Mr. Parker. It is an Act to provide maintenance for widows, widowers and children of testators. The Act empowers a court to vary a will where the testator has failed to make adequate provision for the maintenance of his wife and children. It has been discovered that the Act in its operation is inadequate in one particular. At the present time the only express power given to the court is to make orders in favour of the widow, widower, or children of a deceased testator who has left them destitute and has disposed of his property in favour of less deserving beneficiaries. Cases have arisen where the court order does not meet all the circumstances. The testator may have not only left his property to an undeserving person but may have, at the same time, appointed that person to be executor of the will. It is not unexpected that such a person would be displeased by the order of the court varying the original will and directing that some portion of the testator's property should go to a near relative; and there have been instances where the executor has reacted to the detriment of the beneficiary. It is suggested, therefore, that provision be made enabling the substitution of a new executor for the old one, or the appointment of a joint executor to control and supervise the original executor. It is sought to do this by this Bill.

The amendment embodied in the measure sets out that, on application being made in accordance with the provisions of the Act by any person beneficially entitled to any part of the estate of the deceased testator, the court may, if it is proved to its satisfaction that the executor or executors or any of them has or have been guilty of abuse of the office, or other dereliction of duty, direct that one or more persons be appointed executor or joint executor of the will either in addition to, or in substitution for, the person appointed by the testator. In this event the court will make such order as may be necessary to carry out its direction. The decision will be left to a judge of the Supreme Court, who must take all circumstances into consideration and who is not likely to act capriciously. This amending Bill was introduced in another place at the request of a legal practitioner who has had two or three cases of this kind. The proposed amendment is supported by several legal practitioners who have been consulted on the subject. I trust that no objection will be raised, and that Parliament will approve the measure. I move—

That the Bill be now read a second time.

Question put and passed.

Bill read a second time.

In Committee.

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

BILL—PLANT DISEASES (REGISTRATION FEES) ACT AMENDMENT.

In Committee.

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

House adjourned at 9.15 p.m.

Legislative Assembly.

Wednesday, 4th October, 1944.

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

QUESTIONS (5).

HAY.

As to Crops, Stocks and Prices.

Mr. KELLY asked the Minister for Agriculture:

(1) What was the total recorded acreage cut for hay in Western Australia in the 1943-1944 season?

(2) Of this amount how much was:—(a) wheaten; (b) oaten?

(3) What was the average or ruling price during 1943-1944:—for (a) wheaten chaff; (b) oaten chaff?

(4) What is the anticipated carryover in tons:—(a) chaffed; (b) in stack?

(5) Taking present seasonal outlook into consideration, what acreage is it anticipated will be cut for hay in Western Australia this season?

(6) Is it possible to give an estimated tonnage?

(7) If so, how much?

(8) Has a ruling price been fixed yet?

(9) If so, what amount?

The MINISTER FOR THE NORTH-WEST replied:

(1) 241,802 acres.

(2) (a) 117,170 acres; (b) 123,801 acres.

(3) (a) and (b). F.A.Q. chaff sold at from £7 10s. to £8 per ton for wheaten, and from £7 to £7 10s. for oaten ex truck, wholesale. Inferior lines sold according to quality.

(4) (a) and (b). Practically nil.

(5) 275,000 acres.

(6) Not at present. An estimate will be available shortly.

(7) Answered by No. (6).

(8) A ceiling price has been fixed.

(9) Wheaten hay—£4 10s. per ton in stack; £4 per ton in stook, including delivery to cutter; £3 11s. per ton off binder. Oaten hay—All prices 10s. per ton less.

WHALING.

As to Post-War Activities.

Mr. NORTH asked the Minister for Industrial Development:

(1) Does the Antarctic whaling industry come within the purview of the Department?

(2) Since every possible avenue is being explored for post-war industries for Western Australia, will he include this one?

(3) Is it the case that in the long distant past whaling was conducted from headquarters on this coast?

The MINISTER replied:

(1) No.

(2) Yes.

(3) Shore whaling stations have operated from Albany and Point Cloates (north of Carnarvon). Both were operated by Norwegians, the Australian Company's plant at Point Cloates being leased to them. The company still has considerable assets in plant and buildings at Point Cloates.

WHEAT.

As to Railage of Albany Zone Production.

Mr. HILL asked the Minister for Railways:

(1) Is he aware that all wheat in the Albany zone for shipment is railed to another port?

(2) Would coal be conserved by railing the above wheat to Albany?

(3) Will he arrange that Albany zone wheat be railed to the port of Albany?

The MINISTER replied:

(1) Yes.

(2) There would be a small saving in coal by hauling wheat to Albany.

(3) This is a matter under the control of the British Ministry of War Transport.

HOUSE VALUES.

As to Increase of Rates.

Mr. CROSS asked the Minister for Works:

(1) Is he aware that house rents and house values are pegged under Commonwealth Regulations since early in 1942?

(2) Does he know that municipal rates in the City of Perth (including Victoria Park) are based on annual rental value and/or capital values?

(3) Is it a fact that in spite of the pegged values that the City of Perth increased rates in very many cases in 1943?

(4) As water rates are based on City Council rating values, did the Metropolitan Water Supply Department increase its rates in those cases where City Council rates were increased?

(5) If so, what steps does he propose to take to give justice to those people whose rates were so affected?

The MINISTER replied:

(1) Yes, as prescribed in National Security Regulations.

(2) Yes.

(3) Yes.

(4) Yes.

(5) (a) Under Section 74 (1) of the Metropolitan Water Supply, Sewerage and Drainage Act, 1909, the Metropolitan Water Supply, Sewerage and Drainage Depart-

ment adopts the annual valuations as assessed by the local authority in municipal districts; (b) Under the Municipal Corporations Act, ratepayers have the right to appeal against any valuation assessed by a municipal council; (c) The City of Perth Rating Appeal Board has been constituted to deal with rating appeals against valuations assessed by the City of Perth Valuer; (d) The Metropolitan Water supply, Sewerage and Drainage Department adjusts its rating in accordance with the decisions of the City of Perth Rating Appeal Board; (e) It is understood the City Council has decided to revert to the 1942 valuations. When this is done, the water rates imposed will be adjusted accordingly.

RAILWAY TRANSPORT.

As to Passenger Traffic Congestion.

Mr. TELFER asked the Minister for Railways:

Will better passenger transport on our country railways be available for the passengers than experienced by them last summer, or what steps will be taken to avoid last summer's congested traffic?

The MINISTER replied:

This is governed mainly by coal supplies and Defence Service needs. The best possible will be done with the resources available to avoid traffic congestion.

MEAT SUPPLY SELECT COMMITTEE.

Extension of Time.

On motion by Mr. Seward, the time for bringing up the report was extended to Wednesday, the 25th October.

BILL—NURSES REGISTRATION ACT AMENDMENT.

Read a third time and transmitted to the Council.

BILL—PERSONAL COVENANT LIABILITY LIMITATION.

Second Reading—Ruled Out.

Order of the Day read for the resumption from the 20th September of the debate on the second reading.

Speaker's Ruling.

MR. SPEAKER: I have given consideration to this Bill and have come to the conclusion that it must be ruled out of order as affecting the power of the Crown to obtain full satisfaction of its claim against a mortgagor, thus creating a burden on the people and requiring a Message from His Excellency the Lieut.-Governor. I have my authority for this action in a quotation from May's "Parliamentary Practice," 13th edition, at page 510. The quotation is as follows:—

> In pursuance of Standing Orders Nos. 66 and 67, a petition praying directly or indirectly for an advance of public money, for compounding or relinquishing any debts due or other claims of the Crown, or for the remission of duties or other charges payable by any person, or a charge upon the revenues of India, will only be received if recommended by the Crown.

I lay stress on the following words in this quotation:—"or other claims of the Crown" and "other charges payable by any person." This Bill affects the Crown by giving authority to an outside body, a judge of the Supreme Court or a magistrate, to limit its power of recovery by setting up conditions that require it to prove that the mortgagor is guilty of reprehensible conduct, gross inefficiency or mismanagement, and that the mortgagee has used his powers to the best possible advantage; and the judge or magistrate may then grant leave to the mortgagee to proceed, but only in respect to part of the money outstanding, the remainder of the claim becoming a charge on the people.

Dissent from Speaker's Ruling.

Mr. Watts: Then I must move—

> That the House dissent from the Speaker's ruling.

I do not propose in the circumstances to agree with the very erudite interpretation you have given, Mr. Speaker, of a somewhat vexed question. At the same time, it does seem to me—and I ask the House to agree with this point of view—that the Bill in question does nothing which you have contemplated in your ruling, in support of which you have drawn upon the 13th edition of "May." To begin with, I venture to say that the use of "May" in this connection is not of any great validity, because it is founded almost entirely upon the procedure of the British House of Commons, and there is no legislation upon the statute-book of the Parliament of Great Britain which has any resemblance at all to the legislation existing in Western Australia as to such items as the Agri-

cultural Bank, which is a State instrumentality, and trading concerns, which are unknown in that country, although of course very much in evidence here owing to the different viewpoint taken by Parliaments and Governments in this State as to the desirability of the Crown, in right of the State, taking part in trading matters and dealing as mortgagees of a very extensive section of the people.

As I say, it seems to me there is no resemblance between the conditions quoted by you and supported by the extract which you read, and the conditions that will exist under this Bill if it becomes an Act. In addition, I would say that the Bill does not of itself, or by any clause in it, make any subtraction or extraction from the revenue or moneys of the Crown. By virtue of the Bill itself, which I contend is all that should govern you, it is impossible for any State revenue to be extracted or made use of in any way. There is nothing in the Bill to demand that in any case—supposing the argument were otherwise tenable—there should be a lessening of the revenue due to the Crown. It is quite possible that in no circumstances would any order be made by a magistrate or a judge which would have the result of preventing the recovery of any money due to the Crown. It would be purely a question of judicial interpretation of the circumstances which arise; and by virtue of the Bill itself, as I said, there is nothing which would require a magistrate or a judge to make such an order depriving the Crown of any revenue, even were the argument that this amounts to a subtraction or an appropriation of revenue otherwise tenable.

The petition to which you refer in your extract from "May" requiring a compounding or relinquishing of any debts due to the Crown is consequently not by any means on all-fours with this measure. There is a similar distinction between such a petition and the circumstances outlined by you as there is between a motion moved in this House which is acceptable to you in your capacity as Speaker and which in the opinion of this House requires certain moneys to be expended, and one which simply requires that money to be expended. In the latter case you would hold—and I would not seriously dispute with you—that there was a definite determination to appropriate or make use of the revenues of the Crown; but when a mere expression of opinion is attached to it then that disability does not hold. Similarly, under the petition to which you have made reference, there is a distinct requirement in terms of the document that the money should be compounded or relinquished, whereas in this Bill there is no such requirement. It is simply submitted to a judge to determine whether the circumstances arise under which an order can be made; and, as I said earlier, there is no necessity under the Bill itself for any such action to be taken.

But, Sir, I do not believe that the argument itself is tenable, because one cannot make use entirely of the edicts of "May" unless one at the same time takes into consideration the terms of the Western Australian Constitution and other matters particularly applicable to Western Australia. We find that there are by no means the same stringent restrictions in our Constitution upon the rights of private members and the Legislative Council. One must bear this in mind, Mr. Speaker, that there is no written Constitution in Great Britain. There is a written Constitution in Western Australia. That written Constitution determines in Western Australia the right of private members of this House and of another place; and your Standing Orders direct you to take advantage only of "May" and his rulings insofar as these are not affected by the Western Australian Constitution. The Western Australian Constitution on this subject is quite clear. It provides—

> Bills appropriating revenue or moneys or imposing taxation, shall not originate in the Legislative Council.

The basis of the Legislative Council, as I understand it, is the basis of the rights of private members of this House. The Constitution goes on—

> but a Bill shall not be taken to appropriate revenue or moneys, or to impose taxation, by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties, or for the demand of payment or appropriation of fees for licenses, or fees for registration or other services under the Bill.

Further on, it says—

> A vote, resolution, or Bill for the appropriation of revenue or moneys shall not be passed unless the purpose of the appropriation has in the same session been recommended by message of the Governor to the Legislative Assembly.

