Legislative Assembly

Wednesday, 17 September 1980

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

HEALTH: MENTAL

Private Psychiatric Hostel Licence: Grievance

MR HODGE (Melville) [2.18 p.m.]: My grievance relates directly to the actions of the Minister for Health.

Mr Old: Surprise, surprise!

Mr HODGE: The Minister has used his authority and powers under the Mental Health Act to deny a certain person a licence to operate a private psychiatric hostel in Gildercliffe Street, Scarborough—in the Minister's electorate.

In February of this year the Rev. Bob Fairman, a Uniting Church Minister, applied through the community psychiatric division of the Mental Health Services for a private psychiatric hostel licence. For a number of years the Rev. Fairman and his wife have operated boarding houses or hostels in various locations throughout the metropolitan area. The Rev. Fairman describes these hostels as Christian guest houses. He operated a hostel for three years in Bassendean with a boarding house licence issued by and under the control of the Shire of Bassendean.

When his lease expired in Bassendean he approached the community psychiatric division of the Mental Health Services. He went to the director (Dr Blackmore) and asked whether his private psychiatric hostel licence could be transferred to a new building at 180 Gildercliffe Street, Scarborough. Dr Blackmore assured him he was held in extremely high regard by the Mental Health Services, and that his licence would be able to be transferred.

Incidentally, the licence confers upon the operator a subsidy of $1.50 per day per person.

The application was made and was recommended to the Minister by Dr Blackmore. The Minister has used his position to refuse to grant the licence to the Rev. Fairman. The application has now waited for six months for ministerial approval, but it has not been forthcoming. Dr Blackmore himself told the Rev. Fairman that he had recommended the granting of the licence, but that it had not been accepted by the Minister.

In the hostel which he operates the Rev. Fairman accepts people from all sorts of hospitals around Perth. He has patients who have been discharged from Graylands Hospital, Royal Perth Hospital, and Sir Charles Gairdner Hospital; and he has referrals from various other doctors.

The Rev. Fairman does not operate his hostel as a profit-making business; he operates it as a Christian gesture to help on a temporary basis those people who have nowhere else to live. He is licensed to have 70 persons in his hostel under a boarding house licence issued by the City of Stirling. He has 55 persons at the moment, and he is still receiving a subsidy for 30 of them because they transferred with him from his previous hostel at Bassendean.

I find it very hard to understand how he can be refused a licence in respect of some of the people, but in respect of others he still has a licence and he still receives a subsidy. I wrote to the Minister and asked for an explanation of this and why he had not been granted a licence. I received one of the Minister's typical, smart aleck answers in which he told me he had not refused to grant the licence but had merely delayed it pending some legal action that was apparently about to occur between the Rev. Fairman and the City of Stirling.

I have been through the Mental Health Act from cover to cover and I can find no requirement that a local governing authority may have any bearing on the Minister's decision as to whether or not he will issue a private psychiatric hostel licence.

The Mental Health Act contains no requirement for the shire to be consulted or even necessarily to approve. Currently, there is a dispute between the City of Stirling and the Rev. Fairman which concerns that shire's planning scheme. The City of Stirling alleges that Rev. Fairman is not operating a boarding house or a hostel as he is licensed to do but that in fact he is operating an institution. However, that is a legal argument. The Rev. Fairman denies that allegation and is prepared to defend it in court if the matter goes that far.

That matter really has no bearing on the application to the Minister for Health for the granting of a private psychiatric hostel licence. The Mental Health Act contains no requirement obliging the Minister to take that into consideration. I believe the City of Stirling has decided to take legal action on the planning scheme matter because of a petition signed by, I think, 94 ratepayers of the City of Stirling, and

lodged with the shire. I have seen the petition, and I believe it is a highly defamatory document.

Mr Nanovich: What about the nuclear petition flying around the place? Wouldn't you think that is the same sort of document?

Mr HODGE: This document contains untruths and inaccuracies and it is highly offensive to the Rev. Fairman and the dedicated staff working for him in this hostel. I would advise the Rev. Fairman, if he could establish who instigated and drew up this petition, to take legal action. It is my opinion that the people who signed the petition were misled and were told a lot of untruths which do not bear up to any sort of examination. The person who drew up the petition either was too lazy to make inquiries to establish the truth of his allegations, or was deliberately setting out to damage the good reputation and standing of the Rev. Faiman and Gildercliffe Lodge.

The Rev. Fairman tried on many occasions to discuss this matter personally with the Minister for Health. He knew the Minister had a personal interest in the matter, the psychiatric hostel being proposed to be established in the Minister's electorate. He tried on numerous occasions to meet with the Minister and to telephone him at his office. He did manage to speak with the Minister twice, only by telephoning him at home.

Mr Young: He spoke to me in my office.

Mr HODGE: The Rev. Fairman told me he spoke to the Minister twice on the telephone when the Minister was at home. He said that the Minister for Health told him he was appalled at the prospect of a psychiatric hostel being established in Scarborough.

Mr Young: Who said that?

Mr HODGE: The Rev. Fairman told me the Minister made that statement on the telephone.

Mr Young: Either you or the Rev. Fairman is a liar. I would prefer to say that the Rev. Fairman is a liar.

Mr HODGE: The Minister can put his side in a moment; he should not waste my time.

Withdrawal of Remark

The SPEAKER: Order! The Minister for Health said that either the member for Melville or another person was a liar. With respect to that part of his statement which refers to the member for Melville, I would ask the Minister for Health to withdraw, because his statement was highly unparliamentary.

Mr YOUNG: Mr Speaker, I thought I had made that clear by saying I would prefer it to be the Rev. Fairman who was a liar. However, I withdraw.

Mr Bryce: Withdraw without equivocation. Obey the Speaker's direction and withdraw properly.

Mr YOUNG: For the edification of the member for Ascot, I wound up by saying that I withdrew.

The SPEAKER: I take it that the Minister for Health has withdrawn the remark.

Debate Resumed

Mr HODGE: Mr Speaker, I hope that time does not come off my very limited time in this grievance debate.

The SPEAKER: Unfortunately, it does.

Mr HODGE: The Minister for Health has a lot of explaining to do in this regard. This matter has all the earmarks of another Tresillian. This Minister has used his position in the community to stop a private psychiatric hostel being established in his electorate. He has told the Rev. Fairman he is appalled at the prospect of a psychiatric hostel being established in his electorate. He said he had the power to stop the Mental Health Services from referring people to the Rev. Fairman, and the Rev. Fairman believes he would carry out his threat.

Mr Young: What was that?

Mr HODGE: The Minister can get up and make his own speech, instead of wasting my time.

The Minister has not accepted the recommendation of the head of that section (Dr Blackmore) who told me he had recommended that the Minister grant the Rev. Fairman a licence. The Minister is abusing his position as Minister for Health. I believe he has an obligation either to grant the licence and apologise to the Rev. Fairman or to give a full public explanation as to why he was appalled at the prospect of a psychiatric hostel being established in his electorate.

MR YOUNG (Scarborough—Minister for Health) [2.28 p.m.]: If the Rev. Fairman told the member for Melville I said I was appalled at the prospect of a private psychiatric hostel being established in my electorate, on the laws of logic that is absolutely absurd, because everyone knows where I stand with regard to mental health institutions; I believe in them, and I have always believed in them—unlike these "Johnnies-come-lately" like the member for Melville, who want to make heroes of themselves by raising the issue without knowing the facts.

If the Rev. Fairman did say that, I repeat that he is a liar. Nothing could be more unequivocal than that.

The second point raised by the member for Melville is another of these quaint situations where the member for Melville, in common with his colleagues opposite, believes that if a departmental officer gives advice to a Minister of the Crown, and that advice happens to coincide with the philosophy of the member for Melville and his colleagues, the Government is obliged to accept that advice blindly, categorically, and without question.

It is true that I received that advice. Incidentally, it was not unequivocal advice; but contained some nuances. However, in the final analysis, the advice was that I should allow the licence to be issued. I did not decline to issue a licence, and I did discuss the matter with the Rev. Fairman. I said, "When you sort out your problems with the City of Stirling, we can discuss the matter." Obviously, the member for Melville believes the Government ought completely to ignore the City of Stirling's interest in the matter.

Mr B. T. Burke: You have been on to Councillor Grierson about it yourself, and don't say you haven't.

Mr YOUNG: Of course I have.

Mr B. T. Burke: Of course you have been on to her, and she has been pushing it onto the Stirling City Council in disagreement.

Mr YOUNG: Has the member for Balcatta ever discussed his electorate matters with the councillors?

Mr B. T. Burke: Of course I do; but I never deny the substance of what I have discussed.

Mr YOUNG: Of course I have discussed this with Councillor Grierson. I have discussed it with anybody else who has wanted to ring me up. My staff would not have to accept the advice of any officer who gave us advice.

I told the Rev. Fairman that when he sorted out the problems with the City of Stirling, I would consider his application for the establishment of the hostel.

Mr Hodge: That has nothing to do with it.

Mr YOUNG: Except—

Mr Hodge: You show me in the Mental Health Act where it says you should consult the City of Stirling.

Mr YOUNG: There is nothing in the Act that requires me to do so; but I do it out of courtesy.

I told Mr Fairman from the beginning that I would continue to pay his subsidies in respect of any mental health patients or former patients he had in the hostel—

Mr Hodge: You are paying for only half the people there.

Mr YOUNG: —because I did not want to put him at a financial disadvantage. His last word to me was that he would return to me when he had dealt with the matter with the City of Stirling. He thanked me very much for the fact that I had shown the courtesy I had to him, and that under no circumstances, notwithstanding the withholding of the licence until he had sorted things out with the City of Stirling, would I put him in any financial jeopardy whatsoever.

Mr Hodge: You have, or he obviously wouldn't have come to me if he was satisfied with you.

Mr YOUNG: If indeed Mr Fairman believes I have put him at a financial disadvantage, I would have thought he would tell me.

Mr Hodge: He cannot get to you.

Mr YOUNG: That is absolute rubbish. My telephone number is in the phone book.

Mr Hodge: He had to write to the Premier.

Mr YOUNG: I know I interjected once on the member for Melville; but he should give me a break.

Mr Hodge: You have had six months to do something about this.

Opposition members interjected.

The SPEAKER: Order!

Mr YOUNG: The member for Melville has admitted that Mr Fairman has telephoned me. My telephone numbers at home, in my office at Scarborough, and in my ministerial office are in the phone book. Mr Fairman has spoken to me at least on one occasion in the office. Nothing in the world can stop my telephone ringing in the morning, I can assure members. It rings dozens of times. Nothing in the world could stop him from ringing me.

Mr Fairman has not told me that he is being put in financial jeopardy; but he is prepared to tell the member for Melville. In addition to establishing a hostel in a boarding house for 70-odd people, I understand he has established another institution somewhere in Scarborough. I think it is at the former Scarborough Hostel. That may or may not be within my jurisdiction; but he did not ring me to discuss that matter with me. If the man is being put in financial jeopardy, how can he open another institution? If he was being put in jeopardy, I would have thought he would have contacted me.

We made it very clear between us that we respected the position of each other. I respected the fact that he wanted to establish a hostel; and he respected the fact, or at least he told me, that the City of Stirling had the right to express its opinion on the matter. I told him I believed the City of Stirling had the right, similarly, to express its opinion on the matter.

Mr Hodge: He is dealing with the City of Stirling. It has got nothing to do with you.

Mr YOUNG: I said I would hold the matter of the licence until such time as he had sorted out the problems with the City of Stirling. In the meantime, in no way was he put in any financial jeopardy.

Mr Hodge: That is just not correct.

Mr YOUNG: The member for Melville is a third party. I am a first party. I am telling him what did happen.

Mr Hodge: He has made numerous approaches to your office. He has made approaches to the secretary of your department. He has made approaches to the—

Mr YOUNG: The member for Melville claims to know more about the matter than I do, and he is a third party.

Mr B. T. Burke: He does, too. He has demonstrated it.

The SPEAKER: Order! The member for Melville was heard in almost absolute silence when he delivered his speech in this grievance debate. It is only reasonable that the Minister be given the same sort of opportunity to respond to the matters complained of by the member for Melville.

I would ask the member for Melville and the member for Balcatta to reduce dramatically—

Mr B. T. Burke: Me?

The SPEAKER: I know the member for Balcatta is always wanting to assist the Speaker, so I would ask him to assist me in keeping decorum in this House by reducing the frequency of his interjections. I make the same plea to the member for Melville.

Mr B. T. Burke: Hear, hear!

Mr Hodge: He wasted a lot of my time.

Mr YOUNG: The situation now is that Mr Fairman has gone to the member for Melville, obviously because he is aggrieved at the decision of the City of Stirling.

Mr Hodge: No. He is aggrieved with you.

Mr YOUNG: He has not been able to bring that particular matter to a head. There are the problems of Gildercliffe. Until Mr Fairman solves those problems I am not prepared to issue a licence. That is the first step to be taken.

The second step that has to be taken is that I have to clean up a number of complaints that range from rape to illegal entry in respect of people alleged to be living in that place in Gildercliffe Street.

Mr Hodge: You know that is not true.

Mr YOUNG: I do not know that is not true. In fact, I go further by saying it has been confirmed that a case of rape did take place and that the person who committed the rape was, at the time, in the charge of Mr Fairman, living in Gildercliffe Lodge. The lady against whom the rape was committed would not press charges, for obvious reasons.

Mr Hodge: Rev. Fairman completely denies that.

Mr YOUNG: He can deny that completely; but I have been given an assurance on that by the police. That is one case. There are many others—

Mr Barnett: It is not a case at all.

Mr YOUNG: —some substantiated; probably a lot of them not substantiated. They range through rape, indecent exposure, and that sort of thing.

Mr Hodge: That is a pack of lies.

Mr YOUNG: I do not think the member for Melville has ever travelled through the Scarborough electorate. I have represented the area for a decade; and he tells me it is a pack of lies. The police in Scarborough have confirmed it, but the member for Melville tells me it is a pack of lies. He obviously would know best, would he not?

I make clear to the member for Melville that Mr Fairman will not be issued with a licence for Gildercliffe Lodge until those sorts of matters are sorted out. He must sort out his problems with the City of Stirling. That is step one. When that situation is sorted out, he must sort out with the police the allegations to which I have just referred. That is step two.

Mr Hodge: You will find another excuse.

Mr YOUNG: I will stand by my history in respect of step three.

GAMBLING

Remote Areas: Grievance

MR COYNE (Murchison-Eyre) [2.38 p.m.]: After correcting my speech from last night in the *Hansard* copy, I have decided that I had better help them along a little more than I have in the past by being more deliberate.

I rise on this occasion to remind the House that about four years ago I had occasion to criticise the activities of the liquor and gaming squad after it had made a successful foray into the two north-eastern goldfields towns, Laverton and Leonora. During that exercise, the squad apprehended two SP betting operators, one in Leonora and one in Laverton. The Leonora operator was Mr Bill Biggs; and the Laverton operator was Mr John Laker.

Both of the illegal operators were charged and subsequently fined the maximum penalty of $1 000, which is the penalty for a first offence of illegal betting. At that time, I was incensed at the actions of the members of the gaming squad for taking what I believed was a deliberately provocative action against isolated and remote communities. In those two instances, the one handled with the least degree of sensitivity was the Windarra one because at that time there was a large concentration of workers accommodated in the Windarra village. I recall that there were something like 400 to 450 single men employed on the project at the time.

Pointing out the realities of the situation in 1976 I described in detail the circumstances that had existed on a Saturday afternoon at the campsite where a congregation of men of those proportions indulged in the ordinary forms of entertainment, notably betting on racehorses.

The TAB off-course monopoly had previously been approached to set up a facility in that locality. The TAB was fairly reluctant to service the need even though the deficiency was pointed out to it. The TAB used the argument that individual punters, if they wished, could set up a telephone betting account in a remote town like Kalgoorlie to cater for their needs. I pointed out that there was only one public telephone in the area. One could imagine how difficult it would have been for anyone to get sufficiently organised to place a bet.

Mr Speaker, you might recall that at that time the magistrate who heard the case against Mr Bill Biggs in Leonora was reluctant to impose the penalty on the basis that Mr Biggs was performing a public service by catering for an obvious need. There were many people who agreed with his comments. I imagine everyone in this Chamber understands that illegal betting is considered to be a serious offence and no member would expect the Minister to turn a blind eye to anyone engaged in this nefarious activity. The penalty for a first offence is $1 000 and there is a subsequent gaol term for further offences. These are fairly major deterrents. No-one in his right mind would suggest that illegal gambling practices should be tolerated, but like many other misdemeanours, surely it is a question of degree. This is the kernel of my grievance.

Again I refer to the actions of the two police officers of the liquor and gaming squad who recently visited Mt. Magnet and apprehended a local operator named Eric Carroll. One officer was Detective Sergeant Bell and the other was Constable Giumelli. These two officers escorted Mr Carroll to the police station and charged him with illegal betting. It was explained to Mr Carroll that complaints had been received in Geraldton which had precipitated this action. I would be prepared to guarantee that the holdings of that small operator in Mt. Magnet would never have exceeded $100 a week at the very most.

In my opinion there is no justification for this insensitive, heavy-handed onslaught on minor offenders of this nature in a remote community. I say this in the knowledge that illegal gambling in this city is flourishing, apparently in an uncontrolled and flagrant manner. Mr Speaker, if you were so inclined you could visit any one of a number of casinos operating in this city where you could observe the laws of this State being blatantly violated under the full glare of public scrutiny. Surely the number one priority must be to stamp out the big transgressors first. Anyone with just a modicum of common sense must be aware this is not happening because someone in authority is being bribed. It is so easy to transfer a couple of $50 notes.

The problems associated with unlawful betting surface in every mining development; it is a natural consequence. Mt. Magnet is re-emerging as a buoyant mining centre and will once again, through the agency of the Hill 50 goldmine and other promising developments, regain its place of importance in the very near future. There will be an additional 100 men employed on mining operations at Hill 50 in the near future and there will be additional pressure generated to restore betting facilities in the town. I know that on past performances the TAB will be reluctant to re-establish facilities there. It is time that we as legislators looked at other methods of satisfying betting requirements in small remote communities.

The pre-TAB arrangement was to allow SP operators to function. They were registered and they provided a successful and adequate cover for the needs of the remote communities. It was not until well after the TAB was established that it got around to incorporating small towns in its operations. The TAB has been associated with small towns during this period. I am very

conversant with the efficiency involved in its operations.

There is a need to restore those independent operators and there is a mechanism under the powers of the Betting Control Act to licence off-course bookmakers in the same way as on-course bookmakers are licensed. This procedure is in the hands of the Betting Control Board. There is no reason that this system could not be introduced. Remote communities which do not justify a full-scale TAB agency should be able to accommodate a small-time operator who could use this activity as a part-time occupation on weekends. I do not believe that the police liquor and gaming squad serves any useful purpose by harassing the small operators in remote areas. It is a bad reflection on that section of the Police Force for it to go to great lengths to travel 300 or 400 miles to remote communities whilst being prepared to pass towns like Kalgoorlie where there are plain and flagrant breaches of the gambling laws being practised on a wholesale basis. The squad's actions are unacceptable when one considers the illegal gambling conducted in the city.

I have always expressed my view about these methods of gambling. I do not object to gambling, although I was one of the members who objected to the introduction of favourite numbers. This system of gambling is unfair on the public, because most members of the public do not have the sort of experience to detect the false allure which trades on the innate greed of the individual. I hope we can bring some sense into this matter of illegal betting.

MR HASSELL (Cottesloe—Minister for Police and Traffic) [2.48 p.m.]: I am not aware of the particular circumstances to which the member for Murchison-Eyre has referred, nor am I aware of the details of the prosecution at Windarra which occurred some years ago or of the details of the incident which occurred more recently. If the member supplies me with those details of what he describes as the insensitive and heavy-handed onslaught by members of the liquor and gaming squad, I am prepared to have the matter investigated in the usual way with respect to complaints against the police and their methods of operation.

It has to be recognised that in this area of law in particular there needs to be a degree of discretion on the enforcement side; there needs to be a degree of balance in what is done. That discretion should not be extended to mean discriminatory treatment of alleged offenders.

I had cause recently to examine some of the material in the report of the Royal Commission into Prostitution and it is recognised in the report that there must be discretion exercised by the law enforcement authorities when dealing with the social crimes of gambling and prostitution.

We recognise the reality of the situation that these crimes or offences cannot be eliminated entirely and that a proper system of enforcement that has regard for those realities, and at the same time has regard for the objectives of the community as expressed in the laws enacted by this Parliament, can work better for the overall benefit of the community than a technical and heavy-handed approach which does not have regard for that situation.

The member has raised a point which is of concern to me and to the Totalisator Agency Board and that is, the adequacy of the provision of betting facilities in the more remote areas and in smaller towns of the State.

The TAB has been a highly successful operation since it was established; that is, it has been commercially successful and it is very much in the interests of the Government, as a party which shares in the substantial revenue raised, and equally very much in the interests of the racing industry as a whole, that the commercial success of the TAB should be maintained and not put at risk by diminishing its commercial nature—in other words, by imposing artificial restraints on its operations, unrelated to the commercial objective of providing a service and making a profit from that service.

The matter has been of concern to the TAB, because, as in the commercial sphere, a number of operators of businesses which require outlets all over the place have found, in recent years, that with the increasing cost of capital to establish those outlets and the increasing cost of wages to man them—disproportionate increases in costs—it has, in some cases, been necessary to modify the form of their operation. It is not always commercially justifiable to establish a free-standing, independent TAB agency in every town, suburb, and place.

So, whilst the board recognises the point raised by the member—namely, that there is a lack of facilities in some places where there is a demand for the service—the board is also under an increasing economic pressure, because of the cost of providing those facilities. Accordingly, it has recently made submissions to the Government that the controls which exist presently should be modified to the extent necessary to permit the TAB to establish sub-agencies, so that as well as the free-standing and independent—although not free-standing—agencies which exist now, there

would be a category of sub-agencies operating in conjunction with some other business. This is the manner in which the TAB can provide facilities in some remote places and small towns where such facilities cannot be justified economically under the present system.

The proposals of the board have been considered and a conditional approval has been given by the Government to the TAB to proceed with the installation of some sub-agencies. They are to be restricted so that the proper protection of the community from an extension of gambling is afforded. Those sub-agencies will operate under a separate set of regulations from those which apply presently to the free-standing and separate agencies. When I refer to "separate agencies", I am talking about those such as exist on a couple of hotel sites, where they are under the main roof or are part of the main structure, but are nevertheless totally separate from the hotel itself.

That is the existing pattern. The establishment or construction of each agency, as members know, requires the approval of the Government. Under the new system, when the regulations have been finalised, the sub-agencies will be permitted to operate within those restrictions and they will reduce overheads by requiring less of a capital commitment by the board, and less of a manpower commitment in terms of wages and salaries, because of their ability to be operated in conjunction with another business.

So, in responding to the member for Murchison-Eyre, I advise him that the particular issue he has raised will be examined if he refers it to me with the detail; that the TAB and the Government are aware of the problem he has raised of the lack of betting facilities in places where there are people who do not perhaps have many other forms of entertainment available to them and have a genuine wish to obtain access to betting facilities in relation to horse racing and other forms of racing; and that, as part of the programme for the extension of services by the TAB, a system of sub-agencies will be coming into existence when necessary regulatory arrangements have been made to the mutual satisfaction of the Government and the board.

MEMBERS OF PARLIAMENT

Air Travel Concessions: Grievance

MR HARMAN (Maylands) [2.57 p.m.]: My grievance concerns the very long delay by the Premier in formulating a policy for interstate air travel entitlement for members of this Parliament.

In do not have to remind members of this House that, when they consider their position in relation to air travel, as against the position of other members in every other State of the Commonwealth, they see that, in those other States, the members of the respective Parliaments have interstate air travel concessions which are a long way ahead of what we have here.

In order to set the record straight, I want to say that, in this State, we have the magnanimous air concession of one air fare to Melbourne and return once every three years; whereas, in every other State there are varying degrees of interstate air travel concessions to members of Parliament, based on two, three, and in some cases six trips a year.

To highlight the very inferior position in which members of Parliament in this State are placed, I want to illustrate the following situation: on 29 February this year, the Northern Australia Development Council wrote to me inviting me to attend a seminar in Cairns in October of this year. At the time, I indicated I would be interested in attending.

Subsequently I received further information from the Chairman of the Northern Australia Development Council, indicating the terms of the itinerary and agenda for the seminar which dealt with trade and tourism. At the same time I was aware also that the previous seminars which had been held in Darwin and Broome had been attended by shadow Ministers of the Opposition, because of the travel arrangements within the State applicable to their positions.

The member for Ascot attended a seminar in Darwin as an Opposition spokesman and the member for Cockburn and the Leader of the Opposition in the Legislative Council attended a seminar in Broome last year. So, I thought it would be reasonable for perhaps another member of the Opposition to attend the Northern Australian Development Council seminar in Cairns. However, I realised that to attend this seminar, by using my gold pass, it would take me six days by train to get to Cairns. I would then spend two or three days at the seminar in Cairns and the return trip would take up another six days. In all it would be something like 15 days to attend the seminar.

I looked at the possibility of using my once-every-three-years air fare to Melbourne to attend the seminar. I found that it would still take me approximately five days of travelling to get to Cairns and to return. I thought the best I could do would be to write to the Premier. I wrote on 20 August as follows—

> As you are aware the Northern Australia Development Council 1980 Seminar is to be

held in Cairns, North Queensland from October 2nd to October 3rd inclusive. I am aware that you will be participating at the Seminar. Possibly other Western Australian Ministers and Government Officers may also be attending.

You will also be aware that Opposition Shadow Ministers who have an interest in this subject have attended a previous Seminar at Broome. On that occasion use was made of travel arrangements available to the Opposition within Western Australia.

Along with several other Members I have been invited to attend this Seminar but unless some special travel arrangements are made for one or more of us it is virtually impossible to attend. Travel by rail from Perth would require six days non stop travelling to Cairns. Even by air to Melbourne travel time would still be five days.

In view of the above could you advise whether you would consider making special arrangements for the Opposition to be represented at this Seminar.

The Premier replied on 11 September as follows—

Your request for special arrangements to be made which would enable Opposition Members to be present at the Northern Australia Development Seminar to be held in Cairns later this year, has been considered.

Although no details were advanced in your letter as to what special arrangements were being sought, I assumed you would wish to travel by air Perth to Cairns and return.

I do not know whether he thought I would walk or go by boat. To continue—

I believe the Northern Australia Development Seminar, while it has its special features, is basically no different to similar seminars held on a host of matters such as satellite communications, environmental matters and the like, being held in the Eastern States from time to time.

Obviously, if special concessions were to be made for Members to attend this seminar, it would be difficult to withhold approving similar entitlements to Members wishing to attend seminars and conferences in the Eastern States in the future.

I consequently cannot approve any special concessions for Members to attend the Northern Australia Development Seminar.

Members will recall that yesterday I asked a question of the Premier who was attending the Northern Australia Development Council seminar from the Government side. The Premier replied that he was currently scheduled to attend but his attendance might not be practicable.

The Premier also said that Mr I. J. Laurance—the Honorary Minister Assisting the Ministers in the Portfolios of Housing, Regional Administration, and the North-West, and Tourism—would be attending. On top of that, there would be two and possibly three Government officers also attending. They would be travelling by air.

These people would not be travelling by train, and wasting time. However, if a member of the Opposition wished to attend the seminar he would not be able to do so because of the restrictions placed on the members of this Parliament in respect of air fares.

For the past seven years the Premier has been promising to do something about interstate air fares for members of this Parliament or at least to bring them into conformity with, or put them on a par with our counterparts in the other States. It is very embarrassing when we speak to our counterparts in the other States and they ask if we will be attending the seminar. We have to say, "Sorry, we don't receive any interstate air concessions like you do." Here in Western Australia, we are ignored, isolated and insulated. The Premier wishes to keep us in that position.

