Legislative Assembly

Thursday, the 30th August, 1979

The SPEAKER (Mr Thompson) took the Chair at 2.15 p.m., and read prayers.

NOTICE PAPER

Availability

THE SPEAKER (Mr Thompson): I draw members' attention to the fact that the notice paper for to-day's sitting is in proof form only, due to the non-availability of power for printing.

Private members' business has been left off this proof but will reappear when the notice paper is next printed.

BILLS (2): INTRODUCTION AND FIRST READING

1. Credit Unions Bill.
2. Credit Unions (Consequential Provisions) Bill.

Bills introduced, on motions by Mr O'Neil (Chief Secretary), and read a first time.

VALUATION OF LAND ACT AMENDMENT BILL

Second Reading

Debate resumed from the 21st August.

MR BERTRAM (Mt. Hawthorn) [2.20 p.m.]: The Opposition indicates that this is a Bill which has become necessary because of an administrative difficulty arising in the field of local government. We believe the measure is not really one of political content.

We understand that the measure is not designed or intended to facilitate an increase in rates; that is, when this Bill becomes law it will not greatly affect the rates payable had this Bill not become law. It allows for a more up-to-date mode of assessment, using more up-to-date land valuations. The rates will be collected at more or less the same level in any event, and this Bill is purely a vehicle to facilitate more up-to-date assessments. We support the Bill.

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committees (Mr Clarko) in the Chair; Sir Charles Court (Treasurer) in charge of the Bill.

Clause 1: Short title and citation—

Sir CHARLES COURT: I thank the member for Mt. Hawthorn for indicating the support of the Opposition of this measure.

This is a machinery Bill designed to correct a situation which we thought was provided for properly in the original legislation. However, in practice it has now transpired that additional transitional machinery is necessary. We have introduced this Bill for that purpose.

Clause put and passed.

Clauses 2 and 3 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Leave granted to proceed forthwith to the third reading.

Bill read a third time, on motion by Sir Charles Court (Treasurer), and passed.

THE HON. A. R. G. HAWKE

Presence in Speaker's Gallery

THE SPEAKER (Mr Thompson): I draw the attention of members to the presence in the Speaker's Gallery of Mr Bert Hawke, a former Premier of Western Australia. Mr Hawke is visiting Western Australia, having come from South Australia where he now resides.

He has come here especially in honour of Western Australia's 150th Anniversary celebrations.

A luncheon was held today, hosted by the Premier. All the former surviving Premiers, together with the President of the Legislative Council, the Leader of the Opposition and myself, attended the luncheon in honour of the contribution made to Western Australia by the former Premiers.

On behalf of the members of this Assembly, I want to extend a welcome to Mr Hawke who is attending the proceedings today.

Members: Hear, hear!

ELECTORAL ACT AMENDMENT BILL (No. 2)

Second Reading

Debate resumed from the 17th May.

MR TONKIN (Morley) [2.25 p.m.]: This kind of electoral legislation is of overriding importance, because it is through such legislation that the people decide the kind of Government they want. It follows, therefore, that any imperfect electoral legislation will result in an imperfect instrument which will bring down imperfect laws.

We are not dealing just with an ordinary kind of law which everyone must obey. Those types of laws are serious enough; but this law goes to the very basis of a society. It goes to the very basis of any society which wishes to be called democratic. It is a fundamental law.

In some countries this kind of law is enshrined in the Constitution. It cannot be changed easily, because it is realised that, if it can be changed easily, the Government in power will be tempted to change it to suit its own convenience and to enable it to manipulate the electorate.

Because this is a fundamental and basic law and the amendments proposed by the Government are introduced on few occasions only, the Opposition intends to carry out a thorough study of the legislation to ensure a full debate is conducted, so that the people of Western Australia will be aware of the great importance of the legislation and the reasons for the changes in the Electoral Act.

This Bill is an attack upon the blind; it is an attack upon the physically disabled; it is an attack upon all those whose mother tongue is not English. Therefore, it can be seen it is an attack upon Italian migrants, Dutch migrants, Greek migrants, Yugoslavian migrants, German migrants, Polish migrants, and all other migrants whose mother tongue is not English. As we all know, it is an attack also upon other people whose mother tongue is not English; namely, the original Australians—the Aborigines.

We have to ask ourselves, "Why are these people singled out for attack?" Looking at the recent history of this State, it is evident these people are being singled out because large numbers of them have decided to change their minds and stop voting for the Liberal Party.

Mr Clarko: Come off it! Why don't you speak a bit of fact?

Mr TONKIN: This is an example of the blind prejudice of the Premier who, throughout his political life, has been spoilt because he has always had access to finance. As the leader of a political party, he has never had to worry about where the money will come from—

Mr Clarko: The member for Dianella said his parents were the only working people who had children in this place.

Mr TONKIN: —to finance the Liberal Party election campaigns.

Yet, this person who never had to worry about how to fight an election campaign has the impudence to object when others get their financial mites together. He sneers about mysteriously financed groups. No group in Australia is more mysteriously financed than the Liberal Party. The Liberal Party will not agree to reveal the source of its revenue.

Mr Clarko: Because if it did the Labor Party would do everything in its power to stop every business which gave us a dollar.

Mr TONKIN: The other night when the member for Karrinyup was in the Chair it was pointed out to him how intemperate and how consistent he was in interjecting. He said this was a reflection on you, Mr Speaker.

Mr Clarko: And that is true.

Mr TONKIN: So we see the member for Karrinyup carrying on with his interjections in a continuous barrage which makes it difficult for the speaker on his feet to be heard. When he is in the Chair, he is unable to demand the respect from members which he has not earned and which you, Mr Speaker, have earned. I have seen you on the benches before you became Speaker and I know you are courteous. It is easy to see why the member for Karrinyup, when he sits in the Chair, is not able to command the same respect as you do.

Mr Clarko: And you consistently interject. You are amongst the top three.

Mr O'Connor: The bottom three!

Mr TONKIN: So, we find that the Premier, who is used to getting his own way, is financed in some secret way, and he will not agree to disclose publicly the source of that finance so that people know who are the paymasters for the Liberal Party. Yet when some other group is able to get finance, such as the Friends of the Railways, he talks about mysteriously financed groups.

I have mentioned that to show how this person, the Premier, will attack anyone who gets in his way. The latest group of people have been the Aborigines of the Kimberley. It is another example of the Premier branding anyone who opposes him as a traitor. We are all aware of that. The Premier has called traitors the Western

Australian people who have questioned the wisdom of development at any price.

This Bill is an indication of the arrogance of the Premier who has branded sincere environmentalists as fifth columnists.

Mr Williams: And he is quite right.

Mr TONKIN: The Premier is supported by the learned member for Clontarf.

Mr Williams: That is right; they are fifth columnists. I refer to the pseudo-conservationists, and I have made that statement previously.

Mr TONKIN: It looks as though we are in for another magnificent speech from the member for Clontarf.

Mr Jamieson: He has been sniffing drycleaning fluid; he has been on it again.

Several members interjected.

The SPEAKER: Order! The House will come to order! The member for Morley.

Mr TONKIN: We have noticed that anyone who gets in the way of the Premier is crushed.

Mr Shalders: That is a bald statement!

Mr TONKIN: One example was with respect to Tresillian. The mothers of retarded children were to be crushed. The environmentalists will be crushed, and people concerned about our railways will be crushed. Dr Chittleborough, a world authority on his subject, who dared to speak the truth to the Premier, was another whom the Premier tried to crush. The Premier tried to crush his career.

This Bill is just another attempt to crush those who have dared to have second thoughts about the Premier, about the Government, and about the member for Kimberley. An article published in *The West Australian* of the 23rd January of this year stated there should be agreement between Government and Opposition on a measure of this kind. There is no agreement. The reason I think the writer in *The West Australian* emphasised the importance of agreement on such a measure was, quite obviously, that this is a fundamental law which will determine the outcome of the voting before the people have even got to the poll. It is an attempt by the Premier to decide the composition of the next Parliament; the Parliament that will meet after the next election. It is an attempt by the Premier to reach out and manipulate the people of Western Australia so that the next Parliament will be no different from this Parliament and so that that Parliament will be controlled by the party which now has a majority in this House.

Mr Williams: That is right, and the majority will be larger next time.

Mr TONKIN: Yes. Members opposite are prepared to cheat and lie in order to achieve that. It is history, of course, that that was done in the Kimberley as I will demonstrate in a short time.

I wonder what the average person would think of someone who accepted this kind of charity, and who knew the Bill had been specially prepared to ensure his re-election to this House. What would anyone think of a footballer who, every time an opponent went near him, was protected by the umpire blowing his whistle and saying, "You are not to touch him"? If there were to be special rules and special umpiring to look after a player who cannot make the grade, what would Western Australians think of that? Yet, that is what we see with this Bill—an attempt to look after a particular member because he is not good enough to win under the present rules; win fairly and cleanly.

Mr Williams: That is a despicable statement to make.

Mr TONKIN: Speaking of scurrility and being despicable, we will have an opportunity shortly when we indicate the genesis of this Bill and when we will see what kind of adjectives apply to the Bill.

Mr Clarko: I do not think that "scurrility" will apply.

Mr TONKIN: I am concerned that this is the way we have decided to celebrate our 150th birthday. One of the pamphlets produced for our 150th year stated that it was 150 years since men and women came to Western Australia. I drew attention to what was in the pamphlet—it was published in the Press—and pointed out this was a slur on our Aborigines. The pamphlet stated that until 150 years ago no humans had settled in Australia.

Mr Shalders: When was that statement made?

Mr TONKIN: In the pamphlet produced by the present Government, and I have a copy of it.

Mr Shalders: No humans in Western Australia until 150 years ago?

Mr TONKIN: That is right. The member opposite can obtain a copy from the Government department concerned, and read the pamphlet for himself. The statement was printed in the Press, and I raised the matter in this House.

Mr Blaikie: Can I borrow your copy of the pamphlet?

Mr TONKIN: Yes.

Mr Blaikie: Now?

Mr TONKIN: We have the position where, quite clearly, the pamphlet should have been withdrawn. As a matter of fact, the Aboriginal community drew the attention of the Press to the pamphlet and demanded that the pamphlet be withdrawn. It was not.

That is the kind of bias we see from this Government; it doubts the humanity of the Aboriginal people.

Mr Clarko: Do you think it was deliberate?

Mr TONKIN: If it was not, the pamphlet should have been withdrawn and apologies made. But, there were no apologies, and the pamphlet was left in circulation.

Mr Shalders: The people of Albany did not object, and Albany was settled before the Swan River colony.

Mr TONKIN: This is another way in which we are celebrating our 150th year.

We of the Australian Labor Party regret this blot which will be added to all the other blots we have on our record in regard to our treatment of the Aboriginal people.

The measure before us arose because there are people who want to enter Parliament and to stay in the Parliament but who do not have the ability to win a seat fairly and squarely. There are people who have been caught cheating, and who have then sought the help of "Big Brother" to change the rules. I suggest that a man of honour who realised that he was not able to hang on to his seat except by this kind of stratagem would resign and leave the Parliament. Such a man would not want that kind of charity.

Point of Order

Mr BLAIKIE: I rise on a point of order, Sir, and I draw your attention to Standing Order No. 131. It is my belief that the member for Morley is using offensive and unbecoming words in respect of members of Parliament.

Mr B. T Burke: Which member?

Mr BLAIKIE: I do not believe I cheated to become a member of this House, and I ask the member to withdraw those words.

The SPEAKER: Order! There is no point of order.

Debate Resumed

Mr TONKIN: The Premier keeps saying, as he has been saying in regard to the recent controversy over the railway line, that he is prepared to be judged at the next election. However, he intends to change the rules before the next election. No wonder he is confident of the judgment at the next election. He will see to it that the people's wishes are not translated into parliamentary fact at the elections.

We have already seen this tactic used in Western Australia. Under the provisions of the Electoral Districts Act there is a gross malapportionment of voters. The Melbourne newspaper, *The Age*, has called our distribution of electorates disgraceful. This is the kind of judgment the Premier is prepared to accept—judgment by a device he has tampered with in order to ensure that the right result is obtained.

We notice that the people who complained about alleged malpractice during the last State election—including the Premier and Mr Crichton-Browne—declined to call witnesses to prove their generalised statements. We are used to the Premier assassinating people by generalising and talking about fifth columnists. However, when he is asked to name these people, he will not.

To understand the genesis of this legislation, I would like members to listen to this letter written by the Minister for Housing on the 3rd March, 1977, to a person called Quilty. I believe that this letter illustrates the reason that the Bill is an attack upon the Aboriginal people. He said—

> It was a degrading experience to have to campaign amongst the Aborigines to the extent I did, and it offended me to know that whilst I was concentrating my efforts on these simple people—

Mr Ridge: Which is precisely what they are.

Mr TONKIN: To continue—

> —over the last couple of weeks, I was neglecting a more informed and intelligent section of the community.

Mr Ridge: Precisely correct, and I would write the same letter again.

Mr Jamieson: How patronising.

Mr Ridge: I hope that you circulate it right throughout the electorate, as you and the Aboriginal Legal Service have been doing. You win me votes every time you do it.

Mr TONKIN: We appreciate the Minister's frankness that he is prepared to be elected on a racist ticket. He has said that circulating such a letter will win him votes. I wonder whose votes it will win. Now by interjection the Minister has said that the people whose votes it would win belong to a more informed and intelligent section of the community. That shows how unintelligent

and how ignorant the Minister is, because he is equating literacy with intelligence.

Mr Ridge: No.

Mr Shalders: Rubbish.

Mr Ridge: It is interesting to hear these comments from someone who has never been north of the 26th parallel for more than a week or two of his life.

Mr TONKIN: It is untrue to say that the European inhabitants of the community are more intelligent than others. The Minister is implying that anyone who is not literate in the English language—even if he were an Einstein—is less intelligent than English speaking people. The fact that a person did not happen to learn a language which by accident of birth the Minister learnt—and which he is not particularly brilliant in, I might add—means that he is less intelligent than a person who speaks English.

Mr Shalders: He never mentioned illiterate people.

Mr TONKIN: We have heard the Minister say that Europeans are more intelligent than Aborigines.

I understand that the Minister for Education has been wining and dining educationists at lunch today. In fact, I spoke to some of these people. The Minister for Education has now rubbed shoulders for a fairly long time with educationalists in the administration of his portfolio, and I wonder whether he would agree with the Minister for Housing that the Aboriginal people of the Kimberley are in fact less intelligent than Europeans. I know very well that whatever the Minister for Housing thinks, certainly the educators who have lunched here today would be appalled at the ignorance of such a statement, and when it comes from a person who is a Minister of the Crown, a person who claims to represent these people in this Parliament, then it is scandalous indeed.

Because I happened to have learnt to speak the English language, it does not follow that other people, whose native languages are different from mine, are less intelligent than I am. It is not true that the Greeks, the Italians, and the Aborigines are less intelligent than we are because they do not speak English.

Mr Clarko: That has never been suggested.

Mr TONKIN: The Minister has just said that they are less intelligent. I believe such a statement indicates that the person making it is rather uneducated himself. If he had ever studied linguistics, educational psychology, or the nature of intelligence, he would know that much of intelligence is not related to language at all.

Mr Ridge: I may not understand much about education and psychology, but I know a darned sight more about the Aborigines than you will ever know if you live to be 150 years old.

Mr TONKIN: I admit that certain kinds of intelligence are related to language, but certainly intelligence is not related only to the English language. The Minister's attitude reminds me of a little old English woman who lived in the last century, and perhaps this gives her some excuse for her beliefs. She was a Christian, and she asked the question whether people would be able to understand one another in heaven. When she was told that not all the people in heaven would be English people, she said, "But of course everyone will speak English in heaven; all the best people speak English." That is the Minister's attitude.

The Minister did not choose his parents; he did not choose to be born in Australia. He could have been born a Greek or an Aboriginal. For the Minister to suggest that because of that accident of birth, and because a certain person could not speak the language we happen to speak he was somehow less intelligent, is ignorant and intolerant; it is racist and prejudiced. It appalls me that a member of this Parliament—indeed, a Minister of the Crown—should be able to make such a remark and feel no shame for having made it.

Mr Ridge: I am not ashamed of anything I have said.

Mr TONKIN: So we find the Minister would say that Socrates was less intelligent than the people with whom he would prefer to deal. Socrates—a man whose name we know, although he has been dead well over 2 000 years; one of the giant intellects of all time! By the Minister's definition, because he could not speak English or read and write any language, therefore he was less intelligent; it would be degrading for the Minister to move amongst that type of person while he neglected the more intelligent sections of the community like some of us mere mortals who can read and write but who probably cannot do much of anything else.

The Minister would have the same sneering contempt of Homer, because he also could not read or write. But it was not because he was stupid, because he was one of the great poets of all time, classed in the same field as William Shakespeare and Goethe. Homer could not read or write because he lived in a non-literate society, just as our Aborigines live in a non-literate society.

It is a pity we cannot keep records of their thoughts; it is hard to keep records of such fragile things, of course. I have no doubt the Aboriginal people have had—and still may have, for all I know—their Homers and their Socrates.

I can see an interesting quiz contest in the future. The question will be, "Who made this statement: It is degrading to have to campaign amongst the Aborigines whilst neglecting the more informed and intelligent sections of the community?" I can see the kind of alternatives offered to the candidates: Was it Adolph Hitler, Heinrich Himmler, Adolph Eichmann or Alan Ridge? That is the kind of quiz we will see in the future.

The letter continues—

> It is indeed a travesty of justice—

That a person like the Minister can talk about justice! Perhaps he meant to spell it "just us"! The letter continues—

> —that a comparative handful of such ill informed people who could be used like pawns in a game by unscrupulous opportunists, should have the right or the power to determine the future of our State.

There members see why this legislation is before us. Why should these Aborigines have the right or the power to decide to vote against the Liberal Party candidate? The Minister talks about unscrupulous opportunists. If we were to go into the street today and ask the people about unscrupulous opportunists, the name which would come to most lips would be Malcolm Fraser.

The letter continues—

> . . . many of them have bitten the hand of the State Government which fed them.

Mr Speaker, notice the subtle and sophisticated understanding of economics displayed by this learned Minister who looks down on Aborigines because they cannot speak the English language, and who much prefers to move amongst the more exalted of our community—the well informed, intelligent people with whom he is used to dealing. The Minister does not understand it is not the State Government which feeds these people; it is the people of Western Australia, through their taxes, who feed them.

Mr Ridge: That is a bit different from what the Opposition candidate is telling them. He is conveying the impression he is the one who gives them the money and feeds them.

Mr TONKIN: Is that a fact? I wonder whether he has written the same kind of letters of which the Minister is so proud.

