

State would be materially improved. The hospital service for many years past has been unsatisfactory. Special appeals are required to raise funds to enable the hospitals to carry on their work. Under one clause of the Bill, power is sought to solicit and receive donations and subscriptions and expend them on the welfare and comfort of the patients and staff and any other object of benefit to a hospital. We find that the same old method of collecting funds for hospitals, that of appealing to those who are sufficiently interested or generous, is to apply under the Bill now before us. If the measure becomes law the same spectacle will be witnessed in the future that has been seen in the past, namely, all manner of methods will be adopted for the raising of money, such as the sale of buttons and flowers, of raffle tickets and sweep tickets. The system will be continued in order that those who are sick may have an opportunity of being brought back to health. To Part IV, the greatest exception will be taken. Therein lies the nigger in the wood pile. It is the kernel of the Bill. No objection could be raised to the necessity for bringing our hospital legislation up to date. In Part IV., however, power is to be given to the local authorities to pay up to 10 per cent. of their revenue for hospital services, for the construction of buildings, and so on. Power is to be given to them to borrow money, and the Governor may declare the district to be served. The payment to be made by the local authorities is to be in proportion to the revenue received by them. If a proposal to establish a hospital in a particular centre is approved by the district concerned, the local authorities will be voluntarily committed to the undertaking; on the other hand, if two-thirds approve, the remaining third will be compelled, without recourse, to become parties to the arrangement. In this respect the Bill is arbitrary and compulsory. The road boards are facing a difficult position because of their responsibilities regarding road maintenance. Within the past few years the cost of road upkeep has been trebled. Motor transport is imposing such a heavy burden upon roads that the position of the local authorities has been seriously affected. In addition, I would remind the House that the subsidy provided by the Minister for Works has been reduced.

The DEPUTY SPEAKER: If the hon. member is not feeling well, he may continue his speech sitting down.

Hon. Sir James Mitchell: Would it not be possible for the debate to be adjourned, and the hon. member to be allowed to continue his speech later?

Hon. G. Taylor: Move that the hon. member be heard at a later stage.

The DEPUTY SPEAKER: I understand that has been done before, and I see no objection to its being done again.

Hon. Sir James Mitchell: I move—

That the debate be adjourned, and that the hon. member be heard at a later stage.

Motion put and passed; the debate adjourned.

*House adjourned at 10.13 p.m.*

## Legislative Assembly,

*Wednesday, 31st August, 1927.*

	PAGE
Extracts: Speaker's remarks ... ..	644
Question: Taxation and Audit reports ... ..	645
Bills: Permanent Reserve, to recommit, 3R. ... ..	645
Criminal Code Amendment, 2R. ... ..	656
Bread Act Amendment, 2R., Com., Report ... ..	666
Motion: Railway construction, Yarramony eastward ... ..	649
Return: Timber Industry, Millar's concessions ... ..	655
Papers: Bayswater Road Board ... ..	656

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

### EXTRACTS.

#### *Speaker's Remarks.*

Mr. Thomson having given notice of a question which included a newspaper extract,

Mr. SPEAKER: I just want to remind hon. members that in communicating extracts to the House it is advisable to give a summary, and not a lengthy quotation such as that which has just been delivered. It is preferable to allude to a newspaper article in such a way that it can be referred to without the country being put to the ex-

peuse of printing on the Notice Paper an enormous quotation such as that which has just been made.

Mr. North: May I ask you, Mr. Speaker, if that also applies to the making of speeches in this Chamber, and whether we would be in order in merely referring to paragraphs or epitomising them?

Mr. SPEAKER: That point does not arise out of the comments I have been obliged to make. However, it does not necessarily apply; and if it does, the time to call attention to the matter is when the point arises.

### QUESTION—TAXATION AND AUDIT REPORTS.

Mr. THOMSON asked the Premier: 1, When will the report of the Commissioner of Taxation be ready and placed on the Table of the House? 2, When will the Auditor General's report be ready and placed on the Table of the House?

The PREMIER replied: 1, About the middle of October. 2, The Auditor General is unable to determine when his report will be available.

### BILL—PERMANENT RESERVE.

Order of the Day read for the third reading of the Bill.

#### *To Recommit.*

Mr. THOMSON: In pursuance of the notice I have given, I move—

That the Bill be recommitted for the purpose of considering the following amendment to Clause 3:—“That the words ‘the Department of Lands and Surveys’ be struck out and the following inserted in lieu:—‘a special trust fund at the Treasury and to be afterwards appropriated as Parliament shall determine.’”

My main reason for this attitude is the desire that a precedent shall not be established. Government affairs are largely regulated by what has been done by previous Ministries. I do not wish to convey even the faintest impression that I am doubting the Premier's honesty and integrity: but we do not know how long the hon. gentleman may be here, and supposing that, unfortunately for himself and his party, the Premier were to be taken away, his promise would not be binding upon his successor. I desire to congratulate the member for Gascoyne (Mr. Angelo) on having drawn the

attention of the House to the Sale of Government Property Act, 1907, Section 2 of which provides, *inter alia*, that—

The proceeds of sale . . . of all other Government materials appliances, and other chattels and structures, if the original cost was debited to the General Loan Fund or the Consolidated Revenue Fund prior to the financial year in which the sale is effected, shall be placed to the credit of a trust account, to be kept at the Treasury and called The Government Property Sales Fund . . .

The Premier: In this case the property is neither a material, an appliance, a chattel, nor a structure.

Mr. THOMSON: There is a structure on the land.

The Premier: But it is the land that is in question.

Mr. THOMSON: The structure upon it is of some value. I may call the Premier's attention also to Section 3 of the Act, which reads—

All refunds of over payments in connection with charges against the General Loan Fund, the original cost of which has been charged to the General Loan Fund, and other receipts of a like nature shall be placed to the credit of the said fund.

The Premier has, as a fact, taken into Consolidated Revenue a sum of £58,000 representing a surplus from sinking fund. My desire is to show how necessary and important it is that members should be aware of the financial arrangements of the State. In my opinion the member for Gascoyne has rendered a great service in drawing attention—

The Premier: It is utterly absurd to talk of the Government Property Sales Fund in connection with the sale of land.

Mr. THOMSON: That may be so in the Premier's opinion, but not in the opinion of others. After all, we are entitled to express our views. I maintain that the Savings Bank property is Government property.

The Premier: To call it Government property under the Sale of Government Property Act is absurd.

Hon. G. Taylor: It is not Government property according to the Sale of Government Property Act.

Mr. THOMSON: I am quite prepared to argue the question even with the hon member who regards himself as the wisacre of this House in respect of what is correct or incorrect, right or wrong.

Mr. SPEAKER: Order!

Mr. THOMSON: I maintain that there is upon the land in question a structure

which cost the State some thousands of pounds, and that the proceeds from that portion of the property should certainly go into the Government Property Sales Fund. Can the hon. member who is such a wiseacre inform the House how the land can be sold without the structure upon it? If so, I am quite willing to accept his explanation and admit myself wrong.

Hon. G. Taylor: The object of the Bill is to sell land, not to sell a structure.

Mr. THOMSON: We are discussing the Bill.

Mr. Marshall: On a point of order. Does the amendment outlined by the member for Katanning come within the purview of the Title of the Bill?

Mr. SPEAKER: The motion before the House is that the Bill be recommitted for the purpose of considering an amendment to the clause. The motion for recommitment is in order. Whether the amendment is in order is a question that can be raised at the proper time.

Mr. THOMSON: I had to give my reason for craving the indulgence of the House, and I consider, with all due respect to members who have interjected, that the sale in this instance is as I have suggested. A structure on land is part and parcel of the property affected and is included in the price to be paid. The money should, and could if the Premier so desired, be placed in the fund I have mentioned in the suggested amendment. I have drawn the attention of the House to Section 3 of the Sale of Government Property Act, under the provisions of which the Premier has committed an illegal act inasmuch as he paid into revenue £58,000 that should have gone into the Government Property Sales Fund. When the member for Gascoyne (Mr. Angelo) was speaking, the Premier said he would like to have the £40,000 involved in this instance in that particular fund, because he could do as he liked with it. I cannot understand the Premier adopting that attitude because the Act provides that no appropriation can be made from the Government Property Sales Fund unless approved by the House. If the recommitment of the Bill be agreed to, the Premier should be able to accept my amendment.

Hon. G. TAYLOR: At the risk of being called a wiseacre again, I would point out to the member for Katanning (Mr. Thom-

son) that we are discussing a Bill to authorise the excision of a portion of a reserve, to enable it to be acquired by the State Savings Bank and for other relative purposes. If the reserve were not a Class A reserve, the Government would not require to seek the authority of Parliament for the disposal of the land. The structure on the land is not mentioned in the Bill.

Mr. Latham: But the structure must go with the land.

Hon. G. TAYLOR: We are not dealing with that.

Mr. Thomson: To whom will the building belong?

Hon. G. TAYLOR: There are some people, who are not wiseacres, who desire to safeguard the £40,000. One hon. member with financial experience has told the House in unmistakable language that the proper place for that money is in the Government Property Sales Fund.

Mr. Thomson: Have you ever read the Sale of Government Property Act?

Hon. G. TAYLOR: If that course were adopted, the Premier could do as he pleased with the money. It is absurd.

Mr. Thomson: Have you ever read the Act?

Hon. G. TAYLOR: We have the assurance of the Premier that he is not going to apply that money to Consolidated Revenue, and that if it is to be appropriated for any specific purpose, he will come to the House for our approval.

Mr. Thomson: You should be sitting on the other side of the House.

Hon. G. TAYLOR: I am not here for purely party political purposes. If I consider a course of action suggested by the Government is right, I will express my views accordingly. I am satisfied with the assurance of the Premier that Parliament will have a voice in the disposal of the money. As to whether there will be no change of Government for months to come or for years to come, I believe that any other Treasurer would honour the promise given by the Premier to this House. I hope members will not discuss this matter any further.

Mr. ANGELO: The member for Mt. Margaret (Hon. G. Taylor) said that the Premier had given us an assurance that the money would not be paid into Consolidated Revenue. Does that hon. member realise that we have already agreed to Clause 3 of the Bill which sets out distinctly that the

money is to be paid to the revenue of the Lands Department? Therefore, if the Bill is agreed to, the money must go into revenue. That serves to show that the member for Mt. Margaret has not considered the Bill. The Premier has stated that he does not want the money to go into Consolidated Revenue. Why in the circumstances does he not accept the suggestion of the member for Katanning (Mr. Thomson), which should please and satisfy everyone?

Hon. G. Taylor: You do not trust the Premier. That is the trouble.

Mr. ANGELO: Another point the member for Mt. Margaret made was that if the £40,000 were paid into the Government Property Sales Fund, it could be used by the Premier. Let me read to him Section 5 of the Sale of Government Property Act—

No moneys shall be paid out of the said fund unless estimates are submitted to Parliament and payments of the amounts shown therein are authorised by an Appropriation Act.

I realise that the House has been lax in dealing with money from the Government Property Sales Fund in the past. To a great extent the fund is built up from proceeds of the sale of property purchased out of Loan funds.

The Premier: Are we not now discussing another measure altogether?

Mr. SPEAKER: That is so.

Mr. ANGELO: Then I will not continue along those lines. I contend that the Government Property Sales Fund should be utilised and the £40,000 should be paid into that fund. The money should remain there until the Government determine what they desire to do with it. Then the approval of Parliament would be sought before it could be applied to any specific purpose.

Mr. SPEAKER: The hon. member is arguing as if the Bill had already been recommitted. He must confine himself to reasons why the Bill should be recommitted.

Mr. ANGELO: I think the Bill should be recommitted because, in the hurry of the moment, it was not quite grasped by some hon. members exactly how the money could be placed in a trust fund, to be used as Parliament determined later on. The Premier has said that he has no desire to take the money into Consolidated Revenue.

Therefore he should agree to it going into a trust fund to be applied later as the Government and Parliament may decide.

Hon. G. Taylor: And you won't trust or believe the Premier.

Mr. ANGELO: That is all very well. We are here as business men.

The Premier: Men with banking experience!

Mr. ANGELO: It is all very well to take the promise of any member of Parliament.

The Premier: There are bankers—and bankers!

Mr. ANGELO: I am quite prepared to accept the Premier's promise.

The Premier: I do not ask you to.

Mr. ANGELO: But, as the member for Katanning pointed out, the Premier may not always be here. There are other higher spheres in the political life of Australia to which he may be called any day.

Mr. Griffiths: Or he may die.

Mr. ANGELO: Perhaps so. That is the last thing we hope will happen. But such things do happen. One of his colleagues would succeed him.

Mr. SPEAKER: The hon. member is again arguing as if we were in Committee. The point to be considered is why the Bill should be recommitted.

Mr. ANGELO: It should be recommitted so that we can place the measure on a business basis to satisfy every hon. member regarding the disposal of the £40,000. If the Bill be passed in its present form, the money must be paid into revenue and be taken into account in the financial statement for the year ending the 30th June, 1928, unless it is put into a trust fund.

Hon. W. D. Johnson: And it might remain there for ever! How would we get the money out of that trust fund?

Mr. ANGELO: I do not think the member for Guildford (Hon. W. D. Johnson) has read the amendment.

Hon. W. D. Johnson: But who will take the initiative to apply the money from the trust fund?

Mr. Thomson: Who takes any initiative in such things?

Hon. W. D. Johnson: Are we to place it in the hands of the member for Katanning, to take the initiative as he pleases?

