I can imagine what would have happened if it were the wheatgrowing industry, or the barley or some other grain-growing industry which was placed in this position. I can imagine what would have happened if the vegetable growers or other large industries were thus affected. I am sure they would not be taking the Government's attitude as placidly as the growers in Manjimup apparently have done. They would have been up in arms immediately, and there would have been a hue and cry against the Government, and their voice would have been heard because their numbers would have been far greater.

Let us consider the position. The motion we are now considering appeared on the notice paper on the 29th August so there does not appear to be a great deal of anxiety on the part of the Government to give effect to it. Apparently the Government has not a great deal of confidence that a motion of this kind will relieve the industry in any way, or it would have persisted with it long ago; it would have got it through the House in an endeavour to effect its purpose.

Members will see that it is many weeks since the motion was placed before the Chamber; and it would probably be many more weeks and perhaps many more months before the deliberations of the committee—if it were appointed—could be put into operation; and members of this Chamber who know the fate of the recommendations of previous Select Committees will appreciate that the outlook of assistance for this industry is not very encouraging.

However, as I have already said, I do not think a Select Committee can do any harm. It may unearth something that could be worth while; but the odds against its doing so would be very high. But if it could achieve anything at all; if it could bring in a strong recommendation that the Government take some action immediately—after it had had a few sittings—perhaps something could be achieved. I do not think there is a great deal of scope for such a Select Committee to operate, because most of the factors in this industry are already known to the Government departments. Their difficulty is finance; and their paramount difficulty, in a Federal sense, is to obtain a determination as to what the buyers and manufacturers require in the way of a standard leaf. I have no objection to the appointment of a Select Committee.

Debate adjourned, on motion by Mr. I. W. Manning.

DEATH PENALTY ABOLITION BILL

Discharge of Order

Bill discharged from the notice paper, on motion by Mr. Graham.

House adjourned at 10.38 p.m.

Legislative Council

Thursday, the 12th October, 1961

CONTENTS

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

BILLS (2): THIRD READING

1. Bank Holidays Act Amendment Bill.

   Bill read a third time, on motion by The Hon. A. F. Griffith (Minister for Mines), and passed.

2. Registration of Births, Deaths and Marriages Bill.

   Bill read a third time, on motion by The Hon. L. A. Logan (Minister for Local Government), and returned to the Assembly with an amendment.

CRIMINAL CODE AMENDMENT BILL

Second Reading

THE HON. A. F. GRIFFITH (Suburban —Minister for Mines) [2.35 p.m.]: I move—

That the Bill be now read a second time.

This Bill to amend the Criminal Code, comes to us from another place, and is a very important measure. Two of its three main parts deal with penalties for the crimes of murder and wilful murder. The definition of murder in the Criminal Code may be broadly explained as killings done in the course of some wrong-doing where no intention to kill can be proved.

Under existing law, it is mandatory for judges, upon a person being convicted either of wilful murder or murder, to impose the death penalty. The proposed amendment to section 282 of the Code, which is to be repealed and re-enacted, as set out in clause 3 of the Bill, will alter this position.

Should this Bill become law, a sentence of life imprisonment will be imposed in respect of convictions for murder. Life imprisonment means imprisonment for the term of the person's natural life, but not for any period of years.

The imposition of the death penalty will remain in respect of wilful murder. This crime is defined in the Criminal Code as the unlawful killing of another, intending to cause his death or that of some other person. So we have the dividing line between premeditated killing and killings where proof of intention cannot be substantiated.

The amendments to the Criminal Code proposed through the introduction of this Bill will neither limit, in any way, nor abrogate the right of Executive Council to recommend the commuting of the penalty of death to a lesser penalty. This right has always been available, and has been used when it appears that there have been circumstances which warrant such recommendation. The right remains as heretofore.

The second important amendment affecting penalties for conviction of murder, or wilful murder, is contained in clause 5, which provides for the introduction of a new section, No. 706A of the Code. Clause 2 also has a bearing on this amendment. It has, in the past, been customary for the official file of a person under sentence of imprisonment for life to be brought before Executive Council every five years for review. Through this means it has been possible for recommendations for the release of a prisoner at the expiration of the first five years of his imprisonment, or at any period of time thereafter, to be made effective through a purely administrative act.

