENERAL: The first offence that this House can consider, the first conviction and the first charge.

Hon. Frank Wilson: Consult the police at Guildford.

The ATTORNEY GENERAL: I have consulted the police, and had the police been able to obtain evidence, they would have laid charges against Bennett, but they could not obtain the evidence.

Hon. Frank Wilson: Ask the people of Midland Junction.

Mr. George: They have found the victims, anyhow.

The ATTORNEY GENERAL: These are the men who want to preserve the law, these are the men who claim that they are the guardians of the law, and yet they are trying a man without putting anybody into the witness box on pure suspicion and mere rumour, and upon accusations that may or may not be borne out by the evidence. That is how they treat a man. They call this British justice. It may be the hon. member's estimate of British justice, but it is not Australian fair play.

Mr. George: You interfere with British justice, that is the trouble.

The ATTORNEY GENERAL: The hon. member makes a most uncalled for accusation there.

Member: A cowardly one.

Mr. SPEAKER: Order!

The ATTORNEY GENERAL: I have not interfered with British justice. I have performed British justice, and I have been the instrument of British justice. Even now, in a matter of British justice, I am complaining of the injustice that these people are doing to this man. If they have charges and can prove them, good and well. If they can get evidence to bring the man to book, good and well, but let them not condemn a man for ever on matters which are not ripe enough or clear enough for any decision to be come to against him.

Mr. George: That is fair play for the criminal, and nothing for the child.

The ATTORNEY GENERAL: How easy it is to pose as a saint standing upon one's own dunghill with a cast iron halo around one's head, and giving voice to sentiments of this sort. It is delightful to pose in that way, but do you do any good to the child by wronging a man, even if that man be wicked? Do you do any good to the child by making your infamous charges without proof against him. That is not the way to protect innocent childhood. That is rather the way to degrade it and teach it an evil lesson. Let us have fair play and

common sense. I am weary, but I feel absolutely confident that the common-sense, at all events, of fair-minded and right-minded people will aver that I have done what was unavoidable in the circumstances, what it was my bounden duty to do; and if, in addition to my bounden, clear duty, I have taken a little extra pains in order that I might confer with Major Head and help the man a little, to find some chance for him of protection when he got out of gaol, I do not consider that that in any way sullies the act I have performed. It may throw a little foolish sentiment around it; but to me it is an important thing, as far as it can be done, to see that when a man leaves the gaol he is not dogged by the police, or hunted by the officers of the law or by those people who cannot give a man a fair start once he has gone through this ordeal. Now, I have tried to do that in Bennett's case as I try to do it in all cases if it is possible. Because this is done, because we try to help humanity instead of jumping on them, it is said we are not fit to hold the offices that we hold. There may be a change, there may be an alteration from the old methods adopted in the days gone by, from the hardness of heart that kept people in gaol until our prisons became like the Bastille of old France where, indeed, people rotted incarcerated. There may be a change from those days, but it is a change that is helpful not only to the prisoner, but to manhood and womanhood and childhood. In proportion as heart has mingled with judgment in the treatment of the unfortunate everywhere, in proportion as crime has diminished and disease itself disappeared, social help has taken the place of disorder, and we are getting now a condition of society where it is possible to breathe in spite of the sprinkling of crime that must come as a remnant from the disordered past. We have changed in that direction, but it is a change in the direction of new growth. Just as science has come into every other department of life, as science has improved agriculture, manufactures, commerce, and shipping, so science is improving the treatment of

the criminal and the diseased, and so science is going to restore to healthy life those who have pathologically departed from that life. It is part and parcel of the movement I am proud to serve, to help to bring about a system of humanity instead of a system of vindictiveness and savagery in the treatment of the unfortunate of mankind.

Hon. FRANK WILSON (Sussex—in reply) [10.45]: I must say we are all indebted to the Attorney General for his lecture on criminology, and the views which he pronounced in making his defence to the motion I moved this afternoon will to some extent meet with ready support from a large number of people in this State. But I must say that as a defence to the charge which I made against the Attorney General in the administration of his office, those views cannot be accepted by me; nor can I accept the Attorney General's appeal to the sentiment of members of this House as being a satisfactory solution of what I term mal-administration. The Premier, of course, took up the attitude usual with him when he cannot answer a charge successfully, of indulging in personal abuse. He abused me as he generally does, for having dared to give notice of a motion of this description. Then he took up the time of the House for at least 20 minutes in showing how badly I had handled the business, and how actually I have done wrong in treating him courteously and giving him an intimation of the motion I intended to move. Why, from time immemorial it has been the custom of leaders of the Opposition, when tabling an important motion of this description, to notify the Premier, as the leader of the House, beforehand. It is a matter of courtesy, and surely a vote of censure upon a responsible Minister of the Crown was of sufficient importance to warrant the action I took, whether or not the Premier liked to construe the motion into one of no-confidence in his Government. It is not for me to decide what construction the Premier is to put upon my motion. It is for me to do my duty. I did my duty on this occasion. I tabled my motion and