After all these years of promises, it is about time the Premier decided to deliver the goods and give the members of this Parliament at least some sort of concession to bring us into line with our counterparts in the other States of Australia.

SIR CHARLES COURT (Nedlands—Premier) [3.07 p.m.]: Having listened to the member for Maylands, one would think that our people were really hard done by.

Mr Bryce: So they are, in this respect.

Sir CHARLES COURT: The members of Parliament in this State have better facilities than most other members of Parliament in Australia.

Mr Bryce: You don't know what you are talking about. Why don't you check your facts and do your homework? It is a disgrace.

Sir CHARLES COURT: I remind the honourable member that we are slightly different from people in other States.

Mr Bryce: More isolated.

Several members interjected.

The SPEAKER: Order! During the course of the speech made by the member for Maylands

there were no interjections. The Premier should be allowed to present his case without the harassment of interjections. It is only fair that the reply from the Premier should be received in the same situation.

Mr Barnett: Even if it is tripe.

Sir CHARLES COURT: In attempting to respond to the honourable member I wish to put the matter in its proper perspective; and that is, this State is different from other States. If one lived in Queensland, New South Wales, Victoria, Tasmania, or South Australia, one could flit from one State to the other within an hour or two at the very most. Most members in those States can leave for a ministerial conference after breakfast, attend the conference and be home for dinner. However, we have to go all the way across Australia which adds a higher cost to travel and a greater amount of time is involved in travelling.

So, we cannot look at the position in Western Australia and say that whatever the other States have we should have also. The Government has endeavoured to ease the situation but, not to the extent that back-benchers and the Opposition would like.

Nevertheless, the situation has not been static and the conditions available to the Opposition have improved progressively. There has been some progress.

I suggest to members that sometimes some lines have to be drawn so far as these seminars are concerned. There are many seminars being held and no doubt the Opposition has received as many notices and invitations to these seminars as have the Government members. Some of these seminars are of great national and international significance but a line has to be drawn very often as to whether or not Ministers will be able to attend.

Also, the time and expense to be incurred has to be taken into consideration. So the same situation often applies to Ministers as well as back-bench members. I remind the member for Maylands that one cannot just open the flood gates because if permission to travel by air were granted in this instance, what is the difference between this seminar and a seminar of some medical importance in Canberra or a seminar on town planning or the like in Victoria? No Government, whether it be of the Opposition colour or that of the current Government, would open the flood gates on these matters.

I come back to the question of trying to adjust travel arrangements interstate, intrastate, as well as internationally. There has been considerable feeling amongst members regarding study tours and it has been assessed by some that they would have to be in this House for 50 years before they had a study tour under the present system. Even then they might be unlucky.

However, the difficulty has been acknowledged and a revised system has been under discussion by all parties. One of the reasons the Constitution Amendment Bill (No. 2) had to be passed was to clear the way for this particular question of travelling expenses, electorate office expenses, and a host of other things. It was necessary to put them all beyond doubt. I undertook, as soon as the Bill was passed, to put a proposition to all parties regarding an imprest system.

Under the proposed imprest system a global sum would be set aside for each member of Parliament, other than Ministers. Each member would be able to draw on that particular fund at his discretion during the life of a particular Parliament. Whether he used the fund to travel intrastate, interstate, or internationally would be his decision. He would make application to the appropriate authority with details of what he proposed, and he would receive the necessary permission to draw on that fund. Whether he used the fund to travel in this State to Derby or Broome, or to Cairns in Queensland, or to Victoria, it would be his decision. Likewise, it would be his decision if he elected to travel overseas.

I am assuming that when details of the operation of the proposed system are placed before the respective political parties they will accept the conditions laid down and the method of operating the fund. In that case it will then be up to each member individually.

Mr B. T. Burke: When do you think that system will come into operation?

Sir CHARLES COURT: I hope within the next couple of weeks the conditions in respect of this particular fund will be discussed. Members opposite—the more responsible members—would want to make sure there were some clearly defined rules understood because no-one would want a repetition of what occurred in another State.

In that case members were issued with travel vouchers, which they were able to build up into a "bank" for travelling overseas. At a given time, they were able to use that bank to travel overseas in a way never intended when the system was set up. I do not know how the problem has been overcome. In the interests of members in Western Australia, we will not fall for that. Conditions will be laid down, and if the parties agree the system will be implemented.

I am not prepared to go beyond that; I think that is fair enough. The honourable member knows that this was the subject of considerable discussion and submission. Now that the Constitution Amendment Bill (No. 2) has been passed it is appropriate to bring the matter forward. There is one proviso; I understand if one of the constitutional Bills is suspect, the other also will be suspect. But, that is not the subject of discussion at the moment.

The SPEAKER: Grievances noted.

BILLS (4): THIRD READING

1. Broken Hill Proprietary Company Limited Agreements (Variation) Bill.

   Bill read a third time, on motion by Sir Charles Court (Premier), and transmitted to the Council.

2. Rural Reconstruction and Rural Adjustment Schemes Amendment Bill.

   Bill read a third time, on motion by Mr Old (Minister for Agriculture), and transmitted to the Council.

3. Railways Discontinuance Bill.

4. Acts Amendment (Motor Vehicle Pools) Bill.

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

CONSTITUTION AMENDMENT BILL

Lack of Confidence in Speaker, and Censure of Government: Motion

MR DAVIES (Victoria Park—Leader of the Opposition) [3.16 p.m.]: I move—

> Noting that in ruling on the Constitution Amendment Bill, the Speaker:
>
> (a) failed to give the Parliament proper notice of his intentions on the Bill, despite having ample opportunity and a responsibility to do so on a matter of basic constitutional importance,
>
> (b) breached well-established precedents of the Parliament without warning,
>
> (c) apparently conspired with the government to save it from political embarrassment,
>
> and,
>
> (d) debased and degraded the office of Speaker,
>
> therefore, this House declares:
>
> (i) that the Speaker lacks the confidence of the House,
>
> and,
>
> (ii) that the government be censured for ignoring the rights of Parliament and subverting the independence of the Speaker.

I gave notice of this motion on 3 September last, following a most unfortunate episode and ruling given in this House the previous evening. I offered to debate the motion immediately, and I think the Government clearly understood I was prepared to do so. However, apparently the Government was not prepared to debate it immediately because it ducked debate. I put out several challenges later but they were not accepted. The Premier said the subject of my motion was a private member's matter, and the Government would be prepared to deal with it on private members' day. We hoped to get around to it last week but some members who were not supposed to speak to the Address-in-Reply decided to do so. For that reason, the matter has been delayed a further week.

If I have any sympathy for you, Mr Speaker, I do sympathise with you because the Government was not prepared to bring this matter forward for debate immediately. That action put you in a most invidious position inasmuch as you have had the propriety of your action hanging over your head. Also, the Government has connived—as I shall endeavour to show during my address—with you in not having the matter properly cleared up so that this Parliament could run without that doubt hanging over it.

Perhaps when it is considered that an appeal decision has since been given, it would have been to the advantage of the Government had it decided to discuss this motion earlier. Although the decision does not relate directly to the matter under discussion or to your ruling, it does indeed relate in a rather obtuse manner to the likelihood of your action being right or wrong. Certainly, the Government seems to be having second thoughts on the matter since 3 September. I suppose that was the appropriate date upon which to move this motion; it was the anniversary of the declaration of World War II. We are at war with the Government and with you, Mr Speaker, as a result of the action taken here.

Since that time it has been quite apparent that the Government has had second thoughts. I am sure it must have had legal opinion earlier. Whether or not that is so, I do not know. It certainly did not make the Parliament privy to that legal opinion, although in a matter as important as this I believe it should have. I believe the Parliament was entitled to every piece of information which was available to the Government through the office of the Crown

Solicitor to help us to decide whether your decision was right or wrong.

The Government is guilty of tampering with one of our oldest and most important Acts of Parliament, the Constitution, and there is no excuse at any time for tampering or conniving to ensure that the Constitution does not have full effect on this Parliament and the people of Western Australia. If I felt any disgust on that night, my disgust is just as strong now. It has not tempered with the passing of time, because I do not believe any Government or Speaker has the right to take action in any way to subvert the Constitution, which is what has been done in this case. You, Mr Speaker, have acted in a blatant party-political manner and it does not become you at all.

I want to reiterate that the debate today has nothing to do with the contents of the Bill or the expansion of the Ministry. I note in passing that apparently *The West Australian* doubts the need to increase the Ministry, and says so in this morning's editorial. But that is not what counts.

My main concern lies in two broad areas. Firstly, what kind of behaviour can we expect or are we entitled to expect from the Speaker? The second area of concern is the action of the Government in conniving with the Speaker to overcome the difficult position in which it found itself. They are the two matters with which I want to concern myself on this occasion.

There is a feeling abroad that the Speakers of Parliament are in a special category. We know the special position in regard to the Speaker at Westminster. Broadly, we work under the Westminster system. I have seen it abused a few times in my 19 years in this Parliament, but we try to work under the Westminster system and we believe the Speaker is a special person. The Speaker of the Federal House recently said he believes the Speaker is in a special category and should not be opposed at elections. There is certainly some support for that opinion.

You, Sir, were trying to bring to this House some of the precedents and build around the office of Speaker some of the standing we would expect if the precedents which are in operation at Westminster were applied. We firmly believe that. When you were canvassing for votes earlier this year—and I am not giving away any secrets—our people discussed the matter freely. We looked at your record and your decisions from time to time, and, although we were not very happy about the way you treated Parliament like a school class at question time and without warning cut off further questions—we thought that was rather infantile—broadly we believed that of the likely nominees you were the man for the job and we would be prepared to vote for you.

Your action in regard to the amendment to the Electoral Act had nothing to do with it. I was not in the House on that occasion—I was in the Eastern States during that exciting time—but I can say with all honesty that although your action only delayed those amendments for 12 months, we appreciated it and thought you had some courage. Your subsequent actions did not live up to the courage demonstrated on that occasion because you allowed yourself to be persuaded by the Government and you took action which is not fitting for the Speaker. You have lost all the respect you had gained on this side, because of your action on the night of 2 September. With the ruling you gave, in one fell swoop you undid all the good work, and to this Opposition you are unacceptable. Irrespective of what happens in the debate today, you will remain unacceptable to the Opposition.

It became obvious as early as last February that the Government could have difficulty in doing what it wanted to do. As I said the other night, the Government announced its intentions in regard to the Ministry not during the currency of the election but immediately after it. In my office we monitor the statements of the Premier and other Ministers very carefully—and find they conflict at times, I might add. Nevertheless, we became aware that if certain members voted in a certain way the Government would have difficulty getting its Bill through the House. That was in Feburary, and if we were aware of the situation, I am sure you also were aware of it, Mr Speaker.

You were Acting Speaker at that time. Although you had not been elected as Speaker in the new Parliament, everyone looked on you as the Speaker and we were prepared to honour undertakings we had given that we would support you. So, there was not the slightest doubt that you would be Speaker, and all your actions indicated that you also knew that was the position. I suppose there is always a doubt until the last moment when the numbers come up, but as far as we were concerned there was no doubt whatsoever. Therefore, if it became obvious to us that the Government would be in a sticky position with its Bill, it must have been obvious to you.

Of course, the further we went the more apparent the Government's dilemma became, because we made our position obvious very early in the piece. I made a statement shortly after the Premier made his statement, in which I said I did not think there was any need for the action the Premier proposed and I would be opposed to it.

Our party did not make its final decision until about a week before the matter was debated in the Parliament. There was no need for us to decide the matter earlier because the Bill was not before us until well into August and there was no opportunity to debate it. Although the party had not decided in the party room what its attitude would be, I was quite confident it would oppose the proposal.

The National Party, of course, indicated it would oppose it; so the matter rested with one member, the maverick member for Subiaco. I hope he does not mind my calling him that. When he started to make statements as to what his position would be, it became patently clear to one and all that the Government was in serious trouble.

No attempt was made to win over the National Party. I do not know what attempts were made to win over the member for Subiaco.

Mr O'Connor: How do you know no attempts were made to win over the National Party?

Dr Dadour: I can tell you now: none.

Mr DAVIES: If I am wrong, I will accept a statement from the Deputy Premier that attempts were made.

Mr O'Connor: I am not saying you are wrong.

Mr DAVIES: It is of little consequence because the Government had made its intention perfectly clear and we knew what the Government was going to do. We knew where we stood and where other members stood, and the Government was in a corner. So, what was it to do? How was it to get out of the corner?

The Government cast around for ways and means around the problem, and when it could not alter anyone's opinion or anyone's vote, then it had to change the basic rules. The Government had to say, "Perhaps after all these years—80 years or so—we do not require a constitutional or an absolute majority to put this Bill through Parliament." That is when the conniving started, because to do that the Government needed the co-operation of the Speaker. The Government could not do it by itself; the Premier could not stand up and give a ruling that a constitutional majority was not needed. Only one person could do that, and that was you, Mr Speaker, and so the Government had to win you over.

The Government needed the co-operation of the Speaker. I am not going to attempt to detail the tales that have been brought into my office by members of the Government except to say that I was assured the matter was discussed in the party room. Strange to say, many people are now bringing me tales. Usually I discount or disregard them, but on this occasion the matter was of such importance that I had to give the tales some consideration.

We must realise there are now quite a few disgruntled back-benchers on the Government side—those who felt that they should have been elevated to the Cabinet. Members must realise also that many Liberal Party seats which were considered safe seats are not now considered to be safe. Many of the members representing those electorates are beginning to consider that the Premier and his strange way of governing are something of a handicap to them and so apparently they are quite prepared to drop hints to me and to other members of the Opposition about what goes on and particularly about what happened on this occasion.

As I said, I do not like to deal in rumours and tittle-tattle. However, I do intend to detail one aspect of this matter which I think clearly points to what happened. Yesterday the member for Balcatta asked a question of the Premier, and I am quoting from an uncorrected copy of the question which reads as follows—

> Is it true that he discussed with the Speaker the question of the Constitution Amendment Bill prior to that Bill being debated in this House?

Points of Order

Mr O'CONNOR: On a point of order, Mr Speaker, are we allowed to quote from uncorrected copies of questions?

Mr Pearce: A member should correct speeches by midday, and after midday you may quote from them.

Mr Barnett: It is probably corrected by midday of the following day.

The SPEAKER: It would appear that uncorrected answers should not be quoted from. I would hope that on this particular occasion the House would support me in allowing the Leader of the Opposition to read from that particular uncorrected copy of the *Hansard* transcript. I do not want to be seen in any way to be inhibiting the Leader of the Opposition.

Sir Charles Court: I have no objection to it.

Mr PEARCE: On a point of order, Mr Speaker, is it not a fact that corrections must be in by midday and that after midday the transcript may be quoted?

Sir Charles Court: It is irrelevant; I have no objection.

The SPEAKER: It is my understanding that a member has until midday on the day after the day on which he made his speech to make corrections, and if no corrections have been made by that time the material may be used. I may not be 100 per cent correct in my understanding of the situation. If the House or any member of the House, wants to determine the precise position, I will leave the Chair and then return here with a considered opinion. However, I believe that course is not relevant to the particular situation. I personally want the Leader of the Opposition to be able to quote from that particular uncorrected *Hansard* transcript.

Mr H. D. EVANS: On a point of order, Mr Speaker, if you are not 100 per cent sure, would it not be advisable to call for a corrected copy of *Hansard* to ensure there is no disparity?

Sir Charles Court: There is no objection to it.

Mr O'Connor: If you would let us get a word in, we would tell you there is no objection to it.

The SPEAKER: If there is any objection raised by the person being quoted, then I will delay the House to determine the correct situation. However, it would appear to me there is not likely to be any dispute on the accuracy of that part of *Hansard* from which the Leader of the Opposition wants to quote.

Debate Resumed

Mr DAVIES: I merely mentioned this was an uncorrected copy of the question and answer because it was not available until after 1.00 p.m. However, the member is here now, and perhaps he would like to correct it as I go through it. I believe members will all recall the tenor of the question, and I believe the answer has been corrected. The Premier replied—

> I am not prepared to answer to the honorable member or anyone else as to the discussions I had with the Speaker or anyone else.

I am quite certain that had there been no discussions the Premier would have protested his innocence as loudly as he could.

Sir Charles Court: That is not so.

Mr DAVIES: Let us remember what happened in regard to Dr Graeme Chittleborough. We have evidence of what happened on that occasion. The Premier has never denied that he got in touch with the Victorian Government and tried to have Dr Chittleborough's appointment revoked. On that occasion the Premier would say only that he did not discuss private conversations.

Sir Charles Court: That is right, and I adopt that attitude always.

Mr DAVIES: That is what the Premier is doing on this occasion. The Premier knows he was being unfair to Dr Chittleborough on that occasion. The tenor of this answer shows that there were discussions and the Premier is not going to talk about them. Otherwise he would have been protesting loud and long about it.

Then a similar question was asked of the Deputy Premier, and the Deputy Premier gave a similar answer. Neither the Premier nor the Deputy Premier will convince us in a million years that some discussions did not take place. They were not game to say there were no discussions, because as I have indicated already, we have been leaked information from the party room. I will not deal in detail with what actually happened, what the discussions were, and what took place. Obviously the Premier is aware that possibly the member for Balcatta knew something of what was going on, and therefore, it would do no good to protest. So he took the neutral way out. The Premier did not say, "Yes" and he did not say, "No", he merely said he would not comment.

Mr Clarko: Have you stopped beating your wife?

Mr DAVIES: I am not going to tell the honourable member that.

Mr Clarko: That is the same thing.

Mr DAVIES: So this is the situation. The Premier can get up later and deny there was any conniving and deny there was anything discussed in the party room. However, our speakers can then give chapter and verse of what happened. As I have indicated already, I do not want to deal in rumour.

Mr Young: Did you say "rumour" or "humour"?

Mr DAVIES: I do not have to deal in rumour because I am convinced, by the answers from the Premier and from the Deputy Premier to those questions, that we are absolutely right and that most of what was told to us by disgruntled back-bench Government members is absolutely true.

Mr B. T. Burke: We will hear a little later whether or not it is right.

Mr O'Connor: I will be very glad to hear it.

Mr B. T. Burke: You will be all right; it is the Premier who has to be careful.

Mr DAVIES: I do not really know what was offered by the Government. I do not want to know. I suppose some promises might have been made or some undertakings given. That would be in line with what we were told, but of course, only

time will tell just what happened. The important thing is the ruling given by the Speaker. There is no indication as to whose work that ruling was. I would think anyone who gave that kind of ruling would not want to own up that it is his work.

It is a ruling through which one could shoot holes or drive a horse and cart; and it is no wonder the Government is having second thoughts about the action that has been taken, and has elected to take the matter to the Supreme Court to seek a declaration. I would do that, too, after examining in some detail the ruling with which we were confronted.

I do not know whose work the ruling was; I do not know whether it was your work, Mr Speaker, or that of the Crown Law Department or the Clerks of the House. You are entitled to call on those resources, and no doubt you did. However, if an opinion was made available from the Solicitor General or the Crown Law Department, it should have been made available to all members of the House so that it would help us decide whether or not the proper action was taken.

I am a reasonable fellow; and had I been convinced that the decision was proper I would not have opposed it, and would not be doing what I am doing today. Had we been convinced the decision was proper we would not have moved on 2 September to disagree with the Speaker's ruling.

Mr Speaker, it was the easiest decision in the world to make. All you had to do was say, "I am not going to reverse an earlier decision that I have made." When we talk about that, of course, we must remember that the decision which was reversed was given on 27 November last. When you made that decision, Sir, you expressed concern when you said that a future presiding officer may decide not to rule the same way as you had ruled. A future presiding officer might have done that had there been a change in the presiding officer; but in this case it was the same presiding officer who last November expressed doubt and opted for the maximum, but then later decided to reverse that ruling when he was pressured by the Government. That is the thing we do not like.

Mr Speaker, in your 1979 decision you said—

> I feel it to be important that any decision made at this time does not place an obligation on a future presiding officer to make some consistent ruling when both in this case, and perhaps in that future case, there is strictly no necessity for this absolute majority.

You spoke about a future presiding officer, but it is a case of the same presiding officer giving a different ruling. Had it been a different presiding officer there might have been some reason for the change, but as it stands there is no reason.

On that occasion the Speaker expressed doubt, gave his ruling, and opted for the maximum which was that there should be a constitutional majority. Then less than 12 months later he changed his mind. That is the thing we do not like.

Your ruling, of course, does not compare like with like. One can read through the ruling and find a great number of irrelevant matters are quoted. At first one might think it is a very good ruling because of all the work that was put into it, but the further one goes the less relevant are most of the matters raised.

In the first page of his ruling the Speaker referred to matters related to the Lotteries (Control) Amendment Act 1933, the Constitution Amendment Act 1933, the Legislative Council Referendum Bills of 1945 and 1946, the Constitution Acts Amendment Act of 1950, and Electoral Act amendments of 1936 and 1958. None of those has anything to do with the expansion of the Ministry. They are not matters directly related and they do not compare like with like. This makes the decision quite irrelevant because if the Speaker is going to give a decision which he will reverse completely within less than 12 months, at least he should compare like with like; but that did not happen.

The Speaker then went on to acknowledge the warning given by Mr Speaker Guthrie, and members would not be at fault if they thought that warning probably relates to the same thing. However, it relates to no such thing. Mr Speaker Guthrie said—and I paraphrase it—that presiding officers must be careful about giving decisions. That is nothing new; any presiding officer would expect to be careful about the decisions he makes. The warning given by Mr Speaker Guthrie does not even deal with the Constitution; it deals with a Constitution Acts Amendment Act in respect of section 46. It concerns amendments originating in another place dealing with money matters, and put under challenge by the then Leader of the Opposition in this place.

It is interesting to note on that occasion the Leader of the Opposition warned the Speaker that he intended to challenge the matter, and the Speaker had a ruling ready. Indeed, the then Leader of the Opposition dissented from a ruling given by the Chairman, the Chairman reported to

the Speaker, and the Speaker had a decision ready to read out which must have amounted to several pages because he had been warned in advance by the then Leader of the Opposition that the decision would be challenged. When the Speaker gave his ruling no further action was taken in respect of the dissent from the Chairman's ruling. The Speaker on that occasion said he would take the matter to the presiding officers' conference—I am not sure if that is the name of it—because there were some features of the ruling that he did not like.

I do not know what happened subsequently. You, Sir, or the Clerks would be in a better position to know than I am. However, it is interesting to note that at least the then Leader of the Opposition had the decency to advise the then Speaker that the Chairman's decision would be challenged, and that at least the niceties and protocol of Parliament were observed and the confidence of the Opposition was conveyed to the Speaker. No doubt that confidence was conveyed to the Government also because the ruling was given straightaway and once it was given the motion to dissent was not proceeded with.

Mr Speaker, as I go through your ruling I find that although you mention many other cases, you do not compare like with like. I do not see how you can give a ruling in the way you did if you do not at least compare matters which are comparable, if not exactly the same. You expressed concern that if a ruling is given which is dissented from and the ruling is upheld, it then becomes binding on the Parliament in future. I am amazed at your concern because this has happened dozens of times since I have been in the Parliament. No-one has ever been concerned or protested about this, and no decisions that I know of in the past have been reversed at a subsequent date. No decisions have been taken to a court under challenge. Some decisions may have been reversed without anyone noticing it by Speakers at a later date; but I feel, with due respect—if there is any respect—that your concern on this occasion was nothing more than crocodile tears because your ruling was not in accordance with the practices and precedents of this Parliament.

In the second page of your judgment you said, "I believe that an argument could be sustained that this Bill does not involve a change or alteration to the constitution of either House." I am not certain what "constitution" means. That reference could be as direct or indirect as one likes. It may now have some bearing on the Wilsmore appeal. The decision in that case was upheld by a two to one majority because it was considered the content of the appeal meant it could have had even the slightest effect on the constitution of the House. It did not say the name or title of members or the number; it simply said, "the constitution of the House".

You then go on, Mr Speaker, quite blatantly on page 3 of your ruling, where you drew attention to the Wilsmore appeal—I read into that that you were expecting the appeal to be dismissed—to say, "I do not want to discuss it anyway, because it is *sub judice*." Surely it would have been more practical and proper to draw attention to that appeal and say it was *sub judice* instead of dealing with it in the way you did. I do not know why you even bothered to mention that case because, once again, it is not comparable with this one because it does not deal with the expansion of the Ministry.

The Speaker said this matter had been exercising his mind for some time—in fact, since 27 November 1979. The Speaker expressed doubts on that occasion. However, having expressed doubts, he went for maximum safety by opting to go for a constitutional majority.

As I said, the Speaker spoke about a future presiding officer; however, that presiding officer is the self-same presiding officer here today. Having expressed concern and doubt on the matter, what did the Speaker do to establish whether his judgment was right or wrong? I may be doing the Speaker wrong on this point, because he may tell the House later that in fact he did seek further information. However, there is nothing in his ruling, or in what he has said since which indicates he took action to overcome the doubt he expressed on the factors upon which be based his ruling, and on which he feels he is entitled completely to reverse a previous ruling.

If it were a matter of such concern, why did the Speaker do nothing about it? He reversed his previous decision. In effect, he said, "I am doing this, and anyone who does not like it can go to the courts." Why was he not consistent with his earlier decision by saying, "I am doing this in line with my previous decision, and if people think I am wrong, let them go to the courts"? I will tell members why: It was because the onus of taking the matter to court under his reversed ruling would be upon the Opposition.

As I have already mentioned, the whole ball game since has changed. However, the fact remains that it was a convenient decision which would put the Opposition into the position of having to challenge it in court, and of spending $10 000 or $20 000 which it does not have; that, no doubt, is what would have happened, although

I do not know from where we would have got the money.

The Speaker quite easily could have said, "I made this decision on a previous occasion. Although I expressed concern then, I am sticking by the principle of that decision. If you do not agree with my ruling, you can take the matter to court." This would have placed on the Government the onus of taking the matter to court.

Once again, the Speaker became party political. Once again his party bias showed. This is unfortunate for a person holding the office of Speaker. I say the Speaker did not do it the other way around because he connived with the Government; he had done a deal with the Government. He has debased the office of Speaker to which we re-elected him with such high hopes only a short time earlier.

Having made his decision and having clearly indicated in which direction he intended to go, the Speaker finally got around to discussing the four previous cases in which he was able to compare like with like. He mentioned that in 1927, the Cabinet was increased to eight members; in 1950 it was increased to 10 members; in 1965, it was increased to 12; and, in 1975 it was increased to 13. He then went on to make the following statement—

> The records show that only in the last two cases did the Speaker require the Bill to have the concurrence of an absolute majority.

What are we to suppose from that? All I can suppose is that at last they woke up to the fact the matter required a constitutional majority.

Let us examine what happened earlier. In 1927, the Bill was carried on the voices. It is true there is no indication that the Speaker warned the House that a constitutional majority was required. However, it is equally true that no member opposed the Bill. This clearly indicates to me a unanimous decision was made and that therefore there was no need for the Speaker to seek a constitutional majority. That is the way I read it, but the Speaker reads it in a different way.

After we left the House on 2 September I read in *Hansard* where the Speaker drew attention to the *Votes and Proceedings*. This might be an opportune time to correct *Hansard*. There appears to have been a typographical error, not on *Hansard's* part, but in the notes the Speaker used in that he mentioned 20 November instead of 30 November. The Speaker maintains that because the record shows that on 30 November the Bill was carried on the voices, that clearly demonstrates a constitutional majority was not required.

The Speaker then went on to discuss the 1950 decision and said that once again, no reference was made to a constitutional majority. However, an examination of the record reveals the second reading was carried on a division, with 35 members voting in favour of the Bill and 12 being opposed to its passage. That clearly indicates to me a constitutional majority was obtained. However, the Speaker did not mention that; he went to the third reading and said there was no reference to a constitutional majority, and the Bill was carried on the voices.