In another part, there is a reference to Bills for appropriating any part of the

Consolidated Revenue Fund or for imposing, remitting or repealing any rates, taxes, duties or imposts, originating in the Legislative Assembly. The whole basis of restriction under the Western Australian Constitution is the appropriation of revenue, the appropriation of moneys of the Crown. What does "appropriation" mean? It means the setting apart for a specific purpose; and if this Bill proposed in any circumstances whatever to set apart for any specific purpose any moneys of the Crown, I should not at this stage be on my feet arguing with you in as respectful a manner as I can in the circumstances of the case. I should feel that I was in substantial agreement with you. I say that the position in regard to this measure is that you cannot confine yourself to the doctrines set forth in "May," as these originate from rulings in a Parliament which has no written Constitution, because in doing so you ignore the Western Australian Constitution, which sets out plainly and categorically what are the relationships, irrespective of what may happen elsewhere in other Parliaments or in other rulings, or irrespective of what may happen elsewhere, of the Crown to revenue and private members of Parliament.

So, Sir, it seems to me, with proper respect, that the ruling you have given is founded on premises which cannot be supported. It is founded on the assumption that precisely the same conditions apply to a Parliament which has a written and fixed Constitution as to one which has no Constitution at all but depends upon rulings, as set out in "May," whereas as expressed in our Standing Orders, these rulings shall have force or effect, so far as this Parliament is concerned, only if they do not conflict with the laws of the Houses of this State. For these reasons, and because this Bill of itself does not in my view in any way affect, or appropriate revenue, and does not of itself compound or reduce a debt or take any action other than to submit to a judicial tribunal the question involved, which may result in no order being made at all, I disagree, Sir, with your ruling.

Mr. Doney: I see no flaw whatever in the case submitted by the Leader of the Opposition in response, Sir, to your ruling. I think the part of his argument that must appeal to every member here is where he said that you, Sir, and the House generally, are entitled to refer to "May," only on those occasions when our Standing Orders, plus the Constitution, can give us no guide to the interpretation that we seek. That being so, this certainly appears to me to be a case where we are entitled to refer to the Constitution Act, Section 46. I do not think we need to go beyond this Act, which is easily understood. Under our Constitution a member may not bring down any Bill if it contains any suggestion of appropriation of revenue or moneys, or if it purposes to withhold taxation. It is easy to travel quite a long way in going through "May" and other authorities, but that is unnecessary on this occasion, for I cannot see, by any stretch of the imagination, that the Bill—which I have examined very thoroughly—appropriates any revenue. If you, Mr. Speaker, can show that it does, that may have some effect upon the vote of the Assembly in a few minutes time. I *cannot* see that it appropriates any revenue or moneys of any kind belonging to the Crown, or that it affects taxation. So, for these reasons—and there are plenty of others as the Leader of the Opposition has made plain—I support the Leader of the Opposition in the stand he has taken against this ruling.

Mr. Marshall: I support your ruling, Sir. I think all members will agree with the principle that has been set down and strictly adhered to right through the history of the Parliaments of Western Australia, namely, that the Government shall have complete sovereignty over its purse. That has never been denied by any member. If the Leader of the Opposition is correct in saying that this measure does not propose to increase the financial burden of the people of the State, why did he introduce the Bill? What is the context of the Bill, and what does it contain? The relief of all debt! A debt owing to whom? To the taxpayers of the country! That is what is contained in the Bill. If it is given effect to and certain claims rightly belonging to the Government are denied to the Government by this Bill, who then shoulders the responsibility for the complete payment? Again, the taxpayers of Western Australia! Would anyone suggest, therefore, that this is not an imposition of a financial burden upon the people of this State? It certainly is. In consequence, it cannot be proceeded with by a private member.

I might subscribe to the utterances of the Leader of the Opposition in regard to the absence in England of legislation comparable with the Agricultural Bank Act of Western Australia. I go that far with him, but is not the principle contained in "May" exactly the same as that involved in this Bill, irrespective of the absence of laws of a similar character in both countries? The principle involved is precisely the same. Therefore, although the Constitution of Western Australia may not mention precisely the context of the Bill, it is in essence exactly the same principle. The measure takes from the Crown its right to collect its legitimate claims which means a further burden by putting them on the taxpayers of Western Australia. That can only be done by a Minister of the Crown. It is right and proper, and I think every member will agree with me, that that principle has been strictly adhered to in the past and, I respectfully suggest, it is one that we ought to continue to respect and adhere to. The Crown alone should wholly and solely maintain that prerogative. I agree, Sir, with your ruling.

The Minister for Works: I support, Sir, your ruling in this matter. This Bill contains a provision which clearly binds the Crown. It was drafted purposely so that that should be so. As pointed out by the member for Murchison, the main purpose of the Bill is to relieve certain mortgagors of the Crown from the necessity of having to meet in full the debts which they owe to the Crown.

Mr. Doney: But without appropriating existing revenue.

The Minister for Works: If this Bill became law it would not only lead, in some circumstances, to a reduction of debts due to the Crown, by judicial decision, but would, irrespective of whether judicial decisions were for or against the Government, certainly involve the expenditure of sums of revenue by the Government. If the measure became an Act the Crown, as the mortgagee in many of these cases, would be called upon to expend revenue in making approaches to magistrates and judges in stating cases before them and in doing all other things necessary under the proposed legislation to place the Crown's case before the magistrate or the judge as the case may be. So I think it is very clear that directly and indirectly, certainly, this Bill if it became law would be a charge upon the revenue of the State even though it is not possible to estimate just how heavy that charge would be in actual practice.

Mr. Berry: It might actually increase the revenue of the Crown because people would not run off their farms.

The Minister for Works: It would be absolutely certain that debts owing to the Crown would be reduced, if only in a small number of instances. As a matter of fact, the Bill sets out to make the position of the Crown difficult in regard to such applications, unless it can be shown that the mortgagor has been guilty of reprehensible conduct or gross inefficiency or mismanagement. It is quite clear that the Bill, if it became law, would affect the finances of the State by causing the Crown to spend money from revenue in connection with the processes of law, which the passing of the measure would set in operation. It might, and would to a certain extent, constitute a charge upon the Crown in respect of debts owing to the State. In view of these facts and probabilities, I agree with your ruling, Mr. Speaker.

Mr. Leslie: I am very sorry that I have to associate myself with those who have expressed their intention of disagreeing with Mr. Speaker's ruling.

The Minister for Mines: It must be a pleasure to you!

Mr. Leslie: It is not a pleasure to me, because I do not like disagreeing with individuals on matters of principle. The position with regard to the Parliament of this State and the comparison with the Mother of Parliaments has already been outlined. I wish to submit another aspect. Actually it concerns the assets and revenue of the Commissioners of the Agricultural Bank—although not specifically mentioned in the measure, the bank is an instrumentality of the Crown—that are affected, and I suggest it will not be the Crown that will be at a loss. The Agricultural Bank Act says that all money borrowed by the Commissioners is secured by the assets and revenues of the Commissioners. Therefore they constitute something apart from the Crown.

Mr. Withers: And who would make up any shortage?

Mr. Leslie: The Commissioners constitute something quite apart from the Crown, and part of their job, from an ordinary business standpoint, would be to recover their losses.

Mr. Cross: You have a lot to learn yet.

Mr. Leslie: I am afraid the member for Canning would be a very poor tutor! Apart from the fact that the Bill is designed to remove very grave injustices that exist, my reason for opposing your ruling, Mr. Speaker, is that in dealing with a Crown instrumentality such as the Agricultural Bank we are, in fact, dealing with something that is apart from the Crown. I know that originally the funds were appropriated by the Crown, but the moneys with which we are concerned are the borrowings effected by the Commissioners of the Agricultural Bank, which borrowings are secured by the assets and revenues of the bank over which the Crown has no jurisdiction whatever.

The Minister for Mines: Except to make up any deficits. You should apply that argument to the railways.

Mr. Leslie: At the moment I am concerning myself with the position of the Agricultural Bank which is, in my opinion, to all intents and purposes a borrowing authority on its own. The assets and revenues of the bank are the security for money borrowed, and the assets of and revenues from the people to whom the bank loans money are the security upon which the Commissioners depend. I feel certain that all concerned in removing the grave injustice that has existed, particularly in those areas——

Mr. Speaker: Order! That has nothing to do with my ruling.

Mr. Leslie: I hope that they, too, will support us in disagreeing with your ruling, Mr. Speaker.

Hon. W. D. Johnson: The issue involved is very simple, and there is no doubt about the soundness of your ruling, Mr. Speaker. Clause 3 of the Bill provides that the legislation shall bind the Crown and Clause 5 provides restrictions upon the Crown with respect to collections on account of mortgages. Immediately a restriction is imposed, a penalty is placed upon the Crown. Once an endeavour is made by means of a Bill introduced by a private member to limit the rights of the Crown with respect to the repayment of money loaned, the measure violates the Standing Orders. If we analyse the Bill we see right through that it proposes using the machinery of Government, and throughout there are indications that it is a measure that cannot be introduced by a private member.

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

Ayes	14
Noes	25
Majority against	11

Ayes.	
Mr. Berry	Mr. Perkins
Mrs. Cardell-Oliver	Mr. Seward
Mr. Hill	Mr. Shearn
Mr. Kelly	Mr. Thorn
Mr. Leslie	Mr. Watts
Mr. Mann	Mr. Willmott
Mr. North	Mr. Doney
	(Teller.)

Noes.	
Mr. Coverley	Mr. Millington
Mr. Cross	Mr. Needham
Mr. Fox	Mr. Nulsen
Mr. Graham	Mr. Owen
Mr. Hawke	Mr. Panton
Mr. J. Hegney	Mr. Rodoreda
Mr. W. Hegney	Mr. Smith
Mr. Holman	Mr. Telfer
Mr. Johnson	Mr. Tonkin
Mr. Keenan	Mr. Triat
Mr. Leahy	Mr. Withers
Mr. Marshall	Mr. Wilson
Mr. McLarty	*(Teller.)*

Pair.	
Ave.	No.
Mr. Stubbs	Mr. Collier

Question thus negatived; Bill ruled out.

BILL—CRIMINAL CODE AMENDMENT.

Second Reading.

Debate resumed from the 20th September.

THE MINISTER FOR JUSTICE [5.13]: It will be remembered that 12 months ago I introduced a somewhat similar Bill, hence, from the Government standpoint there will be no opposition to the present measure. When dealing with the Bill I introduced, I pointed out that such legislation was long overdue, and I gave reasons why a lesser charge than manslaughter should be availed of in connection with motor vehicular accidents causing death. The object of the Bill introduced by the member for West Perth is to impose some lesser charge or lesser penalty than manslaughter. Experience has shown that juries have declined to convict in such cases as those under review. They were reluctant to convict because in many instances the penalty was altogether too severe, taking all aspects into consideration. Moreover, the Crown discovered that juries were so reluctant in that connection that in many instances where there was reasonable ground for a prosecution for negligence a nolle prosequi had to be entered. Thus the position was one of difficulty.

Again, the registrar of the Justices' Association on behalf of that association had advocated for quite a number of years that a lesser charge than manslaughter should be brought in the circumstances described; but as British people are always reluctant to alter an Act unless they are very certain that they can improve upon it, nothing has been done. The Justices' Association advocated a middle course. The secretary pointed out, ably and justly and from experience, that a conviction of manslaughter would in many cases be too severe. The association advocated a middle course. Anyone who drives a motorcar knows that there are many more or less negligent drivers. My belief is that more injuries result from pure accident than from either reckless or dangerous driving. There is a degree of efficiency which we must take into account when considering this subject. One person may drive at 50 miles an hour with much less risk than a person not equally efficient drives at 25 miles. Frequently a person competent to drive at a fast speed which may be classed as reckless is far less dangerous than a person who, on account of lack of efficiency, drives only at moderate speeds.

Mr. Seward: What about the other person?