gave the Premier notice of it an hour before the House met. I also advised his colleague, the Attorney General, a quarter of an hour before the House met, when I heard that the Premier was not here. If he had then decided to accept the notice as one of want of confidence in his Government, his manifest duty was to have adjourned the House and not proceed with any further business. But no. The Premier waited until the evening went on with the ordinary business of the House, and then, as we were dispersed in the corridor, he said to me, "We will take that motion first thing to-morrow." I said, "Very well." Now the Premier claims that he was justified in taking up this attitude, justified in stating that this is a motion of no-confidence and that therefore he is entitled to go all round the bush, claim the fullest license to attack me and to go back into ancient history and to previous Administrations. But the question which we have to decide to-night, which I have asked hon. members of this Chamber to decide, is whether the Attorney General was right in his action in releasing Bennett. Side issues have no bearing on the case; but of course the Premier, as usual, hides up his tracks by making counter attacks and evading the one question which my motion covers. We have the member for Perth endeavouring to throw some legal light on the intricacies of the position. He said that he was bound to come to the same conclusion as the Attorney General, and that was that Bennett was wrongly convicted, that he should have been charged with indecently dealing, for which the maximum penalty is three years, instead of imprisonment for life. He also declared that the prisoner had been made guilty of, and had had to pay the penalty for, all the other offences of a similar nature which were committed in that locality at that time. His able advocacy went, to my mind, to show that the judge and jury who tried this case, after three days were in his opinion, wrong in their verdict, and that the Attorney General must, of necessity, be right.

The Premier: It is not the first time that the finding of a jury has been upset.

Hon. FRANK WILSON: If the prisoner was convicted on wrong evidence he had the right to appeal at the time.

The Premier: He had not; only on a point of law.

Hon. FRANK WILSON: The member for Perth then said no man sitting as a jury could have convicted the prisoner of the major offence. But the jury did. They were 12 good men and true who sat on this case, just as other juries have sat in other cases of a similar character, and the best judge in the State tried the case. The man was convicted of the major offence, which the member for Perth says no man could possibly do.

Mr. Dwyer: And I repeat it.

Hon. FRANK WILSON: We were asked whether Bennett was not deserving of some sympathy. Sympathy to the extent that should be given to any man who is of criminal bent, or who is suffering from mental incapacity. But that is no reason why we should let such a man loose on society and endanger the children of our State. Is it any reason why we should give this man his absolute liberty, as the Attorney General now tells us was done? Is it not an argument that no matter what sympathy we held for this criminal, we should still keep him under restraint, so that he might not do further damage? The Attorney General has, of course, as he always does, appealed to the feelings and sentiments of his audience, and he spoke about the grave accusation which is contained in this motion. I admit that, and I accept the responsibility of it. I have heard nothing in reply which will warrant me in retracting one word from the motion which I have submitted for the acceptance of the House. The Attorney General said it is cowardly if it cannot be backed up by positive evidence. I have backed up my statements with positive evidence. I have referred to the judge and I have shown how he, in his remarks, said that whether this man was sane or not, he was a person who should not be at large. I have pointed out that after due inquiry, whether the evidence was such as

the member for Perth claims for it or not, the judge sentenced this man to the full penalty provided by law, namely imprisonment for life. Will any one tell me that the Attorney General is in a better position to judge of the justice of this case than His Honour Judge McMillan, who tried it? Will any one tell me, or believe for a moment, that a man in a responsible position like the Attorney General, dealing with such a serious matter as this, would act absolutely on his own initiative without consulting the judge, or if, by any possibility, that judge happened to be absent, he would not have consulted that judge's deputy? In all the years that I have been connected with the Government of this State I have not known one case of this character without, first of all, the judge concerned being asked for his advice.

The Premier: You cannot say definitely whether it has been or not.