Mr. ANGELO: Nothing of the kind.

Hon. W. D. Johnson: Then how can we deal with it?

Mr. ANGELO: The Premier has told us that the money will be used as Parliament may determine.

Hon. G. Taylor: And you don't trust him.

Mr. ANGELO: I want it to be taken out of revenue and put where the Premier himself desires, namely, into a trust fund, until he and his colleagues determine how the money is to be spent. Let us put it into a trust fund, where it should be; then, when the Government decide how it is to be used, it can be taken out of the trust fund.

Hon. W. D. JOHNSON: I hope the Bill will not be recommitted. Ever since we have had a Parliament, when land has been sold the proceeds have gone into general revenue. It would be a very dangerous thing to put the proceeds of this special sale into a trust fund, the most dangerous thing that could be done with it.

Mr. Thomson: You are supporting my argument.

Hon. W. D. JOHNSON: The Premier admits that it is an extraordinary sale under special circumstances, and therefore he proposed to submit to Parliament at the proper time the method by which the proceeds shall be utilised. If we were to recommit the Bill and put the money into a trust fund, who is going to take it out of that trust fund? Who will initiate the discussion as to whether the money shall be taken out of the trust fund and submitted to Parliament for appropriation? The Premier could not do it; in fact it simply could not be done. The only safe thing to do is to see that the money goes into revenue. Then in due course the Premier will submit to Parliament what he proposes to do with that revenue. It would be extremely dangerous to put the money into a trust fund. The member for Kataning has tried by various means to direct Parliament in this matter. He has tried to direct Parliament in the wrong way, and he is not prepared to accept the assurance of the Premier.

Mr. Thomson: We are dealing, not with any assurance by the Premier, but with an Act of Parliament.

Hon. W. D. JOHNSON: Ever since we have had a Parliament, the proceeds of sales of land have gone into the revenue of the Lands Department; then later on it has been for the Premier to say how that revenue shall be used. To say the proceeds

shall go into a trust fund is to take those proceeds out of the hands of Parliament, whereas if the money goes into revenue, we have control of it. I trust the Bill will not be recommitted. The proposal of the hon. member is a carping, pettifogging way of trying to establish the prestige of a party. One would not be surprised at a new member suggesting this course, but for a man who claims to be the leader of a party to attempt to tinker with a question like this is disgusting.

Hon. Sir JAMES MITCHELL: The Premier's own party is not in accord over this. It is no ordinary sale, for it is a sale by the Government to the Government for governmental purposes. It would be a perfectly right thing to treat this as a trading concern transaction, and perfectly wrong to put the money into revenue. Yet the member for Guildford (Hon. W. D. Johnson) said the money ought to go to revenue, and that if it went into a trust fund no member of the House would be able to say what ought to be done with it. Of course the Premier can say at any time what ought to be done with it. As a matter of fact the Premier will have the money in credit if, as he says, the money shall not be used as revenue. The Bill set out with the intention of paying this money into revenue, but attention was called to the point, and the Premier said it would not be right, that the money would have to be used for some purpose other than as ordinary revenue. Still the member for Guildford says it is ordinary revenue, notwithstanding that it is a sale by the Government to the Government through a Government department. Naturally, nobody else will agree with that. In fact the member for Guildford has made out a good case for recommitment; for if his view is the right one, since it is not the Premier's view, the Premier's view must be wrong. I think it would be as well to have the matter definitely settled.

Mr. GRIFFITHS: The member for Guildford says this method of disposing of cash is quite in accord with what has been done previously by Parliament. But the Premier the other evening declared that the fact that Parliament had done certain things was not in itself sufficient reason why we should continue to do those things if it were held that they were wrong. The member for Guildford criticised members on these cross benches for being critical. I do not

know for what else we are here. Surely if we see anything wrong in the Government's proposals, we should draw attention to it. As for the hon. member's reference to carping criticism, I do not see the application. The member for Katanning was prompted solely by a desire to have this money rightly placed. I am sure the Premier will do the right thing about the disposal of this money; but gibes have been thrown out about the disposal of similar moneys, and the same thing may be said again by the outside public about this sum. Also we do not know what changes may occur in the Government, and altogether I think it would be only right to recommit the Bill.

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

Ayes	..	..	..	12
Noes	..	..	..	22
				—
Majority against	..	..	..	10
				—

#### AYES.

Mr. Angelo	Mr. Sampson
Mr. Brown	Mr. J. H. Smith
Mr. Ferguson	Mr. Thomson
Mr. E. B. Johnston	Mr. C. P. Wansbrough
Mr. Latham	Mr. Griffiths
Mr. Lindsay	(Teller.)
Sir James Mitchell	

#### NOES.

Mr. Chesson	Mr. McCallum
Mr. Collier	Mr. Millington
Mr. Corboy	Mr. Munsie
Mr. Coverley	Mr. Rowe
Mr. Cunningham	Mr. Sleeman
Mr. Heron	Mr. Troy
Miss Holman	Mr. A. Wansbrough
Mr. W. D. Johnson	Mr. Willcock
Mr. Kenneally	Mr. Withers
Mr. Kennedy	Mr. Panton
Mr. Lutey	(Teller.)
Mr. Marshall	

#### PAIR.

AYE.	No.
Mr. Mann	Mr. Lambert

Question thus negatived.

#### Third Reading.

Bill read a third time and transmitted to the Council.

### MOTION—RAILWAY CONSTRUCTION, YARRAMONY EASTWARD.

Debate resumed from the 24th August, on the following motion by Mr. Griffiths—

That in the opinion of the House the Yarramony Eastward railway should be built without delay.

**THE PREMIER** (Hon. P. Collier—Boulder) [5.16]: The member for Avon, in submitting the motion, covered the whole history of this railway very fully, dating right back to many years ago when the agitation for its construction first commenced. In the course of his remarks he was able to show that members of the Opposition, as well as of the Government, had at various times supported the proposal. Parliament having passed the Bill for the construction of the line, I suppose that ends any question as to whether the line will be built. The question as to when the railway will be constructed, I think, ought to be left to the Government of the day to decide, subject to any comments and criticisms that members may feel justified in making with regard to the programme of railway construction. The hon. member having ventilated the views of the electors he represents and the people interested in getting this railway would be wise to withdraw the motion. He certainly has done all that it is possible for him to do. If the motion were carried it would not affect the construction of the line. It would be only an expression of opinion by this House that the line should be constructed without delay, but it would rest with the Government to say just when the railway should be built. I remind members that this line is not the only one for which the people have had to wait long years before Parliamentary authorisation was obtained for it; nor is it the only line in connection with which many years have elapsed between the dates of authorisation and the commencement of construction.

Mr. E. B. Johnston. There was one between Narrogin and Dwarda.

The PREMIER: Yes; that was authorised in 1915.

Mr. Latham: And it should have waited a bit longer.

The PREMIER: That is a matter of opinion. Perhaps some members think that this railway might be allowed to stand over for a while longer, and they are entitled to that opinion.

Mr. A. Wansbrough: Do not you think that Parliament was a little hasty in passing that railway when it was only 18 miles from the other one?

Mr. Griffiths: Only 18 miles!

The PREMIER: It will be necessary for Parliament to pass a Bill to authorise the construction of the remaining section of the

Yarramony railway. Parliament will have to decide whether it shall junction at Merredin or at some point further down the Merredin loop. That, however, is not material to the point at issue. The Dwarda-Narrogin railway was authorised in 1915 and was not commenced until 1925. Thus there was a delay of 10 years between the authorisation and the commencement of that line, so the member for Avon has a long while to wait yet. The Yarramony Eastward railway was authorised at the end of 1923.

Mr. Griffiths: But it was promised 19 years ago.

The PREMIER: We cannot take into consideration the years when promises were made. I could mention a railway, which will be opened next week, the agitation for which extended over about a quarter of a century.

Hon. G. Taylor: More than that, 32 years.

The PREMIER: The first section of the Norseman-Esperance railway was authorised in 1915 and was not commenced until 1923, or eight years afterwards. That line has only recently been completed. There are many other lines in a similar position. It has always been understood when Bills were brought before Parliament for the construction of railways that neither the Government who introduced the Bills nor Parliament, in passing the Bills, has committed itself to any date of construction.

Mr. Davy: Then why authorise them?

The PREMIER: It is necessary to do so because it is useful for settlers to know whether or not they will eventually get a railway. The people are very much concerned to have that knowledge. Frequently people forming deputations have stated that if they had to wait for some years before the line was built, they would like a Bill put through Parliament authorising its construction so that they would know whether to proceed with expenditure and development, which they would not be warranted in doing if a railway were not to be built.

Mr. Davy: If a railway is authorised, is it always built eventually?

The PREMIER: Yes; I cannot recall any instance of a railway having been authorised and not built, though some of them have not been built for many years after authorisation.

Hon. Sir James Mitchell: Do not let this railway wait any longer.

The PREMIER: About two years ago I received a deputation asking for the construction of a line from Royup Brook to

Cranbrook—a Bill to authorise that line was passed last session—and a member of the deputation told me that his first association with requests for the line dated back to the time when Sir John Forrest was Premier.

Mr. J. H. Smith: That is correct.

Mr. Mailey: That line would be most beneficial to the State.

The PREMIER: The member for Nelson was present when the deputationist said he had waited on every Premier since Sir John Forrest's time in order to urge the construction of that line. Requests for railways in some instances have extended over many years, and eventually Parliament has been convinced of their necessity. Frequently the settlers have had to wait for some years before the construction could be carried out. I am not in a position to give the member for Avon any definite assurance when the Yarramony Eastward line will be built. I have stated publicly more than once that it is the desire of the Government to build railways as rapidly as possible. No one knows better than the Leader of the Opposition the difficulty of finding money from year to year for all the requirements of the State. If we could forego the expenditure of loan moneys in every other direction for a couple of years and devote all the money that could be obtained to the construction of railways, it would be a very good thing for the State, but side by side with railway construction are water supplies, harbours and all the other works that require funds from year to year.

Hon. Sir James Mitchell: Make a start with this one.

The PREMIER: The Government would have liked to build a greater mileage of railways than they have been able to do in the last three years.

Mr. Griffiths: Is the Ejanding Northwards railway being built out of migration money?

The PREMIER: No; we started that line without migration money, but the question has been investigated since and the Migration and Development Commission now have the matter under consideration. We have had to find large sums of money for purposes other than the construction of railways. In recent years we have been faced with heavy expenditure for group settlement. That has run into a million or a million and a quarter pounds a year. During the last three years we have been committed to heavy loan expenditure for the metropolitan water supply. Nearly half a

million a year has been required for that. Harbour works, too, have necessitated the expenditure of considerable sums.

Hon. Sir James Mitchell: Only half a million on water supplies during that time.

The PREMIER: We have spent nearly half a million over the last two years. The works authorised during the hon. member's term of office entailed heavy cost. Those works were commenced and had to be proceeded with. But for the money required for group settlement and for the metropolitan water supply, we should have been able to double the mileage of railway construction during the last three years.

Hon. Sir James Mitchell: You are getting migration money for the groups.

The PREMIER: But the money has to be obtained, and there is a pretty considerable weight of public opinion against excessive borrowing, even though we are able to get cheap money. I think we have pretty well reached the limit of the amount that it is wise for the State to borrow and expend in any one year, even though portion of it may be available at a cheap rate of interest. Our loan expenditure during the last four years—I refer to the last year of office of the Mitchell Government and the three years we have been in office—has ranged round about £4,000,000 a year, sometimes slightly less and sometimes slightly more. Last year it was about £4,000,000. We have not experienced any difficulty in obtaining money; perhaps we could have got £5,000,000 or £6,000,000 had we wanted it, but I do not think it is wise to over-burden ourselves with interest charges by excessive borrowing. So it is that some of the railways that have been authorised have to wait for a few years before it is possible for us to proceed with their construction. That is what has happened regarding the Yarramony Eastward railway. The Denmark railway extension was authorised during the regime of the Mitchell Government in 1922, but we were not able to commence its construction until last year, and so that railway had to wait for four or five years. The other section from Pemberton towards Denmark was authorised at the same time and has not been commenced yet.

\* Hon. Sir James Mitchell: I do not think you have spent £20,000 a month on railways in the last three years.

The PREMIER: We have built several lines. The Denmark extension will entail a

cost per mile quite above the average. We would be able to build two miles of railway in the wheat areas for one mile on the Denmark or Pemberton extensions. The estimated cost of the first 20 miles of the Pemberton extension, which will traverse very heavy country, was £240,000. It is a very large sum of money for such a short distance.

Hon. Sir James Mitchell: It is a timber line.

The PREMIER: That is so.

Hon. Sir James Mitchell: We must have the line.

The PREMIER: I am not questioning the merits of the line, but there is the cost to be considered. We should be able to build about four times the mileage in the wheat areas for that money that we can build at the Pemberton end. In many other directions money has been spent. There are the harbour improvements at Geraldton, which were commenced by the Mitchell Government, running into about £80,000 a year. The work was very necessary, and for this something like a sum of £100,000 will be required this year.

Hon. Sir James Mitchell: You ought to allow part of the line to be constructed. It has been waiting for a long time.

The PREMIER: It has not been waiting as long as many other lines, and not as long as some particular lines. There is no desire on the part of the Government to delay the construction of any of the railways that have been authorised by Parliament. The line will cost a considerable amount, because it is of very great length. I think when it is linked up with the system it will be about 90 miles long.

