decreased: the conditions of life have altered, people are cleaner, and the sanitary arrangements are better than they were in the old days. I have here dozens of pamphlets which would convince honourable members that in lots of cases vaccination does a great deal of harm. I have here also a petition, which if it were in order I would present to the House. It contains 1,400 signatures of persons in favour of the Bill: and these names were collected in two evenings. It must be remembered that of the municipalities around Perth which have discussed this question only one has voted against the Bill. There have been letters in the paper day after day in favour of the Bill, and out of 7,000 births last year only 600 children were vaccinated. That shows the weight of public opinion in favour of the Bill. It is not a Bill to abolish vaccination; it is only to afford exemption to people who have conscientious scruples against the operation.

Question put and division taken with the following result:—

Ayes	6
Noes	10
Majority against ..	4

Ayes.	
Hon. F. Connor	Hon. C. Sommers
Hon. A. G. Jenkins	Hon. T. F. O. Brimage (*Teller*).
Hon. R. D. McKenzie	
Hon. B. C. O'Brien	

Noes.	
Hon. E. M. Clarke	Hon. R. Laurie
Hon. J. D. Connolly	Hon. G. Randell
Hon. J. W. Hackett	Hon. G. Throssell
Hon. S. J. Haynes	Hon. J. M. Drew (*Teller*).
Hon. W. Kingsmill	
Hon. J. W. Langsford	

Question thus negatived: the Bill defeated.

House adjourned at 6.7 p.m.

Legislative Assembly,

Tuesday, 5th October, 1909.

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

URGENCY MOTION—DEATH SENTENCE, CASE OF MARTHA RENDALL.

Mr. WALKER (Kanowna): I desire, Mr. Speaker, to move the adjournment of the House for the reasons I have given you.

Mr. SPEAKER: I have received a notice from the hon. member that he desires to move the adjournment of the House on a question of urgency, to call attention to the case of Martha Rendall.

Seven members having risen in their places,

Mr. WALKER said: I assure you, Mr. Speaker, that it is with feelings of regret that I move this motion this afternoon. I do so without having asked a single member of this Chamber to support me. If I can, at this last moment, say one single word that will save the life of a woman from jeopardy, I shall have discharged a duty. If I cannot attain that end I shall still have discharged a duty, for I cannot allow this afternoon to pass, feeling as I do, that possibly to-morrow morning a very grave wrong will be committed in the shape of what I do not offensively, but calmly, call a judicial murder. I cannot allow this afternoon to pass without making some effort, however feeble it may be, to try and save this woman. I am aware that the Executive Council, the Ministry of this State, have had a very trying time in the consideration of this case during the last two or three weeks. I am not going to accuse them in the slightest of not having done what they believed to be their duty. I make no charges against anyone connected

with this matter, but on reviewing the whole of the evidence, in taking the case as it was presented to the jury and before the Judge, and what has been made public since, all the circumstances, I say there is enough room to allow of a reasonable doubt, and so long as there is a reasonable doubt that woman is entitled to the benefit of it. It is a peculiar case, and it is one of those cases that, particularly on the part of the public, they are liable in the judgment of it to become obscure because of its associations, and it may be possible that at this very moment, the sins—if I may so express it—of Mrs. Rendall, the fact that she has not conformed to social customs, and to social honour, the fact that there is that which shocks every honourable wife in the country in her career, may be the reason for an unconsciously biased judgment against her. There is no romance about her career; there is nothing in her past history that would touch the sympathies of mankind to lift a hand for her rescue: there is nothing in the background, nothing in her companionship, nothing that she can present in appearance or career which appeals for sympathy, and when the offence first became public, if it be the offence alleged to be, there was such a shriek through the Press, such a cry of horror, such a piling on of the black side of the picture, that I venture to say, before ever the jury went into the box, the woman was tried in the public mind and already condemned. It is a great misfortune that in an event of this character it is almost impossible to get a jury that shall, hearing the facts for the first time upon trial, go into the box perfectly unbiased, and make their judgment comply with the evidence there, and only there, presented. I venture to think in this case the whole of our newspapers were filled with the heinousness of the woman's alleged guilt, and so not only was the Press filled with facts that had to be removed if the woman were to be brought in innocent; but hearts had become deflected, feelings had been worked upon, passions had been aroused, and such passions that at this moment are not dead in the community—they live even to this morning in our daily paper. It is against feelings such as those that we have to contend in forming an unbiased judgment of this woman's position. In this morning's paper there are several letters, and I do not need to read more than one or two of them. The first reads—

> "A selected jury having found Mrs. Rendall guilty of fiendish cruelty and murder, I would like to ask any of her sympathisers what judgment they would pass on her if the children had been theirs? My opinion of this woman is that she is one of those persons whom we might well treat as she has been found guilty of treating one of the poor children until she confesses, then hang her and be done with her. There is too much of this Mrs. Mitchell-Rendall business going on."

Another is—

> "As a mother of children I say let the extreme law take its course. Hanging seems too good for such as Martha Rendall. She should be given spirits of salts in the same way as she administered it to the poor children. There are still a few right feeling mothers left in Western Australia."

Those are not the only ones, but they indicate the state of mind in which some people view the record of this woman's alleged guilt. Is it possible to get calm judgment from anyone filled with feelings of this kind? It is impossible to clearly judge on the weight of evidence, the relevancy of facts, if we are stirred by emotions of that sort. There is always in humanity a savage instinct, which is dead in the wisest and best of us, and after that savage instinct is aroused it is possible that we may do an injustice in pursuing it, and it is possible that the jury who tried this case may have been under the influence and powers of such feelings as those I have just described, and, therefore, incapable of taking a calm and dispassionate view of the guilt, or otherwise, of Mrs. Rendall. I may be asked what is the object of moving the adjournment of the House for a woman who is to hang to-morrow morning. It is with the view at the last moment of asking those powers who direct the operations of mercy to exercise that mercy at the last moment. That is the purpose I

have in view. I shall, perhaps, be told that the facts have all been considered, that the evidence at the trial has been taken piece by piece. and adequately weighed. I shall be told that that course has been taken calmly, and then I shall be informed, perhaps, that the Executive Council is not a court of appeal, that it is circumscribed by the law, by the testimony taken, by the trial completed, and if the law is to be followed, Mrs. Rendall has been found guilty by a jury and sentenced by a judge, and confining the investigation to what there and then transpired, that there is nothing to warrant going beyond it. That is what we shall be told. But we live in a civilised country; and in every civilised land there is one spot where the cold formalities of law can be softened; there is in every civilised land one centre where the fount of mercy can play; but it is not possible in Western Australia. In the hands of His Excellency the Governor there is power to reprieve this woman, even at the last moment as she ascends the steps; but I know that His Excellency is, by directions from the Home authorities, almost completely bound by the advice of his advisers. And it is here where the deadlock comes in. He is bound by his advisers; the advisers think themselves bound by the law: and the consequence is we turn-off this source of mercy, we entirely prevent the possibility of saving a human life that may be martyred to the cold formality of law to-morrow morning. I venture the opinion that there are those on the Treasury bench to-day whose hearts would reprieve Martha Rendall were it not that they were actuated by what they believe to be a sense of duty to the laws they administer. Where then are we to go for mercy? Where is that element that exists in all organised States from the commencement of history that is able to transmute the sentence at the last moment? We have lost it in cold adherence to formality. For what are the facts upon which, I believe, the Government are relying—that the witnesses presented the case, that Martha Rendall was defended by a lawyer and had a chance of calling evidence and failed to do so, and that the jury considered the evidence presented, and on that evidence brought in a verdict of guilt, and on that the Judge was compelled to sentence, and on that the Executive were compelled to advise His Excellency to carry out the law? Is that not the position? We have lost the possibility of mercy. Was there ever in the annals of history a case of this kind? I ask hon. members, whose minds are free, is there not here grave reason for doubt? What is the story of the prosecution? This woman having illicitly joined into companionship with another woman's husband, took charge of his children, and slowly day by day, one after another, procured their death by a novel process of poisoning; and this went on one after another until some neighbour complained to the police. The police then commenced an exhumation. The bodies were exhumed. It was found that the woman had not been veracious in some particulars, and it was therefore inferred that she was not veracious in all, and therefore it was conclusive evidence, on the fact that there had been bought for that household spirits of salts, that this woman has used this spirits of salts to poison the children of Morris. That is the evidence, but I ask the Attorney General where is the direct proof of poisoning in the whole case. Spirits of salts was bought. That is true. That is consistent with the innocence of everybody; anybody can buy spirits of salts. One of the Morris children had spirits of salts down at the *Daily News* office before any charge of this kind came up—one of the boys put in the witness box, dismissed for falsehood because of his stubborn lying: and when he was dismissed he produced a bottle of spirits of salts, and when asked what they were, said, "Oh, we use plenty of that at home." As a matter of fact, it is testified that for soldering and work of that kind which was done by the Morris boys they had spirits of salts. But who saw this woman administering this poison, and who can prove that it ever was administered directly to these children? And where a human life is concerned it is not our duty to infer guilt; we must prove it right up to the hilt. We are responsible for the death of the woman if we allow

merely inference without proof to determine our verdict. I say there is no proof of the woman ever having done it. And I want to ask it here—and it should create a reasonable doubt—how is it that for the first time in this case we learn of this material as an agency of death? Where has it been pointed out in our text books in the study of medicine that this particular kind of irritant is to be avoided? Where are its dangerous effects warned against? Is it not a fact that we have the testimony, given in the correspondence in the newspapers to-day—and it is not only one, there was another yesterday—that doctors have recommended the use of spirits of salts in the case of throat trouble? Under its technical name it has been recommended, not as an actual cure, but at least as a palliative for throat disorders. Was a woman to be found guilty if she did use these spirits of salts on the throats of the children? Is it not perfectly consistent with her innocence that she may have used it and have done it for beneficial purposes, for the purpose of curing instead of destroying the children? I submit the fact ought not to be forgotten. How comes it for the first time this woman learns how to maliciously poison these children? I take it this same specific if taken in large doses would immediately kill, and if taken in too little doses would never do harm. Who taught this ignorant woman to use just enough, slowly and by degrees and so as to deceive the doctors, just that amount to send the Morris children to their graves? Does it seem reasonable? It is not proved she ever learned that art or ever knew the possibilities or capabilities of spirits of salts, if it is capable of doing what is said; besides which we have the testimony that doctors have recommended it, not as a poison, but as a cure for throat troubles. There is a possibility that Mrs. Rendall might have believed it capable of curing these children and so used it. In that case she is not a criminal but a good nurse, that is from the point of view of trying to do the children good. I want to know if this point is not startling. A certain neighbour gave information to the police that she heard these children crying, "murder"; and this told her they were being murdered. I want to know how it is that the doctors come day by day, and the children suppose they are being—and the latter ones know they are being—poisoned, and yet there is not a word to the doctor. Is it possible that such a state of things could exist? Not a word to the doctor, the one they should complain to, if they are being treated differently to his orders. But there is not one tittle of evidence to that effect. There is no complaint to anybody but what was overheard by a neighbour. And I want to know, if these children were crying "Murder" because spirits of salts was put upon them, how it is the father never knew? Is it possible the father could not know? The children themselves went for this poison; they brought it to their homes; they are accomplices. Mrs. Carr went for it. As accomplices their evidence is tainted. Yet the husband knows nothing of it by the verdict of the jury. Is that possible? If these children were poisoned under the conditions set forth, and upon which the Crown rely for conviction, then the husband must have been guilty; and it was his children that Mrs. Rendall was poisoning. He is free to-day, free from the charge; no man can accuse him more; but this woman, unless the prerogative of mercy is exercised at the last moment, is to die to-morrow. Let us go one step further. The supposition is, when they learnt of this spirits of salts, that this woman, by some insight or knowledge superior to the doctors', had used this as a poison, and an exhumation of the bodies was ordered. Now what happened at the exhumation? I must apologise for wearying the House while I read this—

> "Mr. E. A. Mann, Government Analyst, stated that he had received from Dr. Tymms eight jars containing parts of human bodies, and he had made a careful analysis of them. He had also received some spirits of salts from Detective-Sergeant Mann, and the intestines of a guinea-pig from Dr. Steele. He read his report which was as follows:—'I beg to furnish the following report on the examination just concluded of the exhumed bodies of (1) Arthur Joseph Morris; (2) Annie May

Morris; (3) Olive Lilian Morris, and of other substances submitted to me in connection therewith. The theory submitted to me for test was that these children had been killed through the effects of spirits of salts (commercial hydrochloric, or muriatic acid) administered to them either by the stomach or by application to the throat. This theory opened up two possibilities, viz., that they had died from the effects of the acid alone, or that their death was partly due to poisonous impurities contained in the acid. Of the impurities generally contained in this acid, the only one having any bearing upon the case would be arsenic, which in such acids is derived from the use of materials prepared from arsenical poisons. As it was evident that such arsenic would, if present in any quantity, supplement the poisonous effect of the acid this was made the principal object of my search, but there was another most important reason for giving it first attention. It would be impossible to prove the use of spirits of salts directly. Such acid would soon be neutralised and become impossible of detection, and as a matter of fact, the remains of the bodies submitted to me were all strongly alkaline from the products of post mortem decomposition, so that had any acid been present it had long since been converted into indistinguishable compounds. As arsenic is the only impurity associated with spirits of salts, which is absolutely foreign to the human body and can at the same time be detected definitely in infinitesimal traces, its presence, even if in quantities of no toxic significance, might furnish evidence of the presence of spirits of salts. Incidentally, of course, other metallic poisons were also searched for, but special attention was directed to the search for arsenic. A method was employed capable of detecting 3,100,000 grain of metallic arsenic, and large quantities of materials (in some cases the whole of that available) were worked up for a single test.'"

