indeed (and I cast no slur in what I am about to say) than that of Administrator of the North-West. Something extremely urgent needs to be done in an endeavour to salvage the industry which has carried the north along since the 1880's.

I would speak for a moment in a direct sense on the activities of the Administrator of the North-West. He is a very energetic and capable gentleman, and I think he is becoming fully seized of the north and its problems. However, I think his department should be attached to that other purpose.

We have distressing cases of local tradespeople in some north-west towns being owed sums of money for trading by Government instrumentalities, such as hospitals and the like. They wait months to have their accounts paid. I would like to see instituted an arrangement whereby the clerk of courts acts as Treasury pay officer, and payment is made on the spot to local tradesmen—men who are working on overdrafts. The present position is driving some tradesmen in the north to a very serious state of mind in their endeavour to meet their obligations because the Crown is their slow-paying debtor. This is extremely unfair.

What happens to any of us if we owe the Crown 30s. or a tenner? We get a final notice within 14 days of not paying our account; but in the north-west, and maybe in other districts, small business people are allowed to languish while the Crown owes them money. I have received many final notices as the Crown will not wait five minutes if one owes it money.

The Hon. A. R. Jones: It cuts off your water.

The Hon. F. J. S. WISE: Yes; and it is a serious thing to have your water cut off. The Crown will insist upon payment; and yet the people I have referred to are the ones who keep the communities going. The smaller businessman is suffering.

I will not delay the House any longer, and I appreciate the kindly hearing given me by honourable members.

Debate adjourned, on motion by The Hon. N. McNeill.

House adjourned at 6.1 p.m.

Legislative Assembly

Tuesday, the 3rd August, 1965

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The SPEAKER (Mr. Hearman) took the Chair at 4.30 p.m., and read prayers

SWEARING-IN OF MEMBER

THE SPEAKER (Mr. Hearman): I am prepared to swear-in Mr. George Meredith Cornell, the member for Mt. Marshall.

The honourable member took and subscribed the Oath of Allegiance and signed the roll.

QUESTIONS (26): ON NOTICE

BROCHURE ON WESTERN AUSTRALIA

Cost Variation between Government Printing Works and Westviews Pty. Ltd.

1. Mr. TONKIN asked the Premier:

   (1) During last year when the Government required a further supply of brochures on Western Australia, the same as had been originally produced at the Government Printing Works, why was the Government Printer not permitted to tender?

   (2) Excluding the special brochures bound in leather, how many were produced by the Government Printing Works and Westviews Pty. Ltd., respectively?

   (3) Did the brochures produced by Westviews Pty. Ltd. cost the Government approximately three shillings per copy more than those produced by the Government's own printing works?

   (4) What was the total extra cost to the State because the Government Printing Works did not have the job?

   (5) Is the policy—of which his action in this matter is an example—to be continued?

   (6) Is not economy in administration to be preferred to increased taxation?

   Mr. BRAND replied:

   (1) As the new brochures will be on sale to the general public, it was decided that publications for sale should be privately printed.

   (2) The Government Printing Works produced 3,500 copies of the original version of the book. The second version has not been published.

   (3) and (4) The first version produced by the Government Printing Works cost approximately 13s. 4d., per copy. On this occasion Westviews Pty. Ltd. will be paid 10s. a copy for 5,000 copies. The quote from the Government Printing Works was 7s. 10d. per copy.

   The total cost to the State will be less. Some sources of distribution now served by the State will be required to purchase copies

in future, and under the contract Westviews Pty. Ltd. will be required to offer 10,000 for private sale at its own risk.

(5) Each case will be considered on its merits.

(6) Yes.

LOTTERIES CONTROL ACT

Procedure on Breaches

2. Mr. TONKIN asked the Chief Secretary:

(1) When it comes to the notice of the Secretary of the Lotteries Commission that a breach of the Lotteries Control Act may have been committed, what procedure is then followed?

(2) At what stage is the matter referred to the Police Department?

(3) When it is clear that a breach of the Act appears to have been committed, who decides whether court action is to be taken?

(4) When it is decided not to prosecute although it appears that a breach of the Lotteries Control Act has been committed is he advised?

(5) Is the Minister for Police advised of decisions not to prosecute for apparent breaches of the Lotteries Control Act?

Breaches over a 12-months' Period, and Court Action

(6) During the twelve months ended the 31st March, 1965, how many apparent breaches of the Lotteries Control Act came under the notice of the secretary of the commission?

(7) Of these cases, in how many instances was court action taken?

Prosecution of Scot's Cricket Club Secretary

(8) Why was the part-time secretary of Scot's Cricket Club prosecuted and instances of more serious breaches of the law, known to the commission, allowed to pass without court action being taken?

(9) Was the decision to prosecute the secretary, Scot's Cricket Club, made by the Lotteries Commission?

Discrimination in Law Enforcement

(10) Is he aware that towards the end of last year a prominent organisation related to sporting activities conducted an unauthorised sweep with tickets selling at five shillings and there was no prosecution?

(11) For how long is he going to allow this discriminatory enforcement of the law to continue?

Mr. CRAIG replied:

(1) and (2) The complaint is referred to the police for investigation if considered necessary.

(3) The commission.

(4) Any decision not to prosecute or otherwise is recorded as a minute and the Commissioner of Police notified.

(5) Not by the Lotteries Commission.

(6) Illegal Lotteries—4, and several breaches of permit conditions.

(7) Four.

(8) The Scot's Cricket Club case was a straightout illegal lottery as no permit had been issued. Other cases were breaches of the permit conditions.

(9) Yes.

(10) No.

(11) All matters appertaining to the conduct of lotteries by persons other than the commission are dealt with on the merits of each particular case.

METROPOLITAN REGION PLANNING AUTHORITY

Aesthetics Committee: Composition and Definition of Powers

3. Mr. TONKIN asked the Minister representing the Minister for Town Planning:

(1) Who are the persons comprising the aesthetics committee of the Metropolitan Region Planning Authority?

(2) Are there any specific terms of reference to guide the members in their deliberations?

(3) Has there been a definition of the powers of the committee?

(4) If "Yes," from what source has the authority been derived?

(5) What are the safeguards, if any, against the powers of the committee being "a direct infringement of the rights and freedoms of individuals" as alleged by a special meeting in Perth of 83 architects?

Mr. LEWIS replied:

(1) The so-called aesthetics committee is more accurately described as the Building Design Advisory Committee. The members are—

Sir Thomas Meagher: Chairman.

Hon. L. C. Diver, M.L.C.: Chairman Joint House Committee.

Professor Gordon Stephenson.

Messrs. A. C. Curlewis: Perth City Councillor; L. R. H. Lilleyman: Perth City Councillor; W. T. Leighton: W.A. Chapter, Royal Australian Institute of

Architects; W. L. Green: Principal Architect, P.W.D.; F. Norton: Director, W.A. Art Gallery; J. E. Lloyd: Town Planning Commissioner.

In addition, the Main Roads Commissioner, or his deputy, was co-opted.

(2) Yes. The committee was asked—

(a) to undertake the responsibility of advising the Metropolitan Region Planning Authority on the design of specific development projects submitted for approval; and

(b) to endeavour to establish desirable design standards which may be capable of expression in a code and to make recommendations accordingly.

(3) The committee has no powers. It may make recommendations or offer advice to the Region Planning Authority.

(4) and (5) Answered by (3).

METROPOLITAN WATER BOARD AND FREMANTLE PORT AUTHORITY

Borrowings, Interest, and Sinking Fund

4. Mr. TONKIN asked the Treasurer:

(1) What amount of money was borrowed by the Metropolitan Water Board and the Fremantle Port Authority respectively, in addition to loan moneys made available by him, during the financial year ended the 30th June, 1965?

(2) At what rate of interest was each separate amount borrowed and what sinking fund charge is being made in respect to each loan?

(3) What is the total amount of money (exclusive of Government loan funds) which the Metropolitan Water Board has borrowed since its establishment and what is the average annual cost per cent. including sinking fund?

Mr. BRAND replied:

(1) (a) Metropolitan Water Supply, Sewerage and Drainage Board £200,000.

(b) Fremantle Port Authority £100,000.

(2) (a) Metropolitan Water Supply, Sewerage and Drainage Board—

Interest 5½ per cent. per annum.

Sinking Fund ½ per cent. per annum.

(b) Fremantle Port Authority—

Interest 5¾ per cent. per annum.

Sinking Fund ½ per cent. annum.

(3) Amount borrowed £200,000.
Average annual cost 6 per cent.

PERTH-GERALDTON RAILWAY

Cost of Rehabilitation

5. Mr. TONKIN asked the Minister for Railways:

Apropos the statement attributed to Acting Railways Minister O'Connor in *The West Australian* of the 3rd May, 1965, that temporary Perth-Geraldton train schedules "were necessary because the W.A.G.R. was bringing the condition of the Perth-Geraldton railway up to the standard of the rest of the system"—

(a) what is the total cost to date of this work; and

(b) what is the total estimated cost of the whole project?

Mr. COURT replied:

(a) £147,000.

(b) £741,500.

This is consistent with the advice given to Parliament (*Hansard*, page 2650 the 12th November, 1963) when the Legislative Assembly was advised this work had been assessed at £934,500 spread over five years when negotiating the purchase price but it was hoped to do it for less and over a longer period.

STANDARD GAUGE RAILWAY

Prime Minister's Concern on Cost

6. Mr. TONKIN asked the Premier:

(1) In the letter on the rising cost of the standard gauge railway which the Prime Minister was reported to have sent him at the end of May or beginning of June this year, did Sir Robert Menzies suggest that W.A. had not been playing the game with the Commonwealth on the standardisation project?

(2) What were the particular aspects upon which the Prime Minister expressed concern?

(3) Was there any real basis for Sir Robert's strictures?

Tabling of Correspondence with Prime Minister

(4) Will he table the Prime Minister's letter and his reply thereto?

Mr. BRAND replied:

(1) No.

Part of the Prime Minister's letter dealt with suggestions that items additional to or more complex than items in the agreement were being incorporated in the project. There was no allegation we had not been "playing the game".

In this regard it should be realised the Commonwealth approves the calling of tenders and the letting of contracts and thus has complete control over what is incorporated.

(2) (a) The rising costs compared with the original broad estimates by Commonwealth and State officers.

(b) The possible effect on the economics of the project.

He sought a comprehensive review of the project with a view to a better understanding between Commonwealth and State of possible final costs, construction timetable, and control of items coming within the scope of the project.

(3) The Prime Minister's comments could hardly be called "strictures". The comments were directed at the points mentioned in the answer to (2).

The suggestion of so-called "strictures" was contained in a Press report purporting to be the views of some Commonwealth Ministers at the time when the existence of the letter was made known.

(4) No.

These are part of correspondence between the two Governments on a number of matters related to the project and it is considered no good purpose would be served if the letters are tabled.

SCHOOL BANK ACCOUNTS

Commonwealth Savings Bank Commission: Amount and Application

7. Mr. TONKIN asked the Minister for Education:

(1) What was the total amount of commission paid during the last financial year by the Commonwealth Savings Bank in respect of school banking accounts?

(2) How was this money applied?

Supersession of Previous Arrangement

(3) What special reason made it necessary or desirable to supersede an arrangement which has operated satisfactorily and profitably for the schools for a period of 31 years?

Reimbursement by Government

(4) Is it the Government's intention to reimburse the schools for the loss of commission?

Mr. LEWIS replied:

(1) Paid to department for Hadley Library 1964-65—£649 10s. 2d.
Paid to schools—not known.

(2) Hadley Library Trust Account—for purchase of library books for use in small schools.
School funds—decision is left to each school.

(3) The change was effected in pursuance of the Government's desire to stimulate further savings banking in schools and to relieve teachers from active participation and responsibility.

(4) Hadley Library will be maintained from general funds.
It is not intended to reimburse schools.

SCENIC RIVERSIDE PARK

Reference to Metropolitan Region Planning Authority and City Council

8. Mr. TONKIN asked the Premier:

(1) Were the Government's plans for a "Scenic Riverside Park" which were announced in *The West Australian* on the 17th February last referred to the Metropolitan Region Planning Authority beforehand?

(2) If "No," on what date were they referred to the Metropolitan Region Planning Authority?

(3) When the plans were announced did he say with regard to them that, "The City Council would be consulted at every stage during the detailed planning of the project"?

(4) Was it not equally important and necessary to consult the Metropolitan Region Planning Authority and obtain its opinion even though he might have found it expedient to disregard that opinion?

Cost and Method of Financing

(5) What is the estimated cost of the proposed scenic park?

(6) Will it be financed from main roads funds, general revenue or moneys provided by the Perth City Council?

(7) If finance is jointly to be provided, what proportions will come from each separate source, respectively?

Mr. BRAND replied:

(1) No.

(2) No formal reference has been made, nor is it considered that it should be made. A major interchange with park development features is incorporated in the approved Metropolitan Region Scheme. It was not contemplated that the design of these and similar works should be subject to examination in detail and approved by the Region Authority.

(3) Yes.

(4) There is no question of the opinion of the Metropolitan Planning Authority having been disregarded. The authority is kept informed and fully supports the Commissioner of Main Roads in his efforts to achieve the highest possible design standards for the freeway interchange and landscaped works.

(5) As the precise design details of the whole scheme have not been finalised, this has not been assessed.

(6) From Main Roads Department funds.

(7) Answered by (6).

WATER RETICULATION TO NEW HOME SITES

Metropolitan Water Board's Policy on Cost

9. Mr. TONKIN asked the Minister for Works:

(1) In connection with the decision of the Government to sell approximately 900 home sites in the suburbs of Churchlands, Woodlands, Dianella, and Yokine at a rate of 50 every three months on condition that the buyers commence building within six months, is it intended that the Metropolitan Water Board will vary its policy of requiring the home builder to pay the cost of laying the reticulation main when the needed extension exceeds two blocks?

(2) If "Yes," will the board relax its policy generally so that there will be no unfair discrimination between home builders on all blocks in subdivisions approved by the Town Planning Board?

Mr. ROSS HUTCHINSON replied:

(1) Discussions have been held with the State Housing Commission and it is not anticipated that there will need to be any departure from the Water Board's policy of extending reticulation mains for four blocks.

(2) Answered by (1).

TALLOW

Production

10. Mr. TONKIN asked the Minister for Agriculture:

(1) Excluding abattoirs in the north-west and Albany, what is the amount of tallow available annually to processors in this State?

Bulk Tanks at Midland Abattoir

(2) During 1964 how many bulk tallow tanks were erected at the Midland Abattoir?

(3) Of these, how many were excess to the Midland Abattoir Board's own requirements?

Lease of Facilities to T. & J. Salgo Pty. Ltd.

(4) Was the excess capacity leased to T. & J. Salgo Pty. Ltd. of Sydney?

(5) If "Yes," for what period were the tanks leased?

(6) Does the hire of the tanks include facilities for the heating and pumping of tallow and supervision?

(7) Before the lease of the excess storage capacity was granted, were tenders invited?

(8) If tenders were not invited, why was such a course not followed?

(9) Was the excess capacity constructed with a view to its being leased to some processor for a term of years?

(10) Is the service which is provided by the board in its recently established plant for the melting of tallow from drums being made available to T. & J. Salgo at below cost?