Hon. Sir James Mitchell: That is so.

The PREMIER: The cost will be somewhere about a quarter of a million pounds. Once the construction of the line is commenced, it will be necessary to complete it. The work will receive the full consideration of the Government when we decide upon the construction of lines, and will be considered equally with the other projects. It may be that owing to the financial stringency at the moment the Government will determine to commence some short section of line that will cost only from £60,000 to £70,000 as against a railway that will cost £250,000. That sometimes might determine the choice or order of precedence in the commencement of railways. The financial position of the State might compel

the Government to construct such short lines rather than one which will run into a quarter of a million pounds.

Mr. Angelo: Could not a portion of this line be built?

The PREMIER: I do not know that we would effect very much good by building a portion of it.

Mr. Angelo: It would all help.

Mr. Latham: Those settlers who are 30 miles out from a railway are entitled to some preference over those who are only 15 miles away.

The PREMIER: That factor is always taken into consideration. A particular district may stand in most need of a line. Take a new district, for instance. During the first few months of the time when the present Government took office, there were settlers established 30 miles out from a railway in the Lake Grace-Newdegate area. Although the line had only recently been authorised, we considered that the merits of the case warranted its early construction. We, therefore, proceeded with that railway at a very early stage, indeed within a few months of assuming office. I know it has been justified. The settlers were promised a railway. They were so far removed from a line that it would have been impossible for them to carry on. There are other districts in which the settlers are a considerable distance from a railway, but they are still able to carry on. They are at a disadvantage, but they are able to carry on and develop their holdings. All these factors have to be taken into consideration when the programme of railway construction is being considered. I suggest that the hon. member, having put up his case for the railway, would be well advised to withdraw his motion.

Hon. Sir James Mitchell: And bring it on in another fortnight.

The PREMIER: No. If the hon. member presses his motion to a division, and it is defeated, this may be taken to mean that the House is not concerned as to when the line is started. He would be taking a risk if he pressed his motion to a division.

Hon. Sir James Mitchell: I do not think so. I see a lot of votes on the opposite side of the House.

The PREMIER: If the motion were defeated the Government might sit back and say the House is not concerned as to when the line is started. If by a vote of the

House the motion were defeated, I should say it would not help in, at any rate, the early construction of the line. The hon. member has been quite justified in bringing forward the motion. I have no complaint to voice against it, or against the manner in which he presented his case. He presented it quite fairly. The Leader of the Opposition knows that the House has never given an instruction to any Government as to when they should commence one railway as against any other. Parliament authorises the construction of a number of railways, and it is for the Government of the day to carry those authorisations into effect.

Hon. Sir James Mitchell: The House can suggest.

The PREMIER: I know of only one case in which Parliament has decided upon the course to be followed in this regard. In another place an amendment was made to a Bill that was introduced in this House. The amendment decided that railways should be built in the order in which they had been passed by Parliament. It was in connection with the Esperance line.

Mr. E. B. Johnston: That line was given priority, but the amendment to include all others in the order of authorisation was defeated.

The PREMIER: That is what was done in another place. It was decided that the Esperance line should have priority over the other railways that were to be constructed, on the ground that the settlers in the district had waited for many years for the railway.

Mr. Mann: Not much longer than the settlers in this particular case.

The PREMIER: Yes, very much longer.

Hon. Sir James Mitchell: Why not adjourn the debate?

The PREMIER: I am not concerned as to what happens to the debate. It will not influence me whether the motion is carried or not. The Government will still do what they think is right in the matter. I do not think the hon. member was ever influenced by such a motion as this.

Hon. Sir James Mitchell: Yes, I would be.

The PREMIER: Pious expressions of opinion as to what ought to be done by Governments do not influence Governments at all.

Hon. Sir James Mitchell: They should.

The PREMIER: I do not know that they should. The hon. member has had a long experience of Governments. He perhaps would speak from a rather changed outlook on this side of the House as compared with what he would do on the other side of the House.

Mr. Davy: Do you suggest that Parliament is wasting its time in dealing with motions like this?

The PREMIER: To be quite candid I think that nine-tenths of the time of Parliament, when occupied with motions expressing opinions as to what ought to be done by Governments, is wasted.

Mr. Davy: Then the whole of the time of Parliament is wasted.

The PREMIER: I have always felt that it is a waste of time to say that "in the opinion of this House" such and such a thing should be done.

Mr. Thomson: You have put up many good fighting speeches on this side of the House stating what should be done.

The PREMIER: I very seldom indulged in any motion that called for an expression of opinion from the House as to what should be done. I knew that very little result was attained from such a course. Generally speaking, members who bring forward motions do so because they wish to ventilate some particular subject. That is a very desirable thing to do. They may have no other means of giving publicity to or ventilating a matter than by submitting a motion to the House. As to the effect that such a motion would have, that is another matter. I suggest that the hon. member, having secured a discussion in the House—

Hon. Sir James Mitchell: It has been very comfortable so far.

The PREMIER: And having met with no opposition, might feel that his purpose has been accomplished, and so withdraw the motion. He may be sure that the railway will receive fair and full consideration in conjunction with other railways that are authorised by Parliament.

HON. W. D. JOHNSON (Guildford) [5.40]: We must all sympathise with the settlers in this particular area. For many years they have agitated for the sympathy of Parliament in the isolation from which they suffer as compared with the facilities offered in other districts. As a result of

close organisation and their much admired activity, they ultimately induced Parliament to agree to the survey of the line, and afterwards to pass a Bill for its construction. Since the passing of the Bill they have waited for years for the railway to be commenced. As, however, they have witnessed other lines being built, they naturally feel that they are not getting the consideration to which they are entitled, inasmuch as their Bill was passed before those for other lines now being built. I am, therefore, of the opinion that there is some reason why this particular line has been delayed. On a previous occasion I expressed the opinion that I doubted whether the line could be looked upon as economically practicable from the point of view of railway working; that is, provided we take into consideration the reasonable needs of the Railway Department from the earning point of view and the necessity for providing working expenses. I am of opinion that there is not enough land in this area to afford a guarantee to the Railway Department that the line is going to be an economic success.

Mr. Griffiths: The settlers took that so seriously that they offered to pay any loss.

Hon. W. D. JOHNSON: We know they did that, but whether the offer would have been accepted is another thing. They are to be admired for their enthusiasm with regard to the productive possibilities of their particular area. We have to bear in mind that this will be a line 90 miles in length. Part of the area affected is already served to the extent that we usually serve land in Western Australia from a railway point of view. There is a part of the area which is not served to the extent that other districts are served with regard to distance from a railway. When the line was agreed to by Parliament I think there were stronger reasons for its construction than exist now. We must admit that since the Bill was passed considerable progress has been made in economical road transport. Two or three years ago I stressed the view in this House that it would be better for this area that the settlers should go into the question of road transport rather than that of railway transport. I may be wrong, but I believe it would be more economical for them and certainly more economical for the State to adopt the former, rather than the latter system. Road transport has been revolu-

tionised during recent years. It is reasonable, therefore, that we should take into consideration the relative merits of road transport and railway transport for this particular district. I should very much like to see the whole question investigated. The investigation would be an interesting one, and would also be instructive to the House, even though it might not demonstrate that road transport is more economical and serviceable to the settlers than the proposed railway.

Mr. Griffiths: With roads at £1,000 a mile.

Hon. W. D. JOHNSON: I move an amendment—

That all the words after “be,” in the first line, be struck out, and that the following words be substituted:—“Submitted to a select committee to investigate the economic practicability as compared with modern road transport.”

My desire is that we should go into the question to see whether it would be more economical to provide road transport for existing heavy loads, and also to make comparisons with transport by rail over distances such as it is proposed to cover. I would like to see the whole subject investigated. It is important that Parliament should know whether it is advisable that we should give greater consideration to the question of road transport. It is doubtful, in my mind, whether we should continue to build railways within 20 miles of existing lines. Parliament should have some knowledge about this also. Unfortunately there is no organisation that is giving consideration to the question to-day. I have no doubt that the engineers associated with the Public Works Department are aware that road transport to-day is considerably ahead of what was possible a few years ago. We know the rapid strides that it has made, and yet Parliament continues to suggest the construction of railways on the basis on which they were built as far back as 15 and even 20 years ago.

Mr. Latham: I think the Migration Commission would also like that information.

Hon. W. D. JOHNSON: Possibly it would be of interest to them also. I am submitting the amendment because it is my desire that the matter should be investigated, and this is the opportunity for getting instructive information from experts. The select committee could then report to Parliament as to whether or not the area in question could be better served by motor vehicles instead

of by a railway, the construction of which might prove a burden to the State.

Mr. SPEAKER: I venture to suggest that the amendment ought to be improved. The motion as amended will read “That the House should.” I would point out that the House does, and the amendment might therefore be framed in another way so as to secure the appointment of a select committee instead of saying that “the House should” The House cannot dictate to itself.

Hon. W. D. JOHNSON: I will submit the amendment in this way—

That all the words after “That” be struck out, and the following be inserted in lieu:—“The proposed construction of the Yarramony Eastward railway be submitted to a select committee to investigate its economic practicability as compared with modern road transport.”

Mr. SPEAKER: I draw the hon. member's attention to the fact that the construction of this particular railway has been authorised by Parliament, and that another Act of Parliament would be required to bring about the end the hon. member desires.

Hon. W. D. JOHNSON: I do not wish in any way to interfere with what Parliament has done; it is not a question of interfering with the construction of the line. My desire is solely to seize the opportunity to investigate the question of road transport in this particular district for the purpose of comparing its cost with that of transport by rail.

Mr. Griffiths: With a possibility of throwing out the project.

Mr. SPEAKER: But it must be remembered that the railway has been authorised by an Act of Parliament and that the project cannot now be submitted to a select committee.

Hon. G. Taylor: The Act authorising the construction is in existence.

Mr. SPEAKER: The line has been authorised by Parliament and the Act is on the statute-book. The question cannot now be considered as a “proposed construction” and therefore it cannot be submitted to a select committee.

• Hon. W. D. JOHNSON: Very well, Mr. Speaker, I will endeavour to cover it in another way later on.

On motion by Mr. Mann, debate adjourned.

## RETURN—TIMBER INDUSTRY, MILLARS' CONCESSION.

Debate resumed from the 24th August on the following motion by Hon. W. D. Johnson:—

That a return be laid upon the Table of the House showing: 1, The number of concessions held by Millars' Timber and Trading Company, where situated, and the area of each. 2, The year the concessions were granted, and date of expiration, also the extensions to concessions that have been granted. 3, The royalty per load or the rent being paid in each case.

**MISS HOLMAN (Forrest) [5.57]:** I hope that the Premier will make the return available so that members may have the opportunity of perusing it. The information would be of interest to the public and I consider also that it is information we are entitled to have. It is our concern that the smaller contractors are having trouble with Millars, except in so far as it means that the wages paid to the sleeper cutters may have been reduced. The Australian Timber Workers' Union allege that the larger companies are shelving their responsibilities by purchasing the timber already on trucks. We are really concerned with the payment of wages by the smaller contractors, or rather with their ability to pay; and we think the Forests Department should endeavour to exercise a little control over those dealing and trafficking in timber generally. We know perfectly well that the Forests Department insist on all sorts of permits and licenses for people who are cutting timber on Crown lands; but, so far as we know, people cutting timber on private property are not subject to any control, but are allowed to obtain the timber and sell it without any supervision whatsoever. We are concerned at the steady influx of foreigners that has been taking place during the last few years. Members may recollect that some time ago, shortly after my entering this House, I spoke on foreigners cutting timber and to a large extent being victimised. I also spoke of the waste of timber caused by these inexperienced men. Since then we have been told, and readily believe, that the forests of Western Australia are a public inheritance, and that we should look after them and try to conserve some of them and also to replace what has been taken, for the coming generations. I think it is really our concern to see that timber is not wasted. We know that gangs

of these foreigners come into the country, and that the State Government cannot prevent it. We know that the State Government have protested to the Commonwealth resultlessly. We are well aware that the foreigners generally go into the timber industry. Some of them, no doubt, are absorbed in other ways; but most of them track down to the timber country and get together in gangs there. Probably one of them can speak English, and he does all the dealing with the person who is buying the sleepers. The gang do the whole job of felling the timber and dealing with it, right up to the time when it is put on trucks. They share the receipts, getting just what they can, irrespective of arbitration awards. The union have been compelled to take action in hundreds of cases against sub-contractors who have not equitably abided by their obligations; and the majority of those complaints, as will be found upon an inspection of the union files, were made by foreigners having only a limited knowledge of English. We consider that some control of the jarrah country and of dealing with timber on private property should be instituted. We do not like to see sleepers exported from either private property or any other property without regard to waste and the scale of wages. My personal opinion is that since other departments can control, say, dealing in gold—though that is a long way from timber—a similar control might be established in connection with jarrah. In order to deal in gold one must have a license, and possibly the Forests Department can formulate regulations which will ensure that a sub-contractor dealing in timber shall be able to meet his obligations. The present system is very bad indeed. The men lose their wages through some of the sub-contractors; the storekeepers do not receive payment for stores; and there is also the loss and waste of timber in the forests. I do not wish to detain the House. I simply urge that the Forests Department consider some ways and means of controlling the wholesale cutting and waste that are at present going on in our forests. Surely some system of control can be devised, and possibly the giving to the House of the information asked for by the motion, if the Premier will be so good as to furnish the data, may help us a little.

Question put and passed.