And then he gives the results of these cases. I think I should read them, they are as follow:—

"Jar A.—Arthur J. Morris: Liver, spleen, and two kidneys. The amount taken for the last and principle test was six-ninths liver and whole of the remainder. Result: Nil. Jar B.—Arthur J. Morris: Stomach intestines (except rectum) pancreas, omentum, tongue, pharynx, and oesophagus, five-ninths of whole. Result: Nil. Jar C.—Arthur J. Morris: Bladder and rectum: The whole. Lost through impure acids. Jar D.—Arthur J. Morris: Heart, lungs, brain, portion of spinal cord, portion of muscle from front of right femur and spinal column: The whole. Result: Nil. Jar E.—Olive Lilian Morris: Portion of debris from region of abdomen and lower part of chest: The whole. Found metallic mercury 14.17 grains; dissolved mercury, .2 grains; bismuth oxynitrate, 74.9 grains. Jar F.—Olive Lilian Morris: Ribs and various bones: The whole. Result: Nil. Jar G.—Annie May Morris: Contents of abdominal cavity and portion of spine: The whole. Result: Nil. Jar H.—Annie May Morris: Portion of brain from the skull: The whole. Result: Nil. The presence of mercury and bismuth in some cases is consistent with certain prescriptions submitted to me by Detective-Sergeant Mann."

It should be mentioned that the doctor who attended to her prescribed mercury and bismuth. These things are found in the stomach, but not one portion, not one grain nor a fraction of a grain of arsenic: not the slightest scintilla is found of that. The report continues—

"They as well as other metallic poisons were proved to be absent in all other instances. The absence of arsenic seems strange in view of the delicacy of the methods of testing employed. But further inquiry showed that after all this was not so extraordinary as at first sight appeared. Commercial hydrochloric acid is often said to contain as much as .25 per cent of arsenious oxide, but an examination of samples of all the acids obtainable in Perth

showed that the local supplies were of far greater purity. In fact, they must be considered as remarkably pure acids. (Here follow figures relating to six samples of spirits of salts. The results were—(1) .035 grains of arsenic; (2) .010 grains; (3) .350 grains; (4) .175 grains; (5) .070 grains; (6) .35 grains. These amounts are equivalent to a pint). When these figures are considered, and allowance is made for distribution of the arsenic throughout the body as well as elimination therefrom by natural means, it would, after all, appear a matter of some difficulty even if so large a quantity as one pint of acid had been taken at one time to detect arsenic in these bodies. The summary of my research, therefore, is that while affording no proof of the use of hydrochloric acid, it, on the other hand, reveals no facts inconsistent with such use."

I object to that. Here is a declaration that there is not the slightest evidence from the examination that this acid had been used, but he who makes the examination is allowed to prejudice those who read by saying that it is not inconsistent with the possibility of hydrochloric acid having been administered. That is not a fair analysis. We ask, "What did you find, any trace of poison alleged to be administered by this woman?" and the answer is, "No." One cannot make more of it. Look what they did. If that woman poisoned the children, she must have got that acid two or three years ago, and yet the detectives go and buy acid now in the shops and find out that the acid now in the shops is pure, and they infer from it that the acid this woman bought must have been pure also and contained a little arsenic; therefore she poisoned the children. I think it is scandalous to draw an inference of this kind. These proofs are relied on, but they do not help; they prove nothing, yet on these proofs, combined with a few circumstantial surroundings, they are going to hang this woman. She is not found guilty by the examination. The experiment of the possibility of the poison having evaporated is not sufficient to hang a woman upon. Our doctors, our analysts do not know the effects of spirits of salts, and what do they do to hang this woman? They experiment on guinea-pigs, which die; arsenic is discovered in the carcases, but arsenic was not discovered in the bodies of the children. Is this fair? Is this a civilised test? What proportion of dilution was used for the guinea-pigs? Is it fair to test a little animal against a human being? The power of absorption is entirely different, and yet just because arsenic was found in the guinea-pig it is inferred that the children were poisoned, although there is no trace of it, no evidence of it. This action was unfair; it was firing the imaginations of the jury, this outside experiment on guinea-pigs. Guinea-pigs were procured, they died, arsenic was found in them, and the death of a guinea-pig is supposed to be on a level with the death of the children. The examination of the bodies of the children did not show that they died from the same causes as the guinea-pigs. Arsenic was discovered in the guinea-pigs, but not in the bodies of the children. What are we to say of the medical testimony? These children were buried with a death certificate. How about the doctors who attended them? There was more than one, although Dr. Cuthbert gave one certificate after another, but other doctors were called in. Where was the suspicion? They examined the throats and surely could detect what was going on in the throats; yet the doctor in charge gave death certificates entirely inconsistent with foul play. How do they go back upon it now? If this woman had been defended with wealth, if she had had money to spend in securing evidence, the prosecution would not have been allowed to produce these modern bottles of hydrochloric acid and to say it was pure: it was not the acid with which it was said she killed the children, but something bought yesterday: whereas the children died years ago. That is not evidence: there should have been evidence of the spirits of salts used at the time they died. If the woman had had a proper means of de-

fending herself, such as a woman in her position should have, much of the evidence given would not have been allowed; the doctors would not have given merely opinions and apologies, but doctors would have given evidence from the pharmacopœia to show that hydrochloric acid is sometimes prescribed for affections of the throat. This evidence was not brought, but it is upon evidence testified all on the one side that this woman is to perish. I place little reliance upon the doctors; not that I have any disrespect for them, but it seems to me when they are called upon to give evidence they are just as liable to err as any other mortal. I remember a case in Sydney, and no doubt it will be fresh in the minds of members, where a girl had accused a coffe-house keeper of having committed a rape upon her. The man was tried for the offence, which in that State was punishable by death; he was sentenced to death, the same as this woman, on the testimony of the doctor. There was a doctor in Sydney who examined the woman and gave his certificate that she had been a *virgo intacta*. It is one good thing to be borne to the memory of the late W. P. Crick that he was convinced of the innocence of the man, and caused inquiries to be vigilantly and speedily made, and with what result? The news came down from Brisbane that this woman, who was taking a man's life away, had been a registered prostitute in the city of Brisbane; her name was on the police books, there was no question about it. Here was a man condemned by the Executive Council of New South Wales to suffer the last dread penalty of the law, and only at the last minute this conclusive information came down and saved him. On the testimony of the doctors, this man was to die. Fortunately that testimony was upset at the last moment and the man escaped from the gallows, only by the persistency with which his solicitor sought the evidence necessary to procure his release. We are possibly in a similar position to that. It does not follow because a jury brings in a verdict of guilty that a person is guilty. I might give a case that is a little nearer home. I have no doubt the Premier will remember the case of the man Bishop, of Guildford, who was hanged for having murdered a Chinaman there, and some years afterwards a man on ascending the scaffold to die for another crime confessed that he was guilty of that murder, that he had been present in the court in Perth when the trial was proceeding, that he had heard the evidence, and desired to save the man, but had not the courage to do so at the last moment. Bishop went to his doom, was hanged, and his innocence was afterwards proved. Is it not a fact that this very day the man Smith has been liberated from gaol? Is it not so? The Attorney General nods his head in affirmation. Why is that man liberated? Two months or so ago he was found guilty by a jury: the sentence was pronounced and he has been in gaol for over two months, and only to-day has he been liberated. Why? Because they have discovered the true culprit. To-day the man is released: the true culprit is discovered. That is the fact I want to insist upon. Nay, more, is not there a case of a man condemned for murder in England who came out here and was 15 years in penal servitude in Western Australia as a guilty man? And not until this man had served his sentence did the true perpetrator confess. And the man had been innocent all that time. It is not a light matter. If there is the slightest room for doubt we should not rush with these victims to the slaughter: and I submit that in this case there is very wide room for doubt. The woman protests her innocence in the face of death to-day. I do not know if it is possible for women who are criminals to preserve to the very last an unmoved character, but this is what she said this morning in the presence of her clergyman—

> "After the trial, reviewing all that was said and done, and in spite of the mental anguish which I have suffered through being found guilty of murdering Arthur Morris, and the accusation that I had done the same to the other two children, and the solemn appeals made by my spiritual adviser (Rev. T.

Allen) to confess in order to receive the mercy of God through Jesus Christ, and that I might be fortified on the gallows with the courage that I had made a clear statement to man and God. I most solemnly wish to state that on this, the last morning of my life, I am innocent before God and man of having done anything that injured the children in any degree. The spirits of salts were never used by me on the children. If I had done it I would confess. I believe it would be contrary to my most solemn convictions to profess to man to be innocent when before God I should be found guilty, which would be, to me, dying with a lie on my lips and a crime on my soul unconfessed—unforgiven."

This is what this woman said this morning—this woman who is to die to-morrow. It may be that we detest these creatures who have fallen; but if she is innocent of this crime are we to punish her for the other? Perhaps I shall be told that the evidence which might have saved her was not brought. No doubt her lawyer thought he was doing well for her.

Mr. Angwin: Can you tell us why the *Daily News* kept that information back so long?

Mr. WALKER: I do not know. I am not responsible. All I ask is, is it true? And I am informed that Mr. Lovekin will take an oath, if it is necessary, to-morrow, to-night, that it is true. Does the hon. member wish to impugn the statement?

Mr. Angwin: No.

Mr. WALKER: Well, let us accept it. It has been placed before Cabinet, it is in the possession of Cabinet. I say it should have been produced at the trial. And there is more which should have been produced at the trial; doctors should have been called for the defence as well as for the prosecution, and we should have got a different interpretation in respect to the so-called use of spirits of salts. I believe it was known at the time. I believe that the solicitor knew that there could be produced evidence testifying to the unreliable character of the boy Morris. I believe it was known, although I would not push my assertion too far on this point; still, I believe it was known. Yet it was on the testimony of boys whose truthfulness is now in doubt, that His Honour the Acting Chief Justice said:—"If that boy is believed to be truthful, conviction should follow." There is evidence now that the boys are not truthful.

The Premier: Only one boy.

Mr. WALKER: Never mind, it is in the family. This has come out since. Then there is this evidence; we have had the testimony of a witness who heard, as it were, the cries of boys, and who has given her story to the police, the story which was the foundation of the charge. But there are other neighbours, next door neighbours, who can testify to the treatment extended by this woman to these children. But they are not called; anything in favour of the woman is not called. Then we are told that there is one woman who can testify that on one occasion this woman who is accused of the murder recommended for this visitor's child the cure she was using for the children, and actually administered it in the same way, with, of course, no serious result. This at least showed the woman's confidence in the remedy. Now, it is not the Cabinet's fault, it is not the Executive's fault if this evidence was not brought; still, it is the fault of somebody, or at least the mistake of somebody. The case for the prosecution was closed; the lawyer defending this woman called no evidence, put nobody in the box, presumably because by that means he got the last word to the jury. It was the course he took, it was what seemed to him to be in the best interests of his client. But the facts and statements as interpreted by the Crown and with the Crown's interpretation put upon them were allowed to go to the jury, and not one witness was called in order to shake these facts or to raise a doubt upon the inferences drawn from them. You may say that was the lawyer's fault; but are you going to hang a woman because the lawyer does not take a course which might have saved her? The course he did take was not strong enough to save her from the jury's verdict. However, a higher power can now recognise that error and make it good. At all

events, that woman is entitled to the benefit of whatever evidence we now have. The jury may be excused for their sentence, and all connected with the trial may be excused, because these facts were not before them. But they are before us, and if we strike the blow that is to result in death, with facts before us which make us doubt, then we are committing a judicial murder. I know of no other name it could be called. There are those who will testify to this woman's character: and there is her testimony at the last moment facing death, believing, as she does, that she is to meet the Judge of us all and that that Judge knows her heart and her history. She says in the moment of death, on the brink of the scaffold, that she is innocent. I want to take another view of it. Supposing she is guilty, I was struck by the remark of the Acting Chief Justice who presided, when he said that the woman was a moral monstrosity, that her character was extraordinary. Well, if that be so, if the woman is one of these moral monstrosities made by nature, incapable of knowing the effects of wrong-doing—if she be a monster, then we have no right to kill her. She is not responsible in the same sense as other people are; she is outside the ranks of human beings, she is a creature of impulses uncontrollable. Much has been said of her stoical bearing while in the dock, how unmoved she was, and how unconcerned. If this woman be innocent it is that spirit she would exhibit. It is your guilty person that can break into tears; it is your actor or actress that can assume innocence. I have seen people under unjust accusations passing through life dull and calm, apparently uninterested in anything about them, oppressed by the weight of the injustice put upon them, unable to defend themselves because they would not be believed. And it is quite consistent with this woman's innocence that her apparent resignation, her calmness in her suffering, may be the consequence of the sense of wrong that is being done her. I hate crime as much as anybody else. I am not palliating any offence outside this which the woman may have committed. But I do say you now have evidence that makes it possible to doubt; and whilst there is a possibility of doubt you must not hang her, but she must have the benefit of it. The Governmen may say, "If there be room for doubt she may be innocent, and if innocent she should be acquitted." That may be the very stumbling block that is going to have this woman hanged. The Government might commute the sentence; only if the woman has not killed those children she should not be in prison, she should be entirely free. They say we cannot allow a woman like this to get loose on society again, she should be kept away from them. I do not think the woman would complain if you commuted her sentence to imprisonment for life. I still say there may be room for believing—and I am not abusing those who believe otherwise—that she is guilty, but certainly it is some degree of mercy to commute a sentence from death to imprisonment. All I am asking is that there shall be that degree of mercy shown to the woman in response to the doubt that must come to every mind. And do we degrade ourselves by taking such a course? Is it not a fact that as humanity has improved, this feature comes more and more uppermost, that of mercy. I draw the Attorney General's attention to one little note in *Stephen's Commentaries*. It says—

> "Blackstone here proceeds to observe regarding the state of criminal law in his time, and which has long ago been happily changed, 'it is a melancholy truth that among the variety of actions which men are daily liable to commit no less than 160 have been declared by Act of Parliament to be felonies without benefit of clergy, or in other words to be worthy of instant death. So dreadful a list, instead of diminishing increases the number of offenders. The injured, through compassion, will often forbear to prosecute; juries, through compassion, will sometimes forget their oaths, and either acquit the guilty or mitigate the nature of the offence, and Judges, through compassion, will respite one-half of the convicts and recommend them to the Royal mercy. Among so many chances of escape the needy and hardened offender overlooks the multitude that

suffer. He boldly engages in some desperate attempt to relieve his wants or to supply his vices, and if, unexpectedly the hand of justice overtakes him, he deems himself peculiarly unfortunate in falling at last a sacrifice to those laws which long impunity has taught him to contemn."

