taken are not to be allowed to remain among the regulations of the Education Department in their entirety. I hope with Mr. Randell that undoubtedly wiser councils will prevail; that the matter will receive consideration, and that the step which I think would be robbing the youth of this country of part of the most essential weapons in the warfare of life will not be taken, so early at all events in the history of this State, and while it is in so vigorous a condition of development. I have much pleasure in supporting the motion.

On motion by the Hon. J. W. WRIGHT, debate adjourned.

ADJOURNMENT.

The House adjourned at 5·46 o'clock, until the next Tuesday.

Legislative Assembly,

Thursday, 20th September, 1906.

THE SPEAKER took the Chair at 4·30 o'clock p.m.

PRAYERS.

SCHOOL FEES REGULATIONS.

AS TO REOPENING THE QUESTION.

MR. H. DAGLISH had given notice of his intention to move—

That this House disagrees with the ruling of Mr. Speaker to the effect that the motion given notice of by me, and shown hereunder, was out of order under Standing Order 176, being "the same in substance" as the motion submitted by the hon. member for Brown Hill, likewise shown hereunder, which had been negatived this session:—

Motion given notice of by Mr. Daglish: That this House disapproves of any alteration of the Regulations of the Education Department which will require parents to pay fees for the attendance of their children at the State schools.

Motion by Mr. Bath, negatived by the House: That an Address be presented to His Excellency the Governor praying that the amendments of Regulations 98 and 227, made under the Elementary Education Act 1871 Amendment Act 1893, appearing in the *Government Gazette* for 7th September 1906, be disallowed.

Order of the Day (notice as above) read by the Clerk.

MR. SPEAKER said: Before calling on the hon. member to proceed with his motion, I will state to the House the reason for which I have ruled that the two motions are the same in substance. There can be no question that the recent imposition of a fee in certain cases for children attending State schools forms the subject-matter of both motions, and that the object of both was the withdrawal of the regulations imposing that fee. Even if the hon. member for Subiaco had merely desired to express a general opinion on the merits of free education, the effect of the passing of his motion would have been to force the Government to withdraw those regulations. Regulations being framed by the Executive, the House has no power to order their repeal. To effect that object two courses are open; one to present an Address to the Governor praying that they be disallowed, the other to pass a resolution expressing disapproval. In either case the regulations must be withdrawn, or the declared opinion of the House set at defiance.

TO DISSENT FROM THE SPEAKER'S RULING.

MR. H. DAGLISH (Subiaco) said: In submitting this motion I desire to repeat what in effect I said last night, that in doing so I am casting no slur whatever upon the fairness of the hon. the Speaker, that I am actuated solely by a desire to preserve the rights and privileges of every member of Parlia-

ment, and that while I recognise to the fullest degree the fairness and impartiality of the Speaker, at the same time I feel it my duty to raise a protest when I think any decision is not justified by the Standing Orders and may lead to an attack on any of the rights and privileges of hon. members. I desire to disabuse the minds of any members who may, perhaps from want of experience, be under the impression that any disagreement with the Speaker on a ruling, which really is one of law, is liable to set at naught or reduce the power and authority of the Speaker to maintain order in this House. I cheerfully admit that when the question is one of maintenance of decorum or order amongst members, then it is the duty of every member in the House to support the Speaker, even though in his individual judgment the decision given may not be altogether what the hon. member, had he been Speaker, would have given. It is his duty, however, for the purpose of maintaining order, to see that the Speaker's authority is never flouted; and during the term I have been in Parliament, no occasion has arisen in which I have failed in my duty in supporting the Speaker when his authority may perhaps have been called in question. The primary duty of members of this House is to maintain all the privileges of Parliament against any outside authority, and if there be a wrong decision even against the Speaker himself, in order to maintain the liberty of speech, the liberty of discussion that the framers of the Standing Orders contemplated and that precedent justifies us in expecting. It is with the object of maintaining this freedom of discussion that I have raised the point dealt with in the motion I am now submitting. I very strongly object to a reference which appears in one of the daily papers in the shape of a newspaper heading. This newspaper, in dealing with the education question, heads my protest yesterday as "A Farther Opposition Effort." I disclaim entirely any party aspect so far as my motion is concerned, and I wish hon. members in considering it to bear that disclaimer in mind, and to accept my assurance that, had I been sitting on the Government side of the House, or had I been voting with the Government, and had the same position as I am in been occupied by some other hon. member, I would have taken the same stand as I am taking now. My motion has no party bearing. Questions of order and questions of parliamentary privilege should be settled entirely without reference to party feeling at all. The privileges of members of Parliament are too important to be made the toy of any political party, and I hope that no member in this House, when this question goes to a vote, will cast his vote on party prejudices at all. Either the motion that I submitted, and that I claim was in order, should be ruled on its merits to be in order, or should be ruled out of order, again on its merits. In dealing with it I wish again to refer to the Standing Order. The Standing Order under which the ruling has been given is No. 176, and is to the effect that when a question has been either affirmed or negatived, no question being the same in substance can be submitted during the same session. In arriving at the substance of a question one must look to its effect; and if the two questions are the same in substance, necessarily they must be the same in effect. I have no doubt that members will follow that point, that if two questions are the same in substance, then their effect must be the same. What would have been the effect of the motion submitted by the Leader of the Opposition? He proposed:—

> That an Address be presented to His Excellency the Governor praying that the amendments to Regulations 98 and 227, made under The Elementary Education Act 1871 Amendment Act 1893, appearing in the *Government Gazette* for 7th September, 1906, be disallowed.

The primary effect of that motion if carried would be that the Government must have resigned. I gave notice, on the other hand, of a motion to the effect—

> That this House disapproves of any alteration of the regulations of the Education Department which will require parents to pay fees for the attendance of their children at the State Schools.

If that motion had been carried, the effect would have been entirely different. In the first instance, as soon as the member for Brown Hill carried his motion, the Government must have resigned, a political crisis must have supervened and a change of Government must have

followed, apart altogether from any effect on the education regulations that motion had. If my motion had been carried, on the other hand, no change of Government would have been the consequence. The Government would have received a direction as to the lines on which the House thought the Education Department should be administered. In support of this I may take the liberty of quoting some of the remarks made by the Premier when speaking on this subject, to the following effect:—

> The motion proposed by Mr. Bath meant practically taking the administration of the department out of the hands of the Ministry. The Government were not going to avoid their responsibilities in any way, and they would be unworthy the name of men or Ministers to accept it in any other light than as being tantamount to a vote of no-confidence.

The member for Kanowna interjected while the Premier was speaking, "Yet you have done business with this vote of no confidence hanging over you;" to which the Premier replied that—

> It at first did not appear in such a serious light. It was not the intention of the Government to remain in power if they had not the full confidence of the people and the House. Members could make up their mind on that point. A man who did his duty had to sacrifice his private business and his home-life. If the proposal of the hon. member——

This is the point I wish to lay stress upon—

> had been put in a different form they could have considered whether it was advisable to alter the wording of the regulation.

That is the crux of the whole question, that the form of the hon. member's motion prevented this House from expressing an opinion on the education regulations.

MR. H. BROWN: That was the Premier's joke about "no confidence."

MR. DAGLISH: It was no joke at all. The Premier is one who does not make jokes; his natural incapacity debars him from making jokes, and I am sure the Premier will admit that the statement was no joke, and that had the motion been carried as submitted by the Leader of the Opposition he would have resigned.

MR. TAYLOR: He never looked more serious in his life.

MR. DAGLISH: I think the Premier will admit that had the motion to address to His Excellency the Governor a petition requesting the disallowance of these regulations been carried, the Government would have refused to retain office. The Premier gave a good reason for that position. He said "If the proposal of the hon. member had been put in a different form they would have"——

THE PREMIER: Is that last year's debate or a newspaper you are reading from?

MR. DAGLISH: I am quoting to the best of my recollection. Of course if the Premier raises the point that this (indicating a volume) is a newspaper, I am content to have the question submitted to the hon. the Speaker; but the Premier admitted that the substance of the motion by the Leader of the Opposition lay in its wording, and that because of its wording the Government could not possibly—I am transposing the words of the Premier now, and not quoting them—agree to have the question of the education regulations settled on its merits; could not allow the House to express an unbiased opinion, free from party prejudice, on the merits of these regulations; but that had the motion been differently worded—here again I am quoting the effect of the Premier's words, and perhaps in inferior language—then the Government would not only have been willing to allow their own supporters to express an independent and unbiased opinion on the merits of the case, but would likewise even have been willing to consider whether they should not amend the regulations. I think the Premier will admit that in this transposition of his words, I am not unfairly quoting his sense. The Premier went on to say something to the effect that—

> He admitted that there was a possibility that the regulation might be liable to cause an invidious distinction to be made, but he was not going to be forced at the point of the bayonet.

In other words, the proposal to petition his Excellency the Governor was the reason why the Premier could not allow the House to give an unbiased decision on this motion. And what was the consequence? The consequence was that everyone on one side of the House voted in favour of the motion of the Leader of the Opposition.

MR. BATH: Not every one of them.

MR. DAGLISH: Every member on one side.

MR. BATH: No.

MR. DAGLISH: I am speaking of every member who is on one side. I am not speaking of those who are sitting on one side. I am not taking the seat into consideration at all. On the other hand, every member supporting the Government voted against the proposition of the Leader of the Opposition, with one exception, the member for Claremont (Mr. Foulkes), who I think was not present while the Premier spoke, and who did not know that the motion was loaded. In fact, he admitted it last night. Had he known the effect of the motion, no doubt the member for Claremont would likewise have voted against the proposition of the Leader of the Opposition. That, however, is a matter which will be settled a little later on at a meeting, not a caucus, of the Ministerial party. [Interjection by the HONORARY MINISTER.] I have not had an interview with the Attorney General yet on the subject, but I believe that if I had had one, that would have been his legal advice. When you, sir, were elected Speaker, in replying and thanking the House for the congratulations that had been offered to your Honour on your accession to this high office, you said:—

> The proper conduct of the business of this Assembly depends, I think, on adherence to the Standing Orders, tempered with common sense.

The object of the Standing Orders was to prevent the time of Parliament from being wasted in repetitions of the same discussion time after time. There was this week proposed what the Premier designated a no-confidence motion, an attempt to force the hand of the Government against its will, to repeal what was admittedly bad; a motion which condemned certain regulations that the Government had made, regulations that went farther altogether than the scope of the motion I have submitted. And I want to ask the House to bear with me whilst I submit for their consideration the purport of the regulations that were referred to in the speech of the Leader of the Opposition. By the way, I must apologise for the lack of clearness in these gazetted regulations, a lack of clearness for which I believe the Treasurer and his colleagues are responsible. However, I apologise for their fault in this respect. The notice in the *Government Gazette* reads:—

> His Excellency the Governor in Executive Council, in pursuance of the powers vested in him by Section 22 of "The Elementary Education Act, 1871, Amendment Act 1893," has been pleased to approve of the following amendments to Regulations.

Then follows Regulation 98, and as far as I can guess, the words that follow are intended to be repealed, but they appear to be not repealed but established by the notice:—

> With the permission of the department, children over 16 years may be retained in the school. In each such case a fee of 6d. per week must be paid to the teacher, which may be retained by him. A statement should be forwarded with the Quarterly Summary showing the amounts so received. The attendance of these children should be noted on the registers, but entered apart from the ordinary scholars, and not included in the totals.

I would like to know from the Treasurer whether that particular regulation is being repealed or not by these regulations.

THE TREASURER: They were omitted from the first *Gazette*, and put back in the next *Gazette* the following week.

MR. DAGLISH: When the motion by the Leader of the Opposition was submitted and when that by myself was submitted, we did not know that certain words were omitted. We knew there was a lack of sense, but we did not know it was inadvertent, and we did not know it would be overcome in the short space of a week.

THE TREASURER: It has not had to do with the Speaker's ruling.

MR. DAGLISH: It has a very important bearing on the Speaker's ruling, and that is why I asked the Treasurer the question; because this regulation I have read was part of the matter referred to in the motion of the Leader of the Opposition; and it will be seen that it relates to matters altogether foreign to the question of a fee being charged for attendance at school. It will be seen that it relates for instance not only to the payment of a fee but also to the channel and the ultimate recipient of that fee. This regulation provides that a fee shall be paid, but that the fee shall go to the teacher. It goes farther than

that, and provides also in regard to the keeping of the roll and how it shall be kept. It provides for sending in quarterly returns and how they shall be sent in. These matters, although covered by the motion of the Leader of the Opposition, are altogether untouched by the motion I had the honour to give notice of, and so far as they are untouched by my motion, to that extent my motion is different in substance. Putting altogether out of sight the party issue involved in a no-confidence motion, this difference in the two motions makes a substantial difference between the substance of the motion proposed by the Leader of the Opposition and the motion I proposed to move, because he has covered a wider scope. This is only one of the regulations affected. The *Gazette* notice goes on—

> And the substitution of the following words—

There is nothing to precede "and the substitution of the following words;" but that does not matter.