Mr H. D. Evans: There was no dissentient voice, either.

Mr DAVIES: The Speaker amazed me, in trying to bolster up an unsound argument when he said—

> In the two precedents of longest standing, and therefore those which have been longest available to legal challenge, no evidence of the support of an absolute majority is recorded.

That was quite wrong. As I said, in 1950 a division showing ayes 35 and noes 12 carried the second reading of the Bill. The Speaker chose not to mention the second reading because it did not suit his purpose. By referring only to the Bill being carried on the voices of the third reading, the Speaker was not being straight with the House.

Sir Charles Court: The second reading and third reading have equal importance.

Mr DAVIES: Of course they do.

Sir Charles Court: That is the significance of the Speaker's remarks.

Mr DAVIES: Then why did he not refer to the fact that the second reading was carried by a constitutional majority? He referred only to the third reading stage because he wanted to bolster a weak case.

Sir Charles Court: In the ruling to which your are referring, the second and third reading have equal standing.

Mr DAVIES: I would not argue with the grey hairs of the Premier; he has been here much longer than I. I simply want to point out one of the deficiencies in what I term a convenient ruling.

Had we read only the Speaker's ruling and not examined the record for ourselves, he would have had us believe we should be concerned only with the third reading of that Bill.

If the Speaker is entitled to draw that conclusion, I am equally entitled to draw the conclusion that a constitutional majority was obtained on the third reading. Remember that no dissentient voice was recorded. In the absence of anything to the contrary in *Hansard*, my conclusion is as valid as the Speaker's. In fact, my argument is more sound because it is supported by what occurred at the second reading stage.

So, Mr Speaker, I do not believe you were being quite fair or direct with the Parliament on that occasion.

Then, of course, in 1965 and 1975, Speakers Hearman and Hutchinson respectively demanded a constitutional majority. I have not spoken to either of those gentlemen, so I do not know what research they undertook. So, at present, it is a 50/50 decision. However, in view of the printed record, it is my belief there has never been an increase in the size of the Ministry without a constitutional majority. We will never prove it one way or the other; but if we are reasonable men and you take the evidence available to you, Sir, that is the only conclusion that you can draw.

By comparing like with like on the evidence and on the research that has been done because of the matters referred to in your ruling, we are left in the absolutely certain position that your ruling was wrong on 2 September; and it was a matter of convenience for you. You could research all previous rulings and matters relating to the Constitution, the Constitution Acts Amendment Act, the Acts Amendment (Constitution) Act, and the Electoral Act, and other Acts which could have a bearing on the constitution of this Parliament. That would be a tedious job; and I do not believe you need go any further than your own decision. However, I have gone a little further. I had a look at what happened when we appointed the Parliamentary Secretary of the Cabinet.

On that occasion, in 1975, a constitutional majority was required. The Bill was introduced by the present Premier on Tuesday, 8 April 1975. The Bill was introduced because the Parliamentary Secretary of the Cabinet would not be a Minister of the Crown, and he needed special mention because of the emoluments to be paid to him. A parliamentary salaries Act had recently been dealt with, I think. On that occasion, the Bill was dealt with finally on Tuesday, 29 April when the second and third readings were carried out. On page 1243 of *Hansard* the following appears—

> The SPEAKER: Order! It is my duty to advise members that this Bill requires an absolute majority. There being no dissentient voice, and having satisfied myself that there are 26 members present, I declare that the Bill has the necessary absolute majority, and therefore the question is determined in the affirmative.

When the question on the third reading was put on the same day, the Speaker said—

> I have satisfied myself that a constitutional majority of the House is present, and there being no dissentient voice I declare the question carried.
>
> Question thus passed.

If one cannot obtain a "like with like" situation, that is about as close as one can get. In that case, we were not adding a Minister to the Cabinet, but we were adding a Parliamentary Secretary to the Cabinet, and he was to receive certain emoluments. The constitution of the House did not change other than that one member of the House was given a different title. At that time, the Parliamentary Secretary of the Cabinet was a member of the Legislative Assembly, but the present incumbent is a member of the other place.

That situation is exactly the same as what arose on this occasion. Indeed, the person for whom we sought in 1975 a constitutional majority is the same person for whom we are now seeking a constitutional majority. We are seeking to make the member for Gascoyne an extra Minister. I cannot mention his name, under Standing Orders. In 1975, when there was no change whatsoever in the people who made up this Parliament—they were exactly the same people, coming from exactly the same areas—a constitutional majority was needed to alter the title of one of the members of this House.

I put that in exactly the same category as altering the title of other members in this House. We are attempting to make two of the members Ministers; but there is no basic change in the representation in the Parliament. There cannot be. They are the same people, making up the Parliament. The only difference is in their titles.

In 1975—and this is one of the best examples I can find—the Speaker wanted a constitutional majority. If one was needed then, surely we need one now, for the same reason.

If you, Sir, want to have a look at some of the other things that may affect the composition of the Parliament, have a look at the Bill introduced by the member for Mt. Hawthorn in 1975. On that occasion, he introduced the Constitution Acts Amendment Bill (No. 3) which sought to remove from the principal Act the disqualification of a clergyman or minister of religion as a member of the Parliament. That was dealt with on page 4592

of *Hansard* of that year. The Government agreed to that Bill. The then Minister for Works (Mr O'Neil) agreed to it on behalf of the Government. On the second reading, the Speaker said—

> To be carried, this motion requires an absolute majority. I have counted the House; and, there being no dissentient voice, I declare the question carried.

When the Bill went to the third reading, the Speaker said—

> Once again, to be carried this motion requires an absolute majority. I have counted the House; and, there being no dissentient voice, I declare the question carried.

All we did on that occasion was to say that a person who was a minister of religion could stand for Parliament if he so wanted. How that was likely to change the basic constitution or the basic makeup of the Parliament, I do not know. It is absolutely beyond me. That was an amendment to the Constitution Acts Amendment Act; and it required a constitutional majority. No-one challenged it. As I say, there would have been better grounds for suggesting that it did require a constitutional majority than the matter we are debating at present.

How long have we required constitutional majorities? As I say, I am not referring to all of the cases which could be considered. Indeed, I did not look at all of the ones you quoted in your ruling, Mr Speaker. However, I did go back to 1910, and I found on that occasion there was a Bill before the Parliament to alter the franchise of the Legislative Council. It was before the Parliament on 22 January 1911—I think I said "1910", and apparently the Parliament sat over the Christmas period. In the debate, the members were complaining about the heat. They did not have fans or air-conditioning.

Apparently the Bill had been rejected in another place on an earlier occasion. It had been postponed the year before, and on 27 January 1911 it was before the Parliament for a vote on the second reading. At that time, the following appeared in *Hansard*—

> Mr. SPEAKER: It is my duty to point out before the question is put that, this Bill being an amendment of the Constitution, it must be carried by an absolute majority of the House. If there are the requisite number of members in the House and there are not any noes I can conclude that there is an absolute majority in favour of the Bill.
>
> Question put.
>
> Mr. SPEAKER: I have already stated, that unless a division is called for, I have only to be satisfied that there is an absolute majority present. I am satisfied that there is an absolute majority of members present, and on the voices that there is more than an absolute majority of members in favour of the Bill.
>
> Question passed.
>
> Bill read a second time.

Then the Bill went to the third reading; and I will not bore members with reading the remarks of the Speaker on that occasion. The above procedure was repeated.

In 1911 it was established clearly that if there was to be an amendment to the Constitution Acts Amendment Act, it required an absolute majority. We have different ways of dealing with things. I draw your attention, Sir, to the words of Mr Speaker on that occasion. If you read the debate, you will find that some of the members were opposing the Bill; but there was not a division and therefore, on the voices, Mr Speaker concluded that there was an absolute majority. That was all that was required. That was a fairly strange way of doing things; but if there was not any challenge, it was accepted.

I say that is possibly what happened in 1927, although I can only put my conclusion on it. I would say my conclusion is more likely to be nearer the mark than yours, because I am trying to deal with the facts and you, Sir, with due respect, were trying to meet a situation which would please the Government.

I have already indicated that there are many decisions I could refer to in *Hansard*, but I do not think it is worth while to quote them at this time. I have already quoted sufficient.

If we compare like with like the balance is at least in favour of the stand the Opposition is taking. If we consider the situation with respect to the Parliamentary Secretary our stand is further bolstered. We can go back to 1910 when the Constitution Acts Amendment Act was amended and find that our stance is further bolstered.

Mr Speaker, I believe you have acted against all reasonable precedent. You have not compared like with like. Your ruling is unfair and does not do justice to you. I have said that although you expressed doubt last November as to what the position might be, there is no evidence of any positive action being taken to resolve your doubt. Although you expressed concern for future presiding officers, you felt it necessary to reverse 100 per cent the decision you gave on that occasion. You cannot say one day that you believe

this and the next day that you believe something else. It falls far short of the minimum standards we expect from the Speaker of the House. It has been a great disappointment to the members of the Opposition.

I point out, especially in regard to the manner in which you made your ruling, that on a previous occasion a Leader of the Opposition had the decency to take the Speaker into his confidence and to warn him of what might happen. Unfortunately, on this occasion we were not taken into your confidence, and we understand why we were not. You may say that you had no responsibility to do so. I agree with you; but we expect certain minimum standards in this Parliament and these minimum standards were not complied with.

It is understandable that this is so if you were conniving with the Government or the Government was conniving with you. If you were working together in secret you would not want to tell the Opposition anything about what had happened. There was good security in the party room right up to the announcement of your ruling. No-one brought us any hint of what your ruling would be. Plenty of people came to us afterwards.

It was a moment of great tension, yet—and the members of the Press Gallery would back me up—there was a lack of tension on the Government side, which indicated there was some trickery involved in the proceedings. I looked at all the options of what might happen when the question was put and I thought some members of the National Party might change their vote, or perhaps the member for Subiaco might change his announced stand. I did not believe the blocking of the Bill would be a certainty; not by any means.

There were a number of options, and the lack of tension on the part of the Government confirmed our suspicions. But not for one moment did we believe we would be subjected to such a ruling. The only sign of tension was shown by yourself. You were pale and shaking and this was noticed by my colleagues. Indeed, in this whole disgraceful matter, that was the one redeeming feature. Perhaps your inner feelings were the cause of your hands shaking. Perhaps you were not really happy with what you were doing and you were nervous because you knew it was a distasteful practice.

But the fact remains that you made that ruling. Your alleged independence means nothing any longer. Your independence has been subverted by the Government and you have gone along with its wishes.

I draw attention to the fact that although you had several months in which to deal with and research the matter and to decide on your ruling, none of your research was made available to us, apart from that with which I have already dealt. You gave us 1¼ hours to decide whether or not it was a good ruling. You indicated that you had intended allowing us an hour but, fortuitously, the dinner break allowed us 1¼ hours, but we could not have any dinner.

Nonetheless we did a lot of work and we consulted with outside people. Serious doubts became apparent. We thought your ruling was "a rort" and we could not go along with anything of that nature. I would have thought that, having had months to prepare your ruling, we might have been given more time. The Government might have had the decency to adjourn the matter for a day or a week so that we could consider your ruling. But all you were prepared to do was to adjourn the House for an hour. That was quite an unreasonable length of time and insufficient to enable a detailed study to be made. I suppose I should feel flattered that you thought I would be able to absorb and study your ruling in one hour. I have spent time studying your ruling since then and I have become more convinced than ever that one could drive the proverbial horse and cart through it.

Most of your ruling appears to be irrelevant. What concerns me is just how much further is the Government prepared to go to tamper with Acts of Parliament in order to have its own way. Will it be prepared to do so through unfair and inappropriate Speakers' rulings or some other method in an effort to get its own way?

Politics is a tough game and it is becoming tougher and tougher in Western Australia. Many of the niceties which previously existed no longer exist. We do not want to fool ourselves, but we do expect consideration from the Government and from the Speaker. If we do not receive that reasonable consideration we will be disappointed. There are minimum standards which have to be kept and which we are entitled to expect. We did not receive that respect on this occasion.

I believe your action was an abuse of privilege. It was a breach of well-established precedent. I am disappointed and dismayed with the Government's conspiring and conniving. I believe you debased the office of Speaker when you made your ruling. The Government has unashamedly subverted your independence as Speaker. For those reasons I say the Speaker lacks the confidence of this House and the Government deserves censure for its actions.

THE SPEAKER (Mr Thompson): Before I call the next speaker who will obviously stand to second the motion there are one or two points I would like to make about this matter. In my statement I indicated that this matter was something that had been exercising my mind for quite some time. Indeed, when speaking today, the Leader of the Opposition made reference to Speaker Guthrie's considerations of things concerning the Constitution. The Leader of the Opposition indicated that Speaker Guthrie had said he would discuss the matter with his fellow presiding officers at a presiding officer's conference. That gives force to my statement that for some time there has been considerable consideration given by succeeding presiding officers to matters concerning the Constitution.

Therefore, there is within my department a body of knowledge that has grown up as a result of the consideration by succeeding presiding officers of this Parliament and information that has come to the presiding officers of this Parliament from experience and opinion of the presiding officers of other Parliaments within Australia and, perhaps less importantly, from other Parliaments within the region in which we operate.

So considered effort has been made in this particular area and it was against that background that I discussed the Constitution Amendment Bill with the Clerk of the Legislative Assembly. Approximately a week before 2 September, I formed the view that I should rule in the way in which I ultimately did. However, at that stage, I was not firm in my attitude to it. In fact, I telephoned the Crown Solicitor and made an appointment for him to come and see me at 10.00 a.m. on 2 September. I did not inform the Crown Solicitor precisely what I intended to say to him; but I did say I wanted to talk to him about both amendments to the Constitution. I did not indicate to him what my thoughts were, but I wanted to give him sufficient information so he could study the matter and be alerted to and aware of the issues I wanted to raise with him when he came to see me at 10.00 a.m. on 2 September.

The Crown Solicitor came here and I provided him with a copy of the statement I had prepared between that time and the time I had spoken to him on the telephone.

The Crown Solicitor read the statement. It took him some considerable time to do so, because he read it and digested parts of it. He concurred with the decision I had reached. Indeed, the Crown Solicitor went further and said he was aware the Government had taken advice from the Solicitor General and he reached into his bag to obtain for me a copy of the opinion that had been provided by the Solicitor General to the Government.

The Crown Solicitor indicated to me that the opinion was in line with my thoughts on the matter. I said to him, "I am delighted to know that is the opinion of the Solicitor General, but I do not want to see it. That is the advice the Government has taken and I want you to leave it in your bag." The Crown Solicitor did not bring it out of his bag.

I took that action for the deliberate purpose that I did not want any connection between my decision and the opinion received by the Government. I want to say quite emphatically and unequivocally that no request was made of me by the Premier or any member of the Government—no pressure was put on me by the Premier or any member of the Government—to rule in the way that I did.

If members want to disbelieve me, they may do so. If the Leader of the Opposition or other members of his party, or other members of this House, want to believe the tittle-tattle that goes on around this place in the face of what I am saying now, that is for them to decide and it is a matter for their own consciences.

However, I am telling members that I was not asked by the Government to rule in any particular way. No pressure was put on me by anybody. I arrived at that decision of my own volition and I obtained the advice of the one person I believed to be available to me for legal advice; that is, the Crown Solicitor. He concurred with my view soon after 10.00 a.m. on 2 September. I was then firm in my view that that was the ruling I should give.

The Leader of the Opposition suggested I had months in which to reveal to him and to others what my thoughts were. It would have been quite inappropriate for me to have revealed anything before I had spoken to the Crown Solicitor and I submit to members of this House that from 10.00 a.m. until this ruling was given some time later in the day, there would have been little opportunity and little point in my having made the information available.

Whether or not the ruling is right is something that will be decided in the courts and I do not intend to attempt to defend the ruling I gave. For the benefit of members, I tried to give a comprehensive set of reasons as to why I came to that particular conclusion.

I want to thank the Leader of the Opposition for the way in which he handled himself in his contribution to the debate. He has pointed out what he considers to be flaws in that particular

ruling, and he has drawn some conclusions as to my motives and to certain other matters related to the issue.

I make this statement without any fear that I injure my conscience, because what I tell members are the actual facts of the matter. As the Leader of the Opposition said when he moved his motion to dissent from my ruling on the night of 2 September, there was a great deal of discussion around the corridors of this House with respect to another facet of the Constitution Amendment Bills and that was a rumour circulating to the effect that the view was held by some people that, in these particular circumstances, the Speaker ought to have a deliberative vote. That matter was discussed with me by a number of members, including the member for Subiaco. I said to him, as I said to other members of the House, that it was my view as a result of my reading of the Constitution that no such provision could be established. As far as I was concerned, there was no provision for a Speaker to have anything other than a casting vote brought about only by a tie occurring on the floor of the House.

It is true there was some discussion between myself and other members of this House with respect to that particular aspect, but there was no discussion on the matter between myself and any other member after I had arrived at my conclusion as to how I would rule. It is true the Clerk of the Legislative Assembly and Miss Pick who typed my ruling would have direct knowledge of it and people could probably make out a case for the information being spread abroad by some other means. The fact of the matter is, I arrived at my decision having discussed it with the Clerk, I went firm on my decision soon after 10.00 a.m. on 2 September, and I gave my ruling that night.

I am sorry the situation presents itself as it does, because I have valued the respect which has obviously been paid to me by members of this House and I deeply regret the situation has arisen in which some members of the House challenge or question my integrity and standing. That is the last thing I wanted to occur, but I believe I had a responsibility to do that which I thought was right. That feeling has motivated me on many occasions, with detriment to myself; but that does not enter into it. I do what I believe to be right.

I should like to mention one person who passed through this House who had great influence on me, and that was Sir David Brand. I recall once, very early in my involvement in politics, he was under attack. I cannot remember the particular issue involved; but Sir David Brand said—and I clearly remember him saying it—he would rather be right than popular.

I should like to be popular, but I also have to live with my conscience. I came to a decision without any pressure from anybody and I did what I thought to be right. I may be proved to be wrong when the court finally makes a determination on the matter; but if I am wrong, so be it—I am human and I make mistakes.

There was one other point which passed through my mind and I should like to refer to it. The Leader of the Opposition mentioned the fact that the matter—I presume he meant the Constitution Amendment Bill—was discussed in the party room. I want to tell the Leader of the Opposition and other members of this House that I have not attended a meeting of the joint Government parties since well before I came to the conclusion that I would rule in this particular fashion. I deliberately refrained from going to party meetings in order that I could not be put in a position where questions would be asked or where I might in some way give an indication as to what my intentions were.

In the early part I was not sure the ruling I was contemplating was sound. I was not sure of that until 10.00 a.m. on 2 September, and from that time on I was sure and I went ahead and took the action.

Government members: Hear, hear!

MR H. D. EVANS (Warren—Deputy Leader of the Opposition) [4.30 p.m.]: Even in view of those explanatory remarks, Mr Speaker, I propose still to second the motion moved by the Leader of the Opposition. In the first instance, it is unfortunate that some of the points you made here this afternoon were not included in your original ruling.

Mr O'Connor: It is also unfortunate that you jumped to an unfair conclusion.

Mr H. D. EVANS: Under the circumstances nobody can be blamed for drawing certain conclusions which became so obvious.

Several members interjected.

The SPEAKER: Order! I ask that the Deputy Leader of the Opposition be given an opportunity to make his speech without being subjected to interjections.

Mr H. D. EVANS: Thank you, Mr Speaker. I do point out that you commented you had discussed the matter with the Clerk of the Legislative Assembly about a week before bringing down your decision, and then at 10.00 a.m. on 2 September—the morning before the evening you made your statement—you discussed

the matter with the Crown Solicitor. There would hardly have been enough time for the Crown Solicitor to consider the question in any depth, as it required. Not only was your action unfortunate, but some of the circumstances were not known. It could have been that a deferral of your decision, for a length of time to suit yourself within the limitation of reasonableness, could well have been done in the light of the importance of this matter, and the fact that we are dealing with the Constitution Act.

I would like to examine the circumstances and reiterate what has occurred. Perhaps I will examine some new facets of some of the points raised in your ruling, and how they compare with certain precedents and other practices. I regret that this situation has arisen in the Legislative Assembly of this State. There is no question that the terms of the motion, as moved by the Leader of the Opposition, do express the feelings of the Opposition. It is unfortunate that you, Mr Speaker, have been placed in this position. Where previously you held the regard of this side of the House, which I can say with complete sincerity, as the Leader of the Opposition has indicated our attitude has changed.

The Deputy Premier suggested that the Opposition had jumped to a conclusion. The conclusion was drawn in the circumstances of the time. The Deputy Premier probably knows better than anybody else the problem and situation in which the Government found itself because the Press had been vocal in its speculation. The National Party had taken a very firm stand and reiterated that it was adamant in its view. Also, a member of the Liberal Party indicated a similar view. So, the Government was facing a grave problem.

It is understood the Government examined every possibility to get around the dilemma before coming to the solution finally arrived at. There is no question the Premier was in great difficulty.

The motion moved by the Leader of the Opposition is tantamount to a motion of censure. It is not the first such motion moved—although perhaps that is not precise and accurate. Going back to 28 February 1917, there was an indication that a motion was to be moved by the Hon. F. Walker. His motion expressed the view that there was a want of confidence on the part of the House in the Speaker. He took that action because the Speaker had left off the notice paper a notice he indicated he intended to give. The notice was for the purpose for which he subsequently indicated in the motion. Ultimately, it was not moved but when the debate was concluded the Speaker handed in his resignation.

There is, firstly, the question of precedents which are all important, and upon which you laid some stress in your judgment. You mentioned most specifically that there had been four occasions since the granting of responsible government when the Ministry had been increased. It should be noted that is the section of the Constitution Act about which we are concerned. You mentioned those precedents and those analogies in your judgment, but they were not completely relevant. They may have some bearing. You said you called upon those precedents to support your argument.

The actions taken on previous occasions were not strictly comparable with the subject of your ruling, and it is the last four decisions to which you referred on which greater credence can be placed. In the first and second instances there was no reference to a need for an absolute majority. Nonetheless, there is no evidence to suggest other than that was the case.

The 1927 ruling did not call for the statement that an absolute majority was required. However, it was not put to the vote and it was not tested. Because of that it may be argued—as the Premier indicated or tried to suggest—there was no record of the second reading not having an absolute majority. Neither is there proof that there was one. I think the argument raised was fallacious.

It was said that in the second illustration referred to there was an absolute majority of 35 votes to 12. That certainly is correct. The point was made, and stress was placed on it, that the third reading is of equal import. The Premier knows jolly well—as well as anybody in this House—that it is at the second reading stage the corporate opinion of the House is expressed, and on the occasion mentioned it was expressed as an absolute majority. If anything is to be opposed at the third reading stage, it is a matter which involves very strong feeling. There would have been an indication at the third reading had there been other than an absolute majority.

A further precedent, in line with that quotation, occurs in the 1910-11 case. Although it is not strictly comparable, it was an amendment to the Constitution Act. The Speaker indicated he was prepared to rule on the voices that an absolute majority was present. I think that indicates that an absolute majority is needed at both the second reading and the third reading stages. Logic and reason indicate this view rather than support the Premier's contention.

I would like to refer, Mr Speaker, to the opinion given by two of your immediate predecessors. These were both men for whom you

had respect, and so did this House. In 1975 Speaker Hutchinson, at the second reading stage of a Bill, made it clear that an absolute majority would be required. He put this clearly and unambiguously. He said—

> It is my duty to advise members that this Bill requires an absolute majority. There being no dissentient voice, and having satisified myself that there are 26 members present—

Once again he took it on the voices, and satisfied himself that more than 26 members were present. He continued—

> —I declare that the Bill has the necessary absolute majority, and therefore the question is determined in the affirmative.

That was the amendment to enable the payment of a salary to the newly-created Cabinet Secretary, and probably that case is the closest analogy we have had presented either by the Leader of the Opposition or in the ruling that you gave and elaborated upon subsequently, Mr Speaker. The Secretary to the Cabinet was appointed under the Constitution Acts Amendment Bill, and the need for a constitutional majority was spelt out explicitly by the Speaker.

Then in 1965, the Speaker called for an absolute majority. This happened on 11 August 1965, and Speaker Hearman had this to say—

> Before I put the second reading I must draw the attention of the House to the fact that this Bill will require a constitutional majority.

He went on to say—

> When I put the question, if I hear a negative call at all I will be forced to call a division.

The question was put, and then Speaker Hearman said—

> I have counted the House; and, there being no dissentient voice, I declare the question carried.

In the expressed view of both Speaker Hutchinson and Speaker Hearman, there was no doubt that a constitutional majority was required.

Only last year, Mr Speaker, you yourself expressed doubts on the matter in the terms indicated by the Leader of the Opposition. Certainly you said—

> I therefore rule that although it may not be absolutely necessary to require this Bill to pass with an absolute majority, I shall nevertheless take steps to ascertain that a majority exists.

You took the precaution there, Mr Speaker, of ensuring that there was the majority you required. I accept full well your supplementary remarks of this evening that it was a matter that had exercised your mind for some time and you had taken steps to examine it in some detail. However, it is most regrettable that your decision was made in the way that it was without giving the Opposition and its advisers the opportunity to give the matter some studied examination. This was a reversal of opinion on your part, and under the current circumstances in this place at that time, I can only say again to the Deputy Premier that we cannot blame people for drawing conclusions when the circumstances indicate it is quite justifiable to do so.

Mr Skidmore: I thought we had the right to draw conclusions anyway.

Mr H. D. EVANS: You referred to precedents, Mr Speaker, but the cases to which you referred were a long way from being completely comparable to this one, except the final four you mentioned. We have examined the quotations of those particular Speakers and the circumstances in which they were placed. These were the only instances which could have had some relevance to you in arriving at a decision. You did, however, stress the fact that an appeal was pending in what has become known as the Wilsmore case. The Full Court has now ruled—in a two-to-one majority decision—that an absolute majority was required in regard to one section of the Constitution Act. You referred to that case in your ruling by way of supplementing your argument, but now the court has brought down its decision I wonder whether you are prepared to make a further supplementary statement to indicate your views on the relevance of the decision of the court. At the time you said you would make no further comment on that matter because it was in a sense *sub judice*. In your ruling you said—

> At a later stage, when we have the decision of the Full Court, a firmer conclusion may be drawn.

You did not take the opportunity, Mr Speaker, to draw a firmer conclusion. I cannot help but feel such a conclusion may not have supported your original decision. Indeed, you did not refer to that case.

In your statement this evening I think you made a little clearer the manner in which you arrived at your decision. The unfortunate aspect of it was the manner in which your decision was given in this House. It allowed the Opposition very little time to study your ruling, and I believe

the first part of the motion of the Leader of the Opposition is completely justified.

Part (b) of the motion reads—

> breached well-established precedents of the Parliament without warning,

We have examined five precedents in *Hansard*. Certainly the Speaker is entitled to make his judgments, and he has a responsibility to make his judgments, but proper regard must be paid to precedents. You indicated, Sir, that greater weight must be placed on the earlier precedents, but it is my understanding—and I believe those with legal training in this House would bear me out—that it is the more recent precedents that carry greater weight.

So for those reasons I support the motion presented very fully and capably by the Leader of the Opposition. Once again I say: I regret that this situation ever arose.

SIR CHARLES COURT (Nedlands—Premier) [4.50 p.m.]: The Government would be entitled to treat this motion with scorn for the sham that it is. I remind members opposite that they did not see fit to stay in this House to debate the motion their leader had moved. On the contrary, to try to create some drama and get a headline or two, they decided to storm out of this place leaving their motion undebated at a time when they had the proper opportunity to dissent from the Speaker's ruling, give their reasons and let the matter be decided by this Chamber.

Mr H. D. Evans: You were told the Leader of the Opposition was prepared to go on with the debate. Be honest!