(11) Is it a fact that the drum tallow being used for this melting out process to the advantage of T. & J. Salgo is not produced at the Midland Abattoir but is obtained by the company concerned from tallow auctions or privately from small independent producers?

(12) Is it a fact that the main use of the recently equipped bulk carrying truck owned by the board is for the inward and outward cartage of tallow for T. & J. Salgo?

(13) What explanation is there for the apparent connivance by the Midland Abattoir Board in the development of a situation in which T. & J. Salgo Pty. Ltd. can without investing any capital in Western Australia have the services of a Government instrumentality which outlays funds to assist it in competition against local companies which have invested many thousands of pounds of their own capital and employ considerable staff?

Mr. LEWIS (for Mr. Nalder) replied:

(1) Figures are not available.

(2) Five.

(3) Two.

(4) Yes.

(5) Five years, from about September, 1964.

(6) No, these charges are additional.

(7) No.

(8) In the first instance the board had no intention of erecting additional storage tanks at this stage and it was only at the specific request of T. & J. Salgo Ltd., of Sydney, and then only after full consideration of the economics of the proposition, that approval was granted. In such a case it is not board policy to call tenders.

(9) Answered by (8) above.

(10) No.

(11) T. & J. Salgo Ltd. compete by tender for the purchase of drum tallow from Midland and other works in competition with other tallow exporters.

(12) No; it has never been used by or for T. & J. Salgo Ltd. at any time.

(13) There is no connivance by the Midland Junction Abattoir Board with Salgo or any other tallow exporter. T. & J. Salgo Ltd. are paying rental for the use of tanks which would be the equivalent of any local exporter's interest and depreciation charges on capital investment for the same purpose. This is a similar arrangement to that existing in all other capital city abattoirs in Australia and for which equivalent service charges for heating, pumping, and supervision of tallow are made.

ELECTRICITY EQUIPMENT IN METROPOLITAN AREA

Cost of and Plan for Establishment Underground

11. Mr. TONKIN asked the Minister for Electricity:

(1) Has any estimate been made by the State Electricity Commission of the cost of removing poles and overhead wires in the metropolitan area and placing the necessary equipment underground?

(2) If "Yes," when was the estimate made and what is the amount?

(3) Is he aware that the desire of the public for the changeover is strong and the people would willingly meet the cost involved?

(4) Will he give consideration to the preparation of a plan to provide for the progressive replacement of the system until, as far as is practicable, it is underground?

Mr. BOVELL (for Mr. Nalder) replied:

(1) to (4) The commission is constantly undergrounding its mains where this is economically justified by the loading such as in centre city areas.

Underground mains cost from three to five times that of overhead mains and would therefore result in a substantial increase in electricity charge to the consumer.

ELECTRICITY ACCOUNTS

Surcharge: Adoption, Collections, and Effect

12. Mr. TONKIN asked the Minister for Electricity:

(1) On what date was the surcharge of ten shillings on quarterly accounts for electricity first applied?

(2) What is the total amount obtained by this charge up to the 30th June last?

(3) What has been the effect on the commission's revenue of the altered method of calculating accounts with a fixed service charge included?

(4) Will he give a detailed explanation of the incidence of the service charge and the reason why the new method of calculating accounts has been adopted?

(5) What class of consumers, if any, is disadvantageously affected by the charge?

Mr. BOVELL (for Mr. Nalder) replied:

(1) 1st October, 1963.

(2) and (3) The new method of charging resulted in a reduction of revenue to the commission of £150,000 a year.

(4) Prior to the 1st October, 1963, domestic consumers were charged a measuring fee of 7s. 6d., 2½ units per hundred square feet per quarter at 6.65d. per unit and their remaining consumption at 2.4d. per unit. Under the present tariff there is no measuring fee and domestic consumers are charged a fixed amount of 10s. a quarter equal to the minimum charge, and units consumed at 2.3d. per unit. In the latest method, measuring each house is eliminated, accounting simplified and the method is in line with that used by other large authorities in Australia; e.g., in Victoria domestic consumers pay a fixed charge of 5s. 3d. per room per quarter (26s. 3d. for a five-roomed house including kitchen) and 2.52d. per unit consumed.

(5) It is estimated that 587 consumers may pay approximately 5½d. per week more and 5,875 consumers may pay up to 3d. per week more. The average consumer will gain up to 4d. per week.

Consumers who use electricity for all purposes will gain more. The following are examples:—

	Old Rates		New Rates	
(a) *A very small consumer:*	s. d.			s. d.
10 @ 6·6d.	5 6			10 9
40 @ 2·4d.	8 0		50 @ 2·3d.	9 7
	13 6			19 7
Increase: 5½d. per week.				
(b) *An average consumer:*	£ s. d.			£ s. d.
28 @ 6·6d.	15 5			10 0
472 @ 2·4d.	4 14 5		500 @ 2·3d.	4 15 10
	5 9 10			5 5 10
Reduction: 4d. per week.				
(c) *An all-electric home:*	£ s. d.			£ s. d.
30 @ 6·6d.	16 6			10 0
770 @ 2·4d.	7 14 0		800 @ 2·3d.	7 13 4
	8 10 6			8 3 4

Reduction: 6½d. per week.

The new domestic rate costs less to administer and therefore assists towards making further reductions in the future.

MECHANICAL APPLIANCES COMMITTEE

Composition and Function

13. Mr. TONKIN asked the Premier:
    (1) Is the Mechanical Appliances Committee still in existence?
    (2) If "Yes," who are the persons who comprise it?
    (3) Is its function purely advisory?
    (4) What departments are permitted to ignore the committee's recommendations when incurring substantial expenditure on mechanical appliances?

    Mr. BRAND replied:
    (1) Yes.
    (2) W. J. Robinson, Public Trustee.
        R. Christie, Inspector, Public Service Commissioner's Office.
        J. Bond, Inspector, Treasury Department.
    (3) No.
    (4) The activities of the committee embrace Government departments only.

RAILWAY STATIONS

Midland Station Premises: Opening

14. Mr. BRADY asked the Minister for Railways:
    (1) When will new station premises at Midland be opened for business?

    West Midland Station: Opening

    (2) When will the new West Midland station be opened?

    West Midland: Removal of Up-platform

    (3) Is the department going to leave the up-platform at West Midland in its present half-demolished state for any length of time?

    Mr. COURT replied:
    (1) Anticipated July, 1966, on current planning.
    (2) Anticipated March, 1966.
    (3) Total demolition of existing platform is dependent on construction of a new platform which will be completed by March, 1966.

PRIMARY SCHOOL AT BASSENDEAN

Commencement and Tenders

15. Mr. BRADY asked the Minister for Education:
    (1) When is the building of the primary school in Anzac Terrace, Bassendean likely to commence?
    (2) Have tenders been called for building?

    Mr. LEWIS replied:
    (1) and (2) The erection of a new school in Anzac Terrace, Bassendean, is not contemplated at the moment, the existing schools at Eden Hill and Hampton Park being quite capable of meeting the present needs of the district.

NATIVES: HOUSING IN METROPOLITAN AREA

Department's Policy

16. Mr. BRADY asked the Minister for Native Welfare:
    (1) What is the department's policy in regard to building homes for natives in the metropolitan area?
    (2) Have any homes been built for natives since the Labor Government left office?
    (3) Does the Native Welfare Department assist natives in renting homes in the metropolitan area?

    Mr. LEWIS replied:
    (1) The Department of Native Welfare is seeking the support of selected local authorities to erect standard transitional houses in the metropolitan area. A limited programme of constructing conventional houses in the metropolitan area has been commenced.
    (2) Yes, a total of approximately 400 of various types throughout the State.
    (3) Yes.

OVERWAYS NEAR SCHOOLS

Provision at West Midland: Negotiations with Railways Department

17. Mr. BRADY asked the Minister for Works:
    (1) Are any negotiations taking place with the Railways Department for an overway for school children at West Midland?

(2) At what stage (if any) are the negotiations?

Position in Victoria

(3) Is he aware the Victorian Government is now building overways near schools?

Mr. ROSS HUTCHINSON replied:

(1) Proposals have been discussed with the Railways Department for a scheme to extend a proposed railway footbridge over the road. However, the Railways Department has since decided to construct a subway for station access.

(2) Answered by (1).

(3) Yes. The scheme is being financed jointly by the Government, the local authorities, and the Country Roads Board.

ITINERANT TEACHERS

Withdrawal from Pastoral Areas

18. Mr. NORTON asked the Minister for Education:

(1) Is there any truth in the rumour that itinerant teachers are to be withdrawn from the pastoral areas?

(2) If so, for what reason?

Mr. LEWIS replied:

(1) and (2) Itinerant teachers are being replaced by schools of the air. Only one remains at the present time.

WATER RATES IN COUNTRY AREAS

Saving by Housing Department

19. Mr. NORTON asked the Minister for Housing:

(1) What is the total saving made by his department in country areas now that the water rate has been reduced from 3s. in the £ to 1s. 6d. in the £ A.R.V.?

Rebates on Rents

(2) Is it the intention of his department to make any rebates on rents now that tenants do not get an allowance of water in their rental and his department is showing a considerable saving by the reduction of the water rate?

Rental Position at Carnarvon

(3) Is he aware that the new method of water charges at Carnarvon is increasing the rental to tenants by approximately 6s. per week?

Mr. O'NEIL replied:

(1) Because of the new system of country water rating and charges, the commission has undertaken a review of all country rentals on the basis of granting an appropriate reduction where the rent being currently paid is an economic one. In respect of the north-west, this review is continuing on the same basis, and appropriate adjustments will be notified on its completion in the near future.

(2) Answered by (1).

(3) None of the commission rents at Carnarvon has been increased because of the new system.

TRANSPORT IN NORTH-WEST

Report of Messrs. Owen, Howard, and McGuigan: Tabling

20. Mr. NORTON asked the Minister for Transport:

(1) Will he lay on the Table of the House the report of Messrs. Owen, Howard, and McGuigan on transport in the north-west?

(2) If not, why not?

Mr. COURT replied:

(1) and (2) There is a Commonwealth committee under the chairmanship of Sir Louis Loder examining transportation costs generally in northern parts of Australia and there is a current study being made of the whole of the State's transport system, including the north-west.

In the circumstances it is considered no good purpose would be served if this report is tabled. It is regarded at this stage as an interim report on a particular area and as such its value is for consideration in conjunction with the broader Commonwealth and State studies being undertaken.

SLOPE ISLAND

Land Classification

21. Mr. NORTON asked the Minister for Lands:

(1) Is Slope Island in Freycinet Reach an "A"-class reserve?

(2) Is it vested in any department, and for what purpose?

Mr. BOVELL replied:

(1) No.

(2) No; but it is being utilised for commercial salt purposes.

COTTON GROWING

Experiments at Gascoyne Research Station

22. Mr. NORTON asked the Minister for Agriculture:

(1) What varieties of cotton were planted in the Gascoyne Research Station trials last November?

(2) What were the staple lengths of each variety?

(3) What were the dates of planting and harvesting?

(4) What was the staple quality of each variety?

(5) What was the plot size and the calculated yield per acre of each variety?

(6) What manures were used and at what quantity per acre?

(7) Were spraying costs estimated per acre and if so what was the cost per acre?

(8) What insect pests caused any significant damage?

(9) What irrigation frequency and quantity of water was found necessary for the crop?

(10) What quantity does this represent on an acreage basis?

(11) Were weeds a significant problem and what were the estimated costs per acre of weed control?

(12) What methods of weed control were used?

(13) Was there any boll rot and was the quality of the cotton in any way affected by humidity?

(14) Have any large-scale trials been envisaged to investigate the economic aspects of growing cotton on the Gascoyne?

(15) Have the present trials resulted from an economic survey of the Gascoyne by two agricultural economists and from my speech on the Address-in-Reply on the 18th August last year?

Mr. LEWIS (for Mr. Nalder) replied:

(1) Rex.
Delta Pine.
Dunn 7.
Acala 4-42.
Empire 289.
Acala 1517.
Pima S.2.
Pima S.1.
Total 8.

(2) and (4). These data will not be available for some time as seed cotton must be ginned and lint sent away for assessment.

(3) Planting early December. Harvesting the 23rd April to the 21st May.

(5) (a) Each plot 3 rows of 46 feet x 3 ft. 6 in. Number of plots 24.

(b) Calculated yield per acre:

	lb.
Rex	4,807
Delta Pine SL	4,521
Dunn 7	4,333
Acala 4-42	4,286
Empire 289	4,178
Acala 1517	3,747
Pima S.2	2,979
Pima S.1	2,390

(6) 2 cwt. Super (Copper Zinc) per acre.
4 cwt. Ammonium Sulphate per acre.

(7) No estimate of costs was made.

(8) Several known pests were recorded but there was no difficulty in obtaining effective control.

(9) 47,500 gallons per acre per week.

(10) 3 feet.

(11) No. Cost not known.

(12) Hand weeding, hoeing and pulling.

(13) No.

(14) Larger-scale trials are intended but farm-scale production will not be attempted until considerably more has been done in preliminary testing of varieties and planting times.

(15) No. The work was planned for commencement in 1963 following a C.S.I.R.O. report which was drawn upon heavily by economists Parker and Nalson in their Gascoyne appraisal. Unfortunately, seed had to be imported from overseas and did not arrive in time for 1963 plantings.

WESTERN AUSTRALIAN MARINE ACT

Shipping Exemptions

23. Mr. TONKIN asked the Minister for Works:

(1) What vessels operating intrastate on the Western Australian coast have been granted permission to operate under regulation No. 102 of the Western Australian Marine Act?

(2) Of these, which ships are flying the Liberian or some other "flag of convenience"?

(3) Except with regard to having to present survey certificates for sighting have the vessels *Lis-Frellsen* and *Tanais* been exempted from the provisions of the Western Australian Marine Act?

(4) If "No," what are the details of the exemptions which have been granted to each ship, respectively?

(5) In granting permission for ships to operate outside the Western Australian Marine Act, is not the Government seriously jeopardising its own shipping service and thereby placing itself in the position of raising objections from the Grants Commission and incurring a penalty against the State?

Mr. ROSS HUTCHINSON replied:

(1) Cargo vessels *Lis-Frellsen, Tanais, Mariko,* and dredge and derrick barge *Alameda.*

(2) None.

(3) Yes.

(4) Answered by (3).

(5) No. Before these exemptions were granted it was ascertained from the State Shipping Service that the service could not handle this traffic and that it had no objection to these vessels operating.

HOUSING IN SWAN ELECTORATE

State Housing Commission Programme

24. Mr. BRADY asked the Minister for Housing:

(1) What number of houses are being built for the State Housing Commission in the following districts, at present:—

Koongamia;
Midvale;
Midland;
Bassendean;
Eden Hill;
Hazelmere?

(2) Are any plans proposed for building in any of the above districts?

McNess Homes

(3) What are the building proposals for McNess or single persons' flats in the above districts?

Mr. O'NEIL replied:

(1) Koongamia 26
Other localities .... Nil

(2) 1965-1966 proposals are—
Koongamia 31
Eden Hill 50
(subject to completion of comprehensive planning and extensive development).

(3) Nil.

