

# Legislative Assembly

Thursday, 22 September 1983

The SPEAKER (Mr Harman) took the Chair at 10.45 a.m., and read prayers.

## SLIPWAY

### *Maylands: Petition*

MR BATEMAN (Canning) [10.46 a.m.]: I present a petition on behalf of the member for Maylands. It reads—

To:

The Honourable the Speaker and Members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.

We, the undersigned, being residents of Hardey Road, Maylands, are dissatisfied with the way that the MRPA are handling the situation regarding the promised improvements to the Maylands Slipways.

We are most desirous of this unique facility being maintained but are dissatisfied with the way the site and buildings in this recreational area being deliberately allowed to deteriorate.

We respectfully request that the present system of management be investigated with a view to the resolution of this long-standing problem.

Your petitioners humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

The petition bears 29 signatures, and I certify that it conforms with the Standing Orders of the Legislative Assembly.

The SPEAKER: I direct that the petition be brought to the Table of the House.

(See petition No. 29.)

## ACTS AMENDMENT (CONSTITUTION AND ELECTORAL) BILL

### *Rescission of Second Reading Vote: Motion*

MR TONKIN (Morley-Swan—Leader of the House) [10.48 a.m.]: I move—

That the vote passed by this House on Wednesday, 14 September 1983 whereby the Second Reading of the Acts Amendment (Constitution and Electoral) Bill failed to gain the concurrence of an absolute majority

of the whole number of Members of the House thereby causing the Bill to be laid aside, be, and is hereby rescinded.

The Standing Orders with respect to this motion are absolutely clear.

Mr Blaikie: To whom?

Mr TONKIN: I will read Standing Order No. 179—

179. A resolution, or other vote of the House, may be read and rescinded; but no such resolution or other vote may be rescinded during the same Session, except with the concurrence of an absolute majority of the Whole House, and after seven days' notice.

The Government has given the seven days' notice and we believe we will have today an absolute majority of the whole House.

Mr Clarko: You hope.

Mr Laurance: Hope springs eternal.

Mr TONKIN: There is no question that what we intend to do is legal; it is expressly laid down in our Standing Orders. They are so explicit that we do not need to rely on precedent, to which reference has been made many times. We are governed by our Standing Orders, and if some doubt seems to be held about them, precedents can be useful, but they are not binding, especially those given in decisions by Speakers. Our precedents are not even as binding as precedents in a court of law.

I referred last night to a bad precedent. A former Speaker allowed a person who had seconded a motion to move an amendment to the motion. That was a bad practice, but the point is that precedent is not used when the Standing Orders are explicit. We usually follow the clearly established practice of the House of Commons. Our Standing Orders are determined by this Parliament; we have been given the power to make our Standing Orders.

I was amazed and concerned by the Deputy Leader of the Opposition's saying last week that we tore up the Standing Orders when we gave notice of our intention to move this motion. I heard him say that on the 6KY Sattler programme on either Thursday or Friday of last week. In public debate we must try to keep as close to the truth as we can.

Mr O'Connor: Your Deputy Premier didn't.

Mr TONKIN: We must get beyond this childish state of affairs. The member opposite says, like a child, "My brother did it, too". It is not relevant whether anybody else has done the same thing; the point is that it is wrong for the Leader

of the Opposition to say that we are tearing up the Standing Orders when we are, in fact, using the Standing Orders, which are explicit and quite clear to anyone who can read the Queen's English. It is quite untrue to say we are tearing up the Standing Orders when we are invoking them. It is quite clear that we are obeying the Standing Orders to the letter.

Mr Spriggs: "Evading" would be a better word.

Mr TONKIN: The last time this was done in this House was in 1958.

Mr Blaikie: You said you didn't need them.

Mr TONKIN: I know. I say we do not. Just contrast the actions of the Government of the day with those of the present Opposition. In 1958, the then Liberal member for Bunbury (Mr Roberts) moved a motion pursuant to Standing Order No. 179—he was in Opposition at the time and it did not have the numbers; it did not have any numbers, let alone an absolute majority—and the Minister handling the Bill at the time (John Tonkin) got up and said that although he did not necessarily agree with the Bill, it was the proper procedure. The Government supported the Opposition and the Bill was carried. Contrast that to the actions of the present Opposition.

Mr Thompson: What was the nature of the Bill?

Mr TONKIN: Contrast the actions of the Labor Government of the day with the whingeing and whining of the present Opposition.

Mr Thompson: Was that motion to rescind a Bill? Was it resolved in the negative or the positive?

Mr TONKIN: It does not matter.

Mr Thompson: Much.

Mr Blaikie: This is where you are not telling all the story.

Mr TONKIN: I will read the Standing Order again to demonstrate how it is relevant.

Mr Blaikie: Explain what happened in 1959.

Mr TONKIN: Standing Order No. 179 reads as follows—

A resolution, or other vote of the House, may be read and rescinded; but no such resolution or other vote may be rescinded during the same Session, except with the concurrence of an absolute majority of the Whole House, and after seven days' notice.<sup>3</sup>

It does not say that the vote must be in the negative or affirmative. It says "a resolution or other vote of the House". Obviously, votes can be in either the affirmative or the negative; it does not matter. A vote of the House may be rescinded.

The only reason I used that precedent was to indicate that on that occasion when the then Liberal member for Bunbury wanted to use that Standing Order, instead of the Labor Government of the day, which had the numbers, moaning, whingeing, and whining, it just said, "Look, we do not necessarily agree with the Bill, but it is a proper procedure of the House". It was passed with the support of the Government. That is a contrast to the actions of the present Opposition.

I do not blame the Opposition for opposing the Bill itself. It is opposed to it in principle. We have had, and will continue to have, that debate, but how can the Opposition say that we are not using the Standing Orders correctly? I cannot see how there could be any serious debate on that question. This House does have a right to rescind the vote; that is quite clear. We are moving quite properly.

Any organisation must be prepared to change its mind. It would be absurd for any organisation to go and jump over a cliff because it had been instructed to do so by a general meeting. For example, a football club which had set its annual wind-up or annual ball for a certain Friday night and later discovered that the grand final was on the following Saturday and it was playing in that grand final and most of its players would be wiped off on the Saturday morning if they attended the function, could change the date. Does the Opposition say the club is not permitted to change its mind? That is not very sensible. Any organisation has a right to change its mind.

Mr Hassell: Can we have a rerun of the grand final?

Mr Blaikie: Because Claremont lost the match last Saturday and Graham Moss was not in the team, you are saying you now want to call the match off and have a replay. That is really what you are saying.

Mr TONKIN: If that were in the rules of the league, it would be proper, but of course it is not in the rules of the league. The point of the matter is that if the National Football League makes a rule and wants to rescind it, it can do so under the Standing Orders and so can any football club or any tiny P & C. This was recognised by the people who drew up the Constitution years ago. They recognised that on some occasions the House might want to rescind a motion and therefore in the Standing Orders appears this ability of the House to rescind a motion. It is quite clear that this is proper.

Mr Blaikie: You are making a valiant effort to explain yourself, but nobody really believes what you are saying, not even your own members.

Mr Bertram: That is nonsense, and you know it.

Mr TONKIN: Mr Speaker, as you know, I am a polite person.

Mr Brian Burke: Hear, hear!

Mr TONKIN: I will not succumb to the temptation to say that the member for Vasse is either stupid or cannot read. He says I am not convincing them or my own members.

Mr Bertram: Rubbish!

Mr TONKIN: We do not need to convince anyone. If the member for Vasse had attended even primary school, he should be able to read this Standing Order which says that the House may rescind any vote, provided two conditions are met. One condition is that the rescission motion must be carried by an absolute majority, and the second condition is that notice of the rescission motion must have been given seven days' previously, and we have done that.

Mr Old: Aren't you pure!

Mr TONKIN: To say, as the Leader of the Opposition has said, that the Government has thrown out the rules of the Parliament when we in fact are invoking those rules, is of course absolute nonsense. However, apart from the legality of it all, which is clear and established, let us look at the question of what the Government is all about. We have always got to get back to the people. It is the people who matter. They put us here. The fact of the matter is that hundreds of thousands of Western Australians voted for the Australian Labor Party at the last election and wanted us to do certain things. This is the most central plank in our whole election platform and this is recognised even by the news media and by our opponents. If the case of a shut door, someone being caught in the toilet, or a member having gone out to his car to look in the boot is to affect the decision, and the wishes of the people at the February election should be ignored and set aside because of such incidents, it would be absolute nonsense. We accept that we should have had a constitutional majority last Wednesday. It was our fault that we did not have one. We are not trying to blame anyone else.

Mr Blaikie: You are trying to blame the Minister.

Mr TONKIN: The Standing Orders of the House, which were framed by conservatives, provide that, if the vote of the House is not in accordance with the wishes of the House, a proper and established procedure exists which can be invoked, and it is that procedure which we are invoking.

I entreat members to let us dispose of this pure formality of the invocation of Standing Orders so that we can get back to the substance of the debate which is the Acts Amendment (Constitution and Electoral) Bill, which has so far been debated to some extent in this House and which is intended to improve the electoral laws of this State.

MR O'CONNOR (Mt. Lawley—Leader of the Opposition) [11.01 a.m.]: I oppose the motion put forward by the Leader of the House. I believe it is a very sorry day for the Parliament. Labor Parties in Australia are endeavouring to tamper with the constitutional convention procedure; and now we see an example of the Standing Orders and debates in Parliament being tampered with. The Government has the wrong premise when it says that its action is totally legal and that there is no worry about it. In fact, the Government is disregarding the Standing Orders of this House and I will prove this as I continue.

The member for Morley-Swan said that the Bill is the central platform of its policy. The people out in the sticks were under the impression that employment was the central part of the ALP's platform; and the Government has done nothing about it.

Let us look at what occurred last year, and I refer to an article in *The West Australian* of 22 November. It referred to a vote that was taken in this House on 21 November last year. The article titled "Burke: Premier astounded me", read as follows—

The Government had a responsibility to accept the motion as representing the will of the Parliament and to do otherwise would reduce Parliament to a rubber stamp of executive decisions and take away the voice of the people.

Mr Tonkin: Of course, once the decision is made. You should have brought Parliament back and rescinded it.

Mr O'CONNOR: I listened to the Leader of the House in silence and did not interject and I hope he will give me the same courtesy.

If the Premier was dinkum, he would oppose this motion. This issue, which deals with an electoral Bill, is different and required a constitutional majority in this House. It did not get it, and it did not get it because the Government did not have the numbers. It did not get it because there was a slip; it did not get it because it was unable to muster the numbers required for that Bill. Whether the fault of this reflects on the Leader of the House, the Minister for Transport, or the Whip does not matter.

Several members interjected.

Mr Tonkin: I will take all the blame if it makes you feel better.

Mr O'CONNOR: The Bill was put before the House and it did not pass through. The Bill provided for a reduction of numbers in the Legislative Council; it required an absolute majority of this House; and it failed to get that absolute majority.

The Government now wants to recommit the Bill and I believe this would be improper. To indicate that a vote had not been taken on it would be, as members pointed out, to say that the grand final last Saturday was not won, would be re-run, and would be won this Saturday. The vote on the Bill was taken and decided in the negative.

Mr Tonkin: No it was not.

Mr O'CONNOR: It was. I suggest to the Leader of the House that he reads *Hansard* and reads the decision of the Speaker at that time.

Mr Tonkin: It was in the affirmative, but it was not a constitutional majority.

Mr O'CONNOR: The records in *Hansard* show that the vote was taken and the fact that it has now disappeared from the Notice Paper would indicate clearly it was defeated. Standing Orders Nos. 178 and 179 show the position. In this case, the Bill failed to obtain the necessary majority due to the absence of members, as I have already mentioned. Standing Order No. 178 reads as follows—

No question shall be proposed which is the same in substance as any question which, during the same Session, has been resolved in the affirmative or negative.

My opinion is that the vote was decided in the negative and there is no doubt in my mind about that. If it had not been decided in the negative, the Bill would have continued through the second reading stage and gone through this House.

I have conferred with at least six solicitors on this issue; and I believe that the recent motion put forward by the Leader of the House is improper and wrong in principle.

Mr Brian Burke: Do they say it is illegal?

Mr O'CONNOR: I will tell members as I proceed.

Mr Brian Burke: Will you table the information?

Several members interjected.

Mr O'CONNOR: The Standing Orders of the House permit a motion or vote to be read or rescinded, but in this there is a restriction. The restriction is that no question shall be proposed

which is the same in substance as any question which during the same session has been resolved in the affirmative or negative.

#### *Point of Order*

Mr BARNETT: I ask that the member be requested to table, at the conclusion of his speech, the document from which he is reading.

Mr O'CONNOR: Mr Speaker, I will be happy to do that, but I am quoting from my own typed notes. They are personal notes and I seek your guidance, Mr Speaker, as to whether I have to table them. I would be happy for you, Mr Speaker, to look at them later and decide.

The SPEAKER: Under Standing Orders it states specifically that once a member seeks another member to table documents from which he is quoting, he should be directed to table them.

#### *Debate (on motion) Resumed*

Mr O'CONNOR: I repeat again that no question shall be proposed which is the same in substance as any question which during the same session has been resolved in the affirmative or negative.

Therefore, rescission of the existing resolution or other vote of the House in respect of the Bill in question would not clear the way for its reintroduction.

Mr Pearce: Whom are you quoting?

Mr O'CONNOR: I am quoting from my personal notes.

Mr Pearce: You are making it up.

Mr O'CONNOR: I am not making it up and I will not take any notice of any more interjections in view of the limited time I have available.

It is proposed to treat the vote as a "slip" occasioned by the inadvertent absence of the Minister for Transport. In my view, this is not a proper approach because it ignores the fact that the House has definitely decided the question. That decision is not a mistake; it is a substantive decision that cannot be treated as a mistake. I say that sincerely.

I refer to the reason for the suspension of Standing Orders. It is very clear that the suspension of Standing Orders is to enable an urgent matter to be debated in this House. Standing Orders may also be suspended to facilitate progress of business through this House; to extend time for speeches; to extend time for the consideration of general business or grievances; to call on a particular item or business forthwith; and to move a motion without notice. The motion itself requires

notice or leave. Standing Order No. 419 is very clear and reads as follows—

In cases of urgent necessity, any Standing Order or Orders of the House may be suspended on motion duly made without notice provided that such motion has the concurrence of an absolute majority of the whole Members of the Assembly.

None of the precedents listed in the Standing Orders covers this case and I am of the view that suspension means what it says. It suspends the operation of the Standing Orders, but when the matter for which the suspension has occurred has been debated, we immediately return to operation of Standing Orders.

If this be the case, and I believe it is, as soon as the debate is finished Standing Order No. 178 returns to operation and remains in force. The motion does not purport to abolish the Standing Order or to rescind it, but merely to suspend it on a temporary basis. I would add that nowhere in Erskine May's *Parliamentary Practice*, in Odgers *Australian Senate Practice*, or in the practice of the House of Representatives is there a suggestion that what I have stated in respect of this matter is not correct.

Mr Pearce: Do you know what you are talking about?

Mr O'CONNOR: I certainly do, but I do not know that the Minister does.

The power to suspend Standing Orders is not a power to abrogate or abolish. This is what the Government is attempting to do—to abrogate or abolish a decision made in this House. The Government is not able to do that; I believe I am correct in saying that.

Mr Brian Burke: We are not trying to suspend any Standing Order.

Mr O'CONNOR: The Government already has moved for the suspension of Standing Order No. 179, has it not?

Mr Brian Burke: No.

Mr Barnett: Haven't you read the Standing Order?

#### *Point of Order*

Mr TONKIN: It is most important we debate the motion before the Chair which is to rescind a vote, not to suspend a Standing Order. It is done pursuant to Standing Order No. 179. The Leader of the Opposition keeps speaking about suspension of Standing Orders; we have not moved to suspend Standing Orders.

Mr O'CONNOR: I hope I can get additional time.

The SPEAKER: Until now, the Leader of the Opposition has been making his speech in accordance with Standing Orders. I ask him to proceed.

#### *Debate (on motion) Resumed*

Mr O'CONNOR: There are a number of examples in connection with this issue of the limits of rescission in Odgers *Australian Senate Practice* pages 236-237. In the journal of proceedings for 1969, at page 606, a motion was adopted that Standing Orders be suspended for the purposes of debating a report from a committee of the whole and the rescission of the third reading of the Air Navigation (Charges) Bill 1969 in order to permit it to be recommitted to the Committee as a whole for further consideration. That is a good example of the operation of a rescission of a Standing Order similar to this Legislative Assembly's Standing Order No. 179.

Mr Pearce: Standing Order No. 178.

Mr O'CONNOR: I said Standing Order No. 179.

The object is to enable the rescission of a motion so a matter can be considered elsewhere. In August 1971, for instance, the Senate was of the view that an ordinance in respect of the law of evidence in the ACT should be disallowed. This had the effect of ceasing the operations of whatever law was in force, leaving presumably the common law only. It was proposed thereafter that the motion of disallowance be rescinded and a new ordinance be drawn up, and the provisions of the ordinance be replaced by substantive legislation.

The important point is there was no suggestion that the same question — the same decision — could be decided again. The main difficulty in connection with this Government's move is that it seeks to negate a precise Standing Order.

Mr Tonkin: It does not.

Mr O'CONNOR: It seeks to negate a precise Standing Order. The suspension of Standing Orders does not prevent debate, but this does not enable the question to be put again in my view, and I say "in my view" and add that it is also the view of a number of people who have had a look at this particular matter.

The purpose of the suspension of Standing Orders is to remove time limits and the like, but not to negate completely, except for the immediate and temporary purposes of the existing Standing Order. I have had views put to me in connection with this matter and it is clear the Government is acting improperly in adopting the procedure it has. It is seeking permanently to negate a Standing Order and it is not able to do that—to indi-

cate that a decision made in the negative no longer can be counted despite the fact that it is recorded in *Hansard*, and the Bill now has been taken off the Notice Paper.

I believe Standing Orders forbid the same question being put in the same session and this is supported by views I have received from a number of people. The provision for rescission of the previous vote does not overcome this. The provision for suspension of Standing Orders means what it says; it suspends the Standing Orders and does not abrogate them.

I would like to read from Erskine May, page 384, which refers to the restriction on the powers of rescission. It states—

The power of rescission has only been exercised in the case of a resolution resulting from a substantive motion, and even in such a case sparingly (*l*).

I come now to the interesting part referring to rescission. It states—

It cannot be exercised merely to override a vote of the House, such as a negative vote.

I think that is very clear; I will read it again—

The power of rescission has only been exercised in the case of a resolution resulting from a substantive motion, and even in such a case sparingly (*l*). It cannot be exercised merely to override a vote of the House, such as a negative vote.

A negative vote has been recorded; the matter has been decided that way; and Erskine May clearly indicates what is the position, yet the Government is trying to override the rules of Parliament.

Mr Tonkin: We are not.

Mr O'CONNOR: The Government is trying to throw aside Standing Orders and to make "Burke's law" right. We strongly oppose that. Erskine May goes on—

To do so indirectly, by proposing the negatived question a second time for the decision of the House, would be, as stated earlier, contrary to the established practice of Parliament.

This Government does not care about the practice of Parliament or the laws it wants to override. The position is clear in Erskine May and it is supported by views I have had from the legal profession.

Mr Tonkin: Where does Erskine May say we are not allowed to obey our own Standing Orders?

Mr O'CONNOR: I have referred to the relevant section of Erskine May; the Minister would not expect me to read the lot to the House.

I see the Minister is concerned because what he is trying to do is not only immoral, but also improper. It has been brought about by the improper practice of the Government in this House. The fact that it cannot muster its forces is the Government's fault. It should stand by the Standing Orders of this House and legal and proper methods, and not get into the immoral practices it is trying to indulge in, and attempt illegally to overcome problems in Parliament.

I know the Minister is sincere in his views on this Bill, but that does not give him the right to override Standing Orders or parliamentary practice. It does not give him the right to do what he is attempting to do today. Once we start abusing the Standing Orders of this House and the practice of the House, it will fall into disrepute. The Government should look at this because it is wrong in law, in principle, and in morals, as indicated by the Premier himself in the article from which I quoted and dated November last year. I hope members will take into account this issue and will in fact throw this particular motion out. If we do not, it will be a very sorry day for Parliament, for Western Australia, and for any rules we have in this House.

#### *Points of Order*

Mr HASSELL: Mr Speaker—

Mr BARNETT: I ask the Leader of the Opposition to table the papers from which he was reading.

Mr O'CONNOR: The papers I quoted from?

Mr Tonkin: You just tore off the back page.

The SPEAKER: The pages the Leader of the Opposition has quoted from are those which have to be tabled.

Mr O'CONNOR: I do not have to table any papers I did not quote from?

The SPEAKER: The practice in the past has been for the person speaking to table the list of papers in his hand. That is what I am asking the Leader of the Opposition to table.

Mr CLARKO: On a point of order. I listened with interest to what you said about the tabling of papers, but it has been my understanding and I thought it was clear practice in the Westminster system that personal papers or notes were not required to be tabled. If one has an extract from a document and one has written all sorts of marginal notes on it, it is clear practice that a member is not required to table that paper.

I ask you, Sir, to make a judgment, because that is what it boils down to. If I stand with a page out of Erskine May, which has no marks on it, and I quote from it, I assume that under the Westminster practice if you asked for it, it must be tabled. However, if I have written marginal notes on it—written down the losses I had last Saturday on the football, and things like that—

Mr Tonkin: Where did you get this from?

Mr CLARKO:—it is a standard practice of the Parliament that they would be treated as personal notes and I would not be required to table them.

Mr Tonkin: What is your problem? What are you scared about?

Mr CLARKO: I ask for your ruling, Sir. As the Opposition understands it, that is the practice, not only in this Parliament, but also in all Parliaments under our system.

Mr BRIAN BURKE: My clear understanding is that it has always been the practice that the papers which have been held in a member's hands and from which he has quoted from time to time, when asked to be tabled, are invariably required to be tabled.

Mr Clarko: I have said the opposite. That is wrong.

Mr BRIAN BURKE: In fact, the Leader of the Opposition said he did not mind because they were his notes.

Mr Clarko: That is another question.

Mr BRIAN BURKE: If we depart from the practice on this occasion—I personally have been obliged to comply with that practice—by allowing the Leader of the Opposition not to table papers which he said he had no objection to tabling, we will do a disservice to the House.

I point out, too, that the Leader of the Opposition has detached two pages from the number of pages that he had stapled together. If he is required to table the papers, he should table them all.

Mr Clarko: If he had used them. That is absolute nonsense.

Mr O'CONNOR: I have the papers here. When I said I had no objections to tabling them, I do not have any serious objections to tabling them. The papers I have been asked to table are the ones from which I quoted. We had a precedent either last year or the year before when the present Deputy Premier quoted from papers; and when he was asked to table the papers, he said he had not quoted from them all, and he extracted the ones from which he quoted and retained the rest. A precedent was set at that time.

Mr Tonkin: You said you did not mind tabling them.

Mr O'CONNOR: Does the Leader of the House mind letting me finish instead of gabbling all the time?

If I am required to table the papers, that would mean that if any member had notes of his speech, or anything else, while he was speaking, he could be required to table everything, although he had not referred to each and every one of them. When a member is speaking, he may pick up papers that do not even refer to the subject, but be required to table them because he has had them in his hand. That is improper and wrong. If required, a member must place on the Table the papers from which he quoted.

Mr Gordon Hill: What have you got to hide? Why are you so sensitive?

Mr O'CONNOR: The member for Helena ought to be sensitive. He is the one who messed it up for the Government.

Mr Gordon Hill: What have you got to hide?

Mr O'CONNOR: I have got nothing to hide.

All I ask is that I be given the same consideration as that given to the request of the present Deputy Premier some time ago.

Mr Tonkin: What are you frightened of?

Mr O'Connor: Nothing.

Mr Tonkin: Well, table them.

Mr Laurance: You must realise that the sands of time are running out for you. Who will be the new Leader of the House?

Mr Old: And the new Whip.

Mr Pearce: Who will be the new Leader of the Opposition? That is the question.

The SPEAKER: I notice that in *Hansard* of Tuesday, 12 August 1974, a previous Speaker set a precedent by leaving the Chair to consult with the members concerned because other precedents indicate that where papers of a private nature are concerned, they should not be tabled. In order that we do not go astray on this occasion, I shall leave the Chair to deal with the matter.

Opposition members: Good idea.

*Sitting suspended from 11.25 a.m. to 12.03 p.m.*

### *Speaker's Ruling*

The SPEAKER: I have been asked to rule on several points of order raised in connection with the tabling of documents, papers, etc., referred to by the Leader of the Opposition.

I have to report that no Standing Order covers this matter. Therefore, we must rely on the prac-

tice of the House. In the past, it has been the practice of the House for a member to ask for a document from which a member making a speech has quoted to be tabled.

A great deal hinges on the definition of a "document". In the past, particularly in recent years, this practice has been broken down to the extent that the member making the speech and quoting from a document or papers has had to table only the paper or papers from which he actually quoted.

It has been established that papers of a private or confidential nature within the document need not be tabled.

Looking again at May's *Parliamentary Practice*, we find a distinction is made in respect of the tabling of documents by a Minister of the Crown and by a member who is not of the Government.

Having listened to the parties behind the Chair, on this occasion I have decided to rule that the Leader of the Opposition is required to table those papers from which he quoted. His papers were his speech notes and he did not use some parts of his speech notes; therefore, to that extent, they need not be tabled.

I remind members that, as we do not have a Standing Order on this matter, the position should be clarified by the Standing Orders Committee and perhaps a recommendation may be made in that regard.

Mr BRIAN BURKE: There is one simple reason that the Leader of the Opposition does not want to table all those papers and documents from which he—

The SPEAKER: Order! I want the Leader of the Opposition to table the papers, as requested by the member for Rockingham.

Mr BRIAN BURKE: Mr Speaker—

#### *Points of Order*

Mr HASSELL: On the same point of order, Mr Speaker—

The SPEAKER: The Premier was not speaking on a point of order.

Mr HASSELL: That is my point of order. I previously had the call.

When the member for Rockingham stood up to speak, he was making a point of order on the tabling of papers; but I previously had the call.

Mr BRIAN BURKE: On the same point of order, Sir, my understanding is no-one had the call, but I am perfectly happy if the Deputy Leader of the Opposition wants to speak.

The SPEAKER: Order! The Deputy Leader of the Opposition.

#### *Debate (on motion) Resumed*

MR HASSELL (Cottesloe—Deputy Leader of the Opposition) [12.07 p.m.]: The Government has proposed in this motion that a vote of the House taken on Wednesday, 14 September, should be rescinded. In making that proposal, it purports to act under Standing Order No. 179.

The position of the Opposition in relation to this matter can be stated very clearly and simply. Our position is, firstly, that the action the Government seeks to take is neither proper nor appropriate, and it is without precedent for a vote on a constitutional Bill to be rescinded. Therefore, the Opposition maintains the vote on this constitutional Bill should not be rescinded.

The Leader of the Opposition has pointed to the arguments on the broad issue of whether the Government should or should not rescind the vote.

Secondly, in the view of the Opposition, it is not, within the ambit of the Standing Order on which the Government relies, lawful for this vote to be rescinded. One assumes that, when the Government or if the Government proceeds by a vote to rescind the motion, it will then seek to re-instate the Acts Amendment (Constitution and Electoral) Bill to the Notice Paper, and to debate that Bill in the Committee and third reading stages.

Two separate questions are involved. Rescission of the vote is one question and, as I have said, the Opposition maintains both that the Government should not rescind the vote and that it is not lawful for it to do so. However, even if the Government does in fact, by vote—clearly it has the numbers—purport to rescind this resolution, it does not follow as a matter of law that the Acts Amendment (Constitution and Electoral) Bill will thereby be restored to the Notice Paper.

