The SPEAKER: I would warn members that this is a constitutional Bill and requires a constitutional majority. Even if no member calls for a division I will divide the House.

Division taken with the following result:—

Ayes—22

Mr. Bateman	Mr. Fletcher
Mr. Bertram	Mr. Hartrey
Mr. Bickerton	Mr. Jones
Mr. Brady	Mr. Lapham
Mr. Brown	Mr. May
Mr. Bryce	Mr. McIver
Mr. Burke	Mr. Sewell
Mr. Cook	Mr. Taylor
Mr. Davies	Mr. A. R. Tonkin
Mr. H. D. Evans	Mr. J. T. Tonkin
Mr. T. D. Evans	Mr. Harman
	(Teller)

Noes—20

Mr. Blaikie	Mr. Mensaros
Sir David Brand	Mr. Nalder
Mr. Coyne	Mr. O'Connor
Dr. Dadour	Mr. Ridge
Mr. Gayfer	Mr. Runciman
Mr. Grayden	Mr. Rushton
Mr. Hutchinson	Mr. Williams
Mr. Lewis	Mr. R. L. Young
Mr. W. A. Manning	Mr. W. G. Young
Mr. McPharlin	Mr. I. W. Manning
	(Teller)

Pairs

Ayes	Noes
Mr. Graham	Mr. O'Neil
Mr. Jamieson	Sir Charles Court
Mr. Motler	Mr. Thompson

The SPEAKER: There not being a constitutional majority in favour of the Bill, the Bill is defeated.

Question thus negatived.

Bill defeated.

GOVERNMENT RAILWAYS ACT AMENDMENT BILL

Second Reading

Debate resumed from the 12th October.

MR. O'CONNOR (Mt. Lawley) [10.20 p.m.]: This Bill seeks to effect two minor amendments to the Act. We on this side of the House have no opposition to the measure. The first amendment affects section 24. It seeks to delete the provision in that section which requires a copy of the by-laws and matters affecting the public to be printed and placed on a board at railway stations which have station masters. It has been pointed out that this is no longer required, with the facilities that are available today.

Bearing in mind the type of boards that are erected we can see no reason for this particular provision to be retained, as it serves no real purpose. These displays are not attractive, are tampered with by vandals, and are adversely affected by weather.

The other amendment in the Bill relates to section 52. This seeks to clarify the right of an employee in connection with the delay in making an appeal when he is held responsible for damage or neglect. As the Minister pointed out, where an employee of the department is fined the Act provides that after the amount of the fine has been deducted he may appeal. I do not think any one of us holds the view that such an employee should have to wait a long period before he can make an appeal. If $100 is involved in the fine, and a deduction of $4 a pay is made from the wages of the employee, payment will take almost a year. It is not reasonable for an employee to have to pay out for that length of time before he is entitled to make an appeal.

When a long period of time elapses, relevant details might become lost and witnesses might not be available to speak on behalf of the person fined. We on this side believe the amendments in the Bill to be reasonable, and we support them.

MR. MAY (Clontarf—Minister for Mines) [10.22 p.m.]: I wish to thank the member for Mt. Lawley for his contribution to the debate. This measure originated in the other House and a couple of areas of concern which were detected there were ironed out, and we received the amended Bill.

In view of the fact that the Opposition has agreed to the legislation, nothing further of any benefit can be said. The Bill is merely a tidying up procedure, and I therefore commend it to the House.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

Bill read a third time, on motion by Mr. May (Minister for Mines), and passed.

House adjourned at 10.25 p.m.

Legislative Council

Wednesday, the 1st November, 1972

The PRESIDENT (The Hon. L. C. Diver) took the chair at 2.30 p.m., and read prayers.

BILLS (10): ASSENT

Message from the Lieutenant-Governor and Administrator received and read notifying assent to the following Bills:—

1. Inheritance (Family and Dependants Provision) Bill.
2. Transport Commission Act Amendment Bill.
3. Law Reform Commission Bill.

4. Alumina Refinery (Mitchell Plateau) Agreement Act Amendment Bill.
5. Environmental Protection Act Amendment Bill.
6. Country High School Hostels Authority Act Amendment Bill.
7. Public and Bank Holidays Bill.
8. Interpretation Act Amendment Bill.
9. Factories and Shops Act Amendment Bill.
10. Hairdressers Registration Act Amendment Bill.

QUESTIONS ON NOTICE

Postponement

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [2.38 p.m.]: I ask leave of the House to postpone questions until a later stage of the sitting.

The PRESIDENT: Leave is granted.

NOISE ABATEMENT BILL

Second Reading

THE HON. R. H. C. STUBBS (South-East—Minister for Local Government) [2.39 p.m.]: I move—

That the Bill be now read a second time.

As the instigator of the legislation, it is my pleasure to introduce this Bill into the Legislative Council on behalf of the Minister for Health.

It has been my desire for a long time to have legislative action taken which would alleviate some of the disadvantages under which many employees are required to carry out their day to day occupations in close proximity to industrial noise of sufficient severity to be injurious to their health. Within several months of my having taken office I was authorised by Cabinet to initiate the drafting of this legislation.

After conferring with the Minister for Health in the matter, we agreed that the legislation, logically, should be placed within the Department of Public Health, and with this Cabinet concurred.

This Bill was accordingly drafted by officers of the Crown Law Department in close co-operation with the Public Health Department. By October last Cabinet had approved the Bill for printing and for introduction into Parliament. For reasons which members will appreciate it was not possible to introduce the Bill last session; but as the Minister for Health pointed out in the Legislative Assembly, the first available opportunity was taken for its presentation to Parliament in this session.

Historical aspects related by the Minister for Health in another place—prompted by quotations from a Roman poet named Martial of the First Century AD and Juvenal, a Roman satirist of the same period; through Claudius, to by-laws introduced in the Swiss City of Berne in 1403; thence to an order made by Elizabeth I forbidding English husbands to beat their wives after 10 o'clock at night so as not to disturb the neighbours, women's lib was not in vogue in those days —are already recorded in *Hansard*, for which reason I shall not reiterate them at this point.

The Hon. G. C. MacKinnon: It will require about a month of research to find out whether or not all this is true.

The Hon. R. H. C. STUBBS: I am sure Mr. MacKinnon could take my word for it.

In our present highly industrialised and closely populated living conditions, restrictions on community noise have nevertheless become increasingly common. Since the English Noise Abatement Act of 1960, which was directed towards the control of community noise, much similar legislation has been enacted around the world.

In particular, the effects of noise detrimental to the health of the community—both physical and mental—have been researched in modern times from two aspects: community noise and occupational noise.

The implications of exposure to noise in one's job can be quite different from those of exposure to community noises. Whereas exposure to noise on the job can, and quite frequently does, result in loss of hearing of varying degrees, this is not a particular feature of exposure to community noise.

Such has been the experience in this State, and it tallies with that in other parts of the industrialised world. Occupational hearing loss is widespread. There is no single permanent disability due to occupation that has a higher prevalence or personal impact; for the loss of hearing due to exposure to noise is irreversible.

I, personally, have had much experience in this; experience which has brought about an awareness of the extent of the problem, and has prompted in me a sense of urgency in bringing to the attention of Cabinet the immediate need for legislation.

Occupational hearing loss is by no means a modern disease. The famous Italian physician, Ramazzini, well known as the "Father Of Occupational Medicine," published a book on occupational diseases in 1713. In it he describes how men engaged in the hammering of copper " . . . have their ears so injured by that perpetual din . . . that workers of this class become hard of hearing and, if they grow old at this work, completely deaf."

In an article in the *Lancet* in 1831, a physician named Fosbroke described a similar disability in blacksmiths. It is

reasonable to suppose that the Roman smiths of whom Martial complained suffered from noise-induced hearing loss.

The introduction of power-driven machinery with the industrial revolution resulted in occupational hearing loss becoming a common disease. By the 1800s boilermaker's deafness had become well known.

During the second world war, with the development of high powered, very noisy aircraft, attention was focused on the occupational noise problem, which has ever since received worldwide attention.

In our own community there are numerous sources of noise capable of producing this type of hearing loss, and thousands of workers are exposed to such noise, many of whom have already suffered considerable hearing loss. Among the sources of noise are compression tools, especially in confined spaces. These are very widely used, for example, in goldmining. Foundries, diesel engines, and panelbeating are other sources of noise significant in this context.

Even in the field of music, the electric guitar is one instrument of a relatively recent source of overpowering community noise.

These are just a few examples from a large number of sources which can cause hearing loss.

I have spent some time on the historical background to the problem of noise with a view to placing this Noise Abatement Bill in perspective.

It is evident from what I have said that the legislation needs to provide for the control of both community noise as a nuisance to people, and noise as a cause of occupational hearing loss. It is clear that these are of such significance in Western Australia as to constitute sufficient reason for the introduction of the Bill.

I shall now bring to the attention of the House the content of the Bill. As is to be expected, it contains provisions for the control of both types of noise.

With regard to community noise, it provides for action to be taken by the local authority to abate a noise which is causing a nuisance; that is, a noise which is, or is capable of, having a disturbing effect on the well-being of a person. Within the Bill there is provision for power to make regulations concerning relevant noise levels, apparatus for measuring such levels and methods of measurement.

Noise which can cause occupational hearing loss is covered within the definition of "Nuisance" as "one which is injurious or dangerous to health." There is also provision to make regulations to prevent noise, which could apply also to community noise, and provide for protective equipment and periodic testing of persons exposed to noise in their occupation.

As to offensive community noise, it is proposed that any person considering himself to be subjected to a noise nuisance will be able to complain to the local authority, which is empowered to serve an abatement order on the offender if its request to abate the nuisance is ineffective. In the event of noncompliance the local authority can seek a nuisance order from the Local Court. Alternatively, three or more persons can seek a nuisance order directly from the Local Court. One person alone also may lodge a complaint when there are very good reasons to do so. These reasons are clearly defined in clause 34 (2). Failure to comply with a nuisance order is subject to specified penalties.

As is evident from what I have already said, employees will be protected from such noise, and specifically from noise which can cause hearing loss. There is also provision in the body of the Bill for establishing the relevance of noise as to cause of injury to health in relation to proceedings for the recovery of compensation.

I would like to indicate briefly the administrative structure. The Act shall be administered by the Minister and, subject to any direction by the Minister, by the Commissioner of Public Health.

To assist the Minister in the administration of the Act a noise abatement advisory committee of persons with specialist knowledge regarding noise and its effects will be established. This committee will have the power to add to its numbers as may be required from time to time for special purposes, and it may set up special subsidiary committees.

Inspectors will be appointed to investigate and measure noise associated with the various noisy occupations and local authorities will look after community noise.

Regulations will be promulgated to establish levels of noise which should not be exceeded in various circumstances and the means of measuring such noise. Model by-laws will be prepared and may be adopted by local authorities for the control of community noise.

The drafting of regulations and model by-laws will take some time. This will be the task of the advisory committee when it is set up. This task will take several months, but it is intended that the committee should first provide for protection against community noise before proceeding with the more difficult and more detailed legislative requirements for reducing noise in industry.

I believe that, to some extent at least, the provisions in this Bill are somewhat unique, taking Western Australia to the lead in this type of legislation—in that it aims to abate and control, not just in

general but in specific terms, both community noise and noise which can be injurious to the health of employees and others exposed to it.

Let me depart from my notes to read again my findings on hearing impairment caused by industrial noise exposure, following my study of this subject overseas. They are as follows:—

> This subject is receiving much attention in North America and in Europe, and interest and research is being undertaken from the World Health Organisation level to many other bodies.
>
> Criteria on noise exposure and codes of hearing protectors have been suggested from—
>
> (a) The U.S.A. Department of Labour Bureau of Labour standards;
> (b) The International Organisation for Standards;
> (c) The Sub-Committee on noise in industry, and the American Academy of Ophthalmology and Otolaryngology;

I would not like to say that if I were intoxicated. Continuing—

> (d) The New York Compensation Board;
> (e) The United States Air Force;
> (f) Defence Research Medical Laboratories.
>
> The noise exposure limits agreed to are as follows:—
>
> 90 db. to be less than 120 minutes exposure per day.
> 95 db. to be less than 50 minutes exposure per day.
> 100 db. to be less than 25 minutes exposure per day.
> 105 db. to be less than 16 minutes exposure per day.
> 110 db. to be less than 12 minutes exposure per day.
> 115 db. to be less than 8 minutes exposure per day.
> 120 db. to be less than 5 minutes exposure per day.

The Hon. W. R. Withers: If you go on much longer I will have to appeal against the noise you are making.

The Hon. J. Dolan: You generally complain he does not make enough noise.

