ful owners. People will not buy land in this State, but will invest their money elsewhere. The Bill is not justified. There is plenty of land available in the State, and the Minister's own figures show it. Let the Government put an advertisement in the paper to-morrow, and they will get all the land they want. The Bill is introduced because the idea is popular at present. I wish something could be done to popularise the North-West. We want more people there to make a noise. Those who make a noise have the most done for them, but we have not yet enough people to make a noise. The Government are already financing too many people. We had evidence of that this afternoon. Mr. Burvill claimed that people in his district did not pay any income tax, and consequently ought not to be asked to pay any land tax. By way of interjection he then talked of the prosperity of the people down there, and of the success they had attained and were likely to attain. That is contradictory and illogical. I suggest, in view of the Financial Agreement and the arbitrary clauses therein, that the Government will not have too much money to gamble with. It will take them all their time to handle what they now have to deal with. One would have thought that in the group settlements they would have had enough. Some five years ago group settlement was popular, but to-day it is unpopular. No one says anything about it to-day. It is wheat production that is popular now. I am longing for the time when production in the North will receive attention, but that cannot be until we have more voting strength than we have to-day.

Hon. W. T. Glasheen: Wool production is pretty popular too.

Hon. J. J. HOLMES: The Bill will block development by private enterprise, which is the best development of all. We have only to see what private enterprise has already done in the way of land development as compared with what Government enterprise has done. The answer is clear. If private enterprise had been given 6½ million pounds with which to develop the State, for and on behalf of the Government, they would have made a paradise of it. One Government blunders in and makes a holy mess of the concern, and the other Government has not strength enough or character enough to face it until after the general elections. Now that the general elections are over, we hear all about it. This is what we call politics! It amounts to an interference with other people's business to such an extent that we will drive all the money out of the country. If this is the opinion of members, as it is mine, they will oppose the second reading of the Bill, as I will.

On motion by Hon. W. T. Glasheen, debate adjourned.

House adjourned at 8.26 p.m.

Legislative Assembly,

Wednesday, 28th September, 1927.

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

PAPER—FINANCIAL AGREEMENT.

The PREMIER: I have here a report of the conference of Commonwealth and State Ministers held at Parliament House, Melbourne, in June, and at Parliament House, Sydney, in July. I might add that it also contains the draft of the proposed Financial Agreement between the Commonwealth and the States. It has not been definitely completed, the final agreement may be varied by a word here and there. If that be done I will acquaint the House, but at all events this is the final draft of the agreement arrived at at the Sydney conference.

Hon. Sir James Mitchell: And a report of the proceedings.

The PREMIER: Yes.

Hon. Sir James Mitchell: Will they be printed?

The PREMIER: They are printed. I propose to lay the paper on the Table and supply each member with a copy, so far as the copies will go. I have received a little fewer than 50 copies, not quite sufficient to go round. I have wired for additional copies, and they will be here shortly. I move—

That the paper be laid upon the Table of the House.

Question put and passed.

QUESTION—ROAD BOARD AUDITS.

Mr. THOMSON asked the Minister for Works: 1, Is he aware of statements in the Press that road board books have not been audited for two or three years? 2, In view of the Road Districts Act, which provides that it is compulsory for these books to be audited by the Government auditors yearly, will he consider either an amendment of the Act omitting the provision? 3, Or will he appoint a sufficient number of auditors to do the work?

The MINISTER FOR WORKS replied: 1. No. but it is a fact that the books of some boards have not been audited for two or three years. 2, The Act does not provide that the Government auditor shall audit each year. 3, Two additional auditors have been temporarily appointed to overtake arrears of work.

QUESTION—RAILWAYS: LAKE GRACE-EAST JILAKIN-KARLGARIN.

Mr. E. B. JOHNSTON asked the Premier: 1, Has a report been received from the special committee appointed to inquire into the route of the Lake Grace-East Jilakin-Karlgarin railway? 2, Is the report unanimous? 3, Is the statement in yesterday's "West Australian," that the report is being printed, correct? 4, Under whose authority is the report being printed?

The PREMIER replied: 1, No. 2, 3, and 4, Answered by No. 1.

QUESTION—SEWAGE TREATMENT, SEPTIC TANKS.

Mr. NORTH asked the Minister for Health: 1, Has he noticed the recent remarks of the Chief Inspector of the Department of Public Health to the effect that small septic tanks offered a much more hygienic system of sewage disposal than any conservancy system? 2, Is he aware that Cottesloe, Peppermint Grove, and the Claremont Road Boards have already moved under the provisions of the Public Health Amendment Act of 1926 relating to septic tanks? 3, Has he any intentions regarding deep sewerage in the Claremont, Nedlands, Dalkeith, Swanbourne, Cottesloe, and Peppermint Grove areas?

The MINISTER FOR HEALTH replied: 1, Yes. 2, Yes. 3, This is a matter that comes under the control of the Metropolitan Water Supply, Sewerage and Drainage Department.

MOTION—TRAFFIC FEES.

Mr. NORTH: I move—

That a return be laid upon the Table of the House showing the metropolitan traffic fees collected, the administrative cost, and the amounts paid to the various local bodies during the periods 1924-5, 1925-6, and 1926-7.

I am doing this in order that the local authorities in my district may have the information.

The MINISTER FOR WORKS: Any local authority that has asked for this information has been supplied with it. I have had several such requests from local authorities, and they have all been given the complete list respecting the fund. Since I have been in office there has been no secrecy whatever about the distribution of these funds. The information could have been obtained quite easily by a letter to me, without the bringing of any motion before the House. I have no objection to the motion but, as I say, I have already given the information to every local authority that has asked for it.

Question put and passed.

DISCHARGE OF ORDERS.

Order read for the resumption of the debate on the second reading of the Fire Brigades Act Amendment Bill.

Mr. SLEEMAN: I move—

That the Fire Brigades Act Amendment Bill and the Fremantle Municipal Tramways and Electric Lighting Act Amendment Bill be discharged from the Notice Paper.

Question put and passed.

BILL—HOSPITALS.

Further report of Committee adopted.

BILL — CRIMINAL CODE AMENDMENT.

Second Reading.

Debate resumed from the 21st September.

HON. W. D. JOHNSON (Guildford) [4.40]: Like other members that have spoken, I desire to convey my congratulations to the member for Perth (Mr. Mann) on the introduction of this measure and on the speech in which he moved the second reading and commended the Bill to the Chamber. I do not know what influence the introduction of the Bill and the views expressed by the hon. member will have outside the Chamber, but I am positive that they have caused a very close study of the subject by members of this House and, I trust, of another place. The Bill is a reform Bill. It is not a Bill to abolish capital punishment, but if passed it will certainly have the effect of limiting the infliction of the death penalty. Before I finish I will endeavour to advance reasons why, in my opinion, the infliction of the death penalty will be more permanently abolished by approaching it in this way than, possibly, if it were attempted to abolish it straight out by legislation. When first the hon. member introduced the Bill I thought he was merely tinkering with the question; that what he should have done was to introduce a definite measure for the abolition of the death penalty. But after listening to his speech, and after reading the various authorities that one is compelled to read if he desires to follow such a debate, I have come to the conclusion that the hon. member was wise in approaching the matter in this way. For he will educate the public mind gradually but surely, and as sure as this Bill passes we shall have a distinct reform in our midst and the public will be educated up to a point where they will understand and so, when the time comes for the total abolition of the death penalty, it will be accomplished with the favour of the public. After all, it is better to do it in this way than by the drastic form of total abolition. I am rather disappointed that the Bill has not received the unanimous support one would expect from those who, naturally, would give a close study to such a subject. It is extraordinary that, with publications so numerous from the best brains of the world, we should find members still sticking to the old law, and contending that because it was passed many generations ago it must be good, since it has stood the test of time. But the whole world is concerned in this matter, and we find a number of leading scientists giving close study to the question. Therefore I feel that since the hon. member introduced the Bill purely with the object of extending the consideration of scientific knowledge to the investigation of criminals under examination, he has simply done what is essential in the present civilised age. There are many authorities. One gets somewhat mixed in reading them. A large number declare definitely against capital punishment. One reads so much on that side that one begins to forage with the object of seeing whether there is not some answer to it; whether there are not some writers who hold other views, and have put them into literary form for the information of the world. I have tried over and over again to get something that would furnish a reply to the overwhelming amount of data that we can get to prove that capital punishment is not essential for social protection. Therefore one is amazed to know that, with all this enormous amount of data, and all the opinions expressed by great minds, there are still people, even within this Chamber, who feel it is in the public interest that capital punishment should be continued. Some of the information I have referred to has been presented by the member for Perth, and some has been advanced by other members, particularly the member for Claremont. I was very pleased at the way in which those members marshalled their facts and presented them, so that those who take the trouble to read "Hansard" will there find quotations and opinions of the matured thought of the best minds of the civilised world. Of those who oppose the Bill the member for West Perth was the most interesting. He analysed the question from two points of view. Naturally, his first was the legal point of view, but he finished up by regarding it from the ethical point also. In one direction he was the cool and critical lawyer, but in the other he was the sympathetic social reformer. To my mind the law of the member for West Perth was weak and unconvincing, but in the role of social reformer his contribution was inspiring and strong. Lawyer-like, he quoted the existing law, and then started to compare this with the proposed extension as outlined in the Bill. He took what is in the Criminal Code and then argued from it that the proposed amendment would not fit the case from

the legal point of view. He went on to say that the Code provided that the person charged might have it pleaded on his behalf that he was suffering from mental disease or natural mental infirmity. He then proceeded in a most extraordinary way, seeing that this argument came from a legally trained mind, to show that mental disorder and deficiency meant the same things as mental diseases and natural mental infirmity. I am of opinion, from the interpretations that I find, that a mental disorder is, in the ordinary sense, insanity. Natural mental infirmity is a mental weakness of an obvious character. It is something that is noticeable to the ordinary person. A person can be mentally deficient and yet not have any mental disorder or natural mental infirmity. The mentally diseased and the naturally mentally infirm are, in most cases, the victims of heredity. Mental deficients, however, may be the victims of heredity, but also of environment, of sickness, or even of poverty. There is, therefore, a marked difference between the naturally mentally infirm and the mentally deficient. A person can be neither mentally diseased nor naturally mentally infirm, and be at any time normal. The mentally deficient up to a stage is quite normal, but for reasons of environment, a sudden fall or shock, or provocation, constant irritation, and so on, may become mentally deficient. Again, physical weakness may limit mental development. A person may be mentally behind in age. A man of years may be possessed of the mind of a child. He is mentally deficient, but not insane, and not naturally mentally infirm. I mention this because this was the case as presented by the member for West Perth. He took the Criminal Code of to-day and tried to convey to members that it extended the same considerations, if it can be put in that way, or the same protection to the criminal or the person charged as will be extended if this Bill becomes law. If he succeeds in that point then he will decidedly weaken the Bill, and possibly justify the alternative he submitted as a means of arriving at an understanding of this most interesting subject. I want to see the Bill pass. I believe the member for Perth has approached the subject in the right way. I have therefore taken the argument advanced by the member for West Perth, and tried to demonstrate the difference between natural mental infirmity and mental disease. The member for West Perth claimed that mental disease or natural mental infirmity could be treated, and was in fact treated, and that it was an indication to the representative of the charged person, the lawyer, to present on behalf of the prisoner the plea of mental disorder or natural mental infirmity. He went on to state what is correct, that the Code lays down to-day that that shall be a defence if there is sound foundation for its advancement. We know it is a defence in many cases, some successful and some otherwise, but he went on to say that while that is evidence to-day, in extenuation of his claim——

Mr. Davy: His defence.

Hon. W. D. JOHNSON: He went on to say that the same thing will not apply in regard to the extenuation—it is only an extenuation of the Code—that is provided in this Bill. He seemed to desire to convey to members that while to-day the defence could be advanced in regard to insanity, it would not be a defence in the same way in the matter of mental deficiency. I cannot follow him.

Mr. Davy: I said it need not be so.

Hon. W. D. JOHNSON: I have read the hon. member's speech. There were several interjections at the time, but I take it from his replies that he was inclined to lead the Assembly to believe that while the Code placed the responsibility upon the lawyer to raise the defence of insanity, the same invitation would not be there for the legal practitioner to advance the same kind of evidence in regard to mental deficiency.

Mr. Davy: You misunderstood me.

Hon. W. D. JOHNSON: I am glad I did. That is one of the main reasons why I like the Bill. If the hon. member had convinced us that it simply meant leaving the matter to the jury—if he will read his speech he will find he said definitely this matter was to be left solely to the jury—

Mr. Davy: Yes.

Hon. W. D. JOHNSON: While it would be left solely to the jury, he tried to convey the impression that, on the question of insanity, the defender of the prisoner——

Mr. Davy: It must be left to the jury.

Hon. W. D. JOHNSON: Not necessarily "must be."

Mr. Davy: Yes.

Hon. W. D. JOHNSON: No. If the legal adviser considers that the prisoner is mentally diseased or suffering from natural mental infirmity he must, in justice to his client, advance it.

Mr. Davy: It must be advanced if it is to be relied on as a defence.

Hon. W. D. JOHNSON: I could not imagine the jury taking a matter of that kind into consideration unless it was advanced. Surely the hon. member does not think, if I were in trouble of this kind and called upon him to defend me, he would simply say "My client is mentally deficient, and I am going to leave it for the jury to find out and investigate it, and do all that is essential, to say whether my client shall be imprisoned for life or hanged because of his mental deficiency."

Mr. Davy: If the lawyer advanced evidence on this matter, it would be equivalent to an admission of guilt on the part of his client.

Hon. W. D. JOHNSON: Quite so. Naturally the lawyer would not go into the question of insanity if he were satisfied that his client was not guilty. We are assuming in the argument, as the hon. member did in advancing his argument, that the prisoner is guilty, and that as a result of his guilt his legal adviser is trying to get him acquitted on the basis of the Code to-day, because of his insanity or his mental infirmity. We are simply going a little further. We say, as we provide in the Code to-day that this shall be a defence and shall be taken into consideration by the jury, so shall the question of mental deficiency be advanced by the legal representative.

Mr. Davy: The Bill does not say that.

Hon. W. D. JOHNSON: It naturally follows.

Mr. Davy: It does not follow.

Hon. W. D. JOHNSON: I differ from the hon. member. We provide in the Bill that the jury shall take that into consideration. It does not say it shall not be advanced as a defence.

Hon. G. Taylor: It means that it need not be.

