

as an entirely unprecedented use of the Royal prerogative of pardon.

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

Ayes	..	..	..	19
Noes	..	..	..	4

Majority for .. .. 15

#### AYES.

Hon. C. F. Baxter	Hon. R. G. Moore
Hon. J. Cornell	Hon. H. S. W. Parker
Hon. L. Craig	Hon. H. V. Piesse
Hon. C. G. Elliott	Hon. H. Seddon
Hon. J. George	Hon. A. Thomson
Hon. E. H. H. Hall	Hon. H. Tuckey
Hon. V. Hamersley	Hon. C. H. Wittenoom
Hon. J. J. Holmes	Hon. H. J. Yelland
Hon. W. J. Mann	Hon. E. H. Angelo
Hon. G. W. Miles	(Teller.)

#### NOES.

Hon. A. M. Clydesdale	Hon. W. H. Kitson
Hon. J. M. Drew	Hon. G. Fraser
	(Teller.)

Question thus passed.

#### Personal Explanation.

Hon. J. J. Holmes: I wish to make a brief statement, by way of personal explanation. Mr. Gray, when addressing the House this afternoon, intimated that I was the next member upon whom the axe was to fall for some breach of the Constitution or of the Electoral Act—I do not know which. The statement was made, presumably, to intimidate me. I invite Mr. Gray, or any other person, to proceed forthwith; and if I were found guilty of any offence I would not ask for a pardon to be granted, nor would I expect a pardon, and neither would I accept a pardon if it were offered to me.

#### BILL—SOLDIER LAND SETTLEMENT.

Received from the Assembly, and read a first time.

House adjourned at 8.3 p.m.

## Legislative Assembly,

Wednesday, 5th September, 1931.

	PAGE
Questions: Hospitals, North-West	428
Agricultural Holdings, South-West	428
State Farm, Subliner Vale	429
Workers' Compensation, lump-sum capitalisation	429
Bills: Soldier Land Settlement, 3R.	429
Motion: Royal prerogative of pardon, disqualification of Hon. E. H. Gray, M.L.C.	430

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

#### QUESTION—HOSPITALS, NORTH-WEST.

Mr. WELSH asked the Minister for Health: What amount was paid by the Government during the financial years 1931-32, 1932-33, and 1933-34 to each of the under-mentioned hospitals?—(a) Onslow, (b) Roebourne, (c) Derby, (d) Broome?

The MINISTER FOR HEALTH replied: (a) £300 per annum, (b) £300 per annum, (c) £300 per annum, (d) £700 per annum.

#### QUESTION—AGRICULTURAL HOLDINGS, SOUTH-WEST.

Mr. BROCKMAN asked the Minister for Lands: 1, What is the number of abandoned holdings in the Sussex electorate? 2, Are they available for leasing by other settlers; if so, whence can such leases be obtained? 3, What is the average area of pasture on these abandoned holdings? 4, What is the number of holdings still occupied in the Sussex electorate? 5, What is the average area of pasture on these occupied holdings?

The MINISTER FOR LANDS replied: 1, 161. 2, They are available for leasing by approved applicants. Leases are for one year, rent payable in advance, with proviso for maintenance of improvements and top dressing, and insurance of cottage if occupied. Applications should be submitted to the local manager, who will forward them with his recommendations for Trustees' decision. 3, Approximately 70 acres. 4, Number of occupied group holdings in Bassettton Agricultural Bank district, 55. 5, Approximately 70 acres.

**QUESTION—STATE FARM, SUBINER VALE.**

Mr. BROCKMAN asked the Minister for Lands: 1, What was the purchase price of Subiner Vale State Farm? 2, What amount of money has been spent on it since its purchase? 3, What is the total acreage cleared to date? 4, What is the estimated value of the property at the present date?

The MINISTER FOR LANDS replied: 1, £2,759. 2, £32,115 17s. 7d. 3, 1,299 acres. 4, No recent estimate has been made.

**QUESTION—WORKERS' COMPENSATION.***Lump-sum Capitalisation.*

Mr. F. C. L. SMITH asked the Minister for Labour: 1, Did Warden Geary, ex-Resident Magistrate at Kalgoorlie, fix 4 per cent. as the capitalisation value of compensation due under the Workers' Compensation Act on a weekly basis, when such compensation was paid per medium of a lump-sum settlement? 2, Has the rate been increased in recent similar settlements? 3, If so, why was the increase made, seeing that interest rates have in recent years been considerably reduced?

The MINISTER FOR LABOUR replied: 1, Yes. 2, Not to my knowledge. 3, Answered by (2).

**BILL—SOLDIER LAND SETTLEMENT.***Third Reading.*

**THE MINISTER FOR LANDS** (Hon. M. F. Troy—Mt. Magnet) [4.35] in moving the third reading said: The Leader of the Opposition yesterday raised certain points which I promised to have inquired into. As to the reference in the Bill to the Act of 1926, that Act was never ratified. New South Wales and Victoria refused to pass the measure, and thereupon the Commonwealth Government did not proceed with it.

Mr. Latham: Will you repeal that Act now?

The MINISTER FOR LANDS: That is unnecessary. The Act was never ratified. It is inoperative. The Treasury telegraphed to the East to-day inquiring whether it had been ratified, and learned that it had not been. As regards the definition of "Depen-

dant," the definition in the draft agreement of 1926 read as follows:—

A widow, or mother, or child (including an ex-nuptial child) of a deceased member of the forces who was wholly or in part dependent upon the earnings of the member of the forces at any time during the period of 12 months prior to his becoming a member of the forces.

The definition in the agreement embodied in the present Bill is—

A widow or mother or child (including an ex-nuptial child) of a deceased member of the forces who was wholly or in part dependent upon the earnings of or upon the members of the forces at any time during the period of 12 months prior to his becoming a member of the forces.

The only difference between the present definition and that of 1926 is that the present definition has the plural "members," whereas the former definition had the singular "member." The plural may be only a clerical error, but in view of the fact that the agreement was signed in that way, I suppose the words "members" will have to remain as it is. It may be a mere clerical error in typing the agreement. If so, we shall notify the Commonwealth Government and have the matter rectified. I move—

That the Bill be now read a third time.

**MR. LATHAM** (York) [4.38]: I hope the Minister will agree to hold up the Bill until he gets further information from the East. Neither this Chamber nor another place should be asked to ratify an agreement that we do not understand. Probably all the effect involved in the difference has already occurred; but there is this phase of the matter, that we may be restricting the definition of "dependant" to the wife who was married 12 months prior to the man's becoming a member of the forces.

The Minister for Lands: That is not the trouble here.

Mr. LATHAM: The trouble lies in the drafting by the Commonwealth Government. They had no right to send us an agreement which the Minister himself admits he cannot understand. There can be no great urgency for the measure, which might well be held up until we have ascertained whether the right text has been supplied to us. If there is a mistake, the matter can be rectified in another place. The Minister has said that the 1926 Act is inoperative.

The Minister for Lands: This Bill includes more than that Act included.

Mr. LATHAM: Would not the better course be to repeal the inoperative Act? I hope the Minister will inquire as to these matters in the East.

**THE MINISTER FOR LANDS** (Hon. M. F. Troy—Mt. Magnet—in reply) [4.40]: As I have said, I regard "members" in the agreement as a clerical error. However, that is how the agreement has been signed. Inquiries will be made, but I think the Bill should be passed.

Question put and passed.

Bill read a third time, and transmitted to the Council.

### **MOTION—ROYAL PREROGATIVE OF PARDON.**

*Disqualification of Hon. E. H. Gray, M.L.C.*

**MR. LATHAM** (York) [4.42]: I move—

That this House expresses its disapproval of the action of His Majesty's Ministers in recommending His Excellency the Lieut.-Governor to exercise His Majesty the King's prerogative of pardon for the purpose of over-ruling and annulling the lawful conviction of Edmund Harry Gray on the 15th day of August, 1934, of an offence against the laws of the realm; and that Ministers are deserving of censure for so doing.

In speaking to this motion it will be necessary to introduce the name of the person whom it affects; but I desire to treat the matter as an impersonal one, because I have no feeling whatever so far as the hon. member is concerned. I thought when giving notice of this motion, that the Premier might take the first opportunity of clearing the matter up, especially in view of the statement he is reported to have made in the "West Australian" on the 24th August, to the effect that the papers relating to the pardon would support the Government's action, which he felt confident would be accepted by the public, when all the circumstances were known, as having been a right and proper thing. The hon. gentleman is reported to have added that in order that there should be no misunderstanding as to where he himself stood, he was prepared to take any platform and defend the Government's attitude before any audience. A matter such as this, I con-

tend, should be cleared up as early as possible in the public interest. The Premier having stated that he had no objection to the matter being cleared up, I thought he would have taken the first opportunity to deal with it. The pardon is a most unusual thing. The information supplied to the House shows that this is the first time in the history of Western Australia the Royal prerogative has been used for the purpose of granting a free pardon. The unusualness of the proceeding is emphasised by the fact that the pardon applies to a member of Parliament. It seems to me that Ministers, when exercising this extraordinary power, should bear in mind that they are using the power of the King through his representative in Western Australia, and that therefore the greatest care should be exercised in using the power. The Premier has stated that the papers relating to the matter would support the action of the Government. In common with other members I have had an opportunity of perusing the papers. They consist of the pardon itself, endorsed by the Lieut.-Governor and signed by the Minister for Justice, a letter from the paid advocates of the man to whom the pardon was granted, a minute from the Minister for Justice to Cabinet, and the petition itself. Having gone through the papers, I say that in my opinion they do not justify the Government's action.

Mr. Moloney: From whom is the petition?

Mr. LATHAM: From the person who was convicted. It was drawn up by his paid advocate, Mr. Dunphy. It seems to me the Cabinet took no action to verify the statement by the petitioner himself or by his paid advocate. As a matter of fact, in looking through the notes of the case published in the daily Press, I find that some of the statements made in the petition do not bear out what was submitted to the court in sworn evidence.

The Minister for Justice: But you cannot take notice of newspaper reports.

Mr. LATHAM: I admit it, but that was the only information I had. One would expect to find on this file some notes from the magistrate, would expect that the Government would have referred the papers to the magistrate and asked him for any comments he wished to make. This is

usual when remission of sentence is made, as it is from time to time; the papers are submitted to the magistrate who tried the case, and his opinion obtained. But in this instance, apparently, from the papers before the House, all that was done was that the statement by Mr. Dunphy was read by the Minister for Justice, and on the strength of it he sent a minute to Cabinet. The Minister in his letter says he has submitted a draft of a pardon that may be suitable. But there is no draft among these papers. I suggest that the pardon itself was drawn up by the advocate.

The Minister for Justice: You only surmise that.

Mr. LATHAM: Yes, that is perfectly true; but I am only expressing my own opinion.

The Minister for Justice: It is wrong.

Mr. LATHAM: It may be. They say they have adapted a form from Wharton's legal dictionary. I should like to draw a comparison between the reasons put up by Mr. Dunphy, and also to quote from the newspaper reports on the case. Towards the end of the petition there are set out certain reasons why the pardon should be granted. The first is that the appellant had no part in or knowledge of the preparation or printing of the said leaflet, and that he had no knowledge that the contents of the leaflet were untrue or defamatory to Mr. Hughes. I should like to refer to a statement made on oath in the civil case that was tried. I am not going to accept Mr. Hughes' statement, although I suppose it is just as reliable as that of any other person. I propose to quote from John Arthur Edwards, a police constable, as reported in the "West Australian" of the 25th July, 1934. This is a statement that Mr. Edwards made on oath. We must all agree that a policeman's sworn statement is reliable.

The Minister for Justice: Not always.

Mr. LATHAM: Then if it is not to be relied upon, it is time we had some investigation into it. Here is the statement—

John Arthur Edwards, police constable stationed at Fremantle, said that on May 11 last he was on duty at the Fremantle wharf. At plaintiff's request witness and another constable accompanied Hughes into the midst of a crowd of about 1,000 lumpers, and in the presence of Gray and Mann plaintiff said, "These gentlemen are distributing pamphlets

which are grossly libellous and a breach of the Electoral Act." Mann said, "Of course we are. Here, have one." Mann and Gray each gave a pamphlet to witness.

This discounts the value of the suggestion put forward in the petition that the appellant had no knowledge that the contents of the leaflet were untrue and defamatory of Mr. Hughes, for we see that actually he was advised by the person who took action that it was so.

The Minister for Works: Would you take Hughes' word for anything?

Mr. LATHAM: I am not taking his word; I am taking the police constable's word. Now let us see what the magistrate said. On the 16th August the "West Australian" published the following statement:—

In his decision Mr. Craig said that even assuming that the offence in question was not excluded from the operations of the section of the Code, there were no special circumstances in the case which would justify his excepting it from the penalties prescribed by law.

Mr. Craig, later, in his summing up makes this statement:—

The case cannot be regarded as trivial, or as having been unwittingly committed by the accused. He knew as well as Mann, when he distributed the pamphlets, that they were designed to prejudice Hughes's election, and he cannot be held to be less blameworthy. Counsel for the defence has urged all that could possibly be urged, both in his defence of the defendant, and on this application, but I cannot find any extenuating circumstances in this instance, such as would make it inexpedient to proceed to conviction and punishment as prescribed by the law.

Whilst one may well sympathise with the accused in his predicament, considering the serious consequences to him, brought about by his own act, one cannot extenuate the offence; and were I to give him the relief asked for I should be exceeding my jurisdiction and failing in a public duty.

There is the decision of the magistrate, yet the Government have taken upon themselves the responsibility of doing something that the magistrate said he would not be justified in doing. If there had been any justification or any further evidence submitted—and I claim there has not been if these are all the papers there are in existence—I say the Government have exceeded their duty. As for the appellant not having a knowledge that the leaflet was defamatory, the petition holds that he did have that knowledge, for it says in paragraph (c)—

That the proceedings taken under the Electoral Act against the said Frederick Mann and

your petitioner were the first that had been taken since the said Act had been passed, although it has always been a common practice for candidates to issue leaflets commenting on their adversaries.

That is a very weak excuse. If it is his first offence, it does not make it any better. And if it be accepted that it is a common practice—and I say it is not, or if it is a common practice, then the members on that side of the House have a monopoly of it. As far as I know, it is not a general practice.

The Minister for Justice: It is not illegal.

Mr. LATHAM: Not at that time. We know what happened at the last election. I was advised of certain action that might be taken, but I did not think it was to my advantage to do it.

Mr. Moloney: What about "Work for all"?

Mr. LATHAM: We will deal with that at another time. This is a much more serious issue than that. Then we get, in the Petition, paragraph (d)—

That all legal remedies of the said Thomas John Hughes have been exhausted by the proceedings in the Police Court at Fremantle, and the civil action for damages in the Supreme Court, and that your petitioner is liable severally as well as jointly with the other defendant for the full amount of the damages and costs awarded in the said civil action, and the character of the said Thomas John Hughes has been fully vindicated thereby.

Supposing we admit that it has been, we must not lose sight of the fact that the leaflet distributed may have been the means of keeping the man out of Parliament. While we might say he received full compensation, there is that other issue, and it must have been with a view to such an issue that the electoral laws were framed in the way they have been. Paragraph (e) of the petition reads—

That the disqualification inflicted on your petitioner under Section 184 of the Electoral Act would punish him by the loss of his salary to a much greater extent than the said Frederick Mann was punished.

Well, it may be so. In the one instance we have a member of Parliament, and in the other an outside individual. But he, too, is debarred from nominating for two years, so there is not a great deal of difference between them. If the Government were going to do anything in the matter, one would have expected that the two persons charged with the same offence would be treated exactly alike. There was no occasion whatever for the

differentiation between them, except that one was a member of their own party and also a member of Parliament.

The Premier: Your leader in another place feels that the whole dignity of Parliament has been lost through this business.

Mr. LATHAM: I am not speaking of what has been said in another place.

The Premier: Mr. Baxter is very much annoyed over the loss of the dignity of Parliament.

Mr. LATHAM: Paragraph (f) of the Petition reads as follows:—

That the disqualification inflicted on your petitioner would be a loss of prestige to himself and the expense to the State of a new election for which your petitioner could not be a candidate, and thus deprive the electors who have returned him of the benefit of their choice.

There can be no excuse for any member of Parliament not being conversant with the electoral law; any man who has been six years in either House should know every word of the law.

The Minister for Justice: If you were to test them on that, you would fail 40 per cent. of them.

Mr. LATHAM: Then if I did, I would be prepared to accept the responsibility, for no such man ought to be in the House.

The Minister for Justice: Now you are shifting your ground.

Mr. LATHAM: I am not. I say he ought to know the Act.

The Premier: Has your friend Mr. Parker ever broken the electoral law?

Mr. LATHAM: I do not know.

The Premier: Well, I know that he has.