THE TREASURER: What you have just read, that clause.

MR. DAGLISH: Still, there is nothing to precede that. It is not proposed to strike out anything. I apologise for the manner, but it is not mine. If it were, I would not want to apologise for it. The regulation says:—

> After a scholar has reached the age of fourteen years, the following fees shall be paid, unless an application has been made for the child to be placed upon the free list, and such application has received the approval of the Minister.
>
> A fee of one shilling per week must be paid by all children over fourteen and under fifteen years of age in attendance at school. Children over fifteen must pay two shilling per week. The head teacher must collect these fees and forward them to the department each month with the salary sheet.

Here follow words altogether apart from the question of charging fees:—

> To facilitate the checking of the lists, the teacher of any class containing over-age children should enter on his register first the names of children over fifteen, next the names of those over fourteen, and next the names of those who will attain the age of fourteen during the quarter.

This matter is entirely foreign to any question referred to in my motion. But the *Gazette* goes on to say—

> Also the cancellation of the following words in Regulation 227:—
>
> "The Department has no objection, if the parents wish their children to be instructed when they are between the ages of three and six, to have them placed on the roll and taught in the ordinary way. No child under three can be admitted. Where there is no separate infants' school it would not be desirable to admit children below the age of four years. Children over fourteen, but below sixteen, might remain in the school if of good behaviour and unless their influence on the younger children is likely to be bad. Children over sixteen can only remain in the school on payment of a fee of sixpence per week, which should be retained by the teacher but accounted for to the department."
>
> And the substitution of the following words:—
>
> "No child under the age of four years can be admitted to a Government school."

"No child under the age of four years can be admitted to a Government school." That is altogether foreign to the motion of which I gave notice, but it was covered by the motion submitted by the Leader of the Opposition. There is no reference to fees in that proposition; it is a clear and distinct prohibition of certain children under any conditions whatever, and the Leader of the Opposition proposed that this amendment to the regulations should be struck out. My notice of motion did not propose anything of the sort. Here again there is a specific difference between the two. The amendment goes on:—

> Children over fourteen may remain in the school until the age of sixteen if they are of good behaviour and not likely to have a bad influence over the younger children, subject to the payment of the prescribed fees. In special cases where, owing to isolation, it has been impossible for a child to attend school at the usual age, the Minister may permit his retention in a school after he has reached the age of sixteen years.

These amendments to the regulations related to far more questions than the mere question of whether a fee should be charged for education in our State schools, and because of that there is a wide difference in the substance of the motion submitted by the Leader of the Opposition and the substance of the motion submitted by myself. Now, dealing with the question as *May* deals with it, I submit for the consideration of the

House the following words which appear on page 286 of the 1893 edition of *May's Parliamentary Practice* :—

> The only means by which a negative vote can be revoked is by proposing another question similar in its general purport to that which had been rejected, but with sufficient variance to constitute a new question; and the House would determine whether it were substantially the same question or not.

I submitted a question that might be similar in its general purport to that which was rejected, but I submitted a question which had sufficient variance to constitute it a new question, and the proof of that was given during the debate on the motion submitted by the Leader of the Opposition. The Premier himself provided the first proof in his announcement that, apart from all other considerations, that motion was primarily a no-confidence motion, that therefore he must resist it, that therefore he must oppose it, and that therefore he must resign if the motion were carried. The member for Balkatta (Mr. Veryard) provided a substantial justification to the statement when he said that, while he was in favour of the object covered by my motion, while he was opposed to the charging of fees because of the fact that the existence of the Government was at stake he must support the Government, having been returned to Parliament to do so; and so he was compelled, while in sympathy with the object of the Leader of the Opposition, to vote against the motion when that motion threatened the existence of the Government. The member for Collie (Mr. Ewing) took up a similar position. He expressed his sympathy with the object the Leader of the Opposition was aiming at, but complained that he was unable to support any motion that would mean the ejectment of the Government from office. There were other hon. members who took up practically the same line of argument. The member for Claremont (Mr. Foulkes) who did not regard the motion as a no-confidence motion, set aside party considerations altogether because he had not heard the Premier's speech, and voted in favour of the motion.

THE PREMIER: Before I spoke, the member for Claremont said he considered it was a motion of no-confidence.

MR. DAGLISH: I hope the Premier will do the member for Claremont justice as a Government supporter by admitting that the hon. member said last night that, had he known the effect of the motion would have been to displace the Government, he would not have supported it, but he supported it because of his desire to achieve the same object the Leader of the Opposition was aiming at, and because he regarded it as a non-party question. I have shown, I think, by quoting the Premier, the member for Balkatta, and the member for Collie, that there is, in the words of *May*, "sufficient variance" between the motion proposed by the Leader of the Opposition and the motion of which I had given notice, to constitute mine a new question; but I may again repeat the section on page 287 of *May*, which I quoted last night. It is:—

> Sometimes the House may not be prepared to rescind a resolution, but may be willing to modify its judgment by considering and agreeing to another resolution relating to the same subject. Thus, a resolution having been agreed to which condemned an official appointment, the House by a subsequent resolution—

On the same subject precisely, but different in substance, just as my motion is different in substance from that of the Leader of the Opposition—

> withdrew the censure which the previous resolution had conveyed.

On the following page *May* says:—

> It is also possible in other ways so far to vary the character of a motion as to withdraw it from the operation of the rule. Thus in the session of 1845, no less than five distinct motions were made upon the subject of opening letters at the post-office under warrants from the Secretary of State. They all varied in form and matter so far as to place them beyond the restriction, but in purpose they were the same, and the debates raised upon them embraced the same matters.

I do not know what the purpose of the motion of the Leader of the Opposition was. It may have been to displace the Government. On the other hand, it may have been to secure the withdrawal of these regulations with the object of preventing the prohibition of the admission of children of four years of age or under to our State schools. It may have been to prevent the charging of fees; or there may have been other reasons, or a multiplicity of those

reasons; but the terms of the motion to which I have already alluded are so distinct from the actual terms of the motion of which I gave notice, and the effect of the motion of the Leader of the Opposition was so different from the effect that would have followed the fact of the carrying of the motion of which I gave notice, that they become entirely different in substance, as they are entirely different in form. But I go farther back than even *May* and say that the rule *May* has quoted and the precedents which he supplies are not new precedents, but are based on the practice of the House of Commons covering an enormous period; and I can quote from the precedents of the House of Commons as supplied by Hansard & Sons in 1818, to show that the practice, as stated by *May* in the extracts I have already given is the same as the practice, that prevailed so far back as the beginning of last century. In this volume of the House of Commons Proceedings, *Hansard* shows--

That the same question which has been once proposed and rejected should not be offered again in the course of the same session, seems to be a rule that ought to be adhered to as strictly as possible in order to avoid surprise and that unfair proceeding which might otherwise sometimes be made use of.

There can be no surprise about a motion such as I gave notice of, which had been on the Notice Paper for a week. There could be no unfairness in considering that of which members had received more than a week's notice; therefore that particular paragraph does not affect the motion of which I gave notice. The volume proceeds:—

It however appears, from several of the cases under this title, as well as from every day's practice, that this rule is not to be so strictly and verbally observed as to stop the proceedings of the House. It is rather to be kept in substance than in words; and the good sense of the House must decide, upon every question, how far it comes within the meaning of the rule. It clearly does not extend to prevent the putting the same question in the different stages of a Bill; nor to prevent the discharging of orders that have been made, though made on great deliberation; as appears from the instances on the 14th and 17th January, 1766, on discharging the order made for printing the American papers. But it has been always understood to exclude contradictory matters from being enacted in the same session; and it was upon this principle that it was thought necessary to make the short prorogations in 1707 and 1721.

The effect of this quotation is to show, again, that the rule which you, Mr. Speaker, so well put when returning thanks for congratulations offered to you, should be adopted, that is, that the Standing Orders should be interpreted with common sense and, if I may add to these words, with a view to securing the intention of their framers. They were framed to prevent constant repetition of debate, to prevent the same question being raised time after time for the purpose of stonewalling or delaying public business; they were not framed with the object of preventing the House from giving a clear and unbiased expression of its will on any great question; but that is the effect of the Speaker's ruling on this important education question. The House has had an opportunity of discussing and voting not on this important question, but on the question whether the present Government shall retain office or not, whether it possesses the confidence of the House or not. I regret very much that the Premier made that issue a no-confidence issue, because I had no desire, as one member sitting on the Opposition side of the House, to vote for the displacement of the Government; but I did desire to express my opinion by a vote, as I had expressed it by my voice, in regard to these education regulations, and my action was the only possible way of expressing my opinion, if the ruling of the Speaker is to be accepted as correct. It appears now that, unless a member was willing to vote in favour of a no-confidence motion, he could be absolutely debarred from expressing an opinion for the whole of this session on the question as to whether parents should pay fees for the attendance of their children at State Schools or not. I contend that the precedents I have quoted and the arguments I have submitted amply justify the motion which I have put forward; and I repeat that I submit this motion with no disrespect to the Speaker, with no desire to cavil or obstruct the proceedings of Parliament or to weaken the authority of the Speaker, but with the sole desire to protect, in the interests of the public of the State, the right of free discussion for every member in this House of Parliament, with a desire to retain to the House all those privileges

which Parliament has enjoyed from time immemorial in Great Britain, and during the whole term of parliamentary government not only in Western Australia but throughout the Australian Commonwealth. In summing up, I would reiterate the fact that the difference in effect between the motion submitted by the Leader of the Opposition and the motion of which I gave notice are so great that in substance they cannot be compared; farther, that the motion of the Leader of the Opposition related to the entire matter of the amending regulations and differed again in that respect from my motion in a more detailed form. And in view of the fact that both motions were given notice of simultaneously, there could be no object aimed at by the Leader of the Opposition and myself except obtaining a full and free expression of the will of the House on the question. In conclusion, I beg to move the motion which I have already read.

MR. G. TAYLOR: I second the motion.

THE PREMIER (Hon. N. J. Moore): The argument used by the member for Subiaco is certainly a very ingenious one, but boiled down it is an elaboration of his remarks made last night. As he pointed out, several members considered the motion was tantamount to one of no confidence. That did not interfere at least with a discussion of the question at issue. The question was not raised until three or four speakers had spoken, and the member for Claremont intimated that he considered the motion was one of no confidence prior to my making any remarks at all. I take it the intent of the motion of the Leader of the Opposition, and that of the member for Subiaco, is practically the same, that is to disapprove of the regulations recently gazetted; to express disapproval. In one instance the Leader of the Opposition wished to give an opportunity to approach the Governor, while the member for Subiaco proposes to give directions to the Ministry as to what the House has considered should be the policy of the Ministry in regard to education.

MR. DAGLISH: That is not what you said the other night. You appealed to Government members then.

THE PREMIER: The hon. member referred to Standing Order 176, 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 affirmitive or negative.

The member said the object of that Standing Order was not to prevent a repetition of motions on the Notice Paper, but rather to prevent a repetition of debate; but it would be impossible to discuss the member's motion without covering to a very large extent, the whole extent really, the ground covered during the debate the other evening. Recognising that it is such a very nice point, I do not see that we can do anything else than accept Mr. Speaker's ruling on the question. The member for Subiaco has certainly made a very good case from his point of view.

MR. DAGLISH: An unbiased point of view.

THE PREMIER: It seems to me the argument he used, that the Leader of the Opposition referred to specific regulations while he dealt with the principle of education, is the point at issue; and bearing in mind that the member, whilst speaking last night, intimated that he did not intend to go the length of moving that Mr. Speaker's ruling be disagreed with, I propose to support his then determination; more especially in view of the fact that it is such a nice point involved, and unless one is a student of constitutional precedents, one must be content to bow to the Speaker's ruling in the matter.

MR. T. H. BATH (Brown Hill): In regard to this matter the Premier seems inclined to dismiss it in a somewhat light and airy fashion; but after all the Premier as Leader of the House is the guardian of the rights and privileges of the House, as is the Speaker, and where it is essential in order to determine a point, whether it be nice or not, to look up constitutional precedents to determine the correctness of the Speaker's action, it is the duty of the Premier to look up such precedents and obtain the fullest knowledge on the subject, and give the House the benefit of that knowledge. In the first place the Premier is absolutely wrong when he says both motions are the same in intent.