PETROL MEASURING INSTRUMENTS

Inspection

25. Mr. HALL asked the Minister for Police:

(1) As it is required by section 29 of the Act that every weighing or measuring instrument used for trade shall be verified by an inspector at least once in every two years, can he advise the number of inspections made in the year 1964, relevant to petrol measuring instruments?

(2) How many of the instruments inspected were found to be incorrect in the year 1964?

(3) How many petrol measuring instruments were inspected during the year 1965?

(4) How many petrol measuring instruments inspected in the year 1965 were found to be incorrect?

(5) As there has been a decided increase in the number of service stations in this State, can he advise the House if a record is kept of all petrol measuring instruments and, if so, what are the statistical figures for the years 1964 and 1965?

(6) How many inspectors were employed by the Weights and Measures Branch for the years 1964 and 1965?

(7) Is he satisfied that verification of petrol measuring instruments by way of inspections according to the Act are sufficient to ensure that the public are fully protected as to measure for money?

Mr. CRAIG replied:

(1) Number of inspections for the year 1963-64: 3,702.

(2) Number of incorrect instruments for the same year: 987.

(3) Number of inspections during the year 1964-65: 3,545.

(4) Number of incorrect instruments for the same period: 821.

(5) Statistical records are not kept, but an examination of inspectors' log books shows that there are approximately 5,800 pumps.

(6) 1963-64: 7.

(7) Yes.

RAILWAY EMPLOYEES

Workers' Compensation Claims

26. Mr. TOMS asked the Minister for Railways:

(1) What were the actual number of claims made on Workers' Compensation in the Railways Department for each of the years 1960, 1961, 1962, 1963, and 1964?

(2) How many of these claims were rejected in each of the respective years?

(3) Of the rejected claims, how many were made by—

(a) locomotive enginemen;

(b) railway officers;

(c) metal tradesmen;

(d) all other employees?

Mr. COURT replied:

(1) 1960—4,063.
1961—3,665.
1962—3,849.
1963—3,661.
1964—3,250.

(2) 1960—72.
1961—46.
1962—63.
1963—46.
1964—44.

(3)		(a)	(b)	(c)	(d)
1960	....	6	1	7	58
1961	....	3	—	3	40
1962	....	8	—	9	46
1963	....	3	—	9	34
1964	....	3	2	4	35

QUESTIONS (2): WITHOUT NOTICE

LOTTERIES CONTROL ACT

Discrimination in Law Enforcement

1. Mr. TONKIN: I would like to ask a question of the Chief Secretary and it relates to the answer he gave to section (10) of question 2 on today's notice paper. The Minister said he was not aware of the unauthorised sweep. I ask the Minister: Is it not a fact that he was present at the drawing of this sweep? As he did not know the sweep was on, was he asleep?

Mr. CRAIG replied:

In reply to the honourable member, there is no reason for the second part of the question. If he would be more specific— and I have given this advice on previous occasions on other matters —if he would not indulge in innuendoes when seeking information he would get the information he seeks. I can assure him that I will look into the matter and have it investigated. I cannot recall the occasion he referred to.

BROCHURE ON WESTERN AUSTRALIA

Cost Variation between Government Printing Works and Westviews Pty. Ltd.

2. Mr. ROWBERRY: I would like to ask a question of the Premier in connection with the answer he gave to question 1 on today's notice paper. He said that Westviews Pty. Ltd. published a brochure for 10s. per copy, while the State Government Printing Office quoted 7s. 10d. He said this resulted in less cost to the State. I want to know from the Premier: How much would the brochure have had to cost before the people of the State got it for nothing?

Mr. BRAND replied:

Whilst I do not clearly understand the last part of the question, I want to say that it is the policy of this Government to support private enterprise. The tender which was put forward by the Government Printing Office was certainly cheaper than the tender from the private firm. However, when the first book was printed we made it available to all those who required copies of it. The copies were available to travellers, representatives of firms, travel agencies, and the like. The publication was accepted as a medium of publicity and information about Western Australia. However, because Westviews Pty. Ltd. were prepared to make this brochure available for private sale, we are now in a position to refer those who wish to take copies to Japan or elsewhere to Westviews Pty. Ltd. Because of this, the total cost to the Government will actually be less in respect of the whole transaction.

SITTINGS OF THE HOUSE

Days and Hours

MR. BRAND (Greenough—Premier) [5.9 p.m.]: I move—

That the House, unless otherwise ordered, shall meet for the despatch of business on Tuesdays and Wednesdays at 4.30 p.m., and on Thursdays at 2.15 p.m., and shall sit until 6.15 p.m. if necessary; and, if requisite, from 7.30 p.m. onwards.

Question put and passed.

GOVERNMENT BUSINESS

Precedence on Tuesdays and Thursdays

MR. BRAND (Greenough—Premier) [5.10 p.m.]: I move—

That on Tuesdays and Thursdays, Government business shall take precedence of all motions and Orders of the Day.

Question put and passed.

PARLIAMENTARY SUPERANNUATION FUND

Appointment of Trustees

MR. BRAND (Greenough—Premier) [5.11 p.m.]: I move—

That pursuant to the provisions of the Parliamentary Superannuation Act, 1948, the Legislative Assembly hereby appoints the member for Subiaco (Mr. Guthrie) and the member for Boulder-Eyre (Mr. Moir) to be Trustees of the Parliamentary Superannuation Fund as from this day.

Question put and passed.

SUPPLY BILL, £28,000,000

Standing Orders Suspension

MR. BRAND (Greenough—Treasurer) [5.12 p.m.]: I move—

That so much of the Standing Orders be suspended as is necessary to enable resolutions from the Committees of Supply and of Ways and

Means to be reported and adopted on the same day on which they shall have passed those Committees and also the passing of a Supply Bill through all its stages in one day; and to enable the business aforesaid to be entered upon and dealt with before the Address-in-Reply is adopted.

Question put and passed.

Message: Appropriation

Message from the Governor received and read recommending appropriation for the purposes of the Bill.

CHAIRMAN OF COMMITTEES

Appointment

MR. BRAND (Greenough—Premier) [5.13 p.m.]: I move—

That the member for Narrogin (Mr. W. A. Manning) be appointed Chairman of Committees.

Question put and passed.

DEPUTY CHAIRMEN OF COMMITTEES

Appointment

THE SPEAKER (Mr. Hearman): I wish to inform the House that I have appointed the member for Claremont (Mr. Crommelin), the member for Victoria Park (Mr. Davies), and the member for Stirling (Mr. Mitchell) to be Deputy Chairmen of Committees during the present session.

SUPPLY BILL, £28,000,000

In Committee of Supply

The House resolved itself into a Committee of Supply, the Chairman of Committees (Mr. W. A. Manning) in the Chair.

THE CHAIRMAN (Mr. W. A. Manning): Before taking my seat I would like to thank the Premier for nominating me; and the Leader of the Opposition and all honourable members for electing me to this high position. I intend to carry out my duties in Committee with fairness and firmness and with due regard to the honour and prestige of this House. To this end I will require the co-operation of all members, and this I seek. Thank you very much.

MR. BRAND (Greenough—Treasurer) [5.14 p.m.]: May I offer my congratulations to you, Mr. Chairman, on being elected to this very important office in Parliament. As you say, a great deal devolves upon you as to how the business of the House is run and as to how expeditiously we deal with it. I trust you will have a pleasant and long stay in your office. I move—

That there be granted Her Majesty on account of the services of the year ending the 30th June, 1966, a sum not exceeding £28,000,000.

This is a formal motion which is moved each year at this time of the session. It is necessary for the Government to obtain an advance, as it were, because as yet the Estimates have not been approved by Parliament. The Revenue Budget and the Loan Estimates for this current year are now being framed and will be presented in due course, and at the final stage an Appropriation Bill will be introduced which more or less rounds off the approval which is sought for the final financial arrangements of the Government. In the meantime it is necessary to provide funds for the services of the State, and this is the purpose of the Bill now under consideration.

In accordance with the usual practice, the amount of supply being sought is limited to estimated requirements for the first three months of the financial year. An issue of £20,000,000 is sought from the Consolidated Revenue Fund, and £6,000,000 from moneys to the credit of the General Loan Fund. These amounts exceed the provisions in last year's Supply Act (No. 1) by £1,000,000, and £500,000, respectively. In both cases the additional supply is required to meet the expanding needs of Government services and increased activity generally.

Provision has also been made in the Bill for an issue of £2,000,000 from the Public Account to enable the Treasurer to make such temporary advances as may be necessary to carry on the services of the State. This is the same provision as was made last year.

Details of proposed transactions on the Consolidated Revenue Fund and the General Loan Fund for 1965-66 will be presented to members in due course. That is the situation: any further information will be made available to the Chamber by way of answers to questions and, generally, during the very long debate which we usually have on the Revenue Estimates and the Loan Estimates.

MR. HAWKE (Northam—Leader of the Opposition) [5.18 p.m.]: First of all I offer to you, Sir, the congratulations of all members on this side of the Chamber on your election to the post of Chairman of Committees. I am satisfied we will get on very well together most times. On those few occasions when we are not seeing 100 per cent. eye to eye with you, I am satisfied your sense of humour combined with mine will overcome the most difficult situations.

I wish to move to delete the figure £28,000,000 for—should my amendment be successful—the purpose of substituting a somewhat lesser figure. I make this move in protest against the Government's continuing refusal to carry out the provisions of the Electoral Districts Act. Under the provisions of this Act it becomes a duty devolving upon the Government to have a proclamation issued whenever a report

submitted by the Chief Electoral Officer of the State, following the holding of a State general election, shows that a certain number of electoral districts are out of balance in relation to quota. I do not propose at this stage to deal fully with this matter, but I shall outline the case which I shall submit to the House when the Supply Bill is before us later in the day.

On the 9th April I wrote to the Chief Electoral Officer to ascertain whether he had yet submitted a report, as required by the law, to his Minister, and through his Minister to the Government. The Chief Electoral Officer advised me that he had submitted the necessary report, and he suggested I should write to the Minister in an effort to obtain a copy of the report from the Minister. I wrote to the Minister on the 23rd April. He replied on the 5th May, and with his short letter enclosed a copy of the Chief Electoral Officer's report. The report clearly showed that more than the minimum number of electoral districts, as required by the Act, was out of quota.

On the 19th May I wrote to the Premier briefly stating the approaches I had already made to the Chief Electoral Officer and to the Minister for Justice, and the results obtained. I asked the Premier in that letter to let me know when his Government proposed to have the proclamation issued. That was on the 19th May. On the 21st May the Under-Secretary, Premier's Department, sent a letter to me in which he stated the Premier had asked him to acknowledge the receipt of my letter of the 19th May. The under-secretary's letter to me also stated that the Premier had requested him, the under-secretary, to advise that the matters raised by me were then under consideration and that he would be in touch with me in the near future.

Seeing the Premier had reduced this exchange of correspondence between us to the level of under-secretaries, I thought it appropriate to send a letter through my secretary to the under-secretary of the Premier's Department, and this was done. At my direction my secretary wrote to the under-secretary of the Premier's Department and stated—

> The Leader of the Opposition has asked me to refer you to your letter of 21st May concerning the report on the Legislative Assembly districts supplied by the Chief Electoral Officer.
>
> Mr. Hawke would be pleased to learn of any decision that has been reached by the Hon. Premier.

Soon afterwards the Premier himself came back into circulation. On the 15th June he wrote to me and, in essence, the letter stated—

> The matter referred to is still currently receiving the consideration of the Government.

On the 18th June I wrote again to the Premier and, in essence, pointed out the law was very clear, and because it provided for the issue of a proclamation in the situation which then existed, and has existed since the 15th April last, I trusted that his Government would make an immediate decision to obey the law and forthwith have the necessary proclamation issued. That was on the 18th June, this year. Having received no reply from the Premier by the 29th June, I then wrote on behalf of Her Majesty's Opposition to His Excellency the Governor; but I do not propose at this stage to read that letter.

On the 1st July I wrote again to His Excellency the Governor and forwarded with the second letter some extracts from a statement made on the 25th May, 1961, by the Chief Justice of the Western Australian State Supreme Court, when the judgment of the court was being delivered in connection with the duty of the Government to issue a proclamation under the appropriate law. I received from the Official Secretary to His Excellency (Colonel Burt) letters of acknowledgment of receipt of my letters.

On the 19th July I received from the Lieutenant-Governor and Administrator a letter, the essential portion of which advised that the matter referred to in my letters was currently receiving the consideration of the Government. On the 27th July I wrote to His Excellency the Governor, thanked him for the advice he had made available, and pointed out that the current consideration by the Government, as referred to in his letter, had been going on since the middle of April this year, and that this was, in essence, the basis of my original approach to the Governor in the matter.

Briefly, it is obvious that the Government has been deliberately stalling in connection with this vitally important matter. It is not a difficult issue to decide. I know the Minister for Industrial Development, when acting as Premier, I think, a few weeks ago, referred to some delay which had occurred when a Labor Government was in office some years ago. However, I point out to him that since that time the State Full Court has made a very binding declaration as to the duty of a Government in a situation of this kind. So whatever might have happened prior to the delivery by the court of this judgment does not carry weight any longer and does not justify any Government from that time onwards in delaying the necessary action to have a proclamation issued as required by the Act.

It is a peculiar situation, surely, if the Government of the State has some sort of right to please itself when it will obey a law which is binding upon it. If that sort of behaviour and attitude is good enough for a Government, then it ought to be

good enough for a private citizen. I think it is not difficult for any one of us to imagine what would happen to a private citizen if he was refusing to obey a particular law and he was arrested and in protest against his arrest said, "I am not obeying the law today, but I propose to obey it some time later this year." And it is not difficult to imagine what a magistrate or a judge would say to a person accused of not obeying the law if the person concerned said, "I am not obeying it at present, but I intend to obey it later this year, or some time next year." Such a person would, of course, be in dire trouble; and quite properly so.

Therefore the principles which bind the private citizens of the State in a situation of this kind should also bind the Government; and there is no doubt about the legal responsibility upon the Government in this matter.

Up to date the Government has not even offered an excuse for its conduct. It has simply stalled on the issue and continues to stall. There is no difficulty in the decision for the Government. It should be able to say "Yes" without any delay or any backing and filling. Yet it is obvious it has been deliberately stalling; deliberately refusing to carry out the law. There is no excuse for such conduct by any Government since the State Full Court delivered the judgment in 1961. It will be remembered that private citizens on that occasion had to approach the court and had to find a lot of money to fight the case, and the judges of the court were unanimous in declaring that it was the duty of the Government to have the requested proclamation issued.

They declared, in other words, that a Government should not stall on the issue; should not delay; should not refuse to obey the law. The court declared the Government was not above the law, but was bound by the law. So I shall move for the deletion of the figure as contained in the motion, for the purpose of inserting a somewhat lower figure as a strong protest against the deliberate refusal of the Government to carry out the provisions of the law in question.

Amendment to Motion

I move an amendment—

That the figures "£28,000,000" be deleted.