Mr. LATHAM: Then it is the Government's responsibility to see that he is punished for it.

The Minister for Works: Let the common informer take action.

Mr. LATHAM: The Government should accept that responsibility. Ministers, who have taken an oath to see that the law is maintained, ought to carry out that oath.

The Premier: It is a very high standard you are taking.

Mr. LATHAM: It may be. I am stating my case, and the hon. member can reply.

The Premier: You have never lived up to that standard.

Mr. LATHAM: I have never violated it.

The Minister for Lands: What about Mr. Baxter's standard?

Mr. LATHAM: Never mind that. We do not consider expense where there is a moral

right, a legal issue. Of course we should not. The member concerned is no more entitled to be exempted from the penalties of the law than is the other person who was convicted. Then the pardon proceeds to refer to the petitioner's character as unblemished, and to the fact that he had engaged in certain honorary work. Those matters were submitted to the magistrate and no doubt he took them into consideration, just as Cabinet did. It is stated that the petitioner's action in distributing the leaflet was not done for personal benefit. It may not have been done for personal benefit, but it was done to deprive the other man of a chance of winning the seat. There is no doubt of that. All that was done was for that purpose. If the member felt that he had not obtained justice in the court where the offence was tried, he could have appealed to a superior court. However, he did not avail himself of that course. A superior court would have had power to set aside the verdict of the magistrate if it was considered unfair or unreasonable, or if there were any extenuating circumstances. But no; the member went to his friends of the Cabinet and obtained from them a free pardon, something that had never been done since Western Australia was granted responsible government. If the member had been convicted of a major offence, such course of action might have been justified, but he was convicted of only a minor offence, as offences go, and to grant him a free pardon was like bringing a 100-ton hammer to bear in order to crack a nut. The pardon suggests that circumstances had arisen to justify a review. If the papers tabled comprise all the papers, I say there was no justification for a review. There are no new facts at all, and if there were any new facts, a superior court would have been the proper tribunal to consider them. The papers disclose no justification for the pardon granted. If there was any good reason for granting the pardon, I hope the Government will take the opportunity to state definitely why they advised His Excellency to exercise the Royal prerogative. In order to satisfy the public, they will have to submit a more substantial case than is presented by the information contained in the papers. A most extraordinary thing is that even the Crown Solicitor was not asked to advise on the matter again. Judging by the papers, there appears to have been no reference of the matter to him. One would

have thought that the Government would have secured legal advice.

The Minister for Justice: Fishing again! You have embarked on two fishing excursions since you started your speech.

Mr. LATHAM: If the Crown Solicitor was consulted, the fact should appear on the file. If all the information were on the file, perhaps I would not be saying all that I am constrained to say in the circumstances. Judging by the report of remarks made by a responsible member of the Government in another place yesterday, the matter was not referred to the Crown Law authorities until after a certain motion had been tabled in another place. One would have expected the Government to avail themselves of the best legal opinion obtainable in the State before putting into operation something that probably has been a dead letter for centuries. If the Government felt that the member concerned was entitled to some relief—they could have used the provisions of the Justices Act, though they could not have removed the penalty under the electoral law—the right course to adopt would have been to introduce a Bill and submit the reasons to Parliament. That was the only method the Government could have adopted in order to do the right thing. The Bill could have set out that the member was entitled to consideration, and the reasons for it. In the House has treated generously most of the measures introduced by the Government. The case has been made blacker for the Government by the submission of the papers.

The Premier: Blacker?

Mr. LATHAM: Yes.

The Minister for Lands: Blacker by Charlie Baxter's remarks?

The Premier: He is your leader in another place.

Mr. LATHAM: I do not like to charge the Government with having done things that I consider to be wrong, but they were evidently determined to take any responsibility in order to clear the member, and I think they have done wrong.

The Premier: A worthy champion of your leader in another place on what is right and wrong!

Mr. LATHAM: I am stating my own case; I have not consulted the gentleman whom the Premier describes as my leader in another place. If such action had been taken by the party on this side of the

House, what an outcry there would have been!

Mr. Thorn: We are upholding the traditions of this Chamber.

The Premier: He is a good judge.

Mr. LATHAM: I do not know of any member of Parliament in Australia who would be entitled to ask for a free pardon.

The Minister for Works: Look out that there are not a lot from your side running to us for pardons presently.

Mr. LATHAM: If there has been a violation of the Constitution or of the electoral law, let us clear it up once and for all, because such action might alleviate the feelings of the public towards members of Parliament. I consider that the Government have taken a distorted view of the matter, and have regarded it more from the individual point of view than from the angle of the far-reaching effect it might have in a moral sense!

The Premier: Oh, oh!

Mr. LATHAM: Yes, the moral point of view.

The Premier: Especially in another place.

Mr. LATHAM: To single out a member of Parliament particularly for such treatment must have a detrimental effect. I could not imagine for a moment any member from this side of the House daring to approach the Government to ask for a pardon, and if anyone did, I would not expect the Government to grant it. What makes the matter worse is that the member in question was a member of the party supporting the Government.

The Minister for Works interjected.

Mr. LATHAM: It is all very well for the Minister for Works to interject, but I would remind the House that the standing of politicians in the eyes of the public is not very high, and that whatever we do, we should maintain the dignity and prestige of the House.

The Premier: Have you never offended against the Electoral Act or the Constitution?

Mr. LATHAM: I know of no instance.

The Premier: Very well.

Mr. LATHAM: The Premier is quite at liberty to hunt up the records and bring forward any instance he can find. The Premier did the wrong thing in adopting this method to relieve a member of his own party. Such an act can only have the effect

of breaking down the parliamentary system and bringing Parliament into ridicule.

Mr. Patrick: And disrepute.

Mr. LATHAM: Yes. Actions of the kind in foreign countries bring dictators into existence. I say that the finer judgment of the Government has been lost.

Mr. F. C. L. Smith: You can say it, but you cannot prove it.

Mr. LATHAM: I know what is being said outside.

Mr. F. C. L. Smith: You are only making assertions.

Mr. LATHAM: The hon. member knows what the public are saying. They are saying "The House on the hill can protect its members, while we have to obey the law."

Mr. Coverley: You are doing your best to help them.

Mr. LATHAM: I am entitled to ventilate my views in this House, though I realise it is annoying to members opposite.

Mr. Raphael: Virtue!

Mr. LATHAM: It is not only a question of the release from penalties of one man; it is an interference with the constitutional rights of the people, an interference with the electoral laws of the State and an interference with justice.

The Minister for Justice: Surely you do not suggest that this action was outside the law?

Mr. LATHAM: I do. For five days the seat was vacant.

The Premier: You have never interfered with justice, have you?

Mr. LATHAM: Not that I am aware of.

The Premier: No pardons, were there?

Mr. LATHAM: There were no pardons, but there were remissions of sentences, the same as are granted to-day. There were five days during which the seat was vacant, namely from the 15th to the 21st August, and it is stretching the powers of a Royal prerogative to say that the seat can be filled again after the lapse of five days. The Government's action is by no means democratic. It is the action of an autocratic Government.

The Minister for Justice: It is the exercise of the prerogative

Mr. LATHAM: An autocratic prerogative.

The Minister for Justice: The prerogative, never mind what sort.

Mr. LATHAM: It is not democratic. The Minister should realise that if the Royal

prerogative can be used in that direction, it can be used in other directions.

Mr. Moloney: You are criticising the King's representative.

Mr. LATHAM: I am criticising the advice given to the King's representative. The Speaker would quickly call me to order if I criticised the Lieut.-Governor. I am merely criticising the advice that was given him. Let me remind Ministers of a statement as true to-day as when it was first uttered, "Those whom the gods wish to destroy they first make mad." If we wish to destroy the parliamentary system, or the system of government, we are going the right way to do it.

The Premier: Let those who are innocent cast the first stone.

Mr. LATHAM: I hope I have been able to cast the first stone. It is no pleasure to me to have to speak in this strain. I hate these wrangles, but I have a public duty to perform and am certainly going to perform it.

Mr. Raphael: You will be sorry before you have finished.

Mr. LATHAM: I could take all the tongue-thrashing the hon. member could give me.

Mr. Raphael: You will get it.

Mr. LATHAM: I am not afraid of anything the hon. member could give me. The Government should refrain from any act that might tend to break down the parliamentary system. The people will do that quickly enough if the Government do not insist upon a proper administration of the law.

The Premier: The whole system is involved?

Mr. LATHAM: Yes; it is one of those things that might lead to a break-down of the whole machine.

The Minister for Lands: The Upper House will go first.

Mr. LATHAM: We should be careful not to risk breaking down the parliamentary system until we have something to take its place.

The Premier: You have broken the Constitution, too.

Mr. LATHAM: If I have, the Premier is at liberty to mention it, but two wrongs do not make a right. If the Premier can point out where I have knowingly infringed the Constitution, I shall be glad to hear of it.

The Premier: Oh, knowingly!

Mr. LATHAM: The Premier cannot say he did not know the law. None of his Ministers can say he did not know what he was doing. Members of Parliament are regarded by many people with disapproba-

tion. The action of the Government will not only increase that feeling, but will drag every member of Parliament down as well.

The Minister for Lands: Are you talking of Mr. Baxter or Mr. Gray?

Mr. LATHAM: The public are viewing us in that light already. I am not a lawyer and I do not know how the situation can be rectified. I do not even say that the action taken has been illegally taken; that can only be determined in a court of law. I do, however, contend that His Majesty's representatives have usurped a function which it was never intended they should usurp. It will be for the court to decide the legal issue. That should be tested by the people. I regret, as the Minister for Works has said, that it should have been left to a common informer to take the initial proceedings. In the subsequent case, however, it will not be a common informer taking proceedings against an individual, but against the Crown because of the action of the Government. The Crown will have to defend the action in a court of law.

The Minister for Justice: You know the Royal prerogative covers everything.

Mr. LATHAM: In the opinion of the Government it covers the wide world. It was never intended to be used for this purpose, however. The people of the State cannot afford to let things stand as they are.

The Minister for Justice: It is intended to be used to right an injustice wherever it occurs.

Mr. LATHAM: Will the Minister say that an injustice has been done in this case?

The Minister for Justice: Yes.

Mr. LATHAM: Will the Minister say that Mr. Gray did not have as fair a trial as possible according to the law? Is there any reason to suggest that it was not a fair trial?

The Minister for Justice: He got the law, but not justice, as many other people have failed to get.

Mr. LATHAM: The people of the State ought to ascertain whether the Royal prerogative can be used for this purpose. It is a blot upon the State and they cannot allow it to remain unchallenged. If it is allowed to remain, the time may come when members may regret that this prerogative was ever used in this way. I remember that some years ago I desired to do some-



thing in the House in connection with Anzac Day. I was reminded by a member of the Government that, if I did this, I should be bringing into use Acts of Parliament which had long been laid aside, and dated back to the time of James I. I was warned not to take this action, because the public were not prepared for it, and that it was not the customary thing to do. I was told, in effect, that the law had been lost in the dark ages. I doubt if the Royal prerogative has ever been used in Australia, or has been used in England for such a case during the last 200 or 300 years.

The Minister for Justice: I could give the hon. member specific instances of its having been used.

Mr. LATHAM: We must be careful lest this should be regarded as a precedent. There cannot be two sets of laws, one for members of Parliament, and one for the general public. The same law must be administered fairly between members and the public outside.

The Premier: Should there not be laws, too, for the friends of the hon. member?

Mr. LATHAM: I hope there are no special laws to cover my friends. Of course I do not mind what the Premier likes to say.

The Premier: Remember what you did yourself.

Mr. LATHAM: I am not guilty, and have no guilty feeling. The law should be administered fairly without special favour, particularly without favour to members of Parliament, who should scrupulously observe it. Remember what the Old Book says, "Those who make the laws shall not break them."

The Minister for Justice: Who has broken the law?

Mr. LATHAM: The man who was convicted. When he had been convicted, the Minister and his colleagues tried to set aside the conviction, to wipe it out as if it had never existed.

The Premier: Breaking the law indeed! What does the law say?

Mr. LATHAM: The pardon says that this man shall be a free person again, as if he had not committed an offence against the law. I dare not even accuse him of having broken the law, if there be a third person present.

The Minister for Employment: Is that all you are complaining about, that you cannot accuse him of that?

Mr. Cross: Why get so cross about it?

Mr. LATHAM: I am not cross. This is a serious matter. It is far too serious for me or any other member to lose his temper over. Let us consider calmly what has been done. I am certainly not losing my temper.

The Minister for Employment: It is a pity you are not able to accuse him of breaking the law, don't you think?

Mr. LATHAM: What pitiful chatter. I am not one of those unscrupulous individuals who talks about people outside the House.

The Minister for Employment: You were complaining just now that you were not able to accuse him of this personally, in the presence of others.

The Premier: Are you a Puritan?

Mr. LATHAM: No.

The Premier: You are posing as one.

Mr. LATHAM: I am not setting myself upon a pedestal. I am merely stating the case in my own way. I do not expect to please members opposite. It does not matter how unpleasant my duty is, I intend to carry it out.

The Minister for Employment: You are getting personal now.

Mr. LATHAM: I am not.

Mr. Moloney: He is posing as the paragon of virtue.

The Premier: The quintessence of all the political virtues.

Mr. LATHAM: I cannot help it if the Premier desires to make those remarks. In the democratic world in which we live we should not assume these autocratic powers. Let us take the treatment meted out to the two men. Both are charged with the same offence, and I do not think one was worse than the other. The magistrate in his finding said they were both entitled to be fined £20. One man is granted a free pardon and the other has to put up with the punishment inflicted by the court. Let us at least be consistent.

The Minister for Works: It meant over £2,000 to one of them.

Mr. LATHAM: The other man cannot occupy a seat in Parliament, and cannot even nominate for two years. Both were equally guilty.

The Premier: You have some new friends outside.

Mr. LATHAM: No, but I know this will get a few.

Mr. Raphael: You will need them all.

Mr. LATHAM: It is no use saying that the punishment inflicted under the Electoral Act is too severe. This law has been on the statute-book since 1907.

The Minister for Justice: And never used.

Mr. LATHAM: The present Minister for Lands was a member when the law went through. He made comments upon it himself in 1907.

The Minister for Lands: That is too long a time ago.

Mr. LATHAM: The law has been amended from time to time, but we have never yet sought to reduce the penalty. I knew the penalty existed, and I suppose every member opposite knew it. It has never been challenged. Now that it is challenged, members become annoyed about it. That is all there is to say so far as the law is concerned. I hope it will not be altered. It was framed for a special purpose, namely so that it might not give any special privileges to members of Parliament who happened to occupy a seat at the time, irrespective of their political beliefs. Once this sort of thing is allowed, pressure will be brought to bear upon the Government in other instances of offences against the law, and requests will be made for a free pardon. There are certain cases before the court to-day under the Electoral Act. If the people concerned ask for a free pardon, to be consistent, the Government must give it.

The SPEAKER: The hon. member cannot discuss matters that are before the court.

Mr. LATHAM: I am not discussing those cases, but I want to know whether that will not be the attitude of the persons concerned. Parliament makes the laws for the people. We are placed in a very high position. Surely if we make the laws we must be expected to observe them, and if we fail to observe them, we must put up with the penalties. We should jealously guard the law, and see that no one who breaks it is exonerated. That is our responsibility as a House, not merely the responsibility of the Opposition.

The Minister for Justice: But the law may be repealed next week; what then?

Mr. LATHAM: If so, we shall have nothing to worry about.

The Minister for Justice: That does not make it any more right or just.

Mr. LATHAM: It is the law to-day and we must observe it.

The Minister for Justice: But all laws are not right.

Mr. LATHAM: Then let us right them.

The Premier: Have you never been a party to breaking the law?

Mr. LATHAM: It is all very well for the Premier to interject like that. I hope I have never been a party to anything of the kind.

The Premier: I mean in this House.

Mr. LATHAM: I do not know that this House has ever been a party to it.

The Premier: You are an awful simpleton.

Mr. LATHAM: Possibly that is my excuse for daring to put up the suggestions I have put up this afternoon.

The Premier: Do you not know we are breaking the gambling laws?

Mr. LATHAM: I have never seen that done in the House; I take my oath upon that.

The Premier: Have you never been upon a racecourse?

The Minister for Justice: Have you never had 5s. on a horse, and broken the law?

Mr. LATHAM: What has that to do with the matter? These are only side issues. Let us be serious. A very grave charge has been made against the Government.

The Minister for Works: You would like it to be regarded as a grave one.

Mr. LATHAM: If the Minister for Works gets the chance, no doubt he will say this is purely a political action.

The Minister for Works: Of course it is. What else is it?

Mr. LATHAM: It is not this side of the House that has made it political.

The Minister for Works: It is political from head to foot.

Mr. LATHAM: The Government have made it political by releasing one of their party.