I want specially to emphasise that portion of the note that says that in Blackstone's day there were 160 offences punishable by death. We have got rid of them, or reduced them to very few. Have we become greater criminals in society since? Has not crime diminished? Has not the death penalty been staved off? Our history places the fact that when executions were almost universal, when we did not expect to have civilisation without executions, when it was an eye for an eye and a tooth for a tooth, that was the time when people were not so civilised. Is the old savage race reviving? There was a time when we not only killed people by hanging, but we burnt them to death: when we not only beheaded them, but cut them in quarters and exhibited them hanging in chains, rotting till the winds rattled their bones as a warning to others. There was a time when we put people in boiling cauldrons to punish them; when we tortured them to murder them. We have got rid of that. Are we worse for it? To-day the old law of hanging is with us, and a woman, above all others, is to die to-morrow. Should we be worse if we showed mercy at the last moment? Should we degrade this community at the last moment by a respite, by commutation of the sentence? No. But we should say that this State is not governed by the pure dry dead letter of the law, but that human hearts could still beat in the hearts of officialdom; that is what it would show. What good are we going to do by hanging her? Bring these children to life again? You cannot. You are going to add one more death; to take life from a fellow mortal. What for? It will not punish her. The greatest kindness in one sense that you could show to a woman under like circumstances would be to take away the possibility of suffering—death, that ends all. If she be guilty let her suffer. Let her suffer life. If she be guilty let her live to have the pangs of conscience, the tortures that will haunt her. If she is innocent, as there is some room to believe, by all means do not let us be hounds. Do not let us have a sort of lynch law in a civilised country. Let us calmly look at the facts. Admit the truth, and say that the woman has not had the case proved up to the hilt. The law needs proof, not inference, that we cannot escape. I have read the letters that have been published to-day from those who hate the woman because she has been in the arms of her paramour and has nursed his children. They would punish her for that, and the greater number would tear her to pieces. They would not want the formalities of a trial. Cold justice stands aloof from all these facts. That should be where the plain facts and the law are weighed in the scale, and if they are then we cannot say there is conclusive proof of this woman's guilt. I do not care who commits the crime, or in what name it has been done, it is a crime to take away a human life. I need not emphasise that or use words to enforce it. Nothing on earth can be higher, nobler, purer, more divine than a human life, and I do not care whether it is in the woman whose life is at stake, or the sister we adore, it is a human life. You have no more right to take the one without genuine cause than you have to take the other, and you have no more right to do that by the help of the hangman of the State than you have by a private citizen in the public street. They are on the same score. They both take a human life. We have no right to do that, we can never restore it. If this woman were proved innocent to-morrow we cannot bring her back. There is enough to make us believe that there is the possibility of her innocence being proved. That being so, I ask, and it is for that purpose I have taken this course to-night, that this Government will, at the last moment, show mercy and not wish to carry out the dead letter of the law: show that mercy can live in the 19th century, and that it can be given even to a woman whose soul is sullied, but who, to the utmost and the

lowliest in the land is hated by the bulk of her fellow beings; show that mercy can bend down and lift up the one that is doomed. I speak with some feeling, for I recognise the responsibility, and I sympathise with the Government, because I know that they recognise their sense of responsibility; that their duty is higher indeed than the mere formal administration of the law. They have a duty to human life, to mankind itself, and this is a case where they could safely, without doing wrong to anybody, commute the sentence. This is a case of that kind. Who could be wronged by such a course? Not justice, not society. Who could be wronged? Is it for the purpose that the woman is to die, or is it to yield to the cry of savage vengeance? That cry is from the ignorant. Read the letters in the newspapers. See those who have defended the woman. Read those that howl for her death. One has the stamp of thought and care, the other of ignorance and brutality. The civilised portion of mankind will never blame the Government for their clemency in this case, and what care they for the untutored section of humanity; they are not concerned in obedience to the cry of the vulgar section of the community. Is there a lawyer in this State who, having read the evidence, would say the woman was justly condemned?

The Attorney General: Undoubtedly there is.

Mr. WALKER: I have met none. I have spoken to many lawyers and they do not say so. In fact the hon. member knows that he had, on Saturday in the Premier's office, one whom he could not despise for his legal attainments. I mean Richard Septimus Haynes.

The Attorney General: You asked if there were any lawyers who would uphold the verdict. Undoubtedly there are.

Mr. WALKER: I presume the hon. member——

The Attorney General: I am not making a personal reference.

Mr. WALKER: I did not either, but when the hon. member puts it in that sneering way, it is as much as to say that the bulk of the legal talent——

The Attorney General: I did not say the bulk of the legal talent.

Mr. WALKER: I ask those who have read the whole of the evidence and taken the whole of the circumstances into consideration—let the hon. member produce one who has taken all the circumstances into consideration, and gone through all the evidence, where is he?

The Attorney General: I will ask the House to take my word for it, that there are lawyers of the highest eminence.

Mr. WALKER: The word of the Minister against the life of a human creature. Because the Attorney General says so, that this woman will swing into eternity to-morrow. No one's word should be weighed against a life. I plead for a human being, not for his veracity or otherwise. I have consulted with those who are lawyers, who have gone through the case, who have made a study of the evidence, who have considered the whole of the circumstances of this case that have been retailed to-day. They say there is room for doubt. There are those who say she is not guilty; she is innocent. That is what the most doubtful say. There are those who are doubtful, who say there is room for doubt, and that is all I say now. Whilst there is that room for doubt there is the mission for mercy, and I ask for mercy. It cannot be denied, because the case has been considered once, or been considered twice, that no good can be done by the erection of the gallows to-morrow. Why erect them? Must we cling to the old fetish of bygone days, when there is a chance for justice? Our British Constitution proclaims that there shall be room for mercy as a final resort, and that final resort is an appeal. Sweep away the mere cobwebs of technicalities; sweep away the verbiage upon your statute-books; sweep away the trammels on your customary evidence; look at the soul of the thing and the truth of it, and see then if there is not room for doubt. Let the human heart stand up, crush the cold mentality for the moment, and let us feel that there is manhood somewhere. It is a woman I plead for, you may call her a fallen woman, but she is one of the human family, and one of the frailer sex.

For her I ask that she shall live, suffer in confinement if you like, to be imprisoned if you so wish, to be deprived of the comradeship of the rest of the world except those on a criminal level, but still to live, forgotten and neglected by her kind. I ask only that, and who will be harmed if that be granted; on the contrary if not granted, who will be ennobled by it? Who will blame the Government for clemency on that account? I for one shall feel that we in this State are becoming more human as the years pass by, that the old form of brutality of our law—and no part of our law needs so much reform still as our criminal law—is going back, or rather we are going ahead of it and are reaching a more civilised stage. I appeal to hon. members' hearts to say honestly whether they will kill this woman tomorrow as a victim of the law. I ask them, have they the heart to do it? They may have a sense of duty, their duty to humanity, their duty to justice, their duty to that charity which is most God-like, which is imperative and stands higher in place of a substitute for a greater blessing than the law.

The ATTORNEY GENERAL (Hon. J. L. Nanson): I am not entirely clear as to the object of the hon. member in bringing forward this motion. Does the hon. member make this appeal to the members of the Executive, or does he intend to appeal to the House as a whole?

Mr. Walker: I make the appeal for clemency to the Executive.

The ATTORNEY GENERAL: It is the hon. member's wish, as I understand it, to appeal to the Executive; but it would have been easy for him to have availed himself of the opportunities that have existed in the time between the period this woman was sentenced and the present day. He has chosen in the undoubted exercise of his constitutional right to bring this matter before the House. The House has the right to advise the Executive or to express an opinion to the Executive on any question of public concern; but while there are many things hon. members may do which directly speaking are constitutional, it does not follow that because they are constitutional that therefore they are expedient. I cannot but think that it will be an evil day for Western Australia if the precedent set this afternoon by the hon. member, of indirectly constituting this Chamber a sort of informal court of appeal in criminal cases, is one that is to be followed in the future. The hon. member, with that wealth of language and that eloquence which are natural to him, has made an appeal to members of the Executive which we should indeed be destitute of natural feeling if we did not feel to the full extent, but I can assure the House that no appeal of that kind is necessary to persuade members of the Executive of the gravest responsibility that rests upon their shoulders in advising the Governor as to whether the capital sentence should or should not be carried out. I have no intention of following the hon. member in his argument as to the various points of this case; I have no intention of addressing hon. members as if they were a jury to decide upon the guilt or the innocence of this woman, or even of addressing hon. members as if they were a tribunal to say whether the prerogative of mercy should or should not be exercised. It is my duty to tell hon. members that whatever may be the outcome of this debate, and if the motion of the hon. member be forced to a division, whatever may be the result of that division it will not deflect by one hair's breadth the decision to which the members of the Executive have come. I cannot believe that there is any hon. member in this House who thinks that the members of this Chamber who form the Executive have not felt the burden of responsibility that rests on their shoulders, or that they have not carefully inquired into this case while it was before them, or that they have not availed themselves of every possible form of information and of all advice open to them; and if at this eleventh hour having considered this case in all its bearings, in consequence of the speech made by the hon. member, or in consequence of any decision arrived at by this House, the members of the Executive were to allow themselves to be turned from the mature result of

their deliberations and consideration of this case, they would be unworthy to fill the position of responsible advisers to the Crown.

Mr. Scaddan: You are considering dignity before human life.

The ATTORNEY GENERAL: An interjection of that kind is altogether unwarranted; it is a cruel interjection and one to which, when the members of the Government are endeavouring in a matter of this kind to fulfil a necessarily painful duty, they should not be subjected. The hon. member for Kanowna brought forward a considerable number of points in connection with this case, to which he directed the attention of hon. members. As I have already stated, I will not attempt to argue the case before the Chamber, but I wish to point out to hon. members that there is not one of those points advanced by the hon. member to which the most full and complete consideration has not been given by the Executive; there is not one that has not been made the subject of investigation: there is not a single point that can be brought forward in favour of this woman to which due weight has not been given. We have consulted the Judge who presided at the trial, we have had the advantage of the opinion of the law officers of the Crown, and every individual member of the Executive has considered this matter in his own private time, and we have considered it collectively. I have to ask hon. members now whether they wish to take upon their shoulders a responsibility that we certainly do not take upon our shoulders with pleasure. I am not here to defend our action, nor am I here to do more than tell hon. members what I have already told them; that we have approached this subject with the utmost care; we have read the evidence, not once, and in my case I should say I have gone through it carefully word by word, line by line, and I believe that what I am saying is true of every other member of the Government; and we found ourselves unable to recommend that the prerogative of mercy should be extended. I do not know that I can say more without turning this Chamber into a sort of final court of appeal against the verdict delivered in the criminal courts, and feeling as strongly as I do that that would be a disastrous course, feeling as I do that the Executive in these matters is the best judge available under present conditions it should not be necessary for me to go further; but whatever hon. members may think individually in regard to this case, I should not like them to go away with the idea that the members of the Government are not fully seized of their responsibility. I should not like them to go away with the idea that there has been any carelessness on our part, or with the idea that there is doubt in our minds. If we were at the eleventh hour to reverse the decision at which we have arrived, if we were at this eleventh hour to recommend that mercy should be extended, we should be acting in violence to our consciences and in violence to the convictions we have formed. And I venture to say that every member of the Executive Council, fortified as he has been by the opportunity of consultation with the Judge who tried the case, and with the law officers of the Crown, and having the feeling of great responsibility resting upon his shoulders, is more likely to be able to form a right judgment in this case than any hon. member who has not the same responsibility upon his shoulders, and who can scarcely have devoted to the case the time we have devoted to it and of whom, however strongly he may feel on the matter, it cannot be said that he has the direct responsibility the Ministers of the Crown have. I do not question the right of the member for Kanowna if he thinks fit to bring this matter before the House, although I do feel very strongly the inadvisability of the course he has taken. However, I can only repeat what I have already said to hon. members, that I do not want to make my remarks debatable or of any length, that nothing has been advanced by the hon. member that will recommend the Government to depart from the decision arrived at, and that hon. members can feel assured that in arriving at that decision the Government have not done so without taking all the care it is possible for them to take.