The MINISTER FOR JUSTICE: If the other person is competent and the driver is competent, there is no cause of accident. I myself drive a car, and only recently have obtained one of my own; and I know that I would sooner put up with a reckless driver or a person classed as a negligent driver but who is competent, than with an incompetent driver. Only today I was driving up St. George's-terrace when another driver turned into Milligan-street, without any warning at all. So there might have been a serious accident. However, I was on the qui vive. The Bill introduced by the member for West Perth offers protection against some drivers. There are accidents which are quite unavoidable, and even although a person may be killed the driver cannot be charged under the Traffic Act; and therefore we ought to have some charge less than manslaughter to bring in such a case. This Bill in fact proposes a lesser charge, and thus gives juries the opportunity of judging for themselves whether or not an accused person should be convicted of manslaughter. While the charge of manslaughter will remain, juries will be enabled to bring in a verdict of a lesser offence.

I hope the word "negligently" will be retained in this Bill, so that an offender can be charged with reckless or careless driving. The maximum penalty, upon conviction of this offence, would be five years, as against a possible life penalty for manslaughter. Since this measure was introduced I have learnt that Queensland has brought in legislation on the lines indicated by the member for West Perth and also by myself. From inquiries made I have learnt that Queensland has had a few cases of prosecutions in connection with motor accidents, and that the operation of the new Act has proved satisfactory, juries being enabled by it to deal with cases more fairly than they did under the old law, when a verdict of manslaughter must follow upon the killing of a person, or else a verdict of acquittal. The Bill does not relieve a person from responsibility for unlawfully killing another person if the circumstances are such as to call for conviction; but it does empower juries to bring in a verdict of something less than manslaughter where they consider that a conviction of manslaughter would be too severe. This measure has been perused by the Solicitor General, the Crown Solicitor and the Crown Prosecutor, and those officials have expressed themselves as quite in accord with it.

The Crown Law Department, however, has expressed the view that it would be a mistake to omit the word "negligently." The Government hopes that the member for Nedlands, who will be in charge of the Bill, will not press that particular point. The Bill is framed on Section 30 of the Traffic Act, whereas the Bill I introduced was framed on Section 266 of the Criminal Code. I like the wording of the latter section better, for it deals with "reasonable care," whereas the present Bill deals specifically with the person who drives a vehicle recklessly or at a speed or in a manner dangerous to the public. Thus "negligently" is omitted from this Bill. However, I hope the hon. member in charge of the Bill will not persist in urging the omission of that word. I have not the statistics relating to accidents in connection with motorcars, but the Acting Premier has some which are rather astounding. When those statistics

have been quoted, I believe there will be no opposition to the present Bill. I have discussed the measure with quite a number of persons, including some who have sat on juries trying traffic cases, and they have expressed to me the belief that there should be something less than a verdict of manslaughter available to juries.

I remember an instance where a person motoring down from Southern Cross and undoubtedly travelling at a high speed, but a very competent driver, and moreover a man held in high esteem by Southern Cross residents, had the misfortune to strike an old man and kill him. That person was sentenced to 12 months' imprisonment. Had we had a measure of this kind on the statute-book, he probably would not have suffered the stigma of a conviction for manslaughter. The case was purely and simply one of accident. Although it was fast driving, the accident happened while passing the Baker's Hill Hotel; and I venture to say that five out of six drivers pass the hotel at 40 or 50 miles per hour. I have stopped at that hotel for a drink.

Mr. SPEAKER: Has that anything to do with the Bill?

The MINISTER FOR JUSTICE: No. I took particular notice of six or seven cars which passed the hotel, and their rate of speed was not less than 40 miles an hour. The person I have referred to did not kill the man in any way intentionally; he did not hit him on the jaw, or strike him over the head with a stick. The violence was utterly unintentional. I myself might just as easily have caused that accident as anybody else.

Mr. Kelly: How far was the man thrown after being hit by the car?

The MINISTER FOR JUSTICE: It was purely and simply one of the accidents in which the driver is not always to blame.

Mr. Kelly: There are notices as to speed posted up at Baker's Hill.

The MINISTER FOR JUSTICE: I have never gone slowly enough to read those notices. I give the Bill my blessing, and hope it will be passed.

Point of Order.

Mr. Smith: Before speaking on the Bill, Mr. Speaker, I would like your ruling as to whether the measure is properly before the Chamber. It is entitled—

An Act to make provision in the Criminal Code for a special penalty where death or grievous bodily harm to a person is caused by the negligent use of a vehicle; to amend Section 662 of the Criminal Code; and for other purposes incidental thereto.

The Bill does not make provision in the Criminal Code for a special penalty for causing grievous bodily harm; and so, in those circumstances, I ask whether the Bill is in accordance with the Order of Leave.

Mr. Speaker: In reply to the hon. member, I can see nothing against allowing the Bill to proceed. It is quite in order.

Debate Resumed.

MR. SMITH (Brown Hill-Ivanhoe): I rise to oppose the measure as I did on a former occasion. I am not interested in legislation that is purposely designed to make it easier to convict persons. This Bill aims to make manslaughter by motorists a special kind of manslaughter. Apparently, from the remarks of the member for West Perth and the Minister for Justice, the case for it rests on an indictment of the system of trial by jury and on casting the reflection upon juries in this State that they do not give verdicts in accordance with the evidence laid before them. I do not want to enter into a discussion on the question of the system of trial by jury. When I was a boy going to school, I was taught in the history lessons that the jury system came into operation during the reign of Alfred the Great and that it has persisted ever since. I have nothing against it because it came into existence so far back. It was probably the product of a once wise mind and today it bears the polish of antiquity. Neither the member for West Perth nor the Minister for Justice has produced any statistics to substantiate the contention that juries are reluctant to convict in these cases because of the penalty that is provided in the Criminal Code in connection with them.

But if juries are reluctant to convict, or they require to be more satisfied that the evidence before them justifies a conviction than they do where the penalty on conviction could be less severe, the fault of the juries lies not in their reluctance in the manslaughter charges but in their lack of reluctance in the less serious charges. We will see what the Criminal Code says on this question of killing. The Criminal Code says it is unlawful to kill any person unless such killing is authorised by law, and the only

exception it makes is with reference to the time factor. One section actually provides that if death is caused by means of an act done in the prosecution of a lawful purpose of such a nature as is likely to endanger life, the charge can be murder, not manslaughter. Another provision is that when a person causes a bodily injury to another from which death results it is immaterial that the injury might have been avoided by proper precaution on the part of the person injured or that his death from that injury might have been prevented by proper treatment.

The question that the Minister for Justice raised concerning the hitting of a man and killing him without any intention of killing him does not arise. Where the killing of a person is done without malice aforethought the charge is almost always manslaughter. But a person could be killed without malice aforethought and yet the charge could be murder in some cases. There are many instances in which a person could be charged with this crime of manslaughter. I cannot see why we should make any exception in this particular case of a motorist against whom a prima facie case could be made out that justifies a charge of manslaughter. For instance, if one committed the lawful act of kicking a trespasser off one's premises and in the act killed the person, one could be charged with manslaughter. If a medical man, through negligence, left an instrument in the body of a patient and, as a result of that negligence, the patient died, the medical man could be charged with manslaughter. A person could be charged with manslaughter under the Criminal Code for the omission of a legal act, through which omission some person was killed. Such an omission would be the leaving open of a trap-door or, in the case of a railway man, neglecting to hold up a train that he should have held up.

If, as a result of his allowing that train to go through, some people were killed, the railway man, on account of his negligence, could be charged with manslaughter. He could be charged with manslaughter if the death resulted not from the injury which he caused inadvertently to a person through his recklessness or negligence, but if it resulted from the treatment of such a person, provided such treatment was reasonable. So people can be charged with manslaughter in connection with the killing of persons in many instances, both in connection with cases in which death results from the acts that are done and in connection with cases in which acts are omitted. There is no proposal to change the law in connection with any of those charges. We are going to take the risk of juries thinking that the penalty is too high in connection with all those cases and we are not going to make any alteration in the law in connection with them. It is only in connection with the killing of a person by a motor vehicle—a very dangerous instrument in the hands of a careless person, who, through negligence amounting to recklessness, kills another person—that we propose to change the law. It is not long ago since the member for West Perth talked about sectional legislation. I venture to say that this is a classical example of sectional legislation.

The member for West Perth quoted certain Queensland legislation and endeavoured to connect it up with this particular measure. But it is not comparable with this measure. The Queensland Act provides for dangerous and reckless driving and makes no mention of death resulting from such recklessness. Neither does the English Act that was quoted by the hon. member. He comes along and quotes that type of legislation to which at this stage I would not give my support though I would certainly agree that serious consideration should be given to the introduction of legislation of that kind, legislation under which it is possible to prosecute persons for dangerous and reckless driving as a result of which they do not injure anyone but might have injured someone, and to impose severe penalties on them.

The Minister for Justice: That can be done under the Traffic Act.

Mr. SMITH: Yes, with a fine of £20 on the first occasion and £50 on the second. This is a different proposition from the Queensland Act dealing with dangerous and reckless driving.

Mr. McDonald: Six months in gaol can be ordered.

Mr. SMITH: Yes, I believe that is so. But this is different altogether from the Queensland legislation in which heavy penalties are provided for dangerous and reckless driving. I remember that in Kalgoorlie many years ago a man was guilty of such reckless driving that he almost caused a riot amongst the people gathered at the intersection of Hannan-street and

Maritana-street. One man was going to brain him with a bar but he was prevented from doing so by some of the bystanders. Next day, or the day after, when he was charged with recklessness under the Traffic Act, he was fined £2. He resented the fine so much that, having the J.P. who was on the bench within his power, he subsequently drove him into bankruptcy and compelled him to relinquish some very important positions he held in Kalgoorlie at that time. So there might be some justification for legislation such as the Queensland Act and the English Act which the member for West Perth quoted. But this is an entirely different type of legislation, which is going to reduce the charge against those who, through negligence amounting to recklessness in the use of a motorcar, kill a person.

I resent the accusations that have been made against juries in general in this State. Particularly do I resent them when they are made by persons who are themselves exempt from jury service. There may be a need for some improvement in the jury system in certain cases. There are some instances in which I think that none of the jury trying a particular case should be five years younger or five years older than the accused person. Apparently from recent history there does not seem to be any difficulty in getting juries to convict in cases of perjury where the penalty is 14 years, nor in cases of rape either where the penalty is 14 years. That did not seem to make the jury reluctant recently in a certain rape case, despite the tender years of the accused person.

This reluctance that was spoken of on the part of juries I regard as an indictment of those who comprise juries. I feel that juries generally do their best to give every consideration to the evidence that is laid before them and bring in a verdict in accordance with it. I do not intend on this occasion to reiterate any cases that have occurred in this State of manslaughter charges in which convictions have been recorded and the penalties have been much less severe than those provided for in the Criminal Code. I want to say, however, that if ignorance of the law exists, as is suggested on the part of the juries, let us bring down a Bill providing that the judge shall inform the jury on the law in those cases and in similar cases.

Mr. McDonald: He does that.

Mr. SMITH: Let us provide that the judge shall tell the jury that under Section 19 of the Criminal Code he is empowered to impose any lesser penalty in any case other than those in which death is provided as the penalty; that he may impose a penalty that is much less than life imprisonment, that he may fine the accused person instead of imprisoning him, and that he can even discharge the accused person, after the jury has found him guilty, on his own recognisance. I see no justification whatever for this measure. I do not agree that juries are ignorant of the law. As it is with all of us, ignorance of the law does not acquit us of a breach of the law, neither can it acquit juries in connection with the carrying out of their duties; and so I hope the Bill will be defeated.

THE MINISTER FOR WORKS: I propose to support the Bill. I am sure there has been no thought whatsoever of framing this measure for the purpose of trying to obtain additional convictions. I consider there is no justification whatever for any member of the House to make a suggestion of that kind. If that argument were followed in connection with this Bill it would be followed in connection with almost every Bill that comes before the House, because the majority of such Bills have, as part of their machinery, provisions which will lead to the creation of new offences and therefore an opportunity for additional prosecutions and convictions. That phase of a Bill is only the machinery phase, and quite distinct from the real principle of legislation of any kind being adopted in this House. The main principle in this Bill is one which aims to establish a position in which it will be possible, according to the circumstances of any fatal accident caused by a motor vehicle, to bring a charge against the offending motorist if he has been guilty of dangerous driving or carelessness or negligence which has a reasonable relationship to the severity of the crime he has committed. Surely there is nothing wrong and everything right with a Bill that sets out to establish a position of that kind.

