

Legislative Council

Wednesday, 16 October 1991

THE PRESIDENT (Hon Clive Griffiths) took the Chair at 2.30 pm, and read prayers.

MOTION - ATTORNEY GENERAL

Tabling of Documents - Parliamentary Order Non-compliance

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [2.35 pm]: I rise on a matter of privilege involving the contempt by the Attorney General for an order of this House by failing to table certain documents. I move, without notice -

That this House -

- (1) notes the failure of the Attorney General as the Leader of the Government to comply by the close of the sitting on Tuesday, 15 October 1991, with an order of this House made on Tuesday, 17 September 1991, requiring him to table within three sitting days of the date of the order, certain documents described in that order;
- (2) adjudges the Attorney General guilty of a contempt of this House for his failure to comply with that order;
- (3) hereby suspends the Attorney General from the service of the House for seven days inclusive of the day on which this resolution is passed, provided that where within the period of suspension the Attorney General notifies the President that he is willing to table the documents in the manner provided for in the original order at the next succeeding sitting of the House, the period of suspension is extinguished accordingly;
- (4) orders the Attorney General, should he fail to table the documents under the proviso to clause (3), to attend at the Bar of this House on the sitting day next following the expiration of his suspension under clause (3), at which time should he continue to decline to table the documents subject to order, his seat, without further order being required, is thereupon declared vacant.

For the benefit of the House I will outline the history of the need for this motion. Members will be aware that I moved a motion in this House on 11 September that the Attorney General, as Leader of the Government in this House, should table certain documents. Those documents relate to a legal opinion given to the State Government Insurance Commission regarding the legality of the purchase by it of Bell shares, as referred to by the Attorney General in his evidence to the Royal Commission. The motion also stated -

- (b) any and all other legal opinions regarding the purchase of the Bell shares obtained by the Government or any Government corporation or instrumentality at any time prior to or after the purchase; and
 - (c) any and all written papers requesting or commenting upon or supplementing those legal opinions.
- (2) In this order "closing day" means the day upon which -
- (a) the House passes a motion to adjourn for a period in excess of 18 days; or
 - (b) the House is prorogued.
- (3) Where the Attorney General is unable or believes he will be unable to comply with this order by tabling the papers by reason of the House not sitting or being prorogued, he shall in substitution therefore deliver them to the Clerk who shall forthwith publish them under authority of this order.

During debate on the motion on 11 September, members will recall that I had the opportunity to make only some preliminary comments because at the expiration of one hour after the sitting had begun, the one hour time rule was used and I was required to continue my comments the following day. Following considerable debate in this House, further debate on

the motion was carried forward to Tuesday, 17 September 1991. On that occasion I indicated to the House that the Liberal Party did not intend to place the SGIC or any other Government instrumentality or agency in a position in which it was at some legal or commercial disadvantage following the tabling of certain papers in this House. It was agreed, not only by the Opposition but also by the Government, that a fourth paragraph be added to the original motion. That amendment was moved by Hon Bill Stretch and seconded by me, and was confirmed as clause (4) of the motion as follows -

- (4) Where in the Attorney General's opinion - the reasons for which shall be tabled at the time this order is complied with - the publication of any material in a document, or class or group of documents, to be tabled under this order is calculated as likely to place the Government or its instrumentalities at a serious commercial or legal disadvantage, the requirement to table in relation to that material is satisfied by depositing it, clearly identified, in a sealed container with the Clerk. Any material so tabled under this paragraph is open to inspection by any member who, unless by further order of this House, shall neither publish nor copy that material.

That motion was carried by the House and accordingly the three sitting days commenced on the next sitting day. Yesterday was the third sitting day since that motion was carried and the day on which the Attorney General was required to produce those documents. It became clear at 11 o'clock last night when this House rose that he did not intend producing those documents.

Hon J.M. Berinson: I did not have them.

Hon GEORGE CASH: I submit that as a result of his non-compliance with that order the Attorney General is in contempt of this House. It should be understood that the order made by this House was a lawful one. It was in clear and unequivocal terms. It was capable of compliance by the Attorney General as the principal Minister in this Legislative Council, and in his capacity as Leader of the Government in this place.

I mentioned earlier when reading to the House the original motion which became the order which will be referred to in due course that an opportunity was afforded the Attorney General to lodge those documents with the Clerk of this House if he believed some legal or commercial disadvantage may occur to the SGIC. Members would be aware that the opportunity was provided under that order for the Attorney General as Leader of the Government in the Legislative Council to come forward, if necessary, within the three sitting days set down in the order to give reasons to the House why he could not comply with the order. The Attorney General failed to do that.

No real need exists to discuss the reasons behind the original advice tendered to the SGIC and related to the purchase by it of certain shares in Bell Group or to the underwriting agreement which the SGIC entered into because today we are dealing with a matter of principle - more than that, we are dealing with a motion which involves a contempt by the Attorney General of an order of this House. The Attorney General as Leader of the Government in this place has sworn an oath to discharge his duties in accordance with the law; he has sworn an oath to uphold the law.

Hon J.M. Berinson: It is a shame that you are not prepared to do that.

Hon GEORGE CASH: It is clear from the Attorney General's non-compliance with that order that he has failed that test.

Hon J.M. Berinson: You only respect one law - the law of your majority!

Hon GEORGE CASH: The Attorney General can interject as much as he likes. This happens to be a serious motion.

Hon J.M. Berinson: You are making a mockery of this House and this Parliament, that is what you are doing!

Hon GEORGE CASH: The Attorney General by way of interjection seeks to overspeak and drown out what I have to say, especially when he does not like what I am saying.

Hon Graham Edwards: Tell us about the City of Stirling, George!

Hon GEORGE CASH: I will in due course. I -

Hon Graham Edwards: Tell us about -

The PRESIDENT: Order! I draw the attention of all honourable members to the fact that I will not tolerate unruly screaming across the Chamber. I ask the Minister for Police in particular to bear that in mind. This is a difficult enough situation to control without one of the front bench members of the Government trying to lead the show.

Hon GEORGE CASH: When I have an opportunity I will be able to assist not only the Liberal Party but also the Labor Party in respect of matters raised in the interjection by the Minister for Police.

Hon J.M. Berinson: What a disgrace to this House you are!

Hon GEORGE CASH: The Attorney General, as Leader of the Government in this House, cannot escape his responsibility by claiming that the Minister in charge of the SGIC is not a member of this House. The fact is that the Leader of the House is the Leader of the Government in this place and has the capacity to request the Minister in charge of the SGIC to do certain things. Should that Minister fail to produce the documents required for tabling by the Attorney General in this place then he can, as a member of the Government and a member of Cabinet, approach Cabinet and advise it of the order made against him and if the Minister responsible for the SGIC is still not prepared to hand over the documents required the Government can direct the SGIC to furnish those documents to the Attorney General to enable him to table them here.

It is important for members to realise that the Constitution Acts Amendment Act provides that there shall be one Minister at all times in the Legislative Council. One of the reasons for that is to enable the Council to access Government agencies and institutions; that is, so that the Legislative Council and the Legislative Assembly enjoy similar opportunities to question and demand documents from Government agencies and instrumentalities. The Legislative Council should certainly not be placed at a disadvantage because the Minister responsible for a particular organisation does not sit in this House. That is an important point. I trust that in due course the Attorney General will not try to hide behind the fact that he is not the Minister responsible for the SGIC.

Hon J.M. Berinson: I am not hiding behind that. I am stating it as an incontrovertible fact.

Hon GEORGE CASH: The Legislative Council has powers similar to those of the House of Commons.

Hon J.M. Berinson: Are you sure?

Hon GEORGE CASH: In due course Mr Berinson can do some research on that matter.

Hon J.M. Berinson: I will - you should have!

Hon GEORGE CASH: If Mr Berinson does that research he will find that from time to time the House of Commons has required Ministers to table official documents relating to various Government agencies and instrumentalities -

Hon J.M. Berinson: Documents subject to legal, professional privilege?

Hon GEORGE CASH: - even when it has not been the wish of the Government to table those documents.

Hon J.M. Berinson: Name one document in that category subject to legal, professional privilege - just one example!

Hon GEORGE CASH: In due course I will deal with the question of legal privilege, again an area which the Attorney General seeks to hide behind.

Hon J.M. Berinson: I am not hiding behind anything.

Hon GEORGE CASH: My point is that, having regard to the decisions in the House of Commons, research shows that on many occasions that place has required its Ministers to table documents in the House, often against the will of the Government. The orders have been complied with because they were orders of the House. Members will see that an indisputable right exists for this House to require -

Hon J.M. Berinson: I am still waiting for a single example.

Hon GEORGE CASH: - its Ministers to table documents in this House and, indeed,

documents that the Government may not wish to provide. As to the matter of legal privilege raised by the Attorney General, yesterday he raised the example of being directed to do cartwheels down St George's Terrace. I raise that matter now to remind members of the types of comments which come from the Attorney General and which are no more than an attempt by him to belittle the significance and importance of the demand by this House for him to table certain documents.

Hon J.M. Berinson: No-one could belittle this House more than you are at the moment - no-one!

Hon GEORGE CASH: Hon Joe Berinson is doing a fairly good job himself at the moment. As to the question of privilege between a lawyer and his client, it should be understood that the privilege resides with the client, not the lawyer, and at any time a client can waive that privilege. Hon Joe Berinson may wish to discuss that in due course.

Hon J.M. Berinson: You are a great democrat, Mr Cash.

Hon GEORGE CASH: However, irrespective of whether the client - in this case the State Government Insurance Commission - wishes to waive that privilege, that privilege does not supersede any of the powers of this House. Irrespective of any privilege claimed this Legislative Council, as a House of Parliament, has the absolute right and is entitled to assert its right to demand that documents be tabled in this House. Therefore the question of privilege is not relevant to whether the document should be tabled; that is a completely separate issue. It is said from time to time that in waiving all privilege damage can be done to individuals, and I am mindful of that. However, it would be quite wrong for this House to allow the question of privilege to prevent it from seeing certain documents, and that is not something this Council should allow. It is also important to say that today we are not really talking about the content of any document that is required to be tabled, but rather about the question of contempt of this Parliament.

Hon J.M. Berinson: Rubbish! How on earth can you say that?

Hon GEORGE CASH: Irrespective of the content of the document, the question before us is a question of contempt by the Attorney General of this House in not complying with a particular order. If this House were to allow the Attorney General to get away with the contempt that he has now shown to this House -

Hon J.M. Berinson: There is no contempt.

Hon GEORGE CASH: - it would be unable to direct other persons to table documents because they would point to the precedent that had been struck by this House in not pursuing the question of contempt in respect of the Attorney General's action. It is critical that this House assert its rights, privileges and authority, whether it be over the Attorney General or any other member of the House who fails to comply with a direction of the House and thus be in contempt of the House.

Hon J.M. Berinson: You think that constitutes contempt just by your repeating it continuously.

Hon GEORGE CASH: It would make a nonsense of the parliamentary process for us to do nothing. I put it to the House that the Attorney General, by not complying with the order of the House dated 17 September 1991, is in contempt of the House and that this House must now consider a penalty for that contempt.

Hon J.M. Berinson: Judge, jury and executioner - you are doing pretty well!

Hon GEORGE CASH: In respect of the motion itself -

Hon J.M. Berinson: This is all in support of the dignity of the House, I take it.

Hon GEORGE CASH: - it is important, firstly, that the House recognise that a contempt has been committed.

Hon J.M. Berinson: There is no contempt. You say there is.

Several members interjected.

The PRESIDENT: Order! I ask Hon Jim Brown to stop interjecting. I suggest that the Leader of the House also stop interjecting, because obviously he will take advantage of an opportunity to say something on this matter later and I will extend to him the same protection I am endeavouring to give the current speaker.

Hon GEORGE CASH: In respect of the contempt that has clearly occurred, a number of matters are required by way of procedure. Members who are aware of the facts surrounding the original order of the House and who now are aware that the Attorney General failed to comply with the order will know that the Attorney General is clearly in contempt of the House.

Hon J.M. Berinson: Why do you think that is self-evident? How do you arrive at that conclusion?

Hon GEORGE CASH: The House needs to adjudge the Attorney guilty of contempt because of his failure to comply with the order. That can be done and it is part of the motion I have just moved. However, the motion contains an opportunity for the Attorney General to -

Hon J.M. Berinson: Expiate.

Hon GEORGE CASH: - table those documents -

Hon J.M. Berinson: What a transparent fraud!

Hon GEORGE CASH: - in the manner set out in the original order, and the notice provides that the Attorney General has seven days to do that. That is fair and reasonable, because as much as the Attorney General wants to put on his little sideshow - and we all know how good he is at histrionics when he wants to play a part - if this motion is carried, and if the Attorney General tables the document in the House or lodges it with the Clerk within a few minutes of this motion's being carried, clearly he will extinguish any matters relevant to this motion and purge his contempt of the House.

Hon J.M. Berinson: Thank you, Mr Cash.

Hon GEORGE CASH: On the other hand, if the Attorney General decides not to purge his contempt -

Hon J.M. Berinson: There is no contempt. You have not demonstrated the contempt.

Several members interjected.

Hon GEORGE CASH: It is interesting that members of the Government do not appear to understand the seriousness of this motion. If the Attorney General fails to purge his contempt within seven days he will be required to attend before the Bar of the House, when he will be given another opportunity to table those documents or lodge them with the Clerk. If he should then fail or decline to do so, by this motion his seat will be declared vacant. The opportunity exists for the Attorney General to carry out the order dated 17 September 1991 that is already upon him. All the excuses in the world that the Attorney General might like to bring forward to try to drag red herrings across the path, as he usually does, will not extinguish the contempt that has occurred.

Hon J.M. Berinson: You are a transparent fraud.

Several members interjected.

The PRESIDENT: Order!

Hon GEORGE CASH: I recognised the last two words the Attorney General used; they were "transparent fraud". The way in which the Attorney General carries on in this House indicates that he is the transparent fraud. He had the opportunity to table the documents but he decided not to, and I put it to the House that this is nothing more than an act of brinkmanship on the part of the Attorney General. He has decided he will test this House and its members to see just how far it is prepared to go. The question which must be addressed is the contempt of this House by the Attorney General, and all the words in the world by the Attorney General will not allow him to run away from it. There is a good chance that the Attorney General will probably allow this motion to be carried; he will then produce the opinion.

Hon Graham Edwards: Allow it to be carried? Can't you count?

Hon GEORGE CASH: If that is the way the Attorney General is prepared to do business, that is fine. All that will do is confirm the brinkmanship that the Attorney General plays in this House from time to time. Nothing would suit the Attorney General better than for him to be able to manipulate this House and cause this House to take no action so that the contempt that has occurred -

Several members interjected.

The PRESIDENT: Order! I should mention to Hon Tom Stephens that he is sailing very close to the wind. I suggest that he is a bit smarter than that.

Hon GEORGE CASH: The Attorney General will probably want to comply with this resolution of the House, and that will clearly indicate his brinkmanship. It would suit the Attorney General if -

Hon J.M. Berinson: I am trembling at that threat. Why do you upset me so much?

Hon GEORGE CASH: - this House did nothing, if it did not pursue the question of contempt. If the House does nothing, the Attorney General knows that many other documents that may be required from time to time to be tabled in this place will not have to be tabled; that will suit the purpose of the Attorney General down to the ground.

Hon J.M. Berinson: We have tabled cartons full of documents.

Hon GEORGE CASH: I urge the House to support the motion. It is a responsible motion. It offers the Attorney General an opportunity to purge the contempt that he has committed in this House. The opportunity is there for him to take. If he fails to do that, the motion also provides for other procedures. The point is that the onus rests with the Attorney General. If he cares to do nothing, in due course by this resolution his seat will be declared vacant. That is a decision that only the Attorney General can make, and it is a decision that the House would regret. However, that is entirely at the discretion of the Attorney General. I ask members to support the motion.

HON J.M. BERINSON (North Metropolitan - Attorney General) [3.04 pm]: Mr President, you will not be surprised to find that I not only think that I should say something in this debate but also that I should say something in opposition to the motion. I suppose that the least that might be said is that "hanging judge" Cash has played true to form: Judge, jury, executioner, interpreter of the law - he is all of those things, and he fills those positions with consummate ease. All he needs to do in order to reach a conclusion to his own satisfaction is to say that a thing is so; all he needs to do to establish contempt is to say that I am in contempt; and with a strength of conviction born out of 17 votes behind him he simply bores on in that strain without the slightest attempt to link his assertion to any authority or to put it on any basis which would deserve respect outside of this particular numbers-dominated forum.

This is a contemptible motion. It is also a grossly improper motion in every conceivable sense. By that I mean that it is grossly improper in a legal sense, in a parliamentary sense, and in a constitutional sense.

Hon P.G. Pendal: It is nothing of the kind.

Hon J.M. BERINSON: Join Mr Cash in making assertions!

Mr President, I do not intend to spend very long on this part of my comments because I do not expect anything so insignificant as logic or reason to sway any member on the other side. However, at least some short attention should be given to these legal, parliamentary and constitutional matters.

First of all, "Mr Justice Cash" assures us that I am clearly in contempt without the need for any evidence to support that. He then goes on to say that I have put myself directly in line of the threat embodied in the motion before us; that is, the threat for suspension first and disqualification later. I suppose, in parenthesis, I should at least express gratitude that he did not go to the third alternative mentioned yesterday. Moreover, he says that all of that is very clear and that it arises out of the Parliamentary Privileges Act. He refers, in that respect, to that part of the Parliamentary Privileges Act which indicates that the powers of this House for the time being shall be those for the time being held, enjoyed and exercised by the House of Commons. I have quoted that for him. He did not bother to quote that part of the Act himself. However, I am prepared to assist him in that regard. Having quoted the passage on which Mr Cash clearly relies, it is only reasonable that I should indicate that there are other passages in the very same section. At the end of section 1, in particular, there is the well known proviso to the following effect -

Provided always that with respect to the powers hereinafter more particularly defined by this Act, the provisions of this Act shall prevail.