Mr. BATH (Brown Hill): With many of the sentiments uttered by the member for Kanowna in regard to the punishment which those charged with the administration of the law are empowered by that law to mete out to those guilty of various crimes, I am much in accord. I have long held the opinion that in these days of enlightenment, when there has been a great diminution of crimes of this sort, not by the operation of any penalty of capital punishment or of great severity, but rather by the advance of civilisation and humanitarianism, the time has well arrived when, as the law-makers, we should dispense with that punishment altogether which, in my opinion, is essentially a survival of savagery. But I must confess that to-day I sympathise to the greatest extent with the members of the Cabinet in the responsibility which has been thrust upon them; and I want to assure them and members of the House that in no sense would I for one moment infer that in this case they are less actuated by humanitarian sentiments, and a desire to examine the case to the fullest extent and from every standpoint than any member of the House or any member of the community. That being so, I could not undertake to move such a motion for the adjournment, and if it were pressed to a division I could not undertake to support it. I did not think it would be necessary for anyone in the House to discuss the case or to advance any point in order to impress on members of the Cabinet the need for reconsidering their decision or of giving consideration to these points. I believe they have done so, and that they have arrived at the decision they have arrived at after giving the fullest possible consideration, after discussing it both individually and collectively. That being so, one does not like to even in the slightest possible way convey the inference that the Executive have not been actuated throughout by the fullest sense of their responsibility. If one could express any other opinion on this point it would be this, that if nothing else resulted from this discussion it would force home upon the minds of hon. members the necessity for giving reconsideration to our criminal law in this respect with the view, I hope, later on of its amendment so that our laws would be more humane than they are at the present time.

The PREMIER (Hon. N. J. Moore): The Attorney General has given the House an outline of what has taken place since the sentence of death was passed on Martha Rendall. I can assure members that the members of the Executive Council have fully realised their responsibility, we have weighed minutely every particle of evidence put forward, and that every letter written by responsible and irresponsible people has received most careful consideration at the hands of the Executive; and after giving every consideration we do not feel justified in altering the decision arrived at a fortnight ago. In addition to that, I have had the opportunity again to-day of consulting with the Acting Chief Justice in regard to the matter, and he stated that he could see no reason for disagreeing with the verdict of the jury. Fortified by this, and by the opinions advanced by the responsible officers of the Crown, I maintain that had we taken any other action but that of confirming the decision already arrived at, we would have been shirking our responsibility, the carrying out of our duties and the obligations imposed on us by our oaths of office. I have had an opportunity of seeing the Rev. Mr. Allan to-day after he had had an interview with the condemned woman; and I realise that he, in common with many others, thinks there is a possibility of some doubt existing; but I am of opinion that he in common with others discharged their duty to their conscience when they brought before the Executive, with all the force at their command, the facts or particulars they considered might have been of some value in altering the decision arrived at. I can only say in conclusion that I regret that the hon. member thought it necessary to bring this matter before Parliament, as I think if the precedent created to-day be followed up it may create a condition of affairs which, to some extent, would be awful to contemplate: that is to say, if, after having exhausted the machinery provided whereby a judge and jury are enabled to pronounce a verdict in connection with a

crime, we should constitute either the Executive Council or the Parliament of the State a court of appeal without its having the same opportunity the jury have of observing the demeanour of witnesses and weighing the evidence submitted in connection with the case. I can only say in conclusion that I appreciate the words that have fallen from the Leader of the Opposition in regard to this particular case, and I am sure the House as a whole will realise that were it not but for a grave sense of duty one would feel much disposed to show the clemency which is so desired.

Mr. SCADDAN (Ivanhoe): I can assure hon. members that I feel some diffidence in intruding on a subject of such great importance. At the outset I desire to say, in spite of my own views in regard to capital punishment, I believe that in a case of this kind the Executive Council would be wise to grant that leniency desired by many members and by many of the public in this case until such time as it can be shown there is no possibility of doubt in the case. I can see no justice in causing this woman to suffer the extreme penalty of the law. Though I am opposed to capital punishment, to the extreme penalty of the law being inflicted, the point to my mind is this—it must be remembered that the case caused such a revulsion of feeling among the public that the woman was practically condemned before being tried in our courts of justice. It is unnecessary for me to say that even before she was arrested the general opinion of the public was that she should be hanged, and I have heard many say that if they could have got hands on her after the decision they would have lynched her there and then. The case caused that feeling, but at the same time is there that absolute proof beyond a shadow of doubt that she committed this crime? And if to-morrow she should hang we remove any possibility afterwards of having anything of a doubtful nature being brought to light. I am not prepared to take the responsibility of saying that she is absolutely guilty beyond a shadow of doubt. I recognise that the Executive Council are equally desirous of doing justice as I am, and I recognise, too, that they fully realise the responsibility resting on them; but that is a matter that is no concern of mine; I am not concerned about the question of the responsibility of the Executive Council. I am concerned about my personal responsibility in the matter.

Mr. Jacoby: You have not any.

Mr. SCADDAN: The Executive Council are only the Executive of this Parliament. I say absolutely they can only continue at the will of this Parliament, and if that is so, then the Executive Council are only a body formed from Parliament to carry out the instructions of Parliament, and there is no higher tribunal in the land than Parliament. All the courts, the higher tribunals we hear so much about, are formed from Parliament, and I say that Parliament, representing the people as it does, is the highest tribunal. The hon. member must recognise it; and if we are prepared to take the responsibility, with the Executive Council, in inflicting the extreme penalty of the law in a case where there is a possibility of doubt, then we have the right to do so; but I am not prepared to do it; and I hope the Executive Council will realise that, while doubt exists, it is not wise to inflict the extreme penalty of the law. I know nothing of the woman or anything of her connections. Merely I feel within myself that it is unwise to carry out the extreme penalty of the law where there is a possibility of doubt, and I say it does exist in this case.

(Sitting suspended from 6.15 to 7.30 p.m.)

Mr. HOLMAN (Murchison): One cannot but sympathise with the Executive Council in the position in which they are placed. Still, when it comes to the question of duty, immaterial of what position a man holds, he should always be prepared to do that duty to the best of his ability. None can blame the Executive Council for the action they have taken in this case, and none can sympathise with them more than I, knowing

the responsibility placed upon them, the position in which they are in. I feel sure that everyone will agree with me when I say that not only the Executive Council but also the jury and everyone connected with the case have given this matter their fullest and gravest consideration. Still, when we consider the social system in which we live, when we look around and see the difficulties placed in the way of an accused getting evidence together, when we realise that in this case, as unfortunately in many other cases, instead of the full strength of the legal ability of the State being placed at the disposal of the accused, persons who must give them every possible assistance——

The Attorney General: Assistance was given.

Mr. HOLMAN: We realise what that assistance must have been when we know that all the household effects, all the tools of the man, were sacrificed to get a few pounds together in order that this woman might be defended. We know well that proper assistance could not have been given. I would like to have seen in this case, and in every case of the kind, the fullest investigation in every direction, and that the accused persons should be able to get all possible evidence together. The principle under which we work now is against what should be the true principles of justice.

The Attorney General: The accused has only to mention any witness he requires, and if possible that evidence is procured.

Mr. HOLMAN: The fact that counsel for the accused did not take every advantage that might have been used should not deter us from extending mercy to those to whom the fullest mercy possible should be shown. In this case had the analysts, had the detective force and other witnesses who appeared for the prosecution devoted the same attention which they paid to the endeavour to secure a conviction in endeavouring to get the accused person off, then the result might have been very different. The possibilities are that something might then have been discovered to prevent the verdict of guilty being brought in. The jury gave their decision according to their oath. There is no doubt of that. To my mind they were convinced that the verdict they gave was the just one; but we know that under our social laws when a jury go into the box and take the oath to give a decision on the facts brought before them they have to give that decision on the evidence and nothing else. For instance, it is possible that the position might arise where a juryman was positive that the accused person was innocent, but if the evidence showed that the accused was guilty the juryman must bring in a decision according to that evidence, and not according to what he knows of his own knowledge. We have read of cases where judges instruct juries to sink all their own knowledge, to pay no attention to what they have heard, but to give their decision on the evidence adduced. We know the struggles that the friends of the accused had in their endeavour to get the proper evidence and assistance, how they sold their household goods, how they sold tools from off their land, all was sacrificed in the endeavour to prove her innocence.

The Attorney General: That was not the action of the Crown in any way.

Mr. HOLMAN: I do not blame the Crown one iota; but I mention the facts as they have occurred, and as they have been made public. I do not blame anyone who has worked in connection with this case, for I am merely pointing out as briefly as possible all the circumstances that prove that some other system should be introduced in these cases whereby accused persons should have the same ability to produce evidence or take other steps to prove their innocence as that exercised by the Crown in endeavouring to bring about a conviction.

The Attorney General: All the evidence asked for is forthcoming.

Mr. HOLMAN: I happen to know something in connection with these matters.

The Attorney General: I wish you would mention cases where material evidence has been prevented from being called.

Mr. HOLMAN: I have not referred that material evidence has been refused by the

Crown, but by a mistaken sense of duty it happens in many cases that those conducting the prosecution have seemed to be under the impression that the one object is to bring about a conviction. If a lawyer knows his client is guilty, he will do all he possibly can to get him out of the position he occupies; but the lawyer against the accused will do all he can to get the prisoner convicted.

The Attorney General: That is not so.

Mr. Walker: It too often is so.

Mr. HOLMAN: It is so in a good many cases, not that they do it on purpose, but their training teaches them to try and win their cases. I was sorry to see the stand taken by the Attorney General with regard to this motion. The course adopted by the member for Kanowna is not only constitutional, but it is also brought about by a sense of duty which he, as should every representative of the people, refuses to shirk. If the hon. member thought mercy should be shown, or that justice had not been exercised, he was quite right in bringing the matter forward. The Attorney General adopted a very different attitude from that which I should have liked to have seen him take up with regard to the matter, for if I remember rightly he said that in the event of a majority of the House deciding against the decision of the Executive Council the Government would not remain in the position they now occupy.

The Attorney General: No; I say the Executive take the full responsibility for their decision, and that whatever action might be taken by this House would not deflect the decision of the Executive in the slightest degree.

Mr. HOLMAN: I would like to withdraw the inference I made. Immaterial of what the decision of the Executive Council is, they have gone into this question with a free, open, and full mind, prepared to do anything they possibly can. I am satisfied of that, and that were their decision reversed by a majority of members the result would not reflect one iota on the Ministers of the Crown. They have done their duty manfully, without fear of public opinion, or favour, and they are to be commended for their action; but we have our duty also, and if we are of opinion that by the extension of mercy what may be an injustice will be prevented we are perfectly justified in taking a stand on the matter. It is not for us to dictate to courts of law as to what they are to do; but it is for us to use any influence we have to turn the tide of justice if we know well that in our own minds we are convinced justice has not been done. In such circumstances we are justified in expressing our opinion, and in endeavouring to get justice, irrespective of what we might suffer. Who will suffer if in this case the sentence is commuted? None will suffer. Justice will not suffer, for within a few hours all the possible sufferings that could be inflicted on Martha Rendall will have been inflicted. We know that if the sentence of death is carried out, all her sufferings will be ended, and then this community will suffer if, in the future, something is brought forward to show she is innocent. If that is so why should not the prerogative of mercy be extended and the dread sentence of death be held over. I will not bring in my feelings on the question of capital punishment, or any other foreign matter; but I would urge all members to consider all the facts of the case and place themselves in the responsible position we should all realise we are in. Not one of us but feels the present situation keenly, deeply, and sincerely. And if we did not do our duty by preventing an injustice being done we would not be worthy to be called men. I rise to express my opinion on this question, that under the circumstances, thinking and reading as we have done, and taking everything into consideration, to say we will be only doing our duty if we decide to have the sentence commuted. The question is a difficult one to speak on; still we have our duty to do, and if I feel that it is our duty, immaterial of what may transpire in the future, even if Mrs. Rendall makes a confession to-morrow, and we vote against this sentence being carried out, to take the responsibility. For myself I am prepared to take it. In the circumstances I feel compelled to ex-

press my opinion on this occasion that the sentence should not be carried out.

Mr. HEITMANN (Cue): I understood from the member for Kanowna, who moved this motion, that he did not intend to appeal to members to decide whether or not the capital punishment should be carried out in this case. I understood him to say that he was appealing to the members of the Executive Council. Personally speaking, I am not afraid to cast a vote on this question, nor am I aware whether it is the intention of the mover of the motion to ask the members of the Chamber to cast a vote. I think, and I feel strongly on the point, that it is an unfair thing, in a case of this kind, to ask members of the Chamber to form themselves into a court of appeal, not having had the opportunity of going thoroughly into the question. I fully appreciate the responsibility of the Government, and I may say that judging from my own feelings I consider no man, worthy of the name of man, would be guilty of not giving a condemned woman the benefit of any possible shadow of doubt. Therefore, if I am forced to cast a vote on this particular question, I shall be forced to abide by the decision of those who have been in the position to judge the question from all sides and who have backed up the decision of the Judge and jury.

Mr COLLIER (Boulder): I have no desire to prolong this debate. I only rise to say that I entirely agree with the case as put forward by the hon. member for Kanowna, and I also agree with his attitude in bringing it before the House. I want to say, that the contention of the Attorney General, that this House should not be turned into a court of appeal, has very little influence with me. I hope the day will long be distant when this House will not be a court of appeal, especially when the life of a fellow being is at stake. I would like to point out that after all the Executive themselves have sat as a court of appeal on this case. If it be argued that there is no one so capable of deciding a matter of this kind as a Judge and jury, who have heard the whole of the evidence: if it be argued that no one else is in a position to come to a decision on this matter, I want to know how it is that the Executive themselves sat and reviewed the decision of the Judge and jury? It may be said they have evidence before them which this House has not, but I venture to say that in judging of the value of the evidence it is of very little assistance to one to read it.

The Attorney General: The exercise of mercy is the prerogative of the Crown. It is not the prerogative of Parliament.

Mr. COLLIER: I know exactly what it is, but I say that when a case is remitted to the Executive they have to decide whether sentence shall be carried out or not. Therefore, I say, to that extent the Executive are a court of appeal.

The Honorary Minister: They are not.

Mr. Underwood: Undoubtedly they are.