This Bill does not in any way, in my opinion, reflect upon juries or upon the conduct they have exhibited in dealing with cases of the kind aimed to be covered by it.

Juries have had to consider a charge of manslaughter, and in their judgment and in the wisdom they have applied to reaching their judgment they have decided on a verdict of not guilty as the correct one. There is no desire or intention on anyone's part in support of the Bill to reflect in any way upon juries. This measure aims to enable the Department of Justice to be in a position to bring a charge against an offending motorist justified in the circumstances of any particular case to be a lesser charge than manslaughter, if the charge of manslaughter is not justified. The question has been asked why any exception should be made in regard to only one class of the public by including only that class in this Bill. I think the answer to that question is clear and logical. My answer is that there is a far greater number of deaths caused by motor vehicle accidents than by any other cause; and the killing of people by motor vehicles is becoming, if it has not already become, a serious problem in this State and to a lesser extent in every State of the Commonwealth.

It has been said on different occasions that the motor vehicle is a greater destroyer of human life than are wars themselves. I am not in the position to check the accuracy of that claim, but I do know that in this State altogether too large a number of people is being killed every month because of motor vehicle accidents. I suppose that most of us have had experience, both as motorists and pedestrians.

The Minister for Mines: Mostly as pedestrians.

The MINISTER FOR WORKS: I know there is a fair amount of blame attachable to pedestrians as well as to motorists. Some pedestrians are undoubtedly careless and reckless, and some of them are dumb, if I may use that description, beyond any words that can be employed to describe their state of dumbness once they put their feet upon the roadway. Nevertheless my sympathy is always with the pedestrians, because it has to be remembered that the motor vehicle is a very powerful and dangerous piece of machinery. It is a piece of machinery which, in a great many instances, is not handled by drivers with half the care that it should be. There is a great amount of carelessness, recklessness and negligence indulged in by all too many drivers of motorcars and motortrucks. The Minister for Justice offered the opinion that the most dangerous driver of a motor vehicle is the careless one, rather than what is known as the reckless driver. I am inclined to agree with that because of the fact that there are far more careless drivers than there are reckless drivers. If we take the numbers into consideration I think it can fairly accurately be said that the careless driver, because of the greater number of them, is more dangerous to human life than is the reckless driver because of the comparatively small number of reckless drivers that are upon the road.

I have had some figures prepared for the purpose of indicating to members the serious destruction of human life which goes on in this State all the time because of motor vehicle accidents. I propose to quote for the information of members a table covering the years from 1940-41 to 1943-44 inclusive. In 1940-41 there were 4,134 accidents reported to the police. Members will realise that the total number of accidents in that year must have been considerably greater because not all accidents are reported to the police, although serious ones, or most of them, are. In the 4,134 accidents, 114 people were killed and 702 were injured. In 1941-42 there were 2,984 accidents, a much smaller number than in the previous year, but 122 people were killed, or eight more than in the previous year, and 552 were injuired. In 1942-43 there were 3,172 accidents in which 152 people were killed and 743 were injured.

Mr. Cross: How many of those accidents were due to the black-out?

The MINISTER FOR WORKS: In 1943-44, when there was no black-out, the number of accidents was 3,241, in which 118 people were killed and 623 were injured. In the months of July and August of this year, 603 accidents were reported in which 19 people were killed and 89 were injured. The average number of people killed in each of the years to which I have referred was 126, and the average number injured was 655. During those years, too, there has been far less use of motor vehicles on the roads than there was before the war, due to shortages of petrol, the difficulty of obtaining cars, and other factors. But despite the fact that there has been far less use of motor vehicles on the roads, we find that the number of people being killed is re-

markably high, and it seems to me the time has arrived when serious consideration should be given to taking every step possible to make conditions on the roads safer than they have been for many years and safer than they are at the present time.

During the last nine months I have obtained from the Commissioner of Police every file covering a motor accident in the metropolitan area in which one or more persons have been killed. It has been remarkably interesting to study some of those files. In the great majority of cases, no action at all has been taken against the driver of the motor vehicle involved in the accident. In practically no case has a charge of manslaughter been preferred against a driver of any of the motor vehicles concerned. To a large extent this has been due to the fact that it is extremely difficult to obtain a verdict against a motor driver involved in such an accident. As I said earlier in my remarks, I am not holding the juries responsible for this, but it is a serious matter that this constant killing of people should be going on and that those responsible for the killing should not be punished in any way. I am prepared to admit that in the majority of cases, probably in the great majority of cases, the owner or driver of the vehicle is not at all to blame, but I am as sure, on the other hand, that the pedestrian is not always to blame.

Mr. Rodoreda: And some of the people in the cars, too.

The MINISTER FOR WORKS: Yes, but I am not prepared to admit that there has been no case or only one or two cases in which the driver could be held to be blameable for the accidents that have occurred. Whenever one of these files has indicated a decision by the Crown Law Department that a charge of manslaughter could not be sustained or proven, I have asked the Commissioner of Police to ascertain whether any charge was possible under the provisions of the Traffic Act. In some of these cases the evidence at the inquest has shown the driver to have been negligent, careless or blameable, wholly or largely or in some respect, for the accident. Only a very few charges have been laid under the Traffic Act, and it has been a matter of great concern to me to find that where these charges have been proven, fines of an average of £2 with a few shillings costs, have been imposed upon the driver of the vehicle concerned. On the basis of the coroner's decision in those cases, I say that the penalties imposed are absolutely farcical and in no way constitute a reasonable punishment for the motorist who has been responsible for causing an accident, and therefore directly or indirectly responsible for causing the death of one, two or more persons.

I am not so much concerned about getting convictions or about getting people sent to gaol or about getting heavy fines imposed upon motorists responsible for causing accidents and death. My great concern is that the motorists generally shall be taught to realise that they must exercise far more care and restraint than they have exercised in the past. I think therefore that this Bill is a step in the right direction. The bare fact of Parliament's passing the Bill into law will, I believe, have a very beneficial and disciplinary effect upon motorists who are careless, negligent or reckless. All said and done, this Bill aims at dealing with a minority of the drivers of motor vehicles. Every one will admit that it is usually the minority that has to be disciplined. Most of the laws passed by Parliament are enacted for the purpose of restraining a minority of our population. I think the passing of this Bill will not merely have a good effect upon the minority of motorists and have a safeguarding effect for the public generally, but will also provide much greater protection for the careful and good drivers of motor vehicles upon the roads, because the careless, negligent and reckless drivers are as great a danger to other drivers as they are to the passengers in their own vehicles and to the pedestrians along the road. Therefore, I hope the Bill will be passed. I believe it will have a good effect in the directions I have indicated.

I am sure that such legislation will inflict injustice upon nobody, because any charge preferred under the proposed law against a motorist will still have to be proven in a court of law. The motorist will still have to be found guilty before any punishment can be inflicted upon him in regard to any accident for which he has been responsible. Members need have no fear that some motorist is likely to have injustice heaped upon him if the Bill becomes law and is put into operation. This is not the only measure that will be re-

quired to achieve a much safer condition of affairs upon the roads in this State. I am sure that some other measures will be required, and also that many other steps will have to be taken before the roads of our State can be considered to be nearly as safe as they ought to be.

When looking over the statistics for Western Australia as compared with those of the other States, I found that the percentage of deaths caused in motor vehicle accidents in Western Australia is very much higher than it is in any other State of the Commonwealth, although the Australian capital of Canberra is a bit worse than our own State. This is one of the worst States of the Commonwealth in the matter of people being killed on the road, and therefore I say we ought to take hold of this present opportunity to do something in the direction of trying to improve the position as quickly as possible.

Sitting suspended from 6.15 to 7.30 p.m.

MR. MARSHALL (Murchison): The Bill before us differs in some degree from the Bill to which the Minister made reference and which he introduced either last session or the session before. It contains two principles. The first is the principle of inflicting severe punishment upon youths under the age of 18 years. No reference was made to that principle during the debate, so far as I know. Under the Criminal Code, this severe form of punishment cannot at present be imposed upon any person under the age of 18 years. The Bill seeks to remove the words "apparently of the age of 18 years or upwards." That would mean the imposition of particularly severe penalties upon children of either sex under the age of 18 years. As I say, no reference was made to this point, unless by the member who introduced the Bill.

Mr. McLarty: He gave reasons.

Mr. MARSHALL: Certainly no reference has been made to it by any other member. I accept the statement of the member for Murray-Wellington that reasons were given by the member for West Perth, who introduced the Bill. I ask members to note carefully what they will do if they pass the second reading of the measure. The Bill proposes to amend Section 662 of the Criminal Code (No. 32 of 1918). This section reads—

> When any person apparently of the age of 18 years or upwards is convicted of any indictable offence, not punishable by death (whether such person has been previously convicted of any indictable offence or not), the court before which such person is convicted may, if it thinks fit, having regard to the antecedents, character, age, health or mental condition of the person convicted, the nature of the offence or any special circumstances of the case—
>
> (a) direct that on the expiration of the term of imprisonment then imposed upon him he be detained during the Governor's pleasure in a reformatory prison.

The child may be a first offender of the age of 14, 15, 16 or 17 years. I do not think any member of this Chamber is prepared to give any court power to inflict such a penalty on a person of tender years.

Mrs. Cardell-Oliver: Can he get a car license?

Hon. N. Keenan: Not under 18 years.

Mr. MARSHALL: I do not know whether the age is 16 or 18; but this has no reference whatever to car driving. We are dealing with another section of the Criminal Code altogether. It deals with any indictable offence, not only manslaughter. No matter how excellent the conduct of a home may be, there are times when a child, a boy or a girl of 14, 15 or 16, may commit an indictable offence. Under this measure, the member for West Perth proposes to give the Court power not only to inflict the punishment of imprisonment upon such a child, but to direct that he shall be confined in a reformatory prison. I respectfully suggest, as one member of this Chamber, that I cannot support that principle in the Bill. Surely there is some reason in the legislators of today. I cannot understand the member for West Perth, whom I respect greatly, having such a vicious outlook upon youth; apparently he wants to make criminals of them before they reach the age of 18 years. I point out to the member for Subiaco that I shall have to consider my position so far as this class of legislation is concerned. I shall have to be consistent. If it is proposed to raise the age in one class of legislation from 14 to 18 years, I will have to oppose that legislation and support this, or oppose this and support the other. One brings the age down from 18 years to the mother's arms; the other proposes to lift it from 14 to 18 years.

I sincerely hope the Bill will not become law. The other principle embodied in the measure is this: It seeks to give special protection to a specially selected section of

the community. It proposes to give some relief from the provisions of the Criminal Code to one section of the community which offends against the law just as criminally as do many other sections, and to offer the possibility of a much reduced penalty. The member for Brown Hill-Ivanhoe rightly said that this is a classic example of special legislation. If a person takes away the life of another person by any means other than by a motorcar, that person must stand his trial equally with all other sections of the community. But if a person takes away the life of another person with a motorcar, he is to get special treatment. That is to be considered as something entirely different, although the effect of the accident upon the relatives of the deceased person will not be any different. If the Minister for Works had not, before resuming his seat, made the statement that he proposed to support the measure, I venture to suggest that not one member of the House who listened to him would have thought otherwise than that he proposed to vote against it. His idea is that crime is increasing and that the surest and safest way to retard it is to lessen or lighten the punishment.

The Minister for Works: Not if you ensure that prosecution will be possible of success.

Mr. MARSHALL: The Minister quoted figures showing the increase in the number of people killed by motorcars. Those figures, the Minister said, disclosed that this State showed up badly in comparison with the other States of the Commonwealth. If that crime is increasing, can we hope to reduce it by making the penalty less severe? A person who drives a motorcar recklessly or negligently knows from the cases which appear from day to day in the Press that, should he take the life of another person in the process, he is in danger of being charged with the crime of manslaughter. But if this Bill becomes law, he will know there is an alternative and that the maximum penalty—which is rarely imposed by a court—will be five years' imprisonment.

The Minister for Works: At present such a person has a fairly good idea that a charge of manslaughter will not be preferred against him.