Mr Ridge: That is an interesting point. The Court of Disputed Returns asked both candidates to produce all the correspondence they wrote before and after the election which could have had some bearing on the court's hearings. My files were freely made available to the court. However, not one single piece of correspondence was made available to the court by the Opposition candidate. Yet you are talking about honesty?

Mr Jamieson: There was no correspondence to be produced.

Mr TONKIN: We will talk about honesty, if the Minister likes. The Minister denied any knowledge of the existence of a plan—

Mr Ridge: This Minister will deny the existence of that so-called plan to this very day.

Mr TONKIN: However, when documents were discovered the Minister suddenly remembered that he did know something about the plan and he admitted it; he changed his answer. That is in the transcript of the Court of Disputed Returns hearings for everyone to see. The Minister changed his mind.

Mr Ridge: You read the transcript very carefully.

Mr TONKIN: The Minister had a bad memory lapse and claimed to know nothing about a plan. Then, when things looked like getting tough for the Minister and when Mr Justice Smith was about to rule on the discovery of documents, his memory suddenly was restored to him.

Mr Ridge: You are very clever at distorting the facts.

Mr TONKIN: I invite every member to read the findings of Mr Justice Smith in the Court of Disputed Returns to see whether they contain something of which we as Western Australians should be ashamed.

Mr Jamieson: Particularly about the "trick" which was termed "a naval strategem".

Mr Ridge: The only trouble with tricks is that the Labor Party did not think of them first. That has been stated by a former Minister of your political ilk.

Mr TONKIN: The Minister had his opportunity during the very protracted hearings to make his accusations. We know what Mr Justice Smith said about that kind of loose allegation; he said he could find nothing to suggest malpractice on the part of the petitioner.

Mr Watt: What about his supporters?

Mr TONKIN: I am glad the member for Albany mentioned that: Mr Justice Smith could find nothing wrong in the actions of the petitioner

or the ALP scrutineers, whom he found to have given honest evidence.

Mr Watt: Yet no letters were written which could have been produced.

Mr Jamieson: No letters were written.

Mr TONKIN: Let me quote from another letter as follows—

> I believe that we now have enough evidence to try and convince people of the necessity for amending the Electoral Act in relation to illiterate voters.

What necessity is the Minister speaking about? The only necessity, of course, in his mind is to hang on to his seat by any means, fair or foul. The Minister continues, and makes it clear what this Bill is all about—

> If this is not done, I would anticipate that by the next election there could be in the order of 3 000 to 4 000 Aborigines on the roll . . .

Mr Ridge: And, incidentally, we are getting quite close to that now.

Mr TONKIN: Yes, and is that not a terrible thing!

Mr Ridge: If you would really like to know, yes, it is a terrible thing.

Mr Harman: Why?

Mr Ridge: Because I do not believe people who talk about these wonderful Aborigines actually understand them.

Mr TONKIN: I am not talking about wonderful Aborigines. Aborigines are people; some are good, honest people and some are not; they are like us. I will not have anything to do with this racist nonsense.

Mr Watt: Not much you won't!

Mr TONKIN: Aborigines are people; I am not suggesting they are wonderful or that they will not sometimes get sick of the Australian Labor Party and vote for the Liberal Party. In fact, they have done so in the past; they have even voted for this Minister. That is their democratic right.

Mr Ridge: How many of them voted for me?

Mr TONKIN: I repeat, the letter states—

> If this is not done,—

Several members interjected.

Mr TONKIN: I wonder whether the two honourable members would mind giving me a chance.

The SPEAKER: The House will come to order. I ask members to desist engaging in cross-Chamber conversation.

Mr TONKIN: One of the things we learn in this place is that the voices on our side are just as loud as the voices on the other side. I shall continue quoting as follows—

> If this is not done,—

In other words, if the Act is not amended. To continue—

> —I would anticipate that by the next election there could be in the order of 3 000 to 4 000 Aborigines on the roll and under such circumstances the Liberal Party would be doomed to failure.

That is why they must not go on the roll. It is not because they do not know what is going on, but because they will not vote for the Minister. I have been quoting the Minister's letter, and yet he tells me today he understands the Aborigines very well. He also understands a lot about manipulation! The Minister continued—

> I agree with you that it is going to be difficult to get through any legislation which smacks of discrimination but I believe that we have an obligation to try.

An obligation to whom? Do not we in this place have an obligation to democracy, justice, and the people of this State, who include Aborigines? I quote from another letter—

> Of greater importance is the fact that a third name on the ballot paper created some confusion amongst the illiterate voters and there is no doubt in my mind that it played a major part in having me re-elected.

In other words, he was to be re-elected by causing confusion, rather than standing on his merits and proving he was a better man than his opposition. The Minister had to induce another candidate from the Liberal Party to stand.

The whole issue is succinctly described in the legal service bulletin of December, 1978, in an article by Audrey Bolger and Hilary Rumley, entitled, "The Kimberley Voting Scandal".

Mr Ridge: Is that the Aboriginal Legal Service bulletin?

Mr TONKIN: I have a letter written by the chairman of the Liberal Party campaign committee to the Derby branch of the Liberal Party and which was presented to the Court of Disputed Returns. In that letter, the chairman said—

> . . . would you please go through it—

That is, the roll. To continue—

> —urgently and mark with a cross all names of electors whom you think would be

> A.L.P. voters but who are no longer at the addresses given or unlikely to receive mail. This would include the addresses of chaps in M.R.D. gangs, many natives, etc. . . . please return it to me as soon as possible as we must be quick if we are to gain anything from this exercise.

The importance of receiving mail is that if a letter is written and a reply is not received that person would be struck off the roll. So if a person is in a Main Roads Department gang and has moved on, or if that person is an Aboriginal and illiterate in English, there is a good chance there will be no reply. Those people, although still residing in the area, would be taken from the roll.

Mr Sodeman: Was it not indicated that the member for Welshpool had done that on many occasions?

Mr TONKIN: The Premier has stated many times he was not a party to this conspiracy to prevent voters having a vote.

Mr Sodeman: The member for Welshpool removed the people who were not entitled to be on the roll, as he was entitled to do.

Mr Jamieson: The town clerk was listed although he had not been there for some time.

Mr Ridge: Halls Creek has only one town clerk.

Mr Jamieson: But the two previous clerks were still on the roll.

Mr TONKIN: The member for Welshpool is talking of people who had left the Kimberley and who had no right to be on the roll. They were in Katanning or Narrogin. We are talking about people who are still in the Kimberley. The letter containing directions from the Liberal Party was referring to these people, and especially Aborigines.

Time and time again the Premier has stated he was not a party to this conspiracy. He said that things go on about which one does not know anything. However, on the 5th January, 1977, he announced that the electoral roll would close at midnight on the 6th January. Mr Speaker, you will no doubt remember the chaos which occurred in the metropolitan area. I recall the present Leader of the Opposition—he did not hold that post at that time—making a statement in the Press about the Government decision. There were a lot of people in the metropolitan area who were terribly inconvenienced.

At that time we did not know the significance of the Premier's move, but we do now. The significance was that because of the laundering of the roll by the Liberal Party to take off the roll people who had decided to change their voting pattern, it was found to be important to close the roll with a snap decision. The Government thought this would stop these people from getting their names back onto the roll. These people had the right to have their names included because they were still residing in the Kimberley.

So the Premier was part of the conspiracy. In an effort to save his Minister he gave people just 24 hours to register.

Mr Clarko: The member for Welshpool has admitted he laundered the roll regularly.

Mr TONKIN: The member is continually distorting what people say. The member for Karrinyup could not lie straight in bed. The member for Welshpool said he did his job by ensuring that people who did not live in the electorate were no longer on the roll. We do not cavil at that. It would have been proper for the Liberal Party to remove the names of those people who were not living in the Kimberley. Such people would have no right to be on the roll.

But that is not what the Liberal Party did. It wanted to remove the names of those Aborigines who lived in the area and who worked in the Main Roads Department gangs, those who were unlikely to reply to their mail or were unlikely to receive their mail. They were the people the Liberal Party wanted to take off the roll.

There has been a lot said about the infamous plan used by the Liberal Party to save the seat of Kimberley for the Minister. It consisted of pressurising officers of the Electoral Department. Later on I shall talk about the problem of the officers in the Electoral Department and the fact that they are temporary, untrained, and unaware of the Act. The plan was to pressurise these people into an improper use of section 119. Mr Justice Smith made this clear. There was a plan to pressurise these people into an improper interpretation of the use of how-to-vote cards. On page 44 of his judgment, Mr Justice Smith said—

> The person responsible for drawing up the plan was not called to give evidence.

But what did come out at the Court of Disputed Returns were the guidelines put out by the Liberal Party for its scrutineers. This is in line with the Minister's racist statements he has just made in the Chamber. The Minister said he would write the letters again. The guidelines given to the scrutineers were as follows—

> Every Aboriginal voter must be watched carefully.

Every Aboriginal voter! What kind of discrimination is that?

No wonder we are regarded as a reactionary State, if that is the way the Liberal Party operates—"Provisions dealing with the Aborigines' qualifications to vote are to be carried to the letter".

The editorial of *The West Australian* on the 9th November, 1977, stated that the telegram "emanated from the Liberal Party machine". It was not a telegram sent by the Liberal Party to Liberal people, it was a telegram sent by the Chief Electoral Officer under improper pressure from the Minister for Justice, aided and abetted by the present Attorney General—that most revered man of the legal profession, according to the Premier. The sending of the telegram to the returning officers was a Government decision. So that is an instance of the Liberal Party using the machinery of the State for its own purposes, especially to decrease the Labor vote.

The Chief Electoral Officer (Mr McIntyre) sent the telegrams against his wishes. I want to make it clear that the Opposition agrees with Mr Justice Smith's comment that there is no reason to impugn Mr McIntyre. He was very heavily leant upon by the then Minister for Justice (the Hon. Neil McNeill) who in turn was leant upon by the present Attorney General (the Hon. I. G. Medcalf). These telegrams were sent to the presiding officers in the Kimberley region and also to Liberal campaign committees. Is that a proper use of the machinery of this State; not only to send telegrams out to the officers of the State but also to send copies to their own political party? That is a most improper use of the machinery of the State.

Mr Justice Smith stated—

> In my opinion its despatch by the Chief Electoral Officer on the eve of polling day was not, in the circumstances, a due exercise of his discretion. Likewise, in my view, its text does not come within the confines of those rules which the holder of a statutory office should observe when exercising the discretion conferred by the Statute.

It is very often claimed that we have a Westminster system. If a Minister sitting in the House of Commons or the House of Lords had acted in such a manner he would have been requested to resign. One example which comes to my mind is the Profumo case, especially when we remember that the circumstances surrounding his situation did not really relate to his public duties. I believe the standards in the United Kingdom are much higher than they are here. I do not say that with any pleasure. I would like our standards to be as high, but the fact of the matter is that the Attorney General was slated by the Chief Justice.

Members must realise that Mr Justice Smith, when he made those comments, was doing so within a judicial role. People handing down a judgment are not given to hyperbole but in fact, allowing for judicial style, Mr Justice Smith was slating the Attorney General, whom this Premier has left in his present position.

It is a matter for regret that we in Western Australia do not have the same high standards as in the mother of Parliaments, where if a Minister had done that and had been found to have done that, he would not have been allowed to remain in office.

Now, this authority which Mr Justice Smith said was not conferred by the Statute is to be conferred by this Bill. So, the Chief Electoral Officer is to be empowered to send instructions of that nature—more explicitly and no doubt more damning from the point of view of illiterate voters—right throughout the State, not only to the Aborigines of the Kimberley. So we have a situation where a Chief Electoral Officer will have that power and will be leant upon in the same way by the Attorney General. I am prepared to admit here that if pressure is possible from a Liberal Attorney General it is also possible from a Labor Attorney General. This should not happen. The possibility of such manipulation should not be allowed in a Statute of this kind. We are aware of the cynicism of the Government when it says there is no authority in the Statute, and that it was an improper practice to send the telegrams. The Government said, "We will soon fix that up"; because it has the numbers in both Houses. The Government will give the Chief Electoral Officer the authority to do what Mr Justice Smith said should not have been done.

Mr Justice Smith said—

> There can be no doubt that the implementation of the plan in association with the telegram which had been despatched on the eve of the election by the Chief Electoral Officer, created confusion in the minds of the presiding officers at no less than six of the nominated polling stations, as to the performance of their duties when dealing with illiterate electors. The outcome was the commission of numerous errors by such officers and the effective disfranchisement of a large number of illiterate voters.

If one were to walk down St. George's Terrace throwing a lot of words at people such as disfranchisement, rape, murder, pillage, I suppose they would select as the least offensive,

"disfranchisement", and say they would not regard that as a heinous crime. If we were to look at it in the correct perspective we would regard that with as much horror as the other crimes—the taking away of a person's birthright; his right to vote and choose. The Government should be civilised, fair and just. It should not agree to that in any circumstances.

Mr Justice Smith referred to the confusion in the minds of the presiding officers and the other electoral officers in the Kimberley. These people are unqualified and untrained. Some had never heard of section 119. When the Liberal Party scrutineers arrived in the Kimberley they requested that questions be asked pursuant to section 119 of the Act. The officers had not even heard of it. It is most important that we ensure these people are qualified and trained; perhaps a training course so that they are familiar with the Act thereby enabling them to stand up to any bullying tactics used, wherever they may emanate from.

In relation to the commissioning of numerous errors by the electoral officers as indicated by Mr Justice Smith we have an astounding admission to the Court of Disputed Returns that a Liberal Party agent in Broome told the presiding officer several days before the election what he had to expect when dealing with illiterate voters. That was a most improper use of muscle against a person who was supposed to be implementing the Statute.

We know that five lawyers arrived in the electorate, and I think it is important to know their names. I hope they are proud of their record. They were John Chaney, Peter Lloyd, Terence McAuliffe, Richard Bromfield, and Haydn Dixon.

Mr Bertram: And there was one in the send-off party, wasn't there?

Mr TONKIN: I do not know about that. These five lawyers were flown up to act as scrutineers at certain polling stations. Their job was simple. It was not to see that justice was done, that everything went fairly, and that the Liberal Party was not disadvantaged. Their job was to ensure people who were properly enrolled and had a right under this Statute to vote and be assisted to vote, as illiterates, did not vote. Their job was to disfranchise citizens of this State and they did it wonderfully well. They did a great job if they wanted to bring shame to Western Australia.

When we are jockeying for party political advantage, for some small and probably ephemeral advantage, we need to remember that the tactics we use and the shame we bring upon ourselves will be remembered for a very long time. I do not suppose the early settlers who fed poisoned flour to Aborigines, thus murdering them, thought that in 140 years' time people would know about it and speak about it. I suppose we all think the shameful things we do are private, that we will get away with them, and no-one will know about them. I think it is important for us to weigh up the ephemeral advantage to our political party against the good name of Western Australia and try to decide which is more important.

Those lawyers went north with copies of the Electoral Act and were particularly determined to ask questions which are outlined in section 119, conveniently ignoring section 123—to which I will refer later, and to which Mr Justice Smith referred—which gives a completely different slant to the section 119 questions. They went north and bullied the presiding officers, who are not lawyers, and insisted that their interpretation of the Act was the correct interpretation.

We know one pastoralist lied to the returning officer; that was indicated by Mr Justice Smith without any equivocation whatsoever. Although all the lawyers were briefed at Liberal Party headquarters, some of them went there to assist in scrutineering for Rees, the independent candidate who was a member of the Liberal Party and who had nominated at the Minister's request.

We have already had an interjection from the Minister for Housing—who is not here at the moment—about documents being discovered, and so on. In the Court of Disputed Returns the Minister for Housing denied knowledge of the existence of the plan. He did not know anything about it. He had a remarkable lapse of memory which was magically restored to him on the 9th September when, facing a ruling by Mr Justice Smith relating to the discovery of documents, he suddenly admitted he knew of the plan.

It is very important to know what Mr Justice Smith's comments were in respect of this sudden return of memory. He said—

> The respondent denied that the purpose of the plan was to deprive illiterate Aboriginal voters of a free and fair opportunity to vote for the petitioner. Notwithstanding this denial the respondent did not seek to explain in evidence why he had adopted the plan—

He did not know about the plan earlier but Mr Justice Smith says "he adopted the plan". To continue—

> —or the reason for its implementation.

We have heard the Minister reiterate that he is proud of the letters he wrote and would write

them again and that the Aboriginal voters were less intelligent than the white population of the Kimberley. We have no doubt that the idea was to deprive the Aborigines of the vote, not necessarily because the Minister had anything against the Aborigines. I am sure he would deprive the whites of votes if he could and if he thought they would vote for us.

Mr Old: At the last election someone objected to my son's name being on the roll, and it was not I or the Liberal Party. So do not come at that.

Mr Bertram: Was there a valid ground of objection?

Mr Old: No.

Mr Bertram: Was it upheld?

Mr Old: No.

Mr Bertram: Well, what are you talking about? We are talking about fraud and mischief.

Mr Old: The Act provides for fraud.

Mr TONKIN: These people were illegally and improperly deprived of the vote by fraud. They were not deprived according to the Act, otherwise Mr Justice Smith would not have overthrown the election. What is the reply of the Minister for Agriculture?

Mr Old: My reply is that you are accusing parties of objecting to people being on the roll because they vote for someone else. That is what you said.

Mr TONKIN: No. I am saying they actually take them off the roll improperly.

Mr Old: And your party endeavours to do the same.

Mr TONKIN: Give me an example.

Mr Old: I have given you one.

Mr TONKIN: That is not true.

Mr Old: It is.

Mr TONKIN: The fact of the matter is the Minister for Agriculture has no evidence whatsoever that the Australian Labor Party was responsible for that. There are many vicious people around. If one has an argument with a neighbour or some kind of a quarrel, someone will dob one in. It might not have been politically motivated at all. If the Minister suggests every argument between neighbours—

Mr B. T. Burke: Quite often the department itself sends out an objection notice.

Mr Old: Speak up. I can't hear you.

Mr B. T. Burke: Drop dead! The department very often sends out its own objections. You are having a rough passage on this one.

Mr TONKIN: In any case, we are not objecting to the proper provisions of the Act being complied with. We are objecting to the fact that the provisions of the Act were not complied with and justice was perverted.

Speaking about letters being written—and I notice the Minister is not in his seat to tell me if he would write this one again—we are staggered that a Minister of the Crown would congratulate Jeremy O'Driscoll on lying, as Mr Justice Smith said, to the presiding officer at Gogo Station. This is the letter written by the Minister to Mr O'Driscoll—

> I wanted you to know, also, that I didn't underestimate the value of your trick at Gogo on 19th. We could have been in real trouble without the services of a person such as yourself as scrutineer and I'm extremely grateful.