The Minister for Works: It is saturated in politics. If it had not been for that we would never have had the motion. Do you think the people are as innocent as not to know you are playing a political game? You must think the people are blind.

Mr. LATHAM: No doubt the Minister will soon get up and make a speech of his own.

The Minister for Works: I will, and I will give it to you too.

**LATHAM:** I have no objection, if the Minister can defend his action, but he will not defend it by being offensive or abusive. If this is political, then Ministers must accept the responsibility for that. They have pardoned one of their own party. Members must realise that, and I hope they will discuss the whole thing in a calm frame of mind. A very serious charge has been laid against the Government, and not only against Ministerial members, but every member of the House, who must share in the responsibility. I told the House before that to-day we are not looked upon by many people in the State as we ought to be looked upon, and looked up to. I hope we will zealously guard the laws we make, and show the people that we have no intention of asking them to obey laws for the breach of which we are not prepared to suffer the penalty. I hope every member will either associate himself with the motion, or dissociate himself from it.

**Mr. Raphael:** And at the next elections you will make use of their speeches.

**Mr. LATHAM:** The position is a serious one, and members must accept the full responsibility for what they do.

**MR. McDONALD** (West Perth) [5.30]: I second the motion. The law on this subject is not startling. It was first passed in 1907 and has been on the statute book for upwards of 30 years.

**The Premier:** Do you appreciate the fact that the usual rule in this House, when a censure motion has been moved, is to allow the Leader of the Government to reply first?

**Mr. McDONALD:** I am sorry. I was not aware of that. I will resume my seat.

**The Premier:** No; you proceed.

**Mr. McDONALD:** I do not desire to infringe any rule of the House or to be discourteous. I am perfectly willing to make way for the Premier.

**The Premier:** It has been the practice in this House, following the moving of a motion of censure, to give the Leader of the Government the opportunity to follow.

**Mr. Latham:** The member for West Perth did not know that.

**Mr. McDONALD:** I shall willingly make way for the Premier.

**The Premier:** Proceed!

**Mr. McDONALD:** I understood that the motion was not accepted in that sense by the Government. As the Premier has al-

lowed me to do so, I will proceed with my remarks. The section of the Electoral Act dealing with disqualifications has been on the statute book of the State for between 20 and 30 years. I have looked through the "Hansard" reports of the debates but, so far as I have been able to discover, there was no criticism at all with regard to the section dealing with disqualifications.

**The Minister for Justice:** Did you read the reports of the debates in the Legislative Council?

**Mr. McDONALD:** Yes, but none on this particular section.

**The Minister for Justice:** The objection was in that regard.

**Mr. McDONALD:** Then I stand corrected. The section dealing with disqualifications passed into Federal law in 1905 and has been part of the Commonwealth Electoral Act ever since. It is in the same form as our section. In 1907 the section was embodied in our Electoral Act, so that for nearly 30 years the provision regarding disqualification has been part of the Commonwealth law operating throughout the whole of Australia. During that period I have not been able to discover any criticism or suggestion that the disabilities imposed by the section were such that the provision should be set aside by the legislature.

**The Minister for Justice:** The section has not been used before.

**Mr. McDONALD:** But the section was inserted in the Federal Electoral Act by the National Parliament, and when the opportunity arose in the review of the State electoral law, the same provision was incorporated. Thus it has been accepted by both the Federal and the State Parliaments.

**The Minister for Justice:** It is like a lot of other laws, passed and never referred to afterwards.

**Mr. McDONALD:** Be that as it may, I think the law was passed advisedly and has served a useful public service. In English law, running back for many decades, extremely severe penalties and disqualifications have been imposed for the defamation of rival candidates. A moment's reflection must show that any other system would be liable to lead to the gravest abuses. Nothing would be easier on the eve of an election than for a candidate, or someone on his behalf, to see that some statement

was circulated to the detriment of the rival candidate. There would be no time within which to counteract the influence of the statement so circulated, and the result might be serious regarding the disposition of the seat. I do not apologise for the appearance of this particular section in the Electoral Act. It is obviously a proper one and should be accepted as an obligation imposed upon members of Parliament, who, more than any other section of the community, are responsible for maintaining the purity of the electoral laws. The representation of the people is a matter of first importance. Something has been said about the law not being reasonable or acceptable. It does not matter whether the law is just or unjust. If it is unjust, then it represents a reflection upon the legislature that steps have not been taken to amend it. Whether just or unjust, the provision remains as law, and the observance of the law has to be accepted by all responsible persons.

The Premier: You mean the electoral law.

Mr. McDONALD: Yes, almost above any other law. There are laws that deal with minor matters.

The Premier: You are referring to the electoral law particularly?

Mr. McDONALD: Yes.

The Premier: Mr. Parker is a friend of yours. He has never broken the electoral law?

Mr. McDONALD: I do not know anything about that. If the electoral law has been broken and its provisions have been abused, as suggested, by anyone in or out of Parliament, then it shows all the more strongly the necessity for such a section.

The Premier: He invited a crowd of people into the hotel to drink with him in the midst of his campaign.

Mr. McDONALD: I do not know anything about that.

The Premier: Did he not break the electoral law?

Mr. McDONALD: I would not uphold any breach of the electoral law. The point I am making is that this is the law, and I am aware that a prohibition upon shouting or treating has been included in our electoral laws for decades past.

The Minister for Works: Has there ever been a candidate who has never shouted during an election?

Mr. Hegney: Yes; here is one.

Mr. McDONALD: I will not enter upon a discussion of that description. If the law is that a candidate shall not shout or treat electors when he is standing for Parliament, that law should be observed.

The Premier: And therefore a candidate should not break the law.

Mr. McDONALD: No.

The Premier: Then ask Parker if he has ever broken it.

Mr. McDONALD: That is the worst possible argument that can be advanced on such a matter. The mere fact that someone breaks the law is no excuse for another person breaking it.

The Premier: Of course not.

Mr. McDONALD: If people break a law habitually there must be something wrong with the law. It may be that it has not the support of public opinion. It may be that those who should enforce it, should be set aside and others set up in their places.

Mr. Moloney: How would lawyers get on then?

Mr. McDONALD: They would get on very well; the hon. member need not worry on that score. I submit the law is entirely just and essential to support our electoral system, but, whether just or unjust, the fact remains that it is the law and until it is amended, it should be upheld by constituted authority.

Mr. F. C. L. Smith: What about betting on a racecourse?

Mr. McDONALD: That is a mere bagatelle compared with the importance attaching to the provisions of the Electoral Act, but I would enforce the law, whatever it may be. The section of the Electoral Act to which I am referring has been on the statute-book for nearly 30 years, and it is a salutary provision. Certain cases have been cited in the petition that has been mentioned and I desire briefly to refer to them. The cases did not deal with the matter from the standpoint of the propriety of exercising the pardon, but only with the effect. In one instance a man was convicted of felony and, under the law, was disqualified from holding a gallon license for a certain period. For some reason he was granted a pardon.

Mr. Piesse: The conviction was wrong.

Mr. McDONALD: I believe that was the position. In the other case, a man was charged with bribery at an election, and

when one of the witnesses was called, he refused to give evidence on the ground that he would incriminate himself.

The Premier: Have you any idea who was associated with the charges brought under the Electoral Act?

Mr. McDONALD: I have no idea at all.

The Premier: I suppose you would not suspect they were not associated with the Labour Party?

Mr. McDONALD: I have no knowledge about that at all.

The Premier: There was no Labour man associated with it.

Mr. Raphael: But a member of the National Party.

The Premier: Yes, working for the Nationalists.

Mr. McDONALD: The witness, as I have pointed out, pleaded that if he gave evidence he would incriminate himself. Thereupon the Attorney General produced a King's pardon and told the witness that he could give evidence, because he would not get into trouble in consequence. Those cases do not affect the position we are discussing to-day.

Mr. Moloney: What you have indicated would be the end justifying the means.

Mr. McDONALD: It sometimes happens that to ensure justice, accomplices may be granted pardons, otherwise they will not speak. The Government either acted on the facts embodied in the petition without making inquiries, or they acted after making investigations. In either instance, they acted, in my opinion, without justification. If they acted on the petition without inquiring into the statements made, it would be exceedingly unwise because no one, I should think, would accept the ex-parte statements of a petitioner, without inquiring as to the facts. If the Government inquired into the facts I cannot see how they could possibly have made the recommendation they did to His Excellency the Lieut.-Governor. The petition was not presented by a body of the electors who intimated that they considered there had been a miscarriage of justice and therefore asked for clemency. The file shows that beyond the solicitor who acted for Mr. Gray, no one supported the plea for the exercise of the King's pardon. The file does not show that there was any body of public opinion in support of the plea at all. It is a matter of common knowledge that very often when an individual is convicted on a capital

charge, or on a serious charge, a big body of public opinion becomes interested on his behalf, meetings are often called and representations made to Governments. In this instance there was no indication at all of any outside support on behalf of the petitioner.

The Minister for Justice: A petition could have been sent round and thousands of signatures obtained in a few hours.

Mr. McDONALD: And, on the other hand, there might have been 99,000 signatures obtained against the prayer included in a petition. I will deal with the question of public opinion later on. It does not matter whether the petitioner was aware of the law or not. The man who goes out at night and burgles a house, does not know whether he is liable to four years imprisonment or ten years imprisonment. It makes no difference to the committing of the crime. If a man kills another, he does not know whether his crime amounts to manslaughter, which involves imprisonment for life, or murder, for which the penalty is death. It makes no difference to the crime at all. Members of Parliament know that if they break the law, they must suffer the penalties that are set out in the Act. It is a matter of elementary law that everyone knows, that if a person circulates a document that is defamatory or untrue respecting another person, the individual aggrieved may secure damages.

The Minister for Lands interjected.

Mr. McDONALD: When I refer to the circulation of documents, I do not refer to newsboys, but to any responsible person who circulates a document. Unless he is without intellect, he must know that the defamatory matter embodied in the document will damage someone, for which a penalty must be paid.

The Minister for Works: I suppose the National Party never did that! I will show you some of them in a moment.

The Premier: You would never have been returned to Parliament unless the Nationalist Party had circulated documents of that kind. Don't talk rubbish.

Mr. McDONALD: I am not talking rubbish.

The Premier: Of course you are.

Mr. McDONALD: I have listened to a lot of rubbish.

The Premier: You are a special pleader; you are speaking now for a client.

Mr. SPEAKER: Order!

Mr. McDONALD: I strongly resent suggestions of that kind. I am speaking as a member of this House. The real situation is that the petition is destitute of any real grounds at all. I do not think it would be possible to find a petition so unconvincing as this one. There is not the slightest reference to the facts of the case to show that Mr. Gray, against whom I have nothing personal, and for whom I am exceedingly sorry—

The Minister for Employment: He does not need your sympathy.

Mr. Cross: You are trying to make political capital out of it.

Mr. McDONALD: I am not doing anything of the kind. The facts show that he was warned in the most definite way that he was doing something wrong.

The Minister for Justice: By the biggest bluffer in the country.

Mr. McDONALD: I am not concerned with the personal element of the other side; I am concerned merely with the fact that the other candidate came along and in the presence of two policemen told Mr. Gray that he was circulating a defamatory pamphlet, and committing a breach of the electoral law. Mr. Gray was told in the most positive terms that he was breaking the law, and he could not have had a greater warning. As it turned out in three courts he did break the law. One would have thought that he would have made inquiries to ascertain whether he was safe in continuing the distribution of the pamphlet, but he was defiant and carried on the distribution to a thousand people on the wharf. Personally, I cannot see any reason for disagreeing with the considered opinion of the magistrate when he said there were no extenuating circumstances which would enable him to differentiate between Gray's case and that of the other person concerned. That opinion was given in the most positive terms and I am quoting it as material fact in asking whether an extraordinary pardon should have been granted to Mr. Gray.

Mr. Cross: Have you ever known a magistrate to be well and truly wrong in a decision given by him?

The Premier: You have made most of your salary by arguing against magistrates' decisions.

Mr. McDONALD: I contend that the magistrates do their duty very well, and

their decisions are very seldom upset. Mr. Gray says that he has rendered many honorary services in the cause of charity. Does he expect to be paid for those charitable services? Moreover, he was being paid his salary to look after the interests of the province he represented, and in that capacity he should not be looking for praise or expressions of public gratitude.

The Minister for Employment: Now you are becoming personal.

The Minister for Justice: Do not depreciate the efforts of a man who has done so much for charity.

Mr. McDONALD: I am merely saying that he is setting up this as a special reason why the penalty imposed by law should not be carried into effect.

The Minister for Employment: You do justice to yourself when you attack a man for his charitable efforts!

The Premier: What have you ever done that can compare with Mr. Gray's charitable actions?

Mr. McDONALD: I accord him every praise for his charitable efforts, but when he puts this forward in support of his plea for pardon, I consider it too weak to be seriously considered. The other aspects of the petition are equally weak. He says that Mr. Hughes has been vindicated as far as his personal character is concerned. We are not concerned with the vindication of Hughes; we are concerned with the public interest. A man may vindicate his position in the court, but this prosecution is on behalf of the people at large. A private prosecutor prosecutes on behalf of the people at large, and vindicates their interest in the purity of elections. The point is that the people are those concerned in seeking the observation of the law, and, above all by the people who are sworn to observe the law.

The Minister for Justice: An absolutely vindictive prosecution.

The Premier: A spiteful and vindictive prosecution.

Mr. McDONALD: Even if it were spiteful or vindictive, that would be entirely irrelevant in the present case. If a man commits a theft—

Several interjections.

Mr. SPEAKER: Order! Hon. members must keep order.

Mr. McDONALD: I was wrong perhaps in starting out to make such a parallel, and

I assure the House that nothing was further from my mind than its association with Mr. Gray. There is the moral position. If a man is prosecuted and is convicted, he is convicted for an offence against the people. It does not matter what the demerits of the prosecutor may be; he is for the time being merely the agent who represents the people. Even a police prosecutor in some cases may exhibit animus, but that does not matter.

The Minister for Justice: Animus should never be exhibited by a police prosecutor.

Mr. McDONALD: The point is that a conviction is recorded on behalf of the people at large and not the individual.

The Premier: You never pleaded harder for your best paid client.

Mr. McDONALD: The Premier does not assist his case by his interjections. I am concerned with administration of the law, and my desire is to see that it is observed.

The Minister for Justice: Do you know of any man who has been prosecuted twice and punished twice for the same offence?

Mr. McDONALD: There is no double punishment in this case; there is only one punishment. A man may be fined or he may be imprisoned.

The Minister for Justice: He was mulct in damages for the same offence.

Mr. McDONALD: The damages were for personal reparation to a man whose character had been injured.

The Minister for Works: Character? He never had a character.

Mr. McDONALD: The jury considered that damages to the extent of £100 should be paid to him for his injury. An individual may be struck by a blow and for the injury the offender may be penalised and in addition the injured party can have redress in a civil court. In this particular case if Hughes had not taken the action he did, it would have been the duty of the authorities to do so. It is the duty of the authorities to observe this law.

The Minister for Justice: Then we would have to employ all the unemployed as inspectors.

Mr. McDONALD: If a law cannot be observed it should be wiped off the Statute book. It may please the Premier to consider this matter in a facetious light. I have no doubt whatever that he has been greatly disturbed over this matter; I have

no doubt that he has expressed the greatest misgivings with regard to the pardon.

The Premier: That is wrong and a very improper thing to say.

Mr. McDONALD: There is no justification, either on the papers before the House or on investigation of the facts, for interference by the Royal prerogative in this case.

The Minister for Justice: I have no doubt you could argue twice as well on the other side.

Mr. McDONALD: I again deprecate such references, which have nothing at all to do with the matter. The real position is that the public of Western Australia have been surprised at this development.

The Premier: How do you know?

Mr. McDONALD: I have been around among the public of the State, and I have not met one person who had a good word for this particular action—not a single solitary person; but I have met many people who condemned it whole-heartedly. As far as I can judge public opinion, the people have been surprised at this action. I will go further, and say they have been disturbed.

The Minister for Works: The "West Australian" has tried to disturb them.

Mr. McDONALD: I do not care about the Press. I say people in their homes have been disturbed by this exercise of the Royal prerogative. They have been disturbed by it because it represents a serious sacrifice of principle.

The Premier: Disturbed!

Mr. McDONALD: They have been disturbed because on the facts appearing before them they have been unable to see any justification for the pardon.

The Minister for Works: You over there will be disturbed before long.

Mr. McDONALD: The absence of any justification has disturbed the people.

The Minister for Works: If our bitterest political opponent had come to us in similar circumstances, he would have got a pardon.