Sir CHARLES COURT: I remind the member for Warren that it was the Opposition which stormed out of this place after their leader had moved a motion of dissent against the Speaker's ruling, and I believe members opposite looked very childish in their action.

That was their decision. Had they continued with the debate and obtained a decision on the dissent ruling and then decided to leave, that would have been bad enough. However, having moved a motion of dissent from the Speaker's ruling, members opposite decided to march out of this place as a sign of protest against the Speaker without giving the Speaker or this House the proper chance to reply to their motion.

Therefore, we would be entitled to consider this motion as a sham. I believe that when the matter was considered by the Opposition in the cold light of day, they realised they had not done what they should have done; namely, to debate the motion of dissent and obtain a decision on that motion. Members opposite decided that one way of retrieving the situation was to move this motion of condemnation of the Speaker.

In my term in this House I have heard many motions of dissent moved against Speakers' rulings. I have heard some very strong arguments advanced with great effect on occasions by different members, both in Government and in Opposition supporting or opposing such motions.

However, I have never before in all the time I have been here heard attempts made to denigrate the Speaker as have been made on this occasion. I think a most unfortunate situation confronts this House. It is one thing to dissent from the Speaker's ruling and to argue strongly against that ruling; that is the right of every member in this House. However, it is quite shameful to denigrate the man holding that office whilst he is holding that office.

Mr Davies: You have not read the motion. It is a motion of no confidence in the Speaker, not in his ruling. You do not even know what you are debating.

The SPEAKER: Order! I ask the House to come to order.

Mr Davies: Have a look at the motion. It is a motion of no confidence in the Speaker.

Mr O'Connor: Why don't you listen for a while?

Sir CHARLES COURT: By his very words, the Leader of the Opposition condemns himself because he has just confirmed the statement I have made.

Mr Davies: You have not read the motion.

Sir CHARLES COURT: Disagreeing with the Speaker's ruling is one thing; members can disagree very strongly, but without denigrating the person holding that office. However, now, presumably at the behest of his colleagues, the Leader of the Opposition has moved this motion of no confidence in the Speaker which, if it is passed, is intended to unseat the Speaker from his present office. In other words, the Speaker would no longer be entitled to continue—after giving him a reasonable chance to tender his resignation—as Speaker of this House. That, of course, is another matter which we need not discuss at this time.

I make the point that there is a very serious difference between debating on the spot a motion of dissent, which was the course open to the Opposition and attempting to denigrate the person who is the Speaker.

I cannot for the life of me understand why the Opposition decided to walk out of this place

without trying to debate its motion and sustain its argument against the Speaker's ruling. However, members opposite, in a very childish way, decided to walk out and leave the whole matter in the air so that it could not properly be debated by this House.

Now we find ourselves with this motion and I find it quite reprehensible. I am disappointed that wiser counsel did not prevail within the Opposition.

The thrust of the Opposition's argument is that the Speaker connived with the Government, or subverted his position, or both. I believe the Speaker has laid that matter right on the line tonight, and very eloquently has explained the exact situation in which he found himself.

I say without any hesitation, reservation, or qualification that at no time to my knowledge did a member of the Government—and certainly not myself—make any attempt to influence the Speaker's decision in respect of this matter.

Mr Jamieson: Did you not ask him in the party room to have a look at the situation?

Mr Watt: The Speaker has already told you he was not in the party room.

Mr Pearce: Do you seriously deny it was raised in the party room?

Sir CHARLES COURT: I will return in a moment to the point raised by the member for Welshpool, if I may. The question of whether a constitutional majority is required is not new to this Government or to this Parliament. The member for Welshpool would not need to have a very good memory to recall occasions when his party was in Government and even the same party when in Opposition examined whether a constitutional majority was required on a certain Bill. However, that is another issue. It is a matter of the law, and it is the right of every citizen, every member and every Government to examine such aspects.

As far as I am concerned, the important point is that, to my knowledge, no-one brought pressure to bear on the Speaker. Certainly, there was no official pressure from the Government, and certainly no pressure came from me.

Mr Jamieson: And you did not say anything to that effect in the party room?

Sir CHARLES COURT: I am not going to enter into a discussion here about the party room. I do not know what tittle-tattle the member for Welshpool has heard, but it is very much par for the course in this life we lead, and the life of the parliamentary parties.

I come back to the point I made earlier to the member for Welshpool: There would not be a political organisation of any size or length of activity which has not at some stage—regardless of the Bill involved—examined whether a constitutional majority was required. However, that is quite irrelevant to this case, to the situation of the Speaker, and to the relationship between the Speaker and the Government.

I repeat without any hesitation or qualification that no pressure was brought to bear on the Speaker.

I can also tell members—and this will be borne out by my colleague—that had the Speaker ruled a constitutional majority or, to use the correct term, an absolute majority was required, that would have been his decision and it would not have been challenged by the Government.

Mr Pearce: Can you answer why the Government sought information from the Solicitor General, and can you indicate to the House the use to which that information was put?

Sir CHARLES COURT: The member for Gosnells should be careful that he does not confuse the Solicitor General with the Crown Solicitor because they are two different bodies. The Solicitor General is established under a Statute with a status of his own, while the Crown Solicitor is in an entirely different situation. I ask the honourable member to remember that when Mr Speaker gave his explanation earlier today, he referred to his consultation with the Crown Solicitor and not the Solicitor General. They are two separate bodies, and never the twain shall meet. The Solicitor General is established under a Statute, which gives him a special position, for a very good reason.

Now I shall deal with the motion itself.

Mr Tonkin: He ducked out of that one.

Mr Pearce: Why did you seek an opinion from the Crown Solicitor?

Sir CHARLES COURT: The Attorney General has said publicly that the rulings given by the Speaker and the President in another place agree in principle with the opinion of the Solicitor General. A lot of play has been made about the fact that we will not table or make public the opinion of the Solicitor General—not the Crown Solicitor. It would be quite extraordinary for any Government or any political party in a situation like this to lay on the Table of the House or make public the opinion of a QC or a person acting in that position. It could be that when an application is made to the Supreme Court on behalf of a person qualified to make that application, the Solicitor General may have to appear in court, at

which time he will give his opinion in person to the court.

Mr Pearce: That still does not answer the question.

Sir CHARLES COURT: The honourable member must realise that when the Government says it will not make the opinion available to the public it is only following the normal course and procedures in these matters.

Mr Pearce: I am asking why you sought the opinion if you did not use it.

Sir CHARLES COURT: I do not know what the Attorney General does each and every day but I know that on many matters he seeks the advice of the Solicitor General, which is the sensible thing for him to do. We have a good Solicitor General.

Mr Pearce: Why?

Mr O'Connor: How dumb can someone be.

Sir CHARLES COURT: I have answered the member's question.

Several members interjected.

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

Sir CHARLES COURT: For the edification of the member for Gosnells, I indicate that there are many Bills which come to Parliament about which the Attorney General, not trusting his own legal knowledge—and he is a good lawyer—seeks advice from the Solicitor General. And so he should.

Mr Pearce: On what action he should take?

Sir CHARLES COURT: No; on the interpretation of a particular law. The member for Gosnells does not seem to understand the fundamentals of how a government works and how the legal system works.

Mr Tonkin: You don't seek an opinion if you have no use for it.

Sir CHARLES COURT: This is the sort of stuff we have to put up with here, with the Opposition continually jumping to conclusions. Opposition members believe that we think in the same way as they do. Our ethical approach is quite different from theirs.

Mr Tonkin: I'll say it is.

Mr Davies: My word.

Sir CHARLES COURT: The way they frame many of their questions indicates their mentality.

Several members interjected.

The SPEAKER: Order!

Sir CHARLES COURT: Part (a) of the motion states—

> (a) failed to give the Parliament proper notice of his intentions on the Bill, despite having ample opportunity and a responsibility to do so on a matter of basic constitutional importance,

For the life of me I cannot find any situation where this is a responsibility of the Speaker. Over the years I have heard many Speakers stand and give their views on many complex issues and I cannot recall one case where a Speaker has ever given to a Leader of the Government or a responsible Minister an indication of what ruling he was going to give the next day or the next week and why he was going to do it.

Any Speaker who did that would have found that his ruling would be debated rather than the substance of the matter before the House. Therefore I believe the Speaker was quite proper in giving his considered views. He stated his case very clearly. He clearly indicated the method by which he arrived at his determination. It is important that we have some regard for the comments he made. His comments have been heeded by the Government. He echoed a very competent lawyer in Speaker Guthrie by indicating the right place for these matters to be tested. Speakers can make wrong decisions. Most are not legally trained men and they make decisions according to advice from the Clerks, from their reading of previous cases and from other sources. They use their good sense.

Mr H. D. Evans: And the Crown Solicitor.

Sir CHARLES COURT: I remind members that the Speaker indicated that it should be the courts and not the Speaker who decides these matters. Decisions made by Speakers and accepted by the House could deny a matter being tested in the courts.

Rather than being condemned, the Speaker should be applauded for the fact that he has given the Parliament a chance to have this particular issue tested in the courts.

Mr H. D. Evans: One that you would not test unless compelled.

Sir CHARLES COURT: Had Mr Speaker ruled that an absolute majority was required, the Government would not have challenged his ruling. The Bill would have lapsed and there would not have been a chance to ascertain what the courts thought of it.

I quote again from the statement the Speaker made when giving his reasons for making the ruling—

> Be that as it may, all those rulings, arguments, and comments do little more than

> illustrate the difficulty Parliament has in interpreting this particular provision in the Constitution. They cannot decide anything for the future. The ultimate decision on a matter such as this is made in an appropriate court.

The Speaker went on and quoted Speaker Guthrie's comments on 4 November 1969 when he expressed his doubt whether presiding officers should give rulings on constitutional matters. He went on—

> I think I can understand the reason for his attitude. If a presiding officer rules, for instance, that a certain Bill requires an absolute majority, or that another Bill needs to be supported by an appropriation Message from His Excellency the Governor, that is the end of the matter unless the House dissents from his ruling. The reluctance of members to carry a dissent motion may well result in a ruling, which is quite wrong in law, becoming a precedent for later cases.

That is the crux of the whole matter. Rather than be condemned, the Speaker should be applauded for highlighting this matter and creating a situation where it can now be subjected to an examination by the courts. I warn that that is not without its difficulties. We have all had experience with the "two-armed lawyer". I mention that the Wilsmore matter is not relevant to this situation.

Mr Bryce: Why did the Speaker cite that case?

Mr O'Connor: Do you think he is right now?

Sir CHARLES COURT: The member for Ascot thinks he has a smart trick. The Speaker's reference to that matter was only in passing, just as my comments are in passing. One of the judges at least made it clear that the question of the Ministry was quite removed from the particular case before the court. The main reason I touched on the Wilsmore matter was that there are four judges who have considered the matter; two have decided there should be an absolute majority and two have decided otherwise. This is the dilemma that concerns us in these matters. I repeat: we should be appreciative of the fact that through the ruling the Speaker has made it is now possible for this matter to be considered by the appropriate court.

The Speaker said he would welcome this action and he has subsequently said he welcomes the decision made by the Government to have the matter tested. So in dealing with part (a) of the motion I indicate that I dismiss it completely because I cannot find any reason to believe the Speaker had a responsibility to give prior notice of his ruling to the Government or the Opposition. He was quite right to preserve his independence and make his decision known to the Parliament at the appropriate time.

Part (b) of the motion is—

> (b) breached well-established precedents of the Parliament without warning,

I cannot find any precedent breached by the Speaker. He acted with great propriety; he acted in an exemplary fashion. He gave a considered opinion. He did not just give a ruling but gave reasons for it, and without those reasons there would be less room to move. When we try to explain things we finish up with more trouble over the explanation than the decision made. The Speaker did not breach any well-established precedent of the Parliament without warning. To the best of my knowledge he did not breach any precedent.

Part (c) of the motion states—

> (c) apparently conspired with the government to save it from political embarrassment,

What a shocking and cruel thing to say. I hope both the Speaker and I have laid low that suggestion for all time.

Mr Barnett: You ganged up.

Sir CHARLES COURT: If the member for Rockingham ever gets to the position where he is a Minister—which I doubt very much—he might not mind my giving him some fatherly advice. He will find he should answer questions of that kind in the way I answer them. He will find that when he is in public life and holding a position of responsibility he has to be careful with those, "Have you stopped beating your wife" type remarks.

He might find as I have found that when he tries to be helpful on one occasion he gets beaten over the head the next time. The answers given by me and my deputy were very right and proper. I will not be interrogated here on discussions I have had with the Speaker.

Mr Barnett: I thank you for the fatherly advice, but it has not redeemed my confidence in you.

Sir CHARLES COURT: I have no intention of speaking about conversations I have with the Speaker, the Leader of the Opposition, or anyone else. There are some things one does which should not be used to embarrass the parties concerned.

Part (d) of the motion reads—

> (d) debased and degraded the office of Speaker,

I reject that completely. It is a shocking thing to say. When we consider the history of this situation and the way it has been handled by the Speaker, the way the Government has reacted to his decision and the way it has begun to test what is right and proper in an appropriate court, one can see that nothing wrong has been done. This matter will have to go to the Supreme Court. A case will have to be prepared properly and studied to see that it is suitable to present to the Supreme Court so that a decision can be made.

For the life of me I cannot see why the Opposition, after walking out as it did and denying its own motion to disagree with the Speaker's ruling, now wants to approach it in another way to try to redeem itself by seeking to denigrate the Speaker and to associate him with the Government, suggesting that he has connived with it and subverted his position.

I wonder how the Opposition felt when, as Speaker of the House, the Speaker voted against the Government. On that occasion I recall the Opposition applauded his independence, his courage, and his strength! Just because the Speaker makes up his mind independently and gives a ruling with which Oppostion members are not happy and which cuts across their ideas, they start this donnybrook. First of all they walk out and now—

Mr Pearce: You called for his resignation three years before we did.

Sir CHARLES COURT: —they move this motion to get him out of the Chair. I can only emphasise the fact that the Speaker has done this House a great service in allowing us the chance to have this matter tested. Hopefully, it will be settled once and for all. However, with my experience of legal matters I know one can never reach a point where a matter is settled once and for all.

Mr Speaker, you raised the question of the Speaker's vote. It is a fact that the matter was canvassed widely with regard to the position of the Speaker when his vote may be necessary to make up an absolute majority—that is, to make the 27 into 28. It did appear to some that it was a rather incongruous situation where a whole electorate was disfranchised. It is not relevant to the matter before us, but there could be a situation—

Mr Jamieson: You don't think it would be efficient to have people vote in that circumstance?

Sir CHARLES COURT: One could have a Government which had a majority of one as the Labor Party has experienced and as the Brand Government experienced on one occasion for six years. In such a situation 28 votes are required. There could be a situation where there were 27 Government voting people on the floor of the House, and the Speaker sitting in the Chair without a vote and his electors being disfranchised. I am not advocating that this situation should be corrected now but I believe it is something which should be pondered, because the Opposition could—as it has done before—take a couple of people out of the House so the Speaker does not have a chance to cast a deciding vote. Therefore, the "even-Stephen" situation would never be reached. But, if the Speaker's latent vote was usable then of course the 28 would be reached. That matter was canvassed, and although it is irrelevant to this particular issue, I have mentioned it because the matter was raised by the Speaker.

Several members interjected.

Amendments to Motion

Sir CHARLES COURT: The Government rejects completely the motion of censure on the Speaker and the motion of censure on the Government. To put the record straight, I wish to move an amendment to the motion.

Mr Barnett: You were right the first time. You want to rule. Born to rule.

Sir CHARLES COURT: It is important that I read the preliminary words because it makes logic of it. The preliminary words that remain are, "Noting that in a ruling on the Constitution Amendment Bill, the Speaker . . ." and then the existing words are deleted and other words follow.

Opposition members interjected.

The SPEAKER: Order!

Sir CHARLES COURT: I move an amendment—

> Delete all words after the word "Speaker" in line 2 with a view to substituting the following—
>
> 1. Exercised his independence and unquestioned right—

Several members interjected.

The SPEAKER: Order!

Sir CHARLES COURT: To continue—

> —to give a ruling which, in his opinion, was the right and proper one at the time;
>
> 2. Acted in the best tradition of the role of the Speaker of the Legislative Assembly of Western Australia;
> 3. Wisely explained to the House—

Several members interjected.

The SPEAKER: Order!

Sir CHARLES COURT: To continue—

—that the place where matters of the kind under consideration at the time should be finally determined by the appropriate Law Courts,

this House deplores—

(a) the inexcusable conduct of the Opposition in leaving the Chamber without debating the motion to disagree with the Speaker's ruling on 2nd September, 1980, and which motion was introduced by the Leader of the Opposition; and—

(b) the unwarranted attacks by Members of the Opposition on Mr Speaker,

and affirms its confidence in Mr Speaker.

Now, Mr Speaker, members will be able to see from the amendment that I have moved that it puts into perspective all the points I have endeavoured to make in respect of the Government and the Speaker's attitude. It also puts into perspective our rejection of the motion moved by the Opposition.

The Government has acted very properly. It has moved to have the matter tested in the proper place. This provides a logical flow-on from the advice given, first of all by Speaker Guthrie and then by the present Speaker. In the light of the circumstances not only has the Speaker acted properly on the matter but the matter has been moved promptly also. It ill behoves the Opposition to attempt to denigrate the Speaker and terminate his term of office. Likewise, if the Opposition moved a motion of no confidence in the Government, the consequences would be serious indeed. That is obvious to all members of the House. I move this amendment hoping the House will adopt it and therefore put the record the way it should be.

The SPEAKER: Is there a seconder to the motion?

Mr O'CONNOR: I second the motion.

MR BRYCE (Ascot) [5.22 p.m.]: We on this side of the House naturally oppose the amendment. The Opposition supports the sentiments which were outlined in the motion put to this House by the Leader of the Opposition.

The substance of the amendment before us was almost a cause for laughter on this side of the House. The Premier takes himself so seriously that he seems to be so far apart from reality in respect of this matter. We on this side of the House had to sit here and listen to the pious rubbish contained in the amendment. We could hardly believe our ears. It must have been difficult for him. How awkwardly it must have stuck in the Premier's craw to say those things about you, Mr Speaker: A man who has come through very serious and difficult times since the day you stood up in this place some three years ago and expressed an opinion different from that of the Premier.

Mr Speaker, in one shaky speech on 2 September, you undid a great deal of good that had been done in the past 4½ to five years in your capacity as Speaker in this House. In one simple speech you politicised the Chair in this place and we on this side of the House are left with no other conclusion than to assume that you acted for personal political reasons.

You, Mr Speaker, like the famous spy have come in out of the cold. We have a Speaker who has come out of the cold. You were virtually sent to Coventry by your Liberal Party colleagues in 1977. Who could not admire your courage on that occasion when you stood up to the Government? But, Mr Speaker, you have decided—just like the spy in the novel—to come in out of the cold. You have decided that it was a proper time to ingratiate yourself either with the Premier who runs a one-man band or your Liberal Party colleagues.

In our eyes, by your actions on that particular occasion Sir, you have declared yourself a candidate for ministerial appointment. There is no doubt that the Speaker in this House is probably the most politically ambitious man to ever occupy this position. Everyone knows of the Speaker's aspirations to lead the Liberal Party. I say that with a sense of authority; based on the same type of foundation as used by the member for South Perth on so many occasions. On the basis of authority—from undisputed sources around this place—we have been told there has been a deal done to offer you, Mr Speaker, deputy leadership of the Liberal Party when the Premier steps down.

I say that on the basis of the very best of authority—the very best of authority. It is perhaps the next brick in the great foundation from which the member for South Perth drew his very authorative arguments in recent times about a totally different issue.

It was not simply your decision Mr Speaker, but the way in which you made that decision which has caused your loss of confidence of the members on this side of the House.

Never again can you expect to enjoy the respect you held prior to that decision. Because of the importance attached to that particular decision

and the way in which this chamber had seriously to consider the consequences of the legislation which was before the House, we on this side of the House were absolutely disgusted at the manner in which it was conducted and with the decision itself.

I intend to illustrate what I mean by that statement. Today, Mr Speaker, you became the first Speaker of the Legislative Assembly in Western Australia's history who has ever had to face a serious and genuine want of confidence motion.

The Deputy Leader of the Opposition indicated that as far back as 1917, the Speaker in this place had to face a motion which read as follows—That this House is dissatisfied with the Speaker's decision in regard to his action in withdrawing the member for Koombana's notice from the notice paper.
That was a very mild form of rebuke.

Since its inception, there have been in this place 22 Speakers of the Legislative Assembly and never before has the Opposition of any complexion, found the need to move a substantive want of confidence motion on the behaviour of the Speaker.

If we reflect on that period—going back about 90 years—we will note there have been numerous controversial decisions made from time to time. However, never previously has an Opposition, or a Government for that matter, found it necessary to move in this fashion.

The Opposition did not make this move lightly and I believe this is a proper time for me to explain to the Premier that it was not simply a matter of the members of the Opposition moving that those sitting on this side of the House should dissent from the Speaker's ruling. So shabbily was that particular ruling dropped like a bomb in this place as an eleventh-hour decision at the end of a second reading debate—just before the vote was taken—that we on this side of the House decided that the tactics required not simply a question of dissent from your ruling, Sir, but an expression of a want of confidence.

Sir Charles Court: You don't really mean that. Why did you move to dissent?

Mr BRYCE: There is a perfectly valid reason and if I may answer the Premier through the Speaker I will do so. That action was the only Standing Order that was available to any member on this side of the House after the Premier had closed the debate.

That fact highlights the urgency of the situation and what we on this side of the House consider to be one of the most contentious aspects of how it was done. The Premier had closed the debate with his second reading speech in reply.

Sir Charles Court: Not on the dissent to the ruling. I could not close the debate.

Mr BRYCE: We were discussing a very significant constitutional Bill and the Premier had closed the debate on the question and you, Mr Speaker, gave your ruling at that stage.

At that stage—not at the beginning of the debate, which in our opinion would have been a reasonable and decent course of action—everybody knew there was serious concern about whether or not a constitutional majority was necessary. There had been speculation in this institution and in the Press for many weeks in respect of what was likely to happen; and not at the outset of that substantive debate, or some weeks earlier when you had made up your mind, but when the debate was finished, you indicated that members of this House were to be given, in your own words, no more than an hour to consider something which you had had six months to consider and on which the Government had for six months had at its disposal free of charge the resources of the Government "legal eagles" and the Solicitor General under the terms of the Solicitor-General Act. At the eleventh hour, when the question was to be put to this Chamber, you, Mr Speaker, decided it was reasonable and decent to give members who were not privy to your decision one hour to consider the substance of it.

The question which has been put to the Chair indicates that we find your actions have been reprehensible in three different ways: firstly, the manner in which you conspired with the Government to subvert the Consitution.

Point of Order

Sir CHARLES COURT: I take exception to the word "conspired" because it means there was a conspiracy involving two parties. I ask that it be withdrawn. I was hoping that expression had been dropped by the Opposition.

The SPEAKER: I believe it is inappropriate to use that sort of word in the light of the circumstances. However, I do not want to appear to be ruling to prevent members of the Opposition debating this motion fully and vigorously, because of the very peculiar situation in which I find myself. Having said that, I certainly hope members of the Opposition will respond by using moderate language when debating this question. I will not ask the member for Ascot to withdraw.

Debate (on amendment to motion) Resumed

Mr BRYCE: Mr Speaker, I draw your attention to the fact that that precise language is used in the motion. Earlier in the debate the Leader of the Opposition accused the Premier of not reading the motion. That is exactly the case.

Sir Charles Court: I read the original motion printed on the notice paper, clause by clause.

Mr BRYCE: I believe I have made my point. The Premier did not read or comprehend the wording of the motion which was placed on the notice paper by the Leader of the Opposition. I said nothing more or less than exactly what the Leader of the Opposition said in his motion.

I was at the point of demonstrating that we on this side of the House are gravely concerned about three essential reprehensible features of your action. The first is that you conspired with the Government to subvert the Constitution. The second is that you acted irresponsibly by waiting until the eleventh hour to drop the bombshell in respect of the substance of your decision. The third is that you breached well-established precedents in respect of the decision itself. There can be no doubt about that in our minds.

We are not unaccustomed to seeing members of the Liberal Party break conventions, bend Constitutions, or subvert Constitutions when it suits them; yet the same party has the temerity to go onto the hustings and argue and express its concern for law and order. We have seen members of the Liberal Party break conventions nationally. We have seen the same Premier break conventions in this place on previous occasions, and this is another example.

Sir Charles Court: Which conventions?

Mr BRYCE: Time and time again during the life of the Tonkin Government the Premier advocated that the upper House break convention by refusing supply to the democratically elected Government of the day. That is a fundamental convention upon which democratic government has existed in this State since responsible government was installed here.

I will explain those three points very briefly. We have on the very best of authority information which demonstrates to us that this question was discussed in the Liberal Party meeting room, and that it was discussed in your presence, Mr Speaker. Whether or not that was before you made up your mind, we have received that information and it concerns us very gravely.

Mr Coyne: State the source of the information.

Mr BRYCE: I will state the source of the information in exactly the same way as a Minister who sets some of the standards in this place in respect of sources of information. I am referring to the Minister for Education and Cultural Affairs. I will state that source in exactly the same way as he states the sources of information he quotes in this place so frequently. Would not members opposite dearly love to bully and intimidate the person or persons on their own back benches who told members of the Opposition that this matter had been raised in the Liberal Party meeting room in your presence, Mr Speaker?

Mr Watt: I believe you made it up.

Mr Clarko: Who would want to talk to you on that side?

Sir Charles Court: The wrong information on the wrong substance.

Mr BRYCE: During the course of debate on the Bill in question it was passing strange that never at any time did members opposite look the slightest bit concerned about the success of the Bill. We know that very well.

Sir Charles Court: We have a course in psychiatry now, do we?

Mr BRYCE: The way in which the Premier responded to the National Party and his own back-bencher, the member for Subiaco, indicated quite clearly that the Government did not need them. The Premier was not the slightest bit worried.

Sir Charles Court: Don't talk rot!

Mr BRYCE: He knew the decision he had received from the Solicitor General was the same decision which had been passed on to you, Mr Speaker. That is why that legal source was able to say to you, "This has already been considered and thrashed out. We have come to our conclusion; we know what the position is."

Sir Charles Court: I had had no opinion from the Solicitor General. Let us get that straight. I made that clear to the member for Gosnells.

Mr Pearce: You certainly did not.

Mr BRYCE: When a question to amend the Consititution was before this Chamber in November 1977, the simple essence of that situation, in our eyes, is that on that occasion the Parliament was being asked to incorporate a reference to local government in the State Constitution. You raised the query as to whether or not a constitutional or absolute majority was really necessary and, if I may be excused for not quoting every word you said in your ruling, you indicated to this Chamber, "When in doubt, err on the side of caution."

That is exactly what we believe should have happened when the particular Bill which has been the subject of so much controversy came to this Chamber, and subsequently. You indicated on that occasion that it was absolutely essential to clarify this position beyond any reasonable doubt, and that therefore the safe course was for a Government actually to have a constitutional majority. In respect of that ruling, you intimated through your statement that on occasions when Governments had massive majorities they did not necessarily need the ruling from the Speaker; but on other occasions since then there have been Governments in this place which lacked constitutional majorities on the floor and they did need constitutional majorities.

We are suggesting from this side of the House that consistency is absolutely essential. Subsequently, you flew in the face of precedents which had been established by four previous Speakers and by your own decision in November, 1979. In 1975 and 1965 Speakers clearly and unequivocally indicated to this House that a constitutional majority was essential. On the other two occasions in 1950 and 1927, when the size of the Cabinet was increased, that situation did not occur; the Speaker did not rule then that a simple majority was inadequate. We know that in 1950 the Bill went through with a massive majority on the second reading, and that established quite categorically where everybody stood.

