Progress

Progress reported and leave given to sit again, on motion by The Hon. L. A. Logan (Minister for Local Government).

House adjourned at 10.58 p.m.

Legislative Assembly

Wednesday, the 21st October, 1964

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

QUESTIONS ON NOTICE

STANDARD GAUGE RAILWAY ROUTE

Proximity to Southern Cross, etc.

1. Mr. KELLY asked the Minister for Railways:

(1) Can he indicate the intended route of the standard gauge rail in—

(a) its approach to Southern Cross from Koolyanobbing;

(b) its proximity to the existing station and marshalling yards at Southern Cross;

(c) its course after passing through Southern Cross and its siting at Moorine Rock, Noongaar, Boddalin, Walgoolan, Burracoppin?

Proximity to No. 5 Pumping Station

(2) Will the standard gauge rail pass adjacent to No. 5 pumping station?

Mr. COURT replied:

(1) Location of route is still subject to Commonwealth approval.

(2) The intended route will pass approximately one mile west of No. 5 pumping station.

SOUTHERN CROSS STATE SCHOOL

Tenders and Date of Completion

2. Mr. KELLY asked the Minister for Education:

(1) Have tenders yet been called for the work to be carried out at the Southern Cross State School?

(2) Will the proposed additions be sufficiently extensive to raise this school to junior high standard?

(3) If tenders have not yet been advertised, when will they be called?

(4) When is it anticipated that the work will be completed and the rooms ready for occupation?

(5) Will this date coincide with the raising of the school status?

Mr. LEWIS replied:

(1) No.

(2) Yes.

(3) Unknown at present, but probably during the first school term in 1965.

(4) Probably towards the end of the second term.

(5) The school becomes a junior high school from the beginning of 1965.

POTASH FROM CHANDLER

Tonnage Recovered and Treated, and Market Value

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

(1) How many tons of potash were recovered from the Chandler workings?

(2) What was the total tonnage of raw material treated?

(3) What recovery percentage did this represent?

(4) What was the market value at time of production?

Treatment Plant

(5) What type of treatment plant was used?

(6) Was this a modern recovery unit?

(7) What potash recovery process is currently in use in other countries where supplies are obtained for the Western Australian market?

(8) How long was the Chandler plant in operation?

Mr. BOVELL replied:

(1) 9,073.05 tons.

(2) 182,629.60 tons.

(3) 4.91 per cent.

(4) £215,669.72.

(5) A rotary kiln for calcinating the raw material at 800°C. A rotary cooler/air preheater for cooling the kiln discharge. Continuous leaching machines, air blown

crystallisers and centrifuges for the final production of potassium sulphate in the form of glasserite.

(6) Yes, but technological advances have been made since that time.

(7) Not known to the department.

(8) From January, 1944 to February, 1950.

STANDARD GAUGE RAILWAY AT MERREDIN

Vehicular and Passenger Crossings

4. Mr. KELLY asked the Minister for Railways:

(1) Has a firm decision been reached in connection with vehicular and passenger crossings over the standard gauge rail through Merredin townsite?

(2) If so, where will these be sited?

(3) Will the vehicular crossings be boom controlled or flashing lights?

(4) What form of passenger overways will be used?

Mr. COURT replied:

(1) No.

(2) Answered by (1).

(3) Any level crossings in the township will be protected by either flashing lights or boom gates.

(4) Present indications are that pedestrian overway will be by footbridge.

DENTAL TREATMENT

Facilities for Juveniles at Fremantle

5. Mr. FLETCHER asked the Minister for Health:

(1) Is he aware that juvenile Fremantle patients requiring general anaesthetic for dental treatment are referred to Perth Dental Hospital?

(2) Will he have the appropriate department provide the necessary facilities at Fremantle clinic with a view to saving inconvenience and taxi fare expense associated with transport of a child in post operative condition?

(3) In the interim, will he have the Perth Hospital almoner department or other transport made available to transport such patients to their homes?

Mr. ROSS HUTCHINSON replied:

(1) Patients from all the Perth Dental Hospital metropolitan clinics who require treatment under a general anaesthetic are referred to, and treated at, the Perth Dental Hospital.

(2) and (3) The specialist services involved, including equipment and staff—i.e., the surgeon, anaesthetist and nurse—are centralised at the Perth Dental Hospital in the interests of efficiency, economy, and specialisation; and so far as transport is concerned it is necessary for patients to make their own arrangements regarding it, and this applies to all those attending the clinics. I will however, make inquiries and advise the honourable member further.

"THE PILL"

Availability and Cost

6. Mr. FLETCHER asked the Minister for Health:

(1) Is it a fact that patients with large families have to obtain "the Pill" where prescribed at King Edward Memorial Hospital rather than at the ante-natal clinic, Fremantle?

(2) If so, will he intervene to ensure that "the Pills" are available at this and other suburban and country clinics or government hospitals with a view to obviating travelling expense, inconvenience, and wear and tear on mothers with many small children?

(3) What is—

(a) the wholesale price of "the Pill";

(b) the retail price of "the Pill"?

Mr. ROSS HUTCHINSON replied:

(1) "The Pill" may be prescribed either at the King Edward Hospital clinic or at the Fremantle Clinic.

(2) The pill may be prescribed by the patient's doctor anywhere.

(3) Wholesale 10s. 5d.; Retail 15s. 8d.

TRAFFIC LIGHTS

Walcott Street-Lord Street Intersection

7A. Mr. OLDFIELD asked the Minister for Transport:

(1) When did work commence on the installation of traffic lights at the Walcott Street-Lord Street intersection?

(2) How long is it since any work was done?

(3) What is the cause of the delay in the completion of this undertaking?

(4) When is it anticipated that these lights will be functioning?

Mr. CRAIG replied:

(1) September 1963.

2) Civil engineering work was completed about the first week of this month (October). Electrical work is now in hand.

(3) The difficulty encountered by the Perth City Council in obtaining permission from the owner of a shop to cut back his cantilevered awning. This prevented completion of the road alterations until this month.

(4) In about another two weeks.

MT. LAWLEY SUBWAY AREA TRAFFIC

Property Resumptions for Additional Lanes

7B. Mr. OLDFIELD asked the Minister for Transport:

(1) (a) Is it proposed to resume any properties adjacent to the Mt. Lawley subway to create additional traffic lanes;

(b) If not, why not?

Relief of Congestion

(2) What proposals are there, if any, for relieving the traffic congestion in the Walcott Street-Lord Street, Guildford Road and subway area?

Mr. CRAIG replied:

(1) (a) Not at present.

(b) Proposals of this nature cannot be developed until firm proposals are put forward for reconstruction of the subway which is bound up with the standard gauge railway proposals.

(2) Answered by (1)(b).

KINDERGARTENS

Government Subsidy for New Buildings

8. Mr. GRAHAM asked the Premier:

(1) A fortnight having elapsed since giving an undertaking that an early announcement of the Government's decision would be made in respect of subsidies for the building of kindergartens in view of the Shire of Perth's 14 months' wait for a decision, is the Government yet in a position to supply particulars?

(2) If not, when is it anticipated this will be done?

Mr. BRAND replied:

(1) and (2) On the 13th October the Kindergarten Union was advised that the special grant has been raised from £3,000 to £4,500. Of this figure £3,000 is for assistance in erecting new kindergarten buildings. The maximum sum of £500 to any one kindergarten has not been altered. The honourable member and the Perth Shire Council are being advised by letter of the full details.

IMPRISONMENT FOR LIFE

Maximum and Minimum Terms

9. Mr. W. A. MANNING asked the Minister representing the Minister for Justice:

(1) When sentence is passed of "imprisonment for life," what are the maximum and minimum terms which can be served?

(2) Is there any other sentence which would detain a prisoner for longer periods?

Mr. COURT replied:

(1) The maximum term which can be served is life. Except in the case of murder, by the exercise of the prerogative of mercy the term can be reduced to any term of imprisonment less than life imprisonment. In the case of murder, the minimum term, except for the stated exceptions in section 706A of the Criminal Code, is 15 years.

(2) No.

UNEMPLOYMENT FIGURES

Analysis

10. Mr. W. A. MANNING asked the Premier:

(1) Could he provide an analysis of the recent unemployment figures quoting such items as—

(a) ages;

(b) sex;

(c) occupations:

(d) handicapped persons;

(e) district of residence?

Natives Included

(2) How many natives would be included in the figures quoted in each category?

(3) How many natives are drawing unemployment benefits?

Mr. BRAND replied:

(1) From information available, an analysis of the unemployment figures at the 2nd October shows:

(a) and (b) persons registered for employment:—

Males over 21	1,957
Males under 21	364
Females over 21	819
Females under 21	826
Total	3,966

(c) Occupation:—

	Males	Females
Rural	82	....
Professional, semi-professional, commercial, clerical, and administrative	310	343
Skilled building and construction	58	....
Skilled metal and electrical	95	....
Other skilled and semiskilled manual	645	248
Unskilled manual	808	3
All other occupations	323	551
	2,321	1,645
	3,966	

(d) Total registrations for employment include 515 male and 71 female physically handicapped persons.

(e) Registrations for employment are recorded for the District Employment Office where the registration is made, and not according to the district of residence of the applicant. It may be assumed however that in most cases persons seeking employment would register with the nearest employment office. Details available are:—

District	Persons registered
Metropolitan	3,305
Albany	70
Bunbury	285
Geraldton	105
Kalgoorlie	100
Northam	101
	3,966

(2) and (3) Unemployment statistics do not segregate particulars for natives.

DREDGE "SIR JAMES MITCHELL"

Period of Lay-off and Crew Paid Off

11. Mr. TONKIN asked the Minister for Works:

(1) For what length of time is it expected that the suction dredge "Sir James Mitchell" will be laid up?

(2) How many men are being paid off because the vessel is going on the slipway?

Future Job

(3) In connection with what specific job is it intended to use the dredge when she re-enters the water from the slipway?

Mr. WILD replied:

(1) Unknown.

(2) Five men are being paid off on the 23rd October, 1964, and a further six on a date to be determined.

(3) At this stage, no suitable work is offering following slipping, survey, and overhaul.

I would inform the honourable member I had hoped to have a discussion with the director this morning on the possibility of future work for this dredge, but either he or I was too busy at the one time and no opportunity presented itself. Tomorrow I will ascertain what the position is.

Mr. Hawke: More cobwebs.

Mr. Brand: On the dredge.

HIGH SCHOOLS

Ground Improvements

12. Mr. TONKIN asked the Minister for Education:

(1) With the establishment of each new five-year high school in the metropolitan area, what ground improvements are provided as standard equipment?

(2) What variation in ground improvements is applied to new three-year high schools in the metropolitan area compared with five-year high schools?

(3) What ground improvements are provided for new country five-year and three-year high schools respectively?

(4) Which metropolitan and country high schools already established are under-equipped with ground improvements according to present standards?

Mr. LEWIS replied:

(1) Football oval; hockey field; tennis courts; basketball courts.

(2) No variation, as three-year high schools in the metropolitan area tend to develop into five-year high schools.

(3) Similar to above, provided water is available.

(4) Facilities are not fully up to standard at the following high schools:—

Albany
Bunbury
Collie
Eastern Goldfields
Governor Stirling
Merredin
Bridgetown
Churchlands
Eastern Hills
Kalamunda
Mt. Barker.

FLOUR: PURCHASES BY GOVERNMENT INSTITUTIONS

Quantity and Suppliers

13. Mr. TONKIN asked the Treasurer:

(1) For the financial year ended the 30th June last, what was the total quantity of flour purchased by the Government to meet the requirements of government institutions?

(2) Who were the suppliers and what quantity of flour was supplied by each, respectively?

Mr. BRAND replied:

(1) Figures are not available to indicate quantities of flour purchased by all institutions. In

some cases direct orders at contract rate are placed and in others, requisitions are submitted through the Government Stores.

(2) There were three suppliers in 1963-64, but quantities supplied by each are not available. The suppliers were:—

For the period 1/7/63 to 31/3/64—Anchor Products (W.A.) Pty. Ltd. and Great Southern Flour Mills Ltd.

For the period 1/4/64 to 30/6/64—Aero Flour Pty. Ltd.

TIMBER FOR BRIDGE AT ST. JOHN'S BROOK, NANNUP

Right of Removal from Private Property

14. Mr. ROWBERRY asked the Minister for Works:

(1) Under what authority did the Main Roads Department serve notice of entry upon Mr. and Mrs. Savage of St. John's Brook, Nannup on the 2nd April, 1964, for the purpose of obtaining timber for bridge building?

(2) Will he cite the section of the Main Roads Act which gives this authority?

Mr. WILD replied:

(1) The authority of the Main Roads Department to enter upon the land owned by Mr. and Mrs. Savage to remove timber for bridge building is derived from a reservation contained in the original Crown grant of the land. This reservation reads—

"AND PROVIDED, ALSO, that it shall be lawful at all times for Us, Our Heirs and Successors, or for any person or persons acting in that behalf, by Our or their authority, to cut and take away any such indigenous timber, and to search and dig for and carry away any stones or other materials which may be required for making or keeping in repair any roads, tramways, railways, railway stations, bridges, canals, towing paths, harbour works, breakwaters, river improvements, drainage or irrigation works and generally for any other works or purposes of public use, utility or convenience, without making to the said Grantee, or any person claiming under him, any compensation in respect thereof."

(2) This authority is not derived from the Main Roads Act, but is contained in the original Crown grant as referred to above. By notice published in the *Government Gazette* on the 20th June, 1930 the department was given the necessary authority to act on behalf of the Crown.

RETICULATION FOR NORTHCLIFFE

Sum Allocated and Commencement of Work

15. Mr. ROWBERRY asked the Minister for Water Supplies:

(1) What sum has been allocated for the provision of a reticulated water scheme for the town of Northcliffe in the 1964-65 Estimates?

(2) When will this work be commenced?

Mr. WILD replied:

(1) £30,000.

(2) February, 1965.

BRIDGES

Beaufort River Bridge: Widening

16. Mr. H. MAY asked the Minister for Works:

(1) Has provision been made in the 1964-65 Estimates for the widening of the Beaufort River Bridge near Bokal and also, are the approaches to this bridge to be brought up to the required standard?

Arthur River: Provision of New Bridge

(2) With regard to the bridge over the Arthur River, has provision been made in the Estimates for a new bridge to be erected for the 1964-65 year?

(3) If provision has been made for the work connected with the aforementioned bridges, when is the work likely to be commenced and the estimated date of same being finished?

Mr. WILD replied:

(1) No. Consideration will be given to the provision of the necessary funds in the 1965-66 programme of works to reconstruct this bridge.

To widen the bridge would be uneconomical.

(2) £9,000 has been provided on the department's current programme of works for a new bridge over the Arthur River and it is expected that construction will be started early in the New Year. The work will take three to four months to complete.

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

RAILWAY STATION AT DARKAN

Installation of 3-ton Crane

17. Mr. H. MAY asked the Minister for Railways:

(1) Has the 3-ton crane for the Darkan railway station been installed as promised by the Secretary for Railways in his letter dated the 27th November, 1963?

(2) If not, why not?

Mr. COURT replied:

(1) No.

(2) The proposed crane can only be installed after release from another locality where a 3-ton crane is being replaced by a crane of greater capacity. The crane will be installed as soon as practicable. I will endeavour to obtain a more specific estimate of the date.

18. and 19. *These questions were postponed.*

HIRE-PURCHASE PAYMENTS

Issuance of Receipts

20. Mr. GRAHAM asked the Minister representing the Minister for Justice:

(1) Where a person (being a pensioner) is making payments by postal note either to a hirer or a debt collecting agency in respect of hire-purchase instalments, can such firms rightfully insist that a stamped addressed envelope should be enclosed for the return of a receipt?

(2) If not, what redress has such a person who desires receipts as payments are made?

Mr. COURT replied:

(1) and (2). No; but although it is an offence under the Stamp Act not to give or tender a stamped receipt for any payment over £5, there is no obligation on the receiver to post the receipt to the payer.

POISONINGS

Number and Type from 1961 to 1964

21. Mr. HALL asked the Minister for Health:

Relative to the Poisons Bill now before the House, what number of cases were reported, and discovered, by the Public Health Department for the following years and the respective type of poisoning each case:—

1961-62, 1962-63, 1963-64?

Mr. ROSS HUTCHINSON replied:

Accidental Poisoning is not a notifiable disease.

The attached table shows the poisoning cases admitted to Fremantle, Princess Margaret, and Royal Perth Hospitals in the years 1961, 1962, and 1963.

Poisoning by—	1961	1962	1963
Morphine and other opium derivatives	2	1	5
Barbituric acid and derivatives	56	39	26
Aspirin and salicylates	9	19	7
Bromides	3	1	2
Other analgesic and soporific drugs	13	24	13
Strychnine	1	1	1
Belladonna, hyoscine and atropine	11	3	4
Other and unspecified drugs	16	11	9
Noxious foodstuffs	1	4	1
Alcohol	8	5	2
Petroleum products	90	99	98
Industrial solvents	13	42	16
Corrosive aromatics, acids and caustic alkalis	13	16	13
Mercury and its compounds		2	
Lead and its compounds	1	1	1
Arsenic and antimony, and their compounds	1	2	1
Fluorides	2	1	
Other and unspecified solid and liquid substances	43	93	46
Totals	294	364	245

INSURANCE AGAINST DISASTERS

Scheme for Submission to Commonwealth

22. Mr. HALL asked the Premier:

(1) Has the Government given consideration to formulating and preparing a comprehensive plan for a national insurance scheme to be placed before the Commonwealth Government with a view to easing the plight of persons affected by floods, fire, famine, drought, and national disaster?

(2) If not, will he undertake to investigate the possibilities of such a scheme either on a contributory basis or from taxation revenue and place such findings before the Commonwealth Government with a view to adoption and implementation?

Mr. BRAND replied:

(1) and (2) The creation of a fund of this nature has received consideration from time to time by various Australian Governments and has been considered on at least two occasions by the Premiers' conference.

There are very considerable practical difficulties in formulating an acceptable scheme.

TOILET FACILITIES

Availability at Surgeries

23. Mr. HALL asked the Minister for Health:

(1) Is it the responsibility of doctors practising in the city and country centres to make provision for toilet facilities at their surgeries and consulting rooms for the use of patients?

(2) If not, would he undertake to discuss this matter with the medical fraternity with a view to having the amenity made available to patients?

Mr. ROSS HUTCHINSON replied:

(1) and (2) There is no legal responsibility for doctors to provide toilet facilities for patients at surgeries, but the medical profession has agreed that these facilities are made available where necessary.

POLICE STATION AT ALBANY

Erection on New Site, Completion Date, and Cost

24. Mr. HALL asked the Minister for Police:

As the building of a new police station at Albany was agreed to in last year's Estimates, and was deferred at request as to the suitability of the proposed site, can he advise if he has agreed to a new site for the erection of the new police station, and when is it anticipated that it will be built and at what cost?

Mr. BOVELL (for Mr. Craig) replied:

The matter of a suitable site is still under negotiation. When a decision has been reached consideration will be given to the estimated cost and commencing date of the new building.

FERTILISERS AND INSECTICIDES

Government Control over Aerial Spraying

25. Mr. DAVIES asked the Minister for Agriculture:

What control does the Government have over aerial top dressing and aerial spraying and the use of fertilisers and sprays (insecticides, etc.) applied by this method?

Mr. NALDER replied:

The State Government has no control over aerial top dressing. Aerial spraying with specified chemical weed killers can be prohibited in any area by the Noxious Weeds Act Regulations.

Uniform legislation by the States in relation to aerial agriculture is contemplated.

DIVIDING FENCES ON RAILWAY PROPERTY

Responsibility for Cost of Repairs

26. Mr. GAYFER asked the Minister for Railways:

(1) Where a farmer adjoins a railway water catchment reserve and the common boundary fence requires renewing, does the Railways Department bear half cost of repairs or replacement with the farmer?

(2) If not, why not?

Mr. COURT replied:

(1) No. Section 4 of the Dividing Fences Act, 1961 (Act No. 44 of 1961) does not bind the Crown to contribute half cost of dividing fences.

If the honourable member has any cases which he considers have special circumstances I suggest he let me have details for investigation.

(2) Answered by (1).

SKELETON WEED

Location of Latest Outbreak

27. Mr. GAYFER asked the Minister for Agriculture:

(1) Did he notice in *The West Australian* of Tuesday, the 13th October, under the heading of "Better Year Likely for Wheat Farmers" the section which stated: "Added to this, the announcement of a new skeleton weed outbreak in the wheatbelt has caused apprehension among growers"?

(2) Would he inform the House where this latest outbreak of skeleton weed is?

Mr. NALDER replied:

(1) Yes.

(2) Only one occurrence of skeleton weed has been found in the wheatbelt. A few additional plants located on the fringe of the original infestation at Ballidu have been treated.

UNEMPLOYMENT

Figures from 1955 to 1964

28. Mr. WILLIAMS asked the Premier:

(1) What was the total number of unemployed as at the 1st November for the years 1955 to 1964 inclusive?

(2) What percentage of the work force was unemployed at the 1st November between the years 1955 to 1964 inclusive?

(3) What were the numbers in the work force at the 1st November between the years 1955 to 1964 inclusive?

Mr. BRAND replied:

(1) 1st November—

1955	2,035
1956	4,084
1957	4,590
1958	5,836
1959	4,828
1960	3,273
1961	5,167
1962	4,462
1963	4,674
30th September 1964	3,966

(2) No percentage figures were kept prior to the 1st November 1960. Figures for the following years are as under:—

1st November—

1960	1.2
1961	1.8
1962	1.5
1963	1.6
30th September 1964	1.3

(3) No records were kept prior to the 1st November 1960 and hereunder are the estimated figures:—

1st November—

1960	272.750
1961	287.784
1962	297.466
1963	292.125
30th September 1964	305.076

DANCING SCHOOLS AND BALLET COMPANIES

"Peculiar Difficulties": Professor Alexander's Reference

29. Mr. CORNELL asked the Premier:

(1) Is he aware that in a letter dated the 9th January, 1964, addressed to him, Professor Alexander (as Director and W.A. Representative, Elizabethan Theatre Trust) said: "You are, however, I believe, aware that there are peculiar difficulties in the local set-up in respect to dancing schools and ballet companies. Very great care and some skilled negotiation will be needed to overcome these difficulties"?

(2) What are the "peculiar difficulties" referred to by Professor Alexander?

(3) Whence are the "very great care and skilled negotiation" that will be needed to overcome these difficulties expected to emanate?

Mr. BRAND replied:

(1) to (3) As the statement referred to in question (1) was made by Professor Alexander, he is obviously the appropriate person to elaborate on it. I therefore suggest that the honourable member contact the professor with a view to obtaining his comments.

SUPERPHOSPHATE WORKS AT ESPERANCE

Establishment Cost and Capacity

30. Mr. CORNELL asked the Minister for Industrial Development:

Regarding the superphosphate works at Esperance—

(1) What was the establishment cost?

(2) What is the capacity?

Financial Arrangements for Establishment

(3) What were the financial arrangements in respect of the costs of establishment and in particular what finance was provided by—

(a) the proprietor company;

(b) Government loan;

(c) Government guarantee?

(4) Did the Government approach the company to establish the works or was the proposal first mooted by the company?

(5) Were any other fertiliser companies approached regarding a works at Esperance?

Mr. COURT replied:

(1) Estimated at £1,350,000.

(2) 60,000 tons per annum.

(3) Of the total establishment costs finance was provided as follows:—

(a) £675,000 by the Esperance Fertilisers Pty. Ltd.

(b) and (c) No new or additional guarantees or advances are involved. The State agreed to transfer bank guarantees from the Albany Superphosphate Co. Pty. Ltd. to Esperance Fertilisers Pty. Ltd. The Albany company repaid loans amounting to £675,000 made under existing bank guarantees and these have been made available to the Esperance company.

The State provided a water service to the boundary of the company land and met half the cost of levelling the site.

(4) The Government had been in touch continuously with local superphosphate manufacturers in the matter of their capacity to meet growing future demands throughout the State. The accelerated development taking place at Esperance led to discussion of the supply to that region and consequently a proposal was received from Cuming Smith & Mount Lyell Farmers Fertilisers Ltd. and Cresco Fertilisers (W.A.) Ltd. for the establishment of Esperance Fertilisers Pty. Ltd.

(5) Superphosphate manufacturers outside the State were not approached.

TOILETS AT SUBURBAN STATIONS: CLOSURE

Health Department's Approval and Alternative Facilities

31. Mr. BRADY asked the Minister for Health:

(1) Was the Health Department consulted in regard to the closure of public conveniences at suburban stations as reported in *The West Australian*, Tuesday, the 20th October?

(2) Does the department approve of closure of the conveniences as foreshadowed?

(3) Is the department taking any action to see that the local government or the State Health Department has alternative conveniences available for the general public?

Mr. ROSS HUTCHINSON replied:

(1) No.

(2) This will depend on the individual circumstances appertaining to each station. In general, no toilet is better than a toilet that is not supervised.

