The motion would then read—

That in the opinion of this House, in the national interest, leases issued under the provisions of sections 90 to 115 inclusive, of the Land Act, 1933-1956, be not renewed until—

(1) the Governor has appointed a committee of inquiry whose members shall in the opinion of the Governor be capable of making a report and a recommendation in regard to—

(a) the use, treatment and effective occupation of the areas comprised in the pastoral leases of the State;

(b) the condition of the country, its general prospect for permanent pastoral use and how it has been affected by droughts, erosion stocking and vermin during the currency of the existing leases;

(c) the desirability of making provision in the Land Act for a new system of determining the size of pastoral leases, maximum and minimum, whether held by individuals or companies;

(d) whether any new provisions or amended provisions should be made in the Land Act in regard to methods of appraisement of rentals, and the powers of the Pastoral Appraisement Board.

(2) Such committee shall report to the Governor and copy of report shall be laid upon the Table of both Houses of Parliament a reasonable time before any relevant amendment to the Land Act is introduced.

All I want to do, quite frankly, is to give Mr. Wise an opportunity to consider the purpose of this amendment. I assure him it is intended to help. It is to make clear that the Governor shall appoint; that the committee's report shall be made to the Governor, and that it shall be laid upon the tables of both Houses of Parliament. I do not wish to offer any complication, but the clerk has pointed out to me that I must move these amendments separately. Would you mind telling me, Mr. President, whether I will get the whole of the amendment moved or just one section of it moved? What I mean is, will the amendment appear in its new conception?

The PRESIDENT (The Hon. L. C. Diver): In my opinion, the Minister must get the agreement of the House to delete certain words before he can insert other words.

Debate (on amendment to the motion) adjourned, on motion by The Hon. W. F. Willesee.

House adjourned at 8.25 p.m.

Legislative Assembly

Tuesday, the 19th September, 1961

CONTENTS

CONTENTS—*continued*

The SPEAKER (Mr. Hearman) took the Chair at 4.30 p.m., and read prayers.

QUESTIONS ON NOTICE

UNEMPLOYED

Repossession of Goods and Loss of Homes

1. Mr. HAWKE asked the Attorney-General:

(1) What legislation, if any, is available to protect unemployed persons and their dependants against repossession of goods being purchased under hire purchase agreements?

(2) What legislation, if any, is available to protect unemployed persons and their dependants from losing possession of their homes because of inability to maintain instalments or rental payments?

Mr. WATTS replied:

(1) and (2) The Hire Purchase Act, 1959, affords protection to hirers generally, and (except under Commonwealth law, particularly the War Service Homes Acts) no person can be evicted from his home without a court order under the Supreme Court Act, 1935-1960, or the Local Courts Act, 1904-1958, whichever is appropriate; but there is no moratorium or other legislation at present in force specially protecting unemployed persons or their dependants from repossessions or evictions.

FORD MOTOR COMPANY

Motor-vehicle Assembly Work

2A. Mr. HAWKE asked the Premier:

(1) Is he aware that the Ford Motor Company plans, as from mid-November next, to carry out less motor-vehicle assembly work in Western Australia and that, as a consequence, up to 35 employees of the company will lose their jobs?

(2) If so, has the Government tried to persuade the company to abandon its plan; and, if so, with what result?

Mr. BRAND replied:

(1) I am aware that by mid-November the Ford Motor Company plans to carry out less motor-vehicle assembly work in Western Australia.

In the past it carried out a greater proportion than most others, but changed conditions in the industry have made a reorganisation necessary.

The number of employees involved in the reorganisation plans will be less than 35.

Twelve of the staff have been offered positions in Victoria at a better salary than at present and with free transfer costs.

Three or four on tractor assembly will be transferred to the firm which is to undertake this work locally.

The company expects to have all men affected by the reorganisation placed by the time of the change-over.

(2) Discussions have been held with the company from time to time to see whether alternative ways

could be devised. A special visit to this State by the Australian managing director was made for the purpose.

The company has found it impracticable to rearrange in a way which would have less effect. The number of men at Leighton will still be approximately 50 to 60.

For some months the company has been examining the prospect of producing certain Ford components for the whole of the Australian requirement of those particular components. Progress has been made, and the project would have been further advanced had not the recent restrictions in the motor trade intervened.

In addition, the company is investigating the possibility of processing components that would involve a high labour content with low capital expenditure.

This could prove more important to Western Australia than assembly.

GENERAL MOTORS HOLDENS COMPANY

Motor-vehicle Assembly Work

2B. Mr. HAWKE asked the Premier:

Is the General Motors Holdens Company carrying out more or less assembly work in Western Australia now than it was in September, 1960?

Mr. BRAND replied:

As far as is known, there is no change.

RAILWAY STANDARDISATION

Effect on Freight Charges in Western Australia

3. Mr. W. A. MANNING asked the Minister for Railways:

Will the deviation to the Great Southern Railway proposed under the standardisation scheme mean any increase in freights between Great Southern and more northerly stations?

Mr. COURT replied:

There will be no freight increases for these stations because of any extra mileages brought about by standardisation.

WATER FROM WELLINGTON DAM

Cost to Great Southern Towns

4. Mr. W. A. MANNING asked the Minister for Water Supplies:

(1) Will he advise—

(a) the water rate;

(b) the charge for excess;

for each of the Great Southern towns connected to the Wellington Dam?

(2) If there is any variation in the above charges, what is the reason for such in view of the fact that each town forms part of a combined scheme?

Mr. WILD replied:

(1)

Rating Zone	Rate in £	Rebate per 1,000 gallons	Excess Price per 1,000 gals. Domestic	Trading and Other
	s. d.	s. d.	s. d.	s. d.
Allanson, Cuballing, Highbury, Piesseville, Popanyinning, Woodanilling, Williams	3 0	4 0	3 0	4 0
Pingelly	3 0	4 0	2 6	2 6
Narrogin	3 0	4 0	2 6	2 6
Collie	3 0	4 0	20,000 at 1s. 6d., Balance 1s. 3d.	1 6
Brookton	3 0	4 0	2 0	2 0
Katanning	3 0	2 6	2 6	2 6
Wagin	3 0	2 0	2 0	2 0

(2) Brookton, Collie, Narrogin, Pingelly, Katanning, and Wagin, before being connected to the Wellington Dam scheme possessed their own town supply. The present water charges for these towns are the same as those that existed under the original supply, at the date of their being connected to the Wellington Dam scheme.

The question of uniform water prices is under active consideration at present.

RACING AND TROTTING LAWS

Responsibility for Enforcement

5. Mr. TONKIN asked the Chief Secretary:

(1) Whose is the responsibility to ensure that the Western Australian Trotting Association and the Western Australian Turf Club faithfully observe the provisions of the respective laws under which they are established and allowed to operate?

Enforceability of Trotting By-law 94 and Racing Rule 93

(2) Are the following by-law of the Western Australian Trotting Association and Rule of Racing of the Western Australian Turf Club enforceable?

Western Australian Trotting Association By-law 94.

In the event of the Stewards ordering a race to be run over again, the totalisator shall be closed so far as the first attempt is concerned, and shall

be reopened on the second attempt, and treated as on a distinct race, the money in each case to be paid out on the winner of the final event.

Western Australian Turf Club Rule of Racing 93.

In the event of the Stewards ordering a race to be re-run, the totalisator shall be closed so far as the first attempt is concerned, and shall be reopened in the second attempt and treated as on a distinct race and so on until the race is finally run and the aggregate of the moneys paid in on every attempt shall be paid out on the winner of the final attempt.

(3) In view of his dictum that by-law 94 of the Western Australian Trotting Association has no application to any race being "re-run" but applies only to races which are being "run over again," is it his opinion that rule of racing 93 of the Western Australian Turf Club applies only to any race being "re-run" and does not apply to any race being "run over again"?

(4) If this is his opinion, is it not most remarkable that the Western Australian Turf Club should have no provision in its rules or by-laws covering races being "run over again" although providing for races being "re-run," whereas the Western Australian Trotting Association has no provision for races being "re-run" but does provide for races being "run over again"?

Trotting Meeting at Richmond Park: Re-run of Race

(5) Does he not agree, on reflection, that by-law 94 and rule of racing 93 are intended to cover exactly similar circumstances and no distinction can be drawn, so that the former does apply to the incident at the trotting meeting at Richmond Park on the 19th August in the same way as Rule of Racing 93 would have undoubtedly applied had the incident in question occurred on a galloping course?

Mr. ROSS HUTCHINSON replied:

(1) The Chief Secretary administers the Acts mentioned but does not determine disputes between statutory bodies and members of the public, which should be determined by courts, if necessary.

(2) Yes.

(3) to (5) The incident to which the honourable member refers relates to a trotting event on the 19th August, to which the W.A. Turf Club rules do not apply. I consider that reference to such confuses the issue.

In accordance with the previous undertaking, I sought and obtained legal opinion and conveyed this to the honourable member verbally in this House and in writing. Any aggrieved person who wishes to dispute that advice may take such legal action as he may be advised to take. However, for the information of the honourable member and in order that the position may be further clarified for him, I propose to table my papers concerning the matter. I would suggest that from these papers it will be evident that, in the circumstances, the Trotting Club has endeavoured to discharge its functions properly and in the interest of all concerned, and that there is no need for action by me.

The file was tabled.

TOTALISATOR AGENCY BOARD BETTING ACT

Section 41: Contravention

6. Mr. TONKIN asked the Minister for Police:

(1) Is he aware that every race-day employees of the Totalisator Agency Board are contravening section 41 of the Totalisator Agency Board Betting Act by accepting bets after the notified starting time of the race and that the Act provides a penalty of two hundred pounds for this offence?

(2) If it was not intended by the Government that section 41 of the Act be observed, for what reason was it included?

Mr. PERKINS replied:

(1) No.

(2) It is intended that section 41 be observed and the purpose of this section is to prevent a bet being placed and/or received with a knowledge of the result.

"JUDGMENT OF DEATH"

Times Recorded

7. Mr. EVANS asked the Attorney-General:

How many times has the "judgment of death" been recorded—that is, ordered to be entered on the record—under the provisions of section 657 of the Criminal Code?

Mr. WATTS replied:

In the last fifteen years, three times.

NARROGIN HOSPITAL

Completion and Opening Dates

8. Mr. W. A. MANNING asked the Minister for Health:
   (1) When will the new Narrogin hospital be ready for occupation?
   (2) Has a date been set for the official opening?

   Mr. ROSS HUTCHINSON replied:
   (1) Early December, 1961.
   (2) No. But discussion will be held with local interests as to a suitable date.

BORDEN-RAVENSTHORPE ROAD

Sealing and Bituminising

9. Mr. HALL asked the Minister for Works:
   (1) How many miles of road between Borden and Ravensthorpe remain to be sealed and bituminised?
   (2) When is it expected that the section to be bituminised will be sealed and bituminised?

   Mr. WILD replied:
   (1) 89 miles remain to be sealed. Six miles of this length have been primed only.
   (2) Probably some years.

SOUTH COAST HIGHWAY

Sealing and Bituminising Between Walpole and Manjimup

10. Mr. HALL asked the Minister for Works:
   (1) How many miles remains to be sealed and bituminised on the South Coast Highway between Walpole and Manjimup?
   (2) When is it contemplated that sealing and bituminising of the South Coast Highway, between Walpole and Manjimup, will be completed?

   Mr. WILD replied:
   (1) 36 miles remain to be sealed, but nine miles of this length have been primed only.
   (2) Priming with bitumen will be completed to Walpole by April, 1962. The nine miles referred to will be sealed. Consideration will be given to the provision of funds on the 1962-63 programme of works to complete the sealing by February, 1963.

SCHOOL BUSES

Number Under Contract, and Inspections

11. Mr. HALL asked the Minister for Education:
   (1) How many school buses operating are under contract to the Education Department and in what areas are they operating?
   (2) Are school buses which are under contract to the Education Department inspected to see that they carry out the terms of the contract; namely, buses to be painted orange colour, and carry signs bearing the words "school bus," front and rear, in letters not less than four inches?

   Mr. WATTS replied:
   (1) 520 in various districts of the State.
   (2) Yes. Some buses under contract which are also used for public transport have not been compelled to comply with this provision.

WORK FORCE

Women and Men: Percentages, and Cessation of Employment

12. Mr. HALL asked the Minister for Labour:
   (1) What percentage of the Western Australian work force are women, all ages?
   (2) What percentage of women left their employment for the years 1959-60 and 1960-61, including retirement, retrenchment, and dismissal?
   (3) What percentage of the Western Australian work force are men, all ages?
   (4) What percentages of men left their employment for the years 1959-60 and 1960-61, including retirement, retrenchment, and dismissal?

   Mr. PERKINS replied:
   (1) According to figures supplied by the Government Statistician, excluding wage earners in rural industries, female private domestics and defence forces personnel, the percentage of W.A. female civilian employees to the total of W.A. civilian employees as at the 31st July, 1961, was 25.9 per cent.
   (2) This information is not available.
   (3) According to figures supplied by the Government Statistician, excluding defence force personnel and wage earners in rural industries, the percentage of male civilian employees to the total of civilian employees in W.A. as at the 31st July, 1961, was 74.1 per cent.
   (4) This information is not available.

BEE-KEEPERS

Notification of Toxic Spraying

13. Mr. HALL asked the Minister for Agriculture:
   (1) Do farmers and spraying contractors notify the agriculture authority when and where they intend to spray crops in flower with toxic sprays?

(2) Are bee-keepers notified by the department, contractors, or farmers, that they intend to use toxic sprays in the area so that they can confine the bees to the hives or shift them to safer areas?

(3) Are bee-farmers compelled to register with the department; and, if so, how many full-time and part-time bee-farmers are now operating in this State?

Registration with Department

(4) How many bee-farmers were registered with the department for the years 1958, 1959, and 1960?

Mr. NALDER replied:

(1) No.

(2) No.

(3) Yes.

Full-time bee-keepers (over 200 hives)	65
Part-time and amateur bee-keepers (less than 200 hives)	617

(4) 1958—729.
1959—727.
1960—682.

DESTITUTE PERSONS

Monetary Assistance from Child Welfare Department

14. Mr. FLETCHER asked the Premier:

(1) Is he aware that the Government, through the Child Welfare Department, grants monetary assistance to widows, deserted wives, and other persons in destitute circumstances?

(2) Is he also aware that some of the families assisted are paid in cash and others by cheque through the Treasury Department?

Duty Stamp Payments, and Fines

(3) Does he approve of the Commissioner of Stamps writing to these Child Welfare Department cases who are paid by cheque, and who have omitted to affix a penny stamp to such cheque, demanding that they pay the one penny plus a fine of 10s. to cover expenses?

(4) In view of the fact that many of the recipients of Child Welfare assistance would not know what a revenue stamp represented, and unless the State is bankrupt, will he issue instructions immediately for the persecution to cease?

(5) Where the fine has already been paid, will he give instructions for the amount to be refunded?

Mr. BRAND replied:

(1) Yes.

(2) Yes.

(3) to (5) Fines were imposed in a number of cases due to lack of proper identification of the nature of the payments. Action has been taken to prevent a recurrence and to refund fines already paid.

SPEEDING OFFENCES

Fines During July and August

15. Mr. OLDFIELD asked the Minister for Police:

How many drivers have been fined for speeding offences, during the months of July and August, 1961, respectively, committed whilst driving—

(a) cars, utilities and vans;

(b) trucks up to 7 ton capacity;

(c) trucks over 7 ton and up to 13 ton capacity;

(d) trucks over 13 ton and up to 20 ton capacity;

(e) trucks over 20 ton capacity;

(f) motor buses?

Mr. PERKINS replied:

Speeding convictions were as under:

July	572
August	573
Total	1,145

These figures include all types of vehicles, including motor cycles. The department does not keep separate statistics in the classifications desired by the honourable member, as the keeping of such would entail extra staff and the information is never normally required.

HELENA RIVER BRIDGE

Renewal

16. Mr. BRADY asked the Minister for Works:

(1) Are any plans being arranged to renew the bridge over the Helena River at Swan Street, East Guildford?

(2) If the answer is "Yes," can he state when the present single track bridge will be removed?

Mr. WILD replied:

(1) Plans have not yet been arranged for the renewal of this bridge, but the Main Roads Department has listed the site for survey and investigation.

(2) Answered by No. (1).

WEST MIDLAND-EAST GUILDFORD ROAD WORK

Provision of Footpath

17. Mr. BRADY asked the Minister for Works:

(1) Has any provision been made for construction of a footpath between West Midland and East Guildford during the proposed main road work in that area?

(2) If the answer is "No," will he request the commissioner's sympathetic consideration with respect to providing a footpath for those people who for various reasons have to walk to and from the above points?

Mr. WILD replied:

(1) No. The provision of footpaths is the function of the local authority.

(2) Answered by No. (1).

MARSHALLING YARDS AT KEWDALE

Construction of Workshop

18. Mr. JAMIESON asked the Minister for Railways:

(1) Is it proposed to build a workshop to maintain the standard gauge rolling-stock and locomotives in conjunction with the marshalling yards at Kewdale?

Commencement of Work

(2) As the area around the proposed marshalling yards at Kewdale is now stagnating, can he indicate when a start can be expected on these marshalling yards?

Mr. COURT replied:

(1) The requirements at Kewdale in respect of the maintenance of standard gauge rolling-stock and locomotives are in the planning stage, but facilities will be provided as circumstances dictate.

It is likely that any installation at Kewdale would only be in the nature of a loco. and wagon depot for servicing purposes between trains.

(2) It is expected that a commencement will be made within two years.

PRIMARY SCHOOL FOR HAZELMERE

Requirements for Provision

19. Mr. BRADY asked the Minister for Education:

(1) Has any consideration been given to providing a primary school at Hazelmere?

(2) What is the required number of children to justify provision of such a school in the Hazelmere area?

Mr. WATTS replied:

(1) Yes; but it is considered that Hazelmere is provided at the present time with adequate schooling facilities.

(2) If areas within three miles of existing schools are not considered to have adequate schooling facilities the Minister may, at his discretion, establish a school where there is an assured average attendance of over 20 pupils.

GUAYULE RUBBER

Latest Developments

20. Mr. BICKERTON asked the Minister for Agriculture:

What are the latest developments regarding experiments with guayule rubber plants?

Mr. NALDER replied:

Department of Agriculture officers have reviewed all trials carried out, and from the results believe it is unlikely guayule can be grown as a commercial crop in Western Australia. Some investigations are continuing to elucidate the very poor results so far obtained.

An officer of the Department of Agriculture, now visiting the U.S.A., has been instructed to spend some time inquiring about the growing of guayule in the U.S.A.

SUPERANNUATION AND FAMILY BENEFITS FUND

Credit, Annual Commitments, and Government Contributions

21. Mr. HEAL asked the Premier:

(1) What is the amount standing to the credit of the Superannuation and Family Benefits Scheme Fund as at the 30th June, 1958, 1959, 1960, and 1961?

(2) What were the annual commitments to the 1938 Superannuation Fund in respect of pension payments for the above four years?

(3) What has been the Government's commitments to the fund for the same years?

Mr. BRAND replied:

		£
(1)	1958	4,735,699
	1959	5,336,227
	1960	6,028,520
	1961	6,860,460
(2)	1958	92,871
	1959	105,671
	1960	119,549
	1961	144,686
(3)	1958	669,748
	1959	807,955
	1960	838,038
	1961	913,749

COPPER MINING

Government Assistance

22. Mr. KELLY asked the Minister representing the Minister for Mines:

(1) What financial assistance has been rendered to copper projects by the Government in the—
(a) Murchison;
(b) North-West;
(c) Phillips River;
(d) other areas?

(2) In what years was this assistance rendered?

Mr. ROSS HUTCHINSON replied:

(1) and (2)

(a) Murchison:
Thaduna Copper Mining Company—Peak Hill.
£12,000. Approved on the 12th August, 1960.
Note.—A further loan of £8,000 has been recommended.

(b) North-West:
Francis Joseph Kelly—Nullagine.
£1,000. Approved on the 9th March, 1961.
Stuart Henry Stubbs—Marble Bar.
£5,400. Approved on the 7th February, 1953.

(c) Phillips River:
Ravensthorpe Copper Mine No Liability.
(1) £40,000—Bank guarantee (New South Wales Bank) for housing. Issued by bank on the 19th October, 1956.
(2) £100,000—Bank guarantee (New South Wales Bank) current account—working capital. Issued by bank on the 9th May, 1958.
(3) £15,000—Direct advance from General Loan Fund for housing. Approved on the 16th June, 1960.

(d) Other Areas:
Northern Minerals Syndicate —Widgiemooltha.
£15,000. Approved on the 16th January, 1961.
Note.—This is a gold-copper mine. Money was advanced for development work (shaft-sinking, cross-cutting, winzing, rising and driving).

LAND RESERVES

Total Area

23. Mr. KELLY asked the Minister for Lands:

(1) What is the total area of all land held in reserve in Western Australia, and for what specific purpose held?

Areas Held by Government Departments, etc.

(2) What area is held by the following departments—
(i) Forests;
(ii) Public Works;
(iii) Mines;
(iv) Fisheries;
and for—
(a) flora protection;
(b) fauna reserves;
(c) parks and reserves;
(d) pastoral;
(e) agricultural purposes;
(f) other headings?

Area Held by Local Authorities

(3) What is the total area vested in local authorities?

Mr. BOVELL replied:

(1) The total area of land reserved for all purposes, and including State Forests, at the 30th June, 1961, was 59,945,010 acres.

(2) (i) The area held as State Forest or timber reserves under the Forests Act, as at the 30th June, 1961, was 6,122,734 acres.

(ii) to (iv) Separate records for each of these departments have not been kept.

(a) to (c) The total area reserved for the purpose of national parks, flora and fauna is 3,150,693 acres.
Separate figures for each purpose are not available, but a schedule of these reserves is available.

(d) No land is held in reserve for "pastoral" purposes. Generally, land considered suitable for pastoral leasing has been selected, although further investigation as to the potential of vacant areas—particularly in the Eastern Division—may result in additional areas being advertised for pastoral leasing.

(e) No land is held in reserve for "agricultural" purposes. Vacant Crown lands within the "safe" rainfall belt are being classified and made available from time to time.

(f) —

(3) No record has been kept showing the total area vested in local authorities.

TRANSCONTINENTAL RAILWAY

Relief from Tourist "Bottleneck"

24. Mr. JAMIESON asked the Premier:

(1) Has any recent representation been made to the Commonwealth Government to have the tourist "bottleneck" of the transcontinental railway overcome?

(2) If so, what was the result?

(3) If not, would he make representation to the responsible authority for some immediate relief from this tourist-limiting problem?

Mr. BRAND replied:

(1) Yes. This has been the subject of constant consultation. At the Tourist Ministers' Council earlier this year, I secured the support of all Ministers for a resolution recommending a more frequent service.

(2) The regular service has been increased from five trains weekly to six trains weekly during August, September, and October this year. In addition, the Commonwealth operates a special wildflower train between Port Pirie and Kalgoorlie weekly, making the equivalent of a daily service.

A daily service in both directions will operate from the 7th December, 1961, to the 2nd February, 1962, while double consists, representing the equivalent of another two trains weekly—or, in all, nine trains weekly—will operate during December and the first half of January.

The position is being closely watched to determine the extent to which the demand for berths exceeds the supply.

(3) Answered by Nos. (1) and (2).

TIMBER ROYALTY

Concessions to Settlers

25. Mr. ROWBERRY asked the Minister for Forests:

(1) When were the timber royalty concessions to settlers brought into operation, and under what conditions do they operate?

(2) What is the nature of the concessions, and have they any standing in law?

(3) If not, is it the intention of the Government to give the concession legal standing?

(4) If the answer to No. (3) is "No," what are the reasons for not so doing?

Mr. BOVELL replied:

(1) Where, under the Land Act, timber is reserved to the Crown, the Government, in 1954, approved of a refund of portion of the royalty on timber removed from properties after the 1st March, 1953.

The refund of portion of the royalty received by the Forests Department is subject to the following conditions—

(a) That the property has been continuously held for a period of five years;

(b) that the farmer is actively working the property;

(c) that the property has been improved to 50 per cent. in excess of the improvement requirements under the Land Act.

(2) Subject to compliance with conditions as per No. (1), refunds have been made at the following rates—

(i) From the 1st March, 1953, until the 30th June, 1959, 5s. per load, or 50 per cent. of the royalty — whichever amount is the lesser.

(ii) From the 1st July, 1959, 8s. per load, or 50 per cent. of the royalty — whichever is the lesser.

(3) Answered by No. (1).

(4) No change in the present arrangement is contemplated.

SUPERPHOSPHATE

Increased Output

26. Mr. W. A. MANNING asked the Minister for Agriculture:

On the 7th September, in reply to my question, it was stated that all superphosphate works can increase output (presumably without building extension). To a further relative question on the 12th September the reference is made to present-day construction costs, but such would not be necessary according to the first reply. Would he now advise to what extent output at each of the works can be increased without further extension of the works?

Mr. NALDER replied:

This information is not available to the Department of Agriculture.

Towns Supplied from Picton

27. Mr. W. A. MANNING asked the Minister for Agriculture:

(1) Would he advise the reason for supplying Kojonup with superphosphate from Picton (rail distance 123 miles) while Williams (111 miles) is not included in the Picton Zone?

(2) What other places beyond 111 miles are supplied from Picton?

Mr. NALDER replied:

(1) Picton Junction works were established to serve a defined railing zone of the south-west. Sidings adequately served from metropolitan works were excluded so as to avoid added cost which would result from duplication of capacity.

(2) Places beyond 111 miles supplied from Picton besides Kojonup (119) are Northcliffe (128) and Nookanellup (133).