The motion of which I gave notice was to the effect that an Address be presented to the Governor asking him to disallow certain specific amendments of regulations—two regulations, 98 and 227; but the motion of which notice has been given by the hon. member (Mr. Daglish) is, that the House disapproves of any alteration of the regulations which will require parents to pay fees for the attendance of their children at the State schools. The regulations I required to be disallowed were 98 and 227, which provide that the department shall exact fees from children over the age of 14 years attending the State schools; but the Treasurer in pursuance of his attack on the system of free education, may in a short time decide that all children attending the State schools shall pay fees; and if the Treasurer decided that and carried it into effect by an amendment of the regulations, under the ruling of the Speaker we should be absolutely precluded in the House from dealing with that question and making any protest or expressing any decision on it. Then again, under an amendment of a great many regulations of the Education Act, and upon those two specified in my motion, the Treasurer might decide that children attending State schools who are the children of parents enjoying certain incomes should be compelled to pay fees, and this House under the ruling of the Speaker would be absolutely precluded from discussing that, protesting against it, or giving any decision on it. That is where the seriousness of the decision comes in. It absolutely means that outside the two specific regulations that I sought to amend, certain other regulations, alterations, or additional regulations may be gazetted which would attack in a still greater degree the system of free education, and by the decision of the Speaker this House is deprived from any discussion on the matter.

THE ATTORNEY GENERAL: Deprived from discussing new matter?

MR. BATH: Yes, under the decision of the Speaker. I will point out to the Attorney General the motion of the member for Subiaco is, that this House disapproves of any alteration of the regulations which will require parents to pay fees for the attendance of their children at State schools. It does not say that children over the age of 14 years shall pay fees, but any children paying fees; so that if new matter is introduced for an amendment of the regulations outside the two regulations, by the decision of the Speaker we are absolutely precluded from discussing that. This means that if the decision is carried out, the expression of an opinion by the House or by hon. members is absolutely prevented for the remainder of the session, notwithstanding any action the Treasurer may take in an attack on the free education of the State. I venture to say members of the House will not take that as a consummation devoutly to be wished; therefore members who are jealous of the privileges and rights which are secured to the House should give this their earnest consideration, and take cognizance of the lengths to which such decisions may carry them. I do not wish to quote the precedents quoted by the member for Subiaco. I have looked them up and they are very clear on the question. They are precedents almost on all-fours with the question submitted by the member for Subiaco. It has been stated by *May* that motions can be brought on again in the House, notwithstanding some previous decision of the House, and *May* goes to the length of saying that a decision given by the House, or a question voted on by the House, can be re-discussed by the mere alteration of words. But here we have a motion which is not a mere alteration of words, but which is essentially altogether a different motion. It deals with an altogether different matter from that submitted by me on Tuesday evening, and decided on by a vote of the House in regard to this question. In *Blackmore's Practice of the House of Assembly* it is laid down that where even there is room for question as to whether a motion is the same in substance or not, the decision is left to the good sense of the House; and it is very essential that there should be some proviso such as that because, as I have pointed out, in this case there is danger of possible alteration that may vitally affect the interests of a great number of people, and it might be prevented from being discussed in the House by a decision such as that given in this particular matter. I look on the

matter in this light, that where a decision is given on matters of this kind it is essential that the primary consideration shall be the rights and privileges of members in the House, because the greatest and most important duties which Speakers in all British communities, Speakers of the House of Commons, have had to decide in the past have been those matters where the Speaker is the representative of the House, is the protector of its rights and privileges, and has had to stand as a wall of defence against outside interference. And in this case the Speaker is himself essentially a part and parcel of the House, a member of it, the spokesman of it, and is mainly here to defend our privileges to the utmost extent. We have the greatest instance on record, at the time when the rights of the House of Commons were being threatened by King Charles I.; we remember how the Speaker at that time, when the emissaries of the King demanded that certain men should be handed over to them, stood in his place and said, "I have no eyes to see, and no ears to hear, but such as this House may direct." That is essentially the most important attitude the Speaker can take. It is also essential on questions of this kind, where there may be a possibility of doubt, where even the most acute reading might be at fault as to whether the motions are the same in substance, the Speaker invariably gives his decision in the most liberal sense. He gives the most liberal interpretation, and, as expressed in the words of the courts, he gives the benefit of the doubt to members of Parliament. And in a case of this kind members must not regard the Speaker as somewhat apart from the House, as someone who is as it were an extraneous element, but as part and parcel of the House, as a defender of our liberties, our rights and privileges. As I said at the outset, it is utterly wrong for the Premier to say that the motion of the member for Subiaco is the same in effect as mine. The decision of the Speaker will mean that members are debarred from discussing whatever amendments the Treasurer may consider essential in the future, by way of prescribing fees, not for children over 14, but for any children attending our State schools, no matter how high the fees may be. I do not think that members desire the decision to have that effect, nor do I think that the Speaker himself desires it; and in supporting the present motion members in no sense reflect on the Speaker. We have to recognise that all members of this House are human, that they may err; and when a member considers that a decision aims at the rights and privileges of this House, then, without any reflection whatever on the Speaker, it is not only a member's privilege, but it is absolutely his duty, to move that the decision be disagreed with, in order that the privileges of the House may be preserved.

THE TREASURER (Hon. Frank Wilson): I am quite sure that every member of the House agrees with the member for Subiaco (Mr. Daglish) when he says that his motion involves no disrespect to the Chair. I take it we can freely admit that his object is to preserve the rights and privileges of members of the House, irrespective of the side on which they may sit. But in listening to his remarks in support of the motion I could not help being struck with the able manner in which he put on the regulations gazetted a construction altogether different from that which in my opinion they bear. But before referring more fully to these regulations, I may be permitted to state at once that in considering the regulation which was meant to be cancelled, and was cancelled, the words omitted by a printer's error and the foreign words inserted must have conveyed to the hon. member the fact that such an error had been made.

MR. DAGLISH: The motion alludes to that gazette notice.

THE TREASURER: I am aware of that—to a certain number of regulations. We have to consider to-night whether the two motions are the same in substance. I am forced to conclude, without any wish whatever to prevent the hon. member from having the motion previously tabled discussed, that the two motions are substantially the same. The hon. member said that in arriving at a conclusion on the question, we must look to the effect of the motions. In that I agree with him. Is the effect the same in both instances? The regulations provide for the payment of certain fees for

scholars above a certain age. The Leader of the Opposition asked the House to petition His Excellency the Governor; and if the regulations had been disallowed, the fees would have been cancelled. The member for Subiaco, in his motion, asked the House to disapprove of any regulations imposing fees. So the effect must of course be the same, no matter which motion was passed.

MR. DAGLISH: Was that the whole scope of the motion by the Leader of the Opposition?

THE TREASURER: The hon. member had a full opportunity to argue his case, and I know that I need not ask him to give me the same opportunity.

MR. DAGLISH: I am trying to help you; but you will not be helped.

THE TREASURER: I shall certainly not accept help to argue the case from the hon. member's aspect. He argued that because a question of party predominance had been introduced in the debate on the motion by the Leader of the Opposition, that debate turned on whether or not the Government had the confidence of the House. I maintain he is absolutely wrong in that contention. When the Premier exercises the right which he undoubtedly possesses, no matter what may be the motion before us, of stating that he will accept the decision, if the motion be passed, as a declaration of want of confidence, that statement does not affect the question at issue. If the Premier thinks in his wisdom that a certain motion, if carried, will produce a certain result as far as he is concerned, what has that to do with the motion? The Premier's declaration did not affect the question of fees at all; and I contend that you, sir, as Speaker of this House, are not concerned with the motives of any member who is speaking. If a member states that because the passing of a motion may mean the downfall of the Government he will vote with the Government, that is a matter which does not concern the Speaker one iota when deciding whether that motion and a subsequent notice of motion are or are not substantially the same. And it is not necessary for the Premier to declare his intention regarding the motion. The debate on the motion of the Leader of the Opposition might have run its course; and had the motion been carried, the Premier might have said he must consider his position, or might have resigned because of that result, without having made any declaration. If the intended motion of the member for Subiaco had been moved and discussed prior to the motion of the Leader of the Opposition, there would have been nothing to hinder the Premier from saying that the former motion would be taken as a motion of no confidence; and probably the Premier might have considered it in exactly the same light as he regarded the motion actually moved. The debate on that motion did not hinge on a question of confidence in the Government. The member for Subiaco and the Leader of the Opposition referred in their speeches to the common sense of the House; and I agree with them that the common sense of the House must be brought into play when the decision is so intricate that it cannot be read while we run. Let us apply common sense to the debate of yesterday evening. What was the debate? From beginning to end, the question was whether the Government were justified in charging fees for certain scholars in our public schools.

MR. SCADDAN: That was the debate; what was the vote?

THE TREASURER: The Speaker has nothing to do with the vote. He has to do with the debate, and the wording of the motions.

MR. WALKER: The motion discussed on Tuesday night was to disallow the regulations.

THE TREASURER: It was not to disallow; it was whether certain fees should or should not be charged; and that is very forcibly shown in the published accounts of the speeches. I have fully explained what I think of this matter; and my remarks with regard to the Premier's statement apply equally to those of the members for Balkatta (Mr. Veryard) and Collie (Mr. Ewing), referred to by the member for Subiaco. I hold that the Speaker need not endeavour—in fact, he would be exceeding his duty if he tried—to probe into the reasons which caused members to vote in a certain manner.

MR. DAGLISH: You are very anxious to dodge the debate on my proposed motion.

THE TREASURER: No; I am not. That statement is most ungenerous. The hon. member knows that I have no notion of dodging the debate. The same question was fully debated on Tuesday evening; and I would ask, if we went on with the proposed motion of the hon. member interjecting, what course would the debate take? Would it take any different course from that which the debate took on Tuesday night? In deciding whether the two motions are substantially the same, if we cannot come to a decision from the motions themselves, we must turn to the remarks of the speakers in the debate on the first motion; and on Tuesday last the hon. member himself addressed the House on the question of payment of fees. He did not discuss the question whether the Government were to retain the confidence of the House. So far as I remember he never, throughout the whole of his remarks, made any reference to the Government having lost the confidence of the House. He discussed nothing but the question whether certain fees should or should not be charged in our State schools. The question, therefore, narrows itself down to that which he put before the House, that the procedure as mapped out by all authorities is for the obvious purpose of preventing the repetition of debates; and I repeat that in my opinion, if we had the motion desired by the hon. member discussed this evening, the debate would be a repetition of what we went through on last Tuesday. I feel that the hon. member himself must perceive that this is a question of repeating a debate which we extended to an early hour on Wednesday morning; and therefore, according to his own arguments and his own words, the hon. member's proposed motion is absolutely out of order, if on no other ground than that. With regard to the remarks of the Leader of the Opposition, made just before he sat down, I wish simply to say in conclusion that I never made any attack on free education in this State. He spoke of the Minister's attack on free education, and referred to avoiding discussion on that question. I wish it to be clearly understood that I have made no attack on free education; and even if I thought it advisable to make, and did make, regulations imposing fees on all children in State schools, I absolutely disagree with the hon. member's statement that the House would be debarred from dissenting from such regulations. It stands to reason that if any new regulations be made, gazetted, and laid on the table of the House, to increase the fees of scholars or the number of scholars who shall pay fees, such regulations would be absolutely new matter, and the House would have every right to question and challenge those regulations, as the regulations recently gazetted have been challenged by the Leader of the Opposition. I hope that members will carefully consider this matter; and I think that a majority of the House will be found to agree with you, Mr. Speaker, in the decision you have arrived at, in view of the authorities you have quoted.

MR. C. A. HUDSON (Dundas): I do not purpose on the discussion of the motion proposed by the member for Subiaco to enter into a discussion of the motions made in respect to the Education Department. The Treasurer has indulged in a good deal of discursory matter that applies altogether to the motions regarding the charges for education.

THE TREASURER: Not at all; I never touched on them.