(3) This is primarily the responsibility of the local government authority, which determines priorities in this as well as other matters.

Inconvenience to Passengers

32. Mr. BRADY asked the Minister for Railways:

(1) Does the Railways Department intend to carry out decision to close public conveniences at suburban stations?

(2) Is he aware the lack of conveniences at a number of stations is already causing grave inconvenience to several classes of rail passengers?

Protection of Railway Property

(3) What system of protection is in operation to protect railway property generally?

Mr. COURT replied:

(1) Yes.

(2) No. The cost of maintaining these facilities and the problems of vandalism are increasing, and it is not felt that the Railways Department should be responsible for providing this facility at other than main centres, i.e., Fremantle, Perth, and Midland. Other metropolitan transport services do not provide these facilities for their patrons.

(3) Patrols are carried out by the Police Department and by members of the railways investigation staff.

RAILWAY CROSSINGS AT BELLEVUE

Provision of Overhead Bridge or Subways

33. Mr. BRADY asked the Minister for Railways:

(1) Is any provision being made at Bellevue for protection of school children and adults crossing railways apart from those referred to in answers to previous questions?

(2) Is it not reasonable to replace the overhead bridge removed or build subways instead of endangering lives by pedestrians crossing the line at level crossings?

Mr. COURT replied:

(1) The standard type pedestrian crossing will be provided.

(2) The lives of pedestrians will not be endangered if normal and reasonable care is exercised when making a crossing.

BELLEVUE STATE SCHOOL

Provision of Staff Room

34. Mr. BRADY asked the Minister for Education:

(1) When improvements to Bellevue State School are made in the next few months, will a staff room be provided as promised?

(2) Is he aware the staff never have had a staff room?

Mr. LEWIS replied:

(1) A separate staff room will be provided when the next additions are made to the school, but these are not planned for the near future.

(2) A room 15 ft. x 10 ft. serves the dual purpose of headmaster's office and staff room.

MURESK AGRICULTURAL COLLEGE

Canteen: Sale of Cigarettes and Tobacco

35. Mr. JAMIESON asked the Minister for Agriculture:

(1) As smoking by students under the age of 18 years is a breach of Muresk Agricultural College rules, why is no action taken by the principal of the college to prevent the sale of cigarettes and tobacco from the canteen to persons under the age of 18?

Expulsion of Students: Reasons

(2) What would be improper in making public the reasons students had been expelled at Muresk, provided no names were mentioned?

Mr. NALDER replied:

(1) Staff in charge of the tuckshop are instructed not to sell cigarettes and tobacco to students under the age of 18. An age list is posted on the college notice board.

(2) The adverse effect on those concerned due to the possibility that they could be identified.

QUESTIONS WITHOUT NOTICE

ERIC EDGAR COOKE

Alleged Offences

1. Mr. GRAHAM asked the Minister for Police:

(1) Apart from the charges of murder or wilful murder which were preferred against him, what other offences of any nature whatsoever have been ascribed to Eric Edgar Cooke?

(2) Of those offences in respect of which he claimed to be the perpetrator, which have been accepted as having been his responsibility and which have not?

Mr. BOVELL (for Mr. Craig) replied:

(1) and (2) Replying on behalf of the Minister for Police, it is true that the honourable member for Balcatta gave earlier notice of this question. Immediate steps were taken to endeavour to obtain the information, but so far it has not been able to be collated because of the extensiveness of the inquiries.

However, with your permission, Mr. Speaker—and no doubt the Minister for Police will be back in the House by that time—if the information is available during this sitting it will be made available to the honourable member.

Mr. Tonkin: Fair enough!

Requests for Psychiatric Examination: Tabling of Papers

2. Mr. GRAHAM asked the Minister representing the Minister for Justice:

Will he lay on the Table of the House all papers relating to requests for psychiatric examination of Eric Edgar Cooke?

Mr. COURT replied:

I acknowledge with thanks prior notice of this question to the Minister for Justice, on behalf of whom I request permission to lay on the Table of the House photostat copies of the relevant papers and ask that they be tabled for one week.

The papers were tabled for one week.

DARRYL BEAMISH APPEAL

Claim by Eric Edgar Cooke: Medical Report

3. Mr. HAWKE asked the Premier:

(1) Did any officer of the Crown Law Department this year obtain advice from a doctor or doctors regarding the claim by Eric Edgar Cooke that Jillian Brewer, before dying, had spoken a few words in his presence?

(2) If so, what was the essence of such medical advice?

(3) Was the advice so obtained placed before the Police Department or communicated to any of its officers?

(4) Was it placed before the Court of Criminal Appeal which this year heard an appeal on behalf of Darryl Beamish against his conviction for the killing of Jillian Brewer?

(5) From whom was the advice obtained?

(6) For what purpose was it obtained?

Mr. BRAND replied:

I thank the Leader of the Opposition for giving me prior notice of his questions, the answers to which are as follows:—

(1) Yes.

(2) Initially that speech was impossible in the circumstances; but subsequently, after research and further consideration, that speech was highly improbable but not impossible.

(3) It was communicated to the police officers in charge of investigations in the case.

(4) No, because the opinions expressed were equivocal; and while they would not in any way confirm Cooke's statement, they would not positively disprove it. Therefore, no useful purpose could have been served by placing the opinions before the court. On the particular matter, Cooke himself later gave evidence contradicting his previous statement.

(5) Three doctors, including a physician specialist and a thoracic surgeon. Names could be supplied to counsel for Beamish on request.

(6) To test Cooke's veracity on this particular point.

WHIM CREEK COPPER MINING

Answers to Questions Tabled

4. Mr. BOVELL (Minister for Lands): On the 7th October this year the honourable member for Pilbara

asked a question relating to Whim Creek copper mining. His question is recorded in *Hansard* No. 10 of 1964, on pages 1320 and 1321. The honourable member later asked whether I would make representations to the Minister for Mines to see when the information could be made available. I informed the honourable member that the Minister for Mines would supply the information when available. The Minister for Mines has now supplied the information. There were 25 questions involved; and, with your permission, Mr. Speaker, I ask that the answers be tabled.

The answers to the questions were tabled.

DANCING SCHOOLS AND BALLET COMPANIES

"Peculiar Difficulties": Professor Alexander's Reference

5. Mr. CORNELL asked the Premier:

Arising out of the reply which I did not get this afternoon in connection with question No. 29 on today's notice paper, I appreciate the fact that the remarks quoted in the question were made by Professor Alexander. However, may I point out to the Premier that according to his reply to Professor Alexander the Premier appreciates some of the difficulties involved and that some skill would be needed to overcome them. In view of this, is the Premier in a position to tell me what those difficulties are, or at least a portion of them?

Mr. BRAND replied:

I anticipated that this question would be asked, but I am not in a position to say any more than I said in answer to the previous question. A number of us are aware that the organisations or bodies concerned with ballet in this State seem to have some differences. That was the general way in which I expressed myself, and these differences have existed over a long time. As regards Professor Alexander's statement in his letter to me, I say with all due respect that he is the only one who could enlarge on the expressions used. I know nothing further than that there are certain misunderstandings as between the bodies in charge of ballet in this State.

BUS STAND IN MT. LAWLEY

Resiting: Tabling of Papers

6. Mr. OLDFIELD asked the Minister for Works:

Yesterday I asked the Minister would he lay upon the Table of the House certain papers dealing with the request for a crosswalk at Third Avenue. The Minister said he would consider the matter. My question is: Has the Minister given consideration to this question and, if so, what is the decision?

Mr. WILD replied:

Unfortunately the Commissioner of Main Roads was unavailable for a discussion this morning. I have arranged to see him tomorrow morning.

TOILETS AT SUBURBAN STATIONS: CLOSURE

Arrangements for Staff

7. Mr. OLDFIELD asked the Minister for Railways:

In view of the fact that all the conveniences at suburban railway stations, apart from the main centres, are to be closed, will he inform the House what arrangements are being made for the staff at these stations?

Mr. COURT replied:

The honourable member can be assured that the Railways Commission is not unmindful of the requirements of the staff; and, as he knows, most of the metropolitan stations these days are manned on an entirely different basis from what they were before. However, I can assure him that adequate arrangements will exist for the staff, but with most of the cases concerned permanent requirements are not necessary. If the honourable member, however, would like each station itemised I would be only too pleased to do it for him.

BILLS (5): RETURNED

1. Clean Air Bill.

   Bill returned from the Council with an amendment.

2. Bibra Lake-Armadale Railway Discontinuance and Land Revestment Bill.
3. Fremantle Harbour Trust Act Amendment Bill.
4. Water Boards Act Amendment Bill.
5. Rights in Water and Irrigation Act Amendment Bill.

   Bills returned from the Council without amendment.

GOVERNMENT BUSINESS

Precedence on all Sitting Days

MR. BRAND (Greenough—Premier) [5.5 p.m.]: I move—

> That on and after Wednesday, the 28th October, Government business shall take precedence of all motions and Orders of the Day on Wednesdays as on all other days.

This is a motion which is moved each year about this time and, so far as the last two years are concerned, the date has been about the same. As honourable members are well aware of the reasons for it, and the fact that Government business must take precedence, I do not think there is any need for me to add anything to what I have said, except to say that as far as private business on the notice paper is concerned we give the usual undertaking that it will be dealt with. I cannot say how much more Government legislation is due to come forward, but I would think somewhere about 20 Bills, but not a large number of major Bills.

MR. HAWKE (Northam—Leader of the Opposition) [5.6 p.m.]: In view of the undertaking which the Premier has given to the effect that all business now on the notice paper in the names of private members will be dealt with before the session concludes, there is no objection to the motion from this side of the House.

Question put and passed.

CLOSING DAYS OF SESSION

Standing Orders Suspension

MR. BRAND (Greenough—Premier) [5.7 p.m.]: I move—

> That until otherwise ordered, the Standing Orders be suspended so far as to enable Bills to be introduced without notice, and to be passed through all their remaining stages on the same day, all messages from the Legislative Council to be taken into consideration on the same day they are received, and to enable resolutions from the Committees of Supply and of Ways and Means to be reported and adopted on the same day on which they shall have passed those Committees.

This, too, is a motion usually moved at this time of the year, in order to expedite the business of the House and to have Bills passed expeditiously from one House to the other. I am sure honourable members do not desire to remain here for an undue period, and the Government has in mind the end of November as the approximate date for the end of the session. There is nothing very firm about that, because no-one can assess the actual time when Parliament will rise. However, in order to try to achieve our objective this motion is moved.

MR. HAWKE (Northam—Leader of the Opposition) [5.8 p.m.]: This motion is being moved to enable the business before the House to be speeded up, and to eliminate the normal delays which take place when the Standing Orders are fully applied. I did not hear the Premier offer a target date for the closing of the session. In view of the fact that a Senate election is to be held on the first Saturday in December—

Mr. Bovell: The Premier mentioned a target date.

Mr. HAWKE: Did he? I am sorry I did not hear it. I was reading.

Mr. Bovell: The last week in November.

Mr. HAWKE: I was reading some papers at the time and did not hear that. If the target date aimed at is the last Thursday or Friday or—perish the thought!—Saturday in November, then it would appear that Parliament has before it a heavy programme during the remaining weeks. As I think we would all be anxious to participate in the Senate election campaign, and not have to come back afterwards, because the Christmas season would be upon us by then, I support the motion and trust we will not have any hectic end-of-the-session rush. I know it is impossible for anyone here to manage that, or to control it.

Mr. Brand: I would be about the first to achieve that if I did.

Mr. HAWKE: We never know from hour to hour or from day to day how long each item listed for discussion is going to take—not even approximately. We also know from experience that matters which look like taking an hour sometimes take days; whereas other matters which look like taking days sometimes go through in hours. However, as far as it is reasonably possible for honourable members on this side of the House to do so, they will co-operate with the Government in trying to have the notice paper disposed of totally and in the most reasonable way possible before the end of November.

Question put and passed.

BILLS (2): INTRODUCTION AND FIRST READING

1. Licensing Act Amendment Bill.

   Bill introduced, on motion by Mr. Brand (Premier), and read a first time.

2. Real Property (Foreign Governments) Act Amendment Bill.

   Bill introduced, on motion by Mr. Bovell (Minister for Lands), and read a first time.

LEAVE OF ABSENCE

On motion by Mr. H. May, leave of absence for four weeks granted to Mr. J. Hegney (Belmont) on the ground of ill-health.

ELECTORAL ACT AMENDMENT BILL

Third Reading

MR. COURT (Nedlands—Minister for Industrial Development) [5.13 p.m.]: I move—

That the Bill be now read a third time.

The SPEAKER (Mr. Hearman): Before I put the question I must draw the attention of the House to the fact that a constitutional majority is required. If, when I put the question, I hear a dissentient voice I shall be forced to have the bells rung and a division taken. If there is no dissentient voice I will merely count the House. I have a certificate from the Chairmain of Committees that this is a fair print of the Bill as agreed to in Committee and reported.

Question put.

The SPEAKER (Mr. Hearman): There being no dissentient voice, and as I have counted the House and satisfied myself that more than 26 honourable members are present, I declare the Bill carried by a constitutional majority.

Question thus passed.

Bill read a third time and returned to the Council with amendments.

BILLS (2): THIRD READING

1. Country Towns Sewerage Act Amendment Bill.

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

2. Supreme Court Act Amendment Bill.

   Bill read a third time, on motion by Mr. Tonkin (Deputy Leader of the Opposition), and transmitted to the Council.

ELECTRICITY FOR COUNTRY DISTRICTS

Subsidies for Generation and Distribution: Motion

MR. HALL (Albany) [5.16 p.m.]: I move—

That in the opinion of this House the Government should give earnest and immediate consideration to the introduction of a Subsidy Act, for the purpose of providing subsidy payments for generating, distributing and extending public supplies of electricity in country districts, so as to provide more country towns with the service and to ensure that charges will be uniform with charges in the metropolitan area.

During the last session of Parliament I moved a motion similar to this which I am bringing before the House this evening. There are many reasons why there should be uniformity in the charges for electricity supplied to both the metropolitan area and country districts. The only way this can be achieved is to appropriate a sum of money from the Consolidated Revenue Fund and transfer it to the State Electricity Commission so that it may allocate money in accordance with the provisions of the legislation which the Government could introduce. I cannot, of course, bring down a private member's Bill to give effect to this because it would mean that funds would have to be taken from the Treasury to achieve the desired objective.

I would also point out to the Minister that, in moving this motion, I am not entirely breaking new ground; because on checking *Hansard* records, I find in a measure introduced by the Minister for Works in 1945 to inaugurate the State Electricity Commission he made certain provisions that the commission, when established, could, with the sanction of Parliament, have an appropriation of funds granted to execute certain works or duties.

This, of course, does not create the elasticity desirable to enable the payment of a subsidy. In New South Wales a similar procedure is followed and the authorities there encounter the same difficulties in the country districts as we do in this State, although there may be some differences geographically. South Australia is in a similar position. In that State a great differential in the tariff charges exists and an endeavour is made to overcome these difficulties. Nevertheless, the authorities in both these States realise how essential it is to have equal distribution of power and electricity and equalisation of charges as between the metropolitan area and the country districts.

One of the reasons why I have moved this motion for deliberation and decision by the House is to endeavour to have the mains of the electricity scheme extended. When I was compiling this motion, the far-reaching effect of the electricity extensions was brought forcibly to my notice. Before that I was inclined to overlook this effect. I would put forward the observation that when we ask for an appropriation of funds from revenue we must realise that everyone is a contributor to the Treasury funds by reason of the fact that he is a taxpayer. In too many places beyond the termini of the electricity mains no electricity is supplied to the residents, and this should not be. This need is exemplified by the introduction of television to this State. If justice had been meted out, television would firstly have been granted to the people in country areas.

No-one can dispute the necessity for that amenity now—especially to residents in country districts—and the granting of supplies of power and electricity to the far-flung areas of the State. One can recall the remarks of appreciation made by the astronaut who passed over Perth and saw the lights of the city. So when we find the people in the country lacking in this amenity I am thankful to the person who brought the necessity for electricity extensions to my notice. When I decided to make a move towards uniformity of charges for electricity my first thoughts were for those who were outside the ambit of the metropolitan and built-up areas. When a close examination is made of the word "extension" one realises that the extension of electricity could have far-reaching effects.

To begin with, many of our small tourist resorts are still not supplied with electricity and have to rely on hurricane and Tilley lamps. I can see no reason why part of the funds available could not be used for the extension of electricity to the outback areas and to small tourist resorts. I think there are many local authorities and many private persons that could operate to generate electricity in various far-flung areas of Western Australia. For example, further north there would be several such places; and in the south, as the honourable member for Warren has pointed out, the towns of Denmark and Walpole are seeking some relief in their financial commitments; and the same applies to Northcliffe. So we find the necessity to extend electricity into outback areas and for some easement in charges.

If legislation for the granting of subsidies is introduced I would aim at the granting of some £500,000 to the State Electricity Commission, with a balance of £100,000 in hand. The commission could then allocate this money to the various bodies that required it for the provision of electricity as the demand was made. There would certainly have to be some form of balance, and I can think of no-one better to act as a referee in the allocation of this cash than the State Electricity Commission when it is expended for this particular purpose.

In South Australia something in the vicinity of 10 per cent. higher than the charge made in the metropolitan area, is aimed at in a charge for electricity in country districts; that is, when a subsidy is paid to a local authority or a private body generating electricity. It is rather humorous to follow the pattern in South Australia, which is similar to that adopted in this House last session. After elaborating the points last year in the interests of decentralisation for the benefit of the Minister, he stated he did not think the motion should be proceeded with. I will quote from *Hansard* at a later stage some extracts from the speech which he made.

Whilst the Minister was speaking, one of the Opposition members interjected by asking why the motion should not be proceeded with. I must thank the honourable member for that interjection, because when I read the Minister's explanation I was at a loss myself to discover why the motion should not be proceeded with. The Minister did not give any reasons why we should not extend the operations of the State Electricity Commission Act.

In recent weeks we have seen the effect of a slight increase in prices, and although it is doubtful whether any increase in electricity charges has been made, I can take the Minister's mind back to the letters that were written complaining about charges, just prior to the introduction of my motion in this House last session requesting an investigation into the rates charged for electricity in the metropolitan area and the country districts by the State Electricity Commission. The complaints were especially about charges in the Bunbury area where power was generated practically on the place where it was supplied, or just outside it in an adjacent townsite. In regard to this approach the Labor Party received a letter in reply signifying that nothing was to be done about the matter.

After that letter had been sent, and following the introduction of the motion in the House last year, there was a great deal of dissatisfaction expressed over meter charges, and a minor reduction was made in the metropolitan area. I do not think we need delve very deeply into that aspect of the question to find out what the effect was. What I am surprised about is the action of the Minister or the State Electricity Commission—whichever authority was responsible—in altering the *status quo* in the metropolitan area.

I know from what was expressed by people residing in the metropolitan area, and from my association with important personages, that they were quite happy for the *status quo* to remain in regard to the electricity charges in the metropolitan area. If the alteration had meant an extension of the electricity mains in the country, without any interference being made with the charges in the city, those people would have considered they were contributing something towards decentralisation in outback centres. However, the Minister decided to make a slight reduction in the charges prescribed for electricity in the metropolitan area.

I want it understood that some greater easement in electricity charges could have been made in country towns and in the outback areas, because, without doubt, it would have been a greater stimulus to decentralisation than the reduction in charges that were made.

When we speak about equalisation of electricity charges, we must expect a reduction of such charges to major industries; but if we turn away from them and

direct our attention to smaller industries in decentralised areas, we find that they have not enjoyed any easement in charges.

The Minister for Industrial Development has persistently pursued the angle that in this State we can establish small industries in decentralised areas; and that is a commendable thought. We can establish many industries in towns of any size, which are able to absorb those industries through what I would term the natural population catchment area. We get the feeling that small industries employ a limited number of workers; but it does not take many tens to make a hundred, and small industries are just as important as those employing 100 workers.

The small industries in the country or decentralised districts, while competing with their counterparts in the metropolitan area, cannot match the latter because of the unequal charges for electricity. For that reason the payment of a Government subsidy should be applied in that atmosphere. I feel in all justification the Government should support this motion without qualms or hesitation.

When we had got over that hurdle we would have to consider the comparative cost of commercial as well as industrial charges for electricity. Can the industries in the country afford to pay additional freights, as well as the additional electricity charges for preserving or refrigerating goods? Small industries and small shops in decentralised areas are affected under the existing assessment of charges.

Then we come to the domestic charge for electricity which hits the people hardest, longest, and most consistently: I refer to the workers employed by industry. Workers in large industries who receive the benefit of balanced, equalised, or considered charges, are competing with their counterparts in the country who, under the recent decision of the Industrial Commission, receive the same basic wage as workers in the metropolitan area; but they have to pay charges over and above those paid by their counterparts in the metropolitan area.

It cannot be disputed that industries in decentralised areas experience difficulty in retaining their employees because the charges in those areas—such as the domestic charge for electricity—are exorbitant, colossal, and in some cases far above those applying in the metropolitan area.

All that tends to reduce the establishment of industries in country and decentralised districts. As a consequence we see the drift of young people from the country into the metropolitan area, to the detriment of the zones in which they were born and bred. No-one can dispute that, and figures clearly show the trend that is taking place. The young people are drifting to the city, with the eventual result that stagnation will occur in country districts, and that congestion of traffic in the metropolitan area will be increased.

We should give clear thought to this subject. The only way we can overcome the difficulty is to introduce a subsidy Act, under which funds from Consolidated Revenue can be made available for the benefit of that vast portion of the State which produces the wealth of the State. At the present time the people in this State are consistently, permanently, and solidly riding on the back of the primary producers. If we make a study of the economics of Western Australia we will find that the wealth is derived from the soil, but the soil is tilled by the hands of the workers. Then opportunity is created for capital to exploit the initial effort in, and the commencement of, this economy. In fairness to the people in country and decentralised areas, they should be assisted by a reduction in charges and costs, so that they can be retained in those areas and thereby assist the State.

Earlier I referred to the population catchment area. I would aim for centres like Geraldton, Bunbury, Albany, and Esperance on the coastline at a population of about 60,000. Then I would aim for country towns like Gnowangerup, Katanning, Wagin, and Manjimup, at something like 10,000 to 14,000 people.

Mr. Brand: What about a separate State?

Mr. HALL: A separate State will come eventually, irrespective of what the Premier might feel. The magnitude of Western Australia is too great to be controlled by the destiny of the metropolitan area. The southern portion will branch out, and will form a State of its own.

The towns I have just mentioned will eventually have a population of 10,000 to 14,000 people. Small industries will then be established, and thereby retain the youth. That zone will be served by the ports in it, with benefit to the zone and to the State.

The principle is there for us all to observe. The pinnacle or the maximum effect can be achieved by a subsidy Act. I do not know what the Minister will say to refute that statement. I daresay he has made up his mind by infering and suggesting that the State Electricity Commission might lose control, and therefore he would oppose the motion.

A similar move was made in South Australia. The Leader of the Opposition moved a motion, along the lines of the motion before us, but the Premier of that State opposed it most emphatically. Then in the 1963 session of Parliament the Premier himself introduced a similar motion, as a result of which a subsidy Act was passed.

Mr. Toms: It could be done in Western Australia.

Mr. HALL: I hope so. It is not always that one can be the first to implement a move. If Western Australia is not the first State to introduce a subsidy Act, it can be the first to put one into operation. At the commencement of my speech I made the point that the honourable Mr. Hawke, who was Minister for Works in this State in the past, saw the wisdom of expanding into the country areas. There was a weakness, because he could not find the complete answer. In those days the machinery which is now used was not available to the Government, but by his wisdom in establishing the State Electricity Commission we are able to enjoy at the present time the amenity of electricity distribution into the far-flung country districts. That has not been easy of achievement.

I well remember the many approaches which have been made to both the Labor Government and the present Government for the institution of a contributory scheme to assist farmers, and there is no doubt the farmers needed assistance. The farmers have much more reason to use electricity at the present time than in the past. It was found that the use of electricity increased tremendously with the introduction of more machinery. The honourable Mr. Hawke was able to achieve economically sound results for the benefit of the farming community and primary industry.

I now turn to a report which I received from New South Wales. I would like to quote from it for the benefit of the Minister the following:—

> I would point out, however, that a great deal has been done to assist country supply authorities by means of the Government's Rural Electricity Subsidy Scheme. Under this scheme a total of over £13 million will be paid to Councils over a 15-year period to supply over 86,000 farms and other consumers in country areas to which supply would not have been practicable without the incentive of financial aid.
>
> In addition, the Electricity Commission early after its formation in 1950, established the principle of standard bulk rates to all councils regardless of their location. As a result of this policy distant areas such as Hay, Walgett, and Cobar, pay the same amount for bulk power as councils in whose areas the power stations are actually located. These and many other country towns have previously depended for their supply on expensive local generation, and the high cost of power limited its use and prevented the extension of supply into surrounding rural areas. The advent of cheap bulk power, of course, transformed this position.

Mr. Nalder: What report are you reading from?