MR. TONKIN (Melville—Deputy Leader of the Opposition) [5.31 p.m.]: I rise at this stage to support the Leader of the Opposition in his protest, and to indicate that when the Bill is before the House I intend to deal, at some length, with the situation with which we are confronted. Before I make a few preliminary observations on the matter, I would like to join with my leader in congratulating you, Mr. Chairman, upon your appointment to this important and responsible office: one of the most important offices in the Parliament. I have had sufficient opportunity since I have been here to observe the diligence you apply to the tasks you are obliged to carry out, and I have every reason to believe that you will serve this Parliament with a great deal of satisfaction to members and with the efficiency you are capable of displaying.

One of the few opportunities available to private members in the Parliament in endeavouring to discipline a Government is provided by a Supply Bill. There are on record instances where a House has refused to grant supply to a Government because the House has felt that the Government has not been measuring up to its full responsibilities. There can be nothing worse than a Government which will not obey the law, because that puts Her Majesty in the position of not obeying the law; and Her Majesty, on her coronation, took an oath to obey the law.

At a later stage I will give some details on what action was taken by a certain Governor when a Government would not heed his request that the law be obeyed. As my leader has explained, there is not a shadow of doubt that the Government is not observing the provisions of the Electoral Districts Act and therefore is not obeying the law. At this stage it might be as well to remind the Ministers of the oath they take. It is this—

> I,
>
> being chosen and admitted of Her Majesty's Executive Council in Western Australia, do swear that I will, to the best of my judgment, at all times when hereto required, freely give my advice and counsel to the Governor or Officer administering the Government of Western Australia for the time being, for the good management of the public affairs of Western Australia; that I will not, directly nor indirectly, reveal such matters as shall be debated in Council and committed to my secrecy, but that I will in all things be a true and faithful Councillor.

I ask you, Mr. Chairman, how a Minister can be a true and faithful councillor if he fails to advise the Governor of a situation in which Her Majesty is breaching her coronation oath; and that is the position in Western Australia at present. In this case there is no room for contrary argument; there is no possible room for doubt. I will concede that on the other occasion when this Government was not moved to issue a proclamation there was something to be said for those who argued that no duty devolved upon the Governor because his duty had already been discharged, inasmuch as a proclamation which was required has been issued; that the cancellation of proclamation Act was done in such a way as to remove any consequence from the proclamation but not

to require the fulfilment of a further duty. That was an argument which I refused at any time to accept and which the Full Court would not accept, either; but there are still legal men in the community who believe that argument was sound.

However, there is no room for that argument in this case, because the report of the Chief Electoral Officer has been received by the Government, and that, automatically, should require the issuing of a proclamation; but no proclamation has been issued, and the law says a proclamation shall be issued. Further, as I shall prove a little later, the Crown Law Department told the court that when such a certificate is received the obligation is on the Governor to issue the proclamation immediately. That is the same Crown Law Department which ought to be advising the Government in this case. If it told the Full Court—and it did, and I shall prove it later—that upon a report being submitted by the Chief Electoral Officer that more than five seats were out of balance a proclamation should be issued immediately, it is quite impossible for that same department to give contrary advice to the Government in this case.

If such advice has been received and the Government has not advised His Excellency, it is misleading His Excellency in a very serious way; and at the appropriate time—when more time is available to me —I shall show in the instructions to the Governor what steps are open for him to take in the circumstances. For the time being I repeat that I am in strong support of my Leader in his protest in this matter, because if there is anything fundamental to the continuance of a sound democracy it is a belief by the people that the laws will be obeyed by the Government as well as by the people.

I can quote an instance of the Government insisting upon prosecuting two young men who had stolen their fathers' motorcars. The fathers had reported the vehicles stolen without knowing that their sons had taken them, and when the police apprehended their sons the fathers did not want to go on with the prosecution. But the Government said, "No; that is the law; they have stolen the vehicles and they must be prosecuted even though their fathers do not want to take action. That is the law, and the law must be obeyed." Those two young men were prosecuted and punished. If it is good enough for the ordinary citizen to obey the law, the Government must obey it, too. What is more, the Government is pledged to obey it as Her Majesty is obliged to obey the law, and that is the point we will take upon this issue.

This motion for a reduction of supply is the concrete way of saying that the Government is open to serious censure in this matter.

MR. BRAND (Greenough—Treasurer) [5.40 p.m.]: I oppose the amendment because there is no case to support it. The Leader of the Opposition has outlined to the House the dates and, to some extent, the contents of the correspondence which has passed between him and myself—or whoever represented the department at that time—and His Excellency the Governor. It has been pointed out that, as a Government, we are required to issue a proclamation for the redistribution of seats following upon the general elections and where the report indicated that certain seats were out of balance, and that this condition, as a result, created a situation which required that a proclamation be issued. We have replied that this matter has been under consideration, and indeed is still under consideration.

Mr. Tonkin: For four months?

Mr. BRAND: I would point out to the Chamber that it can surely be assumed that a general election is 2½ years away, and that the issue of a proclamation at this time could conceivably set up machinery whereby the tribunal headed by the Chief Justice would commence a redistribution of seats. In the event of the Government's consideration of this matter being along the lines of whether it would introduce an amendment of the electoral law, it would seem to me—and everyone in the Chamber would know this—that if the Government finally decided to amend the law, it would not be very practicable if we had issued a proclamation and the committee had carried out its duties on a basis which might be altered.

Mr. Tonkin: The law does not allow you any discretion.

Mr. BRAND: In support of this argument I would point out that the Leader of the Opposition has said that when we were over here previously we took a certain stand, but since then the law—which has not been altered, by the way—has been confirmed in some way by the judges of this State. However, it is interesting to reiterate the utterances of the then Premier—now the Leader of the Opposition—and it is more interesting to read the utterances of the then Minister for Works —now the Deputy Leader of the Opposition —on the principle which he lauds as this juncture.

When the then Premier was being chided by the party in opposition, led at that time by Sir Ross McLarty, he said—

> The fact that the law is there, is no proof of its fairness or commonsense.

He is talking about the law as it was then.

Mr. Davies: What date was this?

Mr. BRAND: It was the 25th August, 1954.

Mr. Tonkin: There is nothing wrong with that statement; I would reiterate that now.

Mr. BRAND: The Premier at that time went on to say—

> As a matter of fact, the member for Mt. Lawley knows only too well that when the law was being put through this House in 1947, we, who now form the Government, fought it very strongly and condemned it roundly because we considered it contained a number of injustices—

What he has inferred is that because he felt there were a number of injustices—

Mr. Tonkin: How do you know what he inferred?

Mr. BRAND: This is what he said.

Mr. Tonkin: There is a vast difference between what is said and what is inferred.

Mr. BRAND: He said—

> . . . it contained a number of injustices which could lead to results which would not be acceptable in the long run.

This is what I am saying. The then Premier went on to say—

> I think that what we said on that occasion has been largely borne out by experience.

Then the present Minister for Works said—

> You cannot follow that principle to evade the law.

The then Premier went on—

> No I am not saying we can. I am simply pointing out that the fact that a law is on the statute book dealing with the redistribution of electoral boundaries, is not necessarily proof that it is fair, just and sensbile.

Mr. Tonkin: What is wrong with that?

Mr. BRAND: He said that was the reason why they were not going to observe the law.

Mr. Tonkin: Where did he say that?

Mr. BRAND: Did he not infer it?

Mr. Tonkin: An inference is an assumption, and an assumption is not a fact.

Mr. BRAND: I shall tell the honourable member a few things.

Mr. Tonkin: I will tell you some things later on.

Mr. BRAND: We have heard the honourable member in this House for six years, but he did not get very far at the last elections.

Mr. Tonkin: Do not be too cocky!

Mr. BRAND: This Government has three years to go. To continue, the then Premier went on to say—

> So, what I am asking members to do, is not to say, "There is a law and it should be carried out," but to turn over in their minds the idea that the law might be undesirable and that it could be capable of considerable improvement.

That is what we are beginning to think. To continue with his comments—

> If they do this, they will, I suggest, be in a far better state of mind to give reasonable consideration to an amending Bill when the Government brings a measure down during this session.

Further on the then Premier said—

> Therefore it can be argued very strongly that as we are the Government—because we represent a majority of the Legislative Assembly electors—and are elected on the principle of adult franchise, we ought to be able to alter the law as we think it should be altered.

I might point out that adult franchise now applies to the Upper House. The then Premier went on—

> There is a lot of natural justice in that contention.

Whatever the natural justice is!

Mr. Hawke: The Premier does not know.

Mr. BRAND: I wonder whether the Leader of the Opposition knows. I am sure the Deputy Leader of the Opposition does not. He believes in hard, cold facts.

Mr. Tonkin: I certainly believe you should obey the law.

Mr. BRAND: To continue with the quotation—

> Yet, because in another branch of our Parliament the members are elected upon a very restricted franchise, we, as a Government, are without a majority there, and consequently are not able to amend the laws as we think they should be amended. In other words, in the legislative sense, the Liberal Party and the Country Party members together are, in the final analysis, in power in Western Australia all the time.

In referring to the Upper House the then Premier went on—

> Only legislation that is acceptable to the Liberal Party and the Country Party together can become law in this State. I ask the member for Cottesloe to think that one over.

I draw attention to another debate which took place on the 1st September, 1954. The then Minister for Works, now the Deputy Leader of the Opposition, was speaking on the motion dealing with the issue of a proclamation under the Electoral Districts Act. He had this to say—

> The Government has made up its mind.

Mr. Abbott, who was then in the Opposition, asked him—

> Are you frightened to disclose it?

The then Minister for Works said—

> We on this side are frightened of nothing.

Mr. Tonkin: We never have been.

Mr. BRAND: Mr. Abbott then asked him—

> Why do you not carry out the provisions of the Act?

The then Minister for Works replied—

> We will please ourselves. We are in a position to determine the time.

I might add, so are we.

Mr. Hawke: You are not: not since the declaration of the law by the court.

Mr. BRAND: I am told that if we cared to appeal to the High Court of the land we could have this decision reversed, but that is by the way.

Mr. Tonkin: That has nothing to do with this decision.

Mr. BRAND: The Honourable Sir Ross McLarty then said—

> You have the numbers and can do what you like. Justice does not matter.

The then Minister for Works said—

> Oh, no! That is what Opposition members thought when they were on this side of the House. They said then, "What does it matter? Nobody is suffering." Members opposite are still thinking along the same lines. We will observe the law.

And so will this Government. Mr. Abbott then asked—

> Under the Act?

The then Minister for Works replied—

> There is nothing in this Act which says the provisions should be put into operation before the 2nd September.

Mr. Abbott then said—

> It says they must be put into operation within a reasonable time.

That is the point which members opposite are taking. The then Minister for Works went on—

> We are the best judges of what is a reasonable time.

Mr. Hawke: That was right prior to 1961.

Mr. BRAND: Mr. Abbott then said—

> Oh no, you are not!

The then Minister for Works said—

> Yes, we are, and a reasonable time depends on the circumstances.

This is exactly the same situation. Sir Ross McLarty then asked —

> You think 12 months is a reasonable time?

The then Minister for Works replied—

> In some circumstances 12 months would be unreasonable; under other circumstances, two years would be reasonable. It depends entirely on the circumstances.

Yet we have only been given four months. I agree it entirely depends upon the circumstances. It is the same law to which those comments apply, except that the judges have looked into this question and said that a proclamation should have been issued: and so it should have been issued at the time.

Mr. Tonkin: It is also what the Crown Law Department says.

Mr. BRAND: The then Minister for Works, now the Deputy Leader of the Opposition, thought two years under this law would be reasonable. It does seem hypocritical for members opposite to stand up and talk a lot of nonsense about the issue of a proclamation. I say the reason for our not issuing the proclamation is that we are considering whether there shall be amendments to the law.

It seems logical, practical, and reasonable—I agree with what the Leader of the Opposition said, seeing Parliament was to sit in July—that, if there was any consideration by the Government to amendments to the electoral law, it did not make sense to issue the proclamation forthwith with an election three years off, in order that the whole situation might not be confused. This was the Government's position, and this was the explanation given to the public.

We have written to the Leader of the Opposition, and we advised His Excellency the Governor to inform the Leader of the Opposition that we were considering this whole matter. We have not said at any time that we were not issuing the proclamation. We are considering the whole matter just as he, when he was the Premier, asked this House to accept the explanation as to why he had not issued a proclamation under the very same law.

The Opposition has moved for a reduction in the amount which is sought in the Supply Bill. I know it is simply used as a medium through which these utterances can be made, and I realise the Government has to answer for the situation in which it finds itself, but I have explained the whole position to the House.

Although the Leader of the Opposition and his Deputy will talk for a long while about the law, I have drawn attention to what they said when they were in office and to what they believed; and this is what we, as the Government, believe to be a practical and reasonable basis for our present attitude. I oppose the amendment.

Amendment put and a division taken with the following result:—

Ayes—18

Mr. Bickerton	Mr. W. Hegney
Mr. Brady	Mr. Kelly
Mr. Davies	Mr. Moir
Mr. Evans	Mr. Rhatigan
Mr. Fletcher	Mr. Rowberry
Mr. Graham	Mr. Sewell
Mr. Hall	Mr. Toms
Mr. Hawke	Mr. Tonkin
Mr. J. Hegney	Mr. Norton
	(Teller)

Noes—23

Mr. Bovell	Mr. Hart
Mr. Brand	Mr. Hutchinson
Mr. Burt	Mr. Lewis
Mr. Court	Mr. Marshall
Mr. Craig	Mr. Mitchell
Mr. Crommelin	Mr. Nimmo
Mr. Dunn	Mr. O'Neil
Mr. Durack	Mr. Runciman
Mr. Elliott	Mr. Rushton
Mr. Gayfer	Mr. Williams
Mr. Grayden	Mr. I. W. Manning
Mr. Guthrie	*(Teller)*

Pairs

Ayes	Noes
Mr. May	Mr. Nalder
Mr. Curran	Mr. O'Connor
Mr. Jamieson	Dr. Henn

Majority against—5.

Amendment thus negatived.

Question put and passed.

Resolution reported and the report adopted.

In Committee of Ways and Means

The House resolved itself into a Committee of Ways and Means, the Chairman of Committees (Mr. W. A. Manning) in the Chair.

MR. BRAND (Greenough—Treasurer) [6.1 p.m.]: I move—

> That towards making good the supply granted to Her Majesty for the services of the year ending the 30th June, 1966, a sum not exceeding £20,000,000 be granted from the Consolidated Revenue Fund; £6,000,000 from the General Loan Fund; and £2,000,000 from the Public Account.

Question put and passed.

Resolution reported and the report adopted.

Introduction and First Reading

In accordance with the foregoing resolutions, Bill introduced, on motion by Mr. Brand (Treasurer), and read a first time.

Second Reading

MR. BRAND (Greenough—Treasurer) [6.3 p.m.]: I move—

> That the Bill be now read a second time.

I refer members to the remarks I made earlier in explanation of the Bill, the purpose of which is to get supply.

MR. HAWKE (Northam—Leader of the Opposition) [6.4 p.m.]: The Treasurer is easily satisfied if he considers the case—and there should be a big question mark after the word "case"—which he presented to the Committee in reply to the remarks I made was effective.

Mr. Brand: It was a clear-cut explanation.

Mr. HAWKE: The Treasurer read extensively from *Hansard* reports of speechs made at a time well before the 25th May, 1961.