Sir Charles Court: Just one simple question: If the Supreme Court decides that the Speaker was right, will you apologise to him?

Mr BRYCE: To answer the Premier, I will not apologise because, as I have already indicated, our concern in moving this motion is based as much on the seamy manner in which the Speaker acted as on the substance. If the Premier cannot get that through his head, he has probably reached the stage where he should quit the high office he holds. I repeat for his benefit that we on this side of the House are concerned as much about the way it was done as about what was done. I therefore indicate that, irrespective of the finding of the court when the Government—or should I say the taxpayers—foots the Bill to test this case for the Liberal Party's peace of mind and perhaps to appease the anxiety of the member for Gascoyne and the member for Murdoch, we on this side of the House will not change our attitude in respect of this fundamental issue.

Adjournment of Debate

Mr BLAIKIE: I move—

That the debate be adjourned until a later stage of the sitting.

Several members interjected.

The SPEAKER: The member for Vasse, acting in the capacity of Government Whip, has sought my permission to move to that place in the House; so he is in a place in which I can recognise him.

I say quite frankly that I would prefer the debate continued, but it is obvious there is a desire on the part of members that questions be taken at this stage. I will therefore put the question.

Motion put and passed.

Debate adjourned until a later stage of the sitting.

QUESTIONS

Questions were taken at this stage.

CONSTITUTION AMENDMENT BILL

Lack of Confidence in Speaker, and Censure of Government: Amendment to Motion

Debate resumed, from an earlier stage of the sitting, on the following motion by Mr Davies (Leader of the Opposition)—

Noting that in ruling on the Constitution Amendment Bill, the Speaker:

(a) failed to give the Parliament proper notice of his intentions on the Bill, despite having ample opportunity and a responsibility to do so on a matter of basic constitutional importance,

(b) breached well-established precedents of the Parliament without warning,

(c) apparently conspired with the government to save it from political embarrassment,
and,

(d) debased and degraded the office of Speaker,
therefore, this House declares:

(i) that the Speaker lacks the confidence of the House,
and,

(ii) that the government be censured for ignoring the rights of Parliament and subverting the independence of the Speaker.

To which Sir Charles Court (Premier) had moved the following amendment—

> Delete all words after the word "Speaker" in line 2 with a view to substituting other words.

MR B. T. BURKE (Balcatta) [6.13 p.m.]: I intend to oppose the amendment moved by the Government and to support the motion moved by the Opposition. Although I do not have time to develop all of the points I want to refer to during my speech, which will be fairly brief, I do want to say one thing, and I say it without any equivocation whatsoever.

Prior to the debate on the Constitution Amendment Bill taking place in this House, the Premier of this State deliberately sought out the Speaker and prevailed upon the Speaker in respect of the Bill that was coming up for debate.

Sir Charles Court: That is completely untrue.

Government members: Rubbish!

Sir Charles Court: Completely untrue; and you should disclose the source of your information.

Mr B. T. BURKE: I will disclose the source of my information, much to the embarrassment of the Premier, shortly. I am sorry that he has seen fit to deny something that is true. I am also sorry that his denial will force me to disclose the source of my information. Nevertheless, the source will be disclosed.

Before doing so I will repeat that, prior to the debate on the Constitution Amendment Bill that was the subject of considerable discussion, and concern, and the ruling that has given rise to this motion, the Premier deliberately sought out the Speaker and prevailed upon him in respect of that Bill.

Sir Charles Court: That is completely untrue—completely untrue.

Mr B. T. BURKE: My source for that information is the Speaker himself.

Sir Charles Court: Well, the Speaker has already given you his answer.

Mr B. T. BURKE: My source for the information is the Speaker himself.

The SPEAKER: Order!

Mr B. T. BURKE: I repeat that prior—

The SPEAKER: Order! I would ask the member for Balcatta to resume his seat.

There is remaining about one minute, but perhaps I might take a little longer.

You will recall when I made my statement a little earlier I said that several members of the House had discussed with me the matter of the suggestion that the Speaker should have a deliberative vote. One of the members who discussed that with me was the member for Balcatta. He did so in my office. During the course of that conversation, I told him that it had been suggested to me by a number of members—and I do not deny that I told the member for Balcatta that the Premier said to me that he thought that in some circumstances there should be a deliberative vote for the Speaker on a constitutional Bill.

Now, the member for Balcatta, when he returned from the Eastern States recently, and when we were having a conversation about another matter altogether, put to me the point that I had told him that, in a conversation that we had had in my office, I had said that the Premier had asked me about or had discussed with me the question of the ruling that I gave. I told the member for Balcatta in that telephone conversation that that was not the case.

It could not be the case because there had never been any discussion between me and the Premier on that matter.

Mr B. T. Burke: I agree with that entirely.

The SPEAKER: The only thing I can say is that if the member for Balcatta now makes the charge that the Premier deliberately sought me out, he is placing a construction on that particular issue, because that is the only time I can recall he and I discussed the matter.

Mr B. T. BURKE: Very quickly, on a point of order, let me say again that the words I used were that the Premier sought out the Speaker and prevailed upon the Speaker in respect of the Bill.

Government members interjected.

Mr B. T. BURKE: What did members on the Government side think I said? Let us check *Hansard* and see. I said that the Premier—

The SPEAKER: Order!

Mr B. T. BURKE: —sought out the Speaker and deliberately prevailed upon the Speaker in respect of the Constitution Act Amendment Bill.

The SPEAKER: Order! The member will resume his seat.

Sir Charles Court interjected.

Mr B. T. Burke: And the Premier has been caught out.

The SPEAKER: Order! I will leave the Chair until 7.30 p.m.

Sitting suspended from 6.18 to 7.30 p.m.

Mr B. T. BURKE: I am sorry to have occasioned such an outcry within the ranks of Government members and so that there will be no mistake about what I said, let me quote from a corrected copy of the *Hansard* transcript so that nobody is in any doubt as to what I said, what the Premier said, or what the Speaker said.

In the second paragraph of my speech I said—

> Prior to the debate on the Constitution Amendment Bill taking place in this House, the Premier of this State deliberately sought out the Speaker and prevailed upon the Speaker in respect of the Bill that was coming up for debate.
>
> Sir Charles Court: That is completely untrue.
>
> Government members: Rubbish!
>
> Sir Charles Court: Completely untrue; and you should disclose the source of your information.
>
> Mr B. T. BURKE: I will disclose the source of my information, much to the embarrassment of the Premier, shortly. I am sorry that he has seen fit to deny something that is true. I am also sorry that his denial will force me to disclose the source of my information. Nevertheless, the source will be disclosed.
>
> Before doing so I will repeat that, prior to the debate on the Constitution Amendment Bill that was the subject of considerable discussion, and concern, and the ruling that has given rise to this motion, the Premier deliberately sought out the Speaker and prevailed upon him in respect of that Bill.
>
> Sir Charles Court: That is completely untrue—completely untrue.

With due respect, without going through the whole of the Speaker's statement, I would refer members to that part of the statement which reads as follows—

> . . . I do not deny that I told the member for Balcatta that the Premier said to me that he thought that in some circumstances there should be a deliberative vote for the Speaker on a constitutional Bill.

Mr Hassell: Which has nothing to do with any constitutional Bill before this House.

Mr O'Connor: That is absolutely right.

Mr Carr: You are joking!

The SPEAKER: Order!

Mr Hassell: There is nothing in either of the Bills concerning a deliberative vote for the Speaker and you deliberately set out to mislead the House.

The SPEAKER: Order! The House will come to order. I will ask the member for Balcatta to continue his speech without inviting interjections.

Mr Pearce: You are a disgrace to the legal profession.

Mr B. T. BURKE: I am perfectly happy to continue. It was not my wish to outline to the House precisely the circumstances in which the Speaker told me that he had been approached by the Premier.

Mr Hassell: No, you would rather leave it in the air, wouldn't you?

Mr B. T. BURKE: However, because of the insistence of the Minister for Police and Traffic, I am perfectly happy to do so and I will now tell the Minister what the Speaker told me.

Mr Hassell: More untruths!

Mr B. T. BURKE: When I raised the question of this Bill with the Speaker he said that the Premier had approached him and told him that, in respect of the Bill, the Speaker had a deliberative vote as well as a casting vote—

Sir Charles Court: I am sure he would not have done that. There is no way there could be a deliberative vote.

Mr B. T. BURKE: With due respect, we have already heard the Premier deny that he approached the Speaker in respect of those matters to which I have referred—

Sir Charles Court: That is correct.

Mr B. T. BURKE: —specifically in respect of that Bill, and yet we know—

Mr Hassell: The matters referred to were "the Bills". You quoted the words from *Hansard*.

Several members interjected.

The SPEAKER: Order! The member for Balcatta will resume his seat. The House will come to order.

Point of Order

Sir CHARLES COURT: On a point of order—

Mr B. T. Burke: Sit down!

Sir CHARLES COURT: I just want to make it clear, the member has referred to "that Bill".

Mr Bryce: Where is your point of order, you old blusterer?

The SPEAKER: In order that I may hear the Premier, I ask the House to come to order.

Sir CHARLES COURT: The member keeps referring to "that Bill" which was the Bill before the House. In fact, there were two constitutional Bills; one was called the Constitution Amendment Bill (No. 2). The point the member is trying to make is quite scurrilous. It was never part of either Bill.

Mr B. T. Burke: Don't you start that business.

Mr Bryce: You are not entitled to debate that.

Mr Davies: You have been caught out once again.

The SPEAKER: Order! I believe that in taking his point of order, the Premier has made his point. I ask the member for Balcatta simply to debate the question before the House.

Debate (on amendments to motion) Resumed

Mr B. T. BURKE: Let me just once more briefly go through the process of definition by which I assigned meaning to the matter to which the Premier referred and I quote from *Hansard* as follows—

> ....the Bill that was the subject of considerable discussion, and concern, and the ruling that has given rise to this motion ...

That identifies the Bill and my point is maintained—

Mr Hassell: It is not maintained.

Mr B. T. BURKE:—that in respect of the controversy surrounding that Bill, the Premier deliberately sought out—

Several members interjected.

The SPEAKER: Order! The House will come to order. I ask the member for Balcatta that when I get to my feet to call for order, he resume his seat.

Mr Tonkin: Control the Minister for Police and Traffic!

The SPEAKER: I would ask members to display decorum in handling this matter, and I ask the member for Balcatta to confine his remarks to the question before the Chair.

Mr B. T. BURKE: To my mind it is a disappointment that the Government has seen fit to move an amendment in the manner in which this one is framed. I can understand perfectly the Government's position, but it seems to me to be a case in which the Government may quite purposefully have voted out the Opposition's motion.

Mr Young: Have you finished with that scurrilous attack on the Premier?

Mr T. H. Jones: Give him a go!

The SPEAKER: Order!

Mr B. T. BURKE: Each time I try to get onto the matter members opposite start again.

The SPEAKER: Order! I ask the member for Balcatta to continue his speech and suggest the interjections cease.

Mr B. T. BURKE: It would seem to me to have been appropriate for the Government to adopt a procedure by which, if it disagreed with the Opposition's motion, it voted against that motion and defeated it on the floor of the House. It adds nothing to the motion, to the debate, or to the proceedings generally to seek, if members like, political one-upmanship to amend the motion in the way in which it is being amended.

I want to say this also: As far as I am concerned personally, the major provocation to the Government's action in its present position is the legal implication that faced it when it considered the appointment of two Ministers, whose appointment was sought by the legislation that is the subject of this controversy. The House should know that, had the Government proceeded to appoint those two Ministers and had they occupied their offices, receiving the payment afforded to ministerial rank, and had it subsequently been proved that the legislation was invalid, those two Ministers would have been forced to resign their seats.

That explains, in a nutshell, just why this Government has bound itself into the dilemma in which it is now ensnared. There is no question that, had those two appointees occupied offices of profit under the Crown as a result of legislation that was invalidly enacted, their seats would have been subject to the declaration that they were unoccupied, and that by-elections would have followed.

It is also true that, in those circumstances, a daily penalty would have been appropriate as a further sanction on the particular action that had taken place.

The last comment I want to make to some extent reflects not on your person, Sir, but on your attitude towards the way in which this problem was approached. I say nothing about dishonesty or any of those things, but it would seem to me to have been a much more preferable situation when notice had been given of this Bill, for the Speaker to have sought a declaration from the courts as to the validity of the proposal, bearing in mind that notice having been given, it would have been not a moot or unreal question, but a real question. In that case, debate on the whole matter should have been put aside until the declaration had been obtained.

Had that process been followed, there would have been no need whatsoever for any of these actions which have occurred to have taken place. I am afraid, to that extent, whilst realising that you, Sir, are not a solicitor, barrister, or legally qualified person, I am critical of the way in which this particular matter was handled, because it seems to me that it does Parliament no good whatsoever to have the continual disintegration of standards that has been occurring during the past few years. That tendency will continue unless something is done about the way in which—

Sir Charles Court: Look who is talking now!

Mr B. T. BURKE: —Ministers, in particular, comport themselves in this place.

I conclude simply by saying that perhaps a little longer reflection initially on the course that should have been followed would have resulted in the evasion of what has come about. It serves no-one well that the Government moves to amend this motion in such a highly political way when it could have satisfied itself, using its superior numbers, by voting out the no confidence motion which has been moved. Speaking personally, it is a matter of great regret for me that it has been necessary for the Opposition to move such a motion.

Sir Charles Court: God save the Queen!

MR JAMIESON (Welshpool) [7.42 p.m.]: The Queen having been saved, I should like to say a few words on this matter. It is extremely difficult for Parliament to deal with a matter for which there is no precedent.

I am sure you, Sir, would be aware of the situation, because you would have examined the annals of Parliament in an endeavour to seek out a precedent for a motion in these terms.

Indeed, as the member for Balcatta has indicated, the amendment does not do a great deal, because it finishes up by saying, "and affirms its confidence in Mr Speaker". One wonders what would happen if the amendment were carried and the motion rejected. One wonders what you, Sir, would be doing tomorrow with a piece of paper and a pencil, because it seems to me the amendment implies the same thing. One should be careful when drafting an amendment that one does not achieve exactly the end one seeks not to achieve.

However, I should like to return to the matter of precedents. As far as I am able to ascertain, a motion of no confidence in the Speaker has never been moved in this Parliament since we have had responsible government; that is, since 1895.

The two occasions on which there were some moves in this regard, it is interesting to note that some remarkable results occurred. One of the occasions and the results it produced, makes me wonder whether you, Sir, should be sitting in that Chair at all.

On 19 October 1910, a vote of want of confidence in the Speaker was moved by Mr Holman in the following terms—

> That Mr Speaker has not the confidence of the members of the House.

The Speaker (Mr Quinlan) then rose and said—

> With reference to the motion, I will ask the Chairman of Committees to be good enough to take the Chair.

I do not know whether that is a precedent. I understand they do not accept such things in the House of Commons. I will come back to that directly because another Speaker was following the House of Commons line in his thought. However, nobody knew what was to happen as a result of that because Holman rose and stated that he would not move the motion. That ended that particular lesson, except the Speaker, on that occasion, felt it was not desirable he should chair such a debate.

One wonders whether it is desirable, or whether there are other precedents—or whether it is in your interests, Mr Speaker—to remain in the Chair during this debate. One wonders whether it is possible to find any precedent. In the case of Speaker E. B. Johnston, he got out rather lightly by using Standing Orders—which I am glad you did not do. The Standing Order stated that if any notice contained an unbecoming expression the House may order that it shall not be printed, or may expunge it from the notice paper or minutes by the order of the Speaker. When somebody tried to put the notice of motion disparaging the Speaker—expressing no confidence in the Speaker—he ruled that it contained unbecoming expressions. As a consequence, he ruled that the Clerks not include it on the notice paper. Therefore, the motion could not come forward.

They were a rugged lot in 1917 under Speaker E. B. Johnston, and they decided to tackle it in some other way. They raised the issue on a matter of privilege. After debating it for countless hours, and possibly several weeks, the motion was carried which, in effect, stated that the House did not agree with the Speaker in any case and he duly resigned.

Those are the only two occasions of direct motions. We seem to be making a lot of history during this session. Earlier in the year you, Mr Speaker, were the first Speaker in 70 years who

was subjected to a ballot for election to the Chair. Now, you are the first Speaker in Western Australia to have a motion of no confidence moved against you in this place. You will go down with some sort of record, and this debate will be referred to later.

I come now to the aspect of your actual ruling, and the time when you supplied notes to us. I think the Speaker should appear to be apart from the people you now claim to have had no association with. I can remember reading in the Press somewhere that you were indulging in some sort of champagne party after the walkout of the Opposition. The least I can say is that was a doubtful course to take. You can do what you like in your own room, but if you want to be considered above the others, you should not have celebrated in some wild fashion.

The SPEAKER: Order! I ask the member for Welshpool to resume his seat. I did not know whether or not I should refer to that particular facet when I made my statement earlier.

Point of Order

Mr DAVIES: On a point of order, Mr Speaker: Three times tonight you have interrupted members in full flight. Do you think that is fair? Immediately something occurs to you, it appears you want to answer it. That is not in the rules of debate.

The SPEAKER: In reply to the Leader of the Opposition, he has made it clear I should not have something to say on the matter. I concur. I should not, and I shall resume my seat.

Debate (on amendments to motion) Resumed

Mr JAMIESON: I was referring to the fact that I remember reading an account in a newspaper to the effect that you attended a party. The statement has not been denied. I have not seen a denial of it, so one must assume it is in accord with what occurred.

I was not present on the occasion so I cannot verify the facts. Undoubtedly, those who were around probably would know more about it.

Mr MacKinnon: Are you saying the Speaker should never have a drink with other members of Parliament?

Mr JAMIESON: I am not saying that at all. I was referring to a delicate occasion. For the benefit of the person who has just been made an Honorary Minister—a position which was created for him so that he could read his speeches and conform with Standing Orders—I will make it very clear that the reason I made the statement was I thought it was a delicate situation and "unpolitical" for the Speaker to take such action on such an occasion.

Mr MacKinnon: It would have been very difficult for him to have a drink with members of the Opposition when they were not here. I think your comments are unfair.

Mr JAMIESON: I appreciate that aspect but I am pointing out it was probably undesirable that it took place.

When a person chairs an august body such as Parliament, or any other similar body, if he is to err on a ruling he should err to the positive and not to the negative. If it is necessary for the negative to be tested, there are ways by which the Government can take that action. Speakers in the past obviously have followed that line. That is the better course to follow because we are supposed to pass legislation which we know will have a positive result. We should not pass negative legislation which can be subjected to challenge in the courts.

We are supposed to be the highest court in the land; we make the laws which other courts interpret. It is very clear that if we are to make laws then we should make them well within the scope of the Constitution. We should not go through the performance of debating subjects here on the understanding that they may not be lawful when placed on the Statute book.

I think I have indicated clearly where I stand in this regard. I suggest that you, Mr Speaker, did err on the occasion of your ruling, and you are deserving of censure because of that. It is unfortunate, perhaps, that it had to be this way but, nevertheless, the situation is very clearly indicated in the notes which you supplied to us.

You had thoughts and you did expect there was some doubt as to whether or not you were constitutionally correct. As a consequence you erred in favour of the negative instead of the positive. That was an unfortunate performance on your part, and it has caused some problems.

According to the *Oxford Dictionary*, the definition of "constitution"—among other things, and apart from dealing with the health of people—is a body of fundamental principles according to which a State or other organisation is governed.

The fundamental principles in connection with a Parliament go further than just the consideration of the members associated even within this Chamber. You erred because of the action you took with regard to the constitution of the Legislative Council. The Premier referred to this when he said that none of the Ministers need

necessarily be members of Parliament. That I know. On the other hand, all the Ministers could be members of the Legislative Council. Under the Standing Orders of that place certain things can be done only by Ministers, unlike the situation in this Chamber where we do not have those Standing Orders. For instance, the only person who can move for the adjournment of the Legislative Council is a Minister of the Crown. You would provide immediately more scope than is already provided for that to be done. Therefore, the orderly rules under which we govern in this State will be altered, and that will apply to matters which can be altered only by a constitutional majority or absolute majority. The court will be interested in looking at that aspect. The courts do not stop at the very small things. A noting of the recent decision indicates how obscure the Constitution needs to be before the court is likely to put forward a point of view.

That brings us to another problem. On a recent occasion the court made a determination by a majority decision and tonight the Premier said that interpretations of the court could go on forever. That is true. Another section of the judiciary could come up with a different interpretation. A ruling by a court does not mean a matter is settled for all time.

The only way to overcome this type of problem is to err on the side of the positive, and to make sure there is constitutional coverage by an absolute majority of both Houses of Parliament. Then there will be no doubt as to where a matter stands so far as Parliament is concerned. We should be producing legislation as perfect as we can possibly make it, not legislation which can be tested at the cost of thousands of dollars to individuals or to the State. We have had enough of that during the last few years with regard to test cases. They are not necessary. The Premier should be well aware of that and should have been aware of the danger of proceeding with the Bill in Parliament.

The original motion will be wiped out by the amendment. However, the fact that you, Mr Speaker, failed to give some indication of your intention prior to your ruling, has led to this dispute. I believe it would have been resolved if you had indicated that in your opinion the Bill did not need a constitutional majority. Nobody would have been at loggerheads with you in that event. They would have been aware of your intention. To telegraph a few punches would not have done you any harm. However, the Opposition feels it has to put forward this protest.

As the Leader of the Opposition has said, during the election of the Speaker he literally had his staff in the visitors' gallery to observe the way we voted, and to see that we voted the right way. They watched to make sure there was a good majority for you.

We wonder whether we did the right thing. We wonder about the Speaker who always should be looking to get the most efficient legislation through this place on behalf of the people of this State. The presiding officer in this and the other place should be striving to get the best possible valid legislation through the Chambers.

It is not as though it was not pointed out to you, Sir, it was pointed out abundantly. Therefore, the fault must lie with you.

Mr Young: It was abundantly pointed out by the Speaker.

Mr JAMIESON: I know, and it was pointed out by others at the time that the legislation needed a constitutional majority.

Mr Speaker, you admitted that you took legal advice, and it certainly looked as though you had a lot of legal advice. Certainly your ruling did not appear to have been drawn up entirely by a layman. No doubt the Clerks undertook a great deal of research on your behalf, and it is their job to do so and to advise you. As a consequence, you came up with this Tweedledee and Tweedledum situation. Perhaps you tossed a penny in the end! It would have been better had you erred on the side of more perfect legislation rather than opting for a decision that must be tested in some court of law—an exercise that will cost the State a great deal of money and in the end will achieve what could have been achieved very easily by you.

As the member for Balcatta indicated, we have seen a little display of one-upmanship tonight. The Premier has patted various people on the back, including you. We have become rather used to that sort of thing, but it does not improve the situation. From your point of view, Sir, it would have been better for the Government to say, "We will have no bar of this motion; we will wipe it out." However, the last few lines of the words that the Premier seeks to substitute demonstrate that there is a doubt in the confidence in you as it reaffirms confidence. That seems to be a rather snide ploy on the part of the Government. On the one hand it is patting you on the back, and on the other hand it is having to reaffirm confidence in you. I oppose the amendment now before the House.

MR O'CONNOR (Mt. Lawley—Deputy Premier) [8.03 p.m.]: I want to let you know from the outset, Sir, that the members on the Government side totally oppose the view

expressed by the Leader of the Opposition in the motion moved by him.

Prior to the tea suspension I sat through a speech from the member for Balcatta. I believe this to be the most disgraceful attempt to mislead and manipulate this House and the Press that I have seen in my 20-odd years in Parliament.

Mr Davies: You had a guilty conscience. You were not listening. That is exactly what happened.

Mr O'CONNOR: I believe the member for Balcatta has been exposed and that we ought to keep falsehoods and foul play out of this House.

Mr Barnett: Foul play? This is not a game.

Mr O'CONNOR: Instead of your being censored, Mr Speaker, I believe the member for Balcatta should resign.

Government members: Hear, hear!

Mr Davies: He'll be the first to go after you.

Mr O'CONNOR: Since last week when you gave your ruling, Mr Speaker—

Mr Parker: The week before.

Mr O'CONNOR: All right then, some days ago. The Opposition can score only such points of no consequence. It has put forward no points of consequence at all. If we look at their speeches, we find Opposition members have not disagreed with the ruling which you gave.

Mr Davies: You have not listened.

Mr O'CONNOR: They are just sulky over the issue because they did not get the decision they wanted. It is just like the little boy slinking from a football match when an umpire's decision goes against him.

When the Opposition members left the Chamber, they left the House without any Labor Party representation. Many of them went home, and I believe that night they took their pay under false pretences.

Mr Davies: You are always doing that.

Mr O'CONNOR: They deserted the electorate.

Mr Davies: Your view!

Mr O'CONNOR: I stayed in the House as they ought to have done. I want to make it very clear that I, along with other Government members and members of the National Party, stayed in the House while the Bill was passed. The fact that the Opposition did not wait here and did not vote on the measure indicated that its members had very little concern about it.

In the two Houses of Parliament the Opposition has, I think, five legal representatives from various parts of the State. I am quite sure all these members looked into the ruling you gave very thoroughly, and also into the whole issue.

Mr Davies: In one hour?

Mr O'CONNOR: Had there been one point that was wrong, it would have been brought to our notice in this House. Quite frankly, Opposition members did little at all except to say that your ruling should be challenged in the courts.

Mr Barnett: Why are you doing that?

Mr O'CONNOR: We have done it to clarify—

Mr Barnett: Then there must be some doubt about it.

Mr O'CONNOR: —the matter in our minds, and in the minds of the public. The Speaker in the Chair gave a ruling he believed to be correct, and he did that quite justifiably. All Speakers give rulings, and sometimes those rulings are disputed by members of the Opposition or by members of the Government. In view of the publicity on this occasion, we thought we should ensure that there is no doubt about the matter; it is to go to the courts to ascertain the validity of the ruling. Quite frankly, I have no doubt that the decision will be as the Premier has indicated.

Mr Barnett: Do you see any merit in the suggestion of seeking a legal ruling prior to the debate?

Mr O'CONNOR: Of course if we did and it supported our view that it would still be the wrong decision in the eyes of the Opposition.

Mr Jamieson: They did seek a legal opinion, but it was not too good apparently. They will not table it.

Mr O'CONNOR: We have been quite happy with the views we have obtained, and the indications that have come forward. I oppose totally the opinions put forward by the Opposition speakers, and to say—as the member for Ascot did—that you can never again expect respect from the Opposition, Mr Speaker, is something that downgrades the House. If you had to give decisions all the time that fitted in with the thoughts of Opposition members—

Mr Bryce: It was not the decision; it was the way it was given.

Mr O'CONNOR: I believe that you have done the right thing all the way, Mr Speaker. Not only did you seek advice, but also, you read it out and expressed your view on the advice you had received. You told members that if they did not agree with your ruling, they could go to the courts. Because of your comments, the Opposition wants to censure you. It is almost unbelievable.

The amendment moved by the Premier has my total support, and the total support of members of the Government. You have exercised your independent and unquestioned right to give a ruling, and I believe you gave a proper one. However, had you given a different ruling, there would have been no query from this side of the House. The Opposition said there was some surprise at your ruling, but no-one was more surprised than I was, because I had no idea of the ruling you were to give.

Mr Barnett: They wouldn't tell you!

Mr O'CONNOR: These are the funny quips the Opposition uses when it has no basis for its arguments. You expressed a view, Mr Speaker, and you let the Press know of that view prior to the tea suspension this evening so that the views of the member for Balcatta were not given out in a misleading way.

Mr B. T. Burke: I repeated the Speaker's statement too.

Mr O'CONNOR: I again say: You advised members of this House it was appropriate to take this matter to the law courts of the State. That is now being done.