In other words, where there is specific power or ability to impose penalties provided by the Act, the powers in that respect of the House of Commons do not apply. Mr President, that is very significant in the particular circumstances of the case that Mr Cash is trying to make -

Hon George Cash: I was referring to the precedents for the tabling of documents in the House of Commons.

Hon J.M. BERINSON: Of course, and what I am referring to is the law applying to the tabling of documents in this House. I am saying that where there is a specific rule provided by the Parliamentary Privileges Act in respect of that matter, the provisions of this Act apply and not the provisions or the powers of the House of Commons. We are at least agreed on the basic point. Mr Cash is talking about the House of Commons; I am talking about the Legislative Council of Western Australia. I invite the members of the Legislative Council to have regard for the law governing our own activities.

I now move on to another section which will be well known to you, Mr President. I refer to section 8 of the Parliamentary Privileges Act, which is worth quoting in full -

Each House of the said Parliament is hereby empowered to punish in a summary manner as for contempt by fine according to the Standing Orders of either House, and in the event of such fine not being immediately paid, by imprisonment in the custody of its own officer in such place within the Colony as the House may direct until such fine shall have been paid, or until the end of the then existing session or any portion thereof, any of the offences hereinafter enumerated whether committed by a member of the House or by any other person -

Clearly, this is stated in a way which overrides any contrary provision of the House of Commons; that is, that where one has committed an offence indicated in section 8, the power to punish as for contempt by any person, including a member of the House, is by way of fine and, in default of payment, imprisonment. The very first offence enumerated in section 8 reads -

Disobedience to any order of either House or of any Committee duly authorised in that behalf to attend or to produce papers, books, records, or other documents, before the House or such Committee, unless excused by the House in manner aforesaid.

We have here an indication that where a contempt is claimed to arise by disobedience to any order of either House, but specifically in respect of the production of papers, section 8 is to apply. It is worth making the point on which I am embarked, not because I am volunteering for a fine of unlimited proportion or, in default of that, imprisonment; but the least which might be said is that if the Opposition is to come to the point of the imposition of draconian penalties for a non-existent offence - that is an offence merely created by its own definition - at least it might obey the law binding us all regarding penalties. In other words, given the effect of section 8 of the Parliamentary Privileges Act, the Opposition cannot move to suspend or disqualify me - it is restricted by section 8 to fine or imprison me. Why cannot the Opposition get that much right and bring us down to the law which applies in this State, irrespective of what may apply to the House of Commons? In making that point I do not expect a single member opposite to embark on a different course of action than the one on which they are on or to move one iota from their previous resolution. That will stand at least as some small indication for me as a reason for suggesting that this motion is legally improper.

I have also said that the motion is improper in a parliamentary and constitutional sense. In this respect I draw less on what Mr Cash said than what he has failed to say. The best Mr Cash could do regarding this motion was to say that the Opposition's main case was that the authorities are full of cases where persons or bodies have been required to respond to an order of the Parliament to produce papers, even where they did not wish to do so. Mr Cash said that innumerable cases existed in which the production of papers was insisted upon and achieved despite the resistance of the persons against whom the orders were directed. While Mr Cash was making that point, I issued him an invitation - he heard this invitation clearly enough more than once - to which he did not respond. The invitation in the context of his comments about enforced production of papers was for Mr Cash to produce a single example in which a Parliament had moved to enforce the production of papers subject to legal professional privilege in the face of resistance by the person or body against whom the claim

for production was made. Mr Cash could not produce a single example, and a good reason exists for that: There are no such examples. Research was conducted on the position through the whole of this century in all Parliaments in Australia and the United Kingdom, yet nowhere is a case to be found of a Parliament enforcing its asserted power to override that very fundamental privilege of our society; that is, legal professional privilege in the face of resistance by a party against whom that order is made.

The Royal Commission has been faced with a number of claims of privilege, and it has declined to accept a number of those cases. On the other hand, it has accepted without question any claim on the grounds of legal professional privilege. This is fundamental to the rights of individuals in our society. That is universally recognised and it has been universally recognised in this Parliament and in every comparable Parliament for at least the whole of this century as some sort of protection against the improper exercise of powers by a Parliament, a court or a Royal Commission against anybody. It is simply not done. The reason for that is that legal professional privilege constitutes such a basic individual right that to override it would attack the legal foundations and the human rights foundations on which our society is based.

Hon George Cash: And in whom does the privilege reside, Mr Berinson?

Hon J.M. BERINSON: It resides in the person or body to whom the legal advice has been offered.

Hon George Cash: Exactly.

Hon J.M. BERINSON: Exactly. That was a very profound comment from Mr Cash; what does he take from it? I have indicated to the Leader of the Opposition, and he does not need my indication because he has had direct contact with the SGIC board -

Hon George Cash: That is the point I make. Do you know what the SGIC board said to us? If you don't, I will tell you: I will tell you about the privilege you allege they claim and whether they will suffer any loss as a result of waiving that privilege.

Hon J.M. BERINSON: Is Mr Cash suggesting that that is not the SGIC's position?

Hon George Cash: Keep going.

Hon J.M. BERINSON: Do not tell me to keep going; is Mr Cash saying that that is not the SGIC's position, because he knows what I will call him if he says yes.

I have already said that this motion is contemptible and grossly improper. Apart from those small weaknesses, it is also stupid and unnecessary. I come now to the question of ambush tactics which Mr Cash has employed today. I convey to the Chamber what Mr Cash has known through my own activities earlier in the day. In accordance with our usual practice, I indicated to Messrs Cash and Charlton before we sat today that I would seek leave to make a Ministerial statement on the House's resolution and my notice of motion regarding the tabling of the SGIC papers. I put the members on notice, as I believe is reasonable enough.

Hon George Cash: Surely you are not saying that a matter of privilege should not take precedence over other matters; is that your argument?

Hon J.M. BERINSON: Hon George Cash is so concerned about the standards of this House! I am not talking about questions of precedent, I am talking about common decency. I am talking about the difference between my being prepared to give the Leader of the Opposition notice of my intention to make a ministerial statement on this subject and his not being prepared to provide me with notice of his intentions, especially in circumstances where the most outrageous measures are proposed against me. That is the contrast I am drawing to Hon George Cash's attention. He ought to be able to do that. I believe that the ministerial statement, of which I gave Hon George Cash notice, can pass for my further response to this motion as well.

Hon George Cash: You gave me notice that you wished to make a statement. You did not give me a copy of the statement.

Hon J.M. BERINSON: I did not say that I did. Why is Hon George Cash bothering to make totally irrelevant and minor points when we are dealing, for the first time in the history of this country let alone this State, with a proposition that a member of Parliament ought to be suspended and then disqualified from membership of the House? Hon George Cash wants to talk about the precise terms of the notice that I gave him about the ministerial statement.

Hon George Cash: You raised it.

Hon J.M. BERINSON: Before Hon George Cash offered his last irrelevant contribution by way of interjection I was making the point that the ministerial statement I wished to make at the beginning of this sitting serves me equally as well as my further reply to the debate. I do not intend to now depart in any way from the statement which it was my intention to deliver earlier had Hon George Cash not jumped the gun to pre-empt me. It may be necessary in order to maintain my undertaking to present the whole of this statement and to duplicate some comments that I have already made by way of introduction. If I do so it is purely for that limited purpose.

To retrace the history of this matter I start at the same point as did Hon George Cash and refer to the motion that the House passed on 17 September relating to the tabling of certain State Government Insurance Commission papers. In other circumstances I would have read the terms of that motion into the record but since Hon George Cash has already done that there is no point in my repeating it. In moving his motion on 17 September the Leader of the Opposition spoke only briefly but still managed to seriously misrepresent me on at least four or five occasions. On 26 September by way of personal explanation I responded to and rejected each of those misrepresentations. It is interesting to note that the Leader of the Opposition has never attempted to justify his original statements, either since 17 September or in the motion on which we are now engaged.

Following the resolution of the House on 17 September I of course conveyed its terms to the Minister Assisting the Treasurer, Dr Geoff Gallop, and asked for his response. In turn he conveyed the resolution to the SGIC. As must be well known to all members, the SGIC board expressed great concern first to the Government and then directly to the Liberal Party, the National Party and to Independent Hon Reg Davies. The SGIC made three points: Firstly, it emphasised, as is self-evidently the case, that the board itself had nothing to hide. Secondly, it said that it had nonetheless resisted the production of the relevant papers because the material requested not only constituted legal advice, which was clearly entitled to legal professional privilege, but also advice the publication of which could prejudice the SGIC in the major litigation in which it is now involved. That has been the unqualified advice of the SGIC's solicitors.

Hon George Cash: That was not conveyed to me at my meeting with the SGIC.

Hon J.M. BERINSON: The Leader of the Opposition could not have been listening.

Hon George Cash: Do not rely on that. I was not at the meeting at which that was conveyed to me.

Hon J.M. BERINSON: I believe the Leader of the Opposition, but thousands would not. Thirdly, as a separate but related issue, the SGIC has urged all parties to refrain from drawing the SGIC into a political controversy which is none of its business but which could well result in the severe commercial detriment of its activities. No-one can seriously doubt that the SGIC's position in this respect is soundly based and is entirely concerned with legal and commercial considerations. Speaking for the board, the SGIC's chairman, Mr Cohen, has emphasised time and again that the politics of the situation are absolutely of no interest. No-one would possibly question any of his statements in that respect.

Given the combination of the circumstances of this matter there is clearly an overwhelming argument for the view that irrespective of the validity of the powers which the House asserts, it should not act so irresponsibly as to insist on the requirements of its original order. To allow the House to reconsider its position, I accordingly gave notice of a motion yesterday in the following terms -

That this House resolves that in the view of -

- (a) the legal advice received by the State Government Insurance Commission that the release of legally privileged papers referred to in the motion of the Legislative Council on 17 September 1991, could be prejudicial to the SGIC in its current litigation;
- (b) the serious concern expressed by the SGIC at its position in the event that the Legislative Council insisted on compliance with its motion; and
- (c) the established practice of the United Kingdom and all Australian Parliaments

to refrain from insisting on the production of papers subject to legal professional privilege when such production is objected to;

no further action be taken in respect of the resolution of the House on 17 September 1991.

In the ordinary course of events that motion would have been due for debate about next Tuesday. Unfortunately, it was made very clear to me last night that there was no chance of that motion being adopted. That is both a pity and a disgrace because the original motion is nothing more than an exercise in the Opposition throwing its weight around. It can serve no useful purpose even for the Opposition's narrow political interests. The Opposition knows already from the Royal Commission transcripts the general nature of the legal advice to which the motion of 17 September refers.

They also know that neither I nor the Government has anything to hide in respect of this document, any more than the SGIC has. For the umpteenth time I make the obvious point that the criticism of my position is not that I was aware of the content of the advice, but that I was not aware of the content of the advice at the relevant time in 1988. How on earth the content of the advice can now be made an additional criticism is beyond me and, if they were to be honest about the matter, beyond Hon George Cash, Hon Peter Foss, Hon Phillip Pandal, Hon Robert Pike and so on down the line of all 17 members on the other side, who would rather flex their muscles on the issue than exercise their brains, commonsense or some sense of responsibility.

As I explained to the House yesterday, and as is also self-evident, I have no capacity personally to provide the papers which I have been ordered to provide. Only the SGIC can do that and, when it refuses to do so voluntarily - as it very reasonably and responsibly has done - only the Treasurer can direct it otherwise. Having come to the realisation yesterday that the Opposition would not be persuaded against its original motion, I accordingly informed the Treasurer. The Treasurer's response in the form of a letter to Mr Cohen, Chairman of the State Government Insurance Commission, dated 16 October, sets out the present position as follows -

Dear Mr Cohen

Legislative Council - Order to Table Documents

I acknowledge your advice that tabling in the Legislative Council of the Bell Group Ltd legal opinion which is in the SGIC's possession could prejudice the SGIC's interest in current litigation and could be commercially damaging to your organisation.

I fully understand your position that the SGIC has nothing to hide and that by recommending that legal professional privilege be maintained in respect to this document, the SGIC Board is doing its best to protect the SGIC's legal and commercial interests.

It is apparent from the attitudes of the Opposition members of the Legislative Council that they will seek to enforce the order of the House for production of documents irrespective of the concerns raised by you and also expressed by the Leader of the Government in the Legislative Council to that House.

To prevent an impasse which would draw the SGIC into a political and constitutional controversy capable of severely damaging the SGIC's legal and commercial interest, irrespective of the outcome, I find it necessary to direct that the Leader of the Government in the Legislative Council and the Minister representing the SGIC in that house be provided with the document so that it may be made available to the Legislative Council.

Accordingly, and with the greatest regret, pursuant to Section 10 of the State Government Insurance Act 1986 I direct the SGIC to provide the Leader of the Government in the Legislative Council and the Minister representing the SGIC with documents requested in the attached order passed by the Legislative Council on 17 September, 1991.

I would like to emphasise that this course is taken because of the Council's assertion of power in this matter and is not intended to be a waiver of the SGIC's privilege

over the documents. Furthermore, I believe that the actions of the Opposition members of the Legislative Council on this matter to be grossly irresponsible and potentially detrimental to the interests of the State and the SGIC.

The motion of the Legislative Council provides for strict confidentiality to be maintained with regard to this document. I cannot believe that any Legislative Councillor would be so irresponsible as to move to make this a public document and thereby affect the SGIC's legal and commercial position.

The letter is signed by Dr Lawrence in her capacity as Premier and Treasurer. The SGIC has advised that there is only one paper relevant to the order of the House and, in accordance with the Treasurer's advice, I will deposit that with the Clerk under the conditions set out in the original order of the House as soon as possible. I shall seek leave to table a statement by me as required by paragraph (4) of the resolution of the House on 17 September.

Hon George Cash: Will you read the statement before it is tabled?

Hon J.M. BERINSON: Before, after or whenever the Leader of the Opposition wishes. The statement is headed "Tabling of SGIC Paper" and it reads as follows -

In accordance with the provisions of paragraph 4 of the motion passed by the House on 17 September, 1991:

1. I advise the House, that in my opinion, the publication of any material in the document deposited with the Clerk today is calculated to place the SGIC at a serious commercial and/or legal disadvantage.
2. The reason for the opinion referred to in paragraph (1) is the advice to the SGIC from its solicitors that "... having regard to the issues in the pending litigation between SGIC and Bond Corporation Holdings Ltd., the waiver of privilege in respect of that letter by disclosing its contents to a third party could prejudice the SGIC's interest in the litigation and could thereby be commercially damaging to the SGIC".
3. In arriving at the opinion in paragraph (1), I must necessarily rely on the advice of the SGIC solicitors who have carriage of the SGIC litigation. Neither, I nor the Crown Law Department have any connection with the conduct of that litigation and are therefore unable to comment on the issues in that litigation, or on the significance to them of the legal opinion, the subject of the House's order.

I seek leave to table that paper.

Leave granted. [See paper No 733.]

Hon J.M. BERINSON: A major consideration in the Treasurer's decision is that it avoids the SGIC's becoming embroiled in a major political and constitutional impasse and dispute as to the powers of the House in this matter. The SGIC has itself expressed the very firm view that this could significantly affect the SGIC's commercial activities, and that is not a prospect which could reasonably be ignored. Another significant factor in the Treasurer's decision is the confidentiality provision of the restricted tabling order. That is because of the importance of that confidentiality as well to the legal and commercial interests of the SGIC. Theoretically, confidentiality could be lifted by a later resolution of the House and Hon Peter Foss - in advance of seeing anything at all - has gone close to saying that he would find reasons - as only he is capable of doing - to go down that path. Only those who are prepared to give a free kick to the other side in the SGIC litigation could even contemplate such an irresponsible course in the face of the express SGIC concern and the legal advice on which that is based. Perhaps naively, but I certainly trust not, I join the Premier in believing that any such action by the House is unthinkable. No publication means no publication by any means, whether in whole or in part. Members who take the opportunity to read the document will be conscious of the obligations which the motion as a whole imposes on them.

Finally, the decision by the Treasurer on this occasion should not be misinterpreted. As indicated in earlier debate, there is substantial reason to question whether the House has the power which its original order asserts. There is also a wealth of parliamentary practice and experience in this and other Parliaments to demonstrate the impropriety and irresponsibility

of a House seeking to override the fundamental privileges recognised in our community, such as legal professional privilege.

Hon George Cash: You are reflecting on an order of the House.

Hon J.M. BERINSON: No, I am reflecting on the further activities of the House in seeking to enforce that order. There is a world of difference and I am surprised that the Leader of the Opposition is not aware of it.

As I have previously indicated, but I believe it is worth repeating, our researchers have failed to find a single case this century where a claim of privilege of this nature has not been respected in this Parliament and for that matter in any other Parliament in Australia or the United Kingdom. I make clear to the House that the Government does not accept the legality or parliamentary propriety of the assertions of power made by the House in this matter. It will continue to conduct its affairs in accordance with long accepted principles of parliamentary practice. I emphasise that it is out of concern for the very particular interests of the SGIC that this course of action has been taken. Having indicated that the provision to the Clerk of this document is imminent and will take place as soon as the document reaches me from the SGIC, I put to the House that there is really no point to this motion. It would constitute the utmost in stupidity and, in fact, could only reflect on the standing of this House, if we were to proceed to a motion that said, "Berinson has to be suspended now, although maybe after the afternoon tea break he can come back." That would be the ultimate, if logical, conclusion of the line of reasoning along which the Opposition has led us so far. I put seriously to the House that that is not a line which we should be prepared to follow, not simply in our respective interests as members of this House but in the interests of the House itself. For that reason I put to the House that there is now no possible reason to continue this debate let alone carry the motion, and that we should proceed to other business.