Mr. Davy: And it will not be.

Hon. W. D. JOHNSON: Would the hon. member suggest that he would be doing justice to his client if he did not take advantage of this provision, just the same as he would in regard to insanity, and advance evidence so that the jury might take into consideration that phase of the question?

Mr. Davy: Certainly I would do my duty in that respect.

Hon. W. D. JOHNSON: I know the hon. member would do his duty by bringing the best evidence to assist the jury in arriving at a conclusion, which is going to be made vital in this Bill, so vital that it is a question whether the prisoner shall be hanged or imprisoned for life. It is going to be just as vital as the other question of insanity, and the lawyer naturally will bring forward the best authorities and submit the best possible evidence so as to secure to his client the widest consideration practicable, consideration which is denied to an accused person to-day owing to the want of a provision of this nature. Because of the provision in question, and because of the fact that the matter will have to be adequately studied, I believe the Bill will do more in the way of permanent reform than possibly would be achieved by the total abolition of capital punishment. If a lawyer advances the suggestion of insanity, he naturally brings forward evidence to support it; and in the same way, if he has evidence as to mental deficiency, that evidence will likewise be brought before the jury; and so by that means we shall have our legal practitioners educated not only in the science of life and of mental disease and natural mental infirmity, but also, going further, in mental deficiency, which represents a different study altogether from that of mental infirmity. The one is hereditary, whilst the other arises from causes which may afflict persons years after they are born, afflict them in the manner I have already indicated. The member for West Perth also dealt with instances of recommendations to mercy. He spoke about the obstinate, stupid juryman who stands out in order to secure such a recommendation. By that the hon. member would convey that the obstinate juryman is the one who is wrong, while the other jurymen are right; but that may not be so. I can quite imagine that on juries at various times there has been a man with a knowledge of psychology, who recognised that the prisoner had not been fairly dealt with, having regard to the special circumstances under which he was reared or the circumstances under which he lived. Therefore, that obstinate, stupid juryman might not be as

stupid as the member for West Perth would suggest.

Mr. Davy: I do not think I used the word "stupid."

Hon. W. D. JOHNSON: The word appears in "Hansard," though I have not now time to look the matter up. I may say that I read the hon. member's speech after having heard it. Perhaps the word should not be there: I do not want to emphasise it. I do, however, wish to emphasise that the jury might take a totally different view of the circumstances if the question of mental deficiency were submitted to them in the manner desired by the member for Perth. It is the want of a provision of this nature in our Criminal Code that causes men to stand out firmly against the infliction of the last penalty of the law. They feel that the whole question has not been studied in the fullest sense. And therefore the member for Perth comes to the jury's rescue in this regard. He recognises, as every student of psychology recognises, that to day there is a limitation by reason of which, while infirmity of mind and insanity can be advanced as defences, mental deficiency is not admitted as a defence. The one juryman, therefore, may be a man who has recognised that deficiency and says, "It is not fair to inflict the full penalty of the law because of the limitation of evidence, and the limitation of the jury as regards consideration of the evidence." The member for West Perth also dealt with the figures and proportions submitted by the member for Perth. I shall not follow him in that regard; possibly the member for Perth may think it worth while to do so. I shall leave the matter to him. But I have to differ from the member for West Perth once more. That is as regards his comparison of the United States of America with British communities. He spoke about crime in Chicago and other cities of the United States, about the limitations in regard to bringing American offenders to justice, and about the slowness of the American police in detection of crime as compared with what obtains in Britain. I submit that one cannot compare the United States with any part of the British Dominions. The United States are a conglomeration of all sorts of people drawn from all parts of the world.

Mr. Davy: I admitted the difficulty of drawing that comparison.

Hon. W. D. JOHNSON: Yes, but still the hon. member submitted the comparison and therefore I can reply to it. In America there is not only a very mixed population, but there are the various sections of that mixed population living in separate communities. All the various peoples that form the United States seem to segregate in their particular nationalities. So far as my reading goes, one finds in America one set of Europeans living in one part of a city, and another set of Europeans living in another part of the city. Though thus living separately, each nationality by itself, these people at certain times, and possibly for the greater portion of their lives, have to mix with each other. They are workers in industry, and one of the features of American industry seems to be to mix up nationalities as much as possible, thus securing the opportunity of playing off one nationality against the others. A large part of American industrial methods consists in the utilisation of various nationalities in order that industry may be protected by playing off one nationality against the others. When one knows that such conditions apply, and that mixed nationalities have to meet and work together and then go back to live amongst themselves and brood over the injustices suffered during the day, compatriots meeting and comparing notes as to the conditions under which they work during the day, the marvel is that crime in America is not far more frequent than is actually the case.

Mr. Marshall: It is not a matter of the crimes committed there, but the slowness of punishment, the slowness of the law.

Hon. W. D. JOHNSON: It is easy to understand that detection of crime must be difficult in America. One gets various nationalities herding together and protecting their various members. That kind of protection represents self-preservation to the different nationalities as against American justice. Naturally, therefore, detection of crime is difficult in the United States. Social gatherings there are not a mixture of all the peoples of all districts, as is the case in British cities. American social gatherings are of a special national character: the various nationalities meet amongst themselves. The possibility of the detection of criminals under the social conditions existing in British communities is far greater, and detection is far more expeditious than can be the case in mixed communities living separately. Under such conditions the opportunity of getting information with re-

gard to crimes committed is not the same as that which exists under other conditions.

Mr. Marshall: It is not a matter of detecting, but a matter of slowness of the law. Can you explain why American law is so slow?

Hon. W. D. JOHNSON: I simply attribute that to the same difficulty, that in America it is very hard to get the necessary evidence. To apprehend a criminal takes a long time, and when he has been apprehended it is a grave matter, I should say, to secure the kind of evidence that will convict him.

Mr. Marshall: I am talking about what occurs after conviction. Why does the American law take so long to operate after conviction?

Hon. W. D. JOHNSON: That is something legal which I cannot explain. I do not understand it. I can quite understand, however, why American law is so slow in arriving at the stage of conviction. Certainly, sentences should be put in force promptly; and why that is not done in America I do not know. Possibly there are, under the criminal law of America, modes of appeal which give the convicted man the opportunity of testing by various means whether he cannot ultimately remove the conviction recorded against him and avoid punishment which, probably, he richly deserves. It is purely a matter of the law of the United States as it stands to-day, I should imagine. There cannot be any other reason why, once a man has been convicted, he is not promptly punished in accordance with his conviction. I have had a little to say about the member for West Perth from his legal and professional aspects, but naturally I wish to deal with the hon. member when he comes to the stage of social reform. I will tell him this, that I admired the way in which he approached the question from the standpoint of social reform. He took it from two aspects, and until I read his speech I could not understood why he was so critical of the Bill and yet, in concluding, expressed the same humane sympathies and sentiments as the member for Perth. The explanation, of course, is that he opposes the measure from a legal standpoint, while desiring to fulfil in a different manner the general desire for social reform in this regard. He wants to use the slow method of investigating authorities before introducing the proposed reform.

Mr. Davy: Slow and sure.

Hon. W. D. JOHNSON: The hon. member says he wants criminal law and medical science brought into line. Well, that is exactly the Bill.

Mr. Davy: No.

Hon. W. D. JOHNSON: The Bill provides that the criminal law of to-day shall be brought more closely into line with medical science. That is exactly what the member for Perth aims at in the measure, and he justified his Bill by quotations proving that the amalgamation of medical science with the criminal law in this regard is his ambition.

Mr. Marshall: That is not right.

Hon. W. D. JOHNSON: I say it is.

Mr. Marshall: No, it is not.

Mr. Richardson: Not as regards the proposed method of effecting the reform.

Hon. W. D. JOHNSON: That is exactly the point made by the member for West Perth. He says that what is proposed ought to be done, but that this is not the proper method of doing it. Without being offensive——

Mr. Davy: It is a very proper attitude to take up, is it not?

Hon. W. D. JOHNSON: I do not want to be at all offensive, but I must say that those are the usual tactics of a politician. A politician always tries to delay. He simply says, "Yes, that proposal is all right, but you are approaching the matter in the wrong way." We heard that last night in regard to reform of the Legislative Council. The standpoint taken was exactly the same. The member for West Perth, I know, in his heart is not opposed to the people having a greater voice in the deliberations of the Legislative Council; but he is opposed to the Bill which proposes to grant it to them. He says, "I want it done, but not in your way." And that is exactly his attitude on the Bill of the member for Perth. The member for West Perth says he wants criminal law and medical science brought more into line. The member for Perth says definitely that there is a means of doing that, though possibly not to the full extent desired by the member for West Perth. The position is exactly the same regarding the Legislative Council. The member for West Perth says in regard to the present Bill, "Delay the matter; do not go on so speedily; get a Royal Commission appointed; have the matter investi-

gated; spend money and time in collecting that which has already been collected." The member for Perth produced all the data that a Royal Commission could produce. A Royal Commission could not do other than submit to us expressions of opinion from students of the subject, so that we might be enabled to judge from those expressions whether the proposed reform was or was not on right lines. Nothing more could be advanced, no more material could be submitted, by a Royal Commission than has already been advanced and submitted by the member for Perth. For many years I have been an opponent of capital punishment. At one stage I thought I had been successful in inducing the party with which I have been associated all my life to declare definitely against capital punishment. At one of the Labour conferences I moved in that direction. It has been contended that I did not move in the right direction, that I did not obtain such a definite declaration as would give authority to those in power to abolish capital punishment. Possibly that is so. But undoubtedly the day will come when we of this party will succeed in that respect, because we are a reform party and we will try to move with the times. The member for Perth (Mr. Mann) is moving with the times. He reads and profits by the views of various authorities who have furnished such strong evidence against the continuance of capital punishment. As one grows older and reads more, and listens to a speech such as that delivered by the member for Perth, one becomes convinced that now is the time when we should abolish capital punishment altogether. I admit that the public mind, and even that of the Labour movement, have not yet reached that stage. The fact remains that the infliction of capital punishment does not provide any deterrent to crimes of the description referred to.

Mr. Marshall: I'll bet you cannot prove that.

Hon. W. D. JOHNSON: I cannot prove anything to convince some hon. members. All I can do is to take the various authorities and study them closely. Neither the member for Murchison (Mr. Marshall) nor I can prove from our own experience that capital punishment is a deterrent or otherwise. All we can do is to take the records and opinions of those who have made a close study of the problem and have advanced sound opinions on the question. We can merely take their views, analyse them and ascertain the source from which they derived their information, and then judge for ourselves whether those authorities have based their opinions upon adequate grounds. In my view there is overwhelming opinion in favour of the theory that capital punishment provides no deterrent. I want the member for Murchison to look into this question more closely. I assert he cannot advance one authority to prove that capital punishment does act as a deterrent. In a number of countries the death penalty has been abolished. In other countries, where the provision for capital punishment remains on the statute-book, that provision has been inoperative by administrative actions for the past 25 or 30 years. From the statistics provided by various countries, it is shown that where capital punishment has been abolished, crime has been reduced.

Mr. Marshall: That counts for nothing.

Hon. W. D. JOHNSON: Nothing would count for anything in the mind of a bloodthirsty man! No one will say that we shall take the life of a fellow man.

Mr. Lindsay: But does that not apply where capital punishment is not in existence at all?

Hon. W. D. JOHNSON: The decrease of crime has occurred in countries where the death penalty has been abolished.

Mr. Lindsay: It has decreased in every country.

Hon. W. D. JOHNSON: Yes, in every country about which I have read. If what the member for Toodyay (Mr. Lindsay) suggests is correct, and crime is decreasing in all countries, it is certainly a tribute to our latter-day education.

Mr. Lindsay: Of course it is.

Hon. W. D. JOHNSON: We can take some consolation from that. I have not considered the question from that point of view. All I have done is to read as much as I can of the history of those countries where capital punishment was in operation for a number of years, but was subsequently abolished. By analysing the figures and statistics generally, I have drawn certain conclusions. I have satisfied myself that the statistics show that crime has decreased.

Mr. Marshall: Not at all.

Hon. W. D. JOHNSON: As a matter of fact, punishment is a deterrent, but propor-

tionately, capital punishment is not as great a deterrent as ordinary punishment by way of imprisonment. We know that people face death but do not look upon it as awful. They do not regard it with the horror that many people imagine. Bacon says—

"There is no passion in the mind of man so weak but it mates and masters the fear of death. Revenge triumphs over death, Love slights it, Honour aspireth to it, and Grief fleeth to it."

We know it is so and that demonstrates my claim that the human being has not that horror of death that some people imagine. If we say we will hang a man in order that it may provide a deterrent for others, the authorities prove that such a provision will not have the desired effect upon the mind of a criminal. As a matter of fact a criminal does not count the cost. He simply commits the crime and does not consider the question of punishment at all.

Mr. Davy: Then no punishment would be a deterrent.

Mr. Marshall: No, he wants all laws abolished if that be so.

Hon. W. D. JOHNSON: In advancing an argument such as I am presenting to the House, I have to admit that in some instances no punishment will provide a deterrent at all, but I do not say that that is so, generally speaking. I say that, compared with other forms of punishment, the death penalty has no greater influence upon the mind of the criminal. He does not fear capital punishment any more than he fears imprisonment for life. In fact if we put a criminal into a cell where he has nothing else to do but to grieve over his crime, where he can suffer remorse year in year out, suffering all the mental agony that is possible under such conditions, I should imagine that that form of punishment must be more severe than that of the death penalty. One cannot imagine exactly the state of the human mind locked up in a cell under the conditions I picture.

Mr. Withers: A criminal locked up like that would wish he were dead.

Hon. W. D. JOHNSON: Quite possibly they often wish themselves dead rather than a continuance of such existence.

Mr. Marshall: Then you desire to inflict a greater punishment than the death penalty.

Hon. W. D. JOHNSON: Not altogether.

Mr. Marshall: But that is your argument. You are a more bloodthirsty gentleman than I am.

Hon. W. D. JOHNSON: I contend we have no moral code whatever that gives us the right to say we shall take the life of a fellow man. We have no right by law to declare that another man shall be singled out as a legalised murderer, deputed by public policy and by governments of the day to take the life of a fellow man. That is my objection to capital punishment. I agree that murderers should be punished, and such a criminal cast into prison for life under the conditions I have outlined, will suffer more than he can ever do if confronted by the death penalty. My objection to capital punishment is that we have no right to inflict on any man the death penalty because he has done an injury to a fellow man.

