

Legislative Council

Tuesday, 26 March 1985

THE PRESIDENT (Hon. Clive Griffiths) took the Chair at 4.30 p.m., and read prayers.

BILLS (8): ASSENT

Message from the Governor received and read notifying assent to the following Bills—

1. National Crime Authority (State Provisions) Bill.
2. Mines Regulation Amendment Bill.
3. Coal Mines Regulation Amendment Bill.
4. Town Planning and Development Amendment Bill.
5. Parks and Reserves Amendment Bill.
6. Casino (Burswood Island) Agreement Bill.
7. Acts Amendment and Validation (Casino Control) Bill.
8. Joondalup Centre Amendment Bill.

MR J. J. O'CONNOR: CHARGE

Tabling of Documents: Ministerial Statement

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [4.33 p.m.]: I seek leave to make a ministerial statement concerning the O'Connor papers.

Leave denied.

ADJOURNMENT OF THE HOUSE

HON. D. K. DANS (South Metropolitan—Leader of the House) [4.34 p.m.]: I move—

That the House do now adjourn.

O'Connor Charge: Tabling of Documents

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [4.35 p.m.]: The Opposition has made it clear that it is determined to use its numbers to pass its motion for the tabling of my ministerial files. I regret that very much, although I do so for reasons quite different from those which the Opposition would probably assume.

As I said last week when the motion was moved, the Liberal coalition has the power in this House to pass any motion that it wishes. It always has had in the 95 years of the State's existence. On the other hand, the legitimacy of its power is not only suspect, but non-existent. As we all know, it depends on a rotten and corrupt electoral system which the Liberal coalition has manipulated now this way, now that, but always to its own undemocratic advantage.

As I said last week also, to the extent that our Parliament has worked at all reasonably in the face of this disgraceful situation, that has been a reflection of the restraint with which the automatic coalition majority has exploited its privileged position. Now it has gone further to make a demand which cuts across well-established and well-recognised principles. It does so without a shred of justification.

I repeat again my own and the Government's objections to complying with the demand which is now being made: Firstly, individuals, companies, and other organisations who write to Ministers are entitled to expect that the confidentiality of their correspondence will be respected. Secondly, advice to Ministers by departments and Crown Law officers has always been treated as being confidential unless the Minister, at his own discretion, decides otherwise. Any contrary move, especially if taken in an arbitrary and *ad hoc* way, as the Opposition now requires, is contrary to the requirements of good government and to the welfare of this State.

From the North-West Shelf to the south-west smelter, who would be prepared to deal with a State which cannot guarantee that confidences will be kept?

Thirdly, the Opposition's demand is a mere red herring. It is another example of its determination to obscure the real issue in the case by constant resort to side issues and non-issues.

Regrettably the Opposition has been assisted in its efforts to hide from the truth by an uncritical and superficial coverage of this matter by the media. As a result, the basic issue and its supporting facts have never really been put to the public.

I repeat that issue yet again: The single most crucial issue in the O'Connor case is the extent to which the criminal law, in its full rigour, should be applied to essentially industrial matters.

Time and time again I have challenged the Opposition to deny that, over the years, including the many years of Liberal Government, there have been literally hundreds of industrial matters where the criminal law could have been invoked. The Opposition has not denied that, and it cannot.

I have challenged the Opposition to provide one single example where the criminal law was actually invoked. It has not provided a single example, again because it cannot.

Last Wednesday I provided, a sample list only, 17 separate union threats which clearly had the potential to found an extortion charge. At face value all of these threats related to circumstances far worse than those in the O'Connor case. They were threats in support of strike pay demands.

Those threats occurred during the term of Mr Masters as Minister for Industrial Relations and while Mr Hassell was Minister for Police.

How many charges of extortion did they initiate? None. Why not? Their reasons then and the reasons of every one of their predecessors were clearly the same as my own main reason now; that is, the criminal law is not the way to tackle industrial disputes in the circumstances of the present case. As the Solicitor General has said, in the circumstances of this case the criminal law was "unnecessary and inappropriate".

There is a fourth objection to meeting the point of the Council's resolution, and that is the lack of the faintest evidence of improper conduct to support a call for more facts.

I have frankly said that the decision was arrived at by consideration of a complex of legal and policy issues. There was the need to balance conflicting factors. It is not just playing with words to say that a judgment made in that context may be right or wrong but can hardly be improper. By all means debate if it was right or wrong. Unfortunately, that is precisely what the Opposition will not debate, because to argue that my decision was wrong would require it to say that the approach of all previous Governments—most of them Liberal—was also wrong.

Rather than argue foolishly, members opposite therefore now argue hypocritically. Where does this leave us now? Speaking personally, I find myself in a real conflict as between my ministerial and personal role. As a Minister I share the view of the Government which has been argued forcibly in debate both here and in the Assembly, that the call for my files is cynical, unjustified, and an abuse of the system which should not be conceded. Personally, I am sick to death of unfounded and dishonest allegations, and I would be happier by far to allow the record to speak for itself.

In the event, the Government has decided that I should not comply with the Council's demand, but neither should any room be left to suggest that somewhere there is something to hide.

The PRESIDENT: Order! I suggest to the Attorney General that now he has been getting dangerously close to contravening Standing Order No. 88 which says that he should not anticipate the discussion on any subject which appears on the Notice Paper. I thought the Attorney General was intending to get on with that matter.

Hon. J. M. BERINSON: Mr President, as you will find, my risk of contravening Standing Order No. 88 has now passed and my comments from now on will be entirely new and, Mr President, you may even find, novel.