MR. HUDSON: In my opinion you did. If my opinion is wrong you can correct it at a later date. You distinctly referred to the question of a want-of-confidence motion having been introduced in this House, and you went farther and said that it was possible for other motions to be made if necessary with regard to the charges made for the education of the children in this State. You said farther that this second motion of which notice was given might possibly be taken to be also one of want of confidence. The Premier this afternoon had an opportunity in his speech of saying whether it was equal to the motion proposed by the Leader of the Opposition in that respect, whether it would also be taken as a motion of want of confidence or not; but he did not attempt to say that it was or that it was not. Indeed he would lead us to believe that the motion of the member for Subiaco would be treated altogether otherwise than as a motion of want of confidence in the Government, and that in itself is one of

the strongest arguments that can be made in support of the contention of the member for Subiaco that these motions are apart and distinct. I do not think that so far the arguments put forward by the member for Subiaco have been answered; and until some substantial answer has been put up against his arguments, I do not think it is necessary to enlarge on them. Standing Order 176 is one which seems to me to be in conflict with a section of one of our Acts. Section 4, Subsection 3, of the Interpretation Act 1898 provides that "Any Act may be altered, amended, or repealed in the same session of Parliament." Under the Standing Orders no such amendment can take place because the question would be practically relating to the same Bill, and really to the same effect, may be the same in substance as the question dealt with during the session. The subject-matter of the Act would be the same. There is therefore conflict, and I think the Interpretation Act would overrule the Standing Order; indeed, this Standing Order would have no operation in this regard. So I agree with the observations made by the member for Subiaco, and I think that in the interpretation of a Standing Order of this kind the benefit of the doubt should be given, as the Leader of the Opposition said, to members of this House in extension of their privileges and not in restriction of them. I am glad to find that this is not to be made a party proposition or that it is in no sense disrespectful to the Chair.

MR. T. WALKER (Kanowna): I merely purpose to point out one feature which to me is the serious feature of the debate, and that is that the Standing Order says no question shall be proposed which is the same in substance as any question which during the same session has been resolved—not debated, not discussed before, but resolved—in the affirmative or negative. Although this matter has been discussed and technically perhaps resolved, actually it has not been resolved. It must be patent to every member that the question on its merits has not been decided one way or the other. Votes which were counted as resolving it were accompanied by the statement that they were not in resolution of the question, but that they were for an entirely different purpose which members specified, that of preserving the life of the Government. Therefore, if we are to be just we cannot say that this education question is decided. The House has come to no determination upon it; therefore it is still an open question for decision. The object of the Standing Order is to prevent questions that have been decided beyond controversy, where there is no question as to the relative number of votes one side or the other for the question, being again discussed. It is perfectly right that once a question is unequivocally decided it should not be resurrected; but it is transparent to everyone, notwithstanding the special pleadings of the Minister for Education, that this question has not yet come to a final decision on the part of the House. We have had no opportunity. The decision, as stated by the member for Collie, was purely and simply the preservation of the life of the Government.

MR. SCADDAN: And by the member for Balkatta also.

MR. WALKER: Yes; but take one instance that should be sufficient for the purpose. In that one instance, the member for Collie said that he believed that the Government had made a mistake, that it would be well for the Government to alter their decision. He disapproved of the regulations with which the motion dealt, but he was not going to allow members on the Opposition side of the House to take charge of education or any other function of the Government, and he voted distinctly for the Government, the motion having been made one of want of confidence. Therefore, the expression of the House on the night of the debate was an expression only of confidence in the Government. The other issue was not settled. So I submit that, in fairness, this rule should not be read strictly. The rule I believe is to allow of debate and to allow of questions having a fair chance of being definitely resolved; and I believe that Speakers hitherto, if they have had doubt on a matter of that kind, have shown their leniency in leaving the question open rather than taking a too strict and literal view of the text of the Standing Order or general rule and stopping or stifling fair deliberate discussion. I think it will be admitted that we are a deliberative

Assembly; that we are not governed by those hard and fast mechanical rules that prevent the exercise of deliberation and judgment. Therefore it is open to the Speaker in his judgment as, if I may deferentially say so, it is open to the House in its judgment, a question not having been satisfactorily resolved, to leave that question open in order that an unmistakable decision may be arrived at; otherwise we stultify the House, we are unable to conduct business, because, even as the Treasurer himself said, any motion may be made a motion of want of confidence; and what might—I do not say would be, but we are always to think of the possibilities—be done to prevent a decision being arrived at on any vexed question that may arise? All that would be necessary would be for the Government to say, "This is a want of confidence"; and if they said that, well common sense knows—and we must be governed by common sense—that a large number or at least several perhaps sufficient members to prevent the carrying of the question as it might otherwise be carried would be influenced by it, and would not vote according to their consciences or the merits of the question on the subject itself, but would of necessity rally round the Government even in the Government's mistakes in order to preserve the life of the Government. That stands to reason. The House must have means of preventing that course being taken. I do not say that in this course the Government took a wrong method. It well might appear that the motion of the Leader of the Opposition was intended as a vote of censure. It certainly could be construed into one, because it practically took the business out of the hands of the Government and directed his Excellency the Governor to ignore the Government. The Government therefore might be justified, possibly were, in taking the course they did; but this is the point, that by taking the course they did they prevented the issue being resolved either in the affirmative or the negative; another question was superimposed and it overshadowed, obscured, and obliterated the real question, so that the issue was not the education question but the life of the Government; and that was, I submit, after all, the only question on which a large section of this House voted. The member for Balkatta, the member for Collie, the member for Geraldton—[MR. JOHNSON: Say the majority]—these specifically declared it. They absolutely told us, so that it came within the knowledge of the House and within the hearing of the Speaker—these members absolutely declared that they were not voting on or resolving the question, but that they were deciding on another issue entirely. It was because that other issue was raised that they voted as they did. They were not the only members who did so. They were the ones we know of, because they openly declared it, and made no secret of it. How then can it be said that this question was resolved? It is unfortunate that it should have been obscured in that way, but it has not been resolved, and I submit that is the only point. If the question has not been resolved, if another question has stood in the way, if one question being on the Notice Paper is made an entirely different question and the vote is on the other question, it is still open to discussion; the House has come to no decision, and therefore we are still open to discuss it. I think we will all admit that the question is of importance to the public, to the country, and to the House itself, that it should be decided upon without any other question or any other issue obscure it. We should have an open, clear chance of saying what the House wills or wishes or directs upon this one question. For that reason I submit that this Standing Order does not, in spirit at least, apply to a case of this kind. It may be argued that in letter the case does not apply; but certainly on general grounds, on the grounds of common sense, on the grounds of the rights of this House to decide definitely upon questions submitted to it, the debate on the motion of the member for Subiaco would be in order.

MR. H. BROWN (Perth): I think it is very regrettable that the time of this House should be practically wasted over a motion such as this. The decision arrived at on Tuesday was one practically approving, at all events with qualifications, of the alteration of the educational regulations, and the motion by the member for Subiaco is simply asking us to disapprove of them. That is the crux

of the whole question. A lot has really been made out of its being made a no-confidence debate; but I am sure no member of this (Government) side of the House, probably with the exception of two, took the Premier seriously when he made that assertion.

MR. HEITMANN: Is that one of your jokes?

MR. JOHNSON: It turned a minority into a majority, that is all.

MR. H. BROWN: The hon member drags up three members of this side of the House who spoke in favour of the motion and voted against it. That shows certainly that the majority on this side did not take the Premier seriously, even though he meant it himself. It is regrettable to find, when we have a Notice Paper so full of very urgent legislation required in this State, the House taking up a solid day on a question such as this, which has been already settled.

MR. G. TAYLOR (Mount Margaret): After the eloquent address of the hon. member who has just resumed his seat, there is hardly anything more to be said; but I cannot let this opportunity pass without supporting the member for Subiaco. The Premier, as Leader of this House, in opposition to the motion moved by the member for Subiaco gave no reason why that motion should not be carried. During my experience of politics in this House, extending practically over six years, in which there have been more Premiers than years, I have never heard a Premier on any question give such a trivial defence as the Premier gave this afternoon. I listened to the Treasurer, who is also Minister for Education—I am reminded he is also one of the Premiers—who gave a few reasons why this motion should not be carried. The Premier used that undoubted right which he has at all times of considering any motion a no-confidence motion, and he is justified in doing that. He set up as an excuse that he did not accept it as a no-confidence motion until several members had spoken. He saw by the trend of the debate that his party were not going to support him, and in my opinion he used that as a threat to keep his party together on the question.

MR. JOHNSON: Hear, hear. There is no question about that.

MR. TAYLOR: There is no doubt about it. This is not a far-fetched idea. No member could sit in the House, and no person could be in the precincts of the Chamber and hear the debate develope as it did, without realising that the Premier had recognised the necessity of bringing pressure to bear upon his party to support him at that juncture. With reference to the matter being a no-confidence motion, I say as a member of the Opposition there was no intention by the party to make it so, but the Premier accepted it as such. On a no-confidence motion every portion of the administration can be dealt with. That was not done. In this case three members on this side of the House were called to order for departing from the subject. Members were requested to keep to the subject. They were curbed in that particular. As the debate developed we found that members on the Government side who have invariably in this Chamber, since they have had the honour of representing constituencies in it, cast silent votes, repeatedly recognised the magnitude of the position. When their electors were holding public meetings denouncing the Government on this question, they could not give a silent vote the night before last. They were compelled early yesterday morning to give some reason and some justification for their vote. What was the reason? What was the justification? The justification was, "We must support this Government. We must put this party in power before the wishes of our constituents. We must keep this Government in power, no matter how hostile it is to free education, no matter how our electors desire that our children should be educated free. We must in face of all those desires and wishes support the Government, because our Leader has made a party question of it." We heard and saw members who spoke almost weeping, because they had not freedom of action. We heard them laugh at the Attorney General. He was not here. Had the hon. gentleman been present I am sure his usual arrogance would have placed the Premier in an awkward

position. The hon. gentleman would have taken up that "I am" position which he usually does, and the Leader of the House would have found himself somewhat embarrassed. I am reminded that the Attorney General was dodging at that moment a particular question. The fact that members on the Government side voted against their own expressed opinions and the opinions of the electors is to me a justification for the motion of the member for Subiaco being left on the Notice Paper. I and other members are confident that the vote was given by members on the Government side from a party point of view. If it were a matter to-morrow of whether in the opinion of this Chamber increased charges should be made, or that free education should cease, I am confident that members who voted for the Government early yesterday morning would not record their vote in favour of the action taken by the Government, or the attitude taken up as to the regulations gazetted by the Treasurer. As to the argument of the Treasurer this afternoon that the debate on the motion of the Leader of the Opposition and the debate on the motion of the member for Subiaco would take exactly the same course, I would like to point out that if a member in this Chamber moved a motion in connection with mining operations in this State, whether in aid of prospectors, public batteries, or development of mines, no matter how such motion were couched the debate would take exactly the same course in every particular. If that reasoning holds good in regard to motions dealing with mining in this State, it must hold good in relation to education.

THE TREASURER: It will not hold good.

MR. TAYLOR: The motion moved some weeks ago by the member for Leonora (Mr. Lynch) covered the whole scope of the mining operations of this State. That does not prevent any other member from moving a motion in connection with farther prospecting aid. As far as education is concerned, that is on a similar footing. In my opinion the motion moved by the Leader of the Opposition does not prevent the motion by the member for Subiaco. I and other members are anxious that members, irrespective of where they sit, should have every possible freedom of speech, every possible opportunity of bringing any matter before the House which in their opinion should be brought before the public. The Government of to-day may be the Opposition of to-morrow. That is really the position in politics, and it is idle for members to deal on party lines with a motion like that moved by the member for Subiaco. It is highly necessary that members should take an impartial view of the matter and consider the privileges of the House and the privileges of members. The arguments advanced by the Treasurer as to the debates taking exactly the same course do not hold good, because no matter what the motions may be on questions dealing with lands, with the timber industry, or with any phase of the mining industry, the debates take exactly the same course. Exactly the same arguments are used. We always hear of the great development of land settlement or of our mining industry, of the great need for farther assistance from the Government. The arguments are practically the same, though they are perhaps farther elaborated according to the scope given by the motion. So that argument, practically the only argument used by the Treasurer, falls to the ground. I can see the Attorney General buttoning up his coat, and adjusting his spectacles that have been idle for the last week, getting ready to show the House the legal aspect of the question. And as the member for Subiaco pointed out, it is practically the legal aspect of the question with which we are dealing. I am sure, sir, that if this were a question of your ruling as to the conduct of a member, you would have the support of the whole House. We recognise that in such matters the Speaker's ruling should be upheld. But a ruling of the nature now under consideration can be dealt with on different lines, without any feeling, and with all respect to you and to the House. I submit that the proposed motion of the member for Subiaco is perfectly in order, and I will therefore support his motion that the ruling of the Chair be disagreed with.