Mr. Brand: It makes no difference whatever when they were made. The same law exists now. It is a let-out for your own attitude then.

Mr. HAWKE: Had the issue in question never been taken to the State Full Court, then the Treasurer today would have been thoroughly justified in quoting as he did from *Hansard* and in claiming that what was quoted was a full and perfect justification for the present attitude of the Government in this matter. I would suggest to the Treasurer that he cannot just wipe aside the unanimous judgment of the State Full Court on an issue which involves a clear-cut duty of the Government to obey the law.

Mr. Brand: We will obey the law.

Mr. HAWKE: The Treasurer did not deal with that angle of the law at all except to brush it aside as if the declaration of the judges did not amount to much.

Mr. Brand: Because we will obey the law.

Mr. HAWKE: What mattered a great deal to the Treasurer was what I said six years ago and what the Deputy Leader of the Opposition said six years ago.

Mr. Brand: Scrubbing the law!

Mr. HAWKE: Those statements were the all-important consideration.

Mr. Tonkin: Statements made six years ago.

Mr. Brand: That doesn't matter. You cannot get out from under that way.

Mr. HAWKE: Those statements were the all-important consideration in deciding what the Government should now do. What the judges said on the 25th May, 1961, apparently does not mean a thing to the Treasurer—

Mr. Brand: I told you we will obey the law.

Mr. HAWKE: —in connection with the duty of the Government to obey the law.

Mr. Brand: And that we will do.

Mr. HAWKE: I tell him he cannot wipe away the judgment—

Mr. Brand: We are not wiping it away!

Mr. HAWKE: —of the Court like that.

Mr. Brand: We have not wiped away the judgment!

Mr. HAWKE: He chooses to use what was said by me and the present Deputy Leader of the Opposition six or ten years ago because it suits his present attitude. It suits the present actions of the Government.

Mr. Brand: It reflects on your argument, and shows up what a weak argument he had.

Mr. HAWKE: It does not do anything of the kind, because what I or the Deputy Leader of the Opposition said 10 years ago in connection with this issue was all said before this matter was ever referred to the court for guidance and for a decision. Therefore, whatever was said then does not weigh one iota now in trying to work out the duty of the Government in regard to obeying or refusing to obey this law.

In view of the judgment made by the State Full Court on the 25th May, 1961, what I said 10 years ago and what the present Deputy Leader of the Opposition said 10 years ago, was not well based legally. What the ex-Attorney-General (Mr. Abbott) said at that time was, in fact, well based legally, although we did not think so at the time. However, the judgment of the court on the 25th May, 1961, is now the all-important thing.

Would the Treasurer have members of this House believe that what I said 10 years ago in connection with the matter is the extremely important consideration? Would he have members of this House believe that what the Deputy Leader of the Opposition said on the matter 10 years ago is the paramount consideration? Surely it is a weird type of reasoning for the Premier or anyone else—

Mr. Brand: It certainly is not. You won't talk yourself out of that.

Mr. HAWKE: —to claim what I said 10 years ago, or what the present Deputy Leader of the Opposition said 10 years ago is something which should guide the Government in regard to its legal duty—its legal obligations.

Mr. Brand: It's not guiding the Government. That is what you said.

Mr. HAWKE: Can anyone imagine a sillier proposition than that to put before Parliament! I doubt whether it would go down even at a Liberal Party conference.

Mr. Brand: You are getting back into your old ways. I will tell you what: It would not go down at a Labor Party conference. You would be censured and you would have to write a letter to the Press.

Mr. HAWKE: I can realise how anxious the Premier is to run away from this issue.

Mr. Brand: I am not.

Mr. HAWKE: I can realise how the Premier is anxious to try to draw great big red herrings across the trail. It is with the idea of getting public attention off the real issue.

Mr. Brand: No.

Mr. HAWKE: On the 25th May, 1961, in a unanimous declaration, the judges of the State Supreme Court declared it was the duty of the Government to issue a proclamation. They did not say it was the duty of the Government to think about amending the law and then issue a proclamation in three months, six months, or 12 months. They said it was the clear-cut duty of the Government to obey the law and issue a proclamation without delay. If that was the interpretation of the law on the 25th May, 1961, by unanimous agreement of the judges of the Supreme Court, then obviously, and beyond any possibility of specious argument to the contrary, it is the bounden duty of the Government today to obey the law and issue the requisite proclamation.

In giving the court's judgment on the date in question, the Chief Justice (Sir Albert Wolff), among other things, said the argument that administration of the Electoral Act rested solely with the Government was tantamount to saying that Parliament no longer had any say in the matter. The Chief Justice was saying, in other words, that if the proposition which the Government put forward on that occasion, and which it is putting forward on this occasion—that it could please itself as to when it issued the proclamation and as to when it obeyed the law—was to be the rule of the road, then the executive government was putting itself in a position superior to and above that of Parliament itself. This was a law passed by Parliament.

Mr. Brand: The same law that you talked about.

Mr. HAWKE: It binds the Government.

Mr. Brand: That is so; and it bound you as the Government.

Mr. HAWKE: In the faint hope that the Premier might absorb this argument—

Mr. Brand: Don't get nasty!

Mr. HAWKE: —I say to him that what was said by Ministers in Government 10 years ago, and what was done by a Government in this State 10 years ago, does not have the slightest effect or influence upon the present situation. The thing which binds the Premier and his colleagues in this situation is the clear-cut declaration of the court, when the judges were unanimous and when they delivered their declaration on the 25th May, four years ago.

Mr. Brand: On the same law; and therefore it was equally the law when you disobeyed it.

Mr. HAWKE: Of course it was the same law! But when we were administering the law there had been no ruling or declaration by the court as to the obligation upon the Government to do certain things, and the times at which they had to be done.

Since the 25th May, 1961, there has been a clear-cut obligation upon whatever Government might have been in office. It would have been the same obligation upon a Labor Government, had one been in office. Therefore, what the Government is doing at present is not simply following out what our Government did 10 years ago; what the Government is doing now is a flagrant refusal to carry out the law in the terms laid down by a unanimous decision of the State Full Court four years ago.

Sitting suspended from 6.15 to 7.30 p.m.

Mr. HAWKE: Our claim is that the Government is refusing to carry out the electoral districts law by its continuing refusal to issue the necessary proclamation. We advance, in proof of our claim, the declaration covering the law as made by the judges of the State Supreme Court. As evidence in justification of the Government's failure to obey the law, the Premier puts forward some speeches which were made in Parliament 10 years ago.

Any member who cares to look at the situation impartially would, I should hope, prefer to accept the declaration of the law and its effect upon a Government rather than accept what was said in Parliament 10 years ago. Surely what someone said in Parliament 10 years ago, even though the persons who said it—

Mr. Brand: The Premier and the Deputy Premier.

Mr. HAWKE: —were not the least important members in the House at that time—

Mr. Brand: What! The Premier and the Deputy Premier?

Mr. HAWKE: —is not evidence of what the law actually means. Members of this House can make their interpretations of a law, but that is not evidence that the law means what their interpretations claim it to mean. The Premier can interpret what a law means; what obligations rest upon a Government, under a law. A Deputy Premier can do the same thing. Even a Minister for Industrial Development can do the same thing. But those interpretations do not declare the law. They are not binding in relation to the meaning of any law so interpreted.

We would be reaching a rather weird situation in a State which is supposed to be operating under democratic parliamentary government and where the laws of the land are to be interpreted—when there is dispute—by the judges of the State, if over and above all that, what some Premier or Deputy Premier, or member of Parliament said—and said 10 years ago—is to be accepted by the Government today as justifiable interpretation of the law.

In 1961 the judges unanimously declared, in effect, that the views of the Premier 10 years ago, and the views of the Deputy Premier 10 years ago were not correct. Why the Premier and his colleagues would come forward today and prefer to accept what the then Premier and then Deputy Premier said 10 years ago rather than what the judges of the Supreme Court said unanimously four years ago takes some swallowing and some understanding. Is there any private member on the Government side who would accept what I said as being the right and the choice of the Government over and above, or even equal to, what the judges unanimously said four years ago? Are we going to have interpretation of all the laws by members of Parliament, and are we going to accept those interpretations over and above what any magistrate or what any judge might say? Members would not have to think very hard on what the ultimate result of a situation of that kind would be.

If members of Parliament are entitled to interpret the law and to accept such interpretation, even though it runs completely counter to what judges have said on the same issue, I think we are entitled to say that private citizens should have the same choice and the same right. If that situation developed, the law, of course, would disappear, order would disappear, and the community would become higgledy-piggledy to say the least. It might even become lawless in the extreme.

Laws are put on the Statute book to be obeyed, and the duty of a Government to obey them is no less than that of the most menial or lowliest individual. That is what a private member has to consider in this situation. I am sure, in his more earnest moments, the Minister for Works would not accept the view I expressed 10 years ago on the duty of a Government under this law in preference to the declaration of a law by the judges of the Supreme Court and the obligations it put upon the Government. In his heart of hearts there is no member in this House, on either side, who would accept what was said by a member of Parliament 10 years ago as being an interpretation of the obligations of a Government under the law in preference to accepting what the judges said some four years ago.

We would not hesitate to take this matter to the court again at this time except for the financial expense and the financial sacrifice which we had to suffer when we took it to the court for a declaration four years ago. We finished up well over £1,000 out of pocket because of the action we took to obtain, from the judges of the State Supreme Court, a declaration of the duty of the Government under the law.

So we cannot afford to do that again, nor should we be put in a position even of having to think about doing it again. Nor should any citizen in the State be forced into that position by a Government which deliberately refuses to recognise and to abide by a declaration as made by those judges in May, 1961.

That is the situation in a nutshell. It might be a good debating point for the Premier to stand up and with some heat and with some smug satisfaction read what I said as Premier 10 years ago, and then read—with even more smug satisfaction—what the Deputy Leader of the Opposition—who was then Deputy Premier—said 10 years ago. That might be a good debating trick for some organisation which is just developing a slight sense of responsibility. But surely it is not good enough for a deliberative assembly such as this, which is supposed to represent the public interest, and which is supposed to stand for the equal administration of all laws upon all the people; and when I say, "all the people" it includes the Government. The Government has just as great an obligation—a conclusive obligation—as a private citizen to obey the law, which places an obligation clearly and beyond escape upon its shoulders.

Mr. Graham: It has more obligation; they took an oath.

Mr. Fletcher: Magna Carta said that.

Mr. HAWKE: If time permitted, one could talk about the pictorial representation of Magna Carta which is in this building at the present time and which, I understand, the Premier declared officially open a short time ago.

Mr. Brand: Quite right.

Mr. HAWKE: Yet in this issue the Government, in effect, tears up Magna Carta; it will not have a bar of it. In preference to accepting the declaration of the judges the Premier accepts something I said 10 years ago, and something which the Deputy Leader of the Opposition said 10 years ago when he was Deputy Premier.

What sort of reasoning is that? What sort of approach to the situation is that, when the Leader of the Government and the Leader of the State stands up and, when challenged about having refused, with his colleagues, to obey the law as clearly interpreted by the judges of the Supreme Court four years ago, wipes aside the declaration of the judges, and accepts as justification for his present attitude something which two members of Parliament said 10 years ago.

Mr. Brand: What was the actual judgment of the court?

Mr. HAWKE: The judgment of the court was that there was an obligation upon the Government to carry out the law and issue the proclamation; and the Government of that time and the present Premier—who was the Premier then—did not waste time in getting the proclamation issued.

Mr. Graham: And some of us know why.

Mr. HAWKE: So if the judgment and declaration of the court was all-compelling at that time as to the duty which was upon the Government, surely the declaration and judgment together are as compelling today in the situation which has arisen following the submission by the Chief Electoral Officer of the State of his report to the Government through the Minister for Justice!

The Premier told us that they are having a look at the total Act; there might be an amending Bill introduced later this year, and that might alter the Act; that it might do something else, and therefore the Government in the meantime is not going to obey the law; it is not going to carry out the law; it is not going to issue the proclamation.

I would have a little more respect for the Government had the Premier in one or other of his replies to my letter stated that the Government does not intend to issue the proclamation; that it is going to have a look at altering the law, and that it might alter it this year; if it did not alter it this year it might alter it next year.

Mr. Brand: Did I say that?

Mr. HAWKE: When he and his colleagues have made up their minds whether they will or will not alter the law they might then make a decision about having the proclamation issued. What sort of approach is that by a responsible Government to the discharge of clear-cut duties placed upon it by a law which Parliament has approved and which, of course, is upon the Statute book? Clearly the Goverment has failed very badly, and very seriously in this matter. The Premier can try to laugh it away, or smile it away, or ridicule it away.

Mr. Brand: I am not laughing it away.

Mr. HAWKE: But he cannot alter the fact. He cannot get over the central fact that the judges of our State Supreme Court in a unanimous declaration laid it down as a duty that the Government should issue a proclamation in the same sort of situation which exists at the present time.

Mr. Brand: Within a reasonable time.

Mr. HAWKE: Yes, within a reasonable time; and the Premier and his colleagues are to be the judges of what is a reasonable time.

Mr. Tonkin: Is that the advice the Crown Law Department has given to the Government?

Mr. HAWKE: The Premier, when challenged upon his claim a moment ago, put forward, in justification for his claim, that the present Deputy Leader of the Opposition 10 years ago said that a Government was justified in issuing a proclamation in a reasonable time. Surely it should not be necessary for me to say again, as I have said a few times already, that the Deputy Leader of the Opposition's statement to Parliament 10 years ago is not an interpretation of the law which is binding; it is not an interpretation of the law of which the Government takes notice or acts under. The thing the Government must look at and act upon, or should act upon, is the declaration of the law by the judges. The Premier of a State does not interpret the law in its true and binding effect; nor does a Deputy Premier.

Mr. Brand: What were you doing when you interpreted it?

Mr. HAWKE: I have said before, and I say again, that at the time we gave our views—

Mr. Brand: It was all right to interpret it.

Mr. HAWKE: —as to the application which the law put upon the Government the matter had never been decided by a court.

Mr. Brand: You were interpreting the law at the time.

Mr. HAWKE: Of course we were, but four or five years afterwards—

Mr. Tonkin: And so were you; and you were wrong, too.

Mr. HAWKE: —the issue was taken to the Full Court and the judges in a unanimous declaration laid down clearly what the duty of the Government was then and is in any future similar situation in relation to the issue of a proclamation. But the Premier blindly goes on accepting the interpretation which was made in Parliament 10 years ago by the then Premier and the Deputy Premier. He will not have a bar of the declaration made unanimously by the judges of the State Supreme Court. If you, Mr. Speaker, can imagine anything more hopelessly illogical than the Premier's approach to this issue, then you possess an imagination which beggars description.

It does not matter what a Premier, or anybody else, said in Parliament 10 years ago about the meaning of the law and about the duty it imposed upon a Government. What does matter is that the judges of the State made a declaration four years ago as to the absolute and clear-cut duty of a Government under the law. That declaration was that it was the duty of the Government to issue a proclamation.

Let me quote again, and more fully, what the Chief Justice (Sir Albert Wolff) said when he was delivering the declaration as made by the judges. He said—

> The argument that administration of the Electoral Act rested solely with the Government was tantamount to saying Parliament no longer had any say in the matter. That was a startling proposition. If it were so, it would appear to vest in the executive an oligarchic power which would enable it to control the distribution of seats so as to enable the Government to remain in office much longer than would otherwise be possible.