The trick was to lie to the presiding officer, as was shown by Mr Justice Smith. He said he had no doubt that Mr O'Driscoll concocted the story which he told Mr Webb of the returning officer's changing procedure in regard to the use of how-to-vote cards as a medium of instruction. Mr Justice Smith went on to say that, equally, he had no doubt Mr O'Driscoll's deception of Mr Webb in this regard was to further the scheme to stultify the use of such cards. He said it is not without significance that the persons whom the respondent—that is, the Minister for Housing—admitted acted as his agents in relation to the implementation of the plans were variously authorised to act as scrutineers by the respondent himself, Mr Withers, and Mr Rees. Of course, we all know Mr Rees was an "Independent".

In the Court of Disputed Returns the true story of the telephone call at Gogo emerged. We had the returning officer saying on oath that he had not spoken to Mr O'Driscoll on election day. The officer in charge of the Derby telephone exchange failed to find any record of a telephone call placed on election day.

How did the Aborigines act under this kind of provocation? One might have expected that if they were being bullied and treated in that manner—and I will go into that in more detail later—they would have retaliated in kind. However, it is clear from all the evidence that these people, who have been described by various Liberal spokesmen as primitive, less intelligent, savages—

Mr Ridge: Who described them as savages?

Mr TONKIN: In this House, the member for Pilbara.

Mr Ridge: When?

Mr TONKIN: Some time ago. Let the Minister read *Hansard*.

Mr Ridge: You tell me what page to look at.

Mr Jamieson: Get your research officer to do it.

Mr TONKIN: The Minister said it is degrading to have to campaign amongst them while the more informed and intelligent community was neglected.

How did the Aboriginal people behave? They behaved with simple dignity. "Simple" is not a patronising term in this respect. The attitude of the Aborigines was one of simple dignity. They waded waist deep through creeks in order to be able to vote for the man in whom they believed, just as in other parts of the State on that day people suffered inconvenience to vote for National Country Party, Liberal Party, Independent, and Australian Labor Party candidates in whom they believed.

They waded through creeks holding aloft their how-to-vote cards so that they would not get wet. How were they treated or repaid for this? How were they repaid for their simple and mistaken belief in the decency and justice of the white man? A gentleman over the age of 80 years, frail by an accident of birth—not because he did not have intelligence—not literate in the English language, was asked if he was over the age of 18 years. What a degrading and insulting question to ask such a person! I hope the Minister is proud of these actions taken on his behalf. If he is not ashamed, then he has no capacity for shame.

Mr Ridge: I do not feel ashamed, I can assure you of that.

Mr TONKIN: I know that.

Mr Ridge: I have one very simple philosophy concerning the Aboriginal people. I believe that if they can fill in an electoral claim card, they should be capable of exercising their vote, instead of fronting up at a polling booth and being told how to vote.

Mr TONKIN: Why does not the Minister adopt the same philosophy in Nedlands?

Mr Ridge: I do.

Mr TONKIN: Oh, yes; we see members of the Liberal Party bullying people all over Nedlands on polling day! This elderly gentleman was over 80 years of age. I have voters in my electorate of that age, and when I pick them up to take them to vote I do not ask them how they vote. I am sure some of them are delighted to use up my petrol and then vote Liberal because they cannot stand what the ALP represents. We do not object to that; we help them. I am sure many of these people do not vote for me, but I am happy to help them.

I wonder whether the Minister has ever been insulted by being asked if he is over the age of 18 years.

Mr Ridge: I have been insulted by you. That is worse.

Mr TONKIN: It is absolutely disgusting that an elderly gentleman should be treated in that fashion.

Mr Nanovich: You probably help only the old people who vote Labor.

Mr TONKIN: I will stand on my record. I invite the member for Whitford to visit my electorate on the next polling day to see how we operate. He will find we never ask anyone how he or she intends to vote. We receive telephone calls from these people, and we pick them up and take them to the polling place. Sometimes we see them take a Liberal card. I remember one lady who refused to take the Labor card. Did I refuse to take her home again? Of course not. We in the Australian Labor Party do not believe in interfering with the right of a person to vote. If a person is elderly and a pioneer of our country—no matter what his nationality—he deserves our respect; and it does not hurt us to give him a lift on polling day. That is the way we in the Australian Labor Party go about things. It is ridiculous for the member for Whitford to suggest we might ask people how they will vote.

Mr Clarko: Be fair; don't you think we do the same thing?

Mr TONKIN: I believe many members opposite do. I am quoting what happened at Derby.

Mr Ridge: I could tell you a lot of other things that happened there of which you have no idea. I could tell you about Aborigines being herded onto trucks and being taken to polling booths. They were picked up by members of the ALP so that their vote could be exploited.

Mr TONKIN: We had the instance of a gentleman named Peters, who is 6ft. 3½in. tall, wading across Turkey Creek with water up to his chest and rising; and he had six frail people hanging on to him and to each other in order to get across. That is the kind of determination these people showed to vote for the man whom they knew and believed in. Members might say their belief was mistaken and that maybe the Minister for Housing is a better parliamentarian than Mr Ernie Bridge would be.

Mr O'Neil: How do you know whom they were going to vote for?

Mr TONKIN: The evidence is that members opposite believed they would not vote Liberal, and that is why they bullied them out of the vote.

Mr Ridge: Yes, and we just arranged for the creek to flood.

Mr TONKIN: It does not matter for whom they voted; these people waded across a flooded creek. Members opposite can laugh; the racists on the front bench are laughing, and that does not surprise me.

Sir Charles Court: They are laughing at you.

Mr TONKIN: We know the Premier of old. We know how when he was in Opposition he admired the South African system. Therefore we are not surprised to see this Bill.

We do not know for whom these elderly people wading Turkey Creek wished to vote, but we do know they were prevented from voting by Liberal bullies who asked them questions. I have already instanced the elderly gentleman who was asked if he was over the age of 18 years.

The Minister for Housing has admitted today he finds it degrading to move amongst the Aboriginal people. I suggest the dignity of those people surpasses the dignity of this House.

Mr Hodge: That wouldn't be hard.

Mr TONKIN: We have the evidence of Mr Don Flynn, the manager of the Derby Hostel who said that a 70-year-old Aboriginal was turned away four times not because he was not enrolled, but for some other reason. Aboriginal voters were picked on in that way. Mr Flynn said at one time there were four Liberal scrutineers around one poor little Aboriginal woman. I ask: Who are the civilised people?

Mr Ridge: Who were the four scrutineers?

Mr O'Neil: The Act allows only one scrutineer at the polling place.

Mr TONKIN: I did not say anything about a polling place.

Mr O'Neil: Then they were not scrutineers.

A Government member: You have tricked yourself.

Mr TONKIN: No, I have not; I am quoting from the transcript of the Court of Disputed Returns. That is to be found in the report of the Court of Disputed Returns. It would not hurt Government members to read that so that they could clean up their party—get rid of the racists and become honest for a change.

That is the fact of the matter—four people surrounding a little Aboriginal woman. I ask the House: who is civilised, when we see this kind of behaviour? The Minister for Housing has the gall to talk about these people in a patronising way, from his elevated intellectual eminence. Talk about these less intelligent people down there!

Mr Ridge: The greatest racists I know are some of the people who support your political philosophy, who get in there and browbeat the Aborigines, telling them the way they should think.

Mr P. V. Jones: That is right.

Mr TONKIN: If I am aware of any racist attitudes in our party, I will do my best to oppose them. The fact of the matter—

Mr Old: Come on!

Mr TONKIN: —is that the Minister had the chance to bring the evidence before the Court of Disputed Returns, and no evidence was brought forward. The Minister had the opportunity; why did he not clear himself? Was he not keen to prove that he had in fact been acting correctly?

Mr Ridge: I was ably represented. As a point of interest, I produced the letters that I had written, as I mentioned previously. Your candidate never had the gall to produce one single letter; and you could not convince me that he never wrote a letter.

Mr Jamieson: You cannot produce something you have not got.

Mr Ridge: He had a bonfire, because he knew it would get him into trouble.

Mr TONKIN: The Minister had the opportunity in the Court of Disputed Returns.

Mr Ridge interjected.

Mr Jamieson: I was in court, and they said the Derby branch of the Liberal Party did not keep minutes.

Mr TONKIN: An accidental fire!

Mr Ridge: You would not call it a fire compared to the fire he had.

Mr TONKIN: This treatment of Aborigines is not new. It was not until 1962 that the disqualification of any person who was an Aboriginal was expunged from our Act.

Evidence was given in the Court of Disputed Returns, under oath, that at Turkey Creek an old Aboriginal with poor eyesight had an informal vote cast on the instructions of a scrutineer for the Independent candidate. Of course, we know that the Independent candidate was a member of the Liberal Party and, to all intents and purposes, was an agent of the Mininster for Housing. An informal vote! A person who could not see! They took advantage of him. They made sure his vote was informal because he had indicated he wanted to vote for Mr Bridge.

It has been said that the use of the five young lawyers was a master stroke. That was the term used—a master stroke. Who would be proud of a master stroke which was to bewilder, which was to frighten, and which was to cheat citizens out of their votes? All members here have experience of elections. Most of us gained that experience before we were members of this House. I have never heard these kinds of questions being asked in the polling booth: "Are you a loyal subject of the Queen?"—

Mr Jamieson: He has got to sign it when he enrols.

Mr TONKIN: I have never heard that asked. Yet this question was asked of these people, because it was believed they were going to change their vote.

Mr Justice Smith has indicated that 60 people were correctly enrolled at Turkey Creek. Why would they be asked these questions? The questions are supposed to be available to make sure that a person is not voting a second time; to make sure that he is enrolled correctly; to make sure that he is not casting a vote to which he is not entitled. Those people were asked those questions.

Sitting suspended from 3.45 to 4.07 p.m.

Mr TONKIN: Prior to the afternoon tea suspension, I stated that the Aborigines were correctly enrolled. There was no doubt about that. There was no doubt that they were *bona fide* residents of the Kimberley and over the age of 18 years. They certainly did not owe allegiance to a foreign realm and yet they were met with a barrage of questions which were designed deliberately to prevent them from casting the votes which they were entitled to cast under the Act.

Mr O'Neil: Who designed the questions?

Mr TONKIN: I did not say, "designed the questions".

Mr O'Neil: You said they were designed deliberately for certain purposes. The questions are contained in the Electoral Act and have been there for years.

Mr TONKIN: They are not designed to prevent people from voting. Mr Justice Smith made that clear. Section 123 makes that clear. The idea is not to trick people out of casting their votes; but to find out whether they are *bona fide* voters and entitled to vote. Mr Justice Smith made that clear.

What answer does the Government have to that simple kind of dignity? Only the manipulative paternalism that it knows what is best for the Aboriginal people. Has the Government consulted with the Aboriginal people on this matter? No, it has not.

Does this Government ever consult with anyone? Yes; it consults with powerful foreign interests such as Alcoa and the owners of the Japanese steel mills. We do not quarrel with that. We are pleased the Government consults with powerful foreign interests.

The Government consults with powerful domestic interests also; but it will not consult with the Aboriginal people on this matter in order to ascertain what they want so that they can discharge their responsibilities as citizens. That is a cause of great regret.

Mr Young: A very strong submission was made to the Kay inquiry by the Aboriginal people. It was probably the strongest.

Mr TONKIN: What is the relevance of that?

Mr Young: This legislation is based upon the findings of the Kay inquiry.

Mr TONKIN: We will come to the Kay inquiry later.

Mr Ridge: We will come to the legislation later too, I suppose.

Mr Young: You did not put in a submission to the Kay inquiry.

Mr TONKIN: Yes we did. The Minister should check his facts. We certainly did.

Mr Young: I will check your facts.

Mr TONKIN: The questions which may be asked of voters have never been used in such a blanket fashion until the last election in the Kimberley. It was degrading and discriminatory to take section 119, dust it off, and use it in this manner when questioning Aborigines, because the Aborigines were taking a bigger interest in the election than previously and it was believed they were going to vote against the Minister (Mr Ridge).

Why were the questions asked of the Aborigines? Why were they not asked of the Europeans? The member for Nedlands would be pleased to have an army of scrutineers descend upon his electorate to ask the people there, "Are you over the age of 18?"

I am sure the Premier would be very popular in his own electorate if Liberal Party scrutineers were to approach frail and elderly men and women and ask, "Are you over the age of 18 years?" The scrutineers would probably receive a slap in the face or a crack over the head with an umbrella; and that is what they would deserve. However, that is what was done in the Kimberley.

The Aborigines were asked these questions only to bewilder and intimidate them. The questions were not asked to ascertain whether the Aborigines had a right to vote, which was the whole purpose of the questions in the first place.

Haydn Dixon, one of the five infamous lawyers who were prepared to prostitute themselves on behalf of their Liberal Party bosses—no doubt they were well paid for their pains—is quoted at page 69 of Mr Justice Smith's report as saying that they had really managed to fix things at Mowanjum. When Mrs Elliott asked what he meant, he said, "We were asking them the questions." He was pointing to section 119 of the Act. Later, in relation to question (h), he said, "This is the one we got them on at Mowanjum."

These people were educated in the law and they were up against people who were unsophisticated in European ways. When we talk about a "simple" people we mean they are unsophisticated in European ways and apparently this Government wants to make that a crime. What do we usually call it when such overpowering strength is pitted against frailty? What do we call it when overpowering physical strength is pitted against physical frailty? We call that kind of behaviour "bullying".

What is it when a person well versed in the law uses his superior knowledge to bully people out of their democratic rights? We suggest that nobility consists of using one's strength to aid the less fortunate. It should not be used to victimise them; it should be used to aid them.

Mr Sodeman: Why do you call Aboriginal people "savages" and then talk like that in this House? You are being hyprocritical.

Mr TONKIN: I have never done that.

Mr Sodeman: You have.

Mr TONKIN: That is a lie and I have never said that.

Point of Order

Mr SODEMAN: On a point of order, Sir, I ask that the member withdraw his remark.

Mr Tonkin: You should not tell lies, should you?

The ACTING SPEAKER (Mr Crane): The member for Pilbara has asked that the member for Morley withdraw the word "lie". It is an unparliamentary word and I ask the member to withdraw it.

Mr TONKIN: I withdraw it.

Debate Resumed

MR TONKIN: We have some quaint rules in this place. It is quite satisfactory to tell lies, but one must never say a person has told a lie.

Mr Sodeman: You remember that.

Mr TONKIN: It is scandalous that members should be able to get away with this sort of behaviour and that we should be prevented from nailing a lie when it is told. However, I do not blame you, Sir. If I was sitting in the Chair, I would apply the rules also. You have not made the rules and you are applying them correctly.

We believe nobility consists of using one's strength to aid the less fortunate. Strength carries responsibilities as well as privileges and we should use strength to aid others.

We believe the kind of bullying I have referred to by so-called educated people is a breakdown in moral standards. It reflects upon the upbringing of the people involved.

I certainly could not conceive of receiving any approval from my parents, for example, if I were to indulge in brow-beating and bullying elderly people out of what they are entitled to. I suggest that people who indulge in this kind of behaviour have had no proper moral upbringing and must be immoral. It is no wonder, as was revealed by the Court of Disputed Returns, that a Perth lawyer admitted that some of the instructions given by the Liberal Party were distasteful. He admitted under cross-examination that he had given names of Kimberley electors to the Liberal Party. Officially, before giving evidence, he had to seek immunity from prosecution.

The provisions of section 119, which we hope will be changed slightly, are there to help a voter establish his right. They are not there to prevent a voter from voting if, in fact, he is a genuine resident of the area and a naturalised or a natural Australian. Of course, these people are natural Australians.

Mr Justice Smith expressed the belief that the intention of section 119 was that questions were not to be put to the majority of voters but, rather as a tool to be used discriminately to ascertain whether a particular voter had voted previously, or whether he was a resident in the area, or whether he was naturalised if the voter had been born in a non-Commonwealth country. That is the purpose of the questions.

Mr Justice Smith said that the questions under section 119 were designed to help the elector to establish his qualifications to vote, not to hinder him. Mr Justice Smith based that excellent judgment upon the law. It is important we know

what the law says in respect of section 119 questions.

To determine that law we have to look to section 123 and I cannot believe the five qualified lawyers sent to the Kimberley at the behest of the Liberal Party really did not know the Act and were not capable of knowing what they were doing was illegal and improper. Section 123, with which they must surely have been familiar, sets out—

> 123. (1) No elector shall at any election be required to answer any question or to make any declaration, except as herein provided.
>
> (2) No person claiming to vote at any election shall be excluded from voting thereat except by reason of—
>
> (a) it appearing to the presiding officer, upon putting the questions hereinbefore prescribed, or any of them—
>
> (i) that he is not the person whose name appears on the roll, or
>
> (ii) that he has previously voted for the province or district at the same election, or
>
> (iii) that he is otherwise not entitled to vote under this Act; or
>
> (b) such person refusing—

Not unable to, but refusing. To continue—

> to answer any of such questions, or to make the declaration required under sections one hundred and nineteen and one hundred and twenty-two.

It is made clear by section 123 that section 119 is to be used only if a person is not a person whose name appears on the roll, or if he has already voted, or if he is not entitled to vote. It was not intended that those questions were to be asked, as happened, as some kind of verbal trickery. Because those people were not conversant with the English language they were not able to answer the questions really well and therefore they were denied a ballot paper. That is what happened. Mr Justice Smith said—

> A presiding officer has an obligation to rephrase the questions in more simple language or to seek assistance of an interpreter to ensure that the questions are properly understood, before he excludes that person from voting. Knowledge of the English language is not one of the qualifications of an elector laid down by the Act.

There is an obligation upon the person doing the questioning to rephrase the question in a more simple way, or to have present an interpreter to make sure that the language barrier does not prevent that person from understanding and answering the question. That is an obligation under the Act as it stands.

That is not the way questions were asked in the Kimberley. They were used to trick people out of a vote.

An editorial in *The West Australian* of the 9th November, 1977, stated—

> The State's object should be to ensure that illiterate and inarticulate electors' real intentions are known to the presiding officers at polling booths—not to disenfranchise them.

To which it seems the Liberal Party would agree to add the qualification—

> Unless they vote for the Australian Labor Party.

In respect of the requirements of sections 119 and 122, Mr Justice Smith said that in the situation where a demand that the question be put was made the officers were required to ask questions in the terms of the Act when they well knew that the person being questioned had little or no understanding of such formal language.

It is quite clearly set out in the judgement that if a person had little or no understanding the question should have been rephrased. However, the questions were not rephrased because the object was not to determine whether a person genuinely was entitled to vote; the purpose was to see he did not get a vote.