Mr. McDONALD: The people have been disturbed because they have been unable to see any justification for the first exercise of the Royal prerogative in the State of Western Australia; and they have been disturbed to find the first exercise of the Royal prerogative to be in favour of a member of these Houses of Parliament—of all

the persons who have been convicted and suffered penalties and disabilities. There have been times in the past, perhaps graver times, when Parliaments have stood up and stated their minds on certain subjects. There have been historic occasions when that has been done. So far as I am concerned, and I think members on this side of the House are with me—

The Minister for Agriculture: You will be unanimous all right!

Mr. McDONALD: I am here to say, and certain other members of this Parliament are here to say, in justification of this institution and in order to reassure public opinion, that we disapprove of this pardon and do not stand for the basis on which it was exercised. I consider—and that is why I have spoken to-night—that the only thing to do is to reaffirm our principles in the rule of law and in the responsibility of authority for maintaining the law, in order that we may still preserve some respect for the country's political institutions. If we fail to do that now, in the face of this particular occurrence in the public life of our State, we shall be taking part in still further helping to undermine such confidence as the people still have in the institutions which safeguard the laws and the administration of Western Australia.

**THE PREMIER** (Hon. P. Collier—Boulder) [6.6]: The hon. member who has just resumed his seat may be congratulated on his legal astuteness in rising to support the motion immediately after the Leader of the Opposition had spoken; but the hon. member cannot be quite excused for his attitude in the matter, because the motion moved by the Leader of the Opposition is a motion of censure on the Government. Surely the member for West Perth (Mr. McDonald) will not contend that he is unacquainted with the procedure that is adopted in this Chamber whenever a motion of censure upon the Government is moved. Perhaps it suited the hon. member's purpose to have got in thus early. It may be the hon. member thought that he would get a better report in to-morrow morning's newspaper by speaking thus early. I venture to say, however, that the hon. member's speech will have no influence whatsoever upon members who know what politics are, who have contested elections in the past, and who possess some knowledge

of the charges which might be made against members for their activities during election time. Here let me mention the attitude of the Leader of the Opposition. The member for West Perth has said that the people are most indignant and upset because of the Government's action in this matter. The Leader of the Opposition, if not in exactly the same, yet certainly in similar terms, said the people were concerned and upset over the matter.

Mr. Hawke: The Leader of the Opposition prophesied an uprising.

The PREMIER: We should be a bit candid with each other. It does not become a member of this House or a member of another place to pretend to be a political puritan. And that is all the Leader of the Opposition has been doing. He would have the people of this State believe that he has never before known of a member of Parliament breaking the electoral laws of this State. Since when has the Leader of the Opposition become such a puritan? Since when have Opposition members of this Chamber and members of another place become such outstanding advocates of a strict adherence to the electoral laws of the country? Since when, I ask? They are political hypocrites, every one of them. Every member who has criticised the Government's action in this matter, whether here or in another place, knows perfectly well that the electoral laws of this State have been broken over and over again, and by every one of those members—every one of them. If it comes to a point, I shall be able to indicate some directions in which the critics of to-day have broken the electoral laws in past years.

Mr. Latham: You are at liberty to do that if you can show any instance where I did it.

The PREMIER: This motion is mere political propaganda. There would be nothing or very little heard about the Government's action were it not for the fact that a Federal election campaign is being carried on. That is what is behind all this. It is because for the past week or so the newspapers have been saying that intense indignation was being expressed by members of Parliament with regard to the Government's action. I have not heard of this intense indignation. Indignation, the newspapers say, has been expressed by members of Parliament. There is not a shadow of justification for that statement. Intense indignation has



been expressed in the columns of a newspaper for political purposes to be served between now and Federal polling day. That is where the intense indignation exists.

The Minister for Employment: That is where hon. members opposite take their cue from.

The PREMIER: Yes. The Leader of the Opposition pretends—and it is a mere pretence—that he is indignant at the action of the Government; and similarly the member for West Perth. Both hon. members know perfectly well that at election time the electoral laws are broken. Will the Leader of the Opposition, or the member for West Perth, or any other hon. member have the audacity to say that he has never known the Electoral Act to be broken at election time? Of course not. They know perfectly well that leaflets are issued and pamphlets distributed—

Mr. Latham: The Labour Party have a monopoly of that.

The PREMIER: We have no monopoly of it at all, and the hon. members knows that. I can point to campaign literature advanced on behalf of the hon. member's party which is shockingly inaccurate and untrue, which contains lies and defamation of opposing candidates.

The Minister for Justice: And what about the hoardings?

The PREMIER: Yes. The parties to which I refer place on the hoardings absolutely lying statements with regard to the Labour Party. They defame the Labour Party by the very pictures appearing on the hoardings. But no legal action has been taken because there are not pimps and spics in our ranks.

Mr. Latham: You do not suggest that there are any in ours, do you?

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

The PREMIER: Before tea I was charging members of the Opposition with being actuated by political motives in bringing forward this motion. And not only the members of the Opposition, but all the propaganda that has been going on in the newspapers for the past week or two has been prompted by the same motive. I wonder if the Leader of the Nationalist Party intends to take part in this debate.

Hon. N. Keenan: I may, and, on the other hand, I may choose to remain silent.

The PREMIER: Certainly. I may be allowed to make a few observations in regard to the question I have just raised. If the Leader of the Nationalist Party intends to take part in this debate, as I gather he does from the fact that he is taking notes, why did he put forward a subordinate of his party to take a lead in the debate?

Mr. Hawke: Only that he might get in behind you.

The PREMIER: That is the point; just because by so doing he would be able to get in behind me. And I have no doubt whatever that the hon. member will make an effective speech, that is to say, effective from the lawyers' point of view. It is known to the House that the Leader of the Nationalist Party appeared in the court in the case under consideration. I think he was one of those barristers who appeared for the other side. I should like to know if the hon. member does intend to take part in the debate, and I should like him to answer my question now.

Hon. N. Keenan: I reserve to myself the full rights of a member of this House to speak whenever he thinks fit.

The PREMIER: That is an answer that satisfies me—the full rights of any member of the House to speak here in the House for the case he was paid to advocate in the courts of the land; he will speak in support of the attitude he adopted in the courts of the land.

Hon. N. Keenan: When the hon. member hears me speak he will be obliged to confess he is utterly wrong.

The PREMIER: I hope it may be so.

Hon. N. Keenan: We are not all, like the Premier, prejudiced up to the eyes.

The PREMIER: I am not prejudiced up to the eyes, but I am pleading a case for which I have not been briefed.

Hon. N. Keenan: Oh, haven't you?

The PREMIER: No, I have not been briefed to appear in the courts of the land to support it. This whole case resolves itself into one of political bias and prejudice, of political propaganda, as I remarked a little while ago. Will the Leader of the Opposition, or the substitute he put up to speak for him early this afternoon—will they say honestly to the country that they have never offended against the electoral laws of the State? Of course not; they know perfectly

well they have offended against the electoral laws of the State. There is no member of this House or of another place that has not offended against the electoral law since our Electoral Act has been in operation. The Leader of the Opposition, no doubt, and the Leader of the Nationalist Party will say they have not offended; but would they ask the people to believe that members of the Opposition are actuated in this matter only by motives of political purity, that their only concern is about preserving our Electoral Act? Will hon. members ask the people to believe them? Of course they will not, because members know that each and every one has offended against the Electoral Act, and many other Acts. I should like to read the criticism of a few gentlemen in another place speaking of the dignity of Parliament and the standard that should be observed in supporting our laws. I wonder how many of us could say we have never broken an Act of Parliament, and I wonder, too, how far some of the critics in another place would go in saying they have not broken the Electoral Act, and other Acts as well. Every member of the House knows he has broken the Electoral Act at one time or another during the elections. But what was Mr. Gray's offence? What has called down censure on the Government because of their action in regard to Mr. Gray?

Mr. Raphael: The Federal elections.

The PREMIER: What is Mr. Gray's offence, stripped of all the rubbish and nonsense that has been put up for propaganda purposes? What did Mr. Gray do? Let us consider his offence and then let the Government be judged for having recommended that he should be pardoned. Mr. Gray was convicted, under the Electoral Act, of distributing leaflets. The Leader of the Nationalist Party, I see, is making a note of that, and of course we shall have a technical lawyer's reply to it. Mr. Gray was fined for having distributed leaflets at election time, and subsequently those leaflets were found to be defamatory. That is the charge against him. Is there any member of the House who will not admit in his heart that every one of us at some time or other has distributed leaflets which might subsequently be held by the courts to be defamatory? The Leader of the Opposition knows, and every other member of the House and of another place knows perfectly well that at election time leaflets are distributed which may sub-

sequently be found to be defamatory. We know, moreover, that in the midst of an election campaign a candidate has not himself read a leaflet nor given authority for it, but that his campaign committee has distributed the leaflets. They are going around the country to-day, these election leaflets and pamphlets, which have never been read by the candidates themselves. Read the kind of stuff appearing in the newspapers to-day against the Labour Party. Look at the hoardings and the cartoons there placarded in order to damage the Labour candidates in the Federal elections.

The Minister for Justice: Some of them defamatory, too.

The PREMIER: Of course so. The very cartoon itself is a defamation.

Mr. Hawke: And the Opposition applaud it.

The PREMIER: Yes, but they are hypocritical enough to pretend to be shocked at that sort of thing. The difference between Mr. Gray's case and what has taken place in all the years I have had experience of elections is this: in the past such leaflets have been distributed by each party. No action has been taken, because it was considered by the candidates on each side that it was all in the fight. They would stand up to what was said and on the platform defend whatever charge was made against them. Thus they would repudiate any charges made in the pamphlets. In this particular election, however, there happened to be someone who adopted an attitude which, so far as I know, had never been adopted before. Because this new-found friend of the Opposition—

The Minister for Employment: A common informer.

The PREMIER: Because he adopted an attitude that brought Mr. Gray to the courts, they are backing him now. Such action ill-becomes them. It only shows how much reduced are members of the Opposition, not only in this instance, but in many other instances, to adopt the renegades and the men who desert the Labour Party. That is what the Opposition are doing now. Mr. Gray's offence was that he handed out leaflets. Have members of the Opposition ever done that? I ask them. Do not they know that that is what happens at every election? A man might hand out leaflets to the public without having read them and without knowing their contents. That is what happened. Mr. Gray handed out leaflets which, on investigation by the court, were considered to

be defamatory. Let me ask any member who has a degree of honesty in his heart whether he has ever done that.

Mr. Hawke: They pay others to do it.

The PREMIER: Has not every one of us handed out leaflets and pamphlets at election time? I plead guilty to it. Does the Leader of the Opposition claim to belong to the puritan party that has never handed out such leaflets? Such action has hitherto been accounted as nothing, because candidates have met each other on the public platforms and, when necessary, have refuted the statements contained in the leaflets. Now, however, someone is in existence who makes a charge against a member and, because of that charge, the member is deprived of his position in Parliament, or would be deprived of it if something were not done by the Government. I repeat that Mr. Gray merely handed out leaflets. He was not responsible for them. The chances are that he had not read them. What was the penalty? He was to lose his seat in Parliament and not be permitted to stand again for a period of two years. Consider the offence of which Mr. Gray was convicted as compared with the offences which might well be charged against many members of Parliament. Let me say that this matter will not end here, because many critics of Mr. Gray, either in this House or in another place, will be brought to book. Mr. Gray's offence of distributing a leaflet will be comparatively small as compared with their offence of having broken the Constitution by signing contracts with the Government.

Mr. Raphael: Hear, hear! It is time a few woke up to it, too.

The PREMIER: We will, too. It is not going to end here. Mighty few of the critics of Mr. Gray will be free from a charge of having violated the Constitution by having made contracts with the Government. But there will be no one on this side of the House, at any rate, who will make that charge against them.

Mr. Raphael: Do not say that.

The PREMIER: I make this statement because it is as well for our friends to understand where their action is leading them. More particularly am I justified in saying that I resent the criticism of one or two members of another place. If one did not know that they had broken the laws of the country, one might not be so sur-

prised at some members of another place setting themselves up as political puritans. It may be that they have not broken the Electoral Act. But does it make any difference to the standard those members pretend to set whether it is the Electoral Act or any other Act they have broken? Before this matter is finalised some of the present critics of the Government will be rather sorry for the attitude they have adopted. The Leader of the Opposition found great fault with the Government for having pardoned a man for the offence of merely distributing a leaflet, a leaflet containing the sort of thing distributed in the leaflets and pamphlets of every party at election time. The Leader of the Opposition was very much concerned about it. So was the substitute for the Leader of the Nationalist Party—he need not frown; I mean the member for West Perth, the member whom the Leader of the Nationalist Party put up to speak on this motion, put up no doubt with the purpose of reserving to himself the right to speak later on in reply to me.

Mr. Hawke: Afraid to precede you.

The PREMIER: I do not think that would be an unfair inference to draw.

Mr. Hawke: The correct inference.

The PREMIER: Why did the Leader of the Nationalist Party put up the member for West Perth to speak?

Mr. Hawke: He pushed him into the tragedy.

The PREMIER: I ask the House and the people of the State whether the offence with which Mr. Gray was charged, the offence of distributing a pamphlet, perhaps without having read it, was so fearfully serious that no pardon could be extended to him. "He is guilty," say the Opposition, "guilty of a fearful offence that does not in any way justify the Government in recommending a pardon." I should like to make one comment on that aspect. Apparently, in the eyes of the Opposition, it is a greater offence to recommend a pardon to a man who has merely handed out leaflets than it is to grant a pardon to a man who has been convicted of manslaughter.

Mr. Latham: No man was pardoned for that; he only had a remission of sentence.

The PREMIER: I would remind the Leader of the Opposition, that whilst he pretends to argue to-day on this trivial matter, he was Deputy Leader of the Gov-

ernment which pardoned the man who was sent to gaol for manslaughter. That man was responsible according to the law of the land, and the courts of the land, for the death of another man, and he was sentenced to a long term of imprisonment for manslaughter on that charge. Some two or three weeks after the sentence was imposed, the Government of which the Leader of the Opposition was a member, released him.

Mr. Raphael: To dance on the grave of the other man:

The PREMIER: That, says the hon. member, was justifiable. Let us judge of his ideas of the comparative value of things. On the one hand we have a man who hands out to people in the streets a pamphlet, the contents of which he may never have read, and for which" he was not responsible. That man must be convicted, must lose his seat in Parliament, and must be prevented from standing again as a candidate for two years. On the other hand, we have a man who is convicted of manslaughter and is released two or three weeks after. The Leader of the Opposition says that the man who distributed the pamphlets committed a crime for which he should be ousted from Parliament.

Mr. Latham: Parliament said that, not I.

The PREMIER: By his actions the hon. member says that. This other man, I say, was released after two or three weeks. Many other actions of a similar nature were taken by that particular Government. Of course it will be argued, and has been argued, that the case of Mr. Gray is of first significance and importance. I would ask whether any member of the House has not broken the Electoral Act. Can any one member say truthfully he has not done so over and over again? Let him who is without sin cast the first stone.

Mr. Hawke: Mr. Parker, for instance.

The PREMIER: And many others. A man who appears to be most indignant about the action of the Government is Mr. Parker. Has he never broken the Electoral Act?

Mr. Raphael: He only spent £1,000 on the elections. That is not breaking the law, is it?

The PREMIER: Have not other members of another place broken the Electoral Act? I have no patience with them. They are simply posing as men who stand up

for the Electoral Act and the Constitution, as men who are shocked at any member of Parliament having been guilty of a breach of the Electoral Act. In their hearts they know they are guilty, and that at least a hundred times they have broken the Act, all of them. Members of another place pretend to be super-right men, and to be shocked that Mr. Gray should have in some way infringed the Act. I know they have broken it many times, and they know it themselves. They are only hypocrites pretending to have regard for our laws, pretending to be shocked that one member should have broken them. It is only miserable hypocritical pretence on the part of all of them.

The Minister for Justice: "Thank God I am not one of those."

The PREMIER: Let him who is without sin cast the first stone. The last word is not with these super-moralists of another place. They may pretend to the public to have some regard for this particular law, the breaking of which shocks them so. I repeat words which have been expressed in the newspaper, that they are suffering from intense indignation. Imagine it, knowing some of our critics as we know them in another place! Imagine their intense indignation over the breaking of the Electoral Act! The Government will have something further to say in regard to this matter. In conclusion I wish to say that the attitude or the decision of another place is not going to determine the issue. The Government did what they did with a clear understanding of the position. They have no regrets for what they have done. They would do the same thing to-morrow on an issue of this kind. The Government will fight another place on the issue. Let there be no mistake about that. Let another place carry on, and take any action or do anything or come to any decision that they may feel will embarrass the Government, or prevent the Government from carrying on. If another place cares to make that the issue, the Government will accept it. The Government ask the people of the country whether it is right that another place which represents only one-third of the electors should have control, or whether the Government who represent the whole of the people are to govern the State. The Government will not shirk the issue. They will take such steps as may

be necessary to uphold and give effect to and stand by their actions in this matter. Let our critics in another place challenge us. Whilst I issue no threat—

Mr. Latham: Your remarks sound like one.