The Premier's amendment referred to the inexusable conduct of members of the Opposition, and that statement is accurate. If you had taken the action taken by the member for Balcatta just prior to the tea suspension, I am quite sure you would have faced a much stronger censure motion than the one presently before the House. The motion is a farce, and one that does no credit to the House. It should never have been moved. I support the amendment.

Mr Davies: Pretty weak!

Mr O'Connor: You are.

MR COWAN (Merredin) [8.10 p.m.]: This is the first time to my knowledge that a Government of the day has ever dealt with a no confidence motion in the Speaker or a censure motion against the Government by introducing an amendment to the motion. The usual course has been to take such a motion forthwith and to deal with it without amendment. It surprises me that such action has been taken on this occasion, but it is not the only irregular occurrence in this debate. To me, Sir, it is rather irregular that you should seek to make two explanations during the course of the debate—

Opposition members: Hear, hear!

Mr COWAN: —while other persons were seeking to make their points.

Mr Tonkin: That is right.

Mr COWAN: It seems to me also that the over-reaction of the Government just prior to the tea suspension indicates that there are some very gray areas in the whole matter.

Mr Young: You agree with what the member for Balcatta was trying to do, do you?

Mr B. T. Burke: What do you mean—trying to do?

Several members interjected.

The SPEAKER: Order!

Mr Young: You know what you were trying to do.

The SPEAKER: Order! I suggest that interjections of the kind just made do not help the debate. I ask the member for Merredin to resume.

Mr COWAN: Thank you, Mr Speaker. It is my understanding that a Speaker of the House can rule on procedures to be adopted in the House. Certainly he is not in the position to determine matters of law, let alone matters of constitutional law.

In the situation in which you found yourself, where you formed an opinion in relation to the Constitution Amendment Bill, having requested the Crown Solicitor to visit you, and having, by your own admission, your opinion confirmed by him, I believe it was incumbent upon you to make a decision to seek a declaration from the Supreme Court in relation to the law rather than to make a decision yourself. It is for the court to determine the law in such a case, and I agree with that part of your ruling. However, you did not take that action. You decided that you had the power to make a determination on constitutional law. I believe that is not within your province; the Speaker of the House may rule on the procedures of the House, but if there is some conflict or debate in regard to the Constitution, it is your duty to see to it that a determination is made in the proper place; that is, in the courts of the State.

The Premier has moved an amendment to delete words and to substitute other words. I have no argument with the words of the amendment relating to your independence and unquestioned right to give a ruling, provided that ruling is on the procedure that this House must adopt. However, I have the greatest objection to a ruling determining constitutional law.

The next part of the Premier's amendment states that you acted in the best traditions of this House. It rather amazed me, Sir, that you could refer to some matters as being correlated with the case of constitutional law, and then refer to four previous rulings made by previous Speakers in

relation to increases in the number of cabinet Ministers. You used those rulings as the basis for your ruling, but having done that, you took the first rulings rather than the latest rulings to use as justification for your decision.

In any matter of law, the decision of a judge presiding over a case always relates back to the last known precedent. It certainly does not go back to the earliest precedent because any precedent after that automatically changes the situation. Yet, Mr Speaker, you chose to take all four rulings made by previous Speakers in this matter and you neglected the two latest rulings and elected to abide by the earliest rulings made by previous Speakers.

I cannot accept that you acted in the best traditions of the role the Speaker plays in the Legislative Assembly or in any other House of Parliament in Australia. It seems to me that the tradition of Speakership to some extent has been broken.

I am forced very reluctantly to say that we in the National Party do not support this amendment.

MR GRILL (Yilgarn-Dundas) [8.16 p.m.]: I support the motion and oppose the amendment.

Whilst it may well have been a very nice legal question as to whether the Speaker's ruling was correct or incorrect, it certainly was not a nice legal question in respect of the manner and basis upon which the Speaker went about making that particular ruling.

Mr Speaker, you clearly stated in your written opinion handed down and delivered verbally to this Chamber that you considered questions of a constitutional and legal nature should be decisions for the courts. You then decided the matter without allowing it to go to the proper place; namely, to the courts. I would have to strongly concur with the opinion expressed by the member for Balcatta when he said that at that particular time you had all the elements necessary to bring the matter before the court for a declaration by the court as to the validity of certain actions you thought might be appropriate; that is clear.

Mr Speaker, in making your ruling in this manner you broke a number of very important legal precedents; they number five.

The first legal precedent you broke was that you followed cases which really did not have a great deal of relevance to this matter and which, in due course, were proved not to be in your favour. The first of those cases upon which you relied—in fact, you mentioned in your written opinion handed down to this Chamber that you relied upon this case—was that of Clydesdale *v.* Hughes. In fact, that decision gives you very little legal support. I refer members to the decision of Justice Smith and the decision of Justice Wickham in the Wilsmore case in the State of Western Australia. Mr Justice Smith has this to say—

> I agree with everything Wickham J. has to say in his reasons to be delivered in this case in relation to the submissions made by the Solicitor General on the question of whether the amendments effected by s.7 of the Electoral Act Amendment Act (No. 2) 1979 affect the constitution of either of the Houses of Parliament and as to the *ratio decidendi* of the High Court in *Clydesdale v. Hughes* 51 C.L.R. 518. I only wish to add that the words of Stawell C.J. in *Kenny v. Chapman* (1861) 62 1 W & W 93 at p.100 "I am at a loss to understand what would be an altering of the Constitution if altering the qualifications of members was not", to my mind, have equal application to alterations to the qualifications of electors when regard is had to s.12 and s.46 of the Constitution Statute which make provision for the mode in which the Legislative Assembly and the Legislative Council respectively are to be constructed.

Mr Clarko: That does not answer anything. Read from page 17, and you will see that he agrees with the Government's decision.

Mr GRILL: In the decision in the case Wilsmore *v.* the State of Western Australia, Justice Wickham said that the court gave absolutely no reason for indicating that changes to the qualifications of electors was not a change to the constitution of the House. So, we have two judges clearly disagreeing with the Government in relation to the Clydesdale case.

Mr Clarko: That is incorrect. He was talking about something else. He was ruling specifically on another matter, which is not this matter. As a legal man, you should realise you cannot compare one with the other.

Mr Pearce: Here is the Star Swamp solicitor.

Mr Clarko: We have a few words now from Lucy of the "Peanuts" comic strip.

Mr GRILL: For the edification of the member for Karrinyup, I will quote Justice Wickham on this matter. His words are unequivocal, and not open to debate. He stated as follows—

> The respondents did not contend otherwise, but sought to avoid that conclusion with the submission that a bill which effects a change in the qualification or disqualification of electors or of members is not a bill which effects any change in the

> constitution of the legislative House or Houses concerned. This submission, it was said, was supported by dicta in *Macaulay v. The King* (1918) 26 CLR 9 so far as it was approved by the Privy Council op. cit. (1920) A.C. 691, and further formed a reason for decision in *Clydesdale v. Hughes* (1934) 51 CLR 518. I am unable to extract any such support from the former case. As to the latter, their Honours in *Clydesdale v. Hughes* did not give any reason for saying that the lifting of a disqualification acquired by a sitting member in the circumstances of that case did not effect a change in the constitution of the House. That the legislation was *ad hoc* and temporary only is, I think, as likely to be the reason as any other.

Justice Wickham in the case of Clydesdale *v.* Hughes gave unequivocal reasons for the decision which do not support the Speaker's ruling; nor does the decision in the Wilsmore case, to which the Speaker then referred.

Mr Clarko: You are not quoting the entire case. Quote from page 17.

Mr GRILL: If the member for Karrinyup wishes to speak, he may. I do not think he understands the situation. I do not think he could convince any member that the unequivocal words of Justice Wickham can bear any other interpretation.

Mr Clarko: I do not think you are game to quote page 17.

Mr GRILL: I know nothing on page 17 which supports the proposition being put by the member for Karrinyup. I have read the reasons for the decision twice. It is clear that any use of the Clydesdale case cannot be sustained.

The Speaker chose to adopt as a precedent the case of Wilsmore *v.* the State of Western Australia when he knew the matter was before the Supreme Court for a decision. It should not have been taken as a precedent for your decision, Mr Speaker. Furthermore, in the Wilsmore case, both Justices Wickham and Smith have adopted a much broader view of the situation than the narrow view you adopted and presented to this Chamber. That is the first area in which you erred grievously.

The second reason for you erring is that you ruled the precedents of 1927 and 1950 should be followed, despite the fact they were earlier in time than other precedents. That is in complete contradiction of all legal rules and precedents. As the member for Merredin has already pointed out, any decisions made by a court of competent jurisdiction which takes into account previous decisions follow the more recent decisions, not the earlier decisions. You have obviously and clearly erred in that respect.

Thirdly, Mr Speaker, you were clearly wrong in taking the 1927 and 1950 decisions as precedents because, in effect, both of those examples were not decisions at all. The record is silent as to the vital question on those two occasions, and therefore should not have been taken as precedents by yourself. The question of constitutional majority was not raised on those occasions. There are many reasons that it may not have been considered openly. Possibly the best reason is that the Government of the day had an absolute majority at the time, and the matter did not need to be considered. However, the situation is clear: On those two occasions, the record is silent and you had no right whatever to take, and you erred grievously in taking those two occasions as precedents for your decision.

Fourthly, Mr Speaker, you did not follow your own precedent set in November 1979. You have pointed out to this Chamber on more than one occasion that when arriving at that particular decision you were not necessarily laying down your ruling as a precedent for future Speakers. However, whatever you do in this Chamber has some significance. Whatever you do here when making a decision either follows or sets a precedent. What you did on that occasion, whether or not you wish to disclaim it, was to set a precedent—in my opinion, a proper precedent—and I think it was made quite properly and in more cool circumstances than the decision handed down here a few weeks ago.

Lastly, you were completely and utterly wrong in ruling that where there was some doubt on the matter, it was your duty to rule in the affirmative. You then indicated—having ruled in the affirmative—that those people aggrieved by your decision could take the matter to court. You were incorrect in doing that because the consequences which follow upon an affirmative ruling far outweigh the short-term disadvantage of taking the matter to court to let the court decide which way you should rule.

The danger to this community, this House, and the two new Ministers is far more serious than the ramifications which would have taken place had you ruled in the negative, as you did quite properly in the 1979 case. These ramifications, which have been properly and fairly adequately pointed out by the member for Balcatta, were that the two members could lose their seats in this Chamber. Also, as the Premier has pointed out, certain Acts made by those Ministers while acting

in this position could be called into challenge, and any legislation over which they had direct control could well be in the same predicament—not to mention the fact that whilst they were illegally sitting in the House as members, and voting on legislation, all types of ramifications could be apparent and should have been apparent to you, Mr Speaker, when you made your affirmative ruling.

So, there are five very good reasons and, for the benefit of the Deputy Premier, who wanted some legal reasons, very good legal reasons to support my contention that the basis of your ruling was wrong. In fact, I would almost say the legal reasons are unchallengeable. You were wrong not necessarily in the final substance of your ruling, but in the manner, the way and the basis upon which you went about making your ruling.

I think the facts I place before you are unchallengeable, Mr Speaker. I do not believe there is any answer to the substantive facts I have put before the House. If there is a member on the Government side who would like to answer them, I would be very pleased to hear from that member. However, I doubt whether that will be the case. These five areas to which I have drawn the attention of the House clearly prove you have made a wrong decision, Mr Speaker, and for those reasons I support the motion and oppose the amendment.

MR McPHARLIN (Mt. Marshall) [8.30 p.m.]: I propose to make a number of comments on the matter before the House. The developments over this issue have degraded this House and this Parliament in the eyes of the public. From time to time we see much debate on matters of this sort at the Federal level, but very rarely do we see it in the Western Australian Parliament. When a report appeared in *The West Australian* of Tuesday, 16 September, to the effect that "Judges to rule on the new Ministry", an acquaintance of mine rang me and expressed great concern about where the Parliament was heading.

Mr Hodge: Downhill.

Mr McPHARLIN: Here we see a ruling by the Speaker which aroused a great deal of controversy and promoted a walkout by the Opposition—which I do not believe was in the best interests of this Parliament. Then we had a motion of dissent against the Speaker's ruling and now a motion of no confidence in the Speaker. This sort of thing is not doing this Parliament any good.

The fact that the subject of the Speaker's ruling is to be placed before a court by the Government indicates quite clearly that the Government was well aware of doubts about the Speaker's ruling.

Mr Tonkin: Hear, hear!

Mr McPHARLIN: I wonder what would have happened had the Speaker's ruling been the other way.

Mr Stephens: With the 1977 electoral legislation he told the Speaker to resign.

Mr McPHARLIN: Had the ruling gone the other way it would have followed the precedent of previous decisions. I feel very disturbed with what has developed. The public generally do not have a very high opinion of members of Parliament and this sort of situation will not improve things.

Mr Crane: Some members' standing.

Mr McPHARLIN: I was very sorry to see the ruling given. In my humble judgment it was incorrect. I am sorry also to see the motion of no confidence in the Speaker and now the amendment which has been moved. It is very unfortunate indeed that the situation has developed in this way. It must disturb those members of Parliament who have at heart very important issues of this State. It is much more important for us to be debating issues of great importance to the State than to be involved in motions of this type. As I said, I am sorry the matter has degenerated to this level. I hope the matter can be cleared up quickly. But do we abide by the decision of the court or will there be further manipulation to satisfy certain people?

Mr Crane: Are you suggesting we manipulate the court?

Mr Bateman: This is a mini-Kerr.

Several members interjected.

The SPEAKER: Order! I call upon the member for Canning to cease interjecting.

Mr McPHARLIN: Several supporters of the Liberal Party have said they were very concerned to see what was happening. I wonder what is going to happen in the future.

Mr Speaker, I do not believe you have completely lost the confidence of this House. Each of us is obliged to make his own decisions about what we think of matters we are debating. You have assured us that you acted in the best of faith. You have revealed that in the past; but it does appear that for some reason or other the ruling you gave has created substantial argument and we cannot ignore that.

I am afraid that in view of all the concern felt by many people, as much as I would like in all sincerity to support the amendment, I am afraid I cannot. It concerns me greatly to see the direction

in which this matter has gone. I only hope that in the future when we get a court ruling there will not be manipulation in any way.

Let us hope our Constitution can be amended, if it needs to be amended, to give us a suitable and sound set of rules by which we can abide and which cannot be subject to any change such as we are witnessing in this matter. Unfortunately, I am not in a position to support the amendment.

MR DAVIES (Victoria Park—Leader of the Opposition) [8.36 p.m.]: This is the first time we have had private members' day this session and in many ways it is sad that it has taken the form it has. I understand that the debate finishes about 9 p.m. and we may have to put the matter to the vote tonight. As far as I am concerned I do not want this lack of propriety hanging over your head any longer than need be, Mr Speaker. I am sorry the Government did not take up our challenge to bring on a debate at an earlier stage. It is not surprising that the Government has moved this amendment to the motion. It does this sort of thing repeatedly instead of just defeating a motion by using its numbers. It seems to think there is something smart in amending motions in an effort to turn the tables on the Opposition. I believe the amendment is subject to challenge because it is a direct negative of the motion.

I think we have said what we needed to say. We have made it clear just where we stand in regard to yourself. That was the object of the exercise right from the time I rose to speak. I realised we did not have the numbers and anything we said would be beaten by the numbers.

I believe the Premier has placed you in a rather invidious position by saying, "We will not say the Opposition was wrong and defeat its motion by the numbers. We will say the Speaker is a jolly good fellow." However, we know what the relationship has been between the Premier and you over the years, Sir. An indication of that relationship is contained in some of the newspaper reports I have here. I will not deal with them at any length. One headlines indicates, "Thompson and Court talk". You came under some fire not only from the Premier but also from your own back-bench colleagues. The Liberal Party Whip, the member for Murray, described your actions on that occasion a few years ago as being "incredible disloyalty to both the Government and his back-bench colleagues". This makes a mockery of the Premier's stand and the amendment he has moved on this occasion.

It is unfortunate that we arrive at a situation where you create another first by being the first Speaker to have a censure motion moved against him. We make no apologies for this. In my hour's speech earlier tonight I detailed exactly what I thought of your ruling and where I, as a layman, thought it was at fault. No-one has been able to challenge my comments. Some members have made sweeping statements in an endeavour to challenge my arguments and that may have been acceptable to people in the gallery, but those comments were not in accordance with the facts. I ask Government members to read the speech I made to see how I took your ruling apart piece by piece. Even a person as inept as I am in matters relating to the law was able to find serious mistakes in the reasons you gave for your ruling. I said that it looked a good ruling on the surface, but when we took away some of the verbiage and then investigated in detail what remained, it was quite obvious it had no relationship to the question under discussion. If we are not discussing like with like it is no good referring to those matters which you did.

The Government seems to take delight in the fact that the Opposition walked out on the night of 2 September after it gave notice that it wanted to dissent from your ruling. I say here and now that if we had not wanted to tell you what we thought of your ruling we would not have come back after the tea suspension! The only way I could be heard was to move to dissent from your ruling. All the clever fellows on the other side of the House who say, "Why did you speak and then walk out?" are not perceptive enough to see that it was the only way I could stand in this place and say what the Opposition thought of you, your ruling, and the Government. If we had not wanted to make our comments known we would not have come back after tea. We walked out because we felt it was the most severe demonstration of what we thought of the conniving that was going on. That is exactly the reason for it.

If the Government wants to deplore our action it is of little consequence to us. I have not received one adverse telephone call or one adverse letter at my office or my home. The phone rang consistently and everyone was pleased that at last we were expressing ourselves in a manner which might make the Government—although it is doubtful—and the public wake up to what was going on. We were forced into a position where we had no alternative, so we make no apologies for our actions. The Government can deplore what we did by moving this amendment, but nevertheless we make no apologies. The Government can use its numbers and do what it likes, but it will not get us to change our views.

In reply to the debate and before he moved the amendment, I thought the Premier tonight was at

his weakest. Several times lately he has failed to impress and I can understand that some back-bench members in swinging seats consider him to be a handicap and are beginning to wonder how they can get rid of him. Obviously the Premier had not read the motion he was debating and eventually he took exception to one of our members using the word "conspire", a word which could be found in the motion. The Premier said the word was unparliamentary and yet we had been talking about it for some time.

Sir Charles Court: I read the motion into *Hansard*.

Mr DAVIES: Eventually.

Sir Charles Court: In the course of my speech I quoted every part of the motion separately.

Mr DAVIES: That was the first time the Premier read the motion. The Premier was debating points that had no relationship to the matter before the House. The Premier was debating matters that had no relationship to the motion. It is easy to see why there is disquiet among some Government back-benchers, especially those who hold swinging seats. They obviously consider the Premier a handicap.

Several members interjected.

Mr DAVIES: This has been one of the most curious debates I have ever witnessed. I must apologise for having to take a point of order on you, Mr Speaker, earlier in the proceedings; but as the member for Welshpool said, it probably would have been better had you left the Chair if you wanted to take part in the debate. On three occasions you took part in the debate, and, no member rose to challenge you. It seemed you felt you had to take up points made in debate immediately. I thought your action of interrupting speakers on their feet was out of order. As the debate proceeded it became a little like Alice in the Looking Glass—it became "curiouser and curiouser".

I was very sorry when you interrupted the member for Balcatta and then the member for Welshpool. Even before the motion was seconded you took it upon yourself to comment on certain things I had said. That made your actions even more party political and the Government should have the nous to realise that. Had the Government just let the motion go to a vote and be defeated, as it will be, because we know the Government has the numbers, it would have somewhat justified the action you had taken.

The action of the Premier in moving an amendment now leaves little joy for you, Mr Speaker, or for the proceedings of Parliament. It leaves little joy for the position of Speaker.

We of the Opposition do not say that you acted in the best traditions of the role of Speaker of the Legislative Assembly in Western Australia. That is a direct negative to what we are saying. I believe we should challenge seriously your acceptance of the amendment but we will not do that because it would only delay the proceedings further. I am quite certain that you, Mr Speaker, want a vote taken tonight, just as much as the Government does.

We are quite happy for that to occur especially after having the matter on the notice paper since 3 September. At least the matter will be put to a vote but I want it recorded in *Hansard* that I believe the amendment itself is out of order.

We of the Opposition do not say that you, Mr Speaker, do not have a right to give a decision but we question the nature of your decision. Indeed, the first part of the amendment could be construed as being a direct negative to some of the parts contained in the motion. Once again I will not take any action to challenge it.

When the Premier says in part 3 of the amendment that you wisely explained to the House that the place where matters of the kind under consideration at the time may be finally determined by the appropriate law courts, I think that statement makes a mockery of all that has been said. I tried to point out to the Premier—and he apparently did not understand—that you, Mr Speaker, reversed a decision you had given 12 months earlier.

In the time since that decision was made you took no action to ascertain whether or not your stand was correct, even though you expressed concern about your decision at the time. However, because the Government was in a corner you, Mr Speaker, gave the decision the way of the Government. In effect, you said that if we wanted to challenge your decision we should go to the courts. That meant that if anyone wanted to challenge your decision it would cost him between $10 000 and $20 000 to go to the courts.

If you had been consistent you would have said that you would assume the stand that you had taken earlier. It is recorded. However, you have taken the action where if the Opposition wishes to challenge your decision it must go to the courts.

The matter has been debated in another place and serious doubts have been cast on the validity of your ruling and the ruling of the President of another place. However, the Government is having a second look at the matter. The Government has all the legal experts: It has the Attorney General, the Solicitor General, and the Crown Solicitor available, at public expense, to

advise it. Yet, the Deputy Premier had the temerity to ask, "What are you grizzling about, you have five solicitors in the Opposition?" So, in 1¼ hours it is said we should have been able to decide on your ruling, Sir, when it would have taken up to six months to prepare the ruling you gave. The Opposition received expert advice from outside the House and it was because of this information we decided that the decision was totally unjust, totally unfair, and without reasonable foundation. It was also without precedents and the Opposition felt it could no longer stay in a House which conspired and connived in all ways to bring in such a decision.

Mr Pearce: Tammany Hall.

Mr DAVIES: They must have learnt a lot from Tammany Hall. It was a moment of unhappiness for the Opposition. I came back to the House at 11 o'clock and I was upset to say the very least. I was further upset when I heard of the champagne parties going on and the statements, "We got them. We had our own way."

The Government will certainly be spending money on this matter and it will be interesting to see whether or not the Government will be prepared to pay the Opposition's costs because it will be seeking to intervene as an interested party. Every member of Parliament should be doing the same if the Westminster system is valued as well as the traditions of Parliament and all that is supposed to come with it; that is, in particular, the respect the Speaker should hold. Every member of Parliament should wish to intercede or be represented when the matter comes before the court.

We would have taken the matter to a court, whether or not the Government had decided to do so. The Government may have had some pangs of conscience. Perhaps members said, "All right, we have spent a lot of money in court costs on the Kimberley appeal, perhaps we had better take this matter to court also." The Kimberley appeal cost the taxpayers a large sum of money.

Mr Harman: It also cost the member for Kimberley money.

Mr DAVIES: After learning of Cabinet's discussion on Monday the Opposition was surprised but thankful that the Government had decided to ask the court to make a determination. That should have happened before all this nonsense occurred. It would have saved the Speaker a great deal of embarrassment and he would have still been held in high respect, as a Speaker is entitled to be. However, he commands no respect as far as the Opposition is concerned. The Opposition opposes the amendment.

Amendment (to delete words) put and a division taken with the following result—

Ayes 26

Mr Clarko	Mr Nanovich
Sir Charles Court	Mr O'Connor
Mr Coyne	Mr Old
Mrs Craig	Mr Rushton
Mr Crane	Mr Sibson
Mr Grayden	Mr Sodeman
Mr Grewar	Mr Spriggs
Mr Hassell	Mr Trethowan
Mr Herzfeld	Mr Tubby
Mr P. V. Jones	Mr Watt
Mr Laurance	Mr Williams
Mr MacKinnon	Mr Young
Mr Mensaros	Mr Blaikie
	(Teller)

Noes 25

Mr Barnett	Mr Jamieson
Mr Bertram	Mr T. H. Jones
Mr Bridge	Mr McIver
Mr Bryce	Mr McPharlin
Mr B. T. Burke	Mr Parker
Mr T. J. Burke	Mr Pearce
Mr Carr	Mr Skidmore
Mr Cowan	Mr Stephens
Mr Davies	Mr Taylor
Mr H. D. Evans	Mr Tonkin
Mr Grill	Mr Wilson
Mr Harman	Mr Bateman
Mr Hodge	*(Teller)*

Pair

Aye	No
Mr Shalders	Mr E. T. Evans

Amendment thus passed.

SIR CHARLES COURT (Nedlands—Premier) [8.50 p.m.]: I move—

That the following passage be substituted for the passage deleted—

1. Exercised his independence and unquestioned right to give a ruling which, in his opinion, was the right and proper one at the time;
2. Acted in the best tradition of the role of the Speaker of the Legislative Assembly of Western Australia;
3. Wisely explained to the House that the place where matters of the kind under consideration at the time should be finally determined by the appropriate Law Courts,

this House deplores—

(a) the inexcusable conduct of the Opposition in leaving the Chamber without debating the motion to disagree with the Speaker's ruling on 2 September, 1980, and which motion was introduced by the Leader of the Opposition; and—

(b) the unwarranted attacks by Members of the Opposition on Mr Speaker,

and affirms its confidence in Mr Speaker.

I explained the reasons in respect of these words earlier so I will not repeat them.

The SPEAKER: Do I have a seconder?

Mr O'CONNOR: I second the amendment.

MR DAVIES (Victoria Park—Leader of the Opposition) [8.51 p.m.]: I invite the Speaker to say whether or not part 2 which states, "Acted in the best tradition of the role of the Speaker of the Legislative Assembly" is a direct opposite to the paragraph in the motion which says, "debased and degraded the office of Speaker and lacks the confidence of the House".

Mr Watt: You said earlier you were not concerned.

Mr DAVIES: I want this put on record.

The SPEAKER: These words have actually been removed from the motion by virtue of the decision which has already been taken.

Amendment (to insert words) put and a division taken with the following result—

Ayes 26	
Mr Clarko	Mr Nanovich
Sir Charles Court	Mr O'Connor
Mr Coyne	Mr Old
Mrs Craig	Mr Rushton
Mr Crane	Mr Sibson
Mr Grayden	Mr Sodeman
Mr Grewar	Mr Spriggs
Mr Hassell	Mr Trethowan
Mr Herzfeld	Mr Tubby
Mr P. V. Jones	Mr Watt
Mr Laurance	Mr Williams
Mr MacKinnon	Mr Young
Mr Mensaros	Mr Blaikie
	(Teller)

Noes 25	
Mr Barnett	Mr Jamieson
Mr Bertram	Mr T. H. Jones
Mr Bridge	Mr McIver
Mr Bryce	Mr McPharlin
Mr B. T. Burke	Mr Parker
Mr T. J. Burke	Mr Pearce
Mr Carr	Mr Skidmore
Mr Cowan	Mr Stephens
Mr Davies	Mr Taylor
Mr H. D. Evans	Mr Tonkin
Mr Grill	Mr Wilson
Mr Harman	Mr Bateman
Mr Hodge	*(Teller)*

Pair	
Aye	No
Mr Shalders	Mr E. T. Evans

Amendment thus passed.

Motion, as Amended

Question (motion as amended) put and a division taken with the following result—

Ayes 26	
Mr Clarko	Mr Nanovich
Sir Charles Court	Mr O'Connor
Mr Coyne	Mr Old
Mrs Craig	Mr Rushton
Mr Crane	Mr Sibson
Mr Grayden	Mr Sodeman
Mr Grewar	Mr Spriggs
Mr Hassell	Mr Trethowan
Mr Herzfeld	Mr Tubby
Mr P. V. Jones	Mr Watt
Mr Laurance	Mr Williams
Mr MacKinnon	Mr Young
Mr Mensaros	Mr Blaikie,
	(Teller)

Noes 25	
Mr Barnett	Mr Jamieson
Mr Bertram	Mr T. H. Jones
Mr Bridge	Mr McIver
Mr Bryce	Mr McPharlin
Mr B. T. Burke	Mr Parker
Mr T. J. Burke	Mr Pearce
Mr Carr	Mr Skidmore
Mr Cowan	Mr Stephens
Mr Davies	Mr Taylor
Mr H. D. Evans	Mr Tonkin
Mr Grill	Mr Wilson
Mr Harman	Mr Bateman
Mr Hodge	*(Teller)*

Pair	
Aye	No
Mr Shalders	Mr E. T. Evans

Question thus passed.