The Premier laid the papers on the Table.

## PAPERS—BAYSWATER ROAD BOARD.

### *Resignation of Member.*

Debate resumed from the 24th August, on the motion by Hon. W. D. Johnson—

That all papers relating to the resignation of Mr. David Pyvis from the Bayswater Road Board and the department's association therewith be laid upon the Table.

**THE MINISTER FOR WORKS** (Hon. A. McCallum—South Fremantle) [6.8]: I have no objection to the motion, and I hope a perusal of the papers will satisfy the mover that there has been no interference on the part of the Public Works Department. The auditor who examined the minute book of the Bayswater Road Board discovered that Mr. Pyvis had resigned but was still sitting. The Crown Solicitor gave a written opinion that the board had no power to decline to accept a resignation. Once submitted, a resignation takes effect. The attention of the board was drawn to the fact that Mr. Pyvis, although he had resigned, was still sitting. I should mention that one of the duties of an auditor is to report upon elections. In this instance, the auditor simply pointed out the position, and Mr. Pyvis' seat was declared vacant. That was all that happened; there has been no interference whatever by the department.

Question put and passed.

The Minister for Works laid the papers on the Table.

### *Appointment of Secretary.*

Debate resumed from the 24th August, on the motion by Hon. W. D. Johnson—

That all papers relating to the recent appointment of a secretary to the Bayswater Road Board and the department's association therewith be laid upon the Table.

**THE MINISTER FOR WORKS** (Hon. A. McCallum—South Fremantle) [6.10]: My remarks on the previous motion apply also to this one. As the papers will show, the department did not interfere in any way. There was an exchange of opinions between departmental officers, but all that passed between the board and the department was the approval of the appointment of a secretary as recommended by the board. No other correspondence took place between the board and the department.

Question put and passed.

The Minister for Works laid the papers on the Table.

## BILL—CRIMINAL CODE AMENDMENT.

### *Second Reading.*

Debate resumed from the 24th August.

**MR. DAVY** (West Perth) [6.12]: I am sorry to find myself following the sponsor of the Bill. Certainly I would not have placed myself in that position had it not appeared the other evening that the measure was about to go through. My sorrow is because I do not pretend even for a moment to be an expert in criminology. I would have liked to hear other members, who know more about the subject than I do, and have read more deeply and thought more deeply about it, before I came to a definite conclusion myself. Particularly I would have liked to hear, before committing myself to any definite line, the Premier's opinions. From conversations I have had with the hon. gentleman, I know that he has read widely on the subject of psychology and the effects of heredity; and it certainly would have been helpful to me to hear his views before expressing my own opinions on the measure. The member for Perth (Mr. Mann) in introducing the Bill made what I thought was a most excellent speech.

The Premier: Hear, hear!!

**MR. DAVY**: The member for Perth received a most attentive hearing, and upon completing his speech was accorded a round of applause from all quarters of the Chamber. I must own that I never felt more respect for him, or more liking for him, than while I listened to the speech in question. This Bill is, I submit, in its very essence an entirely non-party matter. It is a matter which, in my opinion, should be discussed rather than argued. To allow any heat to be generated on such an important and serious question would seem to me almost an indecency. As regards any remarks I may make, I offer my apologies to the member for Perth and to the House, because I cannot claim to have gone as deeply into this important subject as one should. I do, however, propose to offer some criticism both on the form of the Bill and the arguments with which the member for Perth supported it. The measure purports to give to juries a very important power, a

power which is limited in highly indefinite language. It proposes to say to a jury, "If you come to the conclusion in a murder case"—the Bill only applies to murder cases—"that the accused was not able, owing to mental disease or deficiency, to form a proper or reasonable judgment on the moral quality of his acts, you can find that as a fact; and then the man's punishment shall be different from that of the man in respect of whom you have not found this fact."

*Sitting suspended from 6.15 to 7.30 p.m.*

MR. DAVY: The member for Perth (Mr. Mann) proposes in the Bill to give a jury a very wide and somewhat indefinitely defined power. He suggests that a jury, having found a person guilty of wilful murder or murder, may then consider another question; and if they are of the opinion—I am quoting from the clause—"that the person was, at the time he was committing a crime, incapable, by reason of mental diseases or deficiency, of forming a rational judgment as to the moral quality of the act he was committing, they may add to their verdict a statement to that effect," and then the punishment will be diminished from that of death to imprisonment for life with hard labour. It is interesting to notice that the draftsman has followed, more or less, the wording of Section 27 of the Criminal Code, which deals with criminal responsibility. That section was quoted to the House by the member for Perth, and I crave leave to quote it again. The section reads—

A person is not criminally responsible for an act or omission if at the time of doing the act or making the omission he is in such a state of mental disease or natural mental infirmity as to deprive him of capacity to understand what he is doing, or of capacity to control his actions, or of capacity to know that he ought not to do the act or make the omission.

Hon. members will note that the same words, or their equivalent, have been used in the Bill. Instead of the words "in such a state of mental disease or natural mental infirmity" the proposed new section contains "mental diseases or deficiency." It comes to the same thing.

MR. MANN: Oh no!

MR. DAVY: I submit it amounts to the same thing whether you say a man is suffering from mental disease or natural mental infirmity, or that he is incapable by reason of mental disease or deficiency. I presume the member for Perth, when talking

about mental diseases, meant natural mental diseases or infirmities, because really the whole of his arguments in support of his contentions dealt with hereditary mental diseases or deficiency. He meant, I take it, natural mental diseases which are the antithesis of mental diseases artificially caused. The member for Perth had not in mind a man in such a state of mental disease caused by the excessive use of alcohol or by the improper use of drugs. He did not deal with that phase at all. Thus, it appears to me that the words I have referred to are, more or less, used in the same way. The important point is, what is the result? According to Section 27 of the Criminal Code, dealing with the question of criminal responsibility, the mental diseases or natural mental infirmity, must be such as to deprive a person of the capacity to understand what he is doing. That is to say, if a man hit another on the head with an iron bar, and thought he was hitting a flower pot, he would not know what he was doing, and obviously could not be held in the slightest degree responsible for what he had done. Then the next phase is that the mental infirmity may be such that a man has not the capacity to control his actions. Although he may have a glimmering idea of what he is doing, he may not have the capacity to stop himself doing something at that particular moment. Then we get a further phase where a man, owing to mental diseases or natural mental infirmity, though he knows the particular act he is doing, such as striking another person on the head with an iron bar, nevertheless does not know it is wrong, or that it is forbidden. The member for Perth has asked us to go much further even than that. He has asked us to take into consideration the case of a man who, owing to mental disease or natural mental infirmity—

The Minister for Justice: Deficiency.

MR. DAVY: Well, I will use the word "deficiency." I do not think there is any distinction between that word and "infirmity." Although such a man knows that what he is doing is wrong, he does not know it as acutely as would a person who was entirely normal. The member for Perth says that when a jury is of that opinion, the punishment shall be reduced if the person in question has committed the crime of murder, but not otherwise. I submit that is a direct invitation to every jury to refuse to go to the whole distance when a person is charged with wilful murder or

murder. I would call the attention of the House to the fact that if the defence is one of insanity, under the existing provisions of the Criminal Code that defence has to be pleaded. Evidence has to be called and the Crown is warned accordingly as to what the defence is to be. In those circumstances the Crown may be in a position to meet such a defence if it is advanced. But under the provisions of the Bill no such course is necessary. All that is required is for the jury to add a rider that they are of opinion in accordance with the proposed new section.

The Minister for Justice: But surely some expert would have to give evidence along those lines.

Mr. DAVY: Not at all.

The Premier: The rider may be added under the influence of the address of counsel to the jury.

Mr. DAVY: That is so. Again, it might be added as the result of a bargain with a corrupt juror—if there are such in Western Australia.

Hon. Sir James Mitchell: You ought to know.

Mr. DAVY: Well, I do not. I know nothing about jurors apart from what I have read in the Press. I have not pleaded before six juries since I have been in practice. Such a rider might be the result of a compromise between a corrupt juror, determined at any cost not to have a man found guilty, and men who are determined to do what is their duty.

Mr. Mann: You get that sort of thing to-day.

Mr. DAVY: I agree that we do.

Mr. Mann: The Bill will not make the position any worse.

Mr. DAVY: I think it will.

Mr. Richardson: It will leave the opening.

Mr. DAVY: At present we know, as far as we are entitled to know, what happens in the jury room. We hear all sorts of things. People who have served on juries sometimes open their hearts. We know that when recommendations to mercy are tacked on to verdicts, they generally represent matters of compromise. The recommendations to mercy may have no justification whatever, but because one obstinate, stupid juror—

Mr. Latham: He may be the single juror of the right opinion.

Mr. DAVY: He may be.

The Premier: All out of step except Patsy!

Mr. DAVY: As a general rule, when one man stands out against the remaining eleven, there is something to be said for the eleven jurors. It may be, too, that there are to be found on juries persons who come within the definition the member for Perth seeks to add to the Criminal Code. It may well be that men suffering from mental diseases, or natural mental deficiency, to such an extent as to render them incapable of forming a rational judgment as to the moral quality of the act they are to commit, are to be found sitting as jurymen. As a matter of fact, the member for Perth has almost convinced me that there is every reason to find such persons on juries. As we know, admittedly by hearsay evidence, the tacking on of a recommendation to mercy as a rider to verdicts, represents a mere compromise between a juror or jurors adopting an improper attitude and others who may desire to do their duty according to their oath. In those circumstances the Bill will represent an absolute invitation to all juries to include this special statement of opinion in every single murder case, and there will be no appeal against it.

The Minister for Justice: But such a plea would have to be supported by evidence from a psychologist, or some mental expert.

Mr. DAVY: It should be, but the Bill does not say so. The Bill leaves it entirely to the jury. Clause 2 sets out clearly that it is intended to be left to the jury. That clause says—

If the evidence discloses that the motive for the crime was of an irrational or trivial nature, or that there was no motive, the jury may take that fact into consideration for the purposes of this section.

Mr. Mann: And they may also inquire concerning the antecedents of the person charged.

Mr. DAVY: As a matter of fact, the member for Perth has told us clearly that the motive for the crime of murder is always irrational, because he stated definitely that in his opinion no normal rational person, capable of forming a normal judgment on sound reasoning, ever committed murder. I do not agree with him, but the member for Perth has forcibly and eloquently pressed that opinion upon us. He quoted several authorities—I will not say that they were in support of his theory—dealing with his doctrine that all

murders are committed by abnormal or sub-normal persons. He stated that all sub-normal persons did not commit murders or other crimes, but claimed that all murderers were sub-normal. If that be so, then in every murder case the jury will be entitled—and there would be strong pressure brought upon them to do so—to add the rider that would result in the non-infliction of the capital punishment.

Mr. Kenneally: What an awful crime!

Mr. DAVY: That is not the point. We are not debating whether capital punishment should be inflicted. I will have something to say about that in a minute.

Hon. W. D. Johnson: On what do you base your opinion that evidence on the point will not be submitted?

Mr. DAVY: I did not say that. I say it need not be submitted, and that the jury is perfectly entitled to bring in this rider without any evidence on the point.

Hon. W. D. Johnson: Will not the sub-clause be an intimation that the evidence is needed?

Mr. Mann: Just as it is the function of the Crown to submit evidence of irresponsibility.

Mr. DAVY: It is always the function of the Crown Prosecutor to lay before the court all evidence bearing on the case. He would regard it as highly dishonourable to conceal anything. But under this it will be quite unnecessary to submit any evidence on the point. As things stand at present, if a person accused of murder is to succeed in a defence of insanity, he must plead it; which gives the Crown due warning to refute the plea if they are able to do so. But under the form of this Bill no such thing will exist. No suggestion need be made in the way of evidence called for the defence; yet the jury may bring in this verdict.

Mr. Mann: Would not the evidence on which the accused would be found guilty be available to the jury to show his deficiency?

Mr. DAVY: There is the evidence, but it is not directed to this; it is directed to prove that the man is guilty. The jury are given a special invitation to take into consideration the absence of reasonable motive. According to the hon. member, the motive is always irrational. But we know that some of the most wicked, the cruellest, most cold-blooded murders have been committed for a motive that was not apparent at the time. On the evidence there was no motive. Yet subse-

quent events have shown that there was a motive that did not appear at the time, but which was a highly rational one, if greed is a rational motive for committing murder. After all, the cleverer, the more cold-blooded and wicked the murder, the less probability is there that there will be direct evidence available as to why it was done; for if you find the motive for a crime, you have a very much better chance of discovering the perpetrator. So the cleverer and more deliberate the criminal may be, the more likely is he to use his skill and wickedness to conceal the motive. I can well imagine a case where absolutely no motive is discoverable, yet really there is a motive of the most powerful and wicked kind. The member for Perth has left us in no doubt as to what he intends to be the result of the Bill. He has stated his definite opinion that all murders are committed by persons who are not responsible for their actions. I think the exact words he used at one period of his address were, "Murders are committed by persons unable to think or act for themselves." I do not think he meant to go quite as far as that; still he has left us in no doubt that in his opinion the crime of murder is never committed by an entirely normal person.

Mr. Mann: You will agree with that?

Mr. DAVY: Decidedly not.

Mr. Mann: Then you will be alone in your opinion.