We know the racists in the Liberal Party will be happy with the provisions of this Bill. Not all members of the Liberal Party are racist. The member for Kalgoorlie in the Federal Parliament (Mr Cotter) was quoted as saying that the original Bill, which is very similar to the present Bill with a few minor changes would disfranchise the Aborigines.

Mr Ellicott, in the House of Representatives—a Minister in the Court Government—

Sir Charles Court: Not one of my Ministers.

Mr TONKIN: A Minister in the Fraser Government. He said we need a basic commitment to human rights. Did I hear the Premier say that he would not have Mr Ellicott?

Sir Charles Court: I said I would not want him.

Mr TONKIN: I believe that.

Sir Charles Court: Not for the reason you are saying or thinking.

Mr TONKIN: He would not agree with the attitudes of the Liberal Party in this State. We remember what the Premier had to say about South Africa when in Opposition. He has now gone quiet on that.

Sir Charles Court: No, he has not.

Mr TONKIN: No doubt he admires the quaintly called "Morality Act" in that country under which social and sexual relations between different coloured people are not permitted. We have heard racist comments from various members on the other side of the House. It is quite clear the racists in the Liberal Party have won out with this Bill. We hope there are as many men of conscience in that party now as there were when the previous Bill was before us.

Mr O'Neil: Are you saying that Judge Kay is a racist?

Mr TONKIN: No.

Mr O'Neil: Are you then denying this Bill is based substantially on his recommendations?

Mr TONKIN: It is based to some extent on his recommendations.

Mr O'Neil: To some extent.

Mr TONKIN: Only to some extent. Some recommendations have been left out.

Mr O'Neil: Only two.

Mr TONKIN: Some of them were very important.

Mr O'Neil: What are they?

Mr TONKIN: I am not here to be bullied about by the Deputy Premier. I will deal with those when I come to them during my speech.

Mr O'Neil: I imagined that if they were very important you would know them.

Mr TONKIN: I do know them, but I will not be bullied about. I will state them when I come to them. **Only two matters referred to by Judge Kay have not been accepted, but that is not to say we are not accepting the Kay reasoning. I am not saying Judge Kay is a racist. I do not believe he considered how best the Kimberley seat could be made safe for the Liberal Party.**

It is interesting to note that the Deputy Premier has been given this Bill, the same as he was given the amendment to the Police Act. The reason is that he will soon go. The Deputy Premier will have the odium and the responsibility so that when he goes from this Parliament and the Ministry in a few months the odium will go with him.

Mr Watt: He is handling the Bill because it comes within his portfolio.

Mr TONKIN: Of course, but it is possible for legislation to be handed out. I am saying that if it had not been convenient to give the legislation to the Deputy Premier, the Premier as leader could have taken it over. We have seen how the Premier absents himself when he considers it desirable. It has worked very conveniently that this disgraceful Bill and the amendments to the Police Act can be handled by a person who is to go.

Several members interjected.

Mr TONKIN: We do not have to prove our interest by sitting here like stuffed capsicums. Back-benchers opposite sit in their places doing nothing, snoring, and working out crosswords. I know very well that those members of the Opposition who are not present are working.

Several members interjected.

Mr O'Neil: I thought members were paid to be present in Parliament.

Mr TONKIN: Did you? The Deputy Premier is a simplistic person. They are paid to be parliamentarians.

Mr Old interjected.

Mr B. T. Burke: Don't you speak, you Quisling. You have lost half your party already.

Mr Grewar interjected.

Mr B. T. Burke: You drop dead, too.

The ACTING SPEAKER (Mr Crane): Order! The member for Balcatta will desist from exchanges across the Chamber.

Several members interjected.

Mr B. T. Burke: You are doing it your own way, and you do not mind do you? You have not got the guts to answer questions.

The ACTING SPEAKER: Order!

Mr O'Neil: Has the member opposite been working?

Mr TONKIN: He has been working. If members opposite worked half as hard as does the member for Balcatta, they would know what work was. **The Deputy Premier should go out to Balcatta and have a look.**

Mr B. T. Burke: Any time you like.

Mr TONKIN: The fact of the matter is that the Deputy Premier knows very well what is happening. I would like to deal with the interjection from the Deputy Premier—if my colleagues will allow me—when he said that members are paid to sit in Parliament. That is absolute nonsense, when one considers that

Parliament sits for about 40 days out of 365 days. That is the extent of its work; there is no other work. A member is not paid to sit here and sneer, as do the back-benchers opposite.

Mr B. T. Burke: One member went to sleep and voted with the Opposition.

Mr Old: One would have to be asleep to vote with the Opposition.

Mr TONKIN: The $25 000 a year bludgers on the back benches do not work. We know the disgraceful situation in another place—

Several members interjected.

The ACTING SPEAKER (Mr Crane): Order! Might I suggest that the member return to the Bill? We are not discussing other matters, and we may proceed a great deal more quickly if the member for Morley speaks to the Bill before the House.

Points of Order

Mr HASSELL: I rise on a point of order, Sir. I ask you whether or not the comments the member for Morley made about the members of this Chamber are a breach of the privilege of this House.

Mr O'Connor: I think they are.

Mr HASSELL: I ask that you refer the matter to the Speaker.

Mr JAMIESON: Mr Acting Speaker, on a further point of order—

Several members interjected.

Mr JAMIESON: I simply rose to say that if the honourable member is taking exception to a comment, he is required to take that exception immediately.

Mr Williams: The member for Cottesloe is still on his feet.

The ACTING SPEAKER (Mr Crane): There is no point of order. I ask the member for Morley, as I requested earlier, to return to the Bill before the House.

Debate Resumed

Mr TONKIN: Thank you, Mr Acting Speaker. I will endeavour to do that.

Mr Justice Smith stated that knowledge of the English language was not necessary to qualify a person as an elector. However, the Bill contains no provision for the services of an interpreter. We believe that if this Government is discharging its duties according to the Electoral Act, there should be provision for interpreters.

We know that the Premier has no respect for Mr Justice Smith, and that he does not care what the gentleman says, but I must point out that in his judgment Mr Justice Smith said that there is a requirement for an interpreter to be provided when a person is having trouble with the language. Yet there is no provision for an interpreter in the measure.

Mr Justice Smith also said that the presiding officer has the obligation—and I emphasise his words "the obligation"—to seek the assistance of an interpreter before he excludes anyone from voting. Furthermore, he made it quite clear that once a presiding officer knows a person is illiterate, that presiding officer has an obligation to offer assistance.

We note that in the Kimberley electorate many presiding officers did not make available assistance to illiterate persons who wished to vote at the last general election. This happened even when these presiding officers knew that the people concerned were illiterate. We do not criticise those electoral officers, and neither did Mr Justice Smith. The fact is that these officers were plucked from various occupations and they had no qualifications or training in the electoral laws. We believe the Government should provide training for electoral officers, and I would like to refer to the example of Mr Vocc, the presiding officer at Turkey Creek at the last State election.

Mr Vocc was plucked from another position. He was given no training whatsoever, and it is no wonder that, with the disruptive tactics of the Liberal Party scrutineers, he found the job beyond him. He knew from his knowledge of the people coming into the polling booth that they needed assistance, but he thought that it was not his job to offer that assistance—he thought that the people concerned had to ask for it. He also thought that there was no requirement to offer section votes to a person whose name could not be found on the roll. Mr Justice Smith has made it quite clear that there was an obligation on presiding officers to provide a section vote to such a person, and to inform that person that he had a right to a section vote. Also, the presiding officer had an obligation to offer the assistance available under the Act to an illiterate voter.

Mr MacKinnon: Did that happen in the subsequent by-election?

Mr TONKIN: I do not know to what degree the officers were trained before the by-election. However, I imagine that as a result of the judgment of Mr Justice Smith, many people who undertook the onerous job of a presiding officer in the by-election would have taken cognisance of

Mr Justice Smith's remarks and offered that assistance.

Mr Jamieson: At Derby the presiding officer was an ex-Commonwealth electoral officer from Fremantle—a person who was properly trained.

Mr TONKIN: Yes, but I believe conditions were more high key than they will be at the next election or the election after that. It is quite possible that we will go back to the old ways at the next election and that the electoral officers will not be properly briefed. They will not know their obligations. It is most important that they be trained.

The Minister said today he was quite happy about the letters he had written. He reiterated that he wasted time and found it degrading to move among less intelligent people. And yet, these so-called less intelligent people held a meeting at Turkey Creek before the election to discuss the way they were going to vote.

I know from my own experience in the electorate of Morley that many people do not take a great interest in an election. The day before polling day, or even the day of the election, someone will say to me, "You are all as bad as one another; who am I to vote for? I think I will make my vote informal." Sometimes the scrutineers find rude remarks written on the voting papers, and those votes are then informal. In other words, people who act this way do not take their responsibilities as voters nearly as seriously as did the people at Turkey Creek who held a meeting before the election and decided to support the petitioner, as indicated by Mr Justice Smith. I believe such action shows that these people should not be talked of in sneering terms and regarded as being less intelligent than are European people. Their actions indicate that they took the election very seriously.

I would like to quote the case of one person who stated the reason that he was not voting for the Minister at the by-election. He said that he intended to vote for Ernie Bridge, because when an old pack horse is no longer of any use, one should get rid of it. This person admitted quite freely that he had voted for the Minister on previous occasions, but that he was changing his mind this time. We are defending in this place today the individual's right to change his mind.

At Turkey Creek some people were not allowed to vote even though their names appeared on the roll; in other words, section 123 of the Act was flouted on that occasion. I have already indicated that section 123 states that a person has a right to vote unless he is disqualified for some reason. A person is disqualified from voting at an electoral booth if he has voted before on that day, if he is not a naturalised citizen, or if he does not live in the electoral area. Despite the admonition of section 123, which is quite unequivocal, its provisions were incorrectly used on that occasion.

People who have the onerous duty of being an electoral officer at any election should be briefed properly so that if some smart aleck comes up to an officer and says, "Section 119 says so-and-so", the officer must be aware when another section—such as section 123—must be read in conjunction with the section referred to. I ask for electoral officers throughout the State of Western Australia to be trained in this way.

The arguments of scrutineers at Halls Creek were so disruptive that Mr Moon, the presiding officer, closed the polling station down. What a disgraceful commentary upon the conduct of an election that a presiding officer had to close a booth because of the turmoil there. When Mr Moon closed the booth, he telephoned Mr Monger, the returning officer, who gave him a ruling on the use of how-to-vote cards by illiterate voters. Mr Justice Smith later stated that this ruling was correct.

The polling station was then reopened, and Mr Peter Lloyd—one of the five to whom I have already referred—arrived and disrupted the polling. "Disrupted" was the word used by Mr Justice Smith. Mr Moon, the presiding officer, and his assistant had not even heard of section 119, let alone the qualifying section 123 and the questions Mr Lloyd was asking. As Mr Justice Smith said, a blanket type of questioning of illiterate Aboriginal voters took place. Such blanket questioning was not envisaged by the Act or by this Legislature when the Act was passed.

Mr Williams, who was doing the questioning at the bidding of Mr Peter Lloyd, the Liberal Party scrutineer, found his task distasteful. We say to Mr Williams: good for you. We salute you for the fact that you were a decent enough human being to say you found the whole procedure distasteful. We find it distasteful, too.

Mr Williams tried to rephrase the questions. According to Mr Justice Smith's decision, he did so correctly; but Mr Peter Lloyd would not agree and if the answer was incorrect Mr Lloyd demanded that the person be denied a ballot paper. He did that in contradiction, as I have no doubt he knew, of section 123 of the Act.

At Gogo Station we found something different occurred because the presiding officer, Mr Webb, was experienced.

Mr MacKinnon: He was also a member of the ALP.

Mr TONKIN: Was he? I wonder whether the member for Murdoch is suggesting that is why Mr Justice Smith said he was experienced?

Mr MacKinnon: No, I merely made the observation.

Mr TONKIN: I was not aware of that fact. However, apparently he was experienced. He received the telegram from the Attorney General—that revered man in law, as the Premier calls him—which Mr Justice Smith said the Attorney General had no authority to send. The telegram was concocted in the Liberal Party rooms, as stated in *The West Australian*. Mr Justice Smith said there was little doubt that the receipt of the telegram affected Mr Webb's actions.

Mr O'Driscoll was acting for the honourable Mr Withers, and Mr Terence McAuliffe, one of the five solicitors, was acting for the Minister. One of the early voters was a man whom Mr Webb knew to be illiterate so, quite correctly according to the Act—and not because he was a member of the ALP—he offered assistance to that person. Mr McAuliffe, whose code of ethics seems to be to kick a man when he is down, protested. I reiterate that what Mr Webb was doing was legally correct. Mr O'Driscoll, the man whom the Minister admires so much for his trick at Gogo, said that Mr Webb was being unfair by repeating the names. Surely when one is listening to a list of names, whether one is literate or illiterate, it is possible to mishear a name and to require it to be read again. Mr O'Driscoll, part of the "squattocracy" of the north, found it offensive for the presiding officer to read the name again.

I turn now to Kununurra. Perhaps the member for Murdoch would know whether the presiding officer there was a member of the ALP also.

Mr MacKinnon: I do not know.

Mr TONKIN: As a result of the disruption at Kununurra, the presiding officer threatened to eject all scrutineers from the polling station. The disputes were related to the electors seeking to vote for Mr Bridge, as was stated by Mr Justice Smith. So disruption and argument occurred and the presiding officer had to close down the polling booths.

Last night the member for Clontarf had the impudence to get up in this place and talk about members on this side wanting control of the streets. Just consider the rabble sent north by the Liberal Party on that occasion; just consider the chaos which was caused, so much so that presiding officers had to close down polling booths in order to try to achieve some sanity, order, and decency. We remember, too, that at Kununurra Sergeant Corker, who ordered that people stop being enrolled, interfered with the proceedings; and he admitted before the Court of Disputed Returns that he had no right to act in that manner. The presiding officer at Kununurra said there was no way he would accept such a job in the future, so much pressure was applied to him.

We have heard talk of people being driven to the polling stations and herded and corralled; but it was made clear before the Court of Disputed Returns that not all people were driven to the polling booths; and even those who were driven were not driven by members of the ALP. Many people walked for many miles to reach polling stations. We remember the case of the small woman who was so tiny that Mr Justice Smith asked her age. She was 23 years of age, and she walked miles in order to vote.

At Mowanjum the presiding officer, who was required to ask people whether they were over 18 years of age, whether they had lived there for three months, and whether they were loyal subjects of the Queen, found the questions ridiculous. I can certainly sympathise with him in respect of being forced to ask such questions of people whom he knew well.

I would like to emphasise once again that not only Aborigines will be affected by this disgraceful legislation. Other ethnic groups whose mother tongue is not English will be affected. Many of these people have fled Communist countries in which people do not have the right to vote as we do; they do not have a chance to change their Governments as we do.

We believe this is not the way to treat such people whom we have enticed—I do not think that is too strong a word to use—to come to our country from overseas because we feel we need immigration. I believe it is in that context that Mr Jim Fletcher—I think he speaks in some way for the National Party—stated that the previous Bill which was so similar to this Bill was a racist measure.

The Premier often makes statements, but we cannot always believe what he has to say. This is what his Press release of the 8th November, 1977, said about the Bill which came before the Parliament at that time—

> It would bring our legislation into line with the principle of postal votes and voting by illiterates already in the Commonwealth legislation.

That was untrue; it did not bring it into line in both of those respects.

The proposed amendments to the Act provide that when the presiding officer or some other electoral officer is marking a person's ballot paper for him, the elector may appoint someone to be with him, but only if no scrutineers are present.

So, we will have a situation where a person who is illiterate in the English language will be surrounded by scrutineers while he makes his decision. Why should that be? Why should a person who happens to be illiterate in the English language be prevented from having privacy and dignity? Why should he not be permitted to have a friend with him, as was the case before the 1976 amendment? We can see no reason that a person who needs assistance cannot have a friend with him, and demand that right whether or not a scrutineer is present.

No doubt, very often the elector will choose a scrutineer. If he wants to vote for the Australian Labor Party candidate, he may choose the ALP scrutineer, and likewise, if he wants to vote for the Liberal Party candidate he may choose the Liberal Party scrutineer.

However, what if he does not want either of those people? Why should he not be able to choose his brother or his son? Why cannot he say, "I do not want a scrutineer from the Liberal Party having a look at how I am voting; I want my friend to help me mark the ballot paper"?

Mr Nanovich: Or a scrutineer from the Labor Party.

Mr TONKIN: Exactly. In fact, why should he be required to have a scrutineer from any political party witnessing his vote if he does not want him to be present? He should be permitted to have a friend present if that is his wish. He should be permitted to request the presiding officer or another electoral officer to mark his ballot paper without scrutineers being present.

Are we to have a situation in which, just because a person is handicapped in some way, a member of a political party is permitted to watch how he votes? I thought we believed in secret ballots. Certainly, we hear the Government talking about the desirability of union members being given a secret ballot in any decision to go on strike. Of course, union officials are elected by secret ballot. Why should this right to secrecy be taken away from these people?

The scrutineer could belong to another political party, and would see the way the elector was voting. The elector should be allowed to take his neighbour, or his employer, or a person who owns or works in the supermarket down the road—in other words, someone with whom he comes in regular contact—into the polling booth to help him mark his ballot paper. Why should he be required to reveal the way in which he votes merely because he is handicapped? We cannot agree to this provision.

Mr O'Neil: Have you read proposed new section 129?

Mr TONKIN: Yes, I have read the entire Bill.

Sir Charles Court: You must have overlooked its provisions, because proposed new section 129 will allow a lot of the things to which you are referring.

Mr TONKIN: I do not think so, but we will soon see. I would be delighted if I am wrong because this certainly is worrying many people. Clause 21 states—

> 129. On request from an elector the presiding officer, an assistant presiding officer, or a poll clerk, in the presence of such scrutineers as are present, or, if there are no scrutineers present, then in the presence of—
>
> (a) another electoral officer; or
>
> (b) if the elector so desires, in the presence of a person, other than an electoral officer, appointed by such elector,
>
> shall mark the elector's ballot paper according to the instructions of the elector, and fold and deposit the ballot paper for him, after which the elector and any person appointed by him, shall quit the polling place.

Mr O'Neil: I think that covers it.

Mr TONKIN: It does not cover it at all; it provides that if there are no scrutineers present, the paper shall be marked in the presence of another electoral officer.

Sir Charles Court: It also says, "if the elector so desires".

Mr TONKIN: Yes, but only if there are no scrutineers present. The second part of the proposed new section applies only if no scrutineers are present. If scrutineers are present, the elector does not have the option.

Mr O'Neil: I still cannot see what you are complaining about.

Mr Jamieson: The elector should not have his ballot observed by so many people.

Mr TONKIN: If a scrutineer is not present, the elector can have a friend help him mark his ballot paper. We are saying that he should be allowed to have a friend present whether or not there are scrutineers at the polling place.