The PREMIER: I sound this one, that the Government will take all steps that are necessary and that it is possible for them to take, to uphold their decision in a fight with another place which does not represent the people of the State. Let them go on; the Government will be right there. I have no apologies to offer for our action. It is clear that this is mere political propaganda. If the Federal elections were not being conducted, and if our friends did not have in mind the next general elections in this State, no such action would have been taken. Mr. Gray is infinitely a better man privately, politically, and in every way than the squibs, his critics, an infinitely better man in every respect, I care not how he may be viewed, than his critics in another place. His character—private or public—will bear examination.

Mr. Raphael: It is more than can be said of some of his critics.

The PREMIER: His character will stand examination whereas that of some of his critics, I swear, would not stand it for a moment. It is sheer, miserable hypocrisy to pretend that they stand for a high attitude regarding the laws of the State. Mighty few of the critics of Mr. Gray, whether they have broken the laws of the State or not, will compare in their character with him. The Government recommended to the Lieut.-Governor that the Royal pardon be exercised in this case. The Government did that knowing all the facts and all the circumstances, and knowing the miserable kind of criticism that would come upon them for political purposes. Notwithstanding all this, the Government took the action they did, and will take it again in similar circumstances to-morrow. The Government will justify their actions on the genuine merits of Mr. Gray against his critics before any tribunal in the land.

**HON. N. KEENAN** (Nedlands) [8.15]: It is very much to be regretted that the question this motion raises cannot be debated without descending to the depths of personalities. It is particularly regrettable that the Premier, as Leader of the House,

who should set an example to other members, should be guilty in that respect.

Mr. Raphael: It is just as well we do not follow you, or we would be in a mess.

Mr. SPEAKER: Order! If the member for Victoria Park does not keep order, I shall have to take action.

Hon. N. KEENAN: It is a pity that the Premier descended to such depths when speaking about those who had participated in the discussion. In the first place, he chastised the member for West Perth (Mr. McDonald) for having had the audacity to address the Chamber before the Premier himself had been heard.

The Premier: It has never been known, in similar circumstances, before.

Hon. N. KEENAN: And yet, if the Premier had listened to what was said, he must have known that you yourself, Mr. Speaker, asked whether anybody seconded the motion. Of course someone on the Opposition side of the House had to rise and second it, and the member for West Perth did so.

The Premier: That is generally taken as a formality.

Hon. N. KEENAN: It is useless for the Premier to shake his head.

Mr. Wilson: That is too thin.

Hon. N. KEENAN: It is useless for the Premier to pretend that he did not understand. The Speaker asked whether someone intended to second the motion.

The Minister for Justice: He did not. He asked the member for West Perth if he was seconding the motion.

Hon. N. KEENAN: Of course, a seconder was required.

The Premier: But he was not required to speak at that stage.

The Minister for Justice: Certainly not.

Mr. SPEAKER: Order!

Hon. N. KEENAN: Then the Premier proceeded to chastise the member for West Perth for his audacity in rising and asking the House to listen to him.

The Premier: Justifiably so, too.

Hon. N. KEENAN: Then, by a most extraordinary change of mind, the Premier, after first protesting that anyone should intervene between the mover of the motion and himself as head of the Government, complained that I had not spoken. Which attitude is right?

The Premier: I did not.

Hon. N. KEENAN: If the Premier was right in complaining because the member for West Perth intervened, why should he complain that I did not speak?

The Minister for Works: He did not complain at your non-intervention but merely asked whether you intended to express an opinion, because you had been briefed in the case.

Hon. N. KEENAN: Then I will deal with that phase.

Mr. SPEAKER: Order! The member for Nedlands will resume his seat. I would ask the hon. member to address the Chair, and members generally to cease interjecting. This debate must be carried on without so much crossfiring.

Hon. N. KEENAN: I shall try to comply, Mr. Speaker, with your orders.

The Minister for Works: You hope we will comply.

Hon. N. KEENAN: It is said, apparently, because in my professional capacity, by which I earn my living—I do not earn it through being a member of this House—

Many members interjected.

Mr. SPEAKER: Order! Members must keep order.

The Premier: What is there in that remark?

Mr. SPEAKER: The Premier must keep order.

Hon. N. KEENAN: Apparently because, in my professional capacity, by which I earn my living, and because I accepted a brief for Mr. Hughes, that phase has been mentioned. I might just as well have accepted a brief from Mr. Gray, if it had been offered to me.

The Premier: Yes—if it had been offered.

Hon. N. KEENAN: The Premier knows that I have accepted briefs for certain members of his party, and accepted them without hesitation.

The Premier: But not in this case.

Hon. N. KEENAN: I am a public pleader, and whoever asks for my assistance as a public pleader, is entitled to that assistance. The first one who asks me, no matter what the relationship may be between myself and his opponent, is the man whose brief I accept. I have always adopted that course and many friends of the Premier and of members of the Opposition, who are members of the legal profession, know that I have never refused a brief offered by any man,

and I never shall, in the sense that the reference has been made to it this evening.

The Premier: As a result of our experience, you have not been briefed so much.

Hon. N. KEENAN: Is that not a nice gibe to come from the Premier? Nothing comes from the mouth of the Premier that is not offensive. His mind consists of a tank of offensiveness that he empties on the floor of the House.

The Premier: You are not unaccustomed to do that yourself.

Hon. N. KEENAN: If I offend, it is because I have to defend. I must retort. I had nothing whatever to do with the case concerning the prosecution under the Electoral Act. I know nothing whatever about it apart from what appeared in the Press. For that reason I shall have but very little indeed to say about the matter, because we are not dealing with the question of Mr. Gray's guilt but that of the Government.

The Premier: I thought you would deal with that technicality.

Hon. N. KEENAN: It is not a question of an individual's guilt, but whether the action taken was an abuse by the Government of their office of trust and authority.

The Premier: Have you ever broken the electoral law?

Hon. N. KEENAN: I shall deal only with the arguments advanced in that respect, such as they were. If we eliminate all the abuse contained in the Premier's speech to which we have had to listen, exceedingly little is left. I shall deal with that little. It was suggested that the electoral law, in common with other laws, is frequently broken by many citizens. The betting laws were specially mentioned. I have no doubt that is true, but that is not the question. Let us suppose that a man was prosecuted for having broken the betting laws. They are, perhaps, more frequently broken than any other of our laws. Is it to be suggested for one moment that the person so convicted is to be granted the King's pardon? Yet that is what we are debating. If a breach is committed of any law, although it may be a fact that the particular law is broken on many occasions, would it be considered right and proper that the Government should extend to that man the King's pardon?

The Premier: Now look as dignified as you can.

Hon. N. KEENAN: It is on that point that I propose to address the House, and not to be drawn into matters of personal

abuse. Nor do I propose to suggest that political propaganda can be served by one side of the House only. It is not unknown that political propaganda is resorted to by those now sitting on the Ministerial benches. But that has nothing whatever to do with the question at issue. The mere fact that the betting laws, those applying to lotteries and many other Acts, are frequently broken by our citizens, does not mean that if persons are prosecuted for those breaches of the law and are convicted, the Government of the day should extend to them the King's pardon.

The Premier: What about pardoning a man who committed manslaughter?

Hon. N. KEENAN: Then I shall refer to that aspect, although, Mr. Speaker, you warned me that I should close my ears to these interjections. I have a distinct recollection of a large number of persons having been convicted at Wiluna for various unlawful acts, including violence. Their sentences were remitted, and I took no exception to the fact. It may be within the memory of some members that representatives of the Press asked me to criticise the action of the Government on that occasion, and the reply I made was that unfortunately magistrates were human beings and must make errors. I pointed out that the Executive Council, in effect, did their best to correct the errors by the remission of sentences. No one in this House, so far as I am aware, takes exception to the exercise of that right by the Executive Council in such circumstances.

The Minister for Works: Even when it comes to liberating a man within three weeks after his conviction on a charge of manslaughter?

Hon. N. KEENAN: I was referring to the men at Wiluna.

The Premier: Well, tell us about the Wiluna affair.

The Minister for Works: You do not know anything about it.

Mr. Latham: The Minister for Justice does.

The Minister for Justice: A few men were embroiled in an argument.

Mr. Latham: And they were sentenced to imprisonment.

Hon. N. KEENAN: The matter involved in the issue before the House does not raise the question whether the pardon granted by the Lieut.-Governor, on the advice of the

Executive Council, was a lawful exercise of the powers of the Sovereign. If it did, there are many grave reasons that could be advanced to show that it was not a lawful exercise of the King's pardon. The King, without doubt, can grant a pardon in respect of any offence that is committed against himself, whether the offence is a breach of the common law—that is, the unwritten law—or of a provision of any statute.

The Minister for Justice: Or in respect of any public action.

Hon. N. KEENAN: But the offences respecting which the King can issue his pardon, must be offences, in the words of the most ancient authority on English law—Coke—"against the King in his character as supreme governor."

The Minister for Justice: We have learnt a lot since Coke died.

Hon. N. KEENAN: I shall show that you have learnt something very evil.

The Minister for Justice: In your opinion.

Hon. N. KEENAN: And in the opinion of any unbiassed person. The effect of authoritative statement is that if laws are enacted for the purpose of preventing injury to other citizens, and if, in fact, such injury has been done, then the King has no power to intervene with his pardon.

The Minister for Justice: Did not this man get damages for injuries done to him?

Hon. N. KEENAN: That is absolutely immaterial.

The Minister for Justice: Oh, of course it would be!

Hon. N. KEENAN: If I am to be asked these questions I propose to answer them. If the man did not get damages, would any pardon have been issued? The Minister dare not reply, because he knows it has nothing to do with the question at issue.

The Minister for Justice: That situation has not arisen.

Hon. N. KEENAN: Let me also tell the House that what I have just stated to be the position is clear. If a penal statute does prohibit the doing of an act that would be injurious to another person, and after proceedings under that Act have been instituted in the name of the King and a conviction obtained, the King has no power of pardon. That was the unanimous decision of the whole of the King's Bench in a case decided no less than 300 years ago.

Many Ministerial members interjected.

Mr. SPEAKER: Order! Members must keep order.

Mr. Hawke: What was Methuselah's opinion of that decision?

Hon. N. KEENAN: That decision has remained the law ever since. It does not add weight to any answer, if there be any answer to the motion, by Government members indulging in this pre-arranged chorus of laughter. It savours of the stage. One man holds up a finger, and the chorus laugh.

Many Ministerial members interjected.

The Minister for Justice: Whatever next!

Hon. N. KEENAN: Not one of the members of the chorus knows the joke or cares what it was.

The Minister for Works: What a joke!

Mr. SPEAKER: Order!

The Premier: You are a real Mark Twain.

Hon. N. KEENAN: I said that has been the law for 300 years and is the law to-day, and if there be anything which is sacred in the British law it is surely a doctrine and an axiom of that character. Moreover, it has been commented on again and again and in every case upheld. And when one remembers that in the days when that was pronounced, when that right of the common people against the King—for that is what it is—was pronounced by the force of law; in those days the power of the King was tremendous; he had a tremendous personal power and he intimidated to a large extent all those who opposed his will. Yet we find that in spite of that intimidation the courts of law upheld the rights of the common people against those of the King. Surely if that is so, is it not more than ever our bounden duty in far less trying circumstances, when all we have to do is to fight an executive we have ourselves placed in power—is it not our duty to advocate the rights of the common people against the exercise of such a right as the King's pardon? But the question before the House does not raise the issue of whether the power that has been exercised was lawfully exercised, and therefore I propose to debate this matter on the assumption that it was lawfully exercised.

The Minister for Justice: There can be no doubt of that.

Hon. N. KEENAN: The Minister has no doubt; he remains in the happy position of having no doubt.

Mr. Moloney: Do you think there is?

Hon. N. KEENAN: I say it is a matter that probably will be determined by a more competent authority than any member of the House; I am not venturing to set up my own opinion on a matter of the gravest possible doubt. I propose to debate the matter before the House on the assumption that the exercise of this power by the Lieut.-Governor was a lawful exercise of the prerogative of the King. The power of pardon by the King, according to an answer made to a question put by the Leader of the Opposition to the Minister for Justice, has never before been exercised in this State, which is over 100 years old. Now what is it that is alleged as good and sufficient and just cause for the exercise of this power in the present case? Only this, that the penalty inflicted is far too severe for the offence that was committed. I have personally read whatever was put forward in the newspapers in defence of the action of the Government, and I have listened to-night to what the Premier had to say in defence of the action of the Government, and so far as I can learn the one answer made is that the penalty inflicted was far too severe for the offence committed.

The Premier: You appeared in court.

Hon. N. KEENAN: Is that correct or no?

The Premier: You appeared in the court, take up to-night an attitude different from that which you took in the court when briefed to appear there?

Hon. N. KEENAN: The question whether the penalty inflicted in the police court was too severe or not severe enough was never discussed in the civil action, and could not be discussed, because of an adjournment; the magistrate met the wishes of the defendant and adjourned his decision pending the trial of his civil action, and so there was no possibility to discuss it, because it had never been pronounced. But the only defence made or that could be made is that the penalty which this conviction entails was far too severe for the offence committed: in other words, that means that this is one of those cases in which, notwithstanding the guilt of the accused, he is by the trial judge sentenced to a penalty which is far greater than the offence warrants. Both under our Criminal Code and under our summary jurisdiction Acts there is full power given to the Executive to remit any portion or the whole of any



penalty which is attached to a conviction. There is full power under the section of the Justices Act, which is the section governing the proceedings in our police courts and which governed these proceedings.

The Minister for Works: Does that apply to this prosecution?

Hon. N. KEENAN: Yes.

The Minister for Works: You think so.

Hon. N. KEENAN: I am certain of it.

The Minister for Works: Then you differ from the magistrate, for the magistrate ruled that it did not apply.

Hon. N. KEENAN: The magistrate ruled that certain provisions dealing with first offences, which are to be found in the Criminal Code, did not apply. I say, and I propose to read to the House to show that I am warranted in what I say, that the Executive have full authority under the section of the Justices Act to revise the penalty imposed.

Mr. Moloney: Not to remit it?

Hon. N. KEENAN: And to remit it. Section 170 of the Justices Act reads—

The Governor may remit the whole—

And, as members know, "Governor" means the Governor-in-Council, in other words, the Ministry. The section reads—

The Governor may remit the whole or any part of any fine, penalty, forfeiture or costs imposed by conviction whether any part thereof is payable to any person other than His Majesty or not; and upon such remission the conviction shall cease to have effect either wholly or partially, as the case may be.

There is the power in the Act which applies to the proceedings that were taken in this case. The effect of such a remission is, to use the words which are found in Chitty's "Criminal Law," to prevent the infliction of a punishment denounced by the sentence. It is to remit the penalty of a punishment which, in the old language, is denounced by the sentence. What more could any convicted person ask for when his conviction is apparently legal and undoubtedly supported by the evidence—what more could any convicted person in those circumstances ask for? But the King's pardon, which was issued in this case, goes very much further than that. The effect of the King's pardon is not merely to prevent the infliction of punishment which is denounced by the sentence, but to give to the defendant a new capacity, a new credit and a new character.

It completely obliterates the whole of the conviction; which was a conviction sustained by the evidence—else it would have been upset on appeal. A pardon completely obliterates the conviction. And it goes to such an extent that it would be actionable as libel to write of Mr. Gray that he was convicted of an offence under the Electoral Act.

The Minister for Employment: Is that hurting you?

Hon. N. KEENAN: The length it goes to is so great that it is only to be resorted to where there has been a miscarriage of justice, where the conviction is not supported by the evidence, or where there is some reasonable doubt to that effect. If anyone were to write and publish the statement that Mr. Gray had been convicted of an offence against the Electoral Act, he would be liable on such publication for an action for libel. And to show that this is not merely imaginary, I may tell the House that the law has been tested in many instances, and that in one instance, which is referred to as the case of Hay against the Justices of the Tower Division of London cited in the petition, the case of a man convicted of being a thief but who was pardoned by the King. Someone threw it in his teeth that he was a convicted thief, and he brought an action for libel and it was held that he should succeed because the pardon had wiped out the conviction and therefore it was libel to speak of him as a thief, although he had in fact been convicted of being a thief. Now what is the proper sphere for the exercise of this power of the King's pardon, as distinguished from remission? I have said and I again concede that the Executive is perfectly entitled to exercise its power of remission, and has done so without question in ever so many cases in this State. But what is the proper sphere for the exercise of the King's pardon? Only in those cases where there has been a miscarriage of justice, where the conviction ought never to have been recorded, or where there is some reasonable doubt that the conviction ought never to have been recorded.

Mr. Moloney: Who determines that?