REDISTRIBUTION OF SEATS

Costs of Court Action

28. Mr. TONKIN asked the Treasurer:

(1) As the failure of Ministers of the Government to carry out their legal duty to advise the Governor to issue a proclamation directing a redivision of electoral boundaries caused the plaintiffs to approach the court to ensure that Ministers observed the law, is there not a moral obligation on the Government to meet a substantial proportion of such of the plaintiffs' costs which comprise the difference between the amount awarded by the courts and the actual bill of costs which they are required to pay with respect to the original action and the Government's appeal to the High Court of Australia?

(2) What was the amount of the Government's own costs in relation to its application to the High Court for leave to appeal against the judgment of the Full Court of this State?

(3) As the Government has decided that, although the costs which have to be met have resulted from a dereliction of duty by Ministers, the State will pay, will he, as Treasurer, similarly relieve the plaintiffs of the financial burden which the court actions imposed upon them?

Mr. BRAND replied:

(1) and (3) The Government does not consider that public funds should be applied in treating the plaintiffs mentioned more favourably than other successful litigants who may have to bear some portion of the total legal costs they incur.

(2) £200 15s. 0d. and £145 7s. 6d. for Eastern States counsel. The account from the local firm of solicitors has not yet been received.

STATE HOUSING COMMISSION

Tenders for Homes

29. Mr. JAMIESON asked the Minister representing the Minister for Housing:

(1) What were the respective average tenders received by the State Housing Commission for two, three, and four-bedroom houses built in the metropolitan area during each of the last five years, of similar design, in—

(a) brick veneer;

(b) brick;

(c) timber frame?

Tenders for Fences

(2) What were the respective average tenders per foot for the erection of open paling dividing fences in the metropolitan area during each of the last five years for—

(a) six foot;

(b) five foot?

Mr. ROSS HUTCHINSON replied:

(1) In recent years the State Housing Commission has erected group houses of only 3-bedroom, or 2-bedroom and sleepout, of similar design in the metropolitan area. The average tender price for which contracts were arranged by the Commission has been as follows: —

(a) Brick Veneer:

	1957	1958	1959	1960	1961
	£	£	£	£	£
House Type (a)	2,423	2,380	2,307	2,434	2,408
" " (b)	2,400	2,376	2,321	2,369	2,376
" " (c)	2,372	2,378	2,346	2,372	2,383
" " (d)	*	2,251	2,273	2,340	2,358
" " (e)	*	2,235	2,287	2,338	2,389

* Similar design not built in these years.

(b) Brick:

Over the five years relatively few group brick houses have been built so that comparative cost figures would be inadequate. Further, in 1958, 1959, and 1960 no brick group houses were built.

(c) Timber-framed:

	1957	1958	1959	1960	1961
	£	£	£	£	£
House Type (a)	2,187	2,194	2,113	2,292	....
" " (b)	2,181	2,107	2,140	*	....
" " (c)	2,237	2,244	2,263	*	....
" " (d)	*	*	2,160	2,247	....
" " (e)	*	*	2,169	2,220	....

* Similar design not built in these years.

No timber-framed groups built to date this year.

(2) The commission does not call separate tenders for fences except in very rare circumstances. Fencing is included in the tendered price for the erection of the house. The figures given are average of tender prices accepted by the commission, and the figures do not include price of land, interest and administration charges, and certain fittings provided by the commission.

BILLS (3): INTRODUCTION AND FIRST READING

1. Totalisator Agency Board Betting Act Amendment Bill.
2. Betting Control Act Amendment Bill.
   Bills introduced, on motions by Mr. Perkins (Minister for Police), and read a first time.
3. Fisheries Act Amendment Bill.
   Bill introduced, on motion by Mr. Ross Hutchinson (Minister for Fisheries), and read a first time.

FRUIT CASES ACT AMENDMENT BILL

Third Reading

Bill read a third time, on motion by Mr. Nalder (Minister for Agriculture), and transmitted to the Council.

COOGEE-KWINANA (DEVIATION) RAILWAY BILL

Third Reading

MR. COURT (Nedlands—Minister for Railways) [4.54 p.m.]: I move—

That the Bill be now read a third time.

MR. JAMIESON (Beeloo) [4.55 p.m.]: Unfortunately, I was absent when the second reading of this Bill was before the House; and therefore, before the third reading is agreed to, I would like to say a few words on the measure. I consider that deviations of this nature in a railway are extremely bad so far as overall planning is concerned. In this State we have been fortunate to have had the services of Professor Gordon Stephenson to advise us on town planning, particularly overall planning for the metropolitan area. Therefore if, from time to time, we find that we have to alter the plans we will have all over the place scallop-style railways, particularly in those places where they are serving heavy industries.

I take the opportunity at this stage to ask the Minister to approach our town planners—if he has not already done so—with a view to their having a further look at those areas in which big industries are situated to ascertain where the railway can be most usefully placed without being involved in any expense of deviation.

It is true that in this instance the expense, to some extent, will be offset by the company concerned, but that does not detract from the general purpose of town planning; namely, that there shall be orderly town planning with areas set aside for heavy industry.

If railways are to be altered and deviated from time to time this will get away from the concept of orderly town planning. I therefore ask the Minister to assure us that in future all areas reserved for heavy industrial projects will be so planned and designed that the necessity of repeating an operation such as this will not recur.

MR. COURT (Nedlands—Minister for Railways) [4.58 p.m.]: In answer to the member for Beeloo, I can assure him that this deviation is being made only because it is inescapable. If we do not agree to it, a site which is ideal for this alumina refinery will be completely useless for that purpose because the existing railway line and road go right through a vital part of the refinery area. The design has been submitted, and it was only after we were convinced that it was inescapable that we agreed to the deviation. I know these moves are annoying, but I cannot give any assurance on my own behalf or on behalf of any Minister that will occupy the office of Minister for Railways in the future that deviations such as this will not be necessary from time to time.

It is, of course, the modern concept to try to design an area from the point of view of town planning so that future access, whether it be by rail, road, or other means, is provided. For instance, an attempt at least is always made to try to ensure that railway sidings can be provided for the various industries without causing undue dislocation. Here again, however, circumstances arise where an industry of unprecedented size—such as this one—comes along, and an attempt has to be made to provide a siding without causing some dislocation of the traffic pattern.

As I explained to the House last week, the Government has set up an expert committee of top-level officers to examine the whole of this Kwinana-Cockburn area, so that the Government can try to avoid some of the problems that are now arising. This instance has arisen quite unexpectedly, partly due to the fact that this type of industry was not envisaged for this particular location.

I can assure the honourable member that it is the aim of the town planners to try to guide the Government of the day as to the future design of such areas, so that railways and main road arteries can be constructed without the need for subsequent deviation. I would point out that the deviation on this occasion is not very substantial. It will cause some inconvenience, but not a tremendous amount. I understand it presents no great engineering problem for the Main Roads Department, to enable it to conform to the general pattern of the railway deviation.

The honourable member did raise the question during the second reading debate on the alumina refinery Bill as to whether the refinery should be located on the coast. Here again the matter was the subject of

very careful examination by the company, in consultation with the Government. The economics of production was so much in favour of establishing the refinery on the coast that we could not dispute the merit of the refinery being located in its present position. Once we accepted the principle that it ought to be located on the coast for very good technical reasons, we had to accept the proposition that the refinery area must have direct access to the wharves.

Question put and passed.

Bill read a third time and transmitted to the Council.

METROPOLITAN (PERTH) PASSENGER TRANSPORT TRUST ACT AMENDMENT BILL

Third Reading

Bill read a third time, on motion by Mr. Perkins (Minister for Transport), and transmitted to the Council.

COMPANIES ACT AMENDMENT BILL

Second Reading

Debate resumed from the 14th September.

MR. NULSEN (Eyre) [5.3 p.m.]: This is a Bill to amend the Companies Act, and to rectify a long-standing anomaly in the legislation. It is beyond my understanding how that anomaly has remained for such a long period without being discovered. It was nearly 70 years ago, in 1893, when the anomaly was first created. No-one seems to have apprised any person in authority of this fact, although all the transactions in regard to the companies covered by the Bill were quite lawful.

A Royal Commission was appointed to inquire into the Companies Act in this State, and it operated from February to July, 1941. The present Attorney-General was a member of that Royal Commission—and a very valuable member, because he was a lawyer and knew much about company law. I do feel it is regrettable that the Government was not made aware of the anomaly before this time. It was overlooked in all the evidence that was presented to the Royal Commission by highly experienced people in the State—lawyers, accountants, and businessmen of high standing. They must have thought at the time that there was nothing unlawful in this respect. However, in the meantime, much revenue has been lost by the Companies Office by way of registration fees.

This anomaly has been peculiar to Western Australia, because in the legislation of all the other States there is a provision under which foreign insurance companies have to be registered. In view of the desire to have uniform company law in Australia, this State has to bring itself into line with the other States. Before a uniform companies Bill can be passed, the measure before us has to be dealt with.

The Bill makes it mandatory for any company or foreign company that carries on the business of life assurance, and any company or foreign company formed for the purpose of carrying on the business of banking to register under the Companies Act. Of course they must also comply with the laws of this State. This Bill will end the financial immunity of such companies from making a contribution to this State by way of registration under the Companies Act.

I cannot see any objection to the Bill. The only regrettable fact is that I was not made aware of the anomaly when I was Minister for Justice. I could not be expected to know about it; because, firstly, I am not an accountant; and, secondly, I am not a legal practitioner. I am not blaming anyone for this oversight. I suppose the same remarks apply to the present Attorney-General. Probably he would not have known about the anomaly had the proposed uniform companies law not been advocated. I regret the anomaly was not corrected 60 years ago; if that had been done the Companies Office would have received much more revenue.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

CRIMINAL CODE AMENDMENT BILL

Second Reading

Debate resumed from the 14th September

MR. HAWKE (Northam—Leader of the Opposition) [5.10 p.m.]: The main provision in this Bill deals with the punishment to be meted out to persons found guilty of wilful murder, and also to persons found guilty of the lesser charge of murder. Under the amendment proposed to be made to the Criminal Code by this Bill, a person who commits, or a person who is found guilty of, wilful murder would be liable to the punishment of death. A person found guilty of murder would be liable to imprisonment with hard labour for life; that is, the term of his natural life. Such a sentence, once imposed, should not be capable of being reduced to any shorter term except in the special circumstances where the Royal prerogative of mercy is made to apply.

The part of the Bill which deals with the Royal prerogative provides that where a person is sentenced to imprisonment for life, then the Royal prerogative shall not operate unless such person has served a period of 15 years of the sentence. There is a qualification to the serving of this minimum term of 15 years. It deals with a proven miscarriage of justice, or a situation in which the serious ill-health of the prisoner deems it proper for the Royal prerogative of mercy to be applied in a shorter period than the 15 years, if a prisoner has received the sentence of life imprisonment.

From the point of view of members on this side of the House, the Bill goes some distance in line with our policy, but only some distance. On the use of the Royal prerogative of mercy it can be said that fairly solid argument can be presented in favour of the existing system. This system allows the Government of the day to take action in Executive Council to apply the Royal prerogative of mercy at any time. I think there have been instances in the past—and I am sure there will be in the future—where in all the circumstances of a particular case it was unreasonable to postpone the application of the Royal prerogative of mercy for 15 years from the date of sentence. So it is my view, and I think the view of members on this side of the House, that the existing system would be preferable to the one proposed in this Bill.

MR. GRAHAM (East Perth) [5.15 p.m.]: First of all, I want to thank the Leader of the Opposition for filling the breach. I arrived a few seconds after the call had been made in connection with this Bill. Let me say at the outset that I find nothing in this measure about which I can wax enthusiastic.

Broadly, it covers two matters, the first dealing with persons who have had their motor-vehicle driver's licenses taken from them by an order of the court, and it enables persons in the categories specified in the Bill to make application to the court for restitution of their driving licenses. No doubt, members can envisage cases and circumstances where such a course might be warranted, but we must bear in mind that the persons affected are drivers of vehicles where death has been caused, or the use of a vehicle dangerously driven has been responsible for death of a victim, where there is a charge of manslaughter or murder preferred against the subject driver.

I now pass to what I regard as the important portion of the Bill; namely, that respecting the death penalty. With all due respect to the Attorney-General, I sympathise with him in his submission of this measure, because I would hazard a guess, based on earlier statements, that he is by no means happy or satisfied with it. As a matter of fact, I go so far as to say that this is an appeasement Bill—a Bill which contains a certain number of words, but in actual practice does virtually nothing. It has no operative effect; it has no bearing whatsoever in respect of the death penalty as related to treason, to piracy, or to wilful murder.

In other words, it deals with the offence or crime of murder only. But here again, I say it very largely merely plays with words, as from my researches in the last 50 years, there has only been one person executed in Western Australia when found guilty of the crime of murder—and, from memory, that was in the year 1952. So it will be seen, apart from that unhappy case, if this law had been in operation for the last 50 years, it would have had an effect upon one person only. Therefore, I draw the conclusion that this alleged reform is of no material consequence.

At the same time, if it results in curbing the decision of a Government which shows some preferment for the hangman's noose, then the Bill will have been worth while, but very definitely it will not satisfy me. I remember that last year, when I introduced a Bill to abolish the death penalty completely from the statute book of Western Australia—and as members are aware subsequently on account of ill-health and absence it was impossible for me to pursue that measure—in his reply to my introduction of the Bill, the Attorney-General told us on the 21st September as follows:—

> The Government has decided to have a review made of the Criminal Code in respect of the sections which are covered by the Bill . . . it is intended to make substantial changes.

As I have already pointed out, this Bill virtually conforms with what has been standard practice over the years.

Before proceeding, I would like to make comment on observations made in certain sections of the Press; and, indeed, by some members of this Chamber—albeit in conversation—that there seems to be a certain delight in chiding Opposition members and those to whom the death penalty is repugnant, on the fact that prior to the most recent execution in Western Australia there were no protests; and as I followed it, the thought behind those observations was that because that was, shall I say, a particularly unsavoury case, those who favoured the abolition of the death penalty decided that discretion was the better part of valour and accordingly considered no action should be taken or that no comment should be made.

But I would point out that both in respect of that case and the previous execution a year or so earlier the Opposition made no statements or protests whatsoever prior to the hangings taking place, with perhaps the exception that the Leader of the Opposition was invited to

participate in a television feature that was put on immediately prior to the execution being held.

However, I can assure everybody that there is no diminution or lessening of my enthusiasm to persevere until such time as this great relic of barbarism is completely expunged from the statute book. When I introduced the measure last year, in his summing up of my remarks the Attorney-General enumerated the points which I had made, as he saw them, and which I feel, by and large, there is no need for me to repeat on this occasion. I quote his words:—

(1) That the taking of human life with the sanction of the law is abhorrent, and should find no place in modern civilisation.

(2) That capital punishment is irksome and repugnant to many sentient beings in our midst, and the Legislature should have regard to the public conscience.

(3) That there is a trend throughout the world towards the elimination of the death penalty.

(4) That the death penalty is not a deterrent.

(5) That the death penalty causes a reluctance on the part of juries to find a true verdict on the evidence.

(6) That the death penalty is contrary to the teachings of religion and Christian principles.

(7) That all murderers are persons suffering from some degree of insanity (whether observable or not).

(8) That the law should be directed solely to the detention, treatment, and reform of murderers.

(9) That there is no such thing as degrees of murder.

To that summary of my submissions last year, may I add the following:—

(10) That it inflicts unnecessary mental anguish on the family of the executed person.

(11) That it has a detrimental effect upon those required to be in attendance at the execution.

(12) That it has a distressing effect upon others in the vicinity, such as warders and prisoners.

Mr. Bovell: It also had a depressing effect upon the poor little girl.

Mr. GRAHAM: That is something which is agreed; and a thousand hangings will not overcome that situation. I would have thought that it is time we passed from the eye for an eye and tooth for a tooth philosophy; that we are civilised people; that we are an enlightened people; that there is some progress being made by man upon this earth. After all, progress is being made in other parts.

Mr. Bovell: That was a shocking case, and the murderer did not deserve to live.

Mr. GRAHAM: That was so—the murder of any person is a shocking thing; and nobody condones it, and nobody shows any sympathy for the culprit. It is a matter of disagreement with the form of punishment that should be meted out.

Mr. Bovell: It was a shocking crime.

Mr. GRAHAM: From 1949 to 1953 a Royal Commission appointed by the British Government investigated the matter of murder and the death penalty, not only throughout the length and breadth of Britain, but throughout Europe, the United States, the Southern American States, and the British Commonwealth. On page 23 of the report of that Royal Commission, a copy of which is here in the records of Parliament House, this is one of its findings:—

> The general conclusion which we have reached is that there is no clear evidence in any of the figures we have examined that the abolition of capital punishment has led to an increase in the homicide rate or that its reintroduction has led to a fall.

So I say that if there were an argument in favour of this brutal form of punishment by a Government—by a Crown authority—that it acted as a deterrent, however abhorrent to us, there might be some justification for its retention. But as this authority—after some four or five years' investigation—found it was no deterrent, then I say there are no grounds whatsoever for a retention of this means of inflicting punishment upon lawbreakers, however serious be their crime.

No member of the Opposition, and no advocate of the death penalty would suggest that the taking of human life deliberately is anything but a heinous offence; but I repeat that we quarrel with the method of inflicting a punishment upon the offender.

Mr. Bovell: Any person who commits a crime like that of Fallows does not deserve to live.

Mr. GRAHAM: I do not know from which portion of the Bible or Christian teaching the Minister for Lands draws that conclusion. Render unto Caesar the things which are Caesar's, and unto God the things that are God's; or something of that nature. Yet here we are pretending or presuming that we have the right to take human life! If we believe in God, surely we believe that the life of a human being is something which is reposed in Him.

Mr. Bovell: You do not believe in war, then?

Mr. GRAHAM: Most definitely I do not!

Mr. Bovell: Apparently not even to protect a way of life.

Mr. GRAHAM: When I introduced the Bill for the abolition of the death penalty I quoted numerous countries throughout the world; and I do not intend to do that this afternoon. Reference can be made to *Hansard* of that time. I did mention, however, that the death penalty had been abolished in New Zealand and, for a reason which I was unable to ascertain, it had been reintroduced. I have since written to New Zealand to discover the reasons therefor, and they may be of interest to members.

In 1941 the Government introduced legislation to abolish capital punishment in New Zealand. It was repealed by another Government in 1950. Amongst other things, the Minister for Justice, when he was chided on the question of murders committed during the period when there was no death penalty, had this to say—

> I confess that if all that I had to guide me in coming to a decision on this question were the statistical records, I should hesitate to support this Bill, but I emphasise that I am disregarding the statistics altogether for the purpose of the case that I am making out.

In other words, there was a Minister in New Zealand in the year 1950, comparable, we might say, with the Minister for Lands in Western Australia who irrespective of the evidence and the experience gained over the years of the taking of human life, and the fact that it has been demonstrated in so many cases in the world over such a long period of years, that this penalty does not act as a deterrent, would not be satisfied or prepared to change his mind.

Mr. Oldfield: He is a sadist.

Mr. GRAHAM: I have the figures available here for reference. They show that notwithstanding the war years and immediate post-war years, when a greater degree of brutalities was to be expected—even to the degree of murder—the number of murders per year, even disregarding an increase in population, scarcely altered.

So I say there was no justification whatever for the reintroduction of capital punishment in New Zealand. It was merely following, no doubt, an outcry by a certain group, or acting in accordance with party policy. But in Western Australia it is not, so far as I am aware, part of the political platform of any party that there shall be a law inflicting capital punishment by hanging or by any other means.

Perhaps I can advance my case by quoting from the *Australian Law Journal* of the 23rd June, 1960. The following appears in that publication:—

> Today the death penalty survives in only four countries of Western Europe: Britain, the Irish Republic, France, and Spain; and in practice it is invoked with increasing rarity both in the United States and in the States of the Commonwealth.

In Queensland, capital punishment was abolished by law in 1922—nearly 40 years ago—and, indeed, there have been no executions in that State since the year 1913—before quite a number of members of this House were born; yet in that State, on a population basis, the number of murders has fallen. I think I would be right in saying that it would be a generation or more since the last execution took place in New South Wales.

It is true to say that as the peoples of the world have become more civilised, there has been this trend towards the abolition of the death penalty. I pointed out last year that only a few short years ago in Britain there were some 200 offences for which the death penalty could be invoked. Today there are scarcely any; and, indeed, I would say that for the majority of murders and wilful murders committed in Western Australia, no death penalty would apply in Great Britain; because in that country the law was recently amended in consonance with and in sympathy with decisions being made throughout the world.

However, here in Western Australia we apparently prefer to drag our feet behind other nations. One would have thought that a young pioneering country such as this would assume the initiative—because surely we should be more venturesome—in drawing from the experience, and the facts, and the statistics of other countries, in order to guide us.

The West Australian of the 22nd June contained an article headed as follows:—

> Canada Takes Steps to Abolish Hanging.

It is true that in Canada legislation did not go as far as I would desire. But I insist that this is the trend throughout the world; and I think I would be right in saying that the more uncivilised, the more barbaric, and the less Christian is any country, the greater is the frequency of hangings and the taking of life by the State.

The trouble with advocates or supporters of capital punishment is that they choose to judge the culprit, the guilty person, as being a person having a normally balanced mind—somebody who deliberately and maliciously has gone out of his way to take the life of another; or who was in possession of his full faculties and in full

regard of the law, but who decided to take the risk or to ignore the law for his own selfish or fiendish ends.

I think it can be amply demonstrated—as was mentioned in the summary of the case given last year—that it is not a normal reaction of a civilised human being wilfully to take the life of another; and even though we do not understand the mechanism of the mind, as surely as night follows day there is some disease or derangement of the mind that has caused that person to act so violently and in such an anti-social manner.

I had the good fortune to watch a television feature which was presented during the past few weeks. To some extent it was the life story of a Dr. Pinet of France who, during the 18th century, made a study of the mind. His knowledge at that time would have been far less than that attained by medical science in this year of Our Lord 1961; but it gave, in graphic pictures, the situation in France—which was common in other parts of the world—when he arrived on the scene. It told how persons who were mentally deranged had been placed in dark cellars, and had been allowed to rot without seeing the light of day for 10, 20, 30, and 40 years; where, from time to time, hoses were played upon them.

Those unfortunate persons were regarded as animals, or as being possessed of witches, or something of that nature. Medical science and people generally, at that stage, did not understand; and the people rose in protest against Dr. Pinet, and attempts were made to assassinate him, and all the rest of it.

We have advanced since those times—not only in France, but in every other country. We realise that people whose minds are not completely normal behave in all sorts of extraordinary ways; and a most unsatisfying yet educating excursion could be taken by a member of Parliament to the Claremont asylum. There would be all sorts of spectacles to be witnessed; and it would be seen how, in so many different ways, persons are affected by and reveal the results of a diseased mind or some mental deformity.

There is no suggestion of being cruel or inhuman to those persons, or of locking them away or ill-treating them. We do our utmost to restore them to health. But if a person becomes extraordinarily violent, and completely loses control of his temper to the point of excess and to the point of taking the life of another person or persons, instead of applying a formula of treatment and sympathy and nursing the person back to health if possible, we, through our statute book, say that a person, or persons, in that category, shall be hanged by the neck until dead.

In other words, we in Western Australia, in 1961, are saying things almost parallel with what the authorities in France said 150 years ago. But at that time there was somebody who had an idea; and who practised his idea; and it worked. If we were to abolish capital punishment, there would be no pioneering element here, because of the action taken in other parts of the world; but it would show that we have a practical Christian trait in our make-up and that we translate our better feelings into documents which we call the statutes of Western Australia.

Members are aware that alcohol has the effect of interfering with the better workings of the mind. That is something which we are able to understand. We see a person in his normal demeanour and behaviour. He indulges indiscreetly and becomes a changed personality. Sometimes he becomes belligerent; sometimes he becomes sullen and morose; some become exceedingly talkative, and others exceedingly silent; some become merry and jocular; some become emotional; some tearful; and so on. We therefore see that, by the injection of alcohol into the bloodstream, people react in all sorts of different ways; and that a change takes place in the course of a couple of hours or so.

Yet, for some unaccountable reason, we seem unable to give credence to a person who is affected—not through alcohol, but through circumstances: a diseased mind; an accident in his youth; some psychological defect caused by a domestic disturbance; some business worry; jealousy, passion, or anything else—in such a way—not in talkativeness; in emotion in a general sense; and perhaps not in a jocular way—and to such an extent that he goes to the excess of taking the life of a fellow being. That poor wreck of a human being, bereft of his senses for however short or long a period shall—says the State—be hanged by a public hangman. To me that does not make sense. It does not add up to my concept of civilisation in the 20th century.

It is true that on occasions killings do occur for reasons of revenge, for gain, and so on; and, in some instances, there is premeditated long-range planning. But for a person to ponder the matter—think about it day after day, and perhaps week after week—surely that indicates that a person's mind is even more unbalanced. That person's mind is not normal, and for a period of days, or weeks or months, he is affected by this deformity or weakness; and he is able slowly but calculatingly, and surely, to go about this rotten business of plotting the death of a certain person who might stand between him and the goal he seeks to achieve.

I should like to quote from *The West Australian*. It was shortly after World War 2; but, unfortunately, I have not got the date of the issue in which it appeared. The article reads—

> Nazi Leader Ley's Brain Disease "Going on for Years."
>
> Washington, Jan. 18—The American Associated Press says that scientists of the Army Institute of Pathology

who examined the brain of Dr. Robert Ley, the Nazi Labour Front Leader, have reported that a long-standing brain disease was sufficient to have impaired Ley's mental and emotional faculties.

Extensive studies of the brain of Ley, who directed the seizure of German trade unions, helped to conscript German youth for labour and sought to pump Nazi philosophy into all German workers, showed that the mental disease process had been going on for years, the scientists said. The brain disclosed a degenerative process of the frontal lobes which control the emotions and thinking and, while the cause of the degeneration remains obscure, it was definitely not caused by bacteria. The degeneration, however, was of sufficient duration and degree to have impaired Ley's mental and emotional faculties and could well have brought about his aberrations in conduct and feeling.

