

Native Welfare in another place in this respect. I do not like leaving private members' Bills at the bottom of the notice paper, but it seems logical to me that I should explain the situation and seek the indulgence of the honourable member.

Debate adjourned, on motion by The Hon. F. J. S. Wise (Leader of the Opposition).

House adjourned at 9.42 p.m.

Legislative Assembly

Wednesday, the 28th October, 1964

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

IRON ORE (HAMERSLEY RANGE) AGREEMENT ACT AMENDMENT BILL

Introduction and First Reading

Bill introduced, on motion by Mr. Court (Minister for Industrial Development), and read a first time.

IRON ORE AGREEMENTS

Tabling of Maps

MR. COURT (Nedlands—Minister for Industrial Development) [4.33 p.m.]: I have here a map which shows the location of the mining areas in connection with the Mount Newman agreement, which was

introduced last night. I also have a map showing the mining areas "A", "B", and "C" in respect of the Mt. Goldsworthy mining associates revised agreement, which I also introduced last night. I ask leave for these maps to lie upon the Table of the House in order to assist honourable members in their consideration of the legislation.

I have also a plan showing the Port Hedland area between Finucane Island and Cooke Point, and coloured yellow on the map is the high ground in this area. It is ground, I am advised, that is above the level to which any tides have risen during cyclone periods. This map is also for the guidance of members when considering the two agreements.

The maps were tabled.

QUESTIONS ON NOTICE

STANDARD GAUGE RAILWAY BLASTING OPERATIONS

Claims for Damage to Property

1. Mr. HAWKE asked the Minister for Railways:

- (1) How many claims have been made in the Toodyay district in connection with damage to homes by blasting operations carried out in connection with the construction of the standard gauge railway line?
- (2) What are the names of the claimants?
- (3) Has any claim yet been finalised?
- (4) When are most or all of the claims likely to be finalised?
- (5) What is the reason for the long delay in dealing with the claims?

Mr. COURT replied:

- (1) 35.
- (2) Not for publication at this stage, but the information will be supplied privately to the Leader of the Opposition.
- (3) No.
- (4) On completion of work anticipated end of December, 1964.
- (5) It is felt desirable and in the interests of claimants to coincide settlement with completion of the related operations.

MALLET

Acres Reserved in State Forest

2. Mr. W. A. MANNING asked the Minister for Forests:

- (1) How many acres are reserved in State forest for growth and regeneration of mallet?

- (2) Is this all in one block?
- (3) If not, how many sections, the area in each, and where are they?
- (4) How long has most of this land been held?
- (5) How many acres of the total have—
 - (a) natural mallet;
 - (b) been sown to mallet;
 - (c) have not yet been sown?

Mr. BOVELL replied:

- (1) State forest set apart for the growth and regeneration of mallet is as follows:—

State Forrest 51	Lol Gray—
	39,688 acres.
State Forest 52	Highbury—
	9,223 acres.
State Forest 53	Montague—
	8,158 acres.
- (2) No.
- (3) Plans of the areas included in each of the above State forests are available for inspection at the office of the Forests Department.
- (4) State Forest 51 dedicated 29/11/34.
State Forest 52 dedicated 19/9/35.
State Forest 53 dedicated 19/6/35.
- (5) (a) Natural mallet groups occur sporadically through most of the area outside the actual areas under plantation, except where there are belts of wandoo forest. Specific areas of each type are not available.
 - (b) 19,111 acres plus firebreaks.
 - (c) Answered by (a) above.

LAND RESERVATIONS

Authority Responsible for Decisions

3. Mr. W. A. MANNING asked the Minister for Forests:

- (1) Does the Conservator of Forests make decisions regarding reservations of land for—
 - (a) public open space;
 - (b) public recreation;
 - (c) fauna and flora protection;
 - (d) water purity?
- (2) If not, who does in each case?

Mr. BOVELL replied:

- (1) No.
- (2) Reserves for public open space; public recreation and conservation of flora and fauna are created by the Governor in accordance with section 29 of the Land Act. Reserves for water catchment areas are created similarly, but no reserves have been declared for water purity.

WANDOO*Reservation of Land and Plans for
Regeneration*

4. Mr. W. A. MANNING asked the Minister for Forests:

- (1) How much land is reserved for wandoo—
 - (a) in State forest;
 - (b) on other Crown land?
- (2) Is there any plan for regeneration?

Mr. BOVELL replied:

- (1) (a) and (b). No land is specifically reserved for wandoo only. Irregular shaped belts of wandoo forest and jarrah forest occur mixed together on various State forests and timber reserves, and figures for the areas covered by each species are not recorded. The area of mixed jarrah and wandoo State forest is 176,815 acres as at the 30th June, 1964.

The greater part of the original wandoo forest has already been alienated.

(2) Yes.

DREDGE AT SOUTH PERTH*Length of Operations and Minimisation
of Noise*

5. Mr. GRAYDEN asked the Minister for Works:

- (1) How much longer is the dredge at present operating adjacent to Melville Parade, South Perth, likely to continue operations in the area?
- (2) In view of the noise nuisance created by the operation of the dredge at night, and particularly by the pumping station situated on the South Perth foreshore, what steps have been taken to ensure that the noise is reduced to a minimum?

Mr. WILD replied:

- (1) Approximately three months.
- (2) The contractor has applied noise suppression devices up to the maker's maximum allowable limit on engine exhausts.

**PEDESTRIAN ISLAND FOR
HURLINGHAM HILL***Siting*

6. Mr. GRAYDEN asked the Minister for Police:

Has a decision yet been reached in respect of investigations appertaining to the siting of a pedestrian refuge in the centre of Canning Highway at Hurlingham Hill, South Perth?

Mr. CRAIG replied:

No. The matter is still under consideration.

**RACE MEETINGS AT KALGOORLIE:
BROADCASTING***Sponsorship by T.A.B.*

7. Mr. EVANS asked the Minister for Police:

- (1) How long is it since the Totalisator Agency Board ceased sponsoring broadcasts of race meetings through radio station 6KG (Kalgoorlie) in respect of race meetings held during weekdays?

Cost of Sponsoring

- (2) What is the cost of sponsoring a broadcast (through radio 6KG) of a weekday race meeting held on a principal course in the eastern States?

Melbourne Cup Coverage

- (3) Is it intended to have a full coverage of the forthcoming Melbourne Cup meeting broadcast by radio 6KG?

- (4) If not, why not?

*Dissatisfaction of Goldfields T.A.B.
Patrons*

- (5) Will he accept an assurance from the member for Kalgoorlie that the member has been made aware of widespread dissatisfaction among goldfields T.A.B. patrons at the failure of the T.A.B. to sponsor local broadcasts on important weekday race meetings—for which T.A.B. shops are open for business?

*6KG Broadcasts on Important
Week-day Meetings*

- (6) Accordingly, would he please undertake to have this matter discussed by the Totalisator Agency Board with a view to providing broadcasts through radio station 6KG at least on the more important weekday race meetings for which T.A.B. shops open for business?

Mr. CRAIG replied:

- (1) The board has never sponsored regular midweek broadcasts. However, the more important race meetings have always been broadcast.

In addition, meetings held at Werribee, Victoria, were broadcast over 6KG up to and including the meeting held on the 22nd July, 1964.

- (2) £25, provided the broadcast is also taken by 6GE Geraldton at an approximate similar additional cost.
- (3) Yes.
- (4) Answered by (3).
- (5) Yes; but this may be due to what is considered "more important" weekday race meetings.

- (6) Consideration will be given to re-instating Werribee meetings in the list of "more important" weekday meetings.

WATER SUPPLY PROBLEMS AT DALWALLINU

Appointment of Investigating Committee

8. Mr. CORNELL asked the Minister for Water Supplies:

- (1) Has a committee been appointed to examine water supply problems in and for the Shire of Dalwallinu?
- (2) If so—
 - (a) who are the members thereof;
 - (b) has the committee been set up to examine problems connected only with the Shire of Dalwallinu or will its inquiries embrace other areas as well?

Mr. WILD replied:

- (1) A departmental committee, which examines and reports on water problems in drier farmlands areas external to the boundaries of the comprehensive water supply scheme, is examining the problem in certain areas within the Shire of Dalwallinu.

- (2) (a) Mr. H. K. Permain, Water Supply Engineer, Public Works Department.

Mr. L. C. Lightfoot, Commissioner for Soil Conservation, Department of Agriculture.

- (b) Answered by (1).

CHILDREN AT HAZELMERE

Schooling

9. Mr. BRADY asked the Minister for Education:

In view of the growing number of children at Hazelmere, will he state if it is intended to build a primary school in this area? If the answer is in the negative, will he state at what school or schools the children should attend?

Mr. LEWIS replied:

The department has no immediate plans for the erection of a school at Hazelmere. The children from this area can attend Guildford or West Midland.

RAILWAYS DEPARTMENT EMPLOYEES

Appointment of Men Over 45

10. Mr. BRADY asked the Minister for Railways:

Is it still the policy of the Railways Department to engage employees over 45 years of age—

- (a) as wage employees;
- (b) as salaried employees?

Mr. COURT replied:

- (a) and (b). As a general policy staff are not engaged over the age of 45 years. However, there is some recruitment in certain categories of tradesmen and track maintenance staff over the age of 45 years, but these engagements are subject to special approval.

PRISONERS IN FREMANTLE GAOL

Total Number, Natives, and Maintenance Cost

11. Mr. BRADY asked the Chief Secretary:

- (1) What is the number of inmates at Fremantle Goal at present?
- (2) How many natives are included in the total number?
- (3) What is the cost per week to keep each inmate at Fremantle?

Mr. ROSS HUTCHINSON replied:

- (1) 476 Males
36 Females

Total 512

- (2) 77 Male natives
21 Female natives

Total 98

- (3) Cost per week per inmate £8 7s. 5d.

MENTAL HOSPITAL AT GUILDFORD

Opening Date, Number of Inmates, and Staff

12. Mr. BRADY asked the Minister for Health:

- (1) What is the target date for the opening of the new mental hospital at Guildford?
- (2) What is the approximate number of inmates to be housed at the hospital?
- (3) What is the approximate number of staff to be employed?

Mr. ROSS HUTCHINSON replied:

- (1) Late 1965.
- (2) 174 residential—60 day attenders.
- (3) The staff establishment has not yet been calculated, but it is anticipated that the number will be approximately 100.

MOUNTS BAY ROAD: DEVIATION AROUND BREWERY

Area of Swan River Reclamation Required

13. Mr. GRAHAM asked the Minister for Works:

What is the approximate area of the Swan River which will have to be reclaimed in order that

Mounts Bay Road might run along the river side of the brewery as shown on Map No. 27 of the Metropolitan Region Plan, 1963?

Mr. WILD replied:

No such road deviation whatever is contemplated, but a cursory examination of the Metropolitan Region Plan discloses that approximately seven acres would be required.

BUILDERS' REGISTRATION ACT

Number of Builders Registered

14. Mr. GRAHAM asked the Minister for Works:

How many builders are registered under the Builders' Registration Act?

Mr. WILD replied:

Registered builders	1,319
Journeymen builders	213
		<hr/> 1,532

LONG SERVICE LEAVE PAYMENTS

Availability from Bankrupt Employers

15. Mr. DAVIES asked the Minister for Labour:

- (1) Did he read a letter headed "When Firms Go Bankrupt" in *The West Australian* of the 17th October, 1964, in which the writer claimed her husband and four other employees lost money due to them for long service leave, when the firm employing them went bankrupt?
- (2) Is it correct that a claim by a secured creditor such as a bank would get priority over long service leave claims by employees against a bankrupt employer?
- (3) If so, is any remedial legislation proposed?

Mr. WILD replied:

- (1) The letter has been drawn to my attention. It appears to deal with annual leave rather than long service leave, but the position in regard to both types of leave is as contained in the answer to (2).
- (2) Claims for long service leave or annual leave against a bankrupt can be satisfied out of the unsecured assets of the bankrupt. Generally assets which are secured by mortgage or otherwise are not available to general creditors.
- (3) Any alteration requires amendment to the Bankruptcy Act, which is Federal legislation.

LIQUOR CONSUMED BY TEENAGERS

Relationship to Motor Accidents and Hooliganism

16. Mr. O'NEIL asked the Minister for Police:

- (1) Does the Police Department regard the consumption of alcohol by teenagers as a significant contributory factor in the high incidence of motor vehicle accidents and hooliganism attributed to this age group?

Availability from Drive-in Bottle Services

- (2) Is there any evidence that "drive-in bottle services" at many hotels enable teenagers to obtain alcoholic beverages more easily, having regard for the fact that the driver of the car is less likely to be challenged by the attendant?

Reduction of Supply by Motor Vehicle Identification

- (3) If the answers to (1) and (2) are in the affirmative or unknown, would he have the matter investigated and examine the practicability of identifying vehicles owned by teenagers by some distinguishing windscreen sticker in order to—
 - (a) at least, to some degree, reduce the availability of alcohol to teenagers through these outlets, and
 - (b) at least indicate to the attendant (who would be guilty of an offence by serving liquor) that a challenge in respect of age is warranted?

Mr. CRAIG replied:

- (1) Yes.
- (2) Although there is no evidence to show that "drive-in bottle services" facilitate the obtaining of liquor by under-aged persons, it is quite probable that they do.
- (3) The matter of windscreen stickers would be impracticable because all cars driven by teenagers are not owned by them and, even if owned by teenagers, the passengers are not restricted to that group.
 - (a) It is doubtful if the inability of teenagers to obtain liquor at "drive-in services" would materially affect their ability to obtain liquor.
 - (b) The attendant is only liable when the prosecution can prove that he knowingly supplied the under-aged person. However, drinking by under-aged persons is receiving constant attention.

SHELTERED WORKSHOPS FOR HANDICAPPED PEOPLE

Building Grants to Organisations

17. Mr. DAVIES asked the Treasurer:

- (1) Is there any Statute which provides for a specific grant to organisations for the purpose of building sheltered workshops for the physically handicapped including slow learners?
- (2) If so, what is the Statute concerned?
- (3) If not, on what basis are Government grants of this nature determined?

Mr. BRAND replied:

- (1) No.
- (2) Answered by (1).
- (3) Each grant is determined on the merits of the case.

LEFT-HAND-DRIVE VEHICLES

Regulations Governing Use

18. Mr. HEAL asked the Minister for Police:

- (1) What is the regulation in relation to left-hand-drive vehicles in Victoria, New South Wales, and South Australia?
- (2) What is the regulation in Western Australia?
- (3) If the regulation does not permit left-hand-drive vehicles to remain on the road permanently, will he review the regulation to allow such vehicles to remain permanently on our roads?

Mr. CRAIG replied:

- (1) Latest information available as to the regulation in relation to left-hand-drive vehicles in the States of Victoria, New South Wales, and South Australia is as follows:—

Victoria:

Vehicles licensed before October, 1949, and registered continuously since that date and carrying appropriate signs can still be used on roads. Licensing of left-hand-drive motor vehicles subsequent to that date is not permitted although the chief commissioner has power to approve of the licensing of commercial vehicles with the requirement that such vehicles be equipped with warning devices.

New South Wales:

A left-hand-drive vehicle may not be registered unless it is a consular car.

Motor wagons licensed prior to December, 1949, may be used on roads if continuously registered since that date.

South Australia:

Left-hand-drive vehicles may be licensed by *bona fide* residents of the State, providing that such vehicles are equipped with mechanical signalling devices.

- (2) Left-hand-drive vehicles may not normally be licensed in Western Australia except under the following conditions—
 - (a) is an existing motor vehicle licensed within the State prior to the 3rd day of June, 1947, and has been relicensed from year to year thereafter;
 - (b) is licensed and used exclusively in a district of a local authority situate wholly or partly, north of the 26th parallel of south latitude;
 - (c) is the subject of a temporary permit issued by a licensing authority under regulation 10A, or by the Commissioner of Police under regulation 10B, of the regulations; or
 - (d) is permitted to be licensed by the Minister, subject to such conditions as he may impose and for such period as he thinks fit.

Such vehicles to be equipped with signalling devices and "Caution Left-Hand-Drive" to be painted on the rear in a conspicuous position.

- (3) The matter of general licensing of left-hand-drive vehicles has been considered in the past and is at present under consideration by the Australian Road Traffic Code Committee.

It is not proposed to amend the regulation until all aspects have received full consideration.

RAILWAYS DEPARTMENT: BRITISH MIGRANTS RECRUITED

Number

19. Mr. D. G. MAY asked the Minister for Railways:

- (1) How many British migrants have been employed by the Railways Department as a result of visits to England by recruiting officers?

Resignations and Dismissals

- (2) How many of these migrants have subsequently resigned or had their services terminated from the railways?

Branches Involved

- (3) In what branches of the railways were the employees listed in (2) employed?

Mr. COURT replied:

(1) The engagement of three electrical fitters resulted from the actions of two senior officers visiting the United Kingdom on special duties. It is pointed out, however, that these officers were not sent to the United Kingdom specifically for the purpose of recruiting staff.

(2) Nil.

(3) Answered by (2).

An officer of the Railways Department recently arrived in England in connection with the State Government's need of migrants for this State.

QUESTION WITHOUT NOTICE

PARLIAMENTARIANS' SALARIES

Federal Increases: Effect on Local Members

Mr. CORNELL asked the Premier:

Referring to the headlines in this evening's issue of the *Daily News* relating to the increase in salaries for Commonwealth parliamentarians, could he inform the House whether the Prime Minister has asked the State Premiers to introduce complementary legislation to assist the penurious State parliamentarians?

Mr. BRAND replied:

Inasmuch as I have the same sort of interest as the honourable member for Mt. Marshall, I am just waiting for such advice to arrive.

WORKERS' COMPENSATION ACT AMENDMENT BILL

Third Reading

MR. WILD (Dale—Minister for Labour) [4.48 p.m.]: I move—

That the Bill be now read a third time.

MR. W. HEGNEY (Mt. Hawthorn) [4.47 p.m.]: I am not going to let this opportunity pass without making some brief comments on the Bill before it is transmitted to another place. When introducing the measure the Minister mentioned that substantial improvements were to be effected, but he did not indicate that before the Bill passed the Committee stage at least one very important item in the Workers' Compensation Act would be adversely affected.

Today we have the unfortunate position of the Government having introduced a Bill to provide for a maximum compensation payment of £3,500 to a worker who is permanently or totally incapacitated, or to the dependants of a deceased worker,

when it is already paying to the dependants of a deceased worker £3,506. Therefore, it is obvious that the Government has reduced the amount that will be payable to those very important persons; namely, the widows and children of deceased workers.

After waiting 5½ years the Parliament could have expected more reasonable and more progressive amendments—amendments more in keeping with present-day requirements than the provisions embodied in the Minister's Bill. It is quite evident to me that there has been hesitation shown by the Government for the period I have mentioned about introducing substantial amendments to this Act. I have no doubt that pressure has been brought to bear by insurance companies and other very important interests upon the Government which has succumbed to the pressure; and it is only in the dying hours of the present Parliament that the Government has seen fit to introduce some legislation to justify its objections to introducing such amendments over the past five years.

In addition to referring to the matter indirectly on a previous occasion, the Minister, when introducing the Bill, mentioned that the position which had arisen in regard to timber workers would be adjusted. When I introduced a motion relating to the Workers' Compensation Act some 12 months or two years ago, I understood from the Minister that serious consideration was being given to rectifying a position which arose as a result of the High Court decision on what was known as the Marshall case. Up till then it was thought that timber workers who were employed under piecework contract were workers within the meaning of the Act; but the High Court decided otherwise. The Minister has done nothing in regard to that matter, or in regard to widening the definitions of a worker or of injury.

I propose to withdraw the motion standing in my name on the notice paper relating to workers' compensation. Under the Standing Orders it would probably be automatically discharged. I do not propose to pursue it if the opportunity should arise for me to do so.

In that motion are two items upon which the Minister has not touched. The first is the removal of all legal liability for payment by injured workers in respect of hospital and medical expenses. It is true that the Bill proposes to increase the amount for hospital and medical expenses, but it does not seek to remove the legal liability of an injured worker from paying certain hospital and medical expenses. To overcome that difficulty we moved an amendment to give the Workers' Compensation Board a discretionary power to award expenses over and above those prescribed by the Act, but the Government rejected that amendment. We consider that amendment to be amply justified.

The second item in my motion provided for more reasonable treatment of partially incapacitated workers in certain circumstances. The Minister has not done anything about that matter in a practical sense, because partially incapacitated workers can still be declared as being fit for light work, although they cannot find appropriate light work to suit their condition, and they are put off compensation. We consider that some protection should have been accorded to that class of worker, but it is apparent the Minister does not propose to do anything about it.

In conclusion I very definitely want this to be recorded: The amount of £3,500 prescribed by the Government is not so magnanimous after all, because the compensation for permanently and totally incapacitated workers is at the present time £3,213. I repeat again that the dependants of a deceased worker receive £3,506 in compensation.

I refer again to the statement and assurance of the Prime Minister of Australia that during the current session of the Federal Parliament legislation will be introduced to increase the maximum amount from £3,000 to £4,000. That is what the Opposition in this House has attempted to achieve. We had justification for putting forward that proposal, because the Government through its Minister did everything possible to ensure that the Federal basic wage level was established as the State basic wage. If it is competent and reasonable for the Government to follow the objective of bringing the State basic wage to the level of the Federal basic wage, then it is also reasonable and justified for it to follow the same course in regard to workers' compensation.

I do not propose to oppose the third reading of the Bill. I am making these remarks because I am not pleased with the measure, and I have keen disappointment because of the omission from the Bill of justifiable improvements to the Act. I also express my disappointment at the paucity of the increases provided in the Bill, in the light of present-day requirements; in the light of what is obtaining under the provisions of the Act at present; and in the light of the Minister's refusal over a period of five years to bring down substantial amendments to the Workers' Compensation Act until the dying hours of this and past sessions of Parliament.

MR. H. MAY (Collie) [4.55 p.m.]: It is unfortunate, Mr. Speaker, that I should sit in this Chamber on your blind spot. As one who moves along with, and lives among, people who are very much subject to the conditions of the Workers' Compensation Act I, too, want to take this opportunity of expressing some thoughts, because the Government has not seen fit to increase the compensation payments to

somewhere nearer the mark, to cover workers in industry who are injured in the course of their employment.

Year after year for the last five years the Government has promised that workers' compensation benefits would be adjusted satisfactorily by legislation. Each year the Opposition has put forward proposals to assist the Government in arriving at a satisfactory solution of the question of the rights of injured workers to receive medical and hospital treatment. Proposals have been offered to the Government by honourable members on this side of the House. Not that the suggested payments would fully compensate injured workers, but at least they would go a long way towards that objective. It is the old story of people who are given the opportunity to pass suitable legislation in appropriate instances, but who do not do the job. I believe the Minister in charge of the Bill knew very well when he introduced it in this House that it provided nowhere near the standard of compensation for which an injured worker is justified in looking in these days.

The Government is responsible for the situation arising where men working in industry and making profits for industry are not compensated sufficiently when they are injured in the course of their work. I refer particularly to men employed in the country. I ask the Government how long the hospital expenses provided under the Workers' Compensation Act last, when an injured worker has to travel by aircraft from the north-west to receive hospital treatment. He has only to make such a trip by plane, and the maximum of the hospital expenses is used up.

It is not fair that a person who is injured in the course of his work should be compensated at a figure well below the basic wage, during the period he is under treatment for his injury. The first thing which industry—and particularly those who are anticipating the commencement of industry in this State—should provide is adequate compensation for the workers in those industries, because they provide the wherewithal to carry on the industries. Suitable workers' compensation should be provided by those industries. One of the first things that has to be done in the establishment of industry is to make sure that the workers are correctly and properly compensated if they are injured in the course of their work.

Continually, year after year, in this Chamber, those responsible for bringing forward adequate legislation to ensure that injured workers are properly looked after have not done so. It has always been the practice to regard a worker who is injured in the course of his work as a person who is trying to rob the Workers' Compensation Board or the insurance companies. It does not matter how genuinely a man

may be injured, he is put into that category immediately; he is on the doubtful list. From what I can see, everyone injured in industry is put on the doubtful list. An injured worker has to go before doctors, and I know this is necessary to a certain extent. However, I know what these doctors do. They assess the degree of a man's injuries on the basis of what industry can bear financially.

It must be remembered that the worker considers what industry can bear too; but, in view of the profits being made, it is only fair that the worker should be compensated adequately if he is injured in industry.

I know that when the Minister gave his second reading speech on this Bill, he had no intention of accepting any amendment from this side of the House. I felt so disgusted that I was not prepared to waste my time standing here hammering away at a brick wall, which is what it amounts to. I want to express my regret that this Government, in the last session of this Parliament, has seen fit once again to bring in a tuppenny-ha'penny Bill which does not mean a thing to the workers concerned. I do not know, but I should imagine that the reaction to the contents of this Bill will be expressed some time next year. I cannot help but feel that.

I merely rose to express my feelings in regard to this matter. I am not going to vote against the third reading. It does, in some small degree, benefit the worker, so I must support it.

MR. MOIR (Boulder-Eyre) [5.3 p.m.]: I cannot let this occasion pass without making a few more remarks on this Bill which was under consideration and debated at length last night. First and foremost I want to express again my very great concern—

Mr. Bovell: What about expressing some appreciation for what the Government has done in this case?

Mr. H. May: I wish we could.

Mr. MOIR: As the subject with which we are dealing concerns compensation, I feel we should be compensated for having to put up with the Minister for Lands. I have already expressed my appreciation for the beneficial provisions in the Bill. If the Minister had been in the Chamber at the time he would know that.

Mr. Bovell: Why not leave it at that? As a matter of fact I was in the Chamber.

Mr. MOIR: In that case, the Minister's interjection was entirely misplaced. I am most concerned with the provisions under which a worker who has contracted an industrial disease and returns to the mining industry, will forfeit all rights to further compensation even if his condition deteriorates very greatly. I did have an

assurance from the Minister last night, privately—I suppose I can regard it as being private, if anything is private here—that he would have this clause studied and if necessary amended in another place. I only hope the Minister did not speak impulsively at the time and that he will honour that undertaking; because if he does not, one of the gravest injustices will be done to the worker in that position.

This is a position which has never been applied in workers' compensation legislation in any State in the Commonwealth, as far as I am aware. Why the injured mineworker should be singled out for this treatment, is beyond my comprehension. Therefore I sincerely trust that before this Bill passes through another place that situation will be rectified and the gross injustice eliminated.