The Hon. G. C. MacKinnon: You are doing very well, Mr. Stubbs.

The Hon. R. H. C. STUBBS: Continuing—

> The Canadian Standards Association Standard Z94,2 x 1965 covers performance requirements for devices for personal hearing protection, including ear plugs, earmuffs, and helmets.
>
> In Europe, research into noise problems of the mining and steel industries has the support of the European Coal and Steel Community, and is supported by employees and Government.
>
> In Britain, the Committee on the Problem of Noise carried out extensive research, and has issued a comprehensive and authoritative report.
>
> All research has acknowledged that exposure to excessive noise produces inner-ear damage of a lasting character. The Workers' Compensation Boards of British Columbia and of Ontario have done a considerable amount of work in connection with hearing protection, and have set noise level standards required in the mining, sawmilling, papermilling, and other industries, constant monitoring of noise is carried out, and reduction of noise to the required level is compulsory.
>
> Workers' Compensation for hearing loss is available in most Provinces of Canada, and in 35 States in America.

Incidentally, workers' compensation for hearing loss is also available in some States of the Commonwealth of Australia. Continuing—

> My research has indicated that, when workers' compensation became available, many firms commenced noise reduction programmes very enthusiastically, whereas, prior to this, co-operation was difficult. Now much success has been achieved in muffling noisy equipment, such as rock drills, loading devices, trackless equipment, ventilation fans and compressors. Reduction has been as high as 15 decibels on machines; now it is possible to conduct a conversation adjacent to fans.
>
> Companies are demanding noise reducing equipment from suppliers of machinery and, here again, the move has met with much co-operation.
>
> On the employee side, the wearing of ear-plugs and ear muffs is mandatory, and severe penalties can be imposed if the noise attenuation equipment is not used—even dismissal can result for a second offence. I found that employees are also co-operating very well.
>
> Information supplied to me indicated that, with noise-reduced equipment and the use of ear plugs, or ear muffs, a considerable reduction in the number of decibels can be achieved.
>
> Great credit is due to the large nickel mining companies in Canada for their hearing conservation programmes.

The International Nickel Company of Canada commenced its investigations in 1954, and now has pre-employment audiometry, follow-up audiometry yearly and, when required, half-yearly.

A complete history of the hearing record of the employee is available. Audiometry is carried out under a physician, who has overall charge of the programme.

Falcanbridge Nickel Mines Limited also carry out similar programmes of audiometry of employees, firstly on entering the industry, and yearly during the course of employment.

Films are used frequently in an effort to educate employees on the hazard of noise exposure. This is carried out at all mines and plants of both mining companies.

The safety programmes on all mines commence with:—

1. Safety Engineers and First Aid attendants.
2. All levels of supervision.
3. The employees.
4. The implementation of hearing protection.
5. Rigid enforcement in the use of hearing protectors.

Standards have been set in many countries for noise exposure, and inspectors are frequently monitoring noise in working places to ensure the noise does not go beyond the allowable limits.

It was also brought to my notice that, when noise reduction was voluntary and it was not compulsory to wear ear-protecting devices, co-operation was very difficult, and often non-existent.

Since legislation has set standards and made the muffling and silencing of machines compulsory, and the wearing of ear protectors mandatory, a great deal more success has been achieved.

There is a vast amount of literature available on the subject of industrial noise, but the story is the same—the reduction of noise at the source, and the wearing of ear protectors. Hearing conservation programmes are the answer.

Similar research study is also being conducted in Australia, and Broken Hill Pty. Ltd. is well ahead in this field.

I commend the Bill to the House.

Debate adjourned until Tuesday, the 7th November, on motion by The Hon. G. C. MacKinnon.

GOVERNMENT RAILWAYS ACT AMENDMENT BILL

Returned

Bill returned from the Assembly without amendment.

TRAFFIC ACT AMENDMENT BILL (No. 3)

Second Reading

Debate resumed from the 25th October.

THE HON. J. DOLAN (South-East Metropolitan—Minister for Police) [3.00 p.m.]: I take this particular opportunity to thank Mr. Williams, Mr. Medcalf, and Mr. MacKinnon for their contributions to the debate on the measure. A few queries have been raised, and I would like to convey to the House, firstly, the answers that were requested by Mr. Williams. He raised the question of technical assault by the doctor who took a blood test from an unconscious person. His question was—

> Do the provisions of the Bill give the police a statutory authority to demand that a blood sample be taken?

The answer to that is—

> Protection against the technicality of assaults by doctors, when taking blood samples for these purposes, is provided in subsection (4) of section 32D of the Traffic Act, which reads—
>
> > Where a medical practitioner is, pursuant to Section 32B of this Act, requested by a member of the Police Force or an inspector to take a sample of blood of a person, no action shall lie against the medical practitioner by reason only of complying with that request.

It will also be noted that there is no statutory authority given to the police to demand, of a doctor, that he take a sample of blood. A subject may be required to submit himself to a medical practitioner for a sample of his blood to be taken if conscious; or if unconscious, a police officer or an inspector may cause a sample of his blood to be taken.

There is specific mention, in subsection (4) of section 32D, of a request by a member of the police or an inspector to a medical practitioner, and of a medical practitioner complying with that request.

The implication is that a conscious person will submit himself to a medical practioner and an unconscious person will be submitted by a police officer or an inspector. Any subsequent action of a medical practitioner, as a result of such a request, is the prerogative of the medical practitioner.

I think this also answers the honourable member's question of a conscientious objection on the part of a medical practitioner. As the taking of a blood sample

is a request only by a police officer or an inspector, a medical practitioner may refrain from taking the sample for reasons of conscientious objection, wellbeing of a patient, or for any other reason.

Mr. MacKinnon asks that the Minister should consider making allowance in the case of doctors who hold strong views on the question of the ethics of taking a blood sample from a person without his permission or knowledge. As the honourable member pointed out, this action is exonerated by some Statutes and the Traffic Act is one of those Statutes. In any case, a doctor has the alternative of not taking a blood sample as the requirement is only in the form of a request and his refusal on ethical or moral grounds is a matter for his own conscience. In the event of a doctor refusing to take a sample, any future court hearing against a person would rely on evidence other than the result of a blood analysis as is the present case in areas where there is no doctor.

The honourable member also raised the question of the rate of metabolism. Statutory provisions refer to a metabolic rate or rate of destruction of alcohol at 0.016 per centum per hour. This figure was the recommendation of a medico-legal subcommittee which reported its findings to the Australian Transport Advisory Council in 1954. It is, admittedly, only an average figure but it has been taken from the best available evidence.

The amount of change in metabolic rate resulting from injuries such as the honourable member has outlined, would be—I am informed by Doctor Laurie, one of the foremost experts in this State in blood alcohol effects—insignificant in its application in determining blood alcohol levels, and for this reason, it would not be possible to calculate the variation in a correction from normal metabolism.

Mr. Medcalf suggested towards the end of his contribution to the debate that he proposed to seek a slight amendment to a provision in the Bill by adding at the end of the proposed new subsection a proviso that the medical treatment of a person must not be prejudiced or unreasonably delayed.

I have examined this proposal very carefully, and I have sought advice on it. As a result of the advice I received I feel it is not desirable for the amendment proposed by the honourable member to be proceeded with. The Bill has much to commend it.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (The Hon. R. F. Claughton) in the Chair; The Hon. J. Dolan (Minister for Police) in charge of the Bill.

Clauses 1 and 2 put and passed.

Clause 3: Section 32B amended—

The Hon. I. G. MEDCALF: I listened with great interest to what the Minister had to say, because the other day he was kind enough to arrange for me to have a discussion with a police inspector of the liquor branch and with a Parliamentary Draftsman from the Crown Law Department concerning the point I had raised: That it was desirable an amendment should be made to clause 3 in order to protect the position of a person who was, say, lying unconscious on the side of the road as a result of a traffic accident, and whom the police suspected of being under the influence of alcohol. I added that such a person should not have his medical treatment delayed in any way merely because the police wish to take a blood sample from him, either with or without his consent. Being unconscious the person concerned would not be in a position to give his consent.

The clause proposes that if a person is capable of giving his consent to the taking of a blood sample it should be then taken by a medical practitioner nominated by him; but if he is not capable of giving his consent it should be taken by a medical practitioner nominated by the police.

There are quite a number of cases in which a person may be unconscious and suspected of being drunk or under the influence of liquor. Indeed, he could be neither drunk nor under the influence of liquor at all.

It is of interest to ascertain how the police form the opinion that a person is under the influence of liquor. What happens when a person lying on the side of the road is apprehended? The police officer has to form a preliminary impression, or has to have reasonable grounds for believing that that person is under the influence of liquor to the extent that it will affect his driving.

I believe police officers normally form that impression by making one of the preliminary tests, such as getting the person to blow up a balloon. I suppose they could form that impression by smelling the breath of the unfortunate victim of the accident, to have reasonable grounds for believing that the person was affected by alcohol.

What if the person simply had one or two drinks and was, in fact, suffering from some medical condition such as diabetes, which I understand in the absence of insulin or other proper treatment causes blackout and unconsciousness; or was suffering from some other medical condition? We have all heard of the many ways in which a person may suffer a sudden blackout. What if a person becomes unconscious as a result of a medical condition? That is not a fanciful suggestion.

We all know of people who, as a result of a medical condition, have died at the wheel of a vehicle thus causing the vehicle to run off the road into a tree or a lamp post. Numerous inquests have proved this. Many people have suffered a blackout which has had nothing to do with drink. Yet, as a result of the blackout they have been involved in an accident. Despite this the Minister says there is no reason to make special provision for these cases. In these circumstances if the police believed a person was under the influence of alcohol because of the state of his breath or for any other reason—perhaps just because he has driven erratically—a blood test would be taken. I am trying to point out that such a blood test in some circumstances could imperil the life of the person concerned. I am not stretching the long bow by any means. Medical evidence is available to substantiate that statement.

Under certain conditions blood tests should be taken with great care and only after medical treatment has first been obtained and the victim has been conducted to hospital by the first available ambulance, and given proper treatment, including blood transfusions. After all that is done, and provided the doctor is satisfied no reason exists for not doing so, a blood sample can be taken.

During the second reading speech I said I had every confidence that the police would do the right thing. Nevertheless I do not believe it is correct to put into the hands of any person, unless he is qualified, the power to imperil the life of another person. We should not include in an Act of Parliament the requirement that a blood test be taken if the police believe a person is suffering from the effects of alcohol. That is not good enough, especially when the victim is unconscious and no evidence exists concerning his medical history; where he has been, or anything else about him.

I am not referring to an obvious drunk, but only to a person who is unconscious at the scene of an accident.

This Bill should contain some safeguard. I discussed the matter with an inspector and with officers from the Crown Law Department. We all agree that it would be possible to prepare an amendment which would safeguard the situation to which I am referring without impeding the police in any way in the execution of their duty. Therefore I am somewhat surprised firstly that no further reference about the matter has been made to me by the Minister—he has not told me that the department has changed its mind—and, secondly, that the Minister has not placed an amendment on the notice paper. Unless I receive a satisfactory explanation from the Minister I propose to move an amendment.

The Hon. J. DOLAN: I am a little upset at having to say some of the things I propose to say. An amendment was prepared by the Parliamentary Draftsman which would probably have satisfied Mr. Medcalf, but when it was submitted to me and I examined it carefully I could not go along with it because I felt it illustrated a complete lack of confidence in the Police Force and the work they have been doing almost since the force was first established.

In any circumstances the first considertion of the Police Force is the health of the person affected. I do not care whether the person concerned has been involved in an accident, is a drunken driver, or has taken part in a brawl.

I propose to read what I prepared on my own initiative after I had examined all aspects of the proposal. The amendment submitted by the draftsman reads as follows:—

> Add a new paragraph as follows:—
>
> (d) by adding after subsection (11) the following subsection—
>
> (12) It is the duty of any member of the Police Force or inspector who is acting in the exercise of his powers under this section to so exercise his powers as to not prejudice or delay the medical treatment or medical care of any person, but the provisions of this subsection shall not be construed as affecting the admissibility of any evidence of the kind referred to in section thirty-two C of this Act.

My prepared statement reads as follows:—

> From the point of view of the Police Force I doubt that the suggested amendment can ever be regarded as being very desirable for the following reasons:—
>
> I think it can be fairly implied from the suggested amendment that it is necessary in order to require Police officers to act humanely; in other words, the amendment is necessary to stop police officers from delaying or impeding medical treatment of injured persons in order to obtain convictions for offences of driving under the influence of alcohol. It is my understanding that nothing could be further from the truth and that the practice universally employed by members of the Police Force in such cases is to see to the proper medical care and treatment of persons as a first priority, and, secondary to that to conduct inquiries and, where practicable, have blood or breath analyses conducted in suitable cases.