Accordingly, I have made all relevant papers public by presentation to the Press and the Parliamentary Library. As a courtesy only, and without recognising any obligation to do so, I will also table copies in this House.

Hon. P. G. Pendl: Charming!

Hon. J. M. BERINSON: The originals, should any members wish to inspect them, will be available for perusal in my office. There are a total of four files involved in the area contemplated by the Opposition motion. The first is Crown Law Department file No. 85/6176. The second and third comprise the office of Attorney General file No. 84/129 in two parts.

The first part of this file contains copies of material up to and including 28 February when I delivered my ministerial statement. Part 2 contains the originals of subsequent material, mainly greens, Press clippings, and correspondence with individual constituents. This material is bulky and clearly irrelevant to the making of my decision. It has not been worth copying. I table the originals for 14 days.

The fourth file is my parliamentary file. Members may have noticed my bringing it into the Chamber for relevant debates and question sessions. It consists, in the main, of copies of papers from the other two files. There are a few other items, however, which came to my attention either at Parliament House or while preparing for parliamentary debates and which were included in this file without reaching the others.

I propose to refer now to a small number of particular documents which have attracted some spurious Opposition comment in earlier debates. Starting with the Crown Law Department file, this consists of the following—

- (1) Various formal papers and exhibits.
- (2) The Crown Prosecutor's opinion directed to the Solicitor General and dated 17 January 1985.
- (3) The Solicitor General's opinion directed to me and dated 8 February 1985.
- (4) My ministerial statement to the House of 28 February 1985.
- (5) The prosecution brief, which is a combination of a hand-up police brief used at committal and a deposition of witnesses actually called at the committal. The brief has over 50 pages and is included in original in the interests of economy. I should point out that, in response to a request by Mr Hassell two weeks ago, I arranged on the same day as his request, for the provision to him of a copy of this

document. It will therefore provide no surprises.

The Attorney General files have many more papers, and I will not attempt to list or discuss them individually. I refer to several only of the papers in which the Opposition has shown most interest.

Firstly, I refer to the opinion of the Crown Prosecutor. When asked in the course of the debate as to the nature of his advice, and without the relevant papers with me, I replied as follows—

His view was that a prima facie case having been established and the committal made, the case should proceed.

From the file it will be seen that his actual words were as follows—

In my opinion, a charge having been validly laid, a magistrate having properly committed for trial, and a clear prima facie case being disclosed by the evidence, an indictment should be filed . . .

I believe that not even Mr Hassell would dispute that my indication of the Crown Prosecutor's opinion was fair and accurate.

A second legal opinion on the files is a submission by Messrs. D. H. Schapper & Co., Mr O'Connor's Solicitors. This is dated 7 February 1985, but actually reached me after the Solicitor General's advice dated 8 February 1985. Members will note, as I have indicated earlier, that the Crown Prosecutor's view that the case should proceed was on the narrow ground that a prima facie case had been established.

Mr Schapper deals with the same evidence as the Crown Prosecutor, but argues, on somewhat similar narrow grounds, that the case should not proceed.

The Solicitor General, who is the senior legal adviser to the Crown in this State, indicates in his opinion his awareness of both of these arguments. As to the merits of the case, he describes the facts as not compelling. More significantly, however, he adopts a broader approach to the whole issue, recognising the mix of legal and policy factors involved.

The whole of the Solicitor General's opinion has previously been incorporated in *Hansard*. I therefore restrict myself at this point to the following brief quotes from his advice—

I must say that had it been for the Attorney General rather than the police to decide whether a complaint should have been laid in the first place, I would have advised against instituting proceedings. In essence, my reasons for that advice would have been

that, despite the existence of a prima facie case, the use of the criminal law in the totality of these circumstances was unnecessary and inappropriate.

I again quote the Solicitor General—

That view is based on the particular circumstances of this case . . . it is also relevant that this case has arisen in the area of employer/employee relations. This is one of many areas of activity of considerable importance to the community where the too ready or too rigid application of the criminal law can be counter-productive and contrary to the ultimate interests of the community.

Finally, quoting again the Solicitor General—

. . . It also appears that the whole affair may well have stemmed from an attempt by Leishman and the companies to avoid the award and ignore the act to their financial advantage, and, at the least, there was a strong moral claim by Holly to the moneys the subject of the 'demand'.

Another wild and baseless allegation has been that I was somehow the subject of improper pressure to which I had to succumb! That was not the case, as the papers indicate.

In fact, there was one letter each from the Trades and Labor Council and the State Secretary of the Australian Labor Party, both of whom have been referred to by Mr Masters on innumerable occasions. Both the letters and my answers were substantially the same—at least they were to the same effect—and I take the TLC approach to deal with at length.

The TLC through its assistant secretary said—

I wish to advise that the Trades and Labor Council has passed the following motion in relation to the extortion charge laid against J. J. O'Connor—

That Council demands of the Premier, the Attorney General and the Minister of Police, the withdrawal of the extortion charges against TWU secretary, J. O'Connor, and that the police be instructed to cease the harassment of other union officials on similar grounds.

This Motion was passed unanimously by the Council at its meeting of 18 September. Would you please advise your response to the Council demand.

Signed: Rob Meecham, Assistant Secretary.

My reply, dated 16 October 1984, was in the following terms—

Mr. R. Meecham,
Assistant Secretary,
Trades and Labor Council of W.A.
Trades Hall, 74 Beaufort St.,
Perth WA 6000

Dear Rob,

Prosecution of J. J. O'Connor

I refer to your letter of 5 October 1984.