HON P.G. PENDAL (South Metropolitan) [3.42 pm]: Unlike the Attorney General, I do not think it is adequate, notwithstanding Mr Berinson's agreement to do now what he was requested to do by the House some weeks ago, to leave the matter without its being debated further.

Hon Kay Hallahan: Why not?

Hon P.G. PENDAL: I will tell the Minister why.

Several members interjected.

The PRESIDENT: Order!

Hon P.G. PENDAL: I turn to whether it is appropriate to now proceed to take action against the Attorney General along the lines of the motion outlined by the Leader of the Opposition. A number of matters raised so far in this debate must be challenged, particularly those raised by the Attorney General.

Hon J.M. Berinson: Are you carrying on this debate? Don't you have any real work to do?

Hon P.G. PENDAL: This should be done if for no other reason than in future people who occupy the office he occupies today will be unable to go down the path of brinkmanship he has gone down today.

Hon J.M. Berinson: Mr Pendal is transparent like his leader. I would have thought he would want to take a different path at this stage.

Hon P.G. PENDAL: The Attorney General improperly and falsely claimed that the Leader of the Opposition was setting out to be judge, jury and executioner. That statement proves that the first law officer of this State does not know the law.

Hon J.M. Berinson: I was pointing out that Mr Cash does not know the law. If you do, by all means correct him.

Hon P.G. PENDAL: It was not Mr Cash who made the law. It was not Mr Cash who wondered whether we could be a judge and a jury or anything else that the Attorney General describes so colourfully. It relates to an Act of Parliament called the Parliamentary Privileges Act.

Hon Kay Hallahan: Read it.

Hon J.M. Berinson: You are going to give us the example that Mr Cash could not, is that what you are about to do, Mr Pendal?

The PRESIDENT: Order! I ask the Leader of the House to come to order. I kept order while he was speaking and ask him to do the same while other members are speaking.

Sitting suspended from 3.45 to 4.00 pm

Hon P.G. PENDAL: Prior to the afternoon tea suspension the Minister for Education, by way of interjection, invited me to state the basis upon which Hon George Cash moved the motion on behalf of the Opposition earlier today. For the public record it is important that people understand that it is improper and false to claim that the Opposition is making up the rules as it goes along.

Hon T.G. Butler: They are.

Hon Kay Hallahan: How come no-one else has done what you have done?

Hon P.G. PENDAL: I will read to the House from section 4 of the Parliamentary Privileges Act; but before I do it is worth remembering that the Attorney General did not refer to section 4 during his contribution but to those later sections which touch on penalties. However, for the edification of the Minister for Education and others, section 4 says -

Each House of the Parliament ... may order any person ... to produce to such House ... any paper ... or other document in the possession or power of such person.

Members of the Government must understand that this is the basis upon which the Opposition acts.

Hon Kay Hallahan: Have you heard about professional legal privilege?

Hon P.G. PENDAL: I advise the Minister for Education that an Act of Parliament takes precedence at any time, and that is what is at stake here. One of the difficulties the Opposition has had in dealing with this Government in the last four years is that the Government has not been truthful.

Several members interjected.

The PRESIDENT: Order!

Hon P.G. PENDAL: The Attorney General, when he responded, talked about people disregarding the law or ignoring the law, and also about the Opposition's acting by its own definition of what was a breach of the House.

Hon T.G. Butler: Of course it is.

Hon P.G. PENDAL: I invite the member who has just interjected, even at this late stage, to read section 4 of the Parliamentary Privileges Act. It is significant that the Attorney General spent most of his time worrying about the adequacy of the penalty. He did not seem to mind too much about the suggestion of contempt, but only whether the Opposition had arrived at the correct and proper penalty to impose upon him.

Hon J.M. Brown: That is not correct, and you know it. He was telling you how to do it properly.

The PRESIDENT: Order!

Hon P.G. PENDAL: As well, throughout his contribution the Attorney General argued the merits of not tabling that document. With respect, that was not the matter before the Parliament. The matter about which he spoke was before the Parliament two weeks ago - that is when the merits or demerits of whether that legal opinion should be made available to the House were discussed, and that was another example of the Attorney General's arguing something quite irrelevant in this very important case.

Hon Kay Hallahan: That is your humble opinion, I presume.

Hon P.G. PENDAL: It is very significant as well that the grounds upon which the Attorney General bases his argument keep changing -

Hon Kay Hallahan: They do not.

Hon P.G. PENDAL: - not just today, not just a fortnight ago, but as far back as 6 December 1989 when the same Minister was involved in the same act of brinkmanship.

Hon Kay Hallahan: You are most untruthful.

The PRESIDENT: Order! The Minister for Education will come to order and I suggest that she cease those interjections, particularly the ones that are nearly out of order.

Hon P.G. PENDAL: We have been confronted throughout this entire episode with an Attorney General dancing all over the place.

Hon Kay Hallahan: That is nonsense.

Hon P.G. PENDAL: He does the foxtrot one day, the quickstep the next -

Hon Sam Piantadosi: What about your efforts in the Swan division?

The PRESIDENT: Order!

Hon P.G. PENDAL: Let me give members an example of how the Attorney General, for the second time in his career, has resorted to the brinkmanship we have seen today.

Hon J.M. Brown: Are you doing the bossa nova or the boss a favour?

Hon P.G. PENDAL: I must say that is the best contribution from the Government all day.

Hon N.F. Moore: It is the only contribution.

The PRESIDENT: Order!

Hon P.G. PENDAL: On 6 December 1989 a similar move was made in this House, and that was to force the Government to table documents that it did not want to table because Government members knew those documents would be disadvantageous to the Government and probably embarrassing as well; and what did the Attorney General do on that occasion? He did precisely what occurred today: He carried off an act of brinkmanship which failed. Once he knew that the Opposition was serious in its efforts to have those documents tabled -

Hon Tom Helm: Is it serious?

Hon P.G. PENDAL: Yes, indeed.

Hon Kay Hallahan: You overturn tradition.

Hon P.G. PENDAL: It is nothing to do with tradition.

Hon Kay Hallahan: It is so. Show us where it has ever been done before.

The PRESIDENT: Order! I will not tell the Minister again. She must stop interjecting.

Hon P.G. PENDAL: On that occasion the Attorney General, in anticipating a Notice of Motion requiring him to table certain documents, broke into the debate and did what he did today - he volunteered to give that information. I believe we will see more of this in the months ahead as this House attempts to unravel and uncover some of the things this Government has spent eight years covering up.

Hon Mark Nevill: Have you no faith in the Royal Commission?

Hon P.G. PENDAL: On that occasion Mr Berinson said, and this appears in the 1989 *Hansard* -

I do not know how one could have fuller and franker disclosure . . . than . . . simply on the notice of motion and without even looking to the motion being carried.

That is precisely what he has done today. For five years we have seen the rules change, as I have just indicated. In the old days the argument was that we could not be told because it was commercially confidential. Do members remember that argument? That argument was discredited; therefore, the most recent contribution the Government has made is to tell us that it will not use commercial confidentiality as a reason any more because it has been discredited; instead it will turn to the business of whether we can properly ask for legal opinions to be tabled in this House. All of that overlooks one fundamental matter; that is, that when the motion was moved in this House last month recognition was given that it may contain information that would disadvantage the Government in its litigation with the Bond Corporation. That recognition came by way of the fact that we accepted that the document would not necessarily have to be tabled in this House; that if in the opinion of the Attorney General it was considered to place the litigation in jeopardy it could be lodged with the Clerk, and members could have access to it in those circumstances. Therefore, under no circumstance did the Opposition take it upon itself to say - in an unbridled way - that the legal opinion would be at all costs opened up to the public of Western Australia. I happen to

think, as I said a fortnight ago, that it should be open to the public. As a result, we have witnessed this act of brinkmanship. We have seen this act of brinkmanship today, we saw it on 6 December 1989, and Hon Norman Moore has reminded me that we saw it when Hon Des Dans was Leader of the House. We have seen it on three occasions because the Labor Government does not want to go on the record as having been forced by this House to do something.

Hon Tom Stephens: You have been pilloried by some of the best cartoonists of the day.

Hon P.G. PENDAL: The Labor Government is determined not to be in a situation where it goes on the record as being ordered by this House - which it loathes - to table documents which will disclose what it has been up to. I am not speaking as a member of the Liberal Party when I say that I believe that we have given the State Government Insurance Commission far too much latitude over the years because it was the SGIC which acceded to the wishes of the Government, which has already lost more than \$300 million. Those people included Mr Kevin Edwards, who has been paraded before the Royal Commission, and have an awful lot of answering to do. I commend the Leader of the Opposition for moving this motion, without which these documents would never come to light.

PARLIAMENT HOUSE - VISITORS

Sister State, Assembly of the Hyogo Prefecture Members

THE PRESIDENT: Order! I apologise to Hon Phillip Pendal for the interruption. However, I notice that the attendant, against my wishes, is beginning to remove the visitors from the President's Gallery. We have with us today members of the Assembly of the Hyogo Prefecture, a sister State. These members are visiting us on the occasion of the tenth anniversary of our sister State relationship. On behalf of members of the Legislative Council I welcome these visitors to Western Australia and to this House of the Western Australian Parliament. I hope that their visit to Western Australia is a satisfactory and pleasurable one.

[Applause.]

MOTION - ATTORNEY GENERAL

Tabling of Documents - Parliamentary Order Non-compliance

Debate resumed.

HON P.G. PENDAL (South Metropolitan) [4.14 pm]: Thank you, Mr President. This act of brinkmanship was allowed to take place today because the Attorney General wanted to put the members of this House to the test - in particular, the Liberals, the Nationals and the one Independent - because he knows that there will be other occasions of this sort in the not too distant future. It is an historic occasion for the House to be prepared to stand up against that brinkmanship -

Hon J.M. Berinson: This is a disgraceful performance on your part!

Hon P.G. PENDAL: The Attorney General is the one who has acted disgracefully in all of this.

Hon Tom Stephens: This House should be proud to have such a leader as the Attorney General.

Hon P.G. PENDAL: One wonders whether this might be the "save Berinson's seat" day. That may be the reason he acted in that way.

Hon J.M. Berinson: I am sorry, I was out of the House. Have you come up with that example yet?

Hon P.G. PENDAL: The Legislative Council was put to the test today and it has passed, not as a result of any effort on the part of members opposite to see that the process would be subverted in order to allow them to continue to do what has been done for the last eight years; that is, to cover up continually. Those days are over. I support the motion.

HON GRAHAM EDWARDS (North Metropolitan - Minister for Police) [4.16 pm]: I will speak briefly on the motion because that is all it deserves. This unenforceable motion before the House today is one thing only; it is an opportunity to get the Opposition off the hook regarding its endeavours to place the Attorney General in a position from which

obviously the Opposition hoped to benefit politically. Evidently, in the lead-up to yesterday's deadline and to events today, one should have expected something from the Opposition because it had painted itself into a corner. This motion is designed to get this inept Opposition off the hook. The Opposition is a joke! Mr Pental is a joke - he, who espouses parliamentary principle in this House, should be ashamed of himself.

Hon P.G. Pental: Coming from you, that is a compliment.

Hon GRAHAM EDWARDS: This person who has a licence to interject constantly should be ashamed. The people of Western Australia should look at this motion because it indicates what would occur in this State if ever we were unfortunate enough to be governed in the future by a born again Liberal Government.

Several members interjected.

Hon GRAHAM EDWARDS: Get out the shovel; the undertaker has woken up.

Less than a week ago, on 8 October, an article appeared in the *Eastern Suburbs Reporter* under the heading "Cash talks". The article states -

SHADOW police minister George Cash will talk about WA being a police state at the next Liberal Party Dianella branch meeting.

Avon Lovell, journalist and author of *Split Image* and *The Mickelberg Stitch*, also has been invited to the meeting.

Hon George Cash: What happened at that meeting?

Hon GRAHAM EDWARDS: I do not know; I am not a member of the Liberal Party.

Hon George Cash: You don't know the facts.

Hon GRAHAM EDWARDS: I have read the newspaper article. Does the Leader of the Opposition accuse the journalist of misrepresenting the facts?

The PRESIDENT: Order! I have asked members to come to order so that we can return to what we are supposed to be doing - and that is not having conversations with Hon Phillip Pental or Hon George Cash. The Minister should direct his comments to the Chair so we can deal with the motion before us. I ask the Minister not to fall for the three card trick of answering interjections.

Hon GRAHAM EDWARDS: I am sorry, Mr President. Hon George Cash has accused the journalist of misrepresenting the facts. I have already read the newspaper article.

Hon George Cash: You should check with the Police Union and see what I have told it.

Hon GRAHAM EDWARDS: Did Mr Cash have to explain himself to the Police Union? Having had this piece in the newspaper, this man has the hide to come before this House with a motion which, if carried, would only represent what Mr Cash and his colleagues want; that is, a political State. That is exactly what the people of Western Australia will receive if they allow the born again Liberals into Government in this State.

Hon P.G. Pental: Tell us about Mr Ayton.

Hon GRAHAM EDWARDS: We have seen in recent times indications from this inept Opposition of how it will act to control the Police Force and the courts in this State, and this augurs for a crook future if ever this mob opposite should come into power. I do not want to say too much because this motion is a waste of time. This could be regarded as a Barnum and Bailey script, but looking at it in another way it is a very serious motion which should concern every freedom loving Western Australian. It indicates that under a born again Liberal Government we will have a political State.

HON R.G. PIKE (North Metropolitan) [4.22 pm]: Mr President -

Hon J.M. Berinson: Will you provide the single example, Mr Pike?

Several members interjected.

The PRESIDENT: Order! Honourable members are determined that I should apply Standing Order No 116. I warn members that if they continue to disregard the Chair and carry on with these outbursts I will take advantage of that provision of the Standing Orders.

Hon R.G. PIKE: On the admission of former Labor Premiers and Deputy Premiers of this

State it has been made categorically clear that the Labor Party - led in this House by Mr Berinson and with Mr Edwards as a Minister - will go down in history as the most manifest cover-up, Watergate-type Government we have ever had. We have seen admissions from the participants themselves. Let us not hear any Bovril of an immature threat of a police State when this Minister for Police Edwards knows no procedures apart from slander and niggardly comments. The Police Force is dear to him, but he fails to comprehend the integrity we should expect from him as the relevant Minister. This Minister has a history of nothing other than name calling and completely evading the facts.

Referring to the motion dealing with the Attorney General, it is clear that Mr Berinson takes the card for being among the best thespians in this Parliament.

Hon T.G. Butler: You can talk!

Several members interjected.

Hon R.G. PIKE: All we have from the hip hip hurrays opposite, as has been the case all afternoon, is a barrage of noise and name calling.

The PRESIDENT: Order! I indicate to Hon Tom Butler that I will not warn him again.

Hon R.G. PIKE: We hear irrelevant comments, partisan attacks and orchestrated efforts to move away from the subject matter before the House. The question before the House is whether the Parliament has the authority to move and carry the motion before the Chair. It is clear - notwithstanding the excellent presentation involved - that Mr Berinson presented us with rhubarb, rhubarb and nothing but rhubarb. He finally capitulated and said that he would table the papers - compared with his brinkmanship, John Foster Dulles comes a dismal second.

The Government in this House is rooted to the proposition that it will not uphold the principles and powers of an upper House in a bicameral system. This principle sticks in its guts like an intestinal parasite, and that has been clearly indicated before the Parliament today. Mr Berinson has lost. We have heard nothing but rhubarb from him, and we will hear more. He is wrong, and that is the only issue before the House. It is not a matter of the loud noises from the hip hip hurrays opposite.

HON JOHN HALDEN (South Metropolitan - Parliamentary Secretary) [4.26 pm]: It is a shame that the House has spent so much time on this matter. If the Leader of the National Party and the Leader of the Opposition had taken the time to look at the motion being prepared by the Attorney General they would have realised that it would not have brought the statement into the House and would have resulted in the documents being ready for tabling. This motion is not needed. Therefore, one has to ask why the sleazy group of people opposite wanted to move it.

A number of options are available for the Opposition when choosing matters to debate. Considering that the Opposition has already received notice of a motion to deal with this problem, obviously it does not want the problem resolved; it wants a cheap shot. The Opposition has claimed that the State is not using its resources properly and that certain matters need attention, yet we spend two and a half hours on something which can be resolved in two and a half minutes; one wonders why.

Obviously, the Opposition wants to ambush the Attorney General and strike at the most reputable person, without exception, in this House. I ask members to compare the persons who have spoken in this debate with Mr Berinson; let us consider their reputations. We have Mr Cash, Mr Pandal and Mr Pike, the former member for good smiles and good times. I ask members to compare the credibility of those three persons with that of Mr Berinson.

Hon P.G. Pandal: Mr Berinson has none.

Hon JOHN HALDEN: There is no comparison!

Hon Barry House: He was a Minister in a Government that was dismissed.

Hon JOHN HALDEN: The member should be quiet. What kind of a precedent do we have here? The Opposition introduces a penalty, not according to an Act, but according to what it wants. It wants to suspend and then dismiss the Attorney General, yet over the period of this motion we could have resolved the problem. The Opposition knew this matter could be resolved, but it did not want that to happen. Does a precedent exist for such action over the

last 100 years? Of course it does not. It is absolutely fundamental but this is all the Opposition can do. It has myriad issues, so it tells us, to run with, but it reverts to stunts and cheap lines. I ask members and the people of Western Australia to judge the credibility of this Opposition, which uses the time of this House in the manner in which it has done today. The Opposition is absolutely committed to destroying the credibility of the Attorney General and it wants to challenge the concept that the Royal Commission has dared to challenge legal professional privilege. Opposition members, many of whom claim to be lawyers and protectors of our society's rights when it comes to suit their own political purposes, are quite happy to rip down the traditions of a system that has existed for many centuries.