Another matter which greatly disappointed me was the rejection of the amendment submitted by the Opposition under which extra amounts for medical and hospital fees would have been made available to workers whose injuries required medical treatment and hospitalisation beyond the average. I was astounded that the honourable member for Wembley—a medical man—submitted the argument that the amendment should be opposed on the grounds that only a few cases were involved.

Mr. Davies: That would have been a good reason for accepting the amendment.

Mr. MOIR: That was all the more reason for its acceptance, because the main argument used against those on this side of the House who advocate reform in workers' compensation is that such reform will be too costly. However, it is really no argument. In my opinion the honourable member for Wembley submitted a very strong case as to why the Government should have agreed to the amendment.

However, I am of the opinion that no matter how good a suggestion might be, if it comes from this side of the House the Government rejects it out of hand because it does not want the public in this State to believe that even one good thought emanates from the Opposition. In the meantime, of course, the people suffer. I would remind the Government that those on this side of the House represent somewhere in the vicinity of half the population of this State, or half the voters anyway; and to reject out of hand—merely on political grounds—any responsible suggestion for improvement in legislation, is very reprehensible indeed.

The rejection by the Government of the amendment which would have given the worker the right to select one of the specialists who will compose the board which will assess his condition, was miserable. By no stretch of the imagination

could it be believed that such a provision would be detrimental. Part of the clause concerning this board reads—

the question of the worker's condition and fitness for employment shall be determined by, or by a majority of, the Board whose determination shall be final, conclusive and binding on the worker, on his employer and on any tribunal hearing a matter in which any such determination is relevant.

We realise from that provision that the determination of the board is absolutely final and conclusive. It must be remembered that in many State and Commonwealth Acts which provide for a medical board, the person appearing before the board has the right to nominate one of the personnel on it. Such a provision is contained in the Mine Workers' Relief Act, which was revised here as recently as 1962. This Government recognised the principle in that legislation, and it is beyond my understanding why it has not been recognised in this measure. The foolish suggestion was made that an incompetent doctor could be selected by the applicant for compensation. Any applicant, of course, would nominate the most knowledgeable and experienced person he could obtain to represent him on a panel such as that.

The Government entirely overlooks the fact that the amendment would not have detracted from the clause as it stands, because portion of it states that one of those to be appointed is a physician specialising in diseases of the chest. Therefore the selection is confined to such a specialist. Such a provision would exclude a medical man who might not be so conversant with this disease as perhaps he should be. Therefore I can only conclude that in most of these matters the Government adopts a rather perverse attitude and regards any suggestion made by the Opposition as something that must not be allowed at any cost, irrespective of the effect on the people concerned.

Another matter against which I must express my objection concerns the promises with regard to the overhaul of the Act. We were severely let down last year when a measure was introduced in the Chamber in the dying hours of the session. The amendments contained in it were so inconsequential that the Bill could just as well have not been proceeded with at all. It was expected that this session being the last of this Parliament, something worth while would be produced; and although I have already stated that two very important provisions are contained in the Bill, as far as the miners are concerned the good provisions are nullified by the very bad features and shortcomings in the measure.

As I have said, we have a right to expect something better than what has been introduced. If the matter were not so

serious, we could laugh at the Minister for introducing a Bill here and stating that it contained substantial increases in compensation when, in fact, if we consider the machinery of the old Act, in certain circumstances a decrease will be expected. The honourable member for Mt. Hawthorn has pointed out that with regard to the £3,500 being offered, the worker will, in fact, be deprived of something to which he has up to date been entitled. Had the Bill not been introduced, then, by reason of the basic wage increases, the previous top amount in the Act would be £6 in excess of the amount which has been provided in this Bill as being an improvement in payments.

With that criticism I conclude what I wish to say on this measure.

MR. TOMS (Bayswater) [5.16 p.m.]: I regret that circumstances prevented me from taking part in the debate during the second reading and Committee stages of the Bill. I too want to express my disgust at the poor benefits contained in the measure.

When we look back over the last five years and remember the motions which have been brought forward by the honourable member for Mt. Hawthorn advocating certain principles in regard to workers' compensation; and when we remember the Minister's assurances—and we know what assurances are—that something of real importance would be done by the Government during the session, it came as a shock to see the small amount which workers are going to receive. It is almost like being at a banquet and workers having to take the crumbs that fall from the master's table.

I am sorry that the Minister has not seen fit to include in the Bill provision dealing with boilermakers' deafness. You have been here quite a long time, Sir, and you must have heard this particular malady mentioned many times. Year after year Labor governments have tried to improve allowances for men who are injured in a particular trade and whose hearing is injured to the extent that they have to purchase a hearing aid. Any such purchase must be made out of their own pockets.

I do not think it is at all right that a man who is injured in industry should be faced with that cost. It is bad enough suffering the injury without having to be out of pocket in order to buy a hearing aid. I do not know whether it will come to pass that workers in industry will be adequately compensated for injuries received in industry.

It is evident that when a person is killed or maimed on our roads insurance authorities value his worth at £15,000; it has even gone up to £35,000. But to the family of a worker who is injured in industry, the total value of a man's worth is £3,500. I think it is time we started to get a true

perspective on values. When we have measures such as this coming before the House after promises being given year after year, it is no wonder that honourable members on this side express their disgust at the paltry allowances now made.

It has been indicated—and rightly so—that even though we would have liked to see many more things in this Bill, at least there is a little step forward, no matter how tiny it might be. The principle of to-and-from work has now been established, and that is possibly a step forward. The remainder of the provisions, and the advantages related in the Bill, are hardly worthy of the Government after its many promises of adequate compensation for workers. We cannot vote against the third reading, but we can express our disgust that after so long so little has been done for so many.

Question put and passed.

Bill read a third time and transmitted to the Council.

BILLS (2): THIRD READING

1. Poisons Bill.

2. Police Act Amendment Bill (No. 2).

Bills read a third time, on motions by Mr. Ross Hutchinson (Minister for Health), and transmitted to the Council.

PHARMACY BILL

Second Reading

Debate resumed, from the 22nd October, on the following motion by Mr. Ross Hutchinson (Minister for Health):—

That the Bill be now read a second time.

MR. DAVIES (Victoria Park) [5.22 p.m.]: This Bill has been placed before Parliament as a result of the divorcing of the pharmacy and the poisons sections of the Pharmacy and Poisons Act. We have already dealt with the Poisons Bill, and we are now dealing with those provisions in the existing Act which relate to pharmacy.

The measure affects an important and well-respected section of the community. Most of us have used the services of chemists to advantage at various times, if only in the hope of eventually saving ourselves a trip to a doctor. Chemists give advice within reason, but if there is any doubt they quickly send one to see a doctor. This is as it should be; and it is because of this that chemists have built up the respect of the community which they now enjoy.

The provisions of the Pharmacy Bill have been taken fairly faithfully from the old Pharmacy and Poisons Act. There have been some additions to bring the Bill up to date. However, in many instances, the clauses have been taken word for word from the original Act. In

other instances they have been reworded to make them more readable; and, where necessary, slight amendments have been made.

The most important new provision in the Bill is contained in those clauses which deal with the licensing of chemists' shops. The Minister, in his second reading speech, mentioned that most of the proposals contained in the Bill have been asked for by the Pharmaceutical Council. It is very laudable that the wishes of the council should have been taken into consideration, because its members are the experts and they are the ones who can correctly advise the Government on what is required to properly control the industry.

This procedure has been followed with other Bills which have come before the House. I refer in particular to the Used Car Dealers Bill, in connection with which some members of the Automobile Association were consulted. We are aware that a similar procedure has been adopted with many other Bills, some this session. My only regret is that when the Government moves on trade union matters it does not consult with the trade union movement. We would get far better Bills on such matters if the Government took the trade union movement into its confidence.

However, it is sufficient that the Government has consulted with the Pharmaceutical Council in connection with this Bill. The licensing provisions have been recommended and I can see little reason for opposing them; although I imagine they represent another impost on chemists who already have to pay several fees in different directions. Chemists must be registered; they must have a poisons license; they must have a license under the Factories and Shops Act; and they must now have a license issued by the council. There is a cost involved in each case. However, chemists have asked for these licensing provisions, and we are prepared to accede to them; but no doubt any cost involved—and there is no indication what the fee for registration will be—will eventually be passed on to consumers.

Other matters dealt with, and mentioned by the Minister as being the major items, are the council's right to deal with professional carelessness and unethical advertising. The provision dealing with professional carelessness has been expanded a little from what it was previously; but the provision dealing with unethical advertising is entirely new.

Another matter—major to some and minor to others—is the legalising of those shops now owned by various friendly societies. They are now permitted to enter into open trading with the public. Other amendments have been brought about as a result of changes in the training of chemists.

I have studied the Bill closely in the time available, and I have compared its provisions with those contained in the old Pharmacy and Poisons Act. I think I should let honourable members know—particularly those members who have not had time to study the Bill—just what are the new provisions and what are the changes which have been made. There have been additions to the interpretations and these are contained in clause 5. Some new interpretations have been added, and others have been slightly altered. One or two have been left out. No doubt all the interpretations necessary are included in the clause, although I notice there is no interpretation for an automatic machine. However, this interpretation appears in subclause (2) of clause 40. Why it has been taken out of the interpretations clause and put in clause 40, I do not know; but possibly there is a good reason for it.

The Minister explained the administration section in part II of the Bill. The council shall consist of seven members, whereas previously it consisted of a president and six members. So the council, in total, numbers the same.

Clauses 8 and 9 have been taken primarily from the old Pharmacy and Poisons Act, the only addition being in subclause (3) of clause 9 which reads as follows:—

The Council may promote, establish and maintain or assist in the promotion, establishment and maintenance of schools of pharmacy or courses of instruction for pharmaceutical students, and may use all or any part of the funds of the Council for those purposes.

I think that is very necessary. The addition of the words "all or any part" makes the provision much clearer than it was under the old Act.

In paragraph (b) of clause 10 there is provision for a president and a deputy president. Previously there was provision for a president only. Naturally, there would be occasions when he would be unable to be present at meetings of the council; and I think it is a good thing to provide for a deputy president. Similarly, the words "Deputy President" have been included in clause 11, which deals with council members being removed from office.

Clause 12 deals with resignations and disqualification of Council members, and the provisions in this clause are much wider in their application than section 9 under the old Act. But here again I have no objection to the alteration, because I think it makes the position much clearer and sets out more distinctly the reasons for which a member may be removed from the council.

In clause 14, subclause (2), the deputy president or chairman has been provided for, and this subclause relates to voting at meetings. It sets out that should the voting be equal the deputy president or chairman shall have a casting vote in addition to his ordinary vote. I do not know of any other body where the chairman gets two votes. Usually he abstains from voting, or he votes on only one occasion, using either a deliberative or a casting vote. If the voting is equal most bodies adopt the parliamentary procedure and the motion is negatived. Why, in this case, the person concerned should have two votes I do not know; but, as the principle has been brought forward from the old Act, and has not been challenged previously, I do not propose to challenge it on this occasion.

There are several additions to the clause dealing with the appointment of officers, and the clause concerned states—

The council shall appoint a registrar and may appoint such other officers . . .

The provision in the old Act stated that the council "may" appoint a registrar, and there can be no objection to the inclusion of the word "shall"; because obviously a registrar has to be appointed and the use of the word "shall" makes the provision much more definite. This same clause—clause 15—gives the council the right to fix the remuneration of the registrar, and no doubt it would be fixed in a fair and equitable manner and be commensurate with the work he is doing. Subclause (3) of the same clause validates the positions of the present registrar and examiner.

The clause dealing with the funds of the council is a completely new provision. As far as I can gather it is in accordance with the procedure that has been laid down for similar bodies which have certain funds made available to them, and which have the right to use those funds in clearly defined ways. Once again the right to gather money and the right to use it is clearly defined; and, as far as I am concerned, there could be no objection to the proposal.

Under clauses 17 and 18 the council is given power to summon persons, and penalties are provided for those who fail to answer the council's summons when it is making inquiries. These are new provisions, except for subclause (3) of clause 17; but as the council has to do this work, and as it has to be given the right to inquire—and apparently it has always had the right to conduct inquiries—and the subclause puts the position beyond doubt, I think it should be agreed to.

Clause 19, which exempts the council from liability, is a new provision; but I understand it is the same sort of machinery clause which is to be found in other legislation.

Part III deals with the registration of pharmaceutical chemists and pharmacies. This is a new part, and I spoke earlier about the registration of pharmacies. As I might have indicated, or honourable members might have sensed, I am not too happy to see additional license fees being imposed on chemists—in fact, I am a little concerned at the number of boards that have been set up and the number of licenses required for all manner of things since I have been in this Parliament.

I imagine that if the Labor Party had been in government and had tried to license chemists' shops, a charge of Socialism, or Nationalisation, or Government control, or some such nonsense like that would have been levelled at it. As I have already said, this sort of thing happens time and time again in regard to all manner of things, and this is another little control that is being put over chemists. But, as the Pharmaceutical Council has asked for it, it is not my intention to oppose it.

Mr. Bickerton: You could call this liberal nationalisation.

Mr. DAVIES: As the honourable member for Pilbara suggests, we could probably call this type of thing liberal nationalisation.

Mr. Ross Hutchinson: I think that is drawing the long bow.

Mr. Cornell: A liberalisation of the nationalisation principle.

Mr. DAVIES: I agree. The first two clauses in this new part III are 20 and 21 and, with minor amendments, they are taken from the old Act. A "that" has been substituted for "which", and two or three other words have been altered here and there. As far as I can see they make no difference to the provisions except to make them more readable.

As I have already said, this new part deals with the registration of pharmaceutical chemists and pharmacies. Clauses 21 and 22 deal with the qualifications for registration and actual registration of pharmaceutical chemists and not, as I think I might have said before, the actual chemists' shops. The requirements set out in the clause are quite reasonable and I do not think it would be difficult for a person requiring registration to supply all that the council asks for.

Clause 23 covers the registration of pharmacies, and I would like an indication from the Minister, if he is able to give it, of the fees it is intended to charge for registration. Naturally the figure has not been fixed by regulation as yet—probably the regulation has not even been drawn—but perhaps the Minister knows the figure offhand and will be able to tell us whether it is to be one guinea, five guineas, or 10 guineas.

The most I can say about the requirements set out here is that they do not seem unreasonable—that is, if one accepts the position that the chemists want to be registered—and I do not think there will be any difficulty with them.

Clauses 24 and 25 are almost identical with the sections that are in the old Act. Part IV sets out the provisions relating to the practice of pharmacy; and it is under this part that a chemist is required to obtain a license for himself—quite apart from his shop—to enable him to practise as a pharmaceutical chemist. The only alteration of any great importance which has come to my notice is in clause 26, subclause (2). Under the Pharmacy and Poisons Act the fee to be charged was limited to one guinea; whereas under the clause in the Bill an application for a license must be made to the council in the prescribed manner, and it is to be accompanied by the prescribed fee. I would say it would be London to a brick that the fee will be more than one guinea. Here again, the Minister may have some idea of what it is proposed to charge. I think one guinea was not an unreasonable fee, and I would have liked to see the amount set out in the Bill rather than allow it to be prescribed.

In issuing the license the council may, at its discretion—and these are new powers that have been given to it—

- (a) grant the license;
- (b) refuse the license; or
- (c) grant the licenses subject to the applicant first complying with and fulfilling such conditions as the Council considers it advisable or necessary in the public interest to impose.

Under section 16 of the old Act the council could grant or refuse a license, and that was that. Therefore we cannot very well object to the three alternatives which the council will have under the new legislation of granting or refusing the license or asking for certain conditions to be complied with before a license is issued.

Subclause (3) of clause 26 provides for an appeal to a judge of the Supreme Court against the council's decision in refusing a license. Previously a person had a right of appeal to the Governor-in-Council, but I think it is far better that it should be to a judge of the Supreme Court as is now proposed. Then, further on, in clause 27, the procedure for dealing with appeals is set out.

On a number of occasions the penalties provided by the Act have been increased. In clause 28, which deals with the limitation as to places of business, the penalty has been doubled; it has been increased from £50 to £100. I was unable to find out—or, to be quite honest about it, I did not have the time to find out—when the present penalty of £50 was

originally put into the Act. Possibly it would have been 10 years or more ago since the fee of £50 was first introduced; and, of course, this is a maximum penalty. It does not seem unreasonable that it should be doubled.

Under clause 29, which deals with alterations to the register, a chemist can be written to and he must reply, within three months, to a letter from the council regarding his name being on the register. Previously the time limit was six months, and I could not object to the amendment. If a person did not reply to correspondence of this nature within three months I would have no sympathy for him.

Clause 32 deals with the right of the council to inquire into the conduct of chemists. In his second reading speech the Minister said the council had the right to deal with minor and major offences, but did not have the right to deal with intermediate offences. This rather intrigued me, because I could not visualise how one would categorise the three types of offences. Possibly if I had more knowledge of the offences commonly committed by chemists I would not have difficulty in categorising the three types of offence. But I still cannot see where the major, minor, and intermediate offences start and finish. The only amendment I can see in this connection is that contained in subclause (1) (a) of clause 32 where the words, "carelessness or incompetence" have been added.

The SPEAKER (Mr. Hearman): I think the honourable member is treating this as a Committee debate in mentioning the Bill clause by clause. I would like the honourable member to debate the general principles of the Bill.

Mr. DAVIES: As a matter of fact we are almost at the end of the Bill and I will confine my remarks to its general principles. As I was saying, the council can inquire into the conduct of chemists, and provision is made for the three classifications to be covered.

One important matter which requires some attention, and to which I intend to move an amendment, is the provision dealing with the right of friendly societies to trade with the public. In his second reading speech the Minister said it is proposed to restrict the operations of friendly society pharmacies by confining them to the premises they now occupy.

As you are aware, Sir, amendments were made to the Friendly Societies Act in 1956, which gave friendly societies the right to trade with the public at six of their premises—they were the only six in operation at that time. The present proposal will give the friendly societies the right, and permit open trading in four additional shops that have been opened since that time. The Minister mentioned there was some doubt about the legality of these shops, and whether they should have the

right to open and trade. He said it had caused him a great deal of concern. I think the action proposed now is a very fair way out. I know there is considerable difference of opinion on whether the friendly societies should be allowed to open additional shops or not.

I understand the Minister was approached back in July this year with the suggestion that the friendly societies should be allowed to open their shops on a proportionate basis, the suggestion being that they should be permitted to open one shop for every 20 shops that were opened by private chemists. I suggest that is not unreasonable, and it is something that could receive further consideration. It has been suggested that the friendly societies' shops enjoy unfair trading rights; but here again I think there could be a great deal of argument, particularly after reading some of the previous debates in this House.

As I said, the intention now is to legalise—if I might use that word—an additional four shops and allow them to trade with the public. That suggestion will require some attention in relation to the provisions of this Bill. The Bill merely sets out that they shall be allowed to trade at existing premises, and possibly at first glance this is all that is required. But we find a number of circumstances in which the shops might have to shift for a number of reasons. They may be resumed. We know that the Government is always resuming properties, and any of these shops could be affected. On the other hand, they may be damaged by fire and flood and be unusable. Under these conditions I do not think it is unreasonable to suggest that the shops now operating should be permitted to move provided they remain in the vicinity where they are at present operating.

I do not intend that they should move from one suburb to another; but if existing premises become inadequate, or if they as tenants are evicted from existing premises, I do not think they should be forced to close down altogether. In the Committee stage I will move an amendment to provide for some of these contingencies.

I mentioned that, generally, the Bill has doubled the penalties provided in the old Act. This has been the case in practically every instance, except one clause dealing with the use of automatic machines, where the penalty has been increased from £10 to £50. That may require some further consideration at a later date; but the last word on penalties is in relation to the all-embracing general penalty provisions which the Bill contains. Clause 45 relates to offences for which there is no specific penalty and the maximum penalty provided under the old Act was £10.

We now find that the Bill before us provides that the maximum of £10 shall be increased to £50 with a continuing fine of £5 a day for any days on which the

offence continues. I think that is far too steep, and I intend to try to make it a more realistic figure when we get to the Committee stage of the Bill. I feel that if we amend it to read £25 it would be far more in keeping with the spirit of the legislation; and even then it would be more than double the previous and existing figure.

I also submit that the offences for which it could be imposed would not be very serious, because practically every really serious offence is already covered in the Bill, and there are quite substantial fines provided. Apart from this, the persons concerned are always liable to be brought before the Pharmaceutical Council for disciplining purposes. I feel the general penalty clause is far too steep. It is not in keeping with the spirit of the rest of the Bill, and it will require amendment in the Committee stage.

The only other word I wish to say on this legislation is that the council will have the right to control advertising so far as chemists are concerned. In his second reading speech the Minister was rather vague on this point. I cannot pick up the exact reference at the moment, but the Minister said it was proposed to adopt the procedures now in vogue in Queensland so far as unethical advertising is concerned.

I would like to know what is considered unethical advertising. It could cover a fairly wide field, and I hope the regulations dealing with it will be reasonable. The Minister may be able to tell us the manner in which the regulations in Queensland are operating and how they are applied.

Mr. Ross Hutchinson: I am afraid I cannot give you any detail on that.

Mr. DAVIES: That is a matter for some regret. I must say that I have never noticed what I would call unethical advertising by chemists; but, of course, there may be such instances. I do not think, however, that we will revert to the old days when we had horse doctors advertising cure-alls. That was a bit before my time, I admit, and possibly these provisions are arrived at preventing this type of advertising.

Apart from the amendments I have foreshadowed, I support the Bill. As I have said, if the Pharmaceutical Council, speaking on behalf of the chemists, wants them to be licensed, I am agreeable to their being licensed. I do think the Bill will give the Pharmaceutical Council a lot more power, and I do not know whether this is entirely a good thing. As I said before, however, chemists are generally well-respected members of the community and we hope the council will use its power with discrimination. Apart from the two amendments I have foreshadowed, I support the Bill.

MR. FLETCHER (Fremantle) [5.57 p.m.]: I have a few reservations on this measure and on the one immediately following on the notice paper; and I would like to make some observations before the Minister replies. If the legislation passes in its present form it will make it impossible for the extension of dispensaries to be considered in areas not covered by a friendly society dispensary. I would mention such areas as Scarborough, Midland, Bayswater, Bassendean, Nollamara, and Osborne Park, all of which desire friendly society dispensaries to be established in their districts.

This Bill and the one following will completely tie the hands of friendly societies in their endeavours to extend into those areas. The proposal appears to restrict friendly society dispensaries to trading only in their present premises, as was mentioned by the honourable member for Victoria Park. The honourable member mentioned the prospect of fire and flood occurring; but what happens if the lease expires and it cannot be renewed? What would happen if building alterations were necessary or proposed? There are far too many restrictions in the Bill in its present form for us to accept it without question.

I was glad to hear the honourable member for Victoria Park say that he intends to move amendments to cover these aspects. As member for Fremantle I would be open to criticism by many of the satisfied customers of a friendly society pharmacy in that area if I did not do something to consolidate their position. This legislation and the measure following certainly constitute a serious blow to the friendly society movement, which has done much good over the years. The Friendly Societies Council is unhappy about these measures.

I have been informed of that unhappiness by representatives of the friendly societies in the Fremantle area. As mentioned by the honourable member for Victoria Park, there are 10 friendly society dispensaries in Western Australia and about 320 private guild chemists' shops. More private chemists are opening every month as the demand grows in new and expanding areas, and yet these Bills will curtail the prospect of friendly society shops doing the same thing.

Commonwealth legislation does not prevent the friendly societies opening shops to trade only with friendly society members; and if this Government, as was mentioned by the honourable member for Victoria Park, is a private enterprise Government it is a contradiction to see such a Government, which alleges it believes in the freedom of private enterprise, restricting competition in the manner these Bills do. As I said before, the measure will confine the friendly societies to 10 shops and permit the extension of guild shops

beyond the existing 320. That is a contradiction of this Government's avowed policy.

I am sorry for the guild chemists; and I demonstrated my attitude as recently as last year when amending legislation was brought here on this matter. I was concerned at the unfair advantage taken by all-night chemists to the detriment of the profession generally. I am sorry to see guild chemists having to become hardware stores and sell trinkets and cameras merely to compete with all-night chemists. I take that stand now; and I take a similar stand in regard to and on behalf of the friendly societies.

Since petrol, bread, and other commodities can be sold wherever a buyer exists, why cannot all pharmaceutical, guild, and friendly society chemists sell toilet requisites, including feminine facial camouflage or other adornments on an equal basis? My point is: Why the preferential treatment for the 320 to increase and the restriction on the existing 10 friendly society shops? I submit that other business undertakings do not enjoy such protection. Having in mind the protection that is granted to guild shops, will the Government's next move be to curtail land and estate agents, undertakers, bottle-ops, and greengrocers?

Mr. Ross Hutchinson: No.

Mr. FLETCHER: Will the Government do this to give preference to some of those mentioned at the expense of others? Why cannot the State have competition between guild pharmacists and friendly society pharmacists to the extent the market will stand? Other large and small businesses go out of existence because the market has become saturated, because of bad management, because of inability to carry on; or because, for some other reason, they are unable to compete. These Bills provide protection for the many at the expense of the few friendly society shops.

Mr. Ross Hutchinson: What about the many individual chemists?

Mr. FLETCHER: That is what I said: an advantage to the guild shops. That is the point I am making. As I said earlier, they are being permitted to expand, and yet the Bill will restrict the friendly societies to the existing 10 shops. We have already had takeovers in this State which have destroyed the competition that previously existed between small businesses. There have been takeovers not only under this Government but also under the Federal Government; and this is restricting trade and creating monopolies that are able to charge prices to suit themselves.

I can see some similarity to that situation. The competition is being reduced to the ratio I mentioned—320 to 10. Many of the people in my electorate prefer to pay less for the commodity and buy it

from the friendly society pharmacy rather than pay more at a guild shop—that is, pay more for the same article. I am anxious that these people should be able to continue to do so both in Fremantle and elsewhere in Western Australia if it is at all possible, just as a customer enjoys the right to purchase a cheaper, same brand of article at Freecorn's rather than from Charlie Carter's, or from Charlie Tom Corns for that matter, or *vice versa*.

That customer should be able to do the same thing as between the guild chemist and the friendly society. This Bill will ensure that competition will not continue to exist in the suburbs I mentioned, and possibly in other parts of the State. It is my concern that the Fremantle friendly society pharmacy should continue to function at its present premises or on an alternative site. As I said before, the local authority or the Government could resume the area at present occupied by that shop and, indeed, the same thing could be done in regard to other friendly society pharmacies.