The Opposition's contention in that case is that, notwithstanding that the vote may be rescinded with your concurrence, Mr Speaker, Standing Order No. 178 will still apply to prohibit the restoration of the Acts Amendment (Constitution and Electoral) Bill to the Notice Paper.

The Government is not attempting to suspend Standing Orders to allow the rescission motion, if carried, to be followed by the restoration of the Bill to the Notice Paper; therefore Standing Order No. 178 continues to apply. That Standing Order is quite clear in its terms and it is not expressed to be subject to any reservation in terms of the application of Standing Order No. 179. Standing Order No. 178 says quite clearly—



No question shall be proposed which is the same in substance as any question which, during the same Session, has been resolved in the affirmative or negative.<sup>2</sup>

The Leader of the House in his remarks made considerable play of the Government's reliance on Standing Order No. 179 permitting the rescission of the vote taken in this House last Wednesday. If the Leader of the House is consistent, and if the Government is consistent in its strict reliance on the terms of the Standing Orders, it must accept that Standing Order No. 178 then comes into operation, following the rescission being adopted, and prohibits further debate on the Bill.

The Leader of the House said in his remarks that a simple technicality should not be allowed to have his legislation, supported by the public through the result of the election in February, put aside. The Leader of the House is wrong on two counts. The public did not support this legislation at the election in February. Clearly the principal issues of the election were employment, interest rates, and the state of the economy. In the whole of the election debate, in the whole of the lead-up to the election, there was no debate on the issues raised by the Bill which the Government now seeks to restore to the Notice Paper. But even if the Leader of the House were right in that respect, he would be wrong in saying that the Bill would be put aside on a technicality if it were not allowed to proceed today, because the Bill could be reintroduced in the next session.

I raise a very clear warning to the Government about what it is doing: The Standing Orders of this House are part of the law of the land. If the Standing Orders are not complied with, the law made in breach of the Standing Orders may well be invalid. So, even though the Government may use its numbers today to overrule the substantive and substantial objections raised by the Opposition, and even if the Opposition fails to receive your support, Mr Speaker, in ruling this motion out of order, as we believe you should so rule, it may well be that the Acts Amendment (Constitution and Electoral) Bill will not become a valid law of the land and will be open to challenge in the courts.

Mr Speaker, it is well known that courts will not purport to intervene in the proceedings of Parliament. It will be understood that we could not have gone to the Supreme Court during the last week with any chance of succeeding in obtaining an injunction against the Government in its attempt to bring this Bill back to the Notice Paper and to have it debated, notwithstanding the laws of legislating in this Parliament. This is so simply because the courts have long recognised the

impracticality of attempting to extend their writ of authority to the proceedings of Parliament. But if any other body but Parliament had dealt with this matter—

Mr Pearce: What, such as the CWA? How silly.

Mr HASSELL: If the Minister cannot understand what I am saying, I am amazed. If any other body but this Parliament had been dealing with a matter under the law—

Mr Hodge: Under our Standing Orders?

Mr HASSELL: Which are part of the law of the land.

Mr Hodge: But no other body works under our Standing Orders.

Mr HASSELL: For goodness sake! Let me try to ignore the Minister, although I do not believe he is serious.

Mr Bertram: We are not sure that you are serious.

Mr Brian Burke: We are not sure that you are confident of your case.

Mr HASSELL: I am confident of my case.

Mr Brian Burke: Parliament is the master of its own destiny.

Mr HASSELL: That is right, but if the Parliament does not comply with the law, it cannot make a law.

Opposition members: Hear, hear!

Mr HASSELL: That is the point I am making. If the Parliament purported to alter the law of this land without going through a vote of approval in both Houses, the result would not be a law.

Mr Tonkin: That is why we are doing it. We agree.

Mr HASSELL: If the Parliament ignores the laws relating to its own procedures, it may well be that the Act the Government has set its heart on will not become law, even though it may have the purported authority of a vote of the Parliament.

Mr Bertram: Saying "it may well be" is saying nothing.

Mr HASSELL: All law in this State depends on the authority of precedent in the case of common law or on the authority of a Statute of Parliament in the case of Statute law, and that includes subordinate law. The Standing Orders of this House are made under the authority of section 34 of the Constitution Act of the State of Western Australia. The section is quite long so I will not read all of it, but it says in effect the Legislative Assembly, in its first session, and from time to time afterwards as there shall be occasion,

shall adopt Standing Rules and Orders for the regulation and orderly conduct of its proceedings and the despatch of business, and for the manner in which the Assembly shall be presided over in the absence of the Speaker—and this next piece is the critical part—and for the passing, intituling, and numbering of Bills, and for the presentation of same to the Governor for Her Majesty's assent, and all such Rules and Orders shall by the said Assembly respectively be laid before the Governor, and being by him approved shall become binding and of force.

It is not open to this Parliament to ignore its Standing Orders without the authority of a change made in accordance with section 34 of the Constitution, or unless the Parliament, in accordance with the procedures laid down by law, amends the Constitution. We have here a motion by the Government seeking to rescind a vote. The motion is under Standing Order No. 179, which provides—

179. A resolution, or other vote of the House, may be read and rescinded; but no such resolution or other vote may be rescinded during the same Session, except with the concurrence of an absolute majority of the Whole House, and after seven days' notice.

This Standing Order was never intended to apply, and in our contention does not apply to a vote negating a Bill. For a start, the vote has not been read and the Standing Order has not been complied with to that extent. In any event, it is clear that the purpose of the Standing Order is to deal with resolutions and procedural matters of the House and has nothing to do with the process of making the laws of the land.

Mr Tonkin: Where does it say that it is only related to procedural matters?

Mr HASSELL: Not everything which is part of the law is spelt out in precise terms in that way.

Mr Tonkin: You made it up in that case.

Mr HASSELL: I am putting forward only what I believe to be a correct interpretation.

Mr Hodge: Do you have a legal opinion to back you up?

Mr HASSELL: If that interpretation is wrong, so be it. If it is right, the Government will have a real problem because it will have to try to fix its own mistake of purporting to create a law but not succeeding in doing so. Even if the Government succeeds in rescinding the vote, it still has to jump the hurdle of Standing Order No. 178, which is not to be suspended, and which applies to prevent

the Acts Amendment (Constitution and Electoral) Bill being restored to the Notice Paper.

What happened in this House in relation to this Bill was a deliberate process of law-making. It went this way, as I will place on the record so that what the Government has repeatedly said was simply a mistake is not made the truth by repetition: The Bill was introduced into the House several weeks ago with a lengthy speech from the Minister. It was then adjourned in accordance with the customary procedures until it was brought on last Tuesday afternoon. It was then debated for several hours, and that debate concluded at approximately 1.00 a.m. on Wednesday, 14 September. The debate concluded not because it was finished, but because the House was adjourned by the Government—not by the Opposition. At the following sitting, which was on the same day, but later in the day—in the afternoon of Wednesday, 14 September—the appropriate Order of the Day was called again and there were no more speakers other than the Minister in reply, and the Minister gave his speech in reply.

Mr Tonkin: A very good one too, I thought.

Mr HASSELL: Mr Speaker, you then quite deliberately made a ruling. It was not made merely in passing; it was a ruling you had prepared in writing, and read to the House. There was plenty of time for the House to be aware of your ruling. You explained the necessity for a constitutional majority, and, at the end of your making that ruling, you called the vote. Because there were dissenting voices and I called for a division, a division took place. The Government did not fail to have just one of its members turn up, it failed to have two of them turn up. The Government had two opportunities to have a constitutional majority, and it failed on both counts. It failed to muster its own members in support of the Bill. The Government has no right morally or as a matter of law to bring this matter before the House again and attempt to have the Parliament debate the Bill again. I oppose the motion.

**MR BRIAN BURKE** (Balga—Premier) [12.27 p.m.]: What has upset the Opposition is that the Government has adopted a perfectly proper approach to what was an embarrassing position in which it found itself following its failure to garner a constitutional majority in regard to the second reading of the electoral reform Bill. No-one denies it was embarrassing or that it is something the Government could well have done without. There is no problem about that, and I suppose we could argue to and fro all day about bad management and about our inability to muster the numbers. That would not get us very far, but the Opposition can do that if it wants to.

There were a number of options the Government faced when seeking to have this matter brought back before the Parliament. I do not want to weary the Parliament by listing them all, and most members will know the details of each. However, one of the legitimate means provided by Standing Orders for this matter to be brought back before this Chamber is Standing Order No. 179, and that is the method the Government adopted. There is nothing wrong with that; it is perfectly proper, and as far as the Government is concerned, it should not cause a debate which stretches beyond the acceptance by the Opposition of the legitimacy of the path chosen by the Government.

That legitimacy does not change by a typical performance of superiority by the Leader of the Opposition; it does not change by the refusal of the Leader of the Opposition to table papers; and it does not change by the offended indignation of the Deputy Leader of the Opposition. The Standing Orders provide for the rescission of a vote, and that is what the Government is seeking to do.

There are one or two matters I want to conclude on briefly. The first was the Leader of the Opposition's maintenance that in some way this was a similar situation to that which prevailed in the dying hours of the last Parliament on a motion moved by the member for Stirling. On that occasion the then Government forgot to vote. There is no parallel; I know it was late in the year and late in the life of the last Government.

When the Speaker put the question the Leader of the Opposition as he is now failed to vote. The motion was carried because no-one on the Government side voted against it. When Government members sought to call a division the then Speaker, the now member for Kalamunda, said there could be no division because no-one voted against the proposition, and that is what happened. I said afterwards that Parliament had expressed its will, and the Premier as he was then, decided not to implement the decision of Parliament. That was the truth. It is not correct to say that that was a case in which there was any rescission of the motion or of the vote taken on the motion.

Mr Old: No parallel.

Mr O'Connor: No parallel at all.

Mr BRIAN BURKE: There is no parallel at all because we are seeking to rescind a vote, not to let stand a vote and then to ignore that motion as it stands.

Mr Tonkin: That is what you did. You just ignored it.

Mr BRIAN BURKE: That is the difference. The Leader of the Opposition was sitting in the chair I now occupy when, in the dying hours of the last Parliament, a motion was put and he failed to vote.

Mr O'Connor: That is not true.

Mr Clarko: He was not in the chair. He was not sitting there.

Mr O'Connor: Do not mislead the House again. You are inclined to do this. Every day you do this sort of thing.

Mr Clarko: That is false.

The SPEAKER: Order!

Mr BRIAN BURKE: As I recollect it, the Leader of the Opposition as he is now and the Premier as he was then, failed to vote. My recollection is that he was in this chair.

Mr Clarko: False. No, he was near the Whip's seat. That is where he was.

Several members interjected.

Mr Clarko: Excuse me. You said he was in his seat and he positively was not. That is mendacious.

Mr Tonkin: He was in the Chamber.

The SPEAKER: Order!

Mr Clarko: You said he was. Apologise.

Mr O'Connor: I will rectify the position and make it clear to you. At the time I was with the Speaker discussing the matter. Thanks to various members of this House—just a moment; you do not want to hear the whole story?

Mr BRIAN BURKE: I do not mind hearing it. All I am trying to point out to the Parliament is that when the Leader of the Opposition accuses others of having faulty memories, no-one has a mortgage on the perfection of memory. We now see the plot thicken with members of the Opposition claiming that the Leader of the Opposition was in different places at the same time.

Mr Clarko: You have just said he was in his seat. He wasn't though.

Mr BRIAN BURKE: The member said he was in the Whip's chair and the Leader of the Opposition said he was near the Speaker's chair.

Mr Clarko: I am saying what you said is false.

Mr Tonkin: The point is that he was in the Chamber.

Mr O'Connor: It is a great pity you are making these accusations.

Mr BRIAN BURKE: At least we have established that the Leader of the Opposition was in the Chamber at the time the vote was taken and

when none of the Government members voted against the motion.

Mr Clarko: That is an admission you are making.

Mr BRIAN BURKE: Is it true or not?

Mr O'Connor: It is an admission that you are trying to mislead the House again.

Mr BRIAN BURKE: Is it right or not?

Mr Clarko: What is right is that you said he was in his seat when he was not.

Mr BRIAN BURKE: All Government members failed to vote against the motion.

Mr O'Connor: I raced back to my seat to call and the Speaker would not accept my call because he said it was too late.

Mr Pearce: You didn't vote, that's why.

Mr BRIAN BURKE: All the things the Leader of the Opposition now says simply go to the point I am making; that is, that there is no parallel situation. The Leader of the Opposition says he raced back to his Chair and voted.

Mr O'Connor: I didn't say that. Don't mislead again. You are terrible at this.

Mr Old: Tell the truth.

Mr O'Connor: You are terrible at misleading the House.

Mr Clarko: You are a stranger to the truth. It is your most precious possession and you use it sparingly.

The SPEAKER: Order!

Mr BRIAN BURKE: I am having a great deal of difficulty in trying to extract what the Leader of the Opposition did on this occasion.

Mr Old: You are having a great deal of difficulty all right.

Mr BRIAN BURKE: At least we have established that the Leader of the Opposition raced back to his seat where he did something.

Mr Clarko: No, that is what you are doing now. Being a cheap smart aleck on a constitutional Bill is not clever.

Mr BRIAN BURKE: The then Speaker refused to accept the proposition he put forward.

Mr O'Connor: Correct. I did not go back there and vote.

Mr BRIAN BURKE: Surely the Leader of the Opposition can see the difference in the position. It proceeded unrescinded. What we are trying to do today—

Mr Tonkin: You should have rescinded the motion.

Mr BRIAN BURKE: Had the Leader of the Opposition rescinded the vote on that motion and recommitted it, I presume his will, bolstered by the numbers, would have prevailed.

Mr Old: We didn't try to do that.

Mr Thompson: You would not have supported it.

Mr BRIAN BURKE: Of course I would not have supported the motion, because I opposed the motion at the time it was put.

Mr Old: We are talking about a rescission motion.

Mr Thompson: In those circumstances, of course you would not have supported it.

Mr BRIAN BURKE: I would not have supported the original proposition's resubmission as far as the rescission motion was concerned.

Mr Thompson: You don't know what you support.

Mr BRIAN BURKE: I suggest, politics being what it is—

Mr Old: Mr truthful!

Mr BRIAN BURKE:—I would have been cast into the role of opposing the rescission motion, that's all.

Mr Old: The great white knight!

Mr Thompson: You would have just done it because you were in Opposition. You would not have done it on any point of principle?

Mr BRIAN BURKE: That is right, for the same reason members opposite are doing it today—because they are in Opposition.

Opposition members interjected.

Mr Thompson: You make an absolute mockery of this place.

Mr BRIAN BURKE: That is only a minor matter, but it demonstrates very clearly that no parallel can be drawn in the two situations. One or two other things the Leader of the Opposition said, consistent with his party's role, do not make much sense at all. He continually spoke about the Government's attempting to suspend Standing Orders and yet, inherent in nothing we are seeking to do today is there any suggestion of suspension of Standing Orders. Who can honestly say that the Government is attempting to suspend one or other of the two Standing Orders? Yet the Leader of the Opposition stood in his place for five minutes and said it was immoral, improper, and unparliamentary to try to suspend Standing Orders. It may be news to him, but we are not trying to do that.

Mr Trethowan: Do you say you do not intend at any time to suspend Standing Orders in relation to this matter?

Mr BRIAN BURKE: No. We are not today seeking to suspend Standing Orders. The Leader of the Opposition said that our attempt to suspend Standing Orders today was immoral, improper, an abuse of the Standing Orders, and illegal. That is the point I am trying to make. The Leader of the Opposition also said that as far as this legislation is concerned, it was tampering with Standing Orders and it was disregarding them. The Standing Order is quite clear. It says—

A resolution, or other vote of the House, may be read and rescinded; but no such resolution or other vote may be rescinded during the same Session, except with the concurrence of an absolute majority of the Whole House, and after seven days' notice<sup>3</sup>

It could not be much clearer than that, surely. As far as I can see, two of the requirements of that Standing Order have been complied with and I fail to see the points made by the Leader of the Opposition and the Deputy Leader of the Opposition. I suppose in their chagrin at our failure to suspend Standing Orders the day after the failure of the legislation to receive a constitutional majority, or our decision to pursue the matter—

Mr Hassell: Why don't you simply bring the Bill back next session?

Mr BRIAN BURKE: Because we choose not to do so.

Mr Hassell: Oh, yes, because you choose not to do so.

Mr BRIAN BURKE: We happen to be the Government, in case the Deputy Leader of the Opposition is not aware of that fact.

Mr Hassell: Goodness, how often are we going to hear all this? Why don't you try to be reasonable for a moment?

Mr I. F. Taylor: Mr reasonable himself!

Mr BRIAN BURKE: I do try to be reasonable.

Mr Clarko: You failed.

Mr Hassell: No, you try to appear to be reasonable.

Mr Clarko: Correct.

Mr Hassell: That is what you try to do. Just like everything else you do, this is a big charade. It is a big front.

Mr BRIAN BURKE: The Deputy Leader of the Opposition persists in attempting to contradict Standing Orders and to draw strength from them for his argument.

Mr Hassell: If you are using Standing Order No. 179, what happens to No. 178? Can you explain that to the House? How is it that No. 178 does not apply?

Mr BRIAN BURKE: Standing Order No. 178 involves a situation in which there has been rejected, presumably, or amended, presumably, a certain proposition. The rescission of this vote simply restores the status quo as it existed.

Mr Hassell: No. Prior to the vote being taken, it does not. That is where you are completely wrong. It does not restore it. It rescinds it, but does not restore it.

Mr BRIAN BURKE: I can understand the disappointment of the Opposition and the dejection of the Deputy Leader of the Opposition, but the truth is that this motion by the Government is proper and is in accordance with Standing Orders. This is the legitimate manner in which to pursue the stated objective of the Government.

The last point I want to make is this: We have heard the Leader of the Opposition refer to legal opinions which he says bolster his statements about illegality, immorality, and impropriety, yet the Leader of the Opposition has not seen fit to table, although he was asked to do so during his speech, the legal opinions that he says he has. Now why would the Leader of the Opposition not table a legal opinion that says the Government's action is illegal? Why would not the Leader of the Opposition table that opinion?

Several members interjected.

Mr BRIAN BURKE: I will tell members why he would not table the document from which he quoted. It is because the last two pages contain a legal opinion which says that the Government is the master of its own destiny and Parliament is the master of its own destiny and can proceed with Standing Order No. 179.

Mr Hassell: Goodness gracious me!

Several members interjected.

Mr BRIAN BURKE: I challenge the Opposition to stop saying, "Goodness gracious me!" and table the opinion.

Several members interjected.

Mr BRIAN BURKE: If the Opposition cannot table an opinion, we must presume that it does not have an opinion or it does have an opinion of the type we are expressing in this place.

Mr Hassell: Have you got an opinion?

Mr BRIAN BURKE: Now that is an unfortunate conclusion that I must draw from the reluctance of the Opposition to table the document

from which the Leader of the Opposition was so keen to comment.

Mr Hassell: Do you have an opinion?

Mr BRIAN BURKE: I have never said that the Government has an opinion.

Mr Hassell: It was reported.

Mr BRIAN BURKE: It may have been reported, but I am not aware that that is or was the case. I do not have an opinion I can table. I have not quoted from an opinion or said that I have an opinion, but the Leader of the Opposition has. If he has an opinion that supports and bolsters his opinion, let him table it. The reason he refused to table the document is quite simple and that is that he has an opinion and that opinion supports the legitimate and proper pursuit of Standing Order No. 179 to have this matter reconsidered by the Parliament.

MR THOMPSON (Kalamunda) [12.42 p.m.]: It is rather appropriate for the Australian people to be aware of the current challenge for the America's Cup because there is a very close parallel between what is happening and has been happening in Newport over the last few months and what is happening here.

Several members interjected.

Mr Pearce: I made that parallel myself. The Leader of the Opposition must feel like *Liberty*—started in front and finishes catching up.

Mr THOMPSON: The Government misjudges the Opposition when it chooses to tamper with the Standing Orders of this House, because the Western Australian people will know that just as the New York Yacht Club is tampering with the rules to preserve the prestigious cup, so, too, is this Government tampering with the rules to do something to favour it politically.

When the Government was faced with this embarrassment, it obviously considered a number of alternatives and it chose this one as a means of resolving its problem. The Government had to find something that was very quick because the ALP has committed substantial sums of money for a campaign that is to run parallel to the Bill if it were defeated in the Legislative Council. It would find then that the money that is being expended—the Leader of the Opposition told how it scraped the bottom of the barrel to fund that campaign—

Mr Wilson: How would the Leader of the Opposition know that?

Mr THOMPSON: I am sorry, but I cannot get used to the Premier in his new role. The Premier said that the Government was desirous of getting the measure back before the Parliament and that

it resorted to the means available. The Government did not want to do this and be embarrassed by tampering with the rules of Parliament, but it is forced to do this because of the alternatives that present themselves.

One of the alternatives facing the Government was to bring the Bill before the next session of Parliament; and all decent Governments do this. Another alternative would be to prorogue Parliament today and reconvene it tomorrow. This would have brought a lot of attention, but it would have been a far more sensible action than the one the Government has adopted.

Another alternative is that because it has the majority in this House, it could move for the suspension of Standing Orders, admit there was a slip, and bring the Bill back before the House. However, what the Government did was to resort to Standing Order No. 179. It is not that Standing Order No. 179 has suddenly been discovered, because there have been a number of occasions when Governments have been faced with a situation where they have lost a Bill. I can recall one occasion when Sir Charles Court, who was the Premier at the time, was embarrassed when he lost a Bill, but he did not choose to resort to Standing Order No. 179. He knew it was there, but did not use it because he knew it would be an improper use of it.

Several members interjected.

Mr THOMPSON: There was another situation where another Premier lost a Bill which was more than just embarrassing. It had some severe consequences on the Government of the day. I refer to the Bill lost by the Tonkin Government between 1971 and 1974, when Harry Fletcher's car had a puncture on the freeway. John Tonkin knew the Standing Orders well enough, but he did not stoop to use Standing Order No. 179. He accepted the ruling of the House.

Several members interjected.

Mr THOMPSON: I refer to the use of Standing Order No. 179 in 1958; it was a matter completely different from the one before the House.

Several members interjected.

Mr THOMPSON: Members of the Opposition led me illogically to that situation. The Government looked at the precedence of the use of Standing Order No. 179 in 1949 and dismissed it as not having any direct bearing on this matter, but it seized on what happened in 1958.

Mr Tonkin: I am not saying it is a direct parallel.

Mr THOMPSON: It does not come within a bull's roar of being a direct parallel to it.

Several members interjected.

Mr THOMPSON: In 1958, Mr George Roberts, the then member for Bunbury, brought a Bill before this House concerning the Electoral Act. At that time, the Government introduced into the Legislative Council a Bill that included a provision that went close to that in the Bill introduced by Mr Roberts. The Government moved a motion in this House to delay the passage of the Bill until such time as its Bill had had the opportunity to be passed in the upper House and in this place. The positive resolution of the House determined there would be one month's delay on Mr Roberts' Bill.

Mr Tonkin: Standing Order No. 179 does not refer to positive or negative resolutions.

Mr THOMPSON: The positive resolution of the House was determined because of some behind-the-scenes work. The Government was embarrassed about not bringing forward Mr Roberts' Bill and it agreed to rescind the motion to allow his Bill to be considered.

Mr Tonkin: They rescinded the vote and that is all we are doing.

Mr THOMPSON: That is a very different set of circumstances from that which concerns us today.

Mr Tonkin: You are rescinding the vote.

Mr THOMPSON: I refer to Erskine May's *Parliamentary Practice* which is adopted by this House, this Speaker, and Speakers who preceded him, as being a significant guide—

Mr Tonkin: It is not superior to Standing Orders.

Mr THOMPSON: —to the way in which we interpret Standing Orders. What does Erskine May say about this?

Mr Tonkin: May was not cognisant of our Standing Orders.

Mr THOMPSON: Erskine May states—

The power of rescission has only been exercised in the case of a resolution resulting from a substantive motion, and even in such a case sparingly. It cannot be exercised merely to override a vote of the House, such as a negative vote. To do so indirectly, by proposing the negatived question a second time for the decision of the House, would be, as stated earlier, contrary to the established practice of Parliament.

Mr Tonkin: That is right because they do not have a Standing Order that allows it.

Mr THOMPSON: The Government is doing what the Yanks are doing with the America's

Cup. The Yanks are trying to save the cup, and the Government is trying to save the Bill.

Mr Tonkin: It says you can rescind a vote; that is clear.

Mr THOMPSON: We go through the paraphernalia of having Whips to ensure that members do not fail to vote. When a Minister stays away, the Government says it is not going to worry about all this paraphernalia.

Mr Tonkin: We are going through the paraphernalia of the Standing Orders.

Mr THOMPSON: The Government has decided to bring the measure back through some other method, albeit an incorrect application of the Standing Orders.

Mr Tonkin: How can 28:19 be negative? It simply did not reach the highest point needed. Erskine May applies only if Standing Orders are silent; the member for Kalamunda ruled that when he was Speaker.

Mr THOMPSON: Erskine May is taken as a guide by Speakers when interpreting our Standing Orders.

Mr Tonkin: That is right. Erskine May talks about House of Commons practice, but the Commons does not have that Standing Order which deals with negation.

Mr THOMPSON: I am saying that John Tonkin and other great Premiers who sat in the seat next to the Minister have not resorted to Standing Order No. 179 to overcome embarrassment, and neither should the Minister.

Mr Pearce: But it is legal to do it.

Mr THOMPSON: It is not legal. It is improper and not moral. The Minister knows it and I know it, and the Government would not be doing it but for the fact that the passage of this Bill is coupled with an advertising campaign the Government has booked and it needs the Bill to go ahead.

Mr Pearce: Advertising campaigns can be unbooked.

Mr THOMPSON: The Government has booked space; it has booked time for the party's campaign.

Mr Tonkin: If the Standing Order cannot be used, what is it there for?

Mr THOMPSON: It is there so that the sorts of things done in 1949 and 1948 can be done to rectify a situation.

Mr Tonkin: To rescind a vote.

Mr THOMPSON: To rescind a vote made in the positive, not one made in the negative.

Mr Tonkin: It does not say anything about rescinding a vote in the positive.

Mr THOMPSON: I know, but May—

Mr Tonkin: May does not overturn our Standing Orders.

The SPEAKER: Order!

Mr THOMPSON: The Government has two separate embarrassments to endure. The first is that a Minister of the Crown, not for the first time in his life, missed a vote in this House and caused the Government some concern.

Now it is in the embarrassing situation of having to resort to a Standing Order unused hitherto for this purpose, to try to bluff its way through. The Western Australian people will realise that it is as big a trick as some others tried by the New York Yacht Club, and the Government will suffer accordingly.

Mr Pearce: Have you seen the legal opinion given to the Leader of the Opposition?

Mr O'Connor: I will table them at an appropriate time.

Mr Tonkin: Why did you tear them off?

The SPEAKER: Order! The House will come to order!

MR STEPHENS (Stirling) [12.55 p.m.]: I am amazed at parts of the speech made by the member for Kalamunda. As a former Speaker, he, more than anybody else in this House, should understand Standing Orders.

Mr Thompson: You are going with your mates again it would appear.

Mr STEPHENS: When the truth comes out, the member can do no better than resort to denigration. He should come up with matters of substance if he can. It is an example and an indication that he has no substance because all the Liberal Party ever talks about is about someone being a socialist. We pointed out the other night in relation to one matter we were advancing in support of an inquiry into industrial relations that Sir Charles Court and Malcolm Fraser supported the same concept. The Liberal Party is accusing its own leaders of being socialists. It is about time the Liberal Party came up with some logical argument when it takes a view contrary to that of the National Party.