I have been advised—

This was after investigations involving prosecutions in the courts on these cases—

> —that, in cases involving the breathalyser and blood analysis provisions, there has never been any mention made and no evidence adduced, alleging that the police had improperly delayed treatment of injured persons in order to secure evidence of driving under the influence.
>
> Even if it were thought desirable to declare by Statute that it is the duty of the Police to assist or not to impede the medical care of persons injured, at the expense of delaying or perhaps missing altogether, a chance to secure a conviction for an offence, I absolutely fail to see that the breathalyser and blood analysis law should be singled out for special treatment. Surely the point is just as valid when the Police are called to occasions such as hotel brawls where suspects have been injured and need treatment, and to all other cases where persons, whether suspected of offences or not, have been injured and are in need of urgent medical care.

I was not prepared to introduce an amendment, as I indicated when I replied to the second reading debate, because I felt it was undesirable and that it would unnecessarily include in a Statute a request that the police do something which they have always done, are doing, and will continue to do in the future. I feel it would be an unnecessary inclusion of something which we already expect of our police officers. It is for these reasons I am not prepared to move an amendment along the lines suggested by the honourable member.

The Hon. I. G. MEDCALF: I am glad that the Minister has thrown some light on this matter because I was extremely puzzled about the fact that no amendment appeared on the notice paper even though the Crown Law Department, the officer from the Liquor Branch, and I had quite clearly agreed an amendment could be made without any adverse effect on the legislation.

I fully appreciate it is the prerogative of the Minister whether or not he should accept a recommendation from the Parliamentary Draftsman, or anybody else. I make no bones about that. The Minister has indicated of his own volition he decided he would not accept the amendment because he believed it would cast some reflection on the Police Department. Personally, I find it difficult to see in the amendment any reflection on the Police Department.

In the first place, I made it clear I was casting no reflection on the Police Department. I think that at all times members of the Police Force act with great restraint and with great caution, sometimes under very difficult circumstances, towards people who are victims of accidents. Indeed, without the Police Department we would have chaos on our roads and I believe that members of the Police Force enforce the law, generally speaking, fairly and impartially and as speedily as the case demands.

To me this is not a matter of any reflection on the Police Department, and the comments by the Minister that this particular legislation should not have been singled out for special treatment, because police are called to other situations where people are injured, are not relevant in my opinion. I do not know of other cases where the police are entitled to take a blood sample from an injured and unconscious person. We are dealing with the specific case of a blood sample where a person is suspected of being under the influence of alcohol. I illustrated the point that a person may not be under the influence of alcohol. The other cases referred to by the Minister do not involve the compulsory taking of blood samples.

The question of assault has already been raised by Mr. Williams and by Mr. MacKinnon, and whether or not it is permissible to commit an assault. I think the Minister said it is permissible and that the doctor is not committing assault if he does what he is told, or asked to do, by the police. Therefore, the doctor is exempted from an assault charge.

Furthermore, the doctor does not have to commit the offence of assault if he has conscientious reasons for not doing so. I would like to know how the Minister's amendment would apply to a person who is apprehended by the police, while not unconscious, and who nominates a medical officer who declines to act.

The Hon. A. F. Griffith: He would have to keep going until he got a doctor who would take the blood sample. That is the only alternative.

The Hon. I. G. MEDCALF: I do not know that the Bill says that. The Bill states that a member of the Police Force, or an inspector, may require a person to submit to a medical practitioner nominated by that person to enable a sample of blood to be taken. Nothing can be done about a medical practitioner who will not take a blood sample.

The Hon. J. Dolan: I explained that when I replied. In those circumstances the police rely on other evidence which is adduced.

The Hon. I. G. MEDCALF: But the police will not be able to use the medical provision to compulsorily take a blood

sample. It does not seem to me that the Minister will be able to use this legislation if the doctor who is nominated declines to take a blood sample.

That is an aside, and is really not what we are talking about. We are talking about the genuine case of a person who is unconscious but not drunk, and the suggestion that it would be desirable for some direction to be given that the health or the medical treatment of such person is the first priority, and should be considered even before the taking of a blood sample.

The Hon. J. DOLAN: I think some of the matters which have been raised by the honourable member are just begging the question. The main point is that there should be a proviso that the medical treatment of the person concerned must not be prejudiced or unreasonably delayed. I take the point of view that the police never do those things which are implied, and that is why I am opposed to it.

The Hon. A. F. Griffith: If they never do them, what is wrong with the proviso?

The Hon. J. DOLAN: I think it is an unwarranted slur.

The Hon. I. G. MEDCALF: I have not received an answer to the question I asked, but I will admit it was an aside. It seems to me the legislation we are asked to pass has no teeth in it if a person nominates a doctor who declines to act. However, the Minister does not have to answer my question and I do not want to persist. The Bill will achieve nothing much if the doctor declines to take a blood sample.

The important point concerns the unconscious person who has a blood sample taken compulsorily without any suggestion, direction, or indication to the police that the health of the person concerned is paramount. The Minister tells us that is satisfactory, and that the police have always given first priority to the health of the person concerned. However, I think the Committee should bear in mind that for the first time, through the provisions of this legislation, we are giving the police the power to take a blood sample from a person who has no say whatever, and who is not able to take a preliminary test. There is no firm indication that such a person is under the influence of alcohol other than the fact that the police think he may be. I am simply suggesting that in those circumstances there is need for precaution.

There is no slur cast on the police and I think it is strange that my suggestion should be taken as a slur on the police when it is an attempt to protect the members of the public.

The Hon. G. C. MacKINNON: My duties kept me away from the Committee for a while but I have been able to pick up the thread of what has been said. The attitude of the Minister in regard to this matter alarms me. I do not believe that anyone—and I know this applies to Mr. Medcalf—believes that of their own free will and accord the police would do anything but give first priority to the welfare of a person who is ill.

I agree that the ramifications of this clause are such that it would not be impossible for a policeman to believe his first duty lay in obtaining a blood sample.

The Hon. J. Dolan: It has never happened.

The Hon. G. C. MacKINNON: A policeman could believe that this is demanded of him by Statute.

The Hon. A. F. Griffith: The Minister says it has never happened, but there has been no authority for it to happen up to date.

The Hon. G. C. MacKINNON: It might not have happened, but the situation has never existed previously.

Many of us, at some time or another, have been faced with the realisation that proper and right action, as individuals, is quite often not proper and right action from a statutory point of view. Indeed, many doctors are quite frightened at the prospect of aiding an injured person at the roadside because our laws impose all sorts of responsibilities upon them and subject them to all kinds of liabilities if they aid a patient without being requested to do so. As a human being, the doctor would be acting in the right way. His actions would be humane and morally proper. However, from the point of view of the law, there are many circumstances in which it would be most unwise for a doctor to give help in this way.

As I understand the situation, the points have been raised in a spirit of total good will. It has been made abundantly clear that the Opposition supports the idea of the legislation. The Minister has allayed some of our worries, but we wish to ensure the legislation will be applied in the proper way. The possibility exists that someone may believe his prime responsibility, under this legislation, is to obtain a blood sample. I can see no hint whatsoever of casting a slur on the police by putting in a proviso. My guess is that the purpose behind Mr. Medcalf's suggestion is to exonerate a policeman should there be any argument. Suppose a policeman does that which he ought to do—namely, looks after the welfare of the patient—and an enthusiastic inspector or superintendent asks why he did not obtain a blood sample. The policeman could reply that the legislation specifies he must first look after the welfare of the patient. In this way, there could be no argument.

The point I raised was concerned with the rights of the individual to abide by certain ethics.

The Hon. J. Dolan: I have explained that.

The Hon. G. C. MacKINNON: I was sitting at the back of the Chamber at the time. I heard and accepted the Minister's explanation. The whole purpose of this discussion is not to ensure the policeman does the right thing but to ensure he does not find himself in any trouble when he does the right thing. I do not believe this would cast a slur on anybody.

The Hon. J. DOLAN: I draw the attention of members to the fact that every policeman wears a badge on his shoulder to indicate he is a trained St. John's ambulance officer. A policeman knows, as soon as he looks at a man, whether his injuries are such as to need medical attention. I have indicated that this has always been the position and it will continue to be so in the future. No case has ever been presented to the court to indicate that this procedure has not always been followed. The health of the victim is paramount, irrespective of whether or not the accident was caused by drink. A policeman's primary obligation is to look after the wellbeing of the victim.

The Hon. A. F. GRIFFITH: I accept what the Minister has said as being quite right and accurate. Therefore, perhaps he will tell us why this should not be spelt out in the measure.

The. Hon. J. DOLAN: I have told the Committee the reasons. Why should we spell it out in this legislation if we do not do so in every other piece of legislation to which this would be applicable? I am sure many examples could be given to illustrate that this action must be followed on all occasions, irrespective of the Act involved.

The Hon. G. C. MacKinnon: I cannot think of any.

The Hon. A. F. GRIFFITH: The Minister seems to find it convenient to suggest that Mr. Medcalf is casting a slur on members of the Police Force or implying that the police may not do the right thing. Many members in this Chamber have demonstrated their attitude towards the police. On other occasions we have been on the Minister's side when he was in difficulty over his attitude to the police. I remind the Minister that members in this Chamber have made far fewer inquiries about the police than have some members of his own Government. Had it not been for the assistance given to the Minister for Police by members of this Chamber, the Police Force would have been subjected to an inquiry by the Ombudsman.

The Hon. J. Dolan: That was a decision of the Chamber.

The Hon. A. F. GRIFFITH: Were the Minister not as capable as he is, he would not have been able to foil attempts by his own political party, on two or three occasions, to inquire into the Police Force.

The Hon. J. Dolan: This has nothing to do with the measure under discussion.

The Hon. A. F. GRIFFITH: It has. Mr. Medcalf has suggested something which will more clearly define a policeman's responsibilities. The Minister says a policeman now fulfils those responsibilities without anything being spelt out. He is suggesting that Mr. Medcalf has an ulterior motive in mind.

The Hon. J. Dolan: I did not say that.

The Hon. A. F. GRIFFITH: It was implied.

The Hon. J. Dolan: I did not even imply it.

The Hon. A. F. GRIFFITH: When I was listening to the debate, the Minister implied it is entirely unnecessary, because the police are trustworthy. The Minister even said that policemen wear badges on their arms to indicate their ability to cope with such situations. He said there was no need for anything to be written into the legislation.

Two instances were mentioned, but I shall refer to the second; that of a man who is unconscious on the road. Such a person may have in his blood the quantity of alcohol—or more—which a man was reported to have had yesterday in an accident. On the other hand, the person may be a teetotaller and have no alcohol whatsoever in his blood. In the second instance the person would be subjected to a test for alcohol.

This provision will be written into the legislation to overcome something which, obviously, has caused the police some difficulty. The Minister will admit the police must have had difficulty in dealing with this previously.

It is our responsibility, as legislators, to do whatever we can to assist the police in their endeavours to ascertain who is a drunken driver—one who could kill other people on the road as a result of his condition. However, if the legislation falls short, even fractionally so, in protecting the rights of the individual so far as his health is concerned, I see nothing wrong with adding a proviso to the clause. In doing this, there would be no implication at all that members of the Police Force are being criticised by Mr. Medcalf or by any other member who has spoken. I do not understand the Minister's sense of annoyance, because obviously he is not pleased.

The Hon. J. Dolan: I am not pleased but I am not annoyed.

The Hon. A. F. GRIFFITH: I am glad the Minister is not annoyed, because he looks annoyed.

The Hon. J. Dolan: I feel upset.

The Hon. A. F. GRIFFITH: It has been my custom to watch the Minister and usually, I can say, "Jerry Dolan's ire is rising a little." In any event, that was the message I received this afternoon. I do

not think the Minister should become annoyed about it. He should accept the amendment in the spirit in which it is intended.

The Hon. J. Dolan: There is no amendment at all.

The Hon. A. F. GRIFFITH: He should accept the proviso which is intended to clarify the situation as far as the policeman is concerned and also the position of the individual whose blood sample will be taken. If the Minister cannot answer Mr. Medcalf's question about what will happen should the doctor refuse to take a blood sample we will remain in the dark, because the Bill is silent on the point. Perhaps the policeman could take him from one doctor to another if the doctor requested by the person concerned were unwilling to take the blood sample. Where do we go from there?

The Hon. J. DOLAN: I refer to what I said during the second reading debate. In the event of a doctor refusing to take a sample, which is the query raised by Mr. Medcalf—

The Hon. I. G. Medcalf: I do not think it is. You are talking about something else.