Mr O'Neil: You appoint responsible scrutineers, don't you?

Mr TONKIN: The Deputy Premier is changing it now; a moment ago he said this proposed new section would cover the position.

Mr O'Neil: I thought it did. You said they could not have a friend, but this clause refers to a person who is going to mark a ballot paper on behalf of the person who cannot mark it himself. On polling day, scrutineers appointed by the various candidates have the same responsibility as officers of the Electoral Department. Has the member for Morley ever acted as a scrutineer?

Mr TONKIN: Of course I have; many times.

Mr O'Neil: Have you filled in the form undertaking the obligations required of that position?

Mr TONKIN: Yes. I hope the Deputy Premier is not suggesting scrutineers are completely impartial.

Mr O'Neil: Of course they are not, because they are appointed by the various candidates.

Mr TONKIN: That is right; they are partisan because they are there to look after the interests of their candidates. Therefore, why should these partisan scrutineers be able to observe the way an elector votes? We say he should not. Certainly, he is not allowed to observe the way a literate person casts his vote; this provision applies only if a person is handicapped. I am glad the Deputy Premier referred to proposed new section 129. I thought I may have missed something, but now I know I am correct.

Sir Charles Court: This provision will disadvantage nobody. Actually, it will facilitate the person making sure his vote is recorded in the way he wants it recorded. You are twisting it back to front.

Mr TONKIN: What if a person has complete and utter faith in his son-in-law, or his brother, and wants him to help him cast his vote? If he is voting for the Liberal Party, why should he have a Labor scrutineer looking on and seeing how he votes?

Mr B. T. Burke: What about when there are six candidates? There would be six scrutineers crowding around and intimidating a frightened voter.

Mr O'Neil: It provides for a person to fill in a ballot paper on the instructions of a person who cannot fill it in for himself.

Mr TONKIN: That is right, and a friend can do that for him, and I am sure the elector would be much happier with a friend than with a scrutineer whom he does not know and who may represent another political party from the one he wishes to support.

Sir Charles Court: I think you believe in the fairies. You are simply concocting a yarn.

Mr O'Neil: The elector may appoint a person other than an electoral officer to mark the ballot paper according to his instructions. Surely that covers the situation to which you are referring.

Mr TONKIN: So he should be able to appoint someone to look after his interests, and not have forced upon him someone from a party to which he is opposed. We believe in fair play for the disadvantaged as well as for others.

Mr O'Neil: It could not be secret under any circumstances there, could it? The elector does not fill in the paper himself.

Mr TONKIN: It certainly cannot be secret in the sense that someone else has to know about it; but why should the world know about it?

Mr O'Neil: Not the world. There could be scrutineers representative of both parties. They are only ensuring that the electoral officer who fills in the ballot paper fills it in according to the instructions of the elector.

Mr TONKIN: I am saying the elector could ensure secrecy by saying, "I want my dad to help me." I am also saying that in some cases the person would not have a close relative—

Mr O'Neil: The candidates can appoint scrutineers to look after their interests. That does not mean they are authorised to do that job. If they are not appointed to do that job, then the elector may elect to have his friend. We have already conceded that a vote cast in those circumstances is no longer secret.

Mr TONKIN: That is right; but at least an elector does not have to have a scrutineer from the party to which he is opposed knowing how he votes. That is the business of the elector. It is true that we could not have absolute secrecy; but at least if it is an official of the Electoral Department, it is better than having a partisan person there.

Mr Laurance: What about the situation where the same friend takes a whole lot of people in? There could be undue influence there.

Mr TONKIN: No, I certainly would not agree with that.

Mr Laurance: I am pleased you would not. You have been talking about undue influence. How are you going to judge undue influence—

Mr TONKIN: The person coming in—

Mr Laurance: How would it be if the same friend took a whole lot of people in?

Mr TONKIN: I know people who are thought of very highly in the community. I know a particular place where the inmates—

Mr Laurance: You would not like to lay yourself open to suspicion that you were taking people in for that purpose. It would be better not to be associated with it at all. Would it not be better to make sure that this could not happen?

Mr TONKIN: Either thing could happen. For example, one's employer may be a scrutineer for a particular party. He would know that one was voting for the other side or wanted to vote for the other side. That is undue influence also. I am saying that it should be up to the voter to decide. He should be able to say, "I am happy. I trust this man about this matter."

Mr O'Neil: What you are saying is that nobody minds the fact that an electoral officer fills in a ballot paper?

Mr TONKIN: No, I am not. I am saying that if a person wants a Liberal scrutineer to be present, that is good; but if he does not, he should not be forced—

Mr O'Neil: What would you accept as the function of scrutineers?

Mr TONKIN: The function of scrutineers is to watch the interests of the candidates. It is not to find out how people vote. It never has been. That is not a proper use of scrutineers.

The social responsibility working group of the Uniting Church in Australia agrees with our attitude. It recommends that any elector should be able to appoint someone to go to the polling booth with him. The working group supports the proposition I have been trying to make.

The function of a scrutineer is different from that for all intents and purposes. I can think of electors in my area who would be happy to have the Liberal scrutineer—or the Labor scrutineer—check the marking of the paper. I know equally well that some people in my area would not want either side to see what was happening.

I agree it is necessary to have someone to check that the officer is marking the ballot paper correctly. What is wrong with the elector saying, "I want to vote Liberal, so I want a Liberal scrutineer to check the form. I do not want a Labor person anywhere near"? The situation could be the other way around. That person would check on the marking of the ballot paper. It seems to me that system would keep some degree of privacy.

Mr O'Neil: If the elector said, "I want only the Liberal scrutineer to see my ballot", how do you think he is going to vote?

Mr TONKIN: I accept the point raised by the Minister; but that is the decision of the elector. On the other hand, he might go in with a relative or friend and say, "I don't want either scrutineer present." That is up to the elector. I do not think we should be determining for the elector who should be able to do this kind of thing. We should give him a choice.

Mr Jamieson: The party scrutineer knows not only who is the first preference, but also the other preferences. There is the point.

Mr TONKIN: Is the Minister saying that the Government agrees with this proposition because there was a mention of that matter?

Mr O'Neil: We are adopting a recommendation of Judge Kay, who examined the matters which were raised before the Court of Disputed Returns. Judge Kay made the determination. It was a considerably long inquiry. Every political party made representations to Judge Kay.

Mr Jamieson: He made some very dotage-like decisions.

Mr O'Neil: That is a different matter.

Mr TONKIN: Is the Minister saying that he is really abrogating the responsibility for the legislation to Judge Kay?

Mr O'Neil: I am saying that if we had not adopted the recommendations of Judge Kay, we would have been attacked.

Mr TONKIN: Not by us, because some of the things Judge Kay said were ridiculous. Will the Government accept everything he said?

Mr O'Neil: We did not accept everything he said.

Mr TONKIN: He said, "pastoralists and other officials". That is an expression he used—station owners and other officials. How can the Minister have a great deal of respect for a judge who makes comments like that?

Mr O'Neil: Very early in your speech I asked you whether you were denigrating Judge Kay, and you said, "No."

Mr TONKIN: The Minister did not. He said, **"Are you saying Judge Kay is a racist?" Is that right?**

Mr O'Neil: That is correct.

Mr TONKIN: And I said, "No."

Mr O'Neil: Are you now saying he is incompetent?

Mr TONKIN: Yes.

Mr Jamieson: He does not seem to have had much political acumen; and he needed it to make a decision on a thing like this.

Sir Charles Court: He had a lot of legal advice. By far the most expensive, and by far the most numerous, legal advice he had was from those representing the Aborigines at taxpayers' expense.

Mr TONKIN: And that upsets the Premier, does it not?

Sir Charles Court: No, it does not. I just want to remind you, because you have been giving a completely distorted situation about their representation. They had the most expensive and the most numerous legal advice.

Mr TONKIN: Where?

Sir Charles Court: Before Judge Kay.

Mr TONKIN: The Premier claims I have been misrepresenting. I did not mention—

Sir Charles Court: You said these people had no representation—no one to look after them. We provided this representation.

Mr TONKIN: I am talking about the Kimberley election. It is wrong to say I misled on that, because I have not mentioned the representation of the Aboriginal people before Judge Kay.

Sir Charles Court: You are just wandering about the place, picking out a word here and a phrase there—

Mr TONKIN: I learnt that from the Premier.

Sir Charles Court:—instead of getting on with the job. Get around to the Bill, and tell us about the Bill itself. You said it had been thoroughly researched. We are rather anxious to share your views on the Bill itself.

Mr TONKIN: I have already pointed out that the Premier's reading of the Bill was not correct. The Government introduced the Bill, and I was told that the whole position was covered. I was invited to read the Bill, as I did not know about it. I was told the clause; and when I reached the clause and read it I found that the Premier was right and I was wrong.

Sir Charles Court: The clause provides what you were bleating about.

Mr TONKIN: It does not. I am saying that a friend should be there. If the elector does not want a scrutineer to be present, one should not be. The Bill does not provide that at all.

Sir Charles Court: You are just changing tack every time someone exposes your weakness.

Mr TONKIN: No, I am not. The Premier referred me to the Bill and said it covered my point, but it does not; it does not provide for a person to have a friend as a scrutineer. The Premier has not read his own Bill.

Sir Charles Court: The Bill provides for the protection of the voters.

Mr TONKIN: We are not satisfied with the Government's intention of allowing several scrutineers to watch how a person votes when he might not want them to be present. The Premier and his deputy do not even know what is in the Bill.

Mr O'Neil: They are not watching how he votes; they are watching how someone else fills in the ballot paper.

Several members interjected.

The SPEAKER: Order! The House will come to order. I suggest to the member for Morley that the remarks he is now making would be more appropriate in the Committee stage of the Bill. I ask that he address himself generally to the second reading debate.

Mr TONKIN: Changes made to the Act in 1976 took away the right of a handicapped person to have a friend with him. We had no idea then of what was in the Government's mind and we supported it on that occasion. But now we know what is in the Government's mind—Kimberley showed us why the Government wanted the change.

This Bill revolves around the use of how-to-vote cards by handicapped and illiterate people. Part of the Opposition's argument is that how-to-vote cards should be acceptable as an indication of a person's voting intention—with proper safeguards which Mr Justice Smith outlined very thoroughly. While I have referred to Mr Justice Smith so many times, I have not yet said how much I respect the man.

Mr O'Neil: You told us what you thought of Judge Kay; you said he was incompetent.

Mr TONKIN: We will see why. I do not believe Mr Justice Smith would link owners of pastoral leases with officials. If he did I would think he was in his dotage; however, he did not say such a thing.

Mr Justice Smith was up against considerable pressure. When I say pressure I am not talking about improper or blatant pressure. There is a certain social pressure brought to bear upon people in high positions. One does tend—and this is the problem with the law—to see things from the point of view of one's own social class. Therefore, a middle class person in a court is more likely to be listened to with respect and sympathy by a judge who is also from the middle class. Such respect and sympathy might not be

afforded to working class people or someone from another race.

It is true that Mr Justice Smith made a judgment and agreed with our point of view. But it is not just a question of his agreeing with our point, but the quality of his judgment. In a fair and dignified way he listened to the various people coming before him. Western Australia would be a much poorer place in which to live without people of his calibre. I do not have much experience with the law and I do not know how many justices of the Supreme Court there are of the same calibre as Mr Justice Smith. What I read of his judgment makes me realise that here we have a man who has made a great contribution to this community, and I admire him greatly.

What Mr Justice Smith had to say about how-to-vote cards is very important, because this Bill gives power to the Chief Electoral Officer to give certain directions to presiding officers; but it does not say whether he has to give directions as to whether or not how-to-vote cards are to be used. Under this Bill we believe it will be possible to give directions to presiding officers which would prevent the use of how-to-vote cards.

It might be argued in the light of Mr Justice Smith's decision that such an instruction will be *ultra vires* the Act, an Act which is not just an Act provided by Parliament but an Act which has been adjudicated upon by the courts. Mr Justice Smith said—

> To my mind, the presentation of a list or a how to vote card by an illiterate elector, is a proper direction by such an elector, both as to the marking of his first and his subsequent preferences, provided that the presiding officer takes the precaution of reading what is written on the list or card to the elector and by that or other means satisfies himself that the card reflects the wishes of the elector before he marks the ballot paper. The ability to read or indeed a full and complete knowledge of the preferential voting system, are not among the qualifications of electors. It is trite to observe that a literate voter is at liberty to take the how to vote card of the candidate of his choice with him to the polling booth when he or she is marking the ballot paper to ensure that he or she completes a formal vote. It is worthy of note that polling booth workers for the respondent—

I think he refers to the respondent here, because those workers were the people who were objecting to the how-to-vote cards. To continue—

> —were enjoined to ensure that every voter had the respondent's how to vote card when he entered the polling place in the following terms: "There is only one way to simplify the issue: by getting our supporters to follow the how-to-vote card exactly. So please, take the trouble to greet every voter, and then ask the voter to follow the card—
>
> E.G. "Good morning. To vote Liberal, please follow this card exactly."

Mr Justice Smith went on—

> I can see no reason in logic why a like privilege should not be afforded to an illiterate elector, provided that the safeguards of which I have spoken are observed.

Mr Justice Smith put his finger on the hyprocrisy of the Government's attitude. It seems people who are literate can have a how-to-vote card and use it as a crutch to record a vote. These intelligent people—more intelligent than the Aborigines according to the Minister for Housing—still need the use of how-to-vote cards; but people who are illiterate cannot use them and this is what the Opposition so vehemently disagrees with. These people are not to have the advantage of a how-to-vote card.

Why should this assistance which the Liberal Party emphasises—and emphasised in the Kimberley election; assistance vital to the re-election of its candidate, the Minister for Housing—not be available to people who, through no fault of their own, happen to be illiterate in the English language?

How-to-vote cards normally have pictures on them, although looking around the Chamber I cannot understand why. Of course, such pictures would assist an illiterate person particularly. This seems to be an argument in favour of illiterate people having how-to-vote cards. Mr Justice Smith continues—

> The only inference open on the evidence is that the intention was to stultify the use by illiterate electors of how-to-vote cards as a medium of instruction in an area in which it was known that a large number of illiterate electors were enrolled who were unlikely to support his candidature—

By "his candidature" is meant the respondent; in other words, the Minister for Housing. To continue—

> —and by that means to circumvent the instruction which was known by the respondent's compaign organisers to have been given by the returning officer to the

presiding officers as to the use illiterate electors were entitled to make of such cards.

This Bill is an attempt to legalise that which Mr Justice Smith condemned as unfair tactics.

Comments have been made about Judge Kay and it has been claimed that the amending Bill is based upon his pronouncements. At the outset I want to say there is a big difference between the way in which Judge Kay conducted his inquiry and Mr Justice Smith presided over the Court of Disputed Returns. This is an important matter. The Government was able to choose Judge Kay. I am sure the Government would have loved to be able to choose the man who presided over the Court of Disputed Returns. I wonder whether any pressure was applied for that, about which we know nothing at the present time.

Mr Bertram: Good gracious no!

Mr Jamieson: The hard part about it is that Judge Kay repudiates many of the statements made by Mr Justice Smith.

Mr TONKIN: Mr Justice Smith, of course, is a puisne judge of the Supreme Court. Apart from the Chief Justice, his position is the highest in the judicial system. On the other hand, Judge Kay is a judge of the District Court. I notice the member for Mt. Hawthorn is nodding his head to indicate I am correct. The Government chose one judge—Judge Kay to head the inquiry—but not the other.

Mr Jamieson: There would be a massive row if the Government tried to interfere with the Chief Justice's right to choose the judge.

Mr TONKIN: I wonder whom the Government would have chosen had it had the prerogative.

Mr Bertram: I am sure it would have chosen Mr Justice Smith!

Mr TONKIN: We can imagine the Government choosing Mr Justice Smith to preside over the inquiry! It is very dangerous to agree with a person simply because he is a judge. Government members have interjected to the effect that, "You are only supporting Judge Smith because he agrees with you and you are not supporting Judge Kay because he does not agree with you." That is not the case.

It is dangerous for Governments and politicians to hide behind the skirts of the judiciary and to expect it to give credence to all Government decisions. **The Government appointed Judge** Kay in a similar manner to the way in which it appointed Mr Justice Dunn to inquire into the Workers' Compensation Act. He has been making statements similar to those made by the Government.

If Governments appoint judges in this manner, people have a right to discount the statements made by them, because we have to distinguish between a judge who is acting as a presiding officer, as did Mr Justice Smith, and a judge who is making political judgments only.

Mr Bertram: It is a form of cowardice.

Mr TONKIN: I do not dispute the comment made by the member for Mt. Hawthorn. Instead of standing up and saying, "We believe in this policy", the Government appoints someone whom it thinks will support its views. The Government then says, "The judge has recommended it, so this is what we will do." The Government tries to give respectability to its arguments in this manner.

There is a good example of this in the field of nuclear energy. We see Sir Ernest Titterton and Professor Baxter making pronouncements about the safety of nuclear power and people say, "They are scientists; therefore, they know what they are talking about." We have to discriminate between whether people are speaking as scientists or as politicians. Once scientists step out of their narrow, objective roles, they have political prejudices as does everyone else. The same situation applies with judges.

We should get away from the business of appointing someone because we know he will agree with what we say. Such a practice brings the judiciary into disrepute.

I admire Mr Justice Smith and it is good if society can admire the judiciary; but if we use it for political purposes and have to stand up in this place—as I have had to—and say, "We cannot respect some of Judge Kay's remarks" the judiciary is brought into disrepute.

I notice the Chief Justice of Australia (Sir Garfield Barwick) is on record this year as having said he is alarmed at the tendency of Governments to use judicial inquiries to make recommendations which Governments want. Sir Garfield Barwick said this practice is bringing the judiciary into disrepute. He was a former Liberal Minister; so it is not as though one of our boys was making that statement. Sir Garfield Barwick has said that increasingly the judiciary will be brought into the political arena and this is very bad for the judicial system.

Mr Sodeman: Taking your comments into account, do you support the appointment of Mr Justice Murphy to the Australian High Court?

Mr TONKIN: I support that appointment, as long as it is the Government's prerogative to make these appointments.

Mr Davies: What about Mr Justice Barwick?

Mr TONKIN: Most of our judges at the present time were appointed by the Liberal Government. A Liberal Government appointed Sir Garfield Barwick who was a Minister in the Menzies Government. I see nothing wrong with that if those are the rules of the game. I see nothing wrong with Lionel Murphy being appointed a judge of the High Court, if that is the way appointments are made.

I would hate the American system to be used in Australia. Under that system judges are voted into office.

Mr Jamieson: They are not High Court judges.