MR. J. C. G. FOULKES (Claremont): Reference has been made by the members for Mount Margaret and Subiaco to the motion discussed the other evening being a motion of no-confidence in the Government. Of course I do not know what weighed in the minds of several members on this (Government) side of the House who voted for the motion; but I do know what weighed with me. I spoke early in the evening, opposed as strongly as I could the step taken by the Treasurer, and said I would support the motion of the Leader of the Opposition. About ten minutes or a quarter of an hour afterwards the Premier rose and said he would regard the motion, if passed, as a vote of no-confidence in the Government. I do not consider that in so doing the Premier treated me with as much fairness as he usually exhibits towards members. Although he heard various members—one at least, myself—speak in opposition to the step taken by the Treasurer regarding primary education, the Premier suddenly called on me to vote in direct opposition to the views I had expressed before he spoke.

MR. TAYLOR: It was the utterances of you and other Government supporters that made the matter a party question.

MR. FOULKES: I do not know about that; but I say it is too much to expect me to vote in opposition to the views I have expressed in this House. I think it is a pity that as soon as the debate ensued the Premier did not at once announce that he accepted the motion of the Leader of the Opposition as one of no-confidence in the Government. In the early part of my speech I stated at once that I refused to look on the question of education as a party question; and I much regret that such a question should be discussed by members as partisans. So much for that. Now with regard to the motion of the member for Subiaco. I will not support him; for I strongly deprecate any attempts made by the House to reverse the decisions of the Speaker, whoever he may be. I have the greatest respect for the Chair; and the practice of attempting to reverse the Speaker's decision is not a practice which the House should encourage. If we embark on that course there will be continual attempts made to reverse the Speaker's decisions. We have to remember that the Speaker, when in the Chair, belongs to no party. As we know from experience, you, Mr. Speaker, have no party feelings whatever when acting as Speaker; and any decisions you may give are given, I am sure, after most mature consideration, after consulting the officers of the House and examining the decisions of your predecessors. I again beg to state that I deprecate very strongly indeed the practice of trying to reverse your decisions or the decisions of any other member who occupies the Chair.

MR. E. C. BARNETT (Albany): I have carefully read both the motion of the Leader of the Opposition and the motion attempted to be submitted by the member for Subiaco; and I can come to no other conclusion than that they are practically the same in effect. Having come to that conclusion I shall support the ruling of the Chair; and I may farther state, I consider that the members who on Tuesday night voted against the motion of the Leader of the Opposition must, to be consistent, support the ruling of the Speaker.

MR. P. STONE (Greenough): I have read the two motions in question, and cannot but see that they have the same object. Both aim at the same result; and farther, I see no object the member for Subiaco can have in pressing the present motion to disagree with the ruling of the Chair, unless he wishes by some side-issue to bring in the question of the fees, thus beginning an almost endless discussion. I regret very much to note how by useless discussions the time of the House is wasted. The business of the country is being neglected, and the people are grumbling in consequence. In a very short time the House will most likely prorogue, and there will be a lot of half-finished Bills chucked overboard as usual; and the members now wasting the time of the House will be loudest in asking why those Bills have not been completed. I regret that so much time is wasted in discussing matters of this

sort. The object of the motion is to try by a side-wind to reopen a question that has been properly and fairly settled after a long discussion.

MR. TAYLOR: That finishes it.

MR. STONE: I hope so.

MR. F. ILLINGWORTH (West Perth): I have, for very many reasons, some delicacy in expressing an opinon on a question of this character. There are in parliamentary procedure certain fixed principles which we must keep fairly before our minds. The Speaker is in charge of the rights and privileges of this House and of every member in it; and one of the first privileges that a member possesses and is called upon to exercise is the right of free speech, the right to see that all subjects are fairly discussed, and that opportunities are granted for the purpose of that discussion. Now it is unfortunate perhaps that two distinctive motions, practically the same motions, should have been tabled on the same day by two members of the House. The question that first presents itself to me is, what should have been the procedure? And it seems to me that if the motions had been allowed to remain on the Notice Paper and one had been declared out of order at that time, the usual application of the rules of the House would have settled the matter. A protest against the Speaker's ruling could immediately have been raised; the Speaker would have given his decision; the question would or ought to have been despatched immediately; and a proper decision would have been arrived at as to whether the motion disallowed by the Speaker was or was not in order. We have, however, the difficulty that from two different standpoints one question is to be attacked. From the outset it was clear to me that Government supporters at all events had no choice in reference to the vote. The motion of the Leader of the Opposition was distinctly one of want of confidence. The affirmation in the notice of motion was distinctly one that no Government could evade; and the question presented itself as simply a question of confidence or no confidence in the Government. Into that question I do not desire to enter; and I did not consider it was properly in order to discuss the main education question. If I had discussed it, my speech would have been adverse to the action of the Treasurer. On a distinct question of payment at State schools, I certainly should not have voted in favour of that course. However, during the debate, the whole question assumed a different form. The Treasurer, and the Premier also, explained more fully the intentions of the Government; and those who understood them and took care to interest themselves in what was stated could clearly see that so far from interfering with the rights of the people to free education, the regulations were an expression of an entirely new principle—the establishment of secondary schools. That principle was certainly open to debate, and it was debated. Coming to the motion before the House at the present moment, the one question to be decided is, are the two motions the same? If they are, there is no question in dispute as to the Speaker's ruling, there is no scope for argument; for if they are the same questions, then the Speaker is undoubtedly right; all authorities are with him. The question is, how far a modification of that rule is permissible. The member for Subiaco has already quoted from *May*, and I need not quote again the same passage. But *May* says farther:—

> The rule cannot be evaded by renewing, in the form of an amendment, a motion which has already been disposed of. On the 18th July 1844, an amendment was proposed to a question by leaving out all the words after "that" in order to add "Thomas Slingsby Duncombe, Esq., be added to the Committee of Secrecy on the Post Office;" but Mr. Speaker stated that on the 2nd July a motion had been made "that Mr. Duncombe be one other member of the said Committee," that the question had been negatived, and that he considered it was contrary to the usage and practice of the House that a question which had passed in the negative should be again proposed in the same session. The amendmenent was consequently withdrawn.

Now there was an undeniable distinction between the two motions. There was an attempt in that case to put upon a certain committee a member who had been distinctly rejected by a previous motion

of the House. Then on page 200 the same authority states:—

On the 5th March 1872, a resolution was moved impugning the general operation of the Elementary Education Act, and enumerating several points in which it failed, including the payment of school fees to denominational schools.

Here is a distinct question of the same character.

In opposition to it an amendment was carried, affirming that it was too soon to review the provisions of the Act. On the 23rd April Mr. Candish brought forward a motion for leave to bring in a Bill to repeal the 25th clause of the Education Act, which authorised the payment of school fees to denominational schools. Exception was taken to this motion on the ground that substantially it had been embraced in the resolution of the 5th March, and was excluded from consideration by the amendment. But it was held that a resolution in terms so general could not prevent a member from moving for leave to bring in a Bill to repeal a single clause of the Act.

The question here presented is almost the same question as now presents itself in reference to the Speaker's ruling.

At 6·30, the SPEAKER left the Chair.
At 7·30, Chair resumed.

MR. ILLINGWORTH (continuing): I was remarking that on the simple question of payment of fees by children in our primary schools, I should certainly have voted against the Government. Free, secular, and compulsory education has been a principle with me since I have thought over the question of education at all, and I have strongly fought for that principle in the old Assembly buildings, and I have fought for it on the hustings again and again; but when the question was placed before the House on the lines on which it was by the Leader of the Opposition, another aspect of the question presented itself of still greater importance. The hon. member in introducing the motion disclaimed any intent to coerce the Ministry, or to bring forward a vote of censure or want of confidence; but from a constitutional aspect I had objection to the motion and would have voted against it. That constitutional phase was that there was in the motion a distinct appeal from this House over the heads of Ministers to the Crown; and that being the case, the form of the motion could not have been accepted in a way other than as the Government accepted it. My only surprise was that the Government had not accepted it in that way at an earlier stage of the debate. Though I hold strong views on the question of free education so far as our primary schools are concerned, the Minister for Education made reference in his speech to the question of secondary education, and on that subject I have not formed any distinct impressions, save that I believe we should take our children from the lowest to the highest standard we can in education. However, the question of funds comes in from that standpoint, but there is a duty that devolves on us to give every child in the State at the earliest possible moment the soundest primary education, and it should be quite free and compulsory. The motion was, however, presented in a form so different that I could not have voted for it in any case. It is argued by the member for Subiaco that because of this distinction in form and because of the diversion in consequence of the tone of the debate, the two motions are distinctly different. I contend that this is not the case. The object of the first motion was to prevent the charge of certain fees in our State schools for a certain amount of secondary education. The object of the motion of the member for Subiaco is precisely the same. He desires to stop the payment of fees in our State schools. While the discussion on the first motion was of course diverted, and while any person listening to the discussion must say that there were widely diverse views in the minds of members, I contend that it was not the Speaker's place to notice these differences. I contend that the Speaker is no partisan. He belongs to no party; he represents every individual in this House, and no party in particular; and it is his duty to see that there should be free access to debate on all questions, without any thought whatever as to which party, large or small, Government or Opposition, has a majority power at the moment. His duty is to decide questions on their merits, apart from the sides

of the House. Presented to the Speaker here are two motions, notice of which was given on the same day. Consequently the motion of the member for Subiaco was not to substitute by other and broader terms the initiation of another debate on a certain question, but it was simply an initiation of a question by both members at the same time. The first motion, that moved by the Leader of the Opposition, was couched in certain surrounding qualifying terms, and in a way which as I have explained would have precluded most members on the Government side of the House voting for it in any case, whatever their views might be on the question; yet the main question submitted to the House was simply a question of charging for education in the State schools. The Speaker has to decide between the two motions. I think there is scarcely any doubt that any member, viewing the question as the Speaker has to decide it, would give substantially the same decision. That being the case, notwithstanding the many diversions that have arisen, as I have explained, I am not prepared to support the member for Subiaco in his present motion. I regret that the circumstances have turned in this way, so far as the main debate was concerned. I would have liked a broader platform to speak on the broader question, but I could not overlook the constitutional phase, that it was an attempt on the part of the Leader of the Opposition to pass over the Government to the Crown.

MR. HORAN: What other course was open to him?

MR. ILLINGWORTH: The course adopted on the motion of the member for Subiaco. It is substantially the same thing without any objectionable surroundings. That being the case, I think the Speaker is correct in his decision that these motions are substantially the same, and for that reason I intend to vote against the motion moved by the member for Subiaco to-day.

THE ATTORNEY GENERAL (Hon. N. Keenan): I intend to offer only a few observations on the subject-matter of the debate here to-night; and indeed I should have offered none at all, having regard to the fact that all that could be said on the matter has been to my mind said almost too often here to-night, were it not for one matter that has been somewhat overlooked, and that is as to any precedent for the very step we are asked to take. Since I had the opportunity of coming back to work again to-day, I have personally made every effort to find any occasion in the history of our Parliament when a similar motion to that moved to-night was submitted and carried by the House; and I find there is no such resolution on the records, so far as any search on my part could show it. Farther, by means of others—and acting on their information I communicate this to the House—I have had a search made of any record in any book dealing with parliamentary practice setting out that motions of this kind were submitted and carried by any House of Commons in any portion of the British world, and again there has been no result showing that such a course was ever adopted. Therefore it is perfectly apparent that it is a very extreme step to take, to successfully move a House that the ruling of the Speaker be disagreed with; and being an extreme step, we should require extreme reasons before we adopt it here. I hope members will see that this is at least a reasonable view to take, and one in which I can ask the concurrence of both sides of the House. Have those extreme reasons been presented? The discussion has certainly ranged over a good deal of matter, but I venture to say I am generous in my criticisms and estimate of the strength of the case made in favour of the motion when I say that it has been composed almost entirely of some clever and very minute distinctions between two sets of motions appearing on the Notice Paper on the same date. It is admitted by those who attempted to make out a case here to-night that if the subject-matter was substantially the same in these two motions they have no case. Therefore the argument addressed to the House has been only addressed with the object of showing that the motions are not substantially the same. Even if we admit the greatest measure of success that anyone on that side of the House may claim, we can only admit he has made out a case, something that we may for the time being dignify by the

appellation of being a case. Surely on an admission of that kind, which is going extremely far, we are not warranted in taking a step which is extreme? Only circumstances of very strong character would warrant the House placing on record a resolution of this kind. The member for Subiaco depended almost entirely for his argument on the fact that his motion refers to a portion of certain regulations, and that the motion moved by the Leader of the Opposition referred to the whole.