Hon Tom Stephens: And trample on the rights of individuals and jump on them with glee!

Hon JOHN HALDEN: Exactly. This form of privilege has not been questioned before; yet, to get through and make its point, the Opposition is now making the effort because it is after the Attorney General. It is after the cheap point. The Opposition has never been after anything else in this debate. Members of the Opposition are very quiet all of a sudden. Is that because they know I am getting at the truth? They are muted by the facts.

Hon P.G. Pental: You have tickets on yourself.

Hon JOHN HALDEN: We have already heard from Hon Phil Pental that the Labor Party loathes this House and does not want to disclose anything to the people of Western Australia. That is untrue.

Hon Fred McKenzie: You know they never disclosed anything in the whole history of this place.

Hon JOHN HALDEN: I am glad Hon Fred McKenzie offered that because I was not here in the days of the Liberal Governments.

Hon Tom Stephens: They were bad old days.

Hon JOHN HALDEN: Yes. What happened to the three Bills which were introduced to this House dealing with the disclosure of political donations? The Opposition throws Bills like them out all the time.

Hon P.G. Pental: Mr Burke didn't disclose anything.

Hon JOHN HALDEN: The Opposition wants nothing more than to have one set of rules for itself and another set of rules for the Government. It does not want any parity about disclosure, it just wants to use the raw, crude numbers of this House and badger unmercifully the Attorney General, the most reputable person in this House.

Hon P.G. Pental: Do you say Mr Parker disclosed his brown satchel?

Hon JOHN HALDEN: It is indefensible to accuse the Attorney General of brinkmanship. If there is any element of brinkmanship it relates to the reputation and the credibility of this House and the fact that the conservatives intend to flex their numbers and nothing else. Brinkmanship is not the issue here. The issue is one of principles; that is, the integrity of the Attorney General and the wish of the Opposition to invade a long established concept - the concept of legal professional privilege. Therefore, the brinkmanship is occurring on the other side and, as we have seen in many debates, the Opposition is wanting to transfer its guilt on to the Government.

The actions of the Opposition today can be seen only for what they are; that is, an attempt to cover up its own ineptitude, its own lack of talent to deal with the real issues that face the people of this State. Members of the Opposition are wrong if they think that attacking one of the most reputable people in this State will achieve any political purpose. There is no doubt that in reading, in some fairly analytical and objective way, the reporting of the Royal Commission in the *The West Australian* and in various other publications that the Attorney General stands out as a man of credibility. The Opposition is not making an inch in this debate. This motion involves nothing more than crude political motives and intent. Having to rise in this debate and deal with an Opposition which is so incompetent and which behaves in such a fashion is degrading to all.

HON PETER FOSS (East Metropolitan) [4.34 pm]: This motion refers to an order which was made by this House requiring the tabling of certain documents. It was not only an order that was within the power of this House to make but also a proper order because on a number

of occasions prior to today this House has demanded that the Government table certain documents. Hon Max Evans has been a principal person involved in moving such motions. It is largely a result of those motions and the tabling of documents pursuant to them that the truth has begun to emerge in Western Australia of the deception that has been practised by this Government for some time. This morning's newspaper contains a further example of that and explains how a former Deputy Premier has said that a former Premier decided to lie to the people of Western Australia about the links between Petrochemical Industries Co Ltd and Rothwells Ltd.

Hon P.G. Pental: And supported by everyone over there.

Hon PETER FOSS: It has consistently been the practice of this Government to deceive the people of Western Australia about the true arrangements relating to all of the WA Inc deals. That has consistently been the practice of the Government, led not only by Mr Burke and Mr Dowding but also, I am afraid to say, by Dr Lawrence. It is perfectly proper that the representatives of the people of Western Australia see this document and it is our duty to ensure that the members of the Government account to the people of Western Australia.

Hon Tom Stephens: You know it is about as proper as you wanting to table your underpants in this place. It is a ridiculous motion and should not have been countenanced.

Hon PETER FOSS: I regret that throughout this debate the Government has failed to recognise its responsibilities to the people of Western Australia. This is another example of how the Government considers Parliament to be an obstruction. We witnessed recently its attitude to a motion concerning the old Swan Brewery. This is a serious motion and it is perfectly within the rights of this House to proceed with it. More importantly this House has an obligation to make such a motion.

I would not describe what has occurred as brinkmanship because the brink was at 11.00 pm yesterday. Had Hon Joe Berinson had any regard for propriety he would have tabled the documents by 11.00 pm yesterday. The Government had the power to order the State Government Insurance Commission to produce those documents. It was always within the power of the Government to do what it has now done; yet, in utter contempt of this House, Hon Joe Berinson allowed that time to pass just to test the Opposition to see whether it would give up. He wanted to see whether members of the Opposition were prepared to allow the rights of the people of Western Australia to be trod upon once more by the Government, which refuses to provide the truth. This is another example of how the Government will do everything within its power to refuse to reveal matters to the proper representatives of the people. Dr Lawrence is as bad as anyone who preceded her in her determination to withhold the truth from the people of Western Australia.

Hon J.M. Berinson: You must be able to provide a single example Mr Foss. What is it?

Hon PETER FOSS: I am getting to that.

Hon Tom Stephens: You never get on to anything. You get on with nonsense all day long.

The DEPUTY PRESIDENT (Hon Garry Kelly): Order! Hon Peter Foss is on his feet and the sooner he is allowed to continue his remarks, presumably the sooner he will finish them.

Hon PETER FOSS: Hon Joe Berinson broke the order of this House.

Hon J.M. Berinson: It was an order that I could not possibly comply with. Why do you want to join these frauds on the frontbench? You know better than that.

Hon P.G. Pental: Your foul mouth is getting you into more trouble every day and it is sign that you are cracking up.

Hon J.M. Berinson: I wonder why I do not crumble beneath the strength of that.

Hon P.G. Pental: You just about did half an hour ago.

The DEPUTY PRESIDENT: Order! This is all very interesting, but Hon Peter Foss is waiting patiently to continue his remarks and I suggest members listen to him.

Hon PETER FOSS: The fact that the Attorney is able today to table the document is an indication that it was always within the power of this Government to require the document to be tabled. It does not seem to understand the principle of the collective responsibility of Government; that as a Government it has an obligation to use its powers to ensure the Parliament's will is observed.

Several members interjected.

Hon PETER FOSS: It is quite evident that throughout this debate members of the Opposition have been extremely careful to treat the matter seriously and not interject at length on arguments put forward by the Government. Unfortunately, the attitude of Government members towards the breach of an order of this House has been throughout one of jocularity and a lack of appreciation of the seriousness of the occasion.

Hon Tom Stephens: Give an example of a precedent.

The DEPUTY PRESIDENT: Order!

Hon PETER FOSS: The Government was always able to comply with this order merely by using the powers available to it, as has been amply demonstrated today. However, now that the Government has at the last minute complied, rather than apologise to the House for failure to comply before today, the Attorney General has taken a contemptuous attitude with regard to the House in saying that his behaviour to date has been justified. It is usual when people have been in breach - and contempt of this House is a criminal offence - for them to show some form of regret for having behaved in that way, but this man has not done so. I would also like to ask the Attorney General to confirm that, in fact, the opinion he proposes to table is all that is available. I draw the attention of the House to questions without notice 588 and 589 which I asked the Leader of the House on 13 September 1990. The first question was -

Has the Government ever received advice about whether the State Government Insurance Commission was entitled to the immunities and privileges of the Crown and whether it must comply with the provisions of division 4, part IV of the Companies (Western Australia) Code?

The Leader of the House replied that he had asked the Solicitor General to provide him with some information on that question. In reply to the second question he said -

I can go further and say that the advice to which I referred earlier would have also been sought and obtained long after that date.

The date referred to is 3 May 1988. On 13 September 1990 the Minister informed me in this House that he had received advice from the Solicitor General with regard to the acquisition of the Bell shares and compliance with the Companies (Western Australia) Code, and also with regard to the immunities and privileges of the Crown. Was that advice in writing; and, if so, why has the Attorney General not offered to table it? If the advice was in writing and the Attorney General has not yet tabled it, he is still in contempt of this House. There are two parts to this motion, which refers not just to the documents sought to be tendered but also to any other documents of a similar nature. The advice to which I am referring cannot be covered by any of the weak excuses Hon J.M. Berinson wishes to put up with regard to the SGIC; it was given to him in connection with the acquisition of Bell Shares. The Attorney General, having said that he received advice from the Solicitor General, must tell the House before this motion is finally dealt with whether that advice was in writing and, if it was in writing, why it has not been tendered to this House.

The next point raised was the question of privilege. It has always been quite clear that there are no privileges before the House. There is no privilege against self-incrimination, and there is no legal privilege. I refer members - and I note the Attorney General did not - to page 680 of the twenty-first edition of Erskine May's *Parliamentary Practice*. It deals with evidence given before committees, but the principle remains the same. It states -

A witness is bound to answer all questions which the committee sees fit to put to him, and cannot excuse himself, for example, on the ground that he may thereby subject himself to a civil action, or because he has taken an oath not to disclose the matter about which he is required to testify, or because the matter was a privileged communication to him, as where a solicitor is called upon to disclose the secrets of his client;

It has always been quite clear that there is no privilege before Parliament and it is not a matter of the Attorney General saying that people have never insisted upon it.

Hon Tom Stephens: When was it insisted upon?

Hon PETER FOSS: It is not necessary to insist upon it because people know that they cannot claim a privilege that does not exist. The footnote to that paragraph reads -

These powers have been confirmed from time to time.

Hon Tom Stephens: This century?

Hon PETER FOSS: The footnote continues -

For example in 1947 the House of Commons resolved 'that the refusal of a witness before a select committee to answer any question which may be put to him is a contempt of the House and an infraction of the undoubted right of this House to conduct any inquiry which may be necessary in the public interest'.

Hon Tom Stephens: Was that legal privilege?

The DEPUTY PRESIDENT: Order!

Hon PETER FOSS: If Hon Tom Stephens does not believe what I am saying, if he is a doubting Thomas, he should read Erskine May's *Parliamentary Practice*, in which he will find the statement in writing that there are no privileges before Parliament, and that has been insisted upon by Parliament. The reason Hon Tom Stephens has been unable to find a case in which it has been insisted upon is that those people who bother to inform themselves on these matters know that it is a fact.

Hon Tom Stephens: You have not given one example of legal privilege being overridden by the wishes of the House.

Hon PETER FOSS: I do not need to give an example because the Attorney General, as far as I know, is the first person to assert that there is such privilege. I am amazed that the Attorney General has not bothered to read Erskine May's *Parliamentary Practice* to find out that the privilege to which he refers does not exist. Most people, properly advised, would not take the point, and that is why it is not overruled.

Hon Tom Stephens: You still have not given an example.

The PRESIDENT: Order!

Hon PETER FOSS: I will concede that I have not given an example.

Hon Tom Stephens interjected.

The PRESIDENT: Order! That is the last time I shall warn Hon Tom Stephens. The next time Hon Tom Stephens interjects he will be subjected to the provisions of Standing Order No 116.

Hon PETER FOSS: The next point I raise briefly, because I do not think it should be dwelt on too much, is the question of the SGIC. I preface my remarks -
[Continued on p 5391.]

OFFENCE REPORTED BY PRESIDENT

Hon Tom Stephens

THE PRESIDENT: Order! I draw the attention of the House to Hon Tom Stephens who, in defiance of this Chair, has proceeded, after two warnings, to breach the rules of this House. I draw the attention of the House to the fact that I intend to ask the House to take the appropriate action.

Hon TOM STEPHENS: I understood you, Mr President, to ask me not to interject on the debate and I was not interjecting on the debate. In that circumstance, and with the assurance that I will not interject on the debate any further, I urge you to desist from the process which you might otherwise follow.

The PRESIDENT: That is not a point of order. Hon Tom Stephens has used his gymnastic attributes to twist my request with regard to keeping order in this place by simply getting out of his chair and entering into conversation with three different members, and in my view that is total and absolute defiance. I suggest to the honourable member that Standing Order No 118, if my memory serves me correctly, provides him with an opportunity to stand and give an explanation for his actions and extend an apology. I may be prepared to listen to that.

Hon TOM STEPHENS: I certainly offer an apology for my actions. I am stumped for an explanation, but will certainly not be persisting with anything to offend you, Mr President, either during this debate or for the rest of the proceedings.

The PRESIDENT: I am delighted that Hon Tom Stephens has taken that attitude. I gain no pleasure from having to make that threat, but honourable members must understand that this is a place where every member is entitled to be heard. As I have said on many occasions, members do not have to believe or like what other members say, but they must let them say it. Members have mentioned the rare nature of the serious motion before the House, which owes it to itself to have the matter debated in a proper and decent way. I am prepared to accept the member's apology.

Hon TOM STEPHENS: Thank you, Mr President.

MOTION - ATTORNEY GENERAL

Tabling of Documents - Parliamentary Order Non-compliance

Debate resumed.

HON PETER FOSS (East Metropolitan) [4.51 pm]: I have the sincerest sympathy for Mr Ron Cohen, who ended up as the meat in the sandwich in this matter and who I believe is trying to do the best thing for the SGIC. I must correct some of the statements said to have been made by Mr Cohen to us and the description of what is supposed to have happened. First, Mr Cohen spoke to us merely to indicate that he had received advice that the SGIC should claim privilege for this document in its legal proceedings. He said that the SGIC was concerned that it may lose that legal privilege. He did not at that stage indicate to us that the sort of prejudice spoken of in the Premier's letter or mentioned in this debate was likely. All he indicated to us was that the SGIC was concerned that there may be prejudice.

Of course, as has been pointed out by Hon Phillip Pandal, we had already taken measures to avoid that happening. We said that we were quite happy to combine with the Government in any further measures that might be necessary to protect that privilege. As a result of that conversation I drafted a motion which I said we would be prepared to move, if the Government would allow it to go through by consent, if that would help preserve professional privilege. I later received a call from Mr Cohen and the lawyer for the SGIC indicating that they were unhappy with that motion as they did not believe it was directly within the powers of this House. They said they preferred a summons to be issued pursuant to the Parliamentary Privileges Act. I said I would be perfectly happy to consider that option and asked them to draft the document so that I could put it to our party room. We would have been quite happy to combine in any of those things if that did not in any way take away from the basic principal, which is an important one, that we were entitled to pass the motion we passed.

I received a call shortly before 12 o'clock from Mr Cohen saying he was unhappy about being involved in drafting motions to go before this House. He said that as far as he was concerned he would leave the matter to be resolved between the Government and the Opposition. I said that we were quite happy, if we received a proposition from the Government as to a means by which we could make a further order to preserve the privilege, to do so. We have heard nothing from the Government except that it does not want to do anything at all. Reading between the lines, the Government has sought to use this approach to make a political point. All the Opposition wants is information and it is quite happy to do anything required to preserve that privilege. It is the Government that has been guilty of the very things it has accused the Opposition of. The Opposition has at all times indicated to the SGIC that it was prepared to make such further orders as were necessary to protect its privilege. It is the Government that has sought to play political games, not the Opposition. It is with the Government that that responsibility should lie. People should be well aware that the Opposition took every single measure possible and indicated its willingness to cooperate completely with the SGIC in taking whatever steps were necessary to protect its privilege.

Section 1 of the Parliamentary Privileges Act provides that this House has the same privileges as the House of Commons. If one refers to Erskine May's *Parliamentary Practice* one sees a number of clear and obvious powers. The first is committal to gaol, the second suspension, and the third expulsion. They are clear powers of the House of Commons. A

problem exists regarding fines. In two cases, *R. v Pitt* and *R. v Mead*, reported in 3 Burroughs 1335, which is noted at page 110 of *Erskine May*, it is said that possession by the Commons of the power of imposing fines is denied by Lord Mansfield. The House of Lords has always had the power to impose fines because it is a court of record and the ultimate court of appeal in the United Kingdom. The House of Commons used to seek to maintain some of these rights by saying it was a court. It did start as a court. It has since ceased trying to maintain that stance. In fact, the power to fine has not been used in the House of Commons since 1666, so one can see that in 1891, when it came to enacting the Parliamentary Privileges Act, there was considerable doubt whether this Parliament had any power to impose fines. It had been claimed as a power by the House of Commons in its last exercise in 1666, but it was not one of those powers of the House of Commons one could state clearly was without doubt.

Section 8 of the Parliamentary Privileges Act was enacted in order to empower the House - and interestingly that is the word used in section 8 where it states specifically that the House is "hereby empowered". It makes it quite clear that a power exists; it is not saying, "This is the only way you can do it." The words "the House is hereby empowered" are used. That is the reason that particular wording is used, because there was some doubt in 1891 about the power to fine. It is a good power to have - to be able to fine rather than take the more drastic step of suspending, putting in gaol or expelling a member. Fining is a much more modern style of penalty and an appropriate one. That is the reason that power exists. We cannot deal with this matter at this stage until the questions I have put are dealt with.

[Continued below.]

OLD SWAN BREWERY DEMOLITION ORDER BILL

Ruling by the President - Struck Off Notice Paper

THE PRESIDENT (Hon Clive Griffiths): At yesterday's sitting the Old Swan Brewery Demolition Order Bill was introduced by Hon Reg Davies. The sole object of that Bill is to require the Government to demolish the Swan Brewery buildings on Mounts Bay Road. To comply with such a statutory order, it is obvious that money would have to be found for the purpose, whether from funds already appropriated or yet to be appropriated. I am satisfied, for that reason, that the Bill breaches section 46(1) of the Constitution Acts Amendment Act which forbids Bills appropriating public money originating in the Legislative Council. I therefore direct that the Bill not proceed and be struck off the Notice Paper.