You have asked me to comment on the Council's resolution of 18 September, 1984, in respect of the above. I have previously indicated that I do not intend to become involved in a public discussion on the merits of a case which is currently before the courts. Accordingly, I restrict my comment to the relevant procedures which apply in respect of an indictable offence.

When an allegation is made that a criminal offence has occurred, the proper and only course of action which can be taken is that the evidence which is said to support that allegation should be drawn to the attention of the Police for investigation.

Once the Police have investigated the matter, and formed the view that a *prima facie* case exists, an individual Police officer makes out a complaint under the Justices Act. This complaint is sworn before a justice of the peace. Occasionally, when there is doubt as to whether a *prima facie* case exists, advice is sought from the Crown Prosecutor's office.

The above procedures occur without reference to the Minister for the Police or the Attorney General.

A complaint having been sworn by an individual police officer, there is no executive capacity to interfere at that stage. The individual officer cannot be directed to withdraw that charge by anyone, including his superior officers. This is well established at common law.

Once the complaint has been sworn, and the alleged offender brought before the court, if the charge is for an indictable offence (assuming there is no capacity for the election of summary trial by magistrate) the accused will have the choice of a preliminary hearing or may elect to be committed to the District or Supreme Court for trial.

If the alleged offender chooses a preliminary hearing, the Crown must show before a magistrate that there is a *prima facie* case to answer.

The police have the conduct of all matters, up to and including the committal stage.

Again, there is no capacity for executive interference in this process. The matter, to this point, is still the complaint of an individual police officer, and this is not subject to direction.

When the accused person is committed for trial, either on his own election or by way of preliminary hearing, the papers are referred to the Crown Law Department's prosecution section to be assessed for presentation of the indictment and preparation for trial.

At this stage the Attorney has a theoretical discretion to enter a *nolle prosequi*. A *nolle* does not indicate guilt or innocence of the matter charged, but has the effect of preventing proceedings from going any further.

The exercise of the Attorney's discretion is in practice extremely limited. In this State the practice, which I have continued, is that the Attorney General only enters a *nolle* on the advice of his most senior legal officers.

In respect of the O'Connor case, it will be apparent from the above that quite apart from the merits of the case and the propriety of ministerial intervention, there is simply no basis on which either the Premier, the Minister for Police, or myself, could at this stage act as Council's resolution suggests.

As matters now stand, this will remain the case in respect of any executive action at all until after Mr. O'Connor's preliminary hearing, which I understand is listed for hearing on 20 and 21 December.

I am aware, of course, of the possibility of industrial action on 20/21 December. Any such action has as its main object the achievement of something which it is impossible to achieve until after that date, and which would be unnecessary, in any event, if the magistrate found at the committal stage that there was no case to answer.

I do urge your Council to refrain from any industrial action on 20/21 December. All other considerations aside, that can simply serve no practical purpose.

Council's resolution also refers to alleged harassment of union officials by police. I leave this matter for comment by the Minister for Police.

Yours sincerely,
Joe Berinson, MLC,
Attorney General.

As will be realised from the terms of this letter, I had two main objectives at the time. The first was

to discourage a totally useless and pointless strike. The second was to discourage to the maximum extent possible any view by the TLC that a *nolle prosequi* could be anticipated later. If anything, the barriers in the way of a *nolle* were exaggerated. No-one, I think, would gather from that letter, for example, that a *nolle* is, on average, entered every two to three weeks. Far from giving "the nod", as Mr Masters has sometimes suggested, I can only read this letter even now, as suggesting that the very opposite was more likely.

Another document on the file to which some specific reference is justified is an undated document on the letterhead of the Law Society of Western Australia, headed, "Public statement re Mr J. J. O'Connor". I indicate at the outset that the underlining on the document is mine. My reason for referring to this paper is as follows: On Saturday, 2 March 1985, the front page story of *The West Australian* was devoted to comments on the case by the acting president of the society. With due respect, his reported comments were wrong at almost all points. The society's public statement followed, to clarify and correct the position.

I have no quarrel with the society or its acting president. I mention this item, however, because as recently as last Wednesday, Mr Masters in this House, again sought to quote and rely on the original report of 2 March. When I asked Mr Masters by interjection whether he was aware of the society's correction, he said he was, but then ignored the correction and continued with his original quote.

That was a very instructive exercise. It showed, again, how little the Opposition, in this matter, has cared for the facts or the truth. I take the opportunity to correct one small error of fact which arose in the course of one of my replies to questions without notice. I said that one of the submissions to me had come from the TWU. That was incorrect, and I must have had in mind a letter from a member of the TWU, which is rather a different thing. An error of this kind in the context of a question without notice would normally not call for comment. I do make the point, however, because I am well aware that the Opposition will subject these papers to microscopic attention, with a view to finding something sinister in every word if not letter. Indeed, it has spent so much energy on distorting the facts and the issues so far, that nothing really better can be expected of it now. Well, these letters were not written for microscopes, but by and for people who were corresponding with each other in ordinary language and in the course of an ordinary exchange of views.

I trust that the Opposition will not be too disappointed to find that the papers in this matter bear out the truth and accuracy of all that I have said in the past four weeks. I trust that the Opposition will not be too disappointed to find that there is nothing in the papers to support its wild allegations over that time.

In any event, I have nothing to hide and the Government has nothing to hide. We never have had. Our interest has been to preserve the orderly processes of Government and Parliament.

Having made the papers public I repeat the Government's strongest objection to the unjustified and irresponsible action of the Opposition in bringing the motion forward.

Now having disposed of this latest diversion, I challenge the Opposition again to face the real issue. Should the criminal law be applied, for the first time and against all previous practice, to essentially industrial matters? That is the question and it is time that the Opposition provided an answer.