Mr Pearce: The member for Kalamunda has less substance than Sesame Street.

Mr STEPHENS: I do not denigrate anyone; I use facts.

Mr Thompson: You run around boring people to tears with your line.

Mr STEPHENS: The member can say what he likes; we know his problem in getting the numbers.

Mr Thompson: I am a little ahead of you.

Mr STEPHENS: It is quite clear that where the Standing Orders of this House are specific, we must follow those Standing Orders.

Mr Tonkin: Hear, hear!

Mr STEPHENS: When Standing Orders are not specific, we follow the established practice of this House. If neither of those situations covers the problem, we may refer to Erskine May. In this instance, the Standing Orders are quite specific.

The Leader of the Opposition quoted from documents which he said were the views of six lawyers. I made a mental note that I would like to see the papers tabled so that I could get their names and make sure I never went to those six lawyers. The member for Cottesloe also is a lawyer; perhaps that is why he decided to enter Parliament and not continue in practice.

Standing Orders Nos. 178 and 179 are quite specific. For the benefit of people who seem to be quite upset about this, I shall read Standing Order No. 179. It states—

A resolution, or other vote of the House, may be read and rescinded; but no such resolution or other vote may be rescinded during the same Session, except with the concurrence of an absolute majority of the Whole House, and after seven days' notice.<sup>3</sup>

We may not be referring to a resolution, but surely it is another vote of the House. It was a vote on a Bill and we are moving to rescind it. The Standing Order is quite specific; it says it may be done on seven days' notice. That notice has been given. The Standing Order also says it must be carried with an absolute majority. I cannot see how it can, by any stretch of the imagination, or by any legal interpretation fairly and properly given, mean anything else. I rather fancy the legal interpretations advanced here today have had a political bias. That is the problem.

Mr Jamieson: You would not bring politics into this, would you?

Mr STEPHENS: The motion is fairly and properly before the House; it is specifically covered by Standing Orders. Therefore, any reference to Erskine May is completely and utterly wrong. We resort to that authority only when any vagueness exists in the Standing Orders or in the practice of this House.

*Sitting suspended from 1.00 to 2.15 p.m.*



Mr STEPHENS: Before the luncheon suspension, I was saying that the motion was correctly before the House, and we had no argument with its validity. That seemed to upset the Liberal Opposition; but I point out that the holding of an opinion different from that held by the Liberal Party is not wrong or socialistic. The sooner members of the Liberal Party learn that or accept that situation, the sooner they will understand the National Party and its role in this Parliament. We will make our judgments on the issues as we see them. We will not be forced into, or conditioned to, changing that attitude by a continual stream of denigration that is advanced with no logic or substance behind it. I ask members of the Opposition to take note of that, and perhaps we will get along a bit better in the future.

In his remarks, the Deputy Leader of the Opposition said that the Parliament is the master of its own destiny but that it must act according to the law. I agree completely with that. We are the masters of our own destiny, and we must act according to the law; but it is our belief that the use of Standing Order No. 179 is completely proper. The fact that other Premiers have not sought to use that Standing Order does not mean that it is wrong or invalid now.

Mr Tonkin: Precisely.

Mr STEPHENS: They may have had their own reason for not using it.

Having said that, I point out that the National Party opposes the motion, not because it is not validly before the House—I have spent much time establishing that it is here correctly—but because we are completely and utterly opposed to the Bill in relation to which the Government seeks the rescission. We will maintain our opposition to the motion.

Mr Tonkin: That is fair enough.

Mr STEPHENS: Although the National Party has indicated the need for electoral reform, we cannot accept the Bill in its present form, so we will vote against this motion.

A further reason for our opposing the motion is that the Government has brought it before the House because of its mismanagement—term it as one will. The member concerned should have known that the debate was about to be brought to a conclusion, and that the division bells would be ringing. It is no excuse to say that he was in his office. He should have told the Whip where he could be contacted. Therefore, the mistake is all on the part of the Labor Party and/or its members. For that reason, we cannot see any necessity to support the motion.

I confess that, had the absolute majority been denied by virtue of a man's breaking his leg on the way to the division, or something like that, it would have put me in a rather different position.

Mr Brian Burke: I will break it for him! I do not object to what you are saying, because you are simply saying you disagree with our rescinding the motion. That is perfectly acceptable. What I did object to was the claim that the motion was illegal or unconstitutional.

Mr STEPHENS: I have made that point. That is the reason I incurred the wrath of the Liberal Party, because I was brazen enough to indicate our interpretation of the matter. I challenge them—

Mr Tonkin: We respect integrity.

Mr STEPHENS: It is vitally important.

When the Premier was speaking, he referred to the fact that, were he in Opposition, he would possibly oppose the motion, and he could understand that the Opposition is opposing it.

We must make our judgments on the face of the matter before us, not just because another party has raised it. We like the opportunity to reason out a matter and make a judgment on the issues involved. We will continue to do that.

I remind members of the Liberal Party that they are wasting their time. We will not be diverted from high, ethical standards by its continual abuse and denigration, and use of the "socialistic" tag. We reject that tag; and we will continue to do so. If members of the Liberal Party want to bring substance to their argument, let them come up with some logic and not use a term of denigration which is meaningless and useless.

MR MENSAROS (Floreat) [2.21 p.m.]: I seem to have the privilege of coming at the tail end of the debate, which obliges me either to use arguments which have not yet been used, or to expand on something which might not have been mentioned in very great detail.

The Opposition does not deny, and never has denied, the Government its right to govern; but this is subject to the proper laws of the country. As the Deputy Leader of the Opposition said, the Standing Orders are the laws of the country. As they derive their original existence from the Constitution Act, they are the law of the country. It is not like the rules of an organisation; the Standing Orders must be voted upon by the House and confirmed by Her Majesty's representative, the Governor.

Consequently, if any doubt exists about the interpretation of the laws of the land—nobody can deny that at present at least some doubt exists

about the interpretation of these laws; namely, the Standing Orders—a prudent and responsible Government should take the cautious way; it should not take the risky way as it appears it is taking now.

I am sure you, Sir, would agree that the law should bind us all. A serious doubt exists as to whether according to a false interpretation which has been given the vote on the Acts Amendment (Constitution and Electoral) Bill is capable of being rescinded. That is really the question before the Chair.

Despite what the Leader of the House said, this doubt is based on three issues: Firstly, on one's reading of the Standing Orders—the Leader of the House mainly based his argument on that aspect; secondly, on looking in a proper way at precedents which have been set, and mentioned as footnotes in Standing Orders; and, thirdly, on the relevant passages in Erskine May's *Parliamentary Practice*.

The Standing Order itself refers to a resolution or other vote which may be read and rescinded. It is questionable whether not only the intention, but also the proper interpretation of Standing Order No. 179 includes a vote on the second reading of a constitutional Bill which needs an absolute majority to be passed.

However, more importantly, the Leader of the House argued that the precedents strengthen his case when, in fact, the opposite applies. I shall not examine in detail the three precedents to which the Leader of the House referred, because they have been dealt with by previous speakers.

In the case of the three precedents, it is quite obvious that the House, as then construed, agreed with the proposition to rescind. No contrary argument was advanced in any of those three precedents. None of them was taken to a vote, but rather, in all cases, they were decided on the voices or with the consensus of the House. The three matters dealt with rather petty, procedural issues and the party which did not propose the rescission agreed with it, because it was thought the intention of the Standing Orders was to allow for the rescission motion before the Chair.

The third argument to which I referred related to a consideration of the relevant passages in Erskine May's *Parliamentary Practice*, which is still regarded as being a guide for the House, particularly for the Speaker when he makes rulings on the interpretation of Standing Orders and the customs of the House generally. That has not been contradicted.

I noted a passage in the speech of the Leader of the House. When referring to the interpretation

of Standing Order No. 179, he virtually indicated it contained a provision which is, in fact, not there. The Leader of the House argued that—I made a note of his words—if the vote of the House is not in accordance with the wish of the House, it may be rescinded.

That is not a provision of the Standing Order. It appears to me the Leader of the House interpreted the Standing Order to the effect that, if the wish of the House is different from the outcome of the vote, it may be rescinded.

That is the argument raised by the Leader of the House, but I am more interested in ascertaining why the motion to rescind has been moved at all. I hope the Leader of the House is listening to the debate. Why did the Government decide, on this occasion, to seek to rescind this vote? What happens if the motion is passed?

It is to be anticipated that, if the Government uses its numbers, the motion will be passed as a result of which the vote will be rescinded: What is the next step? Obviously the Government expects the next step is to use Standing Order No. 178, but I should like you, Sir, to consider seriously that the two Standing Orders have no correlation whatsoever. Apart from the fact that they are in numerical order and one Standing Order follows the other, as is the case with all the Standing Orders, they are not consequential on each other.

What Standing Order No. 179 says, regardless of the way in which we construe it today, is not related to Standing Order No. 178. It is related to the Standing Orders generally. The Premier did not appear to interpret the position in that way, because he said in relation to Standing Order No. 179 that it provides for the rescission of one particular vote. However, I do not think that is the case; I think Standing Order No. 179 provides for rescission generally within the Standing Orders.

Mr Speaker, I ask you in all seriousness whether you would accept a motion that would wish to rescind all or even part of the resolutions of this House? Based on the argument the Leader of the House put to you, he believes he can move a motion such as that. He believes that, according to Standing Order No. 179, he could move "That all votes and resolutions of this House be rescinded".

Supposing we had a situation as we nearly had in 1973 when the present Premier was elected to this House with, if I remember correctly, a majority of 16.

Mr Bryce: Thirty-two.

Mr MENSAROS: If he had not been elected, the Government of the day would have been changed. What would have been the situation

then had an incoming Government not liked what the previous Government had done and simply moved, according to Standing Orders as the Leader of the House understands them, to rescind all the resolutions of this House?

Mr Davies: It would have been a different Government.

Mr MENSAROS: Yes, but would any Speaker have accepted that motion?

Mr Davies: He would have shown more commonsense than to follow your reasoning.

Mr Jamieson: It would not have been able to use this Standing Order; it would not have had a constitutional majority.

Mr MENSAROS: That might be so, but it does not weaken my argument in any way.

Mr Jamieson: Not much!

Mr MENSAROS: Mr Speaker, if this Government were to move that all resolutions of the House made during 1982 or made during this session be rescinded, you surely would not take it to the extreme and accept the argument that Standing Order No. 179 entitles the House to rescind practically anything.

We therefore come back to the situation that we have argued today, which is that you, Mr Speaker, must take into consideration the guidance provided by Erskine May. I will not repeat the arguments, because we have heard them at least twice, but it is clearly set out how careful the House ought to be when it deals with a rescission of any vote or resolution.

In the *Press Gallery Report*—I think members will agree it is generally well-informed—can be found a passage which reads that the Government—

... had been planning to use its numbers in the Lower House to suspend whatever standing orders were necessary to have the Bill re-introduced immediately, and then use a guillotine motion to chop off debate in the run of the second reading after one hour.

However, the Attorney-General Joe Berinson, is understood to have advised the Cabinet against this strategy because of its doubtful legality and the likelihood of a legal challenge.

Mr Bertram: That information may be as accurate as the bit you quoted earlier, which was not accurate at all.

Mr MENSAROS: Perhaps, but that means the member is arguing against what the Premier has said, which was that the suspension of Standing Orders was considered, but rejected.

Mr Jamieson: That is what actually happened.

Mr MENSAROS: I come back to this point: What happens if the Government wins the day? What happens if the vote is rescinded and the Government does not want to suspend Standing Orders? Does Standing Order No. 178 simply disappear? Would it not be valid? Would it not have any force? Of course it would still have its force. Nothing is achieved by our rescinding the vote.

Mr Jamieson: It is subject to Standing Order No. 179. You cannot take one Standing Order in isolation.

Mr MENSAROS: Neither can the Government couple what are not coupled, but which merely follow each other. If Standing Order No. 179 was meant to override Standing Order No. 178, it would have said "notwithstanding Standing Order No. 178". It does not say that. It has not been applied in principle to Standing Order No. 178. It has been applied to various different Standing Orders.

The Government's rescinding the vote would not legally take it anywhere. If the Government takes the risk of simply using its numbers, it will create a situation which will be subject to challenge, provided that the legislation is enacted and becomes a Statute. Then the haste of the Government will be shown not to be justified, because unless the Government wants to try other legal avenues or tricks somehow to overcome this and is not prepared to wait for a decision of the judicial authorities, the courts, then it would live all the time in suspension and insecurity.

When we were in Government, we experienced this, but we did not try to use tricks when the decision about increasing the number of Ministers was challenged. The two members served as honorary Ministers and were not paid, because the Government waited for the verdict of the courts. Once the verdict was brought down, the situation was clear.

My point is this: Although the House may vote to rescind the vote in question, I am quite sure that you, Mr Speaker, would not go along with the proposition which may have been discussed or put to you that you should immediately put the question about the second reading of the Bill, because rescission of this particular vote would not annul the vote. The vote is there; it cannot be erased. It is recorded in the Votes and Proceedings. It exists.

Mr Tonkin: What do you think the word "rescission" means?

Mr MENSAROS: It does not mean that Standing Order No. 178 becomes null and void. The Leader of the House would find it very diffi-

cult to argue that in front of any legal authority. It means that we rescind a vote. Our argument has been concentrated on the fact that we believe the rescission would not be correct.

Mr Jamieson: You would not get one senior legal person in Perth to agree with that.

Mr MENSAROS: The second proposition I have put is that the Leader of the House, on his own volition, added another provision to Standing Order No. 179 when he said that the vote should be rescinded because the House genuinely did not agree with the vote. That is not a provision of the Standing Order. His thinking obviously was that we can couple Standing Orders Nos. 178 and 179. That cannot be done.

Mr Tonkin: Standing Order No. 179 stands on its own.

Mr MENSAROS: I understood the Premier to say that the Government had not contemplated the suspension of Standing Orders.

Mr Tonkin: That is right.

Mr MENSAROS: If the rescission is agreed to by the House, the Government is still faced with Standing Order No. 178 being in force, and according to that Standing Order, the Government cannot—and I hope the Speaker will not—do what it intends.

Mr Tonkin: Standing Orders do not say that No. 178 is superior to No. 179, and No. 179 is not specific.

Mr MENSAROS: That is correct. I am simply saying it is the law of the land; it does have the force of the law. The Government must act according to the provisions of the Standing Orders, which is my second proposition. My main proposition is that it is not proper for this House—

Mr Tonkin: We have discussed it with the Attorney General and he has discussed it with his senior law officers. There is no question that we can do this.

Mr MENSAROS: The Deputy Leader of the Opposition asked whether the Government had obtained legal opinion, and if it had, that the Government table it. The response from the Premier was that there was not a legal opinion available.

Mr Tonkin: We do not have anything in writing.

Mr O'Connor: I bet you haven't.

Mr Tonkin: We discussed it with the Attorney General, and he discussed it with his senior law officers, and there is no problem.

Mr MENSAROS: I am sure there would be no objection from the Opposition to our calling the

Attorney General as a witness to bear out what the Leader of the House has just said.

MR CLARKO (Karrinyup) [2.42 p.m.]: The Leader of the House seeks to rescind the decision of this House made last Wednesday. Because the Government did not have an absolute majority, the Acts Amendment (Constitution and Electoral) Bill lapsed and cannot be reintroduced this session because of Standing Order No. 178. This motion seeks to rescind the previous decision under Standing Order No. 179, which clearly allows rescissions to occur. To rescind the decision does not, as my colleague the member for Floreat said, remove from the record book what happened.

We are not in the Soviet Union where pages of history are torn out or even rewritten. A successful rescission motion would merely stop the previous decision being implemented or acted upon. Last Wednesday's vote on the electoral reform Bill happened, as it is recorded in *Hansard* and will remain in *Hansard*. As the member for Floreat correctly said, if the Government proceeds with this rescission motion, the position will be that the previous decision still stands, but cannot be proceeded with. That is all the Government will have done.

Certainly it should not bring in during this session a similar motion, a procedure which is set out clearly in Standing Order No. 178. It says that no question shall be proposed which is the same in substance as any question which, during the same session, had been resolved in the affirmative or the negative.

The Government can proceed with the rescission of that which the House decided, but cannot reintroduce the same thing, which would be contrary to Standing Order No. 178. We have 423 Standing Orders, which delegate power to this Parliament under section 34 of the Western Australian Constitution Act.

When the Standing Orders are read, they must be taken together, they should not be taken in isolation; and we should take into account the past practices of this House and the House of Commons as are laid down in Standing Order No. 1. If we do not follow the Standing Orders in that way or try to adopt them in a literal sense, it may be that any Government can move to suspend all Standing Orders for, say, the whole of a Parliament, which may be three years. If the Government could convince its colleague, the Speaker, that a matter was urgent, it may be able to rescind all Standing Orders. Urgency is a matter of opinion, and it is quite likely that a Government

with an absolute majority could suspend Standing Orders for three years.

We would have the situation of no longer needing any of the Standing Orders, except Standing Order No. 1; we would not need an absolute majority to decide what the Government wanted to do; and we would end up not needing a vote at all. The Parliament would be an arrant cipher; it would be a complete contradiction of what a House of Parliament should be.

Mr Bertram: Do you mean like the upper House?

Mr CLARKO: Standing Order No. 179 allows rescissions, but Standing Order No. 178 bars the reintroduction that session of a question of the same substance as any question resolved during the same session in the affirmative or the negative.

Mr Stephens: What does No. 179 do?

Mr CLARKO: Standing Orders are directed by the Constitution, and the Constitution is for the good government of the State and the protection of the people. Section 34 of the Constitution refers to the orderly management of the House. As I have said, if a Government were able to suspend Standing Orders, we would have no Standing Orders at all. That is something that can be done right now, but clearly that is not what the Parliament is about.

We have a clear-cut situation. The Government has the power to prorogue Parliament if it wants to bring the question on immediately, and that is what it should do. If it tries simply to use Standing Order No. 179 it will succeed, but it should not be allowed to proceed to bring in this Bill because Standing Order No. 178 specifically says that it shall not. If Standing Order No. 178 was meant to cover these situations, it should have gone on to say, "Notwithstanding Standing Order No. 179", or Standing Order No. 179 should go on to make out some relationship between Standing Order No. 178 and Standing Order No. 179. There would have been some sort of addendum to tie the two together. Without the proper procedures, we have chaos.

I oppose the motion and urge the Government to act responsibly by adopting another course, and not to try to stuff this down our throats. The Government should not try to do as it has regretably done since this Parliament came together, which has been to rule by some sense of right—to claim it has the right to use its powers in any way it likes. That attitude is contradictory to the whole establishment of this Parliament.

If the Government followed through with this line of action, there would be no need to call Par-

liament together. Standing Orders could be suspended and the Minister could come into this place, distribute the second reading speech, and then say, "Mr Speaker, I advise you to inform the other place that we have met all the necessary requirements in regard to this legislation".

The Government seeks to go beyond Standing Order No. 179, and that is where it is at fault. The Government will make a serious mistake if it proceeds with this line.

### *Speaker's Ruling*

The SPEAKER: Before I put the question, I indicate that the Deputy Leader of the Opposition, during the course of his remarks on this matter, asked me to rule on whether this motion was correctly before the House. I did not do anything at the time; I waited until all speakers had finished. Standing Order No. 179 says—

179. A resolution, or other vote of the House, may be read and rescinded; but no such resolution or other vote may be rescinded during the same Session, except with the concurrence of an absolute majority of the Whole House, and after seven days' notice.

To fulfil the requirements of this Standing Order, it is necessary, firstly, to give seven days' notice; secondly, that the question under consideration be "read" to the House; and thirdly, that an absolute majority must vote in favour for the rescission vote to be effective if it is concerning a vote of the same session.

To this point, the requirements of the Standing Orders have been fulfilled. Notice of this motion was given on Thursday, 15 September.

To-day is the eighth day since notice was given. The resolution is "read" in the terms of the motion which has been moved. An absolute majority is necessary in order to make the decision effective.

I will say a few words concerning other claims which have been made about this motion. I have heard it claimed in some quarters that this motion is "illegal" or "unlawful", the imputation being that it contravenes our law. I am unaware of any law which this motion would contravene. Our Constitution Act, with its various amendments, does not deny the House the power to rescind any vote; but, on the other hand, it does empower the House to make Standing Rules and Orders for the regulation and orderly conduct of its proceedings. One of these Standing Orders provides for the rescission of a vote.

However, the question whether this proposed action is unlawful is not decided by me or by this House. If it is to be decided by anybody, it will be

decided by the courts. Having said that, I hasten to add that I am of the view that no court would take upon itself the authority and responsibility of interfering in the inner workings of Parliament, unless it had a statutory obligation to do so. One of the foremost texts on matters such as these must be Dicey's "The Law of the Constitution". I should like to refer briefly to two passages. On page 55 of the ninth edition, talking about resolutions of either House of Parliament, the writer says—

Each House of Parliament has complete control over its own proceedings, and also has the right to protect itself by committing for contempt any person who commits any injury against, or offers any affront to the House, and no Court of law will inquire into the mode in which either House exercises the powers which it by law possesses.

The point is made even more succinctly on page 43. Here the author refers to an expression which has become almost proverbial—

It is a fundamental principle with English lawyers, that Parliament can do everything but make a woman a man, and a man a woman.

To bring the argument closer to home, I will refer to the report of the Thirteenth Conference of Presiding Officers and Clerks in the Australasian Region. At this conference, held in Sydney in May 1982, the President of the Legislative Council of Western Australia presented a paper concerning the degree to which casual conversations between members in a sitting of Parliament carried parliamentary privilege. Among the contributions to the discussion was the Rt. Hon. Sir Billy Snedden, then Speaker of the House of Representatives. Sir Billy said—

It would be outrageous if a court chose to come through the walls of the Chamber, as it were, and try to supervise what the Chamber does by the weight of its majority. It would be a very adventurous—indeed foolish—court that put itself into the position of deciding the intramural determinations of a Parliament. Nothing would be more likely to bring the Legislature and the judiciary into open conflict and destabilize the confidence of the people in the constitutional procedures.

I turn now to the suggestion that, because the House of Commons does not have such a Standing Order or practice, the proposed action is somehow *ultra vires*.

On this aspect, I can do no better than refer to a ruling given in this House on an earlier oc-

casión. The ruling concerned the propriety of a question. The Speaker ruled, in part—

In seeking to establish a case for or against a question or answer I would counsel members to be guided by, in order of precedence, the Standing Orders of this House, the practices of this House and, lastly, the practices of the House of Commons.

It is not appropriate to make reference to passages in May's *Parliamentary Practice* when there is available adequate and established practice on the relevant subject in this House. This rule is precisely set out in our Standing Order No. 1.

That ruling was given by my predecessor, Speaker Thompson, on 31 October 1979, recorded in *Hansard*, page 4253.

In this matter, the House has a very clear Standing Order. That alone would be sufficient, but there is at least one precedent for the giving of notice and moving to rescind a vote and the carrying of that motion with the concurrence of an absolute majority. The proceedings are recorded in *Hansard* of 5 November 1958, pages 1974 to 1976. In my view, however, the need for a precedent is not imperative as the Standing Order is so explicit. The combined effect of the Standing Order and the precedent makes reference to House of Commons practice irrelevant.

For these reasons I rule this motion to be in order.

#### *Motion Resumed*

Question put and division called for with the following result—

Ayes 30

Mr Barnett	Mr Hodge
Mr Bateman	Mr Jamieson
Mrs Beggs	Mr Tom Jones
Mr Bertram	Mr McIver
Mr Bridge	Mr Parker
Mr Bryce	Mr Pearce
Mrs Buchanan	Mr Read
Mr Brian Burke	Mr D. L. Smith
Mr Terry Burke	Mr P. J. Smith
Mr Burkett	Mr A. D. Taylor
Mr Carr	Mr I. F. Taylor
Mr Davies	Mr Tonkin
Mr Evans	Mrs Watkins
Mr Grill	Mr Wilson
Mrs Henderson	Mr Gordon Hill

(Teller)

## Noes 24

Mr Blaikie	Mr McNee
Mr Bradshaw	Mr Mensaros
Mr Clarke	Mr O'Connor
Mr Court	Mr Old
Mr Cowan	Mr Rushton
Mr Coyne	Mr Spriggs
Mr Crane	Mr Stephens
Dr Dadour	Mr Thompson
Mr Grayden	Mr Trethowan
Mr Hassell	Mr Tubby
Mr Peter Jones	Mr Watt
Mr Laurance	Mr Williams

(Teller)

The SPEAKER: I have counted the House and I am satisfied there is an absolute majority in favour of the motion. The motion is carried.

Question thus passed.

*As to Further Consideration*

**MR TONKIN** (Morley-Swan—Leader of the House) [3.01 p.m.]: I move—

That in pursuance of the foregoing resolution this House forthwith resume consideration of the Acts Amendment (Constitution and Electoral) Bill.

*Points of Order*

**MR O'CONNOR**: On a point of order, Mr Speaker, I draw the attention of the House to Standing Order No. 178, which reads as follows—

No question shall be proposed which is the same in substance as any question which, during the same Session, has been resolved in the affirmative or negative.

What we are being asked to do now is to resolve a decision which has been decided in this House in the negative. I did anticipate this action by the Government which is immoral and illegal. In so doing, I consulted with three solicitors who were of the same view as I, and we went to a constitutional lawyer.

**Mr Jamieson**: In this State—a constitutional lawyer?

**MR O'CONNOR**: We consulted with a person who works in connection with constitutional law, and in this regard I have a report from that lawyer, a Mr Paul Nichols.

[Laughter.]

**MR O'CONNOR**: Of course, members opposite laugh. They know they are wrong and know that what they are doing to this Parliament is an absolute disgrace, and yet the shame they have does not show. They are not prepared to let me complete what I have to say to this Parliament.

Several members interjected.

**Mr Tonkin**: A Liberal candidate.

**MR O'CONNOR**: I will ask in due course to table this paper. Not satisfied with the views of the three lawyers and Mr Paul Nichols—

Several members interjected.

**MR O'CONNOR**:—because I know just how the Government is, and the fact that it has messed this operation up through its own fault—because the Whip was inefficient, the Minister was inefficient, and members were absent from the House—

**Mr Davies**: You are in a flap.

**MR O'CONNOR**: Flap is right! I know who would be in a flap.

Knowing the Government would do whatever it could, irrespective of the rights of this legislation, I obtained a number of rulings in connection with this matter to ascertain whether my views were correct.

I recap the situation. I referred the matter to three solicitors and then to Paul Nichols. I have a report from Mr Nichols which I will table. Not being sure that this would satisfy the Government, I referred it to two other solicitors and eventually to a Queen's Counsel (Mr Malcolm McCusker)—let me hear laughter now—who is well respected in this State. I will read the views of Mr McCusker in connection with this, because it is a vital matter as far as this House is concerned.

We, in Opposition, do not want to override the Parliament or proper parliamentary regulations. We want to make sure that what is done in this House is correct. I know that we have "Burke's law" operating in this State, but we want to do things properly.

If this legislation is forwarded to the Legislative Council irrespective of the legal rulings from a number of people, and knowing it is improper, the Legislative Council would be correct in throwing it out on its first reading. I believe that is what will occur.

Several members interjected.