Bill struck from Notice Paper.

[Questions without notice taken.]

Sitting suspended from 5.28 to 8.00 pm

MOTION - ATTORNEY GENERAL

Tabling of Documents - Parliamentary Order Non-compliance

Debate resumed from an earlier stage of the sitting.

HON MARK NEVILL (Mining and Pastoral - Parliamentary Secretary) [8.00 pm]: The debate thus far has been a waste of time, particularly since the Attorney General has tabled the requested documents with the Clerk.

Hon Max Evans: Has he tabled them? What time did he table them?

Hon MARK NEVILL: He has tabled one of the documents but the other is yet to be tabled.

Hon Max Evans: Which one?

Hon MARK NEVILL: I think the Attorney General has tabled item (4) requested in the motion.

Hon Max Evans: The Clerk says no.

Hon MARK NEVILL: The Attorney General read a statement which was to be part of the papers to be tabled. I understand that the main documents are to come from the State Government Insurance Commission.

Hon P.G. Pental: Quite apart from that I can assure you that the debate has not been a waste of time.

Hon Graham Edwards: Time is different to everybody and it does not matter to you.

The PRESIDENT: Order! I am interested in Hon Mark Nevill's comments and if members let me listen to him I will be happy.

Hon MARK NEVILL: Hon Phillip Pental's contribution to this debate involved a discussion on dancing, and his speech was vacuous as usual. Any facts that he had were not revealed, and were deftly concealed. I can only assume from his speech that he is an exponent of the fan dance or something like that. This motion would have ordinarily been debated next Tuesday, but it was brought on tonight. No notice of the motion was given to the Attorney General, yet the Press Gallery was quite full. I do not know who alerted the Press to it but the same courtesy was not extended to the Attorney General.

Hon John Halden: Who do you guess?

Hon MARK NEVILL: The failure to extend any courtesy to the Attorney General indicates a total lack of manners. However, it is typical of the Leader of the Opposition, who cannot handle the Attorney General front on. He has used this tactic a number of times to launch ambushes to try to catch the Attorney General on the hop. However, in the end the Leader of the Opposition was completely cleaned up. The Leader of the Opposition's motion is unenforceable and it completely goes against the whole thrust of section 8 of the Parliamentary Privileges Act. I doubt that the motion shows contempt for the Statute, but it does show an ignorance of the broad procedures of this House when the Leader of the Opposition calls for the suspension of the Attorney General or for his seat to be declared vacant. The Act is quite specific about a fine followed by imprisonment if the fine is not paid. If what the Leader of the Opposition is calling for was the intention of the traditional privileges and powers of the House of Commons and of other Westminster systems, that specific provision would not have been put into the Statute. It is clear that the Leader of the Opposition is travelling down the wrong track with this motion.

As stated by the Attorney General, the SGIC board has nothing to hide. The Attorney General has nothing to hide. The motion revolves around the question of professional legal privilege and whether that legal privilege exists in Parliament is irrelevant. The Parliament always uses its discretion when tabling documents. In this case the SGIC is locked into an important legal battle with Bond Corporation and the motion shows a lack of discretion on the part of the Opposition when it calls for the tabling of a particularly sensitive document containing legal and commercial considerations which may bear on litigation currently before the courts. If such concerns were not real the SGIC board would have released the requested documents. It probably shows a lack of confidence, if not trust, in the SGIC board and its chairman. I have confidence in the new board and do not believe that it would deliberately try to withhold any documents to save the Government any embarrassment. The Attorney General and the SGIC have both said that the documents pose no embarrassment to them. When Opposition members see the documents they can judge that for themselves. They can judge whether the Attorney General is trying to protect his skin or whether the documents are commercially sensitive. I am confident that the board of the SGIC has acted in good faith. It is not correct for the Opposition to impugn the SGIC and ascribe some sinister motive to it because of its reservations about tabling the document.

Hon P.G. Pental: Do you think it has been sufficiently up front over the years for us not to be suspicious? Do you endorse its behaviour during the 1980s?

Hon MARK NEVILL: I was chairman of the Standing Committee on Government Agencies which conducted an inquiry into the SGIC. Hon Max Evans was also a member of that committee at the time. With the benefit of hindsight, I am certainly not happy about some of the decisions made. Be that as it may, a different board is in place now and we must look at the integrity of the present board rather than judge it on the behaviour of previous boards. Truck loads of documents have been tabled in this House over the past three years and all sorts of allegations have been made. However, no evidence has been provided that the Government has acted with impropriety. The most damaging events have been the allegations made in this House. As more documents are provided, more are requested.

When the Royal Commission was set up, debate on these matters in this place wound down

and more took place before the Royal Commission. It seems that the Royal Commission is not delivering the scandals and the like which members of the Opposition would like it to, and neither are many of the scurrilous allegations and innuendoes coming to fruition. The focus of debate on these matters is now moving to this House where political damage can be increased.

I do not think much more can be added to this debate. The motion moved by the Leader of the Opposition is misconceived and inept; I certainly felt a tinge of embarrassment on his behalf when it was moved. By any objective measure, if one considers the two protagonists on both sides of the House in tonight's debate, the Leader of the Opposition must be more concerned about his position than the Attorney General is about his.

HON DOUG WENN (South West) [8.13 pm]: I oppose this motion absolutely. It is the most scurrilous motion to have been brought before this House. The threats made yesterday during the debate about the order for the Attorney General to table these documents have come to fruition, but it is disappointing that the Opposition has proceeded in this way. It appears that every member of this House will speak in the debate.

Hon P.G. Pandal: This is a motion dealing with Mr Berinson.

Hon DOUG WENN: I am aware of that. The speech made by Hon Phillip Pandal was as scurrilous as I anticipated it would be. The minute he gets to his feet we expect to hear rubbish, and he delivered the rubbish as expected. This is one of the worst motions ever to have come before this place and I disagree with it absolutely.

HON TOM HELM (Mining and Pastoral) [8.14 pm]: I oppose the motion moved by the Leader of the Opposition. I hope he did not speak for all members of the Opposition, and I hope that some Opposition members will oppose the motion and not vote with Hon George Cash when a vote is taken. I heard Hon George Cash described during the debate as a judge, jury and executioner, but not as an undertaker. I would give him that description because with this motion he will surely bury himself.

Hon Doug Wenn: Will he take Mr Pandal with him?

Hon TOM HELM: Yes, he will bury himself and those who support him, including Hon Peter Foss and Hon Phillip Pandal. He will bury himself because his motion does not deal with the matters he referred to. He spent a long time talking about very little and said that the House should ask the Attorney General to stand down. He said that seven days' suspension is the prescribed period provided for in the Parliamentary Privileges Act relating to the privileges of this House. I have read that Act and, as Hon Joe Berinson pointed out, that period is not prescribed anywhere in it. One would have expected the Act to prescribe a way of dealing with a privileges motion. However, it does not, and if it were necessary the Act would have been amended to include such a provision. The Opposition is in a "heads I win and tails you lose" situation with this motion. I understand from the comments made by Hon Mark Nevill that a paper will be tabled in this House. I imagine that any delay has arisen because of legal and professional privilege. This whole exercise is about advice being given to and taken from the State Government Insurance Commission, and that organisation will be affected most by the release of this information.

The people of Western Australia are entitled to ask whether the Leader of the Opposition has a particular problem on his mind. If that is the case he should bring it to the attention of this House. Members may be interested to know that on 14 occasions Hon Joe Berinson has either been condemned by the Opposition or been asked to do certain things. He has complied with all those requests. This is another of those exercises, and it means very little.

Hon Derrick Tomlinson: Perhaps he is a recidivist offender.

Hon TOM HELM: This is a motion from a recidivist Opposition.

Hon Peter Foss: Are you saying that he has obeyed the order of the House?

Hon TOM HELM: The Opposition is always the same; its members talk but they do not listen. Hon Joe Berinson has pointed out that the House could ask him to do cartwheels down St George's Terrace but he could not comply with that request.

Hon Peter Foss: He has complied.

Hon TOM HELM: A minute ago, when Hon Peter Foss was not in the Chamber -

Hon J.M. Berinson: But I cannot comply by any exercise of my own authority and Mr Foss knows that very well.

Hon Peter Foss: You have done it now.

Hon J.M. Berinson: You have behaved disgracefully; and for someone who wants to be regarded as a professional, you are an abysmal failure.

The PRESIDENT: Order! I cannot understand how members can interrupt Hon Tom Helm in that way.

Hon TOM HELM: I remind the House of the motion to suspend Standing Orders in which Hon George Cash referred to matters of privilege, and the debate which followed. I have read that motion a number of times and I do not know how anybody could comply with the requests it contains. The motion refers to the "legality of the purchase by it of Bell shares" and -

any and all other legal opinions regarding the purchase of the Bell shares obtained by the Government or any other Government corporation or instrumentality at any time prior to or after the purchase;

Reference is made to "any time prior to the purchase". How many years before or after the purchase does that refer to? That is the question one needs to ask. When will this Opposition or its dishonourable leader answer this question? When will the Leader of the Opposition be satisfied?

Hon Derrick Tomlinson: When the truth is told.

Hon TOM HELM: He should ask a specific question and he will then get a specific answer. How can one get to the truth when the motion asks a question that no-one can answer because no time limit is set? It is like saying, "I will pick you up for speeding. Can you give me your tax returns for all you have ever earned?" It is as stupid as that.

Several members interjected.

The PRESIDENT: Order!

Hon TOM HELM: It does not matter for how long one thinks about this matter, that is what the motion says.

Hon Derrick Tomlinson: That is exactly what the motion says.

Hon TOM HELM: There has been talk of brinkmanship on this matter. The fact is that Hon Joe Berinson could table a heap of papers a metre high and it could still be honestly said, if someone wanted to play around, that none of those papers was the actual one required because no specific request for a specific paper or papers had been made. It does not matter if one were Houdini or had an IQ off this planet, one could not read what is wanted from the motion before us because it is not specific. Let us consider how one can use the Parliamentary Privileges Act or say that there has been a breach of privilege. If the Leader of the Opposition was more detailed in his requirements and Hon Joe Berinson was found to be in breach, which was the whole point of this exercise, and if all Opposition members agreed with the Leader of the Opposition, they have the numbers to do exactly as they choose. However, even if they suspended Hon Joe Berinson for the rest of his life he could still be in breach because he would not know what specific papers were asked for. There is a whole bunch of them.

Hon Derrick Tomlinson: That is interesting to know. How did the member discover there is a whole bunch of them?

Hon TOM HELM: It would be fair to say there could be a bunch of papers because a lot of correspondence is bound to have passed between SGIC and the Bell Group well before and well after the period involved. However, that correspondence may have nothing to do with any purchase. Will that be enough for the Opposition or will it use its numbers to introduce another suspension motion and relate it to what is outlined in the Parliamentary Privileges Act? No relationship exists between that Act and what the Opposition seeks to do. The Notice Paper shows no intention to amend that Act, so the Leader of the Opposition cannot do what he wishes to do. He is asking us to do things not provided for under the Act.

Hon Mark Nevill: That is how this Opposition would run the country.

Hon TOM HELM: Exactly. The Opposition does things in this place for no specific or valid reason, or for any reason that the people of Western Australia can understand. It does these things because it does not think about them. If one reads *Parliamentary Practice* by Erskine May, referred to by the learned Peter Foss, one finds, as he said, that the last time anything like this was done was in 1661. I ask members to consider how many times the conservative side of politics in this place has tabled papers since this Parliament was established.

Hon Derrick Tomlinson: How many times have we seen such reprehensible behaviour by a Government?

Hon TOM HELM: The conservative parties have been in power for a long time in this place. As they have the numbers, nobody can do anything about that. This motion is a joke which flies in the face of any sort of commonsense attitude or the outlook of ordinary people in this State. As the Opposition parties have the numbers, any member of this place could be found guilty of contempt at the whim of the Opposition. It has the numbers to say a contempt has occurred. The only thing it has not got is the brains to prove these things. It has the numbers but not the background to prove what it seeks to prove. With that final comment I rest my case.

Debate adjourned, on motion by Hon E.J. Charlton.

TABLETING OF DOCUMENTS

Order of the House - Attorney General

HON J.M. BERINSON (North Metropolitan - Attorney General) [8.28 pm]: I seek leave to comply with the order of the House made on 17 September by tabling the relevant document or documents with the Clerk as provided in and subject to the confidentiality provisions of that order. It has been put to me that leave is required to table this paper because the original time limit for tabling expired yesterday. I do not accept that leave is necessary, but seek it in any event for greater certainty.

Leave granted.

[See paper No 734.]

MOTION - SOCCER FEDERATION OF WESTERN AUSTRALIA

Newsletter Attack, Piantadosi, Hon Sam - Select Committee of Privilege Referral

Debate resumed from 15 October.

HON GARRY KELLY (South Metropolitan) [8.29 pm]: I support the establishment of a Privilege Committee to examine the statements contained in the Soccer Federation of WA Inc's newsletter. I understand that if this motion is adopted Hon Sam Piantadosi will move that the chairmen of the Standing Committees will constitute the committee. I will be circumspect in what I say about the matters of privilege contained in the motion and the matters referred to by Hon Sam Piantadosi because I will be one of the members of this House required to adjudicate upon the matter should this motion pass and a committee be established.

I remember the situation that gave rise to this matter coming before the House. It arose out of a question asked by Hon Barry House of the Minister for Sport and Recreation about soccer administration in this State. The comment contained in the Soccer Federation's newsletter about the attack being cowardly was, on the face of it, a little unfair to Hon Sam Piantadosi because from memory he did not initiate the raising of the matter in this House in the first place. The matter was raised as a result of a question asked by an Opposition member. Perhaps the most serious imputation potentially in the federation's newsletter is that it refers to the possibility of a conflict of interest between Hon Sam Piantadosi's personal interest in soccer administration and his being a parliamentarian. I will not say more about that other than that these points have been raised and perhaps the best way to settle them once and for all is to allow a Committee of Privilege to be established so that that committee may make a final determination on the matter and report back to this House for its consideration. I support the motion.

HON BARRY HOUSE (South West) [8.30 pm]: I wish to provide a bit of background, which I think is necessary in order that members understand the motion. A few weeks ago

when Hon Max Evans, the shadow Minister for Sport and Recreation, was absent overseas on parliamentary business, I was asked to keep an eye on that portfolio for a couple of weeks. I very quickly received some requests from people in the soccer world to follow up some information. I do not pretend to know very much about soccer in this State but that is probably an advantage because I can be objective about it.

I was contacted initially by Mr John Foster from the Soccer Federation of WA, and following the conversation I had with him I framed a couple of questions to ask the Minister for Sport and Recreation regarding funding for the other soccer body which has been set up, the Soccer Administration of WA. I asked those questions on 10 September and as *Hansard* reports them they are not quite correct. I accept responsibility for that because obviously I did not correct the duplicates well enough before they were returned for final printing. The first question was -

- (1) Has the Minister for Sport and Recreation made available to the Soccer Federation of Western Australia any lines of funding?

That question should have referred to the Soccer Administration of WA rather than the federation. Part (3) of that question also refers to the federation rather than the administration; however, I accept responsibility for that error. The Minister's answer to the next question aroused the response from Hon Sam Piantadosi during the adjournment debate that night.

As I said, I do not pretend to know all of the details in a great deal of depth, but in the few weeks during which I became involved in the issue a few things became very apparent to me. The first and obvious one was that the soccer world is bitterly divided and some very deep personal antagonisms exist there. That is very unfortunate for the sport of soccer as it is retarding that sport's progress in this State. It is also apparent that Hon Sam Piantadosi is very closely involved with the sport of soccer; I understand he is the President of the Perth Italia Soccer Club. It soon became apparent to me that there was quite a bitter personal feud, if I can put it like that, between some people around Hon Sam Piantadosi and people from the Soccer Federation of WA.

The real issue as I perceive it is the control of soccer. That is what everybody seems to be squabbling over, or fighting tooth and nail about. From my contact with the situation in the last month my fear is that the Government is not being strictly neutral in this matter and seems to be taking sides. Its agenda seems to be to seek to control this sport. It is obvious to me that the Government is funding the Soccer Administration of WA to a large extent, and a few examples of that funding should be mentioned. The first is a sum of \$80 000 from the sports lottery fund. This is in the form of a grant to fulfil a commitment originally made in a letter to Hon Sam Piantadosi from the Minister for Sport and Recreation. However, that letter said that that grant of \$80 000 would be made on a dollar for dollar basis. It now appears that that \$80 000 has been granted to SAWA as a straight grant. As well, \$75 000, also from the sports lottery fund, has been granted to SAWA as a once-off establishment grant and I understand that this is so because SAWA does not have access to its own funds at present. I understand it is not even a properly constituted body with its own constitution yet, but obviously it is working towards that.

In addition, another sum - and I could be corrected on the figure but I believe it is in the order of \$164 000 - has come from the Western Australian Health Promotion Foundation for coaching and development. The last major sum of money is a promise of \$750 000 which has been earmarked for refurbishment and lights at Perry Lakes Stadium in order to create a soccer headquarters there. That sounds fine on the surface, but I understand from a few inquiries I have made that many people in the soccer world are not entirely happy with that situation. For a start, it was not even in the Soccer Administration of WA's development plan to develop Perry Lakes as its headquarters. The same amount of money appears to have been promised to athletics in Western Australia for Perry Lakes.

Hon Doug Wenn: How much money?

Hon BARRY HOUSE: It is \$750 000 for the refurbishment and lighting of Perry Lakes.

Hon Doug Wenn: That is not for Little Athletics.