Mr. MARSHALL: Then it does not matter whether this Bill becomes law or not from the point of view mentioned by the Minister. I am assuming that if the Bill becomes law and the Crown Law officers can definitely prove that negligence caused a death, the offender could still be charged with manslaughter.

The Minister for Works: He could be.

Mr. MARSHALL: Yes. That is the weakness of the Bill. Because there are no eyewitnesses prepared to give evidence that a person was driving a car recklessly, no charge of manslaughter will be preferred at all. Offenders will come under this Bill, and so it will be an encouragement to those who drive recklessly and negligently. They will accept the measure as being something which does not involve a risk which is now involved, namely, a charge of manslaughter. I fear that if we pass this measure we shall be encouraging persons to drive recklessly and negligently. The Minister for Justice, the Minister for Works, and the hon. member who introduced the Bill implied that juries were reluctant to bring in a verdict of guilty against a person charged with manslaughter, because of the fear of the severity of the penalty imposed under the present Criminal Code. That was practically the contention advanced by the Minister for Justice when he introduced his Bill and it was, in the main, the underlying and supporting principle of every speaker up to date.

Now, what is the evidence and what are the facts, in regard to these cases? I think that the annals of justice reposing in the Supreme Court buildings today will show that in the most glaring cases of negligent driving by motorists where life has been the price, the most paltry and insignificant penalties have been imposed. A case occurred only recently in which a man was killed on Riverside-drive, and the body, probably before death, was put into the car, taken seven miles away and thrown into the bush. What was the penalty for that crime? If my memory serves me right it was four years, although it might have been five years. I can recall another case in which a motorist ran over a man near the Swanbourne Fire Station. It was a hit and run case and the driver of the car was discovered some months later. The case was well worked up by the Police Department and complete proof was obtained. The driver was positively identified and the case went to trial. A verdict of guilty was entered, and what was the penalty? Eighteen months! There

are scores of cases in which the penalty has been 12 months, 18 months, two years and three years.

Surely no jury is afraid of these penalties for the taking of a life. Such an argument, of course, is ridiculous. There is no evidence to support it. The member for Brown Hill-Ivanhoe was quite right. The men who sit on these panels take the evidence very seriously and do the very best they can. Their decisions are invariably correct; they do not consider the verdict. They have sufficient confidence in the wisdom of the judge to know that when the verdict of guilty is recorded he will inflict a penalty fitting the crime. So, I do not care about the Bill at all. I think it will serve this purpose that those people who drive cars and make a practice of driving them negligently, recklessly and at speed will be encouraged because they will realise that the maximum penalty they can suffer is imprisonment for five years. When they review the penalties of 12 months, 18 months and two years and, for such a vicious crime as that which occurred only a few weeks ago, four years, imposed as a result of manslaughter charges, where a longer term of imprisonment could be given, they will be encouraged to travel at high speeds and in a negligent manner.

The Minister for Justice: They can still be charged with manslaughter.

Mr. MARSHALL: That is so, but what is the Bill for? It is to offer an alternative to the charge of manslaughter. In other words it is an indication to the Crown Prosecutor that the easiest and surest way to get a verdict, which is all they want, with a penalty to fit the crime, is to take cases under this Bill if it becomes law.

The Minister for Works: It mainly is to allow a charge to be laid where it cannot be taken under the existing law.

Mr. MARSHALL: If the Minister wants that done he should do it in another way. He should do it by a special Act of its own and not go dabbling with the Criminal Code or the Traffic Act. What right have we to say to one man driving a car, "If you kill a man then no more than five years will be your lot," and to say to me, "If in self-defence you kill a man and fail to prove that you did it in self-defence you will be charged with manslaughter." The man who caused death by driving his car negligently, recklessly and at high speed, deliberately courted death either for himself or someone else. In my case I did neither, but he is liable to a lesser penalty than I am.

The Minister for Works: Not necessarily.

Mr. MARSHALL: That is so, but that is the principle of the Bill. That is my view of it. I voted against the Minister's Bill. This measure offers alternatives which that Bill did not contain, but the vicious principle included in one of the clauses by which the age limit is to be removed from the Criminal Code is sufficient to prevent any member of this Chamber voting for it. The other point is in regard to the terrific number of fatal accidents in this State. You, Mr. Speaker, know the number of times I have risen in my seat and complained bitterly about the lack of control in this city. There are two policemen at best and two motor-bicycles at their worst to patrol the metropolitan area. Those who are inclined to break the law know all this. There has been no strict supervision, and no competency or efficiency in the control of the city and its traffic, for the want of sufficient men and gear. If the Minister wants to overcome that he should get a special squad properly equipped for the job. By so doing he will soon control the speed hogs of Perth. That is the point to which the Government should give attention. I have complained about it for years. Up till the last 12 months we have had less traffic in the city than at any time during the previous 15 years. As many as 2,000 or 3,000 cars were off the road in the metropolitan area. A few returned this year, but we have only a fraction of the traffic compared with what we had prior to the war. Yet, our fatal accidents are increasing, which shows conclusively that there is no control over the traffic. Motorists do as they like. There is no police supervision. The traffic laws are not policed.

The Minister for Works: They are not policed sufficiently.

Mr. MARSHALL: I say they are not policed. The Minister can add the word "sufficiently" if he likes.

The Minister for Works: There is a substantial difference.

Mr. MARSHALL: I do not know that it makes very much difference. I am aware that the present Commissioner of Police was at one time Chief Inspector of the Traffic Department. He organised that department

and brought it up to an efficient state. He came into office at the time of the change-over from horse-drawn vehicular traffic to that of the motorcar. To him much credit is due for the control and organisation of the traffic in the metropolitan area. He has in his reports constantly mentioned these accidents, and asked the respective Ministers for Police for sufficient men and proper equipment to patrol the city so as to control the traffic effectively.

The Minister for Works: I think he could do much better with the staff he has.

Mr. MARSHALL: I do not know. The Minister is at variance with the Commissioner of Police, according to the Commissioner's report.

The Minister for Works: I certainly am.

Mr. MARSHALL: That is a matter that the Minister can adjust with the Commissioner.

The Minister for Works: I will!

Mr. MARSHALL: But he has to admit that there is insufficient police control of the traffic in the metropolitan area; hence the loss of life. I am going to oppose the Bill and will vote against the second reading. I disapprove of both principles; particularly the second one.

On motion by Mr. Watts, debate adjourned.

BILL—COMPANIES ACT AMENDMENT.

Second Reading.

Debate resumed from the 6th September.

Personal Explanation.

HON. W. D. JOHNSON: When I was moving the second reading of this Bill I connected the preparation and drafting of the 1929 Act with the Government and with the Attorney General. I was wrong in that regard; I misled the House. It was a private Bill drafted for the Co-operative Federation by a private firm of solicitors, and a member of that private firm was the Federation adviser. I need not explain my reason for making the mistake, but what I do regret is the fact that I mis-stated the positon when I said that the Act of 1929 was associated with the Government and with the Attorney General.

Debate Resumed.

THE MINISTER FOR JUSTICE [7.58]: I listened to the speech of the member for Guildford-Midland very attentively, and appreciate all that he had to say. He has moved to repeal Section 108 of the Companies Act, which prohibits the registration of co-operative companies under the Co-operative Societies Act of 1903. If the amendment is successful it will mean that no co-operative society, whether producer or consumer, will be able to register under the old 1903 Act. That has not been possible since 1929 as the hon. member made very clear. About 12 months ago we passed a new Companies Act. Section 176 of that Act provides for the registration of consumer co-operative societies, but not for producer societies. I might mention that the Select Committee, after being converted into a Royal Commission, gave quite a lot of consideration to that particular section. After due consideration and much deliberation it agreed that it would make it possible for consumer co-operatives to register under the old Act, but not for producer co-operatives. If this amendment is carried, it will make it possible not only for consumers, but also for producers to register under the old Act. When we were taking evidence Mr. Walter Harper, Chairman of the Co-operative Federation of Western Australia, said he was not in favour of co-operative societies registering under the old 1903 Act. In the course of the examination of that gentleman I asked him—

> You think that the 1929 Act is quite satisfactory?

The answer I received was—

> Yes, if it is not ultra vires some other Act. We are concerned, since we have heard recently—and this was news to me——

I interrupted Mr. Harper by asking him what he meant by "some other Act," to which he replied—

> We are told that some of these provisions, particularly the one authorising the company to purchase up to five per cent. of its reserves in its own shares, are considered to be ultra vires another Act.

Members will see that Mr. Harper clearly indicated to the Select Committee that he was not in favour of any co-operative society being allowed to register under the old Act of 1903. The member for Katanning and the member for Roebourne were two active members on that Select Committee, and they dealt with this phase fairly extensively. When I tell members that over 3,000 questions were asked and answered, they will

see that not much was left for consideration regarding company matters including those affecting co-operative societies. When the Companies Bill was under consideration the member for Guildford-Midland played an intimate part and, through his persuasive powers, was successful in securing considerable modifications of the provisions regarding co-operative societies. He got what he was seeking at the time, which was a concession to the consumer co-operatives enabling them to register under the 1903 Act.

Hon. W. D. Johnson: I did not amend the Bill.

Mr. Watts: You assisted to amend it.

The MINISTER FOR JUSTICE: The member for Guildford-Midland takes a very keen interest in matters affecting the co-operative movement. Personally I cannot see much harm arising from the Bill should the House agree to the amendment suggested in the measure. On the other hand, I must be fair to the Royal Commission which went so exhaustively into the provisions of the Companies Act. After deliberation, provision was made in Section 176 of the present Companies Act, which was assented to on the 3rd December, 1943. As members know the Act cannot be proclaimed until six months after the war. If the member for Guildford-Midland sought only what is provided in Section 176 of that Act, I would have no compunction in recommending the House to pass the Bill. But the hon. member wants to make it possible for all co-operative societies to register under the Co-operative and Provident Societies Act of 1903. As I owe something to those who have done so much in bringing the Companies Act up to its present standard, I do not think it would be ethical on my part to make any recommendations to the House without placing the matter fully before members in all its phases. Unless some telling reasons are advanced, I do not see why we should throw it open for all co-operative societies to register under the old Act. If the member for Guildford-Midland would amend the clause concerned, so as to make provision for consumer co-operative societies only to register under the 1893-1938 Act, it would be different.

Hon. W. D. Johnson: The trouble is that it contains no definition of "consumer societies."

The MINISTER FOR JUSTICE: I in sympathy with the intentions of member for Guildford-Midland for I kn the good that co-operative societies ha done in Western Australia. Certai some provision should be made to meet position of consumer co-operative societi In placing the legislation before the Hou the hon. member went exhaustively i the history of the co-operative moveme in various parts of the world, commenci with the historic efforts of the Rochd organisation. I am fully conscious of great advantage the co-operative moveme has been not only to people but to natio With regard to the Bill itself, I have ceived the following letter from Mr. J. Worthington, the secretary of the Co-o rative Federation of Western Australia-

My Federation takes the opportunity soliciting your support to the above Bill wh seeks to restore the right of co-operatives register under the Co-operative and Provid Societies Act, 1903.

There is a considerable urge in the co munity today for a reduction in distribut costs, and the co-operative organisation of c sumers should prove a valuable means achieving this desire.

The Companies Act, registration under wh was decided, on legal advice, by our Farme Co-operative Movement when it commenced, quite unsuited to consumer co-operation, wh is chiefly in conflict with company procedu because it visualises that, subject to success conduct of the business, it should be possi for a member to withdraw his capital wh this can be done without detriment to ot persons, when he ceases to trade with his operative.

That is the point. As the position stan now, the consumer cannot withdraw capital if he has ceased to trade with particular co-operative society. He m have been working at a centre where joined the co-operative society, but he m have had to move to another town. cannot withdraw his capital. Under t old 1903 Act he could do so.

Mr. Watts: With the consent of t directors.

The MINISTER FOR JUSTICE: Y and that was a great concession. I thi that is the point the member for Guildfor Midland has in mind. The letter co tinues—

This is not really a dangerous innovatic Legislation in all countries concedes it. practice it is found that capital withdra by permission is more than offset by capit subscribed by new members, and that the rig of the committee to sanction withdrawals f

good reasons is not abused. If this co-operative practice should have the effect of limiting credit (as our movement when it started was assured would be the case) it is a difficulty which co-operators are prepared to accept.