The amendment suggested by the honourable member for Victoria Park would, at least, give a right to these friendly societies, if necessary, to shift across the road, or to some other site contiguous to the existing one. On this side of the House we have not the numbers to defeat the Bill and all we can hope to do is amend it in the manner suggested. As I have stated, I would consider it an injustice if the area at present occupied by the Fremantle Friendly Society Pharmacy was resumed by the Government or the local authority, and that pharmacy could not establish elsewhere in the Fremantle area.

If the lease expired, or the shop were burned down, or the Fremantle management wished to close the shop at that site and set up in, say, the new contemplated block in Fremantle, which is now in the process of replacing buildings recently bulldozed down, I think it is desirable the Fremantle society should be able to do so and still be considered as the Fremantle Friendly Society Pharmacy. It should not be closed as a consequence of having to move.

I support the Bill with some reservations and hope we will be successful in the amendments that will be moved by the honourable member for Victoria Park.

MR. CORNELL (Mt. Marshall) [6.8 p.m.]: I will be mercifully brief and will not keep the House very long. If this Bill should become an Act, its principal effect, as I see it, will be, as the two previous speakers said, to completely curtail the operations of the friendly societies beyond those functioning at the time the Bill is proclaimed.

Mr. Ross Hutchinson: The Minister said that, too.

Mr. CORNELL: The four of us agree, which is rather unusual! This, as my friends on the other side of the House have said, is a restriction of trade and is a negation of the principles of free enterprise as we know it.

However, after a preliminary gambit of this Bill, the Country Party is, for better or for worse, prepared, as far as I know, to support it; and to that extent I am prepared to go along, too. However, I would like an assurance from the Minister for Health—if the Premier were in his seat I would like an assurance from that honourable gentleman as well—that by supporting this restrictive legislation the Country Party will not, at some future time, be accused by the Liberal Party of mounting the socialist tiger.

In a litany of lies published some time ago, we were accused of doing exactly that; and if we, on the Country Party side, agree to go along with this principle of curtailing the expansion of private enterprise, I sincerely hope we will not be accused, at some future time, of saddling up and getting astride a socialist tiger.

Mr. Graham: What is wrong with that?

MR. ROSS HUTCHINSON (Cottesloe—Minister for Health) [6.10 p.m.]: I would like to thank honourable members for their contribution to the debate on this important little Bill. The measure does re-write the pharmacy laws of the State of Western Australia; and, as stated by the honourable member for Victoria Park, it arises out of the fact that new poisons legislation has been created out of the old Pharmacy and Poisons Act.

It was quite obvious to me, and I have no doubt quite obvious to other honourable members, that the honourable member for Victoria Park had indulged in a good deal of research into this Bill, into the parent Act, and into matters surrounding the limitation of friendly society dispensaries in this State. That is a matter upon which I will touch later, as it is one which can be raised in more detail, possibly, during the Committee stage of the Bill.

The main body of the Bill, of course, provides, in the main, for the good order and management by the Pharmaceutical Council of the pharmaceutical profession; and various clauses are inserted for this purpose, which have been given in some detail already by the honourable member for Victoria Park.

The honourable member raised a query regarding the registration fee and wondered just what extent the prescribed fee would reach. I am unable to inform him on this matter. Indeed, I took the opportunity of making a quick check to see whether or not the members of the profession had any fee in mind, but I was informed this has not been formulated and is a matter that will wait until the

new council is formed. It will then make its decision. It is highly proper that the council should be able to prescribe a fee for its own members; and, indeed, it probably would be unwise and improper for it at this point of time to say what the fee might be.

Mr. Davies: I thought it might have been discussed in an informal manner.

Mr. ROSS HUTCHINSON: I was informed it would probably be quite a reasonable sum and not a fabulously high sum as the honourable member might fear.

Mr. Graham: Do you think we ought to put in a maximum?

Mr. ROSS HUTCHINSON: No.

Mr. Graham: A fellow Minister insisted and you agreed in respect of another Bill of which you will be reminded later.

Mr. Tonkin: Inconsistency is nothing new to this Government.

Mr. Graham: They revel in it.

Mr. ROSS HUTCHINSON: I can say the Deputy Leader of the Opposition has been consistent in relation to the T.A.B. over the last two years.

Mr. Tonkin: Why not when they are breaking the law?

Mr. ROSS HUTCHINSON: And consistent in regard to about 100 questions up to now.

Sitting suspended from 6.15 to 7.30 p.m.

Mr. ROSS HUTCHINSON: The honourable member for Victoria Park said that he intended to seek further concessions for friendly societies, and this is a matter which can be well considered in Committee. I listened to his proposal regarding the amendment, and at this stage it seems to me to be not unreasonable; but, as I have said, it can be considered in Committee and if it does not strike counterwise across the principle I enunciated when introducing the Bill, it could possibly be accepted by the Government. We will hear more of it later.

With regard to his remarks on the necessity for a reduction of the penalties, again I will listen to what he has to say in Committee; and in the light of what develops during Committee, I will make a decision. I would like to announce that I also have a small amendment to clarify terminology in the Bill. It is an amendment which I am sure will not be controversial in any way.

I do not think that the honourable member for Fremantle fully comprehended all aspects surrounding, and the vital principle involved with, friendly society dispensaries and the pharmaceutical retail industry. This vital principle has been stated by me before, and it concerns the

fact that the retail pharmaceutical industry must be conducted by individuals, and a number of restrictions have been imposed to safeguard this principle. For instance, no doctor can run a pharmacy. It was considered that a pharmacist could conduct two pharmacies, but no more. Restrictions were placed on companies and friendly societies also.

This is a vital principle, and I think honourable members will know from the debates held in 1956 and at other times, that this principle was adopted in legislation of this kind in order to obviate any possibility whatever of chain store dispensaries or chemists' shops being opened. The idea is to retain the individual approach to pharmacy.

Mr. Davies: How many stores make a chain?

Mr. ROSS HUTCHINSON: I do not know. I might answer that question by asking how many birds make a summer or how many fine days make a spring.

Mr. Graham: More than two, I think.

Mr. ROSS HUTCHINSON: The honourable member for Fremantle stated that friendly society dispensaries—and I think he instanced the Fremantle one in particular, with its branches—were unhappy about the restrictions placed on them. Let me say that he should consult the Friendly Societies Act Amendment Bill which will be the next Bill for discussion, to ascertain what has been done and the concessions granted as a result of their requests. However, I do know, as does the honourable member for Fremantle, that the friendly society dispensaries are unhappy about this. Let me say at this juncture that the pharmacists are also most unhappy about other aspects of this solution I have endeavoured to present.

Mr. Bickerton: How is the Minister? Is he happy?

Mr. Tonkin: So the long and short of it is that you have pleased no-one.

Mr. ROSS HUTCHINSON: As a matter of fact, what the Deputy Leader of the Opposition said is largely true. In trying to arrive at a solution, I did not completely satisfy any one group. It was a decision which was not easy to make; but, taking all the facets of the problem into consideration, I feel that it is the best solution.

If we were to consult the friendly societies and the pharmacists I think we would find that they feel it is not a bad sort of compromise, although they will be aggrieved about this or that because it does not go as far as they would like it to go. However, someone has to make a decision and it has been made by the Government.

I say again that the chemists are most unhappy about the fact that open trading rights are extended to dispensaries which

were opened with grave doubt as to the legality of their opening. I would point out that some dispensaries operate not, by any manner of means, as friendly society lodge chemists; but I do not want to go further into that.

Concern has been expressed by the friendly society movement over the trends that have taken place in regard to the dispensary movement. At this stage I will say no more than that, either. Provision has been made in the Bill under which no more dispensaries will be able to open in addition to the 10 now established.

Mr. Tonkin: Is the existence of those 10 now opened guaranteed under all circumstances?

Mr. ROSS HUTCHINSON: The question asked by the Deputy Leader of the Opposition may be easily answered. Under the Bill as it now stands the future of some could be jeopardised under certain circumstances which may arise. However, I understand that the honourable member for Victoria Park has an amendment in mind which will cater for this situation; and I have already stated that I am not unsympathetic to the proposal he has foreshadowed. When he submits his amendment, if it is as I hope it will be and is not extreme, then I think the Government may be able to accept it.

I think I should say that on a number of occasions it has been pointed out to me as Minister, and to honourable members on this side of the House and on the other side of the House, that a need for a dispensary might arise here, there, and everywhere. There is really no such need.

The Commonwealth has stipulated that no reductions are to be made in the 5s. prescription fee as from April of this year. All new members must pay the 5s. It was time that the Commonwealth provided for this as far as the pharmaceutical industry is concerned and the national health scheme itself is concerned.

Mr. Davies: They can still open shops under the Commonwealth health scheme. There is nothing to prevent their doing so. The Commonwealth still allows it.

Mr. ROSS HUTCHINSON: The Commonwealth does not. The law states that these 10 dispensaries will be open and no more.

Mr. Davies: I think the Commonwealth does.

Mr. ROSS HUTCHINSON: I would point out to the honourable member for Victoria Park that for many years an agreement has existed between the friendly society lodge movement, and the Pharmaceutical Council, to the effect that where no dispensaries are established, arrangements might be made whereby the concessions which are granted by dispensaries may be obtained from the family chemist. This can be invoked at any time

and the principle of pharmacy can be held under an arrangement like that. What more can be offered?

Mr. Davies: I think it is more in theory than in practice.

Mr. ROSS HUTCHINSON: It only remains to be put into practice. It used to operate quite freely and still does in certain cases.

The honourable member for Mt. Marshall in his brief speech on this measure asked for an assurance from me or the Premier to the effect that as we are sponsoring such legislation as this, I will not in future accuse the Country Party of riding the socialist tiger. I freely give this assurance, and I feel sure he will accept it.

Mr. Jamieson: One ride on the tiger is enough, is it?

Mr. ROSS HUTCHINSON: I would like to ask for an assurance in return. I would like to ask him if he will give an assurance that while he is balefully considering such creatures as socialist tigers, he will not tilt at windmills in the coalition political jungle.

Mr. Kelly: How poetic!

Mr. W. Hegney: You admit you are in a jungle.

Mr. ROSS HUTCHINSON: Certain matters were raised about socialism and private enterprise, and certain members have fairly mixed views judging by the remarks they made. Some seemed to feel that this legislation was sponsoring socialism in some form. I cannot see that in any degree.

An honourable member interjected.

Mr. ROSS HUTCHINSON: The honourable member interjects that this is more or less a statement of criticism of government control in regard to these things. Heavens above! There is government control in every industry in this fair country of ours. Control is not surprising. We live in a social welfare country under conditions where steps have been taken to help industry and professions to order their affairs, and where legislation has been introduced to assist chiropractors and all sorts of professions. Government engages in, and endeavours to control, various activities.

Mr. Tonkin: There is one thing the Government does not endeavour to control—prices.

Mr. ROSS HUTCHINSON: I thought the Deputy Leader of the Opposition was going to say the T.A.B.

Mr. Tonkin: This jumping to conclusions is a dreadful pitfall.

Mr. ROSS HUTCHINSON: If honourable members want to talk about socialism and private industry, I might mention

that there is a widow who is a chemist and runs a chemist's shop in Willagee. She pioneered the chemist trade of that area and gave a pharmaceutical service to the people there. Later the Fremantle Friendly Societies Pharmacy established a general dispensary there and cut her business to the bone. How do honourable members line that up with private enterprise?

I do not think there is any need for a full description of all sorts of attitudes and actions taken by some dispensaries that I have in mind. But I would like to say that the demand for dispensaries is really not present. However, it can be created artificially. I point out—this may be given consideration by the House—that the number of members of friendly society lodges has dropped from 25,000 some 10 or 12 years ago to about 17,000 at present. There are a number of contributory reasons for that drop. I shall not go into them now, but will just point that out for the information of the House.

I think any other subjects which might be discussed would be more properly dealt with at the Committee stage.

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committees (Mr. I. W. Manning) in the Chair; Mr. Ross Hutchinson (Minister for Health) in charge of the Bill.

Clauses 1 to 4 put and passed.

Clause 5: Interpretation—

Mr. ROSS HUTCHINSON: I wish to move to insert the subclause designation "(1)" at the beginning of the clause, and then to add a second subclause at the end of the clause. My proposed subclause may seem to be unnecessary verbiage, but on a late reading of the Bill it was realised that mention was made in various parts of it to "friendly society dispensary" and "business or trade ordinarily carried out by a chemist or druggist." These references might be construed as intending some differentiation between a friendly society dispensary and the business normally carried out by a chemist or druggist. I therefore move an amendment—

Page 2, line 29—Insert after the clause number "5" the subclause designation "(1)".

Mr. DAVIES: I gather from the Minister's remarks it was always intended that the legislation should apply to a friendly society dispensary, and the amendment will merely make clear that it is so provided.

Mr. Ross Hutchinson: That is so.

Amendment put and passed.

Mr. ROSS HUTCHINSON: I move an amendment—

Page 4, line 3—Insert the following new subclause:—

(2) In this Act the business of a chemist and druggist includes, in relation to a Friendly Society, a dispensary for the purpose of dispensing medicines.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 6: Pharmaceutical Society established—

Mr. GRAHAM: I want to assure myself that I have read aright and that the Government is now changing its attitude on the policy of compulsory unionism; because portion of the clause says—

Every pharmaceutical chemist shall be a member of the Pharmaceutical Society of Western Australia.

Is it the intention of the Minister that these people shall be compelled to belong to an organisation? Can this be construed as a change of heart on the part of the Government?

Mr. ROSS HUTCHINSON: This—

Mr. Tonkin: This will want to be good.

Mr. ROSS HUTCHINSON:—may not be construed as the honourable member suggests. I understand this provision means that one must be an M.P.S.—a member of the Pharmaceutical Society.

Clause put and passed.

Clause 7: Constitution of Council—

Mr. GRAHAM: I point out to the Committee the inconsistencies of this Government. Several weeks ago we were considering a Bill, and I indicated it was proposed to set up a board or a council on which those to be controlled would be represented either in the great majority, or entirely, by those whom they appointed; that is to say, one group. Here it is proposed that there shall be a pharmaceutical council which shall consist of seven members every one of whom shall be appointed by the pharmacists themselves.

I am not necessarily disagreeing with this. I am addressing myself particularly to the Minister for Works in respect of a Bill that I have amended, or sought to have amended, practically every year for the past four or five years, and the Minister has adopted the policy, apparently in contradistinction to that of the balance of the members of the Government, that the people to be registered, or the council to be set up, should comprise a minority of those to be registered; and that is the only such example in Western Australia that I have been able to find.

I dare say that even the Minister for Health, in the next few days, will be voting against my proposition to ensure that people who are registered shall have representation in a minority. How comes

it then that this same Government, and its supporters, who will vote against me no doubt as they have done on all previous occasions, will vote to a man in favour of the proposition that one section only shall be represented?

If there is any merit in the attitude adopted by the Government on previous occasions, then surely we should have specified in the Bill that there shall be a president of the council who shall be a certain officer—the Commissioner of Public Health; and that among the remaining six members there shall be a couple of medical practitioners; and there shall be two representatives of the wholesale drug manufacturers, or whatever their appropriate title may be. In other words, bestow a few favours all around the place as this Government did in this Chamber and in another Chamber on another Bill.

Therefore, is the policy of the Government to be that there shall be an attitude of class distinction; that where people are members of a profession they shall be granted something—about which I am not necessarily complaining—but where there are groups of other people who are members of a trade it is considered that they are second class and, accordingly, should not be in charge of their own affairs? I have indicated on previous occasions that the Government will support something today and oppose it tomorrow.

Mr. W. Hegney: Like the bank holidays' legislation.

Mr. GRAHAM: Yes; and the Native Welfare Act.

The CHAIRMAN (Mr. I. W. Manning): I suggest to the honourable member that he should return to the clause.

Mr. GRAHAM: If I started to give examples I could go on forever. The Government should show some responsibility in these matters. If it is right as a principle that the council, for its purpose, should conform with certain ethics and standards and should comprise, exclusively, those who are pharmaceutical chemists, why should not the same principle apply to other types of persons, whether they be members of a profession or a trade in which they have qualified, so that they are able to manage their own affairs, instead of imposing upon them people from other walks of life who make no contribution whatsoever and play no direct part in their trade or profession other than by interfering in the affairs of other people?

Mr. Ross Hutchinson: You think the Government has been reprehensible in introducing this provision?

Mr. GRAHAM: I think the Government has been reprehensible in adopting the attitude it has in other matters, and then adopting an entirely different attitude when introducing this Bill. Furthermore, not only is imposed upon the members of

a trade the indignity of which I have spoken, but they are told who their chairman shall be. In this Bill, however, the pharmaceutical chemists are given the right to appoint their own chairman, which is quite proper. The registrar and the officials can, similarly, be appointed by the pharmaceutical chemists themselves, which again is proper; but it is equally improper on the part of the Government to adopt the principle it has in regard to the question to which I have referred, which is entirely different from the principle as adopted in this Bill.

I am wondering whether the Government is picking favourites under this legislation, or is prejudiced against other people in other legislation; or as is contained in the Bill before us, the new policy of the Government shall be that, whenever a board or a registered authority is to be constituted to protect the public and to set ethical standards among certain people, the policy followed in this Bill shall be the rule hereafter.

Mr. ROSS HUTCHINSON: The honourable member for Balcatta was quite refreshing in the way he spoke about the purest principles, and in wondering whether the Government was altering its views and policies on the appointment of boards, commissions, and the like. The answer is simple, and the Government is not inconsistent, as he tries to point out to the Committee. Perhaps I should say that, if there is any inconsistency, the Government has been as consistent as the Labor Government has over many years in the past.

Mr. Graham: You are so wrong.

The CHAIRMAN (Mr. I. W. Manning): The Minister must discuss the clause.

Mr. Graham: That is what he is trying to avoid doing.

Mr. ROSS HUTCHINSON: Thank you, Mr. Chairman. I bow to your ruling and will speak to the clause. I think we must look at the history of this matter and realise that this is a new piece of legislation arising out of the old wreck of the Pharmacy and Poisons Act, Compilation Act, under which parent Act was constituted the Pharmaceutical Council. It had a longer title than that, but it was formed in the same way as the one proposed in the Bill is to be constituted.

That was the position that existed for many years, and the Act has been administered by Ministers for Health over quite a long period, even by Ministers in Labor governments. What is more, the Pharmaceutical Council had a greater responsibility than that which the council is entrusted with at present. I might point out that on the two occasions when I introduced legislation relating to poisons I made warm reference, in my reply, to the work this council has done, and this reference is justified.

Mr. Graham: No-one is denying that.

Mr. ROSS HUTCHINSON: The council has carried out this work in the field of poisons as it has done in the past with, perhaps, some changes in membership. How ungrateful it would be, at this point of time, to alter the composition of the council when governments of all colours in the past have entrusted it with this responsibility! If there is any inconsistency on the part of the Government—and I doubt if there is—it is equally shared by the government of which the honourable member for Balcatta was a Minister some years ago. Therefore this was a situation that was suffered silently by him at that time.

Mr. GRAHAM: I hasten to assure the Minister for Health that he is completely on the wrong foot. There is no complaint about the fact that pharmaceutical chemists will, in the future, have the right—as they have done in the past—to manage their own affairs. I was drawing attention to the fact that the Government will not allow another group of people to manage its own affairs. It is my intention, when we are dealing with another Bill in the future, to remind Ministers of the existing pleasantries. I was tempted to draw attention to the gross inconsistencies of this Government.

The CHAIRMAN (I. W. Manning): The honourable member must relate his remarks to the clause.

Mr. GRAHAM: That is precisely what I am doing. I am saying that I agree with what is contained in this clause.

Mr. W. A. Manning: It doesn't sound like it.

Mr. GRAHAM: The member for Narrogin would not know. He is not happy unless he is running around with a fire-stick in State forests, or irritating the natives.

The CHAIRMAN (I. W. Manning): Order!

Mr. GRAHAM: I welcome this Bill as a breath of fresh air in that the Government has at least shown some sense, and I hope it will be consistent in its attitude. That is the point I am endeavouring to make. I was hoping the Minister would say—as indeed he has said in part—that this is the principle which the Government intends to follow in the future. If that is the case, I will be able to call the memory of the Minister for Health back to what is said by the Minister for Works at some time in the future. As I have already indicated, he will be reminded of this debate at the appropriate time.

Clause put and passed.

Clauses 8 to 13 put and passed.

Clause 14: Meetings of the Council—

Mr. W. HEGNEY: I move an amendment—

Page 7—Delete all words after the word "vote," in line 25 down to and including the word "vote," in line 28.

Any Minister who introduces a Bill which has for one of its objects the conduct and control of meetings should not include a provision for plurality of voting. Last year this Parliament decided to abolish plural voting for the Legislative Council. For 70 or 80 years, up to that time, a person could exercise 10 votes—one in each province. However, as I have said, that principle does not now apply. No citizen of this State will now have more than one vote on an election for either House of the Western Australian Parliament. During this session Bills have been introduced which included the provision that the chairman should have a deliberative and a casting vote. Nobody in the community will have two votes, as far as I am concerned; he will have one vote only—either a deliberative or a casting vote, but not both.

If the Minister makes a check he will find that other Ministers have introduced Bills and have accepted amendments setting aside the provision of two votes for any individual. One such Bill was, I think, introduced by the Minister for Works. That measure provided that the chairman should have a deliberative and a casting vote, but an amendment was successfully moved to provide that the chairman should have only one vote. All questions should be decided by a majority of votes, and if there is an equality of votes the question should be resolved in the negative.

Mr. ROSS HUTCHINSON: I happen to be the Minister who changed legislation which I introduced to give effect to a similar amendment earlier this session. I would point out that a great part of this Bill is taken from the Pharmacy and Poisons Act, which contains a provision similar to the one to which the honourable member for Mt. Hawthorn objects. If he feels that this profession cannot conduct the business of its council with the president having more than one vote, then I am prepared to accede to his request.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 15 to 21 put and passed.

Clause 22: Registration of pharmaceutical chemists—

Mr. GRAHAM: I refer to subclause (2), which states that a person may, upon payment of the prescribed fee, obtain from the council a certificate that he has been duly registered as a pharmaceutical chemist. The Minister indicated that the fee would be a reasonable one; but in my view Parliament is entitled to know more specifically

the amount that is intended, as was done in other measures which were dealt with by this Parliament when the fee was prescribed at a figure not exceeding a certain amount. I hesitate to suggest a figure; although I have one in mind. I am prepared to be guided by the Minister.

Eleven years ago one of the first Bills to be introduced by the Hawke Labor Government provided for the fixing of a charge. The then Minister for Police took exception to moves which were made to impose a maximum. That was a charge related to the registration of firearms. On that occasion about three-quarters of the rank and file members of the then Government voted with the Opposition, and that enabled Parliament to prescribe a maximum. Parliament was not prepared to agree to a blank cheque being given.

As in the case of other comparable Bills, Parliament should provide some protection. Admittedly these people who are concerned are professional men with a sense of responsibility, but circumstances could arise under which the governing body of the profession could seek to impose a set of fees that were completely unreasonable. My idea is a maximum of 27 7s. per annum. That might be an excessive figure, and a far lesser one might suffice.

Mr. ROSS HUTCHINSON: I cannot agree to the fixing of a ceiling on the fee that might be charged by the pharmaceutical council.

Mr. Tonkin: Is that because your Government does not believe in price control generally?

Mr. ROSS HUTCHINSON: No; it is not. This profession should be given the responsibility for prescribing the fee as the circumstances demand. I said during the second reading that I had consulted leading members of the pharmaceutical profession, who indicated that they could not say what would be the prescribed fee, but it would not be a large one. I am prepared to believe that.

When the honourable member for Balcatta talks in terms of a blank cheque being given it seems to indicate all sorts of possibilities. Surely this Committee should not subscribe to the view that the councillors of the pharmaceutical profession will impose excessive fees on their own members and on themselves. This is a highly ethical organisation, and there is no necessity for a maximum fee.

Mr. GRAHAM: I was endeavouring to be co-operative. I have no alternative but to move an amendment—

Page 13, line 37—Insert after the word "fee" the words "which shall not exceed seven pounds seven shillings." I have already indicated that I am prepared to be guided by the Minister on what should be the maximum amount, because he has available his advisers and

records. I consider it wrong to pass legislation under which a board is to be permitted to charge its members or intending members certain fees, without Parliament expressing its views.

To illustrate the principle which has been followed by this Government, in respect of another measure which was passed in this House, the Minister speaking on behalf of the Government placed an amendment on the notice paper that the annual fee, which was set out at £10 10s. so as to allow for a discretion to be exercised, should be prescribed at £2 2s. The Leader of the Opposition in another place was responsible for the present figure of £7 7s. being inserted in that legislation some three years ago. No protests were made at the time by the Minister for Health or any other honourable member opposite.

Mr. Ross Hutchinson: You do not prove anything one way or the other by referring to that case.

Mr. GRAHAM: If it was necessary on that occasion it is necessary now.

Mr. Ross Hutchinson: That does not necessarily follow.

Mr. GRAHAM: Where Parliament gives power to a body to impose fees for the lodging of applications, for becoming registered as members, and for sitting at special examinations, etc., it is wrong to leave the fixing of the fees entirely to the discretion of that body. The Minister could confer with the people concerned to obtain their views on the maximum fee. I would be agreeable to a degree of tolerance to allow for some figure beyond £10 10s. which might be necessary under certain circumstances.

It is not unnatural for us to feel there is a tendency on the part of some registration boards, in their desire to restrict the membership of the trade or profession, to make it as difficult as possible for others to be accepted. One way to achieve that is by charging unreasonable fees for the lodging of applications, and for annual registration. In this profession many of the people seeking to join would be about 21 years of age, who had just completed their apprenticeship.

Mr. Ross Hutchinson: Is there any possible chance of that happening?

Mr. GRAHAM: No more than in the case to which I have alluded on several occasions this evening.

Mr. Ross Hutchinson: Do you think members of this profession would do that?

Mr. GRAHAM: No more than the Minister and his colleagues thought that the members of another profession were likely to do it. The prescription of a maximum was accepted as a principle, and the Government used its majority in this Parliament to insist on the fixing of a ceiling. This Government made that policy,

not I or members of the Opposition. If an honourable member feels that £7 7s. is not sufficient, he can move for an additional amount; but I suggest that £7 7s. is more than sufficient, and a fee of from £3 3s. to £5 5s. might be better.

Mr. Ross Hutchinson: What Bill were you talking about when you referred to something that I had said?

Mr. GRAHAM: Not what the Minister said. He supported the vote—the numbers.