The introduction of the new section 706A into the Code is aimed at preventing this coming about during the first 15 years of the sentence, except under two circumstances. The circumstances are, firstly, that the Governor is satisfied that there has been a miscarriage of justice; and, secondly, that the Governor deems it proper that the prisoner should be released earlier on account of serious ill-health. The latter is, however, further subject to a proviso that the Governor must satisfy himself it is unlikely that the life of any person would be endangered by any such earlier release.

The overall intent of this new section is to ensure that a person convicted of murder or of wilful murder, whose sentence has been commuted, cannot be released under 15 years, except in the particular circumstances just described.

The next important amendment deals with section 639 of the Criminal Code. Section 639 at present provides that on the trial of a person charged with any indictable offence other than a crime punishable with death, the court may, in its discretion, permit the jury to separate, for such period during any adjournment of the trial as the court may think fit, before considering its verdict.

With the passing of this measure, the indictable offence of murder would not be covered by section 639, because it would no longer be punishable by death. It is considered that the provision as applying hitherto to murder should continue to do so. The purpose of the amendment is to ensure that, during a trial for murder, the jury cannot be separated.

The bringing of the Criminal Code before Parliament provides an opportunity to attend to another matter which has been the subject of doubt, as expressed by the Chief Justice, concerning the authority of judges of the Supreme Court, when dealing with offences in which the use of a vehicle is an element of the offence, to suspend the driver's license and/or to disqualify the convicted person from holding a license. The provisions of clause 4 of the Bill for the repealing and re-enacting of section 668A of the Code will remove this doubt entirely.

The passing of this clause will authorise a judge to suspend a license, which is already held, for such period as he thinks fit, and declare the person disqualified. The clause also provides that if the person does not hold a license, he may be disqualified from obtaining one.

The same principles as apply in the Traffic Act Amendment Act of 1959 will also hold in order to enable applications to be made subsequently, by persons so disqualified, for a restricted license. In this case, of course, the order having been made by a judge, the Bill provides that the review shall be made by a judge. It is further set out that applications may not be made within six months of the making of the order in the first case. In other respects, the powers to be accorded judges are to be similar to those contained in section 33A of the Traffic Act; and subclause (6) of clause 4 provides that this section of the Traffic Act shall be deemed to be incorporated in section 668A of the Criminal Code.

The Minister in charge of the Bill in another place said that its introduction was a genuine attempt to amend the Criminal Code in respect of these three matters in such a way as to enable reasonable justice to be done.

There is little need for me to further emphasise the importance of this rather brief Bill. I commend its provisions to members for their earnest consideration.

Debate adjourned, on motion by The Hon. W. F. Willesee.

JUSTICES ACT AMENDMENT BILL

Second Reading

THE HON. A. F. GRIFFITH (Suburban—Minister for Mines) [2.44 p.m.]: I move—

That the Bill be now read a second time.

I desire to let members know that this measure is complementary to the Bill dealing with the amendment of the Criminal Code. I might add that there is a further complementary Bill, namely, the amendment to the Juries Act. Section 115 of the Justices Act, which it is necessary to amend, reads as follows:—

> No person charged with a capital crime shall be admitted to bail except by order of the Supreme Court, or a Judge thereof.

In respect of the law set out in the Criminal Code as at present, the purport of this section of the Justices Act prevents a person charged with murder from being admitted to bail other than by order of the Supreme Court or one of its judges.

With the passing of the current proposed amendment to the Code, it is evident that section 115 of the Justices Act will no longer apply to murder, but only to wilful murder. Though murder will no longer be regarded as a capital crime, it is considered that a person charged with that crime should not be admitted to bail except by orders under the authority previously mentioned.

It is with the intention of ensuring that the present practice is retained that this brief amendment is submitted to members for their consideration.

The amendment set out in clause 3 of the Bill is of similar import to the amendment proposed in clause 2.

Debate adjourned, on motion by The Hon. H. C. Strickland (Leader of the Opposition).