Mr TONKIN: The local judges are appointed in this manner. Until we devise a better system, we are stuck with the system of Governments appointing judges. Governments will continue to appoint people they know are sympathetic to their cause.

Mr Jamieson: While they are going to adjudicate on constitutional matters, this will always occur. You will not put someone in who is not going to go your way. You would be stupid if you did.

Mr TONKIN: That is the voice of political realism speaking. I am loath to criticise Judge Kay, because it is not good to attack the judiciary. On the other hand, what alternative do I have, other than to agree with everything he has said when in fact it can be shown clearly some of his recommendations are based on hearsay, not on evidence. That is an unsatisfactory way for a judge to make recommendations.

On page 48 of the Kay report we see evidence was given in the Kimberley that some Aborigines entered the polling booth and presented three how-to-vote cards. They also said they wanted to vote Labor, but had Liberal Party cards, or vice versa.

Those comments were not made on oath. That is the big difference between what was said to Mr Justice Smith and to Judge Kay. Secondly, that was hearsay evidence. He does not indicate that it is substantiated by cross-references. Somebody came in and said that happened, and that is not a very good basis. So, I would not call it a judicial inquiry at all. I would say it was an inquiry into a political matter by a man who happened to be a judge. That is a different state of affairs.

I dismiss what Judge Kay said about how-to-vote cards because of the unprofessional way in which he took notice of some comments, and no notice of others.

I wonder whether the proposed amendments will suggest that an illiterate voter must remember all the names of the candidates and the order in which he wishes to vote. We know very well that in the case of a person who really understands the system, as long as he knows who is No. 1—whether he was voting for the Liberal Party or the Labor Party—in most cases his preference would not apply. We know that the average person does not understand that. People ask me why they should give their No. 2 vote to the Liberal Party, and I explain that the second preference in most cases will not go to the Liberal Party because we expect to lead on first preferences or at least run second. So the preferences would not flow to the Liberal Party. People do not understand that, unless they understand the voting system.

The situation will be that illiterate people will want to continue to use how-to-vote cards. If they cannot, they will have to try to remember the voting order thinking that it will matter greatly. It does not matter in the case of the cardinal candidates.

Let us apply this to the Senate elections. Is that what is to be suggested? We believe that if an electoral system is devised it is fair that everyone should use it, both in the State and Commonwealth spheres. No other elector has to vote without the assistance of a how-to-vote card. I can recall that when we were in government a Cabinet subcommittee had a look at election systems in other States. I do not recall whether legislation resulted.

Mr Jamieson: We did not introduce legislation. Our subcommittee comprised myself, Mr Taylor, and Mr T. D. Evans.

Mr TONKIN: The subcommittee came back with a recommendation that how-to-vote cards should be done away with. They were not used in Tasmania. I was horrified—being in a marginal seat—and I thought that such a system would adversely affect the situation. I am aware that most members would be against the abolition of how-to-vote cards. If we accept they are necessary for literate voters, who are we to say that illiterate voters should not have that assistance? I do not believe we could say that with any kind of justice.

I will give another example for the reason I do not greatly respect Judge Kay's decision or his recommendations. He made a strange comment which I think was answered very well by an Aboriginal. Judge Kay said an illiterate person was entitled to wittingly or unwittingly cast an

invalid vote in the same manner as a literate person is entitled to invalid a vote by his own hand.

His suggestion is that one is quite entitled to make an invalid vote. That may be so, but I thought the answer by the Aboriginal from Kununurra was wonderful. He asked, "Why would you want to ask for help to make a mistake?" We are talking about assistance to illiterate voters. What a magnificent reply.

Mr Young: But there is a very important aspect in what Judge Kay says, as I am sure you will realise. The literate person is entitled to make a mistake. He goes in and relies on his own ability to do the thing properly. An illiterate person will be in an advantaged position in that the person following a how-to-vote card will never make a mistake.

Mr Jamieson: That is how it should be when something is done on behalf of somebody else.

Mr TONKIN: If that is the best example which can be quoted it is pathetic because the fact of the matter is that the disadvantages suffered by illiterate voters are so great that if on one occasion they have a slight advantage over literate voters, that still will not make up for the imbalance. The literate person has the advantage of being able to read newspapers. If there was less chance of an illiterate person making a mistake, I would not worry about that. I suggest that is not true because although there may be less chance of a person having the position translated incorrectly on the ballot paper, there is still plenty of scope for an illiterate person to make a mistake without indicating verbally his wishes when a how-to-vote card is read out to him. The similarity of the names of "Bridge" and "Ridge" is a classic example.

Mr Young: So you accept that is the way it should be. A person should not just hand over a how-to-vote card. He should be instructed and, at the same time, be entitled to make a mistake.

Mr TONKIN: I think the electoral officer should make sure the how-to-vote card does reflect the wishes of the voter.

Mr Young: In other words, there has to be some form of communication.

Mr TONKIN: Yes, that is right. Otherwise, if a person is illiterate how will he know whether he has a Labor card or a Liberal card?

Mr Justice Smith said that provided these kinds of safeguards were there, he thought the vote would be valid. But, that is not the position set out in the Bill. The position is that the Chief Electoral Officer will instruct the presiding officer as to the manner in which the illiterate voter can indicate his intentions to the electoral officer. So, it will be possible for the Chief Electoral Officer to say he cannot accept a how-to-vote card.

Mr Jamieson: He should be in a position to be able to say, "Do you want to vote in accordance with the Liberal Party policy or the Labor Party policy?"

Mr Young: The great problem in both the recommendations is with regard to who will be the person who will ask the questions and in what terms will he be gauged. That is the real problem.

The ACTING SPEAKER (Mr Crane): Order! The member for Morley has the floor.

Mr TONKIN: Thank you, Mr Acting Speaker, I was getting my breath. The editorial in *The West Australian* of the 16th November, 1977, read—

> The kernel of the issue was the provision that illiterate voters would be unable to present how-to-vote cards to a presiding officer as evidence of their voting intentions.
>
> This would have meant their having to go into a polling booth with the presiding officer, and any scrutineers present, and their making an exhaustive choice after having had the names of candidates read to them in ballot-paper order. The percentage of informal and donkey votes cast by people who can read and write attests to the difficulties that would be faced by illiterate Aborigines.

Quite correctly, *The West Australian* asked, "Why should they have to jump that hurdle in addition to all the other hurdles they have as illiterate people?" It is a hurdle we do not insist upon for literate people who are stronger in the language sense and are therefore more capable of jumping those hurdles.

What will the system be? The Government is very silent on this matter but we do not want the Act to be silent. We do not want the Attorney General to put undue pressure on the Chief Electoral Officer. We do not want the Chief Electoral Officer to write the provisions into this Act. We do not believe the Act should be silent, but because it is silent at the present time the Government is suggesting illiterate voters must memorise a list of candidates in their correct sequence.

I see the Minister coming back to his seat. Perhaps he could say by way of interjection whether it is the intention of the Government that people should memorise a list of candidates in the order in which they wish to give their preferences.

Mr O'Neil: No. What makes you say they have to memorise the list of candidates?

Mr TONKIN: Because the Bill is silent on the use of how-to-vote cards.

Mr O'Neil: You have already admitted that can be subject to the instructions the Chief Electoral Officer is empowered to issue. Apparently there is some doubt whether he can issue appropriate instructions as to how his presiding officers will conduct an election.

Mr TONKIN: So he will be able to instruct the presiding officers not to use the rules which were suggested by Mr Justice Smith as being correct and proper.

Mr O'Neil: That is up to the Chief Electoral Officer. He is the fellow who is charged by Governments of all colours to use this machinery for the purpose of conducting an election.

Mr TONKIN: So the Minister is ducking out of the issue.

Mr O'Neil: No, I am not. I am simply saying it is the prerogative of the Chief Electoral Officer.

Mr TONKIN: We are saying it should not be the prerogative of the Chief Electoral Officer to legislate; that a matter as important as this should not be given to a servant of the Government; and that the legislation should state what is fair and reasonable. If we in this place believe how-to-vote cards with proper safeguards are fair enough, we should spell it out. It is not good enough to leave it in the lap of the Chief Electoral Officer, especially as we know he will come under pressure from ministers to whom he feels he is responsible. That is not my imagination; that is what happened in 1977.

Mr Hodge: Can the Chief Electoral Officer be instructed by the Minister?

Mr TONKIN: Not according to Mr Justice Smith, but we know that the law may be quite different from what happens in fact. That is the problem. Why should we put the Chief Electoral Officer in the situation where he does not know what the position is and does not know whether he should issue an instruction about how-to-vote cards? Why should we put him in an even worse situation where he can be leaned upon by the Government? If we spell it out in the legislation it will be clear. It is not fair to leave a civil servant in a position to be shot at by political parties. If we do not put it in the legislation we leave the situation vague so that a choice is available.

There is one way in which the illiterate voter and the literate voter could be assisted; that is, with a system of optional preferences in which a voter may give only a first preference if he so desires. Why do we have a situation where people must indicate more than one preference? Very often people have no preferences. Very often there are three candidates, one for the Australian Labor Party, one for the Liberal Party, and one for the National Party. Perhaps a person wants to vote for the National Party, thinking the Liberal Party and the Labor Party, especially after last night's division, are as bad as one another. Why should that person have to make a choice? We say he should not and that he should be able to give only one preference if he so desires.

On the other hand, if a person can clearly distinguish preferences between three candidates, he should be allowed to express those preferences. In other words, an optional preferential system. This would solve many problems in relation to illiterate voters.

After all, did the average person in the Kimberley know who Mr Rees was? Most people would never have heard of him. How many would have known he was an agent of the Liberal Party and that he nominated purely to help the Minister retain his seat?

Mr Jamieson: There were about six candidates.

Mr TONKIN: In the general election there were three candidates and in the by-election five. I believe the Liberals will plan to have a number of candidates next time. Whether it will be eight or 20 is an academic point. That will be the tactic, and this Bill is paving the way for the success of that tactic. It should not be paving the way for the success of any tactic on the part of either side of the House.

Mr MacKinnon: Was there an increase in the informal vote between those two elections?

Mr TONKIN: No. That is the remarkable thing. But I would not like to extrapolate from one case and make the assumption that where there are more candidates there are fewer informal votes. If the honourable member is making that point I would be interested to hear him defend it and explain it to us. I noticed that the number of informal votes was fewer, but I will not canvass that. If there were several candidates it would be particularly difficult for an illiterate person to vote without a how-to-vote card. This Bill leaves the situation open. It is not clear whether how-to-vote cards can be used.

We note with respect to optional preferential voting that the Attorney General, when interviewed by the *Daily News* on the 5th November last year, said he would certainly know to whom he wanted to give his preference; namely, the vital No. 1. So the Attorney General believes No. 1 is the vital candidate, and No. 1 is

the candidate about whom most people are concerned.

It is true in tight elections preferences count but if a person does not want to give preferences, why should he have to?

Archer, Wright, and Quilty were the three other candidates in the by-election. All resigned from the Liberal Party in order to stand for election. I do not believe any of them seriously expected to be elected to this Parliament. I believe they stood for election in order to frustrate the wishes of the people of the Kimberley and in order to ensure the Minister was returned.

Mr Davies: It was not necessary for them to resign from the Liberal Party.

Mr TONKIN: Perhaps they wanted to avoid any charge that they were in fact Liberals. So they resigned from the Liberal Party. I suppose they are members again now.

Mr Bertram: It made it look more respectable.

Mr TONKIN: I would not be happy to have my reputation for respectability hanging on a thread like that.

Such action by the Liberal Party is nothing new. Anyone looking at the history of the State will see that the Liberal Party has a dark and sinister record of electoral cheating. We know about our electoral districts, although we have not heard the member for Mt. Hawthorn refer to this matter for some time.

Mr Bertram: You won't be disappointed shortly.

Mr TONKIN: I think he is storing things up. How many Liberal Party members in this House know that on the 22nd December, 1960, a writ was issued by five members of the Opposition requiring the Brand Government to obey the law. By the way, of the five only one member is still in this House, and all honour to the member for Welshpool who, together with Mr John Tonkin—later to be Premier—Mr Bill Hegney, Mr Ted Oldfield, and Mr Harry Curran, took out a writ against the Brand Government to endeavour to have a redistribution of the boundaries according to the law.

Mr Jamieson: When we were found to be correct our costs were not paid for us. We had to meet the costs of some thousands of dollars ourselves.

Mr TONKIN: That is very different from the mollycoddling the Minister for Housing was given. He received a gift of $100 000—not from the Government, but from the taxpayers.

Mr Bertram: But that was evenhanded—the Premier explained it.

Mr TONKIN: Just a few days before the judgment of the Court of Disputed Returns, when it was quite obvious what that judgment would be, the Premier made the announcement about the costs. If ever there was a blatant dipping into the pocket of the taxpayers to look after one of the party's own boys, that was it.

Back in 1960 a writ was taken out against the then Premier (Sir David Brand) and nine other members of the Cabinet, including that darling of democracy—Charles Walter Michael Court, our present Premier.

The Supreme Court found for the Opposition, and the Brand Government was forced to obey the law. By the way, I understand that even after the judgment, the Government did not do what was required, and the Opposition had to seek the intervention of the Governor. Perhaps by way of interjection the member for Welshpool could tell me whether that is correct.

Mr Jamieson: I understand so—the Government was very tardy about it.

Mr TONKIN: Yes, and the Opposition had to call on the Governor.

Mr Jamieson: The important part is that the State Full Court threw the Government's appeal out unanimously. The Government then appealed to the High Court of Australia, and the same thing happened—the High Court unanimously upheld the decision of the Full Court.

Mr TONKIN: I am much indebted to the member for Welshpool. I did not know that. It is quite remarkable. The Government of the day had to be told by the Supreme Court and the High Court of Australia that it should do the right and proper thing. I remind members that the case arose over an electoral matter, so the kind of cheating I am referring to is not new. On the 20th May, 1974, the Melbourne newspaper, *The Age*, was moved to call our situation disgraceful.

At the 1971 election the Australian Labor Party gained 53 per cent of the vote, and yet it won government by one seat only. Malcolm McKerras, the doyen of students of electoral figures in Australia, called that an "incredible malapportionment".

At the same election, again with a vote of over 50 per cent, the Australian Labor Party achieved only 26 per cent of the seats in the Legislative Council. The conservative parties, with 47 per cent of the two-party preferred vote, gained 74 per cent of the seats. That result came about through the laws of this State.

So the Minister for Housing was speaking in the very best Liberal Party tradition when he said, "It is going to be difficult to get through any legislation which smacks of discrimination, but I believe we have an obligation to try."

In this House in November, 1977, we heard the same contemptuous disregard for democracy and the judiciary when the Premier said, "I do not care what the judge said."

By way of interjection today, the Minister for Housing has tried to suggest that the Labor Party was up to some terrible tricks in the Kimberley. The Premier and Mr Crichton-Browne—the then President of the Liberal Party—made some allegations about the Labor Party. By the way, Mr Crichton-Browne should have been gaoled by the courts because the Minister for Mines has admitted, in answer to questions I have asked, that he used his position as mining warden to buy—

Mr Nanovich: Will you say that outside the House too?

Mr TONKIN: Would the honourable member prosecute a member of the Liberal Party who broke the law? I am referring to this party which talks continually about law and order, and yet its president—

Mr Clarko: He is not the president.

Mr TONKIN: He is a very recent president of the party.

Mr Clarko: He was cleared by the court.

Mr Jamieson: A Scottish verdict—not proven.

Mr Clarko: Are you saying he was not prosecuted?

Mr TONKIN: No, I am saying he was prosecuted but—

Mr Clarko: He was cleared by the court. It was in all the papers. Why don't you ask your journalist friends to give you a copy free?

Mr TONKIN: The Liberal Party, in a quite protracted hearing before the Court of Disputed Returns, no doubt mindful of the laws of perjury, did not take the opportunity to prove the allegations which had been made by the Premier, the Minister for Housing, and Mr Crichton-Browne. On page 45 of his judgment Mr Justice Smith said there was no evidence of malpractice by the ALP, and he added—

> It is of importance to emphasise that in his pleadings the respondent did not allege any malpractice by the petitioner or his agents during the electoral campaign—

The Minister for Housing did not give evidence himself. To continue—

> —or any manipulation of electors literate or otherwise and that throughout the protracted hearing, no evidence was adduced which would in any way support the suggestions of malpractice referred to in the documents handed to the lawyers.

Mr Justice Smith went further and stated that he found the ALP scrutineers to be accurate and truthful witnesses. He noted also that there was never any suggestion by the petitioner (Mr Ernie Bridge) that the presiding officers or other electoral staff did not do their best in difficult and trying circumstances. It is important to realise that the ALP, in taking the case to the Court of Disputed Returns, did not suggest that the electoral officers had acted badly. As Mr Justice Smith found, some of the officers had acted mistakenly, but in the circumstances it was probably remarkable that they did not make more mistakes. Certainly they were not trained as they should have been.

Mr Young: You will also recall that Mr Bridge, when asked to produce documents, did not produce one document. So he did not—

Mr Jamieson: He was not asked to produce documents.

Mr TONKIN: The Minister is quite wrong. He did not refuse to produce documents.

Mr Young: I did not say that he refused. He did not produce any documents, and therefore it is presumed from that action that through the entire course of the campaign he did not write one letter or one note to anyone.

Mr TONKIN: Mr Justice Smith did not make an order for discovery.

Mr Young: The member for Kimberley produced everything.

Mr Bertram: If he had been required to produce these things, why was there not an order against him for contempt?

Mr Young: He did not write one letter during the whole campaign because he did not produce any evidence of any documents at any time.

Mr TONKIN: Mr Justice Smith did not make an order for discovery. If the judge had been concerned about this matter, why did he not state his concern that Mr Ernie Bridge had not produced any documents? The Minister is right out of his depth on this matter.

The cause of the difficulties was the unexpected and unprecedented requests, the prolix questions, directed to the Aboriginal electors.

Mr Laurance: You could have simply given us a copy of the report of the Royal Commission, and we could have read it for ourselves.

Mr TONKIN: I do not know why the member has not read the report; maybe he is too ashamed to do so.

Mr Laurance: I have read it well, but it was some time ago.

Mr TONKIN: We believe the only just way to decide whether the people have given their consent to the Government is by having a system whereby the majority counts, and everybody counts for one and no more and no less. We note that Parliament makes laws which are binding equally on us all. Since all of us are compelled equally to obey the laws, it follows that any system of justice will require that each and every one of us should have the right to influence the making of the laws. The International Covenant on Civil and Political Rights states in article 25 that every citizen shall have the right and the opportunity without any of the distinctions mentioned in article 2, and without unreasonable restrictions, to vote and be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors.