**MR O'CONNOR**: I believe this House should have the opportunity to hear the ruling given by Mr McCusker and I seek your indulgence, Mr Speaker. It is one of the most important issues we have had before the House, whereby we decide whether Parliament rules, Standing Orders rule, or "jack boots" rule. There have been too many occasions when Ministers disregarded the members of this House, Parliament, and the Opposition. They will not answer questions and they carry on in a manner which is unbecoming to any Parliament in this State. I am disgusted with the

way in which they have carried on in trying to steamroll legislation through this House.

Mr BRIAN BURKE: On a further point of order, Mr Speaker, I would ask that the Leader of the Opposition table the document at the end of his speech.

Mr O'CONNOR: We have some touchy members opposite, and so they should be because of the immoral way in which they are operating this Parliament.

The SPEAKER: That is one thing I wanted to get clear and that is that the Leader of the Opposition will table the document.

Mr O'CONNOR: I will take the opportunity to table both documents. In order to make sure there is no shortage, I have a spare copy for you, Mr Speaker, and my Press Secretary will be organising a copy for the people in the Press Gallery.

Mr Tonkin: May we have a copy now?

Mr O'CONNOR: The Government may certainly have a copy.

Several members interjected.

Mr O'CONNOR: The opinion from Mr McCusker reads as follows—

- (1) The Legislative Assembly has adopted standing orders, doing so pursuant to Section 34 of the Constitution Act. Standing order number 178 reads:—"No question shall be proposed which is the same in substance as any question which, during the same Session, has been resolved in the affirmative or negative".

The SPEAKER: I understand that the Leader of the Opposition is going to table both reports for the benefit of the Parliament.

Mr O'CONNOR: I gave a copy of both reports to the Clerk.

The SPEAKER: I have only one.

Mr Tonkin: I have only one.

Mr O'CONNOR: I gave the Clerk both documents and it appears he has given one of them to each of you. To continue—

- (2) On the 14th of September 1983 a question proposed to the Legislative Assembly was that the Acts Amendment (Constitution and Electoral) Bill be read for a second time. That being a Bill which provided for a reduction in the numbers of the members of the Legislative Council, it required the concurrence of an absolute majority of the whole numbers of the members of both the Council and the Assembly. Due to the

absence of a number of members from the House (including one Minister) the second reading, when the question was put, failed to obtain the necessary absolute majority.

- (3) The result, in my opinion, is that standing order 178 prohibits the same question being proposed during the same session. That is to say, if the same Bill, or a Bill which in substance is the same, were to be brought before the House again, with a proposal that it be read for a second time, it would be a direct contravention of standing order 178.
- (4) To overcome the clear prohibition contained in standing order 178 it is now suggested, apparently, that standing order 179 be applied. Standing order 179 provides:—

"A resolution, or other vote of the House, may be read and rescinded; but no such resolution or other vote may be rescinded during the same Session, except with the concurrence of an absolute majority of the whole House, and after seven days' notice." Notice has been given to the House of a proposal to rescind the negative resolution of the House of the 14th of September 1983 referred to above. It is certainly open, in my opinion, for such a rescission resolution, of which due notice has been given, to be passed. However, that does not resolve the issue.

- (5) The rescission of a resolution under standing order 179 does not, in its terms, have the effect of "deeming" that the question the subject of that resolution has never been "resolved in the affirmative or negative". If that were intended, one would expect an express provision to that effect to be contained in standing order 179.
- (6) In my opinion, the rescission pursuant to standing order 179 of any previous resolution of the house has no such "deeming" effect. It still remains, as a fact, that the "question" (in this case the question of the second reading of the Acts Amendment (Constitution and Electoral) Bill) was on the 14th of September 1983 resolved by the House in the negative. The rescission of that resolution does not alter the fact that the



resolution was in fact passed. If that were intended, as I have said, one would expect to find clear "deeming" words to that effect in standing order 179, or alternatively to find a provision qualifying standing order 178, by the addition of the words "unless such affirmative or negative resolution has been rescinded pursuant to standing order 179". In the absence of such clear words, I consider that standing order 178 would continue to prohibit, during the same session, the putting of a motion that the same bill, or a bill in substance the same, be read for a second time.

- (7) In the limited time available for me within which to give this opinion, I have not been able to research the question extensively. I have however had the benefit of seeing an opinion given by Mr Paul Nichols Esquire, of the Independent Bar, and I agree with the views expressed by him in that opinion.
- (8) To the extent that any analogy may be helpful, one might draw a comparison with a contract which has been validly made but subsequently rescinded. The rescission of the contract does not have the effect of deeming it never to have been made. To the extent that parties have altered their position, they may have rights (which will be recognised by the Court) arising from the contract. "Rescission" does not avoid so as to treat as a complete nullity, as if the contract had never existed at all. In the same way, rescission of a resolution passed by the House would not, in the absence of clear and express words, mean that for all purposes the resolution is "deemed" never to have been passed at all.

I draw your attention again, Mr Speaker, to Standing Order No. 178.

Mr Davies: I hope you are going to pay him for that opinion.

Mr O'CONNOR: The member knows much more than a QC, of course.

Mr Davies: I was waiting for the argument; it is a recital of facts.

Mr O'CONNOR: That is all we want—facts.

Mr Davies: It is a recital of facts and he then says, "That's it".

Mr O'CONNOR: On that basis, the member for Victoria Park will vote for us on this amendment.

I draw your attention, Sir, to Standing Order No. 178, which states—

No question shall be proposed which is the same in substance as any question which, during the same Session, has been resolved in the affirmative or negative.

I am sure if you seek any ruling from people with any ability in this field, Mr Speaker, you will find this question has been decided in the negative because this House was unable to pass the legislation on the second reading on a previous occasion in this House. In giving this information to you, I indicate clearly I did not go to only one solicitor in connection with this matter. I spoke initially to three who agreed with the view I expressed. We then went to a person who has done a great deal of constitutional work, and who also agreed with that view.

Mr Parker: The only constitutional work Paul Nichols has done is on the Liberal Party constitution. He is a member of the party's constitutional committee.

Mr O'CONNOR: We sent it to two other solicitors for verification and they supported our view; it then went to a QC for verification. Again, I indicate clearly that he supported the view that this legislation should not now be before the House on a second occasion.

Standing Order No. 178 indicates without doubt that this motion is before us when it should not be, and therefore it should be rejected. I ask you to rule on this matter.

Mr BRIAN BURKE: To the same point of order, Mr Speaker, and briefly: The first thing to emerge is that this point of order is designed not to frustrate the will of the House, but to establish conditions precedent by which the Legislative Council can throw out this Bill at the first reading. That is by the by. The second point is that the Leader of the Opposition, out of his own mouth, has completely condemned all the arguments he used to advance his opposition to the rescission motion. Who can forget his saying he had a legal basis for his claims that the rescission motion was illegal, improper, immoral, and unethical? Yet in the opinion he has just read—the same opinion from which he draws strongly now in respect of this point of order—the QC he has consulted says the rescission motion is perfectly proper.

How can the Leader of the Opposition expect us to assign any credibility to him when he will quote a QC's advice that contradicts the stand he

has been taking, and which his colleagues have been taking, throughout this morning in opposition to the rescission motion?

Mr O'Connor: Did you read the other advice?

Mr BRIAN BURKE: The same QC whom the Leader of the Opposition now says supports his point of view against your ruling on this matter, opposes the Leader of the Opposition's position in respect of the rescission motion.

I make two points: Firstly, Standing Order No. 178, which precedes Standing Order No. 179, states the general position in respect of the introduction of matters of the same substance in the same session. Standing Order No. 179 then, in the specific sense, makes the objection or the exception of Standing Order No. 178.

Mr O'Connor: Standing Order No. 178 is still there.

Mr BRIAN BURKE: Standing Order No. 179 is included in our Standing Orders for that reason.

Mr O'Connor: It does not override Standing Order No. 178; they stand together.

Mr BRIAN BURKE: Standing Order No. 179 which follows Standing Order No. 178 makes an exception in respect of the sanction or prohibition imposed by Standing Order No. 178. The most compelling point is that in the absence of the meaning given by the Chair, the Government, and previous Governments to Standing Order No. 179, there is absolutely no point in its being in the Standing Orders.

Mr Hassell: That is not so.

Mr BRIAN BURKE: Standing Order No. 179 would cease to have any meaning—

Mr Hassell: That is not so.

Mr O'Connor: You do not understand it.

Mr BRIAN BURKE: —if it prevented the Government moving in the way in which it intends to move in this matter.

It is interesting for the Government to hear the Opposition quote the opinion of Queen's Counsel and it is of interest to note that the opinion contradicts almost everything the Leader of the Opposition said this morning.

Mr O'Connor: No it does not—not at all.

Mr BRIAN BURKE: The only damage being occasioned to this Parliament is by an Opposition that would twist the Standing Orders to suit itself.

Mr O'Connor: You are twisting them.

Mr Clarko: You are avoiding Standing Order No. 178.

Mr BRIAN BURKE: Standing Order No. 179 permits rescission of the vote which, at the second reading stage of the electoral reform legislation, saw the Government short of a constitutional majority.

Mr Clarko: You should have suspended Standing Order No. 178.

Mr BRIAN BURKE: There is no meaning to the Standing Orders if No. 179 cannot be pursued in the legitimate and proper manner in which the Government is trying to pursue it.

Mr O'Connor: You are trying to use it in an improper manner.

Mr BRIAN BURKE: According to the member for Karrinyup, we could have suspended—

Mr Clarko: No, you should have.

Mr BRIAN BURKE: He said we should have; and if we should have then I presume we could have. If that is the case, it is even more compelling that we should have suspended Standing Order No. 178. We could have done that, I guess. We could have moved to suspend Standing Order No. 178 on the day after the constitutional majority on this Bill could not be realised. The Government chose not to do so because it thinks, as I understand the Deputy Leader of the Opposition similarly thinks, that the appropriate and legitimate manner in which to proceed was to give seven days' notice, to rescind the vote, and then to pursue the Bill in the manner the Government believes it should be pursued.

To uphold a position as senseless as the one put by the Leader of the Opposition, who quotes as his strength the same counsel who opposes everything the Leader of the Opposition said this morning, would be to uphold the absurd.

Mr HASSELL: I did not rise to comment on the ruling given by the Speaker prior to the putting of the motion to rescind the vote taken last week. I do want to submit that some of the statements you made, Mr Speaker, are not correct and certainly have no relevance to the ruling you are now called upon to make in relation to Standing Order No. 178.

Mr Tonkin: On a point of order—

Mr Clarko: You cannot have a point of order on a point of order.

Mr Tonkin: I think you can.

Opposition members interjected.

The SPEAKER: Order! There is one point of order before the House.

Mr Tonkin: I submit—

The SPEAKER: I must dispose of the first point of order.

Mr HASSELL: This morning, in arguing the case I put to you for the ruling you gave prior to the vote, I did not suggest that the House was not the master of its own destiny in the sense that a court would intervene in the proceedings of this House or, in the words of Dicey, whom you quoted, would come through the walls of the House.

Mr Old: He is talking to the Speaker.

Opposition members interjected.

The SPEAKER: Order!

Mr Williams: What about learning some manners.

Mr HASSELL: Normally, of course, it is the custom of the House that members speak to you, Sir.

An Opposition member: The arrogance of it!

Mr HASSELL: I do not cavil at that, but I think when we are dealing with a very important matter on which you, Mr Speaker, must make a ruling, I would like you to hear the argument I am putting.

Mr Davies: You should learn some manners.

Mr HASSELL: In the argument to you this morning, Mr Speaker, I acknowledged that no court of law would seek to interfere in the proceedings of Parliament and it would not be competent for any of us, much and all as we objected to what was being done by the Government, to obtain an order of the court seeking to restrain or direct any of the proceedings of the Parliament. The point I made this morning, and which I now repeat because I believe it is directly relevant to the ruling you are asked to make, is that if the lawful procedures of this House are not followed, the House will not successfully make a law. I submit that the Acts Amendment (Constitution and Electoral) Bill, albeit that in form it may have been passed by this Parliament, will not in substance become a valid law of the land. Mr Speaker, I warned the Government, as I do now, that its victory today will be a pyrrhic one if it gets its Bill through this House and the upper House, and the Bill is then challenged as to its validity in the courts, and is subsequently found to be invalid.

I went on to explain that Standing Orders are part of the law of the land because they are made under the authority of the Constitution of the State; and that is a very important point. Your quotation of Dicey, respected authority that he is, I submit with great respect to you, was quite out of place. Dicey was referring to a Parliament that is sovereign—

Mr Tonkin: You are debating the Speaker's ruling.

Mr HASSELL: —in every respect.

Mr Tonkin: This is not a point of order. If you want to debate the Speaker's ruling, you should move dissent.

Mr Clarko: What about the Premier? What was his point of order?

Mr Bryce: What is your point of order?

Mr O'Connor: You have not got one.

Mr Tonkin: You are only supposed to debate the Speaker's ruling if you have moved dissent.

Mr HASSELL: The reason I make the point—

The SPEAKER: That was on the previous matter.

Mr HASSELL: I want to explain the relevance of the ruling you are now called upon to make because you may be tempted once more to rely on the views expressed by Dicey when he stated that no court can review the actions of Parliament because of the absolute power of Parliament to control itself.

There is a fundamental difference between a sovereign Parliament in a unitary State, which is the case in England—and the word "England" was deliberately used by Dicey in the passage you quoted—and a State which is part of the Commonwealth and in which both the Commonwealth and the State itself are controlled by written Constitutions. We have a written Constitution. In fact, the origins of our Constitution are an Act of the Parliament of the United Kingdom—the Constitution Act of the State—which is the established authority under which the Standing Orders of this House are made. Under this Act, the Standing Orders became part of the law of the land after being approved by the Governor.

The Constitution says that the Standing Orders are to apply. It is not within the competence of the House to avoid the Standing Orders on a mere whim. We do have the capacity, following the appropriate procedures, to amend the Constitution and to amend the Standing Orders with the approval of the representative of the Crown; but, until we have done that, we are required by law to comply with the Standing Orders. That is an essential difference between the situation in this State and the situation to which Mr Dicey referred in his learned work.

We now come to the position we are at.

Mr Bryce: Which chapter is that? You are absolutely rorting the procedures of this House by pretending you are raising a point of order.

Mr O'Connor: What did the Premier do?

Several members interjected.

Mr Tonkin: Well, move to dissent if you don't like the Speaker's ruling.

Mr HASSELL: Several times Government members have referred to moving to dissent from your ruling, Sir. We do not take moving to dissent from your ruling lightly.

Mr Tonkin: You did it the other day for no reason.

Mr HASSELL: We are seeking to put to you, Sir, a reasoned argument, and one based on the advice of eminent counsel in this State as to why you, Sir, should rule that, although the Government has now successfully rescinded a resolution, albeit that we did not agree with that, it nevertheless may not, as a matter of law, proceed to debate further the Acts Amendment (Constitution and Electoral) Bill.

My point is very simple in terms of the Standing Orders. There are two relevant Standing Orders; they are, Standing Order Nos. 178 and 179. Standing Order No. 179 permits a rescission of a vote. This morning we argued at length that the rescission of the particular vote is not within the scope of Standing Order No. 179. You, Sir, have ruled that it is and we did not move to dissent from that ruling, although we disagreed with it.

Mr Tonkin: You have been arguing about it during this so-called point of order.

Mr HASSELL: We let it stand—

Mr Tonkin: That is very decent of you.

Mr HASSELL: —because we accepted you had made a ruling in good faith. In respect of that matter there is room for contention on both sides, which apparently the Leader of the House does not concede in relation to any of his opinions.

However, the Government having with your concurrence, Sir, and in pursuance of your ruling, successfully rescinded the vote, now seeks to proceed with the debate. Our submission to you, Sir, is that quite a different question arises now. The question is whether the Government may do so in terms of the Standing Orders.

Our submission is that the Government may not proceed to consider the Acts Amendment (Constitution and Electoral) Bill further, because to do so would directly contravene Standing Order No. 178, which says—

No question shall be proposed which is the same in substance as any question which, during the same Session, has been resolved in the affirmative or negative.

In support of our position, we have submitted to you, Sir, two opinions—one from Mr Malcolm McCusker, QC, and one from Mr Paul Nichols.

Mr Tonkin: And you consulted Withers and Vincr.

Mr O'Connor: I did not count them in the other people to whom I spoke.

Mr Tonkin: They are referred to in the documents tabled.

Mr O'Connor: There are several others. You don't even have a submission. You have not even presented one.

Mr Tonkin: Submissions from party hacks are worthless, aren't they?

Mr O'Connor: Are you saying McCusker is a party hack?

Mr Tonkin: I am talking about Nichols and Withers.

The SPEAKER: Order! I have given some latitude on the point of order and I do not want it extended by interjections.

Mr HASSELL: I shall be concluding very soon. If members of the Government do not want to hear the arguments, which are serious—

Mr Tonkin: You have no right to debate a proposed Speaker's ruling.

Mr Clarko: Your Premier did the same thing.

The SPEAKER: Order!

Mr HASSELL: For the sake of the record and for the information of the Minister for Employment and Administrative Services, Mr Nichols, to whom he disparagingly referred, is not only a respected member of the legal profession, but also is not in fact a member of the Liberal Party's constitutional committee.

Mr Tonkin: He is a member of the Liberal Party.

Mr HASSELL: So the Minister for Employment and Administrative Services was wrong on that point as well.

The real point is the Government has relied totally on the express provisions in the Standing Orders. The Government said Standing Order No. 179 permitted rescission and rescission has taken place. That Standing Order stands alongside Standing Order No. 178; both have the capacity to operate and, in that respect, I put it to you, Sir, that the Premier was quite wrong in suggesting nothing would be left of Standing Order No. 179 should Standing Order No. 178 cease to operate when Standing Order No. 179 is used. That is not the case at all.

Circumstances may occur in which the House wishes to rescind a vote or resolution without wishing to enter into debate or nothing may be consequential on the rescission:

The simple point on the Standing Orders is abundantly clear: Rescission having taken place, Standing Order No. 178 still expressly prohibits the continuation of any debate on the Acts Amendment (Constitution and Electoral) Bill 1983.

#### *Speaker's Ruling*

The SPEAKER: I have been asked to rule on what some members see as a conflict between Standing Orders Nos. 178 and 179 and, in particular now, on the point of order raised on Standing Order No. 178.

In this case, I see no real difficulty. If the House sees fit to implement Standing Order No. 179 and therefore to rescind an earlier vote, it would make a mockery of its decision should I rule it invalid or void on the ground that Standing Order No. 178 forbids the proposing of the same question as that which has already been resolved in this session.

In the first instance, it is no coincidence or freak of drafting that the two Standing Orders are juxtaposed. Their relationship to one another is immediately obvious. Neither is it an accident that the provision for a vote of rescission comes after the rule against putting the same question a second time.

It is a well-known principle of law that, where there is an apparent conflict between two laws, the law which was passed later has effect. The courts regard the later law as impliedly, and to the extent necessary, repealing the earlier law. The same principle applies within a Statute. A later provision has precedence over an earlier one in the same law.

I have no hesitation in ruling that the same principle applies to our practice. Without such a commonsense approach, it would be quite impossible to ever suspend a Standing Order or to pass a sessional order.

Standing Order No. 179, to the extent necessary, overrides the earlier Standing Order. If that were not so, there would be no point in its inclusion in the Standing Orders.

While it is true that the House of Commons does not have a Standing Order in such clear terms as Standing Order No. 179, some other Parliaments do. The precedents, for instance, in the Australian House of Representatives, are listed in Pettifer's *House of Representatives Prac-*

*tice* on page 416. They are numerous and include rescinding—

the third reading of a Bill to enable a message from the Governor General recommending an appropriation to be announced;

the third reading of a Constitution Alteration Bill (in this case the division bells were not rung for the required time when the original vote was taken and an absolute majority was not established);

There are many other examples.

I do not cite these foreign precedents as an authority for my ruling. They cannot and never should be regarded as such. However, it is helpful, I believe, to have some cognisance of them chiefly because the House of Representatives' Standing Orders, in the relevant parts, are similar to those of this House.

There is an historical reason for this: Both Parliaments adopted South Australian Standing Orders as their basis of practice on their creation. The House of Representatives' Standing Orders are Nos. 169 and 170. Standing Order No. 169 is the "same question rule"—in a modified form—and Standing Order No. 170 provides the mechanism to rescind a vote.

In view of—

firstly, the words of our Standing Order No. 179;

secondly, the rule of law which I stated earlier; and

thirdly, the practice which has been established in this House; but not altogether overlooking the practice of another Parliament with a similar Standing Order,

I rule that the question for the second reading of the Acts Amendment (Constitution and Electoral) Bill may be properly put before the House a second time.

#### *Dissent from Speaker's Ruling*

Mr O'CONNOR: Mr Speaker, I rise to disagree with your ruling.

Mr Tonkin: It is no good disagreeing; you have to move dissent.

Mr O'CONNOR: Mr Speaker, I move—

That the House dissent from the Speaker's ruling.

I do so on the basis that I believe the information provided to me by independent counsel is correct. I suggest that it would be appropriate for this House to retire and obtain the views of independent counsel.

At the moment we have the views of the ALP, or the Government, in this House, not supported by any documentary proof. One would think that if the Solicitor General had information that was factual and helpful to the cause of the ALP, it would be provided in this House. No such documentation has been forthcoming.

The Opposition has taken the trouble, because it is concerned at what happens in this House, to make sure it has received independent views on this matter so that it could provide, on behalf of the people of this State, a view that is not a party political view, a view that is independent. This House should retire on that basis and go ahead and obtain independent authority and independent view as to what is actually right.

There is no doubt that we in the Opposition have done much more work in this area than has the Government. All the Government has done is to go forward and try to obtain something that would give the decision it wanted. We have gone forward on the basis of trying to obtain information that is proper for Parliament and the operations of Parliament.

Mr Speaker, I believe the information given to you is incorrect, and that under these circumstances you should seek further information, because Standing Order No. 178 is very clear. I will read it again—

178. No question shall be proposed which is the same in substance as any question which, during the same Session, has been resolved in the affirmative or negative.

That is very clear and concise. The decision made on the Bill in question was made in the negative and therefore comes very clearly under Standing Order No. 178. The fact that Standing Order No. 179 was temporarily suspended does not mean that Standing Order No. 178 also was suspended. Standing Order No. 178 still applies. Standing Order No. 179 was not meant to be used in the way in which the Government has used it. As pointed out in the opinions we have obtained, Standing Order No. 178 is completely for other purposes.

Mr Stephens: What are those other purposes?

Mr O'CONNOR: The member can have a copy of the opinions if he would like to read them.

Mr Stephens: I have them.

Mr O'CONNOR: They set out the position very clearly. They indicate that the Standing Order is to extend time and so on.

There is no doubt that what has been tried today in this House is quite improper, and the Government knows it. Mr Speaker, I believe what

you have done has been done on the basis that you believe you are right on the advice you have been given. I believe you should obtain information from other sources more talented than those from which you received your advice.

Mr Brian Burke: That is a gross insult. I think the Clerks of this place are excellent.

Mr O'CONNOR: Better than a QC?

Mr Brian Burke: In some respects, yes.

Mr O'CONNOR: This matter is of such importance—the Premier might not see it as such—

Mr Brian Burke: I think that the Clerks in certain areas of parliamentary procedure and Government, and certainly constitutional areas, are far more able than many QCs you have access to.

Mr O'CONNOR: I believe QCs have special expertise in this field. I have not been just to one QC; I have been to a number of other people as well. I knew the Government would be critical of any individual I mentioned. I knew if I were to have put forward one person's advice, he would be criticised.

Mr Brian Burke: Two of the people involved in the opinion you gave to us were Mr Viner and Mr Withers.

Mr O'CONNOR: I did not mention them. That would make the figure nine—nine people from whom I sought opinions. I made no suggestion that they should be conferred with.

Mr Brian Burke: It is pretty "in-house".

Mr O'CONNOR: Is Mr McCusker "in-house"? He would have put up a proposition that he thought was a proper one. I discussed the matter with three solicitors, who indicated that the view I had was correct. They took it and discussed it with Mr Nichol, who supported it and who then spoke to Mr Viner and Mr Withers—there is a sixth person there. We discussed it with two other solicitors and then forwarded it to Mr Malcolm McCusker QC for his view. We have done all these things, yet the Government with all its legal people at hand has not presented to this House a written opinion from anyone.

Mr Williams: They have three lawyers in this House at the moment, and not one of them has dared speak, because they know the Government is wrong.

Mr Tonkin: Rubbish!

Mr O'CONNOR: One member opposite has had enough trouble with this Bill to not want to be involved again.

We have obtained views from people in an unbiased way, people who we believed would give

a proper decision. Malcolm McCusker QC could not be accused by anyone of being a political person. He is well respected in this town. He is a man who, if I had gone to him and he thought I was wrong, would have said so. Not one of the persons I went to indicated that the view we had was wrong. Every one of them agreed, and there were nine in all if we include Withers and Viner, although I excluded them because they could be considered to be people with political biases.

The Government is trying to steamroll through this House a decision that in my opinion is improper and which, in the opinion of nine out of nine solicitors I contacted, is improper. The Government is not prepared to bring to this House a view, a written statement, from the Solicitor General or anyone else indicating its view is right. The Government is hiding behind a pillar to push through legislation that I believe is wrong. The Government wants to get a second decision on an issue that has already been decided on in the negative in this House.

I believe very sincerely that the Government has given the Legislative Council an open cheque to throw out this Bill on the first reading. If the Legislative Council considers the views we have obtained, and if it seeks a ruling itself, I believe it will take action to dispose of the Bill in the proper way.

I do not know what the Government is up to. Anyone from the Government side who looked at this properly would know very well that this Bill requires the concurrence of an absolute majority of both Houses of Parliament. The Government knows the extreme doubt connected with this measure, particularly in view of the opinion I have. Yet, under these circumstances, it is still prepared to disregard those views without properly looking at them and without going away and obtaining the view of the Solicitor General or other people. I would not want a Crown Solicitor's view if he were stood over by the Government.

A view should be obtained from an independent person, someone acceptable to both sides.

Mr Tonkin: Someone like Mr Nichols?

Mr O'CONNOR: Surely an independent view would be fair. I ask the Leader of the House to adjourn the House so that we can make sure this procedure is correct.

Mr Tonkin: Is that like when you were in Government?

Mr O'CONNOR: He is not even prepared to listen to my argument.

Mr Brian Burke: We would have to make adjournments that you wanted every day.

Mr O'CONNOR: I have not said anything of the sort.

Mr Brian Burke: If we let you have one adjournment, you would want one every day.

Mr O'CONNOR: The Premier is always home in bed having a snooze when we are debating matters in this Parliament.

Mr Brian Burke: That would be better than looking at you.

Mr O'CONNOR: The Premier is not here when we are debating issues of this importance; he is at home having a snooze. I do not like to make such comments, but I must in answer to comments from the Premier like those he has just made. The House should adjourn until an independent person can consider this procedure, someone acceptable to the Premier and to me. No doubt is in my mind that this procedure is wrong, but I would agree to our obtaining an independent view.

We have obtained the views of nine solicitors and each one agrees with us. It is difficult to know why the Government opposes an adjournment. Why does the Government not place on the Table of the House the opinion it has obtained? I was criticised this morning for not placing an opinion on the Table of the House, and when I tabled it, the Government would not table the opinion it had. It does not have an opinion that supports this procedure.

Mr Tonkin: We have opinions.

Mr O'CONNOR: Where are they from?

Mr Tonkin: Who gave you your opinions?

Mr O'CONNOR: One is from McCusker QC.

Mr Tonkin: He is not a constitutional lawyer.

Mr O'CONNOR: Another is from Paul Nichols. He is a constitutional lawyer.

Mr Tonkin: He is not. He is a Liberal Party hack.