Mr. Ross Hutchinson: What Bill?

Mr. GRAHAM: The Painters' Registration Bill.

Mr. Ross Hutchinson: Who put in the registration fee?

Mr. GRAHAM: I introduced a fee of £10 10s. initially for the reason which I indicated earlier. Members of the present Government were not prepared to accept this extraordinarily large figure and the Minister for Works placed on the notice paper an amendment reducing the figure to £2 2s. per annum.

Mr. Ross Hutchinson: That is entirely different from the picture you conveyed at first.

The CHAIRMAN (Mr. I. W. Manning): Order! The honourable member for Balcatta should address the Chair.

Mr. GRAHAM: There is in that Statute a maximum fee which can be prescribed for registration, for application, and so on. The figures which appear in that legislation are those which were placed there by this Government which, at the time, had a majority in both Houses. The Government now feels, through the Minister, that it is wrong in principle for Parliament to impose a ceiling. If that were the case, why did not the Minister for Works, on behalf of the Government, move to delete any ceiling? The principle has been accepted by this Parliament and the majority of Liberal and Country Party members.

I am trying to ensure there will not be this contradiction: a concept for one group of people engaged in certain operations or undertakings and an entirely different set of principles applying to another. The points I am raising will be most interesting in a debate which will take place some time later.

Mr. JAMIESON: I support the amendment because it is an important principle. We fix a ceiling in much of our legislation. One cannot imagine the rules of a trade union being registered before the Industrial Commission without a ceiling for admission being set. Once a person is qualified for registration, he should not be prohibited from being registered. I draw the Minister's attention to the provision in the Pharmacy and Poisons Act which the clause in this Bill supersedes.

The ceiling laid down there is 21s. I refer the Minister to subsection (2) of section 16.

It is desirable that Parliament should fix a maximum so that no-one will be unfairly treated. If the Minister leaves it open, he will leave it open to abuse. Abuse might not occur, but we are often mean persons when it comes to self-interest. That is possibly why our arbitration system requires a maximum placed on admission fees. I hope the Minister will give further consideration to fixing a ceiling.

Mr. ROSS HUTCHINSON: I still contend there is no necessity to put a ceiling on the fee. With the passage of time changes in legislation are necessary, and it is not always easy to make those changes. Most honourable members will appreciate that to have legislation passed through Parliament is not an easy matter. Honourable members are often asked to introduce changes to legislation, but many steps have to be taken before Bills reach this House. I have said to people that I did not think it necessary to introduce certain changes, but when the necessity arose changes would be incorporated. I am sure the same thing has occurred with other honourable members.

This could apply to the Pharmacy and Poisons Act, and there is now a need to change the license fee imposed by the profession of pharmacy. Some organisations and some trades might want a ceiling. If that is so, then let us put a ceiling into the relevant Bill. This particular profession does not want such a provision.

Mr. Bickerton: Do they have any objection to a ceiling?

Mr. Jamieson: Did they object to the old ceiling?

Mr. ROSS HUTCHINSON: Yes. They do not want a ceiling because it will make it easier for them to prescribe a change when it is necessary in the passage of time or through force of circumstance. If we adopted the policy that there should be a ceiling on all fees, there would be a chaotic situation. We would have to consider a limit for fees in connection with friendly societies, or for any trade or profession.

The honourable member for Balcatta said that Parliament had formulated a policy in regard to this matter; that it had established a principle that there must be a ceiling. I cannot agree with him, and I doubt whether he was sincere in saying that. The honourable member introduced a private member's Bill in which he himself placed a ceiling of £10 10s. This is completely different from Parliament determining a policy. The Minister for Works decided to reduce the figure and it was eventually resolved at £7 7s. I do not think the honourable member was

serious when he said that Parliament had formulated a policy. I do not see any necessity for the amendment.

Mr. Jamieson: Is it intended that the fee shall be an annual fee or an initial fee?

Mr. ROSS HUTCHINSON: It will be an annual fee.

Mr. JAMIESON: But the Bill will give power for an initial fee to be charged, will it not?

Mr. Ross Hutchinson: How do you arrive at that conclusion?

Mr. JAMIESON: A person who is registered as a pharmaceutical chemist under this Act may, upon payment of a prescribed fee, obtain a certificate from the council. He will receive an initial certificate, which is a different thing from a re-zurring certificate.

Mr. Ross Hutchinson: This refers to the singular.

Mr. JAMIESON: But it does give that impression. The prescribed fee is not set out in the third schedule and two fees could be prescribed: one for initial entry and one for the annual subscription to the registration body.

Mr. Ross Hutchinson: No; a single fee.

Mr. JAMIESON: If the Minister is sure that the fee which can be charged is only the annual fee a lot of the argument might be dispensed with, particularly in regard to establishing a ceiling; because it would be unreasonable to assume that any society would increase its fees to such a degree that it would be able to keep anybody else out. I think it is vital that this information be obtained.

Mr. Ross Hutchinson: If you read it you will see that this is in the singular.

Mr. JAMIESON: But it is also in the singular in regard to the original certificate. The regulations may set a separate fee for both sets of circumstances. They may say that the initial fee shall be so much, as is often done with other societies and organisations, but from then on the annual fee shall be such an amount as shall be set from time to time.

Mr. GRAHAM: I wonder if I could submit a compromise to the Minister. If I withdraw my amendment would he agree, in clause 24 and subsequently in a later clause by a consequential amendment, to allow the inclusion of the words "approved by the Minister" after the word "fee"? That would mean Parliament would not be stipulating a ceiling; but if the Pharmaceutical Council wanted to vary the fee it would have to receive approval from the Minister for Health before it could become operative. I would like to hear the Minister on that point.

Mr. ROSS HUTCHINSON: No; I cannot agree to this proposition either. I do not think the Minister should be in the

position of having to approve various fees. I think this should be handled by the profession itself.

Mr. W. HEGNEY: As I interpret the relevant clause and the provision to make regulations, it appears that the Minister, or the Governor-in-Council, will be obliged to make regulations in regard to fees. Who will prescribe the fee?

Dr. Henn: The council.

Mr. W. HEGNEY: It will not prescribe the fee, because the Governor will prescribe it. If honourable members turn to another clause in the Bill they will see the following:

Without limiting the generality of the powers conferred by subsection (1) of this section, the Governor may make regulations for or with respect to all or any of the following matters:—

And then certain matters are enumerated including the following:—

Prescribing the forms to be used for the purposes of this Act, and the fees to be charged and paid in respect of any application, registration, certificate or other proceeding, act or thing provided or required under this Act.

Mr. W. A. Manning: Then it is already in there.

Mr. W. HEGNEY: I suggest the Minister will initiate or have the regulations drafted for the approval of the Governor, and in those regulations certain fees will be prescribed. They will be prescribed by the Minister through the Governor, and not by the Pharmaceutical Council. All the honourable member for Balcatta is trying to do is to ensure that in the promulgation of the regulations a maximum fee will be prescribed.

Mr. ROSS HUTCHINSON: The honourable member for Mt. Hawthorn has pointed out that the situation so far as the Minister is concerned is already covered. I have been informed that the initial fee is now £3 3s., and it has been so for a long period of time. As time goes on it may be necessary to alter this figure.

Mr. Jamieson: How did you get over the proviso in the other Act?

Mr. ROSS HUTCHINSON: That was an annual fee.

Mr. Jamieson: It does not say so.

Mr. ROSS HUTCHINSON: I have had a consultation with the executive concerned and I think the Committee need have no fears about the position. Therefore I suggest we leave the Bill as it is.

Mr. GRAHAM: I want to pay a tribute to my distinguished colleague for drawing our attention to clause 47.

Mr. Ross Hutchinson: I said he was a very helpful member.

Mr. GRAHAM: The position is that the clause goes even further than was mentioned by the honourable member for Mt. Hawthorn, because it says—

The Governor, either with or without the recommendation of the council, may make regulations prescribing all matters that by this Act are required or permitted to be prescribed . . .

and fees are one of the items to be prescribed.

Mr. Bovell: Then what are you arguing about?

Mr. GRAHAM: Might I point out to the Minister for Lands that the Minister who introduced the Bill has advisers and parties with whom he discusses the legislation; and surely, of all people, he should be familiar with all aspects of the legislation he is introducing! Obviously he was not, and a private member had to draw attention to it. In view of the circumstances I ask leave to withdraw my amendment.

Amendment, by leave, withdrawn.

Clause put and passed.

Clause 23: Pharmacies to be registered—

Mr. JAMIESON: I would like the Minister to give some thought to this clause, and I draw his attention to subclause (3) at the top of page 15. This deals with the registration of pharmacies as distinct from pharmacists. As far as I can see, the Bill does not indicate that the registration of a pharmacist ever expires; but the registration of a pharmacy expires on the 30th day of June next following the date of registration. It seems strange, if annual fees are to be applied to both pharmacists and pharmacies, that some terminating date was not placed in the legislation in regard to the registration of pharmacists. I think there should be something in the legislation to cover that aspect.

Mr. ROSS HUTCHINSON: I would say it would be under the prescription of annual license fees in clause 47. Steps could be taken under that clause to cancel the registration of a pharmacist if it were necessary for any reason.

Clause put and passed.

Clause 24 to 27 put and passed.

Clause 28: Limitation as to places of business—

Mr. GRAHAM: This is the clause which says that a pharmaceutical chemist shall not practise or carry on business in more than two pharmacies concurrently. I understand this figure of two was inserted originally because of the circumstance that is already in existence, and it would have been unjust to restrict it to one. The Minister earlier spoke to us of the desirability of a personal relationship between the chemist and the

public whom he served. I wonder at the necessity for allowing a chemist to run two shops. There must be something in it.

Mr. ROSS HUTCHINSON: I find it difficult to reply to the honourable member about this. It is put in to avoid a situation whereby chain store pharmacies could develop. It did so happen that there were individuals who had two shops and that being so, it was allowed to continue.

Mr. JAMIESON: I think it is desirable to have this in the Act. If the Minister recalls, in 1957 there was a move by one of the English drug firms to enter a chain store. Some people have pharmacies fairly close to one another which can be superintended. We know enough about one-brand systems not to want one-brand chemists' shops. Pharmacies in Great Britain have established a complete chain with their proprietary lines and charge what they like.

Clause put and passed.

Clauses 29 to 31 put and passed.

Clause 32: Council may inquire into conduct of chemists—

Mr. GRAHAM: I would ask the Minister to follow me closely with regard to this, because I see possibilities of rigid control and excesses. Paragraph (b) deals with the breach of regulations relating to advertising by pharmaceutical chemists, and certain penalties may be imposed. I cannot see anything wrong with a chemist advertising, because if the Minister is concerned about unethical advertising surely that is covered by paragraph (a) of the clause.

I am aware of the action which is sought to be taken, and no doubt approaches have been made to the present Minister for Health in regard to at least one dentist in Perth who adopts a certain procedure to get more business into his surgery. Approaches have been made to governments over the years, but the moves have not succeeded. There is nothing wrong with good, healthy advertising, though we would not want a chemist to encourage people to take potions of one sort or another.

We have seen full-page advertisements announcing cough remedies or new patent medicines of one sort or another. It is possible there are some pharmaceutical chemists who want to see advertising reduced to a minimum because it suits their type of business.

Mr. Ross Hutchinson: It is all the same type of business.

Mr. GRAHAM: But business in different localities with different clientele is a totally different matter. I am concerned because a pharmaceutical chemist may advertise in good faith, and incur the displeasure of the council, which has the

power to erase his name from the register. This is provided for in clause 34. So a chemist who has rendered no disservice to the public, but who has offended against the council because it does not like his advertisements, has his name erased from the register and cannot serve an APC or anything else. He cannot even operate a till in the pharmacy because it is in the place of business from which his name was erased. It could mean that a pharmacist in Boans could not sell shirts or groceries, because they were in the premises and business where his name was erased, and his name would have been in respect of those particular premises.

I do not seek to reduce the power to discipline pharmaceutical chemists who breach ethical standards that may be required; but this has nothing to do with the treatment of the public and the preparation of medicines. Because I think paragraph (a) enables the council to take action for improper conduct, I move an amendment—

Page 19, lines 19 to 21—Delete paragraph (b).

Mr. JAMIESON: I cannot agree with the amendment unless more information is given. Only a few nights ago the Leader of the Opposition mentioned the number of pills being taken by hypochondriacs, and the drive by some people to sell pills regardless of what it meant to the public. The ethics of this can be doubted very much. In one of our weekend newspapers there was a bold advertisement saying that pills could be obtained by post, and indicating where they could be obtained. As a matter of fact, I think the pharmacist was a member of the Liberal Party. I will leave honourable members to guess the type of pills that would be advertised.

Mr. Bovell: They would be most palatable.

Mr. JAMIESON: It does seem a little unusual to advertise that pills are available by post.

Mr. Evans: They would constitute some sort of control.

Mr. JAMIESON: I think power should be given to cover what could be termed unethical advertising, particularly in relation to drugs, which I think should be prescribed by doctors; or the person should at least have to approach a pharmacist, and mention his complaint before being given something. Accordingly, I think it is desirable to control this sort of thing.

Mr. O'CONNOR: I also oppose the amendment. I think the honourable member for Balcatta's fears are groundless, because clause 47 gives the Governor power to regulate the registration and deregistration of pharmaceutical chemists. I think this should allay his concern.

Mr. GRAHAM: The difference in outlook is not as wide as has been suggested. Nobody with any sense of responsibility

would agree with extravagant advertising, particularly of the type I mentioned when opening my remarks, in relation to drugs or anything that would be harmful to the public. It could be as a matter of policy that pharmaceutical chemists in the same way as medical practitioners have virtually a complete ban on advertising, but we still have chemists advertising themselves as family chemists with businesses in various suburbs. That does not occur in respect of medical practitioners. If the Pharmaceutical Council develops the same line of thought it means the family chemist will be denied the right of advertising, because if he commits a breach his name can be erased from the register, which means he cannot be employed in any capacity whatever in the business from which his name has been erased.

Because one agrees that pilfering should be discouraged and that those who offend should be punished, it does not mean we should give a penalty of life imprisonment in solitary confinement. Surely there is a much lesser penalty to meet the circumstances. In respect of this, I want to preserve the right of the pharmaceutical chemists to do the harmless advertising which 90 per cent. of them do and which may be interfered with by a decision of the Pharmaceutical Council. One who has gone about his business in a manner to which he has been accustomed over the years can have a sledge hammer on the back of his neck. In other words, he can be erased for life and be permitted no longer to carry on his line of business. I think that is going to excess.

Mr. O'Connor: If this were done unfairly, wouldn't the Minister have authority to intervene?

Mr. GRAHAM: Frankly, having regard to the piles of regulations thrown on the Table of this House and which pass without being inspected by a single member of Parliament, it is extraordinary what can get through.

If you will permit me, Mr. Chairman, to digress, the Minister for Education introduced a Bill to enable something to be done that has been done by regulation since 1959 in complete contravention to the Act of Parliament which was passed in 1958. That, of course, is a reflection upon members of Parliament. Why? Because regulations by the dozen are tabled, and it is beyond the physical capabilities of members to peruse all of them. They are there and they are just as much law as if they were embodied in the Statute. All I want is proper protection. However, if I am unable to convince some of those on this side of the House, what prospect have I of getting a convert on the other side?

Mr. ROSS HUTCHINSON: Under these circumstances it is probably foolish of me to say anything, but I think I should do so. The honourable member for Balcatta is enjoying a little debate this evening,

but I am trying to get on with the job. I do not think the situation raised is one that should concern the honourable member. Indeed, it is one he should support. I was happy to hear the remarks of another member of the Opposition in regard to the necessity for strict control in this matter of the drug trade and the selling of pills, potions, and the like.

Mr. Graham: But it is not restricted to that. That is the trouble.

Mr. ROSS HUTCHINSON: The honourable member for Balcatta is speaking in extremes, and was very unfair when he quoted paragraph (b) of clause 32 and then went over to page 20 and said that this is what would happen. The honourable member said a chemist could have his name struck from the register; but if one reads the whole of the clause and the rest of the Bill, one will see there is a whole list of alternatives for the council to take in regard to these matters.

At the outset of his speech the honourable member spoke about responsibility. Surely we can give some responsibility to the group controlling this profession! Regulations will be prescribed for the purpose of advertising; and if any really bad regulations are drawn up, they will not be hidden under a pile of manuscripts on the Table of the House. The honourable member will know from some of the chemists about the place. So there is no need for this debate to continue on these lines.

Amendment put and negatived.

Mr. W. HEGNEY: I wish to speak about subclause (2) on page 20. The Bill makes provision for the Governor to promulgate certain regulations, and one is for regulating the registration and deregistration of pharmaceutical chemists, and so forth, including the cancellation and suspension of licenses by the council.

The subclause on page 20 enumerates five penalties, every one of which can be inflicted. If the council can censure a pharmaceutical chemist there is no need to fine him £20, in addition to his paying the costs and expenses of an inquiry. In addition, he can be required by the council to give an undertaking which it considers just.

The council should have the right to impose some penalty, but it should be on an alternative basis. The Minister may say that the council in its wisdom would not impose the five penalties, or even three of them; but the provision is in the Bill. I move an amendment—

Page 20, line 5—Delete the words "or more."

Mr. ROSS HUTCHINSON: I do not think the Committee can agree to this amendment. One of the things on the previous page—they have been read out—may happen and the council may want to order the pharmaceutical chemist to

pay costs and expenses of an inquiry conducted by the council; and it may also require the pharmaceutical chemist to give such an undertaking as the council considers just.

Mr. W. Hegney: And censure him and suspend him for 12 months.

Mr. ROSS HUTCHINSON: That is so.

Mr. W. Hegney: And fine him.

Mr. ROSS HUTCHINSON: I have tried to prove it is within the realms of possibility and probability that the council may want to use two, or perhaps three, of these provisions. I cannot see anything wrong with this subclause and I oppose the amendment.

Mr. HAWKE: There is some merit in the amendment moved by the honourable member for Mt. Hawthorn, and I would be inclined to go some of the way with him except for the fact that in subclause (4) of the clause there is provision for an appeal to be made by an aggrieved person to a magistrate. I think this provision is the one that is effective. I think it is really the answer to the argument put forward by the honourable member for Mt. Hawthorn; and in view of that I think the particular part of the clause which the honourable member for Mt. Hawthorn has sought to amend could quite reasonably remain as printed in the Bill.

Amendment put and negatived.

Clause put and passed.

Clause 33 put and passed.

Clause 34: Restriction on employment of person whose name is erased from register—

Mr. GRAHAM: Frankly, I shudder at the words, "in any capacity" as appearing in the middle of this clause. If a pharmaceutical chemist has been careless or negligent in preparing medicaments from prescriptions perhaps, having regard to the serious complications, it could be proper for his name to be erased and that he should not be permitted any longer to practise as a chemist. However, it is unfair to lay it down in the law that no-one shall employ a person whose name is erased from the register in any capacity in the business or at the pharmacy where the person has carried on business or was employed. For instance, he may be employed as a bookkeeper.

Mr. W. Hegney: He could be employed as a cleaner.

Mr. GRAHAM: Yes. I think it is going too far. Unfortunately, I am not able to suggest to the Minister any appropriate verbiage. I am with the Minister in the objective that a person who has betrayed his profession and cannot be trusted should not be given an opportunity of engaging further in his perhaps nefarious practices; but by the same token I do not think he should be completely denied employment

in the business provided he is kept away from dispensing and can do no damage to the public.

I would like the Minister to give an assurance that he will discuss the matter with his departmental officers to see if my proposal can be adopted. It could be taken care of in another place and that would satisfy me.

Mr. ROSS HUTCHINSON: I will discuss this with the officers in my department to see if any alteration is necessary. However, I very much doubt whether I will be advised that a change should be made.

Mr. Graham: Why?

Mr. ROSS HUTCHINSON: The erasure of the name of the chemist from the register would be for a serious offence, and could include the taking of drugs. This has happened. The person concerned could become an alcoholic and thus be unable to properly order his affairs or control the pharmacy. These are the type of serious offences which could be the reason for a name being struck from the register, and it would be essential that under those circumstances such a person should not have access to a pharmacy. As I have said before, if anyone feels he is aggrieved, he can appeal to a judge of the Supreme Court. However, I will have the matter discussed.

Clause put and passed.

Clause 35 put and passed.

Clause 36: Persons entitled to carry on business as chemists—

Mr. DAVIES: The amendment which I propose to move concerns a matter I mentioned during my second reading speech, and deals with the legalising of the friendly societies. I desire to delete paragraph (b) on page 23 with a view to inserting another paragraph to stand as paragraph (b). The present provision reads—

(b) Every company and every friendly society that at the date of the commencement of this Act is carrying on the business of a chemist and druggist or of a pharmaceutical chemist under the authority of the Acts repealed by this Act shall be—

And this is important—

and is hereby limited to the carrying on of such business at the place where that business is at that date carried on.

The paragraph I propose to substitute reads as follows:—

(b) Every company or friendly society which is, at the date of commencement of this Act, carrying on the business of a chemist or druggist or of a pharmaceutical chemist under any Act repealed by this Act is, by force of this paragraph, limited to the carrying on of that business at the place where the business was carried

on at that date; but, where the company or friendly society, as the case may be, is not the registered proprietor of that place, and is required or has good and lawful reason to vacate it or is the registered proprietor of that place and it is resumed for public or other purposes, the company or society may carry on the business at such other place in substitution for, and in the immediate vicinity of, the first mentioned place, as the Minister may, from time to time approve.

Honourable members may feel that is a little complicated, but it is not when it is studied point by point. As the clause stands at present the businesses which will be allowed to trade may find themselves in a number of invidious positions in respect of the premises they occupy, and they may at some time desire to shift to a more suitable location. For instance, the lease of the premises might expire, or the owner of the premises could charge an exorbitant rent because he would know that the chemist could not shift his premises and would either have to pay the rent or close his business. Also, a property might be resumed for, as I have put it, "public or other purposes." This occurs quite a lot, and it is impossible to plan ahead and know where the next land grab will occur. I do not use "grab" in the wrong sense, but merely to indicate that the land may be required for public or other purposes.

Under my amendment a proprietor of such premises may, with the approval of the Minister, shift to other premises in the immediate vicinity. I do not know whether the word "immediate" was the correct one to use, and the Minister may disagree with it. The idea of the word is to indicate that the new premises must be in the same shopping area. For instance, a chemist could not vacate premises in Claremont to occupy premises in, say, Swanbourne. He must move to suitable premises in the same area.

The problem first arose in respect of the friendly society's shop at Claremont. It has been found for a number of reasons necessary to vacate the premises and the business will be carried on in a shop three or four doors away. I believe the contract of sale has been signed, but the business will be carried on in the immediate vicinity. If the amendment is accepted, the approval of the Minister will have to be obtained to any such move.

The wording of the present paragraph (b) does not allow reasonable scope. Of course, I could not, in my amendment, cater for all contingencies. For instance, if premises were burnt down or destroyed by flood or made inoperable in any such way, I do not know what the position would be. I do not know whether in those circumstances the business could be carried on in other premises. However, under my amendment any move would have to

be made with the approval of the Minister, and I feel that is a safeguard. I therefore move an amendment—

Page 23, lines 5 to 12—Delete paragraph (b).

Mr. ROSS HUTCHINSON: The honourable member for Victoria Park was good enough to give me some notice of this amendment. While I confess it departs drastically from the principle in the Pharmacy and Poisons Act, it was not the intention of this Bill to allow a set of circumstances as outlined by the honourable member to operate so that any one of the shops would be unable to carry on business. I feel the amendment is reasonable and I will accept it.

Mr. W. A. MANNING: While dealing with this amendment, I would like some clarification from the Minister in regard to companies or friendly societies. We are endeavouring to protect organisations which, earlier in the clause, were defined as a company, or a friendly society registered under the Friendly Societies Act, 1894. I am wondering what comprises a company or a friendly society under this Act.

Are they genuine friendly societies, or a combination of friendly societies? Are they a company of people calling themselves a friendly society? What I am getting at is: Are we protecting the genuine friendly societies, or some organisation of people who are able to call themselves a friendly society under this Act?

Mr. ROSS HUTCHINSON: There are some differences in the dispensaries which have grown up in this State. Some are traditional friendly society dispensaries belonging to lodges and friendly societies. These originally dealt with members and their dependants. It will be remembered that in 1956 Parliament permitted dispensaries to trade with the public. At that time it was thought there would be no expansion of the friendly society dispensaries. However, because of loopholes in the Act four more have opened up, and several do operate with a very loose membership plan. This being understood, under another Act they will be able to trade with the public. To answer the honourable member's question briefly, yes; there are differences.

Amendment put and passed.

Mr. DAVIES: I move an amendment—

Page 23, line 5—Substitute the following for the paragraph deleted:—

- (b) Every company or friendly society which is, at the date of commencement of this Act, carrying on the business of a chemist or druggist or of a pharmaceutical chemist under any Act repealed by this Act is, by force of this paragraph, limited to the carrying on of that business at the place where the business

was carried on at that date; but, where the company or friendly society, as the case may be, is not the registered proprietor of that place, and is required or has good and lawful reason to vacate it or is the registered proprietor of that place and it is resumed for public or other purposes, the company or society may carry on the business at such other place in substitution for, and in the immediate vicinity of, the first mentioned place, as the Minister may, from time to time approve.

I ask the Minister to agree with my contention that "immediate" means within a few hundred yards. It does not mean immediately next door to the existing premises.

Mr. ROSS HUTCHINSON: I do agree with the honourable member for Victoria Park's interpretation of immediate vicinity and I think it is a wise definition.

Mr. GRAHAM: I agree with the proposition put forward by the honourable member for Victoria Park, but I think it is a little unfairly stated. I would like the honourable member for Victoria Park and the Minister to bear with me for a moment. The spirit of this proposed new paragraph is that friendly societies shall not be permitted to trade with the public or have premises other than the 10 premises they occupy at present. Each shall be confined to trade either at the existing business premises or in the immediate vicinity. That is the intention of the amendment, and I do not desire to interfere with that. However, I think there are too many "ifs" and "buts" and we seem to have lost track half way.

Mr. Ross Hutchinson: No we haven't!

Mr. GRAHAM: The Minister says "No"; but if he looks at line 10 he will see the words "is not the registered proprietor of that place". It would mean where a registered society was renting a premises, and there was a good and lawful reason for vacating those premises, the society could, with the approval of the Minister, continue business in the immediate vicinity.