Mr. DAVY: Perhaps so, but I bring this to mind, that in the early days of the west of America or even in the early days of some of the outback parts of Australasia, murder was frequently indulged in by persons whom one could not imagine committing the crime of, say, theft. Of course the wild west stories one reads have been glorified and exaggerated; but we know that in the wild west parts of America human life at one period was held very cheaply indeed, and people shot each other for the most ridiculous reasons.

Mr. Mann: So capital punishment did not deter them?

Mr. DAVY: No, but the comparative immunity from any punishment at all encouraged them. That brings me to another point. There are two different aspects of punishment that, I imagine, the unruly man will consider. One is the magnitude of the punishment, and the other is the certainty with which that punishment will be inflicted. We may make an offence punishable with the most terrible penalty, and not cause the

slightest fear in the mind of any person unless there be some means of enforcing the penalty. If there be no police force, nobody charged with the duty of catching and punishing people for murder, murderers will not care whether the penalty be capital punishment, imprisonment or a small fine. But as soon as we introduce a considerable certainty that the penalty of the law will be inflicted, then we begin to have some notice taken of what the penalty is. The member for Perth quoted some figures regarding what had happened in the Old Country during the last century. He reminded us—we all read it in our school history books—that in the beginning of the nineteenth century in England there were some 200 offences for which a man could be put to death, offences such as stealing a sheep, stealing indeed anything worth more than a shilling. I read in my history book that the man, or even the boy, who carved his name on London Bridge was liable to be executed. The hon. member went on to tell us that a strong attack was made on that barbarous state of affairs, and that it was gradually successful. The Legislature in England began to reduce little by little the number of offences the penalty for which was capital punishment. Then the hon. member quoted that after a substantial reduction had taken place in the number of those offences, and there were only three or four offences left for which capital punishment was the penalty, the executions for crimes other than murder went down and down and down; in fact he told us they went down from something like from 1,601 at the beginning of the period, to 20. Those were executions for crime other than murder. Of course that is exactly what one would expect to happen. If we diminish the number of offences for which execution is the penalty, naturally the number of executions will diminish also.

Mr. Marshall: The English would be a very savage race if it were not so.

Mr. DAVY: Well, that is what the hon. member told us. But he said the number of executions for murder did not diminish. Well, of course, why should they?

Mr. Mann: They increased.

Mr. DAVY: Well, they increased. But I would remind him that in the interim the population had doubled. We know what an enormous increase of population there was in England in the beginning of the last century. The figures the hon. member should have quoted to us were the number of crimes,

not the number of executions for crimes, other than murder at the time when the punishment was all capital; and the number of executions for crimes other than murder after the capital punishment had been removed from a lot of them.

Mr. Mann: That is just what I did do.

Mr. DAVY: But the hon. member did not.

Mr. Mann: Yes I did. Read "Hansard"—if you are allowed to.

Mr. DAVY: I am not allowed to, but I have read it. That is to say, I have not quoted directly from it, but I have extracted these notes from "Hansard," and these were the figures given to us. The hon. member went on to say that at the time when there was a substantial diminution in the number of offences for which execution was the penalty, Sir Robert Peel established the police force. The Premier reminded us hence the name "Peeler," which one sometimes hears the police called. Also they are sometimes called "Bobbies," which I suggest came from the gentleman's Christian name. The member for Perth said the introducing of this police force was the substitution for the law of violence of the law of moral suasion. With all due respect I submit that is not what the substitution was. The substitution was the certainty, or the increased probability, of being caught, as against an extremely large chance of never being caught. Before there was a regular police force the man committing a crime felt that no one would ever find out who did it, and that even if it were found out, he was never likely to be brought to justice. Sir Robert Peel established a definite force charged with the function of detecting and catching the criminal and bringing him to justice. I submit that if anything has reduced the extent of crime in the Old Country and elsewhere, it has been the establishment of a regular and honest police force; for it established in the mind of the criminal the more or less certainty of having to pay the consequences of his crime. It does not matter to me that Parliament solemnly passes a law saying that if I steal a motor car I shall be sent to gaol for six months; it does not matter to me, unless I know that if I commit the crime probably I shall be caught and brought to justice. We have been asked to take a lot of notice of what has happened in America. The member for Perth has quoted the opinions expressed by so-called experts in America on the uselessness of capital punishment. He has

told us that in States where it is not in force, murders have not increased, and so forth. It is a fact notorious to the world that in the United States of America justice, so far as the criminal is concerned, is more slow and uncertain than in almost any other part of the civilised community.

The Minister for Justice: Retribution is more uncertain.

Mr. DAVY: Yes. We have just had the pitiful business of the two men of Italian names who were executed last week for a crime committed seven years ago.

The Premier: That could never have happened in a British community.

Mr. DAVY: It is inconceivable that it could happen in a British community. I was in England at the time when that unspeakable murderer, Dr. Crippen, was discovered to have committed his hideous wife-killing crimes. That man was detected to be on his way from England to New York. On cabled instructions he was arrested when he got to New York, and brought back to England, and from the time of his departure from England to the time of his execution less than three months elapsed. When I was in America not long after that, I remember an American expressing amazement and admiration at the speed with which we brought criminals to justice in our country. It was not long before that time when we had the disgusting exhibition of the person Harry Thaw who was found guilty of murder, and who appealed and appealed and delayed justice for years until he finally found a resting place in some sort of criminal asylum from which he rapidly obtained release. That is the state of affairs in America—great uncertainty that a criminal will ever be brought to justice and the certainty of huge delay in any event.

Mr. Thomson: Everything there is in favour of the man who has the money to fight.

Mr. DAVY: Yes; and this is another notorious fact in regard to crime in America, that there are more crimes of violence—murders—in the city of Chicago every year than in the whole of Great Britain. The disparity is astonishing. I am not claiming that that proves anything, but I claim that it disproves the statement of the member for Perth regarding the abolition of capital punishment in Chicago.

Mr. Corboy: In other words, it is not a deterrent.

Mr. DAVY: If capital punishment still existed in Chicago and there was also the deadly certainty of the British law, there would very rapidly be a diminution in crime in that city. I readily admit that it is always extraordinarily difficult to draw analogies between two different countries. It is necessary that the facts in each case should tally before it is possible to draw a true analogy.

The Premier: You must be able to compare like with like.

Mr. DAVY: Yes; it is impossible to get all the facts to tally.

Mr. Marshall: You cannot get all the circumstances alike, either.

Mr. DAVY: That is so. It is impossible to prove conclusively any of the propositions we are discussing by drawing comparisons between different countries. But while I am not prepared to state that what I have said about America proves anything, I say with greater confidence that what the member for Perth said about America proves nothing. So one is thrown back on one's own experience of life, the observations of experts so far as they help us, and one's reasoning power on the effect that capital punishment or imprisonment with hard labour for life may have on the mind of the ordinary human being.

Mr. Mann: When dealing with a highly technical legal point, you quote authorities and rely on authorities.

Mr. DAVY: That is rather different.

Mr. Mann: There is no difference.

Mr. DAVY: In the law the authority represents the final statement of law by a court beyond which no one can appeal—the Privy Council or the High Court of Australia, as the case may be—but the authorities on medical matters, and particularly on psychological and mental matters, are constantly differing. There is scarcely a mental subject on which we do not find a huge difference of opinion amongst various medical authorities. If I recollect aright, at the time when the big fight was being waged in England for a diminution of the number of offences for which the capital penalty should be inflicted, there was one argument that appealed to the ordinary reasonable man more powerfully than did any other. That was the argument which might be summed up shortly in the expression, "Dead men tell no tales." It was said, and said with great cogency, that if a man stole a sheep and be-

came liable to the death penalty and was discovered in the act, there was no motive in the world for him to submit to the discovery, but there was the most powerful motive to destroy the discoverer because "dead men tell no tales."

Mr. MANN: Would not that be applicable to a charge of murder?

Mr. DAVY: Let me finish my statement on that point. A man has stolen a sheep and is liable to be hanged. Another man discovers him. If the thief kills that man, he cannot suffer more than hanging, and so he kills the man and thus increases his chance of escape. In the same way I submit that that very argument, which was so powerful for the wiping out of the death penalty for all crimes except murder, is a very powerful argument for retaining the death penalty in the case of murder. If we wipe out the death penalty for murder, then the crime becomes no worse than robbery under arms or burglary. Therefore, the robber or burglar having been caught will kill his catcher because "dead men tell no tales." That seems to be unanswerable. If we are going to reduce to the same level the crime of killing a fellow-creature and other classes of crime, the same argument that was advanced to diminish the punishment for so many lesser offences operates with at least equal force in favour of keeping the death penalty for the crime of murder. The question whether we should retain capital punishment or abolish it is strictly speaking irrelevant to the Bill, but the member for Perth has made it relevant, because at the back of his mind is an intense antipathy to and disbelief in capital punishment. He is candid enough to admit that what he is really after is the abolition of capital punishment, and as he thinks he cannot get that, he is prepared to accept this.

Mr. PANTON: He is prepared to go half-way.

Mr. DAVY: It is not even half-way. He asks us to establish a sliding scale for one crime and not for other crimes. He asks us to say that where the crime is murder or wilful murder, then there shall be a differentiation of punishment between Smith and Jones although he is candid enough to admit that they are all Joneses. Then when he comes to Smith he argues that any person who commits murder is not completely normal and therefore his formula will apply to all. When we come to burglary, rape or any other crimes, then there shall be no differentiation

between the man who just misses coming under the class of insanity and the man who has a completely normal, acute intellect and everything in his favour.

The Premier: Is not there a differentiation, exercisable at the discretion of the judge, in the punishment that he might award according to the severity of the offence?

Mr. DAVY: There is.

Mr. MANN: Of course there is a maximum penalty.

Mr. DAVY: But I do not think that judges hitherto have fixed the penalty on the lines that the member for Perth is now asking us to adopt. Perhaps they should. In a few moments I intend to make a suggestion. I readily agree that criminal law and medical science need to be brought into line. Criminal law in its relationship to the matters we are discussing is very much out of date. We have learned an enormous amount during the last 50 or 60 years and we are learning more every day. I am willing to admit that the whole question requires to be carefully and skilfully reviewed, but this attempt on the part of the hon. member is merely playing with it, and is such a piecemeal effort that it is more likely to produce confusion and serious consequences than good.

Mr. MANN: If we cannot get all the way, let us get part of the way, at all events.

Mr. DAVY: This is not part of the way; it is on the wrong track.

The Premier: It is not going along the right road; he has taken the wrong turning.

Mr. DAVY: Yes. I think we all agree that the whole system needs to be carefully examined. With due respect to the member for Perth I say he has gone off on a wrong track. He admits it is a wrong track because he candidly confesses that what is really wrong is that the capital penalty should be inflicted at all. The hon. member has certainly given us food for deep thought. He has quoted authorities allegedly in support of his Bill that I consider do not support his proposition at all, but they certainly do bring under our notice a phase of our social life to which it is time we gave serious attention. He has quoted the Jukes family and other families of criminals and degenerates who have sprung from the loins of one pair and spread like a canker through the communities in which they lived. All of us know of such cases, and we readily admit

that in the past we have not appreciated how vastly important was heredity. Fifty or 60 years ago people who strongly desired to see the human race progress towards the happiness and prosperity of everybody pinned their faith to education. They thought that education was going to cure all our evils and that, when we had educated everybody, then would arrive something very near to the millenium. Everybody is rather disappointed over the effects that education was to have had. I am not suggesting for a moment that we were wrong to establish our system of widespread education, but I think the results have not been those that were anticipated by the persons who so strenuously advocated it in the beginning. The reason is that those persons thought that environment was the principal thing. They had not the faintest conception of how deadly was the hereditary taint or deficiency in the stock of the human race. They thought that the acquisition of characteristics, good or bad, could be transmitted. To-day scientists agree that this cannot be so. They agree that if a man is of sound stock and has been brought up in unhealthy surroundings, moral, mental or physical, this will have no effect whatever on his offspring; and, vice versa, that if a man has been brought up in the best of surroundings, it will have no effect upon his offspring whatever at the time of their birth. Has not the member for Perth drawn our attention to the fact that it is just about time we made a first move, at any rate, towards improving this individual standard of the human race from the stock point of view? The member for Menzies (Mr. Panton) produces beautiful flowers in his garden. He is at the moment wearing a lovely carnation. He did not produce that carnation by getting an ordinary ugly weedy carnation, and pouring fertiliser upon it, or even by growing it near good plants. His carnation did not derive its beauty by that means. It did not get it either from the food or the water it received. It derived its beauty from careful selection.

Mr. Maley: There is a fair amount in the food and water also.

Mr. DAVY: No. If the hon. member took that carnation and planted it in barren sand, and gave it just sufficient water to keep it alive, it would produce a very poor flower; but if he took its offspring and planted it under conditions where it really belonged, it would immediately become as

beautiful as the parent flower. I do not think the hon. member will deny that as a statement of fact.

Mr. Panton: That would never make a single flower into a double one.

Mr. DAVY: No, not by any amount of food or water. I suggest that we have had this seed implanted in our minds, or we have been reminded of the fact that it has been planted before, by the hon. member for Perth. I agree, therefore, that it is just about time that the civilised countries of the world made a start with the culling of the flock. That is all we can do to begin with. The Jukes family should not be tolerated in any civilised community for two seconds. I do not say it should be ill-treated, ill-used or harmed in any way. I do suggest that it should be prevented from conferring life upon poor creatures, whose lives when they get them will be a misery to themselves and an obstruction to their fellow creatures. How this is to be done is a matter for our scientific friends to tell us.

The Minister for Justice: The eugenic societies tell us all about that.

