Improving Democracy Through Elite Power Struggle: 
The Introduction of Proportional Representation 
in the Western Australian Legislative Council

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ABSTRACT

Improving Democracy Through Elite Power Struggle: The Introduction of Proportional Representation in the Western Australian Legislative Council

The 1970s were years of dissatisfaction and instability in the WA Parliament. Labor was angry that despite the introduction of adult franchise in 1963, it could not win a Legislative Council majority, and the National Party was concerned about its declining influence in the coalition. Their problems were caused by an electoral system biased toward the Liberals and more basically by the Council’s loss of role after universal franchise made it a part of democracy rather than a curb on democracy. Labor began to campaign, divisively and ultimately in vain, for one vote one value in the mistaken belief that its problem was rural malapportionment. A couple of National MLAs campaigned for proportional representation.

Interactions of personalities and opportunities led to the introduction of PR in the Council in 1987. Crusading by Arthur Tonkin and Mal Bryce got Labor to support reform; hostility between Sir Charles Court and Matt Stephens led to National schism and later takeover of the National Party by the cross-bench faction; weak leadership after Court’s retirement made the Liberal Party impotent; luck and expedience saw the Nationals win the Council balance of power in 1986. The Labor and National parties then collaborated to end the century-long conservative hegemony in the Council.

The real problem, never explicitly recognised, was the bicameral perennial: What is the use of an upper house? In Australia, where parties are disciplined and the lower house determines the executive, a practical upper house must represent interests, not people, hence no party may hold a majority – hence PR. Minority balance of power makes the upper house the real legislature and relegates the lower house. The multipartism confers on the nominal Westminster system a clumsy form of European unicameral consensus democracy while the legislature’s independence from the executive mimics a presidential democracy.

In 1987 Parliament took the power to form a Council majority away from the conservative parties and gave it to the people and to minor parties. The professional politicians gave away power in accordance with the democratisation process described in 1970 by Rustow, whereby an inconclusive elite struggle is resolved by devolving power to the people. Rustow’s analysis also forms a test of democratisation and when applied to 1963, it shows the granting of adult franchise not to have been an advance in democracy.
### ABBREVIATIONS

#### Parties in Western Australia

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Party Name</th>
<th>Description</th>
</tr>
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<tbody>
<tr>
<td>AD</td>
<td>Australian Democrats</td>
<td>formed 1977; won 2 seats in WA Legislative Council 1996</td>
</tr>
<tr>
<td>ALP</td>
<td>Australian Labor Party</td>
<td>formed 1891 in Qld, won representation 1901</td>
</tr>
<tr>
<td>CDL</td>
<td>Country and Democratic League</td>
<td>the WA CP 1944-1962 (CDL MPs reverted to CP in 1949)</td>
</tr>
<tr>
<td>CP</td>
<td>Country Party</td>
<td>formed and won representation in 1914. Became CDL 1944; reverted to CP 1962; became NCP 1974; NP broke away 1978; NCP and NP reunited as NPA in late 1984</td>
</tr>
<tr>
<td>DLP</td>
<td>Democratic Labor Party</td>
<td>1956 breakaway from ALP, expired ca 1974</td>
</tr>
<tr>
<td>Gr</td>
<td>Greens (WA)</td>
<td>formed 1991; won a seat in Legislative Council 1993</td>
</tr>
<tr>
<td>LCL</td>
<td>Liberal and Country League</td>
<td>1914-16; became Nationalist then Nationalist Lib then UP 1924, back to Nationalist 1928, back to Lib 1944, became LCL 1949, back to Lib 1968</td>
</tr>
<tr>
<td>Lib</td>
<td>Liberal Party</td>
<td>1914-68 attempt to unite Lib and CDL</td>
</tr>
<tr>
<td>NA</td>
<td>National Alliance</td>
<td>an attempted alliance of CP and DLP in 1974</td>
</tr>
<tr>
<td>NCP</td>
<td>National Country Party</td>
<td>1916-24, 1928-45 (see Lib)</td>
</tr>
<tr>
<td>NP</td>
<td>National Party</td>
<td>1974-85 (see CP)</td>
</tr>
<tr>
<td>NPA</td>
<td>National Party of Australia</td>
<td>1978-85 (see CP)</td>
</tr>
<tr>
<td>UP</td>
<td>United Party</td>
<td>1985 – (see CP)</td>
</tr>
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#### Other Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tr>
<td>AM&amp;P</td>
<td>Agricultural, Mining and Pastoral</td>
</tr>
<tr>
<td>CIR</td>
<td>Citizen-initiated referenda</td>
</tr>
<tr>
<td>MHA</td>
<td>Member of the House of Assembly</td>
</tr>
<tr>
<td>MLA</td>
<td>Member of the Legislative Assembly</td>
</tr>
<tr>
<td>MLC</td>
<td>Member of the Legislative Council</td>
</tr>
<tr>
<td>MHR</td>
<td>Member of House of Representatives</td>
</tr>
<tr>
<td>MP</td>
<td>Member of parliament</td>
</tr>
<tr>
<td>PR</td>
<td>Proportional representation</td>
</tr>
<tr>
<td>STV</td>
<td>Single transferable vote</td>
</tr>
<tr>
<td>WAPD</td>
<td>Western Australian Parliamentary Debates</td>
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</tbody>
</table>
CONTENTS

PREFACE: The view at the time vii

INTRODUCTION
  What this thesis is about viii
  The social environment x
  What this thesis finds xi

CHAPTER 1 LOCAL ROOT CAUSES: Parties, Politics and Bias to 1983
  1.1 Introduction 1
  1.2 Labor discontents: one vote one value? 2
  1.3 The 1963 Council reform – Liberal consolidation 8
  1.4 Labor’s post 1963 campaign 11
  1.5 Labor’s problem: vote wastage 15
  1.6 Liberal complacency 26
  1.7 Country Party discontents 29
  1.8 Personalities, friends, crusaders 32
  1.9 Conclusion 34

CHAPTER 2 PROXIMATE CAUSES: Conflict and Manoeuvring 1983-7
  2.1 Introduction 37
  2.3 The reformers’ fortuitous majority 41
  2.4 Labor’s consciousness raising 43
  2.5 Labor manoeuvring 46
    2.5.1 The Labor – Democrat compact 46
    2.5.2 Bryce replaces Tonkin as electoral reform minister 47
    2.5.3 The Geraldton cabinet meeting and Tonkin’s resignation 49
  2.6 Liberal Paralysis 55
  2.7 National resoluteness 60
    2.7.1 National Party takeover of Country Party 60
    2.7.2 National Party Policy 61
    2.7.3 Why the Nationals sought Council reform 64
  2.8 National – Labor cooperation 70
  2.9 Conclusion 72

CHAPTER 3 FUNCTIONAL CAUSES: PR Resolves the Bicameral Dilemma
  3.1 Introduction 75
  3.2 Sieyès’s dilemma 76
  3.3 The design problem 83
  3.4 Incongruence 85
  3.5 PR inevitability 87
  3.6 The effects of a PR upper house 89
  3.7 Conclusion 94

CHAPTER 4 GENETIC CAUSES: Democratisation in a Democracy, 1963 and 1987
  4.1 Introduction 97
  4.2 Democratisation Theories 100
  4.3 Rustow’s theory applied to 1963 and 1987 104
    4.3.1 Background unity 104
    4.3.2 Struggle 105
    4.3.3 Compromise 110
    4.3.4. Habituation 112
  4.4 1963: Was it a democratisation? 114
  4.5 Conclusion 118

CONCLUSION 122
INTEGRATED BIBLIOGRAPHY  126

FIGURES
Figure 1.1 WA Parliament – bills failing through deadlock  3
Figure 1.2 Country MPs, ALP and WA parliament – both houses  6
Figure 1.3 Province boundaries, 1964 and 1966  21
Figure 1.4 Liberal metro and rural representation 1939-2001  22
Figure 1.5 Assembly boundaries in North and Lower North provinces  28

TABLES
Table 1.1 Council Enrolments 1958-74  8
Table 1.2 Council Enrolments (in '000s) per seat won 1950-86  10
Table 1.3 Ratio of % contested seats won to % votes, Council, 1965-86  17
Table 1.4 Rural seats held, ALP and Liberal, 1965-2001  18
Table 1.5 10 pre-1963 provinces versus 15 post-1963 provinces.  20
Table 1.6 Ratio of per cent contested seats won to per cent votes, 1965-86  24
Table 1.7 If Labor had won AM&P seats proportional to votes  25
Table 2.1 Two ALP wins in 1986 (% primary votes)  47
Table 2.2 Legislative Council seats, 1989 – 2001  66
Table 2.3 National votes and seats, Assembly,1943-2001  67
Table 4.1 Legislative Council, parties' seats 1950 – 2001  113

APPENDICES
APPENDIX 1 Chronology of events relating to 1987 electoral reform
APPENDIX 2 (reserved)
APPENDIX 3 Major WA electoral events since 1829
APPENDIX 4 Leaders of major parties since 1950
APPENDIX 5 Labor-Democrats compact, January 1986
APPENDIX 6 Tonkin’s letter of resignation, 22/4/86
APPENDIX 7 Summary Tables 1 to 13 (see list below)

SUMMARY TABLES (Appendix 7)
Summary Table 1 WA Parliament, seats contested and held after election 1916-2001
Summary Table 2 WA Legislative Council votes to seats, 1965-86
Summary Table 3 Council province enrolments, 1965-86. ALP v. Liberal
Summary Table 3a Council province enrolments, 1965-86. ALP v. Coalition
Summary Table 3b Province enrolments, notes on incumbents and preferences
Summary Table 4 Party representation, metro and rural, 1965-2001
Summary Table 5 Legislative Council, party fortunes and possibilities, 1965-86
Summary Table 6 Enrolments, Labor v. non-Labor at 1/3 house elections 1936-62
Summary Table 7a ALP country representation, both houses, 1917-2001 (with graph)
Summary Table 7b Liberal metro and rural representation, 1939-2001 (with graph)
Summary Table 8 Legislative Council party proportionality 1989-2001
Summary Table 9 Enrolments, North and Lower North provinces, 1968-86
Summary Table 10a,b Enrolments per seat won, 1965-86, ALP v Lib, ALP v Coalition
Summary Table 10c,d Enrolments per seat won, ALP v non-Labor, 1936-46, 1950-62
Summary Table 11 Party representation in Legislative Council, 1916-2001
Summary Table 12 Legislative Council, post-1987 malapportionment
Summary Table 13 Labor two-party preferred vote in AM&P zone, 1965-86
I would like to thank my supervisors, Dr Bruce Stone and Associate Professor Campbell Sharman, for their guidance on this thesis and also for their patience.

I thank my office-mate and fellow student, Wayne Errington, for three years of reflective discussion and argument ranging over most of political science.

I am indebted to Fran Chambers, Grant Martyn, Joe Poprzeczny and Chris Savery for reading the whole thesis. Their comments were invaluable and their suggestions were mostly adopted.

I thank the library staff at the Western Australian Parliament, in particular Keith Hair, for their friendly service. The collection of newspaper clippings was especially useful.

I am grateful to a number of informants for their time. With some I had face to face discussions:

Brian Burke, MLA 1974-88, ALP, Premier 1983-88
Mal Bryce, MLA 1971-88, ALP, Min. for Parliamentary and Electoral Reform, 1986-88
Jim Clarko, MLA 1974-96, Liberal
Julian Grill, MLA 1977-2001, ALP
John Halden, MLC 1986-2001, ALP
Graham Hawkes, adviser to Minister for Parliamentary and Electoral Reform, 1983-89
Bob Hetherington, MLC 1977-89, ALP
Peter Jones, MLA 1974-86, NCP, Liberal
Laurie Marquet, Clerk of the Legislative Council since 1983
Ian Medcalf, MLC 1968-86, Liberal
Phillip Pendal, MLC 1980-93, MLA since 1993, Liberal, independent
Joe Poprzeczny, journalist
Martin Saxon, journalist
Matt Stephens, MLA 1971-89, CP, NCP, NP, NPA
Arthur Tonkin, MLA 1971-86, ALP Minister for Parity. and Electoral Reform 1983-86

and with others I had telephone conversations:

Michael Beahan, Labor Party State Secretary 1985-7
Joe Berinson, MLC 1980-93, ALP
Bert Crane, MLA 1974-89, NCP, Liberal
Patrick William Finn, candidate, Metropolitan Province, 1986
Clive Griffiths, MLC 1965-97, Liberal
Bill Hassell, MLA 1977-90, Liberal Opposition leader 1984-86
Barry MacKinnon, MLA 1977-93, Liberal Opposition leader 1986-92
Tom McNeil, MLC 1977-89, NCP, NP, NPA
George Strickland, MLA 1989-01, Liberal
Ian Thompson, MLC 1971-93, Liberal, independent
Bill Withers, MLC 1971-82, Liberal

All influenced my perspective and some set me to rights. Conversations were not taped and are not quoted. Where possible the claims and arguments in this thesis are supported by authoritative sources but in some matters – in particular the Liberal Party’s problems during the eighties and some assessments of personalities and relationships – I make unsupported assertions. Where this occurs, my inferences and judgements are largely based on those conversations.

Mike Pepperday, September 2002
PREFACE: THE VIEW AT THE TIME

On the evening of June 9, 1987 the second reading of the Acts Amendment (Electoral Reform) Bill was approaching its climax in the Western Australian Legislative Council. Liberal and Labor amendments to the crucial clause shaping the districts and the numbers of seats of a new electoral system had been put and had failed. Their failure had been expected; it was the second time these amendments had been put, having failed two weeks before. Now the Nationals moved their amendment. It, too, had failed before, however this time it was apparent that Labor was about to accede to the Nationals’ design.

Labor had introduced the bill into the Council in 1986 and it had been held over the Christmas break to allow inter-party negotiations. The Deputy Chairman of Committee said shortly afterward that the bill’s progress had been “…one of the longest and most arduous Committee debates in my experience.” (WAPD, 1987: 2065) and everyone knew its passage would end the conservatives’ hundred-year hegemony in the Council and allow minor parties to win seats. MLCs’ remarks that evening give some contemporary glimpses of:

the anguish of the Liberal Party, from Hon. N F Moore (Lib):

“I do not want to see a situation where Labor controls the House... We will have land rights and those things in this State.” (WAPD, 1987: 2036)

the incomprehension of the Liberal Party, also from Hon. N F Moore:

“The National Party now has four members, and its own proposition, as I read it, will give it three. I have heard of hara-kiri and suicide, but I wonder which of the four will decide not to be here under this proposition.” (2035)

the resolve and the power of the National Party, from Hon. E J Charlton (NPA):

“Hon Norman Moore is right – on past performance the National Party would lose a member in this place.” (2037)

“...all parties agreed to [proportional representation] provided it got the package it wanted. The National Party was not prepared to move one iota away from its position. If other parties wanted to, that was up to them.” (2042)

the bind the Labor Party was in, from Hon. J M Berinson (ALP):

“All members will realise, as we do, that the defeat of this amendment would abort the Bill altogether. Rather than allow that result, and with a degree of reluctance which it is difficult to express, I indicate that the Government has decided not to resist this proposal further.” (2035)

the significance of the measure, from Hon. G E Masters (Lib):

“We have produced in this legislation the most massive changes to our electoral system in the history of this State.”1 (2062) □

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1 This was also the opinion of Legislative Assembly Clerk, Bruce Okely (Phillips 1991: 250).
INTRODUCTION

What this thesis is about

An electoral system is the set of rules through which individuals and groups may acquire government power. They are rules for turning votes into seats. In some polities changes to the electoral rules require popular assent through referendum but in Australia the parliaments have control over most aspects. The Western Australian parliament made major alterations to the electoral system in 1911, 1928, 1947, 1963 and 1987. On two of these occasions the changes were made by the two major parties working together: 1928 when the Labor government received the cooperation of the conservative-dominated Council, and 1963 when the conservative government depended on Labor for a constitutional (ie absolute) majority in the Assembly. The changes in 1911 and 1947 were made by conservative governments over strenuous Labor objections (Black 1991: 97; Layman 1991: 166).

The 1987 change was different: the Liberals did not play a role (and strenuously objected) and whereas previous alterations were adjustments to rules determining how the two sides, Labor and conservative, would divide the electoral spoils between them, the new 1987 rules made it practicable for other parties to enter the legislature. The previous changes had not disturbed the conservative hegemony in the upper house; the new 1987 rules for turning votes into seats terminated that hegemony.

The Acts Amendment (Electoral Reform) Act of 1987 made three reforms. One was to define the Country-Metropolitan boundary in accordance with a planning scheme boundary and to specify the country-city seat split. This was in order to limit and specify the rural malapportionment. The second was to pass responsibility for boundaries and redistributions from parliament to an independent Electoral Commissioner working to statutory guidelines. This was to prevent gerrymandering. Both those reforms applied to both houses. The third and most sweeping change was to replace the two-seat Council provinces with districts of five and seven seats elected by proportional representation. This was in order to end Liberal dominance of the Council and foster its role as a "house of review".

Why did the National Party, which always shares government with the Liberal Party, vote with Labor against the Liberals to end the century-long conservative domination of the Council? Why would parties that have dominated politics for nearly a century change the rules to make it easier for other parties to enter parliament? And why would they arrange for the newcomers to hold a balance of power and so have very real influence?

The 1987 advent of proportional representation for the upper house was the most significant change to the Western Australian electoral system since the start of responsible government in 1890. This thesis seeks to explain why and how proportional representation (PR) came to be introduced. The thesis is half history, half political science. A history
explanation interprets and explicates the circumstances and prior events. Chapters 1 and 2 do this. A social science explanation must show how the particular instance tests or exemplifies some hypothesis about a relevant class of events. Chapters 3 and 4 do this.

Chapter 1 explains, through examination of the historic political evolution in Australia and Western Australia, why the reform happened, namely because built-in Liberal bias made the post-1963 electoral system unstable. Chapter 2 shows how it happened as a consequence of proximate circumstances and events, and of the actions of National and Labor MPs. Chapter 3 is a generalised functionalist explanation showing why it happened, namely because PR is the only resolution to the Australian bicameral problem. Chapter 4 is a generalised genetic explanation showing how it happened, namely through elites preferring an increase in democracy to giving power to their rivals, a process described by Dankwart Rustow in 1970. The chapters may be summarised as:

Chapter 1: specific why – local root causes: parties, politics and bias to 1983
Chapter 2: specific how – proximate causes: conflict and manoeuvring 1983-7
Chapter 3: general why – functional causes: PR resolves the bicameral dilemma
Chapter 4: general how – genetic causes: democratisation in a democracy, 1963 & 1987

The concept of the history chapters is straightforward. They are only approximately chronological (see Appendix 1 for a chronology) and are mainly organised thematically, for the most part around the political parties, examining events and circumstances. The two theory chapters are conceptually less obvious. A functionalist explanation for a social phenomenon is one that sees the cause in the effect: “in which the consequences of some behaviour or social arrangement are essential elements of the causes of that behaviour” (Stinchcombe 1968: 80). It implies a feedback effect, explaining the presence of a particular arrangement in terms of its function of maintaining the greater system in a viable, or stable, state. Chapter 3 explains PR as the answer, in the Australian situation (ie where the upper house is powerful and cannot be abolished, and a majoritarian lower house provides the executive government), to the question of what to do with the upper house, the answer to Sieyes’s complaint that second chambers are either mischievous or superfluous.
But to say that PR is the appropriate solution is to rationalise *ex post facto*. That may be why the PR system persists, but it does not explain its genesis; it does not explain why the legislature voted for it. (The legislators didn’t even recognise the problem.) Chapters 1 and 2 give *sui generis* explanations for its introduction but what is the underlying principle? What are the general circumstances in which such a reform occurs? Until 1987 the conservatives always had a Council majority but since 1987 the majority is determined by the election. Not only is the conservative bias gone but so is the bias toward the major parties so that people who vote for minor parties also now influence the Council majority. That is to say, one effect of 1987 is that the voters, as a whole, have more power over their politicians. Chapter 4 shows that the events leading to the 1987 change conform to Rustow’s (1970) transitional theory of democratisation which states that elites may reluctantly give power to the people when they find their struggle with each other stalemated. Whereas Chapter 3 shows what the outcome had to be (ie PR), Chapter 4 describes the general process and the mechanisms by which such an outcome can occur.

A general explanation of a specific occurrence is an explanation for a class of occurrences. Bicameral evolution and democratisation are not the only classes into which the 1987 event could be assigned. The introduction of PR into the Legislative Council could also belong to the class of introductions of PR, or of electoral reform, or of the evolution of parliament, or simply of deliberate changes to political institutions. For each of these types of event, political scientists would like general explanations.\(^3\) The introduction of PR would be particularly germane for PR seems to be on the increase at the expense of majoritarianism\(^4\) and although there is widespread (functional) discussion of the relative merits of PR and majoritarian systems (eg Lijphart 1999), the causal process by which PR is introduced is less examined. The adoption of PR as a general phenomenon within Australia and overseas, is occasionally alluded to in this thesis.

**The social environment**

Another set of classes would be psychological and social, such as personality, lust for power, interpersonal relationships, political culture. The 1987 reform was dependent on these, crucially so, but there is no attempt herein to apply them in a classificatory way. The thesis discusses particular personalities where relevant. Some general remarks about the social environment at the time of the events discussed in this thesis may be appropriate.

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\(^3\) It would seem that seeking a completely general theory of change cannot be productive. *Any* change could have *any* cause. To postulate otherwise would be to require the existence of “causes” which do not change anything – “causes” without effect. Thus a general theory of change would have to be a statement that anything can happen.

\(^4\) The expansion has occurred both over the twentieth century and in recent times (Colomer 2001: 242-3; Lijphart 1994: 53). Apart from Australian upper houses, recent advances of PR include Mexico, New Zealand, Scotland, Wales and Greater London (Dunleavy and Margetts 2001).
The 1987 reform had origins in the previous reform of 1963 when adult franchise was granted for Legislative Council elections. In 1963 there were people in parliament who had been there before World War II, Labor was the party of the unionised workforce, the middle class voted for Menzies, the mineral boom was just beginning, and Perth was still something of a country town. Through the sixties mining boom, money and people poured into Western Australia and old political concerns, such as rent and price controls, were forgotten and new ones, such as ecology and the treatment of Aborigines, were discovered. The seventies were years of slower growth and relative pessimism but the good times came again in the mid eighties about the time of the election of Labor governments in WA and around Australia. The reform of 1987 took place at a time of evolving neo-liberalism at the height of "WA Inc", the pro-active and often improper participation of the Burke Labor government in business enterprises. What relationship might this economic transformation and can-do atmosphere bear to the process of political reform? It is beyond the scope of this thesis to consider this question systematically but the reader might bear in mind that electoral reform was but one item, and an exceptional one, on the programme of a very business-oriented government.

The politicians who are the main actors in this account (and Perth’s journalists, businessmen and other professionals) grew up before the 1960s boom when the city had only a few high schools and just one university. They knew each other and they knew each other’s families. They went to school together or their school football teams played against each other or they met at university. This connectivity still applies in Perth to a considerable extent but in those days virtually everyone was attached to friends and enemies alike by longitudinal debts and grudges stretching from childhood to old age, and by lateral commitments of profession, recreation and marriage. When Perth political actors talk about political events, relationships – apparent digressions – are discussed as a natural thing that needs to be taken into account. Such intimacy and lifetime commitment must affect the polity. What does it do to political exchange if everyone knows the family background of everyone else? Does it subvert due process and then mitigate the worst effects? What presumptions of trust (or distrust) convert to attitudes and actions that are not formalised or even conscious? This thesis explores political explanations for political behaviour but the reader should be aware that behaviour might sometimes be best explained in terms of family, commercial, or church relationships.

What this thesis finds

1. The granting of adult franchise for Legislative Council elections in 1963 made the Council formally democratic, however a simultaneous electoral redistribution entrenched Liberal dominance. In 1971 Labor began a sixteen-year campaign for “one vote one value” but the problem was not the rural malapportionment; the problem was vote wastage in the eight provinces of the Agricultural, Mining and Pastoral zone. The real, and unrecognised,
deeper problem was: what to do with the Council? The 1963 reform began an interregnum which would stabilise in 1987 with the introduction of PR.

2. An overconfident Liberal Party led by an abrasive Premier alienated part of its National Country Party coalition partner, triggering the splitting off of the National Party in 1978, thereby creating the conservative defectors who would take over the Nationals and who, in 1987, would collaborate with Labor to terminate Liberal control of the Council. Through luck and good management, the NPA found itself with the balance of power in the Council after the 1986 election. Labor pressed for one vote one value but the Liberals, now divided and weakly led, were incapable of negotiating, making Labor dependent on the NPA for any reform - however the NPA's parliamentary presence depended on the rural malapportionment. With a view to entrenching their Council balance of power, the Nationals got Labor to introduce PR which would destroy the Liberal dominance but never allow Labor to win a Council majority.

3. Where parties are disciplined, if the government party has an upper house majority, the house is compliant to the executive; if the opposition has the majority the upper house is obstructionist. Therefore an upper house can be useful only if neither major party holds a majority. The only way minor parties will reliably hold the balance of power is under PR electoral rules. In Australia (except Tasmania\(^5\)) there is no practical alternative to PR for an effective upper house. (On that logic, Victoria must, one day, follow the Commonwealth, SA, NSW and WA, and introduce PR.) The upper house then becomes an autonomous parliament while the lower house, controlled by the cabinet, accepts whatever the upper house decides about its legislative program. Sittings of the lower house become irrelevant to legislation. That irrelevance, along with the need to satisfy minor parties in the upper house, means the Australian bicameral parliaments are approximating unicameral parliaments, which are almost invariably PR. That is, they have adopted a major feature of consensus\(^6\) democracy.

4. Why would politicians - professional power brokers - give away power? In 1987 the Labor and National parties were able to take the power to control the Council away from the Liberals but neither party was able to take this power for itself. Most of the power was given to new parties and to the people. The actions and events to bring this about followed the democratisation process described by Rustow in 1970, a necessary process of inconclusive elite struggle reluctantly resolved by a compromise giving power to the people. When Rustow's theory is applied to the 1963 reform - the legislation which abolished the property qualification, introduced adult franchise and trebled the polling day turnout, and which set in

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\(^5\) Parties are not entrenched in the Tasmanian Council which is elected under a quite different system.

\(^6\) Consensus (or "consociational") democracy: where no single party holds a parliamentary majority and the executive is usually a coalition. It arises from PR and is common in Europe.
train the events leading to the 1987 reform – it shows 1963 to have not been a democratisation. Rustow’s analysis is not only an explanatory description but a test of democracy and predictor of the possibility of democratisation. (It allows an apprehension of the political circumstances required before Victoria’s day comes and it adopts PR.)

The story of the introduction of PR into the WA Legislative Council is the story of a fight by Labor to remove Liberal bias in the electoral rules, and the story of a fight by a faction of the National Party to reduce Liberal dominance. Labor and Nationals had a common enemy. Until 1963 Labor’s fight had been for adult franchise and when the full franchise system proved to be even more biased against Labor than the restricted franchise, it became a fight for “one vote one value” under the mistaken impression that this was the cause of the bias. This fight failed, but the much more important reform of proportional representation in the Legislative Council succeeded.

It is a story of politicians’ power struggles, of deals, of an effective friendship, of attempted betrayal, and of persistence. It is the story of an episode in the evolution of the WA Parliament, in the never-ending debate on bicameralism, and in the gradual advance of democracy.

References to Introduction


CHAPTER 1
LOCAL ROOT CAUSES: PARTIES, POLITICS AND BIAS TO 1983

It must inevitably seem to the great majority of members with three-year terms, and losable seats, that there are many more important objectives than parliamentary reform. In the long-term parliamentary reform offers a great deal of hard work but little credit or publicity.

(Victorian MLC, James Guest 1983)

1.1 Introduction

Chapter 1 seeks to establish the local root causes of the 1987 electoral reform. It surveys electoral politics pertaining to the Western Australian Legislative Council up to the election of the first Burke Labor government in 1983. It is organised around the political parties and the individuals most involved. The perspective of the party with the main complaint, the Labor Party, dominates.

Chapter 1 argues that it was the introduction of compulsory adult franchise in 1963 which made it plausible for the Labor Party to become indignant about the 70 year conservative hegemony of the Legislative Council. Labor misjudged in agreeing to the 1963 reform (Labor helped supply a constitutional majority\(^1\)) since it was close to winning a majority in the Council before 1963 whereas the electoral redistribution which accompanied the franchise reform made it virtually impossible for Labor to win. Labor then presumed that its electoral problem in the Council was due to the rural malapportionment and began a campaign for one vote one value. It invited internal tension by including the Assembly, which was also malapportioned but without endemic party bias, in the campaign. Labor's problem in the Council was not malapportionment but vote wastage among the eight provinces of the Agricultural, Mining and Pastoral zone.

For the Liberals, the unexpected effectiveness of the redistribution in 1963, along with their electoral successes in the 1970s, generated a complacency which (a) prevented them from taking steps toward further reform on their own terms while they had the opportunity and, (b) alienated their National Party coalition partner to the extent that the Nationals would later vote with Labor to take the Liberals' power advantage permanently away from them.