NORTH-WEST: COMMONWEALTH AID FOR DEVELOPMENT

Resolution from Assembly

Message from the Assembly received and read requesting concurrence in the following resolution:—

> That, in view of the satisfactory result obtained from the case presented by the all-party committee to Canberra in 1955 (as a result of a motion moved in this Parliament in July, 1954), and the works completed and in progress in the Kimberley area of the State, in collaboration with the Commonwealth Government, this House is of the opinion that if the Commonwealth by the 31st March, 1962, has not agreed to the appointment of a joint Commonwealth-State committee to examine and recommend development projects for the north of this State, or alternatively agreed to assist the State in further substantial development projects to accelerate progress in the north, a further all-party committee should be appointed to present as soon as possible after the 31st March, 1962, to the Commonwealth Government a case for the development of the north generally and with specific projects within the area lying between the 20th and 26th parallels of south latitude.
>
> It further requests—
>
> (a) that if an all-party committee has to be appointed under the foregoing proposal, a programme for development of this portion of the State be drawn up by a committee consisting of the Premier, Deputy Premier, Minister for the North-West, and Leader of the Opposition in the Legislative Assembly; the Minister in charge of the Legislative Council, and the Leader of the Opposition in the Legislative Council;
>
> (b) that this committee submit such programme at an interview with the Right Hon. the Prime Minister, and the Federal Treasurer;
>
> (c) that a special Federal grant of an amount considered necessary for this work be requested in order to stimulate and carry out this vital development.

WELFARE AND ASSISTANCE BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by The Hon. L. A. Logan (Minister for Child Welfare), read a first time.

JURIES ACT AMENDMENT BILL

Second Reading

THE HON. A. F. GRIFFITH (Suburban—Minister for Mines) [2.50 p.m.]: I move—

That the Bill be now read a second time.

This is the second of the complementary Bills to the Criminal Code Amendment Bill. This Bill comes to this House in two main parts. Clause 2 proposes to amend section 41 of the Act which makes provision at present for a unanimous verdict by a jury in respect of a charge for an offence punishable with death. As again the amendment to the Code would remove the crime of murder from this category, the provisions of the section as existing would not apply to murder with the passing of the amendment to the Code. The proposed amendment to section 41 is being

introduced to ensure that, in connection with the charge of murder, the verdict of the jury must still be unanimous.

The second amendment comes in clause 3 which seeks to introduce an amendment to section 57 of the Act. That section deals with the restriction on newspapers publishing names or photographs, etc., of jurors on criminal trials.

Subsection (2) of section 57 at present places a restriction on photography and the publication of names applicable to any crime in respect of which the penalty of death may be inflicted. As members will appreciate, with the passing of the proposed amendments to the Criminal Code, such restrictions would no longer apply in respect of a charge of murder. The purpose of the amendment is to ensure a continuance of the restriction which exists at present, but which would be removed with the passing of the Bill previously referred to.

Debate adjourned, on motion by The Hon. F. R. H. Lavery.

PUBLIC MONEYS INVESTMENT BILL

Second Reading

THE HON. L. A. LOGAN (Midland—Minister for Local Government) [2.53 p.m.]: I move—

That the Bill be now read a second time.

The provisions of this measure have been drawn up with the object of authorising the Treasurer to make the moneys standing to the credit of the Public Account at the Reserve Bank of Australia earn some return for the Consolidated Revenue Fund. The Public Account constitutes, in cash, the resources of the State which accrue through all revenues received, loan proceeds and other moneys kept at the bank to meet all types of Government expenditure.

As clearly expressed in clause 2 of the Bill, the expressions "Public Accounts" and "Public moneys" refer to terms as defined as such in the Audit Act of 1904. It is under the provisions of that Act that these funds are kept in the bank. Because there is no provision under the Audit Act for the investment of these moneys—and I might say they amount to considerable sums, varying from some hundreds of thousands of pounds to as high as £8,000,000—the earnings of these very substantial funds are limited to the 1 per cent. per annum bank interest payments.

Clause 3 of the Bill provides for the investment of these moneys in certain securities. Under this clause the Treasurer is authorised to draw and invest such of these moneys as he thinks fit; and without the approval of the Governor; and in the directions covered by paragraphs (a) and (b) of this clause.