The Hon. J. DOLAN: In the event of a doctor refusing to take a blood sample, and there being perhaps no other doctor available to take it, any future court hearing would rely on evidence other than a blood analysis, as happens at present when no doctor is available or a doctor refuses to take the sample.

I turn to the point about which I am upset. The honourable member has suggested a proviso that the medical treatment of a person must not be prejudiced or unreasonably delayed. I have indicated that there has never yet been a case of that occurring, so why provide in a Bill for something that has never happened and is not likely to happen? I would say the first consideration of the policeman attending a case is the person who is there, whether he be intoxicated, injured, or has had a heart attack.

The Hon. I. G. MEDCALF: The simple answer to the Minister's question as to why we should provide in a Bill for something that has never happened is that he is writing into the Bill something that has never happened. He is writing into the Bill the right to take a blood sample from an unconscious person. He said there had been such cases but he did not give an illustration. I cannot think of one such case, though there may be some; but I would appreciate his arguments more had he given illustrations of other cases where a policeman can take a compulsory blood sample.

The medical profession knows very well that one cannot deliberately even touch a person, whether one is a doctor or a policeman, unless one has been given a statutory authority to do so. A doctor cannot take a blood sample from a person unless he is authorised by Statute to do so, and I do not know of any case where he is so authorised. A police officer cannot touch a person unless he is going to arrest him. Look at the trouble the police got into during the last demonstration when they were alleged to have touched people in St. George's Terrace. That is assault, and it is just as much assault, or even more so, for someone to take a blood sample from a person who is lying unconscious. Members of the medical profession are very careful about this. They do not like performing operations without the consent of the next-of-kin, and in fact they will usually not perform operations without such consent.

When we are proposing to write into an Act something it has never previously contained, surely that is a reason for writing into it something that has never been needed before; that is, that the first requirement shall be the medical treatment of the victim. The victim might not be guilty. He might not have drunk a glass of beer or any other alcohol. He might be suffering from a medical condition. He might be as drunk as the man referred to in the newspaper a day or two ago; on the other hand, he might not be. If we propose to give the legal power to make an assault, I say we should provide that the police will exercise this new power with the proper care and safeguards.

I cast no reflection on the police. I cannot understand why the Minister should be so sensitive about the police. He is talking to one of their greatest supporters. It is mixed-up thinking to suppose I seek to include in the Bill something which is a slur on the police. I am not saying the Minister is mixed up, but someone who advises him is mixed up. I say it is in the interests of the police from the public relations point of view, if from no other, to demonstrate that when the police use this exceedingly great power they will use it with the usual caution and safeguards.

I have an amendment which I have not formally put on the notice paper because I believed the Minister intended to propose it. The Minister's amendment might have been more suitable than the one I sought to move. I have not the facilities of the Crown Law Department at my disposal but I have the facilities of the private members' Parliamentary Draftsman to advise me, and he has drafted a simple amendment which I am prepared to put forward. However, I hoped the Minister would come up with something which would be more acceptable to the police. My amendment is not quite the same as the amendment quoted by the Minister. If the Minister would like to hear it, I will mention it.

I believe we should look at the matter in this way: Here is a case where we are giving the police powers to take action in relation to people who may or may not be drunk and to commit a technical assault on them—technical in the sense that they will ask someone to touch them and take a blood sample, which could imperil their health in certain circumstances. In those circumstances I want to provide some safeguard or guide for the police officers, particularly the younger policemen, to ensure that the medical treatment of the victim shall be the first consideration.

Sitting suspended from 3.48 to 4.05 p.m.

Progress

Progress reported and leave given to sit again, on motion by The Hon. J. Dolan (Minister for Police).

QUESTIONS (3): ON NOTICE

1. ABORIGINES

Kununurra: Employment

The Hon. W. R. WITHERS, to the Leader of the House:

(1) How much money has been given in grants and allowances to the Aboriginal people on the Kununurra Reserve in the past 12 months?

(2) Is the Minister aware that some young, able-bodied men are leeches on the older people in the reserve?

(3) Is the Minister aware that there were 26 able-bodied men on the Reserve last Monday who refused to work at the rate of $2 per hour for the rubbish contractor?

(4) What action will the Minister take to prevent able-bodied men refusing work and then taking food from the older pensioners?

The Hon. W. F. WILLESEE replied:

(1) 1971-72. The Commonwealth granted the Mirima Council $3,000 for a garden project and in 1972-73 $6,500 towards the garden project and a vehicle.

(2) Kununurra Reserve was visited on 31st October, 1972 by an officer of the Community Welfare Department. The officer spent most of the day on the reserve discussing various matters with individual family groups. At no time has there been any complaint that young able bodied men are living off the older people.

My information is that only one young man, married with 4 children, is in receipt of unemployment benefit. This particular gentleman is work shy and does not make much effort to find work.

(3) Mr. Terry Braham has the contract for the collection of rubbish from the reserve. Complaints have been made to the Kununurra Shire by our District Officer about the unsatisfactory collection of rubbish. It is a fact that the Aborigines on the Kununurra Reserve do not appear to wish to work specifically for Mr. Braham. There may be some conflict between Mr. Braham and the Aboriginal people on the reserve, as they, through their own organisation, the Mirima Council, have made approaches to the Shire to obtain the rubbish collection contract.

(4) With the approach of the wet season and the finishing of work on cattle stations and cotton farms, able bodied Aborigines are now beginning to arrive in Kununurra. They have savings and look upon this period as their annual holiday and are possibly reluctant to accept work at this particular time.

2. PUBLIC SERVICE

Salaries

The Hon. A. F. GRIFFITH, to the Leader of the House:

(1) At the 15th September, 1971, what were the salaries paid to senior officers of the State Civil Service beyond and including the salary of an Under Secretary?

(2) What increases have occurred in this range of salaries since that date?

(3) What were the effective dates of such increases?

The Hon. W. F. WILLESEE replied:

	$
(1) Special 1 (including Under Secretaries)	16,784
Special 2	17,428
Special 3	18,072
Special 4	18,721
Special 5	19,365

(2) and (3)—

	10-9-71 $	National Wage Case ($104 p.a.) 19-5-72 $	28-7-72 $
Special 1	16,784	16,888	18,750
Special 2	17,428	17,532	19,250
Special 3	18,072	18,176	19,750
Special 4	18,721	18,825	20,500
Special 5	19,365	19,469	21,250

3. POLICEWOMEN

Employment after Marriage

The Hon. R. J. L. WILLIAMS, to the Minister for Police:

Will the Minister give urgent and sympathetic consideration to introducing the appropriate amending

legislation allowing policewomen to continue with their career after marriage, thus granting them equality with their colleagues in New South Wales, Victoria, Queensland, Australian Capital Territory, New Zealand, and with other women employed in the Public Service, Education, and Banking fields?

The Hon. J. DOLAN replied:

No. This matter was raised by the Western Australian Police Union of Workers in October, 1971. After close examination it was agreed between the Union and the Department that it would be more suitable for requirements in this State if the maximum age for recruitment of females was increased to forty years, as this would attract mature applicants with greater stability, who would be more likely to remain in the Service as career women Police Officers. To date, this has worked satisfactorily and there has been no dearth of recruits.

PARLIAMENTARY COMMISSIONER ACT: RULES

Assembly's Resolution: Motion to Concur

Order of the day read for resumption of the debate, from the 26th October, on the following motion by The Hon. W. F. Willesee (Leader of the House):—

That this House concurs with the resolution contained in Message No. 106 from the Legislative Assembly relating to the making of Rules pursuant to section 12 of the Parliamentary Commissioner Act, 1971.

Statement by President

The PRESIDENT: I would advise members that our Standing Orders are silent upon the manner in which a message of this nature should be treated. I suggest it may be prudent for the House to go into Committee on this matter so that members may, if they wish, debate at length the proposed amendments.

The Hon. W. F. WILLESEE: Mr. President, I have no objection to your suggestion. However, I would say that there is a motion before the House which should be debated before we deal with the amendments. Would you care to comment on that?

The PRESIDENT: I think the motion could be dealt with and the Leader of the House could reply to it as though it were the completion of a second reading before we go into Committee on the amendments.

The Hon. W. F. WILLESEE: In other words, we should hear Mr. Medcalf's remarks now?

Point of Order

The Hon. A. F. GRIFFITH: On a point of order, Mr. President. If I have interpreted your remarks correctly, you have said that you think the motion from the Legislative Assembly should be debated in the Committee of this House, rather than with you, as President, presiding. If that is your ruling, of course, I accept it.

However, I merely point out that the motion before us is a substantive motion moved in the Legislative Assembly in which we have been asked to concur. Frankly, I think it is of little consequence whether the President or the Chairman of Committees is in the Chair. However, if the Chairman of Committees is to be in the Chair, the Leader of the House will have to move that you leave the Chair so that the matter may be handed over to the Chairman of Committees. The Standing Orders are also silent upon that point.

The PRESIDENT: The Leader of the Opposition has questioned the procedure I suggested we adopt. My only reason for suggesting the adoption of that procedure is to enable members, should they so wish, to speak twice on the amendments. From this Chair I cannot allow the mover of an amendment to reply to the debate on his amendment, and I can only allow each member to speak once to the motion. That is the only reason I suggested we should go into Committee.

The Hon. A. F. GRIFFITH: Sir, I think your reasoning is sound.

The Hon. W. F. WILLESEE: My belief is that we have a motion before the Chair, upon which the debate was adjourned. The normal procedure is to reply to the motion. At that stage if there are amendments to the motion I think it would be logical to deal with them in Committee.

The Hon. A. F. Griffith: You would have to move a motion that we resolve ourselves into Committee for the purposes of considering the resolution.

The PRESIDENT: I suggest that the Leader of the House do that now. Otherwise when he rises to speak to the motion the debate will be closed and a determination will be made on the motion as it reads, without any amendments having been made to it. That is my interpretation of the situation.

As to Committee

The Hon. W. F. WILLESEE: I move—

That the House resolve itself into a Committee of the whole to discuss the motion.

The Hon. I. G. MEDCALF: I want to make it clear that the comments I wish to make on the motion are not necessarily restricted to the amendments. If we are to go straight into Committee I would wish to make some general comments

which do not refer to any particular amendment but to the motion, generally. I had hoped that this might be treated as more or less a second reading debate so that members could speak generally if they so wished. I would like to speak generally and, in addition, I would like to speak to the amendments. If I must combine my remarks, I could do so; but it would not be appropriate to combine them in a Committee of this House. It is more appropriate that I speak generally now, and later in Committee.

The PRESIDENT: I point out to Mr Medcalf that he will have an opportunity to speak generally, after the amendments are dealt with, on the adoption of the motion.

The Hon. I. G. MEDCALF: Thank you, Sir. However, one of the points I propose to discuss is the question of whether or not it is within the power of the Legislature to pass the motion. Would it be appropriate to discuss that after we have dealt with the amendments, or before?

The PRESIDENT: It is my personal opinion—and it would be my ruling—that it is immaterial whether that is discussed before or after the motion. However, I think we should go into Committee first and then the honourable member may challenge certain aspects when dealing with the adoption of the motion.

The Hon. A. F. GRIFFITH: Mr. President, may I respectfully suggest that you reconsider this matter. The point raised by Mr. Medcalf—that he may ask for a ruling concerning the validity of the motion before the House—would be better dealt with by you, as President, than by the Chairman of Committees. The Chairman of Committees might easily find himself in a position of having to ask for your advice.

The motion before us was introduced as a substantive motion by the Leader of the House. I took the adjournment in the knowledge that Mr. Medcalf would wish to speak to it. Any other member may also speak to it, and then the Minister would reply, thus closing that portion of the debate. I suggest the Leader of the House should then move that the House resolve itself into a Committee of the whole for the purpose of considering message No. 106 from the Legislative Assembly.

If that were done I think all purposes would be fulfilled. If you are asked to give a ruling and, in fact, you happen to rule that, in your opinion, the motion was not within the competence of this Chamber, or you gave some other ruling, there will be no Committee stages unless the House decides you are wrong. I respectfully put forward that suggestion.

The PRESIDENT: If Mr. Medcalf intends to raise the point of whether the question is in order he could do so by raising a point of order, I think, at this very juncture. He could question the motion and I could give a ruling on that aspect.

I think the honourable member could take action along those lines if he so desires.

The Hon. I. G. MEDCALF: I appreciate the attention you have given to my request, Mr. President. Actually, at this stage, I do not propose to raise this question as an issue for you to decide, but I did want to speak to it generally so that the House could consider it. However, I will be quite happy to do so at a later stage. I do not think it will make any difference, so long as the Chairman happens to be in the Chair and extends the same leniency as you have.