The report said that the impairment of the brain from which Ley suffered usually made the victim lose his sense of relative values. Such an individual was usually given to self-glorification and might even become infantile in conduct.

This person hanged himself while awaiting trial; and because of the disease of his brain he had become, shall I say, less than a human being. Such a person is to be sympathised with: he should have had some medical treatment many years before. But, unfortunately, authority or society was not in a position, or did not desire to do anything about it.

I have had correspondence from a number of quarters, and there is one letter part of which I should like to quote. Unfortunately the correspondent uses the name of the Premier, but by way of illustration and in no derogatory sense. It was a thoughtful letter of several pages; and, incidentally, the correspondent is strongly in favour of the abolition of the death penalty. He said—

A friend of mine was all in favour of hanging; I asked him if he did not think that had the brain of Thomas—

and here I regret using any names because I did not want anything that I might say to be influenced by any single case. However, it is the correspondent that cites it and he goes on to say—

—been removed intact, just before the crime, and placed in the skull of, say, Mr. Brand, that the new possessor of that brain would have done exactly as Thomas did. He agreed that it was very likely "but then Mr. Brand would have really been Thomas." Exactly! But when I asked why he thought the same brain in the head of Thomas had the power to act differently, he was nonplussed.

There is quite a deal of medical evidence adduced by this person; but the point he is endeavouring to make is that if a person has a diseased brain, and if that same brain were in the skull of you, Mr. Acting Speaker, me, or anybody else, as like as not we would react and behave in exactly the same manner; and yet because a person is unfortunately possessed of that diseased or deformed mind we can, through the ignoble process of hiring somebody, do away with his life.

I mentioned on a previous occasion that the relatives of a person who has lost his life through murder do not want vengeance in the form of further life being taken. In the case of Tapci, I think I mentioned that the father of the murdered man was one of the first to sign the petition for the death sentence to be commuted to life imprisonment.

I should now like to quote from the *Daily News* of the 21st June, this year. The article dealing with trial of the murderer of a man named Davis, reads as follows:—

The judge told Mrs. Davis to take the stand and then said to her:

"Mrs. Davis, I have the power to send this defendant to the electric chair in spite of the life imprisonment recommendation of the jury . . . What do you think I should do?"

The dead man's widow looked at the short, pale, dark-haired defendant.

"I personally feel I cannot ask anyone to take the life of another human being," she said in the silent, tense court room, the New York Journal *American* reported. "I do believe this is a very sick young man. I do not believe he should be executed."

So I think it would be untrue to say that the relatives of a man who has been murdered call for vengeance in the form of an execution to be perpetrated upon the wrong-doer; but that, on the other hand, they appreciate, however sad and grievous the loss, that no good is or can be achieved by the State going through this process.

It is true to say that errors are made by courts. We all like to believe that the evidence has been sifted so thoroughly that there is no prospect whatever of that occurring; but we find—and I quote from *The West Australian* of the 20th July this year, under the heading of, "Freed after 25 Years"—

New York, Wednesday: A convict was told today that he would be freed after 25 years in prison, because a court ruled he was wrongly convicted of murder.

Even in our own country, Australia, we find the same sort of thing; and I quote from *The West Australian* of the 8th September this year—

> Sydney, Thursday: The Crown is studying new evidence suggesting that a Sydney woman is innocent of a murder for which she has served nine years of a life sentence.

If the Government of New South Wales nine years ago had felt that the death penalty should be imposed, look what could have happened. This is the case of a woman who was allegedly slowly killing her husband deliberately and maliciously by administering poison over a period of years. Surely with the way the law of Western Australia stands at present such a person in this State would have been hanged. Then it would have been too late to do anything about a miscarriage of justice.

I quote those two cases of recent vintage to indicate that even where it is felt that there is an absolute certainty, facts and circumstances later arise, or could arise, to prove that an error has been made.

There are still a few more points I want to mention, and I hope the Government will allow me an extension of time because of the circumstances that arose. I will merely put a proposition forward and undertake that I will be as brief as I possibly can be, as I feel that my time is now drawing to a close.

Surely it is obvious to all of us that there is something repugnant, even to a Government which believes in hanging, because any Government, anywhere—and I am not pointing the accusing finger at this Government—goes to the greatest pains possible to shroud the whole business of hanging by the State in all the secrecy and anonymity that it is possible for a Government to ensure; and it refuses to reveal the name of the executioner, the name of the persons who are in attendance, the fee that is paid to the person concerned, and the manner in which the executed person dies.

All these things are held as being something that should not be talked about and something that should not be generally known. If it were a question of being a deterrent, surely as much detail as possible should be made available to the public, and the prouder the Government should be that it has brought to book a most heinous offender against the law; that it has given effect to its policy of taking his life and that this is a warning to all others who contemplate some similar action.

The ACTING SPEAKER (Mr. Crommelin): The honourable member has another five minutes.

Mr. GRAHAM: Thank you, Mr. Acting Speaker. In such circumstances one would think that the Government would say that this was a deterrent to those who might give thought to and ultimately give effect to the taking of another human life. But I want to emphasise the point that at no time has anybody suggested that a murderer should go scot-free, that he should escape punishment, or that he should be turned loose among the public generally. He should be restored to health; and if that is impossible he should be kept where he can do no damage to society.

Mr. Ross Hutchinson: What if he can be restored to health? What would you do with him?

Mr. GRAHAM: He should be released after he has served a period as a normal, sane citizen, without any equivocation.

Mr. Ross Hutchinson: So as soon as he is cured.

Mr. GRAHAM: Not necessarily; because we impose periods of imprisonment upon offenders even when we know that they are possessed of their full faculties. There would be a period; and I will come back to the time factor presently, if the Government is gracious enough to allow me to continue to that point.

I would say to the Government that I think we can all learn something from this: that there is no public reaction or outcry against the Government when we read that in respect of a murder the Government has decided to commute the death sentence to one of life imprisonment. I do not know of petitions or resolutions or where people have got excited about that; but the moment the Government decides that the full rigour of the law should take its course then, and then only, we find that people in many walks of life—they are not cranks; some of them are our greatest thinkers and students, disciples of religion, and so on—take action to try to prevent it. They are in the van of any move to ensure, if possible, that there shall be no repetition of legalised killing by the State.

In that regard it is interesting to record the signatories to a note which I think was distributed to all members of Parliament last year when we were considering the Bill which, unfortunately, did not reach a conclusion. If I am permitted I shall read the signatories to the letter which was sent to members of Parliament asking them to vote for the abolition of the death penalty in Western Australia. It was dated the 12th September, 1960, at Perth, and these are the signatories—

> Dame Florence Cardell-Oliver.
>
> Professor Walter Murdoch.
>
> Professor A. C. Fox, Department of Philosophy, University of W.A.
>
> Professor F. R. Beazley, Dean of the Faculty of Law, University of W.A.
>
> Wilfred Dowsett—Senior Lecturer in Economics, University of W.A.

Alan Williams—Department of Engineering, University of W.A.

Mr. E. K. Braybrook—Senior Lecturer in Law, University of W.A.

Mr. Eric Edwards—Department of Law, University of W.A.

Prof. Alex King—Department of English, University of W.A.

Mr. Phillip Parsons—Department of English, University of W.A.

Dr. R. B. Lefroy—W.A. Medical School University of W.A.

Rev. John Bryant—Congregational Minister of Perth.

Rev. Dr. Frank Nicholls—Moderator of the Presbyterian Church in W.A.

Rev. Murray Savage—Church of Christ Minister of Perth.

Rev. Maurice Lee—Baptist Minister of Perth.

Rev. T. Brian MacDonald—Dean of St. George's Cathedral, Perth.

Rev. Ralph Sutton—Methodist Minister of Perth.

Rev. Rabbi L. Rubin Zacks—Chief Minister of Orthodox Jewish Synagogue, Perth.

Rev. Rabbi George W. Rubens—Chief Minister of Liberal Jewish Synagogue, Perth.

The ACTING SPEAKER (Mr. Crommelin): Order! The honourable member's time has expired.

Extension of Time

Mr. J. HEGNEY: I move—

That the honourable member's time be extended.

Motion put and passed.

Mr. GRAHAM: I thank members for their indulgence. To continue with the names—

John M. Wheeldon—Solicitor of Perth.
John Henshaw—Solicitor of Perth.
V. J. A. O'Connor—Solicitor of Perth.
John Birman—Educationalist.
L. Wilkinson—Society of Friends.
Mary Durack—Writer.
B. M. Rischbieth O.B.E.—J.P.
Irene Greenwood—Broadcaster.
E. C. Gare—Company Secretary.

It will be seen that these people are citizens of some substance; of some culture; of some experience; and their thoughts are contained in the letter addressed to members of this Parliament. Of course there could have been scores, indeed hundreds, of more notable persons in Western Australia; and I think it will be found that the great majority are in favour of the abolition of the death penalty.

It is true that there are reactions in the opposite direction following the commission of the more serious type of murder—though, of course, all murders are serious—where there are unsavoury circumstances; or particularly where a child is involved. But that is a passing phase; just as I might perform an act or say a word in the heat of the moment, whereas in my calmer thoughts my reactions would be exceedingly different.

I come now to consideration of the Bill. I think I have indicated sufficiently to show that this Bill means nothing to me, and virtually nothing to anybody else in its present form; and that, in order to make it an effective document, in order to allow us to proceed in the direction in which the rest of the world is going, this measure should provide for the complete abolition of capital punishment, be it murder, or wilful murder. It is my intention to move along those lines when we come to the Committee stage of the Bill.

I do not like the provision that has been inserted to the effect that the Royal prerogative shall not be exercised for a period of 15 years. I feel this is something that should be left to the discretion and good sense of the Government and members of the Government as advisers to His Excellency. I do not wish to spend any great time on it except to say that my studies—and therefore my conclusions—are fortified by the conclusions of the British Royal Commission, which makes some reference to terms of imprisonment; and whilst it is some 12 months or so since I last read that rather lengthy document, if my memory serves me right—as I am sure it does—it was pointed out that authorities the world over have shown, and experience has shown that if there is a prison sentence in excess of 10 to 12 years, after that time deterioration sets in.

In other words, if it is proposed that a person should be released, and he is capable of being released, then it is a better thing that it should occur after 10 years, rather than after 15 or 20 years; because at the expiration of the longer period there is the chance of a much more anti-social and a much more bitter individual being cast upon society as a whole.

With those thoughts, and on the earlier premises, I feel it is something that should be determined by the Government on the merits and the facts of each case, rather than that we should write into the statute a provision that there should be no intervention, or no Royal prerogative, until after a period of 15 years. After all, the policies of Governments change, and we are aware of the difficulties of amending legislation because of the bicameral system that is in existence.

If a person is not well enough to be allowed his freedom after 10, 15, or 20 years, the obvious thing to do is to retain him in captivity for the protection of society. The stage will probably have been reached where we cannot do anything useful to make this person a member of society. But we can look after him in a decent, humane, and Christian

way; and we can do our utmost to restore him to health, however impossible the task may seem.

When we consider some cases that are in the Claremont Asylum at the moment, we know that they are treated as human beings, even though we are aware of the fact that they are unable to think, or co-ordinate their activities, or anything else; they are just lumps of human flesh and little else. Some of the people who breach our laws are in almost a comparable state.

I am convinced that the majority of members in this Chamber are in favour of the abolition of capital punishment. I repeat: No member who sits on the Government side is bound by an election pledge; or is bound by the platform of his party, to support capital punishment. We on this side of the House—and there is nothing extraordinary about it—have the item included in our platform; and we are bound by it. As far as I am aware, and as far as I have been able to ascertain, there is not a single member on this side of the House who does not inwardly, as a person, believe in this reform; apart altogether from the requirements of the pledge he signs when he undertakes to become a Labor member of Parliament.

Mr. Roberts: How long have you believed in the abolition of capital punishment?

Mr. GRAHAM: All my life.

Mr. Roberts: Then why is it that the Hawke Government did not bring forward any legislation while it was in office from 1953 to 1958?

Mr. GRAHAM: The same question was asked of me last year. Shall I say I was remiss, and that perhaps the Government and its members were remiss in not taking any action to amend the law; but we had the certain knowledge that while we were the Government—and with the anticipation of being there longer than we were—there would be no executions carried out in Western Australia. I would plead guilty to the fact that I did not push this matter or use the vigour that might have been necessary in this direction. But this is 1961, and we are now dealing with a Bill which impinges on capital punishment; and here and now is the time to do something about it.

Mr. Tonkin: One might ask why the Attorney-General did not introduce a similar Bill in 1950.

Mr. GRAHAM: I am endeavouring to finish before tea, and I would like to make these few points in conclusion. In my view this Bill makes no advance on the previous position, because the possibility of a person being hanged when he is found guilty of murder, in contradistinction to wilful murder, is so remote as to be without substance, virtually; and this is based on the experience over the years.

I object to the provision in the Bill which takes away the Royal prerogative for a period of 15 years. I object to the provisions of the Bill because they still leave Western Australia a "hanging State"; and my regret is that Western Australia could not be the first to get away from this black stain which still rests on its statute book. I protest that this Bill does not make progress with the times. No words of mine need be heeded, but a study of the gradual development taking place from one end of the world to the other will indicate the trends towards the abolition of the death penalty. Surely Western Australia should join in that movement. I would like to see Western Australia out in front. This Bill certainly does not take us any degree forward in achieving that desirable objective.

The concept of this Bill indicates a failure to measure up to the concepts of mercy, the exercise of restraint, and the objective of treating a person who suffers some frailty, some weakness, or some condition. Even at best this Bill leaves us with a relic of the dark ages, where a horrible, loathsome, frightened character masks himself and grabs his victim, irrespective of how heinous the offence, takes him to a place, and puts a rope around his neck, and, after certain words are spoken, pulls a lever.

To my mind that is a dreadful, rotten business; it is something which decent, educated people should not tolerate for a moment longer than is possible. Here is our chance and our opportunity. I say —and perhaps this Bill in the very short distance it goes is indicative of the world-wide trend—that the civilised world is moving progressively to the day when the State will not take the life of a human being under any circumstances. We all look forward to the day when even international conflict will be a thing of the past. However, we are now dealing with civil laws; and I say emphatically that the death penalty in Western Australia will be abolished. It might be abolished in 1971, 1981, or in 1991, but it certainly will be abolished, because that has been the inevitable trend over the past couple of hundred years, not only in British countries, but in every other country of the world.

Yet we continue to go through this process without considering the feelings of the innumerable people who may be affected directly or indirectly; of others like myself, perhaps tens of thousands, who are tormented with the mental picture of what goes on in Fremantle gaol. Why should we go through with all this when we know that the death penalty will disappear within a measurable space of time? I say now is the time and now is the opportunity.

Let us take advantage of this Bill before the House. I would hazard the guess that the Attorney-General was perhaps not as

enthusiastic about the contents of the Bill as he would have liked to be. It does indicate, however, that the Government is moving; but I would emphasise that it is moving too slowly, and that the Bill achieves virtually nothing.

I hope members on the Government side will vote according to their consciences; according to history; and according to the figures of world-wide opinion. If the amendments I propose to submit are voted upon on that basis, I have no hesitation in saying that instead of the death penalty disappearing in 1971, or 1981, or 1991, it will disappear in 1961; and I will be the first to give all the credit due to those members of the Government who support such a move, and make such a reform possible.

Sitting suspended from 6.15 to 7.30 p.m.

MR. NULSEN (Eyre) [7.30 p.m.]: I thought I would like this House and the general public of Western Australia to know exactly where I stand in regard to capital punishment. I was Minister for many years, and I do agree with the policy of the party to which I belong.

I believe that the death penalty should have been abolished many years ago. I agree with all that my leader had to say and also with the speech made by the member for East Perth. He has gone into the matter very thoroughly, having done quite an amount of research on the subject; and I am quite sure he was sincere when he said he believed the death penalty should have been abolished years ago. I do agree that the trend is in that direction. We are gaining a better understanding.

I know of several men who could have been hanged, but today they are at liberty. One of them I know very well, as does the member for Vasse. This person is highly respected in every way, and I always go to see him when I get an opportunity to do so. Another one I knew before he got into bother. He was a very good chap; and today, having been freed, he holds a very high position, and is greatly respected by those with whom he works and by those for whom he works.

Therefore, I feel that as far as capital punishment for murder is concerned, the trend has been in the right direction. I believe that the Attorney-General feels the same way as I do—that there should be no capital punishment. I know that there is many a person who has got into bother because of action taken on the spur of the moment. Probably he has been very hasty in his temper and has done something he should not have done; but who in this House has not done something he should not have done? I do not think there is any one here who has not done something. Even our shorthand writer, who looks kindly in every way, has doubtless done something she should not have done, as have I. However, neither she nor I have committed murder.

The speeches made on this subject so far have been of a very practical nature; and I know that the Attorney-General is sympathetic and is inclined, as I am, towards reform. I do not believe there is anyone who cannot be reformed if he has his full mental faculties. I know that while I was Minister, this was proved many times. I know of a couple in prison today, and I am perfectly satisfied that if they were released they would not commit any further crimes.

I do not know of any instance where a person who has been committed for trial and sentenced to death, and subsequently released, has upon release committed any further crime. I do not think the Attorney-General can tell me of one either, other than an instance which occurred before I came into office. The person concerned was released in Western Australia and was later apprehended in the Eastern States and hanged.

I do not believe that hanging is a deterrent. That has been proved very conclusively. As the member for East Perth pointed out, it has been proved throughout the world.

The portion in this Bill which I do not like is that relating to the division of murder into two categories—murder and wilful murder. I know there is a difference; but both are murder. Murder is murder whether it is deliberate or not. Who is to say that a person should hang for wilful murder and not for murder? Who is the one to decide? When all is said and done, we know that the members of the judiciary are fair and just in every way, but they are only human beings, and many mistakes have been made in the past. Many an innocent person has been hanged; and once this has occurred there is no redress.

It is the state of mind, or conditions, or circumstances that prompt a person to commit murder. I do not want anyone to feel that I am not sympathetic towards the victims and their relatives. I am; and therefore believe that a person who commits murder should be very severely punished. It has been proved very conclusively that although people have committed murder they can be reformed. Therefore I would sooner retain the present conditions so far as hanging is concerned than depart from them in accordance with the provisions laid down in this Bill.

I will admit that this Bill is a trend in the right direction. However, we would be much better off to look at it from a reform point of view. The hardest people to convince that reform is necessary are sometimes the learned and highly educated men.

Although the member for East Perth mentioned a number of learned men who were not in favour of capital punishment, I found from my own personal experience that the reverse was the case in many instances.

The aim of the courts and of any Government should be towards reform, but not capital punishment. Capital punishment is a thing of the past. I remember reading that years ago people were hanged for killing a sheep. At one time they were even hanged for stealing a sheep. If someone went on to a property in England in the early days and poached, he would be hanged; but not today. I am not saying that is because we are better civilised. We have a better understanding and reasoning.

Mr. Tonkin: People are hanged in some countries today if they disagree with the Government.

Mr. NULSEN: Yes. That has happened in Turkey today; but I hope our Deputy Leader of the Opposition does not classify us in that category, and believe that because someone does not have the same political outlook as we do, he should be hanged.

Mr. Watts: His life would have been forfeit in the last 20 years if we were in that position here.

Mr. NULSEN: I am not going to say very much more. I want people of Western Australia and the members in this House to know I am definitely not in favour of capital punishment. If it would save people or would be a deterrent I would be; but I say definitely it has been proved conclusively to me that it is not a deterrent. I do want to stress that although I am not in favour of capital punishment I am in favour of severe punishment. I think murderers should be kept in prison until it is quite certain that they are reformed.

I do not like the idea of the Government's prerogative being dispensed with. After all, a Minister cannot have a criminal released. He can only make the recommendation. Therefore it is the responsibility of the Government—or, in other words, the Executive Council—to decide; and I think it is pretty safe to leave it that way. I know that when I submitted recommendations in this connection, a severe examination was made, and sometimes I was castigated for some of the recommendations I made, because I was not agreed with.

I will conclude by saying that I am not in favour of capital punishment. I am also not in favour of a reduction of the Government's prerogative. I think it should be retained in full. I repeat that I am definitely in favour of the policy of the party to which I belong. I say this because I do not want the people of Western Australia to believe otherwise. I feel they may believe that although I was Minister for a long time I made recommendations only because of the policy of the party to which I belong.

I hope the Attorney-General will not insist on his Bill; but if he does I hope that he will delete the portion dealing with wilful murder, and will give further consideration to the reduction of the prerogative that Governments now hold. For those reasons, I do not support the Bill; but I feel I should say that I am pleased to find that the trend is the way of my thinking; but it does not go far enough. I do not like the division into categories of murder and wilful murder. I think one is nearly as bad as the other: it is just a matter of the state of mind.

Sometimes, too, circumstantial evidence is very dangerous. I know of people who have been found guilty of wilful murder on circumstantial evidence. I also know of innocent people who have been hanged as a result of circumstantial evidence; and once they are hanged they can have no reprieve. I know that if at times we went to the relatives of a murdered person and asked them if the murderer should be hanged or reformed, we would find that those relatives would not be in favour of hanging, although they would be in favour of some severe punishment.

I am aware of a case at Collie—I knew the people personally; and the man concerned is still in prison—where the convicted person could easily have been hanged. I feel that one day he will be released and that he will be a very good citizen. All of the criminals, that I know of, who have been released for murder and wilful murder, have become good citizens and have done their part in the development of this huge State. I do not agree with the Bill, but only with a portion of it; and I am emphatically opposed to capital punishment.

MR. EVANS (Kalgoorlie) [7.47 p.m.]: Somewhat unlike my colleague, the member for Eyre, I do support the Bill, but only a portion of it. I am whole-heartedly in favour of the abolition of the death penalty wherever such penalty applies in our Criminal Code. Therefore I give my unqualified support to any move to remove the death penalty from our laws.

Prima facie my first thoughts in regard to the Bill—and I believe those of a great many other people interested in this subject were the same—were that this was a great piece of reform. My initial response to the introduction of the Bill was that it was possibly the greatest reform I had seen introduced in this Chamber. But my views on the subject changed somewhat when, upon examination, I found that the death penalty was still to be retained for wilful murder, piracy, and treason.

Speaking of treason, if you will allow me to say so, Sir, in passing, it is obvious that this crime is also covered under the

Commonwealth Crimes Act. It would appear that because Western Australia is part of the Commonwealth of Australia, and the government of Western Australia is vested in the Crown, there is a division of the Crown; but it is still the one Crown: that is, it is the Crown in the right of the Commonwealth; or, as we classify it in Western Australia, the Crown in the right of the State.

My point is that if the crime of treason was committed in Western Australia, it is my opinion that the Crimes Act is the one under which the penalty would be inflicted upon the offender.

Mr. Watts: I think you are probably right, too.

Mr. EVANS: Looking at the Bill, there are two provisions I see in it: one relating to the abolition of the death penalty in certain circumstances; and the other allowing the right of a person charged with an indictable offence—where the use of a motor vehicle is an element—to appeal to a judge of the Supreme Court, under similar circumstances to those now prevailing under the Traffic Act whereby the right of the driver to have his license reinstated absolutely or under certain conditions, is possible. In passing, I do support that particular provision; and I would like to concentrate my remarks on the provision applying to the abolition of the death penalty for murder.

I asked a question and was given an answer today in relation to the number of times the Supreme Court—or a judge thereof—has ordered that the judgment of death, in contradistinction to the death sentence, has been recorded under the provisions of section 657 of the Criminal Code. I was informed that in the last 15 years, the recording of the death penalty has been made on only three occasions. Section 657 of the Criminal Codes provides—

> The sentence to be pronounced upon a person who is convicted of a crime punishable with death is that he be returned to his former custody, and that, at a time and place to be appointed by the Governor, he be hanged by the neck until he is dead: Provided that when a person is convicted of any crime punishable with death, except treason and wilful murder, if the Court is of opinion that, under the circumstances of the case, it is proper that the offender should be recommended for the Royal mercy, the Court may, if it thinks fit, direct the proper officer, instead of asking the offender whether he has anything to say why sentence of death should not be passed upon him, to ask the offender, and thereupon such officer is to ask the offender, whether he has anything to say why judgment of death should not be recorded against him.
>
> In any such case the Court may abstain from pronouncing sentence of death, and may, instead thereof, order judgment of death to be entered on record.

Mr. Watts: Read the next bit.

Mr. EVANS: Very well —

> And thereupon the proper officer is to enter judgment of death on record against the offender in the usual form, as if sentence of death had actually been pronounced by the Court against the offender in open Court.
>
> A record of a judgment of death so entered has the same effect in all respects as if sentence of death had been pronounced in open Court.

There is a distinction, however. This section, as I understand it, operates as a recommendation, from the trial judge to Executive Council, for the Royal mercy. The point I am trying to make—and I think the Attorney-General appreciates this—is that the Bill does not go far enough. In this section of the Criminal Code, we find that the recommendation for the Royal mercy may, if the court thinks fit, be given in any case other than a case of wilful murder or treason. In other words, the recommendation can be made in the case of piracy. I feel that piracy has been equated with murder in the Criminal Code, but piracy has not been equated with murder—or the penalties have not—in this Bill. I would like to see the elmination of the death penalty from all the offences to which it now applies.

Progressing from that point, as far as I know or have been able to ascertain, there has been only one occasion in many years—possibly during the last 50 years—where a person has been hanged when the sentence of murder has been imposed on him. I am open to correction on that statement, but I feel that only one person sentenced to death for murder has had the sentence carried out. In the light of that examination, it would seem that this reform is not as great as one would at first imagine, and as I personally imagine, and as I feel a great many other people did; because I felt it was a wonderful reform. It is, of course, a wonderful reform, but I feel it does not go far enough.

I wish to mention, briefly, a controversy that has arisen only this year in relation to a case that was heard by the House of Lords in England. The result of that case has been the subject of a comparison with another case heard in the High Court of Australia a few years ago, when there was equal controversy. These two cases are the case of Smith, and the case of Smythe. I hope I can associate Smith with the right court, and Smythe with the right court.