I seek leave to table the documents referred to in my speech.

The documents were tabled (see paper No. 520).

Ministerial Statements

HON. G. E. MASTERS (West—Leader of the Opposition) [5.01 p.m.]: The Minister, Hon Joe Berinson, sought leave to make a ministerial statement. The practice with ministerial statements is that the Opposition is advised of those statements by the Ministers concerned and a reasonable amount of notice is given. The purpose of ministerial statements is to advise the Parliament on matters of State and important matters at issue. Over a period of time the Government has made an absolute farce of ministerial statements.

Hon. Peter Dowding: What rubbish!

HON. G. E. MASTERS: The Minister who says, "What rubbish", was the person who started the problem; he misused and abused the privilege. Members on this side have no opposition to a Minister presenting a straightforward, down-to-earth statement. However, we oppose that privilege being extended to a Minister who wants to pour a bucket over the Opposition because the Opposition cannot reply. That is the reason we oppose it. One example was the industrial relations debate when the Minister involved, Hon. Des Dans, commenced one of the most disgraceful ministerial statements I have ever heard. In fact, it was so bad that he decided not to go on with it.

A few days ago the Leader of the House made two more statements; one dealing with the tourist

industry, to which we listened, and the other on the following day was a political exercise to attack the Opposition and pour abuse on members in another place. He also poured abuse on Opposition members and their activities when in Government.

A Government member interjected.

Hon. G. E. MASTERS: We are talking about ministerial statements, which Mr Dowding personally abused in the past.

We give fair notice to the Government and we expect that when we are in Government next year we will maintain the standard that we advocate; that is, it is reasonable for the Minister of the day to present the Opposition with a copy of a ministerial statement in good time.

I had some idea that something like this might happen and I telephoned Hon. Des Dans' office at 4.15—15 minutes before the House was due to sit—and asked his secretary if a statement would be made. The Minister's secretary told me that no ministerial statement would be made today. The first indication I had was when the Leader of the House spoke to me as we were taking our seats.

Several members interjected.

The PRESIDENT: Order!

Hon. G. E. MASTERS: I can understand Mr Dowding being upset because he was the Minister who caused all this trouble with his abuse and misuse of the system.

Hon. Peter Dowding: Why not deal with the issues involved?

Hon. G. E. MASTERS: The real issue, and the reason for the Opposition's refusal, was the failure of the Minister to give notice of his statement. Had notice been given and had the statement been proper and correct, there is no reason that we would not have said, "Yes, of course".

The long statement made by the Attorney General in the tabling of the papers comes a little late. He said he has tabled all relevant information and that request certainly was contained in the terms of the motion. If he has tabled all relevant papers we shall examine them very carefully and I am sure the Attorney would expect us to.

Hon. J. M. Berinson: I rely on you to do so.

Hon. G. E. MASTERS: And he may rely on us. We shall examine all the papers related to the *nolle prosequi* and the decision made by the Attorney General. This House has had to go to most extraordinary lengths to get the papers tabled. During the early part of the first debate I called on the Attorney General on a number of occasions to table the papers.

Hon. J. M. Berinson: The papers are totally irrelevant to the real issue.

Hon. G. E. MASTERS: All we asked for was that the papers should be tabled. The Attorney General refused to table those papers which we considered were important. Indeed, it was not just my view, but also the House and members of the public wanted to know more about this case. Members of the public were deeply shocked by the Attorney's decision.

Hon. Peter Dowding: You are a tangential speaker, not a lateral speaker.

Hon. G. E. MASTERS: It was not until this House put forward a motion directing the Attorney General to table the papers that he suddenly looked around and tabled them. He could have called off the motion last week by tabling the papers at that stage. However, he did not do so and as a result we have reached the present situation.

Last week the Attorney General did a magnificent snow job on this House. He performed, jumped up and down and carried on in such a way that he would have won the "Nolle Berinson" Oscar for his performance.

The Government has stumbled from crisis to crisis; the Government knows, the Attorney General knows, we know, and the public also know.

Hon. J. M. Berinson: When are you going to discuss it?

The PRESIDENT: Order! I am about to remind the Attorney General that there were no interjections when he made his statement, and I suggest that he should mention to his colleague beside him that I am trying to determine that nobody contravenes Standing Orders and I need to hear what members are saying.

Hon. G. E. MASTERS: We had the fiasco of the O'Connor decision by Hon. Joe Berinson and in recent days we had the Exim fiasco which was another blunder by the Government. We listened to the impassioned speech of the Attorney General last week and we are pleased that he has now tabled the papers. However, why did the Attorney General force the Opposition to take this step? Was it all necessary when the Attorney could have tabled those papers when first requested to do so? He need only have said there was nothing to hide and table the papers at an early stage.

The real issue is that the Attorney General made a decision on the O'Connor case and he achieves very little by tabling the papers now. They will help us clear some of the problems we have, but their tabling does not get away from the decision made in the O'Connor case and the

tremendous damage resulting from that decision. The tabling of the papers will not repair the damage done in the community. It will do nothing at all to improve the situation.

Several members interjected.

The PRESIDENT: Order!

Hon. G. E. MASTERS: With regard to the damage done in the community by the decision of the Attorney General, I remind him that the day after the decision the Argyle diamond mine dispute flared up and John O'Connor was involved once more. One would have thought that he would have shown some recognition of the great favour bestowed on him by the Attorney General. But even now John O'Connor is running riot and has probably put 1 000 people out of work in the Argyle area and denied 420 people their jobs.

Part of the reason is the position of the Attorney General. We are talking about the problem of damage in the workplace and in the community.