Motion put and passed.

In Committee

The Chairman of Committees (The Hon. N. E. Baxter) in the Chair.

The CHAIRMAN: The resolution from the Assembly reads as follows:—

1. These rules may be cited as the Parliamentary Commissioner's Rules, 1972.
2. In these rules, the term "the Act" means the Parliamentary Commissioner Act, 1971.
3. The Parliamentary Commissioner may from time to time, in the public interest or in the interests of any department, authority, organisation, or person, publish reports relating generally to the exercise of his functions under the Act, or with the prior approval of the Parliamentary Committee, relating to any particular case or cases investigated by him, whether or not the matters to be dealt with in any such report have been the subject of a report laid before either House of Parliament.
4. (1) The Parliamentary Committee shall consist of the persons from time to time holding the following offices—
   in the Legislative Council—
   The President,
   The Chairman of Comtees,
   The Deputy Chairmen of Committees,
   in the Legislative Assembly—
   The Speaker,
   The Chairman of Committees,
   The Deputy Chairmen of Committees.

(2) At any meeting of the Parliamentary Committee five members shall constitute a quorum.

The Hon. I. G. MEDCALF: Mr. Chairman, I understand from the original speech by the Minister on this motion that we are dealing with the power of Parliament to make rules under the Parliamentary Commissioner Act. This is governed by section 12 of that Act. Subsection (4) of section 12 gives us the power to make rules. That subsection reads—

> Rules of Parliament made under this Act shall be published in the *Government Gazette*.

Subsection (3) of the same section also reads—

> The Rules of Parliament referred to in this section are rules that have been agreed upon by each House of Parliament in accordance with the rules and orders thereof.

Section 28 is the specific section which deals with the rule-making power. That section empowers the Parliament to authorise the commissioner to publish, for certain purposes, reports relating to his functions generally, or relating to any particular cases which he has to investigate.

So section 28 is the one with which we are primarily concerned at the moment and which authorises Parliament to authorise the commissioner to make rules either generally in relation to his functions, or in relation to any particular case. The words used in section 28 are—

> . . . reports relating generally to the exercise of his functions or to any particular case investigated by him . . .

I would like to ask you, Sir, what do those words mean to you? I wonder whether that means to you, as it may to other people, that when we refer to a particular case we refer to a particular case of Smith and the Department of Supply or Jones and the Public Works Department. In other words, that it means an investigation of the Public Works Department because of a complaint by Mr. John Jones to the effect that something happened which should not have happened. That is what the Ombudsman is about when he is making his investigations.

What I am saying is that the rules we are authorised to pass are those which will enable the commissioner to issue a report relating "to any particular case investigated by him." I would think that those words would mean "any particular case", or a specific case.

In our rules which we are purporting to pass we seek to give a general power to the Parliamentary Commissioner relating to the general exercise of his functions, or relating to any particular case or cases. In other words, relating to any particular cases investigated by him. It is a rather subtle point, but it seems to me that we might be doing more than was intended by the Act, because section 28 of the Act reads—

> relating . . . to any particular case investigated by him, . . .

The rules say, "relating to the exercise of his functions or relating to any particular cases investigated by him", etc.

I would have thought that in view of the secrecy provisions in this Act, to which the Minister has quite properly referred, we should be very careful about giving a general authority to the Parliamentary Commissioner to publish reports relating to any particular case or cases. I think it is quite proper that we should authorise the procedure whereby he can publish a report concerning a particular matter. If we are to do it generally, having relation to any particular case or cases, we may perhaps be getting tangled with the secrecy provisions of the Act.

Section 23 to which the Minister referred provides that information obtained by the commissioner in any investigation shall not be disclosed otherwise than in proceedings for the purpose of the investigation and of any report or recommendations to be made thereon under the Act. That means the commissioner may disclose official secrets for the purpose of any report under the Act. If he discloses official secrets without authority what would happen to him? I suggest nothing would happen to him, because he has been made immune from criminal or civil proceedings, except in cases where he acts in bad faith.

What are the kinds of reports which the commissioner can make? He can make a report to the Legislative Council, without the approval of the Legislative Assembly; and similarly he can make a report to the Assembly without the approval of the Council. So, either House can call upon him to make a report.

In addition, under section 27 he has to make his annual report to Parliament. In respect of reports, firstly, he can report to either House of Parliament if called upon; secondly, he has to present his annual reports to Parliament; and, thirdly, he can make a report to the public or to the Press generally to inform people about his functions, or as to any particular case which comes to his attention and which he thinks ought to be reported to the public.

We must bear in mind that the Parliamentary Commissioner is sworn to secrecy, but he has complete and overriding powers to force secrets out of departmental officers and other people whom he is investigating. He has power under section 20 (2) to require them to divulge matters which their own particular Acts of Parliament

prohibit them from divulging. Not only is the Parliamentary Commissioner empowered to obtain secrets from people, but when he does obtain secrets he cannot divulge them unless he does so in a report mentioned in the rules.

The Parliamentary Commissioner is immune from criminal and civil proceedings, as provided by section 30 of the Act, unless he acts in bad faith. Basically he is given the status of a judge, although he has only a five-year term of office. He is not answerable to anybody, except to both Houses of Parliament; and in this respect he is similar to a judge.

It is doubtful whether Parliament ever intended that rules of Parliament should be framed in such a way as to give to the Parliamentary Commissioner a blanket power to make public reports generally in particular cases. I believe it is quite proper to empower him to make reports about his functions; and to empower him to divulge the particular facts in a particular case which the Parliamentary Committee thinks ought to be divulged to protect the public against wrongful statements. However, if we give the Parliamentary Commissioner a general power to make statements in all cases we are possibly doing something which is beyond the powers contained in the Act.

In regard to reports on particular cases there is good ground for saying that the rules must authorise the commissioner to publish reports of particular named cases only, and not of any number of particular cases. If that ground is right then the rules would be *ultra vires*.

The procedure is rather unusual and difficult. I do not propose to raise this as an issue in the Chamber, or to ask for a ruling. It is hardly appropriate that I should do so, but I believe this point may be taken up at some future date. It is a point which appears to me to have some argument in its favour, even though the rules proposed to be adopted are similar to those of New Zealand.

If Parliament is aware of these things they should be mentioned in the debate, because by doing so an indication is given to the Crown Law Department and others who prepare these rules that we are taking a great deal of interest in what they are doing.

It often occurs to me that some people think of the Legislative Council and its members as rubber stamps, and as complete slaves to the requirements of the departments and others. I would not like anyone to think that of any member of the Chamber. This Chamber is not a rubber stamp, and members must raise points which should be ventilated for the future attention of those who prepare legislation and motions to be put before us.

I would now direct the attention of members to the amendments on the notice paper, and I refer to the first two in my name. In the first I propose to place the words "with the prior approval of the Parliamentary Committee" in another line. The effect of this amendment will be that the Parliamentary Commissioner will not be able to publish reports generally or in particular cases, unless his reports have first been approved by the Parliamentary Committee.

If we leave the rule as it stands, the Parliamentary Commissioner will be able to publish reports generally without obtaining the approval of the Parliamentary Committee. If the rule is amended in the manner I propose then, before any reports are published, he must obtain the approval of the Parliamentary Committee.

The CHAIRMAN: We will leave the amendments until we deal with rule 3. I will put the first two rules.

Rules 1 and 2 put and passed.

Rule 3—

The Hon. I. G. MEDCALF: I move an amendment—

> Insert after the word "person" in line 5, the words "with the prior approval of the Parliamentary Committee".

The Hon. W. F. WILLESEE: I do not see any point in opposing this amendment. It merely seeks to place those words in another part of the rule, and it does not alter the text. For that reason I have no objection to it.

Amendment put and passed.

The Hon. I. G. MEDCALF: My second amendment is simply a corollary to my first amendment. I move—

> Lines 7 to 9—Delete all words after the word "or" down to and including the word "Committee".

Amendment put and passed.

Rule, as amended, put and passed.

Rule 4—

The Hon. L. A. LOGAN: Every three years Parliament is prorogued for an election, and at that time there is no Speaker or Chairman of Committees in the Legislative Assembly. A period of four months could elapse during which there would be no Parliamentary Committee, and it seems to me that this could be a weakness.

The Hon. W. F. WILLESEE: I have looked at this question. It is a remote possibility but a quorum consists of five persons. That quorum would be available from the members of the Legislative Council.

The Hon. A. F. GRIFFITH: I cannot agree with the Leader of the House that it will be a remote possibility; it will be a

distinct possibility. The situation mentioned by Mr. Logan is likely to arise. However, I cannot altogether agree with Mr. Logan, because the President of the Legislative Council, the Chairman of Committees in the Legislative Council, and the Deputy Chairmen of Committees remain in office until the 22nd May of the election year—irrespective of the date of the election. The result is that we have five members who will be able to make up a quorum.

The disadvantage, if any—and I can hardly imagine it as a disadvantage—is that the five officers of the Legislative Council will constitute a quorum. Perhaps I could say that is a further justification for the expression, "Thank God for the Legislative Council."

The Hon. L. A. LOGAN: I would point out that from midnight on the 20th May, 1974, it is possible that the President and two members of the committee will retire from this House. Therefore, there will be no Parliamentary Committee from that date until Parliament reassembles.

The Hon. W. F. WILLESEE: I recognise that possibility but I do not think it is likely to be a serious disadvantage. These rules are to give the commissioner the right of reply to publicity which is given to a decision. He will have some recourse.

The Hon. A. F. Griffith: It could occur while the vacancies exist.

The Hon. W. F. WILLESEE: It could occur. If it is regarded as serious I would suggest that the rule be amended.

The Hon. A. F. Griffith: I suggest the Leader of the House let it go and in the light of experience the rule may be amended later.

The Hon. W. F. WILLESEE: I was about to make that suggestion. I think the obvious answer would be that the members elect in the other place should be given some power if that is found necessary. My suggestion at this stage is to accept the amendment, and I might add that I intend also to accept the amendment to add a new rule 5.

The problem cannot arise next year and if there is merit in the suggestions put forward the rule can be further amended.

Rule put and passed.

New Rule 5—

The Hon. I. G. MEDCALF: I propose to move that a new rule 5 be added. The intention of the new rule is to require that the reports published by the Parliamentary Commissioner under these rules shall be included as a schedule in his annual report. At the present time he is not bound to do this.

I think that if the Parliamentary Commissioner does make reports public a record should be kept in Parliament in the form of a schedule to the annual report. This amendment will not inhibit his operations in any way but will, in fact, maintain the overriding control and supremacy of Parliament. The Parliamentary Commissioner is, in fact, an officer of Parliament.

I move—

Add after rule 4 the following new rule to stand as rule 5:—

5. Any reports published by the Parliamentary Commissioner under these Rules shall be included as a schedule in the Annual Report of the Parliamentary Commissioner made to Parliament pursuant to section 27 of the Act.

The Hon. W. F. WILLESEE: I confirm that I have no objection to the addition of the new rule. I take this opportunity to mention that the point raised by Mr. Logan, with regard to the dearth of personnel at any particular time, and the possibility of the *ultra vires* situation raised by Mr. Medcalf, will be submitted to the Premier for his further consideration.

New rule put and passed.

Report

Resolution reported, the report adopted, and a message accordingly returned to the Assembly.

ACTS AMENDMENT (ABOLITION OF THE PUNISHMENT OF DEATH AND WHIPPING) BILL

Second Reading

Debate resumed from the 31st October.

THE HON. L. D. ELLIOTT (North-East Metropolitan) [4.49 p.m.]: I am proud to belong to the party which has introduced a Bill to abolish the medieval punishments of death and whipping. These revolting practices have no place in the 20th century, and so long as they remain on the Statute book we do not deserve to call ourselves a civilised society.

Moves to abolish capital punishment have been successful in many places throughout the world. Many countries abolished the punishment of death in the 19th century, and since the turn of the 20th century it has been abolished in all Scandinavian countries, Great Britain, New Zealand, Holland, West Germany, in many States of the United States of America, and in the States of Queensland, New South Wales, and Tasmania. There are other countries which I could also mention.

Corporal punishment has also been abolished in many countries. It was removed from the Statutes in Great Britain with the passing of the Criminal Justice Act in 1948.

In this State attempts at reform related to capital punishment date back to 1927, when the then member for Perth (Mr. H. W. Mann) introduced a private member's Bill. He was followed by Mrs. Cardell-Oliver—later Dame Florence Cardell-Oliver—and our present Deputy Premier (Mr. Graham). I feel each of those members displayed a sense of compassion and understanding of human beings. I think the previous Government is also to be commended on legislation it introduced in 1961 and 1963, which respectively abolished the death penalty for murder, as against wilful murder, and provided for the rehabilitation of prisoners convicted of murder. That went part of the way but it did not go far enough.