Hon. FRANK WILSON: In 72 out of the 74 cases on the list of remissions moved for by another place last session, no questions were asked of the judges as to whether they considered it advisable that the sentences should be remitted. What is the good of dwelling on the matter? The minds of hon. members are made up. A caucus meeting has been held and a decision arrived at. The Premier said that so many cases were tried, and so many were liberated during previous Administrations, but I guarantee that no such case as this was ever liberated, and he knows full well that every case must be considered on its merits. It is no argument to quote a case unless you give the surrounding circumstances. The Attorney General says that he is adopting scientific methods to reduce crime. How? By letting loose these criminals, men who have been stated to be practically insane, or semi-insane. The medical evidence in connection with this man Bennett proved that he could never be otherwise. The evidence has not been touched upon, and yet he has been turned loose on society. If we owe a duty to the children of our country, if we owe a duty to the women, if we owe a duty to the Commonwealth, are we to

consider these criminals in every place? Are we not justified in considering the safety of our children, especially where they cannot possibly get the protection of their parents. The member for Menzies took me to task and quoted some of my remarks, to prove that I was politically bent. He was indignant because I said it was throwing the children of the workers more open to danger to release criminals of this description than the children of the wealthier classes. The latter are safeguarded and watched wherever they go; they are escorted to and from their schools; their parents can afford to give them proper care and attention; but what about the children of the poor worker, or the mother who has to leave her children and go forth to do her day's work. Can the poor settler's wife, who has to set her child on a mile or a two-mile track to attend the State school in the backblocks, protect that child? When she sends the child on an errand to a neighbour's she cannot watch her. She might as well go herself if she could. There is where the danger lies. That is where these offences are committed in almost every case. When the children are away from the protection of their parents, these foul fiends enter in and pollute them, committing these unnameable offences on them.

Mr. Dwyer: On a point of explanation—

Mr. SPEAKER: This is not the time for any explanation.

Hon. FRANK WILSON: The Attorney General spent a lot of time in referring to cases which had taken place years ago. He was good enough, without much noise on this occasion, also to say that it was not his immediate predecessors who were at fault. However, he referred to two cases dealt with by the late Attorney General, Mr. Nanson. But we have no evidence, no details, none of the circumstances which surrounded those cases.

Hon. W. C. Angwin (Honorary Minister): Just as much as you have of this case, only your party did it.

Hon. FRANK WILSON: What is the matter with the Honorary Minister?

He butts in without reason, seeing that we have every little detail of the Bennett case. But what particulars have we of those other two cases? We know nothing at all about them, and yet they are brought forth as analagous, as showing that nothing was wanting in the action we are complaining about. Then the Attorney General says he could do no other than release Bennett.

Hon. W. C. Angwin (Honorary Minister): Why do you not be fair?

Hon. FRANK WILSON: The Attorney General claims that he could do no other than release this criminal Bennett, and he uses as an argument the fact that Colonel Hoskin believes Bennett will make a good citizen. I am satisfied that Colonel Hoskin does believe what he states in his letter.

The Minister for Lands: The Attorney General did not use that as an argument.

Hon. FRANK WILSON: Yes, he did.

The Minister for Lands: No, he did not.

Hon. FRANK WILSON: "Yes, he did." "No, he didn't." "Yes, he did." This is the class of debate we get in this wonderful Parliament of ours. Colonel Hoskin stated that he believed Bennett would make a good citizen. I do not agree with Colonel Hoskin, nor with the Attorney General if he thinks the same. According to the medical evidence Bennett can never make a good citizen. He will always be a danger, and there was no justification whatever for releasing him. Why, then, could the Attorney General do no other than release Bennett? He was not called upon to release Bennett. On a previous occasion he stated that he had received numbers of petitions. I asked from whom, but got no response. Petitions were attempted to be got up, but the public refused to sign them, and the mayor of Midland Junction said that he would sooner provide a rope with which to hang the prisoner than lift his hand to obtain his release.

The Attorney General: There were petitions, nevertheless.

Hon. FRANK WILSON: Then why do you not give them to us?

The Attorney General: They are on the file.

The Premier: You did not go near the Attorney General's office before submitting this motion.

Hon. FRANK WILSON: What is the use of going near anybody's office? My statements to-night have not been refuted.

The Attorney General: They have been.

The Premier: You have not made any worth twopence.

Hon. FRANK WILSON: Well, we will see what the women of Western Australia will say in connection with it, when the women give their verdict, if the Premier takes up that attitude.

The Attorney General: You ought to be leading petticoats.

Hon. FRANK WILSON: I should be very proud indeed to be the leader of the women of Western Australia. I look forward to great things from our women, and I am convinced they will not for very long be satisfied to keep my friends in office. The Attorney General in conclusion said that the judges, or some judge, had repeatedly told him that it was not in their province to advise him in regard to these remissions, etc. I have pointed out that it is absolutely in their province, and always has been the custom. I have quoted *Todd* to show this is so in the Motherland, as well as in the States of the Commonwealth. I have shown that this is the case, and that the Attorney General is wrong when he hides himself behind a statement of that description. Then he says the judge stated that after that the responsibility would pass out of his hands. I quoted rightly the last paragraph of the judge's verdict, in which he says, after referring to the flogging, that a man in Bennett's condition would not be sentenced by any judge to the cat-o'-nine-tails, adding "I will communicate the whole facts to the Attorney General, and I have no doubt the fullest inquiry will be made as to your

mental condition." That was the mistake the Attorney General made, the leaving out of the words "as to your mental condition." He implied, and still maintains, that the judge inferred that the whole business would be inquired into, including the verdict. Nothing of the sort can be raised from His Honour's remarks.