Hon BARRY HOUSE: No, I understand that is going to Perry Lakes.

Hon Doug Wenn: It is not going to Little Athletics at Perry Lakes.

Hon BARRY HOUSE: I think the Government will claim it has fulfilled its commitment to soccer and athletics with this one sum of \$750 000. I do not believe everybody in the soccer world, and the athletics world for that matter, will be entirely happy with the situation.

Hon Doug Wenn: It is only a recommendation that has come from the new athletics inquiry. There is nothing set about it.

Hon BARRY HOUSE: It is fairly well established that the Government has agreed to commit \$750 000 to Perry Lakes for soccer.

Hon Doug Wenn: And maybe rugby.

Hon BARRY HOUSE: The Government is claiming it is fulfilling a commitment which was made about 1985 by a task force set up by former Premier Burke to grant \$750 000 to soccer for the development of a headquarters. That sum has not been committed since then because of divisions in the soccer world and I understand a large portion of the soccer world does not want headquarters at Perry Lakes but rather wants separate headquarters. I do not want to become involved in that argument but I know from my discussions with quite a few people that not everybody will be happy with Perry Lakes being designated as a headquarters for soccer. I wonder whether athletics and soccer will be satisfied with sharing that facility.

Hon Doug Wenn: They can be very compatible.

Hon BARRY HOUSE: I have no doubt about that.

Hon Graham Edwards: What do you want to have happen to Perry Lakes?

Hon BARRY HOUSE: I think it is a good idea to develop and improve it. It is a bit of a white elephant and has been for years; but by improving Perry Lakes, which is traditionally the athletics headquarters, the Government may be trying to get away on the cheap by claiming it as a soccer headquarters as well.

Hon Graham Edwards: You said at the beginning of your contribution that you do not know much about it; you are confirming exactly that.

Hon BARRY HOUSE: I think I have demonstrated that I know quite a bit about it.

Hon Graham Edwards: You have made a number of blues in the course of your speech, and that is unfortunate.

The DEPUTY PRESIDENT (Hon Garry Kelly): Order! Members should terminate the debate that is occurring across the Chamber.

Hon BARRY HOUSE: I am just trying to provide a bit of background to the privilege claim. The original amount of money committed to the soccer world has not been delivered for six years now, because of the divisions that exist in soccer, and I ask: What has changed now? I understand that the soccer world is bitterly divided and I wonder whether things have changed significantly since 1985 so that suddenly this money can be made available. I understand that in the last 12 months, apart from those sums I have itemised going to the Soccer Administration of WA, the only other funding has been about \$10 000 to the Soccer Federation of WA, and I understand that was delivered reluctantly.

Hon Graham Edwards: Very reluctantly! If I could have intervened earlier they would not have received it. We have made a commitment and we will meet that commitment.

Hon BARRY HOUSE: Why has the Government provided funds amounting to more than \$1 million when previously it had clearly stated that it would not fund anything in the soccer world until the soccer world got its act together? What has changed? I do not think that anything has changed significantly. Obviously, there is a need for unity in the soccer world. We would all agree to that. I urge the Australian Soccer Federation to take the lead and adjudicate in the Western Australian situation. The federation should follow up the recommendation that has been made to it by the international body, FIFA, in a letter which clearly urges the Australian Soccer Federation to take that leadership. Traditionally, the Government could take that role but I do not believe that it can in this situation because the Government is too involved.

Hon Graham Edwards: Too involved with what?

Hon BARRY HOUSE: As a player in the game.

Hon Graham Edwards: In what way?

Hon BARRY HOUSE: By taking sides.

Hon Graham Edwards: Do you want us to fund a body such as the Australian Soccer Federation, which has had the opportunity for five years to pull soccer together, or do you want us to get on with those running the sport?

The DEPUTY PRESIDENT: Order! Hon Barry House should direct his comments to the Chair, and ignore the interjections.

Hon BARRY HOUSE: The role of the Australian Soccer Federation is to take the lead and adjudicate in this dispute. I am not talking about funding.

Hon Sam Piantadosi: They tried!

Hon BARRY HOUSE: They should try again.

Hon Graham Edwards: Have you spoken to anyone from the Soccer Federation of Western Australia or from the Soccer Administration of Western Australia?

Hon BARRY HOUSE: I accept the need for an umbrella organisation.

Hon Graham Edwards: Have you spoken to anyone from the association?

The DEPUTY PRESIDENT: Order! I ask the Minister not to continue to interject.

Hon BARRY HOUSE: The Soccer Administration of Western Australia was set up as an umbrella organisation. It has a valuable role to play in coordinating the different branches of the soccer world such as the professionals, the juniors, the referees and the amateurs. That body was set up to do that. However, my observations lead me to the conclusion that other people have other agendas. Perhaps that is messing up the whole situation. Perhaps the president of that body, Mr MacKay, and the chief executive officer, Mr Ian Cox, who both have very close ties to the Government - by formerly or currently working in Ministers' offices as advisers - had something to do with the supply of funds as a result of that close association with the Government.

Hon Graham Edwards: We had a bigger offer to fund soccer when Mr Williams, a former member of this House, was involved with that group.

Hon BARRY HOUSE: I spoke at length about the soccer situation with Mr Williams, who used to sit in this seat. I received some valuable advice. His advice was that the legitimate body in Western Australia is SAWA, with certain conditions: SAWA must accept an application for affiliation from the Soccer Federation of Western Australia. Currently it will not do that.

Hon Sam Piantadosi: It was affiliated but it withdrew from that affiliation.

Hon BARRY HOUSE: The SAWA has a legitimate role to play, without interference from other people. It should not get involved in a political agenda; it should follow its legitimate purpose. An element of bloody-mindedness by certain officers of the Soccer Federation is involved. That does not help the situation at all. It seems to me that Hon Sam Piantadosi probably made his comments more as a person committed to the soccer world than as a member of Parliament. I am not here to judge that. The personal vendettas and disputes within the soccer world should be solved by the soccer world. It is only when those disputes impinge on this institution -

Hon Graham Edwards: Why did you become involved by asking questions? That is a double standard.

Hon BARRY HOUSE: I wanted some information.

Hon Graham Edwards: You were trying to make mischief.

Hon BARRY HOUSE: I have asked the Minister several questions on several different topics over the last couple of weeks. I have not received one answer. All I have received amounts to belligerent replies and personal attacks.

Hon Graham Edwards: What answers?

The DEPUTY PRESIDENT: Order! We are debating the appointment of a Privilege Committee. We should answer that question first.

Hon BARRY HOUSE: The Soccer Federation should resolve the dispute. The soccer world should come to grips with the situation. The Government should butt out and tell the soccer world what it has been telling it for years: Sort out your own house; get that in order. Had that been the case, the situation would not have arisen and there would not have been any personal disputes.

I recognise the importance of privilege to a member of this place, and the need to protect that right if a member feels aggrieved. I am not convinced that the issue is significant enough to waste a large amount of the Parliament's time. However, if the member feels the matter should be investigated by a Committee of Privilege, it is his right to do so. I support the motion on those grounds.

HON SAM PIANTADOSI (North Metropolitan) [8.47 pm]: I would like to clarify a couple of points raised by Hon Barry House.

Hon D.J. Wordsworth: Why do we need a Committee of Privilege?

Hon SAM PIANTADOSI: We need such a committee because the first time I spoke on this matter was in response to a question asked by Hon Barry House about the soccer issue and addressed to the Minister for Sport and Recreation. I made that comment even though I had not been involved with the soccer fraternity for some time. I did not use my position to launch any attacks on any soccer personalities. I could have done so.

Hon D.J. Wordsworth: You used that occasion.

Hon SAM PIANTADOSI: I used the occasion to clarify the issue for Hon Barry House during an adjournment debate. As I recollect it, before getting to my feet during that adjournment debate I showed five letters to Hon Barry House to explain the position further to him, so that he could become more familiar with what had been happening within the soccer world. One letter requested my club to send a letter to the Secretary of the Soccer Federation of Western Australia, Mr John Foster, who had been continually writing to me in my capacity at the club to find out about Government funding and resources. I made it clear that I did not want to be put in a position where the federation would want me to comment about an issue which was a Minister's responsibility involving funding. I indicated that rather than writing to me, and trying to bring politics into the situation, the federation should write to the Minister. That is the letter that Hon Barry House used to ask questions. It indicated that the Minister's request was that all inquiries be put to him once matters were resolved. I went to great lengths to buy out of it. However, when I was told by Hon Barry House that a question was to be asked in the House regarding the manner of the appointment -

Hon Barry House: It was a question put on notice.

Hon SAM PIANTADOSI: - of Mr Ian Cox to the Soccer Administration of Western Australia, I made reference to the situation. I said that before Mr Foster asked questions about appointments and attacked any official, he should look at the manner of his own appointment. If the Privilege Committee is established it could call people before it to determine that Mr Foster's appointment to the SAWA was as a result of a decision made by two people, and that other people on the board were unaware of the appointment. However, this is a question of whether this individual can cast doubt on the appointment of another.

Hon D.J. Wordsworth: That happens to every member of Parliament on every subject.

Hon SAM PIANTADOSI: I am not referring to members of Parliament; I am referring to another person who was appointed to SAWA. Mr Foster should look at the manner of his own appointment. I previously indicated to the House, as can be found in *Hansard*, that a meeting should be called attended by me, Hon Barry House, Mr Foster, and Mr Lacerenza, the President of the Soccer Administration of Western Australia, so that we might have an open forum on this issue.

Hon Barry House: I suggested that it should involve the Australian Soccer Federation.

Hon SAM PIANTADOSI: I suggested that at the time. I did not suggest that the meeting should be vindictive or be used to engage in personal attacks. When a question was asked I responded because I am involved in the code; prior to that occasion - members can check *Hansard* - I did not raise the issue in this House.

Hon D.J. Wordsworth: What did they do - burn your house down?

Hon SAM PIANTADOSI: They circulated a newsletter which accused me of cowardly attacks under parliamentary privilege. It said that I engaged in a character assassination of Mr Foster; it alleged that there was a conflict of interest between my position as a member of Parliament and as a person involved with the code. The newsletter stated -

... has created a definite conflict of interest between your personal soccer interests and your responsibility as a Parliamentarian to speak for and represent all the people and groups in soccer fairly and equally.

I have always maintained my responsibility. I went to great lengths to explain every point to Mr Foster; I explained that I did not want to be drawn into the litigations and I suggested that this person should correspond directly with the Minister. I wrote many letters on this point, and I hope to be in a position to provide that information to the Privilege Committee, if it is established, to indicate that these people were trying to use me by drawing me into the political firing line.

By way of background, five years ago the Government offered \$750 000 to the federation, and Mr Lacerenza was in charge of the soccer federation at that time. He was one of the people who declined the offer in return for an administration plan at the time, and Perry Lakes was offered as a venue. However, Leederville Oval and a number of other places were suggested as proposed venues. In fact, Hon John Williams, a former member of this House and someone strongly involved in soccer, would support what I have to say. Until two years ago the soccer organisation was receiving \$830 000 a year for coaching and administrative positions. However, because of the failure to advance an administrative plan, which the Government had been trying to implement for five years, the grant was cut off two years ago.

Hon Barry House: It was for the development of Perry Lakes as a soccer headquarters as part of an administrative plan.

Hon SAM PIANTADOSI: It was the development plan for soccer that was required; it had nothing to do with Perry Lakes.

Hon D.J. Wordsworth: What do you want the committee to do for you?

Hon SAM PIANTADOSI: I will tell you that in a moment. Firstly I will clarify some points raised by Hon Barry House. Perry Lakes has been used as a soccer venue since 1963. The Government is not attempting to push soccer into this location, and I am happy to indicate that I played soccer at Perry Lakes in 1963, 1964 and 1965.

Hon Graham Edwards: That is because you could not get a run in the 1962 Empire Games!

Hon J.M. Berinson: I played for the ex-scholars in 1945.

Hon SAM PIANTADOSI: When the member refers to the Australian Soccer Federation stepping into the dispute, it should be remembered that when Mr John Constantine was in town the newspapers contained articles about a meeting that Mr Lacerenza stormed out of. At that time he disaffiliated the Soccer Federation of Western Australia from the Australian Soccer Federation without going back to the clubs.

Hon D.J. Wordsworth: You do not expect the committee to sort this out for you, do you?

Hon Graham Edwards: Nobody else has been able to.

Hon SAM PIANTADOSI: It was a Soccer Federation of Western Australia decision to separate from the Australian Soccer Federation, and last year it voted itself out of existence and established a new body. The new body is under the chairmanship of Hon John Williams, and this is now affiliated with the Australian Soccer Federation. This action became a question of whether it was constitutional and whether it was representative of soccer in Western Australia. In 1985-86 the SFWA was offered a \$4 million stadium, which was knocked back.

Hon D.J. Wordsworth: What has this to do with the committee?

Hon SAM PIANTADOSI: This is a little background on the personalities involved in this matter. These are the persons involved in attacks on a number of people, including me. They are saying that I am biased in my role as a parliamentarian. I take offence to that. I have always tried to be objective and never draw politics into these matters. I do not want to

be embroiled in this type of situation as a member of Parliament. I am an official of a soccer club, and I asked the people involved to direct inquiries to the Minister. However, these people have been attempting to rope me into the dispute. The last newsletter, released some three weeks ago, said that I helped to bring about a rift between the super league clubs and the Soccer Federation, which resulted in a conflict of interest as a person involved with soccer and being a member of Parliament.

Hon D.J. Wordsworth: Will a committee of this House not cause a greater rift?

Hon SAM PIANTADOSI: The member asked me a question. He may see the humorous side of the situation, but many people -

The DEPUTY PRESIDENT (Hon Garry Kelly): Order! This debate will reach a conclusion more quickly if the member directs his remarks to the Chair rather than conducts private conversations with Hon David Wordsworth.

Hon SAM PIANTADOSI: The newsletter accused me of a conflict of interest. It stated -

Mr Piantadosi, you are entitled to have your say in the Parliament, after all, that is what politicians mainly do -

That is offensive to all members. It continues -

- but if you want to play the game, we suggest you check your facts and play the ball, not the man.

I have always played it straight down the line. I have never engaged in personal attacks. I am sure that if a Select Committee of Privilege is established members will hear all of the evidence which will support my case that they have engaged in personal attacks and accused me of having a conflict of interest. For the sake of all members of the community I urge that the Privilege Committee be established to help resolve this matter and result in the conduct of members not being called into question. I hope that it will also result in members of Parliament feeling free to make remarks, especially when they do not engage in personal attacks. In the same way I do not think members of Parliament should be subjected to personal attacks similar to those that have been expressed in the newsletter. Members should not be accused of making cowardly attacks on individuals when they did not take place. I urge members to support the motion.

Question put and passed.

SELECT COMMITTEE OF PRIVILEGE

Appointment

On motion without notice by Hon Sam Piantadosi, resolved -

That the Committee of Privilege comprise the Hons Garry Kelly, E.J. Charlton, N.F. Moore, Tom Helm, and R.G. Pike.

That the Committee have power to send for persons, papers and records, to sit on days on which the Council stands adjourned and any three of the said members constitute a quorum.

MOTION - EMERGENCY (AMMONIA UNLOADING) REGULATIONS

Disallowance

Order of the Day read for the resumption of debate from 12 September.

Question put and passed.

MOTION - STAMP AMENDMENT REGULATIONS

Disallowance

Debate resumed from 18 September.

HON MARK NEVILL (Mining and Pastoral - Parliamentary Secretary) [9.02 pm]: Hon Peter Foss has moved for the disallowance of the Stamp Amendment Regulations tabled in this House on 22 August 1991. The regulations form part of an anti-avoidance package introduced into the Stamp Act in 1986 to stop leakages of revenue from traditional sources where dutiable instruments were normally stamped because the practice was to enter into

written arrangements which were consummated by conduct rather than by producing a written instrument. By doing this a duty was avoided. The existence of those provisions of the Act has generally been beneficial. General loans were not included in the area of dutiable instruments, but personal loans were. There is evidence that small scale avoidance of the duty of some of these personal loans has occurred. The regulations were introduced not so much to raise revenue but to prevent some financial institutions, with a variety of products, from getting these products onto the market without paying duty. The acceptance of these regulations will ensure that those personal loans are documented by dutiable instruments.

Hon Peter Foss: Could you be more specific about it? I raised that point in moving the disallowance motion but I would like to hear what actual evasion has taken place and what amounts we are talking about.

Hon MARK NEVILL: I understand that some financial institutions have been entering into personal loans with people without having dutiable instruments.

Hon Peter Foss: How much money is involved?

Hon MARK NEVILL: I am not aware of the amounts of money involved but I made the point earlier that it is not a matter of the amount of money involved at the moment, but that the potential exists, because of the variety of products that are available, to expand the avoidance. When section 31(b) was introduced, very few statements were being brought forward to the Commissioner of Taxation. That is the statement a person requires if he does not have a dutiable instrument.

Hon Peter Foss: Your explanation is slightly different from the one given by the Commissioner of State Taxation to the Estimates Committee.

Hon MARK NEVILL: I would like to know where it is different because I am probably wrong; I did not attend that Estimates Committee meeting. The regulations introduce a measure that will possibly protect a loss of revenue in the future rather than result in the Government receiving more revenue now. The Australian Bankers Association and the Australian Finance Conference have said that the regulations will not have any effect on their documentation when preparing financial instruments. The regulations will close the loophole before rather than after to stop some loan providers from avoiding duty. That does not happen so much now, but a couple of years ago when there was fierce competition among financial institutions, many massive loans were not accompanied by dutiable instruments. Many of them were done over the telephone and I presume that the repayment involved meant that a contract existed by conduct.