From memory, I think that the Director of Public Prosecutions v. Smith was heard by the House of Lords, and that the other case—the Queen v. Smythe—was heard in the High Court. In the Smith case, the story is briefly this: A police constable apprehended the driver of a motor vehicle and asked him to slow down and halt on the suspicion that the driver was conveying some goods which, possibly, the policeman reasonably suspected had been stolen. The policeman jumped on the running board of the vehicle and started to interrogate the driver. Possibly his questions became rather leading, and the driver without any warning accelerated and the car shot forward. The policeman tried to hang on, and the driver swerved the car in fairly heavy traffic. As a result, the policeman was thrown off and was killed, not by the car which had thrown him, but by some other traffic which came on afterwards.

The driver of the vehicle that had thrown this constable was charged with wilful murder, and he was found guilty. He appealed to the Court of Criminal Appeal in England, and the conviction was quashed; but because the case was one of great interest, the Attorney-General—not the Western Australian Attorney-General; I feel he would not have done such a thing, but the Attorney-General in the English Government—issued his *fiat*, and the case went before the House of Lords, which reversed the decision of the Court of Criminal Appeal, so that the driver of the vehicle was found guilty of wilful murder.

The House of Lords, in that case, applied an objective test: What would the reasonable man—whoever he might be—say of the proposition whereby a policeman was hanging on to a vehicle, questioning the driver, and the driver accelerated and veered off and swerved the car, and as a result the policeman was thrown to the roadway and killed by some other passing motorist?

The driver of the car was found guilty of wilful murder; or, under the English classification, capital murder. But it is quite clear from the statements of the law lords in the House of Lords that they regarded this murder as having been wilfully done. But if I examine that situation in the light of our Criminal Code, I find that there would be something entirely different applying in Western Australia.

As a matter of fact, there has been a comparison made; and a controversy now rages in legal circles, I understand, whenever this case is contrasted with the case of the Queen v. Smythe which was heard in the High Court just a few years ago. Some legal theorists wonder what the position would be if, for example, a case was heard in one of the States of the Commonwealth in which facts similar to those in the Smith case in England were brought out and where a person was found guilty of murder, appealed to the High Court and was again found guilty but, for some reason or other, was able to appeal to the Privy Council which could find a person guilty not of murder, but of wilful murder in the same way as the law lords of the House of Lords decided in the Smith case.

I have cited this case to exemplify my contention that there should be no distinction between murder and wilful murder because the line of distinction is extremely fine. This is particularly so when we ponder on the question whether the judges who decide the points of law also decide whether a subjective test has to be applied; and also when we ponder whether the judges who make that decision are able to convey, with conviction, their directions to the jury and give the members of that jury a satisfactory objective line for them to follow in considering the facts of the case.

For those reasons I reiterate that I am in support of the Bill, but consider it does not go far enough, because I would like to see the death penalty abolished not only for the crime of murder but also for the crime of wilful murder, and for the other cases to which it is now applicable under the Criminal Code.

MR. FLETCHER (Fremantle) [8.2 p.m.]: To the limited extent that it eliminates the death penalty for murder, I support this amendment to the Criminal Code, but oppose it to the extent that it does not do so for the crime of wilful murder. As a result of a person committing the crime of wilful murder, not only is one murder committed, but also a second one is wilfully perpetrated with the execution of the person who has committed the original crime. In considering this issue, the attitude of members opposite seems rather strange, because kindly persons sitting opposite condone this second murder which does seem hard to reconcile.

Mr. Bickerton: Which are the kindly ones?

Mr. FLETCHER: They do exist over there and it is just a line of reasoning on which we are at variance. I believe the member for East Perth was honest and sincere in the remarks that he made on this subject irrespective of the interjections of the member for Bunbury. By that interjection the member for Bunbury was trying to imply that we were attempting to gain political capital as a result of the attitude we are adopting towards this question. However, I am quite sure the honourable member for East Perth was sincere in the remarks that he made.

I would like to assure the House of my sincerity and my party's attitude and sincerity in this matter. Firstly, I will refer to the unsuccessful would-be suicide

who is in prison for attempting to take his own life, which act constitutes a crime; but if he had committed a murder prior to attempting to take his own life—

Mr. Roberts: That would be difficult!

Mr. FLETCHER: I said, if he had committed a murder prior to attempting to take his own life—

Mr. Guthrie: It sounded as if you had said that he had committed a murder after he had attempted to take his own life.

Mr. FLETCHER: I do not want any legal quibbling or argument. I was merely pointing out my attitude and sincerity in relation to the subject when I was so rudely interrupted. If a man, prior to an unsuccessful attempt to commit suicide, had committed murder, his crime of murder would relieve him of his attempt to commit suicide, because his life would be taken from him. I am trying to point out the inconsistency in this respect. It is a crime for one to attempt to take one's own life; but is it not a far greater crime for society to take a man's life—that is, to take the life of a man and assist him out of this world with the aid of a hangman, which action is condoned by the law and society? It is in regard to that that I am at variance with the law.

Mr. Oldfield: The member for Leederville can assist you out of this world.

Mr. FLETCHER: I do not want to introduce personalities in debating this question. I have a great deal of respect for the law if it is sensibly applied by those who administer it. Who in this House has not heard this quotation: "There but for the grace of God go I"? There may be more learned members in the Chamber who know the name of the author of that quotation. I believe it was Anatole France, but I am not sure. However, that quotation is worth analysing. From the historical point of view a felon was being carried to the guillotine in a tumbril and one of the characters portrayed by Anatole France apparently made the statement. In effect, the literary character was fortunate and thanking God for being born with natural characteristics that prevented his being a criminal. If a person is born with characteristics of a criminal nature and he commits a crime, I submit he is not responsible.

In consequence, I further contend that there is no excuse for killing a man, legally or otherwise, because of the nature or the characteristics he has inherited from his predecessors. On this score again, it is strange that we make every attempt to heal the visibly sick. They receive our spontaneous sympathy, yet the mentally sick are met with indifference, and those who are the victims of a sick mind are pushed out of sight into the care of dedicated people in charge of mental homes or institutions or, in the case of murder, where the mental illness of the murderer is not visibly apparent, he is pushed into the hands of the hangman.

Whilst I do not want to philosophise I feel that sanity and insanity are balanced on a knife-like edge; and who is to judge what goes on in another person's mind? I do not think anyone is capable of judging what makes a man commit any crime. To me it is as simple as that. As I said earlier, a Labor Party man views the question in a way I have attempted to illustrate, but those belonging to the Liberal Party and the Country Party view the problem in an entirely different light.

In all sincerity I recall the biblical story of the Good Samaritan which exemplifies what I am attempting to say. The Good Samaritan found a sick man lying on the side of the road and attempted to help him; but we in this allegedly enlightened age, do not follow the example of the Good Samaritan towards those people who are not visibly mentally sick, but mentally sick to the extent that they can attempt to commit wilful murder. It is towards them that we should adopt the attitude of the Good Samaritan, although their sickness is not apparent to us.

How many murderers, wilful or otherwise, are victims of the shortcomings or neglect of their own parents? It may be wilful neglect or otherwise, or it may be due to force of circumstances that they are such victims. I have here in my hand a copy of the *Daily News* dated the 15th September, an article which reads—

> 13 Young Burglars Sent to Prison.
>
> Young burglars offending for the first time can no longer hope to escape prison sentences.
>
> Mr. Justice Hale made this clear in the Criminal Court today when he gaoled 13 out of 14 youths and men charged with this offence.

I know one of these youths. He lives in close proximity to my home and is the son of splendid parents. This father is endeavouring to acquire a home in extremely difficult circumstances. He is obliged to be away from his home in the metropolitan area owing to the nature of his employment. He has suffered considerable unemployment lately and was obliged to accept whatever work was offering.

His sons are just at that age where the mother has difficulty in managing two teenage youths on her own and one of them was among the 14 youths who were charged and appeared in the criminal court before Justice Hale. He is in prison at the moment and associating with criminals with far worse records and who have committed far greater crimes than this lad has committed. I am trying to quote a case where, step by step, a young

person is drawn towards the crime of murder, wilful or otherwise. I may or may not be making out a good case for the abolition of capital punishment, but I ask members opposite to accept, in all sincerity, the case I am outlining.

As I have said, that lad is now associating with criminals who have committed crimes of a far worse nature than he has and who, like himself, have graduated into crime possibly through no fault of their own. It is not the fault of that lad that the father had to leave home to seek employment outside the metropolitan area. It is the fault of society that his father was not able to be present in his own home to look after the welfare of his son. The goal of his father is to provide a roof over the heads of his family. He is attempting to provide material things at the expense, apparently, of his son's moral values.

I seem to be adopting a habit of quoting biblical quotations but I would draw the attention of the House to this one—

> . . . visiting the iniquity of the fathers upon the children unto the third and fourth generation . . .

If a parent is responsible for being absent from his home and for neglecting his family to the extent that they get into mischief and, as a consequence, into gaol, is it the child's fault that ultimately, step by step, through association with other criminals, he commits murder or wilful murder? To that exent it is the sins of the father which have caused such a person to commit murder or wilful murder.

Furthermore, children do inherit from their parents the mental characteristics of the parents, the same as they inherit the physical appearance; therefore, these children are not responsible for their mental characteristics. Just as a person does not ask to be born, so he does not ask to be born in a particular mould. The fact that a person is born in such a mould as to cause him to commit murder or wilful murder is not the fault of that person; and he should not pay the supreme penalty as a consequence of his act.

Children are not responsible for their physical or their mental qualities. Admittedly they can be educated; but if either the father or mother of a child is away from the home, such a child is disadvantaged to that extent. He grows up under such a disadvantage. For those reasons I support the Bill before us, to the extent that it seeks to eliminate the death penalty for murder. However, I oppose the Bill on the ground that it does not go far enough by eliminating the death penalty for wilful murder.

I am not the only one who feels that way about this matter, because the leading article in *The West Australian* of the 18th September deals with the subject of capital punishment. The Bill of the Attorney-General is damned with faint praise by that report. It states—

> Death Penalty Limitation.
>
> Attorney-General Watts did not make a convincing case for the Government's Bill to abolish the death penalty for murder while retaining it for wilful murder.
>
> The Bill makes some concession to those who oppose capital punishment on grounds of conscience or principle by drawing a distinction which scarcely seems necessary in the light of West Australian executive practice.
>
> All crimes of murder are now punishable by hanging. While the Labor Party is opposed to capital punishment in principle, Liberal-Country Party Governments invoke the Royal prerogative to commute a death sentence to imprisonment where this is justified by mitigating circumstances.
>
> The Government accepts the deterrent effect of capital punishment as the final sanction of the law. Once that principle is conceded it is difficult to approve the Bill, for there would be a danger of anomalies and uneven justice in any rule-of-thumb method of dividing murder into categories.

Mr. Watts: It has been divided into categories for the last 50 years.

Mr. FLETCHER: *The West Australian* does not think so.

Mr. Watts: It does not know about the position. Is that not what you mean?

Mr. FLETCHER: I accept the remark of the Attorney-General.

Mr. Watts: The Criminal Code has divided this crime into the categories of murder, wilful murder, and manslaughter, ever since the law has been on the statute book.

Mr. FLETCHER: The Attorney-General knows more about the law than I do. I am only speaking about this matter as I find it, and as the law accepts it today. I am not speaking about this matter in all its intricacies. The leading article continues—

> It would be difficult, if not impossible, to prove premeditation in some of the most vicious and revolting murders, and also in murders committed in the course of other crimes, including attempts to escape.
>
> Only one of the four men hanged in this State during the past 30 years was not convicted of wilful murder and in his case there were brutal features. On that record it would be better to retain our existing system of justice in which all the circumstances of a murder are considered before the death penalty is confirmed.

This Bill is like the curate's egg, good in parts. In regard to the portion of this leading article which states that the Liberal-Country Party Government invokes the Royal prerogative to commute a death sentence to imprisonment where this is justified by mitigating circumstances, I go so far as to say that this is an attempt by members opposite to hide behind the Royal prerogative. I ask members opposite to come into the open and support us on this side in our opposition to the death penalty. I say that the death penalty is an inhuman method of disposing of our problems. I support the second reading of the Bill with the reservations I have outlined.

MR. OLDFIELD (Mt. Lawley) [8.22 p.m.]: A lot can be said on an issue such as the one before us. I refer to the portion of the Bill dealing with mitigation of the death penalty in respect of certain categories of murder. However, this debate should not hinge on whether the culprit in a murder crime was sane or insane. I believe that all murderers are temporarily unbalanced at the time of committing the heinous crimes. No person could take the life of another person with premeditation, if he were normal.

The whole of this debate should hinge on whether we believe in capital punishment, or we do not believe in it. Capital punishment is the taking of another person's life in revenge. Our penal system is based upon two factors: One is partial revenge, and the other is a deterrent with some hope for reform of the offender. To impose the death penalty and to carry out that penalty by executing the person upon whom sentence has been passed, is to pronounce and to carry out such sentence in absolute finalty, because it is an act from which there is no return. It is an act under which there can be no hope of reforming the person concerned, because people cannot reform a corpse.

Whilst it might be argued that the death penalty is a deterrent to the person who has been executed because he does not live to commit the same crime again, I cannot believe that it would ever be a deterrent to other people, because I do not believe that any person thinks of the consequences or the seriousness of the act he performs when he commits murder. No normal person could possibly commit a crime of this nature, because such an act is repugnant to all decent and basic human principles. If we are to continue to carry out the death penalty we will be continuing to indulge in revenge and not in punishment.

I understand that one basic Christian principle is forgiveness. That principle has been taught to all Christians—that no one should indulge in revenge or think about it. No doubt the member for Harvey, now the member-elect for Wellington, will agree with me on that point. The situation in a civilised community is coming to a pretty pass when the death penalty is dependent, not upon what the law prescribes, but upon the political flavour of the Government in office.

Mr. Bovell: You have tasted a few flavours.

Mr. OLDFIELD: If the Minister wants to interject I wish he would speak up so I can hear him and not have to wait until I see his interjection recorded in *Hansard*.

Mr. Bovell: I was not interjecting. I was whispering to my colleague beside me.

Mr. OLDFIELD: Loud enough for *Hansard* to hear, but not for me. The first intimation I shall have of what he said will be to see it when I am correcting the copy of my speech. The Minister may look in that way, but I do not consider he is any better than any of the murderers he has been responsible for hanging.

Mr. Wild: Pipe down, galah!

Mr. Roberts: Don't talk such rot!

Mr. OLDFIELD: The Minister for Works can sit, deliberate, and order the execution of a person, but what right has he to say that he has no blood on his hands?

Mr. Roberts: That is absolute rubbish.

Mr. I. W. Manning: Which way did you point your .303 rifle?

Mr. OLDFIELD: I have learnt some wisdom and gained some maturity of thought since those earlier days.

Mr. I. W. Manning: You are not displaying wisdom on this occasion.

Mr. OLDFIELD: It is all very well for some members opposite to deliberate, and to order in cold blood that a person should hang on a certain date, but this is not the act of a civilised Government.

Mr. I. W. Manning: You have done your share of it.

Mr. OLDFIELD: I have not been placed in the position where I had to decide whether a person ought to live or die.

Mr. I. W. Manning: You want to be pretty sure of that.

Mr. OLDFIELD: I can say this: If I were placed in such a situation my answer would be that that person should live. I do know that many members of this Cabinet are opposed to capital punishment. I am aware it hurts them to realise that they are part of a Cabinet in which they were outvoted on the last two occasions in the previous two years.

Mr. Roberts: Don't bring personalities into this question.

Mr. OLDFIELD: I know that certain members of the Cabinet are opposed to capital punishment.

Mr. Guthrie: That nevertheless has been the law of the land. Can you complain if people carry out their legal duties?

Mr. OLDFIELD: Once again we have the reactionary conservative attitude of the member for Subiaco. Because so-called convicts used to be deported to Australia 150 years ago for stealing a loaf of bread or something similar, does the honourable member want that state of affairs to continue today?

Mr. Guthrie: You are going from bad to worse.

Mr. OLDFIELD: That is the reactionary conservative attitude. Because it was the law 150 years ago to hang people for murder, he thinks we should continue with the practice.

Mr. Guthrie: That is the law in this year of 1961, not 150 years ago. Answer that. Do not avoid the issue.

Mr. OLDFIELD: We all know what the law is.

Mr. Guthrie: You are criticising Ministers in the Government for carrying out their legal duties.

Mr. OLDFIELD: They would be carrying out their legal duties if they were to commute the death sentence to life imprisonment. They have the authority to invoke the Royal prerogative, as Labor Ministers have done for years past.

Mr. Guthrie: Why did not the Labor Government amend the law so that capital punishment was abolished? Did the Labor Government introduce any such measure in this Parliament?

Mr. OLDFIELD: Has the honourable member ever heard of a Labor Government sentencing a man to death for murder?

Mr. Bovell: What did the Labor Government do in the Coulter and Treffene murder case?

Mr. OLDFIELD: The member for Eyre reminded members opposite of the occasions when innocent persons were executed. There is no redress whatsoever. I do not know what one does in a case like that, or how the family is compensated.

Mr. I. W. Manning: How did you vote on the Bill before?

The SPEAKER (Mr. Hearman): Order!

Mr. OLDFIELD: If the member for Harvey likes to check he will find that I did not have an opportunity to speak on a measure of this kind until last year. If he checks, he will find that I spoke in favour of the Bill introduced by the member for East Perth—a Bill which ultimately did not go to a vote.

However, it is not for us to argue as to the reasons why people commit murder; we are here to decide what should happen to them when they have done so. It is a matter of principle whether all murderers are going to be treated alike or whether there is to be a degree of murder.

Today, throughout Australia, it is a case of the State one happens to be in when one commits this crime, and what Government happens to be in office. It is as simple as that. I do not think that a punishment which is as final and as complete as hanging should be dependent upon the political flavour of the Government in office. It is a bit farcical especially for the person who can be considered the star performer in the act.

Then again, in these civilised days, very few people wish to be party to an execution. It might be the duty of certain people to perform the ceremony, if I may call it such; but how do they feel about it? I do not think there is any servant of the Crown in the State of Western Australia today who has undertaken his job with the Prisons Department or some other department for the purpose of being able to witness an execution. However, it is their duty to be present when that unfortunate time arises. How do they feel about it? There may have been a time when people did not mind doing this.

I believe there are some sadistic people in Australia. There is one in the Eastern States who is brought over when occasion arises, and who also travels to a certain other State that has the name of "the hanging State." This man gleefully accepts a sum of money from the Government which has placed an order with him to come and perform an execution. What sort of a man is the executioner? We could not say he is a normal person. I daresay the Minister for Lands would not like to be present at an execution.

Mr. Graham: You never know.

Mr. OLDFIELD: I do not think he would. What sort of a person is it the Government employs to come and do it? He is allowed to walk around the streets—a man who will accept a fee to take the life of a fellow-being. The only difference between him and one of the hoodlums we read about in America who perform a killing at the dictates of a gangster is that he does it with the full recognition of the law.

I would say that in the eyes of decent people there is no distinction whatsoever between the man who cold-bloodedly guns down somebody else and the man who cold-bloodedly puts a rope round another person's neck and pulls the lever. Worse than that, he goes about it in a scientific manner. He weighs the person concerned, measures him, and has a practice drop with a weight about the same as that of the condemned person. He has a full-dress rehearsal.

And what about the victim? He is waiting in gaol for three or four weeks for Cabinet to make its decision as to whether he will live or die. Then, when the date

is pronounced, he has to sit around waiting day in and day out with a light on in his cell and someone in his presence at all times. There may have been a time when we thought differently about these things—say 60 years ago—but we are living in far more enlightened times—times when people are more educated.

There were plenty of murders years ago—far more than now—when there was a death penalty for almost every crime, especially crimes committed against the estates of the lords or the wealthy people—crimes such as stealing a rabbit or a loaf of bread. However, the crimes were still committed.

There would be far more murders *pro rata* of population committed in the United States than in any other allegedly civilised country—and the death penalty is the punishment in the United States. I think that nation has a record of something like one execution per day and something like six murders per day or per week. I could be wrong there.

Mr. Watts: They have a terrific population, too.

Mr. OLDFIELD: Certainly; but the death penalty is no deterrent. I cannot subscribe to any argument that says the death penalty will act as a deterrent. We have a Bill before the House to segregate wilful murder from murder in so far as the death penalty is concerned. The leading article in this morning's issue of *The West Australian* was correct when it said that there has been only one occasion in the last four executions when a person was hanged after being found guilty of murder.

Mr. Graham: One in the last 40 to 50 years.

Mr. OLDFIELD: It matters little whether the verdict of the jury be murder or wilful murder. What matters is whether the person who is found guilty should suffer death as a result. I can clearly see what will happen under the provision before the House. The Crown Law Department or the Crown Prosecutor is going to find it most difficult to get a conviction for wilful murder, because once juries know that if they bring in a verdict of murder the prisoner cannot hang, no doubt almost all verdicts will be along those lines.

Mr. Brand: Isn't that what you want to achieve?

Mr. Graham: No; get the rotten thing off our statute book.

Mr. OLDFIELD: We should get it off our statute book because although juries may not convict persons of wilful murder, the chance is always there. I feel that very few juries will bring in a verdict of wilful murder if they know they can bring in one of murder. If we have a state of affairs like that, how silly are we going to get? We believe in capital punishment but we make a provision whereby no-one suffers it except in the case of, say, piracy, or treason. I doubt whether anyone has ever been charged with piracy in the State since we have had responsible Government.

Mr. Fletcher: Don't bring personalities into it now!

Mr. Tonkin: I know a few firms which should have been charged!

Mr. OLDFIELD: I think the reference in the legislation is in regard to piracy on the high seas. There is another term for similar acts upon the land. I can only conclude by saying that I trust that during the Committee stage of this Bill members will give a lot of thought to this measure and accept a suitable amendment to abolish this whole rotten business from the statute book so that people who enjoy decent legislation in other parts of the world will know that we are as civilised as they are.

MR. GUTHRIE (Subiaco) [8.41 p.m.]: Last year I spoke on the Bill introduced by the member for East Perth, and designed to abolish capital punishment, and I then conveyed to the House my view on the subject in general which, in short, was to this effect: that all the evidence showed that capital punishment did not produce a deterring effect to murder or wilful murder, and there was every reason to consider some amendment to the law. I expressed my views then as to why I was not prepared to support at that stage the Bill introduced by the member for East Perth, and I remarked on the fact that the Attorney-General had indicated that legislation would probably be introduced this session. This legislation is legislation very much in the right direction and it will go very much further than I think some members opposite imagine.

Mr. Brand: Hear, hear!

Mr. GUTHRIE: I have a great deal of confidence in the commonsense of juries. I agree with most of the learned judges that the jury system is the greatest safeguard of the citizen of a British country. Trial by judge and jury is a much fairer way even than by a panel of five judges because it brings in human qualities. The jury has the very excellent opportunity—much more than do the members of the Cabinet when they are at a later stage considering the Royal prerogative of mercy—of hearing the whole case from start to finish; of seeing and hearing the witnesses; and of forming a very accurate opinion of the circumstances of the case.

I have no doubt that the juries will know quite clearly, as the member for Mt. Lawley stated, that a verdict of murder will not mean death, but that a verdict of wilful murder might mean death, and I therefore have no doubt whatever that the number of verdicts of murder will increase, and continue to increase, and the verdict of

wilful murder will be pronounced only on the rarest of occasions. If anyone wants any statistics to prove this, he would only have to examine what happened when the Criminal Code was altered in the case of deaths from motor accidents. Before the crime of dangerous driving causing death was included in the Criminal Code, it was almost impossible to get a verdict in that kind of case. Juries sum up circumstances of the case and pronounce what they consider to be the right verdict according to those circumstances. There are occasions today even when, after hearing a bad case of dangerous driving causing death, the jury will bring in a verdict of manslaughter. I have no doubt that history will repeat itself in the same way under this measure. I therefore have no hesitation in commending the Bill and supporting it.

I am quite sure that five years hence there will be a tremendous difference as a result of this legislation, and the question of whether or not the crime of wilful murder should carry the capital punishment will be a matter that will arise on very rare occasions at great intervals. I do not intend to say any more now except—

Mr. Graham: Before you conclude, are you saying then that it is better for juries to make the reform than for Parliament to do it?

Mr. GUTHRIE: We are putting the responsibility on the people who hear the witnesses; those who sit there day after day and week after week; who do not just read the report from the Crown officers or any other officers or the recorded notes of the judge if he makes them available; but those who actually hear the witnesses and see them, and therefore have a very much better opportunity of forming an opinion as to the value of the case.

Mr. Graham: We are therefore not making a law; merely a loophole for juries.

Mr. GUTHRIE: No; we are leaving the administration of justice to those best qualified to judge. After all, we are prepared to leave to the jury the very question of whether the man is guilty or not. Surely that is the major question. We do not expect Parliament to decide that. We leave that to the 12 men good and true. Surely we should give discretion to them to decide whether or not the death penalty should apply.

It must be remembered that even though a jury brings in a verdict of guilty of murder, it does not necessarily mean that the Royal prerogative of mercy should not be applied. The matter is still left to Executive Council. I therefore support the Bill.

MR. BICKERTON (Pilbara) [8.46 p.m.]: I discussed this matter at some length last session when a Bill was introduced by the member for East Perth, the future member for Balcatta. As a result I do not wish to discuss this present measure at great length except to say that I am rather disappointed that the Attorney-General has not gone to the fullest extent and made a decent reform.

To me this Bill seems to be somewhat of an excuse for reform. When this measure was mooted, some of us thought that perhaps at last we had reached the stage where this necessary reform—the abolition of capital punishment—would see the light of day. However, it appears that we are in a position where we cannot do very much other than support the measure. It is a little bit of a tasty morsel dangled in front of us, but when examined it is found that it contains quite a hook inside.