The National Party, perennially torn between the attractions of ministerial authority and the bargaining power of the cross benches, and perennially in a tense relationship with the Liberals, split in 1978. The breakaway party's detestation of Liberal power was crucial to the reform of 1987.

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\(^1\) A constitutional majority in the WA parliament is an absolute majority of all members of the house.
Two personalities stand out. Without National MLA Matt Stephens's implacable hostility to the Liberal Party, the 1987 reform would not have happened; without Labor MLA Arthur Tonkin's long-term vocal outrage at what he saw as an immoral system it probably would not have happened.

1.2 Labor discontents: one vote one value?

The Legislative Council first sat in 1832, its five members appointed by the Home Government. From 1870, 12 of the 18 Councillors were elected and by 1886 the number had risen to 26 members, of whom 17 were elected. Voting was restricted to men who had property or control of property. In 1877 the secret ballot was introduced. At the request of the Council, self-government was granted in 1890 and a fully-elected Legislative Assembly of members representing thirty districts was created in addition to the Council. In 1893, when the population of the colony had reached 60,000, the Council became fully elected.

The property qualification for the Assembly was abolished in 1893 but applied for the Council until 1963. In 1899 women were given the right to vote for both houses, though because of the property qualification women generally could not vote for the Council. Plural voting for the Assembly was abolished in 1904 but remained in the Council until 1963. Preference voting for both Assembly and Council was made compulsory in 1911. Compulsory voting was introduced for the Assembly in 1939 and for the Council in 1963. From 1911 to 1947 there were no redistributions of the Council (Buxton 1979: 44).2

To qualify to vote for the Council, home ownership or home rental payment exceeding 17 pounds per annum had to be shown. This remained until 1963 and according to D.K. Dans MLC (1985: 4), the amount was quoted in pounds sterling until the 1950s.3 There was no property qualification to become a member of the Legislative Council (Mandy and Black 1990: 319). Women were eligible to sit in both houses from 1920. The first woman to be elected to the Legislative Council was Ruby Hutchison (ALP) in 1954. Mrs Hutchison railed against "the last bastion of privilege" (WAPD, 1959: 2534) and complained that "Labor has never been in power in Western Australia," (WAPD, 1962: 190) by which she meant that even when there was a Labor government the permanent conservative majority in Council was determining whether, and in what form, the government's legislation would be accepted.

It was true that many more Labor government bills than non-Labor bills were rejected by the Council (Figure 1.1) and statistics on relative losses of bills were used by Labor (eg

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2 Two redistributions of the Assembly in 1923 and 1937 were made by the electoral commissioners but rejected by parliament.
3 Liberal Premier McLarty tried to change the words in the constitution from "pounds sterling" to "pounds Australian" in 1947 but the Council refused on the grounds it would slightly lower the amount of the qualification (Gore 1975: 130-2).
A Tonkin at WAPD, 1977: 2015) to impugn the Council's claim to be a house of review. Gore (1975) who gathered these statistics on rejected bills, also counted the total measures introduced and the proportion of successful, Council amended, measures. These show no correlation with the party in power (thus the proportion, as well as the absolute number, of bills lost was higher for Labor). During the Labor government of 1971-4 some measures may have been introduced for the publicity purpose of showing the Council to be obstructionist. Though Labor lost more bills in the Council, Liberal governments' wrangles with their colleagues in the upper house were sometimes very bitter and, when concerning money bills, very intricate and characterised by rivalry between the houses. (Edwards 1984 Vol 1: 51-6)

Although the ALP had periodically expressed its support for one vote one value, in practice all parties had always accepted that country voters should have a greater voice than city dwellers and Labor MPs had often said so. There was some ALP restiveness over rural vote weighting in October 1959 when the Brand government introduced the Electoral Districts and Provinces Adjustments Bill. Labor deputy leader, John Tonkin, stated that "true democracy aims at the principle of one vote one value" though "we must take into consideration distances and remoteness of the voter from the centre of government." His complaint about the bill was that it increased "the value of the vote beyond what was previously considered reasonable in the country districts." (WAPD, 1959: 2640-2). The bill lapsed because an LCL (Liberal Country League, a short-lived attempted amalgamation of Liberal and Country Parties) member became ill depriving the government of a constitutional majority. A redistribution was due under the Electoral Districts Act 1947 but the government procrastinated until 1962, when five Labor MLAs took it to court which found that the government had to observe the provisions of the Act. This confirmed the authority of the
1947 Act and Buxton (1979: 47) considers that the Labor Party’s actions in this and in opposing the passage of the biased 1959 bill, made Labor appear as the defender of the status quo. An alternative interpretation might be that Labor’s country vote was declining (Figure 1.2) and Labor wanted to see a redistribution that would reduce the proportion of country seats – as did ensue in 1965, 1968, 1977, 1983 and 1987 (see Summary Table 4).

Labor’s policy for the 1962 election was for adult franchise, a referendum to abolish the Council, and a removal of the Council’s veto powers (Buxton 1979: 48). There was no mention of vote weighting, the issue that was to become so prominent during the seventies and eighties. Says Buxton, “ALP criticism was directed entirely at the restricted franchise rather than the non-metropolitan weighting, which worked to Labor’s advantage, giving it eight or nine seats in the small provinces of North, North-East and South-East.” Indeed, in these three low-enrolment provinces, over the seven elections from 1950 to 1962, Labor only once lost one of these seats and during this period the average enrolment of the Liberal-held provinces was generally about double that of the Labor-held ones (Summary Table 6).

The LCL narrowly won the 1962 election. Inflation had eroded the restrictive effect of the property qualification so that it was no longer providing a conservative advantage and in 1963 legislation to make the Council franchise the same as for the Assembly was passed. At the same time the Council was restructured from 10 three-member provinces to 15 two-member provinces. These changes required bipartisan consensus as the coalition government did not have a constitutional majority in the Assembly. The debate shows members taking positions divergent from, and contradictory to, those on rural malapportionment their respective parties would adopt a few years later. Justice Minister A F Griffith MLC assured the Council that the north would still have “its more than fair share representation” (WAPD, 1963: 3099) whereas the Labor MLC for North Province, H C Strickland, worried about the loss of seats in the north, saying, “voices lost in the wide open spaces could be tragic,” and “it has been recognised by governments over past years that this area could not be represented on a population basis... It has not and never has been. The wide expanses of the area have always been taken into consideration.” (WAPD, 1963: 3100). North Province had less than 2000 voters whereas the average province size was 17000 voters. ALP leader A R G Hawke did have reservations about weighting “in point of pure democracy and certainly on the principle of one vote one value.” (WAPD, 1963: 3353). But A McMoir (ALP), the MLA for Boulder-Eyre, endorsed weighting saying he had to service electors who “because of their remoteness... are not in a position to attend to their affairs themselves.” (WAPD, 1963: 3354).

From 1964 Western Australian electoral politics entered a very quiet period, with no major disputes of principle for the remainder of the term of the Brand-Nalder government. Labor’s two dedicated unicameralists, Mrs Hutchison and her Assembly colleague Hon. W Hegney, spasmodically argued for the abolition of the Legislative Council, but no debates took place and both
were in their final terms after 1965. It was at this time in the United States that the celebrated Supreme Court judgements against electoral weighting were formulated and applied, but the process received no mention in the state Parliament. Nor was there any interest shown by informed sections of the public, judging by the absence of comment on electoral matters in the “Letters to the Editor” of The West Australian. (Buxton 1979: 49)

In 1965 the Electoral Districts Amendment Act, which added a seat to the Assembly, modified the province of Lower North and made some other changes, was not opposed. J T Tonkin, Deputy Leader of the Labor Opposition, said that the present system should remain “because this is a very vast state; the people in the outback have communication difficulties [and] their community of interest is different; and therefore I have no objection to their having a louder voice in the government of the country than the person in the metropolitan area.” (WAPD, 1965: 1570). However he had a distinct reservation:

I would not hesitate to grant to people in the country districts, who have to travel long distances, who have communication difficulties and so on, stronger representation, and two to one is very strong representation. However, to extend it to people who live practically in the metropolitan area, within a few miles of the city, is, in my view, a patent gerrymander. (WAPD 1965: 1571)

Tonkin was referring to “country” voters of Dale and of Darling Range, who effectively lived in Perth suburbs. One of the ALP MLCs representing North, F J S Wise, agreed with the boundaries, and commented that he knew of no other electoral measure “that had been debated with such friendliness and placidity.” (WAPD, 1965: 1740).

In 1968 in South Australia ALP Premier Don Dunstan lost office through weighted voting though he had won a majority of the vote (Jaensch 1977: 52). In the 1968 Western Australian election there was a strong swing to Labor in the metropolitan seats and a swing away in the rural areas resulting in only 13 members, or 39%, of the Labor caucus, representing non-metro seats (see Summary Table 4). This was the first time the rural seats of the Labor caucus had fallen below 50%; they were never to rise above it again. Labor presence in the Council had been steady at 13 (of a total of 30 members) until the 1963 franchise changes when the 1965 half-house election saw it drop to 10. It remained at 10 after the 1968 election but Dunstan’s campaign against weighted voting was not, at that stage, emulated in Western Australia.

The sentiments of peacefulness and placidity did not extend to the staff-room of the John Forrest Senior High School in the Perth suburb of Embleton. Mr Hawkes, the woodwork teacher, Mr Tonkin, in charge of Social Studies, and Mr Bryce, who taught History and Economics, thought that 80 years of continuous conservative domination of the upper house was unacceptable and that they would do something about it. It was to take them nearly twenty years. Arthur Tonkin was elected the ALP member for the marginal, Liberal-held seat of Mirrabooka in the general election of February 20, 1971 which brought the John
Tonkin government to power with a one seat majority. Mal Bryce became the ALP member for Ascot at a by-election on November 13, 1971 and expressed commitment to one vote one value in his maiden speech (WAPD, 1971: 925). In January 1972, Arthur Tonkin called a public meeting to form the “Campaign for a Democratic Parliament”; Graham Hawkes was its chairman. Arthur Tonkin was to become Minister for Electoral Reform in the first Burke government in 1983 and to resign dramatically from the cabinet and from parliament after a cabinet meeting in Geraldton in 1986 where he saw imminent electoral reform being undermined by ministerial colleagues. Mal Bryce was to succeed Tonkin as Minister for Electoral Reform and in 1987 to push through the Acts Amendment (Electoral Reform) Bill to transform the Legislative Council into a PR system. Graham Hawkes was to become a staff adviser to both Ministers for Electoral Reform.

Figure 1.2 Country MPs, ALP and WA parliament - both houses
Data from Summary Table 7a

Labor lost power in 1974 to the Liberals under Sir Charles Court and did not regain it until 1983 under Brian Burke. The decline in rural support for Labor in 1968 to 39% of the Labor caucus proved to be the start of a trend which persisted through the 1970s: in 1971: 42%; in 1974: 35%; in 1977: 28%. Per cent country ALP members is shown by the solid line in Figure 1.2. It may be noted that if that line is ruled straight from 1962 to 1989 – ie skipping the years of the half house Council elections when the 1963 reforms were operating – the ALP rural decline is not greater than the overall parliament decline, being approximately 8% lower than the overall parliament percentage and pretty much what it had been since the advent of the Country Party in 1914. This would indicate that Labor’s relative country share
is much the same today as it has always been, that the specifically Labor decline through the
sixties and seventies was an artefact of the 1963 Council reform which vanished with the new
reform in 1987, and that Labor’s problem was in the Council, not the Assembly.

Although it made a clear rallying cry, it was superficial (to Liberals, hypocritical) to
claim that 80 continuous years of conservative domination of the Council was grounds for
indignation. The Legislative Council had been created as a conservative brake on putative
democratic excess in the days when democracy was new. The Council represented interests
rather than people. Bicameralism was the conventional structure for former British colonies
(and indeed for European parliaments) though by the time of responsible government in
Western Australia in 1890 the Council’s main inspiration, the House of Lords, was on the
verge of losing the last vestiges of its power. Australian upper houses were, and are, as
powerful as the lower houses, however from their early days most were to some degree
democratic.

Until 1963, when the property qualification was removed and voting became
compulsory and elections were held conjointly with Assembly elections, the Council had been
perceived differently from a popularly elected “people’s house”. The property qualification
and voluntary enrolment provisions kept Council rolls to about 40 to 50 per cent of the
Assembly rolls. In addition, turnout on voting day was usually only 40 to 50 per cent of those
enrolled. Until 1963 the Council was a direct descendant of its 1832 antecedent, the
conservative bulwark against the irresponsibility of popular democracy. In other words it is
inappropriate to criticise it for never having a Labor majority. A logical ground for complaint
was less the restricted legitimacy than the possession of more power than warranted by that
legitimacy. Labor did complain of this, with a policy of removing the power to block
legislation and of abolishing the Council altogether. An impression of the effect of
compulsory enrolment and compulsory voting after 1963 may be judged from the enrolment
of contested seats, Table 1.1.

However anachronistic it appears today, and may have appeared in the early sixties,
conservatives would say the upper house had done its proper job in blocking Labor
legislation. Moreover, since the Council’s stance was known, Labor governments could take
it into account. In 1937, the long-serving independent Labor MLA, T J Hughes, said, “It is an
open secret that much legislation would not be introduced here if it were not known that it
would be thrown out in another place.” (WAPD 1937: 608) Byrne said in 1959 that there had
been more than 20 attempts to liberalise the Council franchise. “Quite obviously, a number of

4 With PR in 1987, the Council reverted to representing interests rather than people.
Legislative Councils, to be abolished, this aim not to be interpreted in such a way as to prevent steps
being taken to effect reform of those Parliaments.” Quoted by Labor Opposition leader Colin Jamieson
11.10.77 (WAPD 1977: 2036).
the attempts made by Labour have been for propaganda purposes, as the extent of the reform
proposed and the tenor of the debate ruled out any chance of success.” (Byrne 1959: 96) A
modern example of this would be Tonkin’s first electoral reform legislation in 1983 which, he
asserts, was an elaborate publicity exercise (Jamieson 1988: 349). Introduction of
foredoomed legislation might also be a way for the parliamentary Labor Party to mollify a
radical faction and Liberal legend has it that one Labor MP once exclaimed, “Thank God for
the Legislative Council!”6 In a unicameral parliament, the house legislates but in a bicameral
parliament the lower house (more strictly, the introducing house) merely adopts a position.
Figures showing how many more Labor bills than Liberal bills had been rejected were a
propaganda item in the lead-up to the 1987 reform, and should not be taken at face value.

Table 1.1 Council Enrolments 1958-74

<table>
<thead>
<tr>
<th>Council election</th>
<th>% Turnout</th>
<th>Enrolment cont. seats</th>
</tr>
</thead>
<tbody>
<tr>
<td>1958</td>
<td>43%</td>
<td>53 000</td>
</tr>
<tr>
<td>1960</td>
<td>44%</td>
<td>65 000</td>
</tr>
<tr>
<td>1962</td>
<td>41%</td>
<td>46 000</td>
</tr>
<tr>
<td>1965</td>
<td>88%</td>
<td>346 000</td>
</tr>
<tr>
<td>1968</td>
<td>88%</td>
<td>*184 000</td>
</tr>
<tr>
<td>1971</td>
<td>87%</td>
<td>464 000</td>
</tr>
<tr>
<td>1974</td>
<td>86%</td>
<td>498 000</td>
</tr>
</tbody>
</table>

(Contested seats only – data from Black 1991b).

* In 1968 there were 9 provinces (and 18 Assembly districts) uncontested. It was the
last time there was a significant number of uncontested seats (see Summary Table 1).

1.3 The 1963 Council reform – Liberal consolidation

The immediate reason for Labor’s sudden restiveness in 1971 was the realisation,
expressed by Tonkin and Bryce, that from Labor’s point of view the 1963 Council reform had
been a failure. Over the five biennial elections with the restricted franchise prior to 1963
Labor had held 13 seats in the Council; in the three triennial elections immediately afterward
under full franchise compulsory voting it had 10. (For other years and parallel Assembly
performance, see Summary Table 1). It was the 1963 reform which set in train the events
which led to the 1987 reform.

How had the 1963 reform come about? There had been sporadic, occasionally quite
intense, attempts to reform the Council since early in the century7 and during the term from

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6 Apparently the legend dates from 1938 (Gore 1975: 120) and see Gore for discussion.
7 Gore (1975: 124ff) discusses the various attempts at Council reform.
1959 to 1962 the Brand Liberal government introduced five bills in the Assembly to extend the franchise of the Legislative Council. All were defeated in the Council (Buxton 1979: 48). In September 1963, vociferous Labor MLC, Ruby Hutchison, introduced another bill for adult franchise. There was a cantankerous debate, with scant contribution from the conservative side except for Dr J G Hislop, a Liberal MLC of 22 years' standing, who said he was not interested in mere reform of the franchise, but that a redistribution was required at the same time. Hutchison's bill was defeated along party lines and a week later, after some private discussion, Hislop moved that the Council express the opinion that adult franchise be introduced provided there was a concurrent boundary redistribution (WAPD 1963: 1174).

Hislop spoke of "a climate obviously favourable to a change in this house" and after a few hours of positive and amiable speeches on how great were the differences in the sizes of the Council provinces (Summary Table 6) and how courageous were the members in their preparedness to undergo the uncertainties of a redistribution, his motion passed on September 26, 1963 and in due course, amid more mutual congratulation in both houses,\(^8\) the 1947 Electoral Act was amended to provide for full, compulsory, adult franchise and half-house elections distributed over 10 country and 5 city provinces (WAPD 1963: 3687; for enrolments see Summary Table 3a).

After so long stubbornly refusing to expand the franchise, why did the Council relent? In part it was that the property qualification had become ineffective; in part it may have been the temper of the times: a feeling that franchise restrictions were an anachronism and non-compulsory voting an anomaly, giving rise to a wish to improve the Council's legitimacy, and in part it was the personal influence of the longest-standing member of the house. But those explanations require an assumption that the parliament suffered a sudden seizure of democracy, generosity and far-sightedness. Buxton (1979: 48) is more parsimonious: "Just as the ALP wanted adult franchise, so did a number of coalition MLCs desire a reform of Council boundaries, whose unregulated disproportion favoured Labor..." The favour to Labor before 1963 may be inferred from the enrolment averages in Table 1.2. For Labor provinces, the average enrolment in the ten provinces from 1950 to 1963 was 10000 voters and for Liberal 13700. After 1963, the disproportion favoured the Liberal Party: the averages in the fifteen provinces from 1965 to 1986 were Labor 53400 and Liberal 30900.

Prior to 1963 the system was biased against Labor on account of the property qualification and possibly non-compulsory voting, whereas after 1963 the bias was evidently in the boundaries. (Labor's poor showing after 1963 is at times in part also attributable to electoral unpopularity though not in 1971 when Labor won the election – see Summary Table 1 for the performance of all parties in both houses over the years.)

\(^8\) The government did not have an absolute majority in the Assembly so Labor agreement was required.
Liberal MLCs would have presumed that removing the property qualification would expand the electorate by more Labor voters than Liberal voters and that making voting compulsory would increase Labor turnouts more than Liberal. Liberals would have feared Labor’s ability to win in the low enrolment country provinces if there was franchise reform without redistribution. Still, from the Liberal point of view, why undertake any reform at all? The main incentive was probably concern that Labor could win a majority under the existing, non-compulsory, rules. In 1954 Labor won four seats from the Liberals bringing its strength in the Council to an unprecedented 13. Says Gore (1975: 137): “The West Australian newspaper [editorial, 10/5/54] saw Labor’s success as a direct result of its organisation in the electorates where the Labor Party had worked hard to get many more of its own supporters on the Council roll.” The increase in the number of electors per seat over the fifties (Table 1.2)
would have been the result of this hard work.\textsuperscript{9} In the 1956 election, in the hard-fought 1958 election, in 1960 and in 1962, Labor held its 13 seats in the 30 seat Council, “a figure which could conceivably had been raised even higher if the personal vote of certain Liberal incumbents had been overcome.” (Black 1984: 34) By 1963, Liberals would have been concerned about the possibility of Labor winning two more seats and thus controlling the Council: Suburban Province was won by Labor in 1954, 56 and 60, and had Labor won it in 1958 and 1962 it would have had 15 seats in the 30 seat house giving it a majority with a Coalition president (Summary Table 6). Had Labor won South East Province in 1956 (which it otherwise always won – Summary Table 6) then along with 1958 Suburban it would have had 15 MLCs in 1958 during a Labor government and, from 1959, during a Liberal government. Buxton (1977: 140) remarks that the 1963 reform allowed the Council to present “a magnanimous gesture to the public rather than having to face defeat at the hands of Labor,” and that there might have been some fear of the crisis in New South Wales where there was an attempt to abolish the Council.\textsuperscript{10}

Gore (1975: 138) concurs that Liberal and Country Party MLCs would have concluded that the restricted franchise was no longer working for them and in view of this that “the timing of the 1963 reforms was not entirely coincidental.” Both parties were content: Labor was glad to finally achieve normal, compulsory franchise and the Liberals had removed the Labor bias in the boundaries. Black (1984: 39) says that “the ALP probably incorrectly perceived its own long term interests in the 1960s in terms of the agreement entered into at that time.” In 1986 Arthur Tonkin called it a “confidence trick perpetrated on the Australian Labor Party,” and a “blatant malapportionment aimed directly against the Australian Labor Party” (Tonkin’s resignation letter, Appendix 6). It was not like that at all. Apart from the fact that a confidence trick cannot be blatant, no one at the time thought the malapportionment had been increased. Far from blatant aiming at the ALP, the Liberals almost certainly did not realise the extent to which the new distribution would favour them. And it would not have occurred to them that achieving the traditional, conservative bias via an ostensibly democratic system would transform traditional Labor acceptance into indignation. Even if it had, it would have been no cause for Liberal concern – just as long as there were no defections from Coalition ranks. Such defections lay far in the future.

1.4 Labor’s post-1963 campaign

A universally agreed desideratum of bicameralism is a difference in the method of representation of the houses, that without significant difference there is little point in having

\textsuperscript{9} As Table 1.2 shows, from 1958 the numbers per electorate also increased for the Liberals indicating that the Liberals responded, in like fashion, to the increased Labor activism.

\textsuperscript{10} The abolition was rejected at a referendum in 1961 by 57.6% of the NSW voters (Turner 1969: 9).
two separate chambers. With the changes of 1963, the upper house lost its major
distinctions,\textsuperscript{11} the only noteworthy remaining difference from the lower house being that with
15 Council provinces covering 51 Assembly seats (from 1983, 17 provinces and 57 seats), the
upper house electoral districts were about three times larger than those of the lower house. As
a consequence of the lack of distinction, by 1970 the perception of the Council was changing.
Phillips discusses Labor’s introduction of a bill to abolish the Council in October 1972 and
remarks: “...the Labor Party’s frustration with the electoral system created intense bitterness
particularly amongst its younger brigade and was an important factor contributing to the
lowered tone of parliamentary proceedings in the 1970s.” (Phillips 1991: 208) Apart from the
indignation of Tonkin, Bryce and Hawkes, Sir Charles Court’s 1973 attempt to persuade the
Council to stop supply to the John Tonkin government – a tactic that might not have been
thought seemly in former times – would indicate the Council was coming to be viewed not as
a house of review but as another partisan political house of government. The 1963 reform
had cost the upper house its exclusivity and dignity.

Arthur Tonkin, interviewed after his retirement in 1988, said:

The tactic that we were going to use [after Labor was elected to
government in 1983] was to continually put up bills which would aim for a more
democratic parliament. It’s the same tactic that I’d tried to use from 1971
onwards, when I’d said to [Labor Premier] John Tonkin, “Let’s put up
legislation” and, in reply to his comment: “Oh, the Legislative Council will only
knock it back, “That is the point, we will then highlight the nature of the
Legislative Council.” So I wasn’t going to try to wait. I still saw it as a question
of educating the public, of making the whole thing an issue. (Jamieson
1988: 349)

Ian Thompson, Liberal MLA throughout the 1970s and 80s, claimed that Labor did
poorly because the Labor Party did not take Legislative Council elections seriously (Jamieson
1988: 362). He illustrated the point with the case of South East Metropolitan province in
1971. Though there was a swing to Labor, and though three of the four Assembly seats which
made up the province were held by Labor members, Liberal MLC Clive Griffiths was easily
re-elected\textsuperscript{12}. Although this appears to be the only example of a Council vote so clearly
contradicting the Assembly vote, it does seem (see, eg, the words put into John Tonkin’s
mouth above) that, until 1971, there was an element of truth in Thompson’s view and the
conservative-dominated Council had been accepted by Labor as a more or less fixed
constellation in the political firmament.

\textsuperscript{11}The bicameral context is the subject of Chapter 3, for distinctions see especially 3.4 Incongruence.

\textsuperscript{12}In South East Province in 1971, Labor got about 57% of the two party preferred votes in the
Assembly seats and Liberal received about 43% but sitting Liberal MLC Clive Griffiths won the
province with 53% of the two party preferred vote. There are no other such striking instances. In the
same province in 1968 there was a bias toward the Liberals of perhaps 53% to 47% in the Assembly
vote but the Labor Council candidate, John Dolan, won it with 52% of the two party preferred vote.
(Figures partly inferred, calculated from Black 1991b; Black 1997)
In October 1972 Tonkin and Bryce argued for a bill to abolish both houses and replace them with a single house of 81 members. They complained that rural weighting was not democratic and favoured the conservatives. Bryce termed the Legislative Council "an obstacle to progress when the Labor Party has been in power and a rubber stamp when the Liberal and Country Parties have been in power." He quoted enrolment extremes for the Assembly of Murchison-Eyre with 1846 electors and Canning with 21346 electors (a malapportionment ratio of 11.6 to 1) and for the Council of Lower North with 5125 electors and Metropolitan with 79256 (15.5 to 1) (WAPD, 1972: 4605-7). Support from their own ranks was tepid, with the Attorney-General, T D Evans, making only brief introductory remarks. The Opposition retorted that the ALP had been satisfied with the weighted system until it started to lose. Sir Charles Court defended weighting on the grounds that those who generated the wealth should have adequate representation and maintained the Council had been a house of review with coalition governments (WAPD, 1972: 3998). The bill was lost in the Assembly for lack of a constitutional majority.

This argument confounds, and would go on confounding, two related phenomena. On the one hand there was the overall city-country malapportionment which was about 2:1 in the Assembly and 3:1 in the Council. On the other hand there were the anomalous extremes. A comparison of the highest and lowest electorates made a graphic debating point but it was not the main issue. The extremes were almost irrefutably improper, yet no one would suggest that Labor’s poor electoral outcome in the Council was actually caused by them. If malapportionment was Labor’s problem in Council it would be the overall city country ratio of 3:1. But this 3:1 was arguably proper, and indeed argument on the basis of propriety was made as it had been throughout the century (and still is) by politicians of all parties. It was not logical to argue against 2:1 or 3:1 malapportionment by quoting 11:1. Quoting extremes of malapportionment gave dramatic emphasis but extremes or distortion of boundaries was a separate issue, not directly relevant to the question of rural weighting.

The argument was recycled many times through the next decade. The parliamentary Labor Party gradually became more supportive of reform and the salience increased in 1975 when the Court government introduced the Electoral Districts Act Amendment Act ameliorating the overall malapportionment by adding a metropolitan province to the Council thereby expanding the number of seats by 2 to 32, and by increasing Assembly seats by 4, which brought the metropolitan seats to 27 and left the country with 28. At the same time the city-country boundary was manipulated, a memorable example being in Armadale where the boundary followed a suburban street making the houses on one side country and on the other

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13 It seems the abolition bill was known among Labor MPs as "the bill to shut up Tonkin and Bryce" reflecting the nuisance the two new members had become to their colleagues on the electoral reform issue. Tonkin refers to it in his resignation letter as "cynical"; see Chapter 2, section 2.5.3.
side, city. Through the use of intemperate language ("corrupt" bill and government) during the debate Tonkin and Bryce provoked the Speaker into expelling them from parliament (WAPD, 1975: 2631-2) and achieved some media attention.

Public consciousness-raising was pursued outside of parliament by the Campaign for a Democratic Parliament and by the Proportional Representation Society of Australia. Street demonstrations highlighted the anomaly in Armadale and later during the first Burke government, public seminars were held with prominent speakers (Evans 1984; Evans 1985). The *West Australian*, though generally sympathetic to the Liberal Party, supported electoral reform, particularly after the 1975 increase in the size of the houses, its view being that expanding the number of politicians to mitigate malapportionment (which was increasing owing to city population increase) was an improper and expensive way to avoid disturbing sitting members. The *West's* editorial of March 29, 1976 was several times quoted in Parliament over the years:

> Council weighting should be no greater than exists for Assembly seats – and both should be broken down... The present system of weighting might have been appropriate years ago. Today it is loaded with anomalies and inequities. It badly needs to be corrected – and not by the device of increasing the size of parliament which is the way the Court government has gone about boundary changing. (WAPD 1976: 1132)

For a further decade Labor explained, carpied, expostulated and railed in an effort to get the unfairness of it all through to the media and the public. Over the years many Labor MPs rose and explicated the latest version of some Electoral Amendment Bill or Constitution Act Amendment Bill (see Chronology, Appendix 1) usually to jibes, taunts and jeers from the government benches. After Court amended the constitution in early 1978 so that a referendum would be required for any reduction in either house, Labor abandoned its policy of abolition of the Council. It settled on four basic reform proposals:

- one vote one value;
- introduction of a mechanism for resolution of deadlocks between houses;
- electoral boundaries to be drawn by an independent commissioner;
- proportional representation for the Legislative Council.