The Attorney General: The Executive decides whether they shall extend the prerogative of mercy.

Mr. COLLIER: And to that extent then are they not a court of appeal? Does it not rest with the Executive whether the sentence shall be carried out or not? Have we not had instances where the prerogative has been exercised in favour of accused in the past? I am not going to prolong this debate. I only want to say with regard to the views expressed by the member for Cue that he has no evidence to guide him in casting a vote. The evidence, I think, is contained in the few remarks expressed by the Judge who heard the case, and they were that if the woman was guilty of that crime she was a moral monstrosity. I am not going to argue whether the woman is guilty or innocent, but if she be guilty she is absolutely not responsible for her actions. Probably from the hour of her death she was foredoomed to this crime, and any person who will be guilty of such a crime could not be held responsible, and, therefore, we would not be doing justice in carrying out the sentence. For that reason I express my intention to support the views and the attitude of the member for Kanowna.

The HONORARY MINISTER (Hon. J. Price): I speak with great reluctance

on this question, but I would like to point out to the hon. member that in cases of this description the final decision absolutely rests with the Government. I shall read a passage from *Parliamentary Government in the British Colonies* by Todd, in which he says—

> "Nevertheless under all circumstances it is true that a Governor may (and indeed must, if in his judgment it seems right) decide in opposition to the advice tendered to him."

I only draw attention to this to explain an interjection that I made just now while the member for Boulder was speaking. I do not think anyone will say that the Executive have not given the greatest consideration to this matter. There are those of us, at all events I am one of them, who would like to see capital punishment abolished, and would gladly vote for its abolition. But as it is our clear duty to administer the law as we find it, we have in this instance, very reluctantly, after having given careful consideration to all the evidence including the points raised by the member for Kanowna, come to the conclusion that the verdict of the jury was absolutely and entirely justified. It is a difficult matter for hon. members who have not had access to the data, which we have had, to form a conclusion. But in a matter of this kind, situated as we have been with every form of information available, we have been forced reluctantly, as I have stated, into the position that we are now placed in.

Mr. UNDERWOOD (Pilbara): As we shall be called upon to vote on this matter I just wish to state the reasons which will actuate me to vote in the manner in which I intend to do. I agree entirely with the member for Boulder that the Executive Council is a court of appeal. There is no shadow of doubt about that, and it is useless to bring books along to say that they are not. You can bring books to say that the King governs England, whereas we know it is Parliament who are responsible. I just wish to say that I am going to vote against the motion for reasons similar to those given by the member for Cue. I contend I am not in the position to judge Mrs. Rendell. The law has provided that after a Judge and jury have decided to try a case, that it is for the Executive of the State to review the evidence given and if, in their opinion, there is reasonable doubt, they have the power to commute the sentence. In the present instance it has been decided that the law shall take its course. I have no evidence, nor am I called upon to give a decision contrary to the decision which has already been given. I am totally opposed to capital punishment in any shape or form, whether it be in the case of a man or woman; but I am of opinion that a man or woman who commits murder is abnormal, in other words insane, and I hold that it is in effect legal murder to hang such a man or woman. At the same time I hold that it is our duty, if we think that, to alter the law; but while it is as it exists it is decidedly unfair to ask the Executive to commute one sentence and allow another to be carried into force. Those who hold that the sentence should be commuted should make strenuous endeavours to have capital punishment abolished, and I can assure them I will support them. I intend to vote against the motion.

Mr. TAYLOR (Mt. Margaret): I have addressed myself to this Chamber on many subjects and many times since I have had the honour of being a member of it, but I have never done so with such reluctance as I do to-night. It is a subject that one in a position like I am in myself is practically even unable to give a vote that would do justice to oneself or to the House, for I have not read the evidence, nor have I watched the case sufficiently closely through all its proceedings to be able to say whether the accused woman is guilty or innocent, and I am afraid that there are other members in a similar position. That being so, I say I am not in the position to record a vote as to whether she is innocent or guilty. The member for Kanowna pointed out very clearly and forcibly that there was a great discrepancy in some of the evidence, which left great room for doubt as to this person's guilt. That hon. member has evidently gone

into the case and knows how the evidence appeals to himself. If I were going to cast my vote to-night as to whether I believe in capital punishment or not, I would be able to do it without fear or favour, because I am absolutely against capital punishment. But recording my vote to-night against this resolution would not indicate that I am against capital punishment. It would be unfair to call upon me to take this opportunity of indicating my opinion upon capital punishment. For Parliament to intelligently deal with the question of capital punishment it should be brought down in the form of a substantive motion, and not while a person is waiting the passing of a few hours before going to the gallows. That in itself precludes one from discussing the question in the broad spirit in which he would do in other circumstances. Knowing the responsibility which surrounds them, I believe the gentlemen on the Treasury benches who have considered this case since the finding of the jury are no more anxious to hang this woman than are any other six or seven members of this House. I say they have had every phase of the question put before them. If they have not they are lacking in their duty, and I would not accuse them of that in a case of this kind. I say they have had an opportunity of sifting to the last degree any evidence that was lacking before the jury which would tend to mitigate the crime, and perhaps remove what the member for Kanowna calls a doubt. I believe the Executive have done all that they could do. As one having had the honour of being a Minister of the Crown in this State I know the responsibilities attached to the position, and I can realise those responsibilities very fully in a case of this nature. I repeat my conviction that those gentlemen have done their duty. They have had facts before them of which I know nothing, and I give them credit for being as humane as I am myself, or as is any other member of the House. No matter how we may disagree in politics, when it comes to a question of taking human life I say that the brand of politics we hold does not influence us. It is a subject upon which one feels a great reluctance to speak, but as I am of opinion that I will have to record a vote on this question to-night——

Mr. Walker: No.

Mr. TAYLOR: Well, if I am sure I will not have to cast a vote I will have nothing further to say. I rose to give my reasons for voting as I intended to vote. I was not going to cast a silent vote on a question of this character, but as I am assured by the mover that I will not have to record a vote I have no desire to make any further remarks on this painful subject.

Mr. WALKER (in reply): It has been almost as painful to listen to the debate as it was to move in the first instance in this matter; and all the more painful to know that the object I have in view has been misunderstood. My only object I tried to make as clear as possible, namely, to show that there is room for doubt and to ask for mercy. Even by my own leader and by my friends on my own side have I been misunderstood. I have not asked for a review, for a rehearing; but I have asked and do ask that there shall be mercy shown to this woman. The Attorney General in his explanation of the attitude taken by the Government questioned more or less, not my right, but the wisdom of taking this course; and I fancy he suggested that I ought to have moved earlier and interviewed, or in some way influenced, the Executive Council.

The Attorney General: Not moved in this Chamber at all.

Mr. WALKER: No, but to move the Executive Council, the members of the Executive Council. I do not quite understand what course he suggested I should have taken. Let me say I did endeavour to make some movement last week. I did appear at the door of the Premier's office last Saturday morning to plead there. My friend the member for Ivanhoe was present on Saturday morning at the door of the Premier's office, whilst the Attorney General, the Premier, and others were discussing this matter. I felt very anxious to say what

I could then, before any decision had been arrived at; to see if any influence I could bring might save this woman's life. Unfortunately the door was shut against me. I was not permitted to enter, or to speak. Moreover, I hoped till the very last, hoped till noon to-day or until the decision reached the outer doors, that the woman would have her sentence commuted at the last moment. This is my only opportunity, the last chance I have. Am I wrong in taking it? Is it ever wrong to plead anywhere —is there any place on earth too sacred, too hemmed round by formalities or ceremonials to have a human life at stake and to refuse to plead for it? Is there? If this Chamber is not the last resort of the unfortunate, where is it? Where can we go? We have known instances where juries have been perverse, where judges have been ferocious, where Ministers in power have been recreant to duty. I do not say for one moment that any of these elements are present here. But there have been such instances. Where, then, could the people appeal, but through their representatives; either direct to His Majesty through the Governor, or to Parliament? These are our only avenues. We cannot reach elsewhere when the gates are closed to us and every door is locked. When every step has been taken to seal the doom of this woman our only chance, our only avenue, is here; and I am speaking tonight to His Excellency the Governor from the place where, above all places, my words are likely to have weight. I have spoken to Ministers in the street, I have spoken to Ministers in the tram car; I have accosted them where I could and pleaded in a mild form and courteous manner for this woman. But what weight have my words? The scorn with which the other side of the House sometimes treats me because of the party I belong to may perhaps do me an injustice. At all events it prevents my words having that weight which is due to truth and sincerity wherever it is found. But here in this Chamber I can speak with more weight, I can appeal with the knowledge that some attention will be given to what I say. I can enforce what I believe with the facts I have gathered; and I take this opportunity at the last possible moment, for even yet it is not too late to exercise the prerogative. Moreover, I think the Attorney General, if he consult his own authorities in law, will find in our simplest text books that the highest court of criminal appeal is Parliament.

The Attorney General: Parliament has the right to advise the Crown in the exercise of the prerogative, but it rests with the Crown as to whether that advice is accepted.

Mr. WALKER: We have an appeal to the highest court in Parliament. This is the highest court in the realm; no court is so high as Parliament. I am not going to quibble on a matter of this kind. The fount of mercy, constitutionally recognised, is the King. The representative of the King in this State is His Excellency the Governor. And although it is perfectly true that His Excellency could, if he were so determined, act independently of his advisers, such a course would be from custom irregular; and I question whether it would be supported if it were referred to the Home authorities. Upon this point I know something. I know that in New South Wales in respect to a case heard there a position arose of this kind: The Executive Council advised one thing, while His Excellency desired to take another course. A conflict, a deadlock, ensued and instructions were asked from the Home office. The reply from the Colonial Office was that the Governor should take the advice of his responsible advisers. I believe that is the exact position here. Whilst His Excellency, theoretically, has the right to ignore his advisers, he never would do so. It is not customary. That is the position we are in, so that the full responsibility falls back upon the Cabinet. And here, too, let me say that when in other parts of the world Cabinet have acted as practically our Cabinet is acting now, similar motions to that I have moved here tonight have been moved. It is no new thing. I am not making a precedent, I am following an admirable precedent. For the sake of human life other members of Parliament have pleaded in other parts

of the Commonwealth, so I have nothing at all on which to feel regret in that respect. Now let us see what is the position. Let me repeat I do not for a single moment wish to impute the honesty of the Ministry in this matter. I believe they are as seriously convinced that this woman should die according to the law as I am convinced that to-morrow she will be murdered; but, at the same time, let me review what they have done, and the features they have insisted on. They tell us they have been twice through the evidence, that they have called in the Crown Law officers, and that they have had the Judge to guide them. That would seem to be conclusive. What has been the whole of the advice, what has been the purpose of consulting the Crown Law officers, what has been the function of the Judge in a critical hour like this? Not to usurp one iota upon the province of His Excellency —mark that—not to intrench one inch beyond what the law in statute and in custom has laid down. They have gone over this from the standpoint purely of lawyers, they have taken the evidence of the witnesses and the verdict of the jury, and they have stopped there. They cannot go further. The Crown Law officers should not advance one step beyond that. His Honour the Acting Chief Justice could not go beyond what his oath enables him to go, that is, to keep within the compass of the law. If it be by regular process of law that this woman has been condemned I will go all that the Attorney General can go, and I will give him my endorsement as to the regularity. There has been nothing done in contravention of the laws of the land, nor any omission of the operations of the laws of the land. But they have only taken us to the threshhold. It is after the law has done all that I implore the Government to act; it is after the sphere of mercy is approached. That keeps outside the court.

The Attorney General: That has also been considered.

Mr. WALKER: What mercy was granted; whose big heart was touched; what fountains of that divine element were tapped? It is the sense of duty, it is "stick to the law," that bound those fountains. Tied with those chains, the Executive could not mount into that holiest of all temples: and to-night, as I stand here, I feel the necessity there is yet for reform and advance. There are men on my own side of the House who say it is murder to kill a human creature under any circumstances. Law! Law! Kill her; never mind the law, kill her! We will vote to kill her because of the law which we do not believe in, which we would alter to-morrow, which is wrong, which is murderous! It is murderous, but we will vote to kill her! I am at a loss to understand human nature. Are we so bound down to these dead formalities that we cannot lift the soul above them? Is this what is to crush us? Men who believe that the law is murderous will vote for it; or is it hypocrisy? Pardon me if I speak too feelingly, for there are those in the House who in this Chamber have condemned judges, have inveighed against the laws till their voices grew husky in condemnation of their injustice, and have appealed to have them suspended, to make them inoperative; yet here, at the most sacred time of all, when a woman, over whose innocence or guilt there is undoubtedly a doubt, stands to-night with heart palpitating at the dread of to-morrow, stands at the very foot of the scaffold, though they say she may be innocent, that she ought not to be killed, they will vote for her being hanged. That is the state to which we have come. Do not we want rousing, everyone of us? On the Government side there are those whose hearts are soft and tender, those I know who have pity and can pity as much as I can, who would not knowingly wrong a single mortal, but, who, on the shrine of cold legal duty, will witness that woman swing from earth to heaven to-morrow morning. If these possibilities can take place in Parliament how can we blame juries and judges, how can we blame the shrieking public? We cannot. We need to examine ourselves, we need to look at our own hearts, we need to remember that we are, in this instance, the custodians of a life that is a part of the great human family, a life that is as sacred as any mortal life in existence, degraded and unfortunate as it may be. At this last moment I am asking now that His Ex-

cellency shall be approached. It is useless for me to approach him, me, an ordinary individual that anybody may accost by nickname in the street; but it is not useless for the Government; they can approach His Excellency. In spite of their conviction that the law is sound and that they have exhausted its possibilities, they can take one step and can go one point further; because they cannot degrade themselves by it. Whoever in this world by the exercise of mercy was made ignoble? Hon. members may say they have a duty to perform, and may make slaves of human creatures to perform it, and may judge by heads and not by hearts. How different it is to that woman who in her last words said this—contrasting the attitude taken in ignorance with what was said—"I pray to God to give me grace to forgive those who have sworn falsely my life away." These are the words from the dying woman. They remind us of a great episode. I should not mix sacred things with these modern events; but we know that forgiveness of enemies is a thing that has lasted through the corridors of time these two thousand years. "Forgive your enemies"! "Go thou and sin no more"! Is that going to break up Governments and show they are cowards or lacking in backbone? While you stand at the threshold of the grave, for the sake of keeping a stiff backbone, murder her. It means that.