Mr O'CONNOR: The Standing Orders prevent a question being reintroduced during the same session of Parliament, and in this case the Government intends to put the same question forward. The Government, with its jack boots, might be able to steamroll this measure through the House.

Mr Tonkin: Are you saying that the Speaker has jack boots?

Mr O'CONNOR: I am talking about the Minister.

Mr Tonkin: You are moving dissent from the Speaker's ruling.

Mr O'CONNOR: I am not.

Mr Clarko: He said "The Government".

Mr Tonkin: He is moving dissent from the Speaker's ruling.

Mr O'CONNOR: I referred to the Government.

The SPEAKER: Order!

Mr O'CONNOR: I do not want to delay the House, but the Leader of the House requires me to repeat these points. It is obvious that the Government wants to jack boot this measure through.

Mr Tonkin: In spite of your gerrymander, we happen to be the elected Government.

Mr O'CONNOR: If the Government was taking the proper decision, it would lay any opinion it has on the Table of the House.

Mr Tonkin: Did you ever do that?

Mr O'CONNOR: I at least had the gumption to lay the opinion I had on the Table of the House. I suspect that the Government tore up or threw in the bin the opinions it received against this procedure.

Mr Tonkin: That's untrue.

Mr O'CONNOR: Does the Leader of the House say that he has opinions on this procedure?

Mr Tonkin: It was discussed with the Attorney General.

Mr O'CONNOR: Does the Leader of the House have an opinion in writing?

Mr Tonkin: We don't.

Mr O'CONNOR: He should get one.

Mr Tonkin: We don't need them in writing.

Mr O'CONNOR: We should have written opinions laid on the Table of the House.

Mr Tonkin: When you were in Government, how many times did you lay opinions on the table.

Mr Crane: When this happened to us, we put it in the next year. If you did that, I would support you.

Mr Tonkin: Of course you wouldn't.

Mr Crane: I would.

Several members interjected.

The SPEAKER: Order! The House will come to order! I make it clear to the Leader of the Opposition that I have imposed a time limit of 20 minutes on his speech.

Mr O'CONNOR: Thank you for bringing the House to order, which was necessary as a result of

the disorderly conduct of the people opposite. If the Bill is passed through both Houses of Parliament, anyone affected by it will be able to challenge it and probably gain compensation. Every voter in this State could take action against the Government, and that would mean 600 000 people either independently or jointly could take action against the Government. The Opposition does not want that to happen; we do not want to see the Government in more difficulty than it is in already. It certainly is having difficulty putting up a case in support of its action.

I disagree with the views it has put forward, because I know them to be wrong. If this legislation goes through, it will be a bad mark on the Parliament for all time. It will set a precedent as has never been set before.

I do not want a blot left on the record of the Parliament, and I do not want people able to take action against the Government as a result of its mistakes.

Mr Speaker, I hope you will review your decision and adjourn the House so that we can obtain an independent view on this matter. I can see you are considering that course seriously right now.

Mr Tonkin: You are taking advantage of the Chair, because the Speaker cannot interject.

Mr Clarko: Anyone can—or can't!

Mr O'CONNOR: The Speaker can sit me down at any time he wants. I will respect the Chair as I always have. I cannot say as much for the member for Morley-Swan.

Mr Brian Burke: I always have.

Mr O'CONNOR: I agree. The member for Morley-Swan should not accuse me of being disrespectful to the Chair. He was the one tossed out of Parliament for his disrespect of the Chair.

Mr Tonkin: That was because of the corrupt electoral laws you brought in.

Mr O'CONNOR: We have this same member as a Minister trying to put corrupt legislation through this Parliament. The people in this House who have self respect—Mr Speaker, you are certainly one I look to in this regard—must think seriously about this matter to ensure that no-one will be able to make a fool of this Parliament.

Our decision will be considered by people at the university, by QCs, and by others. The Government is trying to buck the system and make a farce of the Parliament. It has shown disrespect for the Parliament, and the Government will be shown up for what it is.

I hope that you, Mr Speaker, will take cognisance of my remarks and adjourn the House so



that we can obtain a view from a person acceptable to all parties.

**Mr BRIAN BURKE:** I rise to support your ruling and to say briefly that I believe it was well-founded in the precedents and Standing Orders you quoted.

I assign the Leader of the Opposition's submission mainly to things political, but I suppose that is the nature of things. It is possible for people to exaggerate, or for things to change in the ignorance of others. Had the Leader of the Opposition continued to speak for much longer, we would have ended up with 39 lawyers supporting his position. When I pointed out to him that his Mr Nichols consulted Mr Withers and Mr Viner, he added those two gentlemen to the number who supported his position.

**Mr Clarko:** No, he said quite the opposite.

**Mr BRIAN BURKE:** As I understand it, there were seven until the advent of those two, and then he made it nine.

**Mr Clarko:** No, your mathematics is poor.

**Mr BRIAN BURKE:** That is my clear understanding of what the Leader of the Opposition had to say.

**Mr Old:** That is how good your understanding of anything is.

**Mr BRIAN BURKE:** In any case, I think the Leader of the Opposition has an obligation to Messrs Withers and Viner to indicate that they have apparently not expressed any opinion on the matter except that their names are included in a covering letter by Mr Nichols as people with whom Mr Nichols had consulted. I do not think there is any doubt that the case you made in respect of your ruling is the substantial and significant case. Mr Speaker, quite simply, as you explained, Standing Order No. 179 need not be in the Standing Orders if it is not to be given the meaning that your ruling gives it. In addition to that, as you stated, Mr Speaker, it is quite a common practice for subsequent Standing Orders to modify those which precede them as is the case in laws where some earlier sections in a particular Act are modified, changed, or held in abeyance in certain circumstances according to latter sections within the same Act. That is simply the truth of the matter, and that is a truth very concisely embodied in your ruling. The Government supports that ruling and urges upon the Opposition that to persist politically as it is doing now probably serves no-one much good, although I think the point should be made in conclusion that what we suspect is the case is that the Opposition is laying down very clearly a basis that it thinks will

justify the Legislative Council rejecting the legislation at the first reading.

**Mr O'Connor:** You have laid it down for us.

**Mr BRIAN BURKE:** If that is the case, quite clearly this Opposition is willing to have its powers impinged upon by the Legislative Council and it is quite content to see the Legislative Council overturn Speakers' rulings because, in effect, it is saying, "If you don't rule the way we want you to, Mr Speaker, the Legislative Council will chuck out this piece of legislation on the first reading".

**Mr Clarko:** He didn't say that.

**Mr O'Connor:** Misleading again! God, you are a beaut! The minister for misleading information!

**Mr Clarko:** He said he could understand—

**The SPEAKER:** Order!

**Mr BRIAN BURKE:** I caution members of the Opposition against adopting such a course.

**Mr Clarko:** —if the Legislative Council were to take a particular course. What is wrong with saying he could understand? That is not the same as what you are putting forward.

**Mr BRIAN BURKE:** Let me simply repeat that it seems to me that the Opposition is attempting to define a basis on which the Legislative Council can reject this legislation at the first reading.

**Mr O'Connor:** We have done it on what grounds we believe we ought to reject it here.

**Mr BRIAN BURKE:** If that is the case, let me simply repeat that I caution members of the Opposition against following that tactic—

**Mr Williams:** He is threatening.

**Mr BRIAN BURKE:** —because to me it seems unwise to interfere in the operations of this Chamber.

**Mr Williams:** You don't know the meaning of the word.

**Mr Clarko:** If all the lawyers in the world—

**Mr BRIAN BURKE:** I am tempted to say that, if all the lawyers in the world agreed with the member for Karrinyup, they would all be wrong.

**Mr O'Connor:** What a wonderful conclusion!

**Mr BRIAN BURKE:** I would be tempted to say that, knowing something of the worth of the member for Karrinyup's opinions. It is an important point to make that the Legislative Assembly should very carefully consider its position in respect of another place. Members of the Opposition should hesitate to attempt to make out the basis for that Chamber to chastise the Speaker in

this place simply on the basis that it does not agree with his ruling.

Mr Clarko: No, they will make their own decisions.

Mr BRIAN BURKE: Regardless of the side of the House on which we sit in this place, we have an obligation to the Speaker, whoever he may be from time to time, and to the upholding of his position in its dignity and substance.

Mr Thompson: Only when you are in Government, because, when you were in Opposition, you did not hold that view. You all marched out when I made a ruling on the advice of the same Clerk who is now giving you advice.

Mr BRIAN BURKE: That is perfectly true. That was an expression of opinion by people in this place about the Speaker.

Mr Clarko: Unqualified people.

Mr BRIAN BURKE: I would think that is one of our roles.

Mr Thompson: You now have more judges to argue with as well.

Mr Hassell: Like the banana republics of Africa.

Mr BRIAN BURKE: That is our role as members of this place.

Mr Clarko: To walk out when you are wrong?

Mr BRIAN BURKE: I point out to the Opposition that the basis that is being pursued by it should cease. No members of the Opposition here walked out, but they are urging members of the Opposition in another place to discipline the Speaker in this place.

Mr Clarko: That is a long bow. That does not discipline the Speaker.

Mr BRIAN BURKE: That is what the member for Kalamunda referred to. I conclude by saying, Mr Speaker, that your ruling is one that the Government supports wholeheartedly and it is one that the Leader of the Opposition has not been able to detract from and, as you said, it is one which embodies the good sense that is necessary for this place to function at all. The Leader of the Opposition talks about a blot or a stain on the record of Parliament, and this blot or stain will be occasioned by, in the case of the Leader of the Opposition, the absurdity of his argument, and in the case of the Deputy Leader of the Opposition, the superior evil of his argument and, in the case of the other members, the knowing following of one of those two things.

Mr HASSELL: I rise to support the motion of dissent moved by the Leader of the Opposition and to endorse and support the remarks made by

him. I am not going to repeat all the arguments which have been put in relation to this matter because they are on the record. I do say that it is with regret that the Opposition moves dissent from your ruling, Mr Speaker, because we did not come here today wishing to do so any more than we came here today wishing to delay or prolong proceedings unnecessarily. It is our firm view that your ruling is wrong. The suggestion made by the Leader of the Opposition really should be taken up. I must say, with respect to you, Mr Speaker, that I was indeed surprised that you gave your ruling without adjourning the House and taking time to consider the issue on this matter, because we did present to you the opinion of a Queens Counsel and a further opinion from a barrister of this city. Those opinions, along with others referred to, although not on the record before us, confirm the view that we have expressed, that notwithstanding that Standing Order No. 179 has been brought into operation and a resolution to rescind adopted by the House, it is not competent for the Acts Amendment (Constitution and Electoral) Bill to be brought on again for debate. That appears to us to be very clear on the face of the Standing Orders.

The Government itself relied heavily on the Standing Orders this morning when it sought to invoke the provisions of Standing Order No. 179. The Government itself rejected rulings made in other places and other Parliaments and the practices and procedures of the House of Commons. The Government itself said, "Refer to the Standing Orders of this House. Use the Standing Orders. They are clear". We think the issues are wider than that, but we also believe that where a Standing Order is clear, as in the case of Standing Order No. 178, it should apply. It does not exclude Standing Order No. 179; the two of them stand together. They can operate together and there is no lack of logicity and no lack of possibility in your having ruled today that the rescission motion under Standing Order No. 179 was completely in order and in your then ruling that debate being resumed on the Bill in question was completely out of order.

That is the ruling we believe you, Mr Speaker, should have given in the latter case. It is because we believe that this is a matter of substance that we have moved to dissent from your ruling; it is because we believe that the House is creating a precedent which will serve this House badly, that we are dissenting from your ruling.

I go back to the point made by the Leader of the Opposition that there really ought to be consideration of this matter objectively outside this Parliament before the debate on the Bill proceeds.

The Government should be prepared to co-operate with the Opposition in having some outside authority examine the relevant provisions.

Mr Tonkin: Look how you co-operated when we were in Opposition.

Mr HASSELL: We should ascertain that what has been done is right or wrong and both sides of the House should be prepared to commit themselves to the outcome of that advice through the Speaker's further ruling. If that were done, not only would we be fair, but also we would be seen to be fair and it would not allow this House to quite deliberately make a ruling that will act as a precedent and may create significant constitutional difficulties in the near future and the long-term future.

I go back to a point I made earlier today. If we do not follow the procedures laid down by law, and by which this Parliament is bound, we may fail to make a substantive law. If that is the case, we will put private people to the expense and the risk of initiating litigation in the Supreme Court; and no doubt it would go through to the High Court of Australia. There will be delay and uncertainty. It may well be that if the Government were to succeed in having the legislation debated in this House as a result of the Speaker's ruling and then debated by the upper House, there could be, on the basis of the questions raised, a challenge in the courts which could be taken to the High Court and this would take at least 12 months in all—probably 18 months. During that time there would be a cloud over the constitutional validity of the upper House which would put in question great areas of legislation to be adopted in that period of uncertainty.

It could be that by-elections could arise which could not be determined until the ruling was final. It would be bad for this State and it is not necessary because the Government has the way open to it to bring back this legislation in a way that cannot be questioned. It is entitled to bring back the legislation in the next session and that is what it should do; and if in the next session it has the numbers—that is, if some of its members have not woken up to what the Government is about and are still with them—and if it can muster the numbers, it will get the legislation through at that time. The Government should not be proceeding now.

Mr MENSAROS: It is with considerable regret that I agree with the motion dissenting from your ruling, Mr Speaker. You imply, as did the Premier, that Standing Order No. 179 is an appendix to, or an explanation of, Standing Order No. 178—as if Standing Order No. 179 would do

nothing else but constitute an exemption from Standing Order No. 178. That is not correct. The two Standing Orders are not necessarily related. This could be so in a decision, such as the one we made only a few minutes ago, to rescind a resolution that is subject to Standing Order No. 178—but it does not have to be. The very fact it does not have to be must be accepted from the Clerks themselves who placed the references on the page of Standing Order No. 179.

I refer to the three precedents that have been set relating to Standing Order No. 179. The first occurred in 1949 and it was simply a procedural method where no notice had been given. There was no question that the matter before the Chair should, or should not be, resolved in the same session of Parliament. The first precedent has nothing to do with Standing Order No. 178.

The next precedent concerned the suspension of a resolution for a month's adjournment of a Bill that was before the House and which was subsequently agreed to. As I pointed out earlier, the House saw fit to rescind the adjournment decision in order that the Bill could be debated earlier.

The third precedent occurred in 1957. It was simply a mistake by the Minister of the day who said that he disagreed with the amendment when he should have said he agreed with it. The Opposition of the day allowed Standing Order No. 179 to be used to rescind the decision despite the fact that the Chairman of Committees had reminded the Minister that the question had been resolved.

That in itself proves two things. The first is that Standing Order No. 179 is not annexed to Standing Order No. 178 and does not relate only to matters which come under the umbrella of that Standing Order. It relates to any vote or resolution of the House, under whatever Standing Orders.

Indeed, if we look at the precedents which have been set we find that they did not relate to Standing Order No. 178 and that, of course, makes our argument stronger. I refer to Erskine May's *Parliamentary Practice* which states that the rescission should be used critically and not for substantive questions. I think that both you, Mr Speaker, and the Premier have incorrectly interpreted Standing Order No. 179 as being a further provision of Standing Order No. 178.

The second point is that if you, Mr Speaker, rule as you have, the exemption against Standing Order No. 178, you have deemed that the negative vote which occurred last Wednesday does not exist. It is a fact that the House rescinded the vote, but it is not a fact that it has disappeared. Has the Government burned all the "Votes and

Proceedings"; has it burned *Hansard*? The vote is there; it happened, and consequently Standing Order No. 178 still applies. This is the argument of the legal opinion which was tabled. This is the argument supported by the QC and put very clearly to the House, that Standing Order No. 179 does not exist solely to make Standing Order No. 178 inoperative. It does not annul Standing Order No. 178, which continues to exist and which is still operative, and which must be taken into consideration.

That is the question of this whole debate and of your ruling. The other arguments were not so much connected with the question of your ruling, but were a warning to the Government of what can happen, and they tie in with the initial comments I made in the previous debate when I said that the Government must step carefully when a doubt exists about an interpretation of the law.

The SPEAKER: Order! There is too much audible conversation.

Mr MENSAROS: I think a grave doubt exists about an interpretation of the law in this case. The Government as a matter of expediency—and I do not know the reason, although mention was made of time being booked on television, and I am not interested in that—is adamant about taking the risky course of interpreting the law instead of taking the safe course. I do not think that is the behaviour of a Government which wants to be moderate, serious, and honest.

For reasons I have outlined briefly, I support the dissent motion, albeit reluctantly.

Mr COWAN: We in the National Party, while not agreeing with the Government's purpose in having this motion rescind that which was once before the House, certainly acknowledge its right to do so. We acknowledge that under Standing Order No. 179, the House has correctly gone through the procedures to have the question that was put before the House rescinded. As I understand it, having done that, and the vote which was taken having been rescinded, Standing Order No. 178 no longer applies to this particular matter. The vote has been rescinded.

It is incorrect to make a judgment that the Government is in error because the question is deemed to have been put before the House and negated. Under Standing Order No. 179 we have quite correctly rescinded a vote which was taken. That being the case, I am quite sure that this House is in order in taking the next step. I am quite certain also that your ruling, Mr Speaker, in this particular issue is correct, as is your interpretation of Standing Orders Nos. 178 and

179. We have no argument with your ruling; the Standing Orders are quite explicit.

If the Standing Orders were not explicit, there is no question that when we go back to past debates, we see it was accepted we had to abide by, firstly, Standing Orders, or if they were not explicit enough, by established practice, and, if no established practice existed, we looked to the House of Commons. In doing so, we looked to Erskine May and his interpretation of the laws of the House of Commons. Erskine May is quite explicit in his interpretation of the rescission of resolutions. I quote from page 384 as follows—

But the rescission of a resolution or discharge of an order of the current session at one time offered great difficulty when Parliament was regarded rather as a court of law than a legislative body. The rule was urged (2 April 1604), "That a question, being once made and carried in the affirmative or negative, cannot be questioned again, but must stand as a judgment of the House". Also by a rule formerly in force, a second bill, at variance with the provisions of a bill passed during the same session, could not be introduced and rescission is opposed, certainly, to the spirit of the existing rule that no question shall be offered which is substantially the same as one on which judgment has been expressed during the current session. But the practical inconvenience of a rigid rule of consistency, especially where the House as a whole wishes to change its opinion, has proved too great for a body confronted with the ever-changing problems of government; and the rule prohibiting reconsideration of a decided question has come to be interpreted strictly according to the letter so as not to prevent open rescission when it is decided that it is desirable.

Standing Orders are quite clear and explicit. In accordance with Standing Order No. 179 we have moved to rescind a vote taken and negated in this place. We having gone that far, that vote no longer exists. We are then quite in order—although I do not like it because we opposed the original motion—in doing what has been done to date. If Standing Orders were not sufficient to demonstrate that, and if there were no established practice which could be used as a precedent, the practice of the House of Commons and the interpretation by Erskine May of the law of the Commons indicate your ruling is quite correct. We support it.

The SPEAKER: The matter before the Chair is the motion moved by the Leader of the Opposition to dissent from my ruling. I wish to put two

matters before the House before I put the question.

The first is that earlier today, when I learned there were to be some legal documents tabled in the House, I made a decision at that time that I would suspend the House to consider those documents, thinking they would be fairly lengthy and were documents I ought to consider. However, after the Leader of the Opposition made them available to me during the course of the debate, I was able to read them and it no longer became necessary to suspend the House.

Secondly, I quote from Erskine May's *Parliamentary Practice* page 436, which I think is telling in this debate on the motion to dissent from my ruling. At that page the following appears—

The ultimate authority upon all points is the House itself: but the Speaker is the executive officer by whom its rules are enforced.

Motion (dissent from Speaker's ruling) put and a division taken with the following result—

## Ayes 21

Mr Blaikie	Mr Mensaros
Mr Bradshaw	Mr O'Connor
Mr Clarko	Mr Old
Mr Court	Mr Rushton
Mr Coyne	Mr Spriggs
Mr Crane	Mr Thompson
Dr Dadour	Mr Trethowan
Mr Grayden	Mr Tubby
Mr Hassell	Mr Watt
Mr Laurance	Mr Williams
Mr McNee	

(Teller)

## Noes 32

Mr Barnett	Mr Hodge
Mr Bateman	Mr Jamieson
Mrs Beggs	Mr Tom Jones
Mr Bertram	Mr McIver
Mr Bridge	Mr Parker
Mr Bryce	Mr Pearce
Mrs Buchanan	Mr Read
Mr Brian Burke	Mr D. L. Smith
Mr Terry Burke	Mr P. J. Smith
Mr Burkett	Mr Stephens
Mr Carr	Mr A. D. Taylor
Mr Cowan	Mr I. F. Taylor
Mr Davies	Mr Tonkin
Mr Evans	Mrs Watkins
Mr Grill	Mr Wilson
Mrs Henderson	Mr Gordon Hill

(Teller)

Motion thus negatived.

*Motion Resumed*

Question put and a division taken with the following result—

## Ayes 30

Mr Barnett	Mr Hodge
Mr Bateman	Mr Jamieson
Mrs Beggs	Mr Tom Jones
Mr Bertram	Mr McIver
Mr Bridge	Mr Parker
Mr Bryce	Mr Pearce
Mrs Buchanan	Mr Read
Mr Brian Burke	Mr D. L. Smith
Mr Terry Burke	Mr P. J. Smith
Mr Burkett	Mr A. D. Taylor
Mr Carr	Mr I. F. Taylor
Mr Davies	Mr Tonkin
Mr Evans	Mrs Watkins
Mr Grill	Mr Wilson
Mrs Henderson	Mr Gordon Hill

(Teller)

## Noes 23

Mr Blaikie	Mr Mensaros
Mr Bradshaw	Mr O'Connor
Mr Clarko	Mr Old
Mr Court	Mr Rushton
Mr Cowan	Mr Spriggs
Mr Coyne	Mr Stephens
Mr Crane	Mr Thompson
Dr Dadour	Mr Trethowan
Mr Grayden	Mr Tubby
Mr Hassell	Mr Watt
Mr Laurance	Mr Williams
Mr McNee	

(Teller)

Question thus passed.

*Second Reading*

Question put and a division taken with the following result—

## Ayes 30

Mr Barnett	Mr Hodge
Mr Bateman	Mr Jamieson
Mrs Beggs	Mr Tom Jones
Mr Bertram	Mr McIver
Mr Bridge	Mr Parker
Mr Bryce	Mr Pearce
Mrs Buchanan	Mr Read
Mr Brian Burke	Mr D. L. Smith
Mr Terry Burke	Mr P. J. Smith
Mr Burkett	Mr A. D. Taylor
Mr Carr	Mr I. F. Taylor
Mr Davies	Mr Tonkin
Mr Evans	Mrs Watkins
Mr Grill	Mr Wilson
Mrs Henderson	Mr Gordon Hill

(Teller)

## Noes 23

Mr Blaikie	Mr Mensaros
Mr Bradshaw	Mr O'Connor
Mr Clarko	Mr Old
Mr Court	Mr Rushton
Mr Cowan	Mr Spriggs
Mr Coyne	Mr Stephens
Mr Crane	Mr Thompson
Dr Dadour	Mr Trethowan
Mr Grayden	Mr Tubby
Mr Hassell	Mr Watt
Mr Laurance	Mr Williams
Mr McNee	

(Teller)

The SPEAKER: I declare that the question is carried with the concurrence of an absolute ma-

majority of the whole number of the members of the House.

Question thus passed.

Bill read a second time.

#### *Reference to Select Committee*

**MR STEPHENS** (Stirling) [4.41 p.m.]: I indicated during the second reading debate that, if the Bill was read a second time, I would move that it be referred to a Select Committee. Therefore, I move—

That the Bill be referred to a Select Committee.

In his second reading speech, the Minister for Parliamentary and Electoral Reform said—

It is the sincere wish of the Government to create an electoral system that is fair to all, that is accepted by all, and that is above the machinations of party politics.

I agree wholeheartedly with that comment. Indeed, it is because of that comment that I hope the Government will support the motion.

During his second reading speech, the Minister was critical of the fact that, since he had been in Parliament, amendments had been made to the Electoral Districts Act without any consultation with the Labor Party in Opposition, as it was then.

The Minister was critical of that. This Bill has been brought before the Parliament without any consultation with the Liberal Party, or even with the National Party, and yet the Minister has said that he is looking for an electoral system which is fair to all and which is above the machinations of party politics.

The way for the Minister to achieve that is for him to support the motion. In that way, the Bill would be discussed by an all-party committee which would be able to invite participation from the public, so that hopefully we could produce a compromise which would be supported by all factions, and which would be reasonable and fair to all sections of the community.

The motion gives the Government the opportunity to be true to the words it used. It is not necessary for me to proceed further and go into great detail, particularly when one considers the length of time spent on the second reading. However, I hope sincerely, in view of the comment made by the Leader of the House in the second reading, that the Government will support the motion.

**Mr Tonkin:** Which comment was that?

**Mr STEPHENS:** The Minister's comment was—

It is the sincere wish of the Government to create an electoral system that is fair to all, that is accepted by all, and that is above the machinations of party politics.

I agree wholeheartedly with those sentiments and that is the reason I have moved the motion.

It is not sufficient to say that, should the Bill be passed in another place, the public will have an opportunity to have their say by way of referendum, because the question put to the public at that referendum will be very limited. Indeed, it will virtually relate to the acceptance or rejection of the Bill. Many alternatives could be considered and the public may want to express those alternatives. A Select Committee would provide an opportunity for the public to have an input.

**MR TONKIN** (Morley-Swan—Minister for Parliamentary and Electoral Reform) [4.44 p.m.]: The Government opposes the motion. I note the member for Stirling quoted a portion of my speech in which I said we wanted an electoral system which was fair to all, was accepted by all, and was above the machinations of party politics. Of course, I adhere to that.

I want to deal with those three different parts. We certainly want a system which is fair to all, and that means all men and women will be treated equally. We want a system which is acceptable to all, and I regret that it will not be acceptable to all. I regret that the conservatives in this State, as they have done for the last 90 years, will fight tooth and nail and use every trick in the book, both decent and indecent, in order to prevent a system being established which is fair to all, and which will enable any political party to have a majority in the Legislative Council.

I would prefer it if we could get together, but members opposite have been in Government for most of this century. They have been in Government for 21 out of the last 24 years.

Several members interjected.

**Mr TONKIN:** The member for Stirling was a Minister in a conservative Government and I did not see a system which tried to adopt a consensus come from the Government at that time.

Complaints have been made that we did not consult people. Never once was I consulted by the conservative Governments of this State. Never once was the Australian Labor Party consulted; therefore, although we want a system acceptable to all, and we hope we shall eventually get it, the

ALP has been elected to Government with a mandate.

Despite the fact that by popular vote the Government won a majority in the Legislative Council, it did not win as many seats as the conservatives.

Therefore, it is clear the Legislative Council has lost all moral right to sit in judgment on a law of this kind. Although I would prefer a system acceptable to all, I do not believe the conservatives are prepared to give up power in that way.

I have referred frequently to corruption. Indeed, the Leader of the Opposition said I had no right to speak about respect for the Speaker, because I had been suspended from the Parliament. I was suspended from the Parliament because I said that the Government of the day was corrupt, and I meant it. The reason I meant it was this—I quote once again Lord Acton's dictum—that "power corrupts". What he means by that is not necessarily only that people are paid to give out contracts—that is one form of corruption—but also that another form of corruption exists and history teaches us that people in power rarely give it up voluntarily; they are prepared to cheat, lie, and kill in order to keep power.

Mr Williams: You are a clear example of that.