The prominent complaint was over one vote one value. The reforms eventually introduced in 1987 were limited to the last two items, along with a clean-up of anomalous extremes of malapportionment.14

*Hansard* does not show a great deal of counter-argument. What there is, tends to point out that Labor used to be satisfied with the weighting and is only attacking it because it...

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14 Resolution of deadlocks seems to have been supported by all three parties. Nothing has been done about it to this day. The 1987 change left the average country-city malapportionment as it had been, approximately 2:1 for the Assembly and 3:1 for the Council – though the country-city boundary was defined more realistically.
can no longer win country seats and sees party advantage in changing the system, or else it
draws a comparison of Western Australia’s vastness with the federal senate where states have
equal voting rights despite their very large differences in population. Essentially, Labor could
fume and scold as it liked; to the Coalition government it was as water off a duck’s back.\(^\text{15}\)

1.5 Labor’s problem: vote wastage

Labor campaigned before 1963 for adult franchise and after 1963 for one vote one
value because it could not win in the Legislative Council. Until 1963, Labor had thought the
restricted franchise was its problem. Historically, the property franchise was no doubt
responsible for keeping Labor representation in the Council at far less than half the seats (see
Summary Table 1) but since 1954, the restricted franchise had been largely neutralised by
inflation\(^\text{16}\) and by Labor’s campaign to enrol Council voters. Since they held 13 out of 30
seats their problem looked quite modest and prior to the 1963 reforms, Labor had good
prospects of winning a Council majority.

After 1963 Labor lost, instead of gained, Council seats. As Buxton (1977: 131) says,
“Clearly, the provision of adult franchise had not helped Labor, retrospectively suggesting
that the former restricted franchise had not necessarily been a barrier to electoral success.” If
the franchise was not the problem, then surely it must be the malapportionment. There had
been an inconsistency between Labor’s expressed policy of one vote one value and the
practice for sixty years but as Graham Hawkes, the adviser to the Labor ministers for electoral
reform (Tonkin and Bryce) confessed, “It is when inconsistency is seen between principle and
reality and when this is experienced as hurtful or unfair that the process [of reform] is likely
to begin.” (Hawkes 1988: 28) Accordingly Labor embarked on its campaign for one vote one
value, a campaign that culminated in the introduction of PR for the Council in 1987.

Resentment at not being able to win was not the only reason for Labor’s new-found
outrage at the injustices of the voting system. That similar reforms took place around that
time in other States (Jaensch 1995) and all of them were Labor initiatives, would suggest that
“historic forces” were at work. The Western Australian Labor Party was changing, parallel
with the change of mood around 1970 in federal politics. The Labor campaign was initiated
in 1971 by two new MLAs, Arthur Tonkin BA, Dip. Ed. and Mal Bryce BA. Their election
was a manifestation of a general phenomenon: the influx of the middle class and the tertiary

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\(^{15}\) According to Phillips (1991: 217): “In March 1976, nine Labor Legislative Assembly Members
refused to attend the ceremonial Opening of Parliament in protest at what Arthur Tonkin termed
‘fraudulent electoral laws’. It was part of a strategy pursued by Tonkin and Bryce. As the Clerk of the
Assembly, Bruce Okely, observed, ‘They could see very little hope of [reform] happening unless the
community as a whole rose up and screamed for change’ (Jamieson, 1987: 151). In April it was even
suggested that the nine Labor upper House Members should boycott sittings of the Council.”

\(^{16}\) The property qualification was a rental of 17 pounds per annum. This is 6/6 or 65 cents per week. In
rent terms it was trifling, approximately the cover price of a Penguin paperback book.
educated into Labor, traditionally the political party of the trade unions (see eg Pervan and Mitchell 1979: 152; and Phillips 1991: 186, 221-4). The socioeconomic change in membership conformed to a world-wide tendency during sixties optimism and prosperity for a better-educated and unprecedentedly affluent generation to turn toward the social democratic parties. There was a change of attitude. Buxton says that by 1972,

"...electoral weighting now occupied the attention of many politically conscious citizens, even if the average voter was uninterested in the complexities of the dispute. Such Labor veterans as Wise, Moir and Strickland had retired at the election, and support for weighting was no longer publicly voiced from the ALP benches. A definite shift in ideological balance had occurred." (Buxton 1979: 51)

In particular, the two activists, Tonkin and Bryce, left-inclined high school history teachers imbued with the ideas of the great revolutions, considered one vote one value an essential precept of democracy.

Middle class idealism may explain why Labor complicated the campaign by drawing the Legislative Assembly's vote weighting into the debate. There was no evidence that malapportionment was a problem in the Assembly, and the fact that Labor had won the 1971 election would have indicated at the time that the system was working for Labor in the lower house. Labor's subsequent election victories in 1983 and 1986 (and in 1989 and 2001) prove that malapportionment was not preventing Labor from winning in the Assembly. However if it is to be argued that malapportionment is intrinsically wrong, then it must be wrong everywhere – in the Assembly as well as the Council. There were other reasons for including the Assembly: the extreme instances of Assembly malapportionment were vivid cases, valuable for dramatic emphasis and, of course, throughout the seventies, Labor saw no prospect of any legislative action on these complaints so it was a way to assume the moral high ground and displace the blame for poor electoral performance.

Including the Assembly in the campaign for one vote one value was a considerable distraction. While no one could reasonably object to cleaning up the anomalies, one vote one value makes country MPs nervous and by including the lower house in the campaign, country MLAs became personally involved as well as country MLCs. Since, from 1965 to 1986, Labor had only two to five country MLCs but had from seven to ten country MLAs (see Summary Table 4) this was a considerable raising of the stakes and a potential source of tension. It is understandable if it was difficult for the new activist MPs, Tonkin and Bryce, to engage their colleagues. With one vote one value being many times more important than it

17 In hindsight, Labor did have a problem winning government around that time, since, except for 1971-74, the Coalition was in power from 1959 to 1986. However there was no suggestion that rural malapportionment of Assembly seats contributed to it. Labor's difficulties in winning power seem to have transcended WA; other very long-lived non-Labor governments around that time were: Commonwealth 1949-83 except for 1972-75; Victoria 1955-82; Queensland 1957-89; SA 1933-65.
would have been if it had been confined to the Council, attention throughout the period was on it rather than on the adoption of PR. As a result, Council PR was approved in 1987 with most Labor MPs incompletely aware of its significance for the parliament and the polity. Another consequence of putting the house of government in the one vote one value spotlight was that the considerably greater malapportionment in the upper house was somewhat lost sight of and even in 2001, the efforts of the Gallop Labor government were directed at one vote one value in the Assembly.

If Labor had no endemic problem winning in the Assembly, it certainly had a problem winning in the Council. Table 1.2 showed the net effect of the 1963 boundary changes on the parties in terms of size of winnable provinces. Labor went from winning provinces about a third smaller than the Liberals before 1963 to winning electorates about a third larger. Table 1.3 attempts to measure the two major parties' efficiencies in turning votes into seats. The ratio of Labor's percentage seats to percentage votes is about 0.7 through the years of the half-house elections and the corresponding Liberal ratio is about 1.2. The figures are somewhat sensitive to the number of seats contested (parties might contest seats they do not expect to win) but do indicate that Labor had the harder job. The efficiency figures reversed in 1986 when Labor, at a peak of popularity, won two extra seats very narrowly on Democrat preferences.

Table 1.3 Ratio of % contested seats won to % votes, Council 1965-86

<table>
<thead>
<tr>
<th>ALP</th>
<th>Seats won</th>
<th>Seats contd</th>
<th>% votes</th>
<th>Seats: votes %</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>12</td>
<td>47.0</td>
<td>0.70</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>6</td>
<td>50.3</td>
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<td>4</td>
<td>15</td>
<td>50.2</td>
<td>0.54</td>
<td></td>
</tr>
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<td></td>
</tr>
<tr>
<td>9</td>
<td>15</td>
<td>49.8</td>
<td>1.20</td>
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</tbody>
</table>

Mean (excl 68): 49.0 0.77

<table>
<thead>
<tr>
<th>Liberal</th>
<th>Seats won</th>
<th>Seats contd</th>
<th>% votes</th>
<th>Seats: votes %</th>
</tr>
</thead>
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<td>12</td>
<td>55.8</td>
<td>1.20</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>1</td>
<td>46.5</td>
<td></td>
<td></td>
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<td>9</td>
<td>12</td>
<td>50.8</td>
<td>1.48</td>
<td></td>
</tr>
<tr>
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<td>9</td>
<td>16</td>
<td>51.0</td>
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<td>16</td>
<td>50.1</td>
<td>1.26</td>
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<td></td>
</tr>
<tr>
<td>17</td>
<td>17</td>
<td>43.9</td>
<td>0.80</td>
<td></td>
</tr>
</tbody>
</table>

Mean (excl 68): 49.7 1.18

(Data from Black 1991b and from Summary Table 2, which see for first preference figures.)

18 Of course the emphasis is on seeking advantage in the competition for government. It is unfortunate, for if there must be malapportionment, then rather in the Assembly whose members service constituencies, than in the Council which makes law for the state of Western Australia.
19 These are two-party preferred figures. See Summary Table 2 for first preference votes-to-seats ratios; these are little different except for the Liberal Party in 1971 when it received DLP preferences in all the provinces it won and also CP preferences in four of them.
Labor was obviously nowhere near as efficient as the Liberal Party at turning votes into seats. But was malapportionment the cause? No one, it seems, claimed that the city-country malapportionment after 1963 was suddenly worse than before. The reform in 1987 removed the anomalous enrolment extremes however it did not change the basic city-country malapportionment of 3:1 in the Council (or the 2:1 in the Assembly) yet after 1987 Labor won more seats in Council and the Liberals fewer. Evidently, Labor's problem was not the city-country weighting. The 1987 change did mitigate the malapportionment by extending the metropolitan boundary and increasing the number of metropolitan Council seats from 14 to 17 and decreasing the country seats from 20 to 17 yet at Council elections since 1987 Labor actually won more country seats (Table 1.4) despite there being fewer of them. Labor and Liberal Parties were, and are, fairly evenly matched in rural Assembly seats and in the Council since 1987, Labor rural seats have also matched Liberal rural seats. The NPA generally holds 3 seats in Council so Labor does not quite match Coalition seats (see  

Table 1.4 Country seats held, ALP and Liberal, 1965-2001  

<table>
<thead>
<tr>
<th>Government</th>
<th>Assembly</th>
<th>Council</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>ALP</td>
<td>Lib</td>
</tr>
<tr>
<td>1965 Lib</td>
<td>8</td>
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</tr>
<tr>
<td>71 ALP</td>
<td>9</td>
<td>7</td>
</tr>
<tr>
<td>74 Lib</td>
<td>8</td>
<td>10</td>
</tr>
<tr>
<td>77 Lib</td>
<td>7</td>
<td>11</td>
</tr>
<tr>
<td>80 Lib</td>
<td>7</td>
<td>11</td>
</tr>
<tr>
<td>83 ALP</td>
<td>10</td>
<td>8</td>
</tr>
<tr>
<td>86 ALP</td>
<td>9</td>
<td>8</td>
</tr>
<tr>
<td>89 ALP</td>
<td>10</td>
<td>7</td>
</tr>
<tr>
<td>93 Lib</td>
<td>7</td>
<td>10</td>
</tr>
<tr>
<td>96 Lib</td>
<td>5</td>
<td>12</td>
</tr>
<tr>
<td>2001 ALP</td>
<td>*9</td>
<td>9</td>
</tr>
</tbody>
</table>

(Data from Black 1991b and Summary Table 4.)

* Includes 1 independent Labor. Country seats include all non-metro.

20 Assessing malapportionment before 1963 is not straightforward on account of the voluntary enrolment. The bottom line of Summary Table 6 shows that the ratio of city to country enrolment per province rose from 2.6 in 1950 to 4.5 in 1962. The rise would have been due to canvassing for enrolment in the city.

21 For the 1989 Legislative Council election the city country enrolment was 2.80:1; for 2001 it was 2.85:1 (Summary Table 12).

22 Expanding the city boundary should slightly alleviate malapportionment however the country areas that became city in 1987 tended to be Liberal-voting so Liberal rural opportunities were reduced rather than Labor's expanded. The second last column in Summary Table 4 shows that 1987 reduced country MPs from 60% to 40% of Liberal MPs. Most of this reduction would be due to the introduction of PR.

23 In both houses, the two major parties not only share rural seats almost equally, but the metro seats are also almost equally shared (In the Assembly since 1987, when the metro boundary was reset, Labor
Summary Table 4) hence if the number of rural seats were to be reduced by introducing one vote one value, Labor would be advantaged. However that has always been the case: rural Labor seats did not quite match rural Coalition seats before 1963 either.

Malapportionment, the central complaint of the reform campaign for sixteen years right up until 1987, was not the problem. The two separate facts, (1) after 1963 the Liberals were far more successful than Labor in rural provinces and (2) there was a massive rural malapportionment, were not connected. It seems the assumption of connection was never questioned. It seems the Labor Party twice fundamentally misjudged: by the time that the Council deigned to do something about the restricted franchise in 1963, the franchise was no longer Labor’s problem yet Labor agreed (it had to supply the constitutional majority in the Assembly) to a new system which made it much worse off; then, after a further two decades of high temperature complaint about malapportionment, another reform showed that this, too, was not the problem. 24

Labor’s problem in the Council after 1963 was that bane of single member electorates, vote wastage through differential concentration of voters. So much depends where the boundaries fall. For example, at the biennial one-third-house elections before 1963, Labor would almost always win the two provinces of South East and North East which shared the mining town of Kalgoorlie-Boulder. After 1965, Kalgoorlie-Boulder fell entirely within the new South East Province and Labor won this province at the triennial half-house elections. 25 Thus where Labor had won six rural seats in the 30 seat Council, it subsequently

---

24 Even if malapportionment was not Labor’s problem would one vote one value nevertheless have been a remedy? Possibly. Prior to 1975 there were about 1.8 times as many metro voters as there were country voters (Summary Table 3a) so one vote one value would require 10 metro and 5 country provinces (reversing the actual 5 metro and 10 country). From Summary Table 4, Labor was winning 6 metro seats to the Liberals’ 4 (Assembly and Council) and if it could win 2 country provinces to non-Labor’s 3 (a fairly big if) then Labor would have been in a majority of 8 to 7.

25 The boundaries of the four electoral districts in North and Lower North provinces and the province boundaries were set by parliament, other boundaries (except the metropolitan boundary) being set by the electoral commissioners. The transfer of the northern part of Kalgoorlie to South East was made by the Electoral Districts Act Amendment Act in October 1965, and it passed with the support of the Labor Party. No one except ALP MLCs E M Heenan and Ruby Hutchison objected to the bill. In both houses the identical words were used by the ministers at the second reading: “A small portion of the Murchison District immediately north of Kalgoorlie should, it is considered, be reattached to Kalgoorlie with which it has a community of interest.” (WAPD 1965: 1305, 1688). Heenan disputed this interpretation of community of interest (WAPD 1965: 1741) and complained, unpersuasively, of logistical problems in the redesigned region. Heenan had won North East Province in 1936 with 51%, 1944: 57%, 1950: 63%, 1956: 66%, 1962: 62% but lost his next election in Lower North in 1968. Against this implication of shifting the boundary for Liberal advantage, it should be noted that the first
Table 1.5 10 pre-1963 provinces versus 15 post-1963 provinces. Council Enrolments in ’000s. CP wins in italics.

<table>
<thead>
<tr>
<th></th>
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<th></th>
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<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Metro</td>
<td>Perth N</td>
<td>40.5</td>
<td>54.2</td>
<td>51.2</td>
<td>Metro</td>
<td></td>
<td>N Metro</td>
</tr>
<tr>
<td>Suburban</td>
<td>Perth E</td>
<td>43.9</td>
<td>46.4</td>
<td>59.9</td>
<td>SE Metro</td>
<td></td>
<td>NE Metro</td>
</tr>
<tr>
<td>West</td>
<td>Perth S</td>
<td>25.6</td>
<td></td>
<td>48.1</td>
<td></td>
<td></td>
<td>S Metro</td>
</tr>
<tr>
<td>Central</td>
<td>Mt Marshall</td>
<td>13.1</td>
<td>15.9</td>
<td>19.2</td>
<td>Central</td>
<td></td>
<td>Mt Marshall</td>
</tr>
<tr>
<td>South</td>
<td>Albany</td>
<td>10.6</td>
<td>15.8</td>
<td>18.7</td>
<td>Western</td>
<td></td>
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</tr>
<tr>
<td>Midland</td>
<td>Geraldton</td>
<td>5.4</td>
<td>17.0</td>
<td>15.7</td>
<td>Midland</td>
<td></td>
<td>North West</td>
</tr>
<tr>
<td>South W</td>
<td>Bunbury</td>
<td>14.8</td>
<td>17.9</td>
<td></td>
<td></td>
<td></td>
<td>South W</td>
</tr>
<tr>
<td>South E</td>
<td>inc Bould</td>
<td>5.4</td>
<td>16.6</td>
<td></td>
<td></td>
<td>*Kalg-Bould</td>
<td>South E</td>
</tr>
<tr>
<td>North E</td>
<td>inc Kalg</td>
<td>5.8</td>
<td>7.3</td>
<td></td>
<td></td>
<td></td>
<td>Lower N</td>
</tr>
<tr>
<td>North</td>
<td>Gas-Kimb</td>
<td>2.1</td>
<td>4.9</td>
<td></td>
<td></td>
<td></td>
<td>Pilb-Kimb North</td>
</tr>
</tbody>
</table>

(Data from Black 1991b and Summary Tables 3a and 6, which see for other years. CP in italics.)

*Kalgoorlie did not actually become part of SE Province until after the 1965 election.

won only two. Table 1.5 compares the pre- and post-1963 electoral outcomes using the 1962 and 1965 elections which are fairly typical (see Summary Tables 3 or 3a and 6 for other years and compare the boundaries of the three maps in Figure 1.3). Before 1963 there were 3 metro and 7 non-metro provinces and afterward there were 5 metro and 10 non-metro so the 1963 reform did not increase the overall non-metro vote advantage. Before 1963 the old North East, South East and North were Labor’s only non-metropolitan safe seats – that is, 3 provinces out of 7 which equates to 9 seats out of 21. After 1963 these provinces corresponded to Lower North, South East and North the last two being basically the only non-metro provinces Labor won from 1965 to 1983 – that is, 2 provinces out of 10 which equates to 4 seats from 20. The Liberal Party, on the other hand, went from one non-metro province to five, ie from 3 to 10 seats.

elections for the new 15 Province Council had been in February 1965, before Kalgoorlie was excised from Lower North which had been won by the Liberal candidate – though according to Buxton (1977: 30) this win was a surprise.
Buxton says the reduction in Labor's representation "was in part the paradoxical result of the reforms for which Labor had long pressed but was due also... to the vagaries inherent in any constituency system... [and to] 'split ticket' voting" resulting from personal following (Buxton 1977: 129). Figure 1.4 compares Liberal rural electoral success with its metro success from 1939 to 2001 in both houses. Rural and metro wins in the Assembly are roughly in line throughout except for 1956; rural and metro wins in the Council are roughly in line except during the years 1965 to 1986. The percentage lines are percentages of Liberal members who were rural in each of the houses. The franchise (for which Labor had long pressed) was irrelevant and split ticket voting was also irrelevant (unless the electors adopted it with enthusiasm in 1965 and suddenly abandoned it in 1989) and the Liberals' rural success in the Council during the half-house years mirrors Labor's woes shown in Figure 1.2. The vital difference between 1962 and 1965 was those vagaries, namely the province boundaries and the scattering of Labor supporters among single member electoral districts.26 Out of the 1963 redistribution, the Liberal Party did well, the Country Party fared much the same, and Labor lost out.

26 The Provinces had, of course, two MPs each however one member was elected at a time.
The effect of the 1963 change is indistinguishable from that of a Liberal gerrymander, a gerrymander being where electoral boundaries are deliberately manipulated for the purpose of favouring one party. Deputy leader John Tonkin said that the safe Liberal country seats close to the city were "a patent gerrymander" (WAPD 1965: 1571) and Ruby Hutchison MLC said Council boundaries were gerrymandered but other Labor members seem to have accepted the situation. Tonkin was quite right: the reason West Province (containing the Assembly districts of Darling Range, Dale and Toodyay, later Darling Range, Kalamunda and Mundaring) was designated country was because it reliably voted Liberal. The zone boundaries (as also in the case of the above-described inclusion of Kalgoorlie-Boulder within South East Province) were manipulated to favour the Liberal Party. That gerrymander continued until the system change in 1987, the deliberate intent being emphasised in 1981.

27 Mrs Hutchison interjected during the debate on the 1965 boundary adjustment that Labor "cannot get a [Council] majority because the electorates are gerrymandered against it." (WAPD 1965: 1743) (She did not participate in the 1963 debate on the franchise and redistribution.) Other MPs never seemed to realise what had happened. Colin Jamieson MLA, Labor leader, said in 1977, "...there might emerge another Dr Hislop, who will embarrass the Government by causing further democratisation of the Legislative Council, as Dr Hislop did in 1965 [sic 1963]. Undoubtedly without Dr Hislop's move to this day no change would have been made to the limited franchise which used to exist in respect of the Legislative Council up till that time." (WAPD 1977: 2034) Without Dr Hislop's move Labor would probably have won a Council majority, something the 1963 reform apparently put quite out of reach.
when the parliament brought the similarly distanced Rockingham, which voted Labor, within the metropolitan zone. In this instance Tonkin could make a clear case, however the overall bias of the rural provinces is more subtle. The bias is apparent from Figure 1.4 but that has some advantage of hindsight. After the 1965 election it was hardly feasible to claim an overall bias (no one did apart from Mrs Hutchison’s non-specific complaint) and after the 1968 election an inference of bias could have been quite plausibly disputed as merely Labor electoral unpopularity. Even with hindsight it is not so easy to state precisely wherein lay the Liberal bias: there were no electoral districts shaped like salamanders. If, as suggested above, the Liberal MLCs’ purpose in insisting that an electoral boundary redistribution accompany the 1963 franchise reform was to avoid defeat and ensure a conservative majority (it did not become a Liberal majority until 1974) then that makes it deliberate intent. And yet it is not only hard to demonstrate the specifics – except the fiddle of the near-city electorates which Labor had been complaining of as far back as 192229 – but the fact that Labor did not become aware of what was happening would mean that Liberals also probably did not realise it.

Labor’s inferior (and the Liberals’ superior) performance in the Council was virtually entirely within the Agricultural, Mining and Pastoral zone. In 1965, Labor won two out of five provinces in the Metropolitan zone and one of the two provinces in the statutory North-West zone (Table 1.5). The provinces are of approximately equal size, so no bias is indicated within those zones. This applies to the metro and the statutory areas through the whole period to 1986 (Summary Table 3a) during which Labor won a total of 30 metro seats30 to the Liberals’ 18 and a total of six North-West seats to the Liberals’ ten. But of the eight provinces of the AM&P zone, seven were won by non-Labor at every election except the last of the half-house series in 1986 and in sum, Labor won a total of 10 seats to non-Labor’s 54, of which 36 were Liberal. Since the eight provinces were of approximately equal size (Summary Table 3a), there was no malapportionment within the AM&P zone and since the province boundaries were set by the Electoral Commissioner there was presumably no gerrymander within the zone.31 Evidently, Labor was unable to win within the AM&P zone on a fair system. Table 1.6 shows Labor’s two-party preferred vote share for its best

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28 Note that the boundary shape before the 1965 shifting of the boundary north of Kalgoorlie, looks like a classic gerrymander – by Labor. See Figure 1.3.
29 In 1922, “Labor’s Deputy Leader, W C Angwin... [objected to] alleged anomalies such as electors residing 40 miles from Perth in the electorate of Swan having twice the voting power of electors of the same occupation equidistant from the capital but residing in South Fremantle.” (Black 1991a: 113 referring to WAPD 1922: 1718)
30 Summary Table 3 or 3a apparently shows 28 but Labor won two more when the Council was expanded in 1977 and 1980.
31 In his MA thesis Buxton (1977: 72), who was to spend his career working for the Liberals, takes some trouble to defend the commissioners, eg, “Not only did the Commissioners demonstrate impartiality between the major political parties, as in 1964, but they also exercised subtlety and sensitivity in preserving the existing political balance of both houses as nearly as possible, and in minimising inconvenience to individual parliamentarians.”
elections, 1971 and 1986. In 1971 Labor won one province but received 47.8% of the votes which would nominally entitle them to four of the eight seats. Through the other elections, Labor usually achieved votes proportional to 3 seats but only ever won South East province – and it was usually won comfortably (Summary Table 13). It was classic vote wastage through having supporters scattered through single member districts and concentrated in one district. The only election Labor achieved a proportional result was in 1986 when it got 42.3% of the votes (which corresponds to three of the seven contested provinces) and very narrowly won Lower West and South West provinces with Australian Democrats preferences.

Table 1.6 ALP two-party preferred vote share (’000s), AM&P zone, 1971 and 1986

<table>
<thead>
<tr>
<th></th>
<th>1971 ALP 2PP</th>
<th>Total votes</th>
<th>ALP %</th>
<th>1986 ALP 2PP</th>
<th>Total votes</th>
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<td>16.5</td>
<td>39.4</td>
<td>6.7</td>
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<td>11.4</td>
<td>28.9</td>
<td>39.4</td>
</tr>
<tr>
<td>Lower C</td>
<td>8.1</td>
<td>16.3</td>
<td>49.7</td>
<td>11.0</td>
<td>25.2</td>
<td>43.7</td>
</tr>
<tr>
<td>South</td>
<td>8.5</td>
<td>19.9</td>
<td>42.7</td>
<td>7.3</td>
<td>26.3</td>
<td>27.8</td>
</tr>
<tr>
<td>Upper W</td>
<td>7.9</td>
<td>19.7</td>
<td>40.8</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lower W</td>
<td>10.0</td>
<td>20.2</td>
<td>49.5</td>
<td>16.4</td>
<td>32.6</td>
<td>50.3</td>
</tr>
<tr>
<td>South W</td>
<td>8.5</td>
<td>17.1</td>
<td>49.7</td>
<td>14.4</td>
<td>28.8</td>
<td>50.1</td>
</tr>
<tr>
<td>South E</td>
<td>11.5</td>
<td>17.2</td>
<td>66.9</td>
<td>11.8</td>
<td>19.6</td>
<td>60.2</td>
</tr>
<tr>
<td>Average</td>
<td>9.2</td>
<td>19.2</td>
<td>47.8</td>
<td>11.3</td>
<td>26.7</td>
<td>42.3</td>
</tr>
</tbody>
</table>

Data from Summary Table 13, which see for other years.

If Labor had won seats proportional to its votes in the AM&P zone throughout the period, history would have been different. The bottom two lines of Summary Table 3a – number of seats won and cumulative seats – may be adjusted by the proportional seat numbers given by Summary Table 13. If Labor had won seats in proportion to votes in the AM&P zone, the only election at which the Liberals could have achieved a sole majority would have been 1980 (instead of 1974, 77, 80 and 83) and Labor would have had 14 out of 30 seats in 1971 and 1974, 13 out of 32 in 1977, 16 out of 34 in 1983 and in 1986 it would have held a majority of 18. See Table 1.7.

If the Liberals had had a couple of seats fewer and the Nationals had held the balance of power, the Liberal Party would have been less overweening, the National Party might not have split, Labor would have been more optimistic, much of the wind would have been taken out of Labor’s indignation (though, of course, vote wastage is not grounds for indignation) and there would have been no PR in 1987. It seems, then, that a crucial cause of the 1987
Chapter 1 Local root causes

reform was the way the electoral commissioners divided up the Agricultural, Mining and Pastoral zone between the years 1965 to 1986.32

Table 1.7 If Labor had won AM&P seats proportional to votes.

<table>
<thead>
<tr>
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<td></td>
<td>ALP</td>
<td>L-cp</td>
<td>ALP</td>
<td>L-cp</td>
<td>ALP</td>
<td>L-cp</td>
</tr>
<tr>
<td>Seats won</td>
<td>4</td>
<td>11</td>
<td>5</td>
<td>10</td>
<td>(5)</td>
<td>12</td>
</tr>
<tr>
<td>Cumul. seats</td>
<td>10</td>
<td>20</td>
<td>9</td>
<td>21</td>
<td>10</td>
<td>22</td>
</tr>
<tr>
<td>Extra ALP</td>
<td>3</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Proport seats</td>
<td>7</td>
<td>8</td>
<td>8</td>
<td>(8)</td>
<td>11</td>
<td>6</td>
</tr>
<tr>
<td>Cumul. seats</td>
<td>14</td>
<td>16</td>
<td>14</td>
<td>19</td>
<td>11</td>
<td>21</td>
</tr>
<tr>
<td>CP Bal. of P.?</td>
<td>yes:7</td>
<td>yes:3</td>
<td>yes:4</td>
<td>no:4</td>
<td>yes:2</td>
<td></td>
</tr>
</tbody>
</table>

Data from Summary Table 3a, (seats won and the party state of the Council) and Summary Table 13, (Labor vote share in AM&P zone).