The Attorney General: I do not think the hon. member is justified in saying that we refused to advise the exercise of the prerogative of mercy for fear that we should be accused of wanting backbone.

Mr. WALKER: I did not say that. Guilty conscience needs no accusers. What I said was—would it harm you to exercise mercy; is it going to do you harm to do this because that might be said of you? And that is what I say now—will it do you this wrong? No! On the contrary it will ennoble you; but commit this deed, and you keep us back in savagery, you keep us in barbarous times, you put a cloud on the whole community, you say it is wise to be revengeful. What is it for? Are you going to reform the woman by hanging her: are you going to bring back the dead to life? Then what is it for? Punishment! Vengeance! The savage instinct, the brutality of our civilisation is speaking.

The Premier: It acts as a deterrent.

Mr. WALKER: And whom are you going to deter by hanging her?

Mr. Scaddan: They hanged thieves at one time.

Mr. WALKER: At one time they hanged women for swallowing pins and called them witches. We read of the holocaust when they went round hunting up witches, and how a Judge, Sir Matthew Hale, said the giving up of the punishment of witchcraft was in effect the giving up of the Bible. Here was a Judge of the Supreme Court, one respected, and a man of profound ability and attainments, a great Judge indeed, yet sentenced witch after witch to death. Did he do it rightly?

The Attorney General: He acted according to his conscience and his lights as we are acting to-day.

Mr. WALKER: The hon. member should have lived in his days. That is just exactly what he did, and I give the hon. member credit for doing it now, acting according to the best of his lights and ability; but I am pointing out to the Attorney General that his lights are on the level of those days, when if a certain crime was mentioned it was enough to get a person hanged. To mention the crime was enough; the accused were condemned at once, though they went before judges and juries and there were all the formalities. Hosts of victims were offered.

The Attorney General: The probability is that I should have been no better than my generation if I had lived then.

Mr. WALKER: The only thing I regret is that living in this time there does not seem to be any advance. But I regret to be personal in this serious matter. It is no case for bickering. When I am pleading for mercy, I should not hurt the hon. member or wound him. The hon. member has so much to do in the matter, and can do so much, and if if were necessary to apologise I would do so. But what I am pointing out is that it can be no deterrent. I have quoted the fact that in the times of

Blackstone, in the days of the Georges, there were 160 offences for which men could be put to death. We have got rid of that. It is only in the days of Queen Victoria that we have got capital punishment taken out of the public and put into the gaols. In other words, hanging used to be in public, and great crowds used to gather to watch a hanging, windows used to be hired, it was a great public entertainment. Have we got worse since then? We used to hang men for stealing sheep. We do not now. Is there more sheep stealing in Western Australia because we have not that law? We have diminished the severity of our laws, and with the diminution of that severity we have better citizens, more civilised, more self-respecting. What the effect of hanging this woman to-morrow will be is this: it will show that the highest authority in the land, the Executive Council, justify revenge, punishment, harbour ill feeling, and therefore what is right for them cannot be wrong in the multitude. There is evidence of that spirit in letters that appeared in this morning's paper. They would take revenge. It is not revenge that is wanted. Moreover, there is a sadness cast over all when that instrument of barbarism performs its deadly work, a shudder goes through every citizen. To-morrow night the streets will be full of buyers of the papers to see how this woman dies, the curiosity, the love of the morbid, the shudderings, part of the entertainment is the hanging. Although hangings are no longer public, as they used to be, they still get into the papers as a sort of public thing, and the morbid of the community love it. We are degraded to that extent. My desire as well for the people as for Mrs. Rendall, is that this should be stopped and it can be, as I have pointed out, without any sacrifice of any quality that is honourable. If the Government like they can say, "We think that woman guilty, but she is a woman, and she has had surroundings by which she became a monster"—and a monster is not even responsible in law for its act—"and we shall commute the sentence." Let the Government consider that, and for her sex, and in consideration of the diseased character she has, commute her sentence. The law would be vindicated, there would be no sacrifice of any principle, or of any technical legality. This is a power reserved; it can be exercised yet, it can be exercised up to the time the drop falls to-morrow; I only ask that it shall be. I would put this to the vote were it not for the fact that I will not be a party to ask one friend of mine to vote for this woman's death.

Mr. Troy: You have a conscience; vote yourself.

Mr. WALKER: Shall I let it appear that those who do not believe this woman should die have voted for her death?

Mr. Troy: You cannot do otherwise if you believe in it.

Mr. WALKER: I can do otherwise; I have done my duty. All I want is to ask the Government at this last moment, to plead with the Government that the prerogative of mercy shall be exercised. I can say no more. From my heart, and with all the earnestness of which I am capable, I plead, if pleading makes it better than asking, that this shall be done for the sake of our manhood and the betterment of our State. I ask leave to withdraw the motion.

Motion, by leave, withdrawn.

QUESTION—PUBLIC SERVANTS' RETIRING ALLOWANCES.

Mr. BATH asked the Premier: 1, Did the Hon. the Minister for Lands, in his address to the civil servants, promise that retiring allowances would be paid to those civil servants who were included in the land settlement scheme at Kodj Kodjin? 2. Has this retiring allowance been provided for in regard to all civil servants included in the scheme? 3, If not, why has discrimination been made in regard to the treatment meted out?

The PREMIER replied: 1, Mr. Mitchell said:—"Some of those selected might be entitled to retiring allowances, and those who were would get them in some shape or form. He did not know that they would be given cheques, but satisfactory arrangements could be made. Those selected would get what they were entitled

to, but they would not have an opportunity of getting retiring allowances unless they were to become settlers." It is proposed to pay any retiring allowance that is due at the rate of one-half at the end of 12 months and the other half at the end of two years. 2, Answered by No. 1. 3, The officers who are applying to be allowed to retire, in order that they may take advantage of the settlement scheme, are being treated alike.

QUESTION—REPURCHASE OF LARGE ESTATES.

Mr. CARSON asked the Premier: Is it the intention of the Government this session to seek authorisation for a further amount for the purpose of repurchasing large estates for closer settlement?

The PREMIER replied: Yes. The necessary amendment to the Agricultural Lands Purchase Act is being prepared.

QUESTION—LAND TRANSFER, COOMBERDALE.

Mr. SCADDAN asked the Minister for Lands: 1, Has his attention been drawn to the attached advertisement which appeared in the *West Australian* of September 17th last?

TUESDAY, SEPTEMBER 21.
At Three p.m.
In the Rooms, 56 St George's Terrace.

821 ACRES, COOMBERDALE,
3½ Miles from Station, fronting the Midland Railway.

ABSOLUTELY WITHOUT RESERVE.

A GOOD CHANCE FOR INVESTORS AND OTHERS.

CHAS. SOMMERS has been favoured with instructions to SELL as above—
821 Acres of first-class Land, 3½ miles from Coomberdale, comprising C.P. Leases 2392/56, 2393/56, 2394/56, and 4133/56, forming one compact block.
The land is splendidly fenced with jam-posts and 6 wires, and is timbered with salmon gum, jam, and York gum.
With the exception of the fencing the land is unimproved.
Coomberdale enjoys a rainfall of about 18in.
TERMS—One-third cash, balance in twelve months, without interest.
The Sale is absolutely an Unreserved one.

2, Has application been made to transfer these leases? If so, what action has been taken?

The MINISTER FOR LANDS replied: 1, Yes. 2, No transfer has been presented for registration. The Deputy Postmaster General claims an interest in these leases on behalf of his department, and a note has been made against them in the register that no dealing is to be registered without special reference to the Minister.

BILL — LAND ACT SPECIAL LEASE.

Second Reading.

The MINISTER FOR WORKS (Hon. F. Wilson) in moving the second reading said: The object of this measure is to empower the Government to grant a special lease for 99 years of certain lands at Rocky Bay to the Mount Lyell Mining & Railway Co., Ltd. The purpose for which this land is required is to erect large chemical works for the manufacture of superphosphates and acids, and it has a direct bearing on our great agricultural industry. No words of mine are necessary to inform members of the standing of this company and of their financial solidity. Their operations in the State of Tasmania are well known to every member, more especially in connection with mining and the railways which they own in connection with their mining property. I might mention in passing that the capital of the company is £1,200,000, fully paid up, and that of recent years they have extended their operations into New South Wales in the form of large coking plant at Port Kembla, and also chemical and superphosphate works in the mother State. In Victoria also they have large works established at Yarraville, on which they have expended something like £90,000, and which are now turning out some 40,000 tons of superphosphates per annum. In South Australia they have works also which

turn out something like 20,000 tons a year. The plant in Victoria has only been in existence for some five and a half years, and yet in that short period it has had to be doubled in capacity. For some time past the company have been exporting to this State, and last year they sent here something like 5,000 tons of superphosphates. The capacity of their plants in the Eastern States has been fully reached, and they have found it necessary to come to Western Australia to establish themselves on a proper working basis. I need hardly say we welcome their advent very sincerely. They propose to put up very extensive works on the land which it is agreed to lease them for the works, which will run into an expenditure of something like £54,000 as a first cost. They have already placed contracts for buildings of the value of £23,000, for an electrical plant valued at £3,500, for engines, boilers and engineering materials valued at £7,100, and during the past week they have expended upon the preliminary foundations over £3,000: so that members will see they have committed themselves to the expenditure of nearly £35,000 already and are authorised by the directors to spend £53,000 on the works. The quantity of superphosphates they will turn out in Western Australia when the works are in full going order will be something like 20,000 tons per annum. They will require each year 12,000 tons of sulphuric acid and 12,000 tons of phosphate rock to manufacture superphosphates. The sulphuric acid is to be made at the works, and the phosphate rock is to be imported from Christmas and Ocean Islands, where I believe the company have the right to obtain rock.

Mr. Johnson: Will they manufacture sulphuric acid?

The MINISTER FOR WORKS: From pyrites which it is hoped they will obtain in Western Australia. If they cannot obtain pyrites of the necessary quality here they will import it from their properties in Tasmania.

Mr. Johnson: Have they made any effort to get it here?

The MINISTER FOR WORKS: They are making efforts now and hope to be successful in getting a proper grade of pyrites in this State. They say they intend to use every effort to get it here, but if that is impossible they have a suitable supply in their own mining properties in Tasmania. The conditions of the lease, which really form the Bill itself, empower the granting of a lease by the Government. I might briefly explain that the conditions cover certain labour conditions, and the expending of money with a minimum of expenditure, so that the interests of the State are fully safeguarded.

Mr. Johnson: What is the area?

The MINISTER FOR WORKS: The area to be leased is 16 acres 3 roods 10 perches. It carries with it the right of way to a wharf, which it is proposed to permit the company to erect on the river, but this wharf will be subject to another lease entirely separate from the lease of the land, which is covered by the schedule of this Bill. The right of way will extend over a chain wide, from the premises to the foreshore, or to the wharf as the case may be. It carries with it the right to construct an overway bridge or bridges, subways, or to connect with the foreshore by other means, communication, for instance by flying-foxes, to take material from barges or vessels to the works, or ship it from the works to the vessels. It also carries the right to pump water from the river for the purpose of the works, but these rights are all subject to the approval of the Engineer-in-Chief. The lease also gives to the lessee the right of access to the railway system in the State of Western Australia, access by the existing quarry line, which runs through the land which it is proposed to lease to the company. This right, of course, is subject (and it has been made very clear in the agreement) to such freights and conditions as the Commissioner for Railways may from time to time impose.

Mr. Scaddan: What are they paying for the right to use that line already constructed?