Hon. N. KEENAN: It is determined by the courts of law. In this case, surely no one in the House suggests that the conviction ought never to have been recorded on the evidence. Is there anyone here who would suggest that? Yet unless that was not only

suggested but substantiated, there is no scope whatever for the exercise of the King's pardon. I have pointed out what power there was in the Executive to deal with Mr. Gray's case, and in which they could have dealt with it within their proper power.

The Premier: It is the same case as that in which you appeared in the court.

Hon. N. KEENAN: It is not the same case, and if the Premier keeps on repeating that, I will have to say something. There is a limit to taunts and jibes, and we may shortly reach that limit.

The Premier: Well, go on.

Hon. N. KEENAN: Now if there was not ample evidence to sustain the conviction which was recorded in Mr. Gray's case, he would have proceeded with his appeal and would have been absolutely certain to succeed, because the court of Criminal Appeal has never refused to do justice to any appellant that comes before it. So it is utterly impossible to find any justification for the resort to the King's pardon in the case of Mr. Gray, unless it be that it was dictated by political expediency. That is the only possible reason that could have dictated it.

Mr. Moloney: Now you are reflecting on the representative of the King.

Hon. N. KEENAN: I propose to deal shortly with the merits dealt with by the Premier. I wished to deal, not with the offence of Mr. Gray, but with the offence of the Government, but since the Premier has dragged in the merits, I shall deal briefly with them also. He said that the mere distributing of a leaflet was a matter of trivial importance and therefore was one that should be overlooked. If any person distributes matter that happens to be libellous and is merely a distributor, he is not liable to all, any more than is a news vendor who sells a newspaper containing a gross libel. He is liable only if it be shown that he had knowledge of the contents. Then and then alone does liability arise. So that argument by the Premier cannot be sustained. If that were the real position and Mr. Gray had been merely a distributor, he would have incurred no liability whatever. Under the Electoral Act, it is not for distributing that a person is made liable; it is for publishing or causing to be published or exposing to public view any document or writing or printed matter containing de-

famatory statements calculated to influence the vote of any elector.

The Premier: You are just bluffing the people now.

Hon. N. KEENAN: If Mr. Gray had been in a position to show that he knew nothing of the contents of the leaflet, it would have been a complete answer to the charge, and there is not a scintilla of doubt that the judge would have directed a verdict in his favour. But the very opposite was established in evidence. I do not want to deal with the evidence more extensively than is necessary, but one of the constables to whom Hughes complained heard Mr. Gray say, "Of course we are (distributing the leaflets): here, have one."

Mr. Hawke: He would have been liable whether he had read it or not.

Hon. N. KEENAN: And after that there is evidence of distribution. It is not desirable for me or for any member of this House to confuse the issue by discussing the question of the guilt of Mr. Gray. I would not have referred to it but for the fact that the Premier dragged it in.

The Premier: Is it possible that you are being engaged in the court on a similar case against a member belonging to this side of the House?

Hon. N. KEENAN: It is quite possible. If I am asked to take a brief, the Premier may rest assured that as I never turn down anyone who comes to me for legal aid, I will accept it.

The Premier: Whether the case is good or bad?

Hon. N. KEENAN: Unquestionably. If the Premier came to me for legal aid, would he like me to insist on examining his case to see whether it was good or bad?

The Premier: So you could plead as eloquently for the man in the wrong as for the man in the right.

Mr. SPEAKER: Order! The Premier must refrain from interjecting.

Hon. N. KEENAN: The Premier is not an authority.

Mr. SPEAKER: I point out to the member for Nedlands that interjections are at all times disorderly and that there is no occasion for him to answer them.

Hon. N. KEENAN: I regret that once more I have offended against the rules, although I think I can plead that I have erred in company.

The Premier: Good company or bad company?

Hon. N. KEENAN: The point has been raised, and certainly it may fairly be asked, why was not Mann pardoned? We have heard no answer; yet it is a most pertinent question. After all, the essence of any offence in libel is publication. It is not libellous to write anything, provided it is not published. Anyone might write the most atrocious things he could think of regarding me—I dare say they would be atrocious—so long as he did not publish them. The member for South Fremantle could indulge in the same way, but the moment he opened his mouth or handed a written document to another person, publication would take place, and that is the very essence of the evil. It is the publication that does the harm, not the writing. Hence it is by publication that the guilt of the parties is judged. Where, in the matter of publication, is there the slightest distinction between the case of Gray and the case of Mann? The only part that does harm is publication, and consequently there is not the smallest distinction between the two cases. Yet we find that one party is pardoned, while the other party has not even had any portion of his sentence remitted.

The Premier: We will consider that.

The Minister for Works: How do you know?

Hon. N. KEENAN: Well, it has not been published. If it has been done, it must have been done secretly.

The Minister for Works: You do not know.

Hon. N. KEENAN: No, but I suspect there has been no remission.

The Minister for Works: I am fairly Scotch, you know.

Hon. N. KEENAN: Once more I ask where the distinction comes in. Why, when the printing press was at work, were not pardons turned out wholesale? Why not give Mann a pardon, too?

The Minister for Works: Is Mann an anti-Labour supporter?

Hon. N. KEENAN: Judging by the necessities of the times, he may have to pretend that his sympathies are with the hon. member's party. Why was there any ground for distinction between the two cases?

Mr. Moloney: You will have to take up Mann's case.

Hon. N. KEENAN: A further phase deserves consideration. The prosecutor enforced the law—surely that is not a matter deserving of condemnation; on the contrary, if it deserves anything, it is commendation—and though he was obliged to incur considerable expense in court fees for witnesses and legal expenses, and although the magistrate, in apportioning the penalty, ordered Gray to pay the expenses, what has happened? By the issue of the free pardon all that is obliterated, and the prosecutor finds himself saddled with the expense.

The Minister for Works: That is not correct; Gray has paid his expenses.

Hon. N. KEENAN: I am speaking only from the knowledge I have gleaned from the Press.

The Premier: If you were his counsel, you should know whether he has paid or not.

Hon. N. KEENAN: Is not that a stupid observation?

The Premier: His expenses have been paid.

Hon. N. KEENAN: That is news to me.

The Minister for Works: The hon. member knows that the King's pardon could not operate in the case of one individual.

Hon. N. KEENAN: If a pardon is granted at all, it extends to everything.

Mr. SPEAKER: Order! The Minister for Works will have an opportunity to speak later.

Hon. N. KEENAN: The Minister is utterly unaware of the effect of the King's pardon. It means complete obliteration. If he looks up any authority he will find that the pardon obliterates everything—the conviction and everything connected with it. The whole thing is wiped clean off the slate, and no obligation remains on the defendant. What justification can be set up with regard to this allegedly small offence? On one occasion, in the House of Commons, something of a similar nature—not an evasion of the Constitution—was brought forward by way of grievance, and a somewhat similar reply was made, when the late Lord Randolph Churchill said that that had been the excuse of a certain maid who unexpectedly had added to the population. It was such a small one, she pleaded. That is all that has been urged here to-night—the offence is a small one—but that is no excuse for the exercise of a power that never before has been exercised in this State.

Mr. Moloney: Then we are breaking new ground?

Hon. N. KEENAN: The charge brought here to-night is that the Government have outraged the traditions of 300 years.

The Premier: Is that correct, 300 years?

Hon. N. KEENAN: Traditions handed down from generation to generation for 300 years.

The Premier: Three hundred years! I would not have done it had I known that!

Hon. N. KEENAN: There is much more the Premier would not have done had he known. He would not have taken this action had he known the matter would be regarded in so serious a light.

The Premier: I had no doubt of the light in which you would regard it. You are a great bluffer.

Hon. N. KEENAN: Now the Premier hopes to bluff it through.

Mr. SPEAKER: If the hon. member talks to members across the floor, he must expect to get interjections. If he addresses the Chair, he will not get them.

Hon. N. KEENAN: There remains only one step for the Government to take to reach the very depths of degradation, and that is to issue pardons in advance. Let the Government give pardons to their faithful followers so that, when they break the law and are challenged, they can pull out their pardons. That was done by some of the Kings of England.

The Premier: In what year, 300 years ago?

Hon. N. KEENAN: I do not propose to improve the education of the Premier, which is sadly deficient, but if it be any matter of concern, it was done, amongst others, by the Stuarts. They gave out pardons beforehand, and in those days the House of Commons and the courts of law, in order to protect the rights of the people, refused to allow the King to issue such pardons. Consequently, as those who have studied any chapter of English history know, the pardons were no longer of any use to the holders. Nowadays, however, we are so spineless and have reached such an age of mere machinery in our political life as to suppose that those things can be done, and done with impunity. For my part, I consider that supposition to be entirely wrong.

and that there are enough people left to protest, and protest successfully, against conduct of that kind.

**THE MINISTER FOR WORKS** (Hon. A. McCallum—South Fremantle) [9.0]: If any justification is required for the action of the Government in advising His Excellency to issue a pardon to Mr. Gray, it is found in the concluding remarks of the member for Nedlands (Hon. N. Keenan), in his insulting references to members of Cabinet that we would be issuing pardons in advance which would allow people to go out and commit murder. That is a status to which he would reduce members of the Government. If that is not political propaganda, I do not know what is. There never has been a lower-down statement made in the Chamber than that. That is the level to which the hon. member has accused the Government of descending. It shows what he has in his mind, and what he himself would entertain to assist his own political party. I will refer to him later in the course of my remarks. I wish now to refer to the Leader of the Opposition and to express my appreciation that in his motion he included no reference to His Excellency, the Lieut.-Governor. Neither did he in his remarks make any reference to the representative of the King in this State. I appreciate that. Whatever responsibility attaches for the decision arrived at belongs to Cabinet.

Mr. Latham: That is so.

**THE MINISTER FOR WORKS**: Our advice to His Excellency had to be accepted. There was no option in the matter. In contradistinction to the hon. gentleman, another place puts itself above the King. It says that the pardon the King has issued has no force, that what the Government have done it is going to over-ride and declare to be null and void. If that is so it would be as well if we let the King's son know what the Legislative Council think, before he arrives here. They are superior to him. They have taken up the attitude that they are prepared to control the country. Their decision is to over-ride the King's warrant, and they are to be the ruling body of this nation. If word is sent to the King's son, who is on his way to this country at the moment, he might declare this State black, and knowing the

utterances of the Legislative Council, may decline to call here.

Mr. Hawke: That would be hard luck for some of the social climbers.

The MINISTER FOR WORKS: That is the attitude of another place. It is superior to the King and is going to over-ride whatever decision the King's representative has given. I wish to advise the House that the Government took good care to see that they acted within the law. The document was very carefully drafted, not by one legal brain, but a number of legal brains, and not all employed in the Government service either. Every possible care was taken before this decision was reached, because we knew it was unique, and we took every care to see that our step would be a safe step and that our position was protected. Now, what is the offence that has been committed? For what offence have we granted the King's pardon? What is this awful thing that has been done that Mr. Gray should be refused the right to continue to sit in Parliament? Have members seen the pamphlet? I know the member for Nedlands has. It is generally understood that a pamphlet has been issued containing allegedly false figures. In the court the plaintiff admitted that every figure was correct. No man can challenge one figure in the document. The pamphlet set out the amount of money which had been received from the sale of tickets for sweeps, and the amount of money which had been handed over to those bodies on whose behalf the sweeps were held, to show what an expensive and extravagant manager this was. Because figures were not published showing the office rent, postages, and other expenses, it was held that the pamphlet was not true. That was the offence. No one challenges the correctness of the figures, and the plaintiff admitted they were right. I ask any member on this side of the House whether he has not had worse said against him than was said against Hughes in this pamphlet. Have they ever escaped so lightly themselves? We have had to stand up to gross misrepresentation and abuse, to lying statements. These we have had to encounter ever since the Labour movement came into the public life of the continent. We have had to stand up against misrepresentation and abuse of all descriptions. I have a bundle of leaflets here, every one containing a libel, every one designed to

misrepresent the position to the electors. I have bundles of them.

Mr. Stubbs: You will be able to make a fortune out of them.

The MINISTER FOR WORKS: Yes, but I am not a common informer, and am not sinking to that level.

The Minister for Lands: They are your pals.

Mr. Raphael: That is what your party is built up on, a lot of rats.

Mr. Latham: It is time you stopped that sort of thing.

The MINISTER FOR WORKS: Look at them, one after the other.

Mr. Latham: I should like to look at them.

The MINISTER FOR WORKS: The hon. member has seen them. Copies have been posted to all members. Not only are there these pamphlets. See what goes on in the country. I was through the wheat-belt, and at every important road turn throughout the 400 miles that I travelled, appeared a huge poster on a big hoarding with a most atrocious painting upon it. It depicted the Labour party turning out into the streets men, women and little children.

Mr. Latham: That was not against an individual.

The MINISTER FOR WORKS: It was against the Labour movement. Has any-one of us been let off as lightly as Hughes was let off in that pamphlet? I could entertain the House for hours with instances of misrepresentation that we as individuals have had to put up with. Did not the Labour movement from one end of the continent to the other, have to put up with what the late Sir George Reid did, when he led a big tiger on a red tape around the country, and called it the socialistic tiger? We were represented as the tiger that was going to swallow the populace.

The Minister for Lands: Lyons is saying that now.

The MINISTER FOR WORKS: Did they not say that if we were returned to power we were going to smash the marriage tie? That was placarded everywhere.

The Minister for Lands: They say it now.

Mr. Latham: Is there anything about that in the motion?

The Premier: Why do you always get a Labour renegade to do your dirty work for you?

The MINISTER FOR WORKS: What have we had to face as a Labour movement with regard to the caucus? Members opposite have paid us the compliment of following our example. This motion arose from their caucus, and yet the Leader of the Opposition says it is not a party matter. It is an instruction from his caucus.

Mr. Latham: I never said it was not to be treated as a party matter.

The MINISTER FOR WORKS: The newspapers credit him with saying that he was not going to treat it as a party matter as it was too big for that. They said it not once but several times. Every member on this side of the House has had to put up with 50 times worse than what was said about Hughes.

The Minister for Justice: And did you ever hear about German gold?

THE MINISTER FOR WORKS: I remember the countless anonymous letters I received about German gold during the war. Our palms were said to be stained with German gold, and it was claimed that we were in the pay of the enemy. The Premier was haled before the courts of the country on that issue.

Mr. Latham: That has nothing to do with this.

The MINISTER FOR WORKS: It links up definitely with this.

Mr. Moloney: He does not want to hear it.

The MINISTER FOR WORKS: Members opposite and the Press of the country have led the public to believe that Mr. Gray has done something atrocious, and yet every figure contained in the pamphlet he published was true. It has been construed to mean that because we did not put in the amount of expenses, the inference was that Hughes had thieved the difference. As if anyone in his right mind did not know that it took money to run a sweep! All that was shown in the pamphlet was the difference between the receipts and the amount paid over. The Leader of the Opposition must in his time have had complaints from the Police Department about this man running sweeps, and his costly conduct of them.

Mr. Latham: That is not the question. We did not grant any pardons.

The MINISTER FOR WORKS: The hon. member did not have an informer at work.

The Minister for Lands: One of your pals.

The MINISTER FOR WORKS: The Leader of the Opposition and the member for Nedlands both stressed the point that Mr. Gray had broken the Electoral Act. The former said that to his knowledge he had never broken the Act, but went on to say that there was no excuse for any member of Parliament not knowing the Act. I have heard it said that if the member for Avon had known the Electoral laws, the hon. gentleman would never have been in the House. He knows what occurred then.

Mr. Hawke: You are not suggesting that he is a political accident, are you?

The MINISTER FOR WORKS: I would ask the hon. gentleman to read Section 180 of the Electoral Act, and then say whether he has broken the law or not.

The Premier: He knows he has.

The MINISTER FOR WORKS: The section reads—

Without limiting the effect of the general words within the preceding section "bribery" particularly includes the supply of food, drink or entertainment after nominations have been officially declared, or horse or carriage hire for any voter whilst going to or returning from the poll with a view to influencing the vote of an elector.

Has the Leader of the Opposition never invited anyone to afternoon tea?

Mr. Latham: What is the charge against me?

The Premier: That you have broken the Electoral Act.

Mr. Latham: I have never done one of those things.

The MINISTER FOR WORKS: Has the hon. member never broken the Act?

Mr. Latham: No.

The MINISTER FOR WORKS: That makes two members I have found. I did not think there was one candidate in the country who had not "shouted" for a supporter, until I found the member for Middle Swan (Mr. Hegney) to-night, who declared that he had never bought a drink for any of his supporters. I did not think there was a single candidate who had been successful in getting into Parliament who had not broken the law. Does the Leader of the Opposition say he never hired a motor car for the electors?

Mr. Latham: I have never done so.

The MINISTER FOR WORKS: And never "shouted" for one?

Mr. Latham: No.

The MINISTER FOR WORKS: And never bought afternoon tea for one?