Let us assume the case of a friendly society operating in a certain spot; it strikes misfortune—a fire—and is burnt out. It might be six months or more before the premises could be rebuilt; yet the way the wording is at the moment, as the property had not been resumed the society could not open temporary premises next door or over the road. I think that is grossly unfair.

Let us take another instance: What is a shopping area at the moment could become an industrial area, as is the case in my old district of East Perth. Such a

place of business would be left in splendid isolation: a retail establishment surrounded by factories. The society could be stuck because it owned the premises. Had it rented the premises the Minister could decide there was good and lawful reason for the premises to be vacated and the society could open up around the corner or in the next street.

If we delete from line 13 and 14 the words "and it is resumed for public or other purposes", it will mean that whether premises were owned or rented, if the Minister was satisfied there was good and lawful reason for the dispensary to vacate the premises then he, the Minister, could approve of an alternative place in the immediate vicinity. That amendment would not weaken what the honourable member for Victoria Park has in mind, and does not derogate from the principle which the Minister wishes to maintain. It would also be in conformity with certain undertakings the Minister gave to certain people, with which I have no quarrel.

I think the amendment moved by the honourable member for Victoria Park amply covers the situation where the premises are rented; but for the reasons given—re-zoning and the hazard of fire, just to mention two—it is a little unfair in respect of premises which are owned.

Mr. Guthrie: Are you taking out also the second reference to "or is the registered proprietor of that place"?

Mr. GRAHAM: That could be linked with the other amendment which I have indicated; but I want the Minister to acknowledge the principle. I find myself in some difficulty as the deletion of the whole paragraph has been moved by the honourable member for Victoria Park; but, if the Minister agrees with me, the honourable member for Victoria Park can seek leave to withdraw his amendment and then move it again up to the end of line nine. I would like to hear the Minister and the honourable member for Victoria Park on the issues I have raised.

Mr. DAVIES: The amendment on the amendment proposed by the honourable member for Balcatta does away with a lot of the verbiage and, I think, would admirably meet the situation. I think my amendment tries to cover too many circumstances and the proposal of the honourable member for Balcatta to cut out the reference to a registered proprietor would very much simplify the whole sub-clause and make it much easier to read; but it would still be in accord with the spirit of the proposal which the Minister indicated in his second reading speech, and in the Committee stage, and which the honourable member for Balcatta has indicated. If the Minister is prepared to agree I am prepared to seek leave to withdraw the amendment and move as has been suggested.

Mr. HAWKE: I think the honourable member for Balcatta has put forward a good suggestion. The safeguards which are contained in the amendment moved by the honourable member for Victoria Park will still be preserved, and those two safeguards are that any alternative premises to be erected or used shall be in the immediate vicinity of the premises destroyed or to be vacated; and the second safeguard is that the Minister would be the authority to express approval of any proposed change of location. The proposal of the honourable member for Balcatta would simplify the situation.

I think it is true, as the honourable member for Victoria Park said, that in endeavouring to meet a number of given situations, and trying to particularise in regard to each one of them, one situation has not been covered, and that is the situation which the honourable member for Balcatta has mentioned and which he has tried to overcome by his suggested alterations to the amendment of the honourable member for Victoria Park. Therefore, as the safeguards which the Minister requires will be preserved, I hope he will see his way clear to agree to the suggestions made, even if he does not agree totally to the exact wording suggested by the honourable member for Balcatta.

Mr. ROSS HUTCHINSON: Since I have got this amendment I have been studying it closely and I reiterate the point I made earlier: that it was never my intention to see a set of circumstances arise where any friendly society chemist would be wiped out. I think they should be allowed to continue. But on looking at the whole matter again, I am doubtful whether the wording is correct. I will have a closer look at it and seek advice from the Crown Law Department. To do this I will have to ask that progress be reported.

Progress

Progress reported and leave given to sit again, on motion by Mr. Guthrie.

BILLS (5): RETURNED

1. National Trust of Australia (W.A.) Bill.

Bill returned from the Council with amendments.

2. Country Towns Sewerage Act Amendment Bill.
3. Morawa-Koolanooka Hills Railway Bill.
4. State Housing Act Amendment Bill.
5. Parliament House Site Permanent Reserve (A 1162) Act Amendment Bill.

Bills returned from the Council without amendment.

MOTOR VEHICLE (THIRD PARTY INSURANCE) ACT AMENDMENT BILL

Receipt and First Reading

Bill received from the Council; and, on motion by Mr. Nalder (Minister for Agriculture), read a first time.

DEATH PENALTY ABOLITION BILL

Second Reading: Defeated

Debate resumed, from the 14th October, on the following motion by Mr. Graham:—

That the Bill be now read a second time.

MR. COURT (Nedlands—Minister for Industrial Development) [10.7 p.m.]: The honourable member for Balcatta who introduced this Bill advanced no material in support of it which was different from that which we have heard on previous occasions. He spoke at some length on the matter, and although I was not present on the occasion when he introduced the Bill, I have had ample opportunity to study it and the remarks he made. I am not surprised, nor am I critical of the fact, that it was not possible for him to introduce new material; because it is one of those instances in which, once one has stated his case, one rests on certain beliefs and certain approaches to the problem.

For my part, I want to emphasise that this is one of those subjects one cannot resolve with statistics. The honourable member for Balcatta did touch on the question in the introduction of his Bill; but, I repeat, it is not a subject that one can resolve by quoting figures or pointing out the relevant situation with one system or another. It is something that goes far beyond that. It is a much wider issue and something that calls for a degree of judgment on the part of the individual as to what provision should be made in the law.

At this early stage of my comments—which will not be very lengthy—I want to mention one particular weakness which I consider is very obvious in the case put forward by the honourable member. No doubt those honourable members of the Chamber who have been in Parliament only since about 1959, when the change of Government took place, will have formed the opinion that the honourable member for Balcatta is one who is dedicated to the passage of legislation of this kind. However, as I see it, the missing link in the legislation he has presented to the Chamber from time to time is the fact that between 1952 and 1960 he seems to have lost some interest in the subject.

It has never been adequately explained—at least to my satisfaction—why, during the period of six years of Labor Government no legislative action was taken for

the abolition of capital punishment. I have heard the explanation given that the Government of the day considered it would not have got such a Bill through the Legislative Council. I must admit that when one studies the legislative programme of the Hawke Government over its six years of office, it had no reluctance to introduce a large number of industrial and social measures which were consistent with its policy. Knowing it was going to have considerable trouble with those Bills, both in this Chamber and in another place, the Labor Government introduced them sometimes more than once, because, I presume, it felt strongly on these particular issues. I refer to matters such as workers' compensation, long service leave, and one or two others which became something of hardy annuals in this House.

I well remember the debates that took place with the honourable member for Mt. Hawthorn on the one side and, to a large extent, with me on the other on these industrial matters year after year. Then up they went to the Legislative Council with the Government of the day knowing that, in certain particulars, it was not going to have a great deal of success.

With this matter, which is a very important social question, apparently the Government of the day was not moved to the same extent to bring it forward and this has never been satisfactorily explained; because, if the honourable member for Balcatta felt as strongly as he has indicated to the House on the last two or three occasions when he has been discussing this matter in this Assembly, I should imagine that, in holding the position as senior Minister in a Labor Government, it would have been a comparatively easy proposition to have such legislation introduced. I think it is a fair question to ask: Why was this not attempted by the Hawke Government? There must be a reason and I am certain of the fact that the Legislative Council in being a probable bar to the legislation was not the real reason why the Hawke Government balked at bringing a Bill down, or failed to bring it down.

Mr. Oldfield: It never carried out any hangings.

Mr. COURT: The fact is that previous governments and the present Government have exercised, and I suppose future governments will exercise, their power to commute the death sentence, and that is a power which Parliament has given through the medium of Executive Council; namely, to commute the death sentence if it is felt that the circumstances are such that it should. As part of the procedure the Executive Council has the benefit of the trial judge's report and, from this report it is possible, together with other evidence available to it—it is available to everybody for that matter—to formulate an opinion on

whether there are any extenuating circumstances and conditions which make it desirable for the Executive Council to commute the death sentence to one of imprisonment.

This practice has been evolved over the ages one might say. I think too little importance and value is placed on the fact that the Executive Council of the day has this power. It has been used and, I think, in the main, it has been used very wisely.

I come back to my point; namely, that if, as the honourable member for Balcatta claims, there are people on the Government side of Parliament who support his point of view, one would have thought it would be much easier for a Labor Government to introduce legislation into this Chamber and to present it to the Legislative Council at least to demonstrate that this was something on which it felt strongly as a matter of high policy in its platform and that it wanted the subject aired in Parliament.

However, to the best of my knowledge—and I have searched the records and failed to find anything—nothing consistent with what was said by the honourable member in the introduction of the Bill was put forward at any time during the Hawke Government either by him or by the Government of the day in an effort to take any action to remove capital punishment from the Statute book.

The Government's views on this matter are not changed from the last time similar legislation was before the House. I do not propose to speak at great length, because all one can do if one speaks for too long is to repeat something over and over again, unless one wants to get involved in a highly-charged emotional atmosphere. This would be highly improper, particularly at this time of our history when we are so close to an event which is so clear in the minds of all of us—

Mr. Tonkin: It is not considered a deterrent; that argument has gone completely.

Mr. COURT: I said earlier in my comments that this is not something one can reduce to statistics. One cannot reduce it to a graph, or measure it in those terms at all. It would be completely false of me to say that one could measure it in terms of whether it is a deterrent or not.

Mr. Tonkin: It is recognised throughout the world that it is not a deterrent.

Mr. COURT: That is not necessarily the determining factor.

Mr. Tonkin: It is an important factor.

Mr. COURT: In the public mind there is probably another reason altogether which the honourable member overlooks. I think it would be fair to say that if one could have an authentic assessment of public opinion in this matter—and we have had an opportunity to have a fairly

accurate assessment of this in recent times—70 per cent. of the people would support the retention of the present legislation.

Mr. H. May: How would you do that without a referendum?

Mr. COURT: If one could get an expression of opinion, a majority opinion, one would find that approximately 70 per cent. of the people would prefer the legislation to remain as it is, knowing that the prerogative is there to exercise mercy and commute the death sentence from death to life imprisonment.

Mr. H. May: You would not know unless there was a referendum.

Mr. COURT: The honourable member has been in this Chamber long enough, and in public life long enough, to make a fairly accurate assessment. I agree there is a fairly vocal and sincere minority which expresses itself in connection with this subject, and which is opposed to capital punishment.

Mr. Graham: What reason have you for saying it is a minority?

Mr. COURT: I come back to my point that when one is in public life as we all are, one has methods of assessing public opinion or public reaction to this sort of thing. That is not the only guide we use. But one knows if one talks about this to a great number of people—not to a dozen, but over the course of a few weeks and a few months one talks to hundreds—one can get their reactions and find that almost without exception people support the present system, knowing that the Government is prepared to commute the sentence.

Mr. Graham: You move in peculiar circles.

Mr. COURT: I do not. I found to my surprise that there are a lot of people on the honourable member's side of politics, in the rank and file, who favour the present system, and it is interesting to see the result of interviews being conducted on street corners by TV interviewers and to find that there is a spontaneous reaction from the man in the street in support of the present system—a great proportion of people support the present system.

I am not suggesting that this is the criterion by which one judges whether the legislation should remain in its present form or not. It is the responsibility of Parliament to make a decision on this matter when it is called on to consider a Bill such as this.

Mr. Bickerton: Have you heard a protest against a man not being hanged?

Mr. COURT: We do not get that sort of thing. I did touch on this when I was talking on a similar Bill introduced by the honourable member for Balcatta on a previous occasion. There are an awful lot of people—in fact the great majority of

people—who quietly and with dignity keep their thoughts to themselves on this matter, particularly when there is a bad case before them.

Mr. H. May: That makes your argument worse.

Mr. COURT: They do not go around parading their views; they have some respect for the relatives of the victim; and there seems to be very little thought on this occasion for the relatives and those near and dear to the victim.

Mr. Graham: That is paltry.

Mr. COURT: The honourable member for Balcatta is only concerned about the man who has committed the crime.

Mr. Graham: About the form of punishment.

Mr. COURT: He is not concerned about the murdered man's relatives who are the people who suffer in these things. This can extend to a very wide circle, but never a word is uttered in sympathy for these people. All the words that are spoken try to defend the man who has committed, in many cases, a dastardly crime. For this reason the majority of people do not go around parading themselves in hostile exhibitions against the man who committed the crime. It is a pity that people who go around parading with banners opposing capital punishment do not have some regard for the relatives of the person who has been the victim of the crime.

Mr. Bickerton: We are protesting against the system.

Mr. COURT: I do not suggest that the Government is unmindful that legislation of this kind has to be kept under review. We are alive to the fact that anomalies can arise, and it is a fact that during the life of this Government—in 1961 to be precise—an important legislative amendment was introduced by the then Attorney-General (Mr. Watts).

Mr. Graham: And what a mess you made of that legislation then!

Mr. COURT: I cannot understand the logic of the honourable member, because we introduced a Bill which distinguished between wilful murder and murder, and made a very clear definition between the two, and removed murder from the death penalty. Surely the honourable member applauds that! Would he like us to put it back? Now he talks about our having made a mess of the legislation.

Mr. Graham: So you did make a mess. If you have not read my speech I will repeat it.

Mr. COURT: I have read the honourable member's speech. He takes exception to the fact that under the 1961 legislation a man found guilty of murder will get life, and the royal prerogative cannot be exercised until he has served 15 years.

Mr. Graham: But for wilful murder he serves half that term.

Mr. COURT: That is the strength of the system, because the Executive Council of the day has the right to exercise its prerogative and commute the sentence. Under the amendment made in 1961 it also gave an added incentive to the jury, and to the judge, to assess a particular crime in its correct perspective, because they knew that if they made this verdict, calling for a unanimous verdict of wilful murder, it meant the death sentence could be passed, and they would have to take the risk of its being commuted, but if it was murder there could not be the death sentence.

Surely this was an acknowledgment by the Government of the day that some amendment was desirable and necessary to give this power of discretion into the hands of the court and the jury! Incidentally we heard a lot about juries the other night; how the Opposition wanted a jury to hear a certain case. This is where a jury can make up its mind between wilful murder and murder.

Mr. Graham: Not because of the merits of the case but because of the form of punishment.

Mr. COURT: That is not necessarily so.

Mr. Graham: You have already said that in different words.

Mr. COURT: They can if they feel disposed bring in a sentence of wilful murder instead of murder.

Mr. Graham: Because they do not like hanging.

Mr. Brand: What is the alternative to hanging in any case?

Mr. COURT: The fact remains that since this amendment has been made ordinary juries that are part and parcel of our judicial system have brought in a verdict of wilful murder knowing the facts, and being properly and carefully briefed by the judges they have decided to bring in a finding of wilful murder instead of murder.

Let us examine this particular situation. We have had some dastardly crimes here similar to those that have occurred in other places. We have had some very bad ones in recent years. I take honourable members' minds back to the feeling of unrest, uneasiness, and insecurity that existed in this community for several weeks; and at that time the Opposition was not backward in criticising the police.

I well remember those rather distressing days and some of the unfair criticism that was levelled against the Police Force, which was doing its very best to resolve a very difficult series of crimes. At that particular time there was a feeling of uneasiness in the community, and happily the victim was eventually apprehended.

Mr. Graham: You mean the victim was apprehended?

Mr. COURT: I meant the criminal was apprehended.

Mr. Graham: Which proves that your previous hangings did not have a deterrent effect.

Mr. COURT: The arrest of the criminal brought about a tremendous amount of relief in the community. This is the situation. A great majority of the community were fearful that such a man could be released on the community again. In all the cases that have come before the present Government where the extreme penalty has been exacted they have been crimes of the most heinous kind; they have been dastardly crimes; and the last one was probably the worst of them all.

Mr. Graham: Any murder is a dastardly crime.

Mr. COURT: If so be one of these persons could eventually be let loose on the community again, just imagine the feelings of the people and of the neighbours of such a person who has been released! After their release they have to live somewhere, and just imagine the feelings of their neighbours! We have to have some regard for the feelings of the public in this matter, and I think the honourable member for Balcatta has completely disregarded this aspect in his effort to try to achieve something which, many years ago, was very important to him; then he underwent a period when it was unimportant; and now it is important to him again.

Mr. Graham: You are making heavy weather as you usually are, because you are so far out of step with the rest of Australia.

Mr. COURT: We are not making heavy weather of it. We are putting the situation as we see it, and we are giving the reasons why the Government does not feel that any amendment to this law is justified at this point of time.

Mr. Graham: You have not tried to make out a case; you have been indulging in political jibes, in a serious issue like this. It deserves something better.

Mr. COURT: We regard this as a serious issue, and I am not highly charged with emotionalism, as the honourable member is. We deal with the situation as we see it, and in the light of the experience this community has had. In opposing this Bill I do not want the impression to be drawn that we are unmindful of the need to keep this type of legislation under review all the time. If there are anomalies it is the job of the Government to look at them and iron them out.

We feel that the present arrangement whereby Executive Council has the power to commute the death sentence, after studying all the facts available and assessing the situation concerning the

person who committed the murder, and all the circumstances that are brought out by the trial judge in his report, is a satisfactory one. After doing that I think it is sufficient to leave the power of commutation in the hands of Executive Council. It does not make a decision lightly to allow the law to take its course.

Mr. W. Hegney: The decision of Executive Council would be the decision of Cabinet.

Mr. COURT: That is so. What else could it be? That is what Cabinet is for, and that is what Executive Council is for—to do some very difficult things from time to time. It would be so easy to say "Yes" to a Bill like this, and to say that we wash our hands of the issue and will let the future look after itself. It is much more difficult and much more responsible for the Government to say that this legislation shall remain in its present form; and that the community can be assured the Executive Council of the day will not lightly consider such decisions, and will use its power to commute the death penalty from time to time.

MR. FLETCHER (Fremantle) [9.29 p.m.]: I am not here to speak of what I know from personal experience of hangings, or of what I have witnessed of hangings; but I can speak and make known my own thoughts and the thoughts and reactions of others to this legalised form of murder. I do not want to be charged with emotionalism, and I want to get away from that if I can. I referred to legalised murder, and I repeat, legalised murder. I say further it is premeditated and planned murder on the gallows, carried out by a hireling in consideration of payment for hanging a person.

We arrive at the situation where an allegedly sane Government hires a sadistic brute to murder a murderer for having murdered somebody else. I ask honourable members to analyse those words, to see whether or not they are true. That person, in doing so, legally commits a murder—a crime of which the murderer has been found guilty.

This, to me, poses a question: Was it a responsible Government which took the life recently of a subnormal person, on the 20th January, 1964—a person born of an incestuous union within his own family; a person with a record of mental instability arising out of the environment from which he came? I ask whether that person was sane at the time he committed the crimes? Was that person sane at the time when, in blind rage, he shot a policeman and a person in a car? I am sure the answer is "No".

On the other hand let us apply the same questions regarding sanity and rage to the Government, or to the Ministers when they recommended to Executive Council that this subnormal person's life

be taken. If we take a charitable view and accept that members of the Executive Council were sane and were not enraged, then the decision to kill was arrived at in a cool-headed and calculated way, as distinct from the actions of the subnormal person who in blind rage committed the murders. I ask honourable members to apportion the responsibility or irresponsibility in this case.

Honourable members in this House have heard me, ever since I have been elected a member of Parliament, on every occasion when the honourable member for Balcatta was courageous enough to introduce a measure for the abolition of capital punishment. In opposing the measure the Minister blamed the Labor Party for leaving this legislation on the Statute book, which made it possible for the Government to use it to kill a person. We have never used that legislation.

Mr. Guthrie: You say you have never used that legislation?

Mr. FLETCHER: Another place, more conservative and feudalistic than this Chamber, would certainly have thrown it out. I would like the views of other persons to be made known on this issue. I cannot turn to a source better than newspaper opinion.

I admit I have seen newspaper opinion that does condone killing; but quite frequently it is submitted to the newspapers by very unenlightened, uninformed, and uneducated people. In *The West Australian* of the 17th January, 1964, appears a letter which is well worth reading to the House. It is headed "Academics' Views on Capital Punishment," and reads as follows:—

The case against capital punishment has been frequently stated. There are very few now who would seriously contend that it acts as a special deterrent.

Its justification then must rest on retributive justice or revenge, or since these words are sometimes considered objectionable, on society's disapproval and denunciation of the crime.

But it is surely unnecessary in 1964 for a civilised society to express its disapproval in the form of a deliberate ceremonial execution, and however one looks at it this is what hanging of necessity is.

I have previously made reference to ceremonial hanging. Continuing—

It is also a matter of great concern to us that Robinson will hang because he committed his crime in Western Australia, when in most other parts of Australia (and certainly in Queensland and N.S.W.) or if a different Government had been in power, it would have been otherwise.

The letter is there referring to this State. To continue—

As a result of the efforts of the public and the Press in Victoria in 1961 Tate was reprieved. It is doubtful whether within the time available public opinion in W.A. can be mobilised in the same way.

But there is no need now for the Government to hurry on with the hanging after the long delay since the conviction—delay during which, incidentally, much of the initial desire for retributive justice has died down.

On an issue on which strong feelings are held and much informed opinion has been expressed the Government should at least in the light of recent experience debate the matter in Parliament on a free vote before it proceeds with the hanging.

It is only now that we have had an opportunity to debate, not whether or not a certain person should hang, but a Bill to abolish capital punishment such as that by the honourable member for Balcatta.

The letter to the newspaper which I have just quoted was signed by the following:—

Professor E. G. SAINT.

Professor H. WARING.

Professor A. FOX.

A. RICHARDSON.

Richard B. LEFROY.

Professor F. R. BEASLEY.

Professor E. J. UNDERWOOD.

Professor Ronald M. BERNDT.

Eric J. EDWARDS.

P. E. PARSONS.

I would ask the Ministers on the other side of the House whether, in regard to an issue like this, they would compare themselves with those who signed that letter. Those people are intellectual giants in comparison with many other people who contribute to the paper on this issue; and their views are worthy of respect and consideration. Yet, as I have said, the Ministers on the other side of this House set themselves up as authorities and pretend that they are intellectually comparable with those people whose names I have just quoted. As usual, I have a wealth of newspaper opinion.

Mr. Dunn interjected.

Mr. FLETCHER: I do not want any sneering comment from the honourable member who has just interjected. I usually support my case with better informed opinion than I have ever heard him produce in a debate in this House. I can support my arguments with opinions expressed by those far better qualified to do so than either the honourable member for Darling Range or the honourable member for Fremantle.

In *The Sunday Times* of the 19th January, 1964, there is an article, "He Talked With 500 Murderers", with a sub-heading, "Criminal Expert Bows Out." The article is as follows:—

Dr. John McGeorge, the N.S.W. State Government psychiatrist for 30 years, has resigned.

One of the most controversial figures in the State's medical history, he has examined more than 7,000 criminals and 500 murderers.

"I resigned because I want to write about my life in forensic psychiatry," he said last night.

Leaves the Government service with a strong plea for the abolition of the death penalty.

I would interpolate here and say that a person possessing this experience wants to work for the abolition of the death penalty, yet those on the other side of the House sent a subnormal person to death, which is useless and vindictive. Continuing—

"I am convinced that the death penalty for murderers is pointless, wasteful and vindictive," he said today.

Dr. McGeorge said one striking fact of his experience was that more than 60 per cent. of criminals were addicted to alcohol.

It is possible that murders are committed by people when they are under the influence of alcohol.

Mr. Guthrie: Are you saying that or is he?

Mr. FLETCHER: I am.

Mr. Guthrie: Stick to him; you are quoting him as the expert.

Mr. FLETCHER: Continuing—

Dr. McGeorge, 65, has degrees in medicine and law and is lecturer in post-graduate forensic psychiatry at Sydney University.

He is best known for his countless radio and TV appearances and his views on almost every aspect of human behaviour.

His opinions have raised storms of protest and brought on him the wrath of people from housewives to State Ministers.

I do not, by any means, doubt the legal ability of the honourable member for Subiaco. I have a considerable regard for it, but I do doubt his ability to approach this subject in the same manner as the person I have just quoted. The honourable member asked me not to express my opinions. I am not expressing them here other than to say it is reasonable to assume that a person who has committed a crime did so while under the influence of alcohol and to that extent is not responsible for what he has done.

I have another article here headed, "Alcohol Leads to Mental Home." Originally I put this article aside for when I was speaking on the Address-in-Reply; and as I read it, the thought occurred to me that the honourable member for Wembley would join with me in admitting that alcoholics drink as a consequence of a strange compulsion. There are also compulsive thieves and compulsive murderers.

The Minister, in opposing the Bill introduced by the honourable member for Balcatta, did not submit any academic argument. He simply used the bitter argument: Why did not the Labor Party do this? I am asking the Minister: Why does not this Government take cognisance of opinions such as I have quoted, rather than recommend that a person be killed?

I have another article here from *The West Australian* of the 23rd January, 1964, headed "Doctor Warns of Danger from Slimming Drugs." I do not want the honourable member for Wembley to think that I am scoring off him, but because of his medical background, he must accept the validity of the arguments I am submitting. This article reads as follows:—

Abuse of certain drugs commonly used for slimming could lead to drug addiction, madness and murder, a doctor told the Australian and New Zealand Association for the Advancement of Science congress today.

The speaker was Dr. D. S. Bell, who is attached to the psychiatric research clinic at Callan Park (N.S.W.) mental hospital.

Dr. Bell said addiction to amphetamines could produce madness and brain disturbance.

I ask honourable members to listen to this particular argument. To continue—

The drugs could produce a psychotic effect similar to schizophrenia, commonly known as split personality.

About 50 per cent. of people who became addicted to the drug did so after it was prescribed for them, usually for obesity.

As a person's tolerance to the drug increased, bigger and bigger doses of it were needed to bring on the feelings of elation derived from its use.

Elation was followed by depression as the effects of the drug wore off, and the addict might attempt suicide.

Dr. Bell said amphetamine psychosis could become a serious social problem. It could lead to murder.

I submit it could have led to the recent murders. Continuing—

The drug increased promiscuity and was known to have led to homosexuality and seduction of children.

Amphetamines were used frequently by long-distance truck drivers to keep them awake.

At this stage let me interpolate to say that the recent unfortunate who died on the gallows was a truck driver. To continue—

One truck driver affected by the drug, had jumped from his truck as it careered along a busy highway.

Athletes also used it and it had apparently caused the death of an Olympic cyclist.

Dr. Bell said it was a matter for concern that university students also used amphetamine drugs during intensive study periods before examinations.