Nevertheless it is some sort of improvement. At least it abolishes capital punishment for the charge of murder. We are therefore duty bound—those of us who support the abolition of capital punishment—to vote for the measure with the hope that the Attorney-General will listen to some sort of amendment at the Committee stage.

I have always been one who has advocated the abolition of capital punishment, not because of the sympathy I have felt at any time for the murderer, but because of the sympathy I feel for the relatives of the murderer; the sympathy I feel for the relatives of the murderer's victim; and, what is more important, the sympathy I feel for the officers who are forced to carry out this unpleasant task of despatching a man to another place per medium of hanging.

I think that as we, the lawmakers of this country, are not prepared to do that job, we have no right to put it on to other people; and that is my main theme in advocating the abolition of capital punishment. It places a great strain on those people. I do not say this in regard to the hangman because I am always of the impression that a man who volunteers for that job would be, at the best, a sadist. However, I do have a lot of sympathy for gaol officers. It is part of their duty to attend at these ghastly affairs.

People may say they do not have to do it; that they could make application for someone else to do the job, or something to that effect; but a man in a high position must feel he should do the job himself, or that one of his juniors would have to do it. Therefore he takes on the unpleasant task himself. I feel sure that what takes place at a hanging must remain in the minds of those present for very many years; and if Governments were to interview these prison officials and find out their views on the matter, I would be surprised if they agreed with capital punishment.

I cannot understand a human being of any integrity at all who was closely connected with the actual act of hanging, who would be an advocate of capital punishment. I think the time has arrived when Governments have to realise that it is not fair to place upon these trusted officials that heavy responsibility; and one, Sir, which they would not be prepared, I am sure, to carry out themselves. In other words, the advocates of the tooth-for-a-tooth policy are not prepared, unfortunately, to be the dentist in the case; they want to leave that job for someone else. If for no other reason than that, we should get rid of capital punishment; and the sooner it is removed from our statutes the better.

With regard to whether or not capital punishment is a deterrent, I think this is a fairly broad question. I do not agree with those who say that capital punishment is no deterrent. As I pointed out in my speech last session, I think that capital punishment is possibly a deterrent not so much to those people who commit murder, but probably to those who would like to do so were it not for the punishment that awaited them. To clear up the point so far as I am concerned, I maintain it is no greater deterrent than punishment such as imprisonment; and, in view of the fact that no figures are available to prove that there is a greater deterrent than imprisonment for life, I do not see why we should leave capital punishment on the statute book and inconvenience those officials I mentioned previously. For that reason I sincerely hope that the Attorney-General will listen to some amendments at the Committee stage.

I could not understand the argument behind the remarks of the member for Subiaco, which were brought out by an interjection from the member for East Perth. It was to the effect that this legislation gave juries a let-out to get away from capital punishment. I have no doubt that it will; but if the object of this legislation is to create a loophole where hanging does not take place, it seems to me that we are passing the buck again, not only to someone else to carry out the hanging, but for juries to find a loophole so that we as legislators do not have to make the decision, or confirm the decision, that a man has to be hanged. It is going from bad to worse. I do not think the responsibility should be upon the jury to that extent.

Had the Attorney-General gone the whole hog in this case and pushed capital punishment right off our statute book, I think Western Australia would have shown a lead to the other States and probably to many other parts of the world which have not already abolished capital punishment.

MR. TONKIN (Melville—Deputy Leader of the Opposition) [8.45 p.m.]: The subject matter of this legislation is of the very greatest gravity and importance; and I suppose that no subject has been debated at greater length and more often than this particular one of capital punishment. I can remember that in my schooldays this subject invariably found its place in schoolroom debates; and people have always been interested in listening to the arguments for and against.

All down the years I have read whatever I could in connection with this subject, and I have come to the conclusion that the arguments which years ago were submitted as arguments in favour of the retention of capital punishment no longer exist as arguments. Frankly, I do not know of one which will today stand up to criticism.

The greatest argument I have, over the years, heard advanced is that capital punishment is a deterrent against murder. I think that argument has long since been abandoned. Let us take a simple illustration. If it were a deterrent, there would be fewer murders in the States which have Liberal Governments than there are in States which have Labor Governments. But that is not so. I do not know what the actual figures are, but I think I would be pretty safe in saying that more murders have been committed during the times of previous Liberal Governments in this State and the present one than were committed during a similar period under Labor Governments. If there is anything in the argument that capital punishment is a deterrent, one would expect to find far fewer murders when a Liberal Government was in power than when a Labor Government was in power. But I do not think it makes the slightest difference.

This is a subject, of course, upon which it is possible to have very divergent views, and views very honestly held. There are those who feel that capital punishment should be retained; and likewise there are those who feel that it should be abolished.

I have never at any time during my lifetime thought it was a sound practice; that it could be defended by argument; and basically I suppose my own conclusions stem from the fact that I set great store upon the sanctity of human life. I am appalled when I learn of the destruction of human life, whether it be by deliberate murder or by accident. It is a dreadful thing when the existence of a human life is cut off by the act of some other person. There is no way in which it can be restored. Therefore, it is a very dreadful thing indeed, and the person responsible, if he does it deliberately, should be very severely punished. But not that it is likely to act as any deterrent to anybody else.

One frequently finds murders being committed within days of a hanging taking place. The person responsible acts on the

spur of the moment, possibly; perhaps under a set of circumstances which causes him or her to act in that way, and which might never be repeated in his or her lifetime.

I am concerned, too, about the aspect mentioned by the member for Eyre; namely, the known fact that innocent people have been executed in error. Such cases keep cropping up. We do not know what is going to be the outcome of the latest one which has been reported in the newspapers; where a woman has spent many years in prison in connection with a thallium poisoning case. Apparently, some person has interested himself scientifically in this matter, and that person appears to have unearthed sufficient evidence to cause very serious consideration to be given to the necessity of having the case reopened.

Well, we know too little about the case to be able to form any judgment as to what is likely to be the outcome. But had this person been executed, it would have been quite impossible to effect any redress should a subsequent inquiry prove that the person was actually innocent. Then there is that recent case in Great Britain where the Home Secretary made the very definite statement that if he had had before him the evidence which he now has, he would not have allowed the death penalty to be carried out.

Surely as it has been proved to be no deterrent, and there always exists the possibility of error, we should adopt some other form of punishment which makes it possible to give the unfortunate person redress in case of a miscarriage of justice. We all have sufficient experience to know that miscarriages of justice do occur. Circumstantial evidence can be very difficult to refute, and sometimes it is the only evidence upon which a person is convicted. But in the passage of time other circumstances reveal themselves and the situation is completely altered so that what was previously most obscure then becomes obvious, and a different decision is arrived at.

I feel therefore that the imposition of the death penalty is something which now ought to be discarded. I am as sure as I stand here that whether it is done this year, next year, or in three or four years' time, it will inevitably be done in this country. We can see the trend during the passage of time; there is a different approach to the subject generally and greater appreciation of the weaknesses in the system.

But great changes take time to bring about. Some of us are more conservative in our views than others, and we are more difficult to shake from views which we have held. But I suppose in the final analysis that is because of our own personal experience and our education. The two things combined give us a different approach to the same question, and so we come to different conclusions.

But I have listened to the debates on previous occasions; I have watched the attitude of members; and one can note the change in individuals. That is why I say I am convinced that sooner or later a majority in this Parliament will decide to abolish capital punishment. There is no possible chance of its going the other way. Each year that this is debated we find a disposition on the part of a greater number of members to support a move to abolish capital punishment, and we find fewer and fewer members who want to retain it. It was ever thus with major changes. The process is gradual, but it is certain; it is sure; and we cannot hold back proper and good reform. It will come eventually despite the obstacles which occur from time to time, quite often through misguided ideas on the part of the individuals responsible.

I was not at all impressed by the argument of the member for Subiaco. I give him credit for sincerity in what he said, but it seemed to me that instead of what he was saying being an argument in favour of the retention of capital punishment in certain cases, it was an argument against it; because he was saying, in effect, that juries will not make up their minds on the evidence before them but they will be influenced by the penalty which will result because of a particular decision they give; and if it were that on the evidence they felt their decision ought to be one of wilful murder they will have in their minds that that decision will inevitably mean in certain circumstances the death penalty, and the knowledge of the penalty which will be imposed will be sufficient to make them bring in a different verdict.

What sort of argument is that? We expect juries to bring in the proper verdict irrespective of the penalty. It is for Parliament to determine the penalty and it is for the juries to give decisions on the evidence; yet according to the member for Subiaco we can expect a different trend, and decisions will be given in the light of the probable penalty instead of on the evidence before juries. If that is any argument in favour of the retention of capital punishment, I fail to see it.

I feel that surely at long last we in this State have reached the stage where we must realise that this is a natural result of the evolution of time and our general experience. All the arguments which bolstered up the retention of capital punishment have, in my opinion, completely gone. I hear them advanced in different ways, but they will not stand up to investigation; and when I think back over the years of the arguments which I have heard advanced in academic debate, the strongest one was always "it is a deterrent." That was always the No. 1 argument—right

out in the forefront. If we abolish capital punishment it will encourage people to commit more murders!

A good deal of investigation has been held into this matter and the late Harry Mann, one time member for Perth, brought statistics to this Parliament and expressed the very definite view that it was no deterrent at all. He backed it up with figures collated from a variety of sources.

Mr. Graham: He was an ex-policeman, too.

Mr. TONKIN: Since then investigations have been carried out in various parts of the world by people who have endeavoured to ascertain whether there was any force in the argument that it was a deterrent. I have yet to find any worth-while argument from any source whatever that it is. If that main argument goes, what is left? Just an innate conservatism on the part of some persons that it is the thing in certain countries and we should still continue to have it. But what purpose it serves I fail to see.

There are some who urge that it is some consolation to the families or the relatives of the unfortunate victim. I can quite easily appreciate that there might be something in that suggestion, and I have watched the reaction of some persons, the main figures in recent cases. It is quite natural for people very close to the victims to feel very bitter against the persons responsible. Just imagine the parents of that unfortunate youngster who was kidnapped and slain in New South Wales. If one were the father or mother of that child one would be very bitter against the person concerned, and would feel like tearing him limb from limb. But the law does not permit one to take the law into one's own hands.

Mr. Bovell: The murder of that little girl in this State was a far greater atrocity than the Graham Thorne case, in my opinion.

Mr. TONKIN: I think they were of a very similar type. I find it hard to make any distinction whatsoever. There were two innocent victims who were slain.

Mr. Bovell: The murder of that girl was the most shocking atrocity that could happen to anyone.

Mr. TONKIN: So was the kidnapping and slaying of the Thorne boy.

Mr. Bovell: They did not outrage the boy as they did the girl.

Mr. TONKIN: No; but his life was cut off; and I can imagine that the parents. in both cases, would have a similar feeling towards the individuals responsible. But society does not view punishment in that way and does not impose punishment in order to give consolation to the relatives of the victims. Society takes a far broader view and endeavours to mete out punishment in accordance with the gravity of the offence; and here, of course, one can find no end of anomalies because of case law which has been built up over the years; but, basically, the idea is that a person who commits a crime should expect to be punished for his wrong-doing.

Behind it all, however, having punished him for his wrong-doing, some attempt ought to be made to bring about that person's repentance. We should give the person concerned a chance to repent of his misdeeds. The scriptures say—

> . . . there shall be joy in heaven over one sinner that repenteth.

A person who is hanged is not given much chance to repent. So surely if the punishment is severe enough—and I consider life imprisonment is—and it is meted out, an endeavour has been made to show the general community that society is not taking the action of demanding a life for a life. In holding the views that I do about the sanctity of human life, I can never justify taking another life because one has been lost. Of course, in the final analysis, so far as the relatives are concerned, if a life is lost in an accident, as compared with a life lost as a result of murder, the result is the same. The relatives are deprived of the companionship and the life of the person who has gone and they have no way of replacing it.

Take, for example, the man who imbibes too freely and drives his motorcar to the danger of the public and, as a result of his action, he kills somebody. We would not think of hanging him; but to the relatives of the person killed the feeling must be very much akin to the feeling of the relatives of the person who has been murdered. In each case a life has been cut short; an innocent victim has been killed.

It seems to me that we have certainly reached the stage where we have to change our thinking on some of these relics of past ages and cause them to disappear; and as my colleagues, the member for Eyre and the member for Mt. Lawley, mentioned, many years ago people lost their lives for extremely trivial offences because lives were not held to be of very great value. As a matter of fact, I am sorry to say, in some quarters lives are held to be not of very great value even today. There are some people in the world and, in fact, some people in Australia, who blow out a life as easily as a person would snuff a candle.

The mere fact that hanging is the penalty for the person who is convicted of murder is not a deterrent to people of that kind. Some years ago I had a talk to one of our Commissioners of Police on this very subject and he mentioned to me the names of criminals, together with particulars of their records, and proved quite satisfactorily to me that what he was saying was perfectly true; namely, that some of these individuals regard life so carelessly that they would take it as easily

as a person would snuff a candle. What can one do with people like that? Hanging does not prevent others from taking the same attitude, but when they are found guilty of these crimes they should be severely punished.

I have heard one argument upon which I do not place very great store, and that is we should not saddle the State with the expense of maintaining, for the rest of his life, the person who has taken the life of another. We waste money in plenty of ways without getting parsimonious about that, and I do not think we would be justified in taking another's life merely to save the expense of keeping that person in gaol. I hope there are not too many people who hold to that argument.

With the passage of time I hope our approach to this subject will become different. There are more and more people coming to the conclusion that this relic of a barbarous age should be disposed of and we should adopt a more human and sane approach to the question. I have no doubt whatever that the day will most certainly come when a majority of not only this Parliament, but also other Parliaments of Australia and the world, will decide that henceforth capital punishment will be abolished.

I want to raise one point before I resume my seat. It deals with the restriction of Her Majesty's prerogative. I do not know whether the Attorney-General has had a look at this point, but in "Instructions to the Governor," the following appears:—

> The Governor shall not, except in the cases hereunder mentioned, assent in Our name to any Bill of any of the following classes:—

It seems to me that this Bill falls into one of the classes that is mentioned.

Mr. Hawke: Where does this appear?

Mr. TONKIN: It appears on page 255 of our Standing Orders under the heading of "Instructions to the Governor." The class of Bill to which I refer is—

> Any Bill of an extraordinary nature and importance—

I think this Bill most certainly qualifies to come under that description. Continuing—

> —whereby, Our prerogative, or the rights and property of Our subject, not residing in the State, or the trade and shipping of the United Kingdom and its Dependencies, may be prejudiced.

It seems to me that this Bill does prejudice the right of Her Majesty and Her prerogative. If that is so, in accordance with the instructions to the Governor, His Excellency will not be able to assent to this Bill. The exceptions are these—

> Unless he shall have previously obtained Our intructions upon such Bill to one of Our Principal Secretaries of State, or unless such Bill shall contain a clause suspending the operation of such Bill until the signification in the State of Our pleasure thereupon, or unless the Governor shall have satisfied himself that an urgent necessity exists requiring that such Bill be brought into immediate operation, in which case he is authorised to assent in Our name to such Bill, unless the same shall be repugnant to the law of England, or inconsistent with any obligations imposed upon Us by Treaty. But he is to transmit to Us by the earliest opportunity the Bill so assented to, together with his reasons for assenting thereto.

So all that the Government is concerned with is whether this Bill is of an extraordinary nature and importance, and whether it does prejudice Her Majesty's prerogative.

It seems to me that it definitely does that, because it takes away from Her Majesty the right to reduce sentences in certain circumstances. So the prerogative is prejudiced to that extent. That being so, how can the Governor assent to such a Bill even if it is passed by this Parliament? I think the Attorney-General ought to endeavour to give the House some information on that aspect before we are called upon to pass the second reading.

The Bill commends itself, generally, to me because it is a trend in the direction in which I want to go; but I am disappointed that the Attorney-General has not seen fit to come right abreast with public opinion and abolish capital punishment altogether.

MR. WATTS (Stirling—Attorney-General) [9.22 p.m.]: I do not propose to traverse all the arguments raised in regard to this Bill. The majority of them, it will be quite obvious, will be dealt with in Committee; because I can see the same arguments being raised in relation to a number of paragraphs in the measure; particularly as I am aware, through the courtesy of the member for East Perth, that he has some amendments on the notice paper. I propose, of course, if the second reading is carried, to put the Bill into Committee, and to report progress at the end of clause 1; so that there may be ample time for us all further to consider these amendments.

But there are three or four points to which I would like to make reference. I am somewhat amazed at the contention of some of the speakers who have addressed themselves to the matter this evening that the Bill does nothing. This in short was the essence of their complaint. There is no justification for that statement. The Bill removes from the Criminal Code the penalty of death for the crime of murder, which has been differentiated from wilful

murder ever since the Criminal Code was in existence; and probably long before that. Anyway, it was in existence since 1913.

In consequence, if this Bill be passed there will be a tremendous number of occasions when the death sentence which hitherto has been pronounced from the Bench with very few exceptions—and those where it has been recorded only—will not be so pronounced, because it will not be the law of the land to pronounce it. That in itself will be a very substantial move in the direction that some of my honourable friends opposite wish to see.

Mr. Graham: It will be a difference in words but not a difference in effect, with one exception.

Mr. WATTS: That has been, unfortunately, to some degree a matter of politics; but it did not matter how heinous the offence might have been, the party to which the honourable member has the honour to belong would say, in every case, "We will commute it."

Mr. Graham: We were discussing murder, not wilful murder.

Mr. WATTS: The honourable member's party would commute it in every case, whatever the position. As a matter of fact there were, in the period between 1947 and 1953—which is the period when the member for Murray was Premier—ten convictions altogether for murder or wilful murder. Four of them were for wilful murder, and three of them were commuted to imprisonment for life; six of them were for murder and five of them were commuted to imprisonment for life.

So it is obvious that Executive Council has taken into consideration all the circumstances, even when our friends opposite have not had the opportunity of forming that Executive Council. As I see the situation it is this: When a person is convicted on circumstantial evidence—I doubt if there has been an occasion in this State within the time I have been connected with its public life anyway—nothing has been done except commute the death sentence, in order that there might be no miscarriage of justice, to which the member for Melville so succinctly referred.

There have been other cases, of course, where the death sentence has been commuted; sometimes because of a recommendation from the jury, and sometimes because the circumstances surrounding the matter appeared to warrant it. None of those privileges would be lost where the jury convicts—if this Bill is passed—a person of wilful murder. There will still be the right to commute if the Executive Council recommends to His Excellency in that direction.

The member for East Perth made quite a point of the question of the unbalanced mind. In all probability there are times when persons convicted of a crime of murder or wilful murder have unbalanced minds: and there are not lacking instances where juries have returned verdicts regarding same; and there are also not lacking instances either where after due inquiry they have come to the conclusion that the accused person shall not be called upon to plead.

We have at the present time, if I remember rightly, one person in a mental hospital here who was in that position so far as the jury was concerned; and in effect the hearing of the charge is adjourned without a date being fixed. It is still in that position. So the law does take notice of those cases to which the honourable member made reference.

I would now like to touch on the remarks made by the member for Eyre. Other members have indicated their desire to see that there shall be a substantial punishment for the offender in the absence of the death penalty. With that I concur. But I submit that the proposal in the Bill is aimed at achieving just that very thing; because it is going to prevent a person being released until there has been a severe penalty of 15 years' imprisonment, unless his health is such as to justify sympathetic consideration.

Mr. Nulsen: You are taking the prerogative away from the Government.

Mr. WATTS: That is the provision in the Bill, and that is the reason why it was put there—to ensure that there is going to be a substantial penalty for a person who has committed murder and been sentenced to imprisonment for life; or whose death penalty has been commuted to that term.

It is not reasonable that a person should be released, except for the reasons that are set out in the Bill, under a period such as that. As a matter of fact, since 1936 there have been releases at the expiration of three years in one case; at the expiration of five and a quarter years in another case, which was for the purpose of enabling a convicted person to be deported; and at the expiration of 12 years in another case for the same reason. In yet a further case the period was 2¾ years, and this would have come under the provisions of the Bill because the woman in question was released to enable her to be admitted to Wooroloo Hospital as she had contracted tuberculosis at that time. The balance of the releases has been effected at a minimum of 12½ years, but mostly 15 to 15¼ years.

Mr. Nulsen: They would average 15 years?

Mr. WATTS: Roughly 12 to 15 years. The circumstances in respect of the two very short periods were that in one case ill-health was the reason, and in the other the decision to deport the person concerned. I do not know that we would be justified in releasing a committed person from gaol in order to deport him. I agree with the member for Melville that

we should not—at least I would not—be parsimonious in ensuring that a convicted murderer was incarcerated according to the law because it costs £8 17s. or so a week to keep him in prison. It is the duty of the State to ensure that its penal system if reasonably and properly established, should be carried into effect. We have the figures in regard to those cases.

I come lastly to the question raised by the member for Melville in regard to paragraph 8 of the instructions to the Governor. I have had a look at the situation, but I have not formed the same opinion as the honourable member appears to have formed. That point does not affect the passing of the second or third readings of this measure; it is a question of what is to be done with the Bill after that stage has been reached. As a consequence of the honourable member's raising that point—I do not agree with the point he raised—if it is tenable I shall have it examined and then discuss the matter with him.

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committees (Mr. Roberts) in the Chair; Mr. Watts (Attorney-General) in charge of the Bill.

Clause 1: Short title and citation—

Mr. GRAHAM: I notice that generally when Bills are introduced to amend statutes, the title of the statute, as well as the year, is mentioned—such as an Act to amend the Gold Buyers Act, 1921-1948. This Bill to amend the Criminal Code refers only to the Criminal Code without any year being mentioned.

Mr. Watts: It has been the custom to refer to it only as the Criminal Code.

Mr. GRAHAM: Is this the exception?

Mr. Watts: Yes.

Clause put and passed.

Progress

Progress reported and leave given to sit again, on motion by Mr. Watts.

METROPOLITAN REGION IMPROVEMENT TAX ACT AMENDMENT BILL

Second Reading

Debate resumed from the 14th September.

MR. GRAYDEN (South Perth) [9.35 p.m.]: I support this measure. I listened with great interest to some of the speeches made in this debate last week. Quite a number of speakers opposite spoke; from their remarks one can fairly accuse the Opposition of having introduced an Alice in Wonderland atmosphere into this House, as a consequence of their approach to this problem. We come into this Chamber not knowing what the Opposition will do—

Mr. Tonkin: Would you like us to tell you?

Mr. GRAYDEN: —or what is the policy of the Opposition at any stage, because it changes its attitude from one day to another not only on this issue but on practically every issue introduced. On this occasion it has treated the measure as though it were a Bill to introduce an entirely new Act, designed to raise more money from the people. It has treated the Bill as a continuing measure to perpetuate an unjust burden on the people of Western Australia.

In actual fact, as every member knows, it is a Bill which is designed to reduce the present metropolitan region improvement tax from ½d. in the £1 to ¼d.; in other words, the Government has introduced a measure to reduce the present rate of tax in respect of this item, yet we find the Opposition being opposed to the measure, and claiming that the tax should be abolished altogether. The Opposition claims that the money required by the authority should be raised by way of loans and in other directions. We realise that all this talk by the Opposition is merely sound and fury, because it would not dare to agree to this Bill being defeated. It knows that the people of this State want the Government to reduce taxation on every possible occasion, and that is exactly what the Government is doing under the Bill before us; yet the Opposition criticises it.

Sir Ross McLarty: No doubt the Deputy Leader of the Opposition is a good sitter.

Mr. GRAYDEN: We have seen such an about-face on the part of the Opposition in regard to this issue that it is pertinent for me to refer to some of the statements which were made by members opposite when they spoke in this debate, and to contrast those utterances with some of the statements they made in the past.

I can start off with the remarks of the member for Melville, because he spoke at some considerable length. He was particularly vehement throughout his speech in condemnation of the tax and he felt that it was an imposition on the public. This was the sort of statement he made—

> That is all we have to consider. I say most definitely that in my view there is not the slightest justification for the authority to go on raising £200,000 a year by way of taxation and spending the whole of its revenue every year, instead of obtaining long-term loans in accordance with its expressed policy, and servicing those loans from revenue. If it does that it could with safety reduce this tax right down to ¼d., and it would have ample

margin to obtain all the finance necessary for it to carry out the programme of work which it envisaged.

We get the same type of statement right throughout the speech, which was a particularly long one. We had the member for Melville again saying—

> That is typical of the way in which this measure has been thrust upon the House. No attempt has been made to justify the amount of tax proposed to be imposed; no attempt to explain the departure from policy; no attempt to explain the complete contradiction from the Minister's own statement with regard to what was essentially required and what actually was being done. His attitude was, "Here is the imposition. The Government has the majority, and that is the way it is going about this matter."

I repeat: The whole theme of the member's speech was criticism of the Government because it was reducing the tax to ¾d. from ½d. The honourable member thought it should be more.

Mr. Tonkin: Did you say reducing it by ¾d.?

Mr. GRAYDEN: No, to ¾d. Finally, I would like to quote a little more of what the member for Melville had to say so that there will be no confusion in anybody's mind when I read out what he said on a previous occasion—

> I do not hesitate to say that that is bad finance; not only bad finance but unfair finance, because it is imposing upon existing taxpayers a tax burden which is not necessary. If the tax were reduced it would not leave the authority short of funds, but would oblige the authority to follow its own concept and raise the money by way of loan, and then service the loan from revenue.

That is the type of thing the member for Melville had to say right throughout his speech. Following the same line, members on the other side of the House, one after the other, all criticised in the same vein. The member for Guildford-Midland said—

> I wish to join forces with previous speakers in opposing this Bill which is now before us. Earlier, I spoke against the introduction of similar legislation, and one of the main reasons I advanced against its introduction then was that the people in the industrial areas cannot pass on the tax as can those in the business areas.
>
> The people in St. George's Terrace, Hay Street, and Murray Street can pass this tax on to the public through the commodities they sell, and the services they give to the community. But the people in the industrial areas must pay this tax out of their wages and salaries. That is one reason that can be advanced for not passing this legislation. It is a discriminatory tax, because it taxes only one section of the community.