Those were strong words from a judge, especially a Chief Justice of the State. Clearly if the Government is permitted to go on refusing to obey the law the Government is placing itself above, and superior to, the Parliament of this State, and placing itself well above the laws which bind the Government. If the Government is permitted to refuse to obey this law week after week, month after month, and maybe year after year, then it could with equal justification disobey other laws which bind the Government. What a shocking example that would be to set before the citizens of this State!

I have heard Ministers and supporters of this Government at public functions praising our system of law and order, and saying the laws of the State are equally administered for all citizens irrespective of wealth, position, power, or anything else. Yet in this situation we have the Government calmly and even self-righteously claiming this law is one which binds the Government when it pleases the Government to be bound by it, and not before.

That is a situation which could not possibly be justified, nor has the Premier justified it. The excuse which he put forward only places the Government in a worse position, because in effect he says the Government accepts the interpretation of the law as given by the Premier and Deputy Premier 10 years ago, and he wipes out of consideration as of no importance the unanimous declaration of the judges of the State Supreme Court given four years ago.

DECORUM OF THE HOUSE

Reading of Newspapers: Statement by the Speaker

THE SPEAKER (Mr. Hearman): Before I call on the Deputy Leader of the Opposition I take this opportunity to draw the attention of honourable members to the fact that last session I had something to say about the reading of newspapers in the Chamber. I have already had two instances of it during this session—one from each side of the House. I do not think it should be necessary for me to speak on this matter again.

SUPPLY BILL, £28,000,000

Second Reading

MR. TONKIN (Melville—Deputy Leader of the Opposition) [7.54 p.m.]: Last night a man was struck by a vehicle and was killed. His mother is a woman 83 years of age. Because it was felt that the knowledge of the death of her son would be fatal to the mother, a request was made to the police that the name of the victim be not released for 24 hours. Medical advice was given that it could be fatal for the mother if she were told of the tragedy; and the medical adviser suggested that the knowledge should be withheld until he was present to give any medical attention which might be required.

So far as I know the police honoured the undertaking which they gave not to release the name, but unfortunately the news appeared in the newspapers. Although I did not hear it myself, I was told it was put over the air. It is too late to do anything in this case, and fortunately it did not have the fatal results anticipated, but it could have been fatal in similar circumstances. It seems to be not asking for too much for some arrangement to be made between the police, the newspapers, and the broadcasting stations, where the circumstances are such that an early announcement would be fraught with danger, for details of any tragedy to be withheld for 24 hours. The public at large would not be disadvantaged or inconvenienced if they were not told for 24 hours, and it would be a gesture of mercy to people in very difficult circumstances.

The brother of the man who was killed came to see me this morning in a very distressed state. He explained the circumstances to me and asked if I would draw attention to this case in the hope that someone in the future similarly placed would be protected. I take this early opportunity of bringing the matter to the notice of the Minister for Police in the hope that some scheme might be devised whereby this situation could be controlled.

To carry on the argument which we on this side are carrying on in connection with the position in which the Government is in, I want to say it is extremely flattering to me to know the Government will determine its attitude on my utterances. I never guessed I had so much influence. When we talk in this House we talk by way of argument, and we express the views we hold. When I spoke in 1954 I expressed the views I held, and I make no apologies for them. I hope that one is not expected to be a member of Parliament with fixed views which would never change. I hope that with experience and additional knowledge to be gained from experience we would all be open to changing our minds if we were satisfied that the circumstances were such that our opinions were wrong. I have yet to meet a man who is infallible in his judgment.

One only has to read the dicta of learned judges in the courts to find that the opinions which they expressed at certain times have been overridden by superior courts. That is not to say, because a judge gave a determination in one case which was subsequently upset on appeal, he is to stick to the determination he gave originally in view of the fact that his position has been upset. What a ridiculous situation that would be if he stuck to the original determination!

This question has to be argued on the merits of the case, and not on what some member of Parliament said about the situation some years ago, or on what he did not say. It should be proved or disproved on the facts. I have already said that with regard to the position which existed previously there was some ambiguity. It was possible, sincerely and conscientiously, to hold a differing view. There was no argument about the fact that the law required, when a report was supplied by the Chief Electoral Officer, that a proclamation shall be issued. That was admitted, and there was no argument about that.

All the argument that ensued was around the point whether the proclamation which was issued when the Hawke Government was in power and subsequently cancelled by the cancellation of proclamation Act left a further obligation on the Government to issue another proclamation, or whether the issuing of that proclamation satisfied the requirement of the law. That was the position; and, I repeat, there was room for a difference of opinion on that matter. We held that the proclamation having been cancelled *ab initio* and it being stated that its provisions had never operated, it could not be regarded as a valid discharge of the obligations of the Government under the law—and that point of view was upheld by the Full Court. The Government attempted to appeal, and its appeal was thrown out.

Whether that leaves much room for still holding the views which the Government then took, I do not know; but I do know that before the judgment the Government held the view that it had no obligation to issue a proclamation, and after the judgment it issued one. So apparently it had some effect on the advice which was tendered.

Now let us have a look at the law. Section 12 of the Electoral Districts Act, 1947, provides—

> (1) The State may from time to time be wholly or partially redivided into Electoral Districts and Electoral Provinces by Commissioners appointed under this section in manner hereinafter provided whenever directed by the Governor by Proclamation.

(2) Such Proclamation should be issued—

Not "may be issued," Mr. Speaker. Continuing—

(a) on a resolution being passed by the Legislative Assembly in that behalf;

I ask you, Mr. Speaker, if this Legislative Assembly were to pass such a resolution, would the Government consider itself free to dilly-dally like it is now? Continuing—

or (b) if in the report by the Chief Electoral Officer to the Minister to whom the administration of the Electoral Act, 1907-1940, is for the time being committed, as to the state of the rolls made up for any triennial election it appears that the enrolment in not less than five Electoral Districts falls short of or exceeds by twenty per centum the quota as ascertained for such districts under this Act.

Such a report has been received by the Government. Is that alternative any less important than the first one? I say "definitely no," because in either of these situations it says the Governor shall issue a proclamation. As it is unthinkable that the Government would dilly-dally if a resolution of the Assembly were passed, likewise, it has got no justification for dilly-dallying in the second alternative.

On the 26th January, 1960, the Solicitor-General—who is still the Solicitor-General—wrote this to his Minister—

> Section 12 (2) of the Electoral Districts Act clearly contemplates that a proclamation under the section will be issued if the Chief Electoral Officer makes a certain report to the appropriate Minister.

That is the advice of the Solicitor-General to the Government. There is no ambiguity; no "ifs" and "buts". The section clearly contemplates that a proclamation under the section will be issued if the Chief Electoral Officer makes a certain report to the appropriate Minister—and the Chief Electoral Officer has made that report.

If any further confirmation of the view held by the Crown Law Department is needed, here it is; and I quote from the transcript of evidence of the case in the Supreme Court before Justices Wolff, Jackson, and Hale, on Friday, the 14th April, 1961, page 69 of the transcript. This is what Mr. Wilson, Crown Prosecutor, speaking on behalf of the Government said to the learned judges—

> The formula was so readily at hand if they'd wanted to expunge it, to obliterate it, and I submit they didn't do it, and there's a rational and reasonable interpretation why they didn't, because it would have been remarkable indeed if Parliament had set out in Act No. 1 of 1959 to expunge the proclamation. Now, let us assume for the moment it did: What then is the position? Immediately on the passing of the Act the report of the Chief Electoral Officer, which is not affected by the Act is still there, is still in existence and unaffected by the Act. It would require the issue—the immediate issue, one would think, after the time of the thing—

He was interrupted there by the Chief Justice who said—

> Well, it surely would have been much clearer to say "Section 12" . . .

The point I am emphasising is that the Crown Prosecutor, speaking on behalf of the Government, gave as his opinion to the court that if the proclamation were still in existence it would require the immediate issue of the necessary paraphernalia to set up the commission, and so on; but he argued that the proclamation had been issued. It satisfied the requirements of the law, had been expunged, and no further obligation arose until there was a new report from the Chief Electoral Officer.

Mr. Court: At that point he was not arguing about the timing of the proclamation itself; he was arguing about the issuing of the machinery.

Mr. TONKIN: I know; but he gave as his view that if the proclamation was not to be taken into consideration at all—had been completely expunged so as not to fulfil the obligation on the Governor—then there would have been left the necessity for the immediate issue of another proclamation.

Mr. Court: I did not understand that from what you said. I thought it was in connection with the machinery of commissioners.

Mr. TONKIN: I will read it again. He says—

> Immediately on the passing of the Act the report of the Chief Electoral Officer, which is not affected by the Act is still there, . . .

That is comparable to the position now. There is the report of the Chief Electoral Officer which is there. Then Mr. Wilson went on to say—

> . . . is still in existence and unaffected by the Act.

The Act he meant was the cancellation of proclamation Act. He concluded by saying—

> It would require the issue—the immediate issue, one would think, after the time of the thing—

And that is as far as he got. So his view was—and it is in conformity with the rest of his views expressed—that the reason

why there was no obligation on the Government at that stage to issue a proclamation was that one had been issued which satisfied the requirements and therefore wiped out the obligation which ensued because the report had been received from the Chief Electoral Officer and he said that no further obligation arises until there is another report from the Chief Electoral Officer. That means that when there is a report from the Chief Electoral Officer there is an immediate obligation to issue a proclamation.

In June, 1962, the Premier attended a law convention, and he was in the company of people who believed in carrying out the law; and he made a plea for clear, simply-worded legislation.

Mr. Brand: That is fair enough.

Mr. TONKIN: He said—

> There is a need for clear, simply-worded legislation which can be easily understood.

I would like to say that it does not make any difference to the Premier whether it is clearly understood or not, because he will not obey it if he does not want to. What could be clearer than the law which I have already read?

Mr. Brand: But that was a fair request I made, was it not?

Mr. TONKIN: Of course it was, so long as you realise that example is better than precept.

Mr. Brand: Too right I do!

Mr. TONKIN: The Premier makes a plea for clear, simply-worded legislation. Why? It will not make any difference to his observance of it.

Mr. Brand: We would not have so many arguments with you about it.

Mr. TONKIN: Why does not the Premier admit he understands the legal position but has no intention of observing it, because that is the position? We have to put up with a lot in this place, make no mistake about that!

Mr. Brand: Always have done!

Mr. TONKIN: We have to put up with pure chicanery and sophistry. When the McLarty-Watts Government, of which the present Premier was a supporter and Minister, brought in the Electoral Districts Act, and we had a cancellation of proclamation Bill here introduced by the then Attorney-General (Mr. Watts), we were told that if the Parliament did not agree to a new Electoral Districts Bill, the obligation would still be on the Government to issue a proclamation. That is what Parliament was told, yet when the Government sent its officers to court to argue against us do you, Mr. Speaker, know what they told the judges? They said that the Government had deliberately framed the cancellation of proclamation Bill in order to ensure that there was no obligation on it to issue a fresh proclamation.

I put it to you, Mr Speaker, that as those statements are directly opposite, one of them must have been deliberate misrepresentation. Parliament was told by the then Attorney-General—and I will prove it because I have it here; I think my leader has quoted it several times—that the obligation would still remain. I was in court and I heard what the solicitors for the Government told the court. I will quote from page 69 of the transcript as follows:—

> MR. WILSON: They could have done. It's much more to the point—they could have done it that way, sir, or I submit they could have done it the way that they have in saying that, "We'll preserve the *status quo*"—in other words, "We'll denude the report of any consequences in the way of a proclamation issuing, because it's issued—we don't want to change that—we don't want to revive a fresh obligation to issue another proclamation; — — —

The Government set out with the deliberate intention in its legislation of not reviving the obligation to issue a fresh proclamation, but Parliament was told during the passage of the Bill that if it did not agree to the Bill, the obligation would still remain on the Government to issue a proclamation. What sort of conduct is that? Mr. Wilson went on—

> we merely want to stop the process that has been begun."
>
> And so they do it by leaving untouched the making of the proclamation, and expressly providing that the provisions of it shall be deemed not to have been in operation. What would be the position otherwise?—Immediately a fresh proclamation should issue.

Is that not the present position? The Government has in its hands a report from the Chief Electoral Officer. One of the conditions mentioned in the Statute requires the issue of a proclamation, and Mr. Wilson, on behalf of the Government says to the court—

> What would be the position otherwise—Immediately a fresh proclamation should issue—Parliament, I submit, doesn't pass Acts without seeking some objective, and I submit the objective here was to preserve the status quo—to stop the redistribution from proceeding, at that time, and they achieved it by leaving the—they didn't want to interfere with section 12, so they left it in such a way that the procedure embodied in section 12 had been satisfied. The proclamation had issued, but that left no further obligation or duty arising out of that report of the Chief Electoral Officer, and therefore you wait until the next report or for a resolution of the Houses of Parliament or the general discretion at large.

All through that it is made obvious that if there is a report from the Chief Electoral Officer, then there is an obligation on the Government for the immediate issue of a proclamation. Not only is that said by the Solicitor-General, but it is also said by the Crown Prosecutor, and it is obvious if one reads the law. We know very well, because it has been said so often, that the then Attorney-General did give an assurance to this House that there would be an obligation upon him to issue a fresh proclamation. I quote from page 39 of *Hansard* 1959, volume 1, from the speech of Mr. Watts, as follows:—

> The revocation of the proclamation, however, as proposed in this Bill, is only to do this: to give the present Government an opportunity of seeking the agreement of Parliament to proposals for the alteration of the law so that if Parliament accepts those alterations, and in the light of those alterations, the necessary proclamation can be issued to enable the commissioners to proceed with adjustments of electoral boundaries in accordance with the amended law to which Parliament would then have agreed.
>
> On the other hand, if Parliament should reject those amended proposals, or any proposals which might be brought forward, then it is quite clear that the present Statute will remain and the onus would be placed upon the Government of issuing a fresh proclamation to ensure the law is carried into effect.

If Mr. Wilson's statement to the Court is to be believed the Government allowed its Attorney-General to stand up in this House and make a statement well knowing that the Government had no such intention and that it had deliberately framed its legislation so that it would not occur. Can one imagine anything worse than that? The Minister stood up in his place and gave an assurance that certain things would happen, when his Bill had been deliberately framed to ensure that they would not happen.

No wonder I think pretty carefully before I accept any assurance from the Government. This was intended to be automatic. When the Bill was first passed, *The West Australian*, which thinks so much of the Liberal Government, published a leading article praising it up. This is what that paper had to say; and I quote from the leading article of the 28th November, 1947, as follows:—

> It is a good and necessary Bill. A fair and even generous Bill. It incorporates two eminently desirable principles which are new to this State and which merit the widest public approval. These principles are automatic future redistribution whenever enrolments exceed a permissable margin of error, and the definition of new boundaries by a body out of Parliament itself. It will be encouraging to think that these two principles at least will never be altered.

But, Mr. Speaker, what they didn't know was that there could come a Government which would not be interested in those principles at all and would completely disregard them. Automatic redistribution. Just imagine considering automatic redistribution for four months! The Government has had the report of the Chief Electoral Officer in its hands for four months and it has the cheek to tell us that it is still considering the matter: a matter which is supposed to be automatic and upon which there is a clear obligation for the Government to act.