Mr. Davy: Then where have we the right to inflict punishment by way of imprisonment for life?

Hon. G. Taylor: And the member for Guildford (Hon. W. D. Johnson) admits that that is a worse form of punishment.

Mr. Marshall: Of course he does.

Hon. W. D. JOHNSON: I have no hesitation in saying that to some individuals imprisonment for life may be a worse form of punishment than the death penalty.

Mr. Angelo: What about the two Italians in America, who had to wait five years in gaol before being executed?

Hon. W. D. JOHNSON: If the hon. member had read all the details concerning those men, he would realise that it is better to leave the matter alone.

Mr. Angelo: They did not desire to die.

Hon. W. D. JOHNSON: I claim that our law to-day should be graded. We should provide one form of punishment for crimes of a certain description and other forms of punishment for crimes in another category.

Mr. Marshall: I agree with that.

Hon. W. D. JOHNSON: But we have no right whatever to go beyond punishment by way of imprisonment. That must be the full extent of our punishment.

Mr. Davy: Why?

Hon. W. D. JOHNSON: Because we have no right under any moral code whatever——

Mr. Davy: What is your authority for that statement?

Hon. W. D. JOHNSON: I say that no moral code whatever gives us any right to do more. The best brains of the world have discussed the problem and they are agreed that there is no moral code that gives us the right to take the life of a fellow being.

Mr. Davy: But if we have that right under our law, why should we not exercise it?

Hon. W. D. JOHNSON. I say we have no right——

Mr. Davy: What is your authority for that assertion?

Hon. W. D. JOHNSON: I base my contention on the statements of those posessed of the best human brains throughout the world.

Hon. W. J. George: But what do you consider represents the best human brains throughout the world?

Hon. W. D JOHNSON: We have every right to differ in our views, but when the member for West Perth (Mr. Davy) differs from my view he knows he cannot quote any authority that will support him in his contention that the infliction of capital punishment is warranted.

Mr. Marshall: I will put it to you this way. Suppose I take your life deliberately. What would your dependents wish for me?

Hon. W. D. JOHNSON: God forbid that they should ever express a wish that the hon. member's life should be taken because he happened to take mine.

Mr. Marshall: Try them and see.

Hon. W. D. JOHNSON: I suggest to the member for Murchison that the mother, in order to discipline her child, must inflict certain punishment. Every mother must accept the responsibility that is involved in bringing up a child with a knowledge of what is right and what is wrong. In order to demonstrate to the child what is right and what is wrong, it is recognised that it is the duty and the responsibility of the mother to inflict upon that child the necessary punishment. But when the mother becomes so enraged and her passions get the better of her, so that she becomes brutal to the child, no one will contend that the mother is licensed to do that sort of thing. We know that such incidents do take place and that many parents are brutal in the punishments they inflict from time to time. Details of such instances come before the courts on occasions. Should a mother allow her passions to get the better of her and her treatment of a child becomes brutal, the member for Murchison says that she must be taken away and cast into prison, separated from her child because of a mere sudden burst of passion that caused her to do something that was wrong.

Mr. Davy: In any case she would be taken away and put in prison.

Hon. G. Taylor: Of course.

Hon. W. D. JOHNSON: There have been cases in which parents have been punished for very brutal treatment.

Mr. Davy: And very properly so.

Hon. W. D. JOHNSON: I agree that they were very properly punished, but there are thousands of cases where mothers have lost their tempers for the moment and have become extremely severe in their punishment of their offspring. Their passion has subsided as quickly as it arose and they have mingled their tears of sorrow, with the tears of pain and anguish shed by the children. There is a limitation regarding the severity of punishment that is permissible. I say that the punishment should be imprisonment and no more. As to the term of imprisonment, that is a matter to be decided according to the gravity of the crime, but the punishment for any crime should never go beyond the stage of imprisonment for life.

Mr. Lindsay: The Bill is not for that purpose.

Hon. W. D. JOHNSON: I admit the Bill states that when certain mental diseases are proved the penalty may be imprisonment for life instead of death.

Mr. Lindsay: Even if this measure became law, a mother who committed murder under passion could be hanged.

Hon. W. D. JOHNSON: Yes. There are various stages of crime and punishment. The mother I instanced, compared with an ordinary murderer, has committed the greater crime when she has become brutal to her own children. A man murders someone else who is not kin with him and there is no reason outside the moral code why he should love and cherish the man he murders, but the mother is bound by the moral code to love and cherish her children. Yet towards the child that she loves and cherishes beyond all else in the world, she becomes brutal. There have been many cases in which we have not gone to the extent of separating the mother from the children because, when she has overcome her passion, her remorse has been greater than the child's pain, and she has suffered more than has the child that received the punishment. I do not think the member for Murchison would go to the extent of punishing a mother, and if it is wrong to separate mother and child in those circumstances, how much

worse is it to deprive a murderer of life. The murderer has lost control, just as the mother has lost control and during that time the offence has been committed.

Mr. Marshall: There have been cases in this State that were deliberately premeditated and where there was no impulse of passion.

Hon. W. D. JOHNSON: The hon. member is influenced by something that has happened in this State, and will not go beyond it. I do not think he can have gone beyond one or two frightful cases that have occurred here.

Mr. Marshall: I have travelled right through the Commonwealth, which is more than you have done.

Hon. W. D. JOHNSON: There have been a number of cases, and they may be sufficient to influence people who do not investigate the question more deeply than the hon. member apparently has done.

Mr. Marshall. I have put up a better argument than you have.

Hon. W. D. JOHNSON: I do not expect to be able to convince the hon. member. If he has read at all, greater minds have attempted to convince him, and if they have been unsuccessful, how can I hope to be successful? The hon. member is of such a temperament that on every occasion he would inflict the full penalty of the law, and would not question whether the environment of the man or woman found guilty of the crime was such that the accused could not rise above it.

Mr. Marshall: I agree with you on the question of environment.

Hon. W. D. JOHNSON: If the hon. member is prepared to consider the question of environment and physical weakness, and the mental deficiency caused by those influences, all he has to do is to support the Bill.

Mr. Marshall: I intend to support it.

Hon. W. D. JOHNSON: Then the hon. member and I do not disagree. He is going to give the jury an opportunity to consider, in addition to insanity, the question of mental deficiency. If he will do that, it is all I desire. I am satisfied that after we have settled on the legal profession the responsibility for presenting evidence of mental deficiency, we shall have a public mind so conditioned that it will revolt, as it has done in other countries, against the infliction of capital punishment. Although capital punishment may remain on our statute-book, we shall find, as other countries have done, that it will not be enforced because it is against what has been established as public policy. The member for Perth has been fortunate in getting his Bill before us at this time. He is in accord with the best authorities and the best minds of the period. A book on the subject of capital punishment was published so late as March of this year by Roy Colvert, with a preface by Lord Buckmaster, P.C. The author has taken tremendous pains to obtain from leading authorities their opinions on capital punishment. If time permitted I should like to read the whole of the book to members. Particularly would I commend it to the member for Katanning and the member for Murchison. No man could read such a book without coming to the conclusion that it is a vicious and wicked law that gives the right to anyone to inflict the death penalty upon a fellow man. As the law stands, we call upon one human being to become the legalised murderer of another. There is no difference of opinion between the two men, but one for a fee or reward, backed up by the law of the land, takes the life of the other. What can we say of our civilisation when it tolerates that sort of thing? Can we call ourselves civilised when we lay down on the one hand that it is wrong for a man to murder another, and when on the other hand we provide that, if a man murders another, we shall give to a third party the legal right to take the life of the murderer. So long as that condition of affairs continues, surely it is a blot on our civilisation! It has been argued by the member for West Perth (Mr. Davy) that the jury will be called upon to determine the question. In the final analysis, the jury will not determine it. The determination whether capital punishment shall be inflicted rests with men who, for the time being, hold the office of Minister of the Crown. The judge sums up the evidence and gives a direction to the jury. The jury may or may not be guided by that direction and they return their verdict. If the verdict be one of not guilty, it is final and conclusive. If the verdict be one of guilty, their decision is not final. They do not decide whether the full penalty of the law shall be inflicted. The case passes to His Excellency the Governor who has to consult his Ministers. Therefore, we have the spectacle of men elected to office by the people of Western Australia having to decide

whether a man shall be deprived of life. They know it is possible he is the victim of mental deficiency, due to environment, and that probably he did not realise the gravity of the crime he was committing. Yet they have no power to consider a man's mental deficiency, and they must accept the responsibility of declaring for or against the death penalty. The member for Murchison has asked how I arrived at the conclusions that I have just stated. The best authorities of the world have told us that capital punishment is not a deterrent but is a vicious system that should not be practised by any civilised community. Men like Victor Hugo, Henry Ward Beecher, Lord Bacon, Charles Dickens, and Thackeray, who closely studied social conditions, have demonstrated that capital punishment should be abolished. The member for Perth has not gone to the extent of asking for its abolition. I have stated that I like the Bill better now than I did at first sight. I thought we should go the whole hog and abolish capital punishment once and for all, but the member for Perth, by the methods he has adopted, will get far more satisfaction than if he had gone straight out for the abolition of capital punishment. The legal profession will present the evidence, the jury will consider and inquire whether the social environment was such as contributed to a mentality that would influence the accused to take life, and if so the circumstances will be taken into consideration. The member for Perth is contributing to humanity's cause: he is doing something that will tend to remove a blot from our social life.

MR. CORBOY (Yilgarn) [5.43]: I congratulate the member for Perth on having brought forward the Bill. I regret that owing to the state of public mind the hon. member did not feel justified in introducing a Bill for the straight-out abolition of capital punishment. It would have been preferable to have the decision of Parliament on the question of abolition of capital punishment. The statute-book of Western Australia is disfigured and will continue to be disfigured so long as capital punishment finds a place amongst the penalties of the Criminal Code. It is nothing less than a relic of barbarism. The taking of human life in any circumstances is to me something that is horrible and should not be tolerated. Whether human life is taken by an individual, in other words, where murder is committed, or whether human life is taken by an executive acting through the hangman—in either case to me it is reprehensible; it is wrong. So long as the statute-book contains the provision for capital punishment, so long will the statute-book be disfigured. It has been advanced as an argument in favour of its retention that it is a deterrent to capital offences. If that argument is sound at all, it is equally sound to say that we should exhibit the remains of the person executed as a horrible example of what could happen to a criminal if he continued on his life of crime. We should go the whole hog and exhibit the remains of the hanged person on the gibbet, so that it might act as a deterrent to others criminally inclined Experience has shown definitely that capital punishment is not a deterrent where the commission of capital offences is concerned.

Mr. Sampson: The more vigorous the effort to stamp out these crimes, the more vigorous apparently do they become.

Mr. CORBOY: It is as the hon. member has just stated. We know that at one time in England it was a capital offence to kill a hare or a rabbit; it was a capital offence to commit a theft of an article which to-day we would regard as being worth probably a couple of shillings. The statute-book of England at one time provided for capital punishment in the case of the theft of anything worth more than 13½d.

Hon. W. J. George: Forty shillings.

Mr. CORBOY: No, 13½d.

Hon. W. J. George: It must have been a devil of a long while ago.

Mr. CORBOY: It was even before the hon. member was born. It is not so many years ago since sheep stealing and forgery were capital offences in England.

The Premier: Only the other day five men were hanged together for stealing a small keg of rum.

Hon. W. J. George: Rum was very valuable in the early days.

The Premier: Its value has not disappeared with the advancing years.

Mr. CORBOY: The point remains that, at one time, for very trivial offences capital punishment was inflicted in England, and the fact also is definitely proved that these offences increased in spite of the apparent deterrent of capital punishment. There-

fore I claim that it is not the punishment that acts as a deterrent.

Hon. G. Taylor: Then what does?

Mr. CORBOY: I will come to that if my friend will be patient. We all know that in the civilised countries of Europe capital punishment is somewhat rare. It is so rare that whenever an individual is executed the fact is cabled throughout the world as an item of news. From China we do not get much reliable information now but we do know that capital punishment for various offences is still imposed. Yet no one would assert that in either case is it a deterrent. It is still carried out in those countries that are barbarous or semi-barbarous, but it is on the wane in those countries that are more highly civilised. The member for Mt. Margaret (Hon. G. Taylor) asked a little while ago for information as to what it was that deterred the commission of crimes. It is not punishment that acts as a deterrent; it is the certainty of detection. The more certain detection becomes, so does the proportion of crime per thousand of the population decrease. Having instituted a force of police and detectives for the detection of crime, we find that there is a diminution of crime. The certainty of detection is largely responsible for that state of affairs. Punishment does not enter into it at all. Before the establishment of a police force, or "peelers" as they were called, capital punishment existed for a great many offences. It did not, however, prevent those offences from being committed; crimes went on increasing in number. With an established police force capital punishment was removed from the calendar in respect of many crimes. In spite of that removal, those crimes decreased in number. That was due to the vigilance of the police force.

Hon. G. Taylor: And there were fewer opportunities for committing offences.

Mr. CORBOY: The police removed some of those opportunities.

Hon. G. Taylor: Opportunities for horse stealing in Australia do not any longer exist to the same extent as was formerly the case.

Mr. CORBOY: Perhaps my friend can speak feelingly on that matter; I do not know very much about it.

Hon. G. Taylor: The country is more settled now.

Mr. CORBOY: For at least a century and a half crime has been on the wane. It certainly has decreased considerably per thousand of the population since the abolition of capital punishment for various offences. Opportunities for obtaining a livelihood are greater to-day than was the case 100 years ago. The more opportunities we provide in that respect, the more do we remove the temptation to commit crimes of violence. If my friend insists on capital punishment for crimes of violence, then he will insist on the extreme penalty for crimes that he himself admits are capable of being removed by improved social conditions. With improved social conditions and the opportunities for the people to obtain the necessaries of life without having to commit crimes of violence to secure them, there has been removed much of the temptation that formerly existed. This, together with the certainty of detection, are the two main factors responsible for the improved condition of things. It may surprise hon. members to know that in Western Australia less than 30 years ago there were no fewer than seven different crimes for the commission of which it was possible to impose capital punishment.

The Premier: "Them was the days."