Then, the member for Mt. Hawthorn said—

> I am raising opposition to the Bill on behalf of the electors of the Mt. Hawthorn district. I have received numerous complaints about increasing taxes to which the ratepayers of my electorate—and I am sure this also applies to the ratepayers of other electorates in the metropolitan region—have been subjected. I know I would be out of order if I enumerated all the increases in taxation that have been imposed, but some of them are increases in motor vehicle registration fees, drivers' license fees, and so on. But in correlation to this type of Act, which is based on unimproved values, we also have the local authorities imposing taxes on the people in the Mt. Hawthorn district, and the tendency will be for further increases to be made in local authority rates for the purpose of financing the Commonwealth Games organisation.

So it goes on, criticising this Government for introducing this measure. I am not going to quote from all the speeches, because they repeat the same type of thing. However, the member for Mt. Lawley said—

> . . . . . under this discriminatory taxing measure, those in areas which are going to derive the most benefit will not pay one penny in tax.

He went on to say—

> Therefore, this is the most shameful tax placed upon the people of Western Australia.

That is the type of thing we heard from one speaker after another last Thursday.

What is the true position? The position, of course, is that the legislation passed in 1959 that imposed this tax was based on legislation introduced by the Labor Government—introduced by the member for Melville himself in 1957. So, in 1957, the member for Melville came along and introduced legislation which was the forerunner of this particular Act. Members on the other side of the House criticised this legislation for one purpose only. They want to be able to go about the State at election time, just as they did in Victoria Park, and say that this Government increases taxation.

I would like to read one paragraph which appeared in the Labor Party election pamphlet in connection with the Victoria Park by-election. Speaking of the Liberal Government, it reads as follows:—

> It has sacked over 1,000 workers that constituted the Public Works Department day labour force. Its policies have placed a question mark over the future of other State Government and State Trading Concern employees. It has cut the suburban railway service

built up by Labor. It has increased water rates, State taxes, motor vehicle registration fees and Government charges of every description—even dog licenses.

That is the sort of thing the Labor Party published on the eve of the Victoria Park by-election. We have the complete answer as to why the Labor Party has had an about-face in this House and is opposing legislation in the terms I have described—legislation which that Government introduced in 1957.

To give some idea of the hypocritical statements made by members of the Opposition in respect of this measure, I would like to quote, as briefly as I can, from the speech made by the member for Melville in 1957 when he introduced the Bill which was a forerunner of the measure we are dealing with now. The 1957 legislation was entitled, "Town Planning and Development (Metropolitan Region) Bill". It was introduced by the Minister for Works—the present member for Melville—who said—

> No regional planning authority will be effective without finance to carry out the plan. It is therefore proposed to adopt a suggestion made in the report on the metropolitan region and provide for an additional land tax on properties in the metropolitan region only but excluding improved agricultural properties. Local authority rates are not considered suitable for this purpose, which is reasonable in character, and the proposed land tax has the following advantages:—
>
> (a) it is a tax which affects the average property-holder only slightly;
>
> (b) it is assessed on a uniform basis;
>
> (c) it is simple to collect as the machinery already exists;
>
> (d) it automatically reflects any increase in values arising from the benefits of the plan and therefore provides a form of "betterment" tax;
>
> (e) the exclusion of agricultural properties will not only encourage the retention of important market gardening and orcharding properties so necessary for a capital city, but will assist in maintaining a degree of relatively open country in and adjoining the built-up area.

Then, he went on to say—

> It is proposed to levy a tax of ½d. in the pound which, on present assessments, would produce about £127,000 per annum, or thereabouts. This, by itself, would probably be insufficient for the authority's purposes, and therefore provision is made for the authority to borrow money from the Government on repayment of principal and interest and, if necessary, to raise loans from other sources on Government guarantee.
>
> If members are inclined to be apprehensive about the justice of the proposed tax, let me remind them that if this town planning is carried out in accordance with the plan, the resultant increase in value, from which all lands will benefit, will be far greater than any tax paid in the interim.

The Hon. D. Brand: Would they pay tax on that revaluation?

The MINISTER FOR WORKS: Yes, as the values increase, so the amount of tax that they pay will increase, but because the tax is a ½d. in the pound they will still derive far greater benefit from the increased value of their land and increased facilities than what it would cost them because if there is no suitable planning, many of the lands will not increase in value as they would be expected to do, because physical condition will bring about a change in business and send it away to the suburbs and out of the city.

Therefore, there will not be that increase in value that should be expected with a proper lay-out; with properly constructed and wide roads to allow free traffic flow; with properly positioned and free parking areas and the like, and the town will be developed in a way whereby considerably enhanced land values can be expected. That is the practice all over the world, but many cities are suffering today because of the lack of proper planning in the initial stages. It is costing tremendous sums of money to remedy the mistakes that have been made in the past.

During the Committee stage of this measure, the member for Melville said—

> The impost of ½d. in the pound is not heavy so it should not fall heavily on the individual owner. I venture to say that over the years the people who pay this tax will enjoy far greater benefit from regional town planning than they will be called upon to pay in order to get it.

He went on to say—

> Unless the Committee agrees to this proposal, there will be no planning authority because finance is a vital part of the Bill.
>
> It would take a good deal of money to carry out the plan and, quite clearly the Treasurer would not be able to find the money, in addition to his other commitments, so another source of income must be provided.

And so, with those comments, the member for Melville introduced the measure designed to raise the ½d. improvement tax.

Mr. Tonkin called attention to the state of the House.

Bells rung and a quorum formed.

Mr. GRAYDEN: I have just quoted exactly what the member for Melville said when he introduced the Bill in 1957, and I quoted it to indicate the about-face attitude the member for Melville has taken and the members behind him, in opposing this particular measure. All members of the Opposition who have spoken against this Bill, and who were present during the 1957 debate, voted for the imposition of this ½d. tax; and yet now, so that they can go about the country saying that this Government imposes unnecessary taxation, they take this line, which is lacking in sincerity and is so typical of the hypocrisy we have come to expect from members on the other side of the House.

Members here have a right to know where Labor members stand in respect of matters of policy. If the Labor Party introduced a measure of this kind in 1957 and could speak in such glowing terms of it, then why cannot we expect it to stand by its word and adopt the same attitude to the legislation now?

Mr. Tonkin: We will stand by our word all right.

Mr. GRAYDEN: You stand by your word all right! I have a letter here which was published in this morning's paper. I do not know whether I will have the opportunity of reading it, but I would like to.

The SPEAKER (Mr. Hearman): No.

Mr. GRAYDEN: The Deputy Leader of the Opposition made a lot about broken promises on this side of the House, and he had no foundation for his remarks at all.

Mr. Tonkin: Didn't I?

Mr. GRAYDEN: No.

Mr. Tonkin: What about one example?

Mr. GRAYDEN: We have had a speech from the Deputy Leader of the Opposition.

Mr. Tonkin: What about an example?

Mr. GRAYDEN: I will give the honourable member an example. He made a speech justifying the imposition of the tax, and now he is saying it was quite unnecessarily imposed.

Mr. Tonkin: I never said that at all.

Mr. GRAYDEN: And yet in 1957 he was its strongest advocate. Does he call that standing by his word?

Mr. Tonkin: I challenge you to give one example where I have broken my word; one example in 28 years.

Mr. GRAYDEN: I will be glad to look around for an example.

Mr. Tonkin: You would have to look!

Mr. GRAYDEN: But I will say we have had members of his party repeatedly breaking their word. His own leader made statements in the Victoria Park election. He said, in relation to Moola Bulla, that I had said certain things; that there were cattle-duffing pens set up in Moola Bulla; and then he said that Sir Ross McLarty had a station next door to Moola Bulla and he was—

The SPEAKER (Mr. Hearman): The honourable member had better stick to the Bill before the House.

Mr. GRAYDEN: That is the type of statement we have repeatedly heard. Members in this House have a right to know where the Labor Party stands and what its policy is. When members of the Opposition were in office they tried to sell huge quantities of iron ore to Japan at 3d. a ton, but a few days ago they criticised this Government for permitting the sale of a small amount of bauxite overseas.

The Opposition, when in office, sold a cattle station for a pittance when it was worth £900,000. It disposed of State assets; but in this House it criticised this Government for selling the State Building Supplies. The Opposition when in office rejected highest tenders and sold to people of ill repute; but in this House it criticised this Government in respect of the higher tenders for sleepers which it accepted for many extremely good reasons. There is no consistency on the part of members of the Opposition; and this particular measure is an indication of this fact.

We have members opposite criticising the Bill and saying it is an imposition. They speak against the Bill as if it were the most discriminatory tax ever imposed when, in actual fact, the Opposition itself when in Government introduced the measure which was the forerunner of this Bill.

I would have welcomed the opportunity of dealing with these things in much greater detail and in less haste, but I understand the House is anxious to take the vote on it, and therefore I will have to curtail what I intended to say.

MR. PERKINS (Roe—Minister for Transport) [9.50 p.m.]: I had not expected the debate on this measure to come on last Thursday. I was compelled to attend a conference in the Eastern States and therefore apologise for not being here to listen to the discussion. I had also intended that the Town Planning Commissioner should be present to listen to the debate and advise me at the Committee stage if necessary. From reading the *Hansard* transcript, I understand that some members on the other side of the House had some hard things to say about me because I was not in my place to hear the debate. However, I do apologise to that extent.

I am rather surprised to find that after having gone to very considerable trouble today to have very long discussions with

the Town Planning Commissioner—I arranged for him to go through the speech in great detail—practically none of the Opposition members are in their places to hear what I am about to say.

Mr. Roberts: Just a sham fight.

Mr. PERKINS: I understand that most members of the Opposition do not attach quite the same importance to hearing what I have to say as does the Deputy Leader of the Opposition. However, I appreciate his interest, and I have gone to considerable trouble to go through the various points that were raised during the second reading debate.

I did supply some of the information requested by way of questions. That information was available to members of the Opposition before they spoke. I will cover some of the other points in detail from notes I have made.

There are two prerequisites to the Metropolitan Region Planning Authority taking up loans. The matter of loans was discussed in considerable detail during the second reading debate. My understanding of the position is that the member for Melville, particularly, was rather critical of the authority because of the way the finances had been handled during the last 12 months; and that perhaps not as much use was made of the authority's borrowing capacity as the member for Melville had expected.

The two prerequisites are: firstly, Treasury authorisation and guarantee of repayment; and, secondly, the availability of money in the loan market. The first of these prerequisites depends for practical purposes upon the revenue for servicing loans being secured by continuation of the tax. It has been suggested that the Government should accept liability for debt charges on loans raised by the Metropolitan Region Planning Authority by a charge to Consolidated Revenue; in the same way at it does for debt charges on loan expenditure for land resumption for other purposes.

However, I think members will recognise that this would not be sound State financing. The special grant payable to the State on the recommendation of the Commonwealth Grants Commission is determined by a comparison of our financial operations with those of the standard States of Queensland, New South Wales, and Victoria. If we are to avoid unfavourable adjustments to our grant from the Grants Commission, we are required to keep in line with the practices of those standard States. If we charge to Consolidated Revenue an item of expenditure which is not so charged in the standard States—

Mr. Tonkin: Who suggested that that be done?

Mr. PERKINS: —then we are required to finance this expenditure from our own resources, which means use of loan funds to clear revenue deficits—a course which no Treasurer would be happy to follow.

Mr. Tonkin: Did anybody on this side suggest that course?

Mr. PERKINS: Yes. From my reading of the transcript, if the suggestion was not made by the member for Melville, it was made by some of the other speakers; and I very well remember the discussion which took place in the House last year, when there was emphasis by all speakers on that side of the House that the ordinary revenues of the Treasurer be used for this type of financing.

Mr. Tonkin: Aren't you replying to the current debate and not what took place last year?

Mr. PERKINS: I think the member for Melville will find that some suggestions were made by speakers on that side of the House similar to those made last year. Those are the suggestions to which I am replying now.

Debt charges on such items as public buildings and railway land resumption are met from Consolidated Revenue in all States. Consequently, such expenditure is not challenged by the Grants Commission. This is not the case, however, with capital expenditure on town-planning schemes.

In Queensland and Victoria these place no burden at all on Consolidatel Revenue. In New South Wales there is some contribution from Consolidated Revenue, in that the State Government meets the debt charges of 50 per cent. of the capital expenditure incurred by the Sydney Metropolitan Region Planning Authority. However, the New South Wales Government makes no contribution towards the operating costs of the planning authority.

Mr. Tonkin: I suggested that the debt charges should be met out of the authority's revenues.

Mr. PERKINS: The member for Melville must recognise that there were speakers besides him.

Mr. Tonkin: I think you are doing some guessing.

Mr. PERKINS: I am not guessing. I am working from the *Hansard* transcript; and I suggest the member for Melville get hold of the transcript, and he will see the trend the debates took.

Mr. Rowberry: Why don't you quote it yourself?

Mr. PERKINS: In Western Australia the operating cost of the Metropolitan Region Planning Authority is met from State funds. It is serviced directly by the Town Planning Department, and indirectly by a number of other departments, such as the Public Works, Crown Law, and Main Roads Departments. These services represent a substantial contribution by the

State, and any further financial assistance would involve unfavourable adjustments to the special grant.

It has been suggested that the authority's debt charges could be met by allotting the necessary money from the land tax collection. This would be equally unacceptable because it would have the effect of reducing the collections taken to Consolidated Revenue; and, so far as the Grants Commission is concerned, this would amount to the same thing as a direct charge to Consolidated Revenue, and the special grant would be unfavourably adjusted accordingly.

The authority's finance committee was fully aware of these considerations which were behind the recommendation which led to the authority representing to the Government the need to continue the tax—

Mr. Tonkin: I think the Minister is replying to the debate which took place in the Upper House last year.

Mr. PERKINS: I am perfectly sure that I am not; and I assure the member for Melville that the script I have worked from is the *Hansard* script of the debate which took place last Thursday. Also, I am not relying on my opinion; but I have discussed this in detail with the Town Planning Commissioner today, and his understanding of the position is exactly the same as mine. I intend to reply to these items in detail.

If members cannot remember what was said last Thursday, then if they check *Hansard* very thoroughly they will find that my remarks have a definite relevance to remarks which were made and which I think require a reply. We have had the member for Guildford-Midland reminding the member for Melville of some of the remarks he made on a previous—

Mr. Brand: The member for South Perth.

Mr. PERKINS: I beg your pardon; the member for South Perth.

Mr. Brady: I have not spoken tonight.

Mr. PERKINS: I will correct that. The member for South Perth reminded the member for Melville of what he had to say in 1957; much as I reminded him last year of the debate which took place previously. I am not likely to forget the very protracted debates which took place last year when we had this Bill before the House.

Mr. Tonkin: You have not tonight replied to a single argument I advanced in this debate.

Mr. PERKINS: If the Deputy Leader of the Opposition will wait, he will hear all the points. I have been through them very carefully. The authority's finance committee was fully aware of the considerations which were behind the recommendations, and they have led to the authority representing to the Government the need to continue the tax. That is what is provided in this Bill, of course. Apart from satisfying itself as to the resources to service loans which, as I have attempted to show, hinge on the continuation of the special tax, the Treasury is also concerned to see that any programme of loans raised by the authority is related to the State's general loan programme, the size of which is limited by Loan Council direction.

Under present conditions a sum greater than about £250,000 could not be fitted into the year's programme; but whatever proportion of the total amount limited by the Loan Council could be allotted to the Metropolitan Region Planning Authority's operations, there is still the further limitation of the availability of money. The loan market situation is not, of course, static, and in loan raising the authority is competing with a great many other public authorities seeking to raise money. At the present time so long as the necessary authorisation and guarantee are forthcoming the authority believes that for this year it could raise about £200,000 on a loan repayable in 40 years.

Arrangements of this sort cannot be made overnight. The authority only regards itself now as in a position to commit itself to loans, and has already taken steps towards this end. The Metropolitan Region Planning Authority came into existence on the 8th April, 1960. It would not at that stage have been feasible to fit its requirements into the State's loan programme for the financial year 1960-61, even if it had then determined the sum it needed to raise, and had recourse to lenders with funds available. It quite rightly appreciated that at the outset, with the tax revenue for 1959-60 due to it, and a similar amount for 1960-61, there was no immediate need to raise loans.

Whilst certainly the principle of spreading the cost of long-range improvements over a long period of time is a logical one and, in the circumstances, the only one the Metropolitan Region Planning Authority could adopt, it must not be overlooked that the interest charge on the long-term loan can, in fact, more than double the cost. Indeed, in passing it might be observed that in Melbourne, although authorisation exists for the raising of loans up to £10,000,000 for metropolitan improvement, the policy adopted there is for capital expenditure being met from a planning rate revenue on the basis that the planning authority has no wish to see its income from rates absorbed by unproductive debt charges.

I mentioned that the authority expects to be able to raise a loan of £200,000 this year. At current public authority interest rates, and for the 40-year period, which is the condition upon which it may be available, this will cost £13,000 per annum to a sinking fund; in other words, the repayment of that £200,000 with interest will exceed £500,000. It would have been

quite imprudent on the part of the authority to immediately commit itself to loan charges before loans were necessary. It could meet, and has in fact met, its obligations so far from the tax revenue. As members will have observed, it has spent, or has committed itself to spend, some £430,000 over a period of less than 18 months, equivalent to an annual rate of spending of close on £300,000.

The first of a series of loans is intended to be raised during the present year, to be followed by loans on a similar scale, depending on the conditions prevailing, in succeeding years. The authority considers it essential that it be enabled to do this because it can foresee that for the next four years there will be particularly heavy demands on the metropolitan improvement fund to meet the cost of property acquisitions ready for the construction of the western switch road. That is one category of expenditure alone, and there are many other commitments for it to meet through the region if the regional plan is to be realised. No-one can dispute that the progressive implementation of the Stephenson Plan will be of inestimable value to the community and to the State.

The authority judges that its rate of expenditure must increase in the coming years if it is to meet its obligations. In one respect the Metropolitan Region Planning Authority is in the same position as other developmental authorities. It knows it can never have all the funds it would like to have, and it realises very well that the metropolitan improvement fund must be most carefully husbanded; and it is doing its best to do just that.

Mr. Tonkin: By spending it all.

Mr. PERKINS: In another respect the Metropolitan Region Planning Authority differs from other developmental agencies. Its operations in the way of property acquisition are not capable of the same degree of precise programming. There are several reasons why this is so. In the first place, one of its obligations is to acquire property in the event of refusal of development permission on the grounds of reservation for public purposes. The rate of applications for such consent and the financial implications of refusal can never be exactly foreseen.

In the second place many features of regional planning, which are only broadly enunciated in the Stephenson Plan, develop progressively. Until they reach a certain stage of design in detail, which may be a stage extending over many years, it cannot be determined whether, and to what extent, there are implications affecting the metropolitan improvement fund.

An example of this can be seen in the planned re-location of Beach Street, Fremantle. Following the decision to proceed with the new Fremantle railway bridge, and the engineering design for the work, it was necessary to study the impact of railway works on port operations and traffic circulation generally. As a result a technical committee recommended the essential need to plan for Beach Street to be relocated and to incorporate a connection to Queen Victoria Street. This in turn led to representations being made to the Metropolitan Region Planning Authority that the consequent improvement to the road capacity in the locality and hence to the regional road system justified a contribution towards the cost from the metropolitan improvement fund. The authority agreed to contribute £25,000 towards an estimated total land acquisition cost of over £100,000. It considered that this was the kind of expenditure outside the normal ambit of other authorities which could properly be charged to the fund.

Furthermore, the authority is faced constantly—and is likely to be always so faced—with the problem of judging the relative value of expending its funds on acquisition for near-future improvements or on other acquisitions for more long-range advantage. The operation of the fund will thus always be an exercise in judgment and long-sightedness. The authority has, however, outlined its intended programme for the coming few years, on the following broad lines—at this stage I shall quote the figures which the Town Planning Commissioner, Mr. Lloyd, has set out for me so that they may be incorporated in *Hansard*—

Year	Estimated Tax Revenue	Loan	Committed to Interest and Sinking Fund	Total Funds available for Capital Expenditure
	£	£	£	£
1961–62	220,000	200,000	13,000	407,000
1962–63	165,000	200,000	26,000	339,000
1963–64	165,000	200,000	39,000	326,000
1964–65	165,000	200,000	52,000	313,000

Mr. Tonkin: How do they arrive at that £165,000?

Mr. PERKINS: I think the honourable member had better wait till I finish the statement; otherwise it will be confusing to *Hansard*. The authority envisages that in succeeding years a similar pattern would follow until the limit of ability to service loans is approached, which may be in six to eight years' time. Thereafter, until the shortest of the loans is paid off and a fresh series of loan raising can be undertaken, only a relatively small proportion of the tax revenue or other income will be available for expenditure each year.

A programme of this nature can be only a tentative one because of the variable factors involved. As it happens at the present time, £200,000 is near to the limit of what can be fitted into the loan programme and is about the maximum sum available in the loan market. These two factors are, however, bound to vary from time to time.

The programme bears a reasonable relationship to the authority's total responsibility which at this stage has been seen to be of the order of six or seven million

pounds worth of property acquisition, and it bears a reasonable relationship to the general pattern of State finance.

It has been suggested that the figure of £165,000, which assumes a proportionate reduction of the last full year's tax revenue from ½d. in the pound rate, is an unreal figure which is likely to increase. This may be so. The tax collection for the second year of operation of the tax was approximately five per cent. higher than that of the first year, but it is by no means a safe assumption that it will continue to rise at a similar rate. The increase comprises in effect two components: firstly, the increase—inflation if you like—due to revaluations within the established parts of the region; secondly, the revaluation due to broad acres being sub-divided and suburbanised.

While the progressive rate of metropolitan population may well see the second component of the increase continue, it is not at all certain that increase in the value of the established areas will continue. There may well be a levelling off when the current valuations are completed. Indeed, there are signs that this is occurring.

In any event it is suggested that the enhancement of land values with consequent increases in tax income is not a dominant factor because one of the bases of the concept of the tax is that the proceeds of it are always directly proportional to the cost of land which has to be acquired.

The Deputy Leader of the Opposition suggested that the operation of the metropolitan improvement fund has not justified the rate of ¾d. which is proposed and that it could or should be reduced to ½d. Obviously no Government would impose a tax higher than it thought necessary for its purpose. The metropolitan region planning authority is a responsible enough body, too, to recognise that a reduction in tax is welcome to everybody so long as the reduction does not prejudice realising the object for which it is raised.

But the authority has represented its misgivings on the decision to introduce this Bill at the lower rate of ¾d. in the pound; i.e., a reduction of 25 per cent. on the present revenue. The effect of a reduction to ½d. would be not only that the total fund which from the year 1962-63 onwards would be about £55,000 less, but the limit of loan-raising ability will be reduced correspondingly sooner.

The authority suggests that the reduction to ¾d. would bring its resources close to a workable minimum, having regard to the size of its commitments. A reduction to ½d. could well bring them below that limit.

Mr. Toms: You are working on a static valuation.

Mr. PERKINS: If the tax were reduced to ½d. the authority would certainly have to reconsider whether it is financially capable of meeting the cost of property acquisition in connection with the switch road. I suggest that the region, and particularly the commercial community in the City of Perth, has more to gain by earlier completion of the switch road project than it has in the saving of metropolitan improvement tax which would result from the cut in the rate to ½d.

In arguing that the tax should be reduced to ½d., the Deputy Leader of the Opposition suggests that £100,000 a year would be sufficient to service the loan the authority would need to raise. In fact, assuming a series of £200,000 loans on the terms which are available at present, involving £13,000 per annum to a sinking fund, the authority's loan-raising capacity would be exhausted in seven years.

Mr. Tonkin: No it wouldn't!

Mr. PERKINS: During that time it would have raised £1,400,000, and it would have no more funds available to it for some 30 years because all the proceeds of the tax would be committed to debt charges during that period.

Mr. Tonkin: Whoever wrote that is no mathematician.

Mr. PERKINS: The rate at which the authority has expended the fund in the year and a half it has been operating—close to £300,000 per annum—is a fair indicator of the scale of its obligations to maintain the regional plan. As I have already indicated, the tempo will increase in the next few years because, among other things, of the size of the commitment to purchase costly inner city property for the western switch road. The proceeds of ½d. in the pound tax would not be enough.

I do not agree with the Deputy Leader of the Opposition's suggestion that the authority has departed from its stated policy that it should in principle use its improvement tax revenue to fund long-term loans.

Mr. Tonkin: It has used none of it yet.

Mr. PERKINS: Certainly at the outset, and during the early years on the general loan programme which has been outlined, a relatively small proportion of its revenue is proposed to be committed to servicing loans, but this proportion will steadily increase, at a rate governed by factors largely outside its control, until the greater part of the revenue is committed to debt charges and only a workable minimum used for capital expenditure. At the moment the authority has worked on the basis that about £200,000 is likely to be the maximum amount to plan to borrow in one year. As the situation changes from year to year it will have to keep its financial plans under close review, and it may be possible that the rate of tax can be adjusted in the future.

There must obviously be a proportion of the revenue uncommitted to debt charges. The metropolitan improvement fund cannot be allowed to run dry for years until the first loans are paid off. Other speakers during the debate advocated removing the present exemption from tax of agricultural property so that it applied equally to all land in the metropolitan region.

The metropolitan improvement tax originated from the recommendation at page 250 in the Stephenson report. After stressing the need for additional financial provision to be made to implement the proposals in the regional plan, the report went on to say—

> There are various ways in which additional moneys can be raised; they must, however , clearly be related directly to the land in the planning area, and as such might be either a rate or tax on the land based on an assessment of its value. Because finance under the plan relates only to regional requirements, the payment of a tax in the form of additional land tax and assessed on the same basis is considered most suitable.