Hon Peter Foss: There was certainly a way of doing it, but the point I raised in the first instance was the concern as to the sorts of transactions which would be picked up. They are likely to be so small that nobody will be able to avoid that duty anyway and if somebody accidentally got the written terms of it that would impose an obligation on everybody to spend far more money in dealing with the matter than would ever be picked up by way of revenue. It seemed a bit fanciful.

Hon MARK NEVILL: My reading of the regulations is that there is not much avoidance occurring at the moment, but that there is the potential for one or two financial institutions to cultivate the area.

Hon Peter Foss: That must be unsecured.

Hon MARK NEVILL: Yes, most personal loans are.

Hon Peter Foss: Unfortunately, sometimes people do that, but we are talking about small amounts of money. It must be considered by companies because the provision of loans does not extend to companies.

Hon MARK NEVILL: I am not sure whether commercial loans fall within the scope of the regulations.

Hon Peter Foss: It is security.

Hon MARK NEVILL: It seems to me that the regulation will not add to the amount of paperwork presently required. It will mean that more loans will be dealt with through dutiable instruments rather than by a statement filed with the Commissioner of State

Taxation. It will not cause the finance industry any extra work. I do not believe it will result in a significant increase in revenue at the moment, and there is potential for some less than honest finance companies to avoid paying duty on items that otherwise would be dutiable. I urge the House to oppose the motion for disallowance of the regulation. It is a fairly innocuous regulation that will not create additional paperwork. In some ways it will probably result in less paperwork because I presume that a dutiable instrument is a fairly standard document and perhaps less trouble to prepare than a statement to be sent to the Commissioner of State Taxation, in addition to the requirements of the other party to notify the commission of the loan.

HON PETER FOSS (East Metropolitan) [9.12 pm]: I am most grateful for the explanation given by the Parliamentary Secretary for the reasons for the introduction of this regulation. In the latter part of his speech he dealt with a matter referred to by the Commissioner of State Taxation during the course of the Estimates Committees. I understand that the industry which is caught by this regulation, generally speaking, uses dutiable instruments, and anyone using dutiable instruments is included in this part of the legislation. There must first of all be an absence of a dutiable instrument. I understand that the reason for doing this is to encourage people to continue the current practice because it would be so much more expensive not to continue it. The amounts of money, being unsecured loans, are not large and the amount of tax that could be avoided by these organisations is very small. The work necessary to avoid the taxation is likely to mean the cost of evasion would be more than the amount saved. Therefore, people will not resort to those means.

I do not think the Commissioner of State Taxation and his officers realise that every time a new regulation is written and published, every lawyer in town writes to all his clients involved in the financial area telling them of the change in the law. Even if it may not affect them, all clients are advised and their papers, manuals and internal files are updated to enable them to put procedures in place to ensure they do not break the law. This is one of those classic cases where somebody had a good idea from his point of view. From the point of view of the State Taxation Department it is a good idea to encourage people not to do this. The fact that nobody was doing it anyway did not possibly occur to the department as a ground for not entering into that area. The Government must think about all the consequences of passing legislation such as this. This particular section of the Stamp Act has been very effective in the past. It is horrifying legislation with which to comply. Everybody has an early warning system of any changes and, of course, in the situation where all the States and Territories have their own stamp laws, one finds that it is not enough to advise people in Western Australia about what is happening in this area; one must tell people all around Australia. I have seen copies of the letters being distributed. I do not believe some people in Government departments appreciate the effect of making these changes. When changes are made to taxation laws, even though we are told they will have no effect on anything, letters are sent far and wide advising people to attend to the provision and so on.

Hon Mark Nevill: I heard that accountants and lawyers needed extra work.

Hon PETER FOSS: It is a business cost all the way through. We hear again and again that we should not impose this extra burden of regulations on business. In fact, tonight during the dinner break I attended a ward session at the Midland and Districts Chamber of Commerce for various people in the area. When it was learnt that I was a member of Parliament I was bailed up by one business person complaining about the cost of administration in just conforming with the law, filling in reports and doing all the things Government departments request. That person told me that in the last two full days before 30 June he spent all his time ensuring that all the regulations and requirements of Government departments in the way of reports, returns and so on for his business were complied with. That is in addition to completion of taxation returns.

Each little request made by a Government department because it would like to compile statistics on a certain matter may seem small but the total effect on business of all those reports and returns in Western Australia, Australia and around the world is to increase the burden of administration. Businesses are required to provide information that does nothing whatsoever to advance business, on the basis that somebody wants the information to feed into a computer which will spurt out a statistic. In the days when people were required to deal with this paperwork themselves, they were not so keen on calling for this type of information.

Hon Mark Nevill: I will concede there is work for financial providers but I cannot see that any extra work would be created at the other end of the equation.

Hon PETER FOSS: That depends on whether arrangements for personal loans are possible which do not involve a dutiable instrument. It is possible but it is not very likely. Hon Mark Nevill is saying it does not happen and he wonders why the regulation is opposed.

Hon Mark Nevill: I understand it is happening with one particular financial institution.

Hon PETER FOSS: Is Hon Mark Nevill aware of the amounts involved?

Hon Mark Nevill: I do not know what amount is involved. You are looking at the potential to avoid rather than widespread avoidance.

Hon PETER FOSS: That makes it a matter of some concern. It appears we are dealing with an evasion that is hardly depriving the State of any great amount of revenue. Nonetheless we have set in train a course of events which will add a further burden on businesses and which will mean that once again members of Parliament will be subject to criticism for excessive regulation of business. I dealt with this matter in my speech when moving the motion of disallowance. I said that we should be cautious not to allow a practice to develop under which people in Government think there may be a problem and bring down more legislation or regulations to meet that imagined problem. It seems to me from what Hon Mark Nevill has said and what was said during the debates at the Estimates Committees that the bodies representing major financial institutions see no problem with this regulation because they are not using this method and believe it will not impinge on them. Perhaps they are not conscious of the fact that although the practices within their organisations will not be affected we are adding one more law to the Statute book, perhaps to be considered and dismissed. That is a problem that people do not appreciate.

A law may never touch anybody. If such a law never finally catches anybody we have added a law to the Statute book that some people have to search through whenever they need to check what the law is. An example is that in order to ascertain the effect of this regulation I had to track down the stamp duty regulations. Those regulations have been promulgated over a considerable time, and unfortunately in a large number of small bites. It took me considerable effort to assemble the regulations so that I could work out the effect of one small amendment to regulation 8AA. It may be that somebody wishes to look at regulation 12, for instance, and orders a copy of the regulations. In order to find out whether he has the full picture before him that person must get the regulations, including the recent amendment to regulation 8AA. One may say that the regulation will never impinge on anybody because nobody will ever be caught by it.

However, people refer to the stamp duty regulations daily. They will have to check regulation 8AA and its amendment to ascertain whether it will impinge on whatever they are doing. The fact that after five or 10 minutes research, and having located the amendments and fitted it into the rather difficult to read compilation of the Act, they realise that it has no effect is hardly any great consultation to the people who spent that time looking. If the person looking is a lawyer who is doing that search on behalf of a client then the client will be charged for the lawyer's time spent looking up a law that has no application.

Hon Mark Nevill: There would be no inadvertent avoidance of duty on personal loans.

Hon PETER FOSS: What does Hon Mark Nevill mean by "inadvertent avoidance"? One could inadvertently fall outside the regulations, that is quite possible. It is not like one of the avoidances we are dealing with in the Stamp Amendment Bill where it is almost impossible to consider a transaction that was not set up in that form in order to avoid tax.

[Quorum formed.]

Hon PETER FOSS: The regulation we have here has been passed without due recognition of the consequences of continually passing regulations without regard for the fact that we are adding to the body of law and thereby increasing the commercial load on businesses. We have dealt with this theme previously. I think what I am about to say applies also to people dealing with delegated legislation passed by this place; that is, they should seek to avoid any legislation other than that which is absolutely necessary. It appears to me from what has been said by the Parliamentary Secretary that this is not necessary legislation; it is a good idea that somebody had at some time and which someone hoped would stop a particular

practice coming about. It is unlikely to prevent any great loss to revenue. On the other hand, it may affect the way in which people conduct their businesses.

I am concerned that if we do not disallow this regulation it will be another regulation for people to look through when looking at the stamp duty regulations and one more thing to be slotted into the jigsaw puzzle one has to face when working out what is the law relating to stamp duty. It is also an extra cost on business for absolutely no return whatever to revenue to prevent a course of conduct which appears on its face is not being carried out anyway. I would be extremely concerned if I thought we were maintaining this regulation merely because we hope that if people in future decide to follow the course of conduct we are addressing we can avoid that happening. Accordingly I urge the House to support this motion for disallowance of the regulations and to remove what I believe is an unnecessary piece of regulation from the Statute book.

Division

Question put and a division taken with the following result -

Ayes (12)		
Hon J.N. Caldwell	Hon Barry House	Hon D.J. Wordsworth
Hon George Cash	Hon P.H. Lockyer	Hon Margaret McAleer
Hon E.J. Charlton	Hon N.F. Moore	<i>(Teller)</i>
Hon Max Evans	Hon R.G. Pike	
Hon Peter Foss	Hon Derrick Tomlinson	
Noes (13)		
Hon J.M. Berinson	Hon B.L. Jones	Hon Bob Thomas
Hon Cheryl Davenport	Hon Garry Kelly	Hon Doug Wenn
Hon Graham Edwards	Hon Mark Nevill	Hon Fred McKenzie
Hon John Halden	Hon Sam Piantadosi	<i>(Teller)</i>
Hon Tom Helm	Hon Tom Stephens	

Pairs

Hon W.N. Stretch	Hon Kay Hallahan
Hon P.G. Pandal	Hon J.M. Brown
Hon Murray Montgomery	Hon T.G. Butler

Question thus negatived.

BILLS (2) - REPORT

1. Road Traffic Amendment Bill (No 2)
2. Acts Amendment (Evidence) Bill

Reports of Committees adopted.

WESTERN AUSTRALIAN COASTAL SHIPPING COMMISSION AMENDMENT BILL

Second Reading

Debate resumed from 27 August.

HON GRAHAM EDWARDS (North Metropolitan - Minister for Police) [9.36 pm]: I thank those members who have spoken on this Bill for their contributions. They asked a number of questions and in my response I will go into some detail in an endeavour to address all of those. The Leader of the Opposition said that during the Committee stage he would pursue a number of the matters he raised, but it is appropriate that I give some detail of those matters now.

One member asked why we should increase the number of commissioners from three to five. The current number of commissioners often makes it difficult to obtain the necessary quorum of two for a meeting. In addition, it is desirable to extend the scope of the current board membership beyond the three public servants - the Director General of Transport, the

Executive Director of Marine and Harbours, and the General Manager of Stateships, who is also the chairman. I was also asked why we should repeal section 22(2) of the principal Act, which limits the commission from paying above level 8 without ministerial approval. The answer is that this provision is no longer necessary due to overriding provisions of the Public Service Act.

A number of questions were asked about the delivery of vessels. The first asked how many days late each vessel was. In respect of the charter-party, the answer is nil. Delivery under the charter-party was to take place when the vessel was ready for delivery by the builders. In respect of the building contract, the answer is as follows: For vessel 291 the contract delivery date was 2 April 1990 and the actual delivery date was 4 September 1990, with 155 days' variation. For vessel 292 the contract delivery date was 2 July 1990 and the actual delivery date was 21 December 1990, with 172 days' variation. The contract delivery date for vessel 293 was 2 October 1990; the actual delivery date was 12 April 1991 - a 192 day variation. The builder has claimed and the owner has accepted the following days as extensions of times: Vessel 291, 136.5 days; vessel 292, 79.5 days; vessel 293, 76 days. The builder has claimed and the owner disputes the following days as extensions of time: Vessel 291, 18.5 days; vessel 292, 92.5 days; vessel 293, 116 days. This disputed claim has been referred for determination under the arbitration provisions of the building agreement; that matter is currently being addressed.

The second question was: What penalties were imposed for late deliveries? In respect of the charter-parties, none. However, as is customary in the case of the *Barecon B* charter-party covering new buildings, the charter hire rate at the outset is based on a tendered construction price; assumed dates for financing construction payment; a tendered completion of delivery date; and other eventualities which affect the shipbuilding/charter financing formula during the course of construction - for example, liquidated damages, import duty, currency factors.

The next set of questions was related to the charter-parties: What was the reason the Government decided to pay the lease annually in advance? The answer is simply that it is standard for charter-parties to be paid in advance. Analyses by Treasury indicate that annual payments present a better financial outcome than more frequent payments. It should be borne in mind that charter-parties for the *Koolinda* and the *Pilbara* were paid annually in advance in US dollars, and that these were agreed to by the previous Liberal Government.

The next question referred to the rate at which arrangements were struck as to US dollars versus Australian dollars. The United States currency for the payment of charter hire is purchased at the rate ruling at the due date under the charter-party. This will vary from year to year. It should be kept in mind that Stateships receives significant revenue in US dollars from its activities in South East Asia. Thus leases in US dollars serve to reduce the exchange rate exposures by matching foreign currency assets and liabilities. The next question relates to the final cost of each vessel. The final vessel costs are defined in the provisions of the charter-parties: Vessel 291, \$A14 307 275.49; vessel 292, \$A14 023 092.73; vessel 293, not yet finalised.

As to why the charter imposes such severe penalties on the Government on early cancellation of any charter arrangements, the Government has not entered into the charters with any intention of cancelling. In the event that it chooses to do so at any time in the future, the financial consequences are perfectly normal. The next question was: Why has the Government agreed to pay certain costs related to depreciation? I understand that it is common practice in long term financing arrangements for provisions to be made for changes in tax arrangements affecting the parties involved. Depreciation as stipulated in clause 36(4) of the charter-party is one such qualification. As to why is reference made to a registered shipping broker, a registered shipping broker is a licensed broker as is customary in the major maritime countries in Europe.

I will now deal with the questions relating to the disposal of the *Irene Greenwood*. Why was the *Irene Greenwood* disposed of in the way it was? The vessel was re-delivered to her owners in the implementation of the Government's decision to replace the large ships in Stateships' fleet with small ships. Who was paid commission for the sale of that ship? Commissions on selling a ship are payable only by the owner. Stateships was not the owner of the *Irene Greenwood*, but it is aware that the owner paid a commission to the broker in the

sale, Southwest Chartering. Mr Cash asked why the description of the vessel is referred to in some documents as being 2 700 tonnes on a 4.6 metre draught when the deadweight is quoted in other documents as 3 400 tonnes on a 5.3 metre draught. The answer is that when the ship is loaded to a draught of 4.6 metres she has a deadweight of 2 700 tonnes; when she is loaded to 5.3 metres she has a deadweight of 3 400 tonnes.

The next question relates to the daily operating costs of the vessels. The components of operating costs are approximate and relate to Australian dollars per ship per annum: Crewing costs \$A1.5 million; other expenses, \$A2 million. The other expenses include insurance, dry docking, repairs and maintenance stores, general disbursements, etc. Overheads and cargo expenses are dependent on the number of ships operated, the particular trades, and the particular cargoes carried. Fuel costs are dependent on steaming days. These items cannot be quantified in general terms. Consequently, daily operating costs are not capable of useful application unless the precise deployment of the ships is clearly defined.

As to how much profit each of the ships has made to date when the expenses are measured, Stateships has adopted a policy of not providing detailed figures on performance of individual vessels, as the information is of some use to its competitors. As such, Stateships does not really want to discuss profits either. That is understandable. As in the case of similar agencies, such as Westrail and Transperth, Stateships' services are maintained to enhance the welfare of Western Australians, and in all these agencies profitability is to be measured in the way that the whole community benefits from the services and not by isolating the cost as reflected in each department's accounts.

The question as to whether the cost is justified by the benefits is a matter which has received regular review by the Government, which was not the case when the Opposition held office.

Questions were asked regarding whether the letters were furnished, whether the letters furnished by the Treasurer were approved by Cabinet, and if not, under what authority were the letters issued. Although formal Cabinet approval was not given for the letters to be provided to Westpac, Cabinet was made aware of the undertakings given by letter of 26 September 1989 by the then responsible Minister. Approval was given to draft legislation on 3 January 1990.

It has been alleged that the charter rates are excessive, but I do not know what we should call excessive. Of course, it is true that ships are available overseas on very cheap charter rates, particularly those in *Kirki* condition. However, for new ships of the type now operated by Stateships, the charter rates paid to Westpac are very competitive with what is offered internationally. Indeed, the Stateships' vessels are an advanced development of the Baltimore-type currently under construction in China, and which, as recently as March of this year, were commanding bare boat charter rates of \$US3 000 per day. Consequently in any proper comparison the Stateships' rates stand up quite well.

A couple of interesting points arose in Hon George Cash's speech. At one point he said that he had it on good authority from shipping interests in Fremantle and Darwin that services other than Stateships may visit north west ports if cabotage restrictions were lifted by the Government. However, cabotage is a Federal restriction on foreign flag vessels operating between Australian ports. Is the member suggesting that foreign shippers should be encouraged into competition with Australian vessels? In any event, the Federal Government has removed these restrictions to a large extent and no more vessels are on the coastal run.

Hon George Cash then went on to say that Stateships' deficit could be better spent on subsidising commercial shipping services. We have long held the view that the Liberal Party was toeing the line of foreign and commercial shipping interests and road transport companies in its call to have Stateships abolished; these statements seem to confirm it.

Regarding the University of Wollongong's report on external benefits, the \$3 million figure should be taken as a minimum due to the very conservative approach that was adopted. It must be remembered that about \$5.6 million of Stateships' deficit would still be incurred if Stateships were wound up, mainly due to superannuation, contractual and debt related commitments.

I do not intend to go further. I have responded in some detail, and in doing so I hope I have dispelled any concerns the Opposition may have harboured. Hon George Cash commented

that the second reading speech was not as clear as it could have been. Perhaps the lack of clarity resided not in the speech but in its interpretation.