Mr. Latham: No.

The MINISTER FOR WORKS: Was not the giving of afternoon tea regularly advertised here in the city, and at Nedlands, too?

Hon. N. Keenan: Did I give you afternoon tea?

The MINISTER FOR WORKS: No; the hon. member shouted me a whisky. Were any afternoon teas given in the hon. member's electorate?

Hon. N. Keenan: That is not an offence.

The MINISTER FOR WORKS: It is an offence.

Hon. N. Keenan: Not unless the candidate gives the afternoon tea.

The MINISTER FOR WORKS: The candidate attends, and addresses those present.

Hon. N. Keenan: Who gives the tea?

The Premier: The secretary pays for the tea!

The MINISTER FOR WORKS: Who hires the motor cars?

Hon. N. Keenan: The motor cars are lent by people who—

The MINISTER FOR WORKS: We know all about that. The nonsensical part of it is that the law against all these offences has been treated as a dead letter. No one has been mean or paltry enough to take action with regard to such offences. It is only when a man of the informant's type come on the scene that action is taken. Members of this House know that it is the regular practice of every candidate, and of every political party, to do the things I have mentioned. We all know it. Why not be candid about it? However, we of this party have not stooped so low as to take legal action in such cases. We have fought the question out on the public platform in the presence of the people. We have not gone behind the people's backs to lay informations and prosecute in the courts of the country. As regards the man who has been put forward here to-night as someone defamed, someone whose character has been destroyed, we know that towards the end of his term in this Chamber there was not a single member who would talk to him, no one wanted to be seen with him, everyone

kept out of his company. That was the level on which he was regarded by every other member of the House. Now we are told that by someone merely handing out the document I have described, a dastardly attack was made on that man, and that it is in those circumstances the Government have stooped to recommend a pardon. I am no lawyer, but having looked up "Hansard" I am in a position to state that it is quite an accident that the section under which the prosecution was launched appears in the Act at all. I say this although the member for West Perth (Mr. McDonald) says a similar provision is to be found in other Acts.

The Premier: The provision should not be in our Act.

The MINISTER FOR WORKS: When the Bill left this Chamber to go to the Council, it contained two clauses which were challenged by Mr. M. L. Moss and Mr. Drew.

The Minister for Justice: And Sir Winthrop Hackett also.

The MINISTER FOR WORKS: Yes. One of those two clauses went to the vote and was deleted, expressing the will of another place that such a provision should not appear in the Electoral Act. But the other clause remained.

The Minister for Justice: Its deletion should have been treated as consequential.

The MINISTER FOR WORKS: Yes; and when the Bill came back to this House, the deletion was agreed to, showing that Parliament did not approve of the inclusion of that principle in the electoral law. However, it is there. I do not deny that it is there. Still, it is there only by an oversight, by accident, as is apparent from the debates. The resultant position is that Parliament hands to a magistrate authority to say what is defamation, whereas a Supreme Court judge is not allowed to say what it is. No judge can say what is defamation. A jury has to say it. But a magistrate does it under this section, a man without any legal training whatever. He is the authority on defamation.

Hon. N. Keenan: Will you allow me to tell you that a judge cannot leave a case to the jury unless he is satisfied that the words can be defamatory?

The MINISTER FOR WORKS: But the judge does not decide whether they are defamatory.

Hon. N. Keenan: Yes, he does.

The MINISTER FOR WORKS: The matter has to go to the jury. The decision is distinctly taken away from the judge.

Hon. N. Keenan: No.

The MINISTER FOR WORKS: The Electoral Act leaves the decision to a magistrate. Now, the majority of the magistrates in this State have graduated from clerkships, and have had no legal training whatever.

Mr. Latham: There is the right of appeal.

The Premier: If one has money enough to appeal.

The MINISTER FOR WORKS: Yes, and if one is foolish enough to go on when one knows what to expect from an appeal in such cases. I wish to repeat, and I do not think the Leader of the Opposition will deny it, that if Mr. Gray had not been a Labour man, there would not have been any protest. The Opposition have met in caucus and decided to make this protest, but if the pardon had been granted to one of their members there would have been no protest.

The Premier: Intense indignation!

Mr. Latham: Such a thing would never have happened in our party.

The Premier: What about the manslaughter case?

Mr. Latham: I will deal with that in due course.

The MINISTER FOR WORKS: I want to put this seriously to the Leader of the Opposition, because in a few weeks he will have the opportunity to test it.

Mr. Latham: I shall not go to the Government for a pardon.

The MINISTER FOR WORKS: The Leader of the Opposition may find several of his supporters wanting a pardon in the course of a few weeks. What I wish to emphasise is that if our bitterest political opponent had happened to find himself in Mr. Gray's position, he would have got this pardon.

Mr. Hawke: Even the member for Nedlands!

The MINISTER FOR WORKS: We do not treat such a matter from a party standpoint at all. Quite a number of the supporters of the Leader of the Opposition will, if their position is challenged, find themselves in a very serious situation.

The Premier: Yes, and we will help to release them.

The MINISTER FOR WORKS: Now as regards the men who have criticised

Gray in the Legislative Council—many of them not fit to clean Gray's boots, either publicly or privately. At least two of those men have signed contracts with the Government. One signed a joint and several guarantee to the Government, which is distinctly unconstitutional.

The Premier: And dishonoured it.

The Minister for Lands: Would not pay it.

The MINISTER FOR WORKS: Those are some of the men who have criticised Mr. Gray. In accepting the contracts they abuse the very Constitution of the country. Yet because a man distributes a pamphlet and is not sentenced to a fine of over £2,000 all this fuss is being made.

Mr. Hawke: It is his seat they are after.

The MINISTER FOR WORKS: We say emphatically that the penalty was altogether out of proportion to the offence. That, I want to impress on the member for Nedlands, is the position taken up by the Government. The Leader of the Opposition reads out what the magistrate says, and then declares that the magistrate decided the matter and that the Government have dared to differ from him.

Mr. Latham: I did not say anything of the sort. I said the Government accepted what was put up by the paid advocate at the inquiry.

The MINISTER FOR WORKS: Does the hon. gentleman set the magistrate above the Government?

Mr. Latham: No; but you might have confirmed what he said.

The MINISTER FOR WORKS: Is the magistrate to be set up above the Government? Who governs the country? Do the people appoint magistrates to govern the country?

Mr. Latham: The Government do not try cases.

The MINISTER FOR WORKS: We are the elected of the people. We know as much about this case as the magistrate knew about it, and we knew more about the individuals concerned than the magistrate knew about them. I am not concerned about the decision. I am not complaining about the decision. I do not say for a moment that the magistrate's decision was right. I am not going to admit that it was. However, that part of the decision which carries with



it the loss of Mr. Gray's parliamentary seat and his disqualification for two years is not the fault of the magistrate at all, but the fault of Parliament. Only by the merest accident is that provision in the Act, as I have said before. Taking into account all the circumstances, the Government had nothing else left to them but to act as they did.

The Premier: That part of the Act has been broken by every member, and every member knows he has broken it. Why be hypocritical?

The MINISTER FOR WORKS: The member for Nedlands raised a very fine point indeed—that the Chamber to-day is not trying Gray's case but trying the Government. The hon. member says the Chamber is not called upon to say whether Gray is guilty or not, but whether the Government are guilty. But how is the Chamber to decide whether the Government are guilty or not unless it inquires into the circumstances under which Gray was found guilty?

Hon. N. Keenan: But do you not find plenty of evidence supporting the conviction?

The MINISTER FOR WORKS: Certainly not. I say there was no warrant for a conviction. All that the pamphlet did was to set out the extravagance of Hughes as a manager of sweeps. The former Commissioner of Police spoke to me more than once, saying he had a file which showed the extravagance of this man in the conduct of sweeps, and what a small percentage of the funds subscribed went to the institutions on behalf of which the sweeps were run. The ex-Commissioner of Police mentioned that matter to me a number of times. I can add this, that had we left the Perth Trades Hall in that man's hands for another year, we would have lost the building, by reason of his bad, extravagant management. I have indicated what the pamphlet sought to show.

Hon. N. Keenan: Do you say there was no evidence to support a conviction?

The MINISTER FOR WORKS: Yes. The hon. member cannot contradict one figure published in the pamphlet.

Hon. N. Keenan: Then Mr. Gray, if he appealed, would be absolutely certain to win.

The MINISTER FOR WORKS: I am not trusting to that. There is another

aspect of that. We know all about Mr. Hughes and his doings, and we know what the pamphlet says. The member for Nedlands has said that the court recorded the conviction and that we should not get up here and say that other people had broken the Electoral Act, flouted the electoral laws, and had not been prosecuted, whereas Mr. Gray had been prosecuted. That argument reminds me of the moral position taken up by some people who say that it does not matter if one runs away with another man's wife, and that it only matters if one is found out; that that is all that counts. Gray was convicted. Since the early history of this country this man Hughes is the only man who has sunk to the depth of taking advantage of that section of the Electoral Act. The member for Nedlands says this is the first time the King's pardon has been used in the history of Western Australia. I reply that this is the first time a common informer has come forward in Western Australia to take such action against a man, the first time any man has sunk to that depth.

The Premier: But he is the Opposition's friend now.

Mr. Latham: He used to be secretary of one of your unions.

The MINISTER FOR WORKS: And the Leader of the Opposition knows what this man's position was with us long before he left Parliament, and what his position was with those now sitting in Opposition.

Mr. Latham: But he is secretary of one of your unions now.

The Minister for Agriculture: No, he is not.

The MINISTER FOR WORKS: I had thought that there was hardly a single man associated with this Parliament who had not broken the electoral laws in one direction or another. To-night we have found out that there are two who are blameless. One says he has never hired a motor car, and the other that he has never shouted.

Mr. Thorn: And here is another one, if you want to know.

The MINISTER FOR WORKS: We are having confessions all round the Chamber, but I am not accepting the hon. member's confession. Hundreds of Parliamentary candidates have broken the law in the past. Men are sitting in Parliament to-day, who are crying to high heaven for Gray's blood, yet they have broken the

Constitution and other laws of the State. In view of that, why make Gray the scape-goat? Why should he be the one man singled out for punishment? Why should we allow Gray only to suffer? Rather should we do our duty and see that this one man is not singled out for persecution—not prosecution. Gray has been singled out for vindictive persecution, and in protecting him, we have simply done our duty. The member for Nedlands (Hon. N. Keenan) quoted a section of the Justices Act which, he said, could have been used in order to free Gray. The magistrate distinctly ruled that that provision did not apply in this instance and the Crown Law Department definitely ruled that way as well. The member for Nedlands is at variance with those authorities—for what they are worth. The member for Nedlands waxed exceedingly cross because the Government have altered something that has existed for over 300 years. He actually complained of our action.

Mr. Moloney: They used to hang a man for stealing a watch.

The MINISTER FOR WORKS: The present Government have altered a lot of things that have existed for 300 years or less, and, if we are spared for another 12 months, we will alter a lot more of these musty 300-year old enactments.

Mr. Latham: You are giving back power to the King.

The MINISTER FOR WORKS: Quite the contrary. We say the people shall rule, and we are the representatives of the people. No one else shall rule. We represent the voice of the people, and we exercise authority on their behalf.

The Premier: And another place does not represent the people.

The MINISTER FOR WORKS: No, not one-third of them. I ask members this question: What harm has been done?

The Premier: Just that an honest man will continue to be a member of another place!

The MINISTER FOR WORKS: Yes, a good useful citizen.

The Premier: It is a pity he happens to belong to that institution.

The MINISTER FOR WORKS: He is a man who has shown his love for the poor. He has worked all his spare hours to help the down-trodden. Everyone will give him credit for his charitable work. No one will be mean enough to attempt to rob him of

that. By the Government's decision, who has been harmed?

The Premier: Apparently, Gray.

The MINISTER FOR WORKS: The Government have done a worthy act in the interests of a worthy citizen. Has that action worked to the detriment of any man or woman throughout the State? It is to the discredit of those opposite that when they were in power, within three weeks of an individual being convicted on a charge of manslaughter, they released him.

Mr. Latham: And how long was he held in prison before that?

The MINISTER FOR WORKS: Within three days of his release, that man held a dance. He had a great jamboree at the Log Cabin, dancing on a dead man's grave.

The Premier: Liberated three weeks after being sentenced for manslaughter, and the Leader of the Opposition was a member of the Government that did so.

Mr. Latham: It was longer than three weeks.

The Premier: It was not, but anyway, a week or two does not matter.

The MINISTER FOR WORKS: That was how another Government exercised their authority.

Mr. Hawke: Was the member for Nedlands a member of that Government.

The MINISTER FOR WORKS: I do not know.

The Premier: He was in and out of Governments so quickly that it is hard to remember.

The MINISTER FOR WORKS: The Government acted honestly, believing they were doing right. If a similar position arose to-morrow, we would act similarly again. We will take every care when a common informer seeks to do damage to a decent citizen, that justice is done, and we will not tolerate any unfair decision or any unfair action, or allow the lowest type in the community to come forward and make use of laws of the description under discussion, while others have been permitted to go free, to sit in Parliament and even in Cabinet, making the laws of the country—and making money by signing contracts and defying the Constitution. Are we to allow them to go free and persecute a man like Gray? Mr. Speaker, we are not made of that stuff, and we decline to sit quietly by and allow it to go on.

**MR. DONEY** (Williams-Narrogin) [9.37]: There has been, by the Premier and the Minister for Works, a very obvious attempt to obscure the purport of the motion under discussion.

Mr. Raphael: You do not infer that you are going to make it clear.

Mr. DONEY: No attempt was made by members of the Opposition to cast aspersions on the character of a member of another place, whose name has been so freely mentioned. It needs to be pointed out that the question is not whether certain members of the Opposition are as guilty of electoral offences as are certain members on the Government side of the House. Rather is the question whether the Government are able to offer such an excuse for the pardon granted to a member of the Legislative Council as will appeal to members of this House, and to the people generally.

The Premier: We can understand your attitude, because you are a particularly good man.

Mr. DONEY: If the Premier's interjections remain on that level, he and I will have no dispute whatever.

The Premier: I mean that.

Mr. DONEY: I can scarcely give the Premier credit for that.

The Premier: I really mean it.

Mr. DONEY: Those who so far have taken part in the debate, obviously do not relish the topic, and I do not wonder at that. I do not think any member is likely to find it very palatable, and I certainly do not. I regard it as just medicine, nasty but very necessary indeed. The question before the House deals, in a personal and intimate way, with a member of another place who has always, so far as I know, stood, and still stands, high in the estimation of his colleagues in both Houses. Any criticism offered, therefore, will not be directed at that hon. member. Whether the offence with which that hon. member was charged was merely technical or whether it had a more grave aspect, need not concern us. Suffice it to say that he was charged with a certain offence. He was found guilty and convicted. Very shortly after his conviction, the course of justice was interfered with, and no good stated reason has been given by the Government for recommending the granting of a free pardon. We are entitled to infer that Mr. Gray would not have been so pardoned had he not been a member of Parliament or a personal friend of the Govern-

ment. That should be no reason carrying any weight whatever with the Government, yet here, the Government apparently accepted the principle of Mr. Gray's membership and friendship as sufficient reason for pardoning him his offence against the laws of the land. I have always thought that members should be judged by especially harsh standards, and it would now seem that a new order obtains under which members may, when threatened with danger, run to the Government and there find an ever-ready sanctuary. All I can say is that the Government plainly are setting a very dangerous precedent indeed, a precedent advantage of which will be taken early, should the occasion offer. If a member commits a like offence in future, how can we withhold similar treatment? The Premier has intimated in the Press that he can justify the action taken by the Government. I hope he can; he has not yet done so. Neither has the Minister for Works. I believe it is because they cannot do so. Although I am ready to admit, in respect of both those gentlemen, that usually they do not embark upon a course without justification, and, acceptable justification at that, I cannot see that they have justified their action on this occasion. In the meantime, we can speak only according to the information we have at our disposal. The pardon granted to Mr. Gray seems to me so essentially wrong that I cannot see how anyone can successfully defend it. It is plain that insofar as the published features of the case would indicate, there is no single perceivable excuse for the granting of the pardon. It is conceivable that any clever man might take the relevant portions of the Electoral Act, the Justices Act and our own Standing Orders, and from them secure material to construct what will look like a legal case in support of the pardon. But even if that can be done, what boots it? What about the far more important moral aspect that the Government affect to ignore? We cannot so easily smother that. After all, legality is very largely a matter of argument, but insofar as our moral convictions go, they are almost entirely intuitive, and so independent of argument. Despite the able speeches delivered by the Premier and the Minister for Works, in point of the moral aspect the Government, in my opinion, are up against a stone wall. On what do they base their case? I have not yet been able to learn from the Government. I say

the Government are relying for their case first of all upon their majority, and then on Section 10 of our own Standing Orders. I admit that those Standing Orders might be construed into allowing the Government to do what they have done. But it should be noted that the relative portion of Section 10 is preceded by the words, "As he (His Excellency) shall see occasion." What is the occasion? We have not yet been told. What unusual extenuation marks this case out for special favour? Surely it is not contended that the plea submitted to His Excellency contained the full case for the Government. I do not see that those points entitled Mr. Gray to the unusual generosity he received. And we are facing the fact that the plea submitted to His Excellency contains not a single new feature which had not already been searchingly examined by an impartial magistrate who had found those points one by one to be groundless, or in other ways valueless. It would appear as though we have arrived at the stage where the Standing Orders of this House become the supreme law of Western Australia. We even permit those Standing Orders to override Halsbury's "Laws of England" which, in Volume 6, on page 400, dealing with the constitutional privileges of the sovereign, read—

But they (the Kings) must exercise their authority in a lawful manner, without deviating from the known and stated forms, for the laws are the birthright of the people, and the Sovereign has no power to change them apart from Parliament. Nor may he interfere with the due administration of justice, and although his person is above the reach of the law, it is his duty to obey it.