Mr TONKIN: To my knowledge, the conservatives of this State have not been prepared to kill, but they have certainly been prepared to pass fraudulent laws which have meant that 28 per cent of the people of this State control a majority of the Legislative Council. That is what we mean by the expression "power corrupts".

In order to stay in power, members opposite have been prepared to say that Kalamunda, Mundaring, and Darling Range are country seats.

Mr Spriggs: Of course Darling Range is!

Mr TONKIN: Do members see what I mean? Of course, we want to get above party politics. We want a system which is accepted by all, and when the conservatives show they are prepared to adopt a system which is fair to all, I shall be prepared to listen.

The third part of the quotation made by the member for Stirling was that the system should be above the machinations of party politics. We believe in that, and the electoral system we propose will ensure that, if a party gets a majority of votes, it will get a majority of seats. That is the essence of democracy.

Mr Clarko: You are not doing that in the lower House.

Mr TONKIN: We have waited 90 years for the conservatives to come up with a system that is fair.

Several members interjected.

Mr McNee: Let's get the State moving!

Mr TONKIN: We do not intend to abrogate our responsibilities—

Mr McNee: You have already done that!

Mr Clarko: In the lower House you are going to have a different system.

Mr TONKIN: —and say, "Let us have a Select Committee". We say that we have been elected; we have put before the Parliament a Bill which we believe is a good one; and the time for Select Committees—the time for discussion—is gone and this State demands action for democracy.

Mr Williams: The only thing you have given the State is a good dose of diarrhoea.

MR CRANE (Moore) [4.50]: For a very good reason I oppose the amendment moved by the member for Stirling: It is futility in the extreme. However, I believe the member has good intentions. I have said in this House that only one person has ever gone to Parliament with good intentions, and that is Guy Fawkes. There may have been one or two others. However, this motion is an exercise in futility.

Today we have had demonstrated to us in no uncertain manner that what the Leader of the House has just said is quite true, because power does corrupt. However, the second part of the quotation is "absolute power corrupts absolutely". In this Chamber we have absolute power on the side of the Government. We have had ample evidence over the last few days that this power is corrupting absolutely.

Mr Bertram: That is not true.

Mr CRANE: It must be true because I said it. That is the sort of argument I have been listening to from members opposite for far too long. There is no logic in the argument, but as long as the Government has the numbers, it will win the argument.

As I have said, this is an exercise in futility. Suppose just for a moment that we on this side were able to muster the numbers to support the member for Stirling's motion. We would find that a Select Committee would be appointed comprising two members from this side of the House and three from the other side of the House. The Government has indicated already in no uncertain manner that it has not the slightest intention of listening to what is true, honest, and decent. No more would it do so if a Select Committee were

appointed. A Select Committee would be a waste of time.

I am reminded of something which is not very nice to say, but I will say it anyway, because I was brought up in a pretty tough and hard world, particularly a number of years ago. We have evidence that what I have in mind is happening now. I am reminded of an old Navy quotation, which the member for Subiaco will remember. I recall that I was once having a bit of trouble in the Navy.

Several members interjected.

Mr CRANE: The nub of the whole problem was that there was no question that I was right. I had questioned the power of the Navy to do what it was doing to us all. A very wise petty officer said to me, "Listen, signals, you are in the Navy now and the Navy has absolute power over you. If it wishes, it can even subject you to sexual intercourse—but it cannot make you love the baby". That is precisely what the Government is doing to us—but it will never get us to love the baby.

Several members interjected.

The SPEAKER: Order! The House will come to order!

Mr CRANE: I am saying this so that all those people out there—and there are a million of them—will know what this Government is doing, supposedly on their behalf, to decency, to democracy, and to this Parliament. I say without fear of contradiction that the Government has no concern for anything but itself. We have "Burke's law" in this place. We would not mind that if it were an honest law. The person saying all this right now is a person who commended the Government several times the other night for things it had done. Therefore, I cannot be biased in what I say.

I am very concerned—and the member should take that supercilious bloody grin off his face, the impudent monkey. That is precisely what he is—an impudent monkey, and I say that in deference to the great apes.

Now is the opportunity for us to ask the Governor to dismiss this Government, just as the Whitlam Government was dismissed. This Government is forcing its will undemocratically on the people.

Several members interjected.

Mr CRANE: I for one was not elected to this place to allow that to happen, and I have not the slightest intention of sitting in my seat and letting it happen.

We have seen the Premier in this place with a sticker calling for one-vote-one-value. He ought to

remove that sticker and put in its place a swastika, because never before have I seen such an example of jackboots being stamped all over the people.

The motion is a waste of time, so for that reason, I will not support it. It is an exercise in extreme futility to deal with jackals. If one sleeps with dogs, one must expect to wake up with fleas.

MR COWAN (Merredin) [4.56 p.m.]: It is with a great deal of trepidation that I rise after the contribution by the member for Moore, but I would like to bring the House back to reality.

Several members interjected.

The SPEAKER: Order! Some members are having difficulty hearing the speakers on their feet. If members would desist from interjecting—which is highly disorderly—perhaps we could all hear what the member who has the call has to say.

Mr COWAN: I point out to the Leader of the House that very old adage that two wrongs do not make a right. I recall that on at least two occasions when he was in Opposition amendments were made to the Electoral Act, which amendments seriously discriminated against his party and created some anomalies which certainly deserve to be corrected. Nevertheless, the Leader of the House is now guilty of doing precisely what his predecessors did; in other words, he is not prepared to give this Parliament a chance to function properly, to examine particular situations, and to make recommendations to be brought back here concerning issues, such as the one we are discussing, for approval by the Parliament.

I do not expect that we will have total agreement in matters which are as political as electoral reform, but I would have expected that the Government, having previously spent nine years in Opposition and having claimed that in that time it was never given the opportunity to get the Parliament functioning as it should or to allow members of the Opposition to make meaningful contributions on issues before the Parliament, would agree to the formation of a Select Committee to examine this matter.

This legislation deals with one-vote-one-value for the other place. The process contained in this Bill for electing members to the Legislative Council has been likened to the process for electing people to the Senate. Perhaps this proposed Select Committee could examine the weighted vote ratio between the State of Tasmania and the State of New South Wales and recommend that Western Australia, because of its size and its diverse communities of interest, should have regionalisation and representation on a regional basis which



would give a weight ratio equal to that of the State of Tasmania in the Senate. It could perhaps address itself to the value of having one-vote-one-value for this place. Incidentally, I have not yet seen any legislation to bring that about.

Mr Thompson: Nor will you.

Mr COWAN: I agree with the member for Kalamunda.

A Select Committee could examine these issues and submit recommendations to the Parliament. I would be quite disappointed if the Government did not allow this to happen—obviously I will be disappointed. I will be disappointed if the Opposition does not agree to a Select Committee because I am certain it is eager to have an opportunity to redress some of the imbalances which it created when in Government, imbalances which have given the impetus of public support to the Government in its attempt to introduce one-vote-one-value. Had the boundaries for the metropolitan area been correctly drawn and had the very uneven weight distribution in the Legislative Council been corrected, this particular legislation might never have been brought before the Parliament.

I support my colleague's move for a Select Committee, and I urge members to do the same.

Question put and a division taken with the following result—

Ayes 2		(Teller)
Mr Cowan	Mr Stephens	
Noes 50		(Teller)
Mr Barnett	Mr Jamieson	
Mr Bateman	Mr Tom Jones	
Mrs Beggs	Mr Laurance	
Mr Bertram	Mr McIver	
Mr Blaikie	Mr McNee	
Mr Bradshaw	Mr Mensaros	
Mr Bridge	Mr O'Connor	
Mr Bryce	Mr Old	
Mrs Buchanan	Mr Parker	
Mr Brian Burke	Mr Pearce	
Mr Terry Burke	Mr Read	
Mr Burkett	Mr Rushton	
Mr Carr	Mr D. L. Smith	
Mr Clarko	Mr P. J. Smith	
Mr Court	Mr Spriggs	
Mr Coyne	Mr A. D. Taylor	
Mr Crane	Mr I. F. Taylor	
Dr Dadour	Mr Thompson	
Mr Davies	Mr Tonkin	
Mr Evans	Mr Trethowan	
Mr Grayden	Mr Tubby	
Mr Grill	Mrs Watkins	
Mr Hassell	Mr Williams	
Mrs Henderson	Mr Wilson	
Mr Hodge	Mr Gordon Hill	

Question thus negatived.

Motion defeated.

### *In Committee*

The Chairman of Committees (Mr Barnett) in the Chair; Mr Tonkin (Minister for Parliamentary and Electoral Reform) in charge of the Bill.

### *Point of Order*

Mr O'CONNOR: It is my intention to move for the rescission of the Bill. Is it appropriate for me to do that today or to wait until Tuesday?

The CHAIRMAN: The question of a rescission order on the Bill must be raised in the House under the jurisdiction of the Speaker, not in Committee.

Mr O'CONNOR: Will I be able to do that today?

The CHAIRMAN: That depends on whether we get out of Committee.

### *Committee Resumed*

Clauses 1 to 3 put and passed.

Clause 4: Section 47 substituted—

Mr TONKIN: I intend to move an amendment, and the reason is that the draftsman—

Mr Blaikie: Don't blame the draftsman.

Mr TONKIN: I was not blaming him.

Mr Blaikie: You didn't read the Bill before it came into the Parliament, so don't blame someone who cannot defend himself. You are in charge of the Bill.

Mr TONKIN: I accept that I am responsible for the Bill.

Mr Blaikie: So don't blame anyone.

Mr TONKIN: Will we have continual interjections?

The CHAIRMAN: If speeches are directed to me and interjections are ignored, I will do my best to ensure that interjections cease.

Mr TONKIN: The Parliamentary Draftsman, in drawing up the Bill, kept it as close as possible to the five parent Acts. On further consideration, it was determined that the drafting did not provide for the new situation.

It was considered originally that, as this matter was not one of principle, the machinery of the parent Acts should be maintained, which is that, when the two writs are returned, the Parliament can still sit. Because of the new method of election proposed, there will be only one writ, and this provision would not apply to the proposed law. It was realised by the draftsman who drew this to my attention that an amendment would need to be moved to provide that the reference to a writ not being returned would be a reference to a

single writ rather than to two. I move an amendment—

Page 2, line 14—Delete the words “as a result of”.

Mr HASSELL: I am afraid that I do not actually follow the Minister's explanation. I wonder whether he could explain further the reason for the clause and, secondly, the reason for the amendments because, frankly, these matters need to be explained further.

Mr TONKIN: I am afraid I did not explain myself very clearly.

Mr Williams: Do you ever?

Mr TONKIN: I welcome the opportunity to do so now. There is a provision in the parent Act—and we are dealing with the Constitution Act—which says that after an election for the Legislative Council, even though there will be two vacancies remaining, the Legislative Council can proceed to the dispatch of business, notwithstanding those two vacancies. That provision remains because it was not felt that a need existed to change it. Of course, the change will now be—I am trying to find the relevant section—

Mr Spriggs: Do you want some help?

Mr Williams: The best way out is to scrub the whole thing.

Mr TONKIN: I am grateful for the help from the Opposition Whip.

Mr Blaikie: If you make a mistake, you can always come back and rescind it next week.

Mr Williams: This will be on for ever more now!

Mr TONKIN: There should be a provision for the Legislative Council to proceed to the dispatch of business even though two vacancies exist. We want to see to it that the Legislative Council can proceed to business and we have altered it accordingly.

Mr Blaikie: That piece of paper you were just handed is the advice from your advisers, and that does not help you. I think we are going to take questions shortly.

Mr TONKIN: Previously the Legislative Council had several members elected and in respect of each vacancy a writ has been returned. That was left the same because it was considered to be appropriate, but now we have a situation of a writ being returned and we now return to the situation of a single writ rather than a writ for each person. It now says that the Legislative Council can proceed to dispatch business once a writ is returned.

Mr Blaikie: Your argument is not very convincing.

Mr HASSELL: This is really quite a serious matter. Clause 47 of the Constitution Act provides—

Upon the general or any subsequent election, the Legislative Council shall be competent to proceed to the despatch of business, at the time appointed by the Governor for that purpose, notwithstanding that any of the writs of election not exceeding two shall have not been returned, or that in any of the electoral divisions the electors shall have failed to elect a member to serve in the said Council.

That provision of the Constitution Act was an original one. It has not been amended. At the time the Constitution Act was adopted, the size of the Legislative Council, on my recollection of the history of the matter, was closer to the number of members it has today than it will be if this legislation is adopted. That section which has existed since the Constitution Act was adopted contained a limitation that there could be only two vacancies resulting from an election where it could still proceed with the business of the House. The Minister put that same limitation in the Bill. In other words, even though he proposes to reduce the House to 22, he still maintains that there could be two vacancies, and this might itself be questionable when considering the possibility of the House's proceeding to the dispatch of business with only 20 members, which is a ridiculously small House of Parliament in any event—we contend 22 represents an ineffective House—

Mr Bryce: It works pretty well in Adelaide.

Mr HASSELL: —and that is the intended number. It is interesting that the Deputy Premier should interject and say it works very well in Adelaide, because even though South Australia has achieved this great and glorious reform that the Labor Party in that State is so keen on, the arguments about parliamentary reform continue. Of course, the Labor Party is moving onto the next stage. It has failed to get control of the allegedly reformed House and it now wants to go to the next stage.

Mr Bryce: You are talking about size.

Mr HASSELL: This is consistent with what I was talking about the other night. In regard to the Federal platform, the ultimate, of course, is abolition. Mr Chairman, I do not think you would want me to stray onto broader issues at this stage.

The CHAIRMAN: Quite right.

Mr HASSELL: I say very seriously to the Minister that in the first draft of the Bill some sem-

blance of control on the size of the House has at least been maintained. In other words, the Government maintains that there must be at least 20 members, and having maintained a provision which required that there be at least 20 members for the House to proceed to business, it is now proposing to remove that control and the result would theoretically be a very small House indeed conducting the responsibilities of the business of the House with an even more substantial reduction in the representation of the people in that House than the Bill currently provides.

I do not know the technical reasons for the amendment and that is why I ask the Minister to explain it again. I still do not see why, if there are valid technical reasons—and I do not understand that there are—there should not be a maintenance of the requirement that there be any more than two vacancies if the House is to proceed with its business.

Mr TONKIN: The point is that there could be reasons for 11 people not being elected in a periodic Legislative Council election, but that is very unlikely. Members will accept that sometimes a writ may not be returned because of extraordinary events occurring in the case of a province, but in the case of 11 people being elected from throughout the State, the chances of there not being 11 people wanting to stand for election or being qualified to stand and be elected are exceedingly remote. However, some strange problem could occur; for example, a person could die after the election had been held.

Mr Hassell: A group of members could be wiped out in an accident.

Mr TONKIN: The fact is that, if we want a House to be able to proceed, we do not want it not to be able to proceed because there is one person missing for a technical reason, bearing in mind, as members will see in the Bill, the House does have to provide for a replacement of people at a casual vacancy. If the House were unable to proceed with the dispatch of business because it had vacancies, it would be unable to meet to fill the vacancies.

We have ensured that vacancies should be filled by having regard for the people. If a member of the Labor Party, the Liberal Party, the National Party, National Country Party, or the Democrats

dies, he is no longer a member of the House and the way in which he will be replaced will be by a member from his own party. That is provided for in the Bill. We go back to the people because the people want a member from the same party.

Mr Hassell: That is not what you want. When you have a by-election you do not do that. You hardly go back to the people—they are candidates. People do not change.

Mr TONKIN: If we went back to the people for a by-election for only one vacancy, the member would be elected from either the Liberal Party or the ALP. I cannot conceive that the situation would ever be different.

Mr Hassell: It would not happen in the Legislative Council.

Mr TONKIN: Only if there is a vacancy for the whole State. That is why we cannot have a by-election under this legislation. By-elections are not held in the Senate or for any proportional representation, because, if they were, it would give unfair advantage to the two major parties. We are protecting the wishes of the people—those 40 000 or 50 000 people who voted for the National Party, the National Country Party, or the Democrats.

Why should they, if a member has a faulty valve in his heart and dies, be prevented from having a representative in Parliament because of a non-political event? Minority parties should be protected. We should go back to the list and if we cannot go back to the list, there should be a joint sitting. If we cannot have a joint sitting because there are not enough members to fill the casual vacancies, there is need for the House to be able to dispatch business even though one person has not been elected. It is a technical reason and that is why it is different from the requirement in the parent Act, where there were several writs, for separate vacancies.

### *Progress*

Progress reported and leave given to sit again, on motion by Mr Tonkin (Minister for Parliamentary and Electoral Reform).

*Point of Order*

Mr O'CONNOR: In accordance with the ruling given by the Chairman of Committees, I wish to advise it is my intention to give notice regarding the Acts Amendment (Constitution and Electoral) Bill rescission vote I will move—

The SPEAKER: There is an appropriate time during the procedure of Parliament each day for the giving of notices and that would be the time to move this motion.

Mr O'CONNOR: By way of explanation, I did seek a ruling regarding this matter from the Chairman of Committees who advised that I could move this motion at this stage.

Mr Barnett: I did not say that at all; don't you listen?

**QUESTIONS**

Questions were taken at this stage.

*House adjourned at 5.58 p.m.*

# QUESTIONS ON NOTICE

1148. *This question was postponed.*

## REVIEWS AND INVESTIGATIONS

### Initiation

1158. Mr GRAYDEN, to the Minister for Health:

- (1) How many studies, reviews or inquiries are currently being undertaken on matters within his jurisdiction?
- (2) What are the studies, reviews or inquiries involved, and at whose request were they undertaken?

Mr HODGE replied:

(1) Nine.

(2) Public Health Department (3)

An inquiry into radiation protection in the mineral sands industry has been undertaken in accordance with the Government's pre-election policy.

Inquiries into health education and the Carnarvon shire have been authorised by me.

Department of Hospital and Allied Services (4)

Studies in this department, requested by me, are:

Development control briefs for:

Collie District Hospital

Margaret River District Hospital

Augusta District Hospital

Princess Margaret Hospital for Children—complete nursing manpower study

Mental Health Services (1)

Three working parties have been established to review mental health legislation, the Division for the Intellectually Handicapped and the guardianship provisions of existing legislation. These working parties have been established at my request.

Alcohol and Drug Authority (1)

A Parliamentary select committee has been established to review the role, funding and effectiveness of the Alcohol and Drug Authority and voluntary agencies.

1187. *This question was postponed.*

## MINISTER FOR ECONOMIC DEVELOPMENT AND TECHNOLOGY

*Mr W. J. Marron*

1188. Mr PETER JONES, to the Minister for Economic Development and Technology:

- (1) Adverting to question 1053 of 1983 respecting his recent visit to the USA, what was his objection to my seeking confirmation of Mr Marron's association with him?
- (2) Did Mr Marron provide equipment for use by the now Government, then Opposition, prior to the State elections?
- (3) What is Mr Marron's ongoing role in supporting the establishment of high technology industries in Western Australia, as referred to by the Minister in part (2) of his answer to question 1053?

Mr BRYCE replied:

- (1) It was highly inappropriate for the member to insinuate that patronage was conferred on Mr Marron.
- (2) Yes. Two second-hand typewriters.
- (3) Mr Marron is a private entrepreneur in the electronics industry who has no official role. The member's question is therefore more appropriately directed to Mr Marron himself.

## MANJIMUP CANNING CO-OPERATIVE CO. LTD.

### Government Assistance

1189. Mr PETER JONES, to the Minister for Economic Development and Technology:

- (1) Having regard to the Federal Government's financial support for a fruit cannery in New South Wales, has he already approached the Federal Government seeking support for the Manjimup Cannery?
- (2) If not, why not?
- (3) If so, what loan is being sought from the Federal Government?

Mr BRYCE replied:

- (1) The State Government and the cannery approached the Federal Government seeking financial support.
- (2) Not applicable.
- (3) The special circumstances under which loan assistance was provided to the cannery in New South Wales were found to

not apply to the Manjimup cannery's application.

### MINING: COAL

#### Reserves

1190. Mr PETER JONES, to the Minister for Economic Development and Technology:

- (1) With regard to the Coal (Western Collieries and Dampier) Agreement Act for which he is responsible, what are the proven and estimated coal reserves on the leases subject to the agreement Act?
- (2) Is further exploration and proving work being undertaken?
- (3) If so—
  - (a) what work is being undertaken;
  - (b) at what estimated cost; and
  - (c) for what purpose?
- (4) Is any exploration work being funded by the State Energy Commission?
- (5) If so, what is the amount of State Energy Commission funds provided, committed, or expected to be used for exploration and/or evaluation purposes?
- (6) As the State Energy Commission has ample coal reserves available to it under existing purchase arrangements, for what purpose and reason have public funds been committed to assist Western Collieries and Dampier?
- (7) Is the Government funding support for the exploration/evaluation programme made necessary by the need for cheap coal to meet the indicative power costs associated with the proposed aluminium smelter?

Mr BRYCE replied:

- (1) This information is confidential to the company.
- (2) Yes.
- (3) (a) Drilling programme;
- (b) expenditure determined by the company understood to be approximately \$3-4 million;
- (c) to gain a better understanding of the coal reserves in the lease area.
- (4) Arrangements between Western Collieries and SECWA are of a commercial nature.
- (5) to (7) Refer to (4) above.

### LOCAL GOVERNMENT

#### Grants Committee

1191. Mr RUSHTON, to the Minister for Local Government:

- (1) Will he please table a complete schedule showing allocations by Western Australian Grants Committee to all local government councils of—
  - (a) Commonwealth funds;
  - (b) State funds,
 for years—
  - (i) 1981-82;
  - (ii) 1982-83; and
  - (iii) 1983-84?
- (2) Will he also please show the sum allocated separately to each council for—
  - (a) needs;
  - (b) as of right?

Mr CARR replied:

- (1) and (2) It is assumed the question refers to the Western Australian Local Government Grants Commission.

The commission recommends the distribution of only the element B component of Commonwealth tax sharing funds. The element A component is determined by the application of a formula.

General purpose grants from State funds are distributed from the local authorities' assistance fund. These grants are in accordance with a long established formula. Grants for 1983-84 from this fund will not be determined until after the budget has been finalised.

Details of the available information with respect to the above grants are tabled.

### HOSPITALS: MEDICARE

#### Increased Demand: Reimbursement

1192. Mr GRAYDEN, to the Minister for Health:

- (1) In agreeing as part of the Medicare arrangements to provide additional funds to meet any increase in hospital in-patient and out-patient activity or any loss in revenue incurred by the State hospital system as a result of the introduction of Medicare did the Commonwealth Government—
  - (a) give the assurance in writing;

- (b) give any indication as to how and when the additional funds will be forthcoming;
- (c) if so, will the additional funds be available on—
  - (i) a weekly basis;
  - (ii) a monthly basis;
  - (iii) at the end of the financial year;
  - (iv) what will be the method of reimbursement?

(2) Will the Government have adequate funds to cope with the increased pressure which Medicare will place on Government hospitals until such time as it is reimbursed by the Commonwealth Government?

Mr HODGE replied:

- (1) (a) Agreements were reached and recorded at both the Premiers' Conference and Health Ministers' Conference;
  - (b) yes;
  - (c) (ii) monthly basis;
  - (iv) advances with retrospective adjustments for actual results.
- (2) Yes.

## HOSPITAL: ROYAL PERTH

### *Junior Nurses*

1193. Mr GRAYDEN, to the Minister for Health:

- (1) Have the claims made in reports that junior nurses have been forced to take responsibilities at Royal Perth Hospital that they are not competent to take, been fully investigated?
- (2) Is it fact first year nurses have been forced to take charge of wards, including the cardiac ward, when no sisters were available to take charge?
- (3) Have any moves been made to ensure patients given medication are assisted sufficiently to enable this medication to be taken?

Mr HODGE replied:

- (1) No report is yet available.
- (2) No. First year nurses are not required to accept such a level of responsibility.
- (3) If any specific examples of such incidences exist, they should be brought to

the attention of the hospital administration.

## HEALTH

### *Abortions: Labor Party Policy*

1194. Mr GRAYDEN, to the Minister for Health:

- (1) Is any Public Health Department input being made into Australian Labor Party discussions designed to clarify the dilemma which has arisen in that party as a consequence of the differences between the State platform of the Australian Labor Party and the National Australian Labor Party policy, on the subject of abortion?
- (2) Is he being subjected to representations seeking implementation of the ALP State platform which commits a Labor Government to repealing parts of the Criminal Code dealing with abortion?
- (3) If "Yes" to (2), what has been his response to such representations?

Mr HODGE replied:

- (1) No dilemma exists.
- (2) No.
- (3) Not applicable.

## HEALTH

### *Foodstuffs: Junk Food*

1195. Mr GRAYDEN, to the Minister for Health:

- (1) Is he aware of the statements by American doctor Earl Mindell, who recently visited Perth, to the effect that—
  - (a) fast food manufacturers were only just moving into Australia;
  - (b) "Australians are sickness oriented. They are addicted to sugar, salt, junk food, alcohol and smoking"?
- (2) Has a survey been carried out to ascertain the extent to which children in Western Australia are eating junk food and thereby putting their health at risk?
- (3) If so, what was the result of the survey?
- (4) If not, will a survey into the eating habits of Western Australian children be undertaken?
- (5) If not, why not?

Mr HODGE replied:

- (1) Yes.

- (2) Yes. The survey was conducted jointly between 1980 and 1983 by representatives from the—

Public Health Department (Health Education Unit)  
 WA College of Advanced Education (Nedlands Campus)  
 Education Department  
 WAIT  
 National Health and Medical Research Council Research Unit in Epidemiology and Preventative Medicine

The objective of the study was to examine the effect of nutrition education on children's eating habits and nutrition knowledge.

The study involved three high schools (years 8, 9 and 10) and surveyed 1 500 students over a period of three years.

- (3) The results of the study will be available in early 1984.  
 (4) and (5) Not applicable.

## HEALTH

### *Heart Attacks: Study*

1196. Mr GRAYDEN, to the Minister for Health:

- (1) How long is it expected to take before useable results become available from the study to be done by Perth and Newcastle medical research teams into the reasons for a reduction in Australia's number of heart attacks?  
 (2) (a) Will the State Government contribute to the financing of this study; and  
 (b) if so, to what extent?

Mr HODGE replied:

- (1) Unknown. Figures are starting to become available but are not useable at this stage.  
 (2) (a) and (b) The State Government provides indirect support through the Public Health Department. Direct financial support has not been requested.

## MINERAL SANDS

### *Codes of Practice*

1197. Mr GRAYDEN, to the Minister representing the Minister for Mines:

- (1) Has Professor Murray Winn commenced his inquiry into the adequacy of, and compliance with, industry codes of practice in respect of mineral sands mining operations in Western Australia?  
 (2) How long is the inquiry expected to last?  
 (3) What is the anticipated cost of the inquiry?

Mr HODGE replied:

- (1) Yes.  
 (2) The members of the committee commenced their inquiry on Monday 19 September and will complete their visits to relevant sites by Friday 23 September. It is anticipated that the inquiry will be completed by the end of the year and that a report will be made to the Government by March 1984.  
 (3) Approximately \$10 000.

## HOSPITALS: MEDICARE

### *Increased Demand: Minor Complaints*

1198. Mr GRAYDEN, to the Minister for Health:

In view of the fact that Medicare patients will be required to pay the difference between the doctor's fee and the 85 per cent of the scheduled fee when doctors do not bulk bill, does he expect an upsurge of patients with relatively minor complaints presenting themselves at hospital emergency facilities for the purpose of obtaining free treatment for such relatively minor complaints, when Medicare is introduced?

Mr HODGE replied:

No.