Question put and passed.

Bill read a second time.

**MOTION - CONSERVATION AND LAND MANAGEMENT (MISCELLANEOUS
FEES) REGULATIONS**

Disallowance

Order of the Day read for the resumption of debate from 15 October.

Question put and passed.

House adjourned at 9.57 pm

QUESTIONS ON NOTICE

PANNAWONICA RIDERS ANNUAL SANDHURST RUN - POLICE ROADBLOCK
Film

778. Hon GEORGE CASH to the Minister for Police:

- (1) Did police film those persons in the recent Pannawonica Riders Annual Sandhurst Run when those riders were stopped at a roadblock set up by the police?
- (2) What was the purpose of filming these citizens?
- (3) How long is it intended to keep the film?

Hon GRAHAM EDWARDS replied:

- (1) Yes, on some occasions.
- (2) Identification of offenders.
- (3) Until completion of inquiries.

POLICE - EXMOUTH POLICE STATION
Traffic Officer Replacement

812. Hon P.H. LOCKYER to the Minister for Police:

- (1) When the police traffic officer in Exmouth goes on leave, is he replaced by another traffic officer?
- (2) If not, are any of the present officers stationed at the Exmouth Police Station permitted to operate the patrol vehicle?
- (3) If not, does this mean that the traffic vehicle is locked up and not used in the event of the traffic officer either taking leave or is absent from Exmouth?
- (4) Is this a common practice in country Western Australia?

Hon GRAHAM EDWARDS replied:

- (1) No. However, training programs have been commenced to train other general duties officers to perform traffic duties.
- (2) The Sergeant in Charge, Sergeant Yates, is a qualified pursuit driver and is authorised to operate the patrol vehicle.
- (3) Not applicable.
- (4) No, trained officers will be permitted to use the vehicles. Where necessary, general duties officers who have been qualified as pursuit drivers will be permitted to drive patrol vehicles and perform traffic duties when the traffic officer is on annual leave or away for extended periods.

QUESTIONS WITHOUT NOTICE

PAWNBROKERS - STOLEN GOODS
Police Checks Policy

594. Hon GEORGE CASH to the Minister for Police:

- (1) Is it the policy of the Police Department to check on goods for sale in pawnbroking establishments for stolen property?
- (2) Are these checks undertaken on a regular basis?
- (3) If it is not departmental policy, will the Minister indicate what are the operational aspects in respect of such checking?

Hon GRAHAM EDWARDS replied:

The short answer is yes, but in order to provide a full answer I ask the member to put that question on notice.

ROTHWELLS LTD - STATE GOVERNMENT INSURANCE COMMISSION
Funds Authorisation Advice

595. Hon GEORGE CASH to the Attorney General:

- (1) Was the Attorney General advised or consulted on the decision by the then Premier to authorise the State Government Insurance Commission to place funds in Rothwells Ltd on or around 28 October 1988?
- (2) To his knowledge, was advice sought from the managing director, Mr Tony Lloyd, before any authorisation of funds investment by the SGIC took place?

Hon J.M. BERINSON replied:

As I have previously indicated, I am happy to respond to any such questions but at the appropriate time. I do not believe it is appropriate to have a contest in matters directly related to the inquiries of the Royal Commission and those pursued in this House. I would therefore suggest, as I have previously, that the Leader of the Opposition place this question on notice and I will respond to it as soon as appropriate.

ROTHWELLS LTD - COLLAPSE
Attorney General's Advice

596. Hon GEORGE CASH to the Attorney General:

Was the Minister advised directly or indirectly of the imminent collapse of Rothwells Ltd; and if so, by whom and when?

Hon J.M. BERINSON replied:

The response to this question is precisely the same as my reply to the previous one.

EDUCATION MINISTRY - SENIOR COLLEGES ESTABLISHMENT
Bunbury

597. Hon BARRY HOUSE to the Minister for Education:

Does the Government intend to establish several new seniors' colleges in Western Australia; and if so, has Bunbury been considered as the location for one such college?

Hon KAY HALLAHAN replied:

I believe the member is referring to the example set by the establishment of Cyril Jackson Senior High School -

Hon Barry House: I mean colleges along the lines of Canning and Tuart Colleges.

Hon KAY HALLAHAN: Does the member mean rather than just upper school?

Hon Barry House: Yes.

Hon KAY HALLAHAN: In recent times attention has been given to more colleges of that nature. In fact, Bunbury has a TAFE college and a university campus. In future we will consider having the various education sectors run from the one site as much as possible, and that will be possible because the use of technology will radically change the delivery of services over the next few years. I have not considered locating a senior college at Bunbury. When I began to answer the member's question I mentioned the Cyril Jackson Senior High School because I thought he was referring to that senior campus, which is the most recent action we have taken with regard to senior students in high schools. That matter needs to be examined quite closely and we will monitor its progress, but it looks like a very good model.

UNEMPLOYMENT - SCHOOL LEAVERS
Increase

598. Hon P.G. PENDAL to the Minister for Employment and Training:

- (1) Does the Government expect the unemployment rate to rise as school leavers come onto the market in November and December?

- (2) If so, have any estimates been made of the level of unemployment in Western Australia by early in the new year?

Hon KAY HALLAHAN replied:

(1)-(2)

Some indicators have been very useful to us; for example, the ANZ Bank job vacancy series indicated that the employment level would be steadily rising over a number of months. Members would know that while the unemployment level rose nationally last month it remained static in Western Australia. Although I imagine all of us were hoping that the level would fall, at least it did not rise with the national movement upwards. That follows on from the ANZ Bank job vacancy series indicating some months before that a flow-through and an easing of unemployment would occur. The signs are that early in the new year the situation will be quite serious for young people and others. I cannot give the member a projection about that and it is always dangerous to do so. On one hand we could project a very high level of unemployment, or any level, but on the other hand Western Australia is showing signs of growth and recovery and to some extent that is dependent on a return of business confidence. We would like the Federal Government to reduce interest rates because a number of firms in this State have a capacity to take on staff but need to feel some confidence in the economy. The reduction of interest rates by the Federal Government certainly would assist in that regard.

I have been careful all along not to make a projection, not because I have not wanted to face up to the difficult issue of unemployment - indeed, I have faced it each month as the figures have come out - but because I have not wanted to depress confidence levels in this State by projecting very gloomy figures. However, by early in the new year I think they will be very gloomy indeed.

UNEMPLOYMENT - CHRISTMAS PERIOD INCREASE *Government Contingency Plans*

599. Hon P.G. PENDAL to the Minister for Employment and Training:

Given the Minister's acceptance of that gloomy outlook in the new year, what contingency plans has the Government made or is it making to combat the expected rise in the jobless levels over the Christmas period?

Hon KAY HALLAHAN replied:

The Government is undertaking a number of things at the moment. Some come under the portfolio of State Development and a number of others come under my portfolios of Education, and Employment and Training. We will be doing whatever is possible to minimise the problems people have in that very difficult period and I will make further announcements in that regard at a later date.

NATIONAL COMPANIES AND SECURITIES COMMISSION - BOND CORPORATION *\$1 million Payment Rejection*

600. Hon D.J. WORDSWORTH to the Attorney General:

On Wednesday, 10 October at the top of page 9 of *The West Australian* it was indicated that Mr Schoer, formerly of the National Companies and Securities Commission, stated in reference to the \$1 million penalty that Bond did not pay because the Western Australian Government, which was the only body which could accept the money, rejected it.

Could the Attorney General, as the Minister responsible for the National Companies and Securities Commission (State Provisions) Act, explain why we rejected that \$1 million to which Mr Schoer referred, bearing in mind Western Australia's economic state?

Hon J.M. BERINSON replied:

I have already fully outlined the position in respect of that matter in response to a previous question in this House. Because I have done that, I think I can depart from my general -

Hon Max Evans: And give a different answer.

Hon J.M. BERINSON: The answer will be precisely the same. At the end of the day the State forwent the payment of that amount on the advice of senior counsel at the time, Mr Heenan.

NATIONAL COMPANIES AND SECURITIES COMMISSION - ROTHWELLS
LTD

Bosch, Mr - Chairman Resignation Negotiations

601. Hon D.J. WORDSWORTH to the Leader of the House:

During the hearings of the Royal Commission, the former Chairman of the National Companies and Securities Commission had difficulty recalling negotiations which had taken place with Rothwells regarding the standing down of the chairman - rather than accepting a fine. Was the Leader of the House aware that those negotiations were taking place?

Hon J.M. BERINSON replied:

So far as I know, Mr Bosch has not been before the Royal Commission, and I was not a party, and never have been, to the proceedings of the National Companies and Securities Commission. Any question on that matter would need to go to Mr Bosch.

PERMANENT BUILDING SOCIETY - RETROSPECTIVE LEGISLATION
Withdrawable Shareholders

602. Hon MAX EVANS to the Leader of the House:

I refer the Leader of the House to a newspaper article headed "Govt acts over PBS" which reads -

The West Australian Government signalled this week it would introduce legislation to protect an anonymous group of PBS investors facing a loss of up to \$8.9 million in the wake of the society's closure.

The investors are the owners of the Society's withdrawable share capital and face the prospect of losing all their money if the society is wound up under current legislation.

As a chartered accountant, I am amazed.

- (1) Will the Government go ahead with that legislation?
- (2) On what basis would it introduce retrospective legislation which would benefit one group to the detriment of another?

Hon J.M. BERINSON replied:

(1)-(2)

I would prefer to have this question placed on notice. If necessary, I will elaborate further in case I miss out any necessary point in my current reply. The Permanent Building Society has two classes of shareholders; one referred to as holding withdrawable share capital and the other non-withdrawable share capital. The terminology is misleading, and goes back to historic circumstances predating - if I remember correctly - the present society and going back to the societies from which it was consolidated.

Non-withdrawable share capital is share capital as normally understood; that is, held by shareholders with the normal rights of shareholders - a right to dividends but no right to interest.

Hon Max Evans: And a right to vote.

Hon J.M. BERINSON: I cannot recall the voting arrangements, although I think that

is wrong. I think the position is that the non-withdrawable shareholders would in fact be voting shareholders, although they may not be able to vote - if my memory is correct - in proportion to the shares held. However, that is beside the point for present purposes. Withdrawable shareholders have none of the attributes of non-withdrawable shareholders; their shares do not attract dividends. On the other hand, they do earn interest in precisely the same way as ordinary depositors. Again, I cannot be precise about any voting rights but, again subject to correction, if withdrawable shareholders have any voting rights at all they are extremely restricted. What I have in mind is a restriction of one vote per shareholder irrespective of the amount of the deposit.

I referred earlier to the history of this situation and, as I understand it, the position in the early days of the societies that are now represented by the Permanent Building Society was that people could deposit funds only by becoming withdrawable shareholders. In other words, it is a question of terminology which has changed over the years but which has left the society with some thousands of depositors who have been on a withdrawable share basis from the outset. It is relevant, although not strictly to the point, to indicate that a fairly large number of those withdrawable shareholders on average have extremely small deposits.

Hon Max Evans: With an average of \$750.

Hon J.M. BERINSON: They are counted in the hundreds of dollars rather than the thousands on average. Mr Evans will appreciate from what I have said that apart from the terminology there has never been a difference between withdrawable shareholders and depositors in respect of the returns which they could expect or the rights which they had. There will still be no difference between them if the administrator is able to sell the society as a going concern. It is only in the event that the society goes into liquidation that any difference would arise between the respective rights to repayment of depositors and withdrawable shareholders. Given that background, in the view of the Government it would be very unfair to treat withdrawable shareholders as other than depositors. No doubt the society has gone on for many years on the basis that that is the position, and so have the depositors and the withdrawable shareholders. Naturally we all hope that the situation requiring liquidation will not arise, in which case the interests of both groups would be met without legislation. Otherwise it is the view of the Government that the only fair way to deal with the position of the so-called withdrawable shareholders is to pass an amendment to the Act, which we have foreshadowed.

PERMANENT BUILDING SOCIETY - RETROSPECTIVE LEGISLATION

Withdrawable Shareholders - Depositors

603. Hon MAX EVANS to the Leader of the House:

- (1) How can the Government change the rules of the society and the rights of the withdrawable shares and the depositors by changing the Act?
- (2) Does the Leader of the House realise that withdrawable shareholders put in money to borrow money? Not all of those people become members of the society.

Hon J.M. Berinson: Many depositors have done that as well.

Hon MAX EVANS: It works two ways.

Hon J.M. Berinson: In other words there is no difference between the two classes.

Hon MAX EVANS: To continue -

- (3) How can the foreshadowed legislation affect the rules of the society?

Hon J.M. BERINSON replied:

(1)-(3)

If this House can order me to do cartwheels down St George's Terrace -

which is equivalent to what it has previously done today - the Parliament as a whole would have no problem in making provision to achieve the aim that has been indicated.

GOLDFIELDS CONSOLIDATED GOLD MINES - GOLDFIELDS COMMUNITY FUNDS

Money Contributions

604. Hon N.F. MOORE to Hon Tom Stephens representing the Minister for Goldfields:

Further to question 865 of 11 September 1991, what is -

- (1) The total amount of money paid into the community fund to date?
- (2) The amount contributed by each company involved?

Hon TOM STEPHENS replied:

The Minister for the Goldfields has provided the following reply -

- (1) The total amount paid into the community fund, calculated from June 1989 to December 1990, is \$1.775 million.
- (2) The amount contributed by each company is as follows:

North Kalgurli Mines	\$896 875
Kalgoorlie Lake View	\$375 000
Home Stake Gold of Australia Ltd	\$503 125

TAFE - FEDERAL TAKEOVER PROPOSAL

605. Hon N.F. MOORE to the Minister for Education:

What action has the Minister taken to prevent the latest education power grab by the Federal Minister for Education, Mr Dawkins, who has indicated his desire for the Federal Government to take control of TAFE?

Hon KAY HALLAHAN replied:

The honourable member may appreciate that the Australia Education Council is meeting in Melbourne this Friday. In order to attend that meeting, I will not be in the House tomorrow.

Hon P.G. Pandal: We will miss you.

Hon KAY HALLAHAN: I thought members opposite might; that is why I raised the point so they will not be disappointed when they come here tomorrow and find me absent.

As I understand it, Mr Dawkins' proposal is not very attractive for Western Australia. I do not want to appear unreasonable, and I want members to understand that I will act in the best interests as I see them of Western Australia. Mr Dawkins has achieved a great deal in many areas of education in Australia - many commentators would agree - but the way the system is structured with the Commonwealth having responsibility for tertiary education is not beneficial. We have seen two examples during the past weeks which have not served Western Australian interests well: Firstly, the Federal Government decided to provide 90 extra tertiary education places in Western Australia. We do not require a paltry 90 places; we require hundreds. No consultation took place between me and the Federal Minister prior to that decision being made, and I did not receive a letter before the announcement was made. That makes me cautious about heading into an agreement to hand over control to Canberra of a significant education sector such as TAFE.

The second decision, which was not referred to the States in any way, involved the flexibility given to universities to vary their intake for new enrolments by five per cent. Many of the new enrolments will be young people and, as I have indicated to members, universities do not need a five per cent flexibility in dealing with school leavers. I would have said that in 1992 all universities in Western Australia would not be given that flexibility. Mr Baldwin, not Mr Dawkins, gave that direction to the universities.

Therefore, I am heading to Melbourne with recent experience of decisions made in Canberra with no consultation with the State, and the decisions did not serve the State well. I clearly see Western Australia as a part of this nation, and I do not want to be regarded as narrow and parochial. However, we need national goals about skilling the work force; however, this needs to be carefully thought out. It is not a matter of making a proposal and then after one week expecting everybody to agree to it. The meeting in Melbourne will explore the best way to arrive at a satisfactory relationship between the State and Federal Government on this matter.

TERTIARY EDUCATION - STATES CONTROL RIGHTS

606. Hon N.F. MOORE to the Minister for Education:

As a supplementary question I ask: Other than travelling to Melbourne tomorrow, what action is the Minister taking to re-establish the undoubted constitutional right of the States to control tertiary education?

Hon KAY HALLAHAN replied:

I take umbrage at the silly member's introduction to his question.

Withdrawal of Remark

The PRESIDENT: Order! The Minister's reference to the member as a "silly member" is quite out of order. I ask the Minister to withdraw that remark.

Hon KAY HALLAHAN: I withdraw the reference to the member being silly; perhaps I should have said that it was a silly way to introduce his question. I do not believe that he is a silly member.

Questions without Notice Resumed

Hon P.G. Pendal: We agree with you.

Hon J.M. Berinson: He might be mad but he is not stupid!

Hon N.F. Moore: Why don't you just answer the question?

The PRESIDENT: Order!

Hon KAY HALLAHAN: The member who asked this question used to have quite an interest in education.

Hon N.F. Moore: I still have; I wonder when you will take an interest yourself.

Hon KAY HALLAHAN: The subject to be discussed in Melbourne is that of TAFE, and the control of tertiary education is another question.

Hon N.F. Moore: My question was about tertiary education.

Hon KAY HALLAHAN: The member referred to a power grab relating to TAFE.

Hon N.F. Moore: That was the last question.

Hon KAY HALLAHAN: Yes, but TAFE is this week's issue.

POLICE - AYTON, SUPERINTENDENT *Minister's Confidence*

607. Hon P.G. PENDAL to the Minister for Police:

Will he explain to the House his reluctance to specifically and explicitly express confidence in Superintendent Les Ayton?

Hon GRAHAM EDWARDS replied:

I said yesterday that this is a silly question; I say today that the question is even more silly.

Hon P.G. Pendal: You do not have confidence in him then?

Hon GRAHAM EDWARDS: Do not be silly, Mr Pendal.