He knew of at least two medical students who had become psychotic while using the drug.

Addicts used many dodges to obtain prescriptions from doctors and it was unfortunate that there were some doctors who were not careful enough in prescribing amphetamines.

Did any Minister, who recommended the execution of this truck driver, inquire whether or not he was subject to amphetamines and whether he was in a state of schizophrenia as a consequence? I am not trying to be clever. I am just stating that evidence has appeared in the paper to support my contention that that person could have been in such a state or condition. The Minister and honourable members on the Government side would say that medical evidence would have decided this. But was he examined, and to what extent was he affected by such drugs?

I notice that the honourable member for Subiaco is listening carefully to me and making copious notes with which to try to defeat the argument. However, irrespective of what he says to the contrary, could he, or any other honourable member on that side be sure in his own heart that I am not right to some extent?

Mr. Graham: I think the honourable member for Subiaco is likely to support you.

Mr. Guthrie: Not on this point.

Mr. Graham: No; I mean on the Bill.

Mr. FLETCHER: I submit that that person was unbalanced. No person could kill in the manner he did if his mind was balanced. He must have been insane to do it. I know that we destroy a mad dog if it bites someone, but this person was not a dog. He was built in our form and shape and he was not beyond redemption. I submit that this person could have had a more unbalanced mind as a consequence of taking drugs such as the one I have mentioned. Can the Government be sure he was not taking them? I could mention the names of particular persons who have recently died on the gallows, but I do not want to mention them in public because of their unfortunate relatives, who have already suffered enough.

The Minister for Health is not present at the moment, but he has a good knowledge of medical matters. As a matter of fact he is quite well informed on them and I regret he is not here. However, I am sure he must have some creeping doubt in regard to this issue and that it is quite possible the member for Fremantle is right in his assertions that this unfortunate could have been subject to drugs.

I have another article here which appeared in *The West Australian* on the 29th January this year, and it reads as follows:—

LIFE CLUE MAY HELP FIGHT DISEASE

Research which is fast developing into the most exciting and important science story of our times has received scant publicity so far.

It follows a golden age in the field of biochemistry—the chemistry of living things.

Scientists have pinpointed the basic chemical which distinguishes the living from the inanimate—a chemical called DNA.

In other words, these earnest young men in white coats, using techniques of incredible cunning in laboratories across the world, are dabbling successfully with the secret of life itself.

I have touched briefly on this subject; but have the Ministers read of this sort of thing in the newspapers or anywhere else? Did such knowledge influence the decision that these people should die? The article continues—

They may also have the key, for reasons which become apparent as the story unfolds, to the control of cancer, and an explanation of memory, how instinct in animals works, and how viruses attack.

I would point out that human beings are animals. Reference was made in the article to instinct in animals and I would refer to the instinct in us. I am reminded very much of one of the characters in a book read in my youth, who said to an acquaintance regarding a person on his way in a tumbrel to execution during the French Revolution, "There, but for the grace of God, go I." I am not trying to be dramatic. I am saying that any of us, through no fault of our own or our parents, could have been born a murderer or a potential murderer. Since it is no fault of our own, what right has the Cabinet to sit in judgment on human beings? I admit that Parliament is the highest authority in the State, but I will submit later some other course which could be adopted instead of killing people of this sort. This newspaper article continues—

If an organism has the chemical DNA, it is alive. It can grow and multiply. If it hasn't, it is as dead as a rod of steel.

Moreover, this DNA masterminds the growth of all life on earth. For instance, a man six feet tall grows from a single cell so tiny it takes more than 60,000,000,000 of them to make up the complete man. It is the DNA within the first cell which carries the blueprint of the whole man, yet the DNA is contained in threads so small that scientists need a special electron microscope even to see them.

The DNA tells the original cell how to divide and grow into a man with blue eyes, with curly brown hair, with an I.Q. of 100. It dictates how he should look, how he should act and feel.

Since DNA does control our growth and the sort of person we turn into, should not the Government and Executive Council take cognisance of that fact? As it controls the better attributes of our character, so it also controls the worst, for which the person himself is not responsible. "DNA", incidentally stands for de-oxy-ribo-nucleic-acid. It has been studied for 11 years, studied by people who can now foretell the type of character a person will have.

I could indulge in emotionalism by quoting several other articles, but instead will quote one of the headings, which reads, "Killer Asks After Victim's Family." In the *Daily News* of the 9th March, 1964 is the following:—

SHOCK IN VIC. AT W.A.

Melbourne, Thurs: Victoria's Anti-Hanging Committee today condemned the W.A. Executive Council's decision to hang murderer . . .

Expressing its "shock," the committee has written a letter of protest to Premier Brand and has sent a telegram to Robinson's counsel.

The committee said that, with at least 25 hangings since 1901, W.A. had set an Australian record which surely would never be broken. (W.A. prison records show 32 hangings since 1900.)

In case I made a mistake, of which the honourable member for Subiaco might like to take advantage, I interpolate here that I hope Labor was not responsible for any of those.

Mr. Brand: You hope!

Mr. FLETCHER: I sincerely hope. It is conceivable that it happened; but I say that this is an enlightened age and the Government should be more enlightened than it is today. The honourable member for Subiaco gave me the impression that I might be wrong.

Mr. Court: Three in one year!

Mr. FLETCHER: The Minister might say that, but I hope that is wrong.

Mr. Court: It is not wrong.

Mr. FLETCHER: We condemn what the Government is doing today in view of what is going on in the rest of the world, and in view of the generally enlightened attitude towards this subject. The honourable member for Balcatta mentioned that capital punishment has been abolished in more informed countries. For us to continue we are joining the exclusive company of feudal countries who still chop off hands, ears, and heads, an otherwise indulge in capital punishment. We join with them in doing the same thing. We join with them in killing people. The item continues—

Abolished

N.S.W. and Queensland had abolished the death penalty, Victoria's last hanging was in 1951 and South Australia in 1958. There had been no executions in Federal territory since 1952.

I read these facts to make known the generally enlightened attitude on the issue of capital punishment. The item continues—

Despite its small population—only six per cent. of the national total—W.A. has hanged more murderers since 1901 than any other State.

Is it seriously suggested that there is something specially brutal about W.A. people, or about the environment of the State, that demands the barbarianism or futility of the death penalty?

I submit that we are not brutal, but, as the Minister suggested, many people are apathetic. I suggest the Government should study the example of these people. I notice that the honourable member for Wembley has left the Chamber. I made reference to him about medical issues. I recently read where a person could have what is called a leucotomy performed on the frontal lobe of his brain to change that person's entire character and personality.

I know that the Minister, when speaking in opposition, will ask why a murderer should have this operation performed on him with a view to changing his mental outlook and attitude. I would point out that in Fremantle gaol at this very moment there is a person—a convicted murderer—who is performing splendid work in assisting blind people by writing books in Braille.

I mention that to show that murderers need not be eradicated in the brutal and barbarous manner with which they are removed today, and they are able to serve society in the manner I have mentioned. They receive proper security. They are not likely to be released or be able to escape, despite what the Minister might care to quote. Murderers with the background of some we have had lately, who have indulged in compulsive killings, will not again see the outside of a gaol; but

they could serve the community and contribute towards their own keep, and save this Government and this State from the shame today of executions belonging to the past.

People who have undergone the type of operation I mentioned—people who have had a leucotomy performed—have turned from schizophrenics to people with a normal outlook and character; and this could be done with the type of person I have mentioned.

I further submit that one of those men who have recently been disposed of had a hare lip and cleft palate. Is it in anyone's mind that this person who had a twisted lip could equally have had a twisted brain. I am not only referring to the recent murderer, but also to the previous one and all the others having that sort of brain. Could they be blamed for killing?

What right had this Government to kill such? He was no more responsible for his twisted lip than he was for the colour of his hair or the colour of his eyes. His character could have been inherited, and no doubt it was. This Government wiped out that man for a fault that was not his own. It was just like sweeping dirt under the carpet. That is exactly what this Government did. The Government said, "He is a nuisance: he is in the way; get rid of him."

I have no doubt that I could shoot such a person who entered my house to commit such a crime. But I could not, in a cool-headed manner, hang a man who subsequently could be found to be not responsible for his actions. I repeat that to do so is legalised murder.

I could go on in this manner indefinitely. I support the honourable member for Balcatta and his worth-while Bill. I give this undertaking: I will use every endeavour to see that another place is ultimately confronted with this measure to have the right to accept it or reject it. I will do everything in my power to see that is done, and in consequence try to make Western Australia a State to be that much more proud of. I support the Bill.

MR. I. W. MANNING (Wellington) (11.4 p.m.): Under existing circumstances I am not prepared to support this legislation. I suggest the time is fast approaching when we might have a look at the question of punishment from the bottom to the top. I too was interested in the article which appeared in today's *Daily News*, extracts from which were commented on by the honourable member for Fremantle. Firstly, the existing legislation inflicts the penalty of death upon only the worst killers—those charged with wilful murder; and I suppose in two of the most recent cases we have seen some of the worst types of killers—those who have killed coldly, deliberately, wilfully, and wantonly.

Looking at the question of punishment as such I can see no other penalty being meted out to them than that of being required to forfeit their own lives. I think we ought to regard this question quite dispassionately; and when persons are convicted of wilful murder what is the alternative to the death penalty? The honourable member for Balcatta suggests that they could be locked up for the term of their natural lives.

Mr. Fletcher: So did I.

Mr. I. W. MANNING: A great fear of criminals exists in the community. We have seen this all too often when it has been suggested that a gaol be established in a certain area. At the moment the Chief Secretary is attempting to select a suitable site for a gaol in the Bunbury region, and wherever a site is suggested there is some objection to it.

Mr. Graham: I think there would be more objection to hanging sites.

Mr. I. W. MANNING: This objection comes from a very real fear of criminals.

Mr. Davies: There is an objection to cemeteries, too.

Mr. Fletcher: Because the value of the land is affected.

Mr. I. W. MANNING: Not for the same reason as there is an objection to the establishment of gaols. It is a fear on the part of the people in the community, and we ought to appreciate that people are fearful of criminals. There is no doubt that while the most recent murders were being committed people in the community were fearful of the criminal at large, and they were wondering what would be done to him when he was captured—it was everything, including hanging.

Viewing the position as it exists, I think the legislation we have meets the situation. As I mentioned earlier, the death penalty is inflicted only on the worst types of murderers—those who kill wantonly and wilfully. In my view to require such a person to forfeit his life is the only penalty that can be inflicted under present circumstances.

Mr. Fletcher: Even if they are not responsible?

Mr. I. W. MANNING: If we look at the wider picture, and watch the young people grow up, and assess what the future holds for them, it might be possible, if they have any character defects, to train them in such a way that those defects will be overcome. If we can cure the bad traits in their character we might achieve something.

The honourable member for Fremantle said we had no right to take the life of any person, and he quoted from the article which appeared in this evening's

issue of the *Daily News*. But the professor who wrote the article also had this to say—

“Man is the most savage and deadly animal which has ever lived in this world, yet we fail to recognise the danger,” says Professor Hans Jurgen Eysenck.

Mr. Fletcher: I never quoted that.

Mr. I. W. MANNING: The article continues—

It would be nice if human beings were rational beings, whose conduct was determined by the use of intelligence and guided by wisdom.

Mr. Graham: Did he suggest executions? Well, did he?

Mr. I. W. MANNING: He suggested some forms of punishment.

Mr. Graham: So do we, of course.

Mr. I. W. MANNING: I am using—

Mr. Graham: What do you want? A V.C. for a murderer?

Mr. I. W. MANNING: He may have been awarded one at some time.

Mr. Fletcher: I didn't quote from that article.

Mr. I. W. MANNING: Apparently I misunderstood the article from which the honourable member quoted. I am using it to serve as an illustration that it is possible to have human beings who are nothing better than animals. Surely one at least of the recent killers could be likened to a mad dog who got loose in a flock of sheep and killed for the sake of killing alone.

Mr. Fletcher: There must be something wrong with that sort of man.

Mr. I. W. MANNING: When a person acts like an animal and turns on the community, and sets out to kill, he can only be classified as an animal. Therefore the treatment given to such a person can only be the full measure of punishment.

Mr. Fletcher: You lock your dog up. Why could you not lock up these unfortunate people?

Mr. I. W. MANNING: Mr. Speaker, I am having great difficulty in making a speech with so many interjections.

Mr. D. G. May: It is a difficult subject.

The SPEAKER (Mr. Hearman): Order!

Mr. I. W. MANNING: Because of the way the present legislation is worded, and as the death penalty applies only to wilful murder, I think it meets the situation. It is unfortunate that the last two murderers, at least, have been of the worst type—wilful murderers. If they had killed a little more gently, or killed fewer people, or committed fewer murders, they would have been charged with the lesser penalty.

Mr. Graham: No; you are wrong. Of the last two one has been hanged and one got 10 years, which is automatically reduced to 7½ years. They were the last two.

Mr. I. W. MANNING: In the case of Robinson, of course, it was wilful murder.

Mr. Graham: I was not referring to him. I was talking about the last two.

Mr. I. W. MANNING: There is no doubt a person who is prepared to kill wantonly and wilfully is a real enemy of society; and while we would treat in a certain way a mad dog which got into a flock of sheep and killed wantonly, we must regard the person who kills wantonly and wilfully in a similar light. I think members of Cabinet, or Executive Council, are deserving of our sympathy because they have to face up to these matters when they come before them. They are forced to face up to these difficult decisions.

Mr. Fletcher: They don't do the hanging though; they pay somebody else to do that.

Mr. I. W. MANNING: At least they have the courage to face up to seeing that the law is carried out. Certainly the easy way out, under the circumstances, would be to run away from these difficult decisions and say, "Lock him up. Leave him in the pen for the rest of his life." If we locked an animal up in a pen for the rest of its life, the R.S.P.C.A. would want to lock us up, too. So I doubt whether the taking of life, or requiring a person to forfeit his life, which is the way I prefer to put it, is any greater punishment than locking him up in a pen for the rest of his natural life.

The honourable member for Fremantle said, "What right has the Government to stand in judgment of people?" Of course all of our legislation stands in judgment of the people. We prosecute a person and he is fined up to £100 if he sells a couple of bags of potatoes outside of the marketing system, potatoes which he has grown and which represent his living. The same applies to a person who commits an offence against the Milk Act. For only a minor offence he can be fined up to £50.

Mr. Jamieson: If he carts manure in his truck.

Mr. I. W. MANNING: We pass judgment on every section of the community; and, following that through, we pass judgment on people who go out and kill wantonly. We require of them that they give their lives. So, while not wishing to—

Mr. Graham: Are you advocating capital punishment for those who sell potatoes illegally?

Mr. I. W. MANNING: —make a long speech on this subject, I wish to indicate that for the time being I prefer to support the existing legislation. I would say to the Government and to Executive Council

that it has faced up to some difficult situations from which it would be very easy to run away, but in this recent case it decided that the law should take its course, and the law was carried out.

MR. TONKIN (Melville—Deputy Leader of the Opposition) [11.16 p.m.]: This is a subject which, of course, is a very serious one for any Assembly to discuss, and it has been discussed for very many years. Quite a number of years ago the then member for Perth—the late Mr. Harry Mann—who had considerable experience as a detective and therefore was much closer to various aspects of crime than the average member of Parliament, made an extremely forthright declaration in the Parliament against capital punishment.

I listened very carefully to the case for the Government put up by the Minister for Industrial Development. I thought it was a weak case. I shall concede that, on this question, there is room for a difference of opinion. One forms one's opinion on matters of this kind as a result of experience, knowledge, and innate feeling. There are those who would hang murderers without a second thought, because they believe that murderers forfeit the right to live when they have taken somebody else's life. That is a point of view, but it is not mine.

In the whole system of penology, we adopt a series of punishments to fit certain crimes. The history of the world is that, in the very early years capital punishment was used as a punishment for a large number of crimes and considered to be the proper thing. However, as people became more enlightened and more civilised so the offences for which capital punishment was prescribed were reduced in number. First one group and then another was removed from the list of crimes for which capital punishment had been prescribed, and that list is dwindling day by day.

Even in our time in this Parliament we have reduced the list which shows a change of attitude towards the use of capital punishment and, of course, we all know, if we are honest, that the day will come when Western Australia will not approve of hanging anybody. It is a gradual process. It takes a longer time in some countries than in others; but it is inevitable with the growth of civilisation and the spread of enlightenment.

This subject has been argued in the Parliaments all over the world. The only argument ever advanced in the initial stages in justification for capital punishment was—and this is the main one—that to hang a murderer was a deterrent and it would prevent other people, who would otherwise be disposed to commit murder, from doing so because of the fear that they would be hanged if they were caught. We could not justify murdering a person

—and that is what hanging is—as a straightout punishment. If the State allows a hanging to proceed, which hanging is for the purpose of imposing a punishment upon a wrongdoer, it is itself doing the very same thing—

Mr. Fletcher: Exactly!

Mr. TONKIN: —for which the murderer has been convicted. I have never seen anywhere any attempt to justify a hanging on the basis that it is a just punishment. The argument that it is a deterrent has been exploded long ago. There is no worth-while evidence anywhere that if a murderer is hanged there will be fewer murders.

Mr. I. W. Manning: How would you collect that evidence?

Mr. TONKIN: Surely over the years, in most States where murderers are not hanged, there would be a tendency towards a greater incidence of murders than in those States where murderers are hanged.

Mr. I. W. Manning: But the honourable member for Fremantle said they are born with the streak.

Mr. TONKIN: If one takes the situation existing in this State one ought to be able to say with knowledge that in view of the number of persons that have been convicted and hanged for murder by this Government this should have resulted in fewer murders; but during the term of this Government there have been more.

Mr. Burt: Yes; but most of them were as a result of one man's actions.

Mr. Graham: No; you are wrong! You are talking without knowing the facts!

Mr. Dunn: You are saying that if a person is hanged that is murder and that is not the definition at all.

Mr. TONKIN: Of course it is murder; and I say again that, deliberately to take a man's life is murder, and wilful murder!

Mr. Fletcher: Hear, hear!

Mr. TONKIN: But the law permits it in this State. Therefore it is not an offence against the Criminal Code, but it is murder just the same.

Mr. Dunn: It is not murder if the law permits it.

Mr. TONKIN: It is murder just the same. The only possible justification for it could be that in hanging those who have committed murder there will be a deterrent against others who otherwise would be prone to do so, and as a result lives that would have been lost would be spared. If that could be shown to be justified there would be a case for the retention of capital punishment; but nowhere have I seen anybody attempt, in these days, to prove that it is a deterrent. What is our own opinion about it? I have a very firm conviction it is not a deterrent

and, if it is not, the only possible justification for it is swept away, because no-one can tell me a State is entitled to take revenge upon a wrongdoer! If that is the point of view we have forsaken the Christian religion.

Mr. Graham: Of course, this Government has forsaken just about everything else.

Mr. TONKIN: Is there anybody who believes that the State is entitled to take a life by way of revenge for what has happened? That was the note introduced by the Minister for Industrial Development into this debate, because he started to talk about the anguish of certain people and that, because of their anguish, we take revenge upon somebody to satisfy their anguish. That is a pretty weak argument. The only justification for the State to act in this way would be that, by so doing, it would prevent further murders and therefore save lives which would otherwise be lost.

Nowhere has evidence been advanced to prove that this has been so. The Government has opposed this Bill because it believes in a policy of hanging those found guilty of wilful murder. If that is its belief it has to be accepted; that is its policy, and it believes in that policy. But I submit it is a long way behind the times; it is falling a long way behind progress in other countries in this regard. It is years behind; and the day will come when it will forsake this policy as sure as night follows day.

It has been the history of the world all the way through that as we get new experiences and have more enlightenment, we take a different view of certain matters; and as the views have changed over the years with regard to those offences for which capital punishment was prescribed, so the views will go on changing, and we will find that one country after another will abandon capital punishment—not abandon punishment—as a corrective in order to, as far as possible, prevent a repetition of crime and reduce its incidence.

But the hanging of murderers has not been proved to do that at all. There are those who say that with some people it has the opposite effect; that the very knowledge that a hanging is taking place arouses in the minds of some perverted people an anxiety and an activity which could result in their committing some crime which they would otherwise not commit.

During the period which elapsed from the time the Government announced the day when Cooke was to be hanged up to the night before he was hanged, I spoke about the matter to a number of people with whom I came in contact. I did not initiate the discussion. I was surprised at the views these people expressed to me, as to how they felt about the matter; that they would be glad when it was over.

One woman—a very well-educated woman—told me that she found it impossible to sleep the night before for thinking about it. The reaction of the people in the community is not all the same; it differs with each individual. But my experience was not the experience mentioned by the Minister for Industrial Development—that 70 per cent. of the people are in favour of it—not by any means. I found one only, and he was most forthright in his statement. He wanted to know how long was this so-and-so going to be allowed to live.

Mr. Burt: That is what most people felt.

Mr. TONKIN: I do not think most people felt that at all. I would hate to think they did.

Mr. Burt: They did.

Mr. Graham: Rubbish! How would the honourable member for Murchison know?

Mr. TONKIN: I have a great faith in my fellow men, and I would hate to think that at any stage of our civilisation the majority of them are keen to see the life of another person taken.

Mr. Dunn: That is not the way to put it.

Mr. TONKIN: It is obvious that the honourable member for Murchison is one of those who is keen about it, and so one has not much chance of changing his opinion. But I still say, and I have no doubt in my mind about this at all, that the day will come—and it cannot be far distant—when no murderer will be hanged in Western Australia, or in any other State of Australia.

Mr. Graham: It is finished in the rest of the States; this is the one that is lagging.

Mr. TONKIN: This comes about by the effluxion of time; by the reflection of people on what is being done; by a growing abhorrence against all these things which are associated with the taking of a life under any circumstances whatever.

All our Christian teaching is towards correcting people, removing difficulties, helping those in trouble; towards all the highest principles; and we sweep them all away when we adopt the attitude that it is right and proper for the State to take a life, and to get somebody to do it. Of course the time will come when it will become more and more difficult to get somebody to pull the lever, and then the Government which believes in this will have to get one of the Ministers to do it. I support the Bill.

MR. JAMIESON (Beeloo) (11.32 p.m.): I would like to support the Bill. I feel that if we ever saw in this House the action of a member wrestling with his conscience it could have been one of the speakers earlier tonight who tried to justify his action in supporting legislation which is against the proposed amendment

put forward by the honourable member for Balcatta by saying that if a dog turned mad and attacked sheep it would be destroyed.

It is true that that sort of action is usually taken. But the honourable member should also appreciate that if either of the murderers to whom he was referring had been adjudged mad he would not have been dealt with. That is the salient point we must remember, particularly in the case of the two with whom he was dealing.

There is no doubt that their backgrounds and genetics were very doubtful. The honourable member for Fremantle dealt very thoroughly with that aspect. There is the fact that they had deformities and doubtful parentage, and if we examine this right back to the standard of Tapci he would probably be the only one with a worth-while character. We must judge character as being part of the set-up of the man.

It would appear to me in the main that these people who were unfortunate enough to find themselves in the position of being found guilty of wilful murder were the victims of various disturbed environmental circumstances, parental mis-control, and that sort of thing. If we study their complete story we will find it is not a very pretty one. It would certainly not be the story behind the background of any honourable member of this Parliament. It would certainly not be right to judge them according to our standards. I would say that we should judge the position of capital punishment according to modern thinking rather than according to the teachings of the Koran which makes the punishment fit the crime.

A person caught stealing once would have his right hand cut off, and caught stealing twice would have his left hand cut off. There was no need for gaols. The principal crime was theft, and on a killing charge the offender was slaughtered. But that is not a reasonable or proper approach in these modern days, when people should consider sanely what should be done with persons who commit murder. Criminals who have proved to be monsters should not be released from prison, but on the other hand there should be more than one opinion given on the mental stability of these offenders.

We are far too inclined to rest our judgment on the opinions of individuals. I would like to hear opinions of people outside the scope of those who have lived among criminals and mental patients, because they are apt to become too closely associated. If we take into account the environment of the people who give the opinions it is doubtful if their judgment is as good as the judgment of honourable members in this Chamber, bearing in mind the circumstances connected with the various crimes.

We tend to guard ourselves against problems which may face the courts of this land. Should, perchance, there have been a decision against Beamish, and his life taken after the jury had found him guilty and sentence had been passed the considerable doubt in the minds of the public as to whether the right thing was done in that case could have been magnified. If the law had taken its course and Beamish's life had been taken, what could be done to rectify the position?

In the case of Cooke and Robinson, the criminals most frequently referred to, there is no shadow of doubt about the crimes they committed; but in the case of some murders, sex was associated with the deeds. The honourable member for Balcatta clearly indicated in that respect sex crimes are not capital offences, even when killing is involved, and they are not punishable by death in countries where the death penalty has been retained. These crimes are placed in a different category, because it has been found that sex is a fundamental driving force to which people succumb, and before they know where they are a murder is committed. Many of these people are repentant for what they have done, but it is too late. They find they are charged with murder.

The honourable member for Fremantle related a case of one particular prisoner who, to some degree, has been rehabilitated; but possibly he will not see the outside of the prison walls for quite a number of years. He is doing a good job in assisting the Braille Institute, and in preparing books in Braille. This person was involved in some love wrangle which did not work out. He took violent action for which he is paying the penalty; but he is not a person who should be condemned by society. His actions cannot be condoned in any way, but we should be temperate in our judgment of him, for fear we might be judged ourselves.

Surely there is no great problem in ensuring that a criminal, who commits so severe a crime that he does not deserve to see the outside of the prison walls, is not released. To my knowledge there was no outcry in New South Wales when the killer of the boy, Thorn, was sentenced to life imprisonment a few years ago. He committed a crime which made headline news in the newspapers of this country, and no doubt in those of foreign countries, because of the circumstances in which the crime was committed, and because it was associated with kidnapping. I could imagine no greater scar being left on a community than the kidnapping and killing of an innocent child. But once this person was apprehended and the court found him guilty of wilful murder he was put away for life. Nobody is worrying about the case, and there has been no outcry against the commutation of the penalty to life imprisonment.

There certainly was no outcry in the Benn case. In fact, there was agitation in favour of commutation of the sentence. I join issue with the way in which these cases are handled by the Press and other parties. Cooke was a menace to society when he was at large. On reflection, I consider that the action taken by the Press, and to a lesser degree by the police and by the Ministers themselves, did not assist in apprehending this type of criminal. He was of a type with which we are not familiar.

Mr. Brand: Are we not being wise after the event?