Mr. HALL: It is a report attached to a letter from Mr. Erskine, M.L.C. I will now refer to the annual report of the South Australian Electricity Trust for the year ended the 30th June, 1962. It contains the following:—

> The Electricity (Country Areas) Subsidy Act, 1962, makes provision for the Trust to make immediate reductions in country electricity tariffs and for the Government to provide a subsidy for this purpose. This legislation has accelerated the process of reducing charges which the Trust was gradually implementing from its own resources.

In Western Australia, which is very comparable to South Australia, we are witnessing thoughts along parallel lines, in trying to reduce the electricity charges; but we find it beyond the means of the commission, because it has to borrow money for development, and has to account to the Government. In South Australia the Government aimed at the introduction of a subsidy Act for the sole purpose of assisting the people outside the ambit of the Electricity Trust. I have before me the speeches made by Sir Thomas Playford, the Premier and Treasurer of South Australia, when he introduced the Bill in that Parliament. The Bill contains the following provisions:—

> From the surplus moneys in the Consolidated Revenue Account of the Treasurer for the financial year ended on the thirtieth day of June, one thousand nine hundred and sixty-two the Treasurer shall pay to the Electricity Trust of South Australia (hereinafter referred to as "the Trust") five hundred thousand pounds for the purposes of this Act. The said moneys are hereby appropriated accordingly.
>
> In addition to the moneys to be paid to the Trust in pursuance of subsection (1) of this section the Treasurer may during the five financial years mentioned in section 3 of this Act pay to the Trust further sums not exceeding in the aggregate one hundred thousand pounds for the purpose of this Act out of the general revenue of the State. This Act shall without further appropriation be authority for the making of any such payments.

So in South Australia this matter is not placed under the control of some other organisation; it is left entirely in the hands of the most capable, efficient, and experienced body—that is, the Electricity Trust, which is comparable to the State Electricity Commission of Western Australia. The motion before the House seeks to do just that, without the need to introduce a Bill.

Let me refer to what Sir Thomas Playford said in the debate on that Bill. Part of his speech is recorded in Vol. 1 of the

South Australian *Parliamentary Debates* of the 37th Parliament, on page 561. Sir Thomas said—

> It provides for the payment of subsidies to undertakings generating and/or distributing public supplies of electricity in country districts. The Electricity Trust has been reducing country tariffs over the last few years and had anticipated a policy of tariff reduction in country areas which would, over the next five years, reduce charges for electricity used in country areas to a level much closer to zone I tariffs than now applies.

Zone I tariffs are applicable to our metropolitan tariffs at present. If the Minister desires to have a look at the tariffs, I have them in my locker downstairs.

Mr. Nalder: Does the South Australian Government make any other funds available to the Electricity Trust?

Mr. HALL: I could not answer that except by going through the reports. I have acquainted myself with the subject about which I am speaking, and that concerns a subsidy Act. However, as I continue, perhaps the question of the Minister might be answered. To continue—

> The Government has examined the trust's proposal and decided that it is desirable to give the country consumers immediate relief—

That is the purpose of the subsidy Act—to give immediate relief which the trust finds impossible and, in our case, which the commission finds impossible. Continuing—

> —by a reduction of charges, so that the tariffs operating for areas outside the trust's zone I area will be no higher than about 10 per cent. above the metropolitan rates.

I have already quoted that those are the zone I rates. Continuing—

> The trust's policy for financing country extensions has been successful and a great benefit to country people.

I do not think any of us here would dispute that the commission's efforts have been worth while and appreciated by the people. Sir Thomas Playford's speech continues—

> The Government supports this policy—

Yet the same Government opposed virtually the same principle which was introduced 12 months beforehand by the Leader of the Opposition (Mr. Walsh)—

> and, to enable reduced charges to apply in country districts forthwith, the Government proposes that Parliament should authorize a scheme by which consumers of electricity in country districts will be subsidized from the general revenue of the State.

In other words from Consolidated Revenue and the Treasury benches of the State. Continuing—

> This subsidy scheme will result in 45,000 consumers in country areas receiving immediate financial benefit from lower charges for electricity supplied by the trust, including bulk supplies. In addition to those people who use electricity supplied by the trust, about 3,600 consumers in country districts rely upon local authorities and private persons or corporate bodies for their supplies of electricity. The trust's scheme for gradual tariff adjustments would not have benefited these people but, under the Government's proposals, they will receive subsidies also in respect of the electricity used by them.

It is quite obvious that it has gone beyond the pale of ordinary deliveries. It is for extension further and beyond. I moved a motion on this subject last year and it appears on page 975 of *Hansard* of 1963 as follows:—

> That in the opinion of this House, the Government should investigate fully the rates charges respectively in the metropolitan area and country districts by the State Electricity Commission for electricity and gas supplies, with a view to ascertaining whether and in what manner, a greater degree of uniformity, or complete uniformity of charges can be achieved.

I do not want to weary the House by repeating what I said last year, but I would like to quote the Minister's reply to the debate. It appears on page 3924 of *Hansard* No. 3 of 1963 as follows:—

> **MR. NALDER** (Katanning—Minister for Electricity) [3.00 a.m.]

Three a.m.! No wonder he gave the reply he gave!

Mr. Nalder: You didn't stop to hear it, did you?

Mr. HALL: I was expecting the Minister to comment on that. We have duties in our electorates and the motion was continually put at the bottom of the notice paper, and I thought it was due for obliteration.

Mr. Nalder: You can't put that over!

Mr. HALL: I say here and now that I must apologise for my non-activity the other day on the subject, but I thank the Premier for allowing it to remain on the top of the notice paper. However, to return to 3 a.m. in the morning last year. I know the Minister is not one of the birds who stay up until that hour under ordinary circumstances. The Minister stated—

> I do not think it is necessary for this motion to be carried.

Mr. Toms interjected and said, "Why?" I must compliment him on his interjection. To continue—

> Mr. NALDER: I shall give the reason. Decentralisation of industry is being encouraged by the Government in so much as an assured supply of electricity is being made available to more and more country consumers at as low a rate as possible.

Mr. Nalder: Hear, hear!

Mr. Graham: Where, where?

Mr. HALL: That gets me back to the point I made earlier. Consideration has been given to major industries by this Government and previous ones. The Government has fallen over backwards to get them established, and I can appreciate that very much—and so can other honourable members—as being a move forward in decentralisation. However, I do not want to dwell on this point too much because it is further south we must get some relief for the smaller industries.

Mr. Nalder: They are not paying any more in the country than in the city.

Mr. HALL: In his speech last year the Minister continued—

> Industrial consumers have uniformity of rates and may establish themselves wherever the State Electricity Commission scheme extends.

That brings me to the point that the electricity supplies must be extended, and that is how a subsidy Act could help. How the Country Party members who sit on that side of the House could vote with the Minister on this one, I do not know. We can see, on reference to the map and the index, that there are approximately 1,750 towns in the far-flung areas, of which only about 81 generate electricity but do not come under the State Electricity Commission scheme. However, I will come to that point in a moment. The Minister went on—

> They pay the same rate as industry in the metropolitan area. As different rate schedules apply, the fact of uniformity may not always be at first apparent. It is hoped eventually to alter the tariff tables in the metropolitan area to those at present operating in the country.

He just made the remark that they are all equal and then in the next sentence he says he is going to make them equal! He also states—

> Tariff reductions result from greater efficiency and increased sales.

Can we find a better way to increase the sales than to supply electricity to our decentralised areas? Many people will make a request for electricity, particularly with the introduction of television—and rightly so. If we get out into the open spaces and decentralised areas and see the farmer on his tractor or plough, he looks like a pimple on a pumpkin because he looks so insignificant. We have to ask ourselves what he does with himself at night.

Several honourable members interjected.

Mr. HALL: I am not going to endeavour to reply to the implications in the humourous interjections of honourable members. The entertainment of these farmers at night is limited, and therefore all they can hope for at the best is a drive into town many miles away to watch what they call the drive-in show.

There is no doubt they are entitled to this amenity; and I say without any fear of contradiction that the Minister should give a complete assurance that he will study this matter and do as the motion suggests. If it is not possible this session he should—well, I do not know if he will be here next session, or whether he will be in office; but if so, he should have a look at it and act then.

Mr. Nalder: You do not sound too optimistic!

Mr. HALL: I am not trying to do any forecasting at the moment. I am trying to work for the people in the country, and I am trying to do my best to persuade honourable members to pass this motion. I do not know how Country Party members, including the Minister, will be able to go amongst their electors and talk their way out of this one.

Mr. Nalder: Where are you going to get the money for this one?

Mr. HALL: The money could be raised on this occasion in the same way the Government has raised it on many other occasions; and that is, by taxation. After all, we call this Government, "The Tax-us Rangers". The opportunity for obtaining revenue lies in the hands of the Government.

Mr. Nalder: That won't help the decentralised areas.

Mr. HALL: They are taxed to the limit now, but do not receive any amenities in return. That applies to the water rates, too. I do not wish to elaborate any further except to say that the Leader of the Opposition in South Australia introduced a motion through which he hoped to achieve the same objective I have set out to achieve. I introduced a similar motion last year, and at 3 a.m. in the morning the Minister could find no virtue in it. Subsequently the Premier of South Australia did a double flip backwards—he should have entered for the Olympic Games—and introduced identical legislation as was sought to be introduced by the Leader of the Opposition there.

I am not going to delay the House any longer. I feel I have got my point over. If the Minister wishes to have a look at the Bill presented, he can do so, plus the notes I made on my research of other States. He has access to the same copies

of *Hansard* I have and can read them if he so desires. I have placed the information before the House and I hope to hear from the Minister, after which I will reply to him.

Debate adjourned, on motion by Mr. Nalder (Minister for Electricity).

CAPITAL PUNISHMENT

"Four Corners" Presentation of Eric Edgar Cooke Case

MR. BRAND (Greenough—Premier) [5.55 p.m.]: If you will permit me to give it, Sir, I have here a reply to a question asked by the member for Collie yesterday in regard to a broadcast. I said that I would pass the question on to the A.B.C. and, in fairness to everyone, I think I should read the reply. Mr. Malcolm Naylor, Acting Manager for the A.B.C. in Western Australia, sent me the following reply:—

> Thank you for your letter of today's date, concerning a question in the Legislative Assembly yesterday.
>
> I have taken immediate steps to bring it to the attention of the General Manager of the Australian Broadcasting Commission at our Head Office in Sydney.
>
> As a result, the Assistant General Manager in charge of Programmes, Mr. C. Semmler, has issued a statement in Sydney which clarifies the matter raised by the Labour Member for Collie, Mr. May.

Attached is a copy of the statement, and Mr. Naylor has asked me to read the statement to the House. It is as follows:—

> The Assistant General Manager of the Australian Broadcasting Commission in charge of Programmes (Mr. C. Semmler) commented that the story that was published in "The West Australian" on October 20th, under the heading "TV Film on Cooke," was the result of an obvious misunderstanding. The Four Corners team was at the moment in Perth covering three special stories, which had been planned for some time—on Exmouth Gulf and the Ord River and Esperance developments. For some time, too, the Four Corners programme has been planning a story on capital punishment as a national issue. It is possible that in the course of this visit the Four Corners reporters (whose appearance in Perth at the time of the hanging of Edgar Cooke was a mere coincidence) had made various enquiries on public reaction to the hanging as part of their routine story gathering but, said Mr. Semmler, the A.B.C. has no intention whatsoever of running a story on capital punishment at this particular time and in relation to the W.A. situation. Not only would it be in poor taste to do so and indeed smack of sensationalism, but it would obviously be impossible to expect to get a balanced and objective viewpoint at this particularly unfortunate time when feelings were bound to be high among sections of opinion concerned.
>
> This particular decision had no relationship whatsoever to any discussion that may have taken place recently in the W.A. Parliament. It was simply and purely a matter of A.B.C. programme policy in matters of this kind.

Mr. H. May: May I have a copy of that?

Mr. BRAND: Yes.

Mr. H. May: I thank the Premier for the interest he has taken in the matter.

DARRYL BEAMISH

New Trial, and Deferment of Eric Edgar Cooke's Execution: Motion

MR. HAWKE (Northam—Leader of the Opposition) [6.2 p.m.]: I move—

> That in the opinion of this House the Government should introduce a Bill to grant Darryl Beamish a new trial before a judge and jury and as Eric Edgar Cooke would be a vital witness, his proposed execution should be deferred.

The matter before us concerns particularly Darryl Beamish who was found guilty by a judge and jury on a charge of wilful murder.

Before proceeding with my motion, I would like to refer to notice of motion No. 8, because I think it is necessary to explain why the two motions are upon the notice paper. It could appear from a casual look at the wording of the two motions that the first one calling for a new trial, or for the Government to introduce legislation to give Darryl Beamish a new trial, could not possibly be justified by argument in this House unless the second motion were first of all carried, and all the papers associated with the court appearances of Darryl Beamish, and the appeal made later on his behalf to the Court of Criminal Appeal, were laid upon the Table of the House; in other words, unless honourable members had access to all the papers, it would not be possible, logically, to sustain an argument for a move to be made to enable a new trial to be given to Darryl Beamish.

Most members of the House who have given consideration to this situation would, I think, realise that the motion with which

we are immediately concerned—that is, notice of motion No. 7 on the notice paper —has become tremendously urgent following the decision of Executive Council to have the execution of Eric Edgar Cooke carried out at the Fremantle Prison on Monday of next week.

In view of the confessions made by Cooke in connection with the charge against Beamish, and on which Beamish was found guilty; and in view also of the affidavits sworn by Cooke, it is obvious that, in any retrial which may be granted to Beamish, Cooke would be the most vital witness. In the event of a retrial taking place and Cooke no longer being available —no longer being alive—then any such retrial might not produce the same result as could be produced if Cooke were to be alive and available as a witness to be examined and cross-examined in connection with the claims he has made as being the individual who fatally attacked the murdered girl at Cottesloe. So I hope it now becomes abundantly clear to honourable members that both motions, although they appear in some way to be out of order, are very closely related, and the moving of each of them is necessary at this stage.

Had I proceeded only with notice of motion No. 8 for the tabling of all papers I think it is most probable, if not certain, that that motion would not have been completed in sufficient time to enable the motion which I am now moving to be put upon the notice paper, proceeded with, and completed to a decision.

Honourable members will know that some days ago I asked the Premier whether he would table all papers prepared by the C.I.B. this year relating to the appeal made on behalf of Darryl Beamish to the Court of Criminal Appeal; that is, all papers which were prepared by members of the C.I.B. in connection with the then impending hearing. The Premier replied he was not prepared to table the papers, but offered me an opportunity of perusing them in confidence at the office of the Minister for Police.

I thoroughly agree that having accepted an opportunity of perusing these papers on the condition that the perusal would be in confidence, I am bound absolutely not to divulge anything I had an opportunity of seeing in those papers. I should say, however, I asked the Minister for Police, and subsequently the Premier, whether the papers in question could be brought to Parliament House for my confidential perusal here. The Premier agreed that would be in order. The Minister for Police brought up some papers, but unfortunately they were not the papers I had sought; they were not the papers which the C.I.B. had prepared this year in connection with the appeal made on behalf of Beamish to the Court of Criminal Appeal. They were papers associated with Beamish's trial originally.

Some difficulty was then encountered in obtaining the papers I wanted; there was considerable difficulty in locating them. Finally the Minister for Police was good enough to advise me that a complete set of copies of the papers was available in the Police Department, and subsequently he brought those papers to Parliament House and I had an opportunity of perusing them.

On the 20th October I asked the Premier the following question:—

> In the event of a move being made in Parliament for the granting of a new trial to Darryl Beamish and the move succeeding, would the affidavit sworn by Eric Cooke, in which he claimed to have committed the crime of which Beamish was found guilty, be admissible as evidence?

Subsequently the Premier made a long reply to that question, but it was only, I think, in the last sentence of his reply that he answered the question, and his answer was "No"; which meant that the affidavit made by Cooke which went before the Court of Criminal Appeal would not be admissible as evidence in the event of some move being made in Parliament to grant Beamish a new trial before a judge and jury, and the move in question being successful.

I think I should make reference to some of the points raised in the long reply which the Premier made to my question. He pointed out that Beamish appealed from his conviction by jury to the Court of Criminal Appeal, the court in question unanimously dismissing the appeal. The Premier's reply went on to state that Beamish had an application made on his behalf to the High Court of Australia for special leave to appeal from the decision of the Court of Criminal Appeal. That application was heard on the 11th December, 1961, and it was forthwith refused. The Premier's reply later stated—

> On the 11th September, 1964, the High Court of Australia heard an application by Beamish for special leave to appeal from the decision of the Court of Criminal Appeal. The court forthwith refused the application.
>
> Solicitors for Beamish have advised the Crown that they had not received any instructions to appeal to the Privy Council and did not expect to receive any such instructions.

The first appeal to the High Court had relationship only to legal issues and, possibly, to any question of misdirection by the presiding judge to the jury in the original trial and any appeal to the Privy Council would be upon the same basis. Obviously the original trial was carried out in accordance with the law, so there certainly would be nothing achieved by an appeal to the Privy Council.

(Debate interrupted. Continued on page 1764)

SCREENING OF FILMS

The SPEAKER (Mr. Hearman): Before leaving the Chair, I draw honourable members' attention to the fact that some films of an instructive nature are to be shown in the Library after tea commencing at 6.45 p.m. It is anticipated that the films will be completed by 7.30 p.m., when the House normally would meet again. However, in order to make quite sure that we can meet reasonable requirements, I shall leave the Chair until the ringing of the bells.

Sitting suspended from 6.15 to 7.40 p.m.

ERIC EDGAR COOKE

Alleged Offences

Mr. HAWKE: Mr. Speaker, I understand the Minister for Police now has answers to some questions asked of him earlier in the day by the honourable member for Balcatta. I am willing to give way for the moment in order that the replies to the questions might be given by the Minister.

The SPEAKER (Mr. Hearman): Subject to the Leader of the Opposition being prepared to have his speech interrupted, and with the concurrence of the House, I will allow the Minister for Police to give the answers to the questions asked. Have I the concurrence of the House?

Question put and—there being no dissentient voice—passed.

Mr. CRAIG (Minister for Police): This information was delayed because of the research involved, so much so that a senior member of the C.I.B., who was concerned with the inquiries, had to be recalled from annual leave in order to supply answers to the questions asked by the honourable member. The first question asked was—

(1) Apart from the charges of murder or wilful murder which were preferred against him, what other offences of any nature whatsoever have been ascribed to Eric Edgar Cooke?

The answer to that question is—

(1) The following offences had been ascribed to Eric Edgar Cooke—

(a) The unlawful wounding of Rowena Reeves and Nicholas August.

(b) Five offences causing bodily harm to women by running them down with motor vehicles.

(c) Four offences of assaults on females causing bodily harm.

(d) Thirty breaking and entering offences.

The second part of the question was—

(2) Of those offences in respect of which he claimed to be the perpetrator, which have been accepted as having been his responsibility and which have not?

The answer to that question is as follows:—

(2) The offences referred to in (a) and (b) above have all been accepted as being the responsibility of Cooke. One of the four offences of assault as mentioned in (c) above—that is, assaults on females—is not accepted.

Of the 30 offences referred to in (d) above—that is breaking and entering offences—10 were not accepted.

DARRYL BEAMISH

New Trial, and Deferment of Eric Edgar Cooke's Execution: Motion

Debate resumed from an earlier stage of the sitting on the following motion by Mr. Hawke (Leader of the Opposition):—

That in the opinion of this House the Government should introduce a Bill to grant Darryl Beamish a new trial before a judge and jury and as Eric Edgar Cooke would be a vital witness, his proposed execution should be deferred.

Mr. HAWKE: The affidavit which Cooke swore, and in which he claimed to have committed the murder for which Beamish had previously been found guilty, covers some 16 pages of single-line typewriting. When one reads this affidavit, irrespective of whether one thinks Cooke committed this crime or otherwise, one is astounded by the detail in it, and especially by the sequence of the story as set down in the document.

Anybody not knowing the history of the Beamish case, but knowing of the murder at Cottesloe, and who then read this affidavit, would not have the slightest doubt Cooke had committed the crime. At this stage I do not want to go into the affidavit in any detail, but I would hope some time this week, before this issue is decided in the House, as many honourable members as possible will have a look at it. There is in this affidavit even a fairly detailed plan of the flat in which Miss Brewer lived, and in the bedroom of which she was done to death in such a brutal fashion.

There is also a statement by Cooke in the affidavit regarding some keys which he obtained when in the flat, and which he hid in the flat, or outside the flat, so that whenever he came back he could get them and go in and do whatever he pleased, or try to do whatever he pleased.

The occasion on which he claims to have taken the keys was some time before the actual murder was committed. From that some honourable members might think that as Cooke had been in the vicinity on earlier occasions he would naturally have a very good understanding of what was in the flat, and how the flat was constructed and, consequently, with any sort of memory at all would, some considerable time later, be able to draw with a fair degree of accuracy an outline of the flat and of many of the details in relation to it.

Another point which I want briefly to mention at this stage is that Cooke claimed that his victim before dying had gurgling noises in the throat and spoke three words; the words being, "Who is it?" I will make considerably more reference to that later on. Mrs. Cooke said she recalled that her husband was out until the early hours of the morning on the night that Jillian Brewer was murdered.

I agree there need not be anything specially significant in that, because from what we know Cooke was out all night, until well into the early hours of the morning, on many occasions. However, it is a fact from the statement as given by Mrs. Cooke; and it at least demonstrates that Cooke could have been at Cottesloe, and could have committed this crime on the night in question, or the early morning in question.

I referred to Mrs. Cooke's statement only to show that it was at least possible for Cooke to have committed this crime. Then we find that Cooke in his affidavit claimed that he travelled on a bus which was driven—and this is on the night in question—by a man he knew; and he gave the route on which he travelled in this bus. He also gave a description of the driver and said he thought his name was Bob.

Subsequent inquiries proved beyond any shadow of doubt that the person in question did drive this particular bus on the night in question and on the particular run when Cooke claimed to have been travelling on the bus to get to Cottesloe. Another very significant thing which needs brief reference at this stage, and further reference later on, is that Cooke claimed that on the night of the murder when allegedly he was in the flat of the victim, he noticed a small bottle of milk which had been obviously delivered by the milkman because it was near the door. He claimed this was at the time he was in the flat and attacking Miss Brewer. George Northcote who was at that time the milkman in the area, and who may, for all I know, still be the milkman in the area, said he delivered milk to the flats of Jillian Brewer and her mother. He also said it was his usual practice to deliver milk between 4 to 5 a.m. to these flats, and that he clearly remembered the night of the murder and that on that night he reversed his round and delivered a bottle of milk to Jillian Brewer's flat between 2 a.m. and 2.15 a.m.

That was the time approximately at which Cooke claimed he was in the flat and when he also claimed he saw this bottle of milk. That was the only occasion on which the milkman in question had delivered a bottle of milk that much earlier than he had delivered the milk supplies to those folk previously. So there must be some very considerable significance in the fact that the milkman delivered this milk on that particular early morning at the time Cooke claimed he was in the flat and saw the milk; or Cooke was in the flat soon afterwards but considerably before the normal time at which milk would be delivered down there. I will have something more to say about that later on.

There is, as I said earlier, an amazing amount of detailed information in the affidavit on which, if Cooke had been arrested for this crime, and without anyone else having been arrested previously, he would undoubtedly have been found guilty—and unanimously I should think—by any jury before which he was tried. There cannot possibly be any question about that.

A minister of religion by the name of Prestage Lucas Sullivan swore that he requested an opportunity to talk with Eric Edgar Cooke on several occasions in the month of September, 1963; and further that on the 18th day of September, 1963, in the presence of Det. Sgts. Neilsen and Dunne, Cooke informed him that he had killed three persons other than those with whose killings he had been charged at that time. He also said that in respect of one such killing a man was serving a sentence in the Fremantle prison.

That, I think, has some significance because it shows that as far back as September, 1963, Cooke confessed, or made a statement, to this minister of religion to the effect that he had, in fact, been responsible for killings in addition to those with which he had been charged; and that one of them was the killing at Cottesloe which is, of course, the subject matter of the motion now before the House.

There are a number of matters which are worthy of consideration in connection with this matter, but it is not practicable, I think, in the situation in which we find ourselves to mention all of them, and certainly not to deal with many of them in detail. When Cooke was arrested it was found he was wearing tight-fitting ladies' white gloves and, according to what one can read, Cooke always operated with gloves on his hands, the obvious purpose being to leave no fingerprints. Beamish made no claim whatever to have operated at Cottesloe with gloves; and it

is very significant, I think, in this situation to know that no fingerprints were left in Miss Brewer's flat at Cottesloe on the night or early morning when the crime was committed down there.

One would have thought that had Beamish committed the crime—I am not saying he did not, because that is for someone else to try to establish should this motion succeed—there would have been plenty of fingerprints in the flat; yet as far as I have been able to ascertain from these papers there was not one fingerprint. The fact that Cooke was always careful to wear gloves seems to present a thought —and idea—that Cooke could quite easily have been the person responsible for committing this crime and not Darryl Beamish.