MR. DAGLISH: No; I did not.

THE ATTORNEY GENERAL: The hon. member certainly misled me to think that, by reading to the House first of all the motion made by the Leader of the Opposition that two regulations therein numbered should be, on a petition to his Excellency the Governor, disallowed, and by pointing out that these two regulations covered a great deal more than the subject-matter of his own motion. Admittedly they cover with other things that which is included in the motion of the member for Subiaco. If an argument is to be placed before the House which on analysis comes down to this, that the whole does not include a part, something is brought up which passes the contemplation of members who wish to examine these things with a view to arriving at a just conclusion. Surely if the House has dealt with this matter and others as well, it cannot be argued that because it dealt with other matters it did not deal with this. We must argue on these lines, or we cannot show a substantial difference. There is always a difference between a part and a whole. There must be a difference, or in one case it would not be the part and in the other the entire. This difference is not such as would warrant a subsequent discussion arising over the part, and I dare say the last member in the House to advance the proposition of dealing generally with the matter would be the member for Subiaco himself. After the reasons given by the various speakers, and the references made to constitutional authorities which guide us in these matters, it is not necessary to go farther than to say that as far as I am personally concerned, if I were asked the question whether the substantial part of the two resolutions was one and the same, I think I would be forced to give an answer in the affirmative. If that is so, if one is forced, in reading the two motions, to come to the conclusion that the two rest on the same substantial facts, that the discussion covers the same grounds, it seems to me there is no farther choice except to vote, wholly apart from other considerations, to support the Speaker's ruling. I trust the member who has tabled the motion, when he considers that the history of Parliaments does not afford him a single illustration of such a character, will refrain from asking the House to go farther than to listen to the reasons submitted, and having listened to those reasons, to support the ruling of the Speaker. Reference was made that I had personally not an opportunity of taking part in the debate that arose on the educational proposals. Most members in the House know that there was reason for my absence, which is one that perhaps I deserve more a measure of sympathy for than an ungenerous taunt, and I was surprised that the member for Mt. Margaret should have made such a suggestion. But I am not surprised, knowing whence the suggestion came. I did not think the member for Mt. Margaret would throw off a jeer of that character.

MR. SCADDAN: He apologised.

THE ATTORNEY GENERAL: I was pointing out that it was regrettable that an occasion should always be sought to say something that could only be meant to be needlessly painful. I regret an occasion like this should be seized for a purpose of that kind.

MR. TAYLOR: Is the Attorney General referring to me?

THE ATTORNEY GENERAL: I said the member for Mt. Margare suggested that my absence was not due to illness.

MR. TAYLOR: I said last night it was due to illness.

THE ATTORNEY GENERAL: I am referring to what the member said in my presence. I never refer to anything that happens when I am not present.

MR. TAYLOR (in explanation): I do not know what the Attorney General i referring to. Last night when a member was speaking he noticed the absence of the Attorney General, and I said then that it was through illness.

THE ATTORNEY GENERAL: The hon. member will remember in speaking to-night he was under the impression, which was wholly wrong, apparently that I was laughing at something he said. He referred in some manner to the fact that I was addressing myself to the subject to-night from a legal point of view, and the reference was perfectly correct. It was suggested by someone on this side—I think the phrase was used "that I dodged a difficult political position by being away the other night." The suggestion came from a quarter from which we may expect such suggestions to come. It is to be regretted that things should occur in the House with the concurrence of other members, and the hon. member guilty of them should not be taught that there is some limit to violation of the rules of common decency. I hope the member for Subiaco when replying will attempt to deal with the point I have brought under notice. The motion he has moved is one of so grave a character that I do not know if he will be able to find a precedent for it—I have not been able to find any—which would justify us in adopting the course of differing from the Speaker's ruling on the case now submitted.

MR. H. DAGLISH (in reply as mover): I much regret that this discussion has shown a considerable amount of want of knowledge amongst members of the importance of the parliamentary privileges which we should enjoy, and it has also shown, on the part of one side of the House at all events, and in order not to hurt anyone's feelings I will not say which side, a deplorable want of knowledge of parliamentary procedure and of our own Standing Orders. I must express my congratulations to the House at the return of the Attorney General after a short absence, and likewise express my pleasure at seeing him present with us; at the same time I have been altogether unable to connect the remarks relating to his illness with the point he was seeking to impress on the House at the time he was speaking. I cannot understand by what stretch of imagination he could connect some remarks made last night affecting his absence with the motion at present before the Chair.

THE ATTORNEY GENERAL: It was an observation made this evening.

MR. DAGLISH: Even if that were so it indicates a want of the close reasoning, and may I say also a want of knowledge of the Standing Orders, to imagine that these remarks on that point were relevant to the motion I submitted to the House. The Attorney General has raised the point that my motion required extreme reasons to justify it, and he has asked me for a precedent to illustrate my contention that the motion I gave notice of was in order. I am perfectly willing to admit that I cannot find any precedent, because in order that there should be one it would be necessary first of all that in the cases cited by me one should relate to a motion being ruled out of order in similar circumstances. Cases are cited where there has been some dispute, and if there be no dispute no precedent can be cited because a decision cannot be given. Suppose for the sake of argument that the Speaker had not given his present ruling, to-day's discussion would not have taken place, and the result, whatever it may be, could not be cited in future as a precedent, and the Attorney General of the future would say, when some case did arise in which a new ruling was given, "Where is your precedent for objecting?" What the Attorney General might fairly have urged is that the most extreme reasons are requisite, not to justify freedom of speech but to justify curtailment of speech, for there is a stronger plea required to justify curtailment than enlargement in any deliberative assembly. I am not surprised some members have complained of waste of time in the discussion, that hon. members in some instances are unable to realise the most important subject on which Parliament can spend its time is protecting its own rights and privileges; but some members regard as more important than protecting the privileges of Parliament the work of endeavouring to take away the right of children to attend say the James Street school. I could understand members who are prepared to take up the time of the House with these trivialities regarding as wasted any effort of intellect they are asked to bestow on an important question such as discussing the privileges of Parliament, which some of our ancestors have thought it worth while to die for. As a matter of

fact no serious attempt has been made to refute the arguments I submitted at the outset. The member for West Perth and the Attorney General are the only members who attempted really to discuss the point at issue. Other members have complained it was wrong to question the Speaker's ruling. I have done so in the most respectful manner, and I have endeavoured to discuss the points I have raised with the utmost moderation and with the greatest deference to the Speaker himself; and I contend it is the duty of members, when they regard a ruling which affects the rights and privileges of members as being possibly incorrect, it is their absolute duty to see that the matter is ventilated, and I believe they would be rendering the Speaker himself, as well as the Assembly, a general service in opening the fullest discussion. I do not intend to traverse the remarks that have been made by previous speakers. I do not desire to press the question to a division, for one reason because I would not care to proceed to that extremity, and for another reason I do not think the House would give me an intelligent and honest vote; I therefore ask leave to withdraw my motion.

Motion by leave withdrawn.

AS TO REMOVAL OF NOTICE.

MR. SPEAKER: Before the member proceeds with the next motion, I desire to place the following before the House. That the Speaker has the right to remove from the Notice Paper any notice which is irregular is shown by the following extract from *Ilbert's Manual*, page 101:—

> If a notice is irregular or improper, it may, by the authority of the Speaker, be corrected or withdrawn from the Notice Paper.

As to the expediency of exercising that right in the present instance, it should be remembered that the Notice Paper is in its essence a guide to the day's proceedings. It would be misleading to retain upon it the notice of a motion which could not be allowed to proceed. That no injury was done to the hon. member for Subiaco is shown by the proceedings which have actually taken place. It must also be remembered that until the vote on the motion of the hon. member for Brown Hill was given, the notice of the hon. member for Subiaco was free from objection. As soon as the former was negatived, the latter became out of order, and therefore ceased to appear on the Notice Paper.

TO DISSENT FROM THE SPEAKER'S ACTION.

(REMOVAL FROM NOTICE PAPER.)

Notice of motion had been given by Mr. Daglish—

> That this House disagrees with the action of Mr. Speaker in removing from the Notice Paper, without giving intimation to the House of his action, a notice which had been printed thereon on several occasions, which was couched in proper language, and when submitted was in conformity with the Standing Orders.

MR. H. DAGLISH (Subiaco): I desire to point out in this connection that we are governed only by procedure in the British House of Commons where we have no definite Standing Order. On this question in regard to the removal of notices from the Notice Paper we have a definite Standing Order, No. 106, which provides:—

> If any notice contains unbecoming expressions, the House may order that it shall not be printed, or it may be expunged from the Notice Paper, or amended by order of the Speaker.

That gives clear power, and by giving that power in regard to motions containing unbecoming or disorderly expressions, it limits at the same time the power to notices containing such expressions. Every Standing Order, where it gives an express power, limits by its very action the right to the power that is conferred, and we are following British precedent. That is corroborated by *May* on page 232 of the 1893 edition. He says:—

> As the Notice Paper is published by authority of the House, a notice of a motion or of a question to be put to a member, containing unbecoming expressions, infringing its rules, or otherwise irregular, may under the Speaker's authority be corrected by the clerks at the table. These alterations, if it be necessary, are submitted to the Speaker or to the member who gave the notice. A notice wholly out of order, as for instance containing a reflection on a vote of the House, may be withheld from publication on the Notice Paper, or, if the irregularity be not extreme, the notice is printed and reserved for future consideration; though in such cases it is not the duty of the clerks at the table to inform the member who gave the notice of an in-

formality that it may contain. When a notice, publicly given, is obviously irregular or unbecoming, the Speaker has interposed, and the notice is not received in that form; and he has also directed that a notice of motion should not be printed, as being obviously designed merely to give annoyance. If an objection be raised to a notice of motion upon the Notice Paper, the Speaker decides as to its regularity; and, if the objection be sustained, the notice will be amended or withdrawn. The House has also, by order, directed that a notice of motion be taken off the Notice Paper.

All these references relate to notices of motion containing some gravely unbecoming expressions, or expressions that are irregular or offensive; and even in that case it is usual to give the member who has put a notice on the paper an opportunity of altering that notice, so that if it be merely irregular he shall have an opportunity of putting it into such form that it may become regular. This proceeding is justified by a Speaker's ruling which has been given in the Victorian Parliament (quotation read). Mr. Gavan Duffy, in his book on parliamentary procedure, points out that the fact that the House passed a Bill authorising the disposal of certain lands does not prevent a member from moving a motion that sales should absolutely cease. It is pointed out by the same authority that a motion can be amended, and *May* gave the same opinion that a motion can be amended on being moved; and consequently if a motion be in its form on the Notice Paper irregular, the member who brings it forward may be able to remove the irregularity by altering somewhat the form of the motion when submitting it. I raise this point again with the very greatest respect, and merely for the purpose of urging that if there be no injury likely to result from such procedure, it is advantageous to the House that any motion which may be technically irregular should appear on the Notice Paper in the ordinary form, so that members, when it comes to be dealt with, may have an opportunity of having it ruled out of order, and, if necessary, take such action as the circumstances may seem to them to require. I do not propose to move the motion of which I have given notice.

POINT OF ORDER.

MR. WALKER: Is it in order not to move the motion?

MR. SPEAKER: If there is no seconder, of course the motion lapses.

MR. WALKER: The point is this. The hon. member makes a speech, and then says he does not intend to proceed.

MR. SPEAKER: I did not catch the words.

MR. WALKER: I take it that the motion is the property of the House. He is not allowed to make a speech unless he concludes with a motion. Having heard his speech, others may desire to say something on the question.

MR. SPEAKER: The hon. member is quite right. If there is a seconder I must put the motion. Of course, if there is no seconder it must lapse.

THE PREMIER: The hon. member did not move his motion.

MR. SPEAKER: Strictly speaking, the hon. member should not have made a speech and then have withdrawn the motion. It is misleading to the House.

MR. DAGLISH: I have no desire whatever to shirk the responsibility of moving this motion. I merely desired, having expressed my views, to avoid unduly taking up the valuable time of one or two members. However, I beg in conformity with your ruling to move the motion.

MR. SPEAKER: I do not say the member need necessarily move it; only it is not usual to make a speech and then withdraw the motion. The hon. member certainly, to some extent, was justified in making a few observations and then saying he wished to withdraw the notice of motion.

MR. DAGLISH: I cannot withdraw the speech, and therefore I will move the motion.

MR. TAYLOR: I second the motion.

MR. DAGLISH: I beg to withdraw the motion, by leave.