Mr. CORBOY: As a result of the action taken by the Legislature, five of those crimes were removed from the capital offence category. They included three or four different kinds of attempted murder, robbery, burglary and wounding, and arson where premises were occupied. Capital punishment for these offences was removed 25 years ago, and I challenge any opponent of the Bill sponsored by the member for Perth (Mr. Mann) to show me that any one of those crimes has become more frequent since the removal of the death penalty. In other words, when it existed it was not a greater deterrent than the punishment that exists to-day. Again I say it is the certainty of detection that compels people to refrain from committing crimes, whatever the penalty. It is interesting to read the expressions of opinion uttered on this subject within comparatively recent years, even in this building. Members who have been elected to this House have referred to criminals as vermin who should be exterminated. Such phrases have been used in their efforts to bolster up their cases in favour of the retention of capital punishment. That attitude is hopelessly wrong. Every step forward to remove the causes of crime goes

further to prove that, after all, very few human beings are vermin. It may surprise members to know that in England less than 150 years ago old women were burnt at the stake as witches. Those women were sentenced to death by no less a person than the Lord Chief Justice of England and were ordered to be burnt at the stake for witchcraft.

Mr. North: The learned judge!

Mr. CORBOY: Yes; Lord Chief Justice Hales, who wrote one of the most striking standard works, one still used by the legal fraternity. He sentenced two poor old women to death for witchcraft, and they were burned at the stake. That was done by the most learned judge in England, less than 150 years ago.

The Premier: All people believed in witchcraft in those days.

Mr. CORBOY: Yes. The witness on whose evidence principally these women were convicted, was one of the most able doctors in England. He testified that those poor women could put crooked pins and nails into children's stomachs.

The Premier: Well, the world believed it then.

Mr. CORBOY: Yes and apparently the world still believes it is right to take human life as a deterrent from crime. In a hundred years' time the world will laugh at us for our barbarous ideas.

Hon. G. Taylor: It won't wait 100 years.

Mr. CORBOY: The time will come when the world will regard us as semi-barbarians for having taken human life as a so-called deterrent from crime. I welcome the Bill. My only regret is that the time is not opportune for the hon. member to go the whole hog and attempt to remove from the statute-book the terrible legislative blot of giving the executive of this country power to take human life as a so-called deterrent from crime.

MR. MANN (Perth—in reply) [6.2]: The majority of the speeches made on the Bill have been in support of it, while there has been no sound opposition to it. The member for West Perth (Mr. Davy) criticised the Bill. As would be expected of one of his profession, he left the essential points entirely alone. He finished up by saying that in introducing the Bill I had done something that interested members and had brought them to realise that something should be done to amend our social conditions. He said I had no real authorities to quote, only one or two American authorities; and that, knowing American authorities as we do, we had better discard them and rely on common sense. By interjection I reminded him that when he had an important case before the court he relied on authorities to make his points and influence the court. He retorted that the two positions were not analagous. I submit that they are analagous. What else can we rely upon but the authorities, learned men who have inquired into the subject, medical men and highly trained psychologists? But the hon. member was not consistent. In one breath he said "Let us discard authorities and rely on commonsense"; and in the next breath, "Let's have a Royal Commission that will call in the Chief Justice and the learned men of the State."

Mr. North: Authorities again!

Mr. MANN: Yes, the authorities of this State. Where was his consistency? I produced authorities from England, from America, from Italy, and from the Commonwealth, men who have made a life study of this question. The hon. member wanted to discard all those with a wave of the hand, and rely on common sense. Then he concluded by declaring that an inquiry was necessary. "Let us have a Royal Commission," he said "and call the authorities." In view of so direct a contradiction, can we rely on anything whatever the hon. member said in opposing the Bill? I have the greatest respect for the Chief Justice of this State, but I submit that he would not attempt to put forward his knowledge of the subject against that of such authorities as Sir William Lane, Sir Bruce Porter, Sir Alfred Fripp, Sir James Dundas Grant, Dr. Gibbons, Sir Thomas Horder, Sir James Purvis Stewart, Sir George R. Turner and Sir John Thomson Walker. Those men have studied this question and have discussed it in conference, and we have the benefit of their discussions. Then I put forward as authorities Dr. Charles Mercier, of England, Dr. Havelock Ellis, of America, Lawes, of America, Dr. White, of England, and Magri, the great Italian authority. But the hon. member said, "Let us pass them all out, and rely on our own common sense." Then he added, "Let us submit the question to a Royal Commission and call in our own local authorities." Before I finish I will submit some work of a local authority, one that is able to

speak with real weight. Some members have said they would have supported the Bill had I gone straight-out for the abolition of capital punishment. In moving the second reading I said I would have done that had I thought I could have succeeded, but it seemed to me the time was not yet to bring down such a Bill. The people required more education, more enlightenment before I could hope to get such a Bill through. But I felt sure I would be able to convince this Chamber and another place and the people of the State that it was an opportune time for the bringing down of the Bill now under discussion, a Bill to preserve the life of an accused who, while a man in years, was but a boy in mind. That is my objective, what the Bill aims at, namely, that when a person has been found guilty of murder and it is proved to the satisfaction of an authority that the accused has only the mind of a child, his life shall not be taken on the gallows.

Mr. Davy: The weak point of the Bill is that nothing of the sort has to be proved.

Mr. MANN: In drafting a Bill of this kind it is very difficult to foresee all the problems to be overcome. I had four or five conferences with Dr. Stow over the Bill, and he in turn conferred with Mr. Sayer in an endeavour to draft a Bill that would meet all difficulties. I could foresee that in providing for the preservation of an accused's life, it would not be fair to prejudice his trial. I wanted to avoid any prejudicing of his trial on the main issue. It would not be right for me to bring in a measure that would necessitate certain facts being put before the court, facts that would prejudice the jury on the main issue as to whether or not the prisoner was guilty.

Mr. Panton: But if the Bill passes, will not the mental capacity of the accused become the main issue?

Mr. MANN: No, of course not. The main issue will remain the question whether or not he is guilty of the crime.

Mr. Panton: But his solicitor will make his mental capacity the main issue.

Mr. MANN: Surely not! Can one imagine counsel for the defence losing sight of the main issue, whether or not the accused is guilty of the crime, and relying mainly on saving his execution?

The Premier: It would be an admission of his guilt.

Mr. MANN: I discussed that point with the Parliamentary Draftsman, and said I did not desire in the Bill anything that would prejudice the trial of an accused person. I thought the circumstances of the case, the history of the case, the motive and all those factors, taken together, would be sufficient to enable the jury to decide whether or not the accused was suffering from some mental infirmity or was a mental deficient. Now it has been suggested that the jury will fly to that in every instance.

The Minister for Railways: If they do, the accused will remain in gaol for the rest of his life.

The Premier: His counsel will be giving him life imprisonment, at any rate, and relinquishing all chance of securing his acquittal. That would not be right.

Hon. Sir James Mitchell: You never can tell what they will do.

Mr. Mann: The Leader of the Opposition should know that the first duty of counsel for the defence is the interest of his client.

Mr. Panton: Yes, get him off at all costs.

Mr. MANN: I do not want in the Bill anything that will prejudice or harass him in his defence. It has been suggested that evidence should be called to show that the accused was mentally deficient. If that were done it would be more or less an admission that the accused was guilty of the crime, but was mentally deficient.

Mr. Davy: We do not want to let the jury draw on their imagination.

Mr. MANN: I have again consulted the Parliamentary Draftsman, and if the Bill reaches Committee, as I hope it will, I shall be prepared to put up an amendment providing that when an accused person is found guilty of murder, the judge shall refer the case to the Court of Criminal Appeal, where evidence shall be taken on the point whether or not, the accused was suffering from some mental infirmity or was a mental deficient.

Mr. Davy: That would be a vast improvement to the Bill.

The Premier: It will keep the two issues separate.

Sitting suspended from 6.15 to 7.30 p.m.

Mr. MANN: The member for Guildford said I had been fortunate in introducing this Bill at a time when many parts of the world were interesting themselves in this subject. He referred to a book that had

recently been published. The "West Australian" on the 27th September, in the cable columns, published an article, which I think should be sufficient to convince any member who may be at all in doubt on the facts which have been put forward up to the present. This article is headed "Man and Animals" and is as follows:—

Professor Berry, of the Melbourne University, who is now in America, has written to the "Times," drawing attention to the School Board of Control's revelations as to the mental after-effects of an epidemic of encephalitis (inflammation of the brain). A lad of twelve years of age, within three years of infection, became a dangerous criminal, addicted to assaulting women. A brilliant boy became a thief, a young woman changed her character and became loose, while others, delighting to see suffering, attempted to strangle children, or set them on fire.

Professor Berry says that these revelations support the views of modern Neuro-pathologists. He refers to the researches of the English doctors, Drs. Bolton and Watson, which showed that the older and deeper brain cells concerned such animal instincts as were essential to the preservation of individual and species, while the more recently evolved external cortical cells, which man alone possessed, controlled the older cells. If a human being was born with an insufficiently developed exterior layer, he might, in the event of an unsuitable environment, become a criminal, yielding to natural and uncontrolled instincts regarding sex and theft. Theft was equivalent to an animal's desire for food. "Thousands of examinations of children in Victorian hospitals and institutions have convinced me that Drs. Bolton and Watson were generally correct," the Professor adds. "The immediate difficulty is to determine whether a cell shortage is dangerous to the public, thus requiring temporary or permanent segregation. Such a patient, in any event, may be marked as an early prospective victim to what the law calls 'insanity,' but what could be better known as 'a disordered reaction to environment.' Only the acceptance of this law of nature will solve the disputes about what constitutes legal insanity."

Here is a very late authority, an eminent man holding the position of professor in the Melbourne University, giving the experience of his investigations. I am not going to prolong my reply, but I hope not to miss anything that will assist in influencing the mind of any member who is still in doubt. I am pleased to be in possession of a report that will interest members. This is a report of 41 cases which have passed through our own courts. It is prepared by our gifted psychologist. All these cases have been tried and decided in this State. Of the first 41 cases referred to the clinic, our psychologist found that 14 were definitely defective in intelligence. These 14 were 34 per cent mentally deficient.

The Premier: That is below normal.

Mr. MANN: Yes. Twelve were found: to be 29 per cent. below normal in the matter of intelligence. Could there be anything more convincing in support of my Bill than these facts? If those 41 children had passed out into the world and had in later years committed a crime, no one would ever have suggested they were only two thirds normal and consequently not capable of proper judgment. They would have been tried on their years and not on their intelligence.

Mr. Davy: Why not provide for them for any crime instead of only one?

Mr. MANN: I would be with the hon. member if he saw fit to do something in that direction when we have finished with this Bill. Let us deal with the case as we have it.

Mr. Davy: If you deal with this case only you will be doing an injustice.

The Minister for Justice: You do not take other people's lives in other cases.

Mr. Davy: What are their lives compared with their liberties?

Mr. MANN: That argument is not sound.

The Minister for Justice: Of course not.

Mr. MANN: If the member for West Perth will bring in a Bill to give effect to what he suggests, I will support him. To return to these figures. Of the 41 children, 17 showed marked emotional inferiority, and were 41 per cent. temperamentally defective. Only three of the 41 had good intelligence and temperament. These figures are sufficient to make every member think seriously of our position, and the necessity for doing something for these mental deficients. There were 19 cases of sex offenders, and seven boys and one girl who were tried for exhibitionism, were 10 per cent. under normal. Two boys and four girls, who were charged with promiscuity, were 20 per cent. under normal. There were 22 cases of theft, with average ages of 14 years, who were 13 per cent. under normal. I have brought evidence to show the investigations that have been going on in every part of the world, England, America, the Continent and our own State. It is not possible for me to put forward anything stronger than I have done. I am sure that any member with an unbiassed mind will support the Bill, particularly in view of the undertaking that I have given that in Committee I will bring

forward an amendment on the lines I have indicated, providing that the issue shall not be tried by a jury but shall be referred by the judge at the trial to the Court of Criminal Appeal, which will then hear and decide whether the accused person was mentally deficient or suffered from any mental infirmity. With these remarks I commend the Bill to the House.

Question put and passed.

Bill read a second time.

In Committee.

Mr. Lutey in the Chair; Mr. Mann in charge of the Bill.

Clause 1—agreed to.

Clause 2—Insertion of new section after Section 653:

Mr. MANN: I have an amendment to move to this clause. It is my intention to ask the Committee to agree to the striking out of Subclause 2 and the insertion of a new subclause in its place. I have not the amendment ready, however, and will therefore ask that progress be reported at this stage.

Progress reported.

BILL—BILLS OF SALE ACT AMENDMENT.

Second Reading.

MR. DAVY (West Perth) [7.46] in moving the second reading said: This is a Bill of no particular moment. I have been asked by certain merchants to move it, and as the only objection which could possibly be raised to it is by merchants I see no reason why the Bill should not pass. Section 54 of the original Bills of Sale Act, 1899, provides that the Act shall not apply to any agreement, with or without the right of purchase, of any sewing machine, piano, typewriter, or gas, electric light, or water meter. Then, by the Act No. 28, 64 Vic., that section is amended by adding after the word "piano" the following: "musical instrument, bicycle, cash register, billiard table and accessories, agricultural machinery and implements." The Bills of Sale Act Amendment Act, 1925, adds some further words: "household furniture, tools of trade."

Hon. W. D. Johnson: It is about time those Acts were consolidated.

The Minister for Justice: They are consolidated by the 1925 measure.

Mr. DAVY: It would not matter if they were not consolidated, because the amendment Acts are merely matters of adding to a list of words.

Hon. W. D. Johnson: It is all right so long as you have all the measures at hand.

Mr. DAVY: By this Bill I seek to add the following words:—

> or electrical appliances, or apparatus of any nature or kind used wholly or in part for household purposes.

The only point of compulsory registration of bills of sale is to enable merchants who propose to give credit to people an opportunity of knowing whether the apparent assets of such people are really their assets. If there were no provision for compulsory registration of bills of sale, a person might live in a beautiful house and have pianos and motor cars and furniture of all kinds surrounding him, and get credit on the strength of them, when none of them belonged to him. For many years the law has provided that if a man's moveable assets do not belong to him, it shall be possible to find that out by making a search at the Supreme Court offices. Certain exceptions have been made with regard to that, and this Bill proposes to make still further exemptions of a kind entirely similar to existing exceptions. As I say, the only people who could possibly by any manner of means raise objection to these further exemptions from the provisions of the Bills of Sale Act would be the merchants, who assembled together represent the Chamber of Commerce—and the Chamber of Commerce have asked me to move this amending Bill. I fail to see that the passing of the measure can possibly do harm to anybody except the members of the Chamber of Commerce, who do not object to it. I therefore have pleasure in moving—

That the Bill be now read a second time.