It has the following advantages:—

(a) It is a tax which would affect the average property holder only very slightly;

(b) it does not apply to improved agricultural property which would mainly occur in the proposed rural zones of the plan, but principally to urban property owners who will, in fact, obtain the most benefit proposed under the plan;

(c) it is very simple to collect as the machinery already exists.

The incidence of land which is at present in agricultural use, and which is consequently exempt from the improvement tax, and which at the same time has a potential increase in value if it becomes urbanised, should not be exaggerated. Agricultural property which is exempt from the tax is mainly in the rural zones of the plan. It has been estimated that the effect of removing the agricultural land exemption would be, on a basis of ⅝d. in the pound, an additional £7,500 of revenue to the fund.

On the whole, I think it is logical that the agricultural land exemption should be maintained. An incidental objective in the metropolitan region plan is to safeguard the principal food-producing areas close to the city. The zoning helps towards that end in excluding from the urban zone some of the important market garden and orchard land. The experience in other Australian cities shows that one of the difficulties in maintaining agricultural land close to the city in economic production is that there is a tendency for increased valuations of urban land to be reflected in the value of market garden and horticultural land.

It is one of the authority's intentions when the regional plan is operative to try to ease the impact of high rates and land taxes on land zoned for rural and agricultural use. When the plan is established the restrictions on development which the rural zoning imposes will eliminate the need for valuations to recognise to the same extent as they do now, a hypothetical development value. The suggestion that the improvement tax be extended to cover agricultural land as well would tend to move away from that objective.

I felt it necessary to reply in some detail to the points raised. Quite frankly, however, I did not expect some of the arguments that were raised. I think the member for Melville will agree that his speech—so far as I understood it, anyhow—turned very largely on either mismanagement, or lack of management on the part of the authority of the moneys available to it; and also possibly lack of the use of its borrowing powers to the maximum extent.

Mr. Tonkin: It has not used its borrowing powers to any extent.

Mr. PERKINS: I treated that suggestion seriously, and the material I have given to the House tonight is the considered view of the town-planning authority, and particularly that of the Town Planning Commissioner; and it is further buttressed by the opinion of the Under-Treasurer.

The Under-Treasurer is available to the town-planning authority for consultation on all financial matters. The Deputy Leader of the Opposition has perhaps suggested that this is just the opinion of someone who has not been in close touch with the financial complications likely to arise if the State followed one course or another. The Under-Treasurer was consulted both by the Town Planning Commissioner and by myself before I prepared this material. So I have not relied merely on the opinion of some uninformed person, as the member for Melville might perhaps suggest.

I am, however, sorry for not having produced some of this material in the first instance; but, as I have said, quite frankly I did not expect to receive some of the queries that were raised by members opposite, during the debate. The suggestion was made that we treated this matter too lightly; but surely with all the debate which took place last year one would expect that almost every aspect of the problems likely to arise would have been covered during those debates. And really the only provisions in this Bill are: firstly,

the doing away with the limitation of time which, of course, was put there by another place—

Mr. W. Hegney: I hope they put it there again.

Mr. PERKINS: —and which I resisted in this Chamber on that occasion, and which I would resist again; and I might point out that I have prepared this statement on the basis of endeavouring to show how farcical it is to attempt to apply such a limitation of time if the town-planning authority is to be effective. That is why I have gone to some trouble to prepare this material.

The town-planning authority is not entirely happy with the reduction from ½d. to ¾d., but after consultation with the town-planning authority and with the Under-Treasurer I thought that this figure might be sufficient for the immediate purposes at least; and I sincerely hope that it will. But if by any chance at some future date there are financial complications, they can be dealt with when they occur. I hope the Bill will go through in its present form, particularly as there are practically only two provisions contained in it.

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committees (Mr. Roberts) in the Chair; Mr. Perkins (Minister for Transport) in charge of the Bill.

Clause 1 put and passed.

Clause 2: Section 3 added—

Mr. TONKIN: I am particularly disappointed with the Minister's reply to the second reading debate. It showed a complete lack of appreciation of the points raised. We all know some tax must be imposed for the authority to function. The reason another place limited the tax to two years was that the members there were not satisfied that the amount of money, which the Government was seeking in connection with this, ought to be raised by way of taxation. I think it was justified in its action, having regard to the results we have seen. I am not at all surprised that this authority resisted the proposal to reduce the tax from ½d. to ¾d., because the way it is going it would spend all the money, even if the tax were 1d. in the pound. That is my complaint.

When the finance committee tabled its report on this matter in 1960, it said that one of the basic principles of financing the authority's requirements would be by long-term loans; and when the Minister introduced his Bill he said that was no longer arguable; that that was accepted.

Up to date the authority has spent almost its entire revenue in this way. It has not set aside some portion of it in the bank to finance loans which it proposes to raise. Let us consider the argument used by the Minister that if the tax were reduced to ¼d. and the income to £100,000, that would limit borrowing to seven years. How is that conclusion arrived at?

Mr. Perkins: It would require £13,000 a year to service the loan.

Mr. TONKIN: The authority said it could not borrow more than £200,000 a year. So the commitment in the first year is £13,000 out of £100,000 of revenue, leaving a surplus of £87,000 for the following year. If it borrowed a further £200,000 in the second year it would only have to pay £26,000, so it would have a surplus of a further £74,000 from the revenue in the second year. If it borrowed another £200,000 in the third year it would require £39,000 to service the loans for that year, and there would be a surplus of £61,000 from the revenue. We have only to follow that method to its logical conclusion to find that the authority can borrow £200,000 a year for much longer than seven years.

Mr. Perkins: What do you propose to do with the £200,000 borrowed each year?

Mr. TONKIN: That is where the authority has acted contrary to its own concept. It has spent all the revenue it has received each year. In the original planning of this scheme it was laid down that a lot of the land purchased now would not be required for many years to come, but that if such land were not purchased now the authority would not derive a benefit from the lower existing prices.

Mr. Perkins: That is in respect of some of the land.

Mr. TONKIN: If it was intended to buy the land at the present time, which will not be required for the next 30 to 40 years, then the authority should be prepared to spread the burden of such purchases over the taxable capacity of the people in the intervening year, instead of compelling the present taxpayers to pay for an advantage which would benefit taxpayers 30 years hence. That was the policy enunciated by the authority and by the Minister, according to the report of the financial committee. Of course, that is a perfectly sound policy. The authority should be compelled to adopt the policy it enunciated; that was, to raise money by long-term loans and to service those loans from its revenue. When this Bill goes before another place I am sure that will be the attitude adopted by the members there, because it is in line with the speeches they delivered.

Mr. Perkins: They may have reconsidered the position since then.

Mr. TONKIN: If they reconsidered the position in the light of the experience which we gained, then they would be more determined than they were before. The Minister made no attempt to deal with the situation where the authority has spent all its revenue and where it has failed to set aside anything to service future loans.

From the way it is carrying out its functions I am satisfied that if this tax were 2d. in the pound the authority would spend all of it, and thus load the burden on the present taxpayers.

The argument that the authority will have to pay back £400,000 for every £200,000 it borrows can be applied to every Government instrumentality. Would anyone advocate that the Water Supply Department, which uses a large amount of loan funds, should not use loan moneys for capital works, but should increase the water rates in order to raise sufficient revenue to build reservoirs and install service mains, because it would save £200,000 every 40 years?

This authority should not be placed in a different position to any Government department or public authority which has to finance its works over a long period. It should not be expected to pay cash and raise the money by taxation, when other Government departments—such as the Water Supply Department, the Public Works Department, the Public Health Department, and the Police Department —have to use loan moneys, and find interest and sinking fund out of revenue. Does the Minister deny saying that the authority was expected to carry out its functions financed by long-term loans?

Mr. Perkins: Sit down and I shall reply. I shall not reply piecemeal.

Mr. TONKIN: If he meant what he said, why does he not follow that policy? Why does he put up the argument contrary to that original concept? The general practice of Government departments is to utilise the revenue to the best advantage; that is, to service long-term loans so that they would be able to raise the maximum amount of their requirements by way of loans. Let us consider the loan programme of the Water Supply Department, which runs into tens of millions of pounds. Where would that department have got if it endeavoured to finance its works out of revenue? The position would have been impossible.

The authority proposes to spend its entire revenue in the next four years, so that when it is required to raise loans later on it will have to start from scratch with no funds to service them.

Mr. Perkins: Apparently you have not listened to what I said.

Mr. TONKIN: The calculation made by the Minister was that an income of £100,000 would enable an authority to borrow seven times £200,000. That is nonsense, because the authority would not borrow the full amount in one year. It would borrow £200,000 in the first year, the same amount in the second and third year, with the annual commitment increasing by £13,000 each year. The rise in values would give the increased revenue to meet that situation.

Take the figure of £165,000. That was arrived at by taking three-quarters of £220,000. The present rate of return from the tax at ½d. is £220,000; and in order to judge its revenue for the next three years, all the authority did was to say, "The tax has been reduced a quarter, so we will take three-quarters of £220,000 and that gives £165,000 for the next three years."

We well know that its income will be considerably greater than that, because the annual increment on land, which is being currently revalued, will result in a much greater increase than the authority contemplates. However, it has completely disregarded any increase.

If any benefits are to flow from the expenditure by the authority, that will immediately be reflected in an increase in land values. That is the very purpose of a regional planning scheme; and the argument used for imposing this tax upon people is that, as a result of this planning, their equity will rise in value and they will be taxed on that rise in value. So it is to be expected that the income from this rate of tax will continue to rise each year. One does not have to be an outstanding mathematician to calculate that the increase will be at a greater rate than £13,000 per year—and that is all that is involved in servicing a loan of £200,000.

If the Government wants to reduce the burden of taxation on the people, it can do so without the slightest worry and concern because all the money the authority would require could be obtained by way of loan, and the loan could be serviced from revenue.

The CHAIRMAN (Mr. Roberts): The honourable member's time has expired.

Mr. PERKINS: I am afraid the Deputy Leader of the Opposition is hard to follow in this matter. In 1957, when he was in charge of the Bill, he adopted one attitude; but when I had the Bill before the House last year, the Deputy Leader of the Opposition could not see any virtue in having a tax at all. He thought the money ought to come out of the Treasurer's ordinary revenue.

Suggestions were made during the second reading stage in regard to limiting the tax to a period of three years; and when I replied in some detail tonight the Deputy Leader of the Opposition said there was no need to do so, because that was something he was not advocating. When I replied tonight in detail, apparently he did not listen.

Mr. Tonkin: I listened to every word you said.

Mr. PERKINS: The Deputy Leader of the Opposition said the authority had been prodigal—that it spent its money on acquiring property and had not made use of its borrowing capacity.

Mr. Tonkin: Has it?

Mr. PERKINS: What could the authority do when the tax was limited to two years? Would it be prudent to incur the liability of a long-term loan over 20 or 30 years when it was sure of revenue for only two years? Since the present members of the Opposition, plus some members in another place, advocated that the tax should be so limited, surely it would not be prudent in those circumstances to incur a long-term indebtedness.

If the member for Melville had listened to the reply I gave tonight, he would have heard me say that the programme is to borrow at least £200,000 per year. That is the approximate capacity of the loan market at the present time. This is tied up with the question of the Loan Council and the right to borrow. It could, perhaps be as high as £250,000 per year. However, if the member for Melville had really listened to me he would have heard me stress the figure of £200,000 per year, time and time again.

It is also prudent, while borrowing, to use some of the revenues for the acquisition of property which is going to be used immediately. I made reference to the western switch road. Surely the member for Melville is not advocating our delaying completion of the western switch road for 20 to 30 years! If he is, traffic in this city will be in a chaotic state long before that. I think all members are aware that it is necessary to complete the western switch road very much sooner than that. I hope that it will be completed within the next four or five years.

If it is, surely it is not prudent to use revenues that are for general betterment in the metropolitan area on a project which is actually going to be completed in a very much shorter time. If that were so, at some later stage the planning authority would find itself in the position of using a big proportion of its then revenues to finance a loan which had been used for the purchase of properties for a project that had been completed.

I made it clear in my reply to the second reading debate that a reasonable proportion of the funds should be used immediately on whatever acquisition of property is necessary as a short-term project; and a major proportion should be used to finance these long-term loans. However, until the tax is made permanent, it is futile for any member of this Committee to suggest it is prudent to incur the liability of long-term loans. Otherwise, the position could arise that Parliament might not agree to the renewal of the tax and the Treasurer would have to meet the servicing cost of that loan from the ordinary funds available to the Treasurer of this State.

I also thought I made it quite clear that in these circumstances the State would incur an additional disability by reason of the attitude adopted by the Grants Commission to the servicing of loans that are used for purposes different from the practice as adopted in the so-called standard States. Therefore, the only prudent course is to accept the Bill as it stands.

Mr. Tonkin: It is amusing to hear the Minister talk about prudence. The authority proposes to spend every bob of its revenue for four years.

Mr. PERKINS: It does not; and the honourable member is right off beam. He did not listen to what I said.

Mr. Tonkin: Do you say it does not?

Mr. PERKINS: Yes; it is going to borrow if the tax is made permanent.

Mr. TONKIN: Last week I accepted the Minister's invitation to obtain information, and I asked him whether he would supply a plan of the intended expenditure for the next two or three years. The Minister indicated that the plan was that every bob of the revenue would be spent.

Mr. Perkins: We cannot incur loans until this tax is permanent.

Mr. TONKIN: A moment ago you said differently.

Mr. Ross Hutchinson: Be reasonable.

Mr. Perkins: How absurd can you be!

Mr. TONKIN: The Minister for Health knows nothing about it, so I suggest he should keep out of it.

Mr. Ross Hutchinson: You are never reasonable in your arguments.

Mr. TONKIN: I want the facts. I am not going to accept lies from anyone. The Minister said a moment ago—and I will send for the *Hansard* report if he continues to deny it—that it was not so. The information supplied by the Minister indicated that for the full period covered by the information the authority proposed to spend every bob of its revenue.

Mr. Perkins: It cannot do other than spend its revenue until a permanent tax is imposed.

Mr. TONKIN: Now the Minister is going to justify the authority's action. Previously, he denied it was going to do so.

Mr. Perkins: Unless the tax is renewed, that is the way it will be.

Mr. TONKIN: The Minister argues all over the place. Perhaps he will now admit that the plan is to spend all its revenue.

Mr. Perkins: No; it is not the plan.

Mr. TONKIN: The Minister is hopeless. It is recorded in *Hansard*. The figures he supplied to me indicate that that is the position.

Mr. Perkins: The plan can only be made after this Bill is passed.

Mr. TONKIN: It was in anticipation of the passing of this Bill.

Mr. Perkins: You cannot anticipate anything until the Bill is through.

Mr. TONKIN: The Minister has, because it was planned on the basis of £165,000 a year for the next three years. I asked how he arrived at that figure, and he said that he anticipated that this tax was going to continue at the rate of ¾d. instead of ½d., and now he says he cannot anticipate anything. The Minister is all over the place.

My complaint is that it will not follow its original concept and finance this requirement from long-term loans, and service the loans from revenue, as was intended, until it is absolutely forced to do so. In the meantime it will go on raising revenue and spending it as fast as it is obtained.

Mr. Perkins: You are right off the beam.

Mr. TONKIN: Of course the Minister is hopeless. He presents figures here and then he denies them.

Mr. Perkins: It cannot do that until the tax is permanent.

Mr. TONKIN: The Minister is not going to deny figures he himself submitted, surely! In order to force this authority to embark upon the plan it itself laid down, I suggest to the Committee that we ought to reduce this tax. If we reduce it to ½d. the authority will at least receive £100,000 a year. It can borrow £200,000 straightaway, and it would only require £13,000 of that £100,000 to finance that £200,000 borrowed, and that would give it as much money as it has already spent this year and would enable it to put aside for servicing further loans next year and the year after, an amount of £87,000 out of current revenue.

The next year it could borrow another £200,000. It would only require another £13,000 of its £100,000 revenue, plus £13,000 committed for the first £200,000. So it would have available to it £74,000 surplus out of revenue for the following year. Therefore it would be building up a fund which would enable it to service loans equivalent to the amount of revenue being raised and spent at the present time. I move an amendment—

> Page 2, line 9—Delete the word "three-eighths" and substitute the word "one-quarter."

Mr. Ross Hutchinson: That is 50 per cent. of what you originally intended to do.

Mr. PERKINS: It must be quite obvious to the member for Melville that if this action were taken it would be the surest way to cripple the operations of the Town Planning Board.

Mr. Tonkin: Nonsense!

Mr. PERKINS: Of course it would be! As I have indicated, the financial operations of this board require partly long-term borrowing and partly expenditure in order to cover the minimum requirements. As I have told the Committee already, the authority has very reluctantly agreed to the reduction from ½d. to ¾d.

Mr. J. Hegney: Why was that done?

Mr. PERKINS: So that the burden on the community would not be greater than would be actually necessary. While perhaps it will limit the scope of the operations of the town-planning authority to some degree, it is thought after careful examination that that will be sufficient for it to function. In the face of that advice, the member for Melville now moves to reduce the figure from ¾d. to ½d. What result can that have? Whatever funds are available would have to be used predominantly for long-term borrowing. The amount left for immediate spending would be very much reduced. In those circumstances I think it would be a most retrograde step and would stultify the efforts of the authority.

The member for Melville has had a lot to say about the operations of this board for the last year. I am afraid I cannot agree with him. The difficulty arises, of course, from the fact that if this tax were not permanent, it would not be prudent to incur the long-term liability of a long-term loan; because if Parliament refused to continue the legislation at a future time, the Treasurer could be faced with the burden of servicing that particular loan; and, as I have explained, because of the way the Grants Commission operates, that would result in a further penalty being placed on the State because we were adopting a different procedure from that followed in other States.

I rather feared from the tenor of the speeches made in the second reading debate that these arguments might arise, so I went to considerable trouble to consult the planning authority and the Under-Treasurer. The views I expressed tonight were not those which I conjured up out of the air but were the considered opinions of those people.

I say quite definitely that the amendment moved by the member for Melville is a most mischievous one and could only be designed to hamstring the operations of the authority. It is entirely out of line with the way the member for Melville originally presented the legislation of the Government in 1957; and I am amazed at the change of front which he now makes in moving an amendment of this nature. I repeat that it is impossible to incur long-term indebtedness unless one is sure that the revenue is available to meet the particular commitment.

I am not in possession of the reply I gave as to what the programme was. I rather suspect that the implication was that unless the tax is made permanent the only way that the authority can proceed is to use up its current revenue.

Mr. Tonkin: That's what it is doing now.

Mr. PERKINS: That is the only way it can operate, because the tax is not a permanent tax; it has no security for the future. If we proceed in any other way—as I have tried to explain tonight—we incur the danger of a penalty from the Grants Commission. The reason for the course that was adopted last year is the complication caused by the limitation on the life of the tax. I am advocating that we make the tax a permanent one and that it be at the figure of ⅝d., which I am advised is the minimum figure to which Parliament can safely reduce it. It is no use my saying more. I have tried to give a clear exposition of the case; and I cannot accept the amendment of the member for Melville.

Mr. W. HEGNEY: I support the amendment. I am not going to traverse the ground already covered by the Deputy Leader of the Opposition, but I would impress upon the Committee that the figures as supplied to the House by the Minister are very much open to question. It is apparent to me that the figures he submitted were based on present-day values and the present-day population of the metropolis. It is quite obvious that within the next 12 months, and within the next two, three, or four years, landowners or householders in the metropolitan area will increase; and consequently valuations will also increase; and they will all be subject to the tax.

In addition to that, the electors of the member for Greenough will not have to pay this tax; and the electors of Dongara and Bindi Bindi, and others, will not have to pay the tax. But the electors of Mt. Hawthorn, and the electors of Leederville, and others, will have to pay the tax; and it is on behalf of my electorate that I protest and will support the amendment moved by the Deputy Leader of the Opposition. I was about to say—

Mr. Brand: The Deputy Leader of the Opposition's Bill of 1957 excluded farmers—and included those adjoining the metropolitan area.

Mr. W. HEGNEY: —that the increase in the valuations is obvious. The figures supplied by the Minister are based on present-day values. I have no doubt that as time goes on there will be revaluations, and the trend will be upward; in consequence of which the ratepayers in the metropolitan area will bear the added burden. It would be all right if this were the only tax paid by workers in the metropolis. But they have to pay income tax—which is universal; they have to pay land tax, and increasing local rates; and I have no doubt that local authorities will tax ratepayers in the metropolitan area to the limit.

Mr. J. Hegney: They are doing that now.

Mr. W. HEGNEY: I suggest that there should be a limit to what people have to pay. The Government has increased water rates by at least 25 per cent. It has increased driver's license fees, and taxes in various other ways. I think the suggestion of the Deputy Leader of the Opposition will meet the position for the time being, in that there will be over £100,000 a year paid by the ratepayers in the metropolitan area. We are not dealing with the question of permanency, but with the rate of tax. It is quite clear to me that the Deputy Leader of the Opposition has been on, and is on, very sound ground when he advances the argument with regard to financing long-term loans. It is all very fine for the Minister to snigger. The Minister has got hold of his second reading reply.

Mr. Perkins: Read the papers of the House.

Mr. W. HEGNEY: Let the Minister read them; he has read enough already. The financing of long-term loans could be based and serviced on this reduction to ¼d., as suggested by the Deputy Leader of the Opposition. The question of permanency is a matter for Parliament to decide. This is a matter which should be brought here regularly. I am inclined to the view that the tax should go on for a period not later than 1964. If it is decided that it should become permanent, then ¼d. in the £1, in addition to the rates that are paid in the metropolitan area, should suffice.

Mr. PERKINS: The Deputy Leader of the Opposition should not have let the member for Mt. Hawthorn speak, because he was arguing against him. The member for Melville said it is all right to have a tax, but the member for Mt. Hawthorn thinks it should not be permanent. I could not remember details of the reply I gave the member for Melville; but, if my memory serves me correctly, I thought the figures were the same as given in the second reading debate. The effrontery of the member for Melville frankly staggers me. Either he cannot read plain figures, or he was deliberately misleading the House—one or the other. I will now quote from page 156 of *Votes and Proceedings*, the second column, partway down the page. The figures given here show what the authority estimated it would have available to it from 1960-61 to 1963-64.

They indicate that for the year 1960-61 the tax revenue was £60,000; there was no loan money; there was nothing committed for interest and sinking fund; and the total available for capital expenditure was £60,000. For the year 1961-62 the tax revenue was £220,000. The loan projected was £200,000. The amount committed to interest and sinking fund was £13,000. A total of £407,000 was available for capital expenditure.

For the year 1962-63, the tax revenue was £165,000—that is the reduction from ½d. to ⅝d. The loan figure was £200,000; £26,000 was committed for interest and sinking fund; and a figure of £339,000 was

available for capital expenditure. In 1963-64, the tax revenue was £165,000. The loan figure was £200,000. A figure of £39,000 was committed to interest and sinking fund; and a total of £326,000 was available for capital expenditure. I cannot do more than repeat those figures, which are available to any member of the House.

Mr. Tonkin: What about reading the rest of the answer?

Mr. PERKINS: The remainder of the answer reads—

> The authority anticipates that the whole of this money will be expended within this period, but it is emphasised that the foregoing plan depends entirely on the authority's revenue being secured by a continuation of the regional tax.

Mr Tonkin: When I said that a few minutes ago, you denied it.

Mr. PERKINS: I am saying that the loan programme can be covered only if the tax is made permanent. I have been repeating that; and if the member for Melville gets any pleasure out of picking up minor points, then I do not want to deny him that satisfaction. The whole tenor of my speech tonight has been perfectly clear. I have consulted the town-planning authority, and the Under-Treasurer, and I have stated that the programme is for long-term borrowing if the tax is made permanent. That was the statement I made when I introduced the Bill and there has not been any shifting from that. I can only think that the member for Melville is trying to confuse the situation by throwing red herrings across the trail. I do not think there need be any confusion about it, and it is useless for me to prolong the argument.

Mr. TOMS: It seems to me that towards this amendment the Minister is adopting one of his usual antagonistic attitudes. I support the amendment. The other night I suggested that ¼d. should be sufficient to cover the needs of the authority; and the Minister, in reply to a question asked regarding this matter, said that on the basis of ½d. in the £1 the tax revenue for 1960-61 was £60,000, but in 1961-62 it was £200,000.

That indicates to me that during that twelve months the valuations must have been increased because the areas covered remained static. By the Bill the Minister proposes to reduce the tax by 25 per cent. and he assesses that the tax revenue will be £165,000. The Minister knows very well that metropolitan valuations are increasing all the time and that the income from ¾d. in the £1 will be well in excess of £165,000.

Mr. Perkins: And the cost of resuming property is likely to rise proportionately, of course.

Mr. TOMS: The Minister has been told how to go about resuming property and I am sure that even though the Bill allows for a reduction the total amount collected will not be reduced by one farthing. The Minister knows very well that the increased valuations this year will more than cover the ¼d. reduction in the tax. If he does not know that it is time he had a look around to see what is going on in the metropolitan area instead of burying his head in the country; because country people are not affected by this tax.

Mr. Perkins: Don't you think some of us are ratepayers of the City of Perth?

Mr. TOMS: The Minister is not paying much tax; otherwise he would not be supporting this measure.

Mr. Perkins: You'd be surprised!

Mr. TOMS: When this Bill gets to another place some of those who are paying heavy taxes will be looking at this part of the Bill. I support the amendment because I believe that the tax proposed will be sufficient to meet the commitments of the authority.

Mr. TONKIN: I want to remind the Minister that his utterances are on record, and that his present attitude is quite out of keeping with the one he adopted before. During his second reading speech the Minister said—

> Essentially the capital cost of implementing the metropolitan region scheme should be met through long-term loans.