Several members interjected.

The PRESIDENT: Order! Honourable members will cease their interjections.

Hon. G. E. MASTERS: This is the mess that the Attorney General has got the community in and the mess we see now.

Hon. J. M. Berinson: What mess did you get into with the 17 strikes to which I referred last week? How many extortion charges did you lay in those 17 strikes?

The PRESIDENT: Order! How many times do I have to call order? Members will come to order.

Hon. G. E. MASTERS: The Attorney General, in his panic last week when responding to the motion, plucked all sorts of figures out of the air. He indicated that times were much worse when I was a Minister and that all these strikes took place because of me.

Hon. J. M. Berinson: I did not say because of you.

Hon. G. E. MASTERS: The Attorney General was prepared to sacrifice his own Minister. Had he looked at his own leader's record, which was much worse, he would have kept his mouth shut. He wanted to extricate himself; to get himself out of the mess he was in. He tried to suggest that the situation was worse when we were in Government. Because of the action we took, and I took as a Minister, many of the disputes were pushed away and overcome. This was because we used the industrial legislation. Mr Dans said he did not want to use the filthy legislation. He said, "Go to the police". He refused to use industrial inspectors.

Hon. Peter Dowding: What did you do?

The PRESIDENT: Order! I ask Hon. Peter Dowding to stop interjecting. I have asked three times and I will not ask him again. Many unprecedented things have occurred this afternoon and one more will not go astray.

Hon. G. E. MASTERS: The use of industrial inspectors is a proper course of action for a Minister to take. I took that course of action often. Although it may not be obvious to the Government it would know that in many cases it worked.

I understand that Mr Dowding, in answer to a question I asked of him, said he intended to use industrial inspectors in the same way I used them when I was a Minister. I am very pleased he said that. He probably made a mistake, but it is on record. I do not know whether it would please Mr Piantadosi but to make sure Mr Dowding understands what he said and is bound to keep to his word, I quote his reply to the question I asked of him recently—

- (1) to (3) I intend to pursue the policy which has been in force for many years and which was pursued by the member asking the question, and that is to ensure that where a complaint is made which justifies an investigation it will be made.

I am responsible for the Office of Industrial Relations, and to that extent the officers in the inspectorate; and if a complaint is made to me which is appropriate for investigation, it will be referred to the inspectorate.

That statement is a change of attitude and that is the whole reason we are in this mess now. Mr Dans refused to use industrial inspectors. It is not the Opposition which called in the police or said that it was a police matter. The Opposition said something should be done. It would have expected the Minister responsible for industrial relations to have used his staff and at least done something; but to our amazement the Minister for Police and Emergency Services, the Acting Minister for Police and Emergency Services, and Mr Dans all said, "Bring in the police and let them investigate". The police came in, not at our request, but at the request of the Minister. Mr Pearce, the Acting Minister for Police and Emergency Services, said, "Prove it; I don't believe you can! We will ask two detectives to come around to the office of the Leader of the Opposition tomorrow and we will ask him to look at the evidence". The police then came in, investigated and laid charges. I am not avoiding the question. That is exactly what happened.

Mr Berinson, Mr Dans, Mr Dowding and all those people sitting around them supported the

proposition for the police to investigate the arguments and the accusations made. At the request of the Minister of the day, the police investigated as they should in the proper way, listened to the evidence, and found that there was sufficient evidence to proceed with the prosecution. It was not the Opposition's decision at all; it was the Government's decision. The magistrate decided the matter should go before a jury—which again was not our decision. The Government of the day did not expect there to be any proof and did not expect there to be sufficient evidence, and to its absolute horror the police decided to prosecute. That was when everything hit the fan and when Mr Berinson got into a nasty fix because he found that things had got out of hand, the unions were pressing and screaming and asking publicly for a withdrawal of the case; and finally the Attorney General succumbed to that pressure.

It is farcical to say the police were never used before, and that we used the industrial inspectors. If we could have got a case, if we could have found one person who was prepared to stand up and give evidence and be counted, we most certainly would have instituted a prosecution.

Hon. J. M. Berinson: You believe that, do you?

Hon. G. E. MASTERS: Yes, definitely. If Mr Berinson would like to bring a case forward next year I would love to get into it because he will be sitting on this side.

The point is that Mr Leishman was a person who was prepared to stand up and be counted. He gave evidence to the police and he was prepared to be named and have his business put at risk. It was not our decision.

There was a question of underpayment, which does not come into this; it is not relevant. A certain Mr Holly said a sum of money was owed to him. Mr Leishman said it was not, and so it went to a court of law. Mr John O'Connor, "the Big Boy" came along and made an absolute muck-up of the case. He failed to prove that Mr Holly was a member of the Transport Workers Union, and the case failed on a technicality. Mr O'Connor did not prove anything, because Mr Leishman was found not guilty. Instead of Mr O'Connor and the people advising him, going to an appeal—which was up to them and if what the member says is correct the appeal probably would have succeeded—what did he do? He whispered into Mr Leishman's ear as he came out of the court, "You will pay \$5 000 or we will send you broke".

When we are back in Government next year we will use the provisions of part VIA of the Industrial Arbitration Act where appropriate and where the police see there is justification the criminal law

will apply. We will guarantee that there will be one law for all people, not one law for the Government's trade union mates and one law for the rest of us. The law will be used equally.

Hon. J. M. Berinson: So you will be charging people with extortion for threatening a union ban?