The Attorney General: The fullest inquiry.

Hon. FRANK WILSON: No, the Attorney General is wrong. And after the previous remarks of the judge, when he said to this man Bennett that sane or insane he was not fit to be at large; and after the sentence he imposed upon him, namely, imprisonment for life, can anyone put that construction upon this concluding paragraph? The motion I have moved stands as I read it to the House. It is one which, whilst I have not the slightest personal feeling towards the Attorney General, as he knows full well, I am bound to press to a division, because I honestly believe that the advice which the Attorney General tendered to His Excellency the Governor and which resulted in the liberation of Bennett was not in the best interests of the administration of justice in this State. I further firmly believe it is calculated to weaken the protection which our laws afford to our women and children, and that the Attorney General is deserving of the censure of the members of this House for the way in which he deals with these cases, and the way in which he advised His Excellency.

Hon. W. C. Angwin (Honorary Minister): In the same manner as you did with the two men for rape.

Mr Dwyer: I desire to point out that the leader of the Opposition persists in stating—

Mr SPEAKER: Order! Is the hon. member making a personal explanation?

Mr. Dwyer: Yes. The leader of the Opposition persists in stating that the prisoner Bennett had a right of appeal to the Court of Crown Cases Reserved, whereas in fact and in law he did not.

Mr. SPEAKER: Order! That is not a personal explanation.

Hon. Frank Wilson : I have had advice on it, and I say it is so.

Mr. SPEAKER : The hon. member for Perth is making a statement and not a personal explanation.

Mr. Dwyer : Well my statement is true.

Hon. Frank Wilson : So is mine.

Hon. J. Mitchell : The hon. member for Perth is absolutely wrong.

Hon. Frank Wilson : His law is bad ; that is the only thing.

Mr. Dwyer : Your law and facts are both wrong.

Question put and a division taken with the following result :—

Ayes	12
Noes	25

Majority against .. 13

AYES.

Mr. Brown	Mr. Monger
Mr. Elliott	Mr. Moore
Mr. George	Mr. A. N. Plesse
Mr. Harper	Mr. F. Wilson
Mr. Lefroy	Mr. Wisdom
Mr. Mitchell	Mr. Layman

(Teller).

NOES.

Mr. Angwin	Mr. McLeod
Mr. Bath	Mr. Mullany
Mr. Bolton	Mr. Munsie
Mr. Chesson	Mr. O'Loughlen
Mr. Collier	Mr. Price
Mr. Dwyer	Mr. Scaddan
Mr. Hudson	Mr. B. J. Stubbs
Mr. Johnson	Mr. Swan
Mr. Johnston	Mr. Taylor
Mr. Lander	Mr. Thomas
Mr. Lewis	Mr. Turvey
Mr. McDonald	Mr. Underwood
Mr. McDowall	

(Teller).

Question thus negatived.

House adjourned at 11:17 p.m.

Legislative Assembly,

Thursday, 30th July, 1914.

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Bills of Sale Act Amendment, 3R.	735
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The SPEAKER took the Chair at 4.30 p.m., and read prayers.

PAPERS PRESENTED.

By the Minister for Works : Plans showing the routes of the proposed railways from Nyabing to Pingrup, Kukerin to Lake Grace, and Busselton to Margaret River.

By the Minister for Lands : 1, Additional Uniform By-laws under the Roads Act, 1911. 2, Building By-laws of the Municipality of Perth under the Municipal Corporations Act, 1906.

QUESTION — SPECIAL SCHOLARSHIPS FOR COUNTRY SCHOOLS.

Mr. E. B. JOHNSTON asked the Minister for Agriculture: Is it the intention of the Government to give children attending country schools an opportunity of winning special scholarships, to cover a complete educational course at the Narrogin Agricultural School and the Perth University?

The MINISTER FOR AGRICULTURE replied: The Department of Agriculture has been in communication with the Education Department on the matter of granting scholarships tenable at the Narrogin Agricultural School.

QUESTION—AGRICULTURAL BANK, PROPERTIES FOR SALE.

Mr. E. B. JOHNSTON asked the Minister for Agriculture: 1, Is he aware that in advertisements of properties for sale by the Agricultural Bank only the num-