We have certainly come a long way since the days when there were 200 offences for which a person could lose his life—such trivial things, as, for example, stealing 5s, felling a tree, or picking pockets. I think every member in this Chamber would look back in horror and disgust at some of the frightful things done to human beings in the past in the name of law and order. But we must remember that in those days there were people who were advancing the same kinds of arguments we hear today in support of capital punishment—that these things are unpleasant but they are necessary in the interests of law and order, to act as a deterrent to would-be offenders, and to serve as just punishment for the crimes committed. They did not see any irony in the fact that pickpockets were busy amongst the crowds witnessing the public executions of other pickpockets. I believe future generations will look back in the same horror and disgust at some of our official actions today.

It seems to me to be tragic that social reform takes so long to achieve. The pages of history are full of the continuous struggles between the reformers who could see the evils of the system and the conservatives who could see nothing wrong with things as they were. One has only to think of such things as the slave trade, child labour, prison reform, care of the insane, working conditions, and women's rights.

The Hon. G. C. MacKinnon: I would not class Wilberforce as a radical and he was responsible for the abolition of slavery.

The Hon. D. K. Dans: That is the first interjection in this debate.

The Hon. L. D. ELLIOTT: However, although it is a slow process, attitudes eventually change, and this is so in respect of capital punishment. The trend throughout the world today is towards its abolition. The Gallup polls conducted throughout Australia show that opinion is also changing in this country. In a poll in 1955, 67 per cent. of the people interviewed said they favoured capital punishment. By 1967 that percentage had dropped to 43, and I would venture to say that if those who constituted the 43 per cent. were forced to witness a hanging the percentage would drop to practically nil.

The other day I rang a library in order to check on whether a poll on this question had been conducted since 1967. I was rather interested in the attitude of the gentleman who answered the telephone. He said he could not remember an opinion poll on this subject. He said, "It has not really been a matter of public interest, has it, because they do not hang people in Australia any more?" When I told him the death penalty was still on the Statute books of some of the States of Australia, he said, "Oh, yes, but a Bill is going through Parliament at the moment to abolish it in this State." It had not occurred to him that the Bill could possibly be rejected by this Chamber.

The Hon. J. Heitman: We can all learn, of course.

The Hon. L. D. ELLIOTT: Why do people in this day and age still believe in the death penalty for certain crimes? The main arguments usually advanced are, firstly, that it is required as a deterrent to would-be murderers, and, secondly, that it is just punishment for a horrible crime. There are people who even argue that a certain type of murderer is less than human and does not deserve to live. I shall deal first of all with the deterrent factor.

The Hon. W. R. Withers: You have forgotten about protection from those who have been convicted and released and who commit another crime.

The PRESIDENT: Order!

The Hon. L. D. ELLIOTT: It has never been proved that the existence of the death penalty has acted as a deterrent against murder. In fact, in countries where it has been abolished it can be shown the actual murder rate has dropped. It has even been argued that its existence may have been responsible for the commission of murders by people who were mentally ill. This theory was advanced by Professor Thorsten Sellin of Pennsylvania, who has been described as the world's leading authority on statistical material relating to homicide and capital punishment. I was rather surprised last night to hear Mr. Williams quote Professor Sellin in support of his argument. Anyone reading the work of this criminologist could only come to the conclusion that he would favour abolition.

A study of 167 prisoners hanged in Bristol in the 19th century revealed that 164 of them had witnessed one or more public executions. The hanging of a murderer in this State in 1960 did not prevent two

others from becoming multiple murderers. for which they were hanged in 1964. Since that year, there have been seven convictions for wilful murder. The possibility of capital punishment certainly did not prevent those murders taking place.

The *Australian and New Zealand Journal of Criminology* published in 1968 an article entitled "The Deterrent Aspect of Capital Punishment and its Effect on Conviction Rates—The Queensland Experience," by Barker and Wilson. After a thorough investigation of the position in Queensland since abolition, the authors reached the following conclusions:—

> Firstly, that the alleged deterrent value of capital punishment was not supported by the Queensland experience because in that State since abolition the actual murder rate in relation to the population had dropped.
>
> Secondly, that cumulative evidence appeared to indicate that capital punishment acted as a deterrent to juries against their convicting for murder or rape when conviction would probably result in the prisoner's execution.

The British Royal Commission on capital punishment of 1949-1953, whose chairman was Sir Ernest Gowers, collected information from countries throughout the world in which the death penalty had been abolished. That commission stated there was no clear evidence that to end the death penalty was likely to cause an increase in murder. The death penalty has no deterrent effect on the person who commits a crime in a fit of passion or on the person who is mentally ill and has an overwhelming desire to kill.

In respect of the professional criminal, who is likely to consider the penalty, fear of certain apprehension and life imprisonment would be just as effective as the death penalty, according to criminologists. In other words, as Sir Ernest Gowers says, there is no reason to have a 100 per cent. deterrent if an 80 per cent. deterrent is sufficient to deter. Having mentioned Sir Ernest Gowers, I would like to read an extract from his book entitled "A Life for a Life?" which is quoted on page 86 of a book entitled, *The penalty is death*. Sir Ernest Gowers said—

> Before serving on the Royal Commission I, like most other people, had given no great thought to this problem. If I had been asked for my opinion, I should probably have said that I was in favour of the death penalty and disposed to regard abolitionists as people whose hearts were bigger than their heads. Four years of close study of the subject gradually dispelled that feeling. In the end I became convinced that the abolitionists were right in their conclusions—though I could not agree with all their arguments—and that so far from the sentimental approach leading into their camp and the rational one into that of the supporters, it was the other way about.

I come now to the second argument of the retentionists; that is, the question of just punishment for the crime. No-one would argue with the proposition that murder is a serious crime and a murderer should be dealt with severely. But this does not mean that the State must also commit murder.

If a criminal sexually assaults someone, his punishment is not a sexual assault upon him. If a man is convicted of arson, the State does not burn down his house. The killing and maiming of human beings belongs to the primitive past.

Those who favour capital punishment usually quote the most grisly and sadistic murders as justification for capital punishment. But surely no person who commits such murders may be considered to be sane. Surely the more horrible the crime the more mentally abnormal is the murderer.

The Hon. W. R. Withers: That was not proved in the Hindley case or the Bradley case. They were both declared sane.

The Hon. L. D. ELLIOTT: The fact that an individual has violent or homicidal tendencies is no justification for killing that person. If it is suggested that he must be put to death because he is a threat to society, would not that same argument apply to certain patients in mental institutions?

There are many factors which can be responsible for producing a human being capable of murder. We should be examining these causal factors to see whether we, as legislators, can do anything to eliminate them.

The Hon. A. F. Griffith: Bearing in mind the axiom that the punishment should fit the crime, what do you think should happen to a man who murders a girl of immature age?

The Hon. L. D. ELLIOTT: This is precisely my point. A person who is capable of committing such a murder is insane; he is not mentally normal. I think I know what is in the mind of the honourable member.

The Hon. A. F. Griffith: No you don't. What sort of punishment should he receive?

The Hon. L. D. ELLIOTT: To continue with what I was saying, we should be examining these causal factors—

The Hon. A. F. Griffith: In other words, you don't want to answer.

The Hon. L. D. ELLIOTT: —to see whether we, as legislators, are able to do something to prevent people from developing into murderers. For example, are we doing enough in the field of child psychiatry? Are we training enough psychologists and social workers? Are we doing enough in the field of housing for people in low-income groups? Are we doing enough to promote mental health in the community?

Is our education system the best in the world, or are we turning out poorly-educated, inarticulate citizens who become unhappy and frustrated because they do not know how to organise their lives or to relate to other human beings?

What chance in life has a child who is possibly unwanted to begin with; is born into a poor environment; is deprived of parental love and care; is possibly physically ill treated, who possibly left school at, say, 14 or 15 years of age because his parents have not the funds or the interest to keep him there, and who becomes part of the unskilled work force?

Would not there be a fair chance that that child could become a social deviate?

The Hon. W. R. Withers: I agree; but surely you don't feel sorry for a hungry tiger when he is about to pounce on you?

The Hon. L. D. ELLIOTT: Compare the life of that child with the life of a child born into a good home, with loving parents, and who receives a good education and ends up as a well-adjusted adult in a satisfying job in some profession or trade. How many murders or crimes of violence are committed by that type of person?

I think it is interesting to consider the backgrounds of the seven people convicted for wilful murder in this State over the past seven years. I do not intend to mention their names, or all of the details. I merely point out that the seven convicted murderers—with the exception of one who at one stage had been employed in a professional capacity, and who had a mental breakdown earlier in his life caused by the war—had a history of unemployment and changing jobs. They were unskilled workers and not well educated people. In fact, the person referred to yesterday by Mr. Baxter is in the same category. He was a 16-year-old boy who grew up in an orphanage and was poorly educated. He ended up an unskilled worker. That is the type of person who could be a potential murderer or who could have the potential to commit crimes of violence.

There is a good book in the Parliamentary Library called *Prisons of the Mind*, written by Otto L. Shaw and published in 1969. I would recommend that all members read that book because it deals with cases of maladjusted boys who could have become potential murderers had they not been helped. I would like to read the brief preface on the cover of the book, which was written by The Right Hon. F. Willey, M.P., who said—

> Criminals are not born, but they're made very early. In this absorbing book a magistrate and headmaster of a school for maladjusted boys shows just how family stresses can turn a boy into a thief, a pervert or a lunatic—and how loving care and understanding, without punishment, can restore him to normal society. He demonstrates how anti-social behaviour is a reaction against fears and sorrows that seem not even remotely connected with his symptoms—as, for instance, when a boy deprived of his mother stole motor-cars; it was not punishment that restored the boy's equilibrium but the assurance that he would find love in the world.
>
> Otto Shaw is a magistrate and member of the council of the Magistrates' Association. In this capacity he has often hit the headlines when seeking to understand the reason for criminal action rather than to impose the conventional penalty. He is also the headmaster of Red Hill School, which has become famous as one of the most successful schools for the rehabilitation of problem children.
>
> Teachers, social workers, and all concerned with the mental health of young people, will find much guidance and inspiration in Otto Shaw's humane and intelligent book.

Unless we step up our efforts to reach maladjusted children they will continue to grow into maladjusted adults. Are we going to keep on saying that some of these should be whipped or put to death? Or are we going to join the enlightened and humanitarian nations?

I hope the historians of the future will be able to record that the Parliament of Western Australia in 1972 erased from its Statute book the penalties of death and whipping.

THE HON. L. A. LOGAN (Upper West) [5.12 p.m.]: When introducing the measure the Leader of the House said the provisions it seeks to repeal were written into the Criminal Code in 1902—some 70 years ago —and he gave that as one of the reasons that they should be repealed. I would like to remind him that many Acts which were placed on the Statute book at that time are still valid today because there is no necessity to repeal them. I think it is as well to remind the House that we are dealing with wilful murder. I know the abolition of capital punishment as the penalty for treason and piracy is also included in the measure. However, I know of no instance of treason or piracy in this State. Therefore, the matter boils down to plain, wilful murder.

The Hon. A. F. Griffith: Treason is a Commonwealth offence.

The Hon. L. A. LOGAN: Yes. So far as we are concerned, we are dealing with Western Australian legislation. We are dealing with people who have been charged, tried, and found guilty by a judge and jury of wilful murder.

In his remarks the Leader of the House also said that one day public opinion would decide the issue. I can say without fear of contradiction that I have never received such a response from the public by phone, by letter, and by personal contact, as I did after I appeared on the television programme "Today Tonight" in March, 1972. I have been in Parliament for over 25 years, and I was a Minister for 12 years, yet in no other matter have I received such a great response from people who supported what I said on that occasion when I opposed capital punishment.

The Hon. R. Thompson: Did you say you opposed capital punishment?

The Hon. L. A. LOGAN: The programme was about capital punishment. I opposed its abolition.

The Hon. J. Dolan: Then why didn't you say so?

The Hon. L. A. LOGAN: Had members watched that programme they would know what I said. I was absolutely amazed at the number of people who went out of their way—and the public usually does not do this—to phone, write, and speak to me and indicate their support of my attitude during that debate. Only a fortnight ago I was reminded of that instance by another person who supported my view.

So it would appear that after all this time he has not forgotten. As far as I am concerned that reflects public opinion.

The Hon. R. Thompson: The person who was with you on "Today Tonight"—Mr. Bryce—also had overwhelming support.