## HEALTH: TOBACCO

### *Cigarettes: Vending Machines*

1199. Mr GRAYDEN, to the Minister for Health:

- (1) Will the possibility of a \$100 fine for children buying cigarettes from vending machines deter them from purchasing cigarettes?



- (2) Will this fine increase the "danger element" in smoking and encourage smoking as being "exciting" and "adult"?
- (3) Will the presence of a fine encourage children to rebel against another restriction which has been placed on their lives, and cause them to smoke?
- (4) Will proprietors of businesses who have cigarette vending machines be expected to apprehend or report children for purchasing cigarettes?
- (5) If so, to whom will they report offenders?
- (6) Will children accused of purchasing cigarettes be required to face a children's court?

Mr HODGE replied:

- (1) to (3) The penalties in the Tobacco (Promotion and Sale) Bill have been included to provide a deterrent to children smoking.
- (4) and (5) There is no provision in the Act for proprietors of businesses who have vending machines to apprehend or report minors who purchase cigarettes from vending machines. However, if they wish to report the matter, they should do so to the Commissioner of Public Health.
- (6) If prosecution is proposed, the child will be dealt with in the appropriate manner for his/her age.

## HEALTH

### Acupuncture

1200. Mr GRAYDEN, to the Minister for Health:

- (1) Is acupuncture considered to be a satisfactory alternative to drug therapy in the treatment of chronic migraine headaches?
- (2) If so, what facilities are available for such treatment in Western Australia?

Mr HODGE replied:

- (1) A report issued by the National Health and Medical Research Council has stated that, although there is no conclusive evidence available, there is an impression that acupuncture might provide symptomatic relief in patients with migraine.
- (2) Some doctors are known to use acupuncture as part of their management of

migraine in some patients, and there are also other practitioners of acupuncture.

## HEALTH

### Alcohol: Blood Pressure

1201. Mr GRAYDEN, to the Minister for Health:

- (1) Has research been carried out at Royal Perth Hospital into the relationship between alcohol consumption and high blood pressure?
- (2) If so—
  - (a) what form did the research take;
  - (b) what was the result of the research?

Mr HODGE replied:

- (1) Yes.
- (2) (a) 500 working men were surveyed to ascertain their life style and alcohol intake. Blood pressures were measured and the data analysed.
- (b) The examination of the relationship between alcohol consumption and blood pressure revealed that modest amounts of alcohol increased blood pressure.

The prevalence of hypertension was four times higher in moderate drinkers than in teetotallers. Research is continuing.

## HEALTH

### Asbestos: Discussion Paper

1202. Mr GRAYDEN, to the Minister for Health:

- (1) Has he had any representations as yet from the industrial relations committee of the Labor Party in Western Australia in respect of the discussion paper on blue asbestos which was recently prepared by Dr Judyth Watson?
- (2) If so, what was the nature of the representations?
- (3) If not, does he expect such representations?
- (4) Is the Public Health Department making an input into the deliberations of the industrial relations committee?

Mr HODGE replied:

- (1) No.
- (2) and (3) See answer (1).
- (4) No.

## HOSPITALS

## Statistics

1203. Mr GRAYDEN, to the Minister for Health:

(1) What are the latest statistics available in respect of—

- (a) cost per patient treated;
- (b) length of stay in days;
- (c) number of inpatients;
- (d) number of outpatients—

for (i) Sir Charles Gairdner Hospital;

(ii) Fremantle Hospital; and

(iii) Royal Perth Hospital?

(2) What are the statistics under these headings for the two previous years?

Mr HODGE replied:

(1) Latest statistics are for 1982-83 financial year.

	Sir Charles Gairdner	Fremantle	Royal Perth
(a) Cost per patient treated	\$2 699.03	\$2 445.57	\$2 621.46
Note: Includes cost of treating outpatients which cannot be accurately and uniformly excluded.	+ 14.08% inc	+ 3.2% inc	+ 16.4% inc
(b) Length of stay in days	7.9	6.7	7.9
(c) Number of inpatients admitted	25 888	14 705	37 922
	+ 17.2%	+ 13.5%	0%
(d) Number of outpatients	391 901	229 701	471 055
Occasions of service	+ 21.7%	+ 0.9%	-1.7%

(2) Statistics for 1981-82 and 1980-81 financial year.

(a) Cost per patient treated			
Note: Includes cost of treating outpatients which cannot be accurately and uniformly excluded.			
1981-82	\$2 367.14	\$2 368.84	\$2 252.29
1980-81	\$2 202.99	\$2 012.98	\$2 074.00
(b) Length of stay in days			
1981-82	7.8	7.1	8.3
1980-81	8.3	7.3	8.3
(c) Number of inpatients admitted			
1981-82	22 083	12 956	37 943
1980-81	20 214	14 438	37 455
(d) Number of outpatient occasions of service			
1981-82	322 131	227 633	479 486
1980-81	328 425	233 924	573 655

## HOSPITALS

## CAT-scanners

1204. Mr GRAYDEN, to the Minister for Health:

(1) Is it a fact that—

- (a) the total body CAT-scanner is now accepted as essential radiological equipment in hospitals with more than 300 beds;

(b) Royal Perth Hospital has 1 000 beds and Queen Elizabeth Medical Centre 500;

(c) the only CAT-scanner available in Western Australian public hospitals is the one in Royal Perth Hospital;

(d) except for emergency cases such as accident or heart attack there is a six weeks waiting list for the machine;

(e) patients are transported from the Medical Centre, Fremantle and repatriation general hospitals to the machine;

(f) some people who could reasonably regard themselves as needing emergency care must still wait six weeks to make use of the machine;

(g) some patients requiring a CAT-scan are deprived of this because they are too sick to travel from hospital to hospital?

(2) Is it intended to equip Government hospitals in Western Australia with additional CAT-scanners?

(3) If so—

(a) when;

(b) how many additional machines is it intended to obtain;

(c) which hospitals will be the recipients of the machines?

(4) If not, why not?

Mr HODGE replied:

(1) (a) It is not accepted that a CAT-scanner is an essential piece of radiological equipment in hospitals with more than 300 beds;

(b) RPH has 955 beds and SCGH has 681 beds;

(c) RPH has a total body-scanner. SCGH has a CAT head-scanner. There are also two CAT-scanners owned by private radiologists in metropolitan Perth;

(d) No. Occasional delays occur beyond two weeks in absence of specialist radiologists;

(e) Yes;

(f) CAT scans are ordered by medical practitioners who specify the degree of urgency;

(g) If a CAT scan is absolutely necessary to effect a diagnosis, sick

patients will be transported at the direction of their doctor.

(2) The matter is under consideration.

(3) and (4) Answered by (2).

1205 and 1206. *These questions were postponed.*

## EDUCATION: SWIMMING LESSONS

### *Teaching Qualification*

1207. Mr WATT, to the Minister for Education:

- (1) Further to his answer to my question 1017 of 14 September 1983, respecting swimming classes in 1983-84, with reference to part (6) of his answer, could he say if any training courses are being or have been conducted in Albany?
- (2) What is the minimum number of participants for a training course to be conducted in—
  - (a) the metropolitan area;
  - (b) country areas?
- (3) Is he aware that a course scheduled for earlier this year was cancelled by Austswim because of insufficient numbers and despite the fact that nearly 20 people had enrolled?
- (4) Will he give recognition to the difficulty of achieving large numbers for training courses in country areas, and what variations will be made?
- (5) Will the new Austswim qualification also be required for in-term swimming classes?
- (6) Where in-term swimming classes in country areas are organised at a local level, what flexibility in qualification requirements will be allowed in selecting teachers?

Mr PEARCE replied:

- (1) Training courses for the Austswim certificate have not yet been held in Albany.
- (2) (a) Public courses in the metropolitan area are conducted with a minimum of 25 participants.
- (b) A minimum enrolment of 25 is also the requirement to enable country courses to break even financially. However Austswim has significantly subsidised a number of

country courses with less than 25 enrolled.

(3) The course scheduled for 12-13 February 1983 was cancelled due to there being only 15 enrolments. In fact this was the third occasion that a course planned for Albany-Mt. Barker had been cancelled at the last moment due to insufficient local interest and administrative difficulties in Albany.

On each occasion Austswim had signified its intention to financially support the course.

- (4) Since the Education Department's announcement of its intention to require prospective employees in swimming programmes to possess the Austswim TSWSC, there has been no difficulty in achieving sufficient numbers for training courses in country areas. Austswim will continue to offer to subsidise country courses where the need arises.
- (5) Yes.
- (6) Answer 5 (b) of question 1017 (14-9-83) is still relevant.

## EDUCATION: PRIMARY SCHOOL

### *Brentwood*

1208. Mr WILLIAMS, to the Minister for Education:

- (1) Are Brentwood primary school children after Grade 7 able to transfer to either Applecross High School or Rossmoyne High School?
- (2) Will he give an assurance that this procedure will be allowed to continue in 1984 and onwards?

Mr PEARCE replied:

- (1) and (2) This matter is currently under active review and a decision will be made and announced shortly.

## HEALTH

### *Abortions: Prosecutions*

1209. Mr CRANE, to the Minister for Health:

- (1) Under the present law on termination of pregnancy, how many offences have taken place in each of the last five years?
- (2) How many prosecutions have resulted from this?

- (3) How many of these prosecutions were successful?

Mr HODGE replied:

This question should be referred to the Minister for Police.

1210. *This question was postponed.*

## FUEL AND ENERGY: STATE ENERGY COMMISSION

### *Serpentine-Jarrahdale Meeting*

1211. Mr MacKINNON, to the Minister representing the Minister for Fuel and Energy:

- (1) Did officers and advisers of the State Energy Commission meet with land owners and councillors of the Shire of Serpentine-Jarrahdale on 14 September last?

(2) What was the purpose of the meeting?

(3) What was the outcome of the meeting?

Mr BRYCE replied:

(1) Yes.

(2) To provide detailed information on all matters relating to the acquisition of easements and the construction practices being employed on the Dampier to Wagerup natural gas pipeline.

(3) The aim of informing landholders on the above matters was achieved.

## MINISTERS OF THE CROWN: MINISTER FOR MINES

### *Sport and Recreation: Adviser*

1212. Mr HASSELL, to the Minister representing the Minister for Mines.

- (1) Does the Minister have an adviser in the area of—

(a) sport;

(b) recreation?

(2) Is Mr David Hatt employed on the Minister's staff, and if so, when was he employed and in what capacity?

(3) What qualifications and experience does he have for the position?

Mr BRYCE replied:

(1) and (2) No.

(3) Not applicable.

## INDUSTRIAL RELATIONS: DISPUTE

### *Pilbara: Ministerial Adviser*

1213. Mr HASSELL, to the Minister representing the Minister for Industrial Relations:

What action has been taken by the Minister's adviser on industrial relations during the course of the industrial disputes in the Pilbara which are continuing?

Mr PARKER replied:

I refer the member to the answer contained in response to question 353 in the Legislative Council on 14 September 1983.

## UNION

### *Trades and Labor Council: Research Librarian*

1214. Mr HASSELL, to the Minister for Employment and Administrative Services:

- (1) Who are the members of the "broadly based community representative consultative committee" (*The West Australian* 19 September 1983) who advised him on the allocation of \$10 645 to the Trades and Labor Council to employ a library and research assistant?

(2) Who appointed them?

(3) How were they appointed?

(4) Do they serve as individuals or as representatives of organisations?

(5) If they represent organisations, which community, sporting, youth and service organisations were invited to supply members for this "consultative committee"?

(6) Did these people also advise him on other allocations from Commonwealth wage pause savings and State employment funds?

Mr PARKER replied:

(1) (i) Mr E. C. Wood—Department of Employment and Administrative Services (Chairman);

(ii) Dr J. Wood—State Employment Strategies Task Force;

(iii) Mr J. Pitts—Department of Employment and Industrial Relations;

(iv) Mr K. Simpson—The Confederation of Western Australian Industry (Inc.);

- (v) Mr W. S. Latter—Trades and Labor Council of Western Australia;
  - (vi) Cr H. G. Park—Shire of Swan;
  - (vii) Mrs M. Henning—The Country Women's Association of Western Australia (Inc.);
  - (viii) Ms H. Stewart — Equal Opportunities Resource Centre;
  - (ix) Ms G. Vaughan—\*Western Australian Council of Social Service. \*Ms A. Bartlett is at present deputising for Ms Vaughan;
  - (x) Mr R. Steven—Youth Affairs Council of WA (Inc.);
  - (xi) Ms H. Cattalini—Ethnic Communities Council of Western Australia;
  - (xii) An invitation has been extended to the National Aboriginal Conference, but the appointment of their member has not yet been made as a nomination is still to be received.
- (2) and (3) In accordance with the guidelines for the wage pause programme and the community employment programme by letter signed by me following full consultation with the Federal Minister for Employment and Industrial Relations, the Hon. Ralph Willis, M.H.R.
- (4) They serve as representatives of the following interest groups or organisations—
- (a) State Government;
  - (b) Federal Government;
  - (c) employer groups;
  - (d) union groups;
  - (e) local government;
  - (f) women's interests;
  - (g) community groups;
  - (h) youth;
  - (i) ethnic/migrant groups;
  - (j) Aborigines.
- (5) Invitations to nominate a member were extended to the following organisations which represent the interest groups referred to in (4)—
- (i) The Confederation of Western Australian Industry;
  - (ii) Trades and Labor Council of Western Australia;

- (iii) Institute of Municipal Administration (WA Division);
  - (iv) The Local Government Association of WA (Inc.), The Country Shire Councils' Association of Western Australia and the Country Urban Councils' Association—a single nomination to represent all three Associations;
  - (v) The Country Women's Association of Western Australia (Inc.);
  - (vi) Equal Opportunities Resource Centre;
  - (vii) Women's Electoral Lobby;
  - (viii) Australian Federation of Business and Professional Women's Club Division of Western Australia;
  - (ix) Western Australian Council of Social Service;
  - (x) Youth Affairs Council of WA (Inc.);
  - (xi) Ethnic Communities Council of Western Australia;
  - (xii) National Aboriginal Conference WA Branch;
  - (xiii) Aboriginal Affairs Planning Authority.
- (6) Yes, with the exception of State Government sponsored wage pause programme projects.

## TRANSPORT

### *Buses: Tender*

1215. Mr O'CONNOR, to the Premier:

- (1) Further to my question 438 of 1983 relating to a contract for ten buses, how many tenderers were there between the highest and lowest bids?
  - (2) Why was the contract given to Skippers Truck Centre when other tenders were substantially beneath their quote?
  - (3) Were the tenderers who made lower quotes regarded as reputable truck distributors?
- Mr BRIAN BURKE replied:
- (1) One.
  - (2) Skippers Truck Centre's quotation was on the basis that allowed for local construction of bus bodies.
  - (3) Yes.

## MEMBERS OF PARLIAMENT: FEDERAL

*Number: Increase*

1216. Mr COURT, to the Minister for Parliamentary and Electoral Reform:

- (1) Does he see conflict of interests with his State Party's aim of cutting the number of State politicians, and the Federal Labor Party wanting to increase the number of Federal politicians?
- (2) Would such a policy result in more centralisation of power in Canberra and less personal representation for electors in Western Australia?

Mr TONKIN replied:

- (1) One thing needs to be said as an initial point in answer to the question the member for Nedlands has asked, and that relates to the number of politicians. It is my view that Australia as a whole and Western Australia in particular should not be increasing the number of politicians. In fact the legislation we have before this Parliament right now proposes to reduce the number of politicians and create a saving of several hundred thousand dollars every year.

A superficial comparison of my views and the recommendations of the Joint Select Committee on Electoral Reform which has recently reported to the Commonwealth Parliament shows a difference in attitude. When we search beneath the superficialities which focus the mind of the member for Nedlands, the first fact to emerge is that there has been no increase in the number in the House of Representatives since 1949. Even the member for Nedlands may have some appreciation of the population changes which have taken place since then.

The concept of 'conflict of interest' has a lot more relevance for the Liberal Party in WA. Whilst the Government before the 1983 State election the Liberals barely managed to get the ink dry on a blatant gerrymander accompanied by an increase in the number of State politicians.

Twice in the past eight years the previous Liberal Government increased the number of politicians in the State Parliament to a total of 10 extra members in two stages in 1975 and 1982.

By simultaneously opposing the increase in members in the Federal Parliament

and the reduction in members in the State Parliament, they show their own confusion and lack of any regard for logic and consistency.

Their present opposition to the proposed increase in the number of Federal members is plain hypocrisy in the circumstances.

To be consistent, the Opposition in Western Australia should admit that it had made a mistake when it added 10 politicians to the WA Parliament.

Instead of one member of the Legislative Council for 39 000 electors as we now have, that figure should be brought closer to the national average of one for each 76 000 electors.

By reducing the number of members in the Legislative Council from 34 to 22 our State average would be 1 member for 61 000 electors.

The WA Branch of the Liberal Party could overcome its 'conflict of interest' problem by getting its electoral reform policy into alignment with the Federal Liberal Party.

It could do this by supporting the Western Australian Government's referendum to reduce the number of politicians in WA.

- (2) The Liberal Party of Australia is a strong supporter of equal enrolments for electorates with a plus or minus 10 per cent tolerance factor. If the Commonwealth Government chooses to accept the recommendation for an increase in members made by the Joint Select Committee on Electoral Reform, the redistribution would therefore allocate the new seats in strict accordance with the democratic principle of one vote, one value.

An allocation of seats by this criterion would therefore neither increase nor decrease the degree of centralisation of power relative to what exists now. And, what exists now in the Federal Parliament is a reflection of the distribution of population in Australia and this is supported as democratic by the Liberal Party.

The absurdity contained in the last section of the member's second question does not really deserve an answer. However, I must inform the member that if the Commonwealth chose to increase the

number of politicians this would result in more personal representation for electors in WA. When the member asks if more MHR's for Western Australia will mean less personal representation it is easy to see why opinion polls support this Government in its aim to reduce the number of members in State Parliament.

#### AUSTRALIAN LABOR PARTY

*Luncheons: Ita Buttrose*

1217. Mr COURT, to the Premier:

- (1) Were any taxpayers funds or resources used to have Ita Buttrose speak at the "decision makers" luncheon held at the King's Hotel on 20 September 1983?
- (2) Were any taxpayers funds or resources used to advertise this luncheon?

Mr BRIAN BURKE replied:

- (1) and (2) Not to my knowledge.

#### ELECTORAL: BY-ELECTION

*Mundaring: Press Releases*

1218. Mr COURT, to the Premier:

- (1) Has the Government's media services consultant, Mr Don Rowe, been involved in preparing Press releases for the Mundaring campaign?
- (2) If "Yes", does he see a conflict in this work with his Government duties?

Mr BRIAN BURKE replied:

- (1) and (2) Mr Rowe has not prepared any Press releases for the Mundaring campaign as part of his employment with the Government.

#### BOATS: PASSENGER FERRIES

*Rottnest Island: Fare Increase*

1219. Mr COURT, to the Minister for Consumer Affairs:

Has he decided to "declare" the fare structure for the Rottnest Island ferry service?

Mr TONKIN replied:

As I have said before, decisions such as these are not made without a complete evaluation of all the facts, and a decision will not be made until that evaluation is complete.

#### RAILWAYS

*Accident: Report*

1220. Mr LAURANCE, to the Minister for Transport:

- (1) Has he received the report of the board of inquiry into the suburban passenger train smash which occurred on Wednesday 29 June 1983?
- (2) If so, as he has indicated previously that this report will not be made public, can he give an assurance that the causes of the accident have been identified and an undertaking that measures will be adopted to prevent further occurrences of this nature?

Mr GRILL replied:

- (1) Yes.
- (2) Yes. In line with standing procedures in these matters any recommendations from the board of inquiry are examined by Westrail and corrective action is taken where necessary.

#### RAILWAYS

*Act: Amendment*

1221. Mr LAURANCE, to the Minister for Transport:

Does the Government intend to amend the Railways Act in order to provide legal protection to the members and witnesses of any future board of inquiry so that the reports of such inquiries can be made public?

Mr GRILL replied:

It is not a question of amending the Railways Act.

Advice from the Crown Law Department to the previous Minister for Transport was that the way to afford some legal protection to people conducting a board of inquiry and to those giving evidence would be to amend the Criminal Code.

I am referring the matter to the Attorney General for his advice as to how necessary legal protection could be achieved. Also, I propose to establish the advantages and disadvantages in making inquiry reports public.

I reiterate that public interest is already recognised by the appointment of an independent member to the board. In the case of the collision of 29 June it was a

senior executive of the St. John Ambulance Association.

### RAILWAYS

#### *Accident: Report*

1222. Mr LAURANCE, to the Minister for Transport:

- (1) Was he correctly reported in *The West Australian* on Saturday, 2 July as having said that the only way the board of inquiry report on the suburban passenger train smash in June could be made public was to table the report in State Parliament?
- (2) If so, why has he refused to table the report in the State Parliament?

Mr GRILL replied:

- (1) and (2) It is correct that some protection would be afforded by tabling Westrail board of inquiry reports in Parliament, but in a document prepared by the Crown Law Department for the previous Minister for Transport, reservations were expressed as to how far this protection would extend.

As a result, the previous Government was not prepared to place the people involved in such inquiries at risk legally. This Government is taking the same stance until the matter can be properly looked at by the Attorney General and myself.

1223. *This question was postponed.*

### LOCAL GOVERNMENT

#### *Rates: Income Tax-sharing Scheme*

1224. Mr MENSAROS, to the Minister for Local Government:

When a local government receives a larger than budgeted for allocation from the Commonwealth's two per cent income tax-sharing scheme after having struck the rates, how does such local municipality comply with the requirement to strike rates only to the extent which secures the required rate revenue to balance its budget?

Mr CARR replied:

Under the provisions of the Local Government Act, the budget must be compiled on the basis of estimated receipts and payments.

For this purpose, a council estimates its tax-sharing grant according to the best information available.

### TRAFFIC: LIGHTS

#### *Oceanic Drive-Brookvale Street-Howtree Place Junction*

1225. Mr MENSAROS, to the Minister for Transport:

- (1) Would he be prepared to reconsider the request by the Floreat Park primary school parents and citizens' association for installing push button operated walk lights at the intersection of Oceanic Drive, Brookdale Street and Howtree Place, which was rejected by the Main Roads Department?
- (2) In the interests of the safety of children and allowing for the ingenuity of the Main Roads Department, could there be walk lights installed which—directed by time clock—only operate at the required times and on required days, to overcome the Main Roads Department's policy concern, i.e., "Walk facilities can only be warranted where there are significant pedestrian numbers throughout the normal day"?

Mr GRILL replied:

- (1) No. The provision of "walk" signals requires a significant usage throughout a normal day.
- (2) I am advised the provision of part-time signals has, from national and international experience, only increased the hazard to pedestrians.

The Main Roads Department has, however, provided "Give way to pedestrians" signs to remind motorists of their obligations. The police lecturing staff are available to the school to help in instructing the children.

### APPRENTICES

#### *Government Departments and Instrumentalities*

1226. Mr MENSAROS, to the Minister for Employment and Administrative Services:

Pertaining to his recent announcement about increased apprentice intake into Government departments and instrumentalities, could he please say how many more apprentices are planned to be engaged in aggregate in the pres-



ent financial year than there were in 1982-83?

Mr PARKER replied:

The Government has exempted the employment of apprentices in Government departments and instrumentalities from departmental staff ceilings and the freeze on Government work force positions so that this restriction does not affect recruitment of apprentices in the forthcoming intake.

The Government is now examining, in the context of the Budget, its capacity to recruit additional apprentices.

## POLICE

### *Crime: Commission*

1227. Mr MENSAROS, to the Minister for Police and Emergency Services:

- (1) In connection with the reported accord between the States and the Commonwealth regarding the national crimes commission, could he please say, according to the proposals, to what extent will the powers and responsibilities of the State Police Force and indirectly that of the State Government be curtailed?
- (2) To what extent will the Commonwealth and/or the State Governments have a say in—
  - (a) the running;
  - (b) the further amending of its constitution;
  - (c) the possible later abolition of the proposed national crimes commission?

Mr CARR replied:

- (1) Accord reached between the Commonwealth and the States is subject to approval by the Cabinets of the respective jurisdictions, and relates to a national crime authority, and not a national crimes commission.

Western Australia opposes a national crimes commission in the form as provided by the National Crimes Commission Act.

Powers and responsibilities of the State Police Force, and indirectly that of the State Government, would not be curtailed.

- (2) (a) By participation in an intergovernment committee con-

sisting of one Minister appointed by each jurisdiction. The committee to:

- (i) decide (on the initiative of a Commonwealth Minister in the case of a Commonwealth reference, and on the initiative of a State Minister in the case of a State reference) what references are to be made to the authority;
- (ii) generally monitor the work of the authority;
- (iii) receive and transmit reports from the authority to Governments.

(b) Answered by (a).

- (c) It is proposed that the national crime authority will have a five years' sunset clause.

## APPRENTICES

### *Public Works Department*

1228. Mr MENSAROS, to the Minister for Works:

- (1) What was the aggregate number of apprentice intake in the Public Works Department and instrumentalities under his responsibility as Minister for Works in 1982-83?
- (2) What is the estimated aggregate number of apprentice intake in the Public Works Department and instrumentalities under his responsibility as Minister for Works for 1983-84?

Mr McIVER replied:

- (1) The apprentice intake for the architectural division for January 1982 was 54 and for 1983 was 49. The figures are inclusive of all building trades, mechanical and electrical services, both construction and maintenance.
- (2) The estimated apprentice intake for January 1984 has not yet been determined.

## WATER RESOURCES

### *Reservoir: Buckland Hill*

1229. Mr MENSAROS, to the Minister for Water Resources:

- (1) What was the reason which necessitated the reconstruction of Buckland Hill surface reservoir?

- (2) What is the final destiny of the old obelisk which was a matter of public interest?

Mr TONKIN replied:

- (1) The existing reservoir, originally built in 1924 and enlarged in 1936, had reached the end of its economic life.
- (2) The old obelisk has been dismantled, repaired and re-erected at a site on Buckland Hill some 48 metres west of its original position.

## PUBLIC BUILDINGS

### *Cleaning*

1230. Mr MENSAROS, to the Minister for Works:

- (1) Is he still responsible for the cleaning of public buildings?
- (2) If so, which are these buildings or group of buildings e.g., schools?
- (3) Can he give information as to which of these buildings are cleaned by contract and which by day labour?

Mr McIVER replied:

- (1) Yes.
- (2) Government office accommodation.
- (3) Yes. The buildings cleaned by either day labour or contract have remained unchanged since the present Government was elected.

## MINING: URANIUM

### *Honeymoon*

1231. Mr MENSAROS, to the Minister representing the Minister for Mines:

- (1) Is the Minister aware that following the South Australian Government's decision not to grant uranium mining leases for the Honeymoon Prospect, CSR's *in situ* bleaching pilot plant has been placed on care and maintenance?
- (2) Based on his answer to my question 21 of 24 March 1983 in which he negated my question, am I right to take it that the Government is supporting uranium exploration, mining and processing?
- (3) If so, will he initiate negotiations with companies in Western Australia so that the CSR plant could be used with one of them or a consortium involving any uranium exploration in this State?

Mr BRYCE replied:

- (1) This question is not understood.
- (2) Uranium exploration is currently in progress in the State under the Mining Act 1978-82. Mining, processing, and metallurgical development have taken place on a pilot scale, but these activities are now suspended pending clarification of Federal Government policies.
- (3) No such plant is known.

## CONSERVATION AND THE ENVIRONMENT

### *Conservation Council of Western Australia (Inc.): Subsidy*

1232. Mr MENSAROS, to the Minister for the Environment:

- (1) Does the Government subsidise a conservation council?
- (2) If so, in which way cash or kind?
- (3) Is this subsidy subject to any advice as to the policy of or the support or opposition to specific causes by the council?
- (4) If "No" to (3), does the Government agree with council's policy?