Mr. DAVY: They tell us of an operation known as sterilisation that can be performed, but how we are going to decide upon the persons on whom it shall be performed; and how it shall be performed, is a matter for the deepest thought and consideration of expert advisers. I would say we are not doing our duty if we do not seriously consider the question of taking a step in that direction. I am not aware of any part of the British Empire where any recognition of the necessity for preventing the hopelessly unfit from reproducing their species has been brought about by the legislature. The only case which I have ever come across, of the kind that I indicate, was in the New Zealand law reports. In that case a man was charged with having intercourse with a woman who was an inmate of an asylum for the insane. We have a law here forbidding the same thing, and making it a criminal offence. The man's defence was that the woman was his wife, but the High Court of New Zealand held that that was no defence. That was a definite recognition of the eugenic principle.

Member: Very wise.

Mr. DAVY: Yes. Although we place in lunatic asylums insane persons, we do so, not for the eugenic reason, but to protect them and the community. The member

for Perth by his argument has convinced me of something quite different from that concerning which he intended to convince me. I find myself unable to support the Bill, but I would support the appointment of a select committee, or preferably of a Royal Commission charged with the duty of bringing our criminal law into closer touch with modern medical science. Before we make alterations in the law, such as are proposed here, we should hear what men like our Chief Justice have to say upon the subject. I should like to hear the views of the leaders of our principal churches. I should like to hear the views of Archbishop Clune and Archbishop Riley and our expert alienists, such as Dr. Bentley.

Mr. Mann: Do you think clergymen could give you much advice?

Mr. DAVY: While I am unable to support the Bill, I will support the member for Perth if he moves in the direction I have indicated.

**MR. NORTH** (Claremont) [8.22]: Whilst I was most interested in the views expressed by the member for West Perth (Mr. Davy) I still feel that we owe a great debt of gratitude to the member for Perth for bringing forward what is a very crying need in the community, namely, our responsibility towards those persons who are not officially insane. The member for Perth quoted a number of authorities, but there are others he did not quote, showing that there is a very big distinction indeed between what is official insanity, where two doctors give a definite certificate, and the condition of a large number of persons who are found in most civilised communities, who, in the opinion of experts, are not what may be called normal minded. The Bill, I take it, is not designed to protect the criminal murderer, the cunning and normal man, if one exists, from the results of his crime, but to deal with those who are unable, in our view of life, to control themselves in times of emergency. There is still a big question at issue, namely, that of how far this applies throughout our criminal system. In that respect I agree entirely with the member for West Perth. The Bill brings to mind a very interesting question as to how far our responsibilities lie, and, even if there is a possibility of preventing the coming into existence of

a great many of the unfit persons in the community, we still have to consider how far our judgment should be interfered with in some of those very unsavoury and sad cases where individuals have been hanged for committing crimes when they had no opportunity of knowing that they had committed them. The member for Perth may not be looked upon as having a greater grip of the needs of the community than Archbishops and Chief Justices, but he has a far more intimate knowledge of criminals and persons who have committed murder than any of those persons to whom I have referred. He has been in touch with them for weeks before their death, and has been able to follow their temperaments and see for himself their attitude concerning the crimes they have committed. Certain authorities cannot be ignored. I will quote one or two lines from an authority in support of the contention that insanity proper is not always official and certified insanity. The authority I have here is Taylor's "Principles and Practice of Medical Jurisprudence." It says—

Many attempts have been made by psychologists to define insanity; but the definitions hitherto given are so imperfect that it would be difficult to find one that includes all who are insane, and excludes all who are sane. This difficulty is fully accounted for by the fact that mental disorder varies in its degree as well as in its characters; and the shades of disordered intellects in its early stages are so blended as to be scarcely distinguishable from a state of sanity. It is this twilight condition of the mind, when it is fluctuating between sanity and insanity, which no definition can comprise, especially as the mind differs in its powers and manifestations in most persons, and it is therefore difficult to fix upon a standard by which a fair comparison can be made. The vulgar notion of insanity is that it consists in an entire deprivation of reason and consciousness; but the slightest acquaintance with the insane proves that they are not only perfectly conscious of their actions in general, but that their reason rests upon their feelings and impressions. When no two cases are precisely similar, no definition can include all varieties of the disorder. A mental witness who ventures upon a definition will generally find himself involved in numerous inconsistencies, and no words can possibly comprise the variable characters which this malady is liable to assume. The power which is most manifestly deficient in the insane is generally the controlling power of the will.

I have here a small pamphlet, which the member for West Perth has secured in the course of his investigations. He raises

what after all is an important point in considering this Bill. The pamphlet says—

Another consideration bearing upon the same point is that, except when instinctively or by Press campaign, swayed by vindictive passions, juries tend more and more to refuse to convict if the evidence is not wholly convincing. The shadow of the gallows hangs over their deliberations and tends to bias their judgments.

That point is a very important one. There have been perhaps many cases where 12 good men and true have not been prepared to send a man to the gallows, but have been prepared to convict him if they had thought there was some penalty other than the death penalty. That point was not stressed by the member for Perth but I think it is a practical consideration to those members who are strongly in favour of capital punishment, to remember that by supporting that view they are—almost, it might be said, deliberately—letting men go scot free instead of their being punished at all. Another view expressed in the pamphlet which I think worth quoting shortly, refers to the extension of the same view to other crimes—

But if there is much to be said in favour of the application of curative treatment for the ordinary criminal, there is infinitely more in the case of the murderer. Men do not make a hobby of killing people unless they are mad, whereas the excitement of the life of the petty thief has an undoubted appeal to a certain type of mind. There has rarely been a murderer whose humanity has not appealed to his custodians.

That strongly bears out the views of the member for Perth.

The warders' evidence on this point is very striking, and we are impelled to conclude that the offender has given way to some sudden impulse that has swept away his normal control. What possible justification can there be for killing such a man? Even in the case of coldly deliberate murder the criminal is frequently a man with many admirable qualities.

And so on, and so forth. All this goes to show, in my opinion, that there is much to be said for further analysing the question of culpability and guilt as regards the crime of murder between capital punishment and the cases of insanity where the person is put away in an asylum as now. I consider there is all the difference in the world between this Bill and a Bill for the abolition of capital punishment. After all, if we abolish capital punishment we shall be taking a course far more responsible than that suggested by the Bill, which merely throws upon

the jury the onus of saying whether a man is defective in mind to that extent which would bring him under the Criminal Code. I further support my views with a quotation from Samuel Butler, written 50 years ago, which goes to show that in those days there were minds revolving the problems which now agitate us. In Butler's "Erewhon," a world-known work, dealing with a situation in which the judge had donned the black cap to sentence a consumptive to death, the writer introduces some most interesting suggestions as to insanity in general—

I write with great diffidence, but it seems to me that there is no unfairness in punishing people for their misfortunes, or rewarding them for their sheer good luck: it is the normal condition of human life that this should be done, and no right-minded person will complain of being subjected to the common treatment. There is no alternative open to us. It is idle to say that men are not responsible for their misfortunes. What is responsibility? Surely to be responsible means to be liable to have to give an answer should it be demanded, and all things which live are responsible for their lives and actions should society see fit to question them through the mouth of its authorised agent. What is the offence of a lamb that we should rear it, and tend it, and lull it into security, for the express purpose of killing it? Its offence is the misfortune of being something which society wants to eat, and which cannot defend itself. This is ample.

Butler then goes on to deal with property—

For property is robbery, but then, we are all robbers or would-be robbers together, and have found it essential to organise our thieving, as we have found it necessary to organise our lust and our revenge. Property, marriage, the law; as the bed of the river, so rule and convention to the instinct; and woe to him who tampers with the banks while the flood is flowing.

Coming back to the suggestion of responsibility, Butler deals with the snake in just the way I personally think we would all deal with the deliberate murderer—

We kill a serpent if we go in danger by it, simply for being such and such a serpent in such and such a place; but we never say that the serpent has only itself to blame for not having been a harmless creature. Its crime is that of being the thing which it is; but this is a capital offence, and we are right in killing it out of the way, unless we think it more danger to do so than to let it escape; nevertheless we pity the creature, even though we kill it.

That, surely, is our view to-day. In concluding this part of "Erewhon," Butler says—

I did not gather that these reformers were opposed to meeting some of the more violent forms of illness with the cat-of-nine-tails, or

with death; for they saw no so effectual way of checking them; they would therefore both flog and hang, but they would do so pitifully. "Erewhon" is, of course, widely known as a most striking satire on society and a most amusing book. Probably, in quoting those few lines I have not given the gist of Butler's argument. But the writer's point is that it is quite ridiculous to deal with punishment in a slipshod fashion by trying to put all the various criminals under one heading, by sending a man, if he has committed murder, to a prison or a hospital if he is insane and letting those in between take their chance with a jury. That is the position to-day, and therefore I commend the member for Perth for bringing forward the measure. The Bill does not really tamper with the question of deterrence. As I said before, if a murder is committed in cold blood far away from the crowd of people, the murderer, if he is a normally calculating person, will not dodge a jury on any evidence of mental defectiveness. But as regards those members of the community who may be brought to trial on a capital offence and in whom there is mental weakness, this shadowy lack of perception, the twilight of the mind which comes between normal persons and outright insane persons under the law, I think they are entitled to the benefit of the doubt. We should be very grateful to the hon. member who has given so much of his life to the study of criminals and has seen for himself, in the course of his duty, the sort of mentality which does affect men who commit murder, for making it possible that this community of Western Australia at least should bring forward a measure allowing the jury, the 12 good men and true who in the long run decide everything else in regard to the evidence, to say whether or not in their opinion that particular culprit was mentally defective. If the Bill should become law and should have the effect, for the next few years, of sending nearly all murderers to imprisonment instead of the gallows, surely it will be an indication to this House and to the community that there has been a genuine feeling in favour of the abolition of capital punishment, although that is not expressly designed in this Bill. With reference to the remarks of the member for West Perth (Mr. Davy) I submit, with all due deference, that nearly all of them could have been used as good arguments in support of the Bill exactly as they were used as arguments against it. I support the second reading.

On motion by the Minister for Justice, debate adjourned.

## BILL—BREAD ACT AMENDMENT.

### *Second Reading.*

Debate resumed from the 24th August.

**HON. SIR JAMES MITCHELL** (Northam) [8.38]: This is a very simple and innocent looking measure, but probably no proposed law has ever come down under more extraordinary circumstances than this proposal. The existing Bread Act provides that bread shall not be baked before 5 p.m. on Sundays. Under that law a case is now before the courts, and the member for Guildford (Hon. W. D. Johnson), who introduced the Bill, is the advocate appearing for one side or the other. He is, of course, an exceedingly energetic and, I dare say, a most effective advocate. He is anxious that bread should be baked before the hour of 5 p.m. on Sundays, and he is also anxious that the Arbitration Court should be able so to decide. It is an extraordinary thing if this Assembly is to listen to an advocate because he happens to be a member of Parliament. If the Arbitration Act ought to be amended as we are now asked to amend it, then the Government should have brought down the amending Bill. It is an extraordinary thing that an advocate can come to this House and say, "The Arbitration Court cannot give the award it wishes to give."

Hon. W. D. Johnson: If I said that, I would be wrong.

Hon. Sir JAMES MITCHELL: That is what the hon. member actually said.

Hon. W. D. Johnson: No; and I said nothing like it. It would be radically wrong if I had said it.

Hon. Sir JAMES MITCHELL: The hon. member said the court could not function because of a certain section of the Arbitration Act. Those were his final words.

Hon. W. D. Johnson: That is a different thing.

Hon. Sir JAMES MITCHELL: The words in question seem to make it perfectly clear to us that the court had said to him that if he wanted the award he was asking for, the Act must be altered.

Hon. W. D. Johnson: That is distinctly wrong, and you know it.

Hon. Sir JAMES MITCHELL: I have read the hon. member's remarks. He said the award was held up pending the submis-

sion of this Bill to Parliament by him, an advocate in the case. I do not know what the Premier will think about the matter, but if the Arbitration Court can say to an advocate who happens to be a member of Parliament, "Go to the House and get the law altered, and we in the meantime will wait with our award and consider the matter and let you know," it is indeed a most extraordinary position.

The Premier: No court said that.

Hon. Sir JAMES MITCHELL: That is the impression we derived from the remarks of the member for Guildford.

Hon. W. D. Johnson: No, that is not true.

Hon. Sir JAMES MITCHELL: Those are the words of the hon. member's speech. I will quote them—

The court having made an appeal to Parliament through the advocate I am justified in asking Parliament to expedite the passage of the measure, so that the court may function.

Those are the hon. member's words.

Hon. W. D. Johnson: The court indicated that they could not function while that Act was there.

Hon. Sir JAMES MITCHELL: That is all I said. The court could not function in the way the hon. member wanted.

Hon. W. D. Johnson: That is wrong.

Hon. Sir JAMES MITCHELL: Of course the court could function. This Act is an old Act, dating back to 1903. It is true that the court cannot order bread to be baked before 5 p.m. on Sunday whilst this Act is in existence; but this Parliament claims the right to say that bread shall not be baked at all on Sunday, if Parliament likes. According to the member for Guildford, the Arbitration Court has made an appeal to Parliament through an advocate. The hon. member's words were—

I am justified in asking Parliament to expedite the passage of the measure, so that the court may function.

In other words, do what the hon. member wishes.

Hon. W. D. Johnson: That is wrong.