The MINISTER FOR WORKS: I will come to that in due course. Then

it gives the right to construct sidings on the land which is leased, and these sidings will be constructed under ordinary railway conditions, and subject to terms to be imposed by the Commissioner for Railways. The lease carries the right to cross the quarry line by bridges, subways, or other means of communication. This also is subject to the approval of the Engineer-in-Chief. The railway line runs through the block of land on a strip which has been reserved, 15 feet wide, and, of course, it is necessary that they should be able to get to and from their works over that railway. Then there is the condition that the quarry line may be deviated, or removed, at any time by the Commissioner for Railways, whenever he deems it necessary; but if it is removed it is provided that the lessees shall still have access to the railway system of the State, perhaps through to Cottesloe or Cottesloe Beach. If the quarry line now on the ground is removed the right of access to the railway system is still maintained to the lessees. If the quarry line is removed, then the strip of land automatically comes into the lease, or so much of it as run through the leased property, but the lessees have to pay a correspondingly increased rental in accordance with the increased area. The rent to be paid to the Crown for this land, I think hon. members will agree with me, is very favourable to the State. For the first five years we charge £210 per annum, equal to about £12 7s. per acre: for the next five years the rent will be £315, equal to £18 10s. per acre; for the third period of five years the charge will be £420 per annum, which equals about £24 14s. per acre; and for the remainder of the term of the lease the charge will be £526 per annum, equivalent to £30 19s. per acre. The lessees, of course, have to pay all rates and taxes which may be imposed upon the property. The premises, it is provided, shall only be used for the purpose of the business for which the land is leased; that is for the manufacture of acids, superphosphates, and other fertilisers, unless the Government have given their consent for any alteration. Then there is the stipulation that the lessees shall expend within two years, at least £25,000 on buildings and machinery (of course I have explained that they have already committed themselves to the expenditure of over £50,000, and this stipulation was agreed upon before they commenced operations), and that they shall maintain and keep in good order, during the term of the lease, the plant and buildings on the land. They also bind themselves under Clause 5 that at least 25 men shall be continually employed. I may say, in this respect I am told by the managers that during the months between January and May they expect to employ 140 men, and from May to January, the number will drop, because of the off-season, to 85 or 90. There is also a clause which may be considered a little stringent, but it is deemed advisable to have it, and the lessees have agreed to it, and it is that if there is any cessation of work for a period of six months, unless that cessation is absolutely beyond the control of the lessees, then they shall be subject to a penalty of £500. If work has been resumed and there is a further cessation, the penalty will be again enforced, but it is provided that the maximum penalty shall not exceed £3,000. There is a clause which provides for arbitration in case of any dispute, as to whether the fact that the works had been idle was beyond the control of the lessees or otherwise. With regard to the quarry line, which the member for Ivanhoe referred to by interjection, it is provided that not only have they to pay ordinary siding rental for any siding they may couple up with that line, but that they shall pay a proportionate part of the maintenance of the quarry line for its full extent to the junction with the main line. They shall pay according to the tonnage carried over it. Although I do not think it will be a serious matter, it shows that they are willing to contribute their proportion to the maintenance of that quarry line, and in addition they are subject to the ordinary charge which the Commissioner for Railways may impose for landing the goods on their own sidings.

Mr. Collier: Are they not paying interest on the capital cost of the line?

The MINISTER FOR WORKS: They are paying rates, and they cannot be expected to pay more than that.

Mr. Collier: The Government would charge interest on the capital cost in any siding.

The MINISTER FOR WORKS: This is not a siding, this is a railway.

Mr. Collier: It is in the nature of a siding.

Mr. Bolton: It has already been used as a quarry line.

The MINISTER FOR WORKS: It has been used for years in connection with the construction of the Fremantle harbour. We are going beyond what we would do with ordinary people, and we are asking them to contribute something towards the maintenance of that line.

Mr. Johnson: It saves them the expense of putting down a line.

The MINISTER FOR WORKS: Not necessarily. If that railway had not been there the chances are they would not have put up their works there. The fact of the railway being there is, of course, a big inducement to enter into possession of this land. They have the river on the one side and the quarry line on the other.

Mr. Bolton: The same argument applies to Hudson and Ritchie who are there.

The MINISTER FOR WORKS: Anyone establishing works in this or any other State would select some site which would be close to the main railway system of the State in order that they might get sidings at their works. That accounts, to some extent, for the rent that it is agreed they shall pay.

Mr. George: They would have to pay for any additions to the line and any connection.

The MINISTER FOR WORKS: Decidedly. If the member for Boulder were to commence works in East Perth, all he would do would be to apply to the Commissioner for permission to have a siding, and if that were granted he would couple up with the main system.

Mr. Collier: I would have to pay the expenses of putting in a siding.

The MINISTER FOR WORKS: Of course, but the hon. member could not expect the lessees to pay the cost of the construction of portion of the main railway system.

Mr. Collier: You are saving them the expense of putting in a siding.

The MINISTER FOR WORKS: I am trying to explain that the company will have to put in their sidings just the same. Clause 8 gives power to enter the premises and inspect them and see that they are kept in good order and condition. Another clause in the lease, Clause 9, provides that the lessees shall not transfer or sublet without the consent of the Government. Then the lessees have further on in the same clause the right to remove buildings and machinery within six months of the expiration of the leasehold term, which is usual in cases of this sort. In cases of default or breach there is the usual power to re-enter and determine the lease, and the final clause which I think is necessary is that the Government shall have the right to remove any stone from the land so long as they keep the surface level of the land to the same level as the quarry line which now runs through it. It is a rough block of land, and at the far end there is a little stone that we have been quarrying, and we may want to take some stone from there for public works. The lessee would, I think, be only too glad if we took the whole lot away and levelled it. At any rate power is reserved for the Government to enter on the land and remove stone. That briefly outlines the conditions of the lease, and hon. members will see at once that the terms that have been imposed are fairly stringent. The rental we propose to collect is a pretty good return for the capital value of the land leased. Indeed, so far as I personally am concerned, I think we should be very glad to get works of this magnitude established here so soon, and I am quite sure that in any other part of the country but Rocky Bay we would have been very ready to sell the freehold if the company so desired. However, this answers their purpose. There is another company, Messrs. Cumming, Smith and Company, who are also going to estab-

lish works of this description near Guildford. They have gone on to private land, I believe, and have secured the land they required. But the Mount Lyell people have not been slow; they have not allowed the grass to grow under their feet. I had the pleasure of visiting the works the other day. I was shown round by the managers, and I saw that they had made a very good beginning indeed. The foundations of the main works were already in, and they were proceeding to erect the frame-work of one of the buildings—not the main building, but one of the subordinate structures. They have evidently started with the determination to carry these works on to completion in the shortest possible time; they expect to have the plant in full working order by April, next year, and to be able to supply superphosphates to our agriculturists very shortly afterwards. There is a great advantage, it was pointed out to me, in having these superphosphates made in the State.

Mr. Johnson: Better still to have them made by the State.

The MINISTER FOR WORKS: That is just where the hon. member is in error. He gets a little bit off the track in regard to this State manufacture and I am quite sure that if he were in power even his great ability, which is acknowledged to be extensive in almost any direction of manufacture, would not enable him to cope with the highly scientific industry which these people are commencing here. There are many advantages in connection with works of this description, advantages other than the employment of labour. We get a better class of superphosphates and the farmers are not compelled to place their orders ahead in order to have the fertiliser in time for sowing. They can get prompt delivery at any time of the year. This has not been the case in the past. I believe there are instances on record of many farmers having been obliged to put in their wheat without superphosphates at all. The supplies are intermittent and they often run low. The works will also mean the consumption of a large quantity of coal, something like 2,000 tons a year, and it is anticipated that Collie coal will fully meet the requirements. The engineers assured me that the type of mechanical stokers which they are fitting to their boilers will be suitable to local coal. The freight over the railways will be considerable, although it is recognised that superphosphates are carried at the lowest rate in order to encourage the farmers. Yet when we consider that a very large tonnage of stuff will have to be brought in from the harbour to the works, something considerably over 12,000 tons per annum, and that again it will be sent out in the shape of superphosphates to the farmers, hon. members will see there must be a considerable increase in the railage paid. And of course the great advantage over and above all this, so far as railage is concerned, is the fact that we get much larger returns from the increased wheat crops which have to be carried over the railway system.

Mr. Bath: Have you granted them a temporary lease?

The MINISTER FOR WORKS: We have agreed to the lease subject to confirmation by Parliament. At first it was thought the Government had the right to grant this lease and it was agreed to give them a 99-years lease; but on looking into it the Crown Law officials advised us that we must have a special Act of Parliament. It has been brought in in the shape of this Bill in order that Parliament may give the necessary authority. I do not think it requires any further words of mine to commend the measure to the House. I have a fund of information here as to the manufacture of acids and superphosphates which has been handed to me. Personally, I have no knowledge of the subject. Hon. members have an opportunity at any time of visiting the works and seeing what is going on in the way of construction, and in a very few months they will have an opportunity of seeing the whole thing in working order. I would ask members to expedite the passage of the Bill; because the company are naturally anxious to have the lease ratified by Parliament inasmuch as they have committed themselves to an expenditure of over £30,000 in anticipation.

Mr. Bath: You will grant an adjournment till Thursday?

The MINISTER FOR WORKS: Oh yes, there will be no objection to that. I have pleasure in moving—

That the Bill be now read a second time.

On motion by Mr. Bath, debate adjourned.

BILL — METROPOLITAN WATER SUPPLY, SEWERAGE, AND DRAINAGE.

In Committee:

Mr. Daglish in the Chair: the Minister for Works in charge of the Bill.

Clauses 1 to 4—agreed to.

Clause 5—*Interpretations:*

Mr. DRAPER: Some information should be forthcoming from the Minister as to the definitions of the word "district." The word "district" was twice defined in totally different ways. He was not aware of any other measure in which the same word was defined twice.

The MINISTER FOR WORKS: In the one instance the word "district" used in connection with a municipality or roads board meant a district constituted under the Bill for water and sewerage purposes: where it was used in relation to a local authority it meant a municipal district or a roads district. He thought the word clearly conveyed the meaning. The hon. member had been good enough to mention the matter last week, as a result of which he (the Minister) had sought the advice of the Solicitor General, who had pointed out that it was necessary to have these two definitions, and had expressed the opinion that no real objection could be raised to them. He (the Minister) did not know whether any confusion could arise from having two definitions of "district." He was advised that confusion might arise if they had but the one definition.

Mr. DRAPER: The explanation given by the Minister would not prevent confusion arising. He could see no reason why, in the one case, the word "district" could not be made "division," with, of course, consequential amendments to follow. If "district," referring to an area proclaimed under the Bill, were to be termed "division" there could be no confusion at all. Perhaps the Minister would recognise that there might be some amendment necessary, and what was suggested might be adopted.

Mr. GEORGE: The definition of "owner" was, "A person other than His Majesty, etcetera." He desired to have the words "other than His Majesty" struck out, because he was anxious to have rated any property of the Crown from which the Crown received rents or profit. It should carry the same responsibilities as property owned by private people.

Mr. DRAPER: No doubt the object of the definition was to make it consistent with the substantive clause, and to exempt any lands owned by the Crown from the payment of rates. That was desirable in many instances, but when it was a question of services rendered, whether sanitary services or water services, there was no reason why the Crown should not pay for the benefit it actually derived. The Minister should accept the suggestion made.

Mr. BATH: The member for Murray was somewhat anticipating the discussion on the Bill. We should wait until we arrived at the particular clause referred to by the member for West Perth, and then members would know the exact proposition the hon. member had for removing the exemption. There would be no difficulty in recommitting the Bill should it be necessary to do so.

Mr. GEORGE: Would the Minister give assurance that the Bill would be recommitted if the clause dealing with the matter were amended? On a former occasion, through missing a definition like this, he was blocked otherwise.

The MINISTER FOR WORKS: When discussing Clause 93 would be the time to debate whether Government property should be rated or not. If we amended Clause 93 and rated Government property, then the definition would need to be altered.

Mr. George: Will you recommit the Bill, if necessary?

The MINISTER FOR WORKS: Yes. The Bill must be recommitted to rectify any anomalies.

Mr. BROWN: The definition of "land" was, "Messuages, lands, tenements, and hereditaments of any tenure, and the houses, and buildings, and structures thereon." This must be read in the light of Clause 115, which provided that the rating should not exceed 2½d. in the pound on the capital unimproved value of the land, where the valuation was on the capital unimproved value of the land. It seemed that this definition would perpetuate the system adopted in Perth, where the municipality rated not only on the unimproved value of the land, but also on the improvements on the land. A man who improved his land should not be taxed on his improvements.

The MINISTER FOR WORKS: The hon. member was getting about a mile and a half ahead. The hon. member believed that the rate struck on unimproved values would include buildings: but that was not the case. The definition would not control the rate. If the rate was on the unimproved value only it would be only on the value of the land itself.

Mr. BROWN: The trouble was the matter had been insidiously worked into the Municipalities Act, and we found that in rating unimproved land the improvements were included. That was due to the fact that the definition governed the case. No matter how the land was called, even if it were called unimproved land, according to the definition it must include all improvements; and that was the principle being enforced in Perth to the detriment of owners who had improved their land.

The HONORARY MINISTER: The hon. member would find in Subclause 2 of Clause 115 that the word "land" was qualified by the preceding words, "capital unimproved value of."

Clause put and passed.

Clause 6—Constitution of Area and Districts:

Mr. DRAPER: This clause constituted the boundaries of the water districts as defined in the Second Schedule. These were the Perth District, the Fremantle District, the Claremont District, and the Guildford District. A map in the Chamber showed that the Perth District would have to bear the burden of practically the whole of the most expensive portion of the metropolitan area. In fact, it was not difficult to realise that the Bill was really the creation of a former Minister for Works who represented Fremantle, a compact district, and resided in the compact district of Claremont.

Mr. Angwin: Talk sense.

Mr. DRAPER: Members seemed to lose sight of the fact that in a straggling area there was greater expense in putting down sewers or long water mains. It was ridiculous to have a large river running through one district as was to be the case with the Perth district. A river was the natural boundary between districts. Apparently Perth members and Perth municipalities had not been consulted in regard to the divisions. Claremont was in particular an extremely compact district, and there was no reason why it should not be enlarged.

The MINISTER FOR WORKS: The hon. member was barking up the wrong tree or singing out before hurt. The metropolitan area was divided into these districts because we had already the different water supplies, and there was no ulterior motive on the part of the late Minister for Works. We had the Perth water supply extending to all the suburbs of Perth. Then there was another water supply at Claremont, and a third at Fremantle, running under different rates and different cost. As the water supply was the main factor in the measure, it was reasonable the districts should be fixed as covered by the different water supplies.

Mr. Draper: Why should Perth be saddled with Cannington for the purpose of sewerage?

The MINISTER FOR WORKS: It was not saddled with anything it did not get. Cannington was in the metropolitan area, and therefore was included in the Perth district. The action was taken with a view of having differential rates. So long as there were different systems of water supply the Government were

justified in allowing each district to carry its own water supply, and only be compelled to pay sufficient interest and sinking fund for the management of the general supply.