Government party, ALP or L-cp, is indicated by bold type.

The first two rows, Seats won, and Cumulative seats, are the real numbers.

Extra ALP is the number of extra seats Labor would win if the votes for the ALP within the AM&P zone were proportionally converted to seats.

Proport seats is total seats won, Labor and Coalition, if they were proportional to votes in the AM&P zone. Cumulative seats shows the state of the house as it would then have been.

Figures in brackets include an additional seat (due to increase in the size of the Council) which was vacant next half-house election.

CP balance of power shows number of seats held by CP/NCP/NP/NPA (all are in AM&P zone). In 1980 the extra ALP is actually 1.5. If that were counted as 2, the CP balance of power would show yes:4.

The essential problem was not gerrymander and it was not the malapportionment. If Labor had recognised the vote wastage, what could it have done about it? In those days Labor saw its only hope of reform through raising public awareness and indignation. To complain of a subtle bias with its requirement of electorate by electorate analysis and implicit blame on the electoral commissioners would never have been persuasive, whereas to campaign for one vote one value was clear and almost indisputably on the side of the angels. Country Party MPs do dispute it and one of them, NCP MLA Matt Stephens, made a curious remark in 1976: “I feel that the Labor Party is looking for a scapegoat to cover its lack of electoral support, and so it has come up with talk about electoral reform and emphasis on the one vote one value principle, with the implied suggestion that because of our weighted electorates there is a gerrymander.” (WAPD 1976: 654) To the extent the purpose of Labor’s one vote one value campaign was a partisan one to win and not a principled attempt to right a moral wrong, he would be right. Perhaps he had discerned some perception in the Labor Party that their problem was not rural malapportionment.

32 For the possibilities of bad luck versus bias see the discussion attached to Summary Table 2 and for calculations of the effects of winning Council seats that Labor narrowly lost see Summary Table 5.
1.6 Liberal complacency

In 1963, the WA Liberals faced the same problem that the South Australian Liberal Party was to face in 1973, namely a danger that Labor might win a majority under the longstanding restricted franchise. How could this be avoided? In SA the possibility of Labor (or any party) gaining a majority was foiled by changing the upper house to a PR system but in WA in 1963 the Liberals managed to increase the suffrage yet retain a majoritarian electoral system which preserved the traditional conservative bias. This required Labor’s agreement since the Coalition did not have a constitutional majority in the Assembly. From the Liberals’ point of view it was an adroit transformation to full franchise but perhaps it was a little too successful and twenty four years later the Coalition lost its historic upper house hegemony when the National Party voted with Labor in 1987 to change the system to PR. Those 24 years may be regarded as an interregnum between recognising the problem and adopting the South Australian solution.33

The post-1963 bias to the Liberals was caused by the placing of province boundaries which, as shown above, optimised Liberal votes and wasted Labor votes. Except for zone boundaries and the districts and provinces within the Northern zone (the two provinces of North and Lower North, see Figure 1.3) the boundaries were set by the electoral commissioners. The Liberal Party captured the majority of seats in the Council in 1974 for the first time since 1928 and held it through 1977, 1980 and 1983. In part this may have been due to Liberal electoral popularity and National unpopularity (as well as Labor unpopularity) but, as discussed above, it appears to have been mainly due to the province boundaries in the Agricultural, Mining and Pastoral zone. The Liberals eventually lost the Council majority in 1986 when it was at a low point in public esteem and when Labor won two provinces on Democrat preferences by a handful of votes.

In 1979 Jeremy Buxton said,

"The broad acceptance by both Labor and its opponents of the practice of weighting votes by region has broken down, as the electoral interests of each diverged in the 1970s. The dominant coalition, however, has no inducement to institute radical change on the lines demanded by its opponents. If the system is to be altered significantly, a revival of the spirit of compromise evident in the 1963 debates seems essential." (Buxton 1979: 60)

There was to be no revival of that spirit of compromise. With their dominance of both chambers, the Liberals saw no need. The 1975 “Charliemander”,34 which added four Assembly seats and one Council province to the metropolitan area (and actually mitigated the malapportionment), was passed over howls of ineffectual opposition protest. In the Council

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33 Fear of a non-conservative majority when suffrage was broadened seems also to have been the reason the European democracies adopted PR systems early in the 20th Century (Boix 1999).

34 Named (by Labor) for Liberal leader, Sir Charles Court.
Labor was permanently crippled and electoral success along with a docile NCP after 1975, made it seem that the Liberals were almost as well entrenched in the Assembly. The Liberal government could do as it pleased. The circumstances led to a certain arrogance and the party squandered its opportunity to introduce electoral reform on its own terms. Instead, it introduced short-sighted manipulations such as the 1976 Electoral Amendment Act (No 2) which set out procedures for illiterate voters, the 1977 Acts Amendment (Constitution) bill (subsequently a 1978 Act) requiring a referendum to reduce or abolish a house of parliament,35 the 1979 Electoral Act Amendment Act (No 2) providing for minority enrolments, and the 1980 Constitution Amendment Act to increase the ministry by two.36 The atmosphere in parliament became quite venomous during the seventies37 as these electoral changes were interpreted by Labor, and usually also the NP, as improper entrenchments of Liberal dominance.

The action that capped them all, the electoral manipulation that events later showed to be hubris, was the May 1981 “Hassellmander”.38 Hendy Cowan, leader of the NPA, said of it in 1985, “On the last occasion when the Parliament, or more correctly the Court Government, manipulated these boundaries the malapportionment was so blatant even a member of the Liberal Party resigned in protest.” (Cowan 1985: 18) It was their undoing. If you are going to taunt your crippled enemy you should make sure your friends are firmly on side. In 1975 the Liberals had alienated Cowan and Stephens; now they alienated the Liberal MLC for North Province, Bill Withers. At the by-election his seat was won by Labor and it was kept by Labor at the 1983 general election. Withers had held the seat since 1971 and would probably have retained it in 1983. Had he done so, the ranks of the reformers in 1987 would have been short of the required majority in the Council (see Chapter 2). Withers’s resignation cost his party its century-long domination of the Council.

The Acts Amendment (Electoral Provinces and Districts) Act, introduced by Bill Hassell MLA in May 1981, shifted the boundary between Liberal Pilbara and Labor Kimberley westward (Figure 1.5) which took the expanding mining (hence Labor-voting) centres of Goldsworthy, Newman and Tom Price out of Pilbara and into Kimberley, while leaving the other two statutory seats, Liberal-voting Gascoyne and Murchison-Eyre,
undisturbed and with extremely low enrolments.\textsuperscript{39} (After the 1981 redistribution, enrolments were: Kimberley 11596, Pilbara 9271, Gascoyne 3762, Murchison-Eyre 1932 (WA State Electoral Map, December 1981)).\textsuperscript{40} Withers criticised his party for abandoning principles enunciated by Charles Court in 1965 (Court was at this time still Premier) and moved an amendment to the boundaries which would have distributed the expanding population partly into Gascoyne and Murchison-Eyre (WAPD, 1981 2049). He threatened to resign if the redistribution went ahead but his party’s response was to threaten his superannuation would be forfeit. He waited until a Supreme Court challenge to the redistribution by Labor leader Brian Burke failed and then quit at the end of 1982. He did forfeit his superannuation.

Figure 1.5 Assembly boundaries in North and Lower North provinces.

The 1981 act added two new Assembly seats and one province (all to the metropolitan area) bringing the number of Assembly seats to 57 and Council seats to 34. It adjusted the metropolitan boundary to move the Labor-voting Assembly seat of Rockingham from the country to the city while leaving the similarly suburban, but Liberal-voting, seats of Dale, Kalamunda, Darling Range and Mundaring in the country.\textsuperscript{41} In the Assembly this made 30 metro and 27 country seats and in the Council, 14 metro and 20 country seats. Reflecting on this in August 1984, Matt Stephens, deputy the leader of the NPA, said, “Had the

\textsuperscript{39} The Electoral Act provided for parliament to set the boundaries of the zones and the independent commissioner to set province and district boundaries within the zones, except for the two provinces of North and Lower North, encompassing four districts of Pilbara, Kimberley, Gascoyne and Murchison-Eyre, whose boundaries were set by parliament.

\textsuperscript{40} See Summary Table 9 for the pattern of voting and enrolment in the north from 1968 to 1986.

\textsuperscript{41} Voter enrolments after the 1981 redistribution were Mundaring 8252, Kalamunda 8416, Darling Range 8440, and Dale 8809. City electorates were double this, Rockingham being 15072.
metropolitan boundary been adjusted to reflect the true situation, the real breakdown of seats in the Assembly would have been 34 Metropolitan and 23 country seats." On a similar reasoning for the Council he concluded that instead of a breakdown of 14 city and 20 country seats, it should have 17 city and 17 country seats (WAPD, 1984: 1143-4). These city-country seat distributions, 34-23 and 17-17, are precisely the ones passed in June 1987.42

The arrogance of 1981 was mixed with concern about the next election. Premier Court resigned in January 1982 and despite the gerrymander, a year later the party did lose the election (including the seat of Pilbara). The Coalition government had had three terms during which it could have reformed the electoral system. Disdainful of calls for reform, it had instead short-sightedly manipulated the system to advantage the Liberal partner. After 1983, electoral reform was out of Liberal hands and in 1987 it was carried out without them.

1.7 Country Party discontents

As elsewhere in the country, the contest for government in Western Australia is not entirely bipolar and the third element, the Country Party, was crucial to the 1987 reforms. From the Country Party’s first electoral successes in 1914, the Liberal Party was affronted. To Liberals it split the non-Labor vote and as Liberals see it, when the Country Party wins a seat, it wins it from a Liberal. In a three-way contest Labor usually directs second preferences to the CP and often enough the CP candidate wins with them, leading to Liberal accusations of dealing with the enemy. It is the more infuriating that the CP is also the recipient of Liberal second preferences. In WA, as in other states, the Liberal Party made attempts to amalgamate which were always rebuffed. To this, the Liberals have responded with redoubled efforts to take seats off the CP in order to govern in its own right (see eg Black 1981: 453; Layman 1979: 182). Since the Liberal Party is bigger and better financed, this is viewed by the CP as bullying and a Liberal attempt to destroy its ally. Inevitably, the coalition is tense.

As a consequence of the combination of Liberal attack, rural depopulation and electoral redistribution, by the early 1970s the decline which began in the 1940s (Summary Table 1) had the Country Party looking for ways to ensure its survival. In the 1974 federal election the WA CP lost all House of Representatives presence and in 1977 it lost its last senator. For the 1974 state election the CP and the Democratic Labor Party formed a joint ticket as the National Alliance which polled poorly and the CP subsequently dissociated itself.43 Through the fifties and sixties the CP had been represented by 8 or 9 MLAs; after 1974 it had 6 (Summary Table 1 or 4). The number of CP MLCs went from 7 to 3 in 1974.

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42 Cowan and Stephens voted against the 1981 electoral redistribution as did NP MLC Tom McNeil; Ray McPharlin MLA at the time also an NP member, voted with the government.
43 After 1974 the NA and the DLP disappeared.
In an echo of the mood in the Labor Party, the CP reacted to Liberal hegemony with a turn toward militancy initially associated with Matt Stephens (elected 1971) and later with Hendy Cowan (elected 1974), two men with a strong desire to maintain a Country Party identity distinct from the Liberal Party.

The Liberals under Sir Charles Court won the 1974 election with rural gains at the expense of both the ALP and the Country Party, and achieved an absolute majority in the upper house. It was the first Liberal Council majority since 1928. The Liberal Party always had fundamental philosophical reservations about its coalition partner’s predilection for government assistance to farmers and with the now renamed National Country Party in reduced circumstances, and an atmosphere of increasing “dry” economic influence, the Liberals had even less patience for the Nationals’ “orderly marketing”.44 As Liberal deputy leader and Minister for Industrial Development under Brand in the 1960s, Court had overshadowed the then Deputy Premier and leader of the CP. Now, without Brand’s diplomatic presence, Court’s abrasive, one-man-band style 45 clashed with the NCP independent streak and in July 1975 two NCP ministers, Deputy Premier and NCP leader Ray McPharlin and NCP deputy leader Matt Stephens, resigned from cabinet over agricultural marketing policy. The third NCP minister, Norman Baxter MLA, reluctantly resigned shortly afterward. The repercussions of this cabinet split were extensive – one of them being the 1987 reform.

The extra-parliamentary NCP supported their leaders’ withdrawal from the coalition but pressure for resolution and unity was applied by the federal party which was trying, as part of a hostile Senate, to unseat the Whitlam government (Elphick 1996: 50ff). The upshot was that McPharlin and Stephens resigned the leadership. Dick Old and Peter Jones (both of whom had been elected to parliament in April the previous year) became the leaders and immediately returned the NCP to coalition and became ministers, a move which did not at first have extra-parliamentary endorsement. The three members who had resigned on policy principle, and with the support of the extra-parliamentary party, now found they had sacrificed their careers and achieved nothing. There was much bitterness, both toward the Liberals and within the NCP and from this time there was talk of a split with Stephens, who

44 Smith (1993: 137) neatly expresses the ideological and economic conflict between the National and Liberal parties: “The NPA has few ideological pretensions. It stresses the moral worth of rural life and sings the praises of farmers as the unappreciated backbone of Australia, but this hardly constitutes systematic ideology. Similarly, although the NPA is avowedly anti-socialist and pro-capitalist, it does not appear to be very clear about what it means by this. There is some truth in the jibe that the NPA aims to capitalise farmers’ gains and socialise their losses. Thus, while the NPA supports free markets in principle, it also supports government marketing schemes, low-interest rural loans, and subsidies and tariffs to protect uncompetitive rural industries. The NPA’s support of such measures has brought it into conflict with free market elements within the [Liberal Party] in recent years. The rural conservatism of the NPA derives very directly from the interests it seeks to represent.”

45 Court’s successor as Premier, Ray O’Connor: “Charles had been a strong man in politics from back in the 1950s. He didn’t let things get in his way. He walked right through.” (Reid 1996: 112)
had been the driving force behind the cabinet walkout, seen as the ringleader. Over subsequent years of the Coalition government the NCP backbenchers crossed the floor several times. In a 1995 interview, Stephens claimed he had never voted in parliament contrary to NCP policy (Elphick 1996: 62).

Hendy Cowan produced a paper in 1976 proposing proportional representation for Council elections. This was at a time when Labor PR bills were being presented in the Assembly. The NCP state council asked the parliamentary party to refer the proposal to a select committee but the parliamentary party refused on the grounds that they might appear to be supporting the Labor Party (Elphick 1996: 65). In a speech in the Assembly in April 1976, Matt Stephens said that Labor was trying to make out that vote weighting was a gerrymander whereas a gerrymander can be practised without weighting, and Labor’s real problem was its poor electoral performance. After a standard defence of weighting on the grounds of geographic disadvantage, Stephens went on to suggest proportional representation should be introduced for the Council, though not on the state-wide basis the Labor Opposition preferred, but rather with the state divided into several multi-member electorates (WAPD, 1976: 654-7). Labor’s policy at that time was still to abolish the Council (WAPD 1977: 2036).

The most significant factor in Stephens’s coming to this decision was that in his electorate (Stirling, in the Albany area) there were “two upper house members who are acting virtually as Assembly members.” These MLCs were Liberals. He complained that this caused duplication of paper work when grievances are handled by more than one member. He said he did not blame the Council members for this, but thought that “if we could remove the necessity for that close contact we would be taking a step in the right direction; perhaps [Council] members could devote more time to the research and review of legislation.” (WAPD, 1976: 656). The sub-text was that the Liberal upper house members were undermining the National lower house member in the constituency and if MLCs had so much time on their hands that they could behave as Assembly members then the system should be changed. With larger upper house districts under PR, the MLC would be less likely to interfere in local constituency matters which are the prerogative of the MLA. Nine years later Hendy Cowan, now leader of what had become the National Party of Australia, was flying the same flag: “At present many of the members elected to a Council Province see themselves as an extension or replica of those Assembly members with which their seat coincides. They

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46 June Craig, Liberal MLA 1974-86, referring to the 1975 cabinet walkout: “I think Ray McPharlin... was easily led by Matt Stephens” (Jamieson 1987: 101)
47 Elphick (1996: 63) says, “At a meeting of the parliamentary party on 11 May 1976 Stephens is recorded as having said that allegations he was splitting the party were becoming tiresome.”
48 The author would have been Stephens but as he was a controversial figure the proposal was presented by Cowan.
49 Said Stephens in an interview for the parliamentary history project: “I was the only Country Party member down here in a sea of Liberals.” (Brush 1991: 90)
compete with each other for constituent tasks and devote little attention to legislative review, preferring instead the easy option of voting along party lines.” (Cowan 1985: 18) Stephens also said, to Labor cheers, that consideration should be given as to whether Council should retain power to block supply but suggested (Labor jeered) that no alteration to the bicameral system should be made without a referendum (WAPD, 1976: 657). The referendum requirement would effectively prevent a Labor majority from abolishing the Council.

Stephens’s dim view of his party’s coalition partners included some of his own colleagues. He regarded NCP leaders Old and Jones as “pseudo Liberals” (Elphick 1996: 58) and ultimately they and Bert Crane did resign and sit as Liberal members. The fundamental NCP dispute, unresolved from 1975, was between the cross bench faction and the coalition faction, ie those who wanted a distinct Country Party identity responsive to the constituency and who were prepared to occupy the cross benches, and those who maintained country interests were better served by being part of the coalition government. Internal divisions (which were not confined to the parliamentary party) sharpened and were perhaps exacerbated by some bizarre episodes involving finance and image-making and accusations of bribery (Elphick 1996), and in August 1978 Stephens and Cowan walked out of the NCP state council meeting and started the National Party. In the electoral reform of 1987, it was Cowan and Stephens who dictated the vital clauses on seat distribution and rural vote weighting for both houses and the proportional representation which was introduced was regional, not state-wide.

1.8 Personalities, friends, crusaders

A long-serving Western Australian parliamentarian told me he had known two genuine crusaders: Matt Stephens and Arthur Tonkin. Both were elected to parliament at the 1971 general election and were well past first youth at 45 and 41. Tonkin quit parliament disillusioned in 1987; Stephens retired at the general election in 1989. Stephens was considered a maverick, Tonkin a zealot. Both were singularly dogged men and they were both relatively disinclined to the limelight, their ambitions political rather than personal. Stephens wanted greater Country Party influence over the Liberals; he was the instigator of

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50 A contributor to the tensions between members of the upper and lower houses may have been the new electorate offices, which had been introduced for WA parliamentarians by the 1971-4 Labor government. The electorate office provides the member with a convenient base in the electorate. Federally, the parties strategically locate upper house offices to aid the campaign for lower house members and spend upper house funding on lower house campaigns. The 1970s would have seen the first use of state offices for this purpose.

51 Two weeks earlier, on 29.3.76, a West Australian editorial had suggested a referendum requirement for abolition of a house of parliament (Buxton 1979: 58); The Court government took the step in 1978. South Australia had legislated for such entrenchment in 1969 (Griffith and Srinivasan 2001: 24) and NSW, famously, in 1929 (Griffith and Srinivasan 2001: 88).

52 The dispute is a perennial as the title of Elphick’s 1996 book shows: Coalition or Cross Bench: the Country Party Dilemma.

53 Or obsessed, inflexible, stubborn, determined, or resolute.
the 1975 withdrawal from coalition; he saw virtue in PR from 1976 and got his reconstructed party behind it. Tonkin worked for fifteen years to raise the profile of electoral reform with parliament and with the public and in 1986 he resigned from the ministry in protest when he saw it being undermined by his party.

Stephens had a rare advantage: he had a friend. Parliament seethes with animosities. Like countries, politicians do not have friends; they have interests. Politicians do not form friendships, they form alliances. Intra-party antagonisms tend to be more personal, more bitter and more malicious than the inter-party hostility. Arthur Tonkin went into parliament with the mistaken notion that it was a team game, where people bonded. He found no friends there; if anything, he lost one, Mal Bryce in 1986, and this probably contributed to his disillusionment (Jamieson 1988: 382-4). Tonkin was perennially disappointed that his parliamentary colleagues did not meet his standards. Stephens was more fortunate. From the time of Hendy Cowan’s election in 1974, it appears that the much younger Cowan had Stephens’s regard. They formed a deep friendship, the value of which, in times of turmoil, can only be guessed at. When a man walks out on his party, what must it be worth to have the support of a colleague who is a trusted friend? How much more effectively do two people who are friends start to build a break-away party in the face of the enmity of former comrades? In politics, friendship defers to ambition but in 1978 Stephens, who had been engaged in politics since childhood, did not want the leadership of the new party so Cowan, aged 35, became the leader with Stephens, 52, deputy leader. Through the hard years, Cowan never had to look over his shoulder. The advent and the rise of the National Party may be attributed, in part, to the rapport between its two leaders.

One determinant of the shape of the 1987 electoral reform, and of the two-decade lead-up to 1987, was personal self-interest and others’ inferences of self interest. It is by nature not conspicuous but, as a generalisation, self-concern seems to take precedence over partisan concern. Politicians, anyway, take this for granted. Stephens is fond of telling how, after he had quit the Court ministry in 1975, another MP queried his action: “Why’d you do it, Matt? All you had to do was sit tight and you had it made.” Tonkin is indignant: “...so many ministers are just there for the status, mainly for the car and the driver that’s provided. I think that’s dreadful. Don’t they have any self-respect?” (Jamieson 1988: 418). Crusaders are impatient with human failings – though the struggle for promotion and the striving for the respect of others is intensely human. Crusaders would be less noticeable and less disruptive (and less necessary) if personal incentives more closely matched the collective good. Crusaders’ difficulty compromising principles and their preparedness for self-sacrifice makes them uncomfortable to others and both these men were (and are) disliked by some of their former colleagues. In the end Tonkin and Stephens won: they caused a significant reform of the Western Australian parliament.
1.9 Conclusion

By 1960, the decline in the real value of the property qualification led Labor to enrol Council voters and to threaten to win a majority. The 1963-5 redistribution which accompanied the introduction of full franchise so favoured the Liberals in the Council that its effects generated serious anger in the Labor Party, an anger fed by the Liberal electoral manipulations from 1975 to 1981. The franchise reform had the unexpected side-effect of allowing Labor to object that the Council was undemocratic, an objection that would not previously have made sense but which gave Labor a basis for making reform a public issue.

Labor misinterpreted their problem as malapportionment. The middle-classing of the Labor Party, particularly the election in 1971 of two history teachers, Arthur Tonkin and Mal Bryce, pushed the party to a new commitment to its long-avowed policy of one vote one value. The commitment included the Assembly where Labor did not have an electoral problem. Labor’s problem in the Council was due not to malapportionment (though one vote one value would have helped Labor) and not to gerrymander (of which there were instances and which were anti-Labor) but to vote wastage in the (effectively single-member) electoral districts of the Agricultural, Mining and Pastoral zone.

Liberal electoral success, including holding the Council majority from 1974, led to complacency and, given poor National Party electoral performance, an overbearing attitude toward the Nationals. The peremptory Sir Charles Court and the relentless Matt Stephens in the same cabinet proved explosive. The fallout included National internal division, schism and, ultimately, National revenge upon the Liberals.

Labor activists, Tonkin and Bryce, pinned their hopes of reform on public anger prodding the Liberals into action, and so worked to raise the profile of one vote one value. They were effective at raising the salience of the matter within their own party and Tonkin became shadow minister of “Parliamentary and Electoral Reform”. Later Tonkin and Bryce became, successively, the minister with that portfolio in the Burke governments.

References to Chapter 1

CHAPTER 2
PROXIMATE CAUSES: CONFLICT AND MANOEUVRING, 1983-7

In the absence of adequately developed theory that explains how political and administrative institutions change, we need careful historical-institutional descriptions and analyses of actual transformation processes.

(Olsen, 1992: 266 cited in Helms, 2000: 3)

2.1 Introduction

This chapter examines activity relevant to the 1987 electoral reform from about the time of the election of the first Burke Labor government in February 1983 to the passing of the bill in June 1987. It is thematically, rather than chronologically, organised and after an outline of the events it examines them from various, mainly party-based, perspectives: the role of chance, Labor's consciousness raising and manoeuvring, Liberal paralysis and National resoluteness.

Labor overcame internal division and took what it could get, which was what the National Party permitted, namely a genuine proportional system with the boundary setting removed from parliament's hands. The century-long conservative domination of the Council was ended but Labor would never be able to win a Council majority. The Nationals insisted on retaining the rural weighting of 2:1 in the Assembly and 3:1 in the Council, thus securing their position in both houses. Owing to the Liberal Party's dependence upon, and lack of, strong leadership, it could not overcome internal division and it was Liberal impotence that gave the Nationals so much leverage.


Labor's campaign for reform over the previous twelve years had been futile and it was not significantly more productive after Labor won government in 1983. The new Minister for Parliamentary and Electoral Reform, long-time campaigner Arthur Tonkin, introduced two bills to reform the electoral system of the Legislative Council. The first was for PR over a single state-wide electorate with members reduced from 34 to 22 and half-house elections. It was defeated in the Council. In August 1984 the National Party put up a bill for 32 members similar to the one eventually adopted. It lapsed. Labor's second attempt, in September 1984, was for 32 members in 4 regions with half-house elections, which was also defeated.¹ It became clear that there was no prospect of fundamental reform while the Liberals had a majority in the Council.

¹ Both Labor's bills contained measures to reduce the power of the Council. As Sayers (1986) points out PR would tend to make the Council powerful and independent of the executive which is at odds with Labor's conception of democracy. See Sayers (1986) for a discussion of these two PR bills.
In 1984-5 the National Party and the National Country Party reunited as the National Party of Australia with long-time PR proponents, Hendy Cowan and Matt Stephens, as leaders.

The failed bills and various events and stunts initiated by Arthur Tonkin had generated publicity and raised the salience of electoral issues and Premier Burke declared the 1986 election to be a "quasi-referendum" on electoral reform. On behalf of the Labor government, Arthur Tonkin signed a compact (Appendix 5) with the Australian Democrats: for AD preferences, Labor would introduce a PR bill for 34 members in six regions with whole-house elections. At the general election, the looked-for situation of the NPA holding the balance of power in the Council was achieved and suddenly electoral change became a real possibility. Burke replaced Arthur Tonkin as Minister for Electoral Reform with Mai Bryce.

Some Labor MPs were horrified that reform, stuff of so much righteous rhetoric for so long, might actually occur. Through the years Labor had been free to take the one vote one value high ground since there had never been any prospect of the upper house letting it happen. Now the voters and the Democrats had put them on the spot. At a cabinet meeting in Geraldton in April 1986 Burke told ministers he would ensure that the proposed reform would fail in the Council and on that basis the cabinet officially approved an electoral reform plan corresponding to the compact with the Democrats. However Tonkin, now Police Minister, resigned in disgust. His outspoken resignation letter (Appendix 6) became public and the government was accused of cynicism and hypocrisy.

Against the background of two failed, high-profile electoral bills in the first Burke government and the sensational resignation of the former Minister for Parliamentary and Electoral Reform, and after some preliminary discussions with the other parties, the new minister, Mal Bryce, pushed an electoral reform bill through the Assembly in July 1986. It provided for 57 Assembly districts with a city-country split of 39-18 and 34 Council members with a city-country seat split of 21-13 corresponding to a 1:1.4 country weighting. The Council was to have 6 regions, 3 country, 3 city, whereby two country districts were to have 3 members each and the other four districts would have 7 members each. The intended malapportionment was also 1.4:1 in the Council. Negotiations began in earnest.

In July the Liberals talked about an enquiry into electoral reform (Sunday Times, 6/7/86) but nothing came of it. On the strength of their success at the recent election, the NPA leaders received carte blanche from their state council to negotiate electoral reform (West Australian, 9/9/86). A confused West editorial (10/9/86) saw hope of reform when the three parties agreed on independent commissioners and PR for the Council because it was "a tiny spark of political consensus." Tripartite consensus was not needed. It takes a majority,
in this instance two parties, to pass a bill through a chamber and there was no prospect of more. In theory, such a supermajority could have occurred if the Liberals and Nationals had adopted a common position and negotiated with Labor as a single unit. The Nationals did try to talk with the Liberals. One intractable difference was the Liberals' insistence on half-house elections (Brush 1991: 97) but the animosity between the two parties and the personal dislike between the two leaders made it a lost cause. Indeed, the only way the Nationals and the Liberals could have had a common position would have been by adopting the National position. Why would the Nationals settle for less? The Nationals did not need the Liberals and since the Liberals were incapacitated by internal division, in the end Labor, and thus the WA Parliament, would have to adopt the National Party plan.