Hon. G. E. MASTERS: The issue is this: Mr Leishman was threatened. Mr Berinson is arguing about black bans. Well, Mr Leishman was threatened with a black ban. But it would not matter had he been threatened with a beating, or with having his house burnt down or having the safety of his family put at risk; the fact is that he was threatened. He was told, "You pay that money or else we will send you broke". That is straight extortion. Mr O'Connor said that after a court of law had decided Mr Leishman was not guilty, and that is the real point. The opportunity was there for an appeal, but Mr O'Connor ignored it. In this case, the threat was of a black ban, but it could have been any threat. If Mr Berinson is saying that a person can be threatened in some ways, and that is acceptable, heaven help us.

Hon. J. M. Berinson: Don't be so ridiculous.

Hon. G. E. MASTERS: The Attorney General is merely hiding behind the excuse that the Criminal Code has not been used before in this sort of case. I am saying that the police were involved at the request of the Government to do their job. How do members opposite think the police feel now that Hon. Joe Berinson has said to them: "Whatever you do, you are likely to have your case abandoned"? Have the Ministers opposite thought about how the police feel about this issue; have they thought about their predicament? The answer is, "No".

At last we have seen the Attorney General, after great pressure being applied by the Opposition, come along and put down the documents we wanted. We will not let the matter rest here. This issue will be on the shoulders of Hon. Joe Berinson for the rest of his life because he has set a precedent.

The Attorney General has allowed certain people to be above the law. Perhaps his decision had to be made for other reasons. After all, John O'Connor is looking to get into Parliament; he wants to be a Senator, and this case would have been the end of his hopes. Perhaps he wanted to be a member of this place—Heaven help us; that would have been all right because we would have seen him at his worst.

Last week, almost as an aside, Mr Berinson indicated that his decision partly involved an element of Labor policy. This could be so, because the ALP issued a green paper and presented it to

the public before the last election, and that paper indicated that people involved in industrial action should be above certain laws of the land.

Hon. Kay Hallahan: What rubbish.

Hon. G. E. MASTERS: The green paper indicated that people involved in industrial disputes should be immune from the Police Act, the Emergency Foodstuffs and Commodities Act and certain other Acts. That is a fact. I will quote from page 22 for the information and edification of Hon. Kay Hallahan. It was signed by Brian Burke, Des Dans and Michael Beahan. I quote as follows—

RIGHTS OF UNIONS AND EMPLOYERS

Labor believes that workers and employers have the right to organise and engage in industrial action. Because industrial action may take many forms it is necessary to guarantee that all have the right to assemble and demonstrate peacefully, and the right to pursue industrial action within the limitation of industrial legislation. These rights will be insulated from such legislation as the Fuel, Energy & Power Resources Act, the Essential Foodstuffs & Commodities Act, the Police Act, the Government Agreements Act and the State Energy Commission Act.

Hon. D. K. Dans: It was a discussion paper.

Hon. G. E. MASTERS: Sure, And the trade union movement holds firmly to this idea. Hon. Kay Hallahan is now very quiet, and I can understand her embarrassment.

Mr Berinson's decision was based on that sort of attitude; it was based, in his words, on the "policy element".

Hon. Peter Dowding: What was your policy?

Hon. G. E. MASTERS: Our policy was and is that there should be one law for all people, not one law for one group and one law for another. Our policy is that people should be allowed to go about their work freely and without interference; they should be able to carry on their business without having their livelihood jeopardised. That is a straightforward policy. We do not believe in standover from any side. People should have the right to go about their business, the right to choose, the right not to be stood over by these union people. I can understand that Hon. Peter Dowding would not agree with our policy, because he agrees with standover; he is a standover man himself.

We are pleased that at last the Attorney General has, under immense pressure from us, tabled the papers. We will examine them carefully. We

will not allow the O'Connor case to disappear, because it has done so much damage to the workplace and put so much fear into the workplace. It will be on the Attorney's shoulders forever and a day.

Mr Berinson, in making a long speech tonight, tried to cover his actions in all sorts of ways, but the plain facts are these: Mr Berinson said that there should be one law for people that support him and one law for the rest of the community.

Point of Order

Hon. J. M. BERINSON: That is a highly objectionable statement, especially directed at a person in the office I hold. I ask for it to be withdrawn.

The PRESIDENT: The Clerk was speaking to me at the time and I did not hear what was said, so I ask the Attorney General to tell me what was said.

Hon. J. M. BERINSON: The honourable member made a statement to the effect that it was my decision that there should be one law for certain members of the community and a different law for others.

The PRESIDENT: The Leader of the Opposition will withdraw that statement.

Hon. G. E. MASTERS: I withdraw.

Debate Resumed

Hon. G. E. MASTERS: The Attorney General's decision to let John O'Connor off the extortion charge leaves the public with no other understanding of the situation than that there is one law for trade unionists who break the law—in our view—and one law for the rest of us. That is Hon. Joe Berinson's decision, and whether he likes it or not there is not a person in the community, or even on his side, who does not understand that that is the real and the key issue.

A very few people in the community today are standing over other people who want to work. At Argyle, members of the Australian Workers Union are being prevented from carrying out their legal business.

People are literally starving them out. They are the friends of Hon. Joe Berinson; in fact, one of the friends he let off an extortion charge. The public see it that way; they see these people have no fear from the law about their actions. We see people standing at the gate with flags and many people in the community are deeply concerned. Rocks have been thrown through truck windows. People have written to me saying, "Please help".

Hon. Kay Hallahan: They must be desperate.

Hon. G. E. MASTERS: I was hoping the member would ask me to read the letters. People are writing to the Opposition asking it to help. That is the result of the decision made by Hon. Joe Berinson; that is the disaster of our time.