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.

BILL—POLICE ACT AMENDMENT.

Second Reading.

Debate resumed from the previous day.

MR. RICHARDSON (Subiaco) [7.53]: I have listened carefully to the speeches that have been made on this Bill, and I find it difficult to advance anything that I may claim as new. I listened with the closest attention to the member for Murchison (Mr. Marshall) last night when he gave a number of specific cases that have been dealt with from time to time. I do not think any member of the House will find any complaint with the Bill brought down so far as the Government are concerned. In dealing with the police force of Western Australia we are, I feel, dealing with an institution that in point of efficiency stands out as something exceptional throughout Australia. I have been a resident of this State for some 30 years, and on looking back and thinking the matter over I find that on very few occasions indeed has anything been brought against the efficiency of the police during the whole of that period. The Minister therefore is wise in giving the police some concession, and I would urge him to go further perhaps than he intends to do in this Bill. It has been said here that because other public servants have not received certain benefits, the police force should not receive further benefits than they enjoy to-day. To my mind the police force is as far removed from the ordinary Public Service as is the military from the civil population. I have thought a good deal about the matter, and I take it that a man in order to become an efficient policeman must have over the average amount of brains, must be diplomatic and tactful, and moreover must have a strong physique. He must have physical capacity as well as mental. Therefore the police stand out alone as civil servants.

The Premier: I should hope that the civil servants require to have brains too. Yours is an absurd statement.

Mr. RICHARDSON: I am pointing out that the police must have physique as well.

The Premier: But surely a man in the Public Service generally has to have a brain.

Mr. RICHARDSON: If you, Mr. Speaker, will allow me for a moment, I will explain to the Premier that I am not saying anything derogatory to other public servants, but am simply demonstrating what I consider it is necessary for a policeman to have in order to become thoroughly efficient. Will the Premier say for a moment that a policeman should not have brains?

The Premier: Of course he should. Do not talk nonsense.

Mr. RICHARDSON: Then why discuss what I have just stated?

The Minister for Justice: You implied that the police were the only civil servants who had brains.

Mr. RICHARDSON: Not in the least. If I said the Minister for Police had exceptional brains, that would not mean to say the Premier had not because he is a member of the Cabinet.

The Premier: A lovely argument!

Mr. RICHARDSON: The police stand alone in the Public Service. They must have a combination of the two qualities I have mentioned, otherwise they cannot be efficient policemen. It is not necessary that a man in the ordinary Public Service should have special physique. He might be one of the brainiest men conceivable, and yet his physique might be that of a weakling. I am not saying anything derogatory to the Public Service in general. I have always contended that Western Australia has a magnificent Public Service; and in saying that the police should have physical as well as mental capacity I am not implying anything derogatory to public servants generally. Seeing that the police come under a discipline which is extraordinary, and seeing that during the whole of the time they are really under the eye of the public, we should certainly do as much as possible to assist them in maintaining their efficiency and in making for the smooth running of the Police Department. I was astounded last night at an interjection of the Minister for Justice regarding the appointments of Sergeants Leen and Teehan. I understand from the remarks of the member for Murchison that some 10 or 12 years ago those two officers were eligible for promotion. The Minister interjected that there were no openings for them, and that it was only recently openings could be found. From inquiries I have discovered that in the interim quite a number of their one-time juniors have been promoted. If that is correct, it is high time we had a promotional board appointed. I do not say

that the Commissioner of Police has not fulfilled his duties. My personal belief is that the Commissioner has carried out his duties in a very able manner. However, I would remind hon. members that in an organisation such as the police force the Commissioner must be reliant on many of his subordinate officers. It is impossible for him to know all the members of the force personally, and to know their capacities; and because of that fact we should create a promotional board before which anyone who felt he had a grievance in the matter of promotion could go and receive justice. I fail to see for a moment why either the Minister or the Commissioner should oppose the appointment of a promotional board. Were I Commissioner of Police I would welcome the creation of such a board, and would feel that it was nothing derogatory to me but that it was an assistance to me towards aiding a smooth running of the force. In such an organisation as the police we cannot afford to have any friction whatever occurring. The police are the keepers of the law, and we make them responsible for maintaining law and order. Once friction arises in a force of that description, the people generally are very likely to lose considerably by it. If all the members of the police force knew that if they had, or thought they had, a grievance they could go to a board and have the grievance adjusted in some way or other, it would certainly tend towards smooth working. The creation of a promotional board would lead to smoother working than prevails to-day. We know perfectly well that the police have been very generous in their attitude. They have refrained from openly stating that they have any grievances. They have endeavoured in every possible way to get over their grievances in a quiet smooth-working way. It seems remarkable to me that the Minister is opposing the appointment of such a board. For the information of hon. members who may not have heard it, I desire to read the recommendation placed before the Minister by the Commissioner of Police after he had attended a conference in the Eastern States in 1924.

The Minister for Justice: I will read a later opinion of the Commissioner's as well.

Mr. RICHARDSON: I desire the Minister when replying to give us the real reason why the Commissioner has changed his mind.

The Premier: I suppose his later opinion is as good as his earlier one.

Mr. RICHARDSON: Well, I will give his earlier one.

The Premier: A later opinion is surely better than his first one?

Mr. Davy: Is a second opinion always better?

The Premier: Second thoughts are usually the best.

Mr. RICHARDSON: We have the reasons why the Commissioner submitted his report to the Minister in charge of the Police Department. He attended a conference of Police Commissioners in the Eastern States, and those officers placed the position so plainly before him in favour of a promotional board that when the Commissioner returned to Perth he submitted a report recommending the Minister to appoint a board to deal with matters relating to promotion in connection with the police force.

The Minister for Justice: We did appoint one.

Mr. RICHARDSON: It was for the reason I have indicated that the Commissioner of Police submitted his report to the Minister. I want the Minister to tell us why the Commissioner changed his mind. Hon. members will appreciate, when I read the recommendation of the Commissioner, that it was a strong one. In his report the Commissioner said—

> I am of opinion that the time is opportune for the appointment of an appeal board on similar lines to the one established in New South Wales to deal with appeals regarding the granting or refusing of promotion to a member of the force, the imposition of punishment, where such punishment consists of the infliction of a fine, suspension, or reduction in rank, or a dismissal, discharge, or transfer in connection with such punishment. The board should consist of a stipendiary magistrate and two assessors who shall be members of the force, one to represent the Commissioner and the other the members of the force. To give effect to this recommendation, legislation is necessary, and I would urge it to be dealt with as early as possible. At the recent conference of Police Commissioners in Sydndey, I went into the subject, and I am satisfied that the different police associations in the Commonwealth are desirous of having such a board. At the annual conference of members of the force, held on the 24th August, a similar request was made.

It will be seen that the request to the Minister came from both sides. Surely at that time the Commissioner of Police must have realised the fact that such a board would have

tended towards the smooth working of the police force, as it had done in the Eastern States, where, I understand, they are all working under appeal boards.

The Premier: The police do not seem to be too efficient in Melbourne and Sydney in catching offenders.

Mr. RICHARDSON: As the other States are working with the advantage of such boards, I do not see why we should not have a similar body in Western Australia. It has been contended that because one member of the police force happened to sit on the board he might perhaps be somewhat prejudiced, and he might be biassed with regard to appeals dealt with. It has been pointed out that a temporary board was provided by the Minister. That board consisted of Mr. Kidson, the Acting Police Magistrate, Inspector O'Halloran, representing the Commissioner of Police, and Sergeant McGowan, representing the Police Union. That board dealt with quite a number of cases, and in some instances the appeals were upheld; in others they were turned down, while some were adjourned sine die. I wish to show the fairness of the decisions of the board, notwithstanding the presence of two policemen on the tribunal. In order to establish that I shall quote remarks made by Sergeant McGowan, when speaking at a deputation to the Minister. During the course of his remarks Sergeant McGowan said—

> The unions considered that the results of the temporary board justified the request for a statutory board. It would be seen that out of seven appeals dealt with by the temporary board they were unanimous in five decisions, and the other two decisions were upheld by the chairman and the union representative on the uncontradicted testimony of the Chief Inspector in one case and of an inspector, sergeant, constable, and member of Parliament in the other.

Hon. members will see from that that there was no bias entering into the matter at all. Mr. McGowan also said—

> It appeared to him that the stand taken by the Commissioner was that so long as commissioned officers were giving evidence against appellants the board was quite justified in believing them, but as soon as they stated anything in favour of an appellant they should not be taken notice of.

That is a rather serious indictment calling for some attention. I will not deal with individual cases because they have already been referred to, and I do not wish to reiterate. If we desire the smooth working of the police force, the consideration they ask should be extended to them. They are justified in receiving consideration because of their conduct in the past. We shall be right in extending to them as much as the police forces in the other States have had the benefit of already. I cannot conceive for a moment that the Minister is right in opposing an appeal board to deal with promotions. The Minister has proposed a board that will deal with punishments and so on. If that is necessary, surely it is more necessary to deal with the position of a man who knows perfectly well that he is being overlooked. Should an officer commit a crime, or do something that constitutes a serious breach of the police regulations, he knows that he will be penalised, and he will know in his own heart that he has been punished justly. But should a man work hard and pass all the examinations necessary for promotion, passing them easily or even with honours, and yet, year after year, be kept back for some reason or other, such a man is bound to become discontented. He will know nothing of the arguments against him, and everyone is human. He will naturally feel that he is not getting a fair deal. If such a constable or a sergeant were able to go before an appeal board, where evidence could be given by both sides, a fair and just deal would be obtained. In such circumstances any policeman would accept the decision of the tribunal and leave the board room happy and satisfied. It would be proved from the evidence, and possibly from the statements of those sitting in judgment respecting the appeal, that the officer concerned was under an entirely wrong impression. So long as a policeman has to sit down and see juniors taking precedence in promotion, he is sure to be discontented. I ask the Minister to reconsider his previous decision regarding the proposed amendment.

The Minister for Justice: I have not made any decision. What are you talking about.

Mr. RICHARDSON: I am speaking really regarding the proposed amendment.

Mr. Davy: Is the Minister not opposed to the amendment?

The Minister for Justice: I have not said anything about it except by way of interjection.

Hon. G. Taylor: But the interjections were rather pointed.

Mr. RICHARDSON: The Minister interjected in opposition to the amendment proposed by the member for Mt. Margaret (Hon. G. Taylor).

The Premier: Do not anticipate trouble.

Mr. RICHARDSON: I am glad, then, that our arguments have convinced the Minister.

The Minister for Justice: I have not said that that is so.

Mr. RICHARDSON: I feel happier now that we have the indication from the Minister that he is not going to oppose the amendment.

The Minister for Justice: I did not say that.

Mr. RICHARDSON: The Minister challenged me when I said he was opposed to it, but now I am not sure about his attitude. Perhaps the Minister requires a few more days to think the matter over. I do not desire to dwell on the subject any longer. I have spoken in general terms regarding the question as it appeals to me because I believe we should do everything we can in every possible way to further the smooth working of the police organisation, just as we should do in respect of any other association in connection with the Public Service.

The Premier: You can get smooth working anywhere if you give people everything they ask for.

MR. MANN (Perth) [8.12]: I am pleased that the Minister has introduced the Bill but it is not such a comprehensive measure as that which the member for West Perth (Mr. Davy) and I placed before him last year. However, it goes part of the way and I suppose we must proceed along the whole journey by one stride at a time. I am not quite satisfied with the board proposed in the Bill and I do not consider it is capable of dealing with a policeman regarding promotion. Having made such a statement, I suppose I should give my reasons.

The Minister for Justice: But the appeal board proposed will not deal with promotions.

Mr. MANN: That is so, but there is an amendment on the Notice Paper with that object in view.

The Premier: That is not in the Bill yet.

Mr. MANN: I am doubtful about the appeal board as it is provided for in the Bill.

The Premier: I understand.

Mr. MANN: The appeal board proposed will be very little better than the old appeal board.

The Minister for Justice: But there has been no appeal board.

Mr. MANN: In days gone by, if a constable or a non-commissioned officer was charged with an offence, he had the right to have a board appointed to deal with the charge against him.

The Minister for Justice: That was not an appeal board. He had the right to say whether he would be dealt with by the Commissioner direct or by a board.

Mr. MANN: That is the position.

Mr. Kenneally: And constables were truly dealt with by the old board! It is to get away from that that they want the right to appeal.

Mr. MANN: But the board proposed is somewhat similar to the former one. The board proposed is along the lines of the Railway Appeal Board. But the position of a police officer is different from that of a railway officer. A constable or a non-commissioned officer is constantly appearing in court before various magistrates. The police officers may do something to prejudice themselves in the minds of the magistrate.

The Premier: Generally it is the other way about.

Mr. MANN: That may be so.

The Premier: Then they get the benefit of it.

Mr. MANN: I do not know that they do. If, on the other hand, an officer has had occasion to do something that displeases a magistrate before whom the officer has been giving evidence, and later on that magistrate sits in trial over him in respect of his appeal, all I can say is that the board proposed is not such as I should like to see set up.

Mr. Chesson: A magistrate would not be sitting to try him.

Mr. MANN: He would be sitting in judgment on the man's appeal. The position of a police officer is altogether different from that of any other public servant.

The Premier: Whom would you suggest for chairman?

Mr. MANN: I suppose the Premier would not agree to going so high as a judge of the Supreme Court.

The Premier: It would be absurd to ask a judge to deal with every little tin-pot appeal.

The Minister for Justice: A man might be fined a few bob for a breach of discipline and you would have a judge of the Supreme Court to hear the appeal!

The Premier: A trivial charge such as leaning against a post.

Mr. MANN: The Premier is now going to the other extreme.

The Premier: In one case that came up a man was charged with having leaned against a post while on duty.

Mr. MANN: Suppose a man's dismissal was involved, should not that be dealt with by a judge?

The Premier: No, someone of lower position could deal with it.

The Minister for Justice: What about the 8,000 railway men, some of whom get dismissed and have to put up with a magistrate?

Mr. MANN: Railway men are not in touch with a magistrate as a policeman is. There could be no bias in a railway man's case.

The Premier: Your argument would apply also to a judge because the police are in touch with the judges.

Mr. MANN: Very seldom do they appear before a judge.

The Premier: Very frequently they appear before a judge.

Mr. MANN: No, infrequently.

The Minister for Justice: They frequently give evidence before a judge.

Mr. Davy: The average constable would not appear before a judge once in his life.