Motion by leave withdrawn.

MR. SPEAKER: I desire to make one remark only in support of my contention, so far as this item is concerned, and that is that our Standing Order No. 106 does not apply in this instance. The authority I quoted is the authority which guides this House.

PERSONAL EXPLANATION, SCHOOL FEES DEBATE.

MR. T. H. BATH (Brown Hill): I desire to make a personal explanation in regard to the matter which has not only been touched upon to-night, but also was dealt with on Tuesday. A number of members in speaking to the motion which I moved, and which was discussed on Tuesday night, had a remarkable amount of knowledge as to the motive which actuated me in moving that motion, and some have gone so far as to say that I moved it as a definite motion of censure on the Government. In order that I may clear up the point I wish to say exactly how I came to move the motion, and why it was worded in the form in which it appeared on the Notice Paper, and I presume members will agree with me that no one knows better than I do, as the mover of the motion, the motive which prompted me in moving it. In the course of the debate on the motion of the member for Perth (Mr. H. Brown) on the question of children attending the James Street school, the Treasurer gave a forecast of a certain action which he was going to take in regard to the provision for payment of school fees for certain children attending our State schools. At that time, thinking it was only a prediction of what was coming in the future, I expressed my intention to deal with it when the Estimates came up for consideration. Shortly after that motion was discussed and finally dealt with, a notice appeared in the *Gazette* containing an amendment of the regulations as approved by the Executive Council, providing for the school fees as outlined by the Minister when speaking to the motion moved by the member for Perth. Immediately I saw the notification of these amended regulations in the *Gazette*, I came to one of the officers of the House and stated that I desired to have the matter submitted to the House as to whether it approved of them or not, and I asked his guidance as to the proper method of couching a motion expressing disapproval of the regulations, or giving me an opportunity of attempting to have the amendments annulled. On the advice of the officers of the House, that motion was cast in the manner it was, and the precedent was given in the case of a motion which originated in the Legislative Council, asking for the disallowance of certain regulations under the Workers' Compensation Act, and which was couched in a precisely similar manner. On that occasion the motion was not treated by the House or by the then Premier as a motion of want of confidence, and the action taken on that occasion guided me in regard to the moving of the motion in the form in which it appeared on the Notice Paper. It was farther borne out by the attitude adopted by the Premier when the motion was moved, because it was accepted as a matter of course on private members' day, and there was no notification by the Premier that he regarded it as a motion implying a want of confidence; so that when members say, or imply, that I desired it to appear as a want of confidence motion, I assert that it is absolutely incorrect, and that I had no intention of moving a want of confidence in tabling the motion as I did. I did it on the guidance of one of the officers of the House, and purely with a desire of annulling regulations which to me were objectionable.

BILL—FIRST READING.

Municipal Institutions Act Amendment (width of a street), received from the Legislative Council, and on motion by the PREMIER read a first time.

BILL—LAND ACT AMENDMENT.

IN COMMITTEE.

Mr. ILLINGWORTH in the Chair, the PREMIER in charge of the Bill.

Clause 1—agreed to.

Clause 2—Interpretation:

Hon. F. H. PIESSE: The clause contained a new interpretation of "adjoining," when used with respect to holdings; for it might extend to holdings separated by a watercourse or other natural feature of such a character as to be insufficient to prevent the passage of stock. Some watercourses might form boundaries between the properties of two owners, but might be dry in summer, or consist of a pool here and there, insufficient to prevent the passage of stock, and of no service to anyone except the adjoining

owners. The definition might be useful in deciding what should be considered improvements on adjoining holdings; but unnecessary expenditure on fencing both sides of such watercourses should be avoided by amending the definition. By a subsequent clause fencing could be dispensed with. Would the provision apply to such watercourses?

THE PREMIER: The interpretation was practically identical with that in the Queensland Act and with the existing law here. Under the Bill fencing was not essentially an improvement, but might be taken as such.

Clause put and passed.

Clause 3—Governor may acquire land, etc., by purchase or exchange:

MR. BUTCHER: Would the clause apply to all lands in the State?

THE PREMIER: This clause also was taken from the Queensland Act. A property acquired under our Agricultural Lands Purchase Act could not be used for any but subdivisional purposes. It could not be used, say, for an experimental farm, but must be subdivided and sold. The clause would remedy this defect, and would apply to freehold lands generally throughout the State, but had nothing to do with leasehold or pastoral lands, to which the next clause applied.

MR. CARSON: Subclause 4 provided that the value should be determined by the lands purchase board.

THE PREMIER: This was not compulsory purchase.

Clause put and passed.

Clause 4—Power to resume land from pastoral leases for agricultural settlement:

MR. BUTCHER: Was this the clause just referred to by the Premier?

THE PREMIER: The clause would obviate a difficulty experienced some years ago in resumption cases at Northampton, when the Crown law authorities ruled that pastoral leases could not be resumed save for agricultural purposes. It was considered essential to have power to resume for other purposes also; say for a townsite.

MR. BUTCHER: Would pastoral leases under the old special Act, applying to lands north of the Murchison or other lands where agriculture could not reasonably be carried on, be subject to the clause?

THE PREMIER: As the clause stood it gave power to resume in any portion of the State.

MR. BUTCHER: A resumption or confiscation clause of this sort was unfair. Many years ago pastoral leases were granted in the North under a special Act; and by this clause the leases could be confiscated, compensation being determined by a board appointed by the Government alone, the pastoralists having no voice even as to the value of their improvements. He moved—

That the words "with the consent of the owners" be inserted after "may," in line 1.

THE PREMIER: That would be identical with the existing law.

MR. MALE protested against empowering the Government to resume pastoral leases. The clause ought to follow the South Australian Pastoral Act, which provided that such lands should not be resumed for agricultural settlement during the first ten years of the lease without the consent in writing of the lessee.

THE PREMIER: The Government had for years, and still retained, power to resume for agricultural purposes any pastoral lease in the State, after certain notice given—in some cases three months, in the Kimberley district twelve months. The object of the clause was to enable resumptions to be made for agricultural purposes, mining purposes, or other purposes. It was the intention of the Government as far as possible to encourage tropical culture in the northern portions of the State, and it was necessary to have power to resume. No hardship was likely to accrue to the holders of pastoral leases, but under the existing law there was no power to resume for agricultural purposes.

MR. BUTCHER: That being the case, why did the Premier seek to get farther powers? The Government had ample power at present to resume for township purposes, public purposes, or mining interests.

MR. HUDSON: No; the power was limited to agricultural purposes.

MR. BUTCHER: The power was not limited to agricultural purposes. Power was given to resume for any purpose for which the land was likely to be required. There was something suspicious under-

lying this amendment of the principal Act.

MR. HUDSON: Was the hon. member imputing motives?

THE PREMIER: If there were any suspicions in the mind of the member for Gascoyne they should be stated. There was no need for insinuations. It was ruled by the authorities in the case of the Northampton resumptions that the Government had power only to resume for agricultural purposes. This clause gave the additional power required.

MR. BUTCHER: If the clause would not apply north of the line where the special pastoral leases commenced, he (Mr. Butcher) was quite willing to let it pass. He had said "suspicious," but previously he had said it was nothing short of confiscation. That was the suspicion. This was a repudiation clause. It would be dangerous and would probably create hardship on the present leaseholders. No motives were attributed. Power was already given to resume leases for any purpose for which the Government were likely to require the land.

MR. BREBBER: There was very valuable land in some of the northern pastoral leases; and as cotton cultivation had been successful in Queensland and was likely to be undertaken in the North of this State, the Government would need the power to resume land in the pastoral leases. If the clause were not passed the State might be prevented from using the very best of this land for the best industry that could be carried on in a tropical climate.

MR. HUDSON: The reason given by the Premier was ample. Other industries were likely to be started in the northern portion of the State, and land would be required for the cultivation of tropical products. The member for Gascoyne insinuated that this was confiscation.

MR. BUTCHER: Not insinuated, but asserted.

MR. HUDSON: That was better, because some of the other observations of the hon. member were nasty insinuations. The hon. member had not looked at the other portion of the clause by which Section 146 of the principal Act was made to apply.

MR. BATH: Much had been made by residents in the North of the magnificent potentialities of the North and of the fact that at some date in the future it would probably form a new State of the Commonwealth. Articles had also been written by gentlemen from the North concerning the great possibilities of tropical culture, the growing of cotton, tobacco, and tropical fruits; but if we were to have these industries the Government should have the opportunity to acquire land for this very purpose. He (Mr. Bath) had received letters from residents in the Kimberley district stating that it was absolutely impossible for them to secure land for any of these purposes, because the whole of the suitable land was absorbed in pastoral leases. There was no question of confiscation where the Government, under Sections 109 and 146, were committed to pay full value on arbitration for any improvements effected on the land. The hon. member could not characterise that as confiscation, otherwise he attributed to the word a meaning which was not contained in any standard dictionary. It was urged against any scheme of compulsory purchase that it was an interference with the rights of the people; but Chief Justice Coleridge had laid it down that the Government had the extreme right, in view of the possibilities and necessities of the population, to make any provision whatever in regard to compulsory purchase of land held by private individuals, and it was pointed out that never in the history of any country, even Great Britain, had the Government parted with the full rights to the land, there being always ample reservation in the laws of the land giving the Government the right, after paying full value for improvements, to take land in the interests of the people. It would certainly be a great drag on the development of any country if, because in the early stages of development when population was sparse and there was no land hunger the great bulk of the land was allotted in vast areas for pastoral purposes, the Government were to be debarred, when the necessity arose, from having small areas for agricultural purposes, and the State would for ever be confined absolutely to the utilisation of its land merely for pastoral purposes. That would be absurd. The needs of the people must rise superior to the vested interests of any individual, if

care was taken that full value was given for any improvements effected by the holder of the lease.

Amendment (Mr. Butcher's) by leave withdrawn.

HON. F. H. PIESSE: This paragraph provided that the Government might resume land "for any other purpose as in the public interest they may think fit." That was too wide a power. We already provided that the Government could resume the agricultural or horticultural settlement or for mining purposes, and if we added "for townships" it would be sufficient. The other words would give power that in the hands of a Government with a thorough knowledge of the country and a desire to do justice would not be utilised to create injustice, but it was a power that might be misapplied either from ignorance or intention.

THE PREMIER: It was difficult to define every purpose for which the Government might resume land. For instance, cotton-growing could not very well come under the head of agricultural or horticultural settlement.

HON. F. H. PIESSE: Then it would be necessary to define "agricultural."

THE PREMIER: For the establishment of meat works on a pastoral lease power would be needed to resume land. This was a matter that might well be left in the hands of the Government.

MR. STONE: Persons might select five thousand acres in a pastoral lease, and these persons could use the land for grazing, in the same way as the original holder did. Provision should be made so that land could not be taken from one person and given to another, to be used for the same purpose. Under Section 66 of the Land Act, the owner could transfer his land, and the term of his lease would then extend till 1928. These pastoral lessees should not be allowed a longer lease.

MR. MALE moved an amendment—

That at the end of paragraph 1 the following words be added, "but not for the purpose of re-letting for pastoral purposes."

This would not affect the resumption of land for agricultural or other purposes. If a person required land for cotton-growing or freezing works, the land would be available.

MR. HUDSON: There might be cases where it would be necessary for land to be resumed for certain purposes, but during portion of the term of the lease some of the land might be required for pastoral purposes. A man might take up five thousand acres but not be able to cultivate the whole of it at once, and might hold a portion for pastoral purposes until, an opportunity presented itself for cultivating the whole. The small holder should be protected, so that he would not be squeezed out by the larger holder.

MR. TAYLOR: What attitude did the Government intend to take up? There was no reason for the alteration. In New South Wales and Queensland, in the early days when land was plentiful and people were scarce, squatters took up large tracts of country and partially stocked it; but as population grew and their boundaries were only partially defined, it was found impossible for persons who wanted land to get it. Squatters should not be able to hold land when they did not pay rent for it. The Government should be able to resume portion of pastoral leases for closer pastoral settlement. Practically the whole of the Kimberleys and the Nor'-West was in the hands of a few people. Were we to pass legislation to enable a few people to hold a large area of land against the best interests of the State, preventing small pastoralists from settling there? Pioneers should receive every assistance, but they had done well in the past and had been recompensed for all they had done. The Government should not allow an alteration of this kind, when settlement was required. We wanted more competition in stock-raising. The small man in the Kimberleys had no possible chance against the large landholder. It was necessary for the Government to deal with the pastoral areas on the goldfields. In the Mt. Margaret electorate there were large tracts of land held by people unstocked, yet people were coming to the country looking for pastoral land and could not get it.