The second reading introduction of the bill took place in the Council in October 1986 but the bill was allowed to lie on the table over the Christmas break. The NPA agreed to Labor's four year terms (West Australian, 10/10/86). Barry MacKinnon replaced Bill Hassell as Liberal leader in November 1986. The three parties met bilaterally through the end-of-year break. The sticking point was weighting. The government announced a preparedness to compromise (West Australian, 25/3/87) and proposed a 21-13 city-country seat split for the Council, then the Liberals proposed a 20-14 split and made noises about compromise (West Australian, 3/4/87) while the NPA, sticking to its 17-17 split with three electorates of 17, 12, and 5 MLCs, and 34-23 in the Assembly, expressed concern that if the two majors agreed, the NPA might be by-passed (West Australian, 3/4/87). Labor introduced amendments backing further away from one vote one value to a weighting or 1:1.7 in the Assembly and 1:2.2 for the Council which were rejected out of hand by the Liberals (West Australian, 10/4/87). Labor's back-down on one vote one value to a 19-15 split (West Australian, 27/4/87), which was advanced with a show of reluctance as a major compromise to at least get some reform, was greeted by the Nationals as an attempt to get the conservatives to bid competitively for Labor preferences at the upcoming by-election at Narrogin and, strangely, by Barry MacKinnon as the most radical amendment in a Westminster parliament in the world (West Australian, 11/4/87).

NPA leader Hendy Cowan got "furious" with the Liberals for making a (supposedly) private offer of 20-14 split to the Labor Party while publicly saying they did not want to debate the amendments. He alleged it was a bid for Labor preferences in the Narrogin by-election (West Australian, 27/4/87). Oddly, the Liberals' 20-14 proposal had actually been published in the West on 3/4/87. Liberal leader MacKinnon claimed that the only discussions he was having were with the National Party. However the Liberal negotiator, Andrew Mensaros, said that his suggestion of 20-14 was only a negotiating stance and next time he would use a tape recorder in discussions with Minister Bryce (West Australian, 1/5/87).
Bryce had released a confidential Liberal document with the 20-14 proposal claiming that misrepresentations by MacKinnon (to the voters of Narrogin) had left him no alternative (Australian, 1/5/87). The ALP ultimately decided to direct preferences to the NPA (West Australian, 5/5/87) though it was irrelevant as the NPA’s Bob Wiese received 49.78% of the primary vote. The Liberals shifted to an 18-16 split still with half house elections every three years (West Australian, 21/5/87) but the Narrogin episode had soured discussions and ended any Labor hopes of Liberal participation.

The floor of the parliament is a kind of theatre. It is not the place where policy is made and bills are written. Yet something like that happened in the Legislative Council over the months from the bill’s introduction in October to June 1987. No one knew what was going to happen. The Bill was admitted to the second reading stage in the Council 19 votes to 13, with the Nationals except Mick Gayfer voting with Labor, and went to the committee of the whole. The parties’ city-country seat split positions for the Council and the Assembly at this stage were: Government: 19-15 and 35-22; Nationals 17-17 and 34-23; Liberals 18-16 and 33-24 (West Australian, 25/5/87). Debate in the Council began in May. On May 26, each of the three parties introduced amendments to the crucial clause 8 which set out the electoral seat distribution. Each amendment was voted down by the other two parties voting together. In an unusual move, and with much haggling, clause 8 and other clauses which depended upon it, were set aside to allow debate on the rest of the bill. This was in order to see, as Attorney-General Berinson said, how much inter-party agreement there might be. Diana Callander in the West on the 28/5/87: “The bill’s future hangs on the ALP and NP (sic) reaching some compromise on the ratio between the country and metropolitan representation.” As it turned out, the NPA scarcely had to compromise; it got its way.

Over subsequent sessions, the other clauses were dealt with and decided by Labor and Nationals voting together. Matt Stephens says there was limited discussion between the two parties and he was unaware that Labor would agree to National Party terms though he was not surprised (Brush 1991: 98-100). On June 9, 1987 clause 8 had to be faced and on that final night, the three parties reintroduced the same three amendments as when debate had started on May 26. Labor did not want to be seen to endorse the Nationals’ design so it had first to get the house to vote down the Labor plan and then, to save the bill, the ALP could reluctantly support the National amendment. The Liberals could see the end closing in (see Preface). There was a hitch: the amendments were out of sequence – National’s before Labor’s – on the notice paper so Berinson sprang to his feet to change the sequence; the Liberals challenged on a point of order and for a while it looked as though it could come unstuck, however the Liberal Chairman of Committee let it proceed out of sequence – and thus according to plan. After perfunctory remarks from Berinson, the Labor amendment was duly voted on and
defeated. The National amendment was introduced by E J Charlton (NPA) and Berinson said the government would reluctantly accept it. The clauses passed the committee stage with 19 votes forming an absolute majority. It was all over bar the shouting – which continued into the small hours\(^2\) and some 17 pages of Hansard in which Liberals G E Masters, N F Moore and A A Lewis speculate, through layers of \textit{ad hominem}, on the effect on the parties' prospects of winning seats, accuse Labor of betraying one vote one value and of planning to abolish the Council, and accuse the Nationals of not being able to think clearly. The conservative dragon that had ruled the Council for a century had been slain and this was, as D W Wenn (ALP) interjected (WAPD 1987: 2040) at one point of average silliness, "The dying throes," however until the vote actually took place, no one quite knew how it would turn out.

2.3 The reformers' fortuitous majority

It was the National Party's holding the balance of power in the Council that made the 1987 reform possible. That this situation arose at the 1986 election was a consequence of several chance events which gave rise to Liberal losses, any one of which, had it not occurred, would have changed the balance and either prevented reform or given it a very different cast.

A constitutional majority in the 34 seat Council was (still is) 18 votes. After the 1986 election, Labor had 16 seats, the NPA had 4, and the Liberals 14. Labor plus Nationals therefore appear to have had a comfortable majority of 20. The appearance is deceptive. They had the minimum for an absolute majority. This arose from two complications. The first was that the long-standing NPA member for Central Province, H W (Mick) Gayfer, sided with the Liberals on this issue.\(^3\) On the final night in the Council (June 9, 1987) he voted with the Liberals and against his NPA colleagues on the crucial amendments (WAPD 1987: 2032-65).\(^4\) Hence, rather than 16-4-14, the Labor-National-Liberal seat distribution with respect to the 1987 electoral bill was 16-3-15 making the Labor-National majority 19, not 20. The second, and only potential, complication was that the president of the Council does not have a deliberative vote. Had the government party supplied the President, as is usual, the majority would have been the bare 18.\(^5\)

\(^2\) The house eventually adjourned, after passing other dependent amendments, at 3.40am. There was more shouting in the Assembly on 18 June when the Council amendments were ratified.

\(^3\) Elphick (1996: 144) says, "...in October 1985 Gayfer and McNeil joined the party [ie the NPA] on their own terms – one of which was that they would be allowed the degree of autonomy that had been present in the past." Gayfer was well known to be strongly conservative.

\(^4\) At the last minute Gayfer tried to offer alternative suggestions for an electoral system. He was, in effect, ignored. (WAPD 1987: 2032)

\(^5\) The president does have a casting vote which applies in the case of a tied vote. A tie cannot occur where an absolute majority of an even number (here 34) is sought and in practice will not occur when a majority of an odd number is sought since the opposition will ensure that someone is absent.
In 1982 Liberal MLC W R Withers resigned owing to his dissatisfaction with his party's electoral boundary manipulation (see 1.6 above). His seat was won at the 1982 by-election and retained at the 1983 general election by the ALP's T G Stephens. This province (North) with its increasing population, was turning Labor\(^6\) (Summary Table 3) however Withers had been the member since 1971 and if he had not resigned would probably have retained the seat in 1983. Had he done so, instead of 16-3-15 in 1987, the position would have been 15-3-16. Since the President of the Council does not have a deliberative vote, 15-3-16 would have constituted an absolute majority for Nationals plus Labor only if the Liberal Party had continued to supply the president which, in view of what was at stake, is unlikely.\(^7\)

It would appear, then, that not only did the 1981 gerrymander not succeed in preventing a Labor election win, but it ultimately cost the conservatives, or the Liberals, their control of the Legislative Council.

In 1984, Liberal MLC W G Atkinson, who was not up for election in 1986, died and his seat, Central, was won by E J Charlton of the newly cobbled-together NPA at a by-election. Had he not died, 1986 would have yielded a Labor-National-Liberal seat distribution of 16-2-16 and the same situation would have arisen, with respect to the presidency and a constitutional majority, as discussed in the previous paragraph.

At the 1986 election, two of Labor's wins, Lower-West and South-West provinces, were taken from Liberals by margins of 102 votes and 70 votes out of enrolments of 35,913 and 31,658. The wins were achieved with Democrat preferences, in accordance with the compact which Arthur Tonkin had signed with the Australian Democrats before the election (see 2.5 below), however to win by such slight margins is also luck. Had either seat been retained by the liberals then instead of 16-3-15, it would have been 15-3-16 with the same consequences as in the previous two paragraphs, and if both had been retained it would have been 14-3-17 with fatal consequences for electoral reform.

The Labor and National parties had campaigned for upwards of fifteen years for electoral reform. Many bills had been drawn up and a vast amount of the WA Parliament's time spent debating them. Yet the transformation of the electoral system in 1987 was made

\(^6\) North Province was won by Labor for the first time in fifteen years in 1980 by Peter Dowding with 51.7% of the vote. Tom Stephens won North with 65.4% and 65.2% at his two elections.

\(^7\) The presidency of the Legislative Council is considered prestigious and no one valued it more highly than its incumbent, Clive Griffiths. If a Labor-National majority (of 18) had proposed to elect him president, the Liberal party would presumably not have wanted him to take it, however Griffiths, who had made an international career out of the position, would have been very keen to retain it and, as a senior member of a party without effective leadership, could well have insisted. It would have been an interesting situation, particularly as Griffiths seems to have been appalled by the 1987 reform. (As it was, it would have been prudent to force Labor to supply the president, thereby reducing the National-Labor majority to the minimum 18 and thus critically sensitive to a resignation or a death – but such rational far-sightedness was impossible for the Liberals in the wake of the 1986 election.)
possible by the angry resignation of one Liberal MLC, plus the death of another Liberal MLC, along with an election victory of 102 votes, and another election victory of 70 votes.

### 2.4 Labor’s consciousness raising

At a minimum, by “reform” was to be understood some change to the electoral rules such that the allocation of seats in the upper house would reflect the votes cast and eliminate the guaranteed conservative dominance. Since the coalition parties could not be expected to relinquish this power willingly and since there was no formal mechanism to compel the Council, it appeared that the only prospect for change was to raise public awareness until conservative parties would accept reform out of concern for public ire. Maximising publicity was Labor’s only strategy from 1971 to 1986. It was a struggle. The electoral system is of vital interest to the politicians involved but it is a dry subject to the wider population.

There was a candid moment in the Council in October, 1980, when J M Berinson (ALP) was complaining of malapportionment – such complaining was long since routine – when I G Pratt (Lib) interjected, “Can you interest the people of Western Australia in that proposition?” Berinson replied, “That is our task and much to our disappointment it has been a very difficult one. Nonetheless, we will pursue the matter with even greater vigour than we have in the past because this is an intolerable situation.” (WAPD, 1980: 2467).

The years of agitation had also made no impression on the Liberal Party. In 1981, the Court government’s electoral redistribution led to the resignation of the Liberal member for North Province, W R Withers (see 1.6 and 2.3 above). Withers’s several speeches attempting to amend the legislation gave publicity to the reformists as did the urgency motion in the Council in April 1982 to debate the claim, attributed to him, of “the worst gerrymander in the western world.” (WAPD, 1982: 561). Said D K Dans MLC (ALP):

> On this occasion the projected gerrymander by the Liberal Party has caused more public debate than any other legislation in my living experience. Not for one minute could I say the public debate will change the result. However, certainly it raises a glimmer of hope that people are starting to take notice... I ask government members to think very carefully about what they intend to do. I am not so naive to think that they will vote against the Government’s proposal but I urge them to think carefully about it because in a few years’ time they may be very sorry for the decision they make today (WAPD, 1981: 2020-1).

They did become very sorry though scarcely as a consequence of public debate: Withers’s seat was taken by Labor and, as discussed above, was crucial to the numbers in the 1987 vote for reform. Meanwhile Labor persisted with its publicity strategy. Tonkin again got himself “named” and suspended the Assembly (12/5/81) during the debate on the 1981 electoral changes. The *West* was changing its thinking. Discussing a letter the ALP Opposition had written to the Governor complaining about the changes, its editorial on 25/7/81 said:
WA’s electoral system is so appallingly unbalanced that the Labor Party is entitled to use virtually any non-violent, political tactic to focus attention on the issue and motivate pressure for change... it is wrong that the Government should use its numbers to define the boundaries of seats in the North and the limits of the metropolitan electoral region... Because the current system is weighted heavily in favour of the Liberal Party the onus is on the senior partner in Government to make the changes necessary for a more democratic system. Till such changes are made the Liberals will remain wide open to charges of electoral dishonesty.

So the message was getting through to some extent. Tonkin continued his stunts after the 1983 election. As Minister for Parliamentary and Electoral Reform in May 1983 he presided while a costumed actress playing Queen Victoria cut her birthday cake (Victoria’s birthday, May 22, is the day a newly-elected Legislative Council first meets), his point being that the electoral system belonged to the Victorian era, and in May 1984 he was pictured greeting her arriving by horse-drawn carriage at Parliament House. Tonkin also organised two “Parliament Weeks” – conferences with politicians and visiting academics (Evans 1984; Evans 1985) and also exploited every opportunity to ride his electoral hobby-horse in the suburban press.

Under Tonkin’s direction the new Labor Government passed three electoral amendment acts: to amalgamate enrolments for state and federal elections; to allow referendums to be simultaneous with elections; to remove exemptions for Aboriginal enrolment. On October 4, 1983, the Premier, Brian Burke, in a congratulatory note to Arthur Tonkin, the Minister for Parliamentary and Electoral Reform, wrote, “Most importantly I believe that for the first time ever the issue is beginning to seep through the public mind as one we can win on.” (Jamieson 1988: 352). It was an encouragement but there was no progress on the real problem of representation in the Council. In 1983 Labor introduced a bill for PR in the Council. Looking back in 1988, Tonkin said:

It was a kind of cosmetic approach... I saw it as a consciousness-raising exercise. I didn’t see this as putting up a bill which would be passed, I knew that wasn’t going to happen, and so we put up a bill to sharpen the focus of the debate. (Jamieson 1988: 350)

This was not something Labor could have admitted to at the time and the legislation was seen as serious, but unrealistic – and Tonkin was seen as uncompromising. A year later he was perceived to have modified his approach. The West Australian editorialised on March 28, 1984:

The odds in favour of electoral reform being achieved in WA should improve now that the State Government has moderated its approach to the issue, but this will depend on the Opposition giving a more positive response than it has so far to Cabinet’s decision to seek consensus legislation. The case for electoral reform is as compelling as ever, but the government’s strident attempts to bring it about last year only hardened the reaction of the conservative parties.
Though they had their hopes, the odds of electoral reform never depended on a positive response from the Opposition. There is no evidence that anything any other party did made any impression—hardening or softening—on the Liberal Party and since the essential clauses of the final reform were only marginally different from the National Party’s formulation of years before, little impression was evidently made on it, too. Tonkin’s later assertion that the 1983 bills were ambit claims which it was known at the time had no prospect of passing, is supported by the nature of the PR bill which would have cut the Council from 34 to 22 members and which might have been popular with the voters but which had no prospect of Council approval. Tonkin’s bills were essentially propaganda exercises, raising the salience of electoral reform, testing limits, defining the debate, trying to wrong-foot the Liberals, and setting out positions which could later be backed away from to demonstrate willingness to compromise.

In 1988, looking back to 1983, Tonkin said:

So we did have some success but not in fundamental matters, not in the matter of making parliament more democratic or in resolving deadlocks, but we kept putting up bills and I don’t know whether I became something of an absurd figure, someone who just kept butting his head against a brick wall. That metaphor was used about me. I still think it was necessary to heighten consciousness of the people. But at least we had made one major step forward. This was the first government, so far as I know, in the history of Western Australia, which was committed to parliamentary and electoral reform. We had a minister who was called the Minister for Parliamentary and Electoral Reform. We had a government that said, “Right, we’re going to try to reform the parliament.” This is in stark contrast to, say, the [John] Tonkin Government and other governments. At least the Labor Party was committed to some kind of reform programme. (Jamieson 1988: 351-2)

The breakaway National Party, which would rescue the situation where the creation of an impotent ministry was thought to be a “major step forward”, was also hitting its head against a wall. Deputy leader, Matt Stephens, introduced a bill for proportional representation in the Council in August 1984, claiming, “There is evidence of growing public interest in electoral reform…” and then, somewhat pathetically, he quoted the eight-year-old 1976 West editorial, which is not evidence that there had been a growth in public interest. His bill lapsed.

It cannot be said that there was any public clamour for reform or that any MP eventually voted for it out of concern for electors’ disapproval. Yet without the publicity and the fact that such public response as there was, did favour reform, the Labor Party itself would probably not have been convinced enough to create a special minister and to persist. By the time the election loomed at the end of 1985, two PR bills had been defeated in Council and consciousness had, to some extent, been raised and sufficient public interest had been generated for Labor to make it an election issue. Premier Brian Burke declared the election to
be a "quasi-referendum" on Labor's electoral reform policy (*Daily News* 21/1/86). Referring to the Liberals pre-election policy release, the *Australian* (25/1/86) remarked that, "Not one of those 76 pages contained one reference to electoral reform" and the omission was commented on by all the dailies.

If the 1986 election was a referendum on reform then the public must have been strongly in favour for Labor won the election on February 8 with an increased majority and the Nationals achieved the balance of power in the Council. Burke gave the reform portfolio to Deputy Premier Mai Bryce. On February 20, the *West* editorialised:

...the Government has made a smooth start to its second term... Mr Burke's decision to transfer responsibility for electoral reform to his deputy, Mr Bryce, is an early sign of the priority the Government intends to give to revamping the State's electoral system. Though Mr Tonkin made a fair fist of the job, Labor's task now is less one of strident advocacy than of delicate negotiation with the National Party which holds the balance of power in the Legislative Council.

The strategy of publicity for, and consciousness raising about, electoral reform had been superseded.

2.5 Labor manoeuvring

2.5.1 The Labor - Democrat compact

The Australian Democrats electoral reform policy was decided by party members voting in a secret postal ballot on a final draft policy. In several places the draft policy contained a choice between options. The choices of the members on the most critical issue, the constitution of the houses, were the options suggested by the non-partisan Proportional Representation Society of Australia. (Jeffreys 1985: 13). The Democrats could thus make the same devout claim as Labor: they were not designing the rules to suit themselves. They were suggesting rules that favoured no one.

As the 1986 election drew near Tonkin negotiated a compact with the Democrats leader, the former Senator, Jack Evans. A copy of the compact is reproduced here as Appendix 5. It provided that the Democrats would direct preferences to Labor and in return Labor would undertake to introduce PR in the Council.8 Premier Burke was opposed to

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8 Tonkin says that the idea for the compact was not his; he attributes it to the Democrats, to Michael Beahan (State Secretary of the Labor Party) and John Cowdell (Assistant Secretary) and to his own ministerial adviser, Graham Hawkes. (Jamieson 1988: 362)

Not everyone approved of the compact. Labor member Patrick William Finn (father of Yvonne Henderson MLA) disapproved, apparently on the grounds that the Democrat candidate in the Assembly seat of Whitford was directing second preferences to the Liberal candidate and that winning in the Council would be no use if Labor lost government. There was an unwritten section to the compact (though Labor State Secretary Michael Beahan claims (*Western Mail* 4/2/86) that it was unrelated to the preference deal): Labor would not stand a candidate in Metropolitan Province but instead would support AD candidate Jack Evans against Liberal Max Evans. Finn registered as an independent Labor candidate directing preferences to Max, hoping to split votes to spoil Jack's prospects. Labor
signing the compact saying it should be signed by the Labor Party but when told of this, Evans said that without ministerial commitment he would not sign it. Against Burke’s wishes, Tonkin signed and committed the government (Jamieson 1988: 361). As a result Labor won two provinces from the Liberals.

**Table 2.1 Two ALP wins in 1986 (% primary votes)**

<table>
<thead>
<tr>
<th></th>
<th>ALP</th>
<th>Liberal</th>
<th>AD</th>
<th>to ALP</th>
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</thead>
<tbody>
<tr>
<td>Lower West</td>
<td>46.56</td>
<td>46.67</td>
<td>6.78</td>
<td>53.12</td>
</tr>
<tr>
<td>South West</td>
<td>46.99</td>
<td>48.49</td>
<td>4.53</td>
<td>69.28</td>
</tr>
</tbody>
</table>

(Data from Black 1991b)

Labor won the provinces by 102 votes and 70 votes respectively. These two provinces in the Agricultural, Mining and Pastoral zone had been Liberal since their inception in 1963 (Summary Table 3) and at a by-election in July 1987, South-West was retained by the Liberals with an absolute majority. There is no question that South-West at least would not have been won without Tonkin’s compact with the Democrats.

At the time there was a notion, based on the results of the 1983 then 1986 elections, that Labor was within reach of its own Council majority.9 Brian Burke said, “If the next election was to repeat the result this year we could confidently expect to pick up enough seats to become the majority party within the Council in our own right.” *(West Australian, 20/2/86)* Labor had won 9 seats so, obviously, repeating it at the next half-house election would give them 18 and the majority. Liberal MLC, G E Masters, said “The Government knows that it has every opportunity of winning control of this House at the next election. It would be silly for the Opposition to deny that.” *(WAPD 1986: 3908-9)* The 1987 rule change to PR would dash all prospect of Labor ever winning a Legislative Council majority. Did Labor, in 1987, repeat the mistake they made in 1963? Did they once again change the rules just at the point when they could have won under the existing rules? No. For Labor to talk of winning Lower West or South West again, especially if it had reneged on the compact with the Democrats, was wishful thinking.

**2.5.2 Bryce replaces Tonkin as electoral reform minister**

Immediately after the election, Burke replaced Arthur Tonkin by Mai Bryce. The spin put on it was that it was raising the profile of electoral reform by passing it to the Deputy Premier. It was rather a recognition that the Nationals balance of power made reform genuinely possible and Bryce was a more suitable person to carry negotiations, not because of

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9 The *West Australian*, 26/4/86, was very confused: “Although there has been no change in the Upper House ‘gerrymander’, Labor’s success in the Legislative Assembly elections in 1983 and 1986 has helped put it within reach of gaining its first Council majority.”
his seniority but because of his personality, because he was a man who could compromise. A teacher colleague of Tonkin’s and committed to electoral reform from before he had entered parliament in 1971, Bryce had relinquished his own leadership ambition to join Burke in a surprise spill of the then leader, Ron Davies, in 1981. Bryce had “apparently decided it would be better to be vice-captain of a winning team rather than be shoved aside in Burke’s push for power,” (Bennett 1986: 49) so Bryce had turned king-maker to become deputy leader and, after 1983, Deputy Premier.

Tonkin claims Burke had told him he would be continuing in the portfolio. When, ten days after the 1986 election, he received a letter from Burke appointing him as Minister for Police (and Water Resources and Consumer Affairs) accompanied by a list of ministers showing that Bryce had been awarded electoral reform, he was “absolutely aghast”. Burke and Bryce had behaved like “sneaks”. It was “treachery” (Jamieson 1988: 382, 385, 400). “After the event I went to see Brian round at his house and I told him I was very disappointed and upset because he hadn’t got back to me. He said, ‘Oh I suppose Mai Bryce has a sense of his place in history.’ I said, ‘Well don’t you think I might have a sense of my place in history too?’ So the reason he gave that he’d given it to Mal was that Mal thought there would now be parliamentary reform and therefore he’d given it to him.” (Jamieson 1988: 382) Tonkin had led the campaign for electoral reform for fifteen years and just as he had put the party in a position to succeed, he’d been brushed aside.

Whatever the motives and whatever the manner, in replacing Tonkin with Bryce, there are indications that Burke enhanced the prospects for reform. Liberal MLC, Gordon Masters, speaking in November 1986 during debate on the bill which eventually passed, described a meeting during the previous government attended by himself, Phillip Pendal MLC (Lib), Joe Berinson MLC (ALP) and Arthur Tonkin:

The reason I say that Mr Tonkin was an embarrassment to his party was that that conference was arranged because a number of changes had been proposed by the Labor Party to the electoral legislation and we went along with four of five of them. We were in conflict with at least one change, perhaps two, but we were prepared to negotiate with the Government on those matters. However we were faced with a Minister for Parliamentary and Electoral Reform who said, ‘Do you agree with it?’ We did not and he walked away. The meeting took 20 seconds only. That is a darn good reason he has not got the job today.

I suggest that the current Minister for Parliamentary and Electoral Reform [Mai Bryce] has made an effort regarding this legislation. He has been in touch with me and a number of my colleagues over a period of time and has offered the information we needed and which we have used. (WAPD 1986: 3909)

Bryce did succeed in putting through significant reform.

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10 The letter was dated 18/2/86; the election had been on 8/2/86.
2.5.3 The Geraldton cabinet meeting and Tonkin's resignation

On Tuesday April 22 Tonkin resigned from the ministry after a cabinet meeting held on the weekend in Geraldton.

To hear my colleagues say, as they did in Geraldton on Sunday night, that we must make absolutely sure that the bill [on electoral reform], which will contain the promises we made to the people at the election, is defeated was to hear betrayed all that I have tried to stand for as a member of the Australian Labor Party...

It seems this government is treading the same cynical path trodden by the Tonkin Government when its Legislative of Western Australia bill, with its attendant five minutes speech by the Minister, facilitated the union of conservatives on both sides of the Parliament in their ridicule of those who would introduce into Western Australia a decent and honourable electoral system... (Tonkin: resignation letter, 22/4/86, Appendix 6).

It is not uncommon for a submission which the cabinet does not want, to be deflected and shelved, however here the cabinet made an official decision to endorse a bill and a secret decision to make sure the bill failed. The ministry conspired to lie to the electorate. There was more, however. For all its bluntness, Tonkin’s resignation letter was not entirely frank. According to Mark Irving in the Daily News, 1/5/86:

Mr Tonkin refused to reveal the full reason for his resignation... Today Mr Tonkin again declined to elaborate on his resignation. But he denied leaking the letter and said he was unhappy about its publication. He said he had given an undertaking to the Premier and the Labor Party caucus meeting this week not to reveal details of his disagreement with cabinet.

After it was all over, Tonkin told his side of it when interviewed by Ronda Jamieson for the WA Parliamentary History Project in 1988. He described the Geraldton cabinet meeting:

Brian first of all said that he thought it was nonsense to try to enact legislatively what I had promised the people on behalf of the government before the election in that pact with the Democrats. Michael Beahan [Labor Party State Secretary] who was present at the meeting, said, “Well, I’ll have something to say about that.” I said, “So will I.” Brian immediately turned to me and said, “But not publicly.” I said, “Oh yes, very publicly.” (Jamieson 1988: 393)

Assurances were given that the bill would not pass through the Legislative Council. Now I’m quite prepared to believe that every single minister at that Cabinet meeting, except myself, will deny that either from faulty memory or because they are prepared to tell a lie and therefore people will not believe me. I’m quite prepared for that to happen but I know what the decision was. I made notes afterward of who said what... What one resigns

11 The 1992 royal commission: “The proper role and function of Cabinet itself was either poorly understood or deliberately abused by the Premier and senior ministers” and, referring to 1987, 1988: “Pervading all this period was a clear disregard of the formal cabinet procedures to which both the Burke and Dowding Governments were ostensibly committed.” (WA Inc Royal Commission 1992: Part II, 1.1.25 and 4.2.7)
12 Not every then minister denies.
over is because of decisions taken and the decision taken was that the bill would not be proceeded with. I only remember because Michael Beahan and I had made clear we would not accept that they just tear up the agreement and not even pretend to put it forward. So when Brian Burke accepted that it was out of the question for them to tear up the agreement because of Michael Beahan's and my attitude, they then said, "Well we will put the bill up but we will make sure it's not passed." Now even after the decision had been taken by Cabinet, someone called out once again, "And are you absolutely sure it will not pass the Legislative Council?" [...] So there wasn't a question of terms used or debates, it was a decision of the Cabinet to put up legislation which the Cabinet [...] would work to see [...] was defeated. Now that was the decision. (Jamieson 1988: 407. The italicised someone and the ellipses in square brackets are original and indicate omissions from the record of interview, presumably out of concern for libel.)

In answer to a question from Jamieson (page 398), Tonkin says that the ministers "really were objecting to the parts dealing with the Legislative Council, with the change to a regional system and proportional representation. The reason for that is that a major party will find it very hard to get a majority in the Legislative Council when you have proportional representation." This is incorrect. The people who objected at that cabinet meeting were country members objecting to one vote one value – and one vote one value in the Assembly at that, for they were MLAs and not greatly moved by Council concerns. They would have been supported by any ministers under the misapprehension that under the present system Labor might go on to win a majority at the next election but apart from himself and Bryce, the ministers did not really grasp the effects of PR. The overwhelming bulk of the discussion on electoral reform – Hansard and newspaper columns – concerns one vote one value. If anyone did object to PR then this must have been the only occasion.