The securities referred to under paragraph (a), which the Government has mainly in mind, are those being currently issued by the Commonwealth as short-term securities in the form of seasonal Treasury notes. The notes have a tenure of three months, and in that period provide a yield of approximately 4 per cent. per annum.

The main direction in which it is intended to invest these idle funds is in the official short-term money market. This market was established by the Commonwealth early in 1959. The expression, as its name implies, describes specialised operations relating to the investment of funds lent on a very short-term basis. The interest-earning facilities which it offers for the investment of temporary surplus funds are excellent. The investment has as its security Commonwealth Government securities with a maturity date not exceeding three years.

The dealer companies which operate the market are licensed by the Reserve Bank. The bank guarantees the dealer's ability to repay by accepting the position of "lender of last resort." Consequently, in the event of a dealer being short of ready funds to meet his obligation to a depositor, the bank advances the money to him for that purpose. When funds are deposited with a dealer company, it is required to have Commonwealth securities of equivalent market value deposited with the Reserve Bank, which issues a safe custody receipt to the lender. It follows that, while it is proposed to invest moneys from the Public Account with a short-term money market operator, these moneys are subject to the trustee or custody protection of the Reserve Bank, for the bank acts, not only as custodian of the securities, but as lender of last resort in terms of the licence issued to the dealer. These safeguards provide a definite assurance of the recovery by the lender of his deposits with short-term money market dealers.

In practice, dealings on this market are subject to a minimum deposit of £25,000, there being no brokerage charge by either dealer or bank. Deposits may be at call or for specified periods. Interest payable varies with the period and the market demand for funds.

This market is now firmly established. Reserve Bank statistical bulletins record payments of interest rates varying from 2¾ per cent. per annum up to 4½ per cent. per annum. The minimum figure which I have just quoted is practically three times higher than current earnings from moneys held in the Reserve Bank Account.

Members may be interested in the method of operation of this market. Quotes are obtained with a view to taking advantage of the best rate offering. Upon payment to the dealer of the funds to be invested, the lender is given in exchange a

safe custody receipt to cover Government securities of an equivalent amount lodged at the Reserve Bank.

Upon the completion of the term—or earlier in the event of the investor requiring the use of his funds—he is paid the money, together with interest, in exchange for the safe custody receipt.

There is also the buy-back method under which the dealer sells Commonwealth securities to the lender and agrees to buy back the securities at the end of a specific period at the same price, together with an amount covering the agreed interest earnings.

I mentioned previously that such form of investment would, with the passing of this measure, be left in the hands of the Treasurer. This is necessary because of the peculiarities of this type of money deal wherein time is the essence of the contract. This is particularly so in respect of funds invested at call.

It is for these reasons that it would not be practicable for the Treasurer to be required on each occasion to approach the Governor for his special approval. It would be granted through his assent to the provisions of this Bill.

The investments referred to in paragraph (c) of clause 3 are the longer-term Commonwealth securities as distinct from the short-term securities covered by paragraph (a).

Particular funds which could well be invested in this direction are those set aside for specific purposes. As in many cases these funds are not required for some time for these purposes, they could be well employed in earning a higher rate of interest than the 1 per cent. bank interest.

The Governor's approval would need to be sought for such investments under subclause (3) of clause 3; and, of course, there is provision for the Governor to direct the Treasurer, from time to time, in respect of investments of the public moneys referred to in clause 3. This latter provision appears in subclause (2) of clause 3.

Clause 4 comes to us in two parts. Paragraph (a) provides for the repayment into the Public Account of all such principal moneys invested as are invested under this Bill.

Paragraph (b) enables the Treasurer to pay to the credit of the Consolidated Revenue Fund the earnings of this money invested pursuant to subclause (1) of clause (3).

I commend the Bill to members, believing that its passing will provide a very satisfactory means of ensuring that public funds produce the maximum income for the State consistent with the safeguards required for the investment of such funds.

Debate adjourned, on motion by The Hon. F. J. S. Wise.