It has to be recognised that limitation of interest on shares, reservation of the right to refuse transfers to unsuitable persons, constant willingness to admit suitable new members at par, and non-registration of shares on the Stock Exchange list—all co-operative fundamentals—combine to make it impossible to relieve co-operative shareholders of their holdings of shares at face value even when desirable. The prospective new member of a consumer co-operative often wishes to pay for his shares by easy instalments, and therefore does not provide a market for the disposal of existing members' fully paid shares.

Several co-operative companies in this State, so successfully established that their shares have an asset backing of 30s. in the £1, have for years faced the unsatisfactory position of seeing their shares turned over at half or less of their nominal value, and with much cumbersome formality. This is unjust and undesirable. Some such concerns have large amounts of idle money which could with advantage be devoted to permitting withdrawals of capital at face value by deceased estates, non-residents, and members in need of money.

The right to withdraw capital under satisfactory safeguards rather than forcing a member to find a buyer is essential to consumer co-operation. Such co-operatives seek, not a shareholder's capital, but his trade, and it is even customary for them to allow no reward on capital when the member does not trade with his co-operative. Quite a laudable co-operative rule where a member has the right to a return of his capital, but impossible under company procedure!

The foregoing will give some indication of why the Co-operative and Provident Societies Act, 1903, is preferable for a consumers' co-operative or any other co-operative with simple aims serving a small community. Perhaps of more importance still, however, is the homely community spirit of mutual aid which its simple working and absence of statutory "red tape" appears to engender in the members of a society, as compared with a company.

Co-operatives already established in our rural districts are anxious to lend a hand with the finance and organisation of the movement in the metropolitan area, where many people are interested, but we have so far been hamstrung by restriction since 1929 on further registrations under the Co-operative and Provident Societies Act, 1903.

A further anxiety is that if control of companies were to pass into Federal hands the whole co-operative position might be jeopardised for it is unlikely that the vital "co-operative" sections of our present Companies Act could be incorporated in a Federal Act.

No favours are being sought by the co-operative movement at the expense of the general community, but only the restoration of the suitable Act we had till 1929, which will permit us to organise consumers in our own co-operative way, and on lines which are still sanctioned by most other parts of the Empire. Surely the sturdy spirit of self-help and mutual aid which co-operation stands for will commend itself to our Legislature sufficiently to remove legal obstacles to its encouragement.

Your sympathetic consideration of these points will be greatly appreciated.

Personally I do not see that any harm would be done if the Bill were passed. However, seeing that the matter was thoroughly investigated by the Royal Commission when dealing with the Companies Act, which has been assented to but not yet proclaimed, I think members should give due consideration to that aspect. If the hon. member desires the Bill for consumer societies only, then, so far as I am concerned, I consider I shall not offend in any way at all by assenting to the amendment without any compunction. But if it is to apply to consumers, then I feel that after all that has been done we would be allowing all the parties to register under the 1903 Act until such time as the new Act is proclaimed. That, of course, would not be quite fair. It will go beyond what is already established in the new Act, and approved of by this Bill. Therefore I am rather perplexed. I am sure the hon. member is completely sincere in his endeavour to help the co-operative movement of this State, but as Chairman of the Royal Commission I do think that sufficient provision has been made and I do not feel that it should be disregarded—at least not until I hear other members of that Royal Commission express their views on the Bill.

Mr. Thorn: Are you supporting or opposing the Bill?

The MINISTER FOR JUSTICE: I am supporting the consumer portion of it, but I feel rather diffident about allowing all co-operatives to register under the old 1903 Act.

MR. WATTS (Katanning): I find no difficulty whatever in supporting the second reading of the Bill, but I am somewhat inclined to give consideration to the point of view just expressed by the Minister for Justice, that the sponsor of the Bill would be well advised to consider the position which will exist when the new Companies Act is proclaimed after the cessation of hostilities. If he does not do that now, he will have the provisions of this Bill, should it become an Act, in operation until

the proclamation of the new Companies Act and no longer, because immediately the new Companies Act has been proclaimed after the cessation of hostilities, the existing Companies Act and the measure now before us will cease to exist, because they will be repealed by the new law as soon as it comes into operation.

Hon. W. D. Johnson: But could not the Provident Societies Act be continued?

Mr. WATTS: That Act would continue, but would be in the unfortunate position of being governed by the new Companies Act. If the hon. member is acquainted with that Act, he will realise that it is somewhat different from the position which will arise when the hon. member's Bill becomes an Act. Section 176 of the new Companies Act is expressed in these terms—

(1) After the commencement of this Act no society, other than a consumers' society, shall be registered as a co-operative society under the Co-operative and Provident Societies Act, 1903; but a consumers' society may apply for registration as a co-operative society under the said Act or as a company under this Part of this Act.

(2) For the purposes of this section a consumers' society means a society constituted primarily for the benefit of consumers as distinct from a society constituted primarily for the benefit of producers, and which the Governor may by notice published in the "Government Gazette" declare to be a consumers' society within the meaning of this section.

The hon. member will realise that even if he supports the Bill as introduced in this House, it can only have effect in its present form until the new Companies Act becomes law by proclamation after the cessation of hostilities. It will be observed I agree with the Minister that the House should give consideration to whether we would not be better advised to make the measure introduced by the hon. member similar to the provisions in the Companies Act, which has been passed but not proclaimed, rather than in the present form. Whichever way we go about it, it seems to me that we have achieved the major part of the desire of the hon. member. If he is not content with the provisions in the new Companies Act, then it is not impossible for him to include in this Bill the repeal of that section. Although the Act has not yet been proclaimed, Parliament can, I understand, repeal a section of it, and then the hon. member can clear up the matter to his own satisfaction. But it seems to me that we sh be well advised to give consideration to matter as mentioned by the Minister Justice, so as to bring the two enactme into a similar state, and not have any char of conditions at the risk of confusion wh the Companies Act of 1943 is proclaim and becomes the law of the State.

As regards the general principles th are involved in the hon. member's Bill, a expressed in his speech insofar as it de with the Bill, I have no objection whate to raise. I think that the intentions good, and undoubtedly the co-operati movement has rendered a very considera service to the producers of this State. am one of those who believe that the mo ment is able to render very much grea service than it has yet rendered to the peo of this State, because I consider that t alternative to capitalism as suggested by t hon. member, which the Bill is to so extent in the ordinary interpretation of t word "capitalism" but it is also alternative to socialism and other thin which are far less satisfactory th co-operation. Therefore I would n willingly at any time stand in t way of anyone—rather the reverse making an effort to develop and encoura co-operation along truly co-operative lin But I am considerably perplexed when look back over the history of that secti in the present Companies Act which the hc member now seeks to repeal, for I find th the section, No. 108, reads—

No society shall, after the commencement the Companies Act Amendment Act, 1929, registered under the Co-operative and Pro dent Societies Act, 1903, as a co-operati society.

And the marginal note is as follows:-

Co-operative societies not to be register after 11th December, 1929.

I also heard the Minister read extracts fro the letter of the secretary of the Co-oper tive Federation, which suggested that t concluding paragraphs of the legislation 1929 had jeopardised the success of the c operative movement, or co-operative cor panies, to some extent. It was suggeste that the co-operative companies had, unt 1929, quite a suitable Act, which apparentl as I understood the member for Guildfor Midland to put forward from the point view of that federation, they have not und the present law. I agree with that view. B

who put this offending provision into the Companies Act? Who was responsible for the presence in the Companies Act of Section 108, which prevents societies from being registered, and which the hon. member now seeks to repeal? It was the hon. member himself, the member for Guildford-Midland. That is why I say that I am somewhat perplexed at his present attitude and that it is no wonder it has been found necessary, whether at his suggestion or not, to bombard every member of this Chamber—I think every member, but at least a substantial majority—with appeals to support the measure.

I am perplexed because of the conflict of evidence coming from the same hon. gentleman, on the one hand inserting the provision and on the other withdrawing it. This makes it difficult for some members, who I have no doubt are not so well acquainted with the position as the hon member for Guildford-Midland is and perhaps I am, to come to a conclusion with regard to the Bill. But we will review for a moment the position. On the 28th August, 1929, there was read a first time a Bill introduced by the Hon. W. D. Johnson for "An Act to amend the law relating to Co-operative Trading and the registration of Co-operative Companies." There we find in Clause 8—

> No society shall, after the commencement of this Act, be registered under the Co-operative and Provident Societies Act, 1903, as a co-operative society.

I find by examination of "Hansard" of that period that the Bill passed through Committee without amendment, having received commendation from the then member for Swan, Mr. Sampson, who is no longer with us. The second reading was moved on the 11th September, 1929; and I find that the member for Guildford-Midland, Hon. W. D. Johnson, on that occasion said—

> Today the registration of the co-operative organisations comes under the Co-operative Companies Act, or what is known as the Co-operative and Provident Societies Act. This Act has been on the statute-book for many years. It was introduced by Mr. Walter James, as he was then, in the capacity either of Premier or a Minister in the Leake Government. I believe there are in Western Australia eight societies registered under that Act. These are fully protected in the sense that their co-operative principles, which must be embodied in the memorandum and articles of association when registered, must continue unless certain provisions of the Act are complied with. There is no proposal in this Bill to interfere in any way with these societies. There are, however, over fifty companies operating under the Companies Act. These are the companies directly interested in the Bill. The measure is not introduced to serve any personal purpose of my own. It is brought down at the wish of those connected with the co-operative movement in Western Australia.

So members of this House find themselves perplexed as to the underlying reasons for this Bill, and have been forced, I may submit, by the existence of these facts to a great deal more inquiry into the matter than the matter itself warrants. They want to know why, if the measure appeared suitable in 1929 to the hon. member, it should be unsuitable now. I must say that despite the long dissertation offered us by the member for Guildford-Midland, that was the only part of his examination of the Bill which was not clear. It is the part that should be made clear. However, I have no difficulty in supporting the Bill, though I do hope the hon. member will give consideration to the question of making this measure on all fours with the new Companies Act passed last year.

The Minister for Justice made some reference to discussions before the Royal Commission, of which both he and I were members. He seems to be in some doubt whether it would be proper for him to disagree with the findings of the Royal Commission by supporting the Bill. I find no difficulty in supporting the Bill, if the hon. member does not see fit to offer an amendment, because, when we come to the time when the new Companies Act is proclaimed, the recommendations of the Royal Commission will be the law of the land. In the meantime we are quite competent to determine something else, so I do not worry about that aspect. However, the Minister read an extract from the evidence given by Mr. Harper. That evidence, I think, was given under a misunderstanding. It is only fair to the House that it should be known that subsequently evidence was given on behalf of the Co-operative Federation by Mr. R. D. Forbes, which appears in Appendix III. of the Commission's report. I will not read much of it. It is rather lengthy, but certain parts of it have a bearing on this matter. Mr. Forbes said—

> When evidence was given on behalf of the Co-operative Federation of Western Australia, the witness was under the impression, gleaned from the Crown Law authorities, that the

amending Act of 1929 dealing with co-operative companies was so worded as to prevent future companies from registering thereunder as co-operative companies. The evidence adduced was therefore based on the assumption that the Government had determined that the Companies Bill would not make provision for the registration of future co-operative companies.

Those are the reasons Mr. Forbes gave as to why Mr. Harper, representing the Co-operative Federation, gave evidence in the terms he did: First, that he had either been misinformed or had misunderstood the information given to him, and secondly that he was under the impression that the Government proposed to restrict the registration of co-operative companies.

The Minister for Justice: Including consumers' co-operatives.

Mr. WATTS: That is so. When one realises that, the statement made by Mr. Harper is seen in its true light and it does not offer any objection to the further consideration of this measure.

MR. PERKINS (York): I believe this Bill is necessary, but I was surprised at the revelation of the Leader of the Opposition that the member for Guildford-Midland was responsible for this section being inserted in the present Companies Act in 1929. However, I intend to ignore that aspect and I think we should treat the Bill on its merits. Over the years, the position in regard to co-operative units, particularly in country districts, has changed very considerably.

Hon. W. D. Johnson: Particularly since 1929.