CANCER COUNCIL OF WESTERN AUSTRALIA AMENDMENT BILL

Second Reading

Debate resumed from 10 September.

MR HODGE (Melville) [9.04 p.m.]: The Opposition does not oppose this Bill, but I must admit we are not particularly enthusiastic about it. It seeks to make a number of changes to the parent Act, the most notable being to the composition of the Cancer Council itself. The amendment provides for one person to be nominated by the Royal Perth Hospital, Sir Charles Gairdner Hospital, Fremantle Hospital, King Edward Memorial Hospital, and Princess Margaret Hospital; two people to be nominated by the University of Western Australia; and two people to be nominated by the Minister. It also provides that five people may be nominated by the remaining members of the council. That is a rather significant departure from the present Act.

The Opposition had some reservations about the composition of the present Cancer Council. It also has some reservations about the proposed new composition of the council. It seems to us it is not the most desirable course to nominate people from the various hospitals who, when meeting as the Cancer Council, have some allegiance and loyalty to the organisations they represent. We

believe it is preferable that the members of the Cancer Council do not owe allegiance or loyalty to any particular hospital or medical institution, and that they solely represent cancer sufferers or their interests.

It appears the Bill is designed to overcome a few other problems, one of which is that the council has been operating for some time outside its legal jurisdiction. I am a little concerned that that has happened. It has not had any detrimental effects and has probably ultimately been to the good of cancer sufferers. Nevertheless, I do not think it is desirable that bodies such as this which have been established by Acts of Parliament be permitted to operate in any field outside the provisions of the legislation.

The Bill amends section 8 of the parent Act which lays down the general functions, duties, and powers of the council. Subsection (2) (e) states that one of the duties is "to establish and maintain accommodation for patients undergoing treatment at an Institute". Paragraph (d) of that subsection also refers to institutes. It states—

> (d) to provide, maintain, and assist Institutes concerned with the treatment of cancer and allied conditions;

Since its establishment in 1958 the Cancer Council has never set up an institute for treatment of or research on cancer. In fact, I am told that in 1975 it abolished an institute which had been established at the Sir Charles Gairdner Hospital.

It seems to me that if the composition of the council was to be changed it would have been preferable to make a fundamental change. I would have preferred a council comprising non-medical lay people, preferably with expertise in fund-raising. The medical aspects of cancer treatment and research could then be handled by an institute similar to that which was established at the Sir Charles Gairdner Hospital and abolished in 1975. I believe that would be the more efficient and appropriate way to handle the affairs of the Cancer Council.

When I was doing some research into the activities over the years of the Cancer Council, I noticed that section 23 of the Act requires the council to submit to the Minister for presentation to both Houses of Parliament a report of its activities during the year to which the Auditor General's report relates. The Auditor General is required each year to examine the council's books and deliver a copy of his report to both Houses of Parliament. After searching the records at Parliament House I was unable to find any record of an annual report of the Cancer Council being tabled in this House since 1972, and that report related to the year 1971. So, again, the Cancer Council has not been complying with the requirements of the Act. It has not tabled copies of its annual reports in this House for eight years. That seems to be a significant breach of the Statute under which it operates.

Both of those breaches of the Act point to the fact that if the Government establishes these sorts of organisations by Statute it should not just establish them and let them take their own course. Some direct supervision and monitoring of the activities of these bodies should be provided for. I hope that in the future the Government will take a closer interest in the activities of the Cancer Council and ensure that if the Act requires it to table annual reports and confine its activities to certain areas, it complies with the Act. It is a waste of time bringing these matters to Parliament, debating them, and passing them into law, if the Government promptly forgets about them and lets them go on their merry way.

I believe this amending Bill will not alter to any significant degree the activities of the Cancer Council. It may provide a small improvement from the point of view of continuity of the members. The new rules applying to membership require that members be appointed for up to three years and that a third of them retire each year.

The Bill also alters the financial year from 1 July to 30 June, to 1 January to 31 December. The only reason advanced for that is that it will avoid a complication in bookkeeping associated with fund-raising activities. It seems to be a rather weak reason for amending a Statute, but I do not think it is of great significance.

I repeat that we do not oppose the Bill but we are not particularly enthusiastic about it.

MR YOUNG (Scarborough—Minister for Health) [9.12 p.m.]: I thank the member for Melville for his general support of the Bill and note that he and the Opposition are not enthusiastic about it. He did not advance any argument which would cause the Government to think there was a grave reason for not proceeding with the Bill, so that does not translate into antagonism.

The member for Melville informed the House that the Cancer Council has not lodged annual reports for almost a decade. That is certainly a matter which needs to be looked into, and I give the honourable member an undertaking that I will do so.

The general comments about the Bill included a reference to the altering of the financial year. That in isolation would not warrant an

amendment to the legislation, but as the legislation was coming before the House it seemed appropriate to include an amendment to ensure the financial accounts would reflect the appropriate expenditure against income and to minimise the confusion which currently exists.

The major comment made by the member for Melville related to the proposed representation of the teaching hospitals on the Cancer Council. He made the point that representatives of the major teaching hospitals might be a little too close to those hospitals to give effective representation and that perhaps people who represent cancer sufferers might be more appropriate. I can understand his way of thinking on the matter but when it comes to the point it is very difficult actually to find people who do in fact represent cancer sufferers, outside of those who the Bill envisages will form the council.

I can assure the member for Melville that I gave a great deal of thought to the reconstruction of the council. I take the point in respect of teaching hospitals; in fact on other occasions I have made a similar point in respect of other matters concerning representatives from teaching hospitals. Taking everything into consideration, I consider these appointments probably will be beneficial. If it does not turn out that way as the newly constituted council progresses, I will certainly be prepared to have another look at the matter.

I thank the member for Melville for his general support of the Bill.

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committees (Mr Clarko) in the Chair; Mr Young (Minister for Health) in charge of the Bill.

Clauses 1 and 2 put and passed.

Clause 3: Section 6 amended and transitional provision—

Mr BERTRAM: In line 9 on page 2 reference is made to deleting paragraphs (a) to (g). I think the intention is to delete paragraphs (a) to (g) inclusive. I put that thought to the Committee to deal with it as it may.

Mr YOUNG: I can assure the Committee that when this form is used in the drafting of legislation the word "inclusive" is understood. I am sure that upon reflection the member for Mt. Hawthorn will agree with me.

Clause put and passed.

Clauses 4 to 6 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

BILLS (2): RETURNED

1. The Bank of Adelaide (Merger) Bill.
2. Essential Foodstuffs and Commodities Amendment Bill.

Bills returned from the Council without amendment.

House adjourned at 9.20 p.m.

QUESTIONS ON NOTICE

EDUCATION

Pre-school Centre: Woodlupine

830. Mr BATEMAN, to the Minister for Education:

(1) Is he aware the parents of over 100 pre-school children who attended the pre-school enrolment last week at the Woodlupine pre-primary school, have been told the classes are full and enrolments have closed for the 1981 pre-primary school year?

(2) Is he further aware that many of these parents have worked hard and done much to promote this particular pre-primary school for the benefit of pre-primary school children?

(3) If "Yes" to (1) and (2), will he make urgent arrangements to have extra classrooms or demountable classrooms made available to accommodate these children?

(4) If not, why not?

Mr GRAYDEN replied:

(1) and (2) Yes.

(3) The need for additional accommodation has been made known to the Education Department which is making arrangements for an extra room to be placed adjacent to the pre-primary centre to cater for the overflow.

(4) Not applicable.

ROADS

Brentwood Road and Beechboro-Gosnells Freeway

831. Mr BATEMAN, to the Minister for Transport:

(1) Is he aware that Brentwood Road is to be cul-de-saced where the Gosnells-Beechboro freeway crosses?

(2) Is it fact that by doing this the closed access highway will prevent—

(a) school children attending Wattle Grove school;

(b) residents from catching the bus on Welshpool Road;

(c) bread and mail deliveries;

(d) rubbish removal in some instances?

(3) Is it also a fact that if no access is made onto the freeway, residents and several business people living south of it who currently travel less than half a kilometre, will have to travel six kilometres to get onto Welshpool Road?

(4) Is the freeway causing a drainage problem in this area brought about by the blocking off of natural and man-made drains?

(5) Is he aware that one resident is completely blocked off from any access whatsoever, either to Brentwood Road or the freeway?

(6) In view of the concern shown by the residents in this area regarding their lack of access, would he consider either—

(a) an overpass;

(b) an underpass;

(c) a "Stop" sign;

(d) a T-junction; or

(e) a run on-run off to the freeway?

(7) If answers to questions (1) to (5) are "Yes", will he give consideration to any of the suggestions in (6)?

(8) If not, why not?

Mr RUSHTON replied:

(1) Yes.

(2) and (3) Some changes in traffic movements in the area will occur as a result of the construction of the Beechboro-Gosnells Highway. Some individuals will be inconvenienced to some degree, but there are many advantages to others in the area. The design was discussed in detail with both local authorities involved before it was adopted.

(4) There have been some drainage problems which are being corrected as work proceeds.

(5) Yes. Access for this resident will be maintained by temporary means until a permanent solution is provided.

(6) to (8) I will have the Main Roads Department give this issue further consideration, but it should be noted that the road has been planned and projected in the metropolitan region scheme as a controlled access highway for many years.

FUEL AND ENERGY

Petrol: Fuel Company Depots

832. Mr CARR, to the Minister for Fuel and Energy:

(1) Does his department have the responsibility of approving the safety of all petrol outlets both retail and wholesale?

(2) If not, will he please advise of the position?

(3) Does his department have responsibility for determining whether retail sales may occur from fuel company depots?

(4) If not, will he please detail his department's involvement in this matter?

(5) At what places in Western Australia has approval been given for fuel company depots to sell directly to the public?

(6) Is his department presently reviewing the operations of Geraldton fuel company depots which sell directly to the public?

(7) If "Yes" to (6), what is the purpose of this review?

Mr P. V. JONES replied:

(1) The explosives branch of the Department of Mines is responsible for approving the safety of wholesale and retail petrol outlets.

(2) Answered by (1) above.

(3) No.

(4) Not involved.

(5) Local councils may grant approval for retail sales through fuel depots after the depot has been registered as a shop under the Factories and Shops Act, and I am not aware of any approvals which have been given.

(6) No.

(7) Not applicable.

FUEL AND ENERGY

Petrol: Fuel Company Depots

833. Mr CARR, to the Minister for Labour and Industry:

(1) Is he aware of the difficulties being caused to service station operators in Geraldton by the increased amount of direct selling to the public from fuel company depots?

(2) Does the Government propose taking any action to protect the interests of these service station operators?

(3) If "Yes" to (2), will he please indicate what is intended?

Mr O'CONNOR replied:

(1) to (3) I am aware of difficulties mentioned by service station operators in several areas in respect to retailing to the public from fuel company depots and the matter is receiving consideration.

EDUCATION: SCHOOL BUSES

Slow Learning Children's Group of Western Australia

834. Mr CARR, to the Minister for Education:

(1) Is it a fact that school buses provided by the Slow Learning Children's Group to cater for special schools are the subject of a contract arrangement with the Education Department?

(2) If "Yes", why do such buses carry SLCG markings rather than the conventional colourings of contract school buses?

(3) Is it the department's policy to maximise the normalisation of children attending special schools?

(4) If the answer to (3) is "Yes", will he take steps to have the buses catering for special school students marked in the normal manner of contract school buses?

Mr GRAYDEN replied:

(1) Yes.

(2) The Slow Learning Children's Group has been allowed to operate with normal fleet colours as a result of a special exemption granted by the then Minister for Traffic Safety in 1974.

(3) Yes.

(4) Answered by (2).

HEALTH

Handicapped Persons: International Year of the Disabled

835. Mr CARR, to the Premier:

(1) Does the State Government have a specific policy aimed at making jobs available within the Civil Service to disabled persons?

(2) If "Yes", will he please provide details?

(3) If "No", will the Government please explore the possibility of increasing such employment opportunities, especially as next year is to be recognised as the International Year for Disabled Persons?

Sir CHARLES COURT replied:

(1) to (3) It is the policy of the Government and the Public Service Board, wherever possible, to provide employment opportunities in the Public Service, within their capabilities, for disabled persons subject only to the normal entry requirements appropriate to each case.

COURTS

Legal Aid Commission Services

836. Mr CARR, to the Minister representing the Attorney General:

(1) Is the *Legal Aid Handbook*, July 1980, as prepared by the Legal Aid Commission of Western Australia, correct in asserting that a duty counsel service is provided at the East Perth, Beaufort Street, Fremantle, Midland, Rockingham, Northam and Kalgoorlie Courts of Petty Sessions and in the Perth and Midland Children's Courts?

(2) Why is no such service provided at the Geraldton Court?

(3) Will the Attorney General liaise with the Legal Aid Commission with a view to having such a service provided?

Mr O'CONNOR replied:

(1) Yes.

(2) and (3) The commission, up to date, has been in its formulation stages and is now undergoing further expansion within the limits of its finances.

The question of a duty counsel service in the Geraldton area, along with other possible commission activity, is at present being investigated. The Director of Legal Aid is at present in Geraldton having discussions with interested parties.

HOUSING

Building Societies: Insurance Contracts

837. Mr CARR, to the Honorary Minister assisting the Minister for Housing:

(1) With reference to his answer to question 698 part (4) of 1980 relevant to building societies, am I correct in interpreting his answer to mean that as the State has an interest in all loans through its guarantee of the loans under the Housing Loan Guarantee Act, that insurance for members of terminating building societies can be arranged through the State Government Insurance Office?

(2) If I am not correct, will he please explain the correct position?

(3) With respect to (6) of question 698, what were the reasons for the amended rule being introduced?

Mr LAURANCE replied:

(1) and (2) As the State has a financial interest in loans made with a guarantee under the Housing Loan Guarantee Act, the State Government Insurance Office accepts the insurance referred to it on properties financed from this source.

(3) The rule was amended to reduce the need to increase the management fee by avoiding the payment of income tax by the society and again by the secretary on the commissions received.

LOCAL GOVERNMENT ELECTIONS

Property Based Franchise

838. Mr CARR, to the Minister for Local Government:

(1) Will she specify those measures which restrict the amounts of rates which can be charged by a council?

(2) How does she justify her comment in answer to question 776 of 1980 relevant to local government, that rates can be set at whatever level the council decides?

Mrs CRAIG replied:

(1) Except that it may be no greater than the amount necessary to balance the budget, there is no upper limit on the rate which a council may impose.

(2) That comment was merely a statement of fact.

LOCAL GOVERNMENT ELECTIONS

Property Based Franchise

839. Mr CARR, to the Minister for Local Government:

> The Government's submission on local government to the advisory council for inter-Government relations in 1979 stated that,—
>
> > "there is an increasing need developing for local government authorities to provide social and other services which relate to the individual and do not necessarily enhance the value of property".
>
> Why does the Government persist with a property-based franchise which is 142 years old, in view of the community-orientated nature of local government activity as admitted in the Government's submission.

Mrs CRAIG replied:

> Leaving aside the fact that the member does not know what the Government intends to "persist" with, I do not believe that there is any fundamental conflict between a growing need for local government to provide services of a personal nature and a property based franchise.

LOCAL GOVERNMENT

Policies: Community Influence

840. Mr CARR, to the Minister for Local Government:

(1) Since public participation in a democratic society could be regarded as important as it enables the community to influence the policy of councils and exercises popular control of those councils at election time, does the community have adequate means of influencing policy at election time, given the restricted franchise?

(2) How do the unenfranchised adults of a local government area influence policy during elections?

(3) How is it possible to claim that there is popular control of local councils when the electorate is restricted to property ownership or occupation, and so few people actually vote?

Mrs CRAIG replied:

(1) The local government franchise is not as restricted as the member's question perhaps infers.

All occupiers, as well as owners, of ratable property are eligible for enrolment as are the spouses of owners, provided in each case that they are British subjects.

The draft Bill proposes that this be extended to include the spouses of occupiers.

Apart from non-British subjects therefore, the only adult persons excluded from enrolment would be in the category of boarders and children living at home.

Whilst again emphasising that the provisions of any Bill that may be introduced for the re-enactment of part IV of the Local Government Act could provide for further changes, I believe that the local government franchise in this State enables the community to exercise an appropriate and adequate influence on its council at election time.

(2) I suppose by making their views known to those who are electors as well as to candidates for election.

(3) With respect to franchise, I have explained in answer to (1) that it is quite extensive.

With respect to voter turnout, the most important point is that those for whom the right to vote is appropriate do have that right; it is not the proportion who choose to exercise that right on particular occasions.

As I have said before, electors will turn up in large numbers when vital or contentious issues are at stake.

LOCAL GOVERNMENT

Policies: Community Influence

841. Mr CARR, to the Minister for Local Government:

(1) Since community studies in Victoria for the board of review have revealed that a significant proportion of the public do

not have a high regard for their local council, and that 60 per cent of those interviewed believed they had little or no chance of preventing the adoption of undesirable policies by their council, has any survey of this nature been conducted in Western Australia?

(2) Is any such review anticipated?

(3) If "No" to (1) and (2), why not?

Mrs CRAIG replied:

(1) I am not aware of any similar survey having been conducted in Western Australia alone.

However, the Victorian board of review report, which is quoted in the question, also said that "according to a national sample survey of Australian citizens, 30 per cent expressed some degree of dissatisfaction with what their local council was doing; this dissatisfaction was more noticeable in the 25-34 age bracket".

It is a pity that the member did not see fit to refer also to that national survey because, on the basis that any policy is unlikely to completely satisfy all of the people, the results tend to reinforce my own view that local government carries out its responsibilities in a most satisfactory way.

(2) Not by me.

(3) I do not believe that any particular purpose would be served.

LOCAL GOVERNMENT ELECTIONS

Aliens

842. Mr CARR, to the Minister for Local Government:

(1) Is it a fact that under the existing Local Government Act and with the draft Bill to re-enact part IV, it is possible for aliens to be recorded as electors because settlement agents notify ownership and not naturalisation status?

(2) How are local authorities expected to maintain accurate rolls with such an arrangement?

(3) What steps are to be taken to overcome this difficulty?

Mrs CRAIG replied:

(1) It is possible for aliens to be inadvertently included on the roll under the present provisions of the Local Government Act and would probably still be possible if the provisions of the draft Bill were enacted.

(2) I believe that local authorities have endeavoured to exercise as much vigilance as could reasonably be expected to ensure the accuracy of the rolls. Nevertheless, the problem is acknowledged.

(3) The matter has been, and is being, closely studied. I am confident that any legislation brought before the Parliament will contain adequate measures.

ELECTORAL

Ministerial Facilities: Use by Liberal Party Candidates

843. Mr DAVIES, to the Premier:

(1) Were the facilities in Ministers' offices or departments, including Press secretaries, used at the last State Election to issue Press releases on behalf of Liberal candidates?

(2) If so, when?

(3) Is it intended that the resources of the State Government will be used to aid Liberal candidates in the Federal Election with Press releases and other media matters?

Sir CHARLES COURT replied:

(1) Not to my knowledge, and certainly not as regards my own office.

(2) See answer to (1).

(3) No—and I hope the Leader of the Opposition can declare the same concerning election assistance for his Federal Labor Party colleagues, bearing in mind that his own official staff are paid from the public purse.

IMMIGRATION

Pilbara Office

844. Mr DAVIES, to the Minister for Immigration:

(1) Further to question 715 of 1980 relevant to migrant workers and the Pilbara regional administrator's statement that

unless moves were made to establish a permanent office of the Department of Immigration in Karratha, skilled migrant workers would face enormous social handicaps, does the Government propose to take any action?

(2) If so, will he advise what the Government intends to do?

Mr O'CONNOR replied:

(1) and (2) An inquiry of the Pilbara Regional Administrator indicated he made general comment which reflected the view that current and future developments may result in an increased flow of skilled migrant workers to the area.

It is understood that the Commonwealth Department of Immigration and Ethnic Affairs in its current planning provides for the establishment of a regional office in Karratha.

COMMUNITY WELFARE

Adoption of Children Act: Amendment

845. Mr HODGE, to the Minister for Community Welfare:

Since he stated in his second reading speech for the introduction of the Bill to amend the Adoption of Children Act, that a similar amendment to that proposed by clause 5 had already been passed in New South Wales, can he provide me with details of the New South Wales legislation and explain precisely how it varies from the proposed clause 5?

Mr HASSELL replied:

I am informed that the Adoption of Children Act (Amendment) Act 1980 of New South Wales, schedule 3, clause 18 repeals section 46 (2b) which is the equivalent section to section 15(2)(b) of the Adoption of Children Act 1896-1979, of Western Australia. The New South Wales amendment has been passed, but not proclaimed.

The difference between the New South Wales amendment and the Western Australian Bill, is that the former has no provision equivalent to clause 6 for supervision of children who have been recently adopted overseas by couples who are not nationals of the country where the adoption order was made. Consequently the New South Wales Act does not provide protection for these children if the adopting parents have difficulty in caring for them.

WATER RESOURCES

Agaton

846. Mr DAVIES, to the Minister for Agriculture:

Further to question 682 of 1980 relevant to the Agaton project, in view of the statement that he advised the Rural Water Council of Western Australia that the Agaton project was deserving of high priority, did he advise the council of the status of the project in terms of the numerical priority attached to it by the State when submitting water resource projects to the Commonwealth for approval and funding?

Mr OLD replied:

No minutes of the meeting were kept and therefore no records are available.

FIRE BRIGADES BOARD

President

847. Mr DAVIES, to the Premier:

On which boards, committees, or commissions is the President of the Fire Brigades Board?

Sir CHARLES COURT replied:

President of the Western Australian Fire Brigades Board since 1970.

Member of Parole Board since 1970.

Deputy Chairman of Western Australian Alcohol and Drug Authority since 1974.

It is assumed the question relates only to Government "boards, committees, and commissions".

WATER RESOURCES AND SEWERAGE

Rates: Payment by Instalments

848. Mr WILSON, to the Minister for Water Resources:

(1) What consideration, if any, has been given to the possibility of allowing payment of accounts for water rates by instalments other than in two equal parts, for people who are finding it virtually impossible to meet steeply increasing rates?

(2) Is any further consideration being given to any such possible arrangement in view of the imposts resulting from the most recent increases in water and sewerage rates?

Mr MENSAROS replied:

(1) and (2) The board has always been prepared to give consideration to payment by instalments in individual cases where undue hardship can be shown.

EDUCATION: HIGH SCHOOL

Balga

849. Mr WILSON, to the Minister for Education:

(1) Have funds all been allocated for a hall-gymnasium at the Balga Senior High School?

(2) If "Yes", what is the sum that has been set aside for the building?

(3) What stage has been reached in the planning of the building?

(4) When is it expected that tenders will be called?

Mr GRAYDEN replied:

(1) and (2) An allocation of $200 000 was made for upgrading work at the Balga Senior High School and the school has elected to have a hall-gymnasium built in preference to improvements in teaching areas.

(3) Plans are to be finalised with the principal this week.

(4) Towards the end of October.

EDUCATION: HIGH SCHOOL

Mirrabooka

850. Mr WILSON, to the Minister for Works:

(1) Is the Public Works Department aware of urgently needed work on the cleaning and maintenance of the swimming pool at the Mirrabooka Senior High School?

(2) If "Yes", when will a start be made on this work?

Mr MENSAROS replied:

(1) No.

(2) The responsibility for cleaning and maintenance of the swimming pool rests with the pool management committee of the parents and citizens' association for the high school.

EDUCATION: HIGH SCHOOLS

Driver Education Programme

851. Mr WILSON, to the Minister for Education:

(1) In how many high schools in Western Australia is the driver education programme presently operating?

(2) Does this represent a reduction of the number of schools participating in this programme as compared with previous years?

(3) What steps are being taken to ensure that this programme is strengthened and extended to other schools?

Mr GRAYDEN replied:

(1) 44.

(2) Yes. In 1980, of schools requesting cars, only 46 per cent have been supplied at this stage. At similar stages in 1979, 79 per cent of schools were supplied, and in 1978, 80 per cent were supplied.

(3) An Education Department committee is being formed under the director of schools to study the current problem and consider the future directions of driver education.

HOUSING

Hot Water Systems

852. Mr WILSON, to the Honorary Minister assisting the Minister for Housing:

(1) Can he confirm that it is now the practice of the State Housing Commission to require tenants to refer complaints about newly installed gas hot water systems direct to the manufacturer?

(2) If "Yes", does this requirement apply to the warranty period only?

(3) What is the warranty period in the case of new gas hot water systems?

(4) Are tenants being fully advised of this requirement at the time of installation?

Mr LAURANCE replied:

(1) Tenants are not "required" to refer complaints direct to manufacturer. On receipt of initial complaint by maintenance section, records are checked to establish if appliance is under warranty.

If this can be confirmed tenant may then be given the choice of either making direct contact with the manufacturer or leaving the matter in the hands of the commission, where it will be referred by the receiving officer in the normal way.

This choice has been available for up to three years, at the request of the manufacturers who then are able to speak direct to the user of the appliance, make mutual arrangements to gain entry and rectify problem in the earliest possible time. Manufacturers are able to provide a fast and efficient repair service through being able to contact the occupier direct.

Should tenant be unable or unwilling to make direct contact or be calling from public telephone etc., then commission will refer matter to manufacturer.

(2) This option is only applicable within warranty period of appliance.

(3) Warranty period of new gas hot water units is three years.

(4) This is not a requirement and tenants are advised of this option only where and if the necessity arises.

EDUCATION: HIGH SCHOOLS

Senior

853. Mr WILSON, to the Minister for Education:

(1) Which of the senior high schools listed in his answer to question 505 of 1980 relevant to schools have all five stages on construction?

(2) What is the availability of accommodation at any of these schools which do not have all five stages of construction?

Mr GRAYDEN replied:

(1) Of the senior high schools listed in my answer to question 505 of 1980, Craigie, Greenwood, and Lynwood do not have a stage 5 construction or, in the case of older schools, equivalent buildings.

(2) Craigie 48 effective teaching spaces.
Greenwood 47 effective teaching spaces.
Lynwood 47 effective teaching spaces.

LAND: NATIONAL PARK

South Coast: Mineral Leases and Tenements

854. Mr H. D. EVANS, to the Minister for Mines:

(1) How many mining leases or other tenements are currently being held in the proposed south coast national park?

(2) Who holds these leases?

(3) What mineral is involved in each case?

(4) How many applications for mining leases in the proposed south coast national park have been received by the Government and are awaiting a decision?

(5) Will he table a map of the proposed south coast national park showing granted mineral leases and applications for leases in the area?

Mr P. V. JONES replied:

(1) to (5) The Mines Department is researching the information requested and it will be provided as soon as it is available.

WATER RESOURCES

Salinity: Seminar

855. Mr McPHARLIN, to the Minister for Water Resources:

(1) Why is it that the itinerary for the field tour during the land and stream salinity seminar on 14 and 15 November does not include an inspection of the Batalling Creek salinity control project?

(2) Will consideration be given to altering the timetable to include this area?

Mr MENSAROS replied:

(1) The field trip has been planned to give the participants a comprehensive understanding of as many aspects of the salinity problem as possible within the time available. A wide range of salinity affected areas are being inspected along with scientifically conducted studies.

A visit is being made to Keast's property at Quairading where interceptor banks will be inspected.