Many people in the community are standing over and threatening others, from small people to the bigger companies. I ask all members to understand that that is the issue, not any of the issues Mr Berinson has talked about. The key issue is whether certain people should be above the law that would apply to you, Mr President, and me. The law should apply to them as it would to anyone on our side of the House who prevented people from going about their business or their work.

Hon. Fred McKenzie: The trouble is you don't understand there is a difference between criminal law and industrial law.

Hon. G. E. MASTERS: In answer to Mr McKenzie, there is indeed an industrial law and in Hon. Des Dans own words, he refused to use that "filthy legislation".

Hon. D. K. Dans: I have not changed my mind.

Hon. G. E. MASTERS: That is the law of the land.

Hon. D. K. Dans: I have not changed my mind.

Hon. G. E. MASTERS: Mr Dans has not changed his opinion, but they changed his job because of his attitude.

The Attorney General has tabled the papers under great pressure but that does not overcome the serious problem in the community and the great fears people have. It does not deal with the situation of the freedom with which some of these

people we are fighting against are allowed to move in the community.

Hon. J. M. Berinson: You still have not discussed the issue.

Adjournment of the House: Use

HON. V. J. FERRY (South-West) [5.32 p.m.]: As you said, Mr President, the question is that the House do now adjourn. It has been moved by the Leader of the House and in view of tradition I do not oppose that motion. If I did I would be taking the business of the House out of the hands of the Government of the day. That is a tradition which I hold dear.

Hon. Tom Stephens: Teach your leader that.

Several members interjected.

The PRESIDENT: Order!

Hon. V. J. FERRY: I want it recorded that I believe the Government has acted in a most shabby way in this sitting we are enduring, to disallow the opportunity for this House to proceed with its normal business. By seeking the adjournment of the House on a political whim the Government has done a great disservice to democracy in Western Australia. The Government whinges and talks about all sorts of disadvantages but denies the members of this Chamber an opportunity to debate and deal with the items on the Notice Paper before us. If that is the way the Government treats the Parliament and the people of Western Australia, it deserves to be censured.

Question put and passed.

House adjourned at 5.33 p.m.

QUESTIONS ON NOTICE

663 to 665. *Postponed.*

PORTS AND HARBOURS: MARINA

Sorrento: Survey

669. Hon. P. H. WELLS, to the Minister for Employment and Training representing the Minister for Planning:

Further to question 638 of 12 March 1985 relating to a Government survey on Sorrento Marina and other issues, would the Minister advise—

- (1) In what metropolitan and country areas were people interviewed?
- (2) Were the people contacted asked identical questions?
- (3) If people were not asked identical questions, what were the subjects people were interviewed on for each metropolitan and country area surveyed?
- (4) How were people selected for the interview?
- (5) For each subject that was covered in the interview what was the purpose of the survey?
- (6) How many questions was each person contacted asked?
- (7) What was the name of the organisation employed to carry out the survey?
- (8) Will the Minister provide a breakdown of the major expenditure areas for the reported \$23 000 cost of this survey?
- (9) Will the Minister table both the qualitative and quantitative results of this survey including the questions asked?

Hon. PETER DOWDING replied:

- (1) to (9) I will table the complete survey details and results in the near future.

TRAFFIC: ACCIDENTS

Reynolds Road, Mt. Pleasant

676. Hon. P. G. PENDAL, to the Attorney General representing the Minister for Police and Emergency Services:

- (1) Is the Minister aware of resident concern over traffic safety in Reynolds Road, Mt. Pleasant?
- (2) What number of accidents have been reported along this road in each of the last five years?
- (3) What steps, if any, are planned in order to reduce the hazards to residents in the area?

Hon. J. M. BERINSON replied:

- (1) to (3) See answer to question 677.

TAXES AND CHARGES: LAND TAX

Revenue

683. Hon. H. W. GAYFER, to the Minister for Budget Management:

- (1) What was the amount of revenue derived from State land tax during the financial years—
 - (a) 1982-1983; and
 - (b) 1983-1984?
- (2) How much does the Treasurer estimate will be derived from land tax this current year?
- (3) What was the average increase in valuations of property subject to land tax for the 1983-1984 year as from the previous year?
- (4) What were the lowest and highest percentage increases in valuations as referred to?

Hon. J. M. BERINSON replied:

I am advised as follows—

- (1) (a) \$35.026 million;
- (b) \$42.574 million.
- (2) \$51 million.
- (3) and (4) This information is not readily available and could only be extracted at considerable cost.

688 and 692. *Postponed.*

GOVERNMENT INSTRUMENTALITIES: ACCOMMODATION

Northam

693. Hon. E. J. CHARLTON, to the Leader of the House representing the Premier:

What Government departments will be housed in the new State Government offices being erected in Northam?

Hon. D. K. DANS replied:

MLA office.

District offices—

Bush Fires Board

Health Department

Building Management Authority

Department for Youth, Sport and

Recreation

Police Department

Probation and Parole Office

Education Department.

ROADS

Lower North Province: Upgrading

695. Hon. P. H. LOCKYER, to the Minister for Employment and Training representing the Minister for Transport:

(1) Will the Minister advise the area, location and kilometres of road that have been, or need to be replaced or substantially renovated as a result of use of unsuitable material in road construction in—

(a) Geraldton-Port Hedland Highway;

(b) Meekatharra-Newman Highway; and

(c) Port Hedland-Derby Highway?

(2) What were the names of the companies involved?

(3) Were any of these roads constructed by day labour from the Main Roads Department?