One person who was certainly not among the objectors at the Geraldton cabinet meeting was Joe Berinson. Tonkin says, "...one of the factors against proportional representation was Joe Berinson for whom I have a lot of respect but who was very concerned about PR because it would mean that no party would gain absolute control of the Legislative Council." (Jamieson 1988: 400) If Berinson did have that opinion he would, of course, have been right, but he could not have held it very firmly: on 18/12/2001 he wrote to the West Australian deploiring planned changes to the Council electoral system (the system he, as Attorney General, had guided through the Council in 1987) on the grounds that the modifications would mean that no party could win a majority. To object to PR in 1986 on the grounds that it meant Labor would never win a majority would have made sense but there is

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13 The most prominent was Julian Grill, Minister for Agriculture and MLA for Esperance-Dundas. He has never made a secret of his support for rural malapportionment and in the lead-up to the 2001 election was an outspoken critic of his party's election platform of one vote one value.

14 The cabinet minutes set out just the official decisions, not the discussion. According to Tonkin, cabinet minutes were always kept, and decisions recorded, by Brian Burke, the chairman (not Terry
no record of anybody doing so. I spoke to another former minister who, in 2001, was still under the impression that Labor might win a majority in the Council under the present PR rules.\footnote{Berinson did have a point. The 2001 plan was to modify the Council to electorates of six members each. To win a majority among 6 members (ie 4) is effectively impossible. Nevertheless, there is also no prospect of the major parties winning a Council majority with the 5 and 7 member electorates.} We have to ask: If Labor didn't realise that PR was going to give the minor parties the balance of power what did they think the Democrats had signed the compact for? If Labor people thought there would be a chance of their winning a majority, did they think Cowan and Stephens were silly? The press seems to have had more understanding than the politicians since it discussed on a number of occasions the possibility of the Democrats winning the balance of power.\footnote{For instance: Peter Terry in the \textit{Australian} 2/5/86: “Proportional representation would almost certainly ensure Democrats were elected to State parliament and would offer them the possibility of one day holding the balance of power.” Again on 5/7/86: “The latest package... will also, if passed, open the way for minority parties – such as the Australian Democrats – to win their first seats in the State’s parliament.” Tony Robertson in the \textit{Australian} 11/6/87: “The balance of power in the West Australia Legislative Council could rest with the minor parties after the next election following a reform of the State’s electoral laws...” Though Diana Callander discussing the newly passed bill in the \textit{West Australian}, 11/6/87: “It also entrenches the National Party with the balance of power in the Upper House.”} It appears that Labor MPs were so distracted by the red herring of one vote one value, that PR slipped through almost unexamined.

Jamieson’s interview of Tonkin appears to be the only public written record of the events at that meeting. Tonkin says, “When Michael Beahan and myself objected, then the promises were going to be honoured in a sense except, as I said, the ministers got an assurance from Brian Burke that he would see to it that the measure was not passed in the Legislative Council.” (Jamieson 1988: 398) One of my interlocutors cast doubt on its account of Burke’s role so I checked with others who confirmed that Burke did not merely assure ministers the bill would fail (ie predict it would fail), but that he actually said he would see to it. I did not ask Burke himself. The affair contains a couple of puzzles. Firstly, what were they worried about? The Nationals would never agree to one vote one value. Secondly, why did Burke give such a public assurance? With electoral reform being such a high profile policy, why didn’t he simply take the concerned members aside and assure them on the quiet instead of making so public a display?

If country-city vote weighting were abolished, country districts would roughly double in size and some country MLAs would lose their seats. This was the cause of the ructions at the Geraldton cabinet meeting with up to five ALP seats allegedly in jeopardy (\textit{Australian}, 24/4/86). However, everyone had been agreed for the previous year or two that the only path to reform would be if the Nationals won the balance of power. That was the purpose of the compact with the Democrats. The reason some members were getting agitated was precisely

Burke, his brother and official Cabinet Secretary) (Jamieson 1988: 426). In this instance the minutes merely record a plan for electoral reform along the lines of the compact with the Australian Democrats.
because the Nationals now had that balance. One vote one value would have an enormous negative impact on the Nationals. Would the National leaders sacrifice their newly united and victorious party for a Labor Party principle? Hardly. Perhaps there was some fear that with the Nationals in such a powerful position, the Liberals would negotiate for one vote one value since they would gain in terms of the damage it would do to the Nationals. Perhaps, to ministers with their minds mostly on their own portfolios, the balance of power and its relation to electoral reform was not clear. By this time, one vote one value had long since developed a life of its own. Labor had harped on it for fifteen years and the election had been fought on the issue, so the government could claim a mandate. The ALP had 16 MLCs out of 34 so it would need just two others to make an absolute majority. At least one National MLC owed his win to Labor second preferences. National MPs are not strongly bound by party policy so it was not beyond the bounds of possibility that there might be a couple who would agree to vote with the policy, perhaps for a quid pro quo. Perhaps some Liberals would buckle. Or perhaps people feared that the Liberals as a party might parley.

If these were the perceptions of some members of the meeting, would Burke have known better? Yes. Burke had exceptional political "radar". He was the supreme exemplification of the thesis that the politician’s essential task is to monitor everyone else’s political conversations (Taagepera and Shugart 1989). He made it his business to know what people thought, what they wanted, what was going on, what was going to happen. These were tumultuous times for WA government. "WA Inc", a form of corporatism with the rhetoric of private enterprise, was at its height. There was corruption and rampant cronyism. Brian Burke, the “consummate ‘Tammany Hall’ politician” (O’Brien 1986: x), had a deep interest in people's relationships to each other and, mediated by a disparaging perception of human motivation, a knack for exploiting their weaknesses. He cultivated and employed his erstwhile journalist colleagues and he selectively cultivated his political opponents.

17 In South Province, John Caldwell got 28% of the primary vote but with Labor preferences defeated the Liberal with 44%. Mick Gayfer, MLC for Central province also received ALP preferences. (Black 1991b)
18 Said Tonkin in 1988, “I might say he [Burke] was successful to a degree because it was found that certain upper house members have a pretty low price. In fact they did support legislation in return for a trip overseas on a committee of enquiry. That’s the kind of politics at which I am a duffer and at which Brian Burke is a master, and it worked. So we did have less obstruction than previous governments because... I say Brian, but it wasn’t just Brian, but the government (I certainly wasn’t part of it because I’m not very good in this area) was able to work behind the scenes and find that various people, as I say, had their price.” (Jamieson 1988: 345) The Burke government’s cooperation from the upper house somewhat undermined the perceived necessity for reform.
19 Taagepera and Shugart applied this conversation-monitoring concept of a politician’s task to derive an explanation and a theory of the optimum number of politicians and hence of assembly size.
20 Burke went to jail later and so did one of his ministers, David Parker. Former Liberal Premier, Ray O’Connor also went to jail. (For cronyism, see Bennett and Poprzeczny 1986; Jamieson 1988: 432-3; WA Inc Royal Commission 1992)
21 A former print and TV journalist, Burke’s professional understanding and his skill at handling people together made him a master media manager. He not only manipulated the public image but used the
Burke and Hendy Cowan, the leader of the Nationals, understood each other quite well so Burke was in a position to appreciate that Cowan and the National deputy leader, Matt Stephens, were never going to accede to one vote one value; he would also have been aware that Cowan and Stephens were very much in charge of their party, most of the other National MPs being new. Burke was also close to Ray O'Connor, the former Liberal Premier and may have had a “mole” in the Liberal party room. Thus the Premier had personal insights into the solidarity of the Nationals, the antipathy between the Nationals and the Liberals, and the depths of the confusion and division within the Liberal Party. It is likely that Burke, through his extraordinary network of contacts, even contributed to this division. All in all, he was in a position to know that one vote one value had no chance of getting up and, because he always seemed to know what was going on, in the eyes of his colleagues plausibly in a position to influence the course of the bill in the upper house. His assertion that he would ensure the measure failed in the Council, was credible. Why didn’t he quietly take the objectors aside? Perhaps because he was caught off-guard, his plan to ignore electoral reform having met with resistance. Perhaps because an assurance without witnesses would not be so convincing. Why didn’t he simply predict that it would fail? Perhaps because it was part of his modus operandi: a man for whom practical politics means patronage and personal loyalty must play his role and display his superior knowledge and power.

Labor had gone to the election thinking in terms of one vote one value and that was what it thought it had made the compact with the Democrats for. But one vote one value would be useless to the Democrats without PR; it was for PR that the Democrats signed. So people were talking past each other. The whole fuss was unnecessary: one vote one value was flim-flam and reform was realistically only about PR – and PR was not a contentious issue. Labor had got itself tied up in knots for nothing. The muddle had significant consequences, starting with Tonkin’s calculated resignation:

In the twenty-four hours or so between the end of that Cabinet meeting and my resignation, one of the factors I did consider was that if I resigned over this matter in fact it might have a good effect upon electoral reform because then the government would say, “We cannot afford not to put up this package and try
to get it passed because if we do then that will prove that Arthur Tonkin was right in resigning.” I expected them to prove, or attempt to prove that I was mistaken or a liar and that I’d resigned wrongly... In fact my reasoning and my knowledge of the kind of machinations of the minds of the chief actors was in my opinion, although I can’t prove it, borne out, because in fact that election pledge was honoured and parts of it were enacted by the Parliament. (Jamieson 1988: 401)

Some said Tonkin was over-sensitive, that he over-reacted. The government tried to play it down, to make it sound as if Tonkin was insufficiently pragmatic. Be that as it may, his resignation was a sensation. There was media speculation on the reasons for cabinet’s alleged action (none of it very cogent), Democrats were indignant about the intended double-cross, and the opposition made the most of the government’s hypocrisy both in and out of parliament. Two weeks later a federal parliamentary select committee on electoral reform held hearings in Perth and there was speculation that Tonkin might reveal the real reason for his resignation (he didn’t). Though the opposition later did accuse the government of not being serious about reform, Tonkin’s resignation meant the scheme was exposed, the jig was up and the plot was foiled: the publicity spotlight pressured the government to honour its election promises and its agreement with the Democrats. Tonkin’s resignation was, so to speak, a success. Perhaps the 1987 reform happened because Tonkin, himself not able to bring the reform about, shamed the government into it.

Under the supervision of Minister Bryce, the Labor government went on to have meetings with the other parties, to write off the Liberals as potential reform participants after the Narrogin by-election and to make offers increasingly compromising the principle of one vote one value. In about May 1987 Bryce told the Labor caucus that one vote one value was dead. It was dead because the National Party would not have it. This was a relief to many. Some MPs argued that the Council should be left to rot, to decline as its own ridiculousness attracted more and more odium but Bryce argued for the introduction of PR. Few members recognised the implications. All parties did discuss, on a couple of occasions, the possibility of minor parties winning significant representation and the newspapers speculated on it however the pre-eminence of the one vote one value issue distracted most MPs from appreciating the impact of the much more important proportional representation.

To the Labor caucus PR did not appear too threatening. Unlike one vote one value, the proposal for proportional representation only affected the Council, members of which comprised just 16 of the 48-strong Labor caucus. A change to large multi-member PR

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25 There were also claims that Tonkin had threatened to resign on previous occasions. Much of the Jamieson interview is spent countering repeated assertions by journalist Paul Murray. There seems to be no evidence and it smacks of government damage control.

26 Both major parties regarded the federal inquiry as an unwelcome interference in WA. It appears to have had no impact.
electorates from smaller two-seat provinces would not cost individual MLCs their seats. Why not let the Council be like the Senate, especially if the familiar 3:1 rural weighting is to be kept and the lower house 2:1 weighting is also to remain? The introduction of PR was to some extent the result of members being distracted by one vote one value and opting for what they viewed as the more moderate position. And since there was no reduction in the city-country malapportionment, it could even be said that Burke delivered on his promise in Geraldton that the reform would fail in Council.

2.6 Liberal paralysis

Speaking of the period 1983-86 when he was Minister for Electoral Reform, Arthur Tonkin, said:

I continually made offers to the opposition to talk to them. If they had different ideas I was prepared to talk to them. I did have one meeting with [Liberal spokesman] Mr Mensaros but it was just not genuine. He just sat there and listened and indicated that he would discuss it with his party but he wasn’t authorised to say anything so he couldn’t even enter into a discussion. The fact of the matter is... that they had the numbers in the Council. They didn’t see it was a big minus for them and until the numbers got closer after the 1986 election, there was no chance they would be in a consulting mood. We... were prepared to listen but nothing came forward. They didn’t say, “Look, if you do this.” They just did not indicate in any way what we could do to alter the bill so it would be acceptable. They were just not prepared to bargain at all... We delayed our drafting waiting for a response. (Jamieson 1988: 350)

Some people in the Liberal Party thought there should be reform. A party policy document of July 24, 1985 set out some suggestions. The proposal, marked “10th draft” rejected one vote one value, suggested 34 members, half house elections, PR for the 18 city members (9 at a time) with the rest of the state retaining 2-seat provinces. Assembly districts should be divided into 33 metropolitan and 24 rural. Boundaries should be fixed by electoral commissioners. Double dissolution procedures should be devised to resolve supply blockage and two thirds majority should resolve other deadlock situations. The document stated, “The proposals in this policy paper would require to be dealt with on an integrated basis in comprehensive legislation and could not be satisfactorily implemented piecemeal.” None of this escaped the party room. Either the proposal was not acceptable to the majority of Liberal MPs or those in favour were loath to press the matter.

The document’s contents were never published and though Premier Burke declared the 1986 election (held 8/2/86) to be a “quasi-referendum” on Labor’s electoral reform policy, the Liberals disagreed. The Daily News of January 24, 1986 put it sharply:

Three years of being beaten around the head with the electoral reform issue appears to have had no effect on the Opposition. “It’s not an issue,” Opposition Leader Bill Hassell said this week when asked why his party had no
policy on the matter... Last year, Liberal MPs took a cursory glance at the system. But there were too many internal difficulties associated with change and as Mr Hassell says, “it is a difficult issue for some of our members.”

Said Liberal spokesman Andrew Mensaros on October 7, 1986, speaking in the Assembly to the electoral reform bill which would eventually pass, “I say to him [the Minister for Parliamentary and Electoral Reform, Mal Bryce] that unlike during the last Parliament, the Opposition no longer has a negative attitude towards electoral matters.” (WAPD, 1986: 2747) He was putting a brave face on it. Judging by their actions, the Liberals do not appear to have been more positive after the 1986 election. At least, they were no more effective. Mensaros went on to explain how the Liberals intended to move amendments to Labor’s bill because in private discussions, of which there had been only a few, they had many points of disagreement with both the Nationals and Labor. “As the Minister has said, this debate might be some sort of substitute for private discussions, although it is difficult to imagine that being possible.” Mensaros then said that, “unless we were to have all our amendments passed, even if some were accepted in isolation, we would have to vote against the Committee’s report and against the third reading.” (WAPD, 1986: 2748). For an opposition in a minority in both houses to be requiring that all their amendments pass, seems very unrealistic. Evidently, the Liberals were no more flexible after the 1986 election than before. They moved their amendments with predictable results.

In the Assembly, in July the following year, after the bill had completed its tortuous path through the Council, National Party leader Hendy Cowan said,

We told you [Liberal spokesman, Andrew Mensaros] what our bottom line was and you could not tell us... After three meetings and three requests where the National Party tried to discover the bottom line of the Liberal Party’s position on electoral reform so that we could reach some understanding and some agreement on the fate of the legislation, we were given no indication of what was going to happen. (WAPD, 1987: 2862,3)

As far as electoral reform was concerned the Liberal Party was paralysed. Why? The following answer has been constructed from discussions with people who were involved.

After the February 1986 general election, it was plain to many in the parliamentary party, probably including the leaders (Bill Hassell and, from November 1986, Barry MacKinnon) that some sort of reform was likely. Labor had campaigned for it for years and gone to the electorate with it. The Nationals had also talked of it for years. The possibility of the Nationals holding the balance of power in the Council and the opportunity for reform that

27 The Liberal Party’s inability to cope with electoral reform no doubt influenced Burke’s decision to declare the “quasi referendum”.
28 A few minutes later, National deputy leader Matt Stephens said almost the same thing: “We would like to put forward our amendments as a total package... If they are not fully accepted we will not be supporting the third reading.” (WAPD, 1986: 2749) They were fully accepted.
this opened up, had been much speculated upon. The antipathy of the National leadership toward the Liberals was a prominent news theme. It was apparent that if the Liberals did not act they may be acted upon.

What Hassell had referred to as “a difficult issue for some of our members”, was difficult not only for Liberal members but for some members in all parties. It was the abolition of vote weighting. Many Liberal MPs were, like all Australian Liberal parties outside of WA, in favour of one vote one value (Jaensch 1985: 26), but many were not and the parliamentary Liberal Party was not able to face up to it. There is an inherent asymmetry in pro and con positions: those against one vote one value are vehement, for much depends on it; those in favour have the moral high ground but generally do not have a personal stake. During the first Burke government, the parliamentary party held a special conference on electoral reform at Mindarie Keys and members such as MLA Andrew Mensaros and MLC Ian Medcalf found their proposals blocked by adamant conservatism. Mind-set was a stumbling block: to some conservatives one vote one value was unthinkable; it would destroy rural Western Australia. Legislative Council President Clive Griffiths gave a forceful speech. Addressing the party on behalf of country members (he was a city member), with the weight of the upper house and the prestige of his office, he probably set the tone. He made it very clear that anyone pushing electoral reform was in for a serious fight. The Liberal Party was already in disarray – Who wanted to make more trouble? The prospects for Liberal participation in reform probably ended there and then. The party is struggling with the issue to this day.

Another complication was that during the Labor Government’s first term, some Liberals had not come to terms with being in opposition. Except for the temporary aberration of the precarious John Tonkin government of 1971-4, the Liberals had been the government since 1959. They cherished the notion that the Burke government was another single-term distraction and that therefore all that was needed was to hold the line until the people recalled their rightful rulers at the next election. Meanwhile, as the 1986 election demonstrated, Labor was going from strength to strength.

Parliamentarians are disinclined to change the system that has served them and, computer simulations notwithstanding, some party members might not have been convinced the Liberal Party would not be worse off with one vote one value. More important would have been the individual country members who feared losing their seats. It was all very well for the Labor Party with its (presumed) declining rural vote to discover an indignation about vote weighting but Liberal MLAs had won those seats and just because the system was no longer working Labor’s way, was scarcely reason to change it. The same individual concern

29 There may have been more than one special conference.
for rural seats surfaced at the extraordinary Labor cabinet meeting in Geraldton in April 1986 and also dominated thinking in the Labor caucus, however it would have been more serious in the Liberal Party as it had a greater dependence on country seats, at least in the Council (Summary Table 4). Although it was apparent to those country members that the Nationals were negotiating with Labor, it appears they thought their effective response would be to reveal to country voters how the Nationals had been conniving with the socialist enemy. As the 1986 election showed, they were wrong, probably because electoral reform is too abstract a matter to engage wide public interest. To demonstrate such National conniving, it would be necessary for the Liberals to have voted against Labor, so this desire was itself an inhibition on Liberal cooperation – even on points where they did agree with Labor. It is a standard Liberal tactic to vote against Labor in order to demonstrate that Nationals voting with Labor are not true conservatives.

In accordance with this, there was also a repugnance for the appearance they would have created, had they embraced one vote one value, of Liberals bidding against the Nationals in a competition for Labor grace. It would have been a precise realisation of the traditional Liberal nightmare (and reproach of the Nationals) of splitting the non-Labor forces. However uncongenial, the option of coalition with the heretic (but by early 1985, clearly dominant) NPA had to be kept open. The desultory efforts to make an arrangement with the Nationals in an attempt to put on a united face against the Labor pressure failed because the Liberals did not have a negotiable position and to some extent because Cowan and Stephens, with the same unbending attitude that had brought them eventual victory over the NCP, would not budge. The NPA did not need the Liberals; it did not want the Liberals to win the 1986 election and did not need or want Liberal cooperation on electoral reform. There was no subtlety about the NPA’s approach: the MPs had canvassed the wider party, which was ambivalent, but since the leaders had a policy and, after the 1986 election, also stature, that settled the matter. Faced with such goal-oriented intransigence the Liberals floundered.

Some Liberals argued that abolishing vote weighting could be adopted without “doing deals” with Labor. Whatever that may mean, in practice they certainly would have had to negotiate. The concept, one vote one value, itself carries a multitude of implications and, in addition, had the Liberals decided to support it, they would have become a genuine participant in the parliamentary debate and they would surely have used it to lever other changes. They would have had to negotiate in order to convince Labor they were serious, for if Labor and Liberal had agreed on one vote one value it would have been a complete rejection of the National Party position and the end of all cooperation on the bill from the Nationals. As it was, the Liberal failure to reach internal agreement meant the Liberal Party could not negotiate and, instead of putting Labor in the position of playing off the Nationals
and the Liberals, they awarded the Nationals the exclusive power to keep Labor dangling and to define the changes. It is a Liberal article of faith that the 1987 electoral reforms passed because the Nationals “did a deal” with Labor. It would be more accurate to say that the Liberal Party’s inability to adopt a coherent position and hence to participate substantively, relieved the Nationals of the necessity to do a deal.

In rendering itself irrelevant to the 1987 electoral reform the Liberal Party missed a historic opportunity. Had the Liberals embraced one vote one value the Nationals would have been instantly irrelevant. They would have put enormous pressure on the Labor Party (which was almost as divided as the Liberals) and assuming Labor did rise to the level of its rhetoric they would then have been able to design an electoral system to their taste. They could have set up boundaries to disadvantage the Nationals and could have insisted on half-house elections to undermine the proportionality of proportional representation in the favour of the major parties. The Democrats would have felt betrayed but Labor could have plausibly maintained that it was the best they could negotiate, and the new structure could have been publicly portrayed as avoiding the indecisiveness associated with minority parties holding the balance of power. The Liberals might have wiped out the Nationals and instituted a “bipartisan gerrymander” in both houses, protected indefinitely from inroads by minor parties.30

For the WA Liberal Party it was history repeating itself. Here is Black (1991a: 116) discussing Labor’s 1928 redistribution (italics added):

“...the non-Labor parties lost a golden opportunity in 1923 with a majority in both Houses to redress (to some extent at least) the imbalance resulting from Labor’s dominance of the over-represented goldfields areas when the redistribution failed due to the personal preoccupations of individual Nationalist and Country Party Members. As it was, the Party was then obliged to accept the 1928 amendments and the 1929 redistribution on a less favourable basis than would have been the case in 1923... Another problem for the non-Labor parties was the lack of a clear and coherent philosophy on vote weighting within their own ranks which in turn reflected the distrust between metropolitan Nationalists... and Members of the Country Party.”

The Liberal paralysis on vote weighting is pathological. The party failed to tackle genuine reform during the Charles Court years, and was unable to make up its mind on one vote one value during the 1990s and presumably the party will eventually again be obliged to accept a Labor plan (footnote 44). A deeper cause of the malaise lies with the party’s structurally-determined dependence on the leader and the corresponding endemic instability of Liberal leadership when in opposition. The Liberal Party’s organisational structure allows a strong leader to arise who does not encourage understudies and so typically leaves no one

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30 Such a bipartisan bicameral parliament would probably not have turned out to be stable (see Chapter 3) but that would not have been considered by the two major parties when setting it up.
big enough to fill his shoes (Ward 1994). Sir Charles Court in particular, Premier for seven years and prior to that a high-profile Minister for Development in the Brand government, was not a man to let others shine in his neighbourhood. The Liberal Party’s conservative hierarchy confers on the leader all patronage power so the path of personal promotion is to catch the leader’s eye or else to catch the eye of a rival planning a coup. When in power, a Liberal leader is stable for he has the gifts to buy loyalty and build personal stature but when in opposition, potential challengers are less disadvantaged and the leadership is inherently vulnerable. Ray O’Connor replaced Court but O’Connor lost the 1983 election so he was replaced by Bill Hassell. Hassell lost the 1986 election and was replaced by Barry MacKinnon (who lost the 1989 election and was replaced by Richard Court). These leaders were not able to bring about the re-orientation of thinking required to believe that the Liberal Party would benefit from one vote one value. The Liberal Party does not have the backing of a strong extra-parliamentary organisation which can support a leader and pressure, or compel, the parliamentary party to a firm policy which is not necessarily in the immediate interest of all parliamentary members.

Liberal ineptitude in the 1980s cost them dearly. They lost their century-long dominance in the Legislative Council, lost the 1989 election, and lost perhaps the best opportunity they ever had to extract the Country Party thorn in their side. They could not negotiate with Labor because they lacked the leadership to generate the consensus to authorise positive action. To the exasperation of many Liberals, blinkered conservatism allied to the “push from the bush” which has always heavily influenced WA politics, had their way, rendering the party irrelevant to the most important electoral reform since 1890.

2.7 National resoluteness

2.7.1 National Party takeover of Country Party

The division of the Country Party after 1978 into two parties was perceived as electorally ruinous and a severe loss of influence and the NPA was brought into existence at the end of 1984 by the lay organisations of the NCP and NP, the quarrelsome parliamentarians being excluded. The three NCP MLAs, Bert Crane, Dick Old and Peter Jones, were adamant that they would not share a party room with the NP MLAs, Cowan and Stephens (Elphick 1996: 138). When the NPA agreed to admit Cowan and Stephens to membership, the NCP MLAs refused to join the new party (Elphick, 1996: 137-140) and in

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31 It is doubtful whether the division into two parties actually had much detrimental effect on electoral results or on Nationals’ influence on policy. Two parties or one, it made no evident difference to the number of seats the Nationals won (Table 2.3) and though it is likely that National ministers would have had more influence with Richard Court than with his father, the reason would have more to do with the Premiers’ and Ministers’ personalities, than with the Nationals’ internal division.
February 1985 they joined the Liberal Party. Although the NCP had nearly four times the membership of the NP (Elphick, 1996: 135), the NP parliamentarians were in a commanding position as the NCP membership wanted a single party and some pledges of contributions to the large NCP debt\(^{32}\) were conditional on reunification. Also it was necessary for the incorporation of the NPA that the NP and NCP relinquish their incorporation. Cowan and Stephens refused to relinquish the NP’s incorporation until they were accepted as members, holding out until the NPA endorsed them for their electorates in March 1985 (Elphick, 1996: 142).

The new NPA had three members in the Council: E J Charlton, who had been elected as the first NPA candidate at a by-election in November 1984, T McNeil who had been an early convert to the NP, and H W Gayfer who was first elected in 1962 and who reluctantly joined the NPA in late 1985 (Elphick, 1996: 140). The parliamentary members elected Cowan and Stephens leader and deputy leader. In the Assembly the two leaders were the total NPA strength.

As the 1986 general election approached, the Liberals and the Nationals were at war and the leaders, Bill Hassell and Hendy Cowan, were publicly trading invective. In the election, the NPA took Old’s and Jones’s seats (to M G House and C C Nalder)\(^{33}\) and another Liberal seat (to M W Schell) and one from the ALP (to M W Trenorden) giving them 6 MLAs. In the Council they won a seat from the Liberals (to J N Caldwell) giving them 4 MLCs and the balance of power.

Cowan and Stephens, who had broken away from the Country Party in 1977, had taken it over. After such a convincing win, they were in strong position to push their policies with the party.

### 2.7.2 National Party Policy

The National Party stated in its policy document for the 1983 election:

> The National Party is committed to a bicameral system of parliament with responsible weighting of the rural vote. Neither of these principles will survive unless we act promptly to remove the anomalies that act against acceptance of these principles (National Party 1983: 30).

The anomalies referred to are the malapportionment extremes. However, there was no prompt action, the principles survived, the urgency evaporated. In 1985, after the National Party and the National Country Party amalgamated to form the National Party of Australia, Hendy Cowan, now leader of the NPA, said at a “Parliament Week” forum in Perth in 1985:

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\(^{32}\) The debt had been incurred through a disastrous venture into the retail grocery business.

\(^{33}\) Old in Katanning-Roe lost convincingly to House on primary vote and lost heavily with ALP preferences. Jones in Narrogin lost narrowly to Nalder on primary vote and lost heavily on ALP preferences. By contrast, Crane, who no one suggested was really a Liberal, romped home in Moore.
No urgent priority is given to electoral reform... Generally, [rural dwellers] are satisfied with the state electoral system and are suspicious of any moves to reduce rural representation by reforms which embody the principle of one vote one value (Cowan 1985: 17).