STAMP ACT AMENDMENT BILL

Second Reading

THE HON. L. A. LOGAN (Midland—Minister for Local Government) [3.0 p.m.]: I move—

That the Bill be now read a second time.

When explaining the purposes of the Bill to authorise the investment of certain public moneys, I made reference to investments on the short-term money market. This Bill to amend the Stamp Act is being introduced with a view to removing such transactions from the incidence of stamp duties.

It is apparent, from what I had to say regarding the operations of this market when explaining the former Bill, that the income of the private dealers operating on this market is derived primarily from the the interest paid on the Commonwealth securities held by them. It is mainly from this source that administrative costs and interest paid on deposits are required to be made.

The market—as well might be imagined—is a very competitive one, interest rates being to some extent limited by the expenses; and the operating margins are very fine. Offices have been established in the larger States for the carrying out of these transactions. There are no such offices in Western Australia, and one of the main reasons for this is that each operation on this market attracts stamp duty in some form under the Western Australian State Act.

The Hon. H. K. Watson: One of those companies is operating in Western Australia today.

The Hon. L. A. LOGAN: Yes; but it does all its transactions in the Eastern States. It is understood that, as a consequence of this disability, such dealings on the market as are arranged in Perth are, in fact, transacted in other capital cities in order to avoid the imposition of this tax, this being for the reason that no stamp duty is payable on short-term money market transactions in those States. As an example of the extent to which our stamp duty would affect such transactions, I point out that our receipt duty of 3d. per £100 would be leviable on deposits and repayments. For instance, an investment of £500,000 for one week would attract two payments of receipt duty totalling £125.

The Hon. H. K. Watson: That happens in Western Australia today with any ordinary person.

The Hon. L. A. LOGAN: Yes, I know. Some transactions would entail a mortgage duty at 2s. 6d. per £100. It is conceivable that stamp duty payments of that order—and they could be higher—could force the dealer into loss on many of the short-term transactions. There is the added disability of inconvenience for

the dealer and the lender because of inevitable delays which would occur under the present arrangements in this State. In effect, the State would sustain no loss through the passing of this measure, for, as pointed out earlier, the transactions are being carried out elsewhere, where no such stamp duty is chargeable; and the passing of this Bill is desirable to facilitate the operation of the provisions of the major measure which will enable the considerable sums of money, lying idle in the Reserve Bank, to earn a substantial return to the Treasury.

Debate adjourned, on motion by The Hon. G. E. Jeffery.

FISHERIES ACT AMENDMENT BILL

Second Reading

THE HON. L. A. LOGAN (Midland—Minister for Local Government) [3.4 p.m.]: I move—

That the Bill be now read a second time.

I desire to explain that the 1960 legislation was put together rather hurriedly in order that its provisions might take effect before the then current crayfishing season which commenced on the 15th November. I am advised that that legislation has achieved a considerable measure of success in the stamping out of the trade in under-size crayfish. Nevertheless, during the course of the administration of the new provisions, several loopholes have come to light. Some of the main purposes of this Bill are to overcome certain operational disabilities which have become evident.

The first of these presents a necessity to redefine the crayfish tail. The tail is currently defined as the abdomen of a crayfish when severed from the carapace. There is a fairly well substantiated opinion that where the severed abdomen is not entire—that is, when portion of the flesh is missing; and it is apparently almost impossible to de-tail a cray without leaving some small part of the flesh—the tail as such does not come within the definition of a "tail." A crayfish tail is now to be defined as the whole or part of the abdomen when severed from the carapace.

Existing provisions, under which a tail must comply with the prescribed measurements regarding both weight and length, have not proved practicable in respect of its length. The frozen tail is normally bent, and no accurate measurements may be made until it is thawed. However, a thawed tail cannot be satisfactorily refrozen, and would not pass Commonwealth inspection were it intended for export. It has accordingly been decided to adhere to the weight of 5 oz. in respect of the measurement of tails.

A further matter deals with statistical information; and I might add that the compilation of this information is an important aspect of fisheries research. The present practice is to serve notice on particular persons from whom information is required. It would simplify the procuring of satisfactory statistics were it obligatory on all persons engaged in any of the operations specified in this legislaton to provide the necessary statistical information. This would relieve the department of the necessity for issuing notices in individual cases.