Mr DAVIES replied:

- (1) If the member refers to a private conservation council the answer is "No". If the member refers to the Conservation and Environment Council established under Section 16 of the Environmental Protection Act the answer is also "No".
- (2) Not applicable.
- (3) Not applicable.
- (4) Not applicable.

## NEDLANDS BATHS

### *Restoration*

1233. Mr COURT, to the Minister for Transport:

What action is being taken to ensure that the Nedlands Baths marine complex is fully restored in the near future?

Mr GRILL replied:

Arrangements are nearing finality for the issue of the required licences and approvals to allow the restoration of the Nedlands Baths marina complex, incorporating restaurant facilities, to proceed.

Representatives of the proposed licensee have indicated a desire to have the resto-

ration completed and the restaurant operational by the end of 1983 or early 1984.

1234. *This question was postponed.*

## RAILWAYS: FREIGHT

### *Rates: Grain*

1235. Mr COWAN, to the Minister for Transport:

- (1) What basis does Westrail use to justify its claim for a 13.9 per cent increase in grain freight rates for the new harvest?
- (2) Has Westrail been able to provide figures which can prove charges made for bulk minerals cover costs and provide a reasonable profit?
- (3) Are similar statistics available for grain?
- (4) Why is there such a large difference in freight rates between the two categories of bulk cargo given that Co-operative Bulk Handling loads grain at no cost to Westrail?
- (5) Is he aware many farmers are organising their harvest operations in a manner which will allow them to transport grain by road direct to port, and that high freight charges are the principal reason for such a move?

Mr GRILL replied:

- (1) The increase in grain freight rates for the 1983-84 harvest is determined according to an agreed escalation formula. The formula is embodied in the agreement for the transport of grain between Westrail, Co-operative Bulk Handling Limited, The Australian Wheat Board, The Grain Pool of WA, The Pastoralists and Graziers Association of Western Australia (Inc.) and the Primary Industry Association of Western Australia.
- (2) Freight revenue from bulk ores and mineral traffics covers direct operating and capital costs and makes a contribution to joint and common costs.
- (3) Freight revenue from grain covers direct operating costs but barely provides any contribution to fixed and joint costs which are 50 percent of Westrail's total costs.
- (4) Principal reasons for differences in freight rates are—

(i) Mining companies generally make contributions towards the rail capital needed to haul their produce.

(ii) Ores and mineral traffics are point to point movements. Grain is consigned from approximately 160 sidings to any one of five destinations.

(iii) Additional resources are required to handle seasonal peaks in the grain transport task, whereas ores and minerals traffic flow at regular rates over the year.

(5) No. The advice I have received from Westrail indicates there will be no exceptional road transport of grain in the coming season.

## MINING

### *Gypsum*

1236. Mr COWAN, to the Minister representing the Minister for Mines:

With regard to mining lease application 7719 made for the purpose of extracting gypsum from a deposit on Avon Location 14008 near Lake Campion, can the Minister say when the application will be granted and upon what conditions mining will be allowed to take place?

Mr BRYCE replied:

No.

## RAILWAYS: WESTRAIL

### *Staff: Number*

1237. Mr COWAN, to the Minister for Transport:

- (1) What are the total number of Westrail employees for each respective year since 1980?
- (2) What has been the effect on staff levels of the decision to transfer part of the operations of the Kewdale marshalling yards and freight terminal over to the joint venturer, Total West?
- (3) Since the operation of Total West, how many Westrail employees attached to Kewdale have been—
  - (a) retrenched;
  - (b) retired;
  - (c) transferred to other sections of Westrail?

Mr GRILL replied:

(1) 30 June 1980	9 727
30 June 1981	9 304
30 June 1982	8 937
30 June 1983	8 391

(2) Kewdale total staff before joint venture—367

Kewdale total staff at present—122

(3) (a) No permanent employees were re-trenched. However, 14 people who had been employed on a temporary basis were paid off;

(b) 22 retired;  
47 resigned;

(c) 162.

1238. *This question was postponed.*

## GOVERNMENT GUARANTEES

### *Phillips-Merredin*

1239. Mr COWAN, to the Minister for Economic Development and Technology:

(1) When the receiver/manager was appointed to Phillips Merredin, under what provisions of which Act was the appointment made?

(2) Is the receiver/manager required to have due regard for the interests of unsecured creditors as well as secured creditors?

(3) Why has there been no meeting of creditors to inform them of events which have occurred and of the receiver/manager's intentions?

(4) What information, if any, has been circulated to all creditors?

(5) Are there provisions in the Act under which authority for the appointment of a receiver/manager is given for creditors, either secured or unsecured, to demand a meeting between themselves and the receiver/manager?

Mr BRYCE replied:

(1) The receiver/manager was appointed under the provisions of the State's security documents in accordance with normal commercial practice. It may be noted section 2(b) of the Industry (Advances) Act 1947-1980 empowers the Treasurer to take and enforce any security.

(2) Yes.

(3) There is no legal obligation for the receiver/manager to call a meeting of

creditors nor is it normal commercial practice to do so.

(4) The receiver/manager circularised all known creditors in December 1982, to advise them of appointment. A second circular was sent to all known creditors in March 1982, informing them of progress in the receivership and providing a summarised statement of affairs. A further circular is expected shortly. It may be noted the receiver's legal responsibility is only to the secured creditor who appointed him and he has no obligation to report to unsecured creditors.

(5) No.

## POLICE: FRAUD SQUAD

### *Lease Agreement*

1240. Mr COWAN, to the Minister for Police and Emergency Services:

(1) Have the fraud squad investigated a complaint by Messrs J. and V. Sharp of 28 Ward Avenue, Greenmount that their signatures on a lease agreement with Wesdelf Discount Company for the lease of a Kenworth truck and dated 8 January 1980 is a forgery?

(2) If "Yes", what action has been taken by the police as a result of their investigations?

Mr CARR replied:

(1) Yes.

(2) No police action resulted and Messrs J. and V. Sharp were so advised.

## QUESTIONS WITHOUT NOTICE

### LIBYAN TRADE DELEGATION

#### *Meeting*

291. Mr O'CONNOR, to the Premier:

(1) Did he see on page 3 of today's *Daily News* an article headed "Gaddafi Aide Meets Premier" wherein it was reported that the group was hosted by Dr Troy and Bill Hartley.

(2) Is this John Troy the same person who started wearing a PLO badge in this House?

(3) Did the Premier extend the red carpet treatment to the group as stated in the Press?

Mr BRIAN BURKE replied:

- (1) and (2) After seeing the Consul General for the German Republic I spoke to a delegation of Libyans who were introduced by Dr Troy, who is the same person who was previously the member for Fremantle in this place.

Mr Clarko: Did he have blood running down his back?

Mr BRIAN BURKE: I do not know if he was the man who wore a PLO badge, but if the Leader of the Opposition says he wore a PLO badge, then I presume he saw him wearing it. To continue—

- (3) The normal courtesies were extended to the delegation who visited me and no special carpet was run out or unrolled.

## APPRENTICES

### *Government Initiatives*

292. Mr BARNETT, to the Premier:

- (1) Has the Government taken any recent positive actions to employ apprentices?
- (2) If so, will he give details?

Mr BRIAN BURKE replied:

- (1) and (2) Cabinet decided on Monday that the employment of apprentices would be excluded from departmental staff ceilings—something I understand the previous Government did not see fit to do.

It also decided that departments and instrumentalities which have the training capacity should be permitted to take on additional apprentices within their budgetary limits. The Government hopes to employ up to an extra 100 apprentices.

Since 1981 there has been a continuing decrease in the number of apprentices trained within Government departments and instrumentalities.

In June 1981, 1 847 apprentices had been employed in Government, compared with only 1 780 in March 1983. The intake of Government apprentices for 1983 had been 10 per cent lower than for 1982.

A recent survey of Government instrumentalities has established that the capacity exists to employ about 100 additional apprentices.

One of the reasons for instrumentalities not taking up their entitlements has

been the staff ceilings. Cabinet has now removed this impediment.

It is vitally important to maintain the supply of skilled tradesmen to the State's work force so that skill shortages do not impede development as the economy recovers.

The Government believes it should set an example in trade training.

Part of the Government's employment recovery strategy is to maximise employment growth through training and, as a result, every avenue is being pursued to ensure the highest possible number of apprentices are placed in training.

## TOWN PLANNING: MRPA

### *Role and Function: Review*

293. Mr HASSELL, to the Minister for Planning:

- (1) Did the ALP make a commitment prior to the election to review the role and function of the MRPA?
- (2) If so, what action has been taken on this commitment?

Mr PARKER replied:

- (1) and (2) I do not recall that any specific commitment was made in the policy speech in relation to the MRPA, or that any statement was issued immediately prior to the election by the now Premier, or by the then shadow Minister. I could be wrong in that regard. Certainly, there is a section within the Labor Party policy platform which calls for a review of both the structure and function of the MRPA. No doubt exists that the Premier made a commitment to overhaul the planning process overall and problems associated with it. I am pleased to advise the House the Government is moving towards implementing that review, and has been involved in extensive consultations with people in the industry or affected areas to get some understanding from them of the sort of thing they see as appropriate to any such review. We hope to make an announcement in a few weeks.

## COURTS

*Stipendiary Magistrates: Salary Cuts*

294. Mr D. L. SMITH, to the Premier:

- (1) Is the Premier aware of allegations made by the Leader of the Opposition that the Government has improperly reduced the salaries of stipendiary magistrates?
- (2) Are the allegations correct?

Mr BRIAN BURKE replied:

- (1) and (2) Yes. I am aware of the allegation which is based on completely false grounds. During the drafting of the Temporary Reduction of Remuneration (Senior Public Officers) Bill, 1983, the Attorney General received assurances of voluntary cuts on behalf of all stipendiary magistrates including the Chief Stipendiary Magistrate.

Mr Clarko: Did you pull their arms off?

Mr BRIAN BURKE: I do not know, but he gave an assurance.

Mr Blaikie: You would have rescinded their motion if they had not agreed.

Mr BRIAN BURKE: In view of the cooperation of the Chief Stipendiary Magistrate and his colleagues in the matter, it was decided that the magistrates would be exempted from the remuneration reduction legislation.

On 31 August 1983, the Chief Stipendiary Magistrate informed the Under Secretary for Law of the advice he had given earlier to the Attorney General and he provided a list of the names of the 30 magistrates concerned.

Deeds of release were prepared by the Crown Law Department in respect of the temporary reduction of salary for the magistrates for the purpose of satisfying requirements of the Australian Taxation Office.

The Acting Deputy Commissioner of Taxation has confirmed in writing that the executed deeds would effectively exclude the surrendered sum of salary from the releasor's gross income for taxation purposes.

The Commissioner of State Taxation also has advised that the executed deeds would be exempt under the provisions of section 119 of the Stamp Act 1921.

Today, 13 of the deeds have been executed and returned to the Under Sec-

retary for Law. The remaining 17 should be executed and returned in the next week or so bearing in mind that some of the magistrates are on circuit and in the country.

One of the magistrates has written to the Under Secretary for Law seeking some changes to his deed of release.

On the basis of the advice from the Chief Stipendiary Magistrate that agreement had been given to the voluntary reductions, processes were followed to effect the reductions of salary. This was done to avoid deducting more than one instalment of salary in one pay period in anticipation of the deeds being executed. There is no reason to doubt that the deeds will be executed having regard for the assurances given.

I am informed that the Chief Justice and the judges of the Supreme Court have executed their deeds with the exception of one judge who is overseas on long service leave.

## LIQUOR: WINE

*Grape Spirit Excise: Abolition*

295. Mr OLD, to the Minister for Agriculture:

I refer to an article in today's *The West Australian* headed "Wine Lobby Sways Government".

As Mr Keating has intimated that another miscalculation in projected Budget revenue has been made by saying that the taxation revenue from the lower excise rate might not be significantly different from the \$13 million estimated in the Budget figures and the reduction is therefore costing the Commonwealth nothing, I ask—

Will he vigorously pursue the desire of this House to have the excise completely abolished?

Mr EVANS replied:

I did see the article to which the member refers. It does alleviate the position to some extent, but not to the extent this House would have wished. I will certainly avail myself of the first opportunity to raise this matter with the Minister for Primary Industry.

# ELECTORAL: VOTING

## Weighted

296. Mrs HENDERSON, to the Minister for Parliamentary and Electoral Reform:

- (1) Is it true the Liberal Party submission to the Federal Joint Committee on Electoral Reform argued strongly for electorates to have equal enrolments within a margin of 10 per cent?
- (2) Given the undeniable fact that Federal electorates are more remote from the National Parliament than are State electors from the Western Australian Parliament, why does not the Liberal Party argue for equally valued votes in the State electoral system?

Mr TONKIN replied:

- (1) Yes, the Liberal Party has supported equal value votes in its submission.
- (2) As to the weighting of votes, one can only presume that the Federal Liberal Party can see the principle of one-vote-one-value more clearly than can the Opposition in this State. Instead of clinging to the discredited weighted vote system, members opposite should be arguing for improved transport, more assistance to members, additional allowances, an extra office, and improved communications between electors and members. Only measures such as these deal directly with the problems posed by distance and isolation. The present preference of the WA Liberal Party for weighted votes has more to do with its interest in biasing the electoral system in its favour than it has to do with the proper representation of electors.

# EDUCATION: HIGH SCHOOL

## Northampton District: Contract

297. Mr TUBBY, to the Minister for Education:

I refer to the Minister's reply to question 977 on Tuesday. At the end of question time the Minister said that in his opinion the answer given by the department was misleading in some respects and that I would be provided with an amended answer yesterday. I still have not received that answer. I ask—

Can the Minister indicate when the information will be available?

Mr PEARCE replied:

The member should have it in his possession because I have a copy here. It has been handed in today by my staff. He will recall the answer was prepared before I went to Northampton and I amended it as a result of those discussions. It is as follows—

- (1) The project is being reconsidered in the light of the budgetary situation.
- (2) (a) and (b) No.
- (3) (a) and (b) Consideration is being given to new arrangements to meet the needs of the school in upgrading within budgetary limits.

# EMPLOYMENT AND UNEMPLOYMENT

## Rate: Comments of Mr Tom Herzfeld

298. Mr JAMIESON, to the Minister for Employment and Administrative Services:

Is the Minister aware of Mr Herzfeld's claims published in *The Hills Gazette* on 21 September 1983 that "six months after taking office, the number of jobs is down and unemployment is unacceptably high"?

Mr PARKER replied:

Yes, I am aware of Mr Herzfeld's claims and I take this opportunity of refuting his comments. When we came into office, the unemployment rate was 10.4 per cent. On the latest figures for August, our unemployment rate is 9.5 per cent, which I hasten to add is the second lowest rate of unemployment in Australia. These figures are taken from the latest preliminary figures of the Australia Bureau of Statistics.

Mr Mensaros: Is that acceptable?

Mr PARKER: Will the member wait until I finish my answer? More importantly, since coming into office in February, there has been a growth in the numbers employed and I can assert that 4 200 jobs have been created in WA since February.

I agree with Mr Herzfeld when he says the rate of unemployment is unacceptably high. Any unemployment is unacceptable to the Burke Government. That is why we are operating the job creation schemes through the wages pause programme and the community employment programme to stimulate

employment directly. It is expected that over 4 000 jobs will be created in WA this year—1 000 have already been announced—and they include the \$286 000 project at Lake Leschenaultia in the electorate which Mr Herzfeld aspires to represent.

#### MINISTER OF THE CROWN: PREMIER

##### *Speeches: Payment*

299. Mr COURT, to the Premier:

Has the Premier ever received fees for speaking engagements since becoming a member of this Parliament?

Mr Old: I would not think so!

Mr O'Connor: He has to pay the audience.

Mr BRIAN BURKE replied:

I think I am more likely to occupy the position where I would have to pay people to listen to me, except for those captive members of the Opposition who are duty bound to remain in this Chamber. I cannot recall ever being paid at any time to deliver any address.

I can recall speaking at fund-raising functions for the Labor Party and other groups. I can also recall compering many quiz nights for which I was not paid. At those functions my wife was often presented with a bouquet of flowers, for which she was very grateful.

#### LOCAL GOVERNMENT: MANDURAH SHIRE COUNCIL

##### *Canal Development: Referendum*

300. Mr READ, to the Minister for Planning:

Is it correct that the Mandurah Shire Council ratepayers are to go to the polls on Saturday, 22 October to decide on the future of canal development in the Peel Inlet and estuary.

Mr PARKER replied:

I did receive some notice of the question.

Mr Hassell: The local member does not know.

Mr PARKER: The member should wait until he hears my answer and he will have to take that back.

Yes; the decision to bring forward the referendum by almost two months was made by the council following discussions with me. A meeting was called

to discuss the Mandurah town planning scheme. It was held at Parliament House this week and was attended by the Minister, the member for Mandurah, the shire president, and the deputy shire president.

I will give final approval to the town planning scheme, with the exception of a decision on the several proposed canal developments. The precedent in taking this approach was first made in 1972 when the then Minister for Town Planning approved the town planning scheme for the City of Stirling but excluded Beaufort Street.

I have asked the council to bring forward the referendum so I can determine the fate of the canals having regard to the results of the poll. I have received representations from the member for Mandurah to approve the scheme because of the economic situation in Mandurah. In addition, a number of applications were before the council and there would have been problems approving them without final approval of the scheme.

#### REVIEWS AND INVESTIGATIONS

##### *Initiation*

301. Mr RUSHTON, to the Premier:

(1) Is it a fact that the Government has been unable to compile a list of the full names of the reviews and investigations initiated by the Government since taking office? I have asked for that list on three occasions.

(2) Does this indicate that the Government, while able to put together a list for one of its own members, holds this House in contempt?

Mr BRIAN BURKE replied:

(1) and (2) No.

#### HOSPITAL

##### *Swan District: Casualty Service*

302. Mr GORDON HILL, to the Minister for Health:

(1) Is the Minister aware of an article published in *The Midland Reporter* and *The Hills Gazette* quoting one Tom Herzfeld who claims that the provision of a casu-



alty service at the Swan District Hospital could be dangerous?

Mr Old: With the present staffing arrangements, it would be.

Mr GORDON HILL: To continue—

- (2) Is the Minister aware of claims that no staff are to be provided to run the new facilities?
- (3) Is he aware of allegations also reported in *The Midland Reporter*, which purport to have been made by an anonymous medical practitioner, stating that the establishment of a casualty service at Swan District Hospital is a political stunt?
- (4) Does the Minister approve of nameless doctors hiding behind a smokescreen of anonymity when making political statements?

Mr Hassell: That question is out of order. It is asking for an opinion.

Mr Brian Burke: It is quite an interesting one.

Mr HODGE replied:

- (1) I am aware of Mr Herzfeld's nonsensical argument about the provision of additional medical services to the local community, and that the casualty service at the Swan District Hospital could be somehow dangerous to the community. I presume, therefore, as a logical consequence of his own argument, that he will press for the total closure of the hospital to safeguard local residents from the rampant effects of improved medical services.
- (2) Rumours that there will be no additional staff to service the casualty section, fanned no doubt by the by-election hysteria of the Liberal Party, have been drawn to my attention.

Mr Williams: Jesus, you are sick!

Mr HODGE: I can categorically state that the rumours are false. Planning has been in progress for some time and provision of funds has been made for additional staff be provided in accordance with normal criteria; that is, in proportion to the increased workload.

- (3) It is a shame that the anonymous doctor quoted does not share the professionalism of many of his colleagues who, in consultations about the new facilities, have given many constructive and useful

suggestions about the facilities and the staffing.

- (4) I am quite sure that the code of ethics concerning publicity by doctors was not intended to act as a smokescreen for doctors who wish to jump on the political band wagon and make politically motivated statements in the guise of medical concern.

## WOMEN'S INTERESTS

### *Women's Advisory Council*

303. Mr COYNE, to the Premier:

- (1) Why is the booklet printed by the Government Printer to introduce the Women's Advisory Council not available at the Government Printing Office or at the State Government Information and Inquiry Centre? Has it been withdrawn from circulation to the public? If so, why has it been withdrawn?
- (2) Who selected the 20 members of the Women's Advisory Council?
- (3) Why were five members of the Women's Electoral Lobby, a small, left-wing, radical group, selected to serve on the council, while other bigger, responsible women's organisations which have existed for much longer were given no representation?
- (4) Has the selection of membership of the Women's Advisory Council studiously avoided women who are married with families? In the booklet giving the credentials of the members, 16 do not claim to be married or have children.

Mr BRIAN BURKE replied:

This question reflects the paranoia of the Opposition about this area.

Mr Hassell: Why don't you answer the question?

Mr BRIAN BURKE: I will answer it in the way I choose to answer it. If the Deputy Leader of the Opposition does not want to run that gamut, he should not ask stupid questions.

Mr Hassell: This is a damned important question, and you know it.

Opposition members interjected.

Mr BRIAN BURKE: During nine years in Government the Opposition did nothing about trying to treat half the population

fairly. We are attempting to redress the wrongs perpetrated by the Opposition.

Several members interjected.

Mr BRIAN BURKE: When we try to do something we are assailed with nonsensical questions that try to convict us of being prejudiced against women who are married.

Several members interjected.

Mr Hassell: You have left out all the decent women in the community and put in all the hobos.

Mrs Buchanan: I object to that.

Mr Hassell: I'll bet you do.

Mr Bryce: I hope that your obscene interjection was overheard and will be heard by the people of Western Australia; namely, that you asserted that a bunch of "homos" have been appointed to that committee.

Mr Hassell: What nonsense! Clear out your ears; I said "hobos".

Several members interjected.

The SPEAKER: Order! If members want me to adjourn the House, I will do so. Questions are at my discretion and if members do not want to continue with questions, I know what to do.

Mr BRIAN BURKE: It should be restated that the Deputy Leader of the Opposition said that the Government had left all the decent women off the council and had put on the hobos.

Mr Hassell: I did not. "With some exceptions", I said.

Several members interjected.

Mr BRIAN BURKE: The Deputy Leader of the Opposition is variously accusing us of putting hobos on the council or of trying to spread AIDS, mainly to his own discomfort—

Mr Hassell: I keep well away. Some of your friends might catch it!

Mr Clarko: You are the ones who moved to legalise homosexuality.

Mr BRIAN BURKE: —and in a way which no doubt causes him embarrassment.

Mr Hassell: Your Women's Advisory Council is filled with people who do not share the values of the community.

The SPEAKER: Order!

Mr BRIAN BURKE: Without talking about what is right, wrong, or proper, the

Deputy Leader of the Opposition does not have a political bone in his body. In the last two minutes, he has successfully put offside half the population—even those decent women he says are missing from the council. We do not mind, because question time has rapidly turned into half an hour during which the Opposition promotes the interests of the Government.

The answer to the question is—

- (1) The booklets became available only this week and a significant number are being distributed to all members of Parliament and a wide range of community organisations. Copies are now available at the State Government Information and Inquiry Centre and will be available at the Government Printing Office as from tomorrow.
- (2) The Government considered submissions and names put forward by interested groups and individuals before deciding on the membership of the council.
- (3) Members were selected on the basis of their expertise and qualifications and what they had to contribute, not according to whether they were already part of existing women's organisations.  
The member's comments and his assessment of whether certain women's groups are "radical" or "responsible" reflects both his and his party's lack of knowledge on this subject.
- (4) I consider this to be an objectionable question and the answer to it is "No".

## TELEVISION

*Programme: "Scales of Justice"*

304. Mr BURKETT, to the Minister for Police and Emergency Services:

- (1) Did he see the ABC programme "Scales of Justice"?
- (2) Has he received complaints about the programme?
- (3) What is his response to the programme?

Mr CARR replied:

- (1) to (3) I thank the member for Scarborough for the question.

Mr Clarko: You gave it to him, didn't you?

Mr CARR: Quite frankly, it is a Dorothy Dix question; I do not mind admitting it. However, it gives me an opportunity to make a comment on something I consider to be serious.

Mr O'Connor: Fair enough.

Several members interjected.

Mr CARR: Unfortunately I did not have the opportunity to see the programme, because I, like most members, was in this place at the time. The only member of Parliament of whom I am aware who saw the programme was the Deputy Premier who was home ill that evening. He has conveyed to me his feelings on it, describing it as dismaying and disgusting and as being in extraordinarily bad taste.

Mr Clarko: It sounds as if he was taking a sickie, if he could watch television while he was sick!

Mr CARR: A considerable number of complaints about the programme have been made to my office. Those complaints have come not only from police officers of varying rank, but also from members of the public.

They have complained about the programme and criticised its tone.

Mr O'Connor: It is a great pity to denigrate a good service and I agree with you.

Mr CARR: My response to the programme is one of concern, annoyance, and anger based on the way in which it was described to me. The programme was described as being particularly unfair and biased against police officers. It misrepresented police officers, certainly as I know them, and has painted them in the worst possible light.

The programme painted a picture of police officers in complete contrast to the very valuable role they play in the community. As I am sure everyone in this House would agree, police officers have a very difficult job and a thankless task of ensuring the community is safe and secure for all law-abiding citizens. The programme has made it very hard for the police to gain and hold public confidence. Its negative and destructive influences are making the task of the police much harder. I have known the police directly, as Minister, for only

seven months, but in that time they have impressed me as being people of integrity and honesty. Police officers work hard and make significant personal sacrifices for the community and they are dedicated to the public good.

I give my complete support to the Commissioner of Police and the Police Force in the role they are playing in the community, on its behalf, and I acknowledge that the Commissioner of Police has made representations to the ABC.

Several members interjected.

Mr CARR: I take the opportunity also to state my complete personal support for the actions taken by the commissioner and the Police Union in expressing their opposition to the programme and condemning the ABC for the action it has taken.

Mr Williams: What is your Government doing about it?

## GOVERNMENT ADMINISTRATION

### *Inquiry: Shannon River National Park*

305. Mr O'CONNOR, to the Premier and Minister for Forests:

(1) Will the committee which is to review all Government functions and all services it provides be asked to give priority to reviewing the Government's decision, which was made against all available scientific advice, to excise the Shannon River basin from State forests and allocate it to national parks?

(2) If not, why not?

Mr BRIAN BURKE replied:

(1) and (2) This question follows the line of several of its predecessors that display a fundamental misapprehension on the part of the Opposition of the review of functions announced by the Government. The matter referred to by the Leader of the Opposition will not be examined by the committee, because a review of functions is not a review of decisions. I do not know how the Leader of the Opposition can sensibly expect the Government to assign, for the reconsideration of the committee, all of the decisions made by the Government. Decisions are not functions.

Mr O'Connor: I am just trying to find out what you are dealing with.

Mr BRIAN BURKE: A decision was made in respect of the Shannon River basin. The Government does not have a department of the Shannon River basin. If we had such a department it might be something which would be a function.

Mr O'Connor: Does the Shannon River basin come under the area of responsibility of the Forests Department?

Mr BRIAN BURKE: No, it does not. It is to be managed by a joint party.

Mr O'Connor: It does at the moment, doesn't it?

Mr BRIAN BURKE: The Leader of the Opposition did not ask me about the management of it—

Mr O'Connor: You said it was not a part of a department and I queried that.

Mr BRIAN BURKE: It is not part of the department; it is a forest.

Mr Clarko: It is made up of trees. You can't see the wood for the trees.

Mr BRIAN BURKE: In the same way as the functional review committee will not be reconsidering the speed limit—because that is a decision, and we shall review only functions—it will not be reviewing the decision in relation to the Shannon River basin.

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