The change of attitude is a manifestation of the conflict between the Country Party’s ambition to be a distinct party representing rural interests and its wish to align itself with the conservative opposition to Labor. Before 1983 the NP was the breakaway militant underdog. In 1985, Labor was in power and running a forum on electoral reform; Cowan was now leader of the one and only Country Party, the NPA, and not only was a more measured stance appropriate, but even though the NCP parliamentarians had defected to the Liberals (in about February 1985), the new NPA was as yet too conservative to accept the radical electoral reform policies of the NP.\textsuperscript{34}

In Western Australia this conflict between country and coalition had first surfaced in 1923 (Elphick 1996: 12ff). In 1978 it had resulted in the schism which was resolved with a reunification in 1985 that reaffirmed, as did the outcome of the 1923 split, the separate identity of the party, and which in practical terms meant specifically pro-rural policies, irrespective of whether they were pro- or anti-Labor. One cost of the amalgamation was the disaffection of NCP conservatives including the defections of three of its parliamentary members to the Liberal Party.

The essential elements of the 1983 NP electoral policy (National Party 1983: 30) had been to:

- redefine the metropolitan boundary
- maintain 2 to 1 country to city vote weighting for the Assembly
- increase the term of parliament to four years
- introduce proportional representation in the Council with seat allocation of 18 to the city and 16 to the country, continuing with half-house elections.
- make the Council face the voters where its actions forced the Assembly to election.

The eventual 1987 Act deviated from the above by its Council seat allocation of 17-17 and full house simultaneous elections.

On the occasion of the public forum in September 1985, the NPA’s policies had not been formally decided. However the new NPA leader was confident he would prevail:

In my view all areas outside a properly defined metropolitan region should be eligible and the weighting should remain constant at about two to one for the Assembly and in some instances marginally higher in the Council.

\textsuperscript{34}Gallop, writing before the election: "[Of the non-Labor parties] only the small breakaway National Party have advocated a form of regionally-based proportional representation for the upper house, but as a result of the reunification of the rural parties this element of the platform is expected to be dropped." (Gallop 1986: 82)
It is important that the Electoral Commissioners already established by the electoral laws be responsible for determining the metropolitan region. As a principle the Commissioners could be guided by the definition already used by the Metropolitan Regional Planning Authority...

[The four statutory seats] will no longer have their boundaries drawn by the Parliament but… by the Commissioners… (Cowan 1985: 17)

Cowan canvassed a few alternatives for the Council and, although the NPA’s policy was still officially the NCP’s one of retaining the Council’s provincial system (Starcevich 1995: 102), he expressed his conviction that the NPA would endorse a policy to:

- Establish equal representation in the Legislative Council between metropolitan and rural areas.
- Change the method of election in the Legislative Council from provincial elections to election by regional proportional representation.
- Adopt four year terms for both houses of parliament.
- …provide a double dissolution mechanism to resolve any deadlocks.

(Cowan, 1985: 19)

Except for the last item, Cowan was writing the script for Labor to follow in the 1987 bill.

For this National Party reform scenario to become reality, it was necessary for Labor to win the 1986 election and obtain a relatively large number of seats in the Council, and for the NPA to perform well enough to win the Council balance of power. In other words, to execute the Nationals’ plan, the Liberals would have to lose the election in the lower house and perform poorly in the upper house. Thus, in the competition between the two major parties at the 1986 election, the Nationals, past and future coalition partners of the Liberals, were really on Labor’s side (see also discussion below under “2.8 National – Labor cooperation”). In the event, Labor increased its presence to 16 Council seats and the NPA won another seat to make four.

National Party electoral reform policy was, of course, largely motivated by competition with, and distrust of, the Liberal Party. Distrust between the two conservative parties peaked in the year before the February 1986 election, when the parliamentary NCP vanished as the three NCP MLAs joined the Liberal Party and the parliamentary NP was reincarnated as the parliamentary NPA. Ron Elphick, a former general president and general secretary (retired 1978) gives the flavour of it:

In a press release dated 29 April 1985 he [Liberal opposition leader, Bill Hassell] stated that the Liberal Party would not entertain any coalition with the new party [ie the NPA] and that statements that there would be a coalition were of their own unilateral invention… In reply Cowan said that Hassell’s comments about coalition were premature and designed to bolster the morale of the NCP MPs who had defected to the Liberals…… in August Cowan stated that Hassell was destroying his chances of becoming premier by casting doubts about coalition...

John Paterson [the NPA president] raised the matter of coalition again in December when he said that the party would move quickly once the election date was announced to decide conditions for entering any non-Labor coalition.
Hassell did not appreciate the implication that there would automatically be a coalition government if Labor was defeated. He said the NPA seemed to think a possible coalition government with the Liberals was a right instead of a privilege. He also claimed that the National Party could be finished after the election because it had lost credibility in the rural sector over its indication that it would not deny supply to any minority government. Hassell was clearly not pleased that Cowan had said that the NPA would not accept him (Hassell) as head of any coalition government (Elphick 1996: 142-4).

This sniping was the contemporary expression of grudges going back past the “Hassellmander” of 1981, past the NCP/NP schism of 1978, past the cabinet walkout and humiliation of 1975, past the slights of the sixties when Sir Charles Court overshadowed the CP Deputy Premier, past the tactless 1957 LCL Blueprint plan to put “unrelenting pressure” on the CP with a view to LCL government without the CP, and past myriad petty affronts, to its roots in the ideological differences between the two parties.35 The NP’s defunct rival, the NCP, had been in coalition with the Liberal Party in opposition (Gallop and Layman 1985: 113) but in the circumstances it is not surprising that after the 1986 election, NPA state council moved, “That the NPA does not enter into an agreement of coalition with the Opposition.”36

With a Liberal Government the National Party is in coalition. The split of 1978 is a strong memory and the general preference of National electors for coalition seems clear. During government the two parties are in coalition and the occasions when the Deputy Premier and leader of the Nationals has a public difference of opinion with the Premier are rare. In opposition, as a party with a strong sense of independence and an emphasis on the pro-rural rather than the anti-Labor, it is prepared to vote with Labor.

2.7.3 Why the Nationals sought Council reform

Why did the Nationals introduce PR into the Council? Was it because they had scores to settle with the Liberal Party? Was it because Matt Stephens had an idée fixe? Without Stephens and his hostility to the Liberal Party, there would have been no electoral reform, however the reason Cowan and Stephens wanted reform was to promote the survival and the efficacy of a party which was distinct from the Liberal Party, a party representing, as they saw it, country people. To that end they had broken with the NCP, formed their own National Party and eventually taken over the NCP. With the Council balance of power after 1986 came their chance to realise a long-term aim and act upon the electoral system.

35 “There is some truth in the jibe that the NPA aims to capitalise farmers’ gains and socialise their losses. Thus, while the NPA supports free markets in principle, it also supports government marketing schemes, low-interest rural loans, and subsidies and tariffs to protect uncompetitive rural industries.” (Smith 1993: 137)
36 This was at the time of the Queensland National leader’s Joh-for-Canberra push prior to the July federal election.
• To ensure _survival_ they had to anticipate Liberal-Labor collaboration on electoral reform, for such collaboration would probably design a system arranged against National interest. They had to get in first and in so doing: (a) maintain, and if possible make respectable, the rural malapportionment and (b) ensure boundaries were not biased toward either major party the way that the system hitherto favoured the Liberals. Above all, there must be no risk that Labor could ever win a majority in the Council.

• To ensure _efficacy_ as a partner in government the Nationals need the respect of the Liberals. Ideally, in government the Liberal Party should be dependent on the Nationals for a majority. In the Council, this required the elimination of the Liberals’ guaranteed majority. Hopefully, the NPA would hold the balance of power in the Council between the two major parties. This would ensure respect from a government of either colour.

In the fifteen years since the 1987 reform, these aims have, by and large, been met. With the removal of the anomalous extremes, the spark went out of the malapportionment argument and the debate died. In 1996, ALP MLA Jim McGinty took the Richard Court government to the High Court in a futile demand for one vote one value. It was reminiscent of Brian Burke’s taking the Charles Court government to the Supreme Court in 1982, however there was none of the agitation that characterised the opposition to the government of Court père. Malapportionment does appear to have become respectable and the majority of the upper house parliamentarians are prepared to defend it, including the Greens(WA) whose stated policy seems to be one vote one value but who, as current balance of power holders, not only rejected Attorney General McGinty’s offer of one vote one value for the Council but also insisted that the present 3 to 1 malapportionment be reinforced as a condition for passing legislation providing for one vote one value in the Assembly (WAPD 2001: 7380).

Since 1987, at every election except the most recent, the National Party has been returned with six lower house members and three upper house members. In 2001 it won five Assembly seats and one Council seat. The displacement of National MLCs by One Nation candidates at the same time as the electorate rejected an eight-year-old Liberal-National government, confirms the persistence of a country constituency which is distinct from Liberal supporters. If the One Nation MLCs vanish at the next election, the Nationals will presumably revert to their “normal” strength of three MLCs. An attraction of PR was that the large electorates would inhibit “members of the Legislative Council acting as glorified Assembly members” (Cowan 1985: 18) and hopefully encourage them to develop a legislator, “house of review” role rather than a social worker role. Whether the large Council electoral

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37 The Greens want 6 electorates of 6 members each, 18 metro and 18 country. The validity of the legislation, passed in December 2001 by simple, not absolute, majorities, is being judged by the Supreme Court. _Postscript:_ the Court ruled it invalid; the government intends to go to the High Court.
districts have caused MLCs to stop behaving as glorified Assembly members and undermining MLAs is an open question but the complaint no longer seems to be made. Overall, then, the reform in 1987 has enabled the Nationals to defend their turf.

The introduction of PR did, as predicted, eliminate the electoral bias which guaranteed the Liberals a Council majority (see Summary Table 8 for votes and seats figures 1989-2001). The Liberals had, of course, lost the majority at the 1986 election but that, as discussed above, was due to special circumstances and luck and would not have arisen again. The ALP and the NPA exploited the opportunity and an immediate result was that the Nationals held the balance of power for two elections after the reform: 1989 (with a Labor government) and 1993 (Liberal government). Since then, however, the balance has been held by other minor parties. The Nationals only expected, and can only expect, to win three Council seats (Charlton, WAPD 1987: 2037) hence their holding the balance of power depends on one of the major parties winning 14 or more seats. Three seats gave the NPA the balance in 1989 and in 1993 but since then minor parties have performed better and appear set to continue to hold the balance (Table 2.2). In terms of government power the Nationals held three ministries (including Deputy Premier) out of the sixteen or seventeen in the coalition governments of Richard Court, an influence in proportion to their number of seats in the lower house and thus well out of proportion to the NPA primary vote which is around 5%.

<table>
<thead>
<tr>
<th>Election</th>
<th>Govt</th>
<th>ALP</th>
<th>Lib</th>
<th>Nat</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>1989</td>
<td>ALP</td>
<td>16</td>
<td>15</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>1993</td>
<td>Lib</td>
<td>14</td>
<td>15</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>1996</td>
<td>Lib</td>
<td>12</td>
<td>14</td>
<td>3</td>
<td>5</td>
</tr>
<tr>
<td>2001</td>
<td>ALP</td>
<td>13</td>
<td>12</td>
<td>1</td>
<td>8</td>
</tr>
</tbody>
</table>

On the whole, then, it seems the judgement of the two National leaders has been vindicated. The party avoided a one vote one value disaster, survived, had influence. If the Nationals had not acted in 1987, the Liberals would have won back a Council majority and

38 The necessity for major party MLCs to behave as constituency members may be reduced but minor party MLCs probably work hard at cultivating their large constituencies. They are providing a radical alternative to the majors and, since their parties have no MLAs with electorate offices, they would feel they should have a presence in the electorate.

39 In 1996 the Liberals won 14 but since they formed the government, and therefore had to supply the president, who does not have a deliberative vote, the conservatives lost the majority.
the shrill denunciations of malapportionment and ongoing pressure for reform would have continued. Are there alternative strategies might they have followed to pursue the goals of survival and efficacy set out above? For example, why PR? Why not split elections and single member seats, as the Liberals wanted? Owing to the geographic concentration of their voters, the Nationals are certainly better off electorally – ie, win more seats – with single seat

Table 2.3 National votes and seats, Assembly, 1943-2001

<table>
<thead>
<tr>
<th>Year</th>
<th>1st Pref %</th>
<th>Seats</th>
<th>% seats</th>
</tr>
</thead>
<tbody>
<tr>
<td>1943</td>
<td>16.5</td>
<td>10</td>
<td>20.0</td>
</tr>
<tr>
<td>1947</td>
<td>16.2</td>
<td>12</td>
<td>24.0</td>
</tr>
<tr>
<td>1950</td>
<td>10.8</td>
<td>9</td>
<td>18.0</td>
</tr>
<tr>
<td>1953</td>
<td>3.2</td>
<td>9</td>
<td>18.0</td>
</tr>
<tr>
<td>1956</td>
<td>5.2</td>
<td>8</td>
<td>16.0</td>
</tr>
<tr>
<td>1959</td>
<td>6.9</td>
<td>8</td>
<td>16.0</td>
</tr>
<tr>
<td>1962</td>
<td>5.9</td>
<td>8</td>
<td>16.0</td>
</tr>
<tr>
<td>1965</td>
<td>4.9</td>
<td>8</td>
<td>16.0</td>
</tr>
<tr>
<td>1968</td>
<td>5.1</td>
<td>9</td>
<td>17.7</td>
</tr>
<tr>
<td>1971</td>
<td>5.6</td>
<td>8</td>
<td>15.7</td>
</tr>
<tr>
<td>1974*</td>
<td>10.8</td>
<td>6</td>
<td>11.8</td>
</tr>
<tr>
<td>1977</td>
<td>5.3</td>
<td>6</td>
<td>10.9</td>
</tr>
<tr>
<td>1980*</td>
<td>7.3</td>
<td>6</td>
<td>10.9</td>
</tr>
<tr>
<td>1983*</td>
<td>5.1</td>
<td>5</td>
<td>8.8</td>
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<tr>
<td>1986</td>
<td>3.7</td>
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<td>1989</td>
<td>4.6</td>
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<tr>
<td>1993</td>
<td>5.3</td>
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<tr>
<td>1996</td>
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<td>6</td>
<td>10.5</td>
</tr>
<tr>
<td>2001</td>
<td>3.3</td>
<td>5</td>
<td>8.8</td>
</tr>
</tbody>
</table>

* 1974 includes National Alliance (DLP) vote
1980 and 83 show combined NP and NCP figures
Prior to 1971 there were many uncontested seats
(Data from: http://elections.uwa.edu.au/)

40 The 1974 election was viewed as a disaster. Table 2.3 indicates that it was a new norm. The extra NA/DLP vote share is apparently irrelevant: it had no impact because it was not concentrated. Since then the Nationals have been winning about 5% of the primary vote and 10% of the seats. The other minor parties win comparable percentages of the primary vote in the Assembly but no seats:

<table>
<thead>
<tr>
<th>Year</th>
<th>A Dem</th>
<th>Green</th>
<th>One Nat</th>
</tr>
</thead>
<tbody>
<tr>
<td>1993</td>
<td>2.3</td>
<td>4.3</td>
<td></td>
</tr>
<tr>
<td>1996</td>
<td>5.1</td>
<td>4.7</td>
<td></td>
</tr>
<tr>
<td>2001</td>
<td>2.6</td>
<td>7.3</td>
<td>9.6</td>
</tr>
</tbody>
</table>
constituencies than with PR yet as NPA MLC Eric Charlton said, "...we did not try to put forward a policy... based simply on giving the National Party a certain number of members in this place..." (WAPD 1987: 2037). Why not? Why insist on PR? The Nationals will say the large PR electorates inhibit MLCs from acting as constituency members and encourages them to play their proper role of "house of review" legislators, which is thin code for saying it inhibits Liberal MLCs from undermining National MLAs. They may have convinced themselves of this but wouldn't an additional member or two be worth suffering some Liberal undermining?

In fact, the Nationals had no real alternative to PR. It is characteristic of PR that it is not (never?) introduced with the aim of acquiring power but rather as a sort of least-worst arrangement instituted to prevent political rivals from acquiring power. So it was in the present case. From the National point of view there was a hierarchy of preferred electoral outcomes in the Council: 1) the Nationals hold the balance; 2) some other minor party (in those days, the Democrats) holds the balance; 3) the Liberals hold a majority (the usual status quo); 4) Labor hold a majority. The last was on no account to be risked. Above all other considerations, any new electoral system must not permit a Labor majority, hence a (fair) system of single seat constituencies was out of the question. If there was to be a new system, it had to be PR. PR meant fewer National MLCs but it eliminated the chance of the worst outcome and offered a realistic hope of the best.

Early on, the Nationals had been in favour of split elections with PR (National Party 1983: 30) but Labor wanted four year terms and whole house elections and the Nationals yielded (West Australian 10/6/86). Stephens thought that eight year terms would be too long and that PR would achieve the conservative continuity which is supposed to be the virtue of staggered elections (Brush 1991: 97). This had been one of the terms of the pre-election compact Labor had signed with the Democrats (Appendix 5). The vital issue to the Nationals was equal (17-17) city-country seat allocation to preserve the malapportionment with electoral districts of sufficient magnitude (five or more) for the PR to work properly, ie, for

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41 For example, the Nationals do better in the Assembly than in the Council. In the Assembly they win 6 out of 23 country seats (26%) and in the Council under PR, 3 out of 17 (18%). In NSW the 1920, 1922 and 1925 elections were PR-STV and the CP (then called the Progressive Party) achieved proportional results for their 10-15% of the vote. Thereafter, with single member electorates they won, election after election, between four and ten additional seats in the 90 seat chamber for 9-14% of the vote (Hughes 1985: 41).

42 PR was introduced in the SA upper house to preclude the possibility of Labor winning a majority (Jaensch 1977: 56-7). According to Boix (1999) its introduction in Europe in the early twentieth century was to prevent socialists winning majorities with the advent of universal suffrage and Colomer (1995: 75-6) shows, among other things, that multi-member PR was introduced in eastern Europe countries in the 1990s whenever the Communist incumbents feared they would not win an honest majoritarian election.

43 "With a typical multiparty constellation M = 5 or 6 is the lowest district magnitude that can be counted on to provide relatively proportional outcomes." (Taagepera and Shugart 1989: 114)
minor parties to be able to win seats. If the PR was not genuine, minor parties would not be successful and it would be likely that Labor would one day win a majority. If Labor ever got a majority in the Council, the general introduction of one vote one value would follow with severe, possibly terminal, consequences for the National Party.44

From today’s perspective it would appear the Nationals acted in an optimal way and the plan worked. For all that, the overall outcome gives them no cause for great satisfaction. They have held their own but not improved their position. Indeed, compared with their position prior to the disastrous 1974 election (which was a major stimulus to the push by Cowan and Stephens) they have been unsuccessful. Prior to 1974 the Country Party had always held the Council balance of power and had usually had eight members in each house (Summary Table 1). After the years of striving, the first disappointment was the 1989 election when they fielded candidates in eleven Assembly seats but merely retained the six.45 They kept the six seats when the Coalition won government in 1993, and then at the 1996 election, when the government was popular and the Liberals achieved a majority in their own right in the Assembly, they still won just the six. When the Coalition lost government in 2001 the Nationals lost an Assembly seat (Collie, to the ALP which is almost unheard-of) and lost two Council seats to One Nation. Apparently, when the Coalition government was popular, the Liberals got the credit but when it was unpopular the Nationals shared the opprobrium.46 It is as if the Nationals have some sort of ceiling against which they bounce, a ceiling which was suddenly, and permanently, lowered around 197447 So, although they seem to have done the optimal thing and outcomes could have been worse and at least they bought time, they did have hopes for better. Though they retain a solid, almost stubborn, constituency, there is no return to the golden era of the Country Party.

44 Were one vote one value to be introduced, instead of 6 Assembly seats with a 2:1 malapportionment, the Nationals must expect to win 3, and instead of 3 Council seats with 3:1 they must expect one. In 1993 the Coalition was elected with the National Party holding the balance of power in both houses. On 28/11/95 the Coalition leaders, Premier Richard Court and Deputy Premier Hendy Cowan issued a press release supporting one vote one value. What had changed? Nothing. Some Liberal members were (as ever) frustrated by the small National Party’s cabinet influence and saw the solution in one vote one value. The Nationals, knowing Liberal division on the issue, called their bluff. It was subsequently quietly forgotten. In 2001, when the new Labor government introduced one vote one value legislation, the Liberal Party fought it in the Supreme Court.


46 It may be the usual fate of minor party coalition partners to receive the blame and not the credit since it is almost inevitable that some supporters will view the compromises of coalition as a sell-out. On that view when things go badly they have a ready explanation and when things go well, they could have been better. If so, it should follow that a period of opposition (and not in coalition) is the minor party’s best opportunity to improve its support.

47 The date, 1974, is an artefact caused by the ill-starred alliance with the DLP with its consequence of Labor preferences flowing to the Liberals. The real date of the lowering of the ceiling would be 1977 after the 1975 electoral changes.
2.8 National – Labor cooperation

Did Labor and the Nationals “do a deal”? No. They did understand each other. Discussions between them proceeded with an expectation on both sides that the negotiators were speaking for their parties and each was confident that proposals agreed to would be promoted to, and receive a sympathetic hearing from, their own and the other party. This was in contrast to discussions with the Liberals where Andrew Mensaros was the spokesman but could not claim to represent his party’s feelings because those feelings were too disunited.

The second reading of the reform bill was introduced into the Assembly on 8/7/86. Prior to this and to serious inter-party negotiations on electoral reform there had been some sparring between the Nationals and Labor with the Nationals exploiting Labor’s dependence on them for any reform. Cowan threatened not to discuss electoral reform with the Labor government unless aid to farmers was increased (West Australian 2/5/86). According to Mark Irving in the Daily News 16/5/86, Burke and Cowan had conferred and decided “there are to be no deals but a bit of horse trading”. Burke granted extra resources to the NPA (with 6 MLAs they were one member short of the required number to qualify for party status) and speeded up short term assistance to farmers in the hope of approval of a bigger ministry and cooperation on electoral reform.

The Minister, Bryce, met with the Nationals on a number of occasions. Models, proposals and amendments were submitted and each went back to their parties and to their computers to see what the effect would be. It was probably the first time intensive computer simulations of elections had been widely used in Western Australia. Each party computed the numbers on the latest modification to the scheme to see how it would fare. There were significant uncertainties in translating the voting in the current single electorate form into the new, proportional representation form. People vote strategically and since single seat votes do not give the minority parties a chance, voters with minor party sympathies would tend to vote with the dominant parties where they feel their vote might count. Under a system where the small party has a chance of gaining seats, voters may thus be expected to some extent to change their behaviour. This is a feature in federal elections where some people vote differently for the Australian Senate from their votes for their lower house seat (see eg Bowler and Denemark 1993).

Some indication that the Nationals brought on their reforms because they felt backed into a corner may be found in the final 1987 Council second reading debate; for example, Eric Charlton:

We were told [by the Liberals before the 1986 election] that we would never be in coalition or part of a government and that we were finished. That is

48 The alternative vote system should obviate such strategic voting but many voters do not understand it and of those who do, some may be disinclined to vote for candidates with motives other than winning.
the sort of assistance the National Party got in the lead-up to the last election under the present boundaries... ...where was the National Party to end up with 20-14 [or] 18-16 and split elections? All of a sudden everyone starts to wonder why the National Party is doing this. [The NPA position, which was adopted, was a city-country seat share of 17-17 and full house elections.] (WAPD, 1987: 2042)

Relations between the Nationals and the Liberals, bad for years, were particularly poor around this time. There was, and is, a belief among Liberals that the Nationals did a deal with Labor. The leader of the Nationals, Hendy Cowan, explicitly denied it during the Assembly debate on the Council amendments (WAPD, 1987: 2862-3):

In the two years since our policy has been established the party has made one minor change... the member for Floreat [Andrew Mensaros]... made the claim that the National Party had made a deal. I repeat that all this message we are debating tonight incorporates all of that National Party policy. We have not compromised any part of our policy in any way, shape, or form... Our party’s policy was not compromised in any way. Therefore there was no deal done.

This Assembly debate was unusually recriminatory with Liberals and Nationals accusing each other and arguing over who had said what and when. Owing to their upper house dominance the Liberals had had a determining say on all previous changes to the electoral rules and now this, the biggest change of all, had happened (by the time of this Assembly debate it was a fait accompli) without their having been able even to influence it. They were upset; some are still upset.49 Though no one disputes that the arrangements put in place were those the National Party had long advocated – which would logically imply that the Nationals must have offered some inducement to Labor rather than the reverse – it seems most Liberals nevertheless believed and still believe there was a deal. In part it is ignorance. In part it is scapegoating, with the Liberal Party displacing blame for its political impotence. In part it is to rescue self-respect for it is humiliating enough to be betrayed by a long-time partner, but worse if the Nationals acted to harm the Liberals on their own initiative rather than for a grubby quid pro quo. The humiliation is aggravated by the fact that the Liberals need the Nationals in order to come to power. In part it is tactical for the accusation is a provocation, sure to put National members on the defensive. It was helped along by the headline in the West on 10/6/87, the day after the bill passed in Council: GOVT, NATS DO DEAL ON SEATS and the column, by Diana Callander, said, “Closed door discussions continued until a deal was struck late last night.” Apparently the word “deal” was editorial embellishment. Matt Stephens complained of it in the Assembly a week later, “The regrettable fact is – I have

49 More recently there have been conservative calls for the abolition of the Council: from the then Deputy Liberal leader, Colin Barnett (Australian 29/6/99 but see WAPD 2001: 2238); in the house from prominent independent Liberal, Phillip Penderg MLA (WAPD 2001: 2973); and from the leader of the National Party, Max Trenorden (on 21/10/01 to the Council’s Standing Committee on Legislation). It was the Liberal-National Coalition which entrenched the upper house in 1978 by altering the constitution to require a referendum to abolish it.
seen the copy that went from this Press gallery to the newspaper – that the word ‘agreement’ took the place of the word ‘deal’... the editor, or one of his staff... altered the word from ‘agreement’ to ‘deal’. (WAPD 1987:2867). The “closed door discussions” claim is strange since the debate was in the chamber and the same motions were put as two weeks previously.

If the Nationals are supposed to have done it for a quid pro quo, what was it? The most popular suggestion is Burke’s granting party status to the NPA when they were one member short of the required number. The other suggestion is that the NPA did it for Labor preferences, in particular at the Narrogin by-election of May 1987. Neither is plausible: the Country Party has almost always received Labor preferences50 and the deal on party status was over a year before the electoral reform passed in Council.51 Moreover, neither is of significance commensurate with such a fundamental transformation of the electoral system as the adoption of PR. Nevertheless, as Charlton’s plaintive “All of a sudden everyone starts to wonder why the National Party is doing this” indicates, most Liberals did not understand why the Nationals moved to end conservative dominance of the Council – unless there was something in it for them. Of course, there was something in it for the Nationals: increased independence from the Liberal Party; but this was not a gift from Labor. The distorting presumption by Liberals who postulate a “deal” is that in voting for the reform, the Nationals did something for the Labor Party. The Nationals did something for the Nationals.

2.9 Conclusion

The Labor Party, Arthur Tonkin in the van, had led the righteous charge for democratic reform through the 1970s and into the 80s. The Liberal Party had responded by increasing the number of members of parliament and extending the gerrymander. Evicted from office in 1983 despite their electoral manipulations, the Liberals then used their majority in the Council to block the Burke government’s reform attempts. Labor stepped up its publicity but it became clear that reform would depend on the newly reunited Nationals obtaining the balance of power. To facilitate this, Tonkin signed a compact with the Australian Democrats, undertaking to introduce PR in exchange for Democrats preferences at the 1986 election. Premier Burke declared the 1986 election to be a “quasi referendum” on electoral reform while the Liberals, unable to formulate policy, claimed it was not an issue. As a result of the compact and of a sequence of lucky breaks, the Nationals acquired the

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50 The only exception in the Council seems to have been in 1974 when the ALP directed preferences to the Liberal Party because the Country Party had formed an alliance with the DLP (Summary table 3b).
51 Reporter Mark Irving (West Australian, 16/5/86) says the bargaining was about electoral reform, a larger ministry, the presidency of the Council and rural aid, but that Burke actually granted the party status for nothing. Elphick (1996: 145-6)says the quid pro quo for the NPA’s party status was support for an increase in the Labor ministry.
balance of power. Burke immediately replaced the inflexible Tonkin with Mal Bryce as Minister for Parliamentary and Electoral Reform.

Some Labor members were concerned that the one vote one value reforms they had been posturing about for fifteen years could become reality. This was a misjudgment since the Nationals were never going to permit one vote one value and the compact with the Democrats had really been about PR, not malapportionment. Two months after the election, this muddled concern led to cabinet making an official decision to put up an electoral reform bill and a secret decision to ensure that it would fail. Arthur Tonkin caused a sensation by resigning and exposing the plot – which wrecked it since the ALP then had to be serious about reform or be seen to be grossly deceitful.

The Nationals, deeply mistrustful of the Liberals, feared a Labor-Liberal collaboration which would leave the NPA in the cold. However the divided, weakly-led Liberal Party was incapable of forming electoral reform policy and of holding meaningful discussions and efforts by both Labor and National parties to negotiate with them were fruitless. The Nationals wanted large upper house districts to mitigate the problem of Liberal MLCs undermining National MLAs. PR would provide the large electorates and, more importantly, provide a way to take from the Liberals their power to always win a majority in the Council without giving Labor any chance to win a majority.