Mr. JAMIESON: Of course we are. They put the fear of death in the minds of the community. What Cooke did was to read the newspapers. He thrived on them, existed on them, and relied on them to give him information on the movements of people. Every time it was published in the Press that people should lock their doors after 6.20 p.m. and not open their doors to anyone who failed to identify himself, Cooke was given a clear indication that was not the time for him to be prowling around, because everybody became guarded. Cooke was cunning and he was of a very unusual type, and his offences caused alarm in the community. We must thank the people who assisted in apprehending him. But once he was convicted and locked away, the State should have no other business with him unless, as the Deputy Leader of the Opposition said, it wanted to take vengeance on him.

It should not be our aim to take vengeance, but to uphold the law of the land. Anybody who does not observe the law should be locked away where he cannot affect those who obey the law. That is where our duty as legislators starts and finishes—to protect the people, and not to seek vengeance. We have to have great respect for the feelings of the relatives of the victims who were killed, but they would not have a sane assessment of the situation.

I can imagine my own feelings if it had been any of my kith and kin who had been murdered; and I have no doubt that other honourable members would possibly react rather violently in the same circumstances. However, time is a great healer and it cures that attitude of mind. When one is not balanced, one should not judge a person or recommend that a particular form of justice be carried out.

This day and age is far beyond the day and age when we need be vengeful as a community. We need to protect the people in the community, but we need not be vengeful. It achieves nothing. There are many arguments afterwards and just before a hanging takes place; but nothing

is achieved. If we are going to insist on capital punishment, I consider that once the act takes place the people concerned should be examined after death to see if we cannot find out from their brain what makes them tick. It might obviate further recurrences of the problem. But the law being as it is, that cannot occur. We achieve nothing. We finish up with a dead body which the Government has to dispose of in its own way, and we obtain no knowledge as to why this person was like he was and what made him do these things.

It is true that after an extensive autopsy it might be found that the person was lacking in his full mental faculties. Of course, I realise the danger that it could be found a person who was not responsible for his actions had been done away with, but that is one of the most salient reasons why we should not hang people.

Over a number of years I have given much consideration to this matter and I feel that nobody kills while in a right frame of mind, excepting perhaps in gun battles when a person does so for his own preservation. He knows what he is doing, but he is in a rough and tumble of some sort. Fortunately we do not have gang wars here; we have the run-of-the-mill killings when someone loses his temper, flares up, and before he knows what he is doing a carving knife or a gun is used. Many of these people would on reflection be horrified at what they had done.

I say there is every justification that at this juncture we should once and for all abolish this obnoxious business of hanging. We are getting bad publicity from it. It is very clear we are the only State indulging in this sort of habit, if one can call it that. The other States have given it away and we have become a sort of freak State. Every time there is to be a hanging in this State there is an influx of journalists all the way from the *Courier Mail* in Brisbane and most other Eastern States papers to get an on-the-spot story for readers in those States to digest.

This is not reasonable propaganda. It gives the impression that we are still at the mid-west United States 1850 stage when, if one did not like another person one got him out of the road by making sure he was placed on the back of a horse with a noose around his neck. I would rather we got away from drawing publicity of this sort. We should endeavour to draw favourable publicity. The publicity we are getting gives the impression that we are backward in our thinking and are not up with modern trends. The sooner we get away from it the better; and what is proposed by the honourable member for Balcatta will do just that. I feel the Bill he has introduced deserves very solid support.

MR. GUTHRIE (Subiaco) [11.51 p.m.]: Just before I say what I want to say, I would like to deal with a couple of comments made by the honourable member for Fremantle. He made the statement that governments of his political ilk did not indulge in hanging.

Mr. Fletcher: I corrected that during your absence.

Mr. GUTHRIE: So long as the honourable member did; but I would remind him there were at least two, and I think three in the one year—Coulter, Treffene, and Rennie. This was done after the honourable member's party included in its platform that it did not believe in hanging.

Mr. Jamieson: What year?

Mr. GUTHRIE: The actual murders were in 1926.

Mr. Jamieson: It was put in in 1927.

Mr. GUTHRIE: I think it was 1918, going back to an earlier speech made by the honourable member for Balcatta.

Mr. Jamieson: It was put in in 1927 at the instigation of the Labor women.

Mr. GUTHRIE: The honourable member for Fremantle dealt with the question of intoxication or addiction; and I would suggest he study the provisions of sections 27 and 28 of the Criminal Code as he will find the situation is, in some of the cases he described, that the people could not possibly be convicted, let alone be subjects for hanging. I will deal with that aspect later. I think that is the line on which we can introduce reform; and along the lines that have been introduced in other parts of the British Commonwealth.

The honourable member for Fremantle also made the statement that examinations should be made to determine whether or not a person was subject to drugs or intoxication at the time. I would point out to him that in some instances the man is arrested sometimes 12 months later. Therefore I do not know when the honourable member imagines that examination would take place and what value it would be.

The Deputy Leader of the Opposition, in the course of his address, made reference to the fact that the present Government's policy is to hang for wilful murder. I would remind him that only this year there was a convicted wilful murderer whose sentence was commuted by the present Government.

Mr. Tonkin: Is not the Government's policy to hang for wilful murder?

Mr. GUTHRIE: It did not do it. I do not know what its policy is.

Mr. Tonkin: Of course you do! You support it. What is the good of splitting straws over it?

Mr. GUTHRIE: The Government did, in fact, commute the sentence of a murderer in this year, 1964.

Mr. Tonkin: A good job it did, too!

Mr. GUTHRIE: Nevertheless, I am putting it to the Deputy Leader of the Opposition that he cannot make out a case that it is the policy of the Government to hang all wilful murderers. The policy is to carry out the law according to whatever the circumstances of the case are; and there have been many cases where governments of the political colour of the present Government have commuted the death penalty and other governments have imposed it—

Mr. Graham: Many years ago.

Mr. GUTHRIE:—according to the case and the circumstances of that particular case.

Mr. Bickerton: You have the numbers to alter the law.

Mr. GUTHRIE: I will deal with that aspect in a moment or two. Turning to the major issue, it is stated, I think fairly, by people that there are four general objections to the death penalty. The first is that it is not right a government should kill; the second is that it is unchristian; the third is that it is not a deterrent; and the fourth is that in many instances the person is mentally deranged in some form or other, but not so far mentally deranged as to be able to successfully defend himself on the charge which is brought against him.

I have always stated—and I repeat it now—that I can see no purpose in continuing the death penalty—and in this I agree with the Deputy Leader of the Opposition—on the ground that it is a deterrent. I am afraid that if one examines the evidence available there is no reason to believe that the imposition of the death penalty is a deterrent. This cannot positively be proved one way or the other. However, commissions have examined the situation, and in particular the Royal Commission appointed in Britain. It ultimately came to the conclusion that insufficient evidence was available to support the contention that the retention of the death penalty is necessarily a deterrent; and with that I agree. As I have said, I have always based my argument on this subject on the fact that I do not believe it is a deterrent.

I have never dealt with and do not propose to do so now, with the contention that it is not right for a government to kill or it is unchristian. I accept the fact that there are people who hold those views. I do not necessarily say I disagree with them. I have not found it necessary to study the matter.

I do intend to take some time dealing with the aspect of deterrence and the aspect of mental derangement, and I think

that derangement is one of the most important features to which attention can be given in the fairly close future.

On the subject of the deterrent and the various reasons for punishment, the British Royal Commission, I feel, dealt with the matter very adequately when on p. 18 of the report it quoted with approbation some of the remarks of Mr. Justice Denning, now Lord Denning, as follows:—

The punishment inflicted for grave crimes should adequately reflect the revulsion felt by the great majority of citizens for them. It is a mistake to consider the objectives of punishment as being deterrent or reformatory or preventative and nothing else . . . The ultimate justification of any punishment is not that it is a deterrent, but that it is the emphatic denunciation by the community of a crime; and from this point of view, there are some murders which, in the present state of public opinion—

I emphasise those words "present state of public opinion"—

demand the most emphatic denunciation of all, namely, the death penalty.

The commission then stated on the same page—

Whatever weight may be given to this article—

referring to what Lord Denning said and also what the Archbishop of Canterbury had said—

the law cannot ignore the public demand for retribution which heinous crimes undoubtedly provoke; it would be generally agreed that, though reform of the criminal law ought sometimes to give a lead to public opinion, it is dangerous to move too far in advance of it.

The commission had laid down three reasons for penalties generally these being retribution, reformation and the deterrent; and the members of the commission defined retribution as not meaning vengeance—although it initially did mean that—so much as assuring the public that the safeguards in the criminal law were, in fact, adequate.

That was the aspect to which Lord Denning was referring—that at all times the public must feel that the criminal law is, in fact, adequate, and to assure the public that it had reasonable safeguards against the sort of thing which developed in this State last year when there were panic stations, or something approaching that.

On the subject of reformation, the Royal Commission, on page 18, paragraph 54, had this to say—

The reformation of the individual offender is usually regarded as an important function of punishment. But it can have no application where the

death penalty is exacted, if "reformation" is taken to mean not merely repentance, but re-establishment in normal life as a good citizen. Not that murderers in general are incapable of reformation; the evidence plainly shows the contrary. Indeed, as we shall see later, the experience of countries without capital punishment indicates that the prospects of reformation are at least as favourable with murderers as with those who have committed other kinds of serious crimes.

So when we approach this matter on the second leg of the three tests the commission laid down as being essential in considering any criminal penalty, there is a strong reason for the abolition of the death penalty inasmuch as it would give the opportunity of applying the second test—namely, reformation—and with that I must say I agree.

The commission then dealt, at page 24, with the question of the deterrent effect being the third of its reasons; and it had this to say—

We recognise that it is impossible to arrive confidently at firm conclusions about the deterrent effect of the death penalty, or indeed of any form of punishment. The general conclusion which we reach, after careful review of all the evidence we have been able to obtain as to the deterrent effect of capital punishment, may be stated as follows.

Prima facie the penalty of death is likely to have a stronger effect as a deterrent to normal human beings than any other form of punishment, and there is some evidence (though no convincing statistical evidence) that this is in fact so. But this effect does not operate universally or uniformly, and there are many offenders on whom it is limited and may often be negligible. It is accordingly important to view this question in a just perspective and not to base a penal policy in relation to murder on exaggerated estimates of the uniquely deterrent force of the death penalty.

The commission had in mind there, I think, that for people such as the honourable members in this Chamber, no doubt the death penalty might be a deterrent. But we all agree we are not likely to be murderers—we hope not anyway! However, the type of person who does murder is not a person who looks at things logically and sanely, and therefore the deterrent effect rather falls away. That is the way I interpret the remarks of the Royal Commission on that particular aspect.

I must say the more I think about it and the more I reason on it, the more I come to the conclusion that really the deterrent effect is greatly exaggerated and certainly unproven. When I realise that statistics show that countries which have abandoned the death penalty have not suffered anything from it, it makes me think the time should come when we should consider abandoning it likewise.

I now turn to the subject of mental derangement—and this is what I really want to speak on tonight to some extent—because this is a branch of the law in which we have lagged a little behind in our ignorance. Permit me to say that it is only in recent days I became aware of what has occurred in other parts of the British Commonwealth, including the United Kingdom and Queensland.

Honourable members might recall that when I spoke on a similar measure introduced by the honourable member for Balcatta in 1960, I made some reference to the M'Naghten Rules. They are the rules which arose from the M'Naghten case, which occurred in 1843. M'Naghten was a man who set out to murder the then Prime Minister of the United Kingdom, Sir Robert Peel, and shot another man by mistake; and the defence of insanity was put up. It was discovered at that time that the law was somewhat unsatisfactory and the case was referred to the Law Lords of the House of Lords to state the law clearly for the benefit of the jury. The Law Lords laid down the rules which became known as the M'Naghten rules. They remained in force in the United Kingdom until the year 1957—for some 114 years—although they were altered in this State in 1913.

Firstly, the House of Lords was asked to define, for the benefit of the jury, what amount of insanity would give relief or a true defence to a charge of murder. The summary, from Harris's Criminal Law, is to this effect—

The substance of their answers was to the following effect: "To establish a defence on the ground of insanity, it must be clearly proved that, at the time of the committing of the act, the party accused was labouring under such a defect of reason, from disease of the mind, as not to know the nature and quality of the act he was doing, or, if he did know it, that he did not know he was doing what was wrong."

Our Criminal Code has altered that to some extent. The section in our Criminal Code, which is section 27, reads—

A person is not criminally responsible for an act or omission if at the time of doing the act or making the omission he is in such a state of mental disease or natural mental infirmity as to deprive him of capacity to understand what he is doing, or of

capacity to control his actions, or of capacity to know that he ought not to do the act or make the omission.

Section 28 goes on to state that the effect of intoxication of stupefaction caused through drugs which can result in mental derangement is to be deemed a state of mind envisaged in section 27. The difference between that section and the M'Naghten rules is the insertion in our Criminal Code of the words "or of capacity to control his actions" which were not laid down in the M'Naghten rules. This brings in, as a possible defence in this State, something in the nature of an irresistible impulse, which was certainly not available in England prior to 1957.

I wish to draw the attention of the House to the action which was taken in England in 1957, in connection with the Homicide Act. I confess that I was not aware of this until recently. I became aware of it by coming across an amendment to the Queensland law which was passed in 1961. It was an amendment to the law relating to this very subject. I refer to the amendment to the Queensland Criminal Code Act of the year 1961. Among other amendments they inserted in the Criminal Code a section 304A, headed "Diminished responsibility", which reads as follows:—

When a person who unlawfully kills another under circumstances which, but for the provisions of this section, would constitute wilful murder or murder, is at the time of doing the act or making the omission which causes death in such a state of abnormality of mind (whether arising from a condition of arrested or retarded development of mind or inherent causes or induced by disease or injury) as substantially to impair his capacity to understand what he is doing, or his capacity to control his actions, or his capacity to know that he ought not to do the act or make the omission, he is guilty of manslaughter only.

Mr. Fletcher: This is a big help to me.

Mr. GUTHRIE: That is the provision which was inserted in England, and which has been inserted in Queensland. I commend it to the House. It could well be inserted in our own Statute.

Mr. Fletcher: Hear, hear!

Mr. GUTHRIE: If honourable members are interested they will find the Queensland debate on this subject in volume 229 of the *Queensland Parliamentary Debates*. The introduction of the Bill was given by the Minister for Justice (The Hon. A. W. Munro) on the 9th March, 1961. Mr. Munro, introducing the Bill, had this to say—

This new provision in our Criminal Code relating to diminished responsibility is based on an old Scottish law

adopted in England in 1957 by the provisions of the Homicide Act passed in that year.

The new concept of diminished responsibility is designed substantially to provide machinery for something in the nature of a half-way house in cases where, without the provision, the jury would have no alternative but, on the one hand, to give a verdict of guilty of either wilful murder or murder or, on the other hand, to give a verdict of not guilty on the ground of unsoundness of mind.

In terms of the new provision, there will be open to the jury in such cases a further alternative finding of guilty of manslaughter, the verdict of manslaughter instead of either wilful murder or murder being arrived at on a consideration of the evidence (which it shall be for the defence to prove)—

That section does put the onus of proof on the defence to prove. Continuing—

that the accused person was suffering from an abnormality of mind that substantially impaired his mental responsibility.

In this sense it may be regarded as a logical extension of the principle of the present distinctions contained in Sections 301, 302, and 303 of the Code defining wilful murder, murder, and manslaughter to the somewhat different circumstances of either complete or partial unsoundness of mind.

For the benefit of the legal gentlemen who are in the Chamber, I might say I am making the explanation in broad terms and not in the precise language of the Bill.

The new concept of diminished responsibility permits a person accused of wilful murder or murder to raise the defence that he was at the time suffering from an abnormality of mind that substantially reduced his responsibility, but it does not provide a defence to persons who are merely hot-tempered or kill in a sudden excess of rage or jealousy.

As in the case of insanity, it is for the defence to prove alleged diminished responsibility to the satisfaction of the jury. The defence of insanity can still be made in appropriate cases.

In his reply to the debate, on page 2814 of the same volume, Mr. Munro gave some information to the House of how it was working in England. He quoted from an article in "The Economist". The following, which he quoted, is of some interest:—

Penal reformers cannot be wholly satisfied with the law of madness relating to murder even now. But the mental derangement part of the 1957 Homicide Act has been an indisputable advance.

I commend it for the consideration of the Government and of this House. It would, in my opinion, get rid of a lot of cases which lead to doubt as to whether a man should or should not be hanged. In many cases we would find that the situation would not arise, because a person would be found guilty of manslaughter and manslaughter only.

In my opinion, this is what should be done rather than introduce a Bill, as the honourable member for Balcatta has done, merely to abolish the death penalty. There is an obligation on those people who actively support the abolition of the death penalty to sell their case—if I might put it that way—to the public.

I feel there are grounds for some form of public inquiry. I mentioned this some four years ago and, as I also said four years ago, the same suggestion was made by the late Mr. T. A. L. Davy some 37 years ago. I think there should be some form of inquiry for the purpose of demonstrating to the public, and to satisfy the public, that those who believe the death penalty is no deterrent, and is obsolete, are in fact right; and to overcome the point which Lord Denning emphasised, and which I emphasise, that the criminal law must at all times be adequate in the eyes of the public. The public must be satisfied that it is not getting too far out of step.

Secondly I would recommend that we seriously consider amending our Criminal Code by bringing in the sections dealing with diminished responsibility. When that state of affairs is reached I think the difficulties we find ourselves in tonight would not be arising; there would be a general feeling among the public that the time was ripe to abolish the death penalty; and there would be no difficulty with anybody opposing that proposition.

As I said before, and as I say again tonight, in the present circumstances, and being aware of the fact that if I cast my vote with the other side this measure is carried so far as this House is concerned, I am not prepared to take that responsibility—not at this stage and time. Therefore, I oppose the Bill.

Mr. Fletcher: A very good contribution.

MR. DAVIES (Victoria Park) [12.16 a.m.]: The speech just made by the honourable member for Subiaco is the first break-through we have seen in this Assembly for a long time, and I agree with the honourable member for Fremantle that it was a very good contribution. I hope the honourable member for Subiaco will try to inflict or impose his views on some of the members of his own party.

Mr. Fletcher: Such as the Minister for Industrial Development.

Mr. DAVIES: I am afraid I cannot give such a learned dissertation on the subject as the member for Subiaco has just

given to the House. In fact, I was not going to speak at all, because my views have been made known on other occasions and they have not altered one bit. I do not think any good purpose would be served by going over the arguments put up on other occasions, and many of them have been capably covered this evening by other members from this side of the House.

However, I wanted to bring to the notice of the House the fact that this question has been actively investigated by the United Nations Organisation and it has, following its inquiries, drawn up a report, which was published in 1962. The report was prepared by Mr. Marc Ancel, a Justice of the French Supreme Court, and Director of the Criminal Science Section of the Institute of Comparative Law of Paris. It was a comparison of the position in different countries and the study was initiated by a resolution carried by the General Assembly of the United Nations on the 20th November, 1959.

As a result of this resolution, inquiries were made throughout the world regarding various aspects of and associations with capital punishment. There are several short passages in this publication, to which I wish to refer, but I would recommend all honourable members to read it because it is the most impartial report that I have yet read on the question of capital punishment. It is a typical United Nations report. This organisation sticks to the hard cold facts and, having read it—and all the facts are there to be read, and both sides of the case are presented—any reasonable person could not help but come to the decision that it will not be long before capital punishment is abolished in many more countries of the world, particularly in countries like Australia where we like to pretend, at least, that we are advanced with our social legislation.

The publication lists in three sections those countries which have abolished capital punishment. The first section is the *de jure abolitionist*, where the death penalty has been abolished by an expressed constitutional or legislative provision, and it is rather remarkable to look at the date when this law was brought into being in various countries. It was 1922 in Argentina, 1930 in Denmark, 1945 in Austria—although I believe it was originally enacted in 1919, reintroduced in 1934 and then abandoned again in 1945—while in the Federal Republic of Germany capital punishment was abolished in 1949 and in Finland in the same year.

I am just picking at random countries that appear in the list. In Norway it was abolished in 1905, in the Netherlands in 1870, New Zealand 1961, Sweden 1921, Switzerland 1937, and in six States of the United States of America at various dates from 1887 to 1958.

The second category comes under the *abolitionist de facto* meaning, of course, that these countries still have the death sentence but it is never carried out. The four countries concerned are Belgium, Leichtenstein, Luxembourg, and the Vatican City State. The last group listed are countries which are almost completely abolitionist, and this is where the death penalty has virtually disappeared. So far as Australia is concerned, New South Wales comes into that category, and the only other places referred to are some of the United States. They are a few of the countries which have abolished the death penalty, and if members look back over some of the names I have read out they will see it is a distinguished list.

The publication takes in all aspects of the capital punishment question, and one interesting part is that in many countries which have abolished capital punishment there has been a period of *de facto* abolition, and it is pointed out that in Portugal the last execution took place in 1848 and the death penalty was formally abolished in 1867. In Denmark the last execution took place in 1842. The 1866 code provided for the death penalty but it was never applied, and hence the 1930 code could hardly be said to have abolished capital punishment, but merely to have dropped an obsolete penalty.

So even if we did not abolish capital punishment altogether there is a very good case for at least abolishing it for a trial period of five years, as was suggested in the House at one stage, to see what the position would be and whether the abolition of capital punishment caused any marked increase in crime.

I wanted to read those few interesting facts from the publication following a remark by the honourable member for Darling Range, I think it was, that there are no statistics available relating to the criminality curve. On page 55 of this report there are some facts which give the lie to that statement. There has indeed been a considerable amount of research done into the subject and it points out that despite a constantly increasing population in Argentina, for example, the number of murders of the kind previously punishable with death declined steadily in the decade following the abolition of capital punishment. The data reported from the Federal Republic of Germany points in the same direction—

The extract is as follows and commences by referring to the Federal Republic of Germany:—

Capital punishment was abolished in 1949, and there were 521 capital murders in 1948, 301 in 1950 and 355 in 1960, figures which reflect a considerable decrease. Austria, where the penalty of death was reintroduced in 1934 and then abolished again in 1945 (abolition becoming effective in 1950),

also reports a decrease in murder since abolition: the figures for the most recent five-year period are the lowest ever recorded in that country. The same observation is generally made in the Scandinavian countries, particularly Finland, where a steady decrease in murder has been noted since the abolition of the penalty of death. Crimes which were formerly considered capital crimes fell in number from 137 in 1950 to 79 in 1959. In Norway, too, subject to allowance for the population increase, a steady decrease is noted since 1875, in the occurrence of crimes formerly punishable with death. The same has been true of Sweden since *de facto* abolition in 1910 and *de jure* abolition in 1921, as also of the Netherlands, Denmark and Belgium.

I think the figures made available from those countries through the medium of this booklet issued by the United Nations indicate quite clearly the fact that although the death penalty has been abolished in such countries it does not mean there is any increase in the type of crime for which capital punishment was previously provided.

As I have said, the publication is intensely interesting, but at this late stage I am not going to try to read the whole of the book to the House. I would merely quote one final paragraph where the position taken by specialists and qualified organisations is summed up. The interesting part is—

1. Position taken by Learned Authors.

In the first place, it will be noted that, among the leading authorities in penal science, the supporters of abolition appreciably outnumber those who favour the retention of capital punishment. The specialists of the social sciences, criminologists, sociologists, penologists, psychologists, doctors and writers on social science and criminology are, in their great majority, abolitionists. The supporters of capital punishment, apart from a number of political figures and persons holding high public office, are generally jurists with a traditional training and judges.

I think that indicates that all the people who can generally be looked to to give particulars of crimes and particulars of social advances—namely, the writers, the thinkers, and the scientists—believe that the abolition of capital punishment is highly desirable. They are only a few of the points I wish to draw to the attention of the House primarily to let the honourable member for Darling Range know that there has been considerable research carried out on this question. Once again, in supporting the Bill I might say to anyone really interested in the subject of capital punishment, in order that he

might obtain an unbiassed and impartial view, I could not do better than to recommend the United Nations booklet on capital punishment.

MR. MOIR (Boulder-Eyre) [12.29 a.m.]: I support the Bill. I am of the belief that there is only one justification for carrying out the death penalty on a murderer and that is, if it is going to act as a deterrent against people who may be likely to commit the same act; but I think we have ample evidence and proof that it is not a deterrent. A normal person does not commit a murder whilst he is normal. A person who is usually normal but who gets into that situation has committed the crime because he has worked himself up into a certain state, such as the state of rage, jealousy, or the like, which upsets his mental balance. One could then say he is abnormal. I cannot imagine any normal person who deliberately sets out to commit a murder.

In our State it has been amply proved that the imposition of the death penalty is no deterrent to others. If certain circumstances exist and an individual has his state of mind upset it is possible he will commit murder. There are features of the death penalty and the execution of it which are extremely unpleasant. I only hope that honourable members of this Chamber will give more thought to the circumstances surrounding the execution of the death penalty.

It must be borne in mind that when the decision is made to carry out the death penalty, the actual execution represents something dreadful in the minds of a number of people who have nothing whatever to do with the actual murder. By imposing the death penalty we compel those men who are employed in prisons to take part in the execution and to carry out certain duties associated with it. We also expect people to be present at the execution acting in the capacity of witnesses. Whilst the murderer's trial ends with his death, the trial of the people who have taken part in his execution has not concluded on the death of the murderer, because they still have to continue with several duties which follow.

When I occupied the position of Chief Secretary and I took the opportunity to visit the Fremantle Gaol, I was shown around the punishment cells, and I also inspected the gallows. During this inspection I was greatly impressed when a high official of the prison said to me, "Mr. Moir, we are always pleased when a Labor Government is in office." I apparently looked a little surprised on hearing this, because he continued to say, "It is not a matter of politics, but a Labor Government does not make us hang people." What he said indicated to me that he regarded himself as being in the category of an assistant to the hangman because

he had certain duties to carry out in connection with the execution, and he regarded himself as being in the position—as did other fellow officers—of being a party to it.

It made me think of what would be the feelings of those people who were charged with that duty, and I could only come to the conclusion that they must be extremely dreadful. So that is a feature of capital punishment of which we must take notice. Another aspect is that when we execute a person, it is one of the most useless acts one can imagine, because we obtain no benefit from it in any way. It has been proved that it is of no deterrent to other people. Therefore, what does the execution amount to? It amounts to the fact that we are having revenge on the individual who is executed. I consider that a term of life imprisonment imposed on a person is actually worse than hanging.