Mr. MANN: A constable through error might arrest a wrong man and appear before a magistrate. Suppose later on he was charged with a breach of the police regulations, the magistrate might have it in mind that the officer had made a mistake a year before and his mind would be biased. I can suggest no one between a magistrate and a judge.

The Premier: If a magistrate would be biased against a constable in that way, he would have no right to be on the bench, because he would be biased against people brought before him whose liberty would be at stake.

Mr. MANN: I do not know whether a magistrate would remember a man who had been charged a month previously with assault. Does the Premier think he would forget it?

The Minister for Justice: You should not impugn the magistrates like that.

The Premier: Your whole argument shows that the magstrates are not fit for their positions, if they are biased as you suggest.

Mr. MANN: That is not so.

The Premier: It is so.

Mr. MANN: Is it intended that one magistrate only should sit on this board or would different magistrates preside?

The Minister for Justice: As with the Railway Appeal Board, the magistrate in the district would take the appeals arising in the district.

Mr. MANN: The local magistrate would deal with cases arising locally?

The Minister for Justice: Yes.

Mr. MANN: Does not the Minister think the magistrate would be influenced by local rumour?

The Minister for Justice: He would be a rotten magistrate if he did not give a just decision. I hope we have no magistrates of that kind in the service.

The Premier: He would be a nice sort of magistrate if he was going to be influenced by rumour.

Mr. MANN: If an ordinary case of drunkenness, disorderliness, or theft arose, would it not be discussed locally? If a charge were laid by a publican or some prominent person, the whole town would be talking about it.

The Premier: And according to you the magistrate would immediately be biased.

Mr. MANN: He must be influenced.

The Premier: Then he would not be fit for his position.

Mr. MANN: I hope that when the Bill reaches Committee the Minister will agree to alter the constitution of the board.

The Minister for Justice: Suggest anything reasonable and we will meet you.

Mr. MANN: I shall endeavour to do so. I hope the Minister will favourably consider the amendment indicated by the member for Mount Margaret, but I cannot agree to the board dealing with an appeal against the Commissioner's decision regarding the granting or refusal of promotion. The Minister should agree to that issue being dealt with by a judge of the Supreme Court, as in the case of civil servants. There can be no reason why a police officer's promotion should not be considered by a judge of the Supreme Court.

The Premier: A judge of the Supreme Court does not deal with the promotion of civil servants.

Mr. MANN: He deals with the classification.

The Premier: It is a question of salary.

The Minister for Justice: He classifies the position, not the individual.

Mr. MANN: Well, that involves the individual.

The Minister for Justice: An individual may not get a job if it is classified at a higher status; therr may be other officers senor to him.

Mr. MANN: The Minister is splitting straws, because in one instance the position is involved and in the other instance the individual.

The Premier: It is a matter of salary. The judge has nothing to do with the promotion of an individual.

Mr. Davy: He does not decide who shall hold the position.

Mr. MANN: That is so.

The Minister for Justice: The Arbitration Court decides certain things that certain workers shall do and fixes the wages for that service.

Mr. MANN: A State that has had a lot of experience has seen fit to appoint a judge as chairman of its police appeal board. That State is New South Wales.

The Minister for Justice: A county court judge there is like a magistrate here.

The Premier: It is a sort of super magistrate they have in the Eastern States.

The Minister for Justice: But they do the same work as our magistrates do.

Mr. MANN: A county court judge is very much more important than a magistrate. At all events the Minister will concede that in New South Wales a magistrate is not appointed for this work. Someone higher is entrusted with the duty.

The Minister for Justice: New South Wales appointed a man who was doing the work that our magistrates are doing.

Mr. MANN: That is not so.

The Premer: Well, a good deal of the work.

Mr. MANN: A county court judge has far and away higher status than has a local court magistrate. It it not really a form of arbitration in effect?

The Minister for Justice: The police have the right to go to the Arbitration Court on the question of wages.

Mr. MANN: But they cannot go to the Arbitration Court on this point, though it is equally important. I hope the Minister will agree to appoint a judge and will accept the amendment that a judge shall deal with appeals on the queston of promotion.

The Minister for Justice: Let us see how we get on with the first amendment.

Mr. MANN: I think the Minister is sympathetic and I shall not press the point beyond saying that when the Bill reaches Committee I shall move an amendment.

The Premier: I should like to see our judges handling some of the tin-pot appeals that will come before the board. Some of them are very trivial.

Mr. MANN: I know they are, but I am now dealing with the question of promotion.

The Premier: You want the amendment plus a judge. Do not you think you are asking a bit too much?

Mr. MANN: No. I support the second reading.

MR. KENNEALLY (East Perth) [8.26]: The Bill seeks to provide a channel of appeal for members of the police force that may be dissatisfied with the decisions on charges made against them. The position today is much better than that which existed a few years ago. I recollect that, when members of the police force were seeking means to obtain redress for their grievances, some of the speakers on the Opposition side were sitting behind the then Government. The police were seeking relief from anomalies that existed and injustices they were suffering, but it was not until the present Government took office that they were afforded means to obtain redress. Since then they have shown that they are prepared to adopt the constitutional course beloved of members opposite in order to get their grievances remedied.

Mr. Davy: Do not you like those constitutional methods?

Mr. KENNEALLY: Yes; I sometimes think we like them too much.

Mr. Davy: Then why sneer at this side of the House?

Mr. KENNEALLY: I am merely complimenting the hon. member and his friends on having refrained from giving the police an opportunity to proceed by the constitutional methods that they advocate for other people. It remained for the Labour Government, who believe in constitutional methods, to make them available.

Mr. Mann: If the Government had not moved just prior to the last election, they would have had nothing to their credit for their three years of office.

Mr. KENNEALLY: On the contrary they had given the police opportunities to secure redress for many grievances that existed, some of which were most manifest when members opposite were in power.

The Premier: It was the Labour Government that gave the police permission to form an association, permission that they had previously been denied.

Mr. KENNEALLY: Surely it is fair to mention that whereas the police claims were not recognised by the previous administration, the present Government saw the justice of their claims and granted them.

Mr. Mann: Do you object to an amendment of the Bill?

Mr. KENNEALLY: I will deal with that point when I come to it.

Hon. G. Taylor: It is about time you got to the Bill, anyhow.

Mr. KENNEALLY: The position we find here is that opportunities have been given to the members of the police force to register as a union and thereby have some means of redressing the grievances under which they were suffering, and also to remove some of those anomalies in promotion of which the member for Mt. Margaret (Hon. G. Taylor) has, by his indicated amendment, become the chief sponsor. It is now proposed by this Bill to provide that when members of the force are dissatisfied with punishment inflicted upon them, they shall have the right of appealing to what at any rate should be an independent and impartial tribunal. Objection has been raised by the member for Perth (Mr. Mann) to the proposed construction of the appeal board. I shall support the board as proposed by the Bill, and I am speaking from experience when I say that an appeal board similar to that constituted under Sections 69 to 76 inclusive, of the Government Railways Act would be calculated to give justice to appellants. I am not one of those who are prepared to regard members of the police force as not being ordinary servants of the public. That idea must be knocked down. In point of fact, the people who have denied the police the right to register, who have denied them a board to rectify anomalies in promotion, base those refusals mainly on the ground that the police are not ordinary servants of the public.

Mr. Mann: Neither they are.

Mr. KENNEALLY: It is time we dissociated ourselves from the idea that the police are not ordinary servants of the public, just like railway men for instance. The Bill proposes to give the police an opportunity to appeal against what? To appeal if they are disrated, fined, or dismissed, and to appeal to a board constituted of a magistrate, a representative of the police force, and a representative of the Commissioner of Police. I believe that such a board, once constituted, would prove a tribunal adequate for dealing with appeals against punishment. However, in the police force, as in other branches of the Public Service, there is frequent resort to a method of punishment that does not fall within the category of fine, reduction in grade, or dismissal. Let us assume—in order to advance an argument one must occasionally assume a good deal—that in the Police Department there came into power a Commissioner who believed that if certain punishments were inflicted such a board as that to be constituted under the Bill would uphold appeals against them. Let us suppose that the same Commissioner decided not to run the gauntlet by inflicting punishments which would come within the purview of the appeal board regulations, but to punish by withholding promotion due. That punishment would be just as effective, and just as damaging to the officer, as reduction in grade; in fact, it would be more effective and more damaging. And the officer would not have the right to appeal to anyone except the Minister.

Mr. Davy: Can it be that you are in favour of the amendment?

Mr. KENNEALLY: Apparently my friend has just woke up, so I will say that I have been speaking for some time in that direction. Therefore, while I commend the Government for having made some progress in the direction denied to the police by the Government which my friend supported, a move which will give an appeal board to members of the force in respect of punishments does not go far enough if it leaves the possibility of punishment such as I have indicated, which does not come within the purview of this measure, punishment which consists in the denial of promotion, and which does not carry a right of appeal. In other sections

of the Public Service adequate safeguards are provided as regards seniority in the matter of promotion. The very fact, well known to us, that promotion in the police force has frequently not been in order of seniority warrants, at all events in my opinion, the creation of some board—I am not tying myself to the board proposed by the Bill—to which the individual police officer may appeal if he considers that injustice has been done to him in the matter of promotion. Therefore, during the Committee stage, though I do not bind myself altogether to the suggested amendment of the member for Mt. Margaret, I shall be prepared, and I hope the Minister will be prepared, to support an amendment providing, not for the appointment of a promotional board as some members urge, but for the appointment of a board to which any officer, dissatisfied at having been denied promotion, may appeal. I support the second reading, and hope the Bill will be carried. I hope also that it may be possible to amend the measure in certain directions. The Bill provides that appeals shall be commenced within a month, but does not provide the alternative, that if an appeal is not heard within a month it shall be regarded as upheld. The onus of getting the appeal heard within the month does not rest on the appellant. The appellant must lodge his appeal within fourteen days of notice having been served upon him of the decision against which he desires to appeal. If he lodges his appeal as required, he will have done all he can. After that he must wait until such time as he is notified that the appeal board will sit. Seeing that he has no option in the matter, it is only right that if the appeal board does not sit within a month, the alternative of upholding the appeal should prevail. I trust that in Committee we shall find a method by which an officer who is dissatisfied with a decision denying him promotion in his turn will be given an opportunity of appealing to some board to be created, a board from which he may expect that justice which, we have fairly good evidence to show, has not always been extended to police officers in Western Australia.

THE MINISTER FOR JUSTICE (Hon. J. C. Willcock—Geraldton—in reply) [8.42]: I do not intend to say much in reply, because, as I mentioned by way of interjection, very little has been said in the course of the debate about the Bill, except by the last speaker, who specially referred to the time which should elapse before an appeal is lodged. In point of fact, that is the only thing we have heard about the Bill during the entire course of the discussion. It has been urged that the measure should go further, and indications have been given of amendments to be moved. So I suppose the debate will go on again in Committee, and whatever is said here will probably be said all over again then. Therefore I do not propose to deal at length with that aspect at the present stage. I wish to refer to one remark made by the member for Subiaco (Mr. Richardson) who lauded the efficiency of the Western Australian police force—and people agree that they are an efficient force—but compared the Eastern States forces to their detriment with ours.

Mr. Richardson: I said we had a good force, one just as efficient as the forces of the Eastern States.

The MINISTER FOR JUSTICE: The force which he compared to its detriment with the Western Australian force has had the promotional board for many years. In that instance the promotional board does not seem to have worked as efficiently as our own system, and I have to point out that our force has suffered from this dreadful disability for many years.

Mr. Davy: No one said that.

The MINISTER FOR JUSTICE: It was said that there were grave discontents in our force.

Mr. Mann: Who said that?

The MINISTER FOR JUSTICE: The member for Subiaco (Mr. Richardson) for one.

Mr. Richardson: I said what?

The MINISTER FOR JUSTICE: That there was grave discontent and that the efficiency of the force would be broken down.

Mr. Davy: I remember a supporter of the Government stating in this House that the police force were seething with discontent—the then member for East Perth.

Mr. Kenneally: Before the present Government came into power.

The MINISTER FOR JUSTICE: The member for Subiaco said he knew there was a lot of discontent.

Mr. Richardson: I do not think I used the word "discontent." I used the word "friction."

The Premier: What does friction produce as a rule?

The MINISTER FOR JUSTICE: The member for Nelson (Mr. J. H. Smith) said there was a great deal of discontent in the force. I do not know that. The force have a union or association which can appeal to me if there is discontent. Had grave discontent existed, it seems to me that at least the association would have come to the responsible Minister to have their complaints investigated.

Hon. G. Taylor: Perhaps they thought you were not sympathetic.

The MINISTER FOR JUSTICE: In his earlier days, did the idea that someone was unsympathetic prevent the hon. member approaching anyone? Of course it did not.

Mr. Davy: As a matter of fact, the police have approached you, not as a discontented body but with requests.

The MINISTER FOR JUSTICE: That is so. I had an interview with a representative of the force and he told me that if they got this board they would be satisfied.

Mr. Mann: Why did you not tell us that earlier?

The MINISTER FOR JUSTICE: When I moved the second reading, I told the House that the Bill had been asked for by the Police Association.

Mr. Mann: Is this all that they want? Do they want nothing further?

The Premier: The Bill was asked for by the police.

The MINISTER FOR JUSTICE: And they said if this Bill were passed they would be satisfied.

Mr. Davy: Then the member for Mt. Margaret has invented the position regarding promotions?

The MINISTER FOR JUSTICE: I would not suggest that for a moment.

Hon. G. Taylor: I submitted this proposal last year. Perhaps the Minister remembers the fact.

The Premier: The member for Mt. Margaret may have interviewed constables other than those seen by the Minister.

The MINISTER FOR JUSTICE: He must have done so. I do not know whether the hon. member has been asked to submit his amendment. I should like to ask him that question.

Hon. G. Taylor: I will tell you that in Committee.

The Premier: Has it the support of the Police Association?

Hon. G. Taylor: I do not know that it has.

Mr. Davy: The Police Association wanted it during the last Parliament.

The Premier: You are out of date. We are dealing with the matter during this Parliament.

The MINISTER FOR JUSTICE: The matter will be dealt with in Committee and I do not desire to stress it further at the present stage.

Mr. Mann: The member for Murchison and the member for Subiaco had pretty good briefs.

Question put and passed.

Bill read a second time.

In Committee.

Mr. Angelo in the Chair; the Minister for Justice in charge of the Bill.

Clauses 1 to 5—agreed to.