Reading further through the papers, it is clear that the reply given by Beamish to the detectives as to where he obtained the axe was off the beam, so to speak. Beamish claimed he obtained the axe off the woodheap and the facts, as they are set out in the succeeding papers, show clearly that the axe was not on the woodheap but was found where Cooke claimed that he threw it after he had committed the crime.

Mr. Tonkin: Were any fingerprints found on the axe or hatchet?

Mr. HAWKE: I understand none at all. When the detectives were questioning Beamish down at the flat and in the vicinity he, Beamish, eventually led the way out of these premises and into Wilson Street and around to No. 4 Renown Avenue and pointed to a garage at the back of the premises and led the way up the grass verge alongside the cement drive and pointed to the floor of the garage as the place where he got the hatchet. Leitch—I am sorry to express it that way, but that is how it is expressed here—I would prefer to say Detective Leitch if that be his proper title—asked Beamish why he had gone to the garage and he replied he was looking for money.

Surely that is a strange statement for Beamish to have made—that he went into a garage looking for money. It is not a public garage or a business garage; it is a garage at a private home and it is very difficult to know why Beamish would have made a statement of that kind.

I want to break in here to say that Beamish, in his case, started very far behind scratch, as any person suffering the disabilities from which he suffers would start. This young man was, and is, I understand, deaf and dumb. Clearly he would be hundreds of yards behind scratch in facing up to the situation which developed around him. I think honourable members of this House would, in the great majority, at any rate, agree that a person with all his faculties would find a situation of this kind very difficult.

I am not criticising the members of the C.I.B. at all in this matter. We all know they have a difficult job to do; and we all know the community expects them to pursue their inquiries to the greatest possible degree; and the community, I think, would forgive any member of the C.I.B., if forgiveness was necessary, for putting all the reasonable pressures at any rate upon any suspect. I think if we just dwell on the situation for a moment—a situation in which Beamish was under constant questioning—we can realise how difficult, if not how impossible, his position became.

I have quoted his statement about looking in a private motorcar garage for money to indicate that his answers to some of the questions were, to say the least of them, queer. Another remarkable feature of this case is that Beamish's statements—they were made through an interpreter—appear to have been all accepted, 100 per cent. as being true—as being facts—even though quite a number of the things which he said were obviously wrong or could be proven to be wrong and were proven to be wrong.

However, when Cooke comes along—an acknowledged killer; a confessed killer; a man who had killed another woman in the metropolitan area in the same brutal, maniacal style as Miss Brewer was killed —and claims to have committed this crime at Cottesloe, a super magnifying glass is put upon everything he says for the purpose of finding some weaknesses in this long statement of his; for the purpose of trying to find some contradiction; for the purpose of trying to ridicule him and establish a degree of falsity in regard to some of his statements.

It seems to me that the approach on the one hand is largely contradictory to the approach on the other hand. I think if the statements claimed to have been made by Beamish—and I have no evidence naturally to say they were not all made by him through the interpreter and carefully and accurately noted down—were given the same searching examination on the basis of logic and all the rest of it, many of them could have been criticised on the ground that they were not logical; that they were not in sequence; that they were contradictory, and all the rest of it. But, as I have said, a very severe method of examination seems to have been concentrated upon some of the things which Cooke said.

In addition, where it has not been possible to bowl Cooke out in any way or to undermine his statements—and this applies to some very important statements which he made—those statements appear to have been just brushed aside with some generalisation in regard to them. I propose later on to give a few instances of that.

Coming back to Beamish's statement, it was claimed that Beamish had not made any reference to the cut across the throat

of the victim in question and the comment there from the Chief Justice is, I think, not very impressive. Another statement was that Beamish did not accurately say where he had disposed of the tomahawk over the fence until Leitch had asked him a series of questions; and the comment there is not very impressive either. Then there was the question about the dog not being injured; and the comment there is—

> Miss Brewer's dog had a very distinctive bark. The theory that it was only winded is based on what Beamish said, namely, that he swept it up against the door jamb and pushed the door against it. If such were the case it would not necessarily be marked. If an excitable dog such as this were there, then with the attack on his mistress and the profusion and smell of blood, one would think he would have set up a furious barking if he were capable of doing so.

Cooke's claim there is that he was a sort of expert in keeping dogs quiet; and he claimed he had developed this facility because of the large number of places he visited, mostly for the purpose of robbing money from houses and, to a lesser extent, for the purpose of killing people. He claimed he had no difficulty in quietening any dog which happened to be around the place. I mention here that Miss Brewer's dog was supposed to be a very great barker when any strangers came into the locality yet, on the night of the murder at Cottesloe, there was little or no barking, although one witness did say she thought she heard one or two barks in the early morning.

Another important issue which arises in connection with this case is a claim by Cooke that when he was in Miss Brewer's flat and after he had attacked her and knocked her unconscious, he looked around and found a purse with some coins in it. I think he said there was an amount of 4s. 7d. in the purse, with a cheque made out to Miss Brewer for £6. He named the coins; he specified the coins. As I remember it, he said there were a single 2s. piece, two single shillings and a sixpence. He was not sure whether the sixpence was made up of one coin or two threepennny pieces.

No-one seems to have been able to find out whether the police found the purse or did not find the purse. This naturally would be a very vital consideration in the whole issue. If a purse were found in the flat the next morning or later in the morning on the day on which the crime was committed, then clearly the claim by Cooke under that heading could be put to the test relating to the amount in the purse in coins and also relating to this cheque; and I will have something more to say about that probably at a later stage.

The Chief Justice—in part of the statement he made when he was declaring as one of the justices of the court of disputed returns which rejected Cooke's claim to have committed this crime and therefore rejected the appeal made on behalf of Darryl Beamish—made the following comment in connection with the bus driver:—

> At most, if Cooke's story could be accepted it puts him in the neighbourhood—

that is, the neighbourhood of Miss Brewer's flat at Cottesloe—

> a neighbourhood where he might be prowling any Saturday night. He may have been in this area on the night of the Brewer murder. If it is true that Cooke recognised the driver of the bus (as Cooke says he did) on an occasion when he said he went down to Nedlands by bus, a liar such as Cooke could quite easily be speaking of some other occasion. So far as the bus driver is concerned he is not called to say he saw Cooke, perhaps like the majority of mankind he could not remember even if he had.

The Chief Justice then goes on to comment about the episode relating to the milkman. He says—

> But the episode of the milkman, Mr. Burt says,

that is, Mr. Burt, Q.C.—

> so clearly establishes that Cooke was in the area that the whole strength of the Crown case against Beamish is affected once it is accepted.

The Chief Justice goes on to say—

> I cannot follow such an argument.

He then goes on to say—

> The signal falsity of this alleged confession in regard to the main details is so striking as to stamp Cooke's story as perjurious.

We all know Cooke was a liar; and would to Heaven he had been no worse than that. Unfortunately he was much worse than a liar. He was a brutal murderer; one of the very worst type possible.

As I said earlier, he admitted, after being arrested for a later killing, that he had been responsible for a similar brutal murder at South Perth some considerable time before the attack on Miss Brewer. So it is not enough for anyone to say that Cooke is a liar. He is a liar undoubtedly and beyond any possible shadow of doubt or argument. That is established. But the fact that he is a liar does not mean that he does not sometimes tell the truth.

His confessions in connection with a number of other murders, which had not up to the time of his arrest been solved, were accepted as being factual, truthful, and incriminating against him; and I am absolutely bound to think that had no arrest been made previously in connection

with the Cottesloe murder, Cooke's confession in relation to that crime would have been accepted without any shadow of doubt.

I think what the Chief Justice had to say about the bottle of milk does not destroy the validity or the truth of what Cooke said about it, if what Cooke said about it was the truth; and the evidence appears to be overwhelming that what Cooke said was the truth. So we cannot destroy the truth as spoken by someone, if reasonably and clearly it is the truth, simply by saying "the chap who said that is a liar." All we do, when we say that Bill Smith is a liar, is to say he is a liar and to prove it; but by saying it and proving it we do not automatically destroy the truth of a thousand things he might have said about a given situation.

I want to quote again from the comments of the Chief Justice. Before I do so, I do not want anybody to gather the idea that I am setting myself up as greater than Sir Albert Wolff in situations of this kind, or as his equal or anywhere near his equal. This is what he has to say at another stage—

> One of the most incredible statements concerning the killing of Brewer as described by Cooke is the detail which he gives of going out of the flat to dispose of the hatchet—suspending operations during the killing.

Perhaps I should break in here to say that Cooke claimed he bashed his victim into unconsciousness and then went out of the flat to dispose of the weapon. I am now quoting again from the statement of the Chief Justice.

> At this time Brewer had received severe wounds on the scalp which must have rendered her unconscious. After a lapse of time Cooke says he returned and set about stabbing her with the scissors. Describing the girl he says with lying detail: "Every breath she took made a rattling noise in her throat and she awoke and said 'who is it'—in a very slow manner."

All honourable members have been interested. I hope, in the questions which I have submitted, first to the Minister for Police and later to the Premier, in connection with this tremendously vital point as to whether Miss Brewer did have these noises in her throat and as to whether subsequently she did say those three words. I want to read to honourable members the questions I asked of the Minister for Police on Tuesday, and his replies. My first question was—

> (1) In connection with the C.I.B. inquiries carried out this year relating to the appeal made to the Court of Criminal Appeal on behalf of Darryl Beamish, was any inquiry carried out by a member of the C.I.B. or other police officer in connection with Eric Cooke's claim that Jillian Brewer spoke a few words after he had allegedly attacked her with fatal results?

The answer was, "Yes." My next question was—

> (2) If so, who made the inquiry?

The reply was—

> Inspector (then Detective-Sergeant) H. D. Burrows and Detective-Sergeant A. J. Parker.

Question (3) was—

> Which medical man, if any, supplied a report?

The answer was—

> A verbal opinion was obtained from the Police Medical Officer, Dr. A. T. Pearson.

Question (4) was—

> What information was contained in the report?

The answer was—

> The medical opinion was that, whilst it was most unlikely that the deceased would have been able to speak after receiving the throat injury, it was not impossible.

Question (5) was—

> Was the report or the essence of it placed before the judges who constituted the Court of Criminal Appeal in this case?

Amazingly enough, the answer to that question was, "No." The following day—which is today—I asked the Premier without notice six questions to which he gave replies. I will now read the questions and the replies. Question 1 was—

> (1) Did any officer of the Crown Law Department this year obtain advice from a doctor or doctors regarding the claim by Eric Edgar Cooke that Jillian Brewer, before dying, had spoken a few words in his presence?

The answer was, "Yes." Question 2 was—

> If so, what was the essence of such medical advice?

The answer was—

> Initially that speech was impossible in the circumstances, but subsequently, after research and further consideration, that speech was highly improbable but not impossible.

Question (3) was—

> Was the advice so obtained placed before the Police Department or communicated to any of its officers?

The answer was—

> It was communicated to the police officers in charge of investigations in the case.

Question (4) was—

> Was it placed before the Court of Criminal Appeal which this year heard an appeal on behalf of Darryl Beamish against his conviction for the killing of Jillian Brewer?

The answer was—

> No, because the opinions expressed were equivocal and while they would not in any way confirm Cooke's statement, they would not positively disprove it. Therefore, no useful purpose could have been served by placing the opinions before the court. On the particular matter, Cooke himself later gave evidence contradicting his previous statement.

Question (5) was—

> From whom was the advice obtained?

The answer was—

> Three doctors including a physician specialist and a thoracic surgeon. Names could be supplied to counsel for Beamish on request.

I will come back to that one. Question 6 was—

> For what purpose was it obtained?

The answer was—

> To test Cooke's veracity on this particular point.

I want to protest very strongly about this situation. In the first place, the C.I.B. was in possession of the opinion of the police medical officer, Dr. Pearson, on this vital point; and for reasons best known to themselves they did not have this information placed before the Court of Criminal Appeal. Had they done so, His Honour the Chief Justice could not possibly have fallen into the very serious, if not grave, error into which he fell in making the statement to which I referred a few moments ago. I now propose to quote that statement, as follows:—

> Describing the girl he says, with lying detail—

With lying detail! Continuing—

> —"with every breath she took she made a rattling noise in her throat, and she awoke and said, 'Who is it?' in a very slow manner."

I would have thought, also, when the Crown Law officer knew that information was being sought in this Parliament on this issue he would have made the information available to his appropriate Minister for it to be sent to Parliament, but that did not happen. It became necessary for me to continue to try to find out what medical opinion the government departments concerned had in their possession. This information had to be dragged out; firstly, from the Police Department and, later, from the Crown Law Department. To me, this appears to be a most disturbing situation and one, on which there should be some very strong speaking, if not some strong action, from the Government to the officers specifically concerned.

As far as I can see, there seems to be another weird situation in one of the answers given to me today by the Premier. There may be some underlying reason for it; there may be some arrangement as to maintaining confidence between the doctors and the departments, although the answer states that if counsel for Beamish requests the Crown Law Department to supply the names of the doctors concerned, they will be supplied. The fact that Parliament, through the Leader of the Opposition up to this stage, requests these names to be made available does not seem to mean a thing.

Mr. Graham: Yet it was vital.

Mr. HAWKE: I will read again the appropriate question and the Premier's appropriate answer. This question (5) was—

> From whom was the advice obtained?

And the answer was—

> From doctors, including a physician specialist and a thoracic surgeon. Names could be supplied to counsel for Beamish on request.

Why should these names be supplied to counsel for Beamish on request and not be supplied to Parliament on my request? On the surface at least that situation seems to be very strange indeed. I think, too, the answer to question (4) shows a very shaky approach by the Crown Law officer concerned. I will read the appropriate question and the appropriate answer on this. The question is—

> Was it—

that is, the advice obtained from these medical men. Continuing—

> —placed before the Court of Criminal Appeal which, this year, heard an appeal on behalf of Darryl Beamish against his conviction for the killing of Jillian Brewer?

And this is the answer—

> No, because the opinions expressed were equivocal.

I am sure the Deputy Leader of the Opposition would say that my pronunciation this time was more correct than my first pronunciation. The answer said that the opinions were equivocal, and it continued—

> —and while they would not in any way confirm Cooke's statement, they would not positively disprove it.

Breaking in there, the situation appears clearly to be that what Cooke claimed to have happened could have happened; was physically possible of happening. I will read again the last part of the reply by the Premier to question (4)—

> Therefore, no useful purpose could have been served by placing the opinions before the court.

That is an extraordinary attitude to adopt! I should think the Chief Justice (Sir Albert Wolff), would have considered the placing of such information before the court to have been extremely valuable in guiding the judges as to what value they might place on this part of Cooke's affidavit. I am sure it would have been a valuable guide to them in relation to the view they would have expressed on this part of Cooke's confession. It is almost a million to one on that had these opinions which the Police Department obtained from the police doctor, and which the Crown Law Department obtained from three outside doctors, been brought to light, the Chief Justice would not have said in his summing up, as he did—

> Describing the girl he says, with lying detail, "With every breath she took she made a rattling noise in her throat, and she awoke and said, 'Who is it?' in a very slow manner."

When we find that vital matters of this kind have been kept away from the Court of Criminal Appeal we must feel somewhat disturbed about the situation. After all is said and done, the life and liberty of a human being is involved in this situation. And I am not talking about Cooke; I am talking about Beamish. He has been found guilty of a heinous crime and, through his legal representatives, he was fighting for what he believed to be his right to be declared innocent of the crime for which previously he had been found guilty. So his life and his liberty are at stake.

In reply to that it is not sufficient to say he was not condemned to death; he was not organised for execution. The fact is that he is in prison and, in the normal course of events, will remain there for a great number of years, which means that a large part of his life has been destroyed, and that for the whole of the period he is incarcerated in prison he has lost all of his liberties.

Surely the members of the C.I.B. and the Crown Law officers—I do not know who they were or are—must have had a realisation—although it does not look like it—that this appeal by Beamish through his legal representative was almost life and death to him; and therefore, even though the C.I.B. officers and the Crown Law Department officers may have felt they had fairly and squarely obtained a conviction against Beamish in the original trial, surely they were bound in conscience, in fair dealing, in equity, and in justice, to place before the Court of Criminal Appeal every possible point, feature, and associated angle they could obtain in the inquiries and investigations they had made.

The fact that they failed to do so seems to have prejudiced very seriously the standing of the prisoner who was seeking a declaration of innocence from the Court of Criminal Appeal. We should know the names of these doctors. Their names and standing in the medical profession are extremely important features of this situation.

In connection with the answer to question (4) there is something else we should know. It will be recalled that the answer to my question as to whether this medical advice was placed before the Court of Criminal Appeal was, "No, because the opinions expressed were equivocal." I am not sure whether all of these opinions were obtained at approximately the same time from these doctors.

It could be that the Crown Law Department in the first place obtained an opinion from a doctor who may have, for all I know, supported Cooke's declaration 100 per cent. On the other hand, he may not have supported his declaration at all. Nevertheless, we should know whether all these medical opinions were obtained at the same time and, if not, we should know the order in which they were obtained. We should know the contents of them in detail; and I think, in fairness to all concerned, we should know the names of the medical men who gave these opinions unless there is some very good reason why their names should remain unpublished.

There would not appear to be any such good reasons because the Premier, in his reply to question (5) said the names of the three doctors could be supplied to counsel for Beamish on request. Presumably, if counsel for Beamish requested the Crown Law Department to supply him with these names they would not be supplied in confidence. So if it is all right for the names to be supplied to counsel for Beamish on request, why is it not all right for them to be supplied to Parliament on request? What sort of situation are we getting into when the highest court in the land—which is Parliament—cannot get information on request, when that information can be made available to someone in the city on request?

Mr. Fletcher: It is because we are a Labor Opposition.

Mr. HAWKE: There is not much room in this discussion for levity, or for any degree of humour, but the reply by the Premier to question (5) is a bit tall, if I may, with some restraint, put it that way.

Question (6) was—

> For what purpose was it obtained?

That is, for what purpose was the medical advice obtained; and the answer to that question was—

> To test Cooke's veracity on this particular point.

If the opinions were obtained to test Cooke's veracity and the opinions did not destroy his veracity and did not break it down at all, why was not the medical

advice in question put before the judges of the Court of Criminal Appeal? I am inclined strongly to think that had the medical advice been the other way it would have found its way quickly into the Court of Criminal Appeal hearing, because it would have destroyed Cooke's veracity on this particular issue and would have broken it down. Then the remarks which the learned judge made on the issue would have been thoroughly justified; whereas, in the present situation, and in view of the medical opinions which have been given by the Police Department's doctor and by three very eminent doctors in private practice, the learned Chief Justice has been allowed to be misled—if I might put it that way—into a wrong conclusion, and into making a statement which is not correct.

Underlying the view of the three judges, which they emphasised all the time in their summing-up and delivery of their judgment, was that Cooke was a liar and could not be believed in relation to anything; that he was a man of no credit at all; and that anything he said was untrue and should not be regarded as having any truth or merit. I shall quote three or four statements later on to emphasise what I have said in this regard.

I quote again from the remarks of the Chief Justice, Sir Albert Wolff. He said—

> The remarkable feature of this case is that the evidence of similar offences is being introduced in a self-serving way, not against Cooke but with Cooke's active and zealous assistance to try and lend some colour to a perjurious tale.

Cooke had been found guilty of murder. I think there was only one wilful murder charge preferred against him, and he had confessed to the other crimes. So quite rightly it could be said that he was a sort of professional killer; but surely the fact that he committed these offences, similar to the one at Cottesloe for which Beamish was held to be guilty, is not introduced by Cooke in an endeavour to lend colour to the lying stories which, it is alleged, he told in connection with the crime at Cottesloe.

His statements or confessions about several murders were accepted on the basis of what he had said or confessed; yet because he claims to have committed the crime at Cottesloe it is said that his claim to have committed the other similar offences is being put forward to try to lend some colour to his perjurious tale. I must admit I am not able to accept the reasoning of the worthy Chief Justice on this point.

Mr. Justice Jackson, in one part of his summing-up, had this to say—

> It has been amply demonstrated that Cooke himself is a witness of no credit at all. It is not merely that he suffers the discredit of being a convicted murderer who has confessed to, and has been accepted by the Crown as guilty of four separate homicides amounting in each case to wilful murder, in addition to the murder for which he has been convicted. It is that he has been shown during his cross-examination to be a palpable and indeed a self-confessed liar. This accords with the opinion expressed by Dr. Ellis, the Director of Mental Health Services, that his inordinate desire for attention, springing from his necessity to bolster up his shaky self-esteem would lead him to exaggerate facts and tell lies if he could thereby attract notice. But even to say that Cooke is an obvious liar does not conclude the matter, because the ultimate question is whether his confession is itself credible and of sufficient cogency to justify setting aside a conviction entered after a regular and proper trial.

In the later part of what I have just quoted I think the learned judge takes a reasonable stand. The view that Cooke has an inordinate desire for attention springing from his necessity to bolster up his shaky self-esteem which would lead him to exaggerate facts and tell lies, if he could thereby attract notice, does not necessarily prove anything in relation to the Jillian Brewer murder. Surely by this time Cooke was getting all the attention in the world; he was headline news; and news about him was broadcast over the radio and television.

I have no doubt he was getting plenty of attention in the Eastern States newspapers, and probably in some overseas newspapers. He was the central object of attention; most of it was of a type which earned him the death sentence he received. The fact was he was receiving tremendous attention. Whether or not it bolstered up his shaky self-esteem I do not know; nor do I want to find out. The fact that some mental authority made that statement about Cooke proves nothing at all in relation to the situation with which we are confronted.

Further on Mr. Justice Jackson had the following to say:—

> Much of his written statement relates to prowling about the vicinity of the flat before midnight on the night of the murder and on various occasions during several weeks before then. There is no reason why this should not be factual. It could have been that he caught the bus in Stirling Highway about midnight and that it was driven by a man he knew by sight and that he left the bus in Nedlands to continue his prowling in search of money, and there is no reason to doubt that at some time that night he stole the motor car belonging to Mr. Leader and later abandoned it.

Later on Mr. Justice Jackson had this to say about the purse which Cooke claimed he found in the flat on the night of the murder in Cottesloe—

> The matters referred to are his claims to have seen two milkmen in the vicinity; to have seen an electric frypan on the sink in the kitchen; to have found nearby a zip purse containing some small change and a cheque in favour of "J. Brewer" for £6; and to have found a bottle of milk inside the back door. But the frypan could have been seen on another occasion. In a photo taken the next morning, it is not then on the "draining section of the sink," but on the bench top of some low cupboards between the end of the sink and the refrigerator. This discrepancy may not be of much significance. There is no independent evidence of the purse at all. It may have been there on another occasion, or it may be an ornamentation to his tale. The later alternative finds some support in the variation between what he said in his written confession and what he said on being cross-examined in Court with regard to the purse. In the former he said he put the purse back where he found it, either on the sink or the cupboard. In evidence, he said he did not remember where he left it, though he thought it was on the room divider. In passing, it seems strange that Cooke should pause to examine this purse if he was then bent on murder as he now says. Although Detective Sergeant Leitch was cross-examined, he was not asked whether he found such a purse at the flat on the morning after the crime.

We have nothing at all to show the purse which Cooke claims was in the flat in the early morning of the crime was, or was not there. No evidence was put forward by the Crown or the Police Department to show whether there was, or was not a purse there. Either there was, or there was not. Surely in relation to a vital issue of this kind where Cooke's credibility could again be tested to some extent there should be something clear-cut and absolute from the Crown in relation to this claim which Cooke made in his affidavit of finding the purse in the flat containing a 2s. piece, two single shillings, and 7d. made up of a penny and either a 6d. piece or two 3d. pieces, together with a cheque for £6 made out in favour of Miss Brewer.

Mr. Justice Jackson further on had this to say—

> Cooke's reference to the bottle of milk inside the door (earlier he had said there was a "small bottle of milk or a carton or something there") is remarkable, because he places the time at about 3.00 a.m. and there is evidence that the milkman who served the flat had put a bottle of milk through the flap of the back door between 2.00 and 2.15 a.m. that morning, although it was his usual practice to deliver there between 4.00 and 5.00 a.m. Counsel for the appellant very naturally placed great stress on this matter, contending that it was beyond the possibility of fabrication. I do not seek to minimise the importance of Cooke's reference to the milk bottle, and the milkman who delivered it, but it is by no means impossible that he has recollected these incidents from another occasion in the vicinity or at the flat itself.
>
> It is a startling coincidence that the milk was delivered early on this particular night, but I am unable to find it a sufficient authentication of the confession to outweigh in my mind the overwhelming evidence that it is a fabrication.

I think there Mr. Justice Jackson is very much impressed in Cooke's favour in relation to the bottle of milk incident, but finishes up by saying that although it is a startling coincidence he is unable to find it of sufficient importance to outweigh the belief in his mind that the confession as a whole is a fabrication.