That is clear enough and there is no room for any other idea in connection with the matter. It is in accordance with the pronouncement of the authority itself, which is to be found in its report No. 5, made by the finance committee and tabled in the Legislative Assembly on the 25th August, 1960. The authority said—

> The object of the Regional Plan is to secure major improvements in the metropolitan area and additional facilities in accordance with long-term plans to be realised step by step with the growth of the region and the State. A second conclusion therefore is that the costs of such improvements and facilities should logically be spread over the extended period of realisation of the plan and that it is neither feasible nor desirable to attempt to meet the whole costs at the outset and wholly at the expense of the present taxpayers.

Mr. Perkins: Did you notice the word "whole"?

Mr. TONKIN: When I asked a question on the 12th September, and got the figures in reply, which the Minister has recently quoted, the authority showed that it received a tax revenue of £60,000 in 1960-61, a tax revenue of £220,000 in 1961-62, and a proposed £165,000 in 1962-63 and 1963-64. The Minister then went on to say—

> The authority anticipates that the whole of this money will be expended within this period.

I ask you, Mr. Chairman: Does that justify the statement I made that the authority proposes to spend every bob of its revenue over three years?

Mr. Perkins: Have you noticed that the £600,000 is there as the total of loan funds available in that period?

Mr. TONKIN: No; I have not noticed that.

Mr. Perkins: You will find it in reply to your question.

Mr. TONKIN: No; I will find the figure of £1,132,000, and the authority said it was going to spend the lot of it. That is what I am complaining about. By the end of 1964 when the authority will, if it follows its anticipations, have borrowed £600,000, and still proposes to borrow another £200,000, it will not have a bob of revenue in kitty to meet the cost of the loans; because it will have spent it all beforehand. What sort of financing is that? It ought to be setting aside out of current revenue money which will be utilised to finance the borrowing.

Mr. Perkins: There is no doubt about you. You would go broke if you were in business, and pretty smartly too.

Mr. TONKIN: That has been the plan the authority has laid down, and the Minister himself has espoused it. I would like to know whether the Minister just utters words or whether he believes in what he says.

Mr. Perkins: I consult the Under-Treasurer of the State in whom I have a lot more faith than I have in you.

Mr. TONKIN: But when I read that "essentially the capital cost of implementing the metropolitan region scheme should be met through long-term loans," that does not enable me to come to the conclusion that it should be met from revenue, Under-Treasurer or no Under-Treasurer. Either it means what it says or it means something different. I prefer to read English as it is written.

Mr. Perkins: And your remedy for all this is to reduce the tax? There is no doubt about you.

Mr. TONKIN: Yes, to force the authority to carry out its plan as laid down. I suggest that with the increased valuations in the metropolitan area it will get ample return from ¼d. tax to enable it to follow out this programme of expenditure; because it must be remembered that it has expended money at the present time on the basis of £200,000 a year. The Minister told me that at the end of August the authority had spent £435,000, all of which was revenue.

It had expended this revenue on available cheap land which was going to be of advantage to the State many years in the future. My complaint is that it proposes to carry on in much the same way by spending every shilling of its revenue. Therefore, it should be made to do that out of loan revenue and be made to rely on long-term loans for its requirements. When we talk about increasing taxation as being a burden on the people, it is a real burden and we should make every endeavour to relieve the people of it.

If we reduce the amount of tax that is to be imposed on the people there is no possibility of any restriction being imposed by the Grants Commission because £100,000 a year used prudently will guarantee to the authority a bigger yield per income than what it has received in the past.

Mr. Perkins: It is no wonder you left the affairs of the State in such a mess when we took office.

Mr. TONKIN: That is a fine utterance! I can tell the Minister that during the six years of the Hawke Government we were able to reduce the water rates charged by the Metropolitan Water Supply Department and build up a surplus of revenue over expenditure of £250,000 which this Government allowed to go down the drain.

Mr. Perkins: And all the public buildings around the place falling down.

Mr. TONKIN: Of course, that is the sort of tripe one can expect when the Minister is speaking on his own argument! I do not want to waste time on a man who will not face up to a situation that he has presented himself. We have heard the statement of the Minister and the report of the authority that the finances should be handled in a certain way. There is information from the authority that it has not followed that course.

If I were the Treasurer of the State, I would say that any authority that proposes to spend every shilling of its revenue every year for the next three years, having in mind it has power to borrow money, should be pulled into gear. No department would dare follow a line of finance by that method when it knew full well that substantial commitments were piling up for loan funds in the future, and when it was spending every shilling available to it in current revenue without making any provision for meeting those increasing loans and interest from sinking fund charges which would be bound to accrue. That is my complaint. Of course, the Minister is defending the authority's action without making any attempt to face up to the criticism levelled against it.

Mr. W. Hegney: It is putting private members in an awkward position.

Mr. TONKIN: I do not propose to say any more in connection with it, but I will test the feeling of the Committee on this amendment; and if we fail there is always another place which will take a line of action that it took previously, and the

Minister's argument will do nothing to allay its dissatisfaction in connection with the matter. I am certain of that.

Mr. Brand: We will see.

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

Ayes—21.

Mr. Bickerton	Mr. Jamieson
Mr. Brady	Mr. Moir
Mr. Curran	Mr. Nulsen
Mr. Davies	Mr. Oldfield
Mr. Evans	Mr. Rhatigan
Mr. Fletcher	Mr. Rowberry
Mr. Graham	Mr. Sewell
Mr. Hall	Mr. Toms
Mr. Heal	Mr. Tonkin
Mr. J. Hegney	Mr. May
Mr. W. Hegney	*(Teller.)*

Noes—21.

Mr. Bovell	Sir Ross McLarty
Mr. Brand	Mr. Nalder
Mr. Burt	Mr. Nimmo
Mr. Cornell	Mr. O'Connor
Mr. Crommelin	Mr. O'Neil
Mr. Grayden	Mr. Owen
Mr. Guthrie	Mr. Perkins
Mr. Hearman	Mr. Watts
Dr. Henn	Mr. Wild
Mr. Hutchinson	Mr. I. W. Manning
Mr. W. A. Manning	*(Teller.)*

Pairs.

Ayes.	Noes.
Mr. Norton	Mr. Craig
Mr. Hawke	Mr. Mann
Mr. Kelly	Mr. Court

The CHAIRMAN (Mr. Roberts): The votes being equal, I give my casting vote in favour of the Noes.

Amendment thus negatived.

Clause put and passed.

Title put and passed.

Report

Bill reported without amendment and the report adopted.

REGISTRATION OF BIRTHS, DEATHS AND MARRIAGES BILL

Second Reading

MR. ROSS HUTCHINSON (Cottesloe—Chief Secretary) [11.42 p.m.]: I move—

That the Bill be now read a second time.

This Bill proposes the repeal of the present Registration of Births, Deaths and Marriages Act, 1894, and its replacement by legislation of more modern concept. The present Act is very old and has been amended once only in the last 46 years. The last amendment was made in 1948. Many of its provisions are either inadequate or out of date in their application to present-day requirements. Certain modern developments, particularly in the fields of transport and communications were, of course, not envisaged when the original Act was passed. Then again, by reason of other and more recent legislation which affects registration procedures, a revision of the present law is now overdue.

In some aspects the present Act has proved restrictive in application. This is particularly apparent in such matters as the registration of an illegitimate child, and in requiring prepayment of fees before a registration can in certain cases be effected. Quite obviously our first objective should be the registration of the relevant event—that is the birth, death, or marriage—so that the official records will be as complete and accurate as is possible. The recovery of a fee is quite secondary.

Accordingly, this Bill is presented with a view to providing a comprehensive and up-to-date measure covering the registration of births, deaths, marriages, and the legitimation of children. It is further necessitated by the recent enactment of the Commonwealth Marriage Act, 1961, which it is expected will come into operation early next year. This is dependent somewhat on a court case which has to be determined following an objection lodged by the Victorian Government. Since that Act will now provide the law on legitimation and on marriage, certain complementary legislative action will be required of the States in the registration field which the Commonwealth does not enter.

In this State the matter of legitimation of children is covered by the Legitimation Act, 1909; and as this Act will be superseded by the Commonwealth Marriage Act it becomes essential that provision be made for the registration of such children after they are legitimated by virtue of the Commonwealth Act. A separate part has accordingly been inserted in this Bill to provide for such registration. Provision is also made that this section of the Act does not necessarily have to be proclaimed on the same day as the rest of the Act. It may be proclaimed separately or in part.

Registration in this State of ministers of religion for the celebration of marriage is at present provided for by part III of the Registration of Births, Deaths and Marriages Act. This is also a matter which will be taken over by the Commonwealth under the new Marriage Act. In consequence, the function of registering ministers is not provided for in the Bill. It is, however, necessary to re-define a minister of religion in terms of the Commonwealth Act, as such a person has responsibilities under our registration requirements other than in celebrating marriage.

It will be noted that the Bill defines a "birth" or "birth of a child." The existing Act presupposes a live birth and provides separately for the registration of a stillbirth. In this Bill it is proposed to register all births which come within the scope of the definition and, in consequence, the term "stillbirth" is discarded. In the matter of registration of children not born

alive, the only practical values are medical and statistical which can provide a basis for research into the causes of foetal and neo-natal deaths. Therefore, with a specified period of gestation as a qualification for registration as provided in the definition of "birth" and, later in the Bill, the furnishing of a special medical certificate in respect of any child not surviving the twenty-eighth day following birth, the foundations are laid for such research.

While on this subject I wish to explain two other matters mentioned in the Bill. First of all there is a section which states that a child not born alive shall for the purpose of the proposed Act, be deemed to have been born alive and to have subsequently died. This is not new. It is in the present Act and also in the Acts of certain other States. Its purpose is to enable the completion of a medical certificate as to cause of death, by the doctor attending the birth of the child and to ensure that the death is registered.

The other matter is a provision which states that the product of a birth shall be deemed to be a human body. This is to ensure, in the case of foetal death, the furnishing of a certificate of disposal—that is, burial or cremation—without which no registration of a death can be made.

I now refer to registration of the births of illegitimate children. It is a universally accepted principle that such a child shall not be registered by the mother only with particulars of a reputed father. It follows then that in such case the only surname such a child can acquire, is the surname of the mother. However, in one special circumstance, and I repeat, in one only, can a child take under the present Act, the surname of its father. This sole instance is indicative of the restrictiveness of the present Act in that before the child's birth is registered, both parents must attend personally at the registrar's office and sign the registration document. It is known that children have been denied the right to the father's surname simply because for various reasons the father has been unable to attend the registrar's office and sign the registration. This Bill now seeks to give such a child more reasonable opportunity to acquire the surname of its father.

As I have already remarked, the law on the legitimation of children by the marriage of the parents has now been established by the Commonwealth and in consequence the Legitimation Act, 1909, will be superseded. Whereas under that Act a child was legitimated only upon registration, the Commonwealth law states that the child is legitimated the moment the parents marry each other. It becomes essential, therefore, that all such cases be registered so that the child may have some documentary proof of his legitimacy. As the Commonwealth does not enter the registration field it is proposing to assist the States in that regard by making compulsory the notification by parents to State registrars of the fact of legitimation.

Accordingly it has been considered desirable and necessary to provide in this Bill for such registration. It has also been considered desirable and appropriate that any such registration should be in the form of an ordinary birth registration and that the facility should be extended to children domiciled in this State, even if not born therein.

The value attaching to the form of registration now sought is that a legitimated child will in future be able to obtain a normal extract of its birth entry, or if necessary a full certified copy of the registration evidencing legitimate birth. Nowadays children are required to furnish proof of age on first attending school, on seeking employment, and for various other reasons, while later on they will be required to produce such evidence before they can marry, as is set out in the Commonwealth Marriage Act. A special part (part VI) providing proposals in regard to the foregoing has been inserted in the Bill.

Whilst speaking on this matter I would add that it has long been provided here and elsewhere that searches of birth registrations and the issue of documents therefrom, in respect of illegitimate and adopted children, shall be entirely at the discretion of the Registrar-General. The provision in the Bill is now extended to include legitimated children. This is to ensure that only those persons having proper reasons can have access to such registrations.

The correction of errors in registrations is a never-ending task. These originate with the informant of the event registered, and fall into two categories. They are clerical errors, and errors of fact or substance. The present law is somewhat restrictive in laying down rigid qualifications and procedures which sometimes cannot be met, despite the obvious need for a correction. In this matter the provisions in the other States, which are much more flexible, have been followed and greater discretionary power sought. This includes power to make a new birth entry if thought desirable, as may be the case with a change of sex. Similarly, greater scope is sought in the Bill for the changing of a child's first name or the addition of another first name.

I now come to matters concerning the registration of deaths. Apart from deaths which occur in the State and in respect of which this Bill does not materially differ from the existing law, it occasionally happens that a body is brought into the State for burial, from either a ship or an aircraft, or a death may occur in an aircraft in Western Australia while the aircraft is in flight. These matters and

others concerning cremations and schools of anatomy in respect of which the present Act is inadequate or has no provision, have been included in the Bill.

The opportunity presented by the Bill has been taken to seek statutory authority for minor procedures which have necessarily been instituted from time to time to meet changing times and circumstances. Such matters as the replacement of illegible, mutilated, and unsigned registrations, endorsement of marriage registrations with, where applicable, the fact of divorce, and power to impound documents which have unauthorisedly been altered after issue, are of necessity included. Furthermore, by the variation and improvement of certain registration procedures it has been possible in this Bill to provide for only half the number of the schedules contained in the present Act.

Before closing I wish to say that if the Bill is passed it is intended to have the resultant Act proclaimed to operate on the same date as the Commonwealth Marriage Act, so that those provisions which are complementary to that Act will then be effective. In order that this may be carried out I invite members to deal as expeditiously as possible with the Bill.

Debate adjourned, on motion by Mr. Moir.

Message: Appropriation

Message from the Governor received and read recommending appropriation for the purposes of the Bill.

CHURCH OF ENGLAND (NORTHERN DIOCESE) BILL

Second Reading

MR. WATTS (Stirling—Attorney-General) [11.58 p.m.]: I move—

That the Bill be now read a second time.

This Bill has been introduced at the request of the Church of England of Western Australia. In consequence it is in no sense a Government Bill. The Government, at the request of the church authorities, decided to sponsor it in order that it might be dealt with by Parliament. The Northern Diocese of the Church of England was created under the statute known as the Northern Diocese Statute of 1907 by the Perth Diocese which, as honourable members know, passes church statutes. The northern boundaries of the diocese were set out in the schedules.

The Synod of the Perth Diocese passed an amending statute in 1928 to provide for Geraldton, etc., being included in the northern diocese, but the statute was not operative until the Synod of the Northern Diocese was constituted. For practical purposes, the Geraldton area and churches therein have been treated by both dioceses as being in the Northern Diocese; and clergymen in that area are licensed by the Bishop of the Northern Diocese, although they reside in the Perth Diocese and their churches are in the same diocese, because the 1928 statute has not become operative.

Including clergymen in the Geraldton, etc., area, the number is now seven, and unless the statute is passed by Parliament it does not seem possible at present to comply with sections 5 and 11 of the 1907 statute of the Perth Diocese. On the advice of the Chancellor of the Diocese of Perth (Mr. Tindal)—who is a well-known legal practitioner—after consulting with the Bishop of the Northern Diocese, at the Provincial Synod held on the 7th August, 1961, in Perth, it was decided that Parliament be asked to legislate so as to help the Northern Diocese in a proposed new cathedral at Geraldton. This Bill provides what is desired. The whole responsibility of the diocese is on the Bishop of the Northern Diocese.

As I have said, the Geraldton and other parishes in its vicinity are actually still vested in the Perth Diocese. In particular, Geraldton parish properties are vested in the Perth Diocesan Trustees.

This Bill proposes, as will be seen, to vest the lands described in the schedule as being within the boundaries of the Northern Diocese; and by force of the section, that is to take place. It provides also that the Bishop of the Northern Diocese, together with such as are licensed by that Bishop and one layman of the Church of England elected by each parish or mission district shall comprise the first Synod of the Northern Diocese. There is provision, of course, for the registration of the land in question.

I said earlier on that the Chancellor of the Diocese of Perth (Mr. Tindal) has interested himself in this matter; and I have here a copy of a letter written by him on the 6th September, 1961, to the Chief Parliamentary Draftsman who, I might say, in consultation with Mr. Tindal drafted this Bill. I will read this letter so as to indicate that the contents of this Bill are in accordance with the wishes of the church. He writes—

> Many thanks for your letter of the 30th ult. I had to delay the matter until the Church Office had given me a proper schedule as the one which you have was not complete. The Church Office has made all necessary searches and the enclosed schedule seems correct. I return your draft. The alteration of two laymen to one layman—

That is, the lay members of the Synod. Continuing—

> —is considered to be necessary. I spoke to the Bishop of the North-West and he thinks the alteration from two to one should be made.
>
> I desire to compliment you on the way the draft has been prepared.

I do not think that there is anything further I can add in regard to this particular matter. The Bill is perfectly plain; and the reason for its submission to this House I think I have fairly summarised in what I have said.

Mr. Nulsen: The reason for this Bill is that you have not sufficient to form a Synod of eight.

Mr. WATTS: No; the major reason is to vest all the land in the Northern Diocese and to effectuate the formation of a Synod.

Debate adjourned, on motion by Mr. Nulsen.

CHURCHES OF CHRIST, SCIENTIST, INCORPORATION BILL

Second Reading

MR. WATTS (Stirling—Attorney-General) [12.6 a.m.]: I move—

That the Bill be now read a second time.

This is another Bill which is presented to the Legislature in this House purely at the request and with the complete approval, so far as its terms go, of the church in question, which is the Church of Christ, Scientist, or as I think most of us know it, the Christian Science Church.

The genesis of this matter, as I understand it, was a visit to Western Australia by Mr. Reynolds, counsel for the church authorities in question in Victoria, who called upon the Acting Minister for Justice some two or three months ago and submitted the thought that legislation might be desirable in order that the church in question might carry out its desires in Western Australia.

Subsequently, Mr. Reynolds called upon me and I asked him to submit in writing just what was required and the reasons for it. I do not think I can do better, as I am by no means expert in the ways of the Christian Science Church, than read the communication which I received, dated the 31st July, 1961, from Mr. Abrahams, head of the committee on publication in Western Australia of the church, subsequent to the visit that day to me by Mr. Reynolds. It reads as follows:—

> The members of the First Church of Christ, Scientist, in Western Australia seek incorporation for the purpose of more effectively regulating and managing their trusts and other business matters, and for the general conduct of church affairs.
>
> The proposal is part of a general plan covering the whole of the Commonwealth. An Act incorporating the Churches of Christ, Scientist, in the State of Victoria was passed in November, 1958. A Bill on similar lines to the Victorian Act has received the approval of the Cabinet of the State of New South Wales, and we are sure that this will shortly be enacted. A similar proposal is on the way to completion in the State of Queensland.
>
> Because the complete independence of individual churches is enjoined in the basic rules of the Churches of Christ, Scientist, as laid down by the Founder, Mary Baker Eddy, in the Church Manual of the Mother Church, The First Church of Christ, Scientist, in Boston, Massachusetts, it is necessary that each church should be incorporated separately. To provide for this multiple but separate incorporation, and still retain an independent control of its own affairs by each church, and to involve the minimum of legislation, our legal adviser has devised a method which has already met with approval as indicated in other States, and which is being adopted in many countries throughout the world.
>
> The members of the Church of Christ, Scientist, are concerned particularly that there should be no confusion of their principles, their tenets, beliefs and practices with those of some other kinds of religious thought or with theosophy, spiritualism or faith-healing.
>
> One of the reasons behind the proposal now made is the protection of the true doctrine of the Church, and the prevention of interpretation or imitation by other bodies which are not really Churches of Christ, Scientist.
>
> The status of the Church is well-known in the U.S. and in England and in Canada, and there are many branches throughout Australia.
>
> We propose to forward you copies of the Hansard of the Victorian Parliament containing the debates of the measure passed in November, 1958, which will convey more information as to the standing of the Church.
>
> A copy of the Church Manual above referred to is now forwarded for your perusal.
>
> The Victorian Act really consists of three parts—one dealing with the direct incorporation of the First Church of Christ, Scientist; the second dealing with the incorporation of other existing churches conditionally on the certain resolutions being passed and defined documents being filed with the Registrar General in that State; the third part contemplates the incorporation of Churches which may be formed in the future under prescribed conditions which will ensure the bona fides of any such future Church.
>
> However, in Western Australia at the moment only one Church exists—the First Church of Christ, Scientist,

Perth, and it is proposed in the suggested Bill that that be directly incorporated.

The second part of the Victorian Act has no application to Western Australia.

I might interpolate here by reminding members that the second part is that dealing with the incorporation of other existing churches conditionally on the certain resolutions being passed and defined documents being filed. To continue—

The third part, however, will be translated into the Western Australian Bill for future use in the formation of all future Churches as is now contemplated.

Pursuant to permission granted by Mr. Griffith,—

He is referring to The Hon. A. F. Griffith who was then the Acting Minister for Justice—

—our Counsel, E. R. Reynolds, Q.C., of Victorian and New South Wales Bars, has had informal and tentative discussion with your Parliamentary Draftsman, Mr. Kevin Walsh, who is fully acquainted with the proposal. He has been furnished with a copy of the Victorian Act; a copy is also being supplied to the Crown Solicitor.

Incorporation which we seek will serve a worthy and beneficial purpose in facilitating the work of the existing Church and the formation of Churches in the future, and cannot possibly have any harmful effect on any other interests, religious or otherwise, in the State.

We ask, Sir, with all respect, that you give early consideration to this proposal and bring the matter to the favourable notice of your Government. Any further information which you may desire on the matter will be made available to you.

I have the honour to be, Sir,

Yours faithfully,

(Sgd.) Oscar T. Abrahams,

Committee on Publication for Western Australia.

On receipt of that communication the matter was gone into, and it became quite clear that there was no objection to the legislation as desired by the church authorities. It was equally obvious that to suggest to them an incorporation under the Associations Incorporation Act would, in view of their internal situation, not be sufficient because it would be impractical to incorporate each church separately as and when other churches were set up.

I understand that the church which is in Perth at the moment in St. George's Place is the First Church of Christ, Scientist. If another church under the same religious body were formed, it would be the Second Church, and so on, the Third and Fourth, as they were formed. Each of those churches would be regarded by the religious body in question as separate entities, and yet incorporated bodies, and special legislation is preferred rather than to try to incorporate them under the Associations Incorporation Act. In this Bill the Associations Incorporation Act is completely ruled out.

Mr. Nulsen: Would they all have similar legislation?

Mr. WATTS: No. Once this Bill is passed, they can do it themselves under the provisions of their constitution and the Bill. That appears to be the peculiarity of the church: that although they are under the one religious belief and one series of tenets of belief, nevertheless they conduct themselves as religious bodies.

However, to make the position fairly clear to members, I would like to say that the Bill was drafted in consultation with the legal advisers of the church, and submitted to them; and they in turn submitted it to their headquarters—I presume I can use that word—in the United States of America.

On the 6th September we received a communication from Mr. Oscar T. Abrahams addressed again to the Chief Parliamentary Draftsman. It is as follows:—

Dear Mr. Walsh,

re Proposed Incorporation Bill for Christian Science Churches in Western Australia.

Further to my telephonic communication of this morning, we were able to contact Mr. E. C. Reynolds, Q.C. of Melbourne, per telephone and he has confirmed verbally that your amended draft of the above Act, sent to him in your letter of the 23rd August, 1961, has his full approval.

We would also like to mention that we have received a communication from Mr. Will B. Davis, Manager Committees on Publication, in which he confirms a cable sent on August 30th 1961, indicating that the Board of Directors of The Mother Church in Boston, approves your amended Incorporation Bill Draft. This, of course, is with the typographical corrections which the writer gave you personally just recently.

Mr. Reynolds stated he would confirm in writing to you his approval.

We trust that this will enable you to prepare the Bill for early presentation to Parliament.

With best wishes,

Yours sincerely,

(Sgd.) Oscar T. Abrahams,

Committee on Publication for Western Australia.

We can readily realise from that, that all this Bill seeks to do is carry out the desires of the church in regard to the matters I have briefly outlined. It does not, of

course, affect anyone else. It is entirely to incorporate in accordance with their internal mechanism, if I may use that phrase, the church in Western Australia, that this Bill is presented. I do not think it requires any further explanation.

Debate adjourned, on motion by Mr. Tonkin (Deputy Leader of the Opposition).

House adjourned at 12.18 a.m. (Wednesday).

Legislative Council

Wednesday, the 20th September, 1961

CONTENTS

The PRESIDENT (The Hon. L. C. Diver) took the Chair at 4.30 p.m., and read prayers.

QUESTIONS ON NOTICE

RAILWAY EMPLOYEES

Housing in Remote Areas

1. The Hon. G. BENNETTS asked the Minister for Mines:

   (1) Is the Minister aware that the non-availability of suitable accommodation for railway employees who are transferred to remote areas is placing hardship on those employees and causing them much concern?

   (2) As this particularly applies to married men who are housed in the railway barracks at Merredin whilst their wives and families reside in other parts of the State, will the Minister have inquiries made with a view to overcoming this problem by having further homes—State rental or railway—erected in the district?

   The Hon. A. F. GRIFFITH replied:

   (1) The department seeks to provide housing at remote centres to the degree that the demand and finances will allow.

   (2) The question of providing additional housing accommodation at Merredin has been investigated in conjunction with the State Housing Commission. The commission will complete a total of 17 houses in Merredin in the current financial year.

CHILD MENTAL PATIENTS

Accommodation at Claremont and Guildford

2. The Hon. R. F. HUTCHISON asked the Minister for Mines:

   With reference to questions asked by me on the 10th August, the 18th August, and the 28th September, 1960, relating to the construction of a new mental hospital at Guildford, and further to my question on the 14th September, 1961, will the Minister inform this House—

   (1) Why, after being in office almost three years, the Government has made no move to alter the distressing conditions which exist regarding children at the Claremont Mental Hospital?

   (2) What happened to the plan of the Hawke Government to build a mental hospital at Guildford which would have enabled the accommodation of children there within a year of the present Government assuming office in 1959?