THE PREMIER in this instance agreed with the member for Mt. Margaret; but there was power in the clause to resume any part of an estate, whether in the North-West or in the Eastern

Division. At present the Government had an officer in the Far North making an examination of certain country, with a view of resuming where it was found the land was suitable for tropical culture. The clause said "for any other purpose the Government may think fit." That gave the Government sufficient power. The member for Kimberley would find that the pastoralists were well protected. There were certain cases in which land was taken up for agricultural purposes, but a certain portion was used for grazing purposes. The amendment if adopted would practically prevent pastoralists keeping stock. At the same time, the Government might resume land for agricultural purposes, hold it for some time, and eventually let it again for other than agricultural purposes. Provision was made in Section 109 of the principal Act whereby the original lessee would have a right to lease the land again if it was not being used for the purpose for which it was resumed, and if it had not been disposed of.

MR. BATH: A friend of his in the Kimberley country had written a letter setting forth that the small holders in Kimberley were being gradually squeezed out, that not a single head of stock had this year been sent to the southern market from the small stations, that the trade was entirely in the hands of Forrest & Emanuel, who would not, so long as they could avoid it, buy from the small men, and it was no use for the small men either individually or by combination to endeavour to send their stock south by sea, as they could not sell them. Their only course would be to travel their stock overland and sell it on the road, which was a risky means. He (Mr. Bath) would like to hear the remarks of the member for Kimberley on that aspect of the question. If it were true that the large holders were squeezing out the small squatters, it would be a mistake to adopt the amendment. So long as the clause safeguarded the interests of pastoralists in the matter of compensation for improvements effected, the Government should not be hampered in regard to resumption where they deemed it necessary for closer settlement.

Amendment withdrawn; the clause agreed to.

Clauses 5 to 14—agreed to.

Clause 15—Discretion to refuse applications:

MR. BATH: There had been an intention on his part to place an amendment on the Notice Paper providing a similar provision to that in the Mining Act of 1903 in regard to Asiatics securing mining tenements: but this clause gave the Minister discretionary power in that matter, and he would like to have an explanation from the Minister whether it sufficiently covered the case of applications by Asiatics.

THE PREMIER: A case cropped up in which an application was made in a certain district by two Afghans, and at the same time an application was lodged by one of our own people, which was not received at the head office until after the application lodged by the Afghans. The question then arose as to which application was entitled to priority. He referred the matter to the Crown law authorities, and was then advised that under the law as at present the application received first must be approved. In order that the Minister might have the power of using his own discretion in such cases the provision was inserted in the Bill.

MR. HOLMAN: Some time ago a case was brought against the Minister for Lands by Afghans on a writ of mandamus to compel the Minister to grant certain wood-cutting licenses in their favour; and the Supreme Court ruled that the licenses should be issued to them. If it was not intended to recommit the Bill, provision should now be made giving the Minister absolute power to refuse any application if he saw fit. It was advisable to report progress to allow the Minister an opportunity to go into the matter.

THE ATTORNEY GENERAL: The clause as printed would not give the Minister power, without adducing any reason, to refuse an application. Apparently the hon. member desired that the Minister should have the power of refusal without the obligation of stating his reason for refusal. If so, it was necessary to move an amendment to the clause. It would be open to the Minister, under this particular clause, to allege as his season for refusal that it was in the public interest. The smallest scintilla of

reason would suffice; but there must be a reason. If it was intended that the Minister should have absolute power, it would be necessary to amend the clause to some extent.

MR. TAYLOR: The difficulty might be removed by adding to the clause the following words from Section 23 of the Mining Act 1904:—"No land under any part of this Act shall be granted to or held by any Asiatic or African alien, nor any person of Asiatic or African race claiming to be a British subject, without the authority in writing of the Minister first obtained."

THE ATTORNEY GENERAL: Then the Bill must be withheld for the royal assent.

MR. TAYLOR: No. The Mining Act of 1904 was not withheld.

THE ATTORNEY GENERAL: Instructions had since been issued to all State Governors to withhold Bills containing such provisions.

MR. TAYLOR: The Minister for Lands should have the same power as the Minister for Mines. Woodcutters' licenses on the goldfields were granted by the Lands Department; and the insertion of the words he had read was the only method of preventing the industry falling into the hands of Afghans. The Supreme Court, however, held that the Minister's instructions to wardens were invalid, because the Minister could not discriminate against a race or nation, though he might have objected, without giving a reason, to Afghans being licensed. We must not give an opportunity for Asiatics to compete with our agriculturists any more than with our workmen. The Attorney General might provide an amendment on recommittal, so as to avoid withholding the Bill for the royal assent.

THE ATTORNEY GENERAL: The despatch just mentioned had appeared in the Press, and was discussed at the conference of Premiers. Mr. Deakin's able reply did not appear to have altered the instruction. If the amendment proposed by the preceding speaker were passed, the royal assent might be obtained, but the Bill would be hung up indefinitely. The difficulty might be removed by giving the Minister absolute power of discrimination. As to that he (Attorney General) would not express an opinion.

MR. TAYLOR: If we amended the Mining Act which did contain that provision, would the amending Bill have to be withheld?

THE ATTORNEY GENERAL felt certain that it would.

MINISTERIAL DISCRETION AS TO APPLICANTS.

THE PREMIER: The clause would give the Minister discretionary power, probably in case of simultaneous applications, to nominate the successful applicant, without stating a reason. An amendment might be moved to this effect—

> That all the words after "shall," in line 3, be struck out, and "have absolute discretion without assigning any reason therefor to refuse any application whatsoever made under this Act," be inserted in lieu.

This seemed the only way out of the difficulty, without delaying the Bill, which the Government desired to pass as soon as possible.

HON. F. H. PIESSE: Would the amendment abolish the appeal to the Governor?

THE PREMIER: Yes.

MR. WALKER: The amendment required serious consideration. To give the Minister such absolute and secret power was dangerous. How would the rights of citizens be affected? The Minister might, without reason given, refuse the only application for a piece of land, and the applicant might suspect favouritism or other injustice, and yet be debarred from appeal or redress. The Supreme Court was a protection against an unjust act even on the part of a Minister. The Minister could not take away the common rights at law. These were inherent rights.

THE ATTORNEY GENERAL: The Minister for Mines had exactly the same power in the Mining Act. The provision suggested by the Premier as a solution of the difficulty, the power of the Minister to absolutely refuse at his discretion, was no novel power, because it occurred in Section 175 of the Mining Act, providing that the granting of a lease should be at the absolute discretion of a Minister, notwithstanding that the applicant might or might not have in all respects complied with the conditions of the Act and regu-

lations. No hardship asose from that provision.

MR. WALKER: There was nothing the subject of more controversy in mining circles than that provision. There were complaints against the injustice of Ministerial conduct, and it was questionable whether the provision was not *ultra vires*. There were certain common law rights no legislation could take away. This power placed in the hands of the Minister was repeatedly objected to by persons dealing with mining matters, and it was because in most instances the aggrieved ones found it impossible to fight owing to lack of funds, or lack of information, that the matter had not been taken into court. Especially in the Lands Department, such a provision might work deleteriously to the public interest. There was no desire to say that the House had not confidence in the Minister, but in view of the land scandals in New South Wales and those that not long ago disgraced Victoria, we should make it beyond possibility of any Minister being suspected. If we facilitated the secrecy by which land could be given to this person or that person, we might be doing something wrong in the future alienation of our public estate. Progress should be reported in order that members might see the amendment on the Notice Paper.

MR. BATH: In respect to the right of the Minister to refuse applications, the cases cited by the Attorney General were correct. Licenses were refused to Afghans on the wood lines on the ground that the Minister could exercise discretionary power without giving any reasons; but the court decided that although there was discretionary power, the Minister could not exercise it on his own volition without advancing valid reasons for so doing, and the Minister was defeated in the legal proceedings initiated by the Afghans. When he (Mr. Bath) was Minister for Lands, several applications came in from Asiatics for lands, and he had no desire to grant them; but this legal decision had been brought before him by the officers of the department, and on the matter being submitted to the Crown Law Department, the Crown Solicitor decided that under the existing law the Minister had no right to refuse these applications, that he must grant them or else make the Government liable to defeat in legal proceedings. He (Mr. Bath) then proposed to institute an amendment in the Lands Act similar to the provision in the Mining Act; but he was now surprised to learn that it was practically accepted that such a provision would have to go to England for royal assent. It was a matter that should have been fought out by the responsible Ministers in this State and not left in the hands of Mr. Deakin. He (Mr. Bath) felt inclined to think that it would be better to insert in the Bill, instead of the amendment proposed by the Premier, a provision securing the direct accomplishment of our object on the lines of the provision in the Mining Act, and then have the question decided as to whether it should go to England for the royal assent, and run the risk of its being refused. So far as the Commonwealth were concerned, we were practically committed to a policy of a "white Australia," and to carry that into effect a clause of this nature was essential in all legislation dealing with the acquisition of property from the Crown. The clause could be allowed to pass on the promise of the Premier that the matter would be submitted to the Crown Law Department, and that the whole subject could be discussed on recommittal of the Bill.

THE ATTORNEY GENERAL: There was need to explain the position the States were obliged to take up with regard to external affairs. No man had more respect for State rights than he possessed, but it would be foolish to attempt to invade the ground we had admittedly surrendered to the Commonwealth. We had surrendered to the Commonwealth the charge of external affairs: and until we were prepared to break the compact under which we agreed to form the Commonwealth, it would be useless to challenge the sole right of the Commonwealth to control external matters. Therefore any matter arising out of or concerning the disabilities that would be imposed on those external to the Commonwealth came entirely under the definition of external affairs, and a communication from the imperial authorities would not be addressed in any event to the State Government, but to the Commonwealth Government, and the Commonwealth Government having re-

ceived it would make its own communication to the State Government concerned. If it became our duty to fight out any matter involving special treatment towards those who were outside our State and were coming into it, or who were in it and subjects of any Government outside the State, we would have, except we occupied the position of absolutely refusing to be bound by the Commonwealth, to ask the Prime Minister of the Commonwealth to make our protest, and to seek through him that reform we thought necessary. The Leader of the Opposition would not wish that we should take from the Commonwealth a power that as long as we remained an inherent part of the Commonwealth must be the Commonwealth's. What had been done was to furnish the Commonwealth Government with the facts within our power dealing on matter of this kind, and to urge on the Commonwealth most careful consideration of the special circumstances of our State; but beyond that, and until the Commonwealth had so failed in its duty that we could say that although it was the paramount power it was wanting in its duty in protecting this State, and we were determined not to recognise its authority, until that stage arrived, it was useless on our part to work individually as a State and deal with external affairs. That was why he (the Attorney General) had pointed out to the member for Mt. Margaret that this particular communication received by the Governor General was not received by any State Governor, but by the Governor General and Mr. Deakin from the home authorities.

MR. BATH: Had not the despatch in regard to See Wah come direct from the Secretary of State for the Colonies to the Governor of this State?

THE ATTORNEY GENERAL: The only despatch he (the Attorney General) knew of was the one dealt with by Mr. Deakin.

MR. HOLMAN: There was the despatch sent home by Mr. Le Mesurier.

THE ATTORNEY GENERAL: We were entering on grounds which we might debate for months. Until the position he had pointed out arrived we were not justified in going farther. We would first need to express want of confidence in the Commonwealth's conduct of external affairs.

MR. HOLMAN: Then progress should be reported, and members should have an opportunity of looking into the matter.

THE PREMIER: There was very much in the contention of the member for Kanowna. It placed great powers in the hands of the Minister for Lands; but the amendment was suggested with the object of giving, in such cases as he had referred to, the right to decline applications. He was willing to give the Leader of the Opposition the assurance that if the clause were allowed to pass, on recommittal he would be prepared to consider its amendment.

Clause put and passed.

Progress reported and leave given to sit again.

ADJOURNMENT.

The House adjourned at 9·47 o'clock, until the next Tuesday.

Legislative Council,

Tuesday, 25th September, 1906.

THE PRESIDENT took the Chair at 4·30 o'clock p.m.

PRAYERS.

PAPERS PRESENTED.

By the COLONIAL SECRETARY: 1, Central Board of Health Annual Report for year ending 30th June, 1906. 2, Report by the Comptroller General of Prisons for the year 1905. 3, Roads Act, 1902: (*a.*) By-laws of the Fremantle Road Board; (*b.*) By-laws of the Meckering Road Board.