Mr. PERKINS: I do not know about 1929, but I think that practically since the very early days of the units the position has been continually changing. I have been fairly intimately connected with the co-operative movement. As a matter of fact, I am at present a director of one of the country units. In the early stages of practically all the country units, the great bulk of the shareholders—practically all of them—resided in the districts where the units operated and therefore practically all of the shareholders of a unit benefited by trading through that unit, and of course a large proportion of the turnover of any particular co-operative unit was through its own shareholders. I understand that under the taxation regulations, for a co-operative unit to obtain the benefits of a deduction from its gross income and to reduce its net taxable income by the amount for any rebate paid to shareholder on the trading done through the company, i is necessary for the vast majority of th shareholders to trade with the company.

Hon. W. D. Johnson: Ninety per cent.

Mr. PERKINS: I believe that is the actua figure. It is a true co-operative principl that rather than the companies paying divi dends—I was going to say high dividends but the provision in the Companies Act pre vents more than a certain dividend, 5 pe cent., I believe, from being paid to the share holders on the share capital—a preferabl arrangement is that only a small rate o dividend should be paid to shareholders b way of dividend on capital and that th greater bulk of the profits should be returne to the shareholders by way of rebate on trad ing. So it is necessary, to enable those co operative units to follow the true co-operativ principle and return the rebate to their cus tomers who are shareholders, for the grea majority of those shareholders to be resi dent in the district. In the case of som of the co-operative units, and I think pos sibly a majority of them, a very large por tion—in some cases more than 50 per cent.— of the shareholders now live outside the dis trict. That is not to say that the share have been sold to other individuals, but tha there is an actual change taking place i the districts.

People who originally lived in a distric have shifted outside it and now so many old settlers have removed from those place that in some instances more than 50 pe cent. of the shares are held outside th districts where the units operate. In suc instances, it would be impossible for unit to obtain the reduction from their gros income for taxation purposes on those re bates which they make to people doing business with the companies. That being so, it is necessary for these co-operative units to find some way of getting the share into the district again. It is possible t take some action under the Companies Ac by arranging for a transfer of the share held outside the district concerned back t other people resident in the district. It i possible under the Act to buy up to 5 pe cent. of the share capital in order to ge some of the shares back by that method But there are many difficulties in the way and each of the units has found difficulty in rectifying the position. In most case

the co-operative units are on a fairly sound basis and, if they were permitted to change back to registration under the old 1903 Societies Act, it would be permissible for them, under that Act, to buy back the share capital from those people now resident outside the district. That is the vital point this amendment desires to cover.

I know of several units which will desire to transfer back to the 1903 Societies Act with that one purpose in view, namely, getting their share capital back into the districts from people who were originally shareholders, who were good, loyal supporters of the units, but who now, not because of lack of interest in the companies —for many are still good, loyal supporters —live outside the districts concerned and find it impossible to trade with the particular units. I hope members will support the Bill and assist these companies to take the action they have in view to enable them to bring about that very desirable reform. I cannot see that it is going to injure anyone. It is not going to do an injustice to anybody else; it is purely a domestic concern of the units, and it will not do any injustice to any of the people who have supported the units in the past. In fact, it could be the means of doing justice to some of those people who have been largely instrumental in starting the companies.

At present, if the units tried to get the shares transferred back from those people to people inside the district, they could do so only by arranging transfer of shares at a discount, and it hardly seems right that the people who originally started the units should forgo some of their capital merely because of technical difficulties standing in the way. If the Bill is passed, it will enable the companies—and many have surplus funds at present—to buy back those shares at their full value from the people living outside the district. It will do justice to the people who originally helped to start the companies, and will be the means of clearing up technical difficulties in regard to paying rebates to people who are now trading with the units and who should be shareholders, and also avoid any conflict with the Taxation Department.

The Minister for Justice: Only between the time this Bill is assented to and the proclamation of the new Act.

Mr. PERKINS: Even in regard to that, any company which takes this action and transfers to the 1903 Act before the new Act is proclaimed will not be affected by the new Act.

The Minister for Justice: Yes, it will.

Mr. PERKINS: I do not see that it will. It will not be under the Companies Act at all. It will be a company registered under the 1903 Act.

The Minister for Justice: Yes, that is so; you are right.

Mr. PERKINS: In the vast majority of cases the co-operatives are consumer co-operatives in Western Australia. I think—I would not like to be dogmatic—that the majority of producer co-operatives would desire to carry on under the Companies Act, because there are some difficulties that enter into the producers' co-operatives working under the Societies Act that do not apply to purely consumer co-operatives. In any case the conflict would not arise in that new Act in regard to the purely consumer co-operatives. There is no conflict with the Taxation Department on this matter in that the Taxation Department, I think, does not regard the rebate system as any dodging of taxation, because the rebates made to the consumers through the co-operatives serve to swell the individual incomes of the members of the co-operatives and therefore provide incomes much greater than they would otherwise be. The point is that a double taxation is not paid on the income of the company as well as on the income then distributed to the individual. I hope the House will pass the Bill.

HON. W. D. JOHNSON (Guildford-Midland—in reply): I can quite understand the difficulty of members in regard to the two forms of co-operative registration that exist in this State at present. We talk of producers' co-operatives because they are registered under the Companies Act Amendment of 1929. Because they are registered under that Act they are generally called producers' co-operatives, but they are not so in the real sense of the term. For instance all the community at Bruce Rock were invited and were eligible to become members of the Bruce Rock Co-operative. All they had to do was to take a £1 share. It has been possible since 1929 so to develop the trading co-operative companies under that Act as to take in members of the general community,

and this was made necessary by an amendment of the taxation law providing that certain consideration would be extended to co-operative concerns that made their profit from 90 per cent. of shareholders.

The Bruce Rock Co-operative therefore decided to invite everyone to join so as to get the 90 per cent., because the people were actually trading at the co-operative stores. We said, "Make them shareholders so that we shall be operating within the provisions of the Taxation Act." Even the postmaster, stationmaster, bank managers and so forth became shareholders, although they were subject to removal from the district. The difficulty has been aggravated by the fact that from time to time these people are moved; their employment requires their transfer from place to place. Every time one leaves the co-operative registered under the 1929 Act, he cannot get his capital transferred. One went from Bruce Rock to Cunderdin, but he could not take his Bruce Rock shares to Cunderdin, he could not sell them to the co-operative at Bruce Rock and, if he desires to maintain his association with the co-operative movement, he must take out fresh shares at Cunderdin. So it goes on. We want to overcome that difficulty, and we think it can be overcome under the Societies Act. It cannot possibly be overcome under the Companies Act.

We all remember the year 1929. It was the depression year. Things were in a very bad state, and it is not pleasant to recall the circumstances that necessitated the hasty passing of the 1929 legislation. Certain developments were taking place that caused great anxiety, and when the House was asked to pass the measure of 1929, it did not contain the provisions I would have liked to see included. It was really a compromise. I was under the impression that I had discussed it with a certain member of Parliament in his capacity as a member, not as a member of the legal firm that was advising the Co-operative Federation. There was a difference of opinion between us at the time. I would not claim that I always see eye to eye with Mr. C. W. Harper. Mr. T. H. Bath at times differs from both of us, but I think the three of us will be accepted as those who have worked diligently for the welfare of the co-operative movement. When the 1929 Bill was under discussion, we were not all agreed as to the provisions it should contain. I am pleased that the Leader of the Opposition has gone to some pains to analyse the measure. When the 1929 Bill passed this Chamber, it contained Clause 8. I did not like the clause and did not want it, but it was the product of the Co-operative Federation. I was purely the representative and mouthpiece of the federation to introduce and recommend a Bill that was the product of the federation.

The Minister for Justice: Who was the chairman of the federation?

Hon. W. D. JOHNSON: Mr. C. W. Harper. When the Bill went to another place, it was taken up by the late Mr. Hector Stewart, and when he came to Clause 8, he said he intended to move an amendment that would be a compromise. Instead of saying, "No society shall be registered under the 1903 Act," he was going to insert, "No company shall be registered under the 1903 Act." Members will see the difference. If we could have put in the wording I wanted to insert, "No company shall be registered under the 1903 Act" we would not have experienced the trouble we have encountered over the years. However, Mr. Stewart did not move the amendment. The words in the Bill when it came to this Chamber were allowed to remain. I worked to try to get the clause altered and Mr. Bath helped me. What we wanted was that no company should be registered, the idea being to avoid the dual registration.

There is no doubt about the expansion of the co-operative movement and its wonderful financial stability. This has all been done since 1929. It has been a wonderful achievement to get these companies on a sound basis, a large number of which were in difficulties because of the credit they had given. Gradually they have been built up until today there is practically no anxiety. The trouble is that we have not got one society in the metropolitan area. In order to show our support of the centenary celebrations of the Rochdale pioneers, it was decided to extend into the metropolitan area. We propose to form a number of co-operatives in the metropolitan area and the first of them has been formed at Bassendean. This, however, is not a company, though it has to be registered as such. It should be registered as a society. While it is true that since 1929 we have got through without difficulty, ex-

pansion to the metropolitan area has changed the situation, and if we are going to progress and give co-operation to the workers and others in the metropolitan area, it is essential to get the 1903 Act restored. It is true we shall have a little difficulty in regard to the proclaiming of the recently passed Companies Act, but the Leader of the Opposition explained that matter clearly. Before the war finishes we want this registration to apply to Bassendean. We cannot go on under the Companies Act and register as we should and give the workers an opportunity of withdrawing their capital up to the capacity of the company to return it. The Leader of the Opposition will agree with me when I say that, when the Companies Act is proclaimed, it will not restore the 1903 provisions. We want the provisions of the 1903 Act.

The Minister for Justice: It will allow you to register under the 1903 Act as far as consumers' societies are concerned.

Hon. W. D. JOHNSON: I am not sure about that. But why wait? I hope it will not be long before the war ends, but we have to assume that it may be some time, and the Act cannot be proclaimed until after the war does end. Meanwhile there is much work to be done. The Bill will do no harm. The member for York has pointed out that no injury will be done to anyone but that a mighty lot of good will result. The sooner these facilities are made available, the sooner we can get to work. Therefore, I hope the House will pass the Bill. It was framed by the Parliamentary Draftsman. I went into all the details with him and asked whether he could gain the desired end in any other way, and after mature consideration the Bill was framed as presented. I hope it will receive the support of members and so enable us to proceed with the work which we have started but which is being hampered because of this want of registration under the 1903 Act.

Question put and passed.

Bill read a second time.

In Committee.

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

BILLS (2)—RETURNED.

1, Main Roads Act (Funds Appropriation).

2, Industries Assistance Act Continuance. Without amendment.

BILL—EVIDENCE ACT AMENDMENT.

In Committee.

Resumed from the 20th September. Mr. Marshall *in the Chair*; Hon. N. Keenan *in* charge of the Bill.

Clause 2—Amendment of Section 101 (partly considered):

The CHAIRMAN: Progress was reported on the following amendment by the member for Katanning:—

That the following proviso be inserted in lieu of the proviso struck out:—

Provided that upon the hearing of a charge against a person of an offence under—

(a) paragraph (11) of Section sixty-six of the Police Act, 1892; or

(b) any of the Sections one hundred and eighty-three, one hundred and eighty-four, one hundred and eighty-seven, one hundred and eighty-eight, one hundred and eighty-nine, two hundred and three, three hundred and fifteen, and three hundred and twenty-eight of the Criminal Code—

alleged to have been committed in the presence of or against a child of tender years, the testimony of a child who gives evidence under the provisions of this Section may be held to be sufficient to warrant a conviction without any other evidence in corroboration having been called in support of such testimony in either of the following cases, that is to say—

(i) When the hearing of such charge is before a judge of the Supreme Court sitting with or without a jury, and the judge considers that the testimony of the child is sufficient for the purpose of a conviction without corroboration as aforesaid; or

(ii) When the hearing of such charge is before justices or a magistrate, and a judge of the Supreme Court, on the ex parte application of the party who calls the child as a witness and after himself questioning the child, by order empowers the justices or the magistrate aforesaid to accept the evidence of the child without corroboration, and the justices or the magistrates act accordingly.

to which the member for Nedlands had moved—

That the amendment be amended by striking out in line 5 of subparagraph (ii) of paragraph (b) the word "calls" with a view to inserting other words.