Well, I do not think this is a coincidence at all. Cooke stated most clearly in his affidavit and in his confession that this bottle of milk was there at three o'clock in the morning, or approximately three o'clock. The milkman said that yes he had most unusually delivered the milk to Miss Brewer's flat between, I think it was 2 a.m. and 2.15 a.m. that day, whereas on all other mornings he had delivered the milk to that flat somewhere round about 5 a.m.

I think I have already referred to a statement produced before the Court of Criminal Appeal by a mental authority in this State. I want to quote something else he said which was placed before the judges. It is as follows:—

> He—

he is referring to Cooke—

> has a chronic long standing resentment against society and shows an inordinate desire for attention. His own self esteem is very shaky: it needs a good deal of bolstering up and I think that he would go to any length to bolster his self esteem and obtain the attention he requires. The desire for attention would lead him to exaggerate facts and tell lies if he could thereby attract attention.

That statement by the mental authority concerned does not prove anything and has no relationship whatever to the situation with which we are concerned. Probably, and maybe certainly, everything he said about Cooke is true because obviously Cooke is an extraordinary character with

an amazing type of mind; and nothing too bad, I imagine, could be said against or about him.

I come now to Mr. Justice Virtue, and quote the following from portion of what he had to say—

> This, then, is the background against which the confessions of this self-confessed liar and utterly worthless scoundrel must be judged.

Here again we can see that Cooke's affidavit and almost everything within it is being judged not so much upon the basis of whether each particular statement—and there are hundreds of them in the affidavit—is true, but more upon the basis that Cooke is a self-confessed liar, worthless scoundrel, and murderer, and all the rest of it.

Mr. Justice Virtue, and Mr. Justice Jackson, or the Chief Justice, could not say anything worse about Cooke than any of us feel about him or could say about him, but that is not the issue or test. The test and issue is whether Beamish has been wrongfully committed, whether in fact Cooke did commit this crime.

Mr. Graham: Or whether there is a reasonable doubt.

Mr. HAWKE: Or, as the honourable member for Balcatta has said, whether there is a reasonable doubt as to whether Beamish committed the crime or Cooke committed it. I think most people in the community if they could study this situation and all the documents in connection with it—and that, of course, is not a physical possibility—would finally come to the conclusion that there is at least a serious, if not a grave, doubt in the matter. Mr. Justice Virtue concluded by saying—

> It is true that rather surprising coincidences have been pointed out, in particular that relating to the electric frypan and the milk bottle. But all are capable of explanation consistent with his lack—

that is, Cooke's lack—

> of complicity in this crime.

I do not think they are capable of explanation consistent with Cooke's lack of complicity in the crime. I do not see how the milk bottle issue can be explained away. The electric frypan issue is not as convincing as the milk bottle feature. Nevertheless Cooke in his affidavit did declare he saw an electric frypan on a table or on some part of the furniture, and no mention of this was made in the reports by the C.I.B. It was only after photographs had been published subsequent to Beamish's trial and after Cooke had made his confession and signed his affidavit, that it was found for certain that there was an electric frypan and on the night in question it was almost exactly, or exactly, where Cooke said he saw it.

We are not in a position in this House naturally, and more particularly in view of the short time which has been available to us to look at the papers, to say with any degree of certainty that Beamish has rightly been found guilty or to say that Cooke did or did not commit this crime. However, I think there is reasonable ground for saying that a considerable element of doubt has arisen. There cannot be a shadow of doubt that had Cooke appeared as a witness in the Beamish trial and said the things he said subsequently in his affidavit, the judge would not have asked the jury for a verdict. He would have taken the authority upon his own shoulders, if he had the legal power to do so—and I am not sure on that—to say the charge by the Crown had broken down; the case for the Crown had no substance or foundation.

If in that situation the case had been allowed to go to the jury for decision, I would think a jury—any jury—would have been 100 per cent. unanimous in finding Beamish not guilty. Obviously Cooke was not going to make any confession in regard to this murder until he himself was apprehended in connection with the brutal killings he was carrying out in the metropolitan area. So Cooke did not offer to be a witness at the Beamish trial, naturally; and I think it is not necessary to expand on any explanation as to why Cooke would not come forward at that time. He had not been discovered as a killer at the time the case against Beamish was heard or at the time the jury delivered its verdict and the judge pronounced sentence upon Beamish.

The situation, however, would be tremendously different now if Beamish were to be tried before a judge and jury as this motion proposes. I have a good deal of additional information here which proves many of the claims made by Cooke in his affidavit in connection with his claim that he was the person who committed this crime at Cottesloe. There cannot be any doubt that Cooke could quite easily in all the circumstances have been the person responsible for this Cottesloe killing. Therefore, in view of the doubt which must undoubtedly exist, and in view of the vital issues involved, I move the motion that in the opinion of this House the Government should introduce a Bill to grant Darryl Beamish a new trial before a judge and jury and as Eric Edgar Cooke would be a vital witness, his proposed execution should be deferred.

I want to make two things very clear. I think I have already made one of them clear. This is not in any way an attack upon anyone. This is not in any way an attempt to undermine anyone. This is, I should hope, a reasonable approach to a tremendously important situation. As I said earlier, the life and liberty of a human

being is at stake. Even though Beamish has not been sentenced to death, nor is he likely to be—he cannot be—

Mr. Graham: He was sentenced to death.

Mr. HAWKE: He was, but he cannot be executed because the sentence of death has been commuted to one of life imprisonment. However, I would point out to honourable members that life imprisonment with or without hard labour is a terrific penalty or burden not only for the person concerned but for many others outside of the prison.

This young man was, as I pointed out, hopelessly behind scratch, in this case, because of his great natural disabilities. I said then, and I repeat now, that any one of us with all our faculties, brought up in that same situation, would be battling to establish ourselves in a position where we might escape being strongly under suspicion, where we might escape arrest, where we might escape from a verdict similar to that which was brought in against Beamish in this case.

The second point I want to emphasise is that this is neither essentially, nor in any degree, a move to favour or benefit Cooke. Cooke is only incidental to the overall objective which I have in mind in bringing forward the motion. He is under sentence of death and is due to be executed. I imagine the members of this Government are not likely to waver or change in any degree in their attitude to have him executed. So, clearly, it would seem Cooke will in due course be executed, and I do not want to be involved in that argument in connection with this motion.

As I said earlier, even the affidavit which Cooke has sworn could not be admitted in evidence in the event of Parliament moving for a new trial for Beamish and the move being successful. So, for Beamish to have any reasonable opportunity in a new trial, if one were granted, it is essential that Cooke be available as a witness to be thoroughly examined, and intensely cross-examined, especially on those issues which so far have not been destroyed in the portions of his confession and affidavit to which I have referred during my address.

MR. BRAND (Greenough—Premier) [9.17 p.m.]: The Leader of the Opposition has been speaking for some considerable time, and in the main he has read from the evidence that has been transcribed, from certain papers which are now in this House and which were made available to him, and from information which he has obtained generally. But in what I have to say it is not my intention to endeavour to sit in judgment on the evidence given from one side or the other.

The Leader of the Opposition did say that this is the highest court in the land; and so it is. But one would wonder, if the basis suggested tonight is to be followed, why Parliament, over all these years, has set up a system of judgment and of judiciary in order to ensure justice —impartial justice.

Whilst I do not desire to express any opinion as to the guilt of anybody in the cases now under consideration—certainly not in respect of Darryl Beamish—I think we should remember that the real objective of the Leader of the Opposition is to request this House to bring down a special Act to ensure the retrial of, or which will give a retrial to, Darryl Beamish.

I think it is well that we should have a look at our own system. Under our system of justice—and by the way this has lasted for a long time in many countries, and, as far as I am aware, without any real criticism—we know that the retrial of a criminal case can be held only under an order of an appeal court. Once again that is indicative of the system that has been set up that this Parliament does not sit in judgment right from the beginning, or at the end, of any of the trials and inquiries that we have heard of here over recent months or recent years.

There are two methods of approaching the appeal court for such an order—an order for a retrial. One is by ordinary appeal as a right, or as a result of special leave.

The second line is by petition to the Minister for Justice under section 21 of the Criminal Code, and he then can refer the appeal to the Court of Criminal Appeal, which would try the case as an appeal by the convicted person.

I think the House should also be reminded that in regard to the principle of Parliament having over all these years ensured that decisions of this nature belong to the courts and should remain with the courts of the land, under the law even the executive government itself cannot order a retrial, but is allowed only to refer the matter to an appeal court, and it is for that court or, on appeal, a higher court, to decide whether or not in the circumstances a retrial should be ordered.

Beamish was convicted in 1961 and he exercised his rights of appeal to the Court of Criminal Appeal and then to the High Court of Australia. Earlier this year, at the request of the Minister for Justice, under section 21 of the Code, the Court of Criminal Appeal again covered the case of Beamish in the light of the alleged confession by Cooke. Very little reference, if any, has been made tonight to this particular action; that the whole of this business has been referred by the Minister for Justice, under his powers, to the Court of Criminal Appeal.

Mr. Hawke: I talked about that all night.

Mr. BRAND: Not actually this point. Cooke, as a matter of fact, was brought from gaol—something which I understand

is rather rare—and was put under very close examination; and the court treating the matter as a further appeal by Beamish, again dismissed the appeal. From this decision the High Court of Australia, after hearing counsel for Beamish, refused leave to appeal.

Beamish, of course, then had the right to appeal to the Privy Council, but as yet no action has been taken in this regard.

Since the last decision of the High Court, no further petition has been presented; and therefore it seems to me in view of what the Leader of the Opposition has said tonight, and having regard for several of the special points which he raised, we might consider he felt there was new evidence, and this petition might be again put forward.

If there are any substantial grounds for retrial which have not yet been considered by the appeal court, the proper course is for Beamish, or his advisers, either to apply for leave to appeal to the Privy Council, or to follow the line of a new petition. Neither of these courses has been followed, and now we see what can be taken in the true sense of the word as a political move. I am not talking about a party political move, but a move in this House, and as far as I know, and as far as my advisers can obtain information, it is without precedent.

It is surely not for the Government, or anyone else, to usurp the functions of an appeal court in respect of a decision as to whether or not anyone should have a retrial. Surely this is essentially a matter for the courts alone; and it has always been accepted as such as far as I know. In any case, I do not think a political decision, if you like to call it such—a decision as between one side of the House and the other—is a reasonable substitute for a judicial decision, particularly in a matter of this kind.

The Leader of the Opposition, as I have said, raised a number of points, but I do not intend to debate the question of the milk bottle, or the axe handle, or the visit to Cottesloe, because I believe it will get us nowhere. This could be argued for days in the House; and if there is any uncertainty about decisions already made by the courts of the land, then surely the decisions that we came to here would also be very much open to query or to question. Therefore it would seem obvious that we should strictly adhere to the form of decision that we have long had in this country.

Mr. Tonkin: Even though it may result in an innocent man remaining in gaol.

Mr. BRAND: As the Deputy Leader of the Opposition has said, this query could be applied, I daresay, to a number of cases which have been decided over many years; and if it is good enough, and right, for this Parliament, to suddenly take the action of ordering a retrial, then is it not fair enough, where there has been a decision made on circumstantial evidence, for this Parliament to debate the case, and each and every one of such cases. Of course it would be!

Mr. Hawke: Not unless there were special circumstances.

Mr. BRAND: I should imagine there would be special circumstances in many of them.

Mr. Hawke: Bring them forward.

Mr. BRAND: There is no doubt, however, that in the past it has certainly been proved a most unwise decision to make; that is, to have a retrial following all the lines of appeal which are open to counsel and to those who are accused.

Mr. Hawke: Even innocent men have been hanged.

Mr. BRAND: That may be so; but the fact remains that if Parliament, if there happened to be a Parliament of the day, considered the matter, those men who were hanged and who were allegedly innocent, may not have been saved. I am quite satisfied that the wisest thing is to leave decisions of this kind in the hands of the courts and the judges of the land.

I am armed with certain information which I would like to pass on later—it is not my intention to speak at any great length—but before doing so I want to make it clear that the Government wishes to ensure that any retrial of Beamish should be fair in all respects. In the event of a petition being presented, and in the event of a decision being made by the Minister, we want to ensure that if a retrial results from these actions it will be fair in all respects. Therefore, if a retrial should be ordered by the court, and should Beamish's advisers request a legislative amendment to enable the production in evidence of Cooke's alleged confession and subsequent sworn evidence in court proceedings, the Government will introduce a Bill to give effect to the request.

The questions which the Leader of the Opposition has asked me over recent days have had regard for possible new evidence —for some new matter. The motion which he has moved tonight has included some information which would lead us to believe that he thinks a vital matter in any decision that is made for a retrial is the evidence of Cooke. After some exhaustive inquiry and discussion the Government is prepared to go to the point of making available and ensuring that the court's affidavit and the evidence is available to the judge in the event of a retrial.

Mr. Hawke: You mean Cooke's affidavit.

Mr. BRAND: Yes.

Mr. Hawke: You said the court's affidavit.

Mr. BRAND: Did I? We hear so many things said about him that it automatically makes one think of his name at other times. Therefore it is no wonder that I made the mistake.

I believe this undertaking of the Government will dispose of one of the main queries and one of the main reasons for the Leader of the Opposition moving his motion tonight. I want to ensure that the House understands the history of the appeals. I have already explained—in what the Leader of the Opposition said tonight was a long answer to a question—what the position was. I think it was necessary to give that answer and the details of the various appeals and decisions that have been made leading up to this point.

The Beamish case has been before the courts on five separate occasions. The original trial was before the Chief Justice and a jury in the Supreme Court of Western Australia, and the trial extended from the 7th to the 15th August, 1961. Beamish was defended by counsel and the jury unanimously found him guilty of the wilful murder of Jillian Brewer. The immediate reaction of the trial judge on the verdict being returned was to comment that in his opinion the verdict was amply justified by the evidence.

Beamish appealed from his conviction to the Court of Criminal Appeal and the appeal was heard on the 19th, the 20th and the 21st September, 1961; and on the 20th October of that year, the court unanimously dismissed the appeal. On this occasion the Court of Criminal Appeal consisted of three justices but did not include the Chief Justice.

Beamish applied to the High Court of Australia for special leave to appeal from the decision of the Court of Criminal Appeal. The High Court of Australia heard the application on the 11th December, 1961 and forthwith refused it. On that occasion the High Court consisted of five justices, including the then Chief Justice, Sir Owen Dixon, a very highly respected judge of this land.

Then there was a reference of the petition to the Court of Criminal Appeal on the 4th February, 1964, and the Minister for Justice, in the exercise of his discretion under section 21 of the Criminal Code, referred a petition by Beamish, based on alleged fresh evidence, to the Court of Criminal Appeal. It was thereafter dealt with by the court as an appeal, and that appeal was heard by the court on the 27th February, and then on the 17th, 18th, 19th, and 20th March, 1964. The alleged confession of Eric Edgar Cooke to the killing of Jillian Brewer was before the court on this occasion and Cooke was examined by both the Crown counsel and the counsel appearing for Beamish. The court consisted of three justices of the Supreme Court. On the 22nd May, 1964, the court unanimously dismissed the appeal.

On that occasion it was the Chief Justice, the senior Puisne Judge, Sir Lawrence Jackson, and Mr. Justice Virtue. On the 11th September, 1964, Beamish applied to the High Court for special leave to appeal from the decision of the Court of Criminal Appeal. The court forthwith refused the application. On this occasion the court consisted of five justices of the High Court including the present Chief Justice, Sir Garfield Barwick.

It is noteworthy that not once in any of these five proceedings did any judge express a doubt as to the guilt of Beamish. In the Reasons for Judgment handed down by the Chief Justice of the Supreme Court of Western Australia, following the reference of the petition to the court earlier this year, His Honour goes to some pains to analyse the evidence in the trial of Beamish, and to assess the weight of the case against Beamish. At the conclusion of his survey His Honour said—

> Was it a strong case? In my opinion, it was. Between Leitch and Beamish stood Mrs. Myatt, the social welfare worker.

I presume that was the same Leitch referred to by the Leader of the Opposition tonight.

Mr. Hawke: Yes.

Mr. BRAND: His Honour went on—

> It is inconceivable that this woman would lend herself to the villiany attributed to her by Beamish. She had been his friend. She was described as a woman of excellent character by Mr. Love, the schoolteacher in charge of the Deaf and Dumb School at Cottesloe where Beamish had attended. Mr. Love had known her for many years and he described her as one of the best persons to understand Beamish's expression of signs, lip-reading and gestures, and said that Beamish could understand her well.

His Honour then lists the heads of evidence which he regarded as being of great significance and concluded—

> In my opinion the case for the Crown was of great probative strength; such criticism as has been levelled I have dealt with. The criticism is no different from what one may expect to find in any case where, as here, the bulk of the evidence carries conviction.

I think we should bear in mind the point made by the Leader of the Opposition and the emphasis he placed on the words that were alleged to be spoken by the murdered woman after her throat had been damaged. I have been questioned and, naturally and quite rightly, I have given the answers as advised by the advisers to the Government in this regard. But, as I say, Cooke himself altered his evidence and denied what he had said. In short he said,

finally, he was not sure whether she spoke before he struck her on the throat or afterwards.

Mr. Hawke: This was after 16 days of close questioning by the C.I.B. men.

Mr. BRAND: That is quite true. I am not sure whether it was 16 days; but is not that a matter for the courts? Is it not right for the counsel for both sides to cross-examine in that regard?

Mr. Tonkin: The court was not told of the medical evidence.

Mr. BRAND: As the matter had been discussed and had been the subject of cross-examination, was it not up to the counsel for Beamish to seek the evidence, if any evidence of this kind was of value?

Mr. Tonkin: Someone must have considered it of considerable importance to get the opinion of four medical men.

Mr. BRAND: Perhaps that is so. If that was the action taken why did not the counsel for Beamish do the same thing?

Mr. Tonkin: How would he know?

Mr. Graham: Would he know?

Mr. BRAND: Of course he would.

Mr. Tonkin: How?

Mr. BRAND: He would know for the same reasons that anyone else would know.

Mr. Tonkin: Why did you offer this evening to tell the counsel the names of the other doctors when he asked for them.

Mr. BRAND: That is so.

Mr. Tonkin: Obviously he does not know them.

The SPEAKER (Mr. Hearman): Order!

Mr. BRAND: The only reason why we do not want to disclose the names of the doctors is that I feel by disclosing the names here they become public property. The names can be made available through the counsel for Beamish, in confidence, if they are required.

Mr. Davies: Why in confidence?

Mr. BRAND: I should say in fairness to people like this who are called upon to conduct examinations.

Mr. Graham: According to you he already knows.

Mr. BRAND: I feel they could be given to the counsel in confidence.

Mr. Graham: You might be surprised if he did not know the names.

Mr. BRAND: I am not aware of that. I have no knowledge of the situation and I am simply passing on the advice I have in this regard.

As regards Cooke's alleged confession, following the reference by the Minister for Justice of Beamish's petition based on the alleged confession by Cooke to the Court of Criminal Appeal, that court conducted an exhaustive inquiry into the matter. The proceedings occupied several days, and in addition to the written confession of Cooke, the court had the advantage of seeing him in court and hearing him under cross-examination. The court was required by law to make some assessment.

Mr. Graham: The only thing is that the jury has not heard it and made a determination.

Mr. BRAND: The jury made the original decision.

Mr. Graham: But the jury has not heard the matter since Cooke's confession, or alleged confession.

Mr. BRAND: Not one of the judges had anything to say in favour of Cooke or his evidence. I would like to read to the House a sample of the comments made by the judges in their reasons. Whatever Cooke says in evidence surely cannot be accepted now that it has been rejected so often.

Mr. Graham: Not by a jury.

Mr. BRAND: The jury which made the original decision set off by its decision a train of appeals, and that is what the law of the land provides for. It also provides for a retrial if the Court of Criminal Appeal so rules; and surely this system must apply to stop irresponsible action. We can understand relatives and others, in the event of their dear ones getting into trouble, following any line that is open to them. I assume that way back in the dim and distant past the laws of the land were so made to ensure that only a competent court of appeal could demand or order a retrial.

Mr. Graham: This move was not initiated by the Beamish family.

Mr. BRAND: A retrial can be given if such evidence and new information convinces the Minister that a retrial or an appeal to the court is necessary. The Chief Justice, in reference to Cooke, said—

> Out of court he can, he thinks, lie as he likes and he does so. In court his handling of the truth is no different. . .
>
> And, of course, the changing of the stories is something which points to the inference that he is a gross fraud. . .
>
> Having seen him and heard him trying to explain these discrepancies he emerges (not unexpectedly) as a low, cunning liar who, when cornered, will say anything to try and escape from a denouement. . .

I think that is a French word which, I think, means climax or outcome. To continue—

> When asked why he omitted to give these details he said he had "played it shrewd" for just such an occasion as this: a circumstance which he

thought might prompt more enquiry and so cause delay in his execution which he says he regards as certain . . .

The signal falsity of this alleged confession in regard to the main details is so striking as to stamp Cooke's story as perjurious . . .

The confession is obviously fabricated. That conclusion is inescapable . . .

The account he gives is so circumstantially inaccurate and so obviously fabricated in the light of previous statements and the irrefutable evidence in the Beamish trial, that no Court could conscientiously disturb the verdict against Beamish and order a new trial . . .

What firm and sweeping words those are! To continue—

The claim by Cooke to have murdered Brewer is so obviously concocted and the evidence against Beamish so strong that one cannot, by any course of inductive reasoning, reach a conclusion that Cooke probably killed Brewer . . .

If these proceedings have necessitated much time and work they are nevertheless justified as exposing to the public the perjurious machinations of Cooke and establishing the falsity of his claim to have committed the Brewer murder . . .

We then have the findings of each of these judges, but I do not propose to waste the time of the House by proceeding any further. I do want to stress, however, that nothing the Leader of the Opposition has said tonight is new. If it is obvious and worth-while evidence for this House to take the drastic action suggested by the motion, surely it must have been obvious to the counsel for Beamish in his many inquiries and through the various courts.

Surely the references of the Leader of the Opposition, and even those references by interjection by other honourable members, were so obvious that a counsel of high standing would have had them examined again and again on behalf of Beamish. I think it only proves the point I am trying to make that I do not believe, nor does anyone really believe, that this move to decide in this House to order a retrial against the evidence and all the decisions that have been made by the High Court, the Supreme Court, and the many courts in the whole of Australia should be made against the findings of the courts of the land.

Mr. Graham: Submit it to a jury.

Mr. BRAND: As I have said, there is a way in which this case could be submitted to a jury, providing the judges can be convinced that the way should be opened. If new evidence is provided as a result of questioning of myself, then that can be made available to counsel on both sides. Everyone is aware of all the points raised tonight, and if they have not been placed before competent jurisdiction before tonight then they can become evidence through a petition for a new appeal; and, if they prove successful, for a retrial. That is what the honourable member for Balcatta wants, and it is what can be done. I do not see how we as members of Parliament can sit in judgment on decisions made by judges of this land and suggest that we scrub them; that they are wrong.

Mr. Graham: We are not thinking of judging.

Mr. BRAND: What does the honourable member suggest we are doing, if we are not saying that the decisions of the courts are wrong?

Mr. Graham: This man has been convicted of murder.

Mr. BRAND: There is no doubt that the motion suggests that the courts of the land are wrong, and that we should take the matter into our own hands and order a retrial.

Mr. Graham: We say there is sufficient doubt.

Mr. BRAND: Through the Minister for Justice there has been a decision of an appeal to the Court of Appeal; and again Mr. Cooke himself has been brought from the Fremantle gaol and cross-examined.

Mr. Graham: His testimony has never been heard by a jury.

Mr. BRAND: His testimony can be heard if, through a competent Court of Criminal Appeal, a retrial can be obtained.

Mr. Graham: Or an application to the Privy Council.

Mr. BRAND: This is the law of the land and I oppose the motion.

Mr. Graham: You would!

MR. TONKIN (Melville—Deputy Leader of the Opposition) [9.51 p.m.]: I want to make it clear at the outset that the Opposition is making no judgment in this case at all.

Mr. Brand: What is it basing its case on?

Mr. TONKIN: If the Premier will give me an opportunity I will repeat the points which the Leader of the Opposition made in substantiation of his case. But I say we are making no judgment ourselves; we are arriving at no conclusion. We are saying there are certain things which have emerged since the trial which raise serious doubts in connection with the matter.

All we are asking is that the case be referred back to the courts—not taken out of the hands of the courts, but referred back to the courts—in order that a judge and jury may, in the light of further information available, give Beamish a new

and perfectly fair trial. The Premier said that the evidence against Beamish was strong. Let me remind you, Mr. Speaker, that it was completely uncorroborated evidence. The only evidence against Beamish was his own evidence; his own confession; the confession of a person of immature mind; of one who is little more than a child. That is the evidence; that is the supposedly strong evidence upon which he was convicted. There is not a tittle of evidence from any other source.

I do not regard that as strong evidence. Cooke's confession was considered in the light of the judgment which had been previously made on Beamish. He had already been found guilty on a unanimous decision of the court, strongly supported by the trial judge. That was the situation when the confession came along.