Mr. Brown: Why not let the local authorities carry their own burdens?

The MINISTER FOR WORKS: At the present time the prices charged by the various districts were very different, as Fremantle charged sixpence, Claremont ninepence, and Perth a shilling. It was desired to keep the various districts separate, so that until they had a common supply of water of equal quality they should not be forced to carry an unfair burden so far as cost was concerned. If a district were prepared to put up with a pure water supply at a cheaper price well and good. Uniformity would not exist until a common supply of equal quality were given. It seemed that the hon. member believed that everyone should be charged for sewerage whether they had facilities or not. There was to be no tax until a man received benefit from the sewerage scheme. The size of a district was of no moment whatever so long as the conditions were similar. No property could be rated for sewerage until it received the benefit of the sewerage.

Mr. Butcher: Does that apply to the water also?

The MINISTER FOR WORKS: Yes. A property had to be within 60 yards of a main before it could be rated. As to sewerage, a property must be within access of the reticulation sewers before it was rated. The board would give notice when the owner had to couple up with reticulation, and then the property would be rated, not before. The same applied with regard to the storm water drainage, for it was only the properties that received an advantage from this drain that would be rated. If a man received benefit from a storm water drain he should certainly pay for it.

Mr. DRAPER: The Minister missed the point when he said the size of a district had nothing to do with the matter. If he would only think for a moment he would recognise that far the larger proportion of the rates within the Perth district of the metropolitan area would be raised within the boundaries of the Perth municipality, and the expenditure, although at present it would be chiefly incurred within those boundaries, would as the scheme extended be far greater in the outlying districts. The latter districts would produce nothing in rates compared with what would be produced by the municipal district. When the schedule was reached he would propose an amendment.

The HONORARY MINISTER: The member was not yet seized of the principle of the districts or the system of rating. The Perth district consisted of the district now supplied by the Metropolitan Waterworks Board, the Claremont district had an independent water supply, and the Fremantle district had also an independent supply. Ultimately each district would have its independent treatment works, and the treatment works in each area covered practically the same districts for sewerage as did the separate water supplies. That was the inducement to the Government to group the districts as they had done. Each district would then pay exactly for the service it received, and a proportion of the capital expenditure in that district. The member had made a tremendous song as to the size of the Perth district. At the present time there was no drainage on the southern side of the river, and probably it would be many years before that district was served fully by sewers. Until then the member need not worry. For the purpose of preserving uniformity, and to have the sewerage and waterworks co-terminous, the districts were set out as in the Bill. The way in which the districts were fixed was quite reasonable, especially as each district only paid for the services rendered in that district.

Mr. COLLIER: The member for West Perth had been altogether premature in his remarks, for it would have been quite time to bring up the question he had debated when the second schedule was reached.

Mr. GEORGE: The present was the proper time to bring such matters before the notice of members. He knew something about the Canning water scheme,

as he came to the State in 1890 to make that scheme. Great trouble was experienced over the Canning flats in connection with the laying of the mains, and now the chief trouble was with regard to the question of drainage. If that drainage were going to be fixed up, well and good; but if not, there was no need to carry the boundaries of the Perth district so far as was proposed. That district was included in the Perth scheme, and therefore the member for West Perth felt he was doing his duty in bringing the matter forward to see that Perth was not saddled with the cost of a scheme for another district which could not pay its proportionate amount of rates in connection therewith.

Mr. KEENAN: Would the Minister consider the points raised as to the advisability of altering the districts in the schedule? The way in which the districts were proposed would mean casting a most unfair burden on that district called Perth. It was impossible, looking at the map, not to appreciate the fact that Perth had outlying districts which would cast a burden on the ratepayers living in the centre. A large portion of the area would not pay for water service or drainage or sewerage, and it meant that the part most densely populated would carry the burden. There would be no objection to it provided that it was properly spread. If the Minister were to divide into two districts Perth and Fremantle and ask each portion to carry the burden of the district not closely inhabited there would be no objection. There should not be any sympathy with grievances which were not based on proper grounds, but here there was one and the Minister should give consideration to it, and should not brush on one side an objection which had been taken on fair and equitable grounds.

The MINISTER FOR WORKS: The hon. member could rest assured that every consideration would be given to any representation made. An explanation had already been made at some length as to why it had been proposed to divide the metropolitan area into certain districts shown on the plan. There was no intention on his part to repeat the explanation, but if there was any undue hardship in connection with these different districts they could be altered or amended at the will of the Government by the next subsection, so that the position was safeguarded. Provision was made further on with regard to the joint expenditure over the whole of the area that it could be adjusted each year if necessary. There was no fear with regard to drainage. It was not likely that the storm-water drains as they were being constructed in Perth and Fremantle were going to be constructed at Cannington on unoccupied land. There was already a drainage board there.

Mr. George: Then why not leave them happy in their isolation?

The MINISTER FOR WORKS: They were being left alone, but they had a water supply and must come under the Act. It would be obviously inconvenient to multiply the number of districts. Every district created meant additional representation.

Mr. DRAPER: It was quite true that the Minister had given what he called an explanation, but there were some members of the House who did not regard that explanation as satisfactory. The only reason that had been given was that because there happened to be a water scheme in each of these districts it necessarily followed that these districts must also be suitable for the purpose of sewerage.

The Minister for Works: That explanation was never given.

Mr. DRAPER: It was the only possible interpretation, and that being so it was impossible to see the logic of it. If the Minister declared he was willing to pay attention to representations that might be made he might reconsider these boundaries. It was idle to say that in the event of the boundaries being found to be inequitable the Government could alter them according to the suggestion of Cabinet. We did not want government of that kind, we wanted it definitely stated at any rate at the commencement, that the districts would be such as would really be equitable for the people who had to pay the taxes. The Minister did

not appear to realise the extent to which persons in this locality were taxed at the present time.

The Minister for Works: Yes, I do.

Mr. DRAPER: If the Minister did realise it, he should give a more satisfactory explanation than he had done.

Mr. ANGWIN: It was not possible to follow the argument of the member for West Perth. The boundaries, as divided at the present time, were based on the very argument which the hon. member used. Surely the hon. member did not want to increase the taxation and ask Perth to bear the burden of Fremantle. Was that what the hon. member intended? From the hon. member's remarks one could only form the opinion that he knew nothing about the Fremantle district. A good deal of the area at Fremantle was Government land. There were magazines and quarantine stations on the land held by the Government. Hon. members would be pleased to know that the Minister had agreed that the taxation should be equitable, and that was the reason why the districts had been placed in the schedule in the manner that had been shown.

Mr. BROWN: No serious arguments had been heard at all. The Honorary Minister had stated that there would be a separate water supply and sewerage for each district. If that were so why not hand them over to local control? It was found that the Minister for Works was absolutely run in his department by his Under Secretary. The Honorary Minister too was one who was run by his department, and that was evident by the reports brought out recently. In connection with the sewerage the septic tanks had been built five years before they could be used.

The Honorary Minister: Very largely at the instigation of the City council.

Mr. BROWN: The City council never asked the Government for anything, at any rate during the last few years. We had to bear these burdens: why, therefore, the necessity for this Bill? What was wanted was local control.

Clause put and passed.

Clause 7—Power to alter boundaries:

Mr. FOULKES: It was a very wide power to confer on the Governor-in-Council. No provision was made for the making of representations by the various districts. He would like to see made some such provision as existed in the Roads Board Act, by which the Governor had power to appoint a commissioner to go into the whole question of complaints regarding the alteration of boundaries. Under the clause the Governor-in-Council would be able to alter these boundaries without necessarily hearing complaints against such alteration. He desired to remove all possibility of a contingency of that kind.

The MINISTER FOR WORKS: Although he could not see any necessity for making provision for the appointment of a commissioner, yet he had no objection to the clause.

Mr. O'Loghlen: Will it be necessary to appoint a commissioner?

The MINISTER FOR WORKS: It might be necessary to appoint a commissioner to take evidence in the matter; but it was to be remembered that power to appoint a Royal Commissioner would lie with the Governor-in-Council at any time. If a case arose in which a considerable section of a district was dissatisfied with the boundaries it might possibly be advisable to appoint someone to inquire into the matter. Even so, it might be sufficient to tell off a departmental expert to take evidence, and on that evidence the Governor could decide as to what course should be taken.

Mr. George: Would not that be departmental government?

The MINISTER FOR WORKS: It would be no more than a departmental decision as to the boundaries of districts constituting the metropolitan area. It would not be departmental working of the scheme. It would be merely to say that a certain area should or should not be a district in itself. However, he would have no objection to the inclusion of a clause similar to that proposed by the member for Claremont.

Mr. GEORGE: It was all very well for the Minister to say he would have a special departmental inquiry, but probably no member of the House would be satisfied with merely a departmental inquiry in connection with his own dis-

trict. The provision in the Bill that "the Governor may" simply meant that the Minister, having taken advice on any particular alteration, could get the matter passed through Cabinet, and the Order-in-Council secured without the representatives of the people having an opportunity of expressing their views in regard to it. Here, indeed, they were to have taxation with practically no representation. While the clause remained the Minister could get any alteration of the boundaries effected without the people having a word to say in the matter. Seeing that the Bill carried with it so much that was far reaching in connection with other matters, hon. members would be pardoned for endeavouring to get the measure into as good a working shape as possible. In respect to this particular clause it ought to be safeguarded in the direction of giving the representatives of the people who had to find the taxation opportunity of expressing their views in regard to it. He sympathised with the desire of the Minister to get the Bill through, but if it were going to impose any injustice it would carry its own destruction with it as it went along.

Mr. FOULKES: Under Section 6 of the Roads Board Act of 1902, the Governor, by Order-in-Council, might alter the boundaries or the name of any district or ward, provided that no powers given under the section should be exercised without notice in the *Government Gazette*. Provision was also made for a petition by 10 ratepayers, upon receipt of which the Governor might direct an inquiry to be held, after notice in the *Government Gazette*; and upon the conclusion of the inquiry a report would be made to the Governor by the person holding that inquiry. The Minister would find a provision of that kind of great help to him in coming to a proper conclusion.

The MINISTER FOR WORKS: There was no objection to the insertion of a clause on similar lines, a clause embodying the same principle.

Mr. ANGWIN: It was to be hoped that the Minister would not allow himself to be clubbed into the matter. This was about the only reasonable clause in the Bill. It put the power in the hands of the Governor, and it was the only clause under which the Governor had power to deal with any matter. The case quoted by the member for Claremont did not apply. If the Bill passed there would be appointed a board to administer it; and if it were the wish of a section of any district that an alteration should be made in the boundaries there was nothing to prevent the presenting of a petition to the Governor, who would be acting in the position of umpire in respect to the question of division or no division. The powers of the Governor-in-Council in respect to this Bill ought to be increased rather than curtailed.

Mr. BATH: The two positions were not analagous in any away. In the case of roads boards, local governing powers were expressly handed over to the various districts. Here we had a scheme embracing several different departments, water, sewerage, and storm water. Under the proposal of the member for Claremont dual control was asked for. Whichever way we had it, whether by a board or by a department, we would be handing over the control of the whole of the scheme. That would be precisely the same as handing over to the roads board the control of their area. But the member for Claremont asked us to take away something from the control of the board and hand it over to a section. There would be taken away from the Government who were financing the scheme the power of altering the areas, if found necessary, to make for efficient working. What right would the ratepayers have to petition for an alteration, and what amount of weight was to be paid to their representations? It seemed to be giving an irresponsible section the power to petition against the power we were to vest in the board.

Mr. Foulkes: The board has not the power to fix the boundaries.

Mr. BATH: Even if a board were constituted, for many years there would be a responsibility resting with the Government.

Mr. Brown: The board will raise funds and take over the Government's responsibility.

Mr. BATH: Even if the board raised the funds and took over the control would the hon. member advocate that their powers should be limited, and that expense and delay should be involved by giving to a section of the ratepayers in one area the right to petition for an alteration to their district boundaries? The alteration of the districts would be best determined by those in control of the works. The argument advanced in regard to roads boards could not be used in this connection.

Mr. OSBORN: The clause should remain as printed. The Governor-in-Council should control Royal Commissions, and that was what this matter would resolve itself into in a short time, because there would be no end of inquiries by commissioners. There was no need for these commissioners to take evidence and determine these questions. It was very easy for a member of Parliament representing a district affected to head a deputation to the Minister. That would carry no fees, a point for the consideration of those who regarded the question of expense in these matters. The Government would naturally adjust the boundaries in a proper manner and, if properly approached, would take into consideration the representations of any local governing body. The clause was far more workable than the one the member for Claremont suggested as an addition. If the suggestion were adopted there would be two clauses on the same subject, and we would not know where we were.

Mr. DRAPER: The member for Claremont merely suggested that an inquiry should be held as to the advisability of exercising the power conferred on the Governor to alter boundaries. It would give the Governor-in-Council ready facilities for obtaining the desired information. All that was desired was that there should be some machinery for inquiry as to the advisability of altering boundaries, and when the time for moving new clauses arrived it was to be hoped the Minister would accept the suggestion of the member for Claremont.

Clause put and passed.

Progress reported.

House adjourned at 10.27 p.m.

PAIR.

Hon. H. Gregory	Mr. A. A. Wilson

Legislative Council,

Wednesday, 6th October, 1909.

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

BILL — AGRICULTURAL MACHINERY, SALE AND PURCHASE.

Introduced by the Hon. J. M. Drew, and read a first time.

BILL—REDEMPTION OF ANNUITIES.

Report of Committee adopted.

BILL—ABATTOIRS.

In Committee.

Resumed from the 30th September.

Schedule, Title—agreed to.

Bill reported with amendments.

Recommittal.

On motion by the Colonial Secretary, Bill recommitted for amendment.