The co-ordinated trial at Batalling Creek has been completed and the concept of interceptor drains can be adequately explained at Quairading.

(2) No.

NOONKANBAH STATION

Village: Community Consent

856. Mr McPHARLIN, to the Minister for Cultural Affairs:

(1) How long ago was the proposed building of the Noonkanbah village agreed to?

(2) Did the local Aboriginal community give their consent without disruptive protest?

Mr GRAYDEN replied:

(1) The proposed village at Noonkanbah is still in the planning stage. Surveys of the proposed village site have been completed and the State Housing Commission has been asked if it will undertake the project.

(2) The Yungngora community requested the Department of Aboriginal Affairs to provide a village near the existing homestead to house the approximately 150 people residing on the station.

HOUSING

Land: Nollamara

857. Mr WILSON, to the Honorary Minister assisting the Minister for Housing:

(1) What plans does the State Housing Commission have for the development of land bounded by Hancock Street, Slindon Street and Laythorne Road in Nollamara?

(2) When is it expected that this land will be developed?

Mr LAURANCE replied:

(1) and (2) There have been servicing problems and at present there are no proposals for the planning and development of this area.

HOUSING: RENTAL

Balga

858. Mr WILSON, to the Honorary Minister assisting the Minister for Housing:

(1) How many new rental units will be built by the State Housing Commission in Balga in the current financial year?

(2) (a) On which lots will these units be erected; and

(b) what type of units will be built in each location?

(3) When is construction work likely to commence in each case?

Mr LAURANCE replied:

(1) to (3) The 1980-81 construction programme will be finalised after the State Budget is brought down.

HOUSING: RENTAL

Girrawheen

859. Mr WILSON, to the Honorary Minister assisting the Minister for Housing:

(1) How many new rental units will be built by the State Housing Commission in Girrawheen in the current financial year?

(2) On which lots will these units be erected and what type of units will be built in each location?

(3) When is construction work likely to commence in each case?

Mr LAURANCE replied:

(1) to (3) The 1980-81 construction programme will be finalised after the State Budget is brought down.

HOUSING: RENTAL

Koondoola

860. Mr WILSON, to the Honorary Minister assisting the Minister for Housing:

(1) How many new rental units will be built by the State Housing Commission in Koondoola in the current financial year?

(2) (a) On which lots will these units be erected; and

(b) what type of units will be built in each location?

(3) When is construction work likely to commence in each case?

Mr LAURANCE replied:

(1) to (3) The 1980-81 construction programme will be finalised after the State Budget is brought down.

HOUSING: RENTAL

Nollamara

861. Mr WILSON, to the Honorary Minister assisting the Minister for Housing:

(1) How many new rental units will be built by the State Housing Commission in Nollamara in the current financial year?

(2) (a) On which lots will these units be erected; and

(b) what type of units will be built in each location?

(3) When is construction work likely to commence in each case?

Mr LAURANCE replied:

(1) to (3) The 1980-81 construction programme will be finalised after the State Budget is brought down.

HOUSING

Yirrigan and Mirrabooka

862. Mr WILSON, to the Honorary Minister assisting the Minister for Housing:

(1) What plans does the State Housing Commission have for the development of the localities of Yirrigan and Mirrabooka?

(2) When is it expected that these localities will be developed?

Mr LAURANCE replied:

(1) and (2) A review of structure planning is in progress for Yirrigan. However no timetables have been set for completion of planning or development.

In regard to Mirrabooka, the commission is awaiting finalisation of its structure planning proposals.

Depending on when the structure plan is finalised availability of services and funds, detailed planning of subdivisions can then be considered.

WASTE DISPOSAL

Liquid

863. Mr TAYLOR, to the Minister for Health:

What is the Government's policy with respect to the disposal of toxic liquid waste within the greater Perth region?

Mr YOUNG replied:

The Government's policy in respect of toxic liquid waste disposal, as for any waste disposal, is, firstly, to safeguard the health and safety of the people, and, secondly to implement recycling to as great a degree as is practicable.

Implementation of these policies includes the monitoring of methods of liquid waste disposal which is carried out under supervision at specially selected sites. The Department of Health and Medical Services operates an industrial waste exchange system to encourage and facilitate recycling.

WATER RESOURCES

Wetlands: Conservation and Rehabilitation

864. Mr TAYLOR, to the Minister for Water Resources:

With regard to question 604 (4) of 1980 relevant to preservation of wetlands, will he advise where such information is available for perusal?

Mr MENSAROS replied:

As far as the Metropolitan Water Supply, Sewerage, and Drainage Board is involved, considerable information is contained in its records, which could be made available to the member on specific request.

WATER RESOURCES

Wetlands: Conservation and Rehabilitation

865. Mr TAYLOR, to the Minister representing the Minister for Conservation and the Environment:

(1) With regard to question 604 (2) of 1980 under the heading water resources, will he advise whether the Minister is responsible for the conservation and rehabilitation of the remaining wetlands and their surrounding native vegetation?

(2) If "No", is the Minister aware of any statutory responsibility within other Government departments or instrumentalities for these matters?

Mr O'CONNOR replied:

(1) Yes, where wetlands are vested in the Minister for Fisheries and Wildlife.

(2) The Environmental Protection Authority has prepared guidelines for the protection of wetlands, but has no statutory responsibility in this area. The Department of Conservation and Environment offers an advisory service to local authorities and landowners responsible for wetlands. Where wetlands occur in reservations some responsibility may be assigned to the body in which the reserve is vested. In the case of reserves vested in the National Parks Authority or the Western Australian Wildlife Authority, that authority has a statutory responsibility to protect the wetland.

WATER RESOURCES: UNDERGROUND

Water Table: Study

866. Mr TAYLOR, to the Minister for Water Resources:

With regard to question 606(2) of 1980 relevant to private bores, when will the results of this study be available for perusal?

Mr MENSAROS replied:

The proposed study is expected to extend over some years and through numerous localities. It is envisaged that results will be reviewed progressively as the study proceeds and progress reports issued.

WATER RESOURCES: UNDERGROUND

Liquid Waste

867. Mr TAYLOR, to the Minister for Water Resources:

Can the Government ensure that leachates from toxic liquid wastes will not enter the groundwater?

Mr MENSAROS replied:

No—but it can and does regulate for the disposal of toxic wastes and does monitor disposal sites from strategically located wells.

WATER RESOURCES: UNDERGROUND

Waste Disposal Sites

868. Mr TAYLOR, to the Minister for Water Resources:

(1) What substances are monitored from samples of ground water taken from the proximity to sanitary landfill sites and sites for the disposal of liquid waste?

(2) How often are such bore samples taken, that is, what is the time interval between sampling of the groundwater in such locations?

(3) What is the plan or plans of action of the Government in case of accidental seepage of toxic liquid wastes into the groundwater?

Mr MENSAROS replied:

(1) Depending on the waste disposed of the substances monitored may include—

phenols
surfactants
sodium
potassium
magnesium
chloride
sulphate
bicarbonate
nitrogen { ammonia, nitrate, organic }
iron
manganese
copper
lead
arsenic
fluoride
boron
phosphorus
other metals as relevant
dissolved carbon dioxide.

These samples are taken from monitoring bores in the vicinity of the disposal sites and additional bores extending away from the site to determine movement, dilution, etc.

(2) Usually at monthly intervals, but extending to intervals of six months depending upon circumstances.

(3) The procedure will turn on the ground conditions at each particular site; for example, nature of aquifer, presence of impermeable peat layers and so on. Further it will probably involve the construction of monitoring wells and possibly the recovery of pollutants by pumping.

It is relevant to observe that groundwater movements allow time to take remedial steps.

LOCAL GOVERNMENT ELECTIONS

Weeronga Aged Persons' Village

869. Mr HODGE, to the Minister for Local Government:

Is it a fact that residents of the Weeronga aged persons village in Willagee are not eligible to vote in local government elections because the owner of the property does not pay rates?

Mrs CRAIG replied:

I am not aware of the position with respect to the particular aged persons' village to which the member's question refers. However, if it were exempt from rates then any occupiers would not be eligible to vote unless, of course, they were eligible in respect of other land.

FISHERIES

Green Head Jetty

870. Mr BATEMAN, to the Minister for Works:

(1) As finance has been approved to establish a new jetty at the fishing village of Green Head, is he aware that only two posts have been erected on the jetty site, and bearing in mind the crayfishing season commences next month, will he make urgent arrangements to have this jetty completed as soon as possible in order that crayfishermen will not be disadvantaged?

(2) If not, why not?

Mr MENSAROS replied:

(1) Subject to the availability of funds, the purchase of basic materials for the Green Head jetty will be made in the current financial year with the view to the jetty's being completed early in the 1981-82 year.

The two poles to which the member referred were test piles required for jetty design purposes.

(2) Funds for fishing industry facilities have been required to cover all areas of the State. Jetties completed recently, or near completion, in the mid-west coast area have included Kalbarri, Port Gregory, and Denison. The Green Head jetty is a continuation of the stage in development of jetties for the fishing industry in this area.

Any advancement in the construction of the Green Head jetty would mean the diverting of funds from other projects considered just as essential to fishermen.

FUEL AND ENERGY: GAS

Natural: Beckenham-Kenwick Area

871. Mr BATEMAN, to the Minister for Fuel and Energy:

As there has been an ever increasing demand from residents in the Beckenham-Kenwick areas seeking the installation of natural gas through this particular area, will he advise when it can be expected work will begin on this project?

Mr P. V. JONES replied:

Extensions to the State Energy Commission's natural gas system are assessed individually, based on the likely demand for gas and cost of installation.

New mains are installed as and when they can be economically justified.

A number of extensions continues to be made in the Beckenham-Kenwick area in accordance with this criteria. However, it is not economic at this time to reticulate the whole area.

QUESTIONS WITHOUT NOTICE

NOONKANBAH STATION: VILLAGE

Minister for Cultural Affairs: Press Statement

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

(1) Is the Minister correctly reported in the *Daily News* of Monday, 15 September, as having said a $1 million, 60-house village is being planned for Noonkanbah Station?

(2) In view of the fact that the proposal is in the early stages of planning, and no decision has been made on the location of the village, the number of houses to be built, or the cost of the project, why did he release inaccurate information?

(3) In view of advice to his office on the morning of Monday, 15 September, from the Department of Aboriginal Affairs that the information he intended to release was inaccurate, why did he go ahead and release it?

Mr GRAYDEN replied:

(1) to (3) Firstly, the report in the *Daily News* was not correct. I did not stipulate an amount at all, and I made it absolutely clear that the project was purely being planned. I issued a Press statement, which I have here, which indicates that I specifically said that the plans would now be considered by the Aboriginal village management liaison committee.

Point of Order

Mr PEARCE: Could I ask that the Minister table the document from which he is quoting?

Several members interjected.

Questions (without notice) Resumed

Mr GRAYDEN: I said the plans would be considered by the Aboriginal village management and liaison committee, which is a joint State-Commonwealth committee, and a subcommittee of the Aboriginal Affairs Planning Authority. I made it absolutely clear that it was only being planned.

To my knowledge no information of the kind suggested by the Leader of the Opposition came to my office, and all the information which has been received by my office has confirmed my original statement. I would say this: many members of the Opposition and some Commonwealth officials are ducking for cover at the moment on the question of this proposed village. It is embarrassing to them to know that the Aboriginal community at Noonkanbah asked for the construction of this village. It is also embarrasing to the Opposition and to those officials to know that the village will be constructed—if and when it is finally approved—in the centre of the so-called area of influence.

I think four points should be made in respect of this. Firstly, the community itself requested that a village be provided near the existing homestead to house approximately 150 people.

Secondly, the Department of Administrative Services was requested to survey the proposed village site and concurrently to survey a village boundary which would facilitate excision of land from the pastoral lease in a similar manner to the approach taken for Gogo and Christmas Creek. The survey had only just been completed and the surveyors were still on the station on the day the drilling rig arrived.

The third point I would like to make is that the Aboriginal village management and liaison committee has been given the task of undertaking detailed consideration of the planning for the village and the State Housing Commission has been asked if it would be willing to undertake the project.

The fourth point is that I have been advised it is expected that the planning development will be on lines similar to Aboriginal development at One Arm Point, Looma, Gogo, and Christmas Creek.

Finally I make the point again that at no time have I indicated the development was other than in the planning stage. Indeed, in all the Press statements I have made and in other conversations I have made it clear that the plans are at an early stage. I will be happy to table my Press statements, including the statement from which I have quoted. Because they are relatively brief, I ask that they be included in *Hansard*.

The papers were tabled (see paper No. 284).

INDUSTRIAL DEVELOPMENT

Resin Works: Bunbury

189. Mr SODEMAN, to the Honorary Minister assisting the Minister for Industrial Development and Commerce:

(1) Is it true that Bunbury City Council has rejected the Borden Australia Pty. Ltd. proposal to construct in three stages and at a cost of $4.5 million a resin plant on port authority land at Bunbury?

(2) Has the Minister received approaches from any other shire expressing interest in locating the project in its area?

(3) If so, would he consider the possibility of encouraging the company to give thought to locating its plant in the Pilbara?

Mr MacKINNON replied:

I thank the member for Pilbara for notice of the question, the answer to which is as follows—

(1) Yes, the Bunbury City Council rejected a proposal by Borden Australia to rezone the Bunbury Port Authority land on which the company wished to construct a resin plant.

(2) Yes.

(3) The company has indicated that if a resin plant is to be built in Western Australia, it must be adjoining a port area. As the major customer of the plant's product will be a chipboard factory at Dardanup, the Port of Bunbury would be the ideal location. In an endeavour to retain Borden Australia's commitment to invest in Western Australia, the Government is assisting the company in the preparation of a case for resubmission to the Bunbury City Council.

Should this rezoning application be rejected again, the Government will make every effort to persuade the company to locate its plant elsewhere in Western Australia.

To date, the company has indicated that, whilst Bunbury was its most preferred site, it was considering alternative sites, both within Western Australia and in other States.

Should suitable land be available in the Pilbara, and should the local authorities support the proposal, the Government would encourage the company to consider that area, along with other suitable areas of Western Australia.

INDUSTRIAL DEVELOPMENT

Resin Works: Bunbury

190. Mr BRYCE, to the Honorary Minister assisting the Minister for Industrial Development and Commerce:

I regret that my question is without notice and not in the form of a "Dorothy Dix-er".

(1) Is it a fact that the Bunbury City Council and the group of local citizens who have protested about the location of this plant have categorically stated their keenness to have the factory situated in the Bunbury region?

(2) Is it a fact that the Bunbury City Council and that group of citizens are keen to see the factory located in an area set aside for noxious industries?

(3) Will he indicate why Borden Australia Pty. Ltd. is not prepared to establish a factory alongside the particle board factory at Dardanup, which happens to be the main customer for the glue?

Mr MacKINNON replied:

(1) to (3) In reply to the member for Ascot, it may be true that the group of concerned citizens led by the ALP

candidate in the last election for the seat of Bunbury may wish to locate the resin plant within the region. However, the member did not hear my reply to the previous question. The company has indicated that the facility must be port-based to be economically viable if it is to be located within Western Australia. The alternative sites it is considering are port-based either within Western Australia or in other States of Australia. That is the point the member for Ascot and the people of Bunbury seem to forget, and that is the reason we are encouraging the company to resubmit its application to the Bunbury City Council. While we are keen to meet once again with the group of interested residents who have protested, we must wait until we have that submission.

NOONKANBAH STATION: VILLAGE

Minister for Cultural Affairs: Press Statement

191. Mr PEARCE, to the Minister for Cultural Affairs:

With reference to his statement concerning a proposed village at Noonkanbah Station, in *The West Australian* of Tuesday 16 September that "the local Aboriginal community at Noonkanbah had given consent to development"—

(a) Is he aware that the community has only agreed in principle to a survey and that their consent in writing is required before the project can proceed?

(b) Is he aware that no consent has been given and will not be required for some time because no decision has been taken to proceed with the project?

(c) Why did he state that the community consented to the development when this clearly is not the case?

(d) How can he claim that a proposed Aboriginal village at Noonkanbah would be built on an area of influence when no decision has been made about the location of the village?

Mr GRAYDEN replied:

(a) to (d) In reply to the member for Gosnells, might I say unequivocally that the Aboriginal community of 150 people specifically asked the department concerned that a village be built there on the area of influence adjacent to the existing homestead in order to cater for 150 people. They specifically mentioned 150 people. Everything since has emanated from that specific request.

Mr Davies: Was the request made to you or to the Department of Aboriginal Affairs?

Mr GRAYDEN: I have already quoted the department, but I have the document here.

Point of Order

Mr PEARCE: Could I ask the Minister to table the document from which he is quoting?

Several members interjected.

Mr PEARCE: I am perfectly entitled to ask that.

The SPEAKER: Order! The Minister for Cultural Affairs is giving an answer to a question and he is reading from a document. In answer to an earlier question he indicated that he was quite happy to table the document formally.

There are two ways in which papers are tabled. In the first instance they are tabled by Ministers either at the time I call for papers to be tabled or during the course of an answer to a question. In such cases the papers form part of the official record of the Parliament and there is attached to them the privilege of this House.

In the case of papers that a member requires to be tabled as a result of someone quoting from them in the course of a debate, it is within Standing Orders for a member to seek that a particular paper be tabled; but it is not tabled in the same way as the papers to which I first referred.

In that situation the papers are laid on the Table of the House for a time to be determined by the Speaker—generally for the balance of that sitting day. Such papers laid on the Table for the

information of members are not covered by parliamentary privilege.

The Minister is replying to a question, and I would invite him to table the information which he uses to answer the question.

Questions (without notice) Resumed

Mr GRAYDEN: May I complete the answer? The request was made to the Department of Aboriginal Affairs, and the survey was completed around the homestead. The site is right in the middle of the so-called area of influence.

I have already tabled the papers referred to.

Points of Order

Mr PEARCE: That is a different set of papers. I want to pursue this, Mr Speaker, because I am quite within my rights, despite the hyenas on the other side, in seeking that the papers be tabled. The Minister has two sets of documents. He quoted from one lot which he passed over. He then seemed to me to be quoting from a different set of papers. I would like to have it clearly demonstrated—

Sir Charles Court: You are a nasty little boy.

Mr Davies: He is quite entitled to ask that they be tabled.

Several members interjected.

The SPEAKER: Order! The House will come to order! Can I have the assurance of the Minister for Cultural Affairs that the document from which he quoted a little earlier is the same document from which he has just quoted? Could I have his further assurance that the documents have in fact been tabled?

Mr GRAYDEN: I give that unequivocal assurance. I gave the papers to an attendant who went out to have them photostated. He has since handed me a copy of them. The document from which I have quoted is a Press release which was made this afternoon.

Mr BARNETT: Mr Speaker, I would like a ruling in respect of these papers. The Minister removed from the sheaf of papers he was holding, the top sheet and a middle sheet, and replaced the rest on the desk. The rest of the papers are still on his desk, held with a clip, and they have not been tabled. Should not your ruling refer to the whole sheaf of papers, rather than only those tabled?

The SPEAKER: The papers which I require the Minister to table are those from which he quoted. I have his assurance that those sheets have been tabled.

Mr BRYCE: A very important precedent is at stake here. Are you ruling, Sir, that from this point on if you gain an assurance from a member of Parliament that the substance of the material before him has already been tabled after a request from another member for it to be tabled, the remainder of the documents do not have to be tabled?

The SPEAKER: I am one who still has faith in my fellow man, even members of Parliament, and when I ask for an assurance that a document which has been quoted has been tabled and I am given that assurance, I accept it.

Mr Bryce: You know who we are dealing with.

The SPEAKER: Until such time as I am given reason to doubt members of Parliament or to doubt any particular person, I will continue to accept their word.

The Minister gave me an assurance that the document from which he quoted has been tabled. The two parts of the sheaf of papers he had, from which he quoted, have been tabled.

The member for Gosnells asks a different question. He asks whether the requirement is for the Minister to table the complete sheaf of papers. There is a difference between a sheaf of papers, in my view, and a booklet, or a book, or something that is bound permanently. In the case of a Minister quoting from a sheaf of papers that is kept together by a paper clip, or something of that kind, I do not regard that as a document—

Mr Parker: I wish you would tell that to the Legislative Council.

The SPEAKER: The Legislative Council can have its view. My view is that a document is not, in fact, a sheaf of papers that is kept together by one paper clip.

The Minister has assured me that the sheets from which he quoted have been tabled; and unless there is some evidence presented to me to the contrary, that is—

Mr CLARKO: On a point of order, I seek your ruling because I believe that the member for Gosnells is under a misunderstanding. Other members might be, too. Certainly your immediate predecessor, Speaker Hutchinson, ruled most clearly in this House that there was no requirement on a member to produce material which constituted his own notes or which were marked in such a way that they became part of his notes. It is my understanding that his ruling was that one can only be required to table matter which is separate from the speaker's key notes, such as a document or some form of annexure; and that one might be required to submit that. In fact, one can keep from submitting it because one regards it as part of the main notes; and one is not required to produce such in this House.

The member for Gosnells wants to rise midway through a speech, instead of at the end of it when it would be more appropriate, and seek the production of a paper the Minister had in his hand. That is contrary to the past rulings of the House.

The SPEAKER: I agree with the point raised by the member for Karrinyup. In this case, however, the document was not an *aide memoire* that the Minister was using as members often do in the course of delivering a speech in debates in this House. It was, in fact, a typewritten sheet of paper that I regarded as an annexure to notes that he might have had had he required such notes. The document the Minister has quoted from is the sort of document that can be required to be tabled.

The Minister has exercised his right, as is the right of every Minister of the Crown, to have the document to which he referred tabled in the way that Ministers may do when answering questions or at the time that I call for the tabling of papers.

Questions (without notice) Resumed

DROUGHT

National Disaster Fund

192. Mr COWAN, to the Treasurer:

In view of the increasingly serious and rapid expansion of drought-stricken areas in Western Australia's agricultural regions, is the Government giving consideration to declaring these affected areas a natural disaster, and applying for assistance from the Commonwealth under the National Disaster Fund?

Sir CHARLES COURT replied:

As always, the Government keeps these matters under review day by day. I can assure the member that the Ministers concerned, and particularly the Minister for Agriculture, are right up with the play. They keep closely in touch, and keep me informed. Any action the Government may and should take will be taken promptly.

RAILWAY STATION

Salmon Gums

193. Mr GRILL, to the Minister for Transport:

(1) Has a decision been made to close the Salmon Gums railway station?
(2) When was the decision made?
(3) Has the decision been announced publicly; and if so, when and where?
(4) What is the proposed closing date of the station?
(5) On what grounds was the decision made?

Mr RUSHTON replied:

(1) to (5) I think the appropriate answer is "No"; but if the member could repeat the opening remarks—

Mr Grill: The opening remark was this: Has a decision been made to close the Salmon Gums railway station?

Mr RUSHTON: No, and there has not been a recommendation put before me.

NOONKANBAH STATION

Museum: View

194. Mr PEARCE, to the Minister for Cultural Affairs:

This might indicate why members opposite are so keen to have documents tabled. I would like to quote from a

document which we had tabled last Wednesday during the course of a debate. It is a letter by the Director of the Western Australian Museum (J. L. Bannister) on the subject of mining exploration at Noonkanbah Station. The Director of the Museum said this—

> When giving consideration to the application from the State Government the Trustees were required by Section 18 of the Aboriginal Heritage Act either to make a recommendation for a protected area or to give consent. They were not willing to give consent and accordingly they were required to recommend the site as a protected area.

Will the Minister now concede, in the light of that, that it is the view of the Museum that the area on which the Government sought to allow drilling on Noonkanbah Station is in fact a sacred area, which the Minister has long denied; and will he now stop making the often reiterated statement that the Museum has never said the drilling took place on a sacred area?

Mr GRAYDEN replied:

Could I say this absolutely unequivocally, that the so-called area of influence which has been put forward by the Museum encompasses a very large area, much of which is certainly not in the category of a sacred area. This is recognised by the Museum, which has said quite clearly to the Government that normal activities should continue on much of the so-called area of influence because they would not affect the area of influence in any way.

The Museum has gone even further and said that additional building activity can take place on the so-called area of influence; and that in itself is a clear statement on the part of the Museum that the area is not in the category of a sacred area.

Mr Pearce: Why would they not give consent?

EDUCATION : HIGH SCHOOLS

Karratha and Wickham

195. Mr SODEMAN, to the Minister for Education:

In order to offset further unfair inferences by the member for Ascot concerning "Dorothy Dix" questions, I indicate that this question is asked at my own initiative, and is presented on my own "notice of question" paper.

Opposition members interjected.

Mr SODEMAN: Perhaps the member for Ascot might think about asking a supplementary question to this question. The question is as follows—

(1) As the Minister has recently completed a tour of inspection of a number of State schools in the Pilbara could he advise—

  (a) what is the current programme in respect of the proposed new district high school for Wickham;

  (b) what further communication is to take place with the school's parents and citizens' association and parents of the current year 7 students?

(2) What is the expected plan of development to cater for future high school requirements in Karratha?

  Does the above take into account the expected impact of—

  (a) the proposed new district high school at Wickham to cater progressively for Roebourne and Wickham, years 8, 9 and 10 students by 1983;

  (b) the possibility of a Catholic high school being constructed in Karratha in the near future;

  (c) the increased population as a result of the North-West Shelf gas project; and have discussions taken place with Woodside Petroleum Development Pty. Ltd. in order to ascertain as accurately as possible the expected build-up in their work force and that of associated service industries, etc.?

(3) What will be the maximum population to be planned for—

(a) permanent students;

(b) permanent plus temporary students prior to a new facility being built?

Mr GRAYDEN replied:

I thank the member for some notice of the question. The answer is as follows—

(1) (a) Year 8 students from Wickham and Roebourne will attend at Wickham in 1981. In successive years the school will have year 9 and year 10 enrolments. Wickham primary school will be reclassified as a district high school from 1982. In 1981 special transportable centres for science, manual arts and home economics and other transportable classrooms, as required, will be placed on the primary site. A programme to provide permanent buildings for secondary teaching will be carried out during 1981-1983.

(b) There will be a further meeting with parents of current year 7 students from the Wickham and Roebourne schools early in October at which there will be guest speakers from a district where a similar project is being provided.

(2) Some additions may be made to Karratha Senior High School and a new school will be established at Nickol when numbers warrant.

All the factors listed in (a) to (c) are being taken into account in this planning.

(3) (a) The Karratha Senior High School is expected to have a permanent enrolment of up to 1 000 students.

(b) About 1 200 students and timing of a new facility will depend on the availability of funds for capital works.

The SPEAKER: I call the member for Melville. This must be the last question.

Mr Barnett: I have been up and down all night.

The SPEAKER: You have already asked a question.

Mr Barnett: I have not.

HEALTH

Trachoma

196. Mr HODGE, to the Minister for Health:

In answer to a question yesterday the Minister stated that Professor Hollows' national trachoma team had worked on polling day in the Kimberley by-election for the Australian Labor Party. In view of the fact that Professor Hollows' national trachoma team was working in northern New South Wales and Southern Queensland at the time of the by-election, will he now apologise to the House and to Professor Hollows?

Mr YOUNG replied:

If all the members of the Hollows team were out of the Kimberley, and I can establish that, I will apologise to Professor Hollows and the House.

Mr H. D. Evans: You implied they were all there.

Mr YOUNG: That is not what I said. Please use a little logic.

What I said yesterday, in answer to the member for Melville, was that some members of the Hollows team did certain things. I said today that if all of the members of the Hollows team were in northern New South Wales, as he claims, I will apologise because that would prove that what I said yesterday was wrong. Now, if indeed they were, it would be very surprising considering the amount of activity that went on up to polling day. That is all I can say.

I was assured that the people in the vehicle were members of the team; but I will check it out.

Mr Davies: Are you denying them a right to political activity?

The SPEAKER: Order!