Clause 6—Appeal Board:

Hon. G. TAYLOR: I move an amendment—

That after "Act" in line 8, the words "or if a non-commissioned officer or constable is dissatisfied with the decision of the Commissioner in regard to the granting or refusal of promotion" be inserted.

I have been asked by the Minister whether anyone has interviewed me with reference to the amendment, or whether I am acting on my own initiative. Members of the police force have told me that they desire the amendment more than ever. Some went so far as to say that if the amendment were agreed to it would be the best part of the Bill. I do not know whether all the police officers are of that opinion. I am not in Parliament to consider what other people think, and if I believe something is good, it is my duty to advocate it. I want the Minister, if he opposes the amendment, to give us his reasons for doing so. The Bill should be dealt with apart from any party feeling or warmth. I do not propose to make the police force an instrument for party politics, and I hope the Minister will act similarly. The question should be dealt with on its merits. If hon. members consider the amendment will not improve the Bill, they should have freedom of action to vote against it. I am of opinion that the amendment, if agreed to, will represent

the best portion of the Bill and will be acceptable to all members of the police force, apart from the Commissioner. Before dealing further with the amendment, I would like to know from the Minister the reason why the Commissioner changed his opinion, in view of the recommendation he made on his return from the conference of Police Commissioners in Sydney. Most of the police forces of the other States are working with the advantage of promotional boards and I believe it is on record that the Commissioner in New South Wales recommended that the appeal board should have the final say, without the necessity for Ministerial action, in connection with promotions.

The MINISTER FOR JUSTICE: Before we deal with the amendment I would like to ask for a ruling as to whether it is in order. The Bill deals with specific sections in the Act relating to punishment for insubordination or breaches of discipline. It has nothing whatever to do with promotions. I contend the amendment is beyond the scope of the Bill.

Hon. G. Taylor: It is not against the principle of the Act.

The MINISTER FOR JUSTICE: No, but it does not come within the scope of the order of leave to introduce the Bill.

Hon. G. Taylor: The object of the Bill is to establish an appeal board.

The MINISTER FOR JUSTICE: The Bill seeks to amend certain sections of the Act to provide for an appeal board to deal with matters arising out of punishment inflicted for the breaches I have indicated.

Hon. G. Taylor: My amendment will merely extend the provisions.

The MINISTER FOR JUSTICE: I will not argue the point with the member for Mt. Margaret, but will address myself to the Chair. We introduced the Bill at the request of the Police Association to deal with the matters covered by the Bill. We drafted the Bill for that purpose and dealt with the procedure necessary.

Mr. Mann: If the member for Mt. Margaret had given notice of his intention to move for the inclusion of a new clause, you would not have opposed it?

The MINISTER FOR JUSTICE: But even then his amendment would not be within the scope of the order of leave, and could not be accepted.

Mr. E. B. Johnston: But the Title of the Bill shows it is for the purpose of establishing an appeal board.

The Premier: To deal with punishments, not with promotions.

The MINISTER FOR JUSTICE: At any rate, I ask for a ruling as to whether the amendment is in order.

The CHAIRMAN: In my opinion the amendment is in order and relevant. The Bill has been introduced for the purpose of creating an appeal board to deal with appeals from non-commissioned officers or constables fined, reduced in rank, transferred, or dismissed. There is a very close relationship between reductions in rank and promotions, sufficient to permit the amendment to be moved. I rule that the amendment is in order.

The MINISTER FOR JUSTICE: In that event I will deal with the principles involved. Most members who have spoken have stressed the recommendation by the Commissioner of Police on his return from the Sydney conference. At that stage the Commisioner had had no personal experience regarding the working of an appeal board dealing with promotions. He took the word of those who had some experience and recommended that an appeal board be established. In the interests of efficiency, appeals for promotion have been deliberately withheld from all sections of the Public Service by successive Governments, and in consequence no section of the Public Service has that right of appeal. So we are not on new ground in that respect. The Commissioner's statement, which we have had read out, was based on something he had been told. The board granted increases aggregating about £25,000, and altered the grades of many of the personnel of the force. Altogether quite a number of promotions were made. Every man who thought he had a claim to promotion was permitted to go before the board and state his case.

Mr. E. B. Johnston: When they went they were ruled out on technicalities.

The MINISTER FOR JUSTICE: No, the hon. member is wrong.

Mr. J. H. Smith: It took years to get that.

The MINISTER FOR JUSTICE: Not very long; not more than two or three months after the decision was made.

Mr. Davy: Was the promotional appeal board a failure?

The MINISTER FOR JUSTICE: It was on the experience of other people that the Commissioner recommended the establishment of the promotional appeal board. After he had acquired some experience of it, he was entirely against the board. His report is on the file. The member for Murchison said that nine officers appealed, and seven of them were successful.

Mr. Marshall: No, I said there were six or seven in the lot. I do not know how many were successful.

The MINISTER FOR JUSTICE: I understood the hon. member to say that out of the nine that appealed, seven were successful. Of the appeals, actually two were disallowed and one was withdrawn. Sergt. Wilson's appeal was allowed. The Commissioner had objected to the promotion because the officer was not physically capable of carrying out his new duties. This is seen in the fact that from the day his appeal was allowed until he retired from the service his physical condition did not permit of his taking up the new duties. His promotion was an obvious mistake. One appeal to the board was adjourned. It had previously been adjourned for 12 months, pending a favourable report. That favourable report coming to hand, the officer was promoted. His case was not dealt with by the board.

Mr. Marshall: Yes, the board dealt with it and adjourned it.

The MINISTER FOR JUSTICE: But the board did not deal with it finally. In any event, board or no board, the result would have been the same. The appeal of Sergt. McGuiness was allowed. But between the time the Commissioner decided against his promotion and the hearing of his case by the board, this man had passed a promotional examination. So his qualifications were then altogether different from what they were when the original decision was given. Constable Ford's appeal was allowed. I do not want to say anything against him or any other member of the force, but even now the Commissioner thinks that as a sergeant he is not a credit to the force.

Mr. J. H. Smith: He is a credit to the force. He is one of the whitest of men.

The MINISTER FOR JUSTICE: I don't care how white he may be. The hon. member is a white man, but nobody would suggest that he would make a good sergeant of police.

Mr. J. H. Smith: That man had the necessary qualifications ten years before.

The MINISTER FOR JUSTICE: The last thing I want to do is to discredit any member of the force, but the considered opinion of the Commissioner is that this man in his present position is not a success, is not a man to be in control of a number of other men. However, the board said he was to get the position, and so he has it. It is one of the things the board has done.

Hon. G. Taylor: Let us deal with the Bill, instead of dealing with individual officers.

The Premier: But the Minister's judgment was challenged, and this is the answer to all that has been asked.

The MINISTER FOR JUSTICE: I do not think we should attempt to discredit anybody merely to support the Bill. However, that is one of the main arguments against the appeal board. But whilst it is easy to get any number of people to go before the appeal board and say something to the credit of an appellant it is very difficult to get others, who may know of good reasons why the appeal should not be upheld, to go along and say anything whatever against the appellant. That is one of the serious disadvantages of an appeal board with regard to promotions. If the board hear one side, they ought to hear the other.

Mr. Kenneally: Under the Bill the board are given permission to summon witnesses as may be desired.

The MINISTER FOR JUSTICE: Yes, but if the hon. member were compelled to give evidence on behalf of a fellow-worker, although he knew the obvious faults of the man, he would not mention them.

Mr. Kenneally: But you could make provision for the evidence to be given on oath.

The MINISTER FOR JUSTICE: I know the hon. member sufficiently well to believe that he would say nothing rather than speak derogatively of a fellow-worker. I suppose the Australian spirit would commend a witness who deliberately—to use a vulgarism—refrained from putting the gun into a man with whom he had worked for years. It is impossible to get evidence to enable a board to give an impartial verdict. There are men in the force who, after 30 or 35 years' service, are still constables. They are excellent constables, but no one would consider that they should be made sergeants or inspectors. The qualities of a man cannot be

ascertained by evidence. A magistrate or judge would not have had an opportunity to watch a man's career and decide his fitness for promotion. The particulars on a file do not count; it is the experience of years that enables a superior officer to judge of a man's ability to command other men. Out of the whole force, 300 men may be fit to be sergeants, 200 may be fit to be inspectors, and 100 may be fit to fill the commissionership.

The Premier: That would be a high state of efficiency.

The MINISTER FOR JUSTICE: I am erring on the liberal side.

Hon. G. Taylor: Have not men seeking promotion to pass an examination?

The Premier: Other things count as well as the examination.

The MINISTER FOR JUSTICE: The examination is important, but it is not everything. I should say that the examination would represent only 25 per cent. of the qualifications necessary for a sergeant. Because a man was acquainted with the various Acts that the police have to administer, he would not necessarily make a good sergeant.

Mr. E. B. Johnston: The Commissioner is always right.

The MINISTER FOR JUSTICE: I do not say that. There have been occasions when he has not been right. If it appeared from information brought to me that there was sufficient warrant for an inquiry, it would be granted. We have no promotional appeal board in the railway service, but occasionally there seems to be sufficient cause to inquire into promotions that have been made. This week one of the railway organisations expressed serious discontent with a promotion and, as there was sufficient cause to warrant an inquiry, an inquiry is being conducted by a magistrate, and effect will be given to his decision. That, however, is different from establishing a board to which anyone who, in his own opinion, has been passed over, may appeal. If the appeal was successful the appellant would gain; if it was unsuccessful he would lose nothing.

Mr. Kenneally: The board could apportion the costs of the appeal.

The MINISTER FOR JUSTICE: We have had six or seven years' experience of that in connection with public service classifications, and although some of the grounds of appeal have been trifling, on no occasion to my knowledge have costs been awarded against an appellant

Mr. Kenneally: The Railway Appeal Board have awarded costs against some appellants.

The MINISTER FOR JUSTICE: There may have been one case in which costs were awarded.

Mr. Kenneally: Not one, but a number.

The MINISTER FOR JUSTICE: Our experience of the Public Service Appeal Board has been entirely different. For the benefit of members I shall read the opinion of the Commissioner of Police. Let me say that one can always depend upon getting a definite straightforward opinion from him based on what he considers is right and proper. The Commissioner has disagreed with several of my suggestions, and the same applies to previous Ministers, but he never seeks to bring his opinion into line with the wishes of the administration.

Mr. Davy: I should not think he would.

The MINISTER FOR JUSTICE: I hope it will not be thought that, because I am opposing the amendment, the Commissioner has been influenced. Anyone who knows the Commissioner would not entertain that thought for a moment. He is a man who would not alter his opinion under any influence. He says—

> With reference to Executive Council minute hereunder, dated 19th August, 1925, approving regulations for the creation of a promotional appeal board and giving non-commissioned officers and constables aggrieved by the promotion of some other non-commissioned officer or constable the right of appealing, I have to report that appeals were duly heard before A. B. Kidson, Esq., Acting Police Magistrate, Chief Inspector Duncan, representing the Commissioner of Police, and Constable McGowan for the Police Association. The result was most disappointing from the standpoint of efficiency, as the chairman did not appear to take into consideration the personality of the appellant who appeared before him, but rather depended on the weight of evidence that the appellant was able to bring.

I have explained what sort of evidence is likely to be submitted to the board. The Chairman of the Appeal Board gave great consideration to the evidence which came along.

Mr. E. B. Johnston: He granted only one appeal, you say.

The MINISTER FOR JUSTICE: He granted two.

Mr. Davy: Two out of nine.

The MINISTER FOR JUSTICE: There was one in connection with Wilson, but he

did not take on the position to which he was promoted, and this proved that the Commissioner was correct.

Mr. E. B. Johnston: The Commissioner was disappointed, because he did not win the lot.

The MINISTER FOR JUSTICE: No. The Commissioner goes on to say—

In one case the appellant called subordinate officers in support of his case, men who had no experience of the administrative side of the department, and men who are in no way responsible for its efficient working. The hearing lasted several days, and cost the State £100. Although the police regulations provide that all promotions in the service shall be made from the next senior rank, one non-commissioned officer (Sergeant Wilson) succeeded in his appeal for promotion to the rank of first-class sergeant, although he had not yet passed, and in my opinion never will pass, the examination for promotion to inspector.

Another thing about Wilson was that he had never passed, and in the opinion of the Commissioner never would pass, the necessary examination, and yet the appeal board allowed his appeal, and promoted him above the heads of those who had passed the examination.

Mr. Davy: Surely the regulations prevent that.

The MINISTER FOR JUSTICE: No. The Government agreed that any recommendation by the board could be given effect to. The Commissioner continues—

Notwithstanding that, the non-commissioned officers appealed against have all qualified for the rank of inspectors of police.

When a man becomes a first class sergeant, he is supposed to have sufficient knowledge to carry out temporarily the duties of an inspector, and he therefore has to pass the inspector's examination. In many cases a first class sergeant is called upon to act as an inspector.

Mr. Davy: Do the regulations say that?

The MINISTER FOR JUSTICE: Yes. A first class sergeant cannot relieve an inspector unless he is properly qualified to do so. That regulation was in force at the time, but I do not know whether it has since been rescinded.

Hon. G. Taylor: I think that is one of their grievances.

Mr. Davy: That they are made to pass an examination not prescribed by the regulations.

The MINISTER FOR JUSTICE: That would be a grievance, but I have not heard anything about it. Wilson, who did not pass his examination, was promoted over the heads of others who had passed an examination for the higher grade.

Hon. G. Taylor: Have all first class sergeants to pass an inspector's examination?

The MINISTER FOR JUSTICE: I think so. The Commissioner continues—

It therefore follows that a man who has done his best to qualify for promotion, and has passed his examination, must stand down for a man who has had ten years to qualify and has failed to do so, and who, in the opinion of the department, does not possess the qualifications of the officer who has been turned down in his favour. If this sort of thing is allowed to continue, there are several other non-commissioned officers who have not yet qualified for higher rank who will take advantage of Sergeant Wilson's success, and who will no doubt enter an appeal when another qualified man is advanced, and the result will be that the examination provided for in the regulations, and which was asked for by the police association, will become a dead letter. In another case, a constable succeeded in his appeal against the promotion of a man to the rank of third-class sergeant, and from my personal knowledge of this constable I can say, and in this I would be supported by many non-commissioned officers and constables if they so desired, that this particular non-commissioned officer is wholly unfitted to take charge of other men, and that the man stood down is infinitely a better officer.