The Hon. L. A. LOGAN: It is my opinion that public opinion was on my side and I propose to stick to that. I might say that this public opinion was reflected by people from all walks of life—they constituted supporters of the Labor Government among others. There is no argument at all about the fact that these people represented a fair cross-section of the community.

I will now revert to the matter with which we are dealing and which concerns those who appear before a court and are charged and proved guilty of wilful murder. This is done by a judge and a jury.

The Hon. R. Thompson: If you support something would you hang a man?

The Hon. L. A. LOGAN: In certain circumstances I do believe I would. I would refer the honourable member to two cases that occurred in this State where not only I but a great number of other people would have been happy to have pulled the lever.

Some of us seem to be frightened to mention names, but I know of two instances where capital punishment has been meted out, and I am sure I could guarantee that thousands of people in Western Australia would have been prepared to have a go at pulling the lever.

The Hon. R. Thompson: There is more to hanging a man than pulling a lever.

The Hon. L. A. LOGAN: Do members forget what happened in the metropolitan area a few years ago; do they forget the fear and terror to which the people in that area were subjected?

The Hon. D. K. Dans: Are you suggesting it will never happen again?

The Hon. L. A. LOGAN: I am pointing out that I certainly would not give the person concerned an opportunity to do this again; though that appears to be what the abolitionists preach—they would like to give such a person a further opportunity to go out and commit another murder.

The Hon. J. Dolan: Rubbish!

The Hon. L. A. LOGAN: It amounts to nothing more nor less than that. The abolitionists would be quite prepared to give the person to whom I have referred a second chance to commit a murder.

As we all know, in these days of prison reform there appears to be a fairly soft attitude adopted towards such people—they appear to receive no end of sympathy. However, I have not heard any sympathy expressed for the poor unfortunate person who happened to be murdered; nor have I heard sympathy expressed for his family. All the sympathy seems to be directed towards the murderer.

The Hon. A. F. Griffith: Nothing for the mother and father of a nine-year-old girl.

The Hon. L. A. LOGAN: If a murderer happened to break out from gaol we have no guarantee at all that he will not commit another murder. I am not worrying quite so much about the deterrent aspect as about society as a whole. I believe it is my obligation to protect society; an obligation which I propose to accept.

Let me now refer to the Shenton Park case where a nine-year-old girl was raped; where her body was ripped during sexual intercourse, after which she was strangled and her body was thrown on a rubbish tip; and where two hours later the person who had committed the crime had sexual intercourse with his *de facto* wife.

Should we give such a person an opportunity to again commit that type of crime? Does the Minister feel that his granddaughter would be safe if this fellow were to get out of prison? The Minister has no guarantee that she would. Is this what members want; to give this man an opportunity to commit another equally dastardly and heinous crime?

I would now ask members to consider what happened a short while ago in the Eastern States, where a schoolteacher of 20 was kidnapped along with several children. From the reports we read it was quite obvious what could have happened. Fortunately the possibility we feared did not transpire, but one can imagine what the public reaction would have been had our worst fears been realised. I am sure the public reaction would have been pretty drastic.

It is our job to protect society. It is far better to ensure that those who are capable of committing heinous crimes—the type of crimes to which I have referred—do not get a second chance to commit those crimes. It would be far better to liquidate such people than have another innocent member of our society murdered.

The Hon. R. Thompson: What about when you liquidate innocent people?

The Hon. L. A. LOGAN: We are dealing with the law in Western Australia and no innocent person has suffered in Western Australia.

The Hon. R. Thompson: How do you know?

The Hon. L. A. LOGAN: When introducing the Bill the Leader of the House mentioned a few cases of those who were eventually found not guilty. There is no guarantee, however, that they were not guilty, because in these matters so many technicalities can arise and arguments brought forward which could quite easily enable a man to be declared innocent. Let us not kid ourselves on that score.

Mention has been made of the remarks of Archbishop Sambell. I think I can say that I have as much religious background as any member in this House. My grandparents were pillars of the church, as were my parents. I too have been associated with the church all my life. I have carried out vestry duties, I have read the epistles, and I have supported the church financially. I pray to the same God as does Archbishop Sambell, but in all my experience never once in any way at all have I heard my God intimate to me that I should support the release of a person who is charged with and convicted of a heinous crime. I challenge the Archbishop to contradict that.

The Hon. D. K. Dans: That was the God of the Jews who talked about an eye for an eye and a tooth for a tooth.

The Hon. L. A. LOGAN: I did not say anything like that.

The Hon. D. K. Dans: It is the same thing; it is ancient Hebrew law.

The Hon. L. A. LOGAN: I said that my God had never suggested in any way at all that I should support the release of a man who had committed a heinous crime; that I should give him an opportunity to commit a further crime of a similar nature. That is the situation as far as I am concerned.

If we were to accept the Bill before us we would be committing future Governments to decisions which they may not want to accept. It is of no use saying that such Governments could amend the Act and bring down further legislation later. If a person were to commit a most serious and heinous crime for which the public demanded the sentence of death it would not be possible to introduce legislation for this purpose, particularly after the crime had been committed. We have no right to commit future Governments in a matter such as this.

The present Government should make its own decisions as to whether or not the penalty for murder will be carried out in its entirety, or whether the person concerned will be freed. Surely this is how it should be. We have no idea at all as to what action may be taken in future by people in this category. Recently a great deal has been heard about the hijacking of planes, and so on. Would any honourable member be prepared to accept the responsibility if someone were to take a bomb onto a loaded aircraft at Guildford; an act which could quite easily result in the blowing up of the aircraft and the death of 20 or 30 people? Do members think that such a man should be shown any sympathy? The abolitionists say, "We shall put you inside for 10 or 15 years after which you can come out again."

The Hon. W. R. Withers: They will say, "Because you happen to come from the slums we will treat you leniently."

The Hon. L. A. LOGAN: I do not think we should bind future Governments to a set course of action. The Leader of the House did not record for our benefit the history of those who have been committed and found guilty of the crime of murder and who eventually either escape or are released from gaol after which they again committed another murder.

There are innumerable such instances in Western Australia, in Australia and, indeed, throughout the world. Only recently there was a case in the Eastern States where a person had been found guilty of murder, and after having served five years he was released and, on being released, he went back to exactly the same spot and committed a further murder. He was guilty of the first murder, but who was guilty of the second?

The Hon. J. Heitman: The do-gooders.

The Hon. L. A. LOGAN: That is quite right. This is the sort of thing we must guard against.

The Hon. R. F. Claughton: Which case was that?

The Hon. L. A. LOGAN: Had the honourable member read the papers he would know the case to which I am referring.

The Hon. R. F. Claughton: I do read the papers and I cannot recall the case.

The Hon. D. K. Dans: You missed one part out.

The Hon. L. A. LOGAN: Was it a good part or a bad part?

The Hon. D. K. Dans: They are all bad.

The Hon. L. A. LOGAN: That is quite correct. Accordingly it is not a case of being hard-hearted; it is merely a case of being factual; a case of dealing purely and simply with the legislation so far as it relates to Western Australia; while at the same time bearing in mind that the Bill is in two parts, the first of which deals with capital punishment and the second with whipping. The emphasis, however, has been mainly on capital punishment, though Mr. Baxter did raise the whipping aspect fairly extensively last night.

As Mr. Williams has said, we should not be concerned about statistics. So far as I am concerned my obligation is to society, and I intend to accept that obligation and oppose the measure.

THE HON. I. G. MEDCALF (Metropolitan) [5.28 p.m.]: The Bill before us concerns the abolition of the death penalty as it relates to murder, treason, piracy, and attempted piracy with violence. Piracy relates to ships rather than to aircraft, although these days there is a close connection between the two. The Bill also refers to whipping and purports to abolish the punishment of whipping. It further makes reference to corporal punishment as distinct from whipping with reference to the Justices Act.

The death penalty as it applies in Western Australia is not really one with which we come in contact very frequently because, in practice, there are comparatively few cases where the death penalty in enforced without the operation of the Royal prerogative of mercy.

In most cases in Western Australia in recent years, irrespective of the Government in office, we have had the use of the Royal prerogative which, of course, nothing can alter. That Royal prerogative of mercy is exercised by the Governor-in-Executive-Council which, in effect, is by the Cabinet of the day on whose authority the Governor acts.

The Royal prerogative of mercy is unaffected by the Criminal Code or by any of the other cases which are affected by the Bill at present before us.

There is an additional manner in which what we might call compassion and mercy can operate under our present system, and this is through the Parole Board constituted under the Offenders Probation and Parole Act of 1963. Section 34 of that Act provides for written reports with recommendations to be made periodically by the Parole Board. For example, the board must make a report whenever requested in writing by the Minister. It must furnish a written report and recommendations with respect to every prisoner for the time being undergoing a sentence of life imprisonment.

Likewise, whether or not it is requested to do so by the Minister, the Parole Board must report on every prisoner who was originally sentenced to death, but whose sentence of death has been commuted to life imprisonment. This report must be made after that person has been in prison for a period of 10 years and every five years thereafter.

If a prisoner is not undergoing a commuted sentence, but a life imprisonment sentence with or without hard labour, the Parole Board must report every five years whether or not the Minister asks for a report and each report must be accompanied by recommendations. So that as far as a commuted sentence is concerned statutory provision already exists for a report, and the commuted sentence will apply after the Royal prerogative of mercy is exercised.

To reiterate, firstly, a prisoner who is sentenced to death may, by act of the Government, have that sentence commuted without any particular reasons being given therefor in the exercise of the Royal prerogative of mercy. When this has occurred that person will then, in addition, come automatically under the operation of the Offenders Probation and Parole Act and, irrespective of any act of the Minister, a report must be furnished with recommendations in the first place after 10 years and thereafter every five years. So, although a prisoner cannot earn remissions if he has a life sentence, there is a certain built-in recognition of the quality of mercy.

It is already there and it has been exercised very frequently in the history of this State and as a matter of policy, of course, it is always exercised by Labor Governments. So to a certain extent we are talking about a very restricted area when we refer to the abolition of the death penalty because we are referring only to persons who commit wilful murder. We can pass over treason and piracy because, as Mr. Logan said, very few people have been charged with these offences in recent times. We are talking about persons who commit wilful murder and in regard to

whom the Royal prerogative of mercy is not exercised and the sentences are not commuted to life imprisonment.

It has been said and written frequently that no evidence exists to indicate that the death penalty has ever acted as a deterrent to a murderer. Miss Elliott made this statement a few moments ago and it is certainly a classic opinion expressed in the debates on this subject in the English Parliament. The proposition is that no evidence indicates that the death penalty has ever deterred a murderer, and I accept this proposition. It may well be so. If someone decides on a murder it may well be that the death penalty is not a deterrent to him. It is pretty obvious that it is not a deterrent or he would not commit the murder. So the proposition is that no evidence exists to indicate that the death penalty is a deterrent to those who commit a murder.

However what about those who do not commit a murder? Is it a deterrent to them? That is really the proposition. It is no good saying it is not a deterrent to those who commit murder; that is really a self-evident truth. But is it a deterrent to those who might have committed a murder, but who do not get around to doing so because they are deterred? That is the important point on which I can say no evidence is available.

The Hon. D. K. Dans: I do not think there is any evidence on either side.

The Hon. A. F. Griffith: The abolitionists find some difficulty in giving the answer to that of course.

The Hon. L. D. Elliott: So did the Royal Commission in Britain.

The Hon. I. G. MEDCALF: No evidence exists in Royal Commissions or in statements in *Hansard* to substantiate the view that the existence of the death penalty has acted as a deterrent to would-be murderers. This is the important point. What about these people who might have committed a murder? I know there is no evidence about them and I am not making a positive proposition that the death penalty does act as a deterrent; but I am saying the effect cannot be measured. If one does try to measure the effect, it must not be measured against those who commit a murder because it was certainly not a deterrent to them; it must be measured against those who might possibly have committed, or who might in the future commit, a murder. That is what really concerns me.

I am very appreciative of the aspect to which Miss Elliott referred; that is, the mentally ill, the psychopaths, and others suffering from mental conditions who commit murder and other crimes of violence. I appreciate as well as anyone that these people need treatment. In some cases they may be the victims of circumstances. It may well be that in many instances delinquency is the result of home conditions, of housing, or deprivation of opportunities. I am quite prepared to believe that is probably so, just as I believe delinquency might well be the result of affluence and over indulgence of what we might call the good things in life. That equally seems to produce it although I suppose it could be said there may well be some psychological element lacking even in the life of an affluent child who grows up and embraces a life of crime. Some emotional element may be missing which has that result. I am prepared to listen to experts in this field and to accept the evidence of psychologists who are qualified on the subject. I am more prepared to accept their views and to take some note of what they say.