As regards forfeiture, the law at present prescribes for forfeiture before seizure, which is not possible. Accordingly, the redrafting of these provisions, as set out in clause 5, has been done with a view to clarifying the position regarding the seizure and forfeiture of fish, in the event of 5 per cent. of the fish in any container being under-size; or in one particular section if 5 per cent. are female crayfish carrying eggs or spawn. The fact that forfeiture is to the use of Her Majesty, is also clarified. Paragraph (b) of clause 6 makes similar provisions regarding the percentage of under-size crayfish tails in any container.

The special penalty clause inserted in the 1960 legislation provided that in addition to a general penalty for being in possession of under-size crayfish tails, a further penalty of not less than 1s. nor more than 5s., shall be imposed for every crayfish tail seized. Bearing in mind that all fish in such containers are forfeited, it is considered unfair to impose an additional monetary penalty in respect of proper size crayfish tails forfeited with the under-size tails. The amendment restricts the additional penalty to the actual under-size crayfish tails, and this is considered fair and reasonable, not only by the department and the magistrates, but also by the industry.

It has been found, through experience, that it is not necessary to insist on all classes of fishermen being compelled to use labelled containers. One case in point is the salmon fishermen who customarily transport their catches to the canneries in bulk. Accordingly, provision is made for the Minister, or the chief inspector, by delegation, to exempt special cases from the labelling provisions. Another aspect of labelling being tidied up through the introduction of this measure, relates to the declaration that a label bearing the name and address of any person, and attached to a receptacle containing fish, is *prima facie* evidence that that person consigned those fish. The word "section" appearing in section 24B limits the operation of the section to offences under that section alone; whereas it is desirable and, in fact, was intended, that it should apply to the Act as a whole. The rewriting of the section has been done to rectify the existing unsatisfactory situation.

General powers are given under section 41 of the Act to inspectors and police officers to search vehicles, boats, houses, tents, or other premises for the purpose of inspecting fish; and there is provision also for the search for, and seizure of, nets used in breach of the Act or regulations.

There is no provision, however, in respect of aircraft as regards transport, or explosive substances as regards fishing. Consequently, when an inspector or police officer has reason to believe that this means of transport, or method of obtaining fish, is being used, there is no provision for apprehending the culprit. The amendment to this section will rectify the matter.

Opportunity is taken to bring the second schedule up to date in accordance with the latest list published in the *Government Gazette* on the 28th October, 1960.

There is a further matter which I shall explain to members, with your indulgence, Mr. President, because although it does not come under the provisions of the Act, it is a matter coming within the provisions of the regulations which may be made under the Act. This is the question of the processing of crayfish meat. A great deal of publicity has recently been given to this aspect of the industry. I am advised that, in its early stages, the industry used only meat from the legs and meat left in the carapace after de-tailing. However, with the development of the industry a most undesirable practice has crept in; that being the processing of under-size crays into crayfish meat. This has probably been intensified because of the increased penalties for dealing in small crays and craytails.

It is considered that there is reasonable control in the very undesirable business being done in under-size crayfish at the present time in respect of whole fish or tails. It is much more difficult—if not completely impossible—to exert this control when the meat is removed from the under-size shell and cut up. While it is appreciated that the Government's intentions in this regard will affect legitimate trading in the craymeat business, it is considered that the only way in which the tactics of unscrupulous fishermen and dealers can be stopped is to ban the craymeat trade absolutely.

It has been decided, therefore, to place a complete embargo on craymeat in order to conserve, at all costs, this industry which has proved itself of such value to the State.

It is reputed that what was happening was that these under-size crayfish were being boiled in large containers—some of which were situated along the coast—and it was impossible to identify the crayfish when inspections were made. The pieces of crayfish were being packaged into tins and cartons. If any honourable member had been visiting restaurants at various times lately and ordered crayfish, he would probably have found it was cut into small pieces; and, if so, he would have been eating under-size crayfish.

Debate adjourned, on motion by The Hon. G. E. Jeffery.

House adjourned at 3.14 p.m.

Legislative Assembly

Thursday, the 12th October, 1961

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