He did not agree with the opinion of the Board. He continues—

The whole proceedings seem to me to show that we are treading on dangerous ground, and that if followed up must in time destroy efficient working not only in the Police Departmen, but in any other department where such a system is introduced. Fortunately there is no other department in the State service where an appeal against promotion is permitted, and I am strongly of opinion that such a system should not be introduced. In Queensland there is an appeal against punishments, but not against promotions, and in my opinion it would be in the best interests of the State to cancel the regulations. I therefore recommend accordingly.

A lot of stress has been laid upon the Commissioner's previous recommendation. Here is the Commissioner's considered opinion after his experience. This opinion should be given as much weight as that which was quoted in the House during the course of the debate. Efficiency is the ruling qualification in connection with promotion. If seniority is to be the only qualification necessary for a successful appeal, we shall get mediocrity instead of efficiency. Deservedly we hold up the Western Austra-

lian police force as being the most efficient in the Commonwealth. That is due to the system that has been in operation for so many years. Irrespective of length of service, the Commissioner and the promotional board have had the right to go down the line, and say that this or that man is absolutely efficient and entitled to the position. It is that system which has led to the efficiency of our force. If the procedure is altered, and we have promotion appeals, irrelevant evidence given effect to, and the most efficient men turned down for the sake of others, the service will suffer.

Mr. Marshall: No one has claimed promotion by seniority.

The MINISTER FOR JUSTICE: We are fortunate in having such an efficient personnel. In the other States they have not such an efficient force as we have. Crime is rampant in Melbourne, and this is said to be due to the particular system of promotion operating in the force there. We should leave well alone in our own State. We have a force with which we are all satisfied. The system has worked well in the past, and I should be loath to introduce something that has proved not so successful in the other States. If the appeal board is not passed, and any particular constable or sergeant has sufficient grounds for an appeal, and if the union is prepared to take up his case and ask for an inquiry, a special board will be granted in the same way as is done with the Railway Department. If an appeal board is granted, the whole matter should be cleaned up and determined within three or four weeks. We do not want men, who are promoted to another position, kept waiting for six months until the appeal has been heard. I have said enough to justify my opposition to the amendment. I am not prepared to accept it.

Hon. G. TAYLOR: I was pleased to hear the Minister give reasons for his change of views. The Police Association desire my amendment, and I can only reply to the Minister in this way: Our Commissioner of Police, after attending a conference of Commissioners of Police who had lengthy experience of appeal boards dealing with promotion, strongly recommended the creation of such a board here; and a temporary board was appointed here. The proceedings of that temporary board seem to have influenced the Commissioner in opposing the creation of a permanent appeal board. The police force of this State was as efficient in 1924, when the Commissioner's recommendation was made, as it is now.

The Minister for Justice: It is a better force now, and a more contented force thanks to better conditions.

Hon. G. TAYLOR: The Minister will have a still more contented force if he accepts my amendment. If the Commissioner condemns the appeal board because of what took place before the temporary board, he is condemning the chairman of the board. The Commissioner wanted to win all appeals. He can have no reason for changing his views other than the results from the temporary board. That is not a sound reason, and certainly not one on which the Committee should act. When I suggested a judge of the Supreme Court in place of a magistrate on the appeal board, I did not know what the Commissioner of Police had said about the magistrate. The New South Wales promotional appeal board has operated for years, and the head of the New South Wales police force, which is three or four times as large as ours, has recommended to his Minister that the appeal board's decisions on promotions shall be final and shall not even be submitted to the Minister for his approval.

The Minister for Justice: Do you know that whatever the Commissioner recommends the chairman of that board has to accept? We have reports to that effect.

Hon. G. TAYLOR: In 1913 a circular order appeared in the "Police Gazette" stating that no member of the force would be promoted who had not passed the promotional examination. A few years later another circular was gazetted stating that a member of the force might be promoted without passing the examination provided he had special qualifications. In last week's issue of the "Police Gazette" there appears another circular order, notifying the force that a promotional examination is to be held in November of this year. At the end of that very circular order it is stated that the order of 1913 is cancelled. What is the use of holding examinations if the department reserve the right to dispense with them in certain cases?

The Minister for Justice: That is an entirely wrong interpretation. That circu-

lar order has not been passed by the Executive Council.

Hon. G. TAYLOR: Where is the use of members of the force studying and sitting for examinations? Does the Minister deny the statement I made?

The Minister for Justice: I do.

Hon. G. TAYLOR: Then I have been misled by my adviser, though innocently. The order has been wrongly interpreted.

Mr. Marshall: You do not deny that it has been published in the "Police Gazette"?

The Minister for Justice: I deny that it means what the hon. member indicates it means.

Hon. G. TAYLOR: I am perfectly sure the Police Association will be prepared to go before any authoritative tribunal the Minister might select, and to place their arguments in support of a promotional board before that tribunal.

The Premier: Of course. Everyone in the country would be prepared to do that.

Hon. G. TAYLOR: Yet the Minister suggests that the police are satisfied with the miserable concession offered by the Bill, and do not desire my amendment.

The Premier: It is quite certain that they desire the amendment, and that they have been at work. I do not think it is a very good thing for the police to be lobbying members.

Hon. G. TAYLOR: I do not think the Minister can maintain that the police are satisfied with what he proposes to give them by the Bill.

The Minister for Justice: They said they would be satisfied if I introduced the Bill.

Hon. G. TAYLOR: Did they indicate to the Minister that they would be satisfied with the Bill if they could not get anything more?

The Minister for Justice: Yes.

Hon. G. TAYLOR: That is quite a different thing.

The Minister for Justice: I was listening to three people talking at the same time. I said I would not introduce a Bill unless the police agreed that as far as they were concerned, it would go through in the form in which it was presented.

Hon. G. TAYLOR: Those people, then, were hamstrung before leaving the barrier. They were equally busy last year.

The Premier: Yes, and that is why they got nothing.

Hon. G. TAYLOR: I had as many requests last year as this year. The Minister has not put up one sound argument against the promotional board. Promotional boards have been tried in other States and have justified their existence.

Mr. E. B. JOHNSTON: I hope that the Minister will decide to accept the amendment. It is quite clear that a couple of years ago the Minister was convinced that the police should have the right of appeal in the matter of promotions; otherwise he would not have appointed the temporary promotional board that heard appeals. The right of appeal then given was extremely limited, and men who endeavoured to lodge appeals were ruled out on purely technical grounds. I know of one case where a constable appealed against a certain appointment as first class sergeant. The department would not consider his appeal at all, but said, "You are not a second class sergeant; you are only a constable." Although the Commissioner won seven out of nine cases before the temporary appeal board, he still says that the tribunal is inefficient and that he is dissatisfied with the chairman. There are men who have qualified for promotion and have passed all the necessary examinations and yet have been overlooked. In one instance an officer came out of an inquiry with honours and was certified as a first-class man by the only independent tribunal before whom he was able to appear. There are men with unblemished records who have been denied promotion. If the right of appeal were provided, it would have a wholesome effect upon the administration of the police force. In view of the possibility of victimisation, it is for Parliament to provide an appeal board so that the men may receive that justice to which they are entitled.

Mr. MARSHALL: I wish to deal with two points raised by the Minister, to which I cannot subscribe. He inferred that all the cases that went before an appeal board numbered nine, and that such cases as those of Sergeants Ford and Wilson, who received promotion, were unfair. Several of the appellants were unfortunate in that their appeals could not be brought within the scope of the appeal board because their grievances existed prior to a certain date. It was on that ground alone that their appeals were rejected. Then there were the appeals by Sykes, Reid and Campbell.

The Minister for Justice: I do not think all three appealed.

Mr. MARSHALL: Campbell and Reid were two officers whose grievances dated from prior to the 8th April and therefore did not come within the scope of the old appeal board. It is useless for the Minister to suggest that their appeals were rejected on the grounds that the evidence was not forthcoming to uphold them.

The Minister for Justice: There is no record of an appeal by Reid.

Mr. MARSHALL: Reid did appeal and his appeal was rejected on the ground I have stated. I am not in a position to deny the Minister's statement regarding Wilson's case, but I want to impress upon him that while Wilson may have been incapable of fulfilling his obligations when he received his promotion, the fact must not be lost sight of that the Commissioner did not want Wilson's appeal to go before the board. His case was similar to that of Metcalf respecting which the Commissioner did not forward the officer's personal file to the board. The Commissioner gave evidence and said that the officer had not passed a certain examination. On the other hand the officer had never been notified that he had to pass that examination. He was not told that in order to rise from a third-class sergeant to a first-class sergeant it was necessary to pass the examination for an inspectorship. The officer thought he had passed all the necessary examinations.

Mr. Mann: And that is the position too.

Mr. MARSHALL: Then why all this evidence by the Commissioner to the effect that Metcalf had not passed the examination I refer to?

Mr. Davy: It is simply the usual experience of a departmental head desiring to make regulations.

Mr. MARSHALL: Without a doubt that is what happened. The Commissioner was very determined about it. The Commissioner brought this officer from Kalgoorlie to Perth in order to appear before the appeal board and then the Commissioner gave evidence saying that the officer had not passed the necessary examination. I believe that a minute was added to Metcalf's file, when he made application to a former Minister for Justice for permission to place his case before the appeal board. That minute was to the effect that the officer had not passed the necessary promotional examination. The other point I want to allude to refers to the attitude of the Commissioner before appeal boards. The Minister would lead the Committee to believe that the only person to submit evidence against appellants was the Commissioner, while the only person likely to give evidence in support of an appellant would be a constable. From the reports submitted by the board we find that evidence was submitted by Chief Inspector Duncan and Inspectors Sellenger and Barry. The highest officers in the force gave evidence. The Minister therefore was hardly correct in his suggestion that the right to appeal against promotions would undermine the smooth working and efficiency of the police force, on the ground that officers would not give evidence against an appellant, but would be prepared to give evidence in support. The Minister's arguments were not logical. The experience in the Eastern States, where such boards are in operation, does not bear him out. In one State a board is created to deal with appeals regarding promotions alone. Whilst I do not wish to say anything against the Commissioner, I am justified in assuming that in the majority of cases he and his board are likely to do more injustice than would an independent board. I should like the Minister to tell me why it is that the old system that created the appeal board of a few years ago, a board embodying all the inspectors from Geraldton to Albany, has been altered entirely by the Commissioner, who has appointed Inspector O'Halloran, Chief Inspector Sellenger and himself. Why was that alteration made? Why has the Commissioner narrowed down the board?

The Minister for Railways: Because he has accepted the responsibilities of his position.

Mr. MARSHALL: But could he not be compelled to work in with the original board, having on it all the inspectors from Geraldton to Albany? Why has the personnel of the board been narrowed down to three?

The Minister for Railways: To give greater efficiency?

Mr. MARSHALL: Will the Minister tell me that the presence on the board of Inspector O'Halloran, who has nothing to do with the force outside of the liquor traffic and weights and measures, will tend to efficiency?

The Minister for Railways: He has had long experience of the force, and he knows every member, every officer. If he does not

know something about the personnel, who does?

Mr. Davy: You are on the wrong track if you suggest that Inspector O'Halloran is not a good man.

Mr. MARSHALL: I am not saying he is not a competent officer, but I say the personnel of the force is daily changing, and that Inspector O'Halloran has to give his attention to the administration of the Licensing Act and of the Weights and Measures Act, and therefore can have no knowledge of the newer men in the force. For six years now he has been administering the Licensing Act, and so he is not in touch with those men.

The CHAIRMAN: There is nothing in the amendment about the personnel of the board.

Mr. MARSHALL: I have recounted the three points upon which the Minister failed to impress me. Unless I can get something better than he has already submitted, I will vote for the amendment.

Mr. KENNEALLY: The amendment makes provision for appeal by any member of the force dissatisfied through having been refused promotion. I am of opinion the Bill will not be of much use to those whom it proposes to assist if it gives opportunity to the authorities to reach their objective in a way that is not provided against in the Bill. I am anxious that if a man is not satisfied with a decision on deferred promotion, there shall be some means by which he will be able to ventilate his dissatisfaction. It will not be of much use making provision for the officer to have the right of appeal when fined, reduced in grade or dismissed, if we give him no right of appeal when the man in authority, instead of fining him, reducing him in grade, or dismissing him, decides to refuse him promotion. If the man in authority makes up his mind to achieve his object it will not matter much to him whether he achieves it by reducing a man in grade or by refusing to let him go up into that grade to which he is entitled. If we think it right to give the man concerned an appeal when he is reduced in grade, surely we shall not be going too far in saying that if instead of being reduced in grade he is denied his right to ascend in grade, he should have the right to appeal to some board to say whether the decision, which may be simply to get round the provisions of the Bill, is not contrary to what should be given if justice is to be done to the man concerned. I want to see in the Bill a provision whereby if the man in charge should desire to circumvent the Bill by denying promotion rather than reducing in grade, there shall be the right of appeal by the injured man to some court. The amendment provides that this board shall be the board to which that man shall have the right of appeal. The member for Perth pleaded for a judge of the Supreme Court as chairman of the board. Whilst for appeals against ordinary punishment I believe the board proposed in the Bill would be sufficient, I should not be antagonistic to a proposal making provision that when there happened to be an appeal against a decision denying promotion, that appeal would, if necessary, be made to a board the chairman of which would be a judge of the Supreme Court. But what I am mostly concerned about is that if we are making provision by which an appeal will lie in the case of a man dismissed, reduced in grade or fined, we shall not leave it possible for the officer in control to defeat the object of the Bill by denying promotion in another direction. In the absence of anything better, I will support he amendment.

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

Ayes	20
Noes	9
Majority for	11

AYES.

Mr. Barnard	Mr. Lutey
Mr. Chesson	Mr. Maley
Mr. Coverley	Mr. Mann
Mr. Davy	Mr. Marshall
Mr. Heron	Mr. Richardson
Miss Holman	Mr. Sampson
Mr. E. B. Johnston	Mr. Sleeman
Mr. Kenneally	Mr. Taylor
Mr. Kennedy	Mr. A. Wansbrough
Mr. Lindsay	Mr. North
	(*Teller.*)

NOES

Mr. Clydesdale	Mr. Millington
Mr. Collier	Mr. Troy
Mr. Cunningham	Mr. Willcock
Mr. Lamond	Mr. Wilson
Mr. McCallum	(*Teller.*)

Amendment thus passed.

The Premier: That is the end of your promotional board, anyhow.

Progress reported.

House adjourned at 10.25 p.m.