So one can quite readily appreciate that the attitude, the natural attitude, of those then called upon to determine the question afresh would inevitably be biased by the fact that a unanimous decision had already been made, and a person found guilty. I submit it would have to be most extraordinary evidence that would cause the judges to reverse such a decision so quickly and prove that the previous decision was completely wrong.

That is probably the explanation why everything Beamish has said was accepted as fact, while every possible attempt was made to discredit those parts of Cooke's confession which did not completely coincide with the facts. But it is obvious from the evidence that Cooke must have been inside Jillian Brewer's flat at some time; otherwise he could not have drawn the diagram he drew; and he could not have given the description of the rooms of the flat if he had not been there at some time to see them.

If he had been there at some time we cannot discount the possibility that that time was on the night of the murder. When we add to that the fact mentioned by the Leader of the Opposition of the milk bottle, which Cooke said he saw at a certain time and which he could not have seen at that time on any other morning, that suggests that the time he got this knowledge of the flat was on the night of the murder; the night that the milkman said he delivered the milk early.

He then mentioned the existence of an electric frypan in the flat. Nothing is said about it until it is brought out accidentally because at the trial in the criminal appeal new photographs were produced which were not produced at the earlier trial; and in these new photographs there appeared the frypan which Cooke had mentioned in his confession. He could have guessed it; it could have been a shot in the dark; it could have been a coincidence. We do not know. But what is a fact is that Cooke said in his confession that he saw an electric frypan; and, in fact, there was one there, in almost the position in which he said he had seen it.

But that information was not earlier brought forward before the court. I am very much concerned about the statement that Cooke made in his confession about the noises the dying girl made and the words she uttered. At some stage or other in the inquiry, and in the checking of the confession somebody must have thought this of very vital importance, and not something to be regarded as trivial or accidental; because firstly there is the opinion of the Government Medical Officer (Dr. Pearson), and subsequently we are told—and I know that the counsel for Beamish did not know this as the Premier asserted—that three other medical officers were asked for their opinions regarding this matter.

So four medical opinions were obtained. That suggests to me that somebody somewhere must have regarded this as important, or must have been looking for an opinion which he was failing to get.

The most remarkable thing about it is that these opinions were not placed before the court; and the explanation is that they were regarded as being so equivocal that they would be of little value. What right had the person who withheld the information to make that decision? That was a decision for the judge; and had he been given the opportunity to make that decision, in my opinion, Sir Albert Wolff could not have made the remarks about this that he did. He used this as a prominent point upon which he discarded Cooke's confession as being a fabrication. He said that it emphasised what a liar Cooke was, as much as to say: he makes an utterance which is a sheer impossibility. Now the medical evidence does not say that at all —very far from it—and I cannot imagine that the learned judge, who is not a medical man, would, if he had had the opinion of four medical men on this very point, make the statement which he did as being a point to prove that what Cooke said was impossible.

Surely the mere fact that that was withheld from the court would, in most cases, certainly in a number of which I have read, cause the judge to order a retrial. All we are asking is that the case go back before a judge and jury so that the evidence can be listened to and considered and a decision made. Surely honourable members must have met dozens of people who at some time or other have expressed the opinion that in their view Beamish is not guilty. I, myself, have met this situation dozens of times. Of course, it is pure guesswork; it is a conclusion to which people come after considering circumstances; and it is remarkable how many people hold that view, not only the man in the street, but prominent legal men with judicial minds who have

given consideration to the various aspects in this matter; and they are of the opinion that Beamish is not guilty.

I had some experience myself with deaf mutes when the area where the school for the deaf is situated was within my constituency. I was a frequent visitor to the school for the deaf and I have met dozens and dozens of those unfortunate people. I have been struck by their desire to try to guess what one wants them to believe and then to give one the answer they think one wants, because one cannot make oneself properly understood. Therefore I do not find it difficult to believe that a young man like Beamish, with an immature mind, and with the inflictions that he has got, would under severe cross-examination —and it would be severe; and I am not complaining about that because the police have their job to do—say all sorts of things which may not be true.

I have had children at school admit to very small crimes which they did not do; and I have no doubt the honourable member for East Melville has had a similar experience of children admitting to having stolen 3d. or 6d. from somebody else and one finds subsequently that the money was not stolen at all. I see the honourable member for East Melville smile; and that indicates to me he has had the same experience I had myself. Beamish was little more than a child in many respects.

Our feeling here is that there are doubts in the community and points have emerged which heighten those doubts. Our consciences could not be clear unless we made some move to provide an opportunity for the matter to be gone into once more.

I found the greatest difficulty in following the Premier in the method he explained which was available in order to obtain a new trial. I first of all came to the conclusion when he started off that there was no method by which it could be done at all. I think that was what he said: that all the known methods except the appeal to the Privy Council had been exhausted.

Mr. Brand: Or a new petition based on new evidence. I said that.

Mr. TONKIN: My information was that the way was not open for a fresh petition —that that had been exhausted. The information conveyed to me from a legal source is that the only way, failing an appeal to the Privy Council, is for Parliament to pass a Bill to provide for a new trial.

Mr. Hawke: That would be before a judge and jury.

Mr. W. Hegney: No other way.

Mr. TONKIN: We have all seen where cases have failed through legal technicalities. It is very true that man-made laws are not perfect and, in some instances, instead of assisting they only present obstacles because it is impossible to get around the legal points in order to achieve the objective; and these appeals which have taken place following the conviction of Beamish have been limited because of legal restriction. That is what we want to try to avoid. Our legal advice is that we would meet the same difficulty if the case went to the Privy Council because it would be decided on a question of law as to whether the trial judge had misdirected the jury, or something of that nature. That will not meet this situation.

We feel the only way in which the existing situation may adequately be met is for an opportunity to be provided for such information and such evidence as is now in the possession of the counsel for Beamish, to be presented before a judge and jury and given consideration by them.

Time would not permit of the reading of the various aspects in Cooke's confession, which all deliberately point to the fact that he must have been in the premises and that he knew a good deal about what was happening in those premises. Where he got his information from I am not in a position to say.

Mr. Brand: Wouldn't the judges have heard and the High Court?

Mr. TONKIN: One thing the judges did not hear was that the opinion of four medical men was sought on one point in the confession; and none of those opinions was placed before the court.

Mr. Hawke: The High Court would only decide on questions of law, wouldn't it and not on the merits?

Mr. Court: They have the whole transcript before them.

Mr. Craig: Didn't the Crown Prosecutor raise this point?

Mr. TONKIN: This is another aspect that surprises me: I like to read the Sherlock Holmes series with mystery in them; and also like to watch on the television those stories where lawyers are operating. Invariably, when the police arrive at the scene of a murder, they make an inventory of the place. Apparently in this case it was not done. One asks why? Because if it were done it would be possible immediately to say there was no purse there or there was a purse there and this was in it. But apparently the police were not in a position to say whether there was a purse or whether there was not. Is that not odd to say the least?

Mr. Craig: Are you sure they did not take an inventory?

Mr. TONKIN: That is what I am advised.

Mr. Craig: Are you sure they did not take photographs?

Mr. TONKIN: It is a strange thing that within the last few days in answer to a question asked by the Leader of the Opposition about this very point, or in information which was supplied to him—I am not sure which—the answer was given that it is not possible to say whether or not there was a purse.

Mr. Craig: You are saying they did not take an inventory?

Mr. TONKIN: What I am saying is that it is odd they were not in a position to say either that there was a purse or that there was not—and somewhere or other, I do not know where it is, that is in print.

Mr. Craig: Yes.

Mr. TONKIN: I say that is odd, because all the experinece I have had in a matter of this kind, invariably when the police arrive on the scene, they take an inventory of what is there.

Mr. Craig: That is so.

Mr. TONKIN: I do not know whether that was done on this occasion or not, but if it were done surely the police would be in a position to say that they took an inventory and found a purse such as Cooke subsequently described, or say there was no purse, or say they found a purse and its contents were so-and-so. No mention of that, so far as I am aware, was made at the trial of criminal appeal; and surely it would have been a strong point either for or against Cooke's confession to be able to prove or disprove what he said in that particular instance. I repeat that it seems to me somewhat odd that the police did not deal with that aspect, and they were not in a position either to prove or disprove it.

So when we add these things up—the reference to the milk bottle; the reference to the purse; the reference to the frypan, which only comes out accidentally when a further lot of photographs are produced to show that the frypan is there—one would have thought that when Cooke's confession was being dealt with before the judges, that point, although it was in favour of Cooke's confession, would have been mentioned. Cooke said in his confession that there was a frypan. Well, we found one; but that was not said, and counsel for Beamish would not have known there was a frypan there, as stated by Cooke, if they had not seen the frypan in the second lot of photographs which were produced.

Those are the matters which raise doubts. They are not conclusive, we frankly admit; but they raise doubts where there should be no doubt; because, as we were told by the Premier earlier, at Beamish's trial it was said that he was convicted on the strongest evidence; namely, his own.

Yet here we have a confession, with corroboration in a number of points, and it is brushed aside because it is given by a liar. Well, of course, that is not the basis of judging any statement in a court. Cogency and logic are points which count.

Mr. Brand: Don't you think any of the judges took that into account?

Mr. TONKIN: I read all that they said about it and it is obvious they did not.

Mr. Brand: Any of the judges anywhere, in any of the courts? Surely they would assess a situation impartially and have regard for the points you are raising!

Mr. TONKIN: Well, it does not appear that way—

Mr. Brand: It does not matter if it appears that way.

Mr. TONKIN: —in the statements they made. I read carefully the statement of each judge on this matter, and the judges did not put it out that way at all. They rather took the attitude that "this confession was made by a liar and he cannot be believed".

Mr. Brand: I don't think they would say that lightly, or come to that conclusion without a firm belief, surely!

Mr. TONKIN: To follow this line of thought, and I think it is most important—

Mr. Brand: Follow it where you like; it won't convince me.

Mr. TONKIN: Of course, that is an unfortunate attitude for the Premier to adopt.

Mr. Brand: It is not. I have faith in our judges.

Mr. TONKIN: Well, judges have made mistakes before.

Mr. Brand: Of course they have.

Mr. TONKIN: And they will make them again.

Mr. Brand: Of course they will; and so will you, although you might not think so.

The SPEAKER (Mr. Hearman): Order! I call on the honourable Deputy Leader of the Opposition.

Mr. TONKIN: It is on record, and it cannot be disputed, that innocent men have been hanged before today. So it is no good having blind faith in judges.

Mr. Hawke: They are only human.

Mr. Brand: That's right.

Mr. TONKIN: One has to make allowances for other possibilities; and that is what we are endeavouring to do in this case. We say that there are doubts. I want to follow the line of thought of the Premier when he said that it would not make any difference to his

opinion. The Premier knows that the Chief Justice, in giving his judgment, emphasised what a liar Cooke was, because he had given so much detail about the noises made by the dying girl and the words she uttered.

Mr. Brand: His reaction as to the lies was a general conclusion which he had come to.

Mr. TONKIN: No. It was about this particular statement about—

Mr. Brand: It is no use talking to you. It is so obvious that he had come to a conclusion.

Mr. TONKIN: —the noise in her throat and the words which she uttered. He took that as being so impossible that it highlighted what a liar Cooke was. Now on this very point the opinion of no fewer than four separate medical men was obtained; and having been obtained, the information was not made available to the learned judge. Therefore, in making the statement which he did, he made it without the value of the medical testimony which was available and which was withheld from him.

Mr. Craig: But was he not cross-examined on that particular aspect?

Mr. TONKIN: I do not think so.

Mr. Craig: He was. You read the transcript. He was.

Mr. TONKIN: Who was cross-examined?

Mr. Craig: Cooke.

Mr. TONKIN: Did he know that his statements had been referred to four medical men?

Mr. Craig: He was cross-examined by Crown counsel as to when he alleged the girl made the statement, "Who is it?"

Mr. TONKIN: Was any reference made to the fact that this matter had been referred to four medical men?

Mr. Craig: Well, irrespective of that—

Mr. TONKIN: Was it?

Mr. Craig: —wasn't it sufficient for Beamish's counsel to pursue the point further?

Mr. TONKIN: The point I am making is that through somebody's failure this information was not made available to the learned judge. That is a fact; and, what is more, it is a very important fact.

Mr. Brand: If the evidence of, say, the medical people had been available to the Chief Justice—where they said it was highly improbable but it was possible—would that have changed the opinion of the Chief Justice and the opinions of the other judges, do you think, regarding the veracity and the propriety of the—

Mr. TONKIN: But supposing the medical evidence was that it was not only possible but highly probable, what would the situation have been then?

Mr. Brand: The situation wasn't that at all.

Mr. Craig: It wasn't that at all.

Mr. TONKIN: Is the Premier saying that definitely?

Mr. Brand: I gave the answer to the Leader of the Opposition.

Mr. TONKIN: Do not dodge it.

Mr. Brand: You are not cross-examining me. You are not the judge.

Mr. TONKIN: No; but the Premier is throwing out interjections to convey the opposite impression.

Mr. Brand: I am not.

Mr. TONKIN: I say there is an obligation on the Premier to deny unequivocally that some medical evidence was not given to the effect that this was probable, or even more than that.

Mr. Brand: We don't have to. It was supplied in answer to a question.

Mr. TONKIN: It was not supplied in answer to a question.

Mr. Craig: You ask your leader.

Mr. TONKIN: Why would the Government, which wants to be fair in this matter, want to dodge this issue?

Mr. Craig: There is no dodging it at all.

Mr. TONKIN: Yes it is. I am making the definite statement that there was some evidence—some medical evidence—from one of the medical referees tendered to the Government which was even stronger than what Cooke had said was probable. I am making that statement deliberately—

Mr. Brand: Oh yes! Go on, make it; you make it.

Mr. TONKIN: —and I say there is an obligation on the Government to disprove it, which it cannot do. That being so, the fact that this evidence was not made available to the court is most material in this discussion; because with it before him the learned judge could not possibly have made the statement he did.

Quite a number of years ago there was a case on the goldfields where there was a disagreement between a man and his wife about her going out at night. She wished to go to some entertainment which he did not desire her to attend. But she went. The next morning, round about 6 a.m., when she went down to the kitchen to light the fire, her husband followed her down, got behind her, grabbed her by her hair, pulled her head back and cut her throat, and let her fall on to the floor.

According to a published statement at the time, the man said that his dying wife said to him, "Go for a doctor," and he answered, "You are beyond a doctor's aid, Marjorie." There was a woman with her throat cut, bleeding to death. That

man was not subsequently brought to trial because it was considered he was insane. I understand he is still in Claremont mental hospital, if he has not since died.

I mention that because it shows that Cooke's statement with regard to this dying woman speaking was not impossible. I am further informed that there is a doctor in the city who has a man under treatment who was seriously injured in a motorcar accident. The man has a serious injury to his neck but he is able to speak. The injury to his neck is a similar injury to that which Jillian Brewer suffered when she was struck on the neck with the hatchet.

Speaking of the hatchet brings to my mind another point in support of Cooke's confession. Cooke, in his confession, said that when he hit the woman on the side of the head with the hatchet, the handle split. When the hatchet was subsequently found in the place where Cooke said he put it, it had a split handle; and what is even more in support of his statement, there were no fingerprints on it. It was known that Cooke operated with gloves, because when he was apprehended reaching for a rifle which was wired to a tree, he had on tight-fitting women's gloves.

If Beamish had been operating with the hatchet—nowhere has there been any evidence that he wore gloves—would not his fingerprints have been found on it? Is it not likely? But it is not surprising that no fingerprints were on the hatchet if Cooke used it, because it was known that he operated with gloves.

When one finds these points, one after the other, strengthening the confession of Cooke, one's doubts are considerably heightened, and that is the situation in which the Opposition finds itself. Because of these doubts, we think that in the interests of justice they ought to be resolved.

The Premier said Executive Government cannot provide a new trial. Of course it cannot; we know that. But having said that, he then said that if a new petition were brought forward it would be possible to have a new trial. I do not know how that is going to be arranged. The legal advice given to me is that apart from an appeal to the Privy Council the only way is for Parliament to pass a Bill for that purpose.

Mr. Graham: That would be better legal advice than the Government has obtained, based on previous experience.

Mr. Brand: I suppose it is the same legal advice you got.

Mr. TONKIN: Let me pose this question: Suppose, by some miracle, absolute and indisputable proof were forthcoming within the next 24 hours that Beamish could not possibly have committed this crime, what machinery would be available to provide a fresh trial?

Mr. Court: The Premier has very clearly pointed out what machinery would be available.

Mr. TONKIN: He started off by saying there were no means of obtaining a new trial.

Mr. Court: He said that a petition could be presented under section 21.

Mr. TONKIN: That was half way through his speech, after he led off by saying that Executive Government could not do it and that all ways had been exhausted.

Mr. Brand: It could be done through an appeal court after a petition had been presented.

Mr. Court: The Premier made it very clear.

Mr. TONKIN: How many appeals of this kind can be presented? Is there any limit?

Mr. Court: There is no limit at all; and if you can put up a petition with substance the Minister of the day can then submit it to a court of appeal. It will make a decision as to whether there will be a new trial by judge and jury.

Mr. Brand: That is right; that is what I said.

Mr. Court: It could be done half a dozen times.

Mr. TONKIN: I would like to know the section of the law which provides that there will be no limit to the number of appeals that shall be made when fresh evidence becomes available.

Mr. Court: You read the Act yourself. The Premier has said that it is not restricted to one. But there has to be a petition and there has to be new material.

Mr. TONKIN: The Premier has used as his argument that if we were to do as the Leader of the Opposition has suggested it would be without precedent. What does that matter? Everything that is done a first time is without precedent.

Mr. Jamieson: Cooke's crimes are without precedent.

Mr. TONKIN: The fact that something is without precedent is no argument against doing it; otherwise nothing would ever be done.

Mr. Hawke: Nothing new.

Mr. TONKIN: There is a very wise saying which can be applied to the present situation and it is this—

> The world advances and in time outgrows the laws that in our fathers' day were best and doubtless after us some purer scheme will be devised by men wiser than we, made wiser by our experience and the constant growth of truth.

Having that in mind, why should we be worried about precedent or the absence of it if we are satisfied that the course of action we propose to follow is the correct and just one to follow? Precedents are all right as a guide as to what might be the proper thing to do; but we should not be bound hand and foot to them and say, "We cannot do this because there is no precedent for having done it." That is just too absurd. That shows the closed mind.

I hope that this question will be viewed dispassionately in the light of the points which have been advanced: that there are many coincidences which are too numerous to be explained away as being mere coincidences. The existence of these would be sufficient to say, "Let the man have a fresh trial." It is not for us to decide. Let a judge and jury decide on all the known evidence brought forward for consideration.

The ACTING SPEAKER (Mr. Crommelin): I have to inform the honourable member that his time has expired.

Mr. TONKIN: No-one would be harmed by that evidence.

MR. OLDFIELD (Maylands) [10.36 p.m.]: It is hard to understand the attitude of the Government in this instance, because this is a case completely without parallel in the history of Western Australia. Also, I feel the Government may have been misinformed by its advisers either by mistake or by design.

Mr. Brand: By what?

Mr. OLDFIELD: I said, if not by mistake, by design; it can only be one or the other.

Mr. Brand: I was not advised deliberately to do anything of the kind. It is most unfair to stand up under privilege and say these things! Go outside and say them!

Mr. OLDFIELD: There is no other evidence—

Mr. Graham: It is a pity the Premier does not show some concern for a boy who has been found guilty when there is some doubt about it.

Mr. OLDFIELD: This unfortunate being has no recourse for a retrial before a judge and jury than by Act of Parliament. The Premier has made the statement this evening that he has faith in his judges.

Mr. Brand: Haven't you?

Mr. OLDFIELD: It is only a short three years ago that the Premier appealed to the High Court of Australia against a judgment of his own judges in the Supreme Court. I should think that that showed a lack of faith in his own judges.

Mr. Brand: I must have had faith in the judges to whom I appealed.

Mr. OLDFIELD: The High Court upheld the decision made by our own judges.

Mr. Brand: I accepted their decision.

Mr. OLDFIELD: Of course the Premier did! He had no alternative!

Mr. Brand: Next time I will go to you.

Mr. Graham: You could do worse!

Mr. OLDFIELD: In fact, the honourable member for Melville proved to be far more reliable in his interpretation of the law than the Government's advisers, or the advice the Government desired to obtain. In this instance it is not a case of Parliament deciding whether Beamish is guilty or not guilty. As the law stands, in the circumstances, it is for this House to make the decision whether Beamish is to be given a fresh trial. It is then for the jury to decide his guilt or innocence; and, if he is found guilty, for the judge to determine the sentence. We are not arguing whether he is guilty or not guilty. We are only putting forward sufficient facts to show there is considerable evidence available to indicate there is a great deal of doubt in this case.

If the evidence which is now available had been presented to the jury at the initial trial in August, 1961, I have no doubt that the jury would have found Beamish not guilty; or, if it had been available at the time of the Court of Appeal, I am sure the appeal would have been successful. If there is evidence available now which was not available at the time of his original trial, and which would have had a material influence on the jury's decision, the person concerned is entitled, under British justice, to be given the benefit of the doubt and be granted a new trial in order that the jury might judge whether he is innocent or guilty, as the case may be.

There are many gaps to be filled in this story. Earlier this evening the Leader of the Opposition and the Deputy Leader of the Opposition pointed out certain factors which have not yet been satisfactorily answered. For instance, there was the question of the bottle of milk. Also, in Cooke's statement, there was mention about a purse with a cheque for £6 with J. Brewer's name on it, and there was the sum of £4 in notes which he stole, leaving the residue of silver made up of two 2s. pieces and one penny, if my memory serves me correctly. There is also the story of the frypan. Then, when we come to the statement made by Cooke that after having caused the injury to Miss Brewer's throat with the hatchet, she spoke some words to him and made gurgling sounds, I understand there is, in fact, some medical evidence and, in the possession of the Crown, the opinion of

one doctor that that is the natural reaction he would expect from a person struck with such a blow on that part of the body.

There is also the case of the dog. In the initial trial Beamish said he jammed the dog between the door and the door jam so hard that he thought he had crushed the dog, and it lay so quiet that he thought he had killed it. But the evidence of Andrew Dinney showed that on the Sunday, about six or seven hours after the crime had been committed, the dog was in good health and spirits!

Mr. Graham: Not a bruise!

Mr. OLDFIELD: There was not a bruise or mark on the dog. Yet this poor fellow was supposed to have injured the dog in such a manner that he thought he had killed it. In regard to this, Cooke said he had always been a good dog handler and he quietened the dog by patting it, as one often sees done to a dog by a good dog handler.

There was further evidence which does not altogether satisfy one about the confession by Darryl Beamish. In that confession is the statement that, after having committed the crime, he violated the body. However, the medical evidence at the trial showed that the victim was wearing an internal sanitary pad at the end of the menstrual period which was intact and had not been disturbed and there was no sign of any spermatozoa on the body or in the vagina. That is the evidence that was given by medical men during the trial, and yet this fellow was supposed to have confessed that he had violated the body of the girl. Whether she was still alive or dead at the time, I do not know. Nevertheless the medical evidence has shown that it was impossible for him to have done what he confessed to have done.

As pointed out by various speakers, this poor unfortunate deaf mute is also retarded in other ways. One often wonders what he was trying to say or do.

Mr. Fletcher: He was without a tongue.

Mr. OLDFIELD: Yes, he did not have a voice and was able to converse only through an interpreter. In the confession his handwriting is comparable to the handwriting of a second grade school child, and his language and phraseology is that used by a kindergarten child, and yet it is supposed to be a signed confession.

One of the most disturbing features of this whole sorry affair is that out of all the confessions which Cooke made, the Crown has found it expedient to disbelieve two of them only. In each instance it was a case of murder, one of the girl Jillian Brewer, for which Beamish is serving a prison sentence; and one of the girl being knocked down by a motorcar who, Cooke claimed, had been knocked down by him, and for which Button is serving a sentence. The only two murders to which Cooke has confessed but has been disbelieved are the two where the police have apprehended, charged, and obtained convictions of persons, prior to Cooke being apprehended.

Cooke confessed to 30 robberies after his apprehension, 20 of which the police said he did commit. The Minister told the House this evening that Cooke was guilty, or was believed to be guilty, or that it was ascribed to him that, on no fewer than five occasions he deliberately ran down and injured by motorcar five different women. This heinous monster who has a lust for debauchery; this criminal was capable of doing that, and the Crown believes he committed the five offences; but not in the cases where the police had apprehended people previously.

I do not think the Crown or the Government would need to have fear in this instance if a fresh trial to Beamish before a judge and jury was granted. At all times we pride ourselves on ensuring that the benefit of doubt is given to the accused, and that justice shall not only be done but it must also appear to be done. I feel quite strongly on this. The evidence which has come forward since Cooke's apprehension, and the amount of Cooke's evidence which was checked and which was not made available at the Court of Criminal Appeal hearing, are sufficient justification for action to be taken by the Leader of the Opposition; I think it is sufficient to justify the acceptance by the Government of the motion before us, and the passing of the necessary Act in order that a new trial might be brought about. Previous speakers have covered this case very well and have shown there is sufficient evidence or fresh evidence available to justify a new trial.