Hon. Sir JAMES MITCHELL: Last year, I think, we had the Bread Bill before us asking that bread should be baked by day and not by night. Would it be right for the Arbitration Court to say to the people who want to bake bread by night and not by day, "Go to Parliament and get Parliament to alter the law; in the meantime we will hold up our decision"? If such did happen, it does seem to me that it would be a great advantage for both sides to

employ members of Parliament. This is an extraordinary thing for the Arbitration Court to have done. I hope that I have misunderstood the position, and that the hon. member misunderstood the court. The fact is that an award is held in abeyance until this Parliament shall have considered the present Bill. One can understand the court pointing out to the Government any weakness in the Act, or any advantageous amendment to it; but one cannot understand the court doing what the hon. member led us to believe they did in this case.

Hon. W. D. Johnson: What you wrongly read in.

Hon. Sir JAMES MITCHELL: I make the statement. The hon. member knows that.

Hon. W. D. Johnson: You are reading into it what is not there.

Hon. Sir JAMES MITCHELL: The words are perfectly clear for everyone to understand. I hope I am mistaken. If I am mistaken, I ask the hon. member why is he here with his Bill? Why does the hon. member leave the section and merely add a proviso? The section says—

No person exercising or employed in the trade or calling of a baker shall make or bake any bread, rolls, cake, or other article for sale, before the hour of five o'clock, p.m., on Sunday, without the permission of an inspector, except so far as may be necessary to set and superintend the sponge to prepare the bread for the next day's baking.

I agree with the member for Guildford (Hon. W. D. Johnson) that it was not anticipated that inspectors would grant those permits except very occasionally. The hon. member proposes to add the following proviso to the section:—

Provided that this section shall not apply in any district or area for which an industrial award or industrial agreement relating to the baking trade is for the time being in force in which a time for commencing work on Sunday is prescribed.

So we will have one law that fixes the commencing hour for work on Sundays and another law giving the court power to determine the time of starting on Sundays!

Mr. Kenneally: Are you not prepared to give the court power to determine?

Hon. Sir JAMES MITCHELL: The hon. member can tell the House what he is prepared to do when his opportunity arrives. If we are to be guided by all that has been said about arbitration, here, there and everywhere throughout Australia during the last 12 months, we will soon arrive

at the conclusion that we shall have to revise the whole system. I think it would be better to allow the court to control the hours of work in all industries.

Mr. Kenneally: Then why not do it now? You must intend to support the Bill!

Hon. Sir JAMES MITCHELL: The member for East Perth (Mr. Kenneally) is not prepared to allow the court to fix the time for starting work. The hon. member has only just become a member of this House. He will learn soon that it is not customary, nor would you, Mr. Speaker, permit members to indulge in these conversations across the floor of the House. The member for East Perth can express his own views and he can tell us why the Bill has been presented to Parliament. This is an extraordinary position, and I hope it will never happen again. If the Arbitration Court desires the Bread Act to be amended, the court is perfectly justified in approaching the Government with that object in view. For the moment, however, we are asked to consider a Bill so that the court may give a decision in connection with a specific case. I know nothing about the merits of that case. I have no doubt the member for Guildford put up a tough fight before the court, and for the moment we are to consider the issue. As to the merits of the position, on that ground alone we might well pause before approving of the Bill. If men are to be expected to work on Sundays, we might well argue that they should be entitled to as much of the day and daylight as possible. Since 1903 when the Bread Act was passed, no objection has been taken in this House to the existing arrangements regarding Sunday work. Not until 5 p.m. may bakers be called upon to do work on Sundays. In these days of Sunday excursions to country pleasure spots, of motor runs and so forth, we should protect the workers so that they shall have as much of their Sundays off as possible. It is true that they have Saturdays off duty, but nowadays it is on Sundays that people usually go into the country on excursions. No argument has been advanced in favour of the proposed amendment to the Act, except that the existing law does not suit the member for Guildford who has been appearing as an advocate in the bread bakers' case! I do not know what the member for West Perth (Mr. Davy) would

think if he could come here to ask Parliament to amend an Act as he had asked the judges of the Supreme Court to reserve their decision until he had got Parliament to amend the law to suit his wishes. We should have our time fully occupied under such conditions. We would be careful to see that no lawyers ever again entered Parliament and that, of course, would be a calamity.

The Premier: It might not be due to the law, but to the lawyer himself that he did not win his case.

Hon. Sir JAMES MITCHELL: Yes, but he might like to have a double barrel, a bona fide barrel in one direction and a mala fide barrel in Parliament here. That would be an extraordinary position. I repeat that no argument has been advanced in favour of the proposed amendment, apart from the suggestion that the court ought to be perfectly free to fix the time of starting work on Sundays. I suppose it would be logical to say that if the court does not fix the hours, the whole question should be open for people to choose for themselves. With all the anxiety of the member for East Perth to have the court left perfectly free, he is not willing to have the section left out altogether, but agrees with the member for Guildford to add the proviso set out in the Bill. I am in accord with the member for Guildford in respect to day baking, but I am not with him in his desire to alter the section in the direction suggested by the Bill. He might have put up a much stronger argument if he had allowed the question to rest on its merits and had not stressed the position in which the Arbitration Court found itself. Parliament is above courts, which have to administer the law as we make it for them. The days of Solomon are passed, and all the present Arbitration Court has to do is to administer the law as we send it to that tribunal. I hope the House will decide it is not good for bakers to work before 5 p.m. on Sundays.

Hon. W. D. Johnson: Then they will have to work at night. If they start at 5 p.m. and have to work eight hours, they must work through the night.

Hon. Sir JAMES MITCHELL: I do not know that it is necessary for them to work eight hours. Even if they have to work on Sunday night, it seems to me that it would be better for them to do so and have

the whole day off. I agree there should be no Sunday work. I am prepared to eat bread baked on Saturday and sold on Monday.

The Premier: That bread would be better for us too.

Hon. Sir JAMES MITCHELL: Very much better for us. It is because that sort of bread is good for us and because I do not think bakers should be called upon to do more night work than can be avoided, that I am in favour of day baking. The position confronting us is entirely different. I hope the House will consider just why the Bill has come before us, and that we will make it clear by our votes that this sort of thing cannot happen again, whether in respect of the Arbitration Court or otherwise. If the Government had been approached and told that it was desirable the Bread Act should be amended, a Bill would have been introduced in the ordinary way. It is inconceivable to me that we can receive such a Bill from the hands of the member for Guildford, who has told us he had appeared as an advocate for one of the parties to a dispute in the baking trade.

Mr. Thomson: He also admitted that the employers did not agree to this proposal.

Hon. Sir JAMES MITCHELL: I am not concerned for the moment as to whether one side or the other agreed to the proposal. I am concerned about the administration of the Bread Act by the Arbitration Court, and the method by which alterations to the legislation are to be made. I hope the House will remember that the member for Guildford said that the court's award was being suspended while we consider the Bill, and I hope a suitable answer will be given. In this instance, the suitable answer, in my opinion, will be the rejection of the Bill.

MR. SAMPSON (Swan) [8.56]: I am not very punctilious as to the observance of the Sabbath, but as a member of this Chamber I am not in favour of further liberalising the present position. I regard the Bread Act as going quite far enough in so far as it permits Sunday work to be done after 5 p.m. Notwithstanding that limitation, I know that children are to be seen in the various suburbs on Sunday afternoons running to the different bakers' shops in order to get fresh bread.

The Premier: You are not supposed to get fresh bread on Sundays.

Mr. SAMPSON: I know it is illegal, but fresh bread is sold on Sundays in large quantities.

Mr. Panton: And bread is not the only commodity sold on Sundays.

Mr. SAMPSON: That is so. At the same time bread that is only just out of the oven is sold in large quantities on Sundays. I know opinion is divided as to whether bread of that description is good for the people, but that is not the point at issue just now. I will not be a party to providing further opportunities for Sunday work which I do not regard as necessary with regard to the baking of bread. In June last some evidence was heard before the Arbitration Court in connection with the bakers' case. Dugal Malcolm Campbell—I think he was a Scotsman—who said he was a master baker with over 40 years experience, told the Court that instead of Sunday being a day of ordinary production, it was a day of absolute business activity. In the course of his evidence, he said—

At the present time he could not sit down to a meal without there being a rap at the door and a request for a loaf of bread. For many years he had hoped that Sunday work would be abolished.

Although I know men prefer to work on Sundays rather than on Saturdays, in view of the general recognition of the Sabbath and without any special regard to the claims of the churches, we should show respect for the wishes of the great bulk of the public who desire that the Sabbath shall be respected. In the circumstances I hope the member for Guildford will decide to withdraw the Bill. Evidently that suggestion does not meet with much approval. Still, I cannot see that any advantage will accrue to those working in this industry. In earlier days, efforts were put forward to secure the seventh day as a day of rest, and now we find efforts being made to bring about its abolition.

Hon. W. D. Johnson: You suggest that the baker should work on Saturday night in order that he shall not have to work on Sunday?

Mr. SAMPSON: I suggest that the hon. member's proposal is another step towards the abolition of the Sunday holiday, and that he seeks to prove that the Saturday holiday is much better than the Sunday. I do not follow the reasoning, and I say the best holi-

day is the day that is generally observed, which is the Sabbath. I will vote against the Bill.

**MR. DAVY** (West Perth) [9.1]: If the hon. member who introduced the Bill had made Clause 2 about a quarter the length it is I could not possibly have resisted an impulse to vote for it. If the clause had read "Section 16 of the principal Act of 1903 is hereby repealed," I should have felt bound to vote for it.

**Hon. W. D. Johnson**: But for the same reason others would have voted against it. The best plan is to get it in both ways.

**Mr. DAVY**: But you cannot do that. The hon. member, by putting it in the peculiar way he has, has gone in opposition not only to persons like me, but to persons like the Leader of the Opposition and the member for Swan, and all for different reasons. Had he put it the other way, he would at least have gained my support.

**Hon. W. D. Johnson**: But not that of the others.

**Mr. DAVY**: I think he might have got at all events the support of one of them. When last session the Minister for Works brought down his 44-hour week Bill, most of us on this side strenuously opposed it on the ground that we had created the Arbitration Court to deal with these matters and, consequently, should leave the court untrammelled; whereas his measure proposed to tie their hands. So if the member for Guildford had come down and said, "We must leave the Arbitration Court free to deal with all questions of time and wages and conditions——"

**Hon. W. D. Johnson**: That is just what the Bill says.

**Mr. DAVY**: No, it does not. Had the hon. member done that, I would have found it very hard logically to oppose his Bill. But he has not done that. He proposes to allow the prohibition of Sunday baking to stand; but if two sets of persons, the employers and the employees, get an award, that prohibition is to be suspended. And the reason he has brought it down in the shape he has is that he, like the master bakers, is desperately hostile to the one-man baker. Like other persons who have been too much in the industrial fight, the member for Guildford can never visualise any member of the community who is not either an employer or an employee. To him the whole

community is divided into bosses and workers. So the rights of the man who desires to work for himself and be his own boss and his own worker are to be disregarded always. If we pass the Bill in its present form the master bakers, represented by the Employers' Federation, and the baking operatives, represented by the member for Guildford, will be able to come together and make an agreement for working by night on Sundays, and then the section in the parent Act will not operate against them. But it will still operate against the man who proposes to work for himself, but who does not employ anybody else.

**Hon. W. D. Johnson**: It ensures Sunday for him. It will meet the member for Swan, will it not?

**Mr. DAVY**: It will stop the small baker from doing what he wants to do, but will allow the member for Guildford's friends to do exactly what they want to do. It means one law for one set of people, and another for another set.

**Hon. W. D. Johnson**: No, the small baker will do what the court directs him to do.

**Mr. DAVY**: But the hon. member's clause prescribes that the section in the parent Act shall not apply in any district or area for which an industrial award or industrial agreement relating to the baking trade is for the time being in force. So if the master bakers and the bakers' union agree, the law is to be immediately suspended in their favour.

**Hon. W. D. Johnson**: It would have to become a common rule.

**Mr. DAVY**: The Bill does not say anything about a common rule. It says that if an industrial agreement relating to the baking trade is made, this section of the parent Act shall be suspended. So we shall have the beautiful spectacle of the law being suspended by an agreement between one section of the community and another, but being continued so far as it relates to a third section of the community. It means one law for the person in some organisation, and another law for those who are not. That being so, I cannot conscientiously support the Bill. If the member for Guildford will say that in Committee he will alter this in the manner I have indicated, namely, to repeal Section 16, I promise to vote for it; although, of course, there is this to be said even against that, that the Bill is a piece of legislation which is just one link in the chain of negotiation between two parties at

law. I do not know to what extent Parliament should be prepared to come into the middle of a case and pass a special piece of legislation in order to enable the conclusion of that case to be arrived at in a manner satisfactory to one party or the other. It may be all right, but it seems to me a little irregular.

Mr. Panton: You have no idea as to what the decision will be.

Mr. DAVY: No, but after a case has been launched, should we alter the law in order to enable a particular decision to be given if the court should decide in that direction?

Hon. W. D. Johnson: You know that for years that Act has been ignored. You know more about it than do most people.

Mr. DAVY: I know that the bakers have been carrying on in contravention of the law.

Hon. W. D. Johnson: By direction of the court.

Mr. DAVY: I do not know that.

Hon. W. D. Johnson: The court gave an award directing us to work on Sundays.

Mr. DAVY: Not an award, it was an agreement.