I am well aware of the fact that some murders may be committed because of psychological and emotional factors. I am also aware of the fact that some people may commit only one murder. Every murderer is not a conditioned murderer who will continue to murder. It may well be that many murderers will commit only the one murder and no matter what the penalty they would still have committed it. That is quite a possibility. Prison visitors of some standing have said that many murderers they have interviewed have been the quietest and least offensive people imaginable. They have committed one murder and possibly would not commit another.

The Hon. G. C. MacKinnon: They might have been deeply repressed.

The Hon. I. G. MEDCALF: Yes. There might have been some psychological influence in their life or some frustration in their home life. I am not qualified to go into that aspect, but I am prepared to accept that this could be so.

But what about the cold-blooded killer, the terrorist, and the man who murders for money or for gain? Murderers are not all uneducated, unskilled labourers. Doctors and other well-educated people also become murderers.

The Hon. G. C. MacKinnon: Were you going to include lawyers?

The Hon. I. G. MEDCALF: No; I do not know of any lawyer who has committed murder. It may be that Mr. Dans can quote a few, but I do not know of any. However I have heard of doctors committing murder.

The Hon. A. F. Griffith: Mr. Dans is sitting forward in his seat like a panther ready to spring.

The Hon. I. G. MEDCALF: I have heard of other educated men who have committed murder. I have heard of people from well-to-do quarters in society; people well educated—in fact people who received the best education the community can provide.

The Hon. L. D. Elliott: But they are in the minority anyway.

The Hon. A. F. Griffith: So are murderers.

The Hon. I. G. MEDCALF: I think murderers are in a minority altogether. We are dealing only with a minority of the population, thank goodness.

Do not let us think that all murderers are depressed people. I accept the view Miss Elliott submitted—that many of them have suffered social deprivation. This applies to those who commit any crime. Many have had disadvantages of various kinds. However, many of them do not appear to have had any obvious disadvantages. Whilst some may have had disadvantages, those disadvantages must be weighed against the disadvantages suffered by their victims.

This is quite a serious subject. Let us consider the cold-blooded killers who murder for money. What about Mr. Bradley, the man in New South Wales who had a good job and was well set up? He kidnapped a small boy on his way to school because he had read in the paper that his parents had won a lottery. He asked for an enormous ransom and an attempt was made to pay it, but everything went wrong. The negotiations were never arranged because Bradley got out of communication and the police were called in. For one reason or another the child ended up in the boot of Bradley's car—murdered—and Bradley disappeared. It was only by the merest chance—a miracle—that he was apprehended in Colombo, and extradited to Australia. In New South Wales he was tried for, and convicted of, wilful murder, and was sentenced to life imprisonment. I understand that when he entered the gaol he was ostracized by the other prisoners and he eventually took his own life by hanging himself.

What about that man? He may have suffered some deprivation for all I know, but is that not an illustration of a cold-blooded killer? What else could he be? All he could think of was saving his skin when the child was murdered.

I do not want to bring emotion into this subject because I do not think it should be involved. Unfortunately it is involved far too much. The subject should be looked at as coldly and as hardly as is possible. When I say "hardly" I mean we should have a hard, dispassionate look at it. Some murderers are cold-blooded and we should consider them as cold-bloodedly as they considered the murders.

What about the terrorists at Munich? I know that incident does not come under our jurisdiction and it is said that the murders were carried out for political reasons; but what about the fellow who recently put the bomb in the Cathay Pacific plane which blew up over Vietnam, Cambodia, or somewhere? That plane was run by a very efficient airline. Our own Qantas could have been involved. Cathay Pacific is just as good an airline and is properly run. No political reason existed for its having been singled out, but this fellow put a bomb on it and it exploded and killed 130 people. What about that fellow? Was that not a cold-blooded act? It was a cold-blooded plan. I wonder how we can extend leniency indefinitely. I still believe in the quality of mercy.

This power already exists in our legislation. If it is to be invoked, let the Governor invoke it. Good gracious me, if there is reason for the Royal prerogative being exercised, it will be exercised. The jury is permitted to add a rider and may make a recommendation to the judge. The judge, also, may make a recommendation to the Governor. The Cabinet—that is, the Governor-in-Executive-Council—knows how to act on such a recommendation. I could not believe the Cabinet would not take notice of a recommendation for mercy which came from a judge, a jury, or for that matter, from other responsible people in the community, such as psychiatrists and others, who themselves are convinced and are able to convince others that there is some justification for invoking the Royal prerogative.

There was also the case of Karel Tapci in Geraldton some years ago, if that is the right place.

The Hon. L. A. Logan: It was in Wubin.

The Hon. I. G. MEDCALF: He picked up a farmer in a hotel who was going to Perth. He brutally murdered him on the side of the road for his money and dumped the body in the bush. He disappeared, but was finally apprehended in Perth. This man could have had a bad mental history —I do not know—but he murdered a farmer for £70.

The Hon. L. A. Logan: The murdered person was from my electorate.

The Hon. I. G. MEDCALF: These are illustrations of cold-blooded murders. Not one of the murders I have mentioned was committed in the heat of the moment. Certainly the Bradley case is not an illustration of a murder committed in the heat of the moment. The person who put the bomb into the plane, to which I referred earlier, had time to think what he was doing. Tapci was with his victim for some hours before he committed the murder.

Many other cases could be mentioned, but it is not really desirable to go into them in great detail. We must be convinced that the law is either adequate or it is inadequate. I must confess that, until I can see a satisfactory alternative, I cannot see any reason at the present time for changing the law. When I say

this, I am talking about capital punishment for wilful murder. I am not necessarily talking about whipping.

What is the alternative to capital punishment for wilful murder? The alternative is life imprisonment with or without hard labour. That is the alternative to this measure. In the case of life imprisonment, with or without hard labour, the Parole Board reports every five years and makes its recommendations. In the interests of the prisoner, if for no other reason, it is fairly obvious that after a period of time, he can be released. Let us face the facts. Memories fade, people die, and the relatives of the victims perhaps do not look at the situation in quite the same way as they once did. Society tends to forget fairly quickly. Consequently, such a man will be released.

I would certainly come down in favour of the abolition of capital punishment if there were any way of ensuring that the murderer had been reformed before he was released. If we knew of a system of reform—a system, which we knew would work—I would be 100 per cent. in favour of the abolition of capital punishment. If we could really guarantee that such a person was reformed, we would have done some good, but could we guarantee it? We could not, certainly in this day and age. Perhaps we will be able to some day, but it would be putting the cart before the horse to abolish capital punishment without knowing of any effective alternative which will not only protect society but also reform the murderer.

In fact, I do not know how some murderers could be reformed. Doubtless psychologists and others upon whom we will grow to rely increasingly in the years to come will find the means to do this. Perhaps this will be achieved through technological advances and I certainly do not rule out computers in this respect. It may be that at some future date methods will be evolved to achieve this purpose. I believe The Hon. Lyla Elliott said we will have a very different society in the years to come. In all probability our society will be different in 10, 15, or 20 years' time. I am not sure whether Miss Elliott actually said this, but I am sure she would think that this will be the position. I certainly believe society will be different in the future. Before we embark on this different society let us ensure it will work. At the moment we cannot give that assurance. With the passage of time, with advances in the field of technology, medicine, and science, doubtless many aspects of society will change. I am prepared to admit society will change, but it has not changed yet. Until I am satisfied we have some effective way of protecting society and reforming a criminal, I would not be prepared to support the Bill in respect of the abolition of capital punishment.

I am not so concerned about treason and piracy, because these are rare occurrences indeed. However, I think there is a case to be made out for amending the piracy provision to include aircraft. At the moment it only includes piracy on the sea.

The Hon. G. C. MacKinnon: It should be by international agreement.

The Hon. I. G. MEDCALF: Some of the premeditated actions which terrorists and others take to demand money, amongst other things, from airline companies can affect large numbers of people. Often the results are tragic and individuals lose their lives. Sometimes the breadwinner or a child is lost. These topics are emotional and I do not want to debate the Bill on that basis. However, these actions can be tragic for many people. Until we can achieve something to demonstrate that we have an effective deterrent, I do not think we should tamper with the abolition of the death penalty. As I have said, a case can be made out for extending the piracy provisions to include such activities in the air.

The other section of the legislation is concerned with whipping. I would not worry unduly about this provision being deleted—if it is—for the reason that it has not been invoked for a long time. Also, some of the crimes in the Criminal Code for which whipping is the penalty do not, I think, have the same significance as they did when they were inserted in the Code. Although some of the crimes are still heinous offences, they are not the sort of crimes which are very prevalent. On the other hand, some are extremely prevalent.

Other crimes, however, to my mind should carry a very severe penalty. Although this will be a slight digression, I cannot help but think that peddlers of drugs should perhaps receive the severest form of punishment. I am referring to people who deliberately peddle hard drugs for money and who corrupt the morals, the physical health, and the lives of young people. I do not think the period of 10 years upon which the Minister and his colleagues have agreed is sufficient punishment. As I have said, that is a digression.

The Bill also refers to corporal punishment under the Justices Act. I suppose it is intended to refer to whipping, but the actual reference is to corporal punishment. In effect, the Bill goes a little further than whipping alone. From a practical point of view we are dealing with the death penalty and with whipping.

I wish to summarise my views. Perhaps the Chamber could give consideration—if it be so minded—to repealing the sections concerned with whipping. However, I could not subscribe to the abolition of the death penalty until I could see some effective substitute which, in fact, would make the punishment fit the crime.

Debate adjourned, on motion by The Hon. V. J. Ferry.

COAL MINE WORKERS (PENSIONS) ACT AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and on motion by The Hon. R. H. C. Stubbs (Minister for Local Government), read a first time.

House adjourned at 5.55 p.m.

Legislative Assembly

Wednesday, the 1st November, 1972

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

BILLS (10): ASSENT

Message from the Lieutenant-Governor and Administrator received and read notifying assent to the following Bills:—

1. Inheritance (Family and Dependants Provision) Bill.
2. Transport Commission Act Amendment Bill.
3. Law Reform Commission Bill.
4. Alumina Refinery (Mitchell Plateau) Agreement Act Amendment Bill.
5. Environmental Protection Act Amendment Bill.
6. Country High School Hostels Authority Act Amendment Bill.
7. Public and Bank Holidays Bill.
8. Interpretation Act Amendment Bill.
9. Factories and Shops Act Amendment Bill.
10. Hairdressers Registration Act Amendment Bill.

TEACHER EDUCATION BILL

Message: Appropriations

Message from the Lieutenant-Governor and Administrator received and read recommending appropriations for the purposes of the Bill.

QUESTIONS (23): ON NOTICE

1. COUNTRY BUILDERS

Government Contracts

Mr. THOMPSON, to the Minister for Works:

(1) Does he extend any concessions to country based builders who tender for Government contracts?

(2) If so—

(a) what incentive is offered;

(b) when was this measure introduced;

(c) for what reason was it introduced;

(d) in how many cases has the concession been granted?

Mr. H. D. Evans (for Mr. JAMIESON) replied:

(1) The question of preference to country based builders is at present under consideration.

(2) Answered by (1).

2. MARGARINE

Production: Employees

Mr. BLAIKIE, to the Minister for Labour:

Would he advise the locality and number of employees engaged in the production of margarine in this State?

Mr. TAYLOR replied:

One factory at North Fremantle with 3 male and 4 female employees.

One factory at Victoria Park with 21 male and 9 female employees.

3. TOWN PLANNING

Busselton: Correspondence from Mrs. Tichbon

Mr. BLAIKIE, to the Minister for Town Planning:

(1) Has he or his department received correspondence from a Mrs. C. Tichbon of Argyle regarding town planning and roadwork proposals in the Shire of Busselton?

(2) If so, when was this received and what advice has the Government conveyed to Mrs. Tichbon?

Mr. DAVIES replied:

(1) An undated letter from Mrs. Tichbon was received in my office on 14th September, addressed to the "Minister for", and to "Mr. R." and to "Dear Sir". Another letter dated 12th October to Mr. Bickerton, then Acting Minister for Environmental Protection, and one to the Director of Environmental Protection dated 28th September, were also sent by Mrs. Tichbon relating to these subjects in general. There has been no correspondence with the Town Planning Department directly.

(2) Dates of receipt were 14th September, 17th October, and 29th September.

Mrs. Tichbon was advised that there is an increased public awareness on environmental matters such as concern her and that this would alleviate in time the problems she raised. She was also advised that the Government is active in promulgating programmes in this direction.