In conclusion I must say I am a little concerned that the Crown did not put before the Court of Criminal Appeal certain evidence which we now know to be in its possession, and in its possession at the time of the trial, but which it did not place before the judges. That evidence would certainly have assisted the judges to be more favourably disposed in their judgment towards the accused who was convicted.

Come what may, the question before the House is whether we, as a Parliament, should hide behind what is known as the process of the law or the established principles of law; or should face up to reality and admit that at times mistakes can be made. Mistakes have been made before, and there are instances in other States and in democracies—even in Great Britian, where the Mother of Parliament exists—where innocent men have been hanged but

were proven to be innocent subsequently. There is more than one case on record where mistakes have occurred, and they can occur again.

In this instance the Government should allow its decision to be tempered by some semblance of mercy; it should be realistic enough to face up to the fact that possibly a mistake has been made in this case; it should agree to this motion, and take action accordingly by introducing a Bill at the earliest opportunity.

MR. GRAHAM (Balcatta) [10.51 p.m.]: This, in my view, is one of the most serious matters ever to come before this Parliament. For that reason I am disturbed to think that the Premier had prejudged the situation, had mapped out his course, and had decided what should be his and the Government's attitude, without first hearing the case presented by the Leader of the Opposition. This move was not made capriciously; it did not emanate from a source of sentiment; and no approaches were made by the family of Beamish or persons closely associated with him.

Indeed, the impulse was derived from a person of considerable prominence and standing in this community—a person who I would guess, if I am entitled to hazard a guess, holds political sympathies opposite to those I am pleased to support. The representations of the Leader of the Opposition, who has been Premier of this State for a longer period than the present incumbent; who has been a member of this Parliament for an excess of 30 years; and who has served for many years as a Minister of the Crown, in dealing with the fate of a young man after an exhaustive inquiry, are treated lightly by the Government, because the Premier had a prepared case from which he delivered his remarks: this was the case prepared before he had heard one single word uttered by the Leader of the Opposition.

Mr. Brand: It was based on the principles concerned in this case.

Mr. GRAHAM: It was nothing of the sort.

Mr. Brand: It was.

Mr. GRAHAM: Nothing of the sort! I venture to suggest the Government is uneasy with regard to the current situation. Had the Government adopted a fair and impartial attitude and assessed the situation in accordance with what was submitted, instead of proceeding in the manner which it has, there would no doubt have been far more conciliatory expressions from this side of the House.

I submit the Government is feeling some strain, because if the wish of the Opposition that this unfortunate young man should receive another trial at the hands of a jury were granted, and he were found not guilty, it would have tremendous repercussions on this Government; certainly in the matter of its apparently declared policy of capital punishment; because had the physical circumstances of this young man been different he would have been hanged several years ago.

Perhaps one is entitled to recite some of the circumstances which involve the Government and which, perhaps, explain the attitude of the Premier and his contempt for his senior in this Parliament, so far as service is concerned. I refer to the Leader of the Opposition.

Mr. Brand: Don't talk utter tripe!

Mr. GRAHAM: It is easy for the Premier to use extreme words.

Mr. Brand: You use nothing else.

Mr. GRAHAM: Of course he proves nothing whatever. The Premier and those who sit behind him as yes men are the least concerned that at present in Fremantle gaol there is a young man—Beamish—who, in the opinion of the Opposition, following study and research: in the opinion of distinguished counsel: in the opinion of those who are employed at Fremantle gaol; and in the opinion of persons who have had a lifetime of experience with deaf and dumb persons, is innocent of the crime for which he has been convicted.

There are some of us who are not prepared to go to that length; but we do say there is sufficient warrant for some measure of doubt in the minds of all of us—a greater degree of doubt in the minds of some, and a lesser degree in others. Such being the case, and having regard to the tenets of British democracy and the British system of trial, surely in the exceptional circumstances with which we are confronted there is call for exceptional action!

Never before has there been a case where a person has allegedly committed a number of capital offences, to wit the taking of the lives of fellow men and women, and confessed to a murder for which another person has been found guilty, without any evidence except his own say-so. That is the remarkable part about this case. It was only what Beamish said through an interpreter in most incomplete and ungrammatical statements.

He has been adjudged as a person with the intelligence of a child. Whilst there is a basic and standard deaf and dumb language, it varies between groups and parties. Amongst certain of them departures from the normal signs and interpretations are made for deliberate reasons. What might seem peculiar to us is that a system to prevent eavesdropping is sometimes adopted by them. If I am signalling to an honourable member on this side of the House in deaf and dumb language then everyone in the Chamber who is familiar

with that language would be able to follow my message; therefore deaf and dumb groups employ signs and movements that are not used in their alphabet; they often use terms and expressions unknown to other groups. Because of that a certain amount of confusion could arise.

I come to the point where there was no evidence against this young lad except his own words. Here is an unfortunate young man with a mind which none of us can conceive, not only because of a misfortune of nature, but because of a misfortune of handicap, and a misfortune developing progressively with the passage of years. He possesses certain faculties of an adult but in other ways he is still in the kindergarten stage.

On the other hand there was a man whom we know to be a murderer; a man who has admitted a number of offences, indeed an offence which is almost an exact parallel of the tragedy at Cottesloe. It would appear that where this man Cooke has stated he has done things, by and large that has been accepted; but, unfortunately, a young chap by the name of Beamish had said through his sign language something which involved him first of all.

I know it must be something causing the Government a great deal of concern, because if Beamish is some day judged to be not guilty then it will have a tremendous effect upon this Government and, shall we say, the approach of police in the matter of interrogations and obtaining confessions, and perhaps, too, unfortunately, upon our judiciary system.

The Opposition has moved this motion tonight for no political purpose, but in order to obtain for Beamish what it considers he is entitled to receive; and such being the case, if Labor becomes the Government in a few months' time, it would be bound to move for a new trial by judge and jury. We can only hazard a guess, but sufficient has been said tonight to indicate that there is room for doubt and because of that fact no jury would be prepared to find a person guilty. It appears inevitable, therefore, whether there is to be a change of Government in a few months' time, or three years later, sooner or later this young man is to receive a new trial because of the entirely new circumstances that have come into being on account of the confessions of one Cooke; and all of the circumstances and influences of the confession of Cooke have not been considered by a jury.

It is a shocking thing that in respect of a charge as serious as that of wilful murder, of which this man has been found guilty, having regard for all the circumstances of Cooke's confession, he, Beamish, has not received a fresh trial, this fresh trial before a judge and jury.

Had the Government agreed to this course, it would not be a criticism of the Government but a credit to it under those circumstances. It would have been no criticism of the judge and jury because no judge and jury have presided over a case where the Cooke situation and revelations were known. This, as I stated at the outset, is important beyond the imagination of most of us.

There is this young man who has by a court, in the absence of factors of which we are now aware, had pronounced upon him a sentence of death; and it is possible for us to resolve the issue, not by making any decision, but by allowing a properly constituted court of judge and jury to decide the issue as to whether this man, who has been convicted of wilful murder, is, in fact, guilty and accordingly entitled to a term of life imprisonment which, incidentally, having regard for his physical and general disabilities, is virtually a life of solitary confinement; or, on the other hand, whether he will be declared a free man and entitled to heavy compensation.

We do not presume to judge the issue. We say it is the function of a court—a court with a presiding judge and jury—to hear the case. And what is wrong with that? This is not creating a precedent. The precedent has been created by the detailed confession of one Cooke, and sufficient has been said tonight to indicate that even if that man had a photographic memory and could recall all the details mentioned in court during the Beamish trial, there are other points and circumstances mentioned by that man Cooke; and to anyone who is prepared to be impartial in this matter, they are too overwhelming, and there are far too many coincidences and possibilities. These things should be properly sifted by the proper authority and that proper authority is not one judge, three judges, or five judges. The proper authority is a jury. On a capital charge a person is entitled to be judged by his peers; and under the new circumstances that is something which has been denied young Beamish.

I think honourable members will agree that superficially at any rate this dastardly crime of which Beamish was adjudged guilty is completely out of character with the youth, but it conforms perfectly with the picture we have of the man Cooke, who has confessed to committing the crime.

What is the situation now? That this man who has been described as a fiend and monster is now filled with compassion and is, because he cannot suffer any heavier penalty, endeavouring to save someone else, young Beamish? In language we all understand, that simply does not add up. He cannot be the person that the record suggests he is, and at the same time have these finer feelings.

On the other hand, here is Beamish, the young fellow who suffers a disability, who has not previously shown any disposition to violence. Admittedly he has engaged in peeping and breaking into premises and the rest of it, but nothing approaching the horror of the crime at Cottesloe. Suddenly they have changed places.

As I read the official records impartially, I find that even the Chief Justice, for whom I have a high personal regard, can accept a situation—as apparently can the police, the Minister for Police, and the Premier—that this man who tonight has been recounted to us as a blackguard and liar of the first order and words similar to that expressed by the Chief Justice, can have his word accepted in so many particulars, but not accepted where it does not suit them in connection with Beamish or Button—not that the allegations of Cooke have been disproved in certain respects, but because they are inconvenient; because they go contrary to what has already been declared by certain courts.

The Minister for Police tonight has told us that Cooke has had ascribed to him the commission of certain offences, apart from those the subject of capital charges or potential capital charges—five offences causing bodily harm to women by running them down by motor vehicles. Has this been proved in any court of law, or is that the statement of Cooke, the blackguard, and the liar; the fiend, and the monster? Of course it is his word! It has not been proved in a court of law, and yet the Minister for Police is prepared to accept it.

There have been four offences of assaults on females causing bodily harm. When did these cases go before the court? When were they proved and established? And there are the 30 cases of breaking and entering. It is a remarkable thing that this man Cooke, when he was being taken from place to place apparently boasting of his achievements and accomplishments in one instance indicated he had entered a certain house and stolen money.

When the authorities made contact with the lady of the house she said, "Oh no, a mistake has been made. No money has been stolen from this place." Cooke said, "Oh yes it has." This was some two years ago, if I remember the time aright—and that is my understanding. Cooke would know. He said, "I remember this place well because there were two little black puppies." The woman said, "Good gracious, a couple of years ago we had a couple of puppies." "Yes," went on Cooke, "I entered the house and in a certain room there was a bank book with some notes in it. I took some of the notes and went off with them but I left some of the notes in the passbook."

All of the circumstances then came to this woman. She said, "That is the explanation. We had a young girl from the country staying with us. We thought she was the culprit after we noticed the money was missing, but we decided to forget about the whole incident because we did not want to create unpleasantness between the families." Surely that indicates that not only did Cooke have a good memory but he was telling the truth. Apparently in these 40-odd cases, or the best part of that number, the police are satisfied he is telling the truth, but in respect of some of the points regarding Beamish, Cooke's statements have been controverted.

He has been called a liar; but there has not been substantial evidence to prove what he is saying is untrue. Be that as it may, the unfortunate part is that young Beamish suffers as a consequence. I say that the confession of Cooke has raised sufficient doubt to warrant extraordinary steps being taken to see that the whole case is reopened; and I repeat, the whole case will be reopened. It is just a matter of when. If this Government of the day will not do it, a subsequent government will, because this matter is so important. If, having gone to the system which we know and which we respect, of judge and jury, and with certain rights that follow, Beamish is adjudged guilty, irrespective of the feelings that many people may have, then he must accordingly suffer the consequence.

I wonder how the Chief Justice could be prepared to accept the word of Cooke when in other parts of his remarks he so scathingly condemns that man as being a liar. Where has it been proved? I quote the words of the Chief Justice at page 518 of these volumes—

> In the six years or so prior to his arrest he had operated as a marauding thief, mostly at weekends. Practically every weekend it was his custom to steal cars and use them for getting around at night to assist his purpose.

When was Cooke charged with these offences and had these offences sheeted home; in other words, found guilty of them? Cooke stated he did these things several years earlier and the word of this liar of all liars was accepted by the Chief Justice just as, I repeat, his word, in so many cases, has been accepted by the Police Department and by the Minister for Police.

Mr. Craig: Every aspect of his activity was investigated thoroughly by the C.I.B. and it was not dismissed in the manner you are suggesting.

Mr. GRAHAM: Very often the police are of the opinion that party A or party B is guilty of an offence, for which reason persons are charged, but quite often persons are found not guilty, notwithstanding the very definite opinions or convictions of the police.

Mr. Craig: But you are implying the police brushed off his confession.

Mr. GRAHAM: I am not implying anything; I am making the statement that Cooke's word has been accepted and that none of this has been proved before a court. I think that is a remarkable state of affairs as I do with regard to the statements of the Chief Justice of Western Australia.

The Government, having made up its mind with regard to this matter, and from previous experience, it is, of course, useless for us to endeavour to persuade any of the Government supporters that they might be aiding the cause of justice in principle and to a particular person by supporting this move for a new trial. I have stated I expected some interjections, but there was no voice, so: I repeat there is no evidence against Beamish—only his own words. Here we have this youth without his full mental faculties; without knowing whether he is making a noise, or whether a dozen dogs are barking, or anything else, creeping about and allegedly attacking a woman, and all the rest of it; and yet there is not a fingerprint to be found anywhere.

Could anyone with the intelligence of honourable members opposite, by way of interjection, suggest how that could come to pass? Fingerprints of any one of us could be found in and about this building; but here was this chap who was in the flat and who perpetrated this terrible deed leaving no finger marks! Do not forget, and I repeat, all we have is his own word after goodness knows what provocation and force—I do not mean physically applied—to make this young fellow conform. But it is here in the records in his own writing in reply to questions that he violated his victim; and yet there is testimony of the Government's Chief Medical Officer that there was no evidence whatsoever of that woman having been tampered with.

As there was no supporting evidence, between ourselves, who decides which of his statements are true and which are false? If these documents are read, it will be seen that the tendency all the way through has been in a single direction; just as you or I, Mr. Acting Speaker (Mr. Crommelin), if we are standing in this Chamber advocating a certain cause, all of our arguments are in the one direction, and all the evidence which we advance is in the one direction.

That is the trend here—believing only that part of Cooke's evidence which they chose to believe; disregarding his evidence, or calling it lies without proving it to be lies, where it did not conform; and, in the matter of the written confession of young Beamish, where it suited the official case the word of Beamish was accepted, but where it did not, his words were rejected.

I have already given an instance of where his words were found to be false. I know full well that in the minds of some honourable members who sit opposite they are not happy with the present situation. They have certain doubts or certain reservations in their minds. They would be far happier if the case of this young man could go before a judge and jury; and it would not be the Opposition versus the Government. There would be nothing political about it. The court would do its job as it saw fit.

But the Government, or the Premier, will not allow that. Whether every supporter of the Government is bound to follow that course—or whether there are some honourable members on the other side of the House who say, "We will leave this to the umpires", the umpires being the judge and jury in respect of capital cases—I do not know.

Whilst it is possible, by drawing from these volumes, to establish other points of doubt, as I have already stated I do not think any purpose would be served. I suggest, as I did earlier, that the Government has cut rather a sorry spectacle in connection with this matter.

Perhaps I could conclude on a controversial note, by indicating a whole set of circumstances which to my mind follow a common pattern. Last week the Leader of the Opposition asked for the tabling of certain papers. Notwithstanding his specific request, papers a couple of years old—papers which had no relevance to his question—were provided. Was that by accident or by design? I leave the question there.

The Leader of the Opposition made a protest to the Minister, and then for a period of a couple of days there was a shuffle between the Minister for Police and the Minister for Justice. One said, "I have not got the file; you must have it," and the other said, "No, I have not got it; you must have it."

These are confidential papers. These are papers which would be kept under seal. These would be papers which would not be filed in the ordinary process adopted in government departments. They are papers which would be sighted only with an authority, and a very limited number of persons would have access to them.

So far as I know, the papers have not been found to this day. But a duplicate copy was provided for the Opposition. The papers were asked for, I repeat, last week, and it was obvious what the papers were for: they had some regard to the case of Beamish.

The machinery to assist in the case of Beamish, if it is a case which warrants assistance, is through the testimony of this man Cooke. That would be obvious to anybody. Yet it would appear that at

the first Cabinet meeting held after the request for those papers, the Government decided that Cooke shall hang.

Because of the Government's decision, three distinguished professional men decided that they will stand—nothwithstanding that they are Liberals—against Government members on account of the Government's attitude on capital punishment. There may be an explanation. I do not know why that which I regard as news of prime importance has not appeared in *The West Australian* or *The Sunday Times* to my knowledge, notwithstanding that it was published elsewhere on Saturday morning. Last night the Leader of the Opposition gave notice of his intention to move motions, one of which we are debating at present. That was something, surely, which would have created history in Western Australia; something of tremendous concern having regard for newspaper features, TV features, and the rest of it. On channel 7 there was not a mention of it.

So it appears that in certain directions there is a conspiracy of silence; that in certain directions there is a running for cover on the part of the Government. It is not prepared to take the risk of another trial under the conditions of a judge and jury; of this man Cooke being available for the purpose of giving evidence and of being cross-examined by both parties—counsel for the Crown and counsel for Beamish—in order to sift all the facts and circumstances to determine whether Beamish is guilty or not guilty.

The Government, in other words, will have destroyed the star witness. It is perhaps unfortunate that so many moves have coincided with the decision of the Government that Cooke shall hang. The move by the Leader of the Opposition had nothing whatever to do with the decision of the Government or Executive Council regarding the hanging of Cooke, even though it would appear they were timed to be more or less simultaneous operations. In the same way, under fortuitous circumstances, there was a Bill of mine to abolish capital punishment; and lo and behold it was introduced in the normal way on the very day that the Government announced that Cooke is to be hanged on a certain date!

I say the Government is to be criticised and condemned; because so long as there is any prospect of a person languishing in Fremantle gaol conceivably being innocent of a crime for which he has been found guilty, then the Government should not be going about its merry way as though nothing had happened.

The Government—the executive of this State—should be taking every step it possibly can to ensure that there is not lingering in anyone's mind the issue of whether Darryl Beamish is guilty of the awful crime committed several years ago for which he was judged to be responsible by a court in Western Australia. One can only hope that there is at least one honourable member on the other side of the House who has a conscience. By supporting the motion of the Leader of the Opposition, we would not be finding Beamish guilty or not guilty. That is the responsibility of a court of law, and wars have been fought in order to retain that principle. That is what we want.

The family of young Beamish have been toying with the impossible—whether they should sacrifice everything they have. But if they did they would still be short of the resources necessary to appeal to the Privy Council. And so time has marched on and the opportunity has been lost. But what is required is not a legal analysis of the points raised in earlier court cases. What is required, and in view of the admissions of Cooke, is an entirely new trial under the system of justice to which we have been accustomed.

That is all the Opposition is asking for. The Opposition says: whether it be milk bottles, dogs, sexual attacks, or anything else, the suppression of certain matters, the failure to take into account certain considerations, between them all—discounting one or two if honourable members wish—some of them, or all of them, have some relationship and are sufficient to create doubts in our minds and we want those doubts to be forever resolved. That is what the Opposition is asking for. There is nothing unfair; there is nothing mean; and there is nothing political in connection with it. Is a young man who is languishing in gaol entitled to be a free man? Let a properly constituted court answer that question. That is the proposition of the Opposition.

MR. COURT (Nedlands—Minister for Industrial Development) [11.32 p.m.]: We have heard a typical outburst from the honourable member for Balcatta—one of those emotional outbursts that he periodically deals out in this House, and convinces precisely nobody. In fact, he has protested so much that he has really given us a look behind the curtain as to what his real interest and motive are.

He has emphasised not once but several times his conviction that we as a Government are afraid of the repercussions that might occur if Darryl Beamish were retried and found not guilty. Nothing could be further from the point. In stating the case tonight I think the Premier laid it clearly on the line as to how far the Government has gone and is prepared to go to ensure that this person is given a fair trial.

The full import of the motion before the House tonight is asking this Chamber to say publicly that the judge and jury

who first heard this case were wrong; that the Supreme Court which heard the appeal was wrong; that the High Court which heard a further appeal was wrong; that the Court of Criminal Appeal was wrong; and that the High Court, for the second time, was wrong. The Opposition want us to say publicly that the counsel for the defence failed in his or their duties, as the case may be; in other words they failed to bring to the notice of the proper authorities or the court, as the case may be, some substantial evidence.

Tonight the Opposition has talked about new material, new matters, and new facts, but it has not stated a single point to substantiate the case it has put forward. All honourable members opposite have done is to read from public documents which are available for anybody to read—things that have been placed before the various courts that have heard this matter.

Mr. Oldfield: What about the fresh medical evidence?

Mr. COURT: I am afraid if the honourable member reads carefully the documents that have been quoted tonight he will appreciate that all of this material has been available to the judges who have been trying these cases.

Mr. Oldfield: What about the medical evidence?

Mr. COURT: We will come to that later on; because it is rather important—

Mr. Oldfield: Why wasn't that made available?

Mr. COURT: —that I should touch on it in view of the fuss that is being made about it.

Mr. Oldfield: What about the purse?

Mr. COURT: Just let us have a look at this new evidence, if there is any new evidence! Why has not the adviser to Darryl Beamish come forward with a petition to have this matter dealt with in the way that is provided in the established Statutes? It does not require a new Statute; it does not require a motion to be moved in Parliament, or any other elaborate procedure. There is a very definite line of action laid down, as I said by interjection earlier tonight. It is not confined to one occasion. In section 21 of the Criminal Code, which is the section to which the Premier referred earlier tonight, it says—

> Nothing in this Code affects His Majesty's Royal Prerogative of Mercy, but the Attorney General, on the consideration of any petition—

I emphasise the words "any petition"; not one petition, but any petition. To continue—

> for the exercise of His Majesty's mercy having reference to the conviction of a person on indictment or to the sentence (other than sentence of death) passed on a person so convicted, may, if he thinks fit, at any time either—
>
> (a) refer the whole case to the Court of Criminal Appeal, and the case shall then be heard and determined by the Court of Criminal Appeal as in the case of an appeal by a person convicted; or
>
> (b) if he desires the assistance of the Court of Criminal Appeal on any point arising in the case with a view to the determination of the petition, refer that point to the Court of Criminal Appeal for their opinion thereon, and the Court shall consider the point so referred and furnish the Attorney General with their opinion thereon accordingly.

Mr. Graham: Did I hear you read "other than the sentence of death"?

Mr. COURT: Yes.

Mr. Graham: Was Beamish sentenced to death?

Mr. COURT: Yes; and he has already had a petition to the Minister for Justice, and that is something that does not seem to have been emphasised. I repeat: He had a petition to the Minister for Justice and the matter was referred to the Court of Criminal Appeal. It was heard by three justices and subsequently their decision was appealed against to the High Court.

Mr. Graham: We want a jury.

Mr. COURT: The object of submitting matters like this to the Court of Criminal Appeal is for it to decide—a properly trained, appointed, and constituted body—whether there is a case to go before a judge and jury for a retrial. This is not the only time somebody has felt that he did not get a good hearing before the court of appeal. This is not the only time; but we must have some machinery if we are going to have law and order and we want to work along some ordered system within the community.

It would be impossible for this Chamber to make a dispassionate and trained decision in this matter. That is why we have judges—to consider these matters. There was not one judge but there were three judges at the Court of Criminal Appeal.

Mr. Graham: We don't want to make a decision.

Mr. COURT: Of course we make a decision tonight if we accept this motion.

Mr. Graham: Not a decision of guilty or not guilty.

Mr. COURT: Yes we do!

Mr. Graham: No we don't!

Mr. COURT: If we accept this motion we are making a decision that the trial judge and jury, the Supreme Court, the High Court, the Court of Criminal Appeal, and then the High Court again made a wrong decision.

Mr. Oldfield: Rubbish!

Mr. COURT: At least in the honourable member's opinion they made a wrong decision; otherwise why does he want the matter tried by a judge and jury?

Mr. Graham: We want a judge and jury.

Mr. Oldfield: Cooke's confession was not available in the first three instances you mentioned.

Mr. COURT: The honourable member overlooks the fact that the whole of Cooke's confession was available to the Court of Criminal Appeal.

Mr. Oldfield: But not in the first three instances you mentioned.

Mr. COURT: It was available to the High Court in complete detail.

Mr. Graham: There was no jury there.

Mr. COURT: There is another aspect of this which is glossed over very lightly by the Opposition. Cooke was available to be cross-examined not only by the solicitor for the Crown but also by the solicitor for the defence—by Darryl Beamish's solicitor. The detectives were available to be cross-examined by Darryl Beamish's solicitor. All these people were made available; and this is the point I want to make: the whole of this matter, so far as the Police Department, the Crown Law Department, the Government —as much as it affected the Government— was handled with great propriety.

The Government has nothing to gain by allowing any state of injustice. If one studies this case it will be found that the Government, the Crown Law Department and the police, have gone out of their way to make certain that the whole matter was handled in a proper manner.

Mr. Oldfield: Why was the medical evidence withheld from the court of appeal?

Mr. COURT: We will come to that. Keep it on your little list.