Hon. W. D. Johnson: No, it was an award in the first instance. The agreement is but a continuation of the award given in 1919.

Mr. DAVY: It will show that the advocates appearing in the Arbitration Court are not mindful of their job, if they permit a decision to be given and an award issued in direct defiance of the legislation. Surely we must take a serious look at ourselves when we are going to ignore a piece of our statute law just because it suits our convenience to do so.

Hon. W. D. Johnson: No, it is not that.

Mr. DAVY: We really must endeavour at all times to observe the law as it stands. It is not a light matter when a court of industrial arbitration gives an award in contravention of an express statutory prohibition.

Hon. W. D. Johnson: It is equally serious when an Act of Parliament prohibits the putting into operation of a direct award of the court.

Mr. DAVY: That is not nearly so serious. Parliament is the paramount authority and I do not want to see the Arbitration Court take its place. But I am in favour of the Arbitration Court being given as completely a free hand as possible in matters fixing wages, time, hours and conditions of labour;

for we delegated that job to the court and we ourselves are a most incompetent authority to deal with it. If the member for Guildford had merely brought down a proposition to clean off the statute book one of the trammels on the authority of the Arbitration Court, I could not logically have failed to vote in favour of it. But I am strongly against a proposition, such as he has presented, which will leave the law to apply to some citizens and leave others entirely free of that law.

**HON. W. D. JOHNSON** (Guildford—in reply) [9.11]: I recognise that when one brings down a measure like this dealing with industrial matters it is an invitation for members taking an opposite view to oppose it irrespective of the merits of the Bill. The position is that in 1919 the court gave an award directing that the practice in the industry of baking on Sundays should be continued. And the practice of the industry has been to bake on Sundays ever since I can remember, certainly for the last 25 years. Unfortunately in the industry it is necessary to bake on Sundays. One either has to bake on Sundays during the day, or on Mondays and Saturdays during the night. The bakers say they do not want to work at night. The general trend of the world is to prohibit night baking. So, seeing that this Act compels either night baking or baking through hours during the day that will make it impossible for the industry to fulfil its obligations to the public, the bakers say something must be done. For a number of years we did bake on Sundays before 5 p.m. and no injury was done to anybody. But all of a sudden one master baker disregarded the award. An enforcement case was taken, in which a lawyer was briefed. He suddenly discovered that which all others had forgotten. He found that the old Act of 1903, which had been broken by direction of the award, gave him an opportunity to win the enforcement case at the cost of upsetting the industry for the time being. The award said the operatives could work on Sundays before 5 p.m., but the Act of Parliament said they could not work until after 5 p.m. The court took the matter into consideration and decided that the Act of Parliament must stand. But we were able by mutual consent of the employer and employees to make application for exemption. The exemption provision was in the section purely to meet emergencies, not to meet the circumstances that had

arisen. But without exemption the whole of the industry in the metropolitan area would have been disorganised. To avoid that, commonsense prevailed and the inspector said, "You had better go on baking on Sundays until an opportunity offers to put the thing right."

Mr. Mann: Why not repeal the Act?

Hon. W. D. JOHNSON: I would rather repeal the Act, but as the member for Swan (Mr. Sampson) has ably pointed out it is wrong for us to make people work on Sunday if it can be avoided. If I brought down a Bill to repeal the Act I should quite expect the member for West Perth (Mr. Davy) to say, "Why repeal that section? Your award will deal only with the men employed. What about the large number of bakers who are baking for themselves and are not subject to the award? Why should not they have that protection?"

Mr. Davy: They protect themselves.

Hon. W. D. JOHNSON: They cannot protect themselves.

Mr. Davy: Of course they can. It is entirely in their own hands.

Hon. W. D. JOHNSON: If they mutually agree, they can, but in the world of competition, if one man can get an advantage, he will take it. However, he cannot take advantage on a Sunday because all bakers have to cease operations until 5 p.m. I may have misjudged the member for West Perth, but it was because I anticipated an objection from him on the lines I have mentioned that I introduced the Bill in this form. He is the man I was frightened of. No one knows more about this section of the Act than does the member for West Perth, who is an expert on the question. He would immediately have asked what right we had to interfere with the small bakers who desired this protection.

Mr. Davy: Take me at my word. I promise to vote for you if you will alter it in Committee.

Hon. W. D. JOHNSON: But unfortunately I should then have another hurdle to overcome. While I may succeed in placating the hon. member here, I may run foul of his friends elsewhere.

Mr. Davy: Take my tip, you will get a repeal through easier than this.

Hon. W. D. JOHNSON: I am not prepared to take the risk. I want to get the support of the member for Swan. If I placate the member for West Perth and get his vote, the member for Swan will vote against me, because he desires to protect people from

having to work on Sundays. The Act does protect people from working on Sunday, and under the award to be issued by the court, it may happen that all will be protected from working on Sunday. The matter will be quite in the hands of the court if we pass this amendment. Therefore, I am sure of the member for Swan insofar as I ask that those who do not employ labour shall be protected against Sunday work. Regarding the evidence read by the member for Swan, it would be quite wrong for me to follow that up. There is an obvious reply to it. If the hon. member had read all the evidence, he would have found that while those witnesses he quoted were enthusiastically in favour of the abolition of Sunday work, the alternative to Sunday work was going to be pretty severe on the employees. To an extent the case is sub judice. The employees feel that baking must be done on Sunday in order to meet the public demand, and the whole of the evidence presented was in continuation of the practice that has existed for 25 years. They would like to get away from Sunday baking, but, unfortunately, the public demand that the industry shall carry on on Sunday so that they may get reasonably fresh bread on Monday. Therefore, the whole of the evidence of the employees was in support of Sunday baking. If the Act stands, the evidence of the employees cannot be taken into consideration, because the Act provides that there shall be no Sunday baking. If we stop Sunday baking the evidence submitted will be of no assistance to the court. The court, in order to function, must be untrammelled, but the Act limits the Court. The court heard the evidence, but the question of the limitation imposed by the Act was not raised during the currency of the case. After the evidence was completed the court called the advocates before them, pointed out the difficulty and suggested that they should endeavour to overcome it by a conference, failing which the Act should be amended. I made a big effort to arrive at an understanding in order to avoid the necessity for amending the Act. I thought it would be possible for both sides to take a reasonable view and arrive at an understanding, but though a great effort was made, it proved in vain. Consequently there was nothing left but to remove the limitation and give the court an opportunity to function in an untrammelled way. Today the court is limited; it can look at the question from only one point of view. We

must give the court an opportunity to look at it from every point of view if it is to be just in its deliberations. I do not think the member for Northam was justified in reading into my remarks the meaning that he tried to place upon them, but I suppose that it is all part of the political game.

Hon. Sir James Mitchell: I read your own words.

Hon. W. D. JOHNSON: Members must realise that if we say to the court, "You shall function to a given extent, but we shall restrict you in certain directions," we cannot get that respect for the court that the member for Northam should be anxious to maintain. The amendment is absolutely essential to give the court full power to function and the best way to meet all points of view is the way I have suggested.

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

Ayes	..	..	..	21
Noes	..	..	..	16
				—
Majority for	..	..	5	—

## AYES.

Mr. Chesson	Mr. Marshall
Mr. Collier	Mr. McCallum
Mr. Corboy	Mr. Millington
Mr. Coverley	Mr. Munie
Mr. Cunningham	Mr. Sleeman
Mr. Heron	Mr. Troy
Miss Holman	Mr. A. Wansbrough
Mr. W. D. Johnson	Mr. Willcock
Mr. Kenneally	Mr. Withers
Mr. Kennedy	Mr. Pantou
Mr. Lutey	

(Teller.)

## NOES.

Mr. Angelo	Sir James Mitchell
Mr. Brown	Mr. North
Mr. Davy	Mr. Sampson
Mr. Ferguson	Mr. J. H. Smith
Mr. Griffiths	Mr. J. M. Smith
Mr. E. B. Johnston	Mr. Taylor
Mr. Latham	Mr. Thomson
Mr. Liodeay	Mr. Richardson

(Teller.)

## PAIR.

AYE.	No.
Mr. Lambert	Mr. Mann

Question thus passed.

Bill read a second time.

*In Committee.*

Mr. Lutey in the Chair; Hon. W. D. Johnson in charge of the Bill.

Clause 1—agreed to.

Clause 2—Amendment of Section 16:

Mr. DAVY: I move an amendment—

That all the words after "hereby" be deleted with a view to inserting the word "repealed."

If we are going to free the hands of the Arbitration Court and let it have the sole right to decide hours and restrictions on times of labour, we should be careful to leave the law the same for all members of the community. If the clause is passed as printed and the Arbitration Court acts as the member for Guildford hopes it will, then Smith, a baker, employing Jones as operative, will be permitted to work on Sunday morning, but Brown, a baker, who does not employ anyone, will not be permitted to work on Sunday morning. I submit that is not just.

Hon. W. D. JOHNSON: I cannot agree to the amendment. I know there is more genuine opposition to the hon. member's suggestion than there is to my proposal. He suggests that an award of the court will say that one section shall work certain hours, and another section shall be prevented from working those hours.

Mr. Davy: I said that might happen, and that you hoped it would come out in that way.

Hon. W. D. JOHNSON: Why not leave it to the court to take that point into consideration? The award could be so framed as to make it apply to the non-employer of labour.

Mr. Davy: The court has no control over the non-employer of labour.

Hon. W. D. JOHNSON: The Bill will effect that. If I agreed to the amendment I would be doing what the member for Swan appealed to me not to do. Others would ask what right I had to interfere with the Act that had existed since 1903. It is better for me to ask that where the award applies the Act shall not apply, but that where it makes no declaration the Act shall apply as it has done since 1903. The court gave an award in 1919 that is directly in conflict with the Act, but this Bill will bring the award into conformity with the Act.

Hon. Sir JAMES MITCHELL: This means that the court can do as it likes, so that there shall be one law for one bakehouse and another for other types of bakehouse. On a previous occasion the hon.

member said, "Let us provide that the trade shall be conducted on lines that are fair to all," but now in the most inconsistent fashion he asks us to do the very reverse. If we are to do justice to all men we must vote with the member for West Perth, but if we would do an injustice deliberately and malignly we must vote for the clause as it stands. Unless we vote for the amendment we shall be pushing the small man down the hill. It would be monstrous that the court should say to a man who employs labour, "You can start when you like," but that it should say to the man who does not employ labour, "We will restrict your trading."

Mr. SAMPSON: I see that to maintain the argument I brought forward earlier would be to act with inequity. In an endeavour to support legislation that will make for equity on the part of those who are engaged in the industry, I shall support the member for West Perth.

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

Ayes	15
Noes	20
Majority against	5

#### AYES.

Mr. Angelo	Sir James Mitchell
Mr. Brown	Mr. North
Mr. Davy	Mr. Sampson
Mr. Ferguson	Mr. J. M. Smith
Mr. Griffiths	Mr. Taylor
Mr. E. B. Johnston	Mr. Thomson
Mr. Latham	Mr. Richardson
Mr. Lindsay	(Teller.)

#### NOES.

Mr. Chesson	Mr. McCallum
Mr. Collier	Mr. Millington
Mr. Corboy	Mr. Munzie
Mr. Coverley	Mr. Sleeman
Mr. Cunningham	Mr. Troy
Mr. Heron	Mr. A. Wansbrough
Miss Holman	Mr. Willcock
Mr. W. D. Johnson	Mr. Withers
Mr. Kenneally	Mr. Pantou
Mr. Kennedy	(Teller.)
Mr. Marshall	

Amendment thus negatived.

Clause put and passed.

Title—agreed to.

Bill reported without amendment and the report adopted.

*House adjourned at 9.15 p.m.*

## Legislative Assembly,

*Thursday, 1st September, 1927.*

	PAGE
Questions: Land selection, withdrawal of areas	674
Aborigine Missions, subsidies	674
Traffic Act, Routes Advisory Committee	675
Migration, Mr. Shepherd's statements	675
Bills: Supply (No. 2), £831,000, all stages	675
Bread Act Amendment, 3R.	681
Electoral Act Amendment, Com.	681

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

### QUESTION—LAND SELECTION.

#### *Withdrawal of Areas.*

Mr. E. B. JOHNSTON asked the Minister for Lands: 1, Have the Government withdrawn from selection all Crown lands in the South-West, Eucla, and Eastern Divisions of this State situated more than 12½ miles from an existing railway? 2, Is the Minister aware that applications for surveyed and classified agricultural lands are being refused as a result of this notice? 3, What is the reason for this stoppage of the policy of land settlement? 4, How long is this embargo to continue?

The MINISTER FOR LANDS replied: 1, Yes, temporarily, but it is stated in the "Government Gazette" that any piece or parcel of land which has been specially gazetted as available for selection is not withdrawn. 2, No: surveyed blocks already thrown open are still available. (See answer to No. 1). 3, There is no stoppage of the policy of land settlement, but it is necessary to prevent the eyes of the country being picked out by selection, and for the department to be able to carry out a comprehensive scheme of classification and survey. 4, As sufficient blocks are surveyed, they will be available for disposal. It is the desire of the Government to avoid the expense and disappointment caused delay to applicants for land who have to compete in large numbers before Land Boards.

### QUESTION—ABORIGINE MISSIONS, SUBSIDIES.

Mr. COVERLEY asked the Hon. H. Millington (Honorary Minister): What is the amount of annual subsidy granted to Forrest River, Drysdale, Pt. George, Sunday