Amendment on amendment put and passed.

Hon. N. KEENAN: I move—

That the words "intends to call" be inserted in lieu of the words struck out.

Amendment on amendment put and passed; amendment, as amended, agreed to.

Clause, as amended, put and passed.

Title—agreed to.

Bill reported with amendments.

MOTION—SOLDIER SETTLEMENT.

As to Commonwealth Policy.

Debate resumed from the 21st September on the following motion by Mr. Thorn—

That Parliament views with deep concern the failure of the Commonwealth Government to announce some definite policy in respect to soldier land settlement and what financial assistance will be available to assist ex-members of the Forces who desire to take up primary production. This apparent lack of policy is bringing hardship to many West Australian ex-servicemen and it is also against the best interests of Western Australia where there is so much suitable land available at moderate prices.

MR. McLARTY (Murray-Wellington) [9.4]: I support the motion. As the Minister for Mines said, a conference of Ministers is sitting at the present time and it has made considerable progress with this subject. According to the paper this morning, it was hoped that an agreement would be reached today. However, as far as we know, no agreement has yet been reached. The report states that the Premier of Victoria has disagreed to certain propositions put forward and that experts and representatives of the State and of the Commonwealth were meeting with a view to overcoming the difficulties in the way of reaching an agreement. Since the member for Toodyay submitted the motion, the annual conference of the Returned Soldiers' League has been held. This League also passed a resolution of protest, very much on the lines of this motion.

Mr. J. Hegney: Did the mover of this motion sponsor that resolution?

Mr. McLARTY: I do not think he had anything to do with it; but no doubt when he replies he will be able to give the member for Middle Swan the information he desires. Every member of this House agrees, I think, that it is time we had a definite policy laid down in regard to soldier settlement. I hope that when we pick up the paper tomorrow morning we shall see that an agreement had been reached. If soldiers are to be settled successfully on the land, this should not be a rush job; ample time and consideration should be given to the whole matter. A careful selection of the land, as well as of the applicants, will have to be made. The member for Toodyay estimates that 5,000 returned soldiers will desire to settle on the land. To deal with 5,000 men, or even half that number, is a tremendous task and it emphasises the need for careful preparation. At this stage, we should know what Crown land is available and where it is situated, how many vacant Agricultural Bank holdings will be available and how many farms that could be utilised for soldier settlement are for sale.

Mr. Cross: We want to know if they are suitable, too.

Mr. McLARTY: At this stage I think we should also try to obtain some idea of how many men who desire to settle on the land will not require Government asistance.

Mr. J. Hegney: Do you favour the leasehold system?

Mr. McLARTY: I have no objection to that system; the report of the Rural Reconstruction Commission gives considerable attention to that aspect. The Commission also suggests that the soldier may, if he so desires, convert his leasehold to freehold. I notice that in today's report in "The West Australian" newspaper the Commonwealth Government is prepared to come to the assistance of States who desire to adopt the leasehold system as well as the freehold. We should do something towards clearing, or at least partially clearing the land on which we propose to place the settlers. In these days when we can obtain bulldozers, land clearing is not the formidable task it was in earlier days. I think that perhaps it might be well to inquire also whether it is practical to employ prisoner-of-war labour for this purpose. I commend the report of the Rural Reconstruction Committee. It is a practical and businesslike

document. Every page discloses that the members of the Commission have gone to no end of care and trouble to place facts fully before us; and I feel that if we adopt their suggestions we shall go a long way towards ensuring the success of any proposed soldier settlement scheme. The report stresses the need, and rightly so, for caution. As I said, this scheme should not be rushed. When speaking to the motion the other evening, the Minister also stressed the need for caution and advised that there be no undue haste. We have had previous experience of rushing people on to the land and have had to pay for that experience.

Mr. Watts: And so have the settlers.

Mr. McLARTY: Yes. We need to be prepared for the period when the men will have returned and will want to go on to the land. Undoubtedly, they will be impatient. Men wanting to settle on the land will not be prepared to wait, no matter what excuses we offer them.

Member: Quite a lot of soldiers are here already.

Mr. McLARTY: Yes, and they present a problem. The member for Toodyay refers to them in his motion. I can quite understand the attitude of both the Commonwealth Government and the State Government towards the men who have already returned. The position is that it would not be fair to the thousands of men who are still in the Forces to allot land at this particular time. The scheme, however, should be launched at some stated time, and consideration should be given to the applications of those desiring to take advantage of it. The Commission also tells us about our experiences of past schemes and suggests that we should benefit from those experiences. We will all agree with that. I am certain that if we do take into account our experience of soldier settlement after the last war we shall save this State and the Commonwealth great sums of money. The report strongly recommends that individual soldiers should not be allowed to purchase property privately. I refer, of course, to soldiers who will obtain financial aid from the Government. I highly commend that suggestion.

After the last war many soldiers bought properties privately—of course they were assisted by the Agricultural Bank—and some of them bought properties from relatives. Even in such cases the relatives did not show the soldier much consideration. They asked the highest possible price and of course the soldier, in his anxiety to get on to the land and encouraged by the prices then prevailing, paid those high prices. It afterwards appeared that such individual buying of land was not to the advantage of the soldier. A matter causing me grave concern at present is the shortage of stock for these properties. Many soldiers will presumably be entering the dairying industry. I understand the desire is to settle soldiers in the safe parts of the State, where there is an assured rainfall and, of course, a market. So it is safe to assume that many will go in for dairy and mixed farming. The member for Toodyay is right. It is exceedingly difficult now to purchase dairy cattle. The present season is not likely to improve the position, but I would say to the Minister for Agriculture, if he were here, that this is one aspect deserving of serious consideration.

The Minister for Mines: He is giving it that consideration, too.

Mr. McLARTY: I think he is. I do not know how he is going to overcome the difficulty. We cannot build up a dairy herd in a few months.

The Minister for Mines: You cannot even get dairy cattle from the Eastern States.

Mr. McLARTY: No, and the present drought will make them still more difficult to obtain from the Eastern States. Where it is possible we should prevent the slaughter of dairy heifers. It would be in the best interests of the country to do that.

Mr. Willmott: That will have to be done.

Mr. McLARTY: The member for Sussex represents a dairying district where the production of butterfat is the main industry. In my electorate the dairy farmer deals in whole milk. The whole of his milk goes to the factories or to the metropolitan area as whole milk, and it is not easy to rear dairy cattle in such conditions. I think it is time that the definition of "returned soldier" was decided upon. The Minister for Agriculture when speaking the other night said that he had made the term as wide as possible. We all agree with that. Any man who has served is entitled to repatriation, and the Minister will, I am sure, be able, if it is necessary, to persuade the conference in the Eastern States to make this term as wide as possible.

Mr. Marshall: He said more than that about it. He said that the examination should be as strict as possible.

Mr. McLARTY: That is so, and I agree that the examination should be very strict. It is not in anyone's interests for unsuitable men to be put on the land. We would not be doing such men a good turn by putting them there. After the last war quite a number of men who were not fitted for it went on to the land. This time, because of the greater efforts being made in connection with repatriation generally, I think that mistake could be avoided. In regard to the cost of land, I am glad to see that it is the intention of the Government to bear a considerable portion of the original cost. That is to say, it is prepared to write down and sustain the loss at the very outset in preference to writing down after some soldiers have spent years on the property and many others have walked off. This I regard as a sound policy. The last time, as the member for Guildford-Midland pointed out, we wrote off—I shall not use the term "lost"—£45,000,000 throughout the Commonwealth. That sum amounted to approximately £6 per head of population, or £1,200 per settler. I think it is realised today that losses are inevitable with any land settlement scheme. There has not been any great land settlement scheme carried out in any part of the world without some loss. So one can assume that losses are bound to occur in connection with this scheme. If the Government will, as is proposed, write off at the outset portion of the capital debt—that is the purchase price of the property—I feel sure that it will enable many soldiers to make a success and undoubtedly encourage them where they might otherwise fail.

The Minister for Mines: There will be a rush, the same as last time.

Mr. McLARTY: Yes. There are always land speculators. We cannot get away from them.

Mr. J. Hegney: What about the subdivision of large estates such as in New South Wales?

Mr. McLARTY: It is possible that we have some large areas of land that could be subdivided.

Mr. J. Hegney: Much good land is locked up in New South Wales.

Mr. McLARTY: Yes, but whilst land in New South Wales will probably cost the Government more to purchase, I do not believe its productive capacity is any greater than a lot of the land in Western Australia. I think it would be wise at this stage to take steps to procure the very best advice possible from men who have succeeded on the land. It has been said in connection with previous land settlement schemes, that settlers have been advised by men who have not themselves been successes on the land. That I think is true in certain cases, but I feel sure there are patriotic and practical farmers and others in this State who would be prepared to give helpful advice to soldiers settling on the land. It would be wise for the Minister to go after that advice and create advisory boards amongst the farmers with a view to advising settlers. Such action would be very profitable.

There is no doubt that we can settle a large number of men, but some consideration must be given to the prospects of future marketing. It is of no use settling them on the land if we are unable to sell what they produce. I notice that Mr. Bankes Amery, a British representative, said the other day that we have an assured market for the next four years, and that the United Kingdom is prepared to enter into a contract with the Commonwealth Government to take some of Australia's surplus primary products during the next four years. He mentioned beef, mutton, lamb, butter and cheese. That will certainly help, but four years is a short term. Under pre-war conditions 95 per cent. of our primary products went to Great Britain.

Mr. Amery also said that at present the British farmer was producing 70 per cent. of the food requirements of the United Kingdom. Before the war he produced 30 per cent. Of course that 70 per cent. is on the present rationing, but he assures us that there will be in Britain a market for beef, mutton, lamb and butter and also thinks we will obtain a market in other parts of Europe. I do not think there is any doubt about that. Countries like Holland, Denmark, Belgium and France have had their dairy herds and beef herds depleted, and it will take years for them to be built up. During that time they will want food from somewhere, so it does appear that we in this country will have markets guaranteed to us for some years

to come. Another matter which the report of the Rural Reconstruction Commission refers to is that of subsidies or creating credit to keep settlers on the land. We should do something in that direction. During the last depression, hundreds of our soldier settlers had to go off the land. I do not think that at that time there was any guarantee in regard to a home consumption price. They were settled when there was no guarantee in regard to prices such as we have today. I think we all agree on the principle that there should be a home consumption price.

Hon. W. D. Johnson: That cannot be done now that the Referendum has been defeated.

Mr. Seward: It would not have been done if the Referendum had been carried.

Mr. McLARTY: If we do insist on a home consumption price and methods of subsidising primary production where necessary, I believe that will go a very long way indeed towards encouraging the success of soldier settlement. In view of the fact that Ministers from the various States are meeting at Canberra today and that we were told an agreement will probably be reached before the conference breaks up, I do not think there is any need for me to say more at this stage. The member for Toodyay is to be commended for having brought the motion forward, because we cannot afford any further delay and must be ready to proceed with a scheme as soon as hostilities cease.

On motion by Mr. Marshall, debate adjourned.

House adjourned at 9.29 p.m.

Legislative Council.

Thursday, 5th October, 1944.

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

QUESTIONS (2).

POULTRY FOOD.

As to Ingredients and Effect of Mashes.

Hon. G. B. WOOD asked the Chief Secretary:

(i) Is the Government aware that poultry farmers are very dissatisfied at being compelled to buy mashes made up by firms out of certain ingredients?

(ii) Is there any control of this industry by the Government?

(iii) Are these mashes subject to any standard, or analysis, as laid down by the Agricultural Department?

(iv) If not, will the Government immediately take steps to force the manufacturers to supply information to the poultry producers as to the ingredients of mashes?

(v) Is the manufacture of poultry mashes contributing to the acute shortage of bran and pollard?

The CHIEF SECRETARY replied:

(i) Commercial poultry farmers are not compelled to buy proprietary mashes.

(ii) Yes, under the provisions of the Feeding Stuffs Act, 1929-42.

(iii) No standards have been prescribed but manufacturers and importers are required to submit analyses of their stock foods for annual registration under the Feeding Stuffs Act.

(iv) Answered by No. (iii). The compositions of registered stock foods are published in the Journal of the Department of Agriculture.