Let us have a look at the constitutional position. I quote from Windeyer—*Legal History*, page 201, 2nd Edition, as follows:—

> The Sovereign and Parliament are subject to the law.

Page 202—

> After 1688—it was apparent that Crown and subject alike were bound by the law. The King's Minister of State who acts in contravention of the law can be brought before the King's Court. This doctrine of ministerial responsibility is accepted today. It is the duty of the servants of the Government to carry out lawful orders —It is equally their duty to disobey unlawful orders.

I now quote from Halsbury's *The Laws of England*, 3rd edition, vol. 7, para. 494, as follows:—

> Subjection to the law. The Crown is bound to observe the law both by statute and by the terms of the coronation oath, which embodies the contract between the Crown and people upon which the title to the Crown originally depended, and still in large measure depends. Upon any doubtful point of prerogative the Crown and its Ministers must, therefore, bow to the decision of the legal tribunals.

I interpolate here to say that we have the decision of a legal tribunal, so the Government's position is clear. It has got to bow to that decision whether it likes it or not. To continue:—

> The Crown is not entitled at common law by virtue of the royal prerogative to take possession of a subject's property for reasons of State without paying compensation.

That is not relevant to this issue. I now quote from page 235, para. 506 which is as follows:—

> The Crown in Relation to the Executive.
>
> By virtue of the prerogative the Sovereign is the supreme executive authority in the state; and all executive acts are done in the Sovereign's name by virtue of the prerogative or by virtue of statutory powers conferred upon the Crown, or are done by ministers of the Crown by virtue of statutory powers conferred upon them in their capacity of ministers. Executive acts are concerned either with the administration of parliamentary enactments and the subordinate legislation made thereunder, or with the exercise of the discretionary authority which is placed in the hands of the Sovereign by virtue of the common law without any express parliamentary sanction or supervision.
>
> In neither of these branches of the executive may the Sovereign act in person or upon arbitrary impulse. In the former the Crown acts through its constitutional officers and departments of state, and in the latter acts through the medium of the customary officers and departments upon the advice of the constitutional ministers, such advice being given individually by the heads of the various ministerial or political departments in minor matters, or collectively through the Cabinet in more important matters.
>
> There is no act of the executive for which some officer or minister of the Crown is not responsible, and for which he may not be made liable either to punishment upon an impeachment or in a court of law in the case of tortious or criminal acts, or in the case of bad advice given to the Crown, to censure or loss of office.

I would draw particular attention to that reference, Mr. Acting Speaker (Mr. Mitchell): in the case of bad advice being tendered to the Governor by the Government. The Governor is under certain instructions and those instructions can be found on page 256 of our Standing Orders. Members can look them up for themselves. This is what those instructions say—

> In the execution of the powers and authorities vested in him, the Governor shall be guided by the advice of the Executive Council, but if in any case he shall see sufficient cause to dissent from the opinion of the said Council, he may act in the exercise of his said powers and authorities in opposition to the opinion of the Council, reporting the matter to us without delay, with the reasons for his so acting.

So if the Governor is convinced that the advice being given him is incorrect advice he is entitled to disregard it and carry out his obligation under the law. Sir George Farwell, in delivering judgment in the case of the Eastern Trust Company v. McKenzie Mann & Company Limited, in the Privy Council in April 1915, had this to say—

> It is the duty of the Crown and of every branch of the Executive to abide by and obey the law. If there is any difficulty in ascertaining it, the Courts are open to the Crown to sue, and it is the duty of the Executive, in cases of doubt, to ascertain the law in order to obey it, not to disregard it.

There was a case in New South Wales where the Governor felt that Ministers were disobeying the law; and so, on the 12th May, 1932, the Governor of New South Wales wrote to his Premier as follows:—

> It appears to me that the terms of this circular direct Public Servants to commit a direct breach of the law as set out in Proclamation No. 42 . . . I feel it my bounden duty to remind you at once that you derive your authority from His Majesty through me and that I cannot possibly allow the Crown to be placed in the position of breaking the law of the land.

On the 13th May, 1932, he wrote as follows:—

> If Ministers are not prepared to abide by the law, then I must state without any hesitation that it is their bounden duty under the law and practice of the Constitution to tender their resignation.

The situation in this State is no different. There is the law; a declaratory judgment has been given in connection with it, and it is unthinkable that the Crown Law authorities are giving the Government any different advice now from what they gave the Government back in 1960; and that advice was that if there is a report of this nature the immediate issue of a proclamation is an obligation upon the Government. If the Government fails to advise His Excellency to issue a proclamation there are two courses, and only two courses, open. His Excellency can disregard the Government's advice, have the proclamation issued, and report the matter to Westminster; or, he can call upon the Government to resign. There is no middle course in this matter. We cannot fiddle about here and follow our desires and wishes in connection with the matter. The Crown must obey the law.

The ACTING SPEAKER (Mr. Mitchell): The honourable member has another five minutes.

Mr. TONKIN: The Government, in not obeying the law, is placing the Crown in the position of not obeying the law, and that is untenable. Just as the Governor in New South Wales could not tolerate the situation there, and finished up by dismissing the Government, so His Excellency is faced with that choice here if the Government does not obey the law. It has its opportunity. The law is clear. There is a report from the Chief Electoral Officer which, on the Crown Law Department's own *dictum* and in accordance with the declaratory judgment of the Full Court, requires the issue—the immediate issue—of a proclamation directing a redistribution.

The Governor must know that from the correspondence which would be on the file in his office; because when this argument was on previously the then Governor wrote to the Leader of the Opposition and told him that the obligation upon the Governor to issue a proclamation arose only when there was a fresh report from the Chief Electoral Officer saying a certain number of seats were out of balance. All the Governor need do is read that correspondence. He will have the advice from the Crown Law Department that when a report is issued it has to be satisfied by the issue of a proclamation; and, as no such proclamation has been issued in this instance, that obligation still remains.

So we have a situation at the present time where the Government is deliberately refraining from obeying the law, and I repeat what I said before tea: I know of two instances where fathers did not want their sons prosecuted when they discovered it was their sons who had taken their motorcars and not somebody else, but the attitude of the Government was, "Oh no; we cannot stop this. We must obey the law. The laws says we have to prosecute"; and despite the fact that the fathers did not want to prosecute their sons, and they got their motorcars back, the law had to be satisfied. This is the Government which supported that attitude! But when it is concerned, or when it is confronted with the necessity to obey the law, when there is no room for doubt, as there was previously, what does it do? It fobs the Governor off by telling him that something which is automatic is still under consideration after four months.

Well, clearly, if the Government does not act the obligation is on His Excellency to see that Her Majesty is not left in the position in which she now is of breaching her coronation oath.

MR. COURT (Nedlands—Minister for Railways [8.38 p.m.]: Although I shall be brief I shall have a few words to say as the Minister in this House representing the Minister for Justice. First of all I must say that having listened to this tirade almost from the time the House assembled this afternoon it reminded me of a piece of music. We get the original tune and then we have variations, one after the other, in different keys and in different moods.

Mr. Davies: You have not changed much since the House last assembled.

Mr. COURT: But the fact is, of course, that members opposite are labouring very much in trying to get across a convincing story. Say it any way they like, the Leader of the Opposition and his deputy cannot get away from the proposition that they stated so clearly back in 1954.

Mr. Tonkin: Did you agree with it?

Mr. COURT: At the time—

Mr. Tonkin: No. Did you agree with it?

Mr. COURT: Wait a minute; do not get excited! We have listened to the honourable member very patiently.

Mr. Tonkin: It is a simple question. It calls for a simple answer.

Mr. COURT: At the time we were convinced that the honourable member's Government was acting wrongly, but the then Government persisted that it was entitled to act in the way it did, and that it was entitled to reasonable time. I think that was one of the points the then Government made when The Hon. A. V. R. Abbott was arguing on the point. The then Government emphasised the question of circumstances and what is a reasonable time.

Mr. Tonkin: Are you saying now you are entitled to a reasonable time?

Mr. COURT: Just a minute; I am not here to be answering your questions.

Mr. Tonkin: They are a bit awkward, I admit.

Mr. COURT: We have had the honourable member trying to introduce the usual drama that he introduces into these things —not obeying the law, and the like.

Mr. Tonkin: Isn't it true?

Mr. COURT: The honourable member uses that sort of thing time and time again.

Mr. Tonkin: Isn't it obvious?

Mr. COURT: Let me state this clearly right now: This Government, or its Premier, has not said that it is going to disobey the law. There is no question of brushing the law aside, or brushing the judgment aside.

Mr. Tonkin: The law requires the immediate issue of a proclamation.

Mr. COURT: This, of course, is the Deputy Leader of the Opposition expressing his view of the law and his view of a judgment.

Mr. Tonkin: That is the advice of the Crown Law Department.

Mr. COURT: I think I should go back to the *Parliamentary Debates* of 1954 and read these words again, because the Deputy Leader of the Opposition, who was then the Minister for Works, said—

In some circumstances—

Mr. Tonkin: I intend to deal with the legal position. Why not face up to the legal position?

Mr. COURT: If the Deputy Leader of the Opposition will listen for a moment I will give him the legal side of it.

Mr. Tonkin: The usual sophistry.

Mr. COURT: Of course, when the Deputy Leader of the Opposition cannot win an argument these are the sort of tactics he resorts to.

Mr. Tonkin: This one does.

Mr. COURT: I know this hurts, but here it is—

> In some circumstances 12 months would be unreasonable; under other circumstances, two years would be reasonable. It depends entirely on the circumstances.

Now, what are the circumstances? The Chief Electoral Officer made his report subsequent to the elections. I think his report was made some time during April of this year. What is the date now? It is just the beginning of August, with no election pending.

Mr. Tonkin: It says nothing about that in the Act.

Mr. COURT: No-one is suffering any inconvenience in any way and nearly three years will elapse before an election is to be held, and yet here are the Leader of the Opposition and the Deputy Leader of the Opposition getting all excited about this situation in the light of their own performance when, after 15 months in office, they had taken no action.

Let us deal with the case from the point of view as to why the circumstances are different now from what they were when the Hawke Government—in 1953-54—placed its interpretation on the law.

Mr. Tonkin: What about making an attempt to deal with the law! The law! Deal with the law, not what someone said about it!

Mr. COURT: I will when you keep quiet.

Mr. Tonkin: You will, all right! In a reasonable time!

Mr. COURT: All this talk that is being bandied about tonight refers to a time when the Government of the day had, for a number of reasons, not issued a proclamation for a period of over two years. This was the atmosphere in which the judges decided this point. The Government did not issue a proclamation for two years, for reasons that are well known: a Bill was being put through the House to amend the law, and so forth. This case was decided in an atmosphere surrounding a Government which had not issued this proclamation for two years for what it thought was a good and sufficient reason. We are now dealing with a situation when the Government of the day has not issued a proclamation for three or four months.

Mr. Tonkin: You have a funny idea of time.

Mr. COURT: Well, what was it?

Mr. Tonkin: We will say three months, but it means five.

Mr. COURT: Let us call it a reasonable time. I invite the Leader of the Opposition and the Deputy Leader of the Opposition to look at subsection (3) of section 27 of the Interpretation Act which reads as follows:—

> Where no time is prescribed—

And no time is prescribed in this case—

> —or allowed within which anything shall be done, such thing shall be done with all convenient speed, and as often as the prescribed occasion arises.

Mr. Tonkin: That book cannot be available to the Crown Law Department.

Mr. COURT: It is.

Mr. Tonkin: Then why do they say the obligation is immediate?

Mr. COURT: The Deputy Leader of the Opposition is, of course, well known for taking text out of context, and one has to take the whole of the evidence given in court to get the true picture.

Mr. Tonkin: If a man says that the obligation is immediate, surely it is immediate.

Mr. COURT: That provision in the Act says "with all convenient speed," and I should say that convenient speed and reasonable speed would be the same for all practical purposes. One has to have regard for the circumstances. The Deputy Leader of the Opposition has said that so often. He said that with great emphasis in 1954 when it was the whole basis of his argument.

Mr. Tonkin: Then "five months" and "immediate" have a new meaning.

Mr. COURT: Each case has to be dealt with on its merits. The Deputy Leader of the Opposition is introducing the word "immediate," and not referring to the Electoral Districts Act or the Interpretation Act. It is the Deputy Leader of the Opposition who is introducing the word "immediate." It amazes me that the honourable gentleman is prepared to put these judges on a pedestal in this case when some of the things he said about them in the Beamish case are entirely different.

Point of Order

Mr. TONKIN: I object to the Minister's statement that I said anything derogatory about the judges. Most definitely I did

not say anything in the slightest degree derogatory about the judges, and I ask for a withdrawal.

Mr. COURT: Mr. Acting Speaker (Mr. Mitchell), the honourable gentleman is sensitive over these words, but as they are unimportant as far as my argument is concerned I am quite prepared to withdraw them; but I would ask him to look up some of the statements he made when he was talking on the Beamish case.

Debate Resumed

Mr. Brand: Did you agree with their judgment?

Mr. COURT: No; he did not.

Mr. Brand: You can shake your head, but you cannot agree with their judgment one day and disagree with it on another.

Mr. Tonkin: That's a fine thing! If you disagree with the judges in one court you have to disagree with all the judges! No wonder there is no declaration being issued!

The ACTING SPEAKER (Mr. Mitchell): Order! I think the Deputy Leader of the Opposition has had a fair chance to make his speech.

Mr. COURT: I do not want to delay the House much longer on this. All the circumstances of this case have to be viewed with common sense; that is, the Act, the court case referred to, and everything thrown in—and one also has to have regard for subsection (3) of section 27 of the Interpretation Act, which clearly contains the words "with all convenient speed." To determine what is "convenient speed," one has to have regard for all the circumstances. Here we are with no election pending, and with the Premier making a clear statement on what he has in mind. There has not been an attempt to evade the law under the circumstances referred to, and we consider there is a clear-cut case for this matter to be considered on a commonsense basis and in reasonable, sensible time.

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committees (Mr. W. A. Manning) in the Chair; Mr. Brand (Treasurer) in charge of the Bill.

Clause 1: Issue and application of £28,000,000—

Mr. HAWKE: The Minister for Industrial Development, in trying to brush aside the arguments which have been put forward from this side of the Chamber on the continuing failure of the Government to issue the proclamation under the Electoral Districts Act, could not be regarded as being serious, and consequently what he has said would not be accepted seriously by anybody in the Chamber. He told us that the arguments from the Opposition were put up in varying notes and differing tunes. The Minister should be a fair judge of that, because there has never been a member of this Parliament who has blown his own trumpet more than the Minister for Industrial Development.

Mr. J. Hegney: He will not deny that, I am sure.

Mr. HAWKE: Like the Premier, the Minister completely ignored the declaration of last May by the judges of the Supreme Court.

Mr. Brand: He did not.