Article 2 of the same covenant refers to rights without distinction of any kind such as race—which is pertinent to this debate—colour, sex, language—once again, that is pertinent—religion, political or other opinion, national or social origin, property, birth or other status.

We note that the international covenant talks about secret ballots. We have already spoken about the fact that there can be no secrecy for people who are handicapped in certain ways, which is why we believe that so far as is possible—the Deputy Premier rightly says we cannot be absolute—a person's voting decision should be secret.

I ask members: Do we care about our international reputation? Do we care how we are regarded amongst the nations of the world? I believe most Western Australians are concerned about our reputation both in Australia as a whole and internationally; and it is important that we be concerned for our reputation rather than be prepared to do anything to obtain some ephemeral advantage.

I think it is not irrelevant to quote the United States Declaration of Independence of 1776, just over 200 years ago. I believe it states a timeless truth for democracy when it says, " . . . Governments are instituted amongst men deriving their just powers from the consent of the governed." We know that Governments sometimes derive unjust powers in other ways, but they derive their just powers only—I have added the word "only"; perhaps I have improved on the original—from the consent of the governed.

It is important to make the point that if the Government does not have the consent of the governed it cannot be a just Government.

The State Government, in considering the rights of the Aboriginal people, is bound to take note of the Aboriginal Affairs Planning Authority Act of 1972, which set up an authority the functions of which include—

> To promote opportunity for the involvement of persons of Aboriginal descent in the affairs of the community and promote the involvement of all sectors of the community in the advancement of Aboriginal affairs.

It seems, therefore, that as a part of its obligation under that Act alone, the State Government should promote in every way the opportunity for Aboriginal people to take part in elections and the Government to which they are subject.

The Commonwealth Racial Discrimination Act of 1975, assented to on the 11th June, 1975, states in section 9(1)—

> It is unlawful for a person to do any act involving a distinction, exclusion, restriction, or preference based on race, colour, descent, or national or ethnic origin, which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise on an equal footing of any human right or fundamental freedom in the political, economic, social, cultural or any other field of public life.

We suggest the provisions of this Bill seriously have the effect of nullifying or impairing the exercise on an equal footing of the political life of many of the migrant and Aboriginal people.

The Kay report at page 43 refers to the education of the Aboriginal communities in voting procedure. We need to remember that if this Bill is carried, the next State election will be the fourth consecutive election contested under different rules. I have been going through the various amendments to the Act over the years. This has resulted in a degree of instability and confusion not only amongst electors but also amongst those who are empowered to administer the Act. If the Government's intention was to thoroughly confuse electors and the

administrators of the Electoral Act it could not have done a better job.

This Bill provides that "witnesses" should be justices of the peace, and so on. I notice that the Government has amendments on the notice paper which will bring the legislation more into line with Judge Kay's recommendations. Is that correct?

Mr O'Neil: Not quite. His recommendation was in terms of the Bill but the comments in his findings were more in line with what is proposed in the amendment.

Mr TONKIN: Is that a criticism of Judge Kay?

Mr O'Neil: No it is not.

Mr TONKIN: It sounds very much as though it is. However, I noticed some inconsistencies between his comments throughout the report and his actual recommendations.

Mr O'Neil: Also we received considerable representations from all kinds of organisations throughout the community to relax this provision, so it is to be relaxed to some extent.

Mr TONKIN: I would have thought that what the Government's Bill would do—if one agrees with the basic premise, which we do not—would be to ensure that the first time a person came on the electoral roll he would be required to get a justice of the peace to witness his application.

Mr O'Neil: Are you talking about the amendment now?

Mr TONKIN: Yes, I am including the amendment.

Mr O'Neil: With enrolment and re-enrolment, it could be the first time a person's name appeared on the electoral roll. In addition, there could be legitimate reasons that the name was to be returned to the roll. The person may have gone interstate or overseas. When he returned, in most cases it would be regarded as a re-enrolment. Where a person's name appears on any of the rolls in Western Australia, in whatever name—it could be the maiden name of a married woman—all that is involved, essentially, is a change of address from one electorate to another, so that any elector of the State or Commonwealth may witness the card.

Mr TONKIN: That is my interpretation, too. However, I do not believe it will achieve what the Government is seeking to achieve. Supposing a person moved from one address to another and either had not lived at the new address for a month and therefore was not eligible to enrol for the new electorate, or it slipped his memory that he should notify the department of his change of address. In the meantime—even if it is only for a week—his name is taken off the roll. That person will then need to ask a justice of the peace to witness what is virtually only an application for re-enrolment.

Mr O'Neil: Yes, but the "disenrolment" would not be a sudden decision. The department makes concerted attempts to contact a person by writing to the addresses which are presumed to be known. A good deal of liaison and co-operation takes place between the State Electoral Office and the Commonwealth department on this matter. It is not simply a matter of doing what you say. The Electoral Department is very careful to ensure nobody is enrolled without adequate inquiry.

Leave to Continue Speech

Mr TONKIN: Mr Speaker, in order to enable the normal business of the House to proceed before we rise at 6.15, I now move—

> That I be given leave to continue my speech at the next sitting of the House.

Motion put and passed.

Debate thus adjourned.

QUESTIONS

Questions were taken at this stage.

BILLS (3): RETURNED

1. Margarine Act Amendment Bill.
2. Iron Ore (Hamersley Range) Agreement Act Amendment Bill.
3. Western Australian Marine Act Amendment Bill.

Bills returned from the Council without amendment.

ADJOURNMENT OF THE HOUSE: SPECIAL

MR O'NEIL (East Melville—Deputy Premier) [6.14 p.m.]: I move—

> That the House at its rising adjourn until 4.30 p.m. on Tuesday, the 11th September, 1979.

Question put and passed.

QUESTIONS

Closing Date

THE SPEAKER (Mr Thompson): I wish to advise that questions on notice for Tuesday, the 11th September, will close at 4.30 p.m. on Thursday, the 6th September.

COMMONWEALTH PARLIAMENTARY ASSOCIATION

Conference

THE SPEAKER (Mr Thompson): I wish to announce that as the Australasian Regional Conference of the Commonwealth Parliamentary Association will be held in this Chamber during next week, it would be advisable for members to remove any confidential papers or, for that matter, other papers from their desks.

House adjourned at 6.15 p.m.

QUESTIONS ON NOTICE

FISHERIES

Barramundi

1296. Mr JAMIESON, to the Minister for Fisheries and Wildlife:

(1) Has he noted that the Northern Territory Government is to impose a closed season for the taking of barramundi fish by both amateur and professional fishermen?
(2) Is there any intention to introduce a similar closed season in the north of this State?
(3) Are there any intentions to regulate the catching of any other tropical fish species in the north of the State?

Mr O'CONNOR replied:

(1) Yes.
(2) It may be necessary to do so to ensure rational management of the barramundi fishery in northern waters.
(3) Not at this point in time.

DRAINAGE

Canning City Council Area

1297. Mr JAMIESON, to the Minister respresenting the Minister for Water Supplies:

(1) What drainage improvements have been provided in the Canning City Council area north of the Canning River since 1970?
(2) How much did each project cost and in which year was it completed?
(3) Are any further drainage schemes now being developed in this area?
(4) What future drainage schemes are contemplated to allow the maximum amount of this area to be subdivided for residential purposes as far north as Welshpool Road?

Mr O'CONNOR replied:

(1) and (2) Metropolitan main drainage improvements are as follows—

		$
1969-70	Mill Street	10 000
	Wharf Street	40 000
1970-71	Cockram Street	65 000
1972-73	Black Creek	6 000
	Bent Street	36 000
	Mill Street	38 000
	Gerard Street	47 000
1973-74	Mill Street	44 000
	Cockram Street	39 000
1974-75	George Street	46 000
1975-76	Bentley-Welshpool	21 000
	Gerard Street	180 000
	Bentley-Welshpool	25 000
	George Street	55 000
1976-77	Bentley-Welshpool	14 000
		14 000
	Gerald St., Gills St.	10 000
		10 000
1977-78	Wharf Street	124 000
1978-79	Bentley-Welshpool	10 000
	TOTAL:	$834 000

(3) No.
(4) This area is fully served by main drainage outlets. Local drainage connections are not the responsibility of the Water Board.

EDUCATION: SCHOOLS

Carnarvon

1298. Mr LAURANCE, to the Minister for Education:

Would he detail the new arrangements made and staff appointed in connection with guidance and special classes in Carnarvon schools during each of the past three years?

Mr P. V. JONES replied:

I am advised that during 1978 a "special group" was organised by the local school and, although this class did not come under the Special Education Branch, its establishment was supported by the Education Department.
At the commencement of 1979 a trial special school was opened in part of the now unoccupied Carnarvon Hostel. This is staffed by one acting principal, a teacher and an aide. In addition, a junior special class was established at East Carnarvon at the same time and is staffed by a special education teacher.
A full time guidance officer has been based in Carnarvon for the last three years.

EDUCATION: SCHOOL

East Carnarvon

1299. Mr LAURANCE, to the Minister for Education:

Would he detail the expenditure on capital items at the east Carnarvon school in each of the last five years?

Mr P. V. JONES replied:

1974-75	Resource Centre	$80 220
1975-76	Pre-primary Centre	$89 923
1978-79	Four classrooms	$180 780

FRUIT

Banana Industry Compensation Trust Fund

1300. Mr LAURANCE, to the Minister for Agriculture:

(1) What is the present levy per package paid by Carnarvon banana growers to the Banana Industry Compensation Trust Fund?

(2) On what basis does the Government contribute to the fund?

(3) Since the inception of the fund how much has been contributed by growers?

(4) Would he outline the amounts paid out of the fund by way of compensation each time there has been a claim by the industry?

(5) What is the total figure paid out by way of compensation since the inception of the fund and what proportion of this figure is represented by the growers contributions?

(6) (a) On which occasions has the government had to provide additional funds further to its normal contribution in order to underwrite the fund;

(b) what amounts were involved on each occasion?

(7) What interest is earned on the fund?

(8) What balance is in the fund at present?

Mr OLD replied:

(1) 14 cents per 16 kg carton.

(2) $1 for every $2 contributed by growers.

(3) $545 743.

(4) Compensation paid:

	$
Cyclone "Katie" (1964)	26 728
Cyclone "Elsie" (1967)	121 160
Cyclone "Ingrid" (1970)	492 249
Cyclone "Beverley" (1975)	35 360
Fire Damage (1977)	4 546
Cyclone "Hazel" (1979)	311 928

(5) $991 971 56 per cent

(6) (a) and (b) Once only. In 1970 the Government paid an additional $165 281 into the fund to meet claims related to Cyclone "Ingrid.

(7) The current investments are:

$260 000.00 at 9.0 per cent due to mature on the 5th November, 1979.

$14 431.64 at 8.25 per cent at 30 days call.

From April 1962 to the 30th June, 1979, interest has totalled $170 280.

(8) $274 765.

TRAFFIC

Speed Zones: Schools

1301. Mr WILSON, to the Minister for Police and Traffic:

(1) Can he say whether any consideration has been given to the introduction of speed zones of 25 kilometres per hour for the road frontage of schools at times when children are going to or leaving school, such as those applying in South Australia?

(2) If "No" to (1), is he prepared to consider the introduction of such speed zones with a view to improving safety provisions in the vicinity of schools?

Mr O'NEIL replied:

(1) and (2) Although the Standards Association of Australia has recommended against it, I will have the matter reconsidered.

TRANSPORT

Owner-drivers: Licence Fees

1302. Mr WILSON, to the Minister for Transport:

(1) Can he say why owner drivers who had already paid licence fees on their trucks

for periods beyond July of this year and who have been paying extra for dieseline since July to make up for the abolition of road maintenance tax, are now being charged arrears for the period after July until the expiry of their current licence?

(2) Is the Government intending to adopt this system of applying increases in vehicle licence fees from the date of announced increases to car licence fees as well?

Mr RUSHTON replied:

(1) The legislation passed in May of this year for implementing the new system of road user charges provided specifically that the 50 per cent licence fee concession, which had been given because heavy trucks were paying the road maintenance charge, would be discontinued with the removal of the road maintenance charge as from the 1st July of this year and, therefore, heavy trucks would be liable to pay full licence fees from that date including unexpired licence periods.

To not adopt a common date for the adjustment of truck licence fees would have led to many inequities.

When the road maintenance charge was introduced in 1965, the 50 per cent licence fee concession was given to heavy truck owners for the purpose of partly offsetting the cost of the road maintenance charge. Truck owners were then entitled to the 50 per cent rebate on the then unexpired portion of their truck licences and the position is now reversed.

(2) I have this matter before me for consideration. The position with regard to motor cars is entirely different. As motor cars are not subject to the road maintenance charge, there is no direct relationship between motor car licence fees and the road maintenance charge.

WASTE DISPOSAL

Yirrigan

1303. Mr WILSON, to the Minister for Health:

(1) What is the attitude of the Public Health Department towards the proposal to dump municipal waste in pits on a sand mining site being operated by Manx Bricks Pty. Ltd. in Truganina Road, Yirrigan?

(2) If the department has not yet reached a final decision with regard to this proposal when may its decision be expected?

Mr YOUNG replied:

(1) The Public Health Department is aware of the proposal, but a decision has not yet been made.

(2) Not known. The department is still waiting for a waste management plan and the engineering detail which has been requested from the City of Stirling.

PRESSURE GROUPS

Comments by Premier

1304. Mr TONKIN, to the Premier:

(1) In view of his weekend comments concerning mysteriously financed pressure groups will he name these groups?

(2) If "No" to (1), will he withdraw his comments because he has unfairly slandered many groups in the community who are funded by completely legitimate means?

(3) If he is concerned about pressure groups being mysteriously financed, why has he consistently refused to support public disclosure of donations to political parties?

Sir CHARLES COURT replied:

(1) No. The issue raised does not depend for its validity on the naming of individuals.

(2) No. And the assertion of slander is rejected.

(3) Donations to political parties are private, not mysterious.

PUBLIC WORKS DEPARTMENT

Kalgoorlie Pipeline

1305. Mr B. T. BURKE, to the Minister representing the Minister for Works:

(1) What is the breakdown by branch of the wages employees employed by the

Public Works Department on the Kalgoorlie pipeline in each year from 1970 to 1979 inclusive?

(2) In each year, how many wages employees:

(a) resigned;
(b) were dismissed?

Mr O'CONNOR replied:

Year	OPERATIONS NORTH (1)	(2a)	(2b)	OPERATIONS SOUTH (1)	(2a)	(2b)
1970	219	17	N/a	N/a	50	6
1971	135	84	N/a	227	77	3
1972	185	60	20	148	143	2
1973	146	51	24	275	153	4
1974	100	7	8	315	100	1
1975	108	7	11	316	136	1
1976	104	15	10	294	123	—
1977	108	8	2	481	158	—
1978	109	12	3	396	128	—
1979	98	3	2	348	44	2

WATER SUPPLIES: METROPOLITAN WATER BOARD

Work Force: Dismissals and Resignations

1306. Mr B. T. BURKE, to the Minister representing the Minister for Water Supplies:

(1) What is the breakdown by branch of the wages employees in the Metropolitan Water Board in each year from 1970 to 1979 inclusive?

(2) In each year, how many wages employees were

(a) dismissed;
(b) resigned?

Mr O'CONNOR replied:

		1970	1971	1972	1973	1974	1975	1976	1977	1978	1979
(1)	Water Maintenance	—	N/a	N/a	N/a	—	613	556	596	628	615
	Mechanical and Electrical	—	N/a	N/a	N/a	—	495	612	659	678	679
	Sewerage and Drainage Maintenance	—	N/a	N/a	N/a	—	396	300	316	314	317
	Construction	—	N/a	N/a	N/a	—	1 463	1 010	948	819	802
	Sundries	—	N/a	N/a	N/a	—	47	42	54	55	61
	TOTAL:	1 677	1 770	2 034	2 558	2 663	3 014	2 520	2 573	2 494	2 474

		1970-71	1971-72	1972-73	1973-74	1974-75	1975-76	1976-77	1977-78	1978-79
(2)	Dismissed	18	11	N/a	26	40	17	32	9	5
	Resigned	939	658	N/a	750	639	549	473	185	258

WATER SUPPLIES AND SEWERAGE

Private Contracts

1307. Mr B. T. BURKE, to the Minister representing the Minister for Water Supplies:

What is the value of

(a) water;
(b) sewerage

reticulation and other work of all kinds let out to private contractors in each year from 1970 to 1979 inclusive?

Mr O'CONNOR replied:

The value of reticulation and ancillary work awarded as construction contracts by the Metropolitan Water Board to private contractors 1970-1979—

(a) Water—nil.
(b) Sewerage—

	$
1970-71	Not readily available.
1971-72	Only minor works involved.
1972-73	180 200
1973-74	3 221 400
1974-75	3 466 500
1975-76	3 310 000
1976-77	1 499 000
1977-78	2 193 000
1978-79	123 000

The above figures include the cost of pumping stations and their rising mains.

The value of tenders awarded by the Public Works Department for reticulation and other work of all kinds

let out to private contractors in each year from 1970 to 1979 inclusive is listed hereunder—

	Water	Sewerage
	$	$
1970-71	697 924	436 658
1971-72	639 543	369 301
1972-73	98 976	56 007
1973-74	407 718	54 075
1974-75	495 382	13 950
1975-76	1 385 053	172 905
1976-77	1 627 467	—
1977-78	938 225	—
1978-79	984 760	750 674
1979-80 to date	1 351 386	428 488

STATE FINANCE

Short-term Interest Transactions

1308. Mr DAVIES, to the Treasurer:

Is it a fact that the amount of money accumulated from interest earned through short term interest transactions held in suspense at 30th June in:

(a) 1971 was $9.3 million;

(b) 1972 was $8.3 million;

(c) 1973 was $8.7 million;

(d) 1974 was $6.4 million;

(e) 1975 was $6.5 million;

(f) 1976 was $11.5 million;

(g) 1977 was $24.5 million;

(h) 1978 was $33.4 million;

(i) 1979 was $44.6 million?

Sir CHARLES COURT replied:

See answer to question 1275 of the 29th August, 1979.

STATE FINANCE

Short-term Interest Transactions

1309. Mr DAVIES, to the Treasurer:

Further to my question 1262 of 28th August, 1979, relating to the amounts of money invested in various securities involving short term interest transactions, is it a fact that because a continuing record by type of security is not maintained that the audit of all details of all short term interest transactions conducted during 1978-79 is impossible?

Sir CHARLES COURT replied:

See answer to question 1275 of the 29th August, 1979.

STATE FINANCE

Short-term Interest Transactions

1310. Mr DAVIES, to the Treasurer:

(1) Further to my question 1262 of 28th August, 1979 relating to the amounts of money invested in various securities involving short term interest transactions, in view of the fact that the volume of transactions involving changes in the type of security and sums invested has resulted in a continuing record by type of security not being maintained, does the Treasury approve of each change that occurs on a daily basis?