We read into that paragraph that the supreme power of any country holding allegiance to the British Crown is the people, that next to the people come the elected Houses of Parliament, and following that the Government, and finally His Majesty the King. I am sorry indeed to see that in this State there appears to be an attempt to reverse that order. Halsbury's "Laws of England," on page 611, lays it down that the right of pardon is moreover confined to offences of a public nature, where the Crown is prosecutor and has some vested interest.

The Minister for Justice: But Hughes had his private remedy before.

Mr. DONEY: Still, the prosecutor in this case was not the Crown, but a private individual.

The Minister for Justice: It was taken through the Crown.

Mr. DONEY: But the prosecution was in the hands of a private individual.

The Minister for Justice: That is not disputed.

Mr. DONEY: Apart from that, even though the Minister may be right, we may ask by what strange process of reasoning the Government excuse the pardoning of a man engaged in a private dispute.

The Minister for Justice: The private dispute ended in the Supreme Court when he got £100 damages. He then took up the public dispute.

Mr. DONEY: It might have ended there had not the plaintiff carried it into the Supreme Court. I can quite understand the Government pardoning a man for an offence against the Crown, but I certainly cannot understand the Government pardoning Mr. Gray for an offence committed by him against Mr. Hughes.

The Minister for Justice: He got his private rights in the court, and then took on a public prosecution for a breach of the law.

Mr. DONEY: At whose instance? It is likely that the Minister's opinion on the matter is more reliable than mine. Anyhow, the Standing Orders are made by the Government to override also the Electoral Act.

Mr. Latham: Not the Standing Orders; the Letters Patent to the Governor.

Mr. DONEY: However, that would not affect the point I am hoping to make. In the Electoral Act, the offence and the penalty are set out in very plain terms. Is it to be taken for granted that this Act, which was passed by Parliament for the purpose of dealing with offences of this kind, is to be overridden by our own Standing Orders, which deal with this matter only in passing and indirectly? If the Government do insist upon that strange interpretation, the onus is still on them to give sufficient reason for the pardon if that pardon is to stand.

The Minister for Justice: It will stand all right.

Mr. DONEY: There also arises this, that if the pardon stands then all future contraventions of the Electoral Act which are on

a par with or of lesser degree than the offence committed by Mr. Gray, must logically escape punishment. In that regard the Government certainly carry a very heavy responsibility. The "Government Gazette" of two weeks ago contained the full text of the free pardon for Mr. Gray. It was not a very soothing manifesto to those who felt aggrieved at the Government's action, and it was not a very communicative document for those who had hoped it might disclose reasons for the Government's actions. But it looked a pretty impregnable and comforting document for Mr. Gray who was safely in the arms of the supreme authority, and all and sundry were warned that he must not be touched. The Royal pardon looked a pretty powerful and comforting thing, but the question still remains whether it is all-powerful.

The Minister for Justice: There is no doubt about that.

Mr. DONEY: What does that proclamation say in extenuation of the pardon? It reads as follows:—

Know ye that we, in consideration of some circumstances humbly represented unto us and for divers good considerations, are graciously pleased to extend our grace and mercy unto him, the said Edmund Harry Gray.

I share with certain members on both sides of the House and with the man in the street a keen anxiety to hear a recital from someone opposite of those good reasons which had such a powerful effect on the Government. The House was disappointed to learn at the close of the two speeches from the Government benches that apparently the real reasons for the Government's action have not yet been given.

The Minister for Employment: There are none so blind as those who will not see.

Mr. DONEY: I listened attentively to what the two Ministers had to say. There was a great deal of extraneous matter drawn in, but the actual reason for the Government's action, if there is a good reason, has certainly not yet been disclosed. I was going to read from the pardon a paragraph dealing with the good character and charitable nature of Mr. Gray, and I was going to say that, in common with every member of this side of the House, I would stand behind the sentiment expressed in that paragraph. I believe that Mr. Gray, apart from his indiscretions under the Electoral Act, is a pattern citizen. But unfortun-

ately those considerations have no bearing on the offence committed by Mr. Gray. It has been complained that the penalty is heavy. I agree that it is and I would agree that it is too heavy, and I might agree that there could easily be made out a case for considerably reducing that penalty. But unfortunately those considerations do not arise at this juncture.

The Minister for Employment: You want him to suffer first?

Mr. DONEY: No, not at all. There is ample scope for the ingenuity of the Government if they can manage, not to clear Mr. Gray, but to clear themselves of the charges implied in the motion. Then I will be one of the first to congratulate Mr. Gray. I am not keen to see him punished.

The Minister for Employment: You simply have a peculiar method of expressing sympathy with him.

Mr. DONEY: So has the hon. member, frequently, and so have we all. One point that cannot be controverted is that the member whose name we have so freely mentioned shinned the appeal court. He did it, I suppose, for a fairly good reason. He had the orthodox means of redress, but failed to avail himself of them. Presumably the reason was that he was not in a position to allege any miscarriage of justice. He felt that he had no case and that it would be quite futile to take the matter to a higher court.

The Minister for Justice: A miscarriage of law perhaps. The law is not always just.

Mr. DONEY: If the Minister is right, plainly the proper course would have been to refer the case to the higher court. Had the legal processes been exhausted, I could perhaps have understood the Government's granting a pardon, but we must have regard to the fact that the member made no appeal. Had the Royal prerogative been the proper instrument for easing offences of this type, the House readily realises that in the past 200 or 300 years there would have been many occasions on which its use would have been invoked. The House knows it is beyond dispute that the Royal clemency was not intended for the releasing of politicians from the just effect of their misdemeanours. Rather was it intended for the easing of capital penalties. It certainly seems to me that the Government, by intervening in the law courts as they have done, are aping the

minor aspects of Yankee public life and at the same time contributing to our own debasement. If we do that, it will be goodbye to all decency in public life in this State.

Mr. Tonkin: Are you opposed to the use of the prerogative on any occasion?

Mr. DONEY: I have already indicated that the law permits the prerogative to be used to ease capital penalties. Let me conclude by saying that if means are not found to set aside this pardon—not that I have any hope of an attempt being made to set it aside—a goodly portion of my respect for what I have always regarded as the fixed and inherent decencies of public life in this State will be lost. I understand that the Government profess to be opposed to excessive privileges for any one class. So am I. So I suppose is every member of this House. The party opposite look for equality under the law. So do I. But it seems as if the Government are violating their own standards by setting up a new privileged class. That cannot be denied. There should be but one law, and political considerations should carry no weight at all.

**MR. LATHAM** (York—in reply) [10.5]: There is really very little that calls for reply. I listened to the Premier's speech, but I cannot see that it was a reply to the charges levelled against the Government.

Mr. Ferguson: They were not referred to.

Mr. LATHAM: Rather did he cloud the issue by stating that the crime did not justify the punishment inflicted. There are one or two statements made by the Premier by interjection and by the Minister for Works to which I wish to reply. The first was that I, as member of the previous Government, did something equivalent to what the present Government have done. The reference was to a man who received a remission of punishment after having been sentenced to a term of imprisonment for manslaughter. Members are aware of the case referred to. A young fellow driving a motor car accidentally killed a man, and was charged with manslaughter.

The Minister for Lands: He was driving at a terrific rate.

Mr. LATHAM: There are men in this House who have driven at a similar rate

of speed, but have been fortunate enough to avoid accidents.

The Minister for Lands: Who are they?

Mr. LATHAM: If the Minister wishes to know, I will tell him. It was proved that the young man contributed to the death of the victim and he was sentenced to 12 months' imprisonment. After serving four months, he was released. It is a common occurrence for the Government to grant a remission of sentence, but that is totally different from the charge levelled against the Government on this occasion. Though part of the young man's sentence was remitted, he received no pardon. A day or two ago the Minister for Justice was approached on a similar matter. It concerned a man who had been sentenced for blowing up some people at Morawa. It has been a common occurrence for Governments in this State to exercise such power. Why should the Premier have chosen that case for comment? There is no comparison between the two. He introduced it merely to hide the issue. We have been charged with introducing this matter as political propaganda. My reply is that we selected neither the time nor the offence. If there was any selection at all, the Government must accept responsibility for it. How can we be charged with having introduced the matter when the Federal elections were imminent for political propaganda? The Federal elections had nothing to do with it. The two things happened to synchronise. Members, therefore, may dismiss that contention from their minds.

The Minister for Lands: You did not know what to do until the Upper House moved.

Mr. LATHAM: We did the right thing. We asked for the tabling of the papers so that we could determine whether the Government had been justified in their action. We did not desire to do anything that was unfair. One thing that can be said for us is that we have not done anything unfair to the Government. We have a right to charge them with the offence we have alleged. If the Premier and his Ministers know that members of this House or of another place are flouting the law, they are bound by their oath to take action to compel obedience to the law. They should put the law in motion.

The Minister for Justice: Oh, you know a lot of instances.

Mr. LATHAM: I do not.

The Minister for Justice: There are lots of infringements, not sufficiently serious to warrant action.

Mr. LATHAM: Do they justify what the Government have done on this occasion? Does the Minister know of any member who, having offended, has asked for a pardon?

The Minister for Justice: They do not ask for a pardon because they have not been charged with the offence.

Mr. LATHAM: Does the Minister mean to suggest that there has been a law for members of Parliament and another law for other people? If he does, I say that is not so. That is wrong in principle, and we would never be a party to that being done.

The Minister for Justice: No one else has been charged with the offence.

Mr. LATHAM: But they have violated the law.

The Minister for Justice: But the matter has been too trivial to warrant a charge being made.

Mr. LATHAM: The Minister for Works has suggested that if this had happened in the case of one of the members on this side of the House, nothing would have been said. In the first place I could not imagine a member on this side of the House being pardoned. Although we have had 100 years of Government in Western Australia, and 44 years of self-government, this is the first time that the Royal prerogative has ever been used here. There is no need to rake up musty decisions and King's prerogatives 300 years old. We are living in a democratic age and hold democratic ideas, and follow a democratic policy. The Minister brought up the question of Cabinet dealing with these cases. We have always contended that courts of law should try them, not Ministers. If the Government felt that the courts were not doing their work properly, and were not adjudicating in the right manner in such cases, the Minister for Justice could refer the matter to a higher court. He could refer a case back, or could have a case dismissed. It has never been suggested that Ministers should accept that responsibility. Probably they are not competent to accept it and it is certainly not their duty. The Minister for Works also raised the question of the magistrate ruling that the Justices Act did not apply in this

case. The offence was committed under Section 181, Subsection 5, of the Electoral Act, and the person concerned was found guilty of exercising undue influence. The disqualification section is No. 184, and Section 186 provides for the punishment, and is where the fine of £20 comes in. Section 201 provides that all offences against the Act punishable by imprisonment exceeding one year are indictable offences, and the following section declares that all offences against the Act which are not indictable offences shall be punishable on summary conviction. As the penalty provided was £200 or one year, by Section 186 the matter came under the Justices Act. Section 170 of that Act provides for remission. It was suggested by Mr. P. Dunphy, counsel for the defence, that the Criminal Code should be used to enable Mr. Gray to be released under the First Offenders Act. Counsel quoted Section 669 of the Criminal Code. Mr. Greif, acting in behalf of Hughes, contended that that section could not apply. He was then asked to quote authorities, and the magistrate allowed an adjournment. When the case came on again for hearing, Mr. Craig, the magistrate, stated that even assuming that the offence in question was not excluded from the operations of that section of the Code, there were no special circumstances to bring it under that section. He was then referring to the Criminal Code and not to the Justices Act. Nothing could be done under the Code, and nothing that could be done under the Justices Act was sufficient to meet the case.

The Minister for Justice: It had nothing to do with the magistrate what the Government did.

Mr. LATHAM: But the Minister said this man was tried under the Criminal Code, whereas he was tried in a court of summary jurisdiction. It is surprising that some members will always lose their temper when discussing these questions. It was suggested that because there happened to be a public informer concerned in the case, he belonged to this side of the House. At no time did he belong to it. He has always belonged to the side represented by members opposite, and to-day he is secretary to a union. If he belongs to any party he must belong to the party opposite.

The Minister for Lands: He belongs to the Mental Nurses' Union.

Mr. LATHAM: The Government have put up no defence of their action. Whatever defence they have put up is a very weak one. What they should have done was to have brought down a Bill, and have this man released by legislative act.

The Minister for Works: Fancy trusting members of another place, who have themselves been guilty, to pass that legislation.

Mr. LATHAM: During the past 18 months two Bills have been brought down to provide legislative relief to a member of another place.

Mr. SPEAKER: I do not think the Leader of the Opposition is in order in introducing a new subject in his reply.

Mr. LATHAM: That is what the Government should have done. They have not put up any defence.

The Minister for Justice: It was a proper exercise of their duty.

Mr. LATHAM: It was not, and they have not justified it. Rather have they clouded the issue by trying to make this House the judges of a case which has already been decided before a magistrate.

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

Ayes	..	..	..	..	18
Noes	..	..	..	..	24
					—
Majority against	..	..	..	..	6
					—

#### AYES.

Mr. Brockman	Mr. Piesse
Mr. Ferguson	Mr. Sampson
Mr. Griffiths	Mr. Seward
Mr. Keenan	Mr. J. H. Smith
Mr. Latham	Mr. Stubbs
Mr. McDonald	Mr. Thorn
Mr. McLarty	Mr. Warner
Mr. North	Mr. Welsh
Mr. Patrick	Mr. Doney

(Teller.)

#### NOES.

Mr. Clothier	Mr. Moloney
Mr. Collier	Mr. Nulsen
Mr. Coverley	Mr. Raphael
Mr. Cross	Mr. Rodoreda
Mr. Cunningham	Mr. Sleeman
Mr. Hawke	Mr. F. C. L. Smith
Mr. Hegney	Mr. Tonkin
Miss Holman	Mr. Troy
Mr. Johnson	Mr. Wansbrough
Mr. Kenneally	Mr. Willcock
Mr. McCallum	Mr. Wise
Mr. Millington	Mr. Wilson

(Teller.)

Question thus negatived.

House adjourned at 10.23 p.m.

## Legislative Council,

Thursday, 6th September, 1934.

	PAGE
Leave of absence	467
Papers: Fire Brigades Board, dismissal and reinstatement of H. P. Phillips	468
Bills: Forests Act Amendment, 2A.	467
Mortgages' Rights Restriction Act Continuance, 2A.	468
Reduction of Rents Act Continuance, 2A.	470
Adjournment, special	471

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

### LEAVE OF ABSENCE.

On motion by Hon. J. Nicholson, leave of absence for 12 consecutive sittings granted to Hon. L. B. Bolton (Metropolitan) on the ground of urgent private business.

### BILL—FORESTS ACT AMENDMENT.

#### Second Reading.

THE CHIEF SECRETARY (Hon. J. M. Drew—Central) [4.38] in moving the second reading said: This is the usual annual measure necessary to ensure the continuance of previous amendments to Section 41 of the Forests Act, 1918. Section 41 provides that three-fifths of the revenue of the Forests Department shall be allocated to the reforestation fund.

Hon. G. W. Miles: We have heard that before.

The CHIEF SECRETARY: In 1924 sandalwood revenue was excluded from that fund, but provision was made whereby 10 per cent. of the revenue obtained directly from sandalwood, or £5,000, whichever was the greater, should be paid into a special sandalwood reforestation fund, and this procedure was continued until 1930. It was found that this money was not required for sandalwood purposes, and in 1930 a Bill was introduced and passed, authorising payment of the whole of the revenue from sandalwood to the Consolidated Revenue Fund. A continuance Bill for this purpose has been presented and passed each year since 1930, and the purpose of this measure is to continue that practice for another year. The balance remaining in the fund at present is £1,238, as compared with £2,827 last year.