Hon. PETER DOWDING replied:

(1) (a) No substantial failures;

(b) no substantial failures;

(c) during 1978 several kilometres of road shoulder near Sandfire on the Great Northern Highway were cement stabilised following ingress of moisture after Cyclone Vern; there have been other isolated sections of floodways and road shoulders which have been

reconstructed following entry of moisture following cyclonic rainfall.

Two sections of the Great Northern Highway at Salt Creek and Roebuck Plains are being monitored because of apparent failure of materials. It is likely that these sections will require strengthening by stabilisation of the natural materials. Both of these sections are between Sandfire and the Broome turnoff.

(2) Some sections of the work referred to in (1)(c) above were within contracts 20/79 and 84/79 executed by Thiess Bros. Ltd. between 1979 and 1981 and contracts 9/74 and 83/79 executed by Leighton Contractors Pty. Ltd. between 1979 and 1980.

(3) A greater part of the work on these roads has been by the Main Roads Department day labour workforce.

COMMUNITY SERVICES: GRANNY SPIER COMMUNITY HOUSE

Closure: Survey

699. Hon. P. H. WELLS, to the Minister for Employment and Training representing the Minister for Planning:

Further to question 638 of 12 March 1985—

(1) Who authorised the survey of people's opinion carried out in the northern suburbs?

(2) From which Government department's budget and expenditure were funds taken to pay for this survey?

(3) Is this the first survey of people's opinion in this area?

(4) If not, please provide details of other surveys and dates on which they were carried out?

Hon. PETER DOWDING replied:

(1) Minister for Planning.

(2) Town Planning Department. I should point out that the cost of the survey was \$11 000, not \$23 000 as I advised the member previously.

(3) and (4) Yes. It is the first of a series of surveys that will be carried out as part of the public input to major planning decisions.

TRAFFIC SIGN

Canning Highway-Douglas Avenue

704. Hon. P. G. PENDAL, to the Minister for Employment and Training representing the Minister for Transport:

(1) Will the Minister's department give consideration to installing one or more "right-turn" arrows at the intersection of Canning Highway and Douglas Avenue in South Perth?

(2) If not, why not?

Hon. PETER DOWDING replied:

(1) and (2) All approaches to this intersection are physically restricted to two lanes and the Main Roads Department has already been compelled to prohibit right turns out of the highway during peak periods to reduce traffic congestion. Right turn arrows could not be provided in Douglas Avenue without aggravating the already congested situation on the highway.

HEALTH: HOSPITAL

Royal Perth: Parking

705. Hon. P. G. PENDAL, to the Minister for Employment and Training representing the Minister for Transport:

In view of parking problems at Royal Perth Hospital and the need to safely link the existing building to the new north block now under construction—

(1) Has any consideration been given to permanently closing a portion of Wellington Street, west of Lord Street, and linking Wellington and Moore Streets at the western end of the new north block?

(2) If not, would he be prepared to study a plan submitted by a constituent to achieve this end?

Hon. PETER DOWDING replied:

(1) and (2) Wellington Street is a major arterial road and as such closure could not be contemplated. Planning for the Royal Perth Hospital extensions has allowed for two bridges to allow internal communication and provide access over Wellington Street. I understand that the current work on the northern block allows for these bridges.

TOURISM: SOUTH WEST TOURISM DIRECTORATE

Director: Advertisement

707. Hon. P. G. PENDAL, to the Leader of the House representing the Premier:

(1) Why is the Government prepared to advertise a job as Director, South West Tourism Directorate at \$40 000 a year "plus benefits" while at the same time advertise for a new Official Representative in Tokyo at \$39 000-\$43 000 plus allowances?

(2) In view of the importance of Japan to the WA economy why should the State's Official Representative there be treated so poorly?

(3) Is he confident that he will get worthy applicants for the Tokyo job?

(4) Will he reconsider the salary package for the Tokyo job in order to attract a top-level person to the job?

Hon. D. K. DANS replied:

(1) to (4) It is simplistic to compare entirely different positions in terms of duties and responsibilities by comparing salaries.

The Tokyo position has been advertised at a level which provides that a higher salary can be paid than in the past. The salary determination of the Tokyo position is the prerogative of the Public Service Board which recently reviewed the salary level.

It is pointed out that the Tokyo position closed on 21 March and 34 applicants applied, many with excellent credentials for the position.

708. *Postponed.*

EMPLOYMENT AND TRAINING: COMMUNITY EMPLOYMENT PROGRAMME

Whitfords Sea Sports Club: Building Programme

709. Hon. P. H. WELLS, to the Minister for Employment and Training:

(1) Why has the Whitfords Sea Sports Club repeatedly been rejected for CEP funds for a building programme?

(2) Is he aware of its willingness to employ unemployed persons on the proposed project?

(3) Is he further aware of the Whitfords Club record in training and life saving

activities in the coastal area of the northern suburbs?

Hon. PETER DOWDING replied:

- (1) to (3) There is no record of any application for CEP funds ever having been received from the Whitfords Sea Sports Club.

EDUCATION: AWARDS

Members of Parliament: Announcements

710. Hon. N. F. MOORE, to the Leader of the House representing the Premier:

In view of the inclusion in the 17 December 1984 edition of *WA Government Notes* of the winners of "scholastic citizenship" awards in Pilbara and Kimberley schools, and reference to

these being presented by the local member, Mr Dowding—

- (1) Will the Premier make space available in all future editions of this publication for all members of Parliament to announce the winners of their citizenship/scholastic/sportsmanship awards?

- (2) If not, why not?

Hon. D. K. DANS replied:

- (1) and (2) Revision of the format of *WA Government Notes* is currently under consideration and the member's suggestion will be taken into account.

711. *Postponed.*