But we also impose a punishment on the innocent relatives of a criminal; people who have had nothing whatever to do with the crime. We know, of course, that any criminal offence casts a shadow over people connected with the person concerned. That perhaps is unavoidable. But the shadow we cast over these innocent victims is avoidable; and I am referring to the fact that we hang people.

I have a personal knowledge of a son of a person who was hanged here many years ago. He bore that cross all his life, and it had a very bad effect on that man—not that he had committed any crime, but to his sorrow he had to bear that cross. It evidently weighed very heavily on him, because 30 years after his father was hanged for murder he took his own life. He was a very well-liked and respected person and lived a very good life, but the people who were his friends knew that that shadow was over him all the time. The unfortunate occurrence weighed very heavily with him; and it must have had an effect on his mind, because it eventually culminated in his taking his own life.

There is another aspect which I consider very bad indeed, and that is the carrying out of the execution. Naturally there must be an executioner. What type of person do we get as an executioner? Is he a type of person who undertakes to perform that duty just because he is receiving a reward for it; or is he the type of person who carries out the duty because he takes a sadistic pleasure in doing so?

I doubt very much if any of the close relatives of the victim could be induced to carry out the job of the executioner. It might be expected that at a time like this the relatives of the victim would cheerfully carry out this duty. I doubt very much, however, if after a lapse of time these people would allow themselves to be placed in the position of being the

executioner of the criminal who murdered one of their relatives, or one near and dear to them.

When we give somebody the opportunity to perform what amounts to judicial murder we are pandering to the basest form of human emotions. A life taken in circumstances such as that certainly does amount to murder. I think it is high time that we got away from this system under which we have operated for many years. It is high time we became a little more enlightened than we are at present. We should abolish this system of capital punishment, because it serves no useful purpose at all. Evidence does exist that although murderers have been hanged, this type of punishment has not proved a deterrent to others who commit similar crimes. I support the Bill.

MR. BICKERTON (Pilbara) [12.40 a.m.]: I support the measure introduced by the honourable member for Balcatta. I have spoken on this matter before, and I feel it is one that should be treated very seriously. There is no doubt that it is a reform that will take place very soon, and I am quite sure that in my lifetime we will see capital punishment abolished.

It seems to me to be just a matter of how long those that advocate capital punishment can hang out against the pressures of those who seek its abolition. I do not think there is any doubt in the world that capital punishment has not proved a deterrent to murder. This has not been the case in any shape or form. As has been pointed out by other speakers, once we accept that fact then the act of hanging, or capital punishment of any description, loses its value completely. It might just as well be abolished, because it has many aspects which I believe are dangerous to a civilised community. They are certainly unnecessary in a civilised community.

I hope the time is very close when we will join other civilised communities throughout the world in abolishing capital punishment. As things stand now the Labor Party, owing to the fact that this has been on its platform for a long time, has brought this measure forward on many occasions, only to have it defeated. The Labor Party is, in fact, against capital punishment, whereas the Liberal Party appears to be for capital punishment.

This policy is somewhat inconsistent because someone who commits a murder whilst the Labor Government is in power has his sentence commuted to life imprisonment; whereas a person who commits a murder when the Liberal Party is in power is, in many cases, hanged. From the point of view of consistent government I do not think that is good. I feel sure that those who advocate the abolition of capital punishment realise that in time they will have their way; and those

who advocate capital punishment must realise that in time they will have to bow to popular feeling and popular emotions and abolish capital punishment. How long they can hold out I do not know; that is their business.

I have no criticism to offer against those that advocate capital punishment. If they truly believe in it, and do not carry out these things for sadistic reasons, I am prepared to respect their beliefs. But I feel sure that if they did considerable research into the matter they would come to the conclusion that capital punishment is something that would be better abolished.

I notice that even those governments that decide that a murderer shall be hanged always seem to place some condition as to why he should be hanged, as though they, in their own minds or in some abstract way, are not completely convinced that what they are doing is right. Even when they decide that the death penalty is to be carried out after a sentence for wilful murder has been passed, there is always a little rider that, in accordance with the law, the guilty person will hang. After the death by hanging, the utterance made by the Chief Secretary is that that hanging has been carried out in accordance with the law. There always seems to be this rider; in other words, they want to indicate they did not hang the guilty person, but the law did.

Of course governments make the law and they can alter the law. So when a government decides that a person shall hang, surely it is the government which is making the decision! To my way of thinking there is no other way out of this responsibility. I shall give my reasons for opposing capital punishment briefly, as I have mentioned them on other occasions. To clarify the position—I suppose everyone has his reasons for opposing capital punishment—I put my reasons in the following order:—

- (1) As I have been unable to convince myself, after reasonable research, that it is impossible to hang an innocent man, I oppose capital punishment.
- (2) As I have been unable to convince myself that hanging is a greater deterrent to would-be murderers than life imprisonment, I therefore oppose it.
- (3) As it is reasonable to assume that the officials associated in the course of their duties with the actual hanging do, in fact, suffer psychologically and in other ways, I oppose capital punishment.
- (4) As I am of the opinion that the actual hangman, clothed in mystery as he is, must be a sadist, and as I detest sadists, I oppose capital punishment.

- (5) As I have never been convinced that the aggrieved relatives of the murderer's victims ever got any enjoyment, satisfaction, or even peace of mind out of hanging, I can see no reason for supporting capital punishment.
- (6) As I assume that the near relatives of the murderer, innocent as they are, suffer greatly during and after the act of hanging, and that a greater and more lasting stigma is cast upon them by the act of hanging, I have another reason for my opposition to capital punishment. The method of exterminating life from a body, be it human or animal, by suspending it on a piece of hemp rope or like material until life expires as a result of a broken neck or strangulation, is abhorrent to me, and I therefore oppose capital punishment.
- (7) Until such time as I am convinced that the legal profession and others connected with convicting a murderer are 100 per cent. honest and 100 per cent. incapable of error, I will continue to oppose capital punishment.
- (8) In view of the fact that a person serving a gaol sentence is at all times subject to a review of sentence should fresh evidence become available, whilst a dead man cannot benefit likewise, I consider my opposition to capital punishment to be justified.
- (9) Whilst I am forced to admit that I am unable to state my reactions to hanging, were the murderer's victim a near and dear relative of mine, I do know that my opposition to hanging would be great, were the murderer a near and dear relative of mine. As one argument can be considered to cancel out the other I regard my opposition to capital punishment to be logical.
- (10) As no hue and cry is ever raised by the public when the sentence of a murderer is commuted to life imprisonment, surely it is logical to assume that society feels it has been avenged without the actual carrying out of the death sentence.

Owing to the early hours of the morning I shall not labour the House any further, except to indicate that I support the measure.

MR. GRAHAM (Balcatta) [12.56 a.m.]: It was my hope that the Government would give some consideration at least to the Bill which was introduced a fortnight ago. When last a similar measure was

before this Parliament I felt the Opposition was insulted by the Minister for Industrial Development who did not even wait until the case had been presented before making up his mind. Indeed, his brief was prepared even before the measure was introduced.

I am certain that all honourable members will agree with me that on this occasion the same Minister, whilst he talked for a period, did not make any attempt whatsoever to advance arguments in rebuttal of the case that had been submitted, and did not endeavour by reason and logic to justify the attitude of the Government since it has occupied the Treasury bench.

My thought immediately was that events of recent days were still hanging heavily on the minds of the Government. For that reason—this was one of the exceptional occasions—the Minister to whom I have referred found it impossible to make out a case. I think the Government is conscious of its position, for which reason it has promoted my private member's Bill ahead of all others, because it wants, at the earliest possible moment, to have all references to hanging behind it, instead of having to face some activities yet to come.

For the life of me I cannot understand how in this modern age a group of people in a civilised community—such as the Ministry—have been able to arrive at the decisions which they reached over the past few years, for the reason that there is no evidence to be obtained from any part of the world to support them in the decisions which they made. Therefore I submit that members of this Government are psycho cases, because their decisions have done no good, and could do no good; and they are aware of that fact, as a result of the references which have been quoted and the evidence which is available.

It appears, therefore, that this move of the Government was intended to pander to public feeling, if we can accept the percentages given by the Minister for Industrial Development, or else the Ministers have a streak of some sort in their nature which is at variance with modern thought.

It was indicated, when introducing the Bill, just how many countries have moved in the direction of doing away with the death penalty and how some European countries abolished it well over 100 years ago; and the position here in Australia where, in the last six years, the only hangings that have taken place have been in Western Australia. It is commonly accepted that never again will the hangman's noose be employed in other parts of the Commonwealth. This State has become not the laughing stock, but it has become the curiosity of the Commonwealth of Australia.

As the honourable member for Beeloo pointed out, we have numbers of people who come here because of this distasteful, this unique occurrence; and, as we have noticed in the Press in recent days, the hanging which took place earlier this year following the succession of hangings, has produced Western Australia as an image of real importance for the first time since the Commonwealth Games. There was our finest hour; and now we shift to the bottom of the class. Western Australia—our State—appears in the objectionable, abhorrent role in which it is—the hangman's paradise.

There is, I suggest, nothing for me to reply to in what should have been a case by the Minister for Industrial Development when he pretended he was replying to the case submitted in the introduction of the Bill. Once again there were the taunts that when Labor was in office it did not introduce legislation to abolish the death penalty. I have made reference to this on all sorts of occasions and there is no need for me to weary the House in the early hours of this morning; but if something was not done in the year 1954, surely there is no reason why it should not take place in 1964 if it is justified and the evidence is there to substantiate it!

The Minister made a wild guess as to the percentage of the population in favour or against. I emphasise it was a wild guess. What did it prove? Nothing! How many members of the public would be in favour of the Federal Parliamentary salary increases that were unofficially announced yesterday? Does that mean the increases are not warranted? When there is a new taxation measure, if a poll were taken, what would be the reaction? Surely honourable members are not so many sheep as to go with the flock! They are to judge cases and questions on their merits.

The honourable member for Subiaco, opposed politically, was able to quote from authoritative references, again proving how outmoded this Government is in this most shocking of government actions. He, the honourable member for Subiaco, finds himself unable to support this Bill because, unfortunately—and I do not say this unkindly—it would appear that party political considerations are more vital to him than the matter of the State taking the life of a man deliberately; in other words, the process of execution.

It would appear the Minister for Industrial Development is incapable of reading because of his remarks made in connection with the amendment which was effected by this Parliament in 1961 and which, I repeat for his edification, has placed us in the position under which a person found guilty of murder with no recommendation for mercy, gets a few years' imprisonment—in the case to which we have alluded something not in excess of 7½ years—and another person found

guilty of a lesser crime is imprisoned for a minimum of 15 years, during which the monarch cannot exercise the royal prerogative.

The Minister would have us believe that some progress has been made; some reform has been achieved! He was speaking with something on his conscience because, as with the honourable member for Wellington, he felt there was need for attention to be given to punishments, particularly the more severe punishments. In other words, when this Government finds the time is propitious, then it will introduce the Bill to abolish the death penalty and it will receive the approbation of the public—those who have finer feelings—those who have made some study of the subject.

So people are being killed by the State purely because of party political considerations. I leave the Minister for Industrial Development there except to say, as this is the Government responsible for hangings, the onus and the responsibility is on this Government to give reasons as to why that form of brutality is necessary. But, of course, the Government does not do that. It does not pretend to. Others of us who have studied the subject, including the honourable member for Subiaco, can find no evidence anywhere that there is anything whatever to be achieved by this brutality. Nothing whatever, except satisfaction to certain sadistic minds in the community.

Therefore the hangings are taking place only to satisfy that rather unhealthy attribute, if that be the right word, or that unhealthy trait. The Government persists in that attitude. We are unique in the Commonwealth of Australia. We have a record of which I, for one, am ashamed; and there are many with me.

We have had four hangings in the last four years. Mention was made last week of the case of Beamish; and I would say from my place in this Chamber that if it were not for the fact that he suffers the unfortunate affliction which he does, there would have been a fifth hanging in Western Australia. Time will tell, and I believe that time to be not far distant, when this man will be found not guilty of the charge; and I think the Government has some inkling that that is likely to occur. When it does occur, I venture to suggest, if nothing else, it will bring about the abolition of the death penalty in Western Australia because here in our own State will have been a recent example of where an innocent person was found guilty of wilful murder. I repeat, time will tell whether these words of mine were justified or not; and I have every confidence that I am right.

I received a couple of communications during the past week or so to which I would like to make reference in the hope that they might have an effect upon some

honourable members. But before so doing, let me place it on record that a Bill is to be introduced into the Parliament of the United Kingdom for the purpose of abolishing hanging or capital punishment for the crimes of murder, or wilful murder, or homicide, as I think it is called in Great Britain. There is no doubt that that Bill will be passed, and by an overwhelming majority, because such a Bill passed the House of Commons at a time when the Labor Party was in a minority by a considerable number.

So old conservative Great Britain will have abolished capital punishment and Western Australia, at the end of the queue, will be proceeding merrily with its periodic hangings unless, of course, a change of government occurs next year—and let us not speculate on that in the course of this debate.

Here I interpolate to say that in respect of certain murders which have taken place in Western Australia, including that of the young woman in Cottesloe and that of the young woman in South Perth, under British law the person responsible for both those offences would not be hanged, so even without the proposed amendment to the law in the United Kingdom, Western Australia is still outmoded and living in pre-historic times.

A mistake was made by the last Labor Government in not abolishing capital punishment because it was assumed, as was assumed by the anti-Labor Press in the State of Victoria, that this method of reaping vengeance upon people who had been found guilty of serious crimes, was a thing of the past, and that whilst it was on the Statute book it would never be employed. To save the time of the House, I would direct honourable members to page 1588 of this year's *Hansard* on which will be found a leading article which confirms what I have said.

Honourable members have been reminded of some provisions in our Statutes which are hopelessly outmoded and probably could have been so described the best part of a hundred years ago. They are still there but have no application. It was thought that would be the position regarding hangings; but now a whole plethora of them have occurred here under our very noses.

The following is a letter I received on the 20th of this month:—

Dear Mr. Graham,

I would like to place a few thoughts before you in connection with your anti-hanging campaign.

In the four most recent cases in which a jury has found the accused guilty of wilful murder without recommending mercy, it is significant that in the three cases in which the death sentence has been or will be carried out—viz., in the cases of Thomas, Robinson, and Cooke—the

victims were not known to the killers. In other words the killings were senseless and could not possibly be the acts of normal sane men.

On the other hand, in the sole case in which clemency has been extended—in the case of Benn—the victim was, and was intended to be, his own son. Not because the son had done anything to deserve death, but because he—the parent—had not the courage to live with the problem so courageously borne by so many other parents.

While I would not suggest that Benn should have been hanged it seems a travesty of justice that he will soon walk the streets a free man—more, he will be given some adulation by those who sprang so quickly to his defence.

What a difference—a mediocally callous death on the one hand and freedom and more on the other.

In this connection it is possible to relate the friendless state of Thomas, Robinson and Cooke with the support so readily given Benn by the Government sacred cow the University.

Whatever conclusions can be drawn it can be remembered that in the cases of Thomas and Robinson, Cabinet held that the law was the law and in the absence of a recommendation for mercy there was no alternative but to hang them—similarly with Cooke—but what about Benn?

We may yet see the day when we can do without judge and jury and leave the verdict—and sentence—to Cabinet.

For reasons which you no doubt appreciate I cannot sign myself other than

Well-wisher.

Surely one is entitled to draw the conclusion that the Government chickened out. So far as the action and decision of the court was concerned, the Government did not have a leg on which to stand—this Government being one which believes in capital punishment—but because of pressure not only in Western Australia, but throughout the Commonwealth of Australia, and indeed, most of the four corners of the world, this Government gave in and made a decision contrary to its tenets. I only wish the Government had chickened out on its outmoded philosophy in connection with four other cases!

I was interested to read from papers laid on the Table of the House last week, a report by Dr. A. S. Ellis who, I think, is the man in charge of the Mental Health Services in Western Australia, recently appointed. On the 5th May, this year, in a report to the Government on the mental condition of E. E. Cooke, he quoted from the findings of the Royal Commission of 1954 on the law relating to mental disease

and mental deficiency based on evidence submitted by various organisations, including the Royal Medico Psychological Association. After eliminating cases where the behaviour resulted from well recognised forms of mental illness or defect, the memorandum of Dr. Ellis went on to say that there remained a group of patients with certain characteristics. He then added—

Punishment, or the threat of punishment, influences their behaviour only momentarily, and its more lasting effect is to intensify their vindictiveness and anti-social attitude.

That is from the principal mental adviser to this Government; an officer appointed by this Government; the officer who was responsible in the course of his official duties for Cooke being certified as sane? Yet he said that. What does it mean? Stripped of the polite language it means that because this Government has a policy of hanging those responsible for wilful murder, and indeed had carried out hangings, it, the Government, was responsible for some of the excesses which have been attributed to E. E. Cooke.

What a shocking indictment of a Government! What a shocking attitude for the Government, purely because it has a political bias; simply because it will not learn from the experience of every other part of the world! It will not accept the evidence of every impartial authority that has investigated this question.

It is a Government which has not a case in favour of capital punishment. It has not at any time endeavoured to present a case in favour of the retention of the gallows; and therefore I say there is heaped upon the head of this Government—and it is a shocking thing to have to say, but it is unfortunate that it is shockingly true—that this Government based on the quotation I have just made, has been responsible for the deaths of certain citizens in this community in addition to those it has been responsible for hanging.

How much longer is this farce to continue? Every honourable member who has thought about this question—and it is so serious that there should be no exception—knows perfectly well that there is nothing whatever to be achieved in the matter of hangings; yet this Government goes blithely on its way.

What a callous, irresponsible Government it is! There is no need for me to dwell on the effects on certain unfortunate individuals who are compelled to be in attendance when this useless slaughter of a human being—of an unfortunate man who does not conform—is being carried out.

A gentleman who, strangely enough, comes from the electorate of the Minister for Industrial Development who was charged with the responsibility of producing the Government's case, informs me that about 30 years ago a person

named Sonderman killed four young girls in Great Britain. He was hanged in June 1936.

Unlike here in Western Australia where hangings do take place, apparently it is the custom in England to analyse the brain in order to see if something can be ascertained which might be of benefit to the community and in the treatment of other cases if society is unfortunate enough to be blighted with them.

It was found that this murderer had some ailment pertaining to meningitis; some ailment of the membranes covering the brain. This affected him to the extent that he had this urge to kill. It was something which he could not repulse; he could not help himself. Unfortunately, this was found out only after he was hanged.

Mr. Fletcher: He was a compulsive killer.

Mr. GRAHAM: As is pointed out in a publication covering this case, the man was somewhere between man and beast. Although he knew what was happening he could not do anything to avoid it. He killed without motive. Have we not had a case in recent days which could easily be akin to this? As one honourable member pointed out, there were visible defects; namely, a hare lip and a cleft palate. It would not be obvious to an observer that there was something wrong with his brain structure which placed him in the category of the person I have just mentioned in Great Britain. If all murders attributed to him were, in fact, his responsibility, then Cooke killed without motive. No doubt he had an impairment of the brain, as had this other person.

Somebody from Kalgoorlie, pursuant to this matter, had this to say—

From a scientific point of view let us consider this person, coldly, as a specimen.

Society has already paid far too high a price for this specimen to simply destroy him, to satisfy the lust of a few blood lapping sadists.

This person killed apparently without a personal grudge and for no personal gain. At least such a person holds the answer to many questions while he is alive.

- (1) When did this desire to kill develop?
- (2) Is it there for all time, or at what age disappears?
- (3) Was there reason for such development, though not apparent now?

This correspondent termed those questions as being elementary. The honourable member for Wellington seemed to think there were feelings of concern among the community when a murderer was behind prison bars. This man Cooke was

behind prison bars for some 12 months. When he was apprehended, public feelings and anxiety were immediately stilled and the public are no more contented with the state of affairs this week than they were last week. So nothing whatever has been achieved in respect of the point advanced by the honourable member for Wellington.

Let me again express my bitter disappointment that the Government has not been big enough to acknowledge the facts. I would have hoped that the honourable member for Subiaco would take some steps perhaps towards supporting the second reading and, in pursuance of the educational campaign which he suggests, refer the Bill to a Select Committee. But no, he is not prepared to do that.

Mr. Guthrie: I do not think it would be very practicable at this stage of the session, would it?

Mr. GRAHAM: It would be a far better gesture on the part of the honourable member for Subiaco than for him to produce the fine and convincing case against hanging which he did and then vote against a Bill which seeks to achieve that very reform.

The attitude of the Government, and others who support it, reflects very little credit on them. They may rest assured that whether Labor is the Government or the Opposition, Bills will be introduced at intervals in order to bring Western Australia from the backward state it now occupies in respect of this penalty to what is now the situation in other States of the Commonwealth. One State has abolished capital punishment for more than 50 years and in other parts of the world capital punishment has been out for over a century.

If the Government derives any sadistic satisfaction out of defeating this Bill, notwithstanding that the honourable member for Subiaco and others are in favour of it, it is entitled to whatever satisfaction it can get. I use the term "others" in addition to the honourable member for Subiaco, because I refuse to believe that out of 26 reasonably normal citizens on the other side of this House there is only one who believes in the abolition of capital punishment. That one person, out of 26, does not even measure up to the exaggerated figure mentioned by the Minister for Industrial Development, who suggested that 70 per cent. are in favour of hangings in the State of Western Australia.

Mr. Court: I think that is a fair estimate.

Mr. GRAHAM: If that is so, it demonstrates that the Government and its supporters are out of touch with the public generally; because I would have thought that if they were a reflection of the community then approximately 30 per

cent. of those honourable members who sit on the other side of the House would be in favour of abolition. In other words, when the vote is taken, eight members on the Government side would join with the Opposition in voting in favour of it.

Mr. Court: The reverse could be the case. It cuts both ways. You have seen the results of the polls which have been taken on these things between Labor and Liberal voters.

Mr. GRAHAM: If the Minister for Industrial Development had been in his place earlier, he would have heard my reference to polls and to the ridiculous state of affairs which would apply to public life if decisions of governments and Parliaments were determined by popular opinion polls. I wonder how many of the hundred and one taxes which have been newly levied or increased by this Government will have received the approbation of the public.

Mr. Court: I referred to that aspect. We don't take them as being gospel.

Mr. GRAHAM: Then what is the Minister getting excited about?

Mr. Court: I am not getting excited; it is you who are getting excited.

Mr. GRAHAM: Surely, in connection with a subject which is so serious and which is of such disgusting proportions, we should not keep Western Australia at the bottom of the class. Apart from a few coloured countries which have not even a smattering of civilisation, I would say that Western Australia, during the time that this Government has occupied the Treasury bench has a worse record than any other government in the world.

Mr. Court: Oh, don't exaggerate!

Mr. GRAHAM: Am I exaggerating? I have already indicated that some of the most brutal murders in Western Australia in the last few years would not be punishable by the death sentence in Great Britain. I have already indicated, and it cannot be controverted, that most of the countries in Western Europe have abolished capital punishment. There are many States in America and countries in South America where capital punishment has been abolished.

Mr. Court: In how many states of America?

Mr. GRAHAM: I have not the figures with me, but quite a number.

Mr. Tonkin: Six.

Mr. Court: Six altogether.

Mr. GRAHAM: Well, six; and with our population of about 750,000 people we have had four hangings in four years, and there would have been a fifth had it not been for certain deformities on the part

of the young man concerned. Is there a country that has such a shocking record as that? I very much doubt it.

However, it is not my intention to delay the House further. The vote will be taken and it is my intention to have the names recorded by calling for a division. I mentioned earlier that the Government may derive some grim satisfaction out of defeating the Bill, but it knows full well that it is flying in the face of all the evidence, and it knows perfectly well that the abolition of capital punishment will come, whether it be next year, in three years, or five years hence. Very definitely it will arrive, and all that is happening now is that a few more luckless souls, deprived of their senses either at the moment, or over a protracted period, will be hanged. Another one of these shocking procedures was recently exercised in our fair State, and got Western Australia more publicity.

We got a lot of publicity in 1962 with the Commonwealth Games, and we will get further publicity in 1964 because of the hangings that have taken place in this State, this year and in the several years preceding it. That publicity is apparently designed to get Western Australia first place in the Four Corners programme put on by the A.B.C. television section. If the Government is deriving some pleasure from that sort of thing then it is entitled to it, but—

Mr. Court: Before you sit down—and I am sorry I was absent when you first started but I was called from the Chamber—have you explained to the House, seeing you feel so strongly about this matter, why you did not, when you were a Minister for six years during your Government's term of office, do something about this?

Mr. GRAHAM: I have.

Mr. Court: I will read about it.

Mr. GRAHAM: For the edification of the Minister it has been stated on a number of occasions earlier, and I draw his attention to page 1558 of the current series of *Hansard* where he will see a leading article from *The Herald* newspaper, Melbourne, which indicates my thoughts and those of the Opposition. In other words, we erroneously assumed, as they did in the other State concerned, that this was a dead letter on the Statute book and would not be brought into operation again. Unfortunately, we were mistaken; but the Minister can rest assured, as I have already said, that Labor, upon being returned as the Government, will introduce the legislation and, even if it is not the Government, the legislation will still be introduced and that process will continue until Western Australia catches up with the rest of the world in regard to penology.

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

Ayes—20

Mr. Bickerton	Mr. Kelly
Mr. Brady	Mr. D. G. May
Mr. Davies	Mr. Moir
Mr. Evans	Mr. Norton
Mr. Fletcher	Mr. Oldfield
Mr. Graham	Mr. Rhatigan
Mr. Hawke	Mr. Sewell
Mr. Heal	Mr. Toms
Mr. W. Hegney	Mr. Tonkin
Mr. Jameson	Mr. H. May

(Teller.)

Noes—21

Mr. Bovell	Dr. Henn
Mr. Brand	Mr. Hutchinson
Mr. Burt	Mr. Lewis
Mr. Cornell	Mr. Mitchell
Mr. Court	Mr. Nalder
Mr. Craig	Mr. O'Connor
Mr. Crommellin	Mr. Runciman
Mr. Gayfer	Mr. Wild
Mr. Grayden	Mr. Williams
Mr. Guthrie	Mr. O'Neill
Mr. Hart	

(Teller.)

Pairs

Ayes	Noes
Mr. J. Hegney	Mr. I. W. Manning
Mr. Curran	Mr. W. A. Manning
Mr. Hall	Mr. Nimmo
Mr. Rowberry	Mr. Dunn

Majority against—1.

Question thus negatived.

Bill defeated.

House adjourned at 1.33 a.m. (Thursday)

Legislative Council

Thursday, the 29th October, 1964

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