(2) Is it a fact that changes in the type of security and sums invested occur daily in respect of:

(a) securities of or guaranteed by the State Government.

(b) securities of or guaranteed by the Commonwealth Government involving terms of greater than one year.

(c) moneys on deposit with banks?

(3) Upon whose authority are the changes referred to in (2) made?

(4) (a) Has each change been approved by the Treasurer?

(b) Has each change been made after prior approval by the Governor?

Sir CHARLES COURT replied:

See answer to question 1275 of the 29th August, 1979.

STATE FINANCE

Short-term Interest Transactions

1311. Mr DAVIES, to the Treasurer:

(1) Further to my question 1262 of 28th August, 1979, relating to the amounts of money invested in various securities

involving short term interest transactions, what were the sources of the securities in which the $38 million was invested at 30th June, 1979 as given in answer to part (e)?

(2) What was the amount of money invested in each type of security for each financial or other institution identified in (1)?

(3) (a) Will he table a copy of the terms of each investment;
(b) if not, why not?

(4) (a) Did the Treasury approve each investment;
(b) if not, on whose authority were the investments made?

Sir CHARLES COURT *replied:*

See answer to question 1275 of the 29th August, 1979.

STATE FINANCE

Short-term Interest Transactions

1312. Mr DAVIES, to the Treasurer:

(1) Further to my question 1262 of the 28th August, 1979 relating to the amounts of money invested in various securities in respect of short term interest transactions, what were the securities of or guaranteed by the the State Government in which the $13 160 369 was invested at the 30th June, 1979 as given in answer to part (c)?

(2) What was the amount of money invested in each type of security?

(3) Will he table a copy of the terms of investment in each security?

(4) If "No" to (3), why not?

Sir CHARLES COURT replied:

See answer to question 1275 of the 29th August, 1979.

STATE FINANCE

Short-term Interest Transactions

1313. Mr DAVIES, to the Treasurer:

(1) Further to my question 1262 of the 28th August, 1979 relating to the amounts of money invested in various securities involving short term interest transactions, what were the banks with which the $115 650 000 was placed on deposit at the 30th June, 1979 in respect of short term interest transactions given in answer to part (d)?

(2) What were the amounts invested with each bank identified in (1)?

(3) Does the amount placed on deposit vary from day to day as indicated in the first part of the answer given where it is stated that "because the volume of transactions involving changes in the type of security and sums invested a continuing record by type of security is not maintained"?

(4) If "Yes" to (3), on whose authority are the changes made?

Sir CHARLES COURT replied:

See answer to question 1275 of the 29th August, 1979.

STATE FINANCE

Short-term Interest Transactions

1314. Mr DAVIES, to the Treasurer:

Further to my question 1262 of the 28th August, 1979 relating to the amounts of money invested in various securities involving short term interest transactions what were the amounts of money invested in short term interest transactions at the 30th June, 1979 in

(a) securities of or guaranteed by the Commonwealth Government involving terms of less than one year;

(b) securities of or guaranteed by the Commonwealth Government involving terms of more than one year?

Sir CHARLES COURT replied:

See answer to question 1275 of the 29th August, 1979.

TRAFFIC: MOTOR VEHICLES

Licence Fees: Increase

1315. Mr McIVER, to the Minister for Transport:

(1) Will rebates be paid on motor car licences as from the 1st July, 1979?

(2) If not, why not?

(3) Were 11 000 notices issued by the Road Traffic Authority for increased licence fees for existing truck and trailer licences?

(4) If "Yes", what revenue will these increased fees realize?

(5) What will be the consequences to owner drivers if they refuse to pay the increased fees on their existing licences?

Mr RUSHTON replied:

(1) to (5) A number of requests have been received asking for a review of the present procedures and I am to receive a full report before considering these requests.

As the honourable member's questions relate to this report, I will provide him with the information sought as soon as I have determined if there should be any variation in the present procedures.

HEALTH: PHARMACISTS

Social Security Cheques

1316. Mr NANOVICH, to the Minister for Health:

Is he aware that some pharmacists are charging a $1.00 fee to cash social security cheques for prescriptions and/or other items purchased in the pharmacy?

Mr YOUNG replied:

No. Although this matter does not come under my jurisdiction, I have had enquiries made and it does not appear to be the general practice.

EDUCATION: HIGH SCHOOL

Central Midlands

1317. Mr CRANE, to the Minister for Education:

(1) Is he aware that Central Midlands Senior High School has had six principals in five years and is now advised that in 1980 a new principal will be appointed?

(2) (a) Is it the policy of the Education Department to stabilize staff at country schools as outlined in the Nott report;

(b) if not, what is the policy?

(3) (a) Will he adopt a policy whereby principals appointed to a promotional position in country schools must occupy that position for a minimum of three years before becoming eligible for promotion to another school;

(b) if not, what plans does he have to ensure continuity of service at each school by principals appointed in the future?

Mr P. V. JONES replied:

(1) Yes.

(2) (a) The Nott Report is currently being examined by senior officers of the Education Department. It is not, as yet, the basis for any departmental policy.

(b) The policy is to attempt to maintain stability at country schools while respecting the promotional rights of teachers.

(3) (a) and (b) The department is currently examining this complex issue and has already indicated to principals who will be taking up appointments in group B country schools in 1980 that they will be expected to serve three years in these schools before becoming eligible for a transfer.

The question of promotion which involves a salary change is a more complex issue and has significant cost implications which cannot be ignored.

The length of time a principal, or any staff member for that matter, is prepared to stay in any town is dependent on many factors.

The present system ensures that country schools are staffed with active upwardly mobile teachers. A more restrictive policy could result in vacancies at senior levels or less effective senior officers.

However, as indicated above, I an concerned at the considerable staff changes which occur in some country schools; and it is anticipated that implementation of at least some recommendations in the Nott Report will assist.

POLICE

Training by Special Air Services

1318. Mr B. T. BURKE, to the Minister for Police and Traffic:

(1) Are a number of policemen currently being trained by members of the Special Air Services?

(2) If "Yes",

(a) how many are being trained;

(b) from which parts of the Police Force have they been drawn;

(c) are they being trained in the same way and for the same reason as other police officers have been previously trained by the Special Air Services;

(d) What are the reasons for and methods of training?

(3) (a) Upon completion of training, will those who have been trained be assigned to normal police work;

(b) if not, to what work will they be assigned?

(4) (a) Will they be armed during the course of this work;

(b) If "Yes", with what will they normally be armed?

(5) (a) Will they be provided with normal police vehicles during the course of the work to which they are assigned;

(b) if no, what are the details with which they will be provided?

Mr O'NEIL replied:

(1) to (5) No.

1319. *This question was postponed.*

COCKBURN SOUND: JERVOISE BAY

North-West Shelf Construction Site

1320. Mr TAYLOR, to the Minister for Industrial Development:

(1) With respect to this department's recommendation that Jervoise Bay be the major construction and assembly area for the North-West Shelf modules, service vessels, etc., would he give details of and table all papers and reports in connection with studies done to determine the suitability of areas at—

(a) Bunbury;

(b) Geraldton;

(c) Kwinana/Rockingham;

(d) all other areas?

(2) What companies carried out such studies?

(3) When were any such studies undertaken?

(4) What specific areas were examined at each location?

(5) (a) Where were specific soil compaction and similar tests undertaken in each case; and

(b) what was the result?

Mr MENSAROS replied:

(1) to (5) No. the Government had access to earlier reports by Maunsells Yard on ship repair sites and accepted the criteria for a feasible offshore services construction site as set out in the MRPA report. On the advice of its professional officers the Government agreed that Jervoise Bay offered the only fully satisfactory site if integrated with the present small-ship building and industrial areas adjacent thereto.

FISHERIES

Rock Lobster

1321. Mr CRANE, to the Minister for Fisheries and Wildlife:

(1) Is finance available from the primary industry bank for people employed in the rock lobster industry to assist in the purchase of their own fishing boats?

(2) If "Yes" what would be the procedure for applying for such finance?

Mr O'CONNOR replied:

(1) No.

(2) Not applicable.

COCKBURN SOUND: JERVOISE BAY

North-West Shelf Construction Site

1322. Mr TAYLOR, to the Minister for Industrial Development:

(1) As the area at Jervoise Bay seems large enough only for small vessels and components with respect to the proposed North-West Shelf project, does his department expect that the production platforms and other large components will be built in Singapore or elsewhere?

(2) If "Yes", will the greatest part of the expenditure budget with respect to all offshore facilities be in fact expended overseas?

Mr MENSAROS replied:

(1) The Jervoise Bay site could be developed to accommodate the construction of the steel jacket structures. It is expected to be utilised primarily as a site for building the modules and other large components.

(2) Providing the Jervoise Bay site is available in time I expect approximately half the expenditure associated with all the offshore facilities will be incurred in Australia.

STATE FORESTS

Northcliffe-Pemberton Railway Line

1323. Mr H. D. EVANS, to the Minister representing the Minister for Forests:

Under the existing working plan and wood-chipping forest activities when is it anticipated that cutting will take place within 400 metres of the Pemberton-Northcliffe railway line?

Mrs CRAIG replied:

During the existing working plan period of 1977 to 1982 there is not expected to be further cutting associated with wood chipping within 400 metres of the Pemberton-Northcliffe railway line.
Two patches of 10 ha. and 15 ha. were cut over last year within 400 metres of the line.

WATER SUPPLIES: COUNTRY

Domestic and Commercial Connections

1324. Mr SHALDERS, to the Minister representing the Minister for Water Supplies:

(1) How many domestic water connections are there in country areas?

(2) How many business or commercial connections are there in country areas?

(3) What total, excluding rates, was paid for water by domestic consumers in country areas?

(4) What total, excluding rates, was paid for water by business or commercial consumers in country areas?

Mr O'CONNOR replied:

(1) As at June, 1979 there were 64 765 domestic water connections.

(2) The number of business or commercial services is not readily available. At June, 1979 there were a total of 91 685 water services, which means there were 26 920 services other than domestic.
It is estimated that of these 8 200 would have been classified commercial or industrial for rating purposes.

(3) In the year ended the 30th June, 1979 the total, excluding rates, paid for water by domestic consumers in country areas was $3 318 992.

(4) In the year ended the 30th June, 1979 the total, excluding rates, paid for water under the categories 'commercial' and 'industrial' in country areas was $2 204 179.

COCKBURN SOUND: JERVOISE BAY

Cockburn Road: Closure

1325. Mr TAYLOR, to the Minister for Industrial Development:

(1) With respect to that area of Jervoise Bay lying east of Cockburn Road and to remain zoned for industrial purposes, is it expected that any or all of the area in question will be either terraced or levelled?

(2) If "Yes", when is it expected the work may be carried out?

(3) If the area is to be used as a back-up area to the bay side construction areas, how is it expected to move large metal components backwards and forwards across Cockburn Road?

(4) Is there a possibility his department could recommend the closure of Cockburn Road when the construction phase begins?

Mr MENSAROS replied:

(1) Yes.

(2) Over a period of 3 to 5 years beginning in 1980 depending upon demand.

(3) By rubber tyred heavy duty vehicles specially designed for such work.

(4) No. Such movements will be undertaken at times to minimise traffic interference. However in due course it will be desirable to provide for future highway traffic to bypass this area.

HOUSING

Kununurra

1326. Mr DAVIES, to the Minister for Housing:

(1) What tenders were received for the construction of State Housing Commission rental homes in Kununurra in the past year?

(2) Which companies were the successful tenderers?

(3) What is the tolerance allowed by the Government in giving tenders to local contractors?

(4) If this tolerance was not applied in any of the above cases, why not?

Mr RIDGE replied:

(1) Four contracts were called for a total of 33 units of accommodation, and these attracted 42 tenders.

(2) Cavlovic & Co. and Jaxon Construction Pty. Ltd.

(3) and (4) The tolerance given by the Government is for a five per cent preference allowance for works up to a value of $20 000.00. This preference expressly excludes State Housing Commission contracts.

FISHERIES

Amateur Licences

1327. Mr DAVIES, to the Minister for Fisheries and Wildlife:

(1) Have the costs of—

(a) obtaining; and

(b) renewing

amateur fishing licences been increased in any categories?

(2) (a) If so, in which categories; and

(b) by how much on a monetary and percentage basis?

(3) Have increases been publicised?

(4) If so, where?

Mr O'CONNOR replied:

(1) Yes.

(2) (a) Amateur fisherman's license and inland fisherman's license.

(b) By $3 from $2 to $5, which amounts to an increase of 150 per cent.

(3) Yes.

(4) The *Government Gazette*. An advertisement in *The West Australian* of the 30th June, 1979.

CULTURAL AFFAIRS: ART GALLERY

"The Sleeping Diana"

1328. Mr DAVIES, to the Minister for Cultural Affairs:

(1) Was it suggested to him by the Board of the Art Gallery of Western Australia and/or its directors that the offer from Mr Bohdan Ledwij to donate the painting "The Sleeping Diana" to the Art Gallery should be accepted?

(2) What conditions, if any, were attached to the offer to donate the painting?

(3) Will he table any reports or correspondence that passed between himself and the Art Gallery Board and/or its director referring to the above painting?

(4) If not, why not?

Mr P. V. JONES replied:

(1) The Board of the Art Gallery of Western Australia and/or its director did not suggest to the Minister that the painting known as "Sleeping Diana" be accepted. I was advised by the Director of the Art Gallery to refer the offer to donate the painting to the Board of the Art Galley for reconsideration after a further report by its director.

(2) to (4) The proposal to present the painting to the Art Gallery of Western Australia, as conveyed by a letter from Mr B. Ledwij dated the 19th December, 1977, did not impose any conditions upon the Art Gallery.

I was advised of the actions of the Art Gallery Board by receipt of their minutes, and advice from the chairman and director. A report from the Director of the Art Gallery was received on the

11th April, 1978, summarising the position regarding the proposed gift of "Sleeping Diana" and advising on a request by Mr B. Ledwij that a decision of the Art Gallery Board to decline the painting be reviewed.

I was made aware of substantial doubts concerning the authenticity of the painting alleged to be by Sir Anthony Van Dyck which doubts have substantially been enhanced by further advice.

Among distinguished authorities questioning the suggested identification of the work as being by Van Dyck are Lord Clark, a notable art historian and previous Director of the National Gallery in London, whom I contacted; Sir Oliver Miller, the Keeper of the Queen's Collection; Mr Christopher White, Director of the Paul Mellon Centre; and Mr B. B. Fredericksen, Curator of Paintings at the Paul Getty Museum in Los Angeles. Mr Fredericksen was the only representative of the Art Gallery of Western Australia enabled to make a physical inspection of the painting and his adverse report influenced the decision of the Art Gallery Board to reject the offer on the 23rd February, 1978. This rejection was conveyed to Mr Ledwij by a letter on the 27th February, 1978.

I am advised that further investigations during recent police inquiries have confirmed that the painting is not the work of Van Dyck.

The paper was tabled (see paper No. 313).

DAIRYING

Norseman

1329. Mr GREWAR, to the Minister for Agriculture:

As there are no commercial dairy cows in the Norseman district—

(a) why is the area still being administered by the Dairy Industry Authority; and

(b) why is a retailer being fined for selling milk reputed to have originated from a non-dairy area?

Mr OLD replied:

(a) and (b) Under the Dairy Industry Act, the Dairy Industry Authority as charged with the organisation and distribution of milk and dairy produce throughout the South-West Land Division including the Dundas Shire but excluding the Shires of Ravensthorpe and Esperance.

The retailer has infringed the regulations under the Act relating to obtaining supplies from licensed persons.

PUBLIC SERVICE: VACANCIES

Advertisements in "Government Gazette"

1330. Mr DAVIES, to the Premier:

Further to my question 1203 of 1979, will he arrange for public service notices to be forwarded to me as they become available?

Sir CHARLES COURT replied:

Arrangements have been made for a copy to be sent to the office of the Leader of the Opposition.

ABORIGINES: NOONKANBAH STATION

Sacred Sites

1331. Mr DAVIES, to the Minister for Cultural Affairs:

(1) Further to questions 924 and 997 of 1979, relevant to the survey conducted by the WA Museum, can he advise whether any legal action has been taken in relation to oil drilling at Noonkanbah Station?

(2) If "No" to (1), will he now answer the queries raised in question 997?

(3) If "No" to (2), why not?

Mr P. V. JONES replied:

(1) to (3) The position as indicated in my answers to questions 924 and 997 still prevails.

HEALTH: MEDIBANK

Fraud: Penalties

1332. Mr WILSON, to the Minister representing the Attorney General:

(1) Is the Attorney General aware of the apparent imbalance of justice in relation to respective penalties recently imposed on doctors convicted of defrauding Medibank in Victoria and Western Australia?

(2) Is the Attorney General considering any approach to his Federal counterpart and other State Attorneys General with regard to this apparent imbalance?

(3) In view of the possible imbalance and the Government's own recent commitment to a review of sentencing in Western Australia on the basis of the high rate of prison sentences in the State, is the Government prepared to consider commuting the three year goal sentence imposed on Dr Bernard Kessell to a community service order?

Mr O'NEIL replied:

(1) It is impossible to say that there has been inconsistency in sentencing without knowing all the relevant facts concerning the histories of persons who have been sentenced, and the circumstances of their respective crimes. Rarely, if ever, is the media even aware of all of these facts, and I have no doubt that, in the cases mentioned, the information which has been publicised affords no proper basis for a comparison of the sentences involved.

(2) No. In any event, these prosecutions are handled by the Commonwealth Government and do not involve the State Crown Law Department.

(3) The prosecution of Dr. Kessell was brought by the Commonwealth and any request for a diminution of his sentence by exercise of the Royal prerogative will a matter for the Federal authorities.

On the question of sentencing generally, it should be noted that the Commonwealth Law Reform Commission has a reference from the Federal Attorney General on sentencing for Commonwealth offences.

TRAFFIC: DRIVERS

Licences: Illegal Use

1333. Mr WILSON, to the Minister for Police and Traffic:

How many people have been convicted in the past two years of using drivers licences belonging to others?

Mr O'NEIL replied:

No specific record is kept of this offence.

TRAFFIC

Widgee Road

1334. Mr WILSON, to the Minister for Police and Traffic:

(1) How many traffic infringement notices have been issued to motorists in Widgee Road, Noranda between Alexander Drive and Camboon Road in the past two months?

(2) What further action is proposed to help overcome the problems arising from speeding through-traffic in this section of Widgee Road?

Mr O'NEIL replied:

(1) 45.

(2) Action is to be on a continuing basis until problem appears to be resolved.