Mr. Hawke: The Minister for Industrial Development sounds a little like the honourable member for Mt. Hawthorn sometimes.

Mr. COURT: The honourable member for Balcatta concluded his speech by implying there was a peculiar set of circumstances which had been discovered over the past few days. He was trying to create a situation that just does not exist. If he is referring to papers of a highly confidential nature which no government would make available if it wants the system of British justice as we know it to prevail, he could not expect them to be made available. But there is no mystery about the so-called papers which he said have never been found.

Mr. Graham: Have they been found?

Mr. COURT: The honourable member has had all the papers that are available.

Mr. Graham: Have all the papers been found?

Mr. COURT: There are no lost papers that I know of. They might be lost in the mind of the honourable member.

Mr. Oldfield: If they have not been found it may have been a good thing.

Mr. COURT: This question of lost papers is all a myth. If they were lost, how was it that a duplicate set was made available to the Leader of the Opposition? How could a duplicate be made of something that is lost?

Mr. Graham: Two days later!

Mr. Hawke: The duplicate set was not made from the original within the period you are talking about.

Mr. COURT: But there are no papers that I know of in this matter that are lost.

Mr. Hawke: Have the original papers been located?

Mr. COURT: The Leader of the Opposition has been given the information; so what is he talking about?

Mr. Hawke: I am not complaining; I am trying to get you lined up.

Mr. COURT: The honourable member on your left was complaining bitterly about this.

Mr. Hawke: No; he was not. He was trying to find out if the papers had been located. What are the super-confidential papers which you say could not possibly be made available to anybody? What are they?

Mr. COURT: There are some papers in the hands of the police and in the hands of the detectives making inquiries which should never be made available.

Mr. Hawke: What are they?

Mr. COURT: I have just referred to them. They are papers which are collected during the course of the inquiries that are made into the crime that has been committed. The Leader of the Opposition knows there are certain papers which have to be kept in the course of building up evidence of the crime itself and which are not part of the legal documents which form the permanent and proper file.

Mr. Graham: You are saying that the Leader of the Opposition only got selected papers.

Mr. COURT: I am not saying that at all. The Leader of the Opposition got all the papers that it was reasonable for him to expect.

Mr. Oldfield: He did not get them all.

Mr. COURT: I am attempting to say—

Mr. Graham: I think you had better sit down; you have done enough damage to your case already.

Mr. COURT: The Leader of the Opposition received all the papers he asked for.

Mr. Graham: You just said that they could not all be made available because they are so confidential.

Mr. Craig: He received all the papers relating to the inquiries of the C.I.B. this year.

Mr. Graham: Have you found the original papers?

Mr. Craig: No.

Mr. Graham: That is what we are asking for.

Mr. Craig: After the papers were requested they were not available until Thursday, and the honourable member who requested them was not available until the following Tuesday when he himself received the papers.

Mr. COURT: Might I return to this new evidence which the Opposition suggests exists? The honourable member for Balcatta referred to certain employees in the Fremantle gaol having certain convictions about this case. If they have new evidence surely the defence counsel for Beamish would use it. The same honourable member referred to a leading Q.C. He said that this Q.C. had firm convictions about the matter. Surely, with his expert knowledge he would come forward and use this evidence to advantage.

Mr. Graham: I did not mention a leading Q.C.

Mr. COURT: The honourable member said a leading Q.C. had firm convictions about the matter.

Mr. Hawke: A feeling or a conviction about anything is not evidence.

Mr. COURT: The honourable member for Balcatta made this observation in the context of new material.

Mr. Graham: No I didn't!

Mr. COURT: Therefore we are entitled to assume that he considers there is new material existing, and two of the parties mentioned by the honourable member were the employees of the Fremantle gaol and a leading professional man.

Mr. Graham: I said there was considerable public disquiet and there is a way to appease that.

Mr. COURT: The honourable member should go back and check on his statement. Let us come to this question of medical evidence. A great deal of fuss has been made over the answers given by the Premier, and others relating to this medical evidence. Let me get this in its right perspective. First of all, the police medical officer gave his opinion in the matter.

Mr. Craig: He gave a verbal opinion.

Mr. COURT: Yes; it was a verbal opinion. However, in view of that, medical jurisprudence was consulted, because it appeared there might have been a case in this situation. So with common sense and with conscientiousness which are very commendable, the doctor concerned made contact with three of his medical colleagues with specialised knowledge.

Mr. Graham: So far so good.

Mr. COURT: This information was made available to the Crown Law Department.

Mr. Graham: Was it made available to the court?

Mr. Tonkin: Who made contact with these three doctors?

Mr. COURT: It did not have to be made available to the court. I suggest that there would probably be a hundred things which the counsel for Beamish and the Crown Law officers had passing through their fingers but which were never used because they would be put aside as being of no great consequence.

Mr. Graham: That is why the Chief Justice made a feature of it.

Mr. COURT: If any evidence had been of any value to the defence counsel he would have had it brought into the court. This man is no fool. This matter was laboured by the Chief Justice. It was not as though it was glossed over as being of no consequence. This particular incident of which evidence has been quoted this evening was one which was given great prominence during the actual trial, and if members read the transcript they will see it was not something that was touched on lightly, but it was the subject of intense examination, and some of that examination was made at the request of the Chief Justice himself.

Mr. Graham: It was medical evidence suppressed by the Crown.

Mr. COURT: It was not suppressed. This was one of the many things that would have passed through the hands of the Crown Law officers who were in charge of the case.

Mr. Graham: If it was in the hands of the Crown why did not the Crown produce it?

Mr. COURT: The Crown did not have to produce it. Neither the judges nor the defence counsel asked for any knowledge of this particular point. From my reading of the transcript the fact that this was not taken to the court does not matter. If the defence counsel thinks it is very material and considers it is a ground for a new trial, the machinery is already there. That machinery was used on a previous occasion. Because of this testimony coming from Cooke the opportunity

was given by the proper tribunal under the provision which exists in section 21 of the Criminal Code.

Mr. Graham: But not by jury.

Mr. COURT: I want to assure the honourable member that the Government does not want to stop a trial by jury.

Mr. Graham: Not much!

Mr. COURT: It wants the trial to be arranged through the proper channels. There are proper channels which have been there for a long time.

Mr. Graham: If you do not want to stop the trial by jury and we do not want it stopped, all you have to do is vote for the motion.

Mr. COURT: If we adopt this motion we will be establishing a precedent whereby everyone who feels he has a grievance will be getting up on private members' day in an endeavour to bypass the machinery of the court.

Mr. Graham: This circumstance has never arisen before.

Mr. COURT: We will find everyone getting up and wanting a trial by a judge and jury, because he felt that a fair trial had not been given on the first occasion. This Assembly will be turning itself into a court.

Mr. Tonkin: It is the highest court.

Mr. COURT: The point is that this will be done not by constitutional means, but as a means of dealing with ordinary criminal matters in the community, with the result that a farcical situation would develop and the matter would get completely out of hand.

I want to mention briefly the question of Darryl Beamish's condition. We are all sympathetic towards a person who has this affliction, but the impression seems to be abroad among the Opposition that this condition was not taken into account when he was before the court. If one reads the transcript and the summing-up of the Chief Justice one must be impressed with the fact that due consideration and sympathy was given for this man's affliction.

It was taken into account not only during the trial itself, but also in the period before the trial; and it would be completely unfair to the court, to the jury, to the Crown Law Department, and to the police if the impression got abroad that advantage was taken of his affliction. That was not the case. On the contrary he was given every consideration and every sympathy in the matter, and this is reflected in the summing-up of the judge. It is also reflected in his remarks after he had passed sentence.

It must be realised that the conviction was originally recorded not by a judge sitting alone, not by three judges sitting alone, but by a judge and jury. It was the jury that brought in the verdict, and it would be as well for members on that side of the House to read the transcript of the evidence of the original trial of Beamish, as distinct from the trial in the court of criminal appeal that subsequently heard the appeal following the petition under section 21.

Mr. Jamieson: They only decided that on the evidence before them.

Mr. COURT: The honourable member is implying that the defence counsel just did not do his job—

Mr. Jamieson: He is not implying anything like that, and you know it!

Mr. COURT: —if he suggests that the evidence was not brought to the notice of the court. The fact is that a jury, which I gather from the remarks of the Opposition, would be more inclined to be moved by sympathy and human emotions than a judge, heard that case and made the decision it did.

Mr. Graham: Before the Cooke testimony. That has changed the whole situation.

Mr. COURT: The Deputy Leader of the Opposition started off his speech by saying that he had no intention and the Opposition had no intention of trying to judge this matter whilst it was before the Assembly. Having said that, he proceeded to do just what he said he was not going to do; he tried to deduce evidence from the transcript.

Mr. H. May: He learned that from you.

Mr. COURT: He did that to demonstrate that a wrong decision had been made; or that there was a suggestion of a wrong decision having been made. If one takes excerpts from the transcript it is a very dangerous procedure. One should read every word of the transcript from start to finish, together with the affidavit; one should read how the judges and the court of criminal appeal arrived at the decision they did.

Mr. Tonkin: At what stage did I read from the transcript?

Mr. COURT: The honourable member was quoting the comments of the Chief Justice.

Mr. Tonkin: I was not.

Mr. COURT: The honourable member was quoting the views and comments that were expressed by the Chief Justice in the court.

Mr. Tonkin: I did not quote anything at all.

Mr. Graham: You are making this up as you go along.

Mr. COURT: I will certainly be very interested to read a copy of the honourable member's speech. I would like to conclude on the note that the Premier presented the case in what I felt was a very fair, calm, and deliberate light on the part of

the Government in stating the main principles that were involved, and making very clear what the Government's proposition was.

The Premier outlined the fact that section 21 is available to Darryl Beamish if his advisers feel so inclined. It is entirely up to them. I do not think the Opposition helps him at all with the procedure it has followed tonight. The honourable member for Balcatta, if I remember correctly, said that this had not been sponsored through the Opposition by the Beamish family; that, in fact, it had come from some other quarter. I do not think a procedure like this would help the family at all.

Mr. Graham: Aren't you overlooking the urgency factor? After next Monday it will be too late to call this man as a witness.

Mr. COURT: I should imagine that these people have been advised by their legal advisers as to what remedies are available, and what course they should take.

Mr. Graham: Privy Council, and cannot afford it.

Mr. COURT: I have made it very clear, and no doubt it will be given due prominence, that there is a procedure available to these people if they feel there is new evidence available. The Premier has gone a long way to try to remove any fears the Opposition might have had when he said that if a retrial should be ordered by the court it would be after a proper petition under section 21, and Beamish's advisers should request legislative amendment to enable the production in evidence of Cooke's alleged confession and subsequent sworn evidence in court proceedings: the Government would then introduce a Bill to give effect to this.

Mr. Graham: It would be a little difficult to interrogate him.

Mr. COURT: This man has been interrogated at great length. I should imagine that by the time the Crown Law representative, the judges, and the defence counsel had finished with him they would have wrung every bit of information out of him.

Mr. Graham: That is what you think.

Mr. COURT: He did not stand up under cross-examination.

Mr. Graham: He did not fall down either.

Mr. COURT: The Chief Justice and other judges—and particularly the Chief Justice, for whom we have a very high regard in these matters—summed the matter up very well when they assessed their views based on the evidence and the value that could be placed on Cooke's confession.

Mr. Oldfield: Did he confess to the Maddrill case?

The SPEAKER (Mr. Hearman): Order!

MR. JAMIESON (Beeloo) [11.58 p.m.]: I do not wish to delay the debate to any great length, but I would point out to the Government that one thing it must remember when trying to maintain law and order is that not only must justice be done but it must also appear to be done. It does not appear to have been done in connection with this Beamish trial; at least that is the opinion of many people in the community.

At the trial the jury was of necessity forced to bring in a decision on the evidence as it saw it. But this has disturbed a considerable number of people in the community since that time. It has disturbed many people who have deaf and dumb mutes in their own families. As a matter of fact, one such person in my own electorate has explained to me her very grave doubt as to whether the confession alleged to have been made could have been made. Her own boy was in the same class at school as Beamish and she knows the capabilities of her own lad. They are very limited; and it would be very difficult to say that he may have confessed in the way he did without its having been a confession by suggestion in some way or another. With all due regard to those who were involved in obtaining this confession it would have been very difficult indeed to obtain. It is a type of case which probably has not been tested before in the annals of criminal history in Western Australia. It is up to anybody's guess how the ultimate confession was made, knowing the action the people conducting these inquiries will take.

One of the features which causes me concern, with no disrespect to the Chief Justice, is that he was the original trial judge. The practice of the judge in the original trial also sitting on the appeal—even though such a course is legal—seems to me to be wrong. The Chief Justice who allocates the duties of the judges, should have rostered three members of the judiciary, other than himself, to hear the appeal. His mind could have been influenced by the evidence given in the original trial, as against the evidence given by Cooke, a person considered to be unreliable and untruthful.

I have spoken to a crime reporter who was present at the original hearing. He said he was very satisfied with all that went on, and he thought that Beamish was guilty of the crime of which he was convicted. He heard the evidence, he saw the procedure, and he heard the verdict of the jury. He thought everything was in order. This reporter was also present at the appeal and heard the evidence given by Cooke. He said to me after that, "I am not sure. I do not know. This raises a different complexion on the case altogether."

All that the Opposition is trying to convey to the Government is the existence of a complexion which did not exist in 1961. I do not know whether the various courses of action which can be taken legally will be of any consequence. The honourable member for Subiaco might care to tell us how often an appeal under criminal law is successful. He would have to search the records pretty thoroughly to find any.

Mr. Guthrie: It is a totally different thing. It is not an appeal under criminal law; it is the question of a new trial and new evidence.

Mr. JAMIESON: It is an appeal against the verdict of the Criminal Court; but how often have such appeals been successful?

Mr. Guthrie: That has nothing to do with the point.

Mr. JAMIESON: It would be ludicrous to take an appeal to the Privy Council, which would not possibly give the consideration to this case which the local courts could give. The Privy Council does not like hearing appeals under criminal law.

Mr. Guthrie: You are making statements without any knowledge of the subject. It is a stupid statement to make.

Mr. JAMIESON: I would ask the honourable member to give examples of cases where such a course has been adopted.

Mr. Guthrie: It is stupid to say the Privy Council does not like hearing appeals.

Mr. JAMIESON: I did not say that. I said it did not like appeals under criminal law.

Mr. Guthrie: That is nonsense. How do you know?

Mr. JAMIESON: The Privy Council does not. This case is causing disquiet in the community, over a happening in the courts of law of this State, and the position should be rectified. The Government has the power to rectify the position. Is it afraid that should there be another trial before a jury so much doubt would be cast that the conviction would be quashed? If the Government is afraid why should it not say so?

I agree it would be hard to find a jury which was not prejudiced in some way or other, because the case has been hashed and rehashed, and people have formed some ideas of what they consider to be the rights and wrongs of the case. But this does not get away from the cold, hard fact that the law appears to have been unduly harsh, because certain facts which were available at the time were presented, but other facts which are now available should be presented.

I support the motion and hope that it will be carried so that justice—not only deliberate justice, but justice which appears to be right—can be meted out.

MR. HAWKE (Northam—Leader of the Opposition) [12.7 a.m.]: I appreciate the action of the Government in allowing the debate on this motion to proceed today and tonight, and to arrive at a decision. Like the honourable member for Balcatta, I was rather disappointed the Premier had prepared in advance his reply to the case which was put forward by me. It would have been better had the Premier listened to the arguments which I put forward, and then taken into consideration all that was said in preparing his reply. However, he chose to have his speech prepared well beforehand, and to use it. In justification of that procedure he said the Government's stand was one of principle—the principle appearing to be an anxiety to maintain the existing legal processes and the existing system of court procedures as they have been developed in this State over a considerable period of time.

The Minister for Industrial Development told us the assurance given to us earlier by the Premier was one which we should accept, and about which we should be happy and satisfied. He went on to say the assurance offered a new and a fair trial, provided certain steps were taken by those legal persons who represented Beamish in court procedures which were taken on his behalf on previous occasions.

This assurance which the Premier has put forward is not altogether clear, and it is certainly not absolute. As I understand it, the Premier claims there is provision in the existing law for a petition—any number of petitions, I think he said—

Mr. Brand: That is right.

Mr. HAWKE: —to be presented to the Minister for Justice requesting a new trial, including a new trial before a judge and jury.

Mr. Brand: Provided, of course, the court of appeal agrees.

Mr. HAWKE: Up to the point I have just mentioned the assurance has some merit. However, what is the certainty beyond that point? There appears to be no certainty beyond that point. In the first place, I imagine the Minister for Justice would have to satisfy himself that the petition contained sufficient merit to warrant him taking action.

Mr. Brand: It would be fair enough.

Mr. HAWKE: In the event of the Minister deciding there was sufficient merit in the petition to justify him in setting other machinery in motion, he would put a submission, through his appropriate officers, before the Court of Criminal Appeal; and the judges who would constitute the Court of Criminal Appeal at that time could very well be the same judges who constituted the Court of Criminal Appeal which unanimously rejected the last appeal put forward for and on behalf of Beamish. These judges might easily decide there is not sufficient merit in the

submissions sent to them by the Minister for Justice to warrant any further action. They make a decision to that effect and, as far as I am able to understand, that is the end of it.

So this assurance which the Minister for Industrial Development praised up so greatly and sort of tried to give us to understand was a total and absolute assurance which would take shape and develop and bring about a new trial by judge and jury for Beamish is not worth very much at all. It is not an absolute and binding assurance; it is a "maybe" proposition. In that regard, of course, it differs very considerably and very vitally from the motion which I have moved.

We have based our argument upon what might be termed the pre-Cooke confession and the post-Cooke confession. Clearly, if Cooke had not made this confession and subsequently signed an affidavit along the lines that he did, the Opposition in this Parliament could have had no worth-while argument to make in substantially moving for the granting of a new trial to Beamish. That was in the pre-Cooke confession period. However, in the post-Cooke confession period the situation has changed dramatically—and very dramatically, too.

I would be surprised if there would not be, on the other side of this House, some members who have substantial doubts in their minds as to whether Beamish was, in fact, guilty of the crime which the jury adjudged him to be guilty of when the original case was decided. The Minister for Industrial Development told us that we, the members of the Opposition, who had spoken on this motion had put forward nothing new. That claim by the Minister was not true; and he must have known it was not true. He did then go on to make some reference to the medical opinions and wanted to know what all the fuss was about in relation to these opinions.

He said he would deal with that issue later in his speech. I must have had some sort of inspiration, because I said by way of interjection to the Minister that he at that stage reminded me very much of the attitude which the member for Mt. Hawthorn occasionally takes in situations of the same kind. I say that because the Minister did not get on to the issue of medical opinions at all. In the subsequent portion of his speech he did not say another word about the issue. So it is clear the issue of medical evidence was, and is, and will remain a very critical issue in the new situation.

I think the Premier said, and the Minister for Industrial Development certainly said, this Chamber should not make any decision in the question of a new trial for Beamish. This Chamber, or this House, is thoroughly entitled to make a decision calling upon the Government to introduce legislation to enable Beamish to be tried again before a judge and jury. The House, by doing that, would not make any decision as to whether Beamish was still to be judged guilty or to be found innocent. That critical issue could only be decided by the judge and jury in the event of action being taken, either through this motion, or through some other procedure to allow a new trial of that nature to take place.

The Minister for Industrial Development told us there were no lost papers in the Police Department or in the Crown Law Department. I am not saying there are any lost papers, but I did say some very vital papers were seriously mislaid as between the one department and the other, with the result I had to be supplied with a duplicate copy of the original papers; and it was, of course, the original papers which I sought, just as it was the original papers which the Minister for Police tried very hard to obtain for me. I am quite satisfied with the duplicate set of papers which was supplied to me. I make no complaint on that score at all; but think it is a bit disturbing that vital papers of this description became seriously mislaid between one important department, such as the Crown Law Department, and another important department, such as the Police Department.

This question of medical evidence is, I think, probably the outstanding issue in the whole of the argument which has taken place in this Chamber in connection with this motion. As I told members earlier, the Chief Justice made a very scathing condemnation of Cooke's confession in relation to this part of it, and he claimed that Cooke indulged in lying detail in saying that certain things happened; because, in the view of the Chief Justice, what Cooke had said did happen could not possibly happen. It was physically impossible for it to occur.

Yet the medical evidence the Police Department had in its possession from its own doctor indicated that what Cooke said did happen could have happened, but that information was not placed by the Police Department, through the Crown Law Department, before the Court of Criminal Appeal.

As a result of further fishing on my part, we find the Crown Law Department had approached three doctors in private practice, all of very high standing, and obtained opinions from them in relation to this issue and the medical advice given to the Crown Law Department in connection with this matter was to the effect that what Cooke had said did happen could have happened.

The Minister for Industrial Development claimed it was at the discretion of the Police Department in the first instance, and the Crown Law Department in the other instance, as to whether this

information was put before the judges who constituted the Court of Criminal Appeal or was withheld from the court. I was astonished at that claim by the Minister. Surely the bounden duty of the Government and the appropriate departments under the control of the Government, is in cases of this kind, if not in all cases, to put before the court every grain of information which might have a bearing on the thinking and the final judgment of the court! Surely no government department should have the discretion to say "We will put this before the court, but we will not put that before the court; we will put something else before the court, but we will not put this before the court"! What sort of justice is that? It is an absolute negation of the principles of British justice as I have always comprehended them.

The Minister told us the Crown did not have to produce this evidence in court, which postulates the proposition that the department has the right to suppress vital information and keep it away from the courts, thus depriving the judges or a jury, if a jury is involved, of the right to know of the existence of such information.

I would hope the Premier would look into this. Surely if this is to be the rule of the road in the Police Department and the Crown Law Department, we are reaching a rather sorry and dangerous situation in the administration of justice in Western Australia! I am not sure whether the Police Department would have the final say as to whether the information it had in the matter was to go before the court. I rather imagine that would have to be a decision of the Crown Law Department. However, I want this feature of the situation closely investigated, and investigated in that manner by the Premier, because it appears to me to be fundamental to the whole system of legal process and the administration of justice in this State.

I think it is untenable and unthinkable that a Crown Law Department would come into possession of information which the department itself sought, too, prior to the hearing of a vital case, and then decide the information obtained would not be made available to the court at all but put in a pigeon-hole.

One cannot help but develop the thought that had the opinions of these three outside medical men been in reverse, the information would have been put before the judges who constituted the court on that occasion; because the reply to one of my questions in the matter was that the information was sought from these medical men for the purpose of testing the veracity of Cooke in the statements he made in connection with this particular feature. Obviously if these three medical men had said that Cooke was talking so much nonsense and making a claim which was stupid and impossible, then that would have proven that Cooke's veracity was tuppence a ton, and doubtless the Crown Law officer would have put that before the judges.

However, apparently because the medical advice received from these highly placed medical men favoured to a considerable extent Cooke's claim, the Crown Law Department, or one of its officers, decided "Oh well, these reports support Cooke's veracity on this point and therefore the opinions will not be made available to the judges." That is a shocking situation in my view!

Mr. Graham: And in the legal view, too!

Mr. HAWKE: It makes me feel all the more that we should press this motion to the utmost possible degree. I must say for my own part that right from the time Beamish was tried and found guilty I had the thought, feeling, or conviction—whatever we care to call it—that there had probably been a miscarriage of justice. When the confession made by Cooke became available for perusal and study, that idea, thought, or conviction became reinforced a thousand times over; and, as Leader of the Opposition, I felt I would in this situation be doing far less than my duty if I had not moved this motion and if I did not now press it to a division in the hope that, despite what the Premier and the Minister for Industrial Development said, the motion would have the support of the majority of the honourable members in this House.

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

Ayes—20	
Mr. Bickerton	Mr. D. G. May
Mr. Brady	Mr. Moir
Mr. Davies	Mr. Norton
Mr. Fletcher	Mr. Oldfield
Mr. Graham	Mr. Rhatigan
Mr. Hall	Mr. Rowberry
Mr. Hawke	Mr. Sewell
Mr. Heal	Mr. Toms
Mr. W. Hegney	Mr. Tonkin
Mr. Jamieson	Mr. H. May
	(Teller)

Noes—21	
Mr. Brand	Mr. Hutchinson
Mr. Burt	Mr. Lewis
Mr. Cornell	Mr. W. A. Manning
Mr. Court	Mr. Mitchell
Mr. Craig	Mr. Nalder
Mr. Crommelin	Mr. Nimmo
Mr. Dunn	Mr. O'Connor
Mr. Gayfer	Mr. Wild
Mr. Grayden	Mr. Williams
Mr. Guthrie	Mr. O'Neil
Dr. Henn	*(Teller)*

Pairs	
Ayes	Noes
Mr. J. Hegney	Mr. Bovell
Mr. Evans	Mr. Hart
Mr. Kelly	Mr. I. W. Manning
Mr. Curran	Mr. Runciman

Majority against—1.

Question thus negatived.

Motion defeated.

House adjourned at 12.33 a.m. (Thursday)