Mr. HAWKE: The declaration of the judges carried no weight with the Minister for Industrial Development, just as it carries no weight with the Premier. The thing which impresses and convinces the Minister is the same thing that convinces the Premier; namely, that the Deputy Leader of the Opposition today, who was Deputy Premier 10 years ago, then said something about the law, and about the discretion which the Government had under the law. The Minister then went on to claim the Government was entitled to issue a proclamation under this law when the necessity arose, as long as it did it with reasonable speed.

The report from the Chief Electoral Officer was presented to the Government in the middle of April this year. Making every allowance possible for the exercise of reasonable speed on the part of the Government, the proclamation should have been issued by the end of April. Yet the Minister argues that reasonable speed allows the Government to have this report in the middle of April and not have a proclamation issued by the end of July, the end of August, or even the end of September. One would think that the preparation and issuance of the necessary proclamation would involve the Government in a great deal of detailed work. Proclamations under this law have been issued before.

Mr. Court: I well remember one you issued when you were the caretaker.

Mr. HAWKE: So the form of proclamation is well established. A Crown Law officer could prepare the proclamation in one hour at the outside. It would then go to the Minister for Justice, and from him to the Premier. It could then be approved at a Cabinet meeting two, three, or five days later, after which it could be signed and taken to Executive Council, and two or three days afterwards signed by the Governor. It could then be issued in the next gazette published and become operative. That would take two weeks at the outside. Accepting the argument of the Minister for Industrial Development that the Government is entitled to use reasonable speed, the proclamation should have been issued at the end of April at

the latest. But here we are at the beginning of August, and there has been no attempt by the Government to have the proclamation prepared or issued.

Mr. Court: The same term "convenient speed" applied in your day, you know.

Mr. HAWKE: I have answered that already this evening, but in the hope the Minister for Industrial Development might be prepared to accept the explanation, I would briefly refer to it again.

Mr. Court: They were the same words; the same law.

Mr. HAWKE: It does not matter what words were expressed 10 years ago by the Minister or anybody else; it does not matter what the law was 10 years ago, or what it is today; or whether it was the same then as it is today. That is of no consequence. The dominating factor in this situation is that the judges of the State Supreme Court on the 25th May, 1961, unanimously laid it down that there was a compelling legal obligation upon the Government to issue a proclamation once the report of the Chief Electoral Officer showed that five or more Legislative Assembly districts were out of balance in relation to quotas. That is the law; and that is the duty upon the Government.

All the Government can say as an excuse for ignoring the law and refusing to carry it out is that the Premier and Deputy Premier of the State 10 years ago said they could choose the time for the issue of a proclamation. At that time they could, because there had not then been a declaration of the law by any court. It was only in May, 1961, that the issue was taken to the court and the unanimous declaration made by the judges.

However, it is apparent that the Premier and his Ministers are determined to go on deliberately ignoring the declaration of the judges; they are deliberately refusing to obey the law. The Minister for Industrial Development even said that the Government could go on more weeks, or more months, ignoring this law and refusing to carry out its obligation so long as the Government had a mental intention to obey the law some time in the future.

How would a private citizen get on if he adopted that attitude towards the laws which bind him? How would he get on if he ignored the traffic law, or some other law, and when apprehended and taken before the judge or magistrate he said, "I am not obeying the law this week or this month, but I will make a resolution to obey all the laws from the 1st January, 1966"? How would he be treated by a magistrate or a judge? Yet that is the fanciful proposition that the Minister for Industrial Development puts before us tonight—

Mr. Court: No it isn't!

Mr. HAWKE: —in what was supposed to have been a total and all-crushing reply to arguments submitted by members on this side of the House. All that the Premier and the Minister for Industrial Development can say in justification of their refusal so far to carry out the undoubted legal obligation which is upon them to issue a proclamation, is that the Premier and Deputy Premier of the State 10 years ago said that the Government could choose its own time for the issuance of the necessary proclamation. That is their excuse and justification. If that is the best the Premier and the Minister for Industrial Development can do, heavens knows where the State will finish!

We say that on the 25th May, 1961, this very issue was decided by the judges of the State Supreme Court. They unanimously declared that following the receipt by the Government of a report from the Chief Electoral Officer showing that five or more Legislative Assembly districts were out of balance, there was an inescapable obligation on the Government to issue a proclamation under the provisions of the law.

Clearly and beyond any possibility of successful denial by the Government it has failed, and it is continuing in its refusal, to carry out the law. Its action, in the face of the declaration by the judges, shows it has treated their declaration with contempt. Although I have no pleasure in saying this, in effect they have also placed His Excellency the Governor in a false position.

Mr. TONKIN: It is not surprising the Minister for Industrial Development made no attempt to rebut the argument from this side, because the case does not leave any room for argument. Therefore, as he had to say something, he spent practically the whole of the time in referring to what the Leader of the Opposition and I said 11 years ago.

All that His Excellency has to do is to turn up his file and refer to the copy of this letter dated the 10th February, 1960, addressed to the Leader of the Opposition, relating to the Electoral Districts Act:—

> I have carefully considered your letter dated 19th January, 1960, and have referred it to my Ministers.
>
> My Ministers advise me that any duty imposed upon me by section 12 (2) of the Electoral Districts Act arises only where there has been a resolution under the subsection passed by the Legislative Assembly or if a certain report is made by the Chief Electoral Officer to the appropriate Minister as to the state of the rolls made up for any triennial election.

That advice has already been tendered to the Government; and the Government tendered to His Excellency that when a report was received from the Chief Electoral Officer there was an obligation upon

His Excellency to issue a proclamation. That situation has been established. It does not matter what the Leader of the Opposition or I said about some matter 11 years ago. This is the legal position quoted by the Crown Law Department to the Government, and quoted by the Government to His Excellency, and subsequently quoted by His Excellency to the Leader of the Opposition. Nothing can change that.

The Minister for Industrial Development sought to advance his argument by referring to the Interpretation Act, and saying that where no time is mentioned it can be assumed that a reasonable time can be taken. But surely that is available to the Crown Law Department. Yet, when the Crown Solicitor was in the court he did not advance as his argument to the court that the Government could please itself when it issued the proclamation. He told the court if there was a report from the Chief Electoral Officer it would require the immediate issue of a proclamation. If we can get over that by quoting what some member of Parliament said 11 years ago, then it is a surprising state of the law.

Here the Government is telling the Leader of the Opposition it had no obligation at that time, because the obligation which was there had been satisfied by the issue of a proclamation which was cancelled subsequently; and that was the reason for the stand of the Government at the time. I repeat: While I do not accept that argument and neither does the court, there were grounds for holding that view. I believe some very prominent legal men still hold the view that the cancellation of the proclamation, which had been issued in satisfaction of the obligation imposed on His Excellency, removed any obligation to issue a further proclamation. But that situation does not arise in this case, because no proclamation has been issued subsequent to the report of the Chief Electoral Officer.

The Government is playing around in advancing the reply to His Excellency that the matter is under consideration, when the situation calls for advice to His Excellency that, having received a report, there is an obligation on him for the immediate issue of a proclamation. That was the advice which should be tendered. In not tendering that advice the Government is placing His Excellency and the Sovereign in the position of not obeying the law; and it becomes a question of how long His Excellency will tolerate being placed in that position. As I have indicated, the Governor of New South Wales in 1932 did not stand it for very long.

There is the unanimous decision of the High Court to the effect that that position cannot remain, and there is the statement of the advisers to the Government that when a report has been received it requires the immediate issue of a proclamation. That does not leave any discretion to the Government to say it will carry out the law in its own time. That reminds me of a person who had been given a demolition order in respect of his premises because they were unfit for human habitation. When the stipulated time expired he had not done anything. His reply was, "You cannot prosecute me. I will observe the law, but I must be given a reasonable time to have it under consideration." He would not get very far.

There was the instance a few years ago when we had a certain traffic law which was broken by a number of people, but before they could be brought to court the law was altered. Some of them, who were less fortunate than those whose cases had piled up, were brought before the court at a time when the Government was contemplating the alteration of the regulation. It was not a valid defence for those people to say that that law was about to be altered, and what they had done would be no offence in a month's time. They were punished just the same.

Surely the Government cannot place itself in a position different from that applying to the ordinary citizen. It has to accept the law as it stands.

The fact that the law is going to be altered next week or next year does not entitle it to disregard the law as it stands at the present time—and that is precisely the situation as regards this. This law, on the advice of the Government's own Crown Law officers, requires that, as the report of the Chief Electoral Officer has already been furnished to the Government in April of this year, the immediate issue of a proclamation directing a redistribution should take place. Any playing with words or reference to what somebody said at some time or other has no relevance to that situation, and it is something that the Government has to face up to. The Government may have put up a show in this Chamber in rebuttal, but it has not said anything of substance yet; and the only way successfully to demolish the arguments put up from this side is to take each argument and show it is falacious. Of course, that is something the Government cannot do.

The Government cannot say this situation is analogous to what occurred before, because a proclamation was issued before and then cancelled, and the whole argument revolves around whether the cancellation of the proclamation still left an obligation on the Governor to issue a proclamation or whether that obligation had been discharged and did not arise again until there was a new report. That was the whole argument, and there was room for a difference of opinion, but there is no room for a difference of opinion on

this, because the report has been received by the appropriate Minister; and in the view of the Crown Law Department—and this must be the advice which it has tendered the Government—there is an obligation upon the Government to advise His Excellency to issue a proclamation.

The Government dodged that by not giving His Excellency any advice at all apart from telling him that the matter was under consideration. It depends just how long His Excellency is prepared to allow the Government to remain in that position well knowing, as he must if he refers to the file, that there is an unsatisfied obligation resting upon him and that he requires certain advice in order to enable him to carry it out.

If the Government will refer to its legal officers the dictum of Lord Halsbury, it will find that there is no room for dilly-dallying the way it is, but that it must proceed immediately to discharge its obligation. It has not even to seek a declaratory judgment, because the situation is perfectly clear as to what it has to do; and if it does not tender His Excellency the right advice in the circumstances, it leaves itself open to action in the courts. Surely upon reflection the Government will realise the seriousness of the position and do something to rectify it.

Mr. DAVIES: The Government rests its case in this argument on the attitude of the present Opposition when it was the Government in 1954. It feels that the changed circumstances, which have been explained so often tonight and this afternoon in this Chamber, had nothing to do with the present position. On this occasion I regard the Government's attitude as serious indeed.

I wonder if certain members who are in this Committee now were really behind the move of Sir Ross McLarty, when he moved a motion for a proclamation for a redistribution of seats. On that occasion the debate was fairly limited, but since it has been quoted to us so often tonight in regard to what the present Deputy Leader of the Opposition and the present Leader of the Opposition said on that occasion, I think we could take one or two points from what Sir Ross McLarty, the 1954 Leader of the Opposition, said at the time. His comments are not lengthy, but I think they reflect an attitude which we are trying to explain on this occasion. Sir Ross McLarty said:—

> I do not know what that has to do with it, but the fact is that there is a law on the statute book and I am moving this motion with the idea of having the law observed.

This is precisely what we are doing. Is the Government at the present time suggesting Sir Ross McLarty was completely in error in moving such a motion? Further on, on the 25th August, 1954, Sir Ross McLarty said:—

> If the provisions of the Act are to be ignored by the Government under the existing circumstances, I certainly think that is a flagrant breach of the law, and in that case what could the Government do in other instances, if the law is to be thus ignored?

Of course, the Opposition at that time had avenues open to it—avenues which were subsequently exploited by our party in 1961. Apparently the fact that it took no further action shows it was not very sincere, or that a compromise was reached —and this appears to have been the case. Talking of court actions, I would point out that the then Opposition did not think it important enough to challenge the 1961 judgment further through the courts at the time it was delivered, although this path was open to it and it could have adopted such a policy.

I mentioned there were members of the present Government in Opposition at that time, and I find they were not very vocal about the action that the Government was taking in 1954. Indeed, it appears that the debate was left to one or two persons, but the others no doubt voted for the measure and supported it whether they believed in it or not. I can only interpret their silence as consent.

Several times during the debate in 1954 Sir Ross McLarty made reference to the fact that it was essential for the redistribution to take place as soon as possible because it was not fair for members not to know on what boundaries they would be fighting the next election. As every honourable member will agree, it is very important we know as early as possible the boundaries for the electorates we will be contesting. None of us wants to work in areas which will not bring us a vote because they will be outside our electorate.

The fact remains that it seemed to Sir Ross McLarty a rather important factor; and this was one of the reasons why the amendment to the motion moved by Mr. Hawke, Leader of the Government at that time, was subsequently accepted. An undertaking was given that an attempt would be made to alter the Act, and subsequently a redistribution would take place without delay. That was apparently satisfactory to Sir Ross McLarty and his colleagues; and that was where the 1954 argument ended. The main point I have been trying to make is that the Opposition at that time wanted a redistribution of boundaries to take place as soon as possible so that members would know the boundaries of their electorates.

The Minister for Industrial Development in his half-sneering manner has indicated this evening that it is not important and that no-one is very concerned about a redistribution, because it could be 2½ years before another election takes place. I

think this is a very wrong argument. It is not only unfair to members on this side, but it is unfair to all members. I do not think it was ever intended that there should be any undue delay at any time in issuing a proclamation and arranging for a redistribution of electoral boundaries.

The Government this evening has made very good use of some quotes from the 1954 argument, but I can go back to the time when the Bill was introduced in 1947 and I will quote from page 2197 of *Hansard* of that year contained in volume 120 of the new series. Although the bulk of the argument dealt with the manner of representation, and the matter was subsequently bitterly debated, as many members in this House will recall, there was one reference made to the issuing of a proclamation. The Attorney-General—and he was the Attorney-General of a Liberal Party-Country Party coalition Government—said at the time—

> The Bill further provides that when so decided by resolution of the Legislative Assembly, or if five or more electoral districts get out of balance as to the number of electors by 20 per cent. or more, the Commissioners shall proceed to make a new distribution of Assembly seats, and again that redistribution will automatically operate.

I think that the Government at that time led us to believe that a redistribution would automatically operate; and, of course, we are entitled to believe that what it said at that time was correct.

I am not going to labour the matter, because I could only repeat some of those points that have already been made tonight and that would upset the Minister for Industrial Development. However, I am concerned with the fact that the Government is breaking the law. There is not the slightest excuse for it to do so. The Ministers take an oath to uphold the law and that oath has been quoted tonight. Private members also take an oath to uphold the law, and I think we have a responsibility to see that it is upheld. The Government should not, as a matter of convenience, refuse to take action when it has been clearly demonstrated, by order of the Supreme Court and also by its own remarks when the Bill was introduced, that the redistribution should automatically take place.

Clause put and passed.

Clause 2 put and passed.

Preamble put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Mr. Brand (Treasurer), and transmitted to the Council.

House adjourned at 9.26 p.m.

Legislative Council

Wednesday, the 4th August, 1965

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The PRESIDENT (The Hon. L. C. Diver) took the Chair at 4.30 p.m., and read prayers.

QUESTIONS (8): ON NOTICE

1. *This question was postponed.*

MINERAL CLAIMS AT JANDAKOT

Applications in Warden's Court: Position of Private Landowners

2. The Hon. R. THOMPSON asked the Minister for Town Planning:

> Does the Government intend to oppose in the Warden's Court applications for mineral claims at Jandakot, in the interest of private landowners who are bound by law to plan in conjunction with the Metropolitan Region Authorities developmental