With the Liberals incapable of meaningful negotiation, Labor was dependent on the Nationals for any reform. Under threat of non-cooperation, the Nationals extracted benefits for their party and for their constituents before allowing Labor to introduce the Nationals’ reform. The minds of Labor MPs were dominated by concerns about one vote one value and when this was abandoned, the caucus accepted Council PR with relief. The Nationals emerge as tenacious reformers and (owing to the coincidence of personal, party and voter interests) staunch defenders of their constituency. Labor appears blundering and erratic, however with Bryce and Tonkin in the roles of good cop and bad cop, it was able to overcome internal obstacles and grasp the opportunity to accept what the stubborn Nationals would permit. The Liberals were sidelined.

In the two subsequent elections the Nationals were able to hold the balance of power but could not increase their seats. Since then other minor parties have won the balance of power in the Legislative Council (Summary Table 8) and look set to hold it into the future.

References to Chapter 2


CHAPTER 3
FUNCTIONAL CAUSES: PR RESOLVES THE BICAMERAL DILEMMA

It is, in our view, of the utmost importance that the role, or roles, of the Legislative Council in this State be clearly identified. Its role as a House of Review is of vital concern to the Commission. If it is not the Council which discharges this role, then we are compelled to accept that the protection given by the Parliament against the abuse and misuse of official power will, for the future, as in the period into which we have inquired, be gravely compromised.

(WA Inc Royal Commission 1992: Part II, 5.3.5)

3.1 Introduction

This chapter reviews the perennial contentiousness of second chambers and the problem of the role of the WA Legislative Council and finds that the shape of the 1987 reform was inevitable. Abbé Sieyès's dilemma, that upper houses are either mischievous or superfluous, may be mitigated if the upper house shows gentlemanly restraint, but any such restraint faded after the 1963 franchise reform. In the Australian context of disciplined parties and powerful, tenacious upper chambers, the only practical way to overcome the extremes of either an obstructive or a compliant upper house is if no single party holds a majority, ie if a minor party holds the balance of power. And the only practicable way minor parties will hold the balance is via a PR electoral system.

The 1963 franchise reforms made the WA Council apparently democratic but created a new, unrecognised problem: the Council lost its reason for existing. In Lijphart’s (1999) terms there was insufficient incongruence – difference in representation – between the houses. Though never explicitly recognised as a problem, incongruence was re-introduced when PR rules for Council elections were introduced in 1987. The essence of the incongruence would be that the lower house represents people and places whereas the upper house represents interests and ideologies (just as it did with a property franchise).

Having minor parties holding the balance of power is the most convenient arrangement for the major parties. The majors do not see it as convenient yet, failing abolition, it is their least-worst option: for the government it obviates opposition obstructionism; to the opposition it offers influence over policy. Given a majoritarian lower house obedient to the executive, minor party balance of power in the upper house is a way for the parliament to be an independent deliberative body. Since the upper house makes the decisions on the fate of bills and the lower house agrees to whatever the upper house decides, sittings of the lower house become entirely for show and the upper house becomes less a house of review than an independent Lockean “Legislative”. 
With the lower house irrelevant to legislation and the executive bargaining with minor parties in the upper house, the Australian bicameral system is functionally similar to a unicameral, consensus democracy. At the same time, because the confidence of the lower house in the executive is assured and the executive is independent of the confidence of the real legislature, Australian bicameralism is mimicking the defining feature of presidential democracy.

3.2 Sieyès’s dilemma

Said J A R Marriott in 1910, “With rare unanimity the civilised world has decided in favour of a bicameral legislature.” (Marriott 1910: 1) Only a little has changed since then. Arend Lijphart, in his 1999 study of 36 democracies, found that “in 1996, only thirteen of the thirty-six democracies, slightly more than one-third, had unicameral parliaments.” (Lijphart 1999: 203)

None of the unicameral parliaments among Lijphart’s 36 are in federal states and Marriott, briskly surveying the world he knew, made a corresponding observation: “Federal States, imperial Germany and republican Switzerland alike, look to their Second Chambers for the embodiment and satisfaction of the federal idea.” The intended purpose of the second chamber to represent regional interests in the federation is plain and whatever its actual performance in this respect, practical politics appears to require that federations have a “states’ house”.

Marriott reminds us of the dilemma of Abbé Sieyès, constitutionalist of the French Revolution, “If a Second Chamber dissents from the first, it is mischievous; if it agrees with it, it is superfluous,” and he asserts that, “It passes the wit of man to construct an effective Second Chamber.” Nevertheless, proclaims Marriott, “The great English-speaking communities beyond the sea, whether republican or monarchical, presidential or parliamentary, federal or unitary, concur in their adhesion to the bi-cameral arrangement” (1910: 2) and he feels that this universal acceptance indicates there must be advantages to the bicameral arrangement that compensate for the inconveniences Sieyès’s dilemma threatens, even where there is no federation to embody. According to Marriott the arguments for and against a second chamber “have long since become the commonplace of the debating society”

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1 Only about one third of the governments of the whole world are bicameral (Tsebelis and Money 1997: 1).
2 Russell (2000: 23) found that of 22 federal members of the Inter-Parliamentary Union 18 were bicameral. The other four (Comoros, St Kitts, Nevis, Micronesia) were very small. In Australia no one thinks the Senate actually represents the states but in other countries, eg Switzerland and the USA where parties are weak, and Germany where its members are appointed by the state governments, the upper house members do appear to represent the states.
and he contents himself with a brief list: counterpoise to democratic fervour; safety of second thoughts; a check on hasty legislation; the liability of a single chamber to passion and self-regard (1910: 5). He suggests the roots of British bicameralism go back to the 13th Century and that the period of unicameralism under Cromwell is convincing evidence that for Britain, at least, a bicameral system is far preferable. Like the American Founding Fathers, Marriott says the ability of an upper house to check autocratic tendencies of a unicameral parliament is its main merit.

From a modern perspective there seem to be three distinct variations of the claim that a second chamber is needed to check the first: there is an old Westminster requirement for an upper house to check democratic excess in the lower house and which was the motivation in the Australian colonies, there is an American desire to have a second house to check autocracy and haste; and there is a modern Westminster view seeking to check party extremism in the house of government. Apparently there are horses for courses: bicameralism performs different functions in different polities.

The old Westminster tradition presumes that there are some people who are better suited to governing than ordinary people. Democracy is suspect; upper house members should be aristocrats or propertied or, in terms of the current reforms at Westminster, they should be respected pillars of society. The American tradition does not criticise democracy; rather, it is critical of human beings. Fear of self-regarding and precipitate action accords with an individualist, sceptical view of human nature: to help secure liberty, let power be divided, let new laws be looked at twice. This division of the legislature is in addition to the standard separation of powers since the presidential system already ensures that the legislature is well separated from the executive. (Marriott is explicitly in agreement with the American view but his sympathies are closer to old Westminster.)

The modern Westminster view is a separation of powers argument. Where the first chamber is subordinate to a single-party executive, the second chamber can be Locke’s “Legislative”, the law-maker separate from executive. The problem of separation of the

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3 A particularly explicit illustration was provided by the Tasmanian Governor, William Denison, in 1854. He told the English authorities, “There is an essentially democratic spirit which actuates the large mass of community and it is with a view to check that spirit, of preventing it coming into operation, that I would suggest the formation of an Upper Chamber.” A select committee of the then Tasmanian Council wrote, “The instincts of the Assembly would be movement – progress – innovation. The instincts of the more Conservative body will be caution – deliberation – resistance to change if not fairly and fully proved to be beneficial.” (http://www.parliament.tas.government.au/tpl/s4.htm)

4 The old Westminster view is given modern expression in the recent reforms to the House of Lords. See http://www.houseoflordsappointmentscommission.gov.uk.

5 James Madison: “If men were angels, no government would be necessary.” (Federalist Paper 51). Woodrow Wilson: “There cannot be a separate breed of men reared specially for the Senate.” (Congressional Government p. 195, quoted by Wright (1959: 182)). At the USA’s founding there was also some old Westminster suspicion of democracy among the statesmen.
legislative and executive power in Westminster systems has long been evident. Said Marriott in 1927, "...while it is true that the Second Chamber [ie, the Lords] has lost all effective power of legislative initiation, it has surrendered it not to the Commons but to the Cabinet." Wright warned of the same fate for the Australian Senate: "To reduce the Senate to unquestioning acceptance of measures coming from the House of Representatives, is not to enhance the power of the House of Representatives, but it is to give authority to Cabinet..." (Wright 1959: 185) These are clear statements of the problem but at that time the solution was obscure. Although the 1959 Report from which Wright was dissenting did recognise that the likelihood of a non-government Senate majority was higher with the PR electoral system, the PR system had only been operating for ten years and the meagre instance of two DLP members temporarily holding a balance for the three years 1955-8 was not recognisable as a pointer to the future.

When responsible government was inaugurated in Australasia in the 1850s, the New Zealand, New South Wales and Queensland Legislative Councils were constituted of appointed members, nominated for life by the governor and with no limit on the size of the house (Jackson 1991: 43; Marriott 1910: 155-7), and the Victorian, Tasmanian and South Australian Councils were elected on a restricted property franchise. Western Australia became self-governing in 1890 and the Council became an elected house in 1893. In all these parliaments the two houses had equal, or nearly equal, powers. After outlining the rules for the various Australian colonies' Legislative Councils, Marriott reviews their quarrels with the lower houses and concludes that: "...disputes between the two Legislative Chambers in the several Colonies of Australia have been neither infrequent nor insignificant, and have been most frequent in the Upper Houses which are constituted on an elected basis." He considers that, "the nominated body is apt to be more sensible of the restrictions upon the activity of a Second Chamber, in that it more closely approximates to the position of an hereditary House of Lords." (1910: 195) He does not reflect upon the possibility of an appointed upper house for the Australian federation but thinks it remarkable, "in view of the constitutional disputes", that in the discussions preceding Australian federation there was no serious support for a unicameral legislature (1910: 163).

Evidently, as far as Marriott was concerned, the Australian colonial parliaments confirmed Sieyès's criticism of strong second chambers although he thought the friction may

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6 Marriott, Second Chambers 2nd ed, 1927, quoted in Wright (1959: 182)
7 Where there is a difference in powers, it is usually a restriction on the upper house's power with respect to money bills. If the task of the upper house is to check the excesses of the lower, this is quite odd, as one acerbic author observed, "...one would like to know in what way a democracy is more likely to run to excess than in taxation? If no Single Chamber is to be trusted for legislation in general, why is it to be wholly trusted in finance?" (Robertson 1911: 90-1)
be ameliorated if the upper house was an appointed one. Whether or not an appointed upper house does incur less conflict is now academic, at least for Australasia: appointed houses are long gone, their dearth of democracy unacceptable. These appointed houses were under attack when Marriott was writing but it proved quite difficult to deal with them. A Labor government “swamped” the Queensland Council with a “suicide squad” and in 1922 it duly abolished itself; in New Zealand a non-Labour government abolished the moribund Council via a suicide squad in 1950 after 60 years of unsuccessful reform attempts (Jackson 1991); in NSW an attempted abolition in 1926 failed when the Labor suicide squad reneged and failed again in 1930 when the Privy Council ruled a referendum was required; in 1934 non-Labor changed the Council to an indirectly elected body (Parker 1960); in 1961 a Labor referendum to abolish failed and in 1978 Labor changed the NSW Council to direct election by PR.

Those upper houses which began as elected had restricted franchises based mainly on wealth – in contrast to the lower houses which were (or quickly became) elected by men’s suffrage and then full adult suffrage. These restricted systems, too, are gone and for the same basic reason, namely insufficient democracy. They were reformed, not abolished, logic and the slender evidence indicating that only appointed houses will suffer abolition, and that most reluctantly. The South Australian Council abolished its restricted franchise in 1973 and since NSW changed in 1978, all state upper houses have been directly elected by universal suffrage.

If we grant, with Sieyès, that a second chamber which always agrees with the first is superfluous, and if we accept that review of legislation is desirable, how is the constitution designer to deal with the problem of mischief, given that the elected house will not be sensible of restraints like the gentlemen in the House of Lords? This question may be phrased in a less abstract, more pragmatic, way: (a) If the second chamber is powerful, elected, and impossible to abolish and, (b) if a government majority in the upper house might not review legislation with full rigour and, (c) if an opposition majority might abuse the review powers to obstruct, then how might we “construct an effective Second Chamber”? The answer does not pass the wit of man but does seem to have taken a couple of centuries to work out: the second chamber must be arranged such that neither government nor opposition party can win a majority. At any rate, it is the answer where party discipline is strong and now appears to be

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8 The very existence of upper houses “is inherently a matter of dispute” and countries “are engaged in an apparently incessant dialogue about how they should be reformed.” (Patterson and Mughan 1999: 338) “Everywhere we are faced with the anomaly that communities on a balance ostensibly declare for a check on First Chambers by way of Second Chambers, then occupy themselves with scheming how to prevent the Second Chamber from effectually checking the First.” (Robertson 1911: 88)

9 This “answer” also assumes the executive is accountable to the lower house. It is irrelevant in the US where the executive is independent of the legislature and party discipline is weak. All US parliaments except Nebraska are bicameral and the two houses are usually symmetrical (have equal power) and congruent (have similar electorates).
appreciated in at least some political circles: the 1997 election manifesto of the British Labour Party, when promising radical reform of the mother of second chambers, stated, “No one political party should seek a majority in the House of Lords.” (Russell 2000: 9) If the members of parliament are to be elected (inescapable in Australia), the only way it is consistently likely that neither party will win a majority is with a multi-member PR system.

The WA Legislative Council, elected on a property franchise, had been controlled, from its inception in 1893 until the reform of 1963, by the conservative parties. There are some indications that a conceit of non-partisanship combined with the assurance of conservative dominance did give the Council a measure of independence from the party and that this made it, like Marriott’s nominated house, “more sensible of the restrictions upon the activity of a Second Chamber”¹⁰ though, if it was so, a self-conscious awareness of its lack of legitimacy would also have contributed. Be that as it may, after full franchise via a majoritarian electoral system was introduced in 1963, three elections passed until, in the 1970s, indignation exploded as Labor MPs realised that under apparently democratic rules, they still could not win.¹¹ Under the old rules conservative dominance had been expected, even accepted, but if a two-party majoritarian system is to be considered democratic, both sides must have a chance, or at least be thought to have a chance, of winning power.¹² Greater legitimacy under the post-1963 rules increased MLCs’ identification with their party and decreased their identification with the house and may also have given them greater confidence to harass. During the Labor government of 1971-4, the Council was “mischievous” as Labor lost 20 bills whereas during the five Coalition governments after 1963, the Council was “superfluous” as the government lost just 6 bills (Figure 1.1). Labor governments had always lost more bills than Coalition governments but the contrast was never so stark and it is a sign that the Council majority was less independent of the Liberal Party after 1963, that the Council had become more a house of party, less a house of review.

The culture of the WA Council was one of quiet debate. Although there had been disputes, apart from bills impacting on the Council itself, there was some tradition of allowing Labor government initiatives to pass (sometimes much amended) even when inimical to conservative or liberal interests or beliefs (see eg Layman 1991: 173).

As explained in Chapter 1, it was not so much that the reform itself was biased but that the boundaries of the new provinces worked to disadvantage Labor, particularly in the Agricultural Mining and Pastoral zone where Labor could only ever win one of the eight seats, owing to vote wastage. Summary Tables 3 and 3a show that Labor had to work harder than the Liberals to win provinces, especially when compared with the situation before 1963 – see Summary Table 6.

In a paradigmatic majoritarian system, the losing side plays no role in government which means that half the population has no influence on decisions. Such exclusion conflicts with the democratic principle of the people ruling. If both sides sometimes win then both halves of the population are taking turns at influencing policy but if one side never wins, the votes of its supporters are effectively worthless. Though in reality the losers are not entirely devoid of influence, particularly if it is widely believed that either side could win the next election, persistent one-sided election outcomes imply a democratic deficit and, prima facie, indicate that the electoral system is biased or unsuitable.

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Labor’s indignation was boosted by the malapportionment in favour of rural voters which averaged 3:1 for Council seats and was very much higher in extreme instances. Malapportionment provided both a ready-made “explanation” for the biased electoral results and grounds for righteous expostulation. Labor wanted electoral rules which would give it an equal chance to win a Council majority. Such rules would have offered opportunities for revenge but they would not have placated the Abbé. There was, anyway, no prospect of its happening, not so much out of fear of revenge as out of fear of abolition. Labor’s policy, Australia-wide, was to abolish upper houses, consequently the conservative parties, not always of one mind, were agreed that Labor should never win a majority in the Council. All in all, then, the problem is straightforward and the constitutionalist’s solution is straightforward: introduce PR. In 1987 a PR electoral system was enacted for the WA Legislative Council and in due course, three general elections later, the predicted, Sieyès-satisfying effect occurred: the conservative majority ceased and minor parties held the balance of power. See Summary Table 8 for vote and seat shares from 1989.

The solution may be clear today but in the early seventies, the only example of a PR upper house was the federal Senate which at the time did not by any means appear to be a model solution. PR can only encroach on major-party majorities if there exist some viable minor parties. The Senate had adopted PR in 1949 for reasons anything other than to give minor parties a balance of power (Sharman 1999: 355; Uhr 1999: 108). There had been terms of DLP balance of power during the 1950s and the 1960s, however that was a by-product of a schism in a major party (which is not a feature that can be designed) rather than a consequence of the PR electoral system, and the DLP allied itself with one side thus “doing comparatively little to transform the ways of the Senate” (Uhr 1999: 108). The DLP expired in 1974 and the Senate reverted to a conservative majority which prevailed for two terms which, at the time, would have indicated that the advent and passing of the DLP had had no lasting effect on Senate representation.

The DLP balance of power did affect the Senate’s treatment of legislation. In 1973 Reid, after reviewing the fate of legislation over the previous six years, during which the government party had been in a minority in the Senate, could write, presciently, that “The Senate seems on the threshold of a new lease of life” (Reid 1973: 525) but such Senate activism would not be regarded favourably by the major parties; they would be much more likely to agree with Crisp who, also in 1973, warned of a “the dangerous further fragmentation which might threaten the stability of responsible Cabinet government if

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13 An all-party committee in 1959 wrote a major report criticising the Senate and recommended depowering (Commonwealth of Australia 1959). LF Crisp (1973 : 330) called the Senate “the great failure of the Constitution” and devoted a chapter to detailed criticism of it.
proportional representation were more widely applied in Australia.” (Crisp 1973: 149) The ambiguous position of the DLP aside, over the period from the introduction of PR in 1949, until 1980 when the Australian Democrats first won the balance of power, the Senate was essentially divided between the two major party groups. Doubts about the Senate’s structure could only multiply with the Governor-General’s dismissal of the Whitlam government in 1975 after the Senate had held up supply and subsequently, with the Labor schism no longer relevant and the DLP gone, the Senate reverted to a government majority for two terms. In short, until at least the early eighties it was not possible to draw a general lesson as to the effects of PR on the representation in the Senate.

The only other PR system in Australia, in the Tasmanian House of Assembly, had defied Duverger for over 50 years with not even a Country Party to disturb the entrenchment of the two major parties (Townsley 1960: 499). And yet – PR was in the air: South Australia abolished the property qualification and introduced PR for its Council in 1973 and the New South Wales Council adopted PR in 1978. In Western Australia, MLA Matt Stephens (NCP) advocated PR for the Council in a 1976 Assembly speech (WAPD 1976: 654-7) and in 1976, 77 and 78, the Labor Opposition included a bill for PR in the Council (see Chronology) as part of its ongoing protest campaign. As with the Senate in 1949, the WA interest in PR was not to give minor parties the balance of power and had nothing to do with resolving Sieyès’s dilemma; it was a reaction to a brazen Liberal ascendency. Everyone recognised the possibility, under PR, of minor parties winning the balance, but no virtue was seen in it. At a 1983 conference on upper houses, the participants had a very hazy view of how to deal with upper houses and what might become of them. For example, Sydney academic, Ken Turner, puzzled over their role and thought the possibility of minors holding the balance was a problem, not a solution (Turner 1983: 45, 54), and C J Sumner, an MLC from SA where the Democrats had won the balance in the Council in 1979, thought it a threat (Sumner 1983: 99). Australasia had had a very long history of unsatisfactory relations between houses where the problem – compliance or obstruction – was obviously related to one party having a Council majority, yet almost no one thought the solution would be for no party to hold a majority.

14 Writing in 1978 in the fourth edition of his textbook, Crisp rails against “the ultimate absurdity and perversion of democratic principle... held to ransom by... entirely irresponsible Senate splinter parties.” He abhors “the necessity of negotiating weak, shifting and relatively irresponsible coalitions after each election” (Crisp 1978: 149) and “the fundamentally undemocratic basis of the Australian Senate” (1978: 348).
15 Indeed Reid (1973), sympathetic to the newly empowered Senate, does not mention PR in his article. See also footnote 32.
16 “Duverger’s law” states that PR encourages multipartism (Duverger 1964). There is some dispute though it seems most observers concede that there is a relationship (see eg Blais and Massicotte 1996: 70; Riker 1982: 765).
17 The dilemma, ie the problem of inter-house conflict, was, of course, recognised. The appropriate action was thought to be the introduction of some deadlock resolution machinery.
Even if the PR solution had been clear, why would parliament introduce it? Politicians are inhibited constitutionalists when it concerns their own parliament in a partisan environment. Neither of the major parties is attracted by the prospect of never holding a majority. They introduce such an arrangement only under duress; for example in South Australia in 1973 the Liberals, who dominated the Council and had steadfastly opposed franchise reform, faced the same problem that the conservatives faced in WA in 1963: they feared that under the existing rules, Labor might win a majority and then use it to abolish the house (Jaensch 1977: 56-7). PR was not the Liberals’ elegant solution to a constitutional problem but simply their way to anticipate a disaster by precluding the possibility of a Labor majority.18 In WA in the 1970s the Liberal Party had no concerns about losing the majority. It was pleased to keep control forever while Labor, if it had had the option, would have preferred a chance to win the majority for itself.19 Labor protested regularly and vociferously throughout the seventies and early eighties but the Liberal/Country Party coalition saw no need to pay any attention. With such a stand-off, the only way reform could possibly occur would be if some conservatives voted with Labor. In 1987, the Country Party (by then called the NPA), apprehensive about the dominance of their sometime coalition partner, voted with Labor to terminate the conservative hegemony and introduce, not a majoritarian party’s preference, but the constitutionalist’s solution: PR.

3.3 The design problem

In 1963 the task appeared straightforward: an outmoded franchise needed to be brought up to date. The real problem was not recognised: in a democratic age, what was to be done with the upper house? The Council’s purpose, as a house of the propertied, was to act as a conservative brake on the democratic lower house. If that ceased to be its purpose, as it must when its franchise becomes the same as the Assembly franchise, what was the Council’s role? The numbers in the lower house determine which party forms the government and which the opposition. What do the numbers in the upper house mean? What should they mean? Before 1963, the Council represented interests but after 1963 it represented people, just like the Assembly. Before 1963, the Council had a legitimate role – a curb on democracy – but lacked legitimate authority. After 1963 the Council became a legitimate house without a legitimate role. If abolition of the Council was not practicable, then some role, or some raison d’être, had to be found for it.

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18 This basic fear (of a socialist majority) seems to explain the adoption of PR in Europe when male franchise was broadened in the early 20th Century (Boix 1999).
19 Sayers (1986) discusses this contradiction between Labor’s preference for control and its persistent campaigning for PR.
In her book, *Reforming the House of Lords*, Meg Russell spends eleven chapters reviewing the British context and the performance of national second chambers around the world, and then starts on bicameral reform:

There are two key questions to be answered in designing a new second chamber. The first is: what is the chamber to do?... After the functions of the chamber are clear – and only then – should the second question be addressed. That is: who should sit in the chamber?” (Russell 2000: 245)

In 1963 the WA parliament decided who should sit in the Legislative Council and spared no thought for what its task was. It did not occur to anyone that there might be a need for “designing a new second chamber” and the need only became apparent to the Labor Party and to elements of the Country Party after persistent electoral losses; the Liberals never saw the need, some of them to this day. The new second chamber was created 24 years after that initial 1963 reform – and then, it was not so much a decision about what the chamber was to do as what evils the chamber should avoid.

The deterioration in Labor’s position in the Council after 1963 possibly brought matters to a head more quickly than might have been the case had election results been more balanced. With its permanent Coalition hegemony, the Council was obstructionist to a Labor government and accommodating to Coalition governments, but had there been no built-in electoral bias and had the Council majority switched back and forth between Labor and Coalition, the grounds for partisan indignation would have been absent. Yet the actual deficiency in the putative review function would have been similar in that governments that had a Council majority would function as elected dictatorships and governments without a Council majority would suffer the frustration of opposition veto. That veto would, in each instance, have been justified by the opposition on the ground that the numbers in the upper house were as valid and as indicative of the electorate’s wishes as the numbers in the lower house. Eventually, such a Council might have come to appear to both sides of politics to be a nuisance.

As a conservative house, the Council’s presence had been accepted, even by Labor. It had maintained an ethos of an independence (Stone 2002: 273) which was not entirely disingenuous and which worked to some extent to keep the upper house at a distance from the partisan house of government. Moreover, when a body has respect, or just the fancy of respect stemming from exclusivity, the wish to retain it may inhibit abuse of its power – much as Marriott’s Lords might behave with restraint. Historically, the Council had refused many more Labor bills than Liberal (Figure 1.1) but that was to be expected for that was its job, and even if inter-house conflicts were angrier under Labor governments (though there had been some bitter disputes with Coalition governments) the situation could be factored into government stratagems. A non-superfluous second chamber will inevitably conflict at times
with the lower house but if it has a purpose and an ethos, these can be referred to, and appealed to. All this was lost in 1963. After 1963, as a democratic house, the Council could only be an Abbé Sieyès nightmare.

3.4 Incongruence

In recent years, a benchmark for discussion of the relationship between bicameral houses has been Lijphart's (1984) classification of "weak" and "strong" bicameralism based on his distinctions of inter-house "symmetry" by which is meant equivalence of power, and "congruence" which designates similarity of representation. Symmetrical houses have equal or near equal powers and are democratically legitimate. Congruent houses have similar composition (Lijphart 1999: 205-11). The strongest bicameralism is where the two chambers are symmetrical and incongruent. The Australian bicameral parliaments now fall into the symmetrical category and possibly always did for even when the upper houses were elected on a restricted franchise, they appear to have been only slightly inhibited in exercising their formal powers (Goot 1999: 332; Stone 2002: 269). The Senate, through its representation of states, is incongruent vis-à-vis the House of Representatives and the state parliaments were incongruent as long as they were appointed or elected to represent property interests. It may be a sign of the passage of a century that whereas Marriott wanted a second chamber to prevent the first chamber's hasty actions and is concerned to solve Sièyes's dilemma with restraint stemming from finer sensibilities, Lijphart is concerned to explain (and justify) second chambers as representative of a different constituency from the first, and to classify bicameral relations in terms of relative power.

Australian parliaments were always characterised by strong bicameralism, even if the strength tended to show more clearly when Labor governments were in power. The symmetry was strengthened when full franchise was extended to the Councils but in Western Australia in 1963 the incongruence was lost owing to the adoption of an electoral system
insufficiently dissimilar to that of the lower house. Incongruence may be generated by, among other things, longer electoral terms, staggered elections and structural malapportionment (Stone 2002: 270) which are supposed to provide a longer view of legislation and a compensating bias to some otherwise disadvantaged section of the electorate. These three elements were present in the WA system after 1963: the Council term was 6 years versus the Assembly's 3; half the house went to the polls every 3 years; the average city-country malapportionment was 3:1 in the Council and 2:1 in the Assembly. However the measures were ineffectual in providing incongruence. The distinctions of 6 year term and half-house election were undermined by holding elections conjointly with the Assembly which relegated the Council elections to a sideshow as interest in the electoral campaign concentrated on the partisan contest for government. The effectively single member electoral districts yielded a majoritarian outcome which paralleled the Assembly outcome (see Figure 1.4 or Summary Table 7b). The anomalies in the malapportionment departed so greatly from the 3:1 average (up to 16 to 1 at one stage) that they swamped the relatively small (3:1 versus 2:1) overall representational difference between the houses. As measures toward incongruence, these electoral system differences were too slight to distinguish the Council from the Assembly and could certainly not make the Council less partisan or less majoritarian than the Assembly.

In a strongly partisan environment, where party allegiance outweighs house allegiance, if there is to be incongruence through representation of interests and ideas (such as far-sightedness or rural advantage) rather than people and places, majoritarian hegemony must be avoided, otherwise instead of review of legislation with regard for these interests, the power competition between the two major parties will predominate and extremes of compliance or obstruction will obtain. That is, the measures taken to provide incongruence must give the other interests sufficient weight, via minor parties or independent members, to prevent the major parties from dominating the chamber. The only measure that will consistently do this with an unrestricted franchise is a PR electoral system, for only PR can be expected to consistently ensure that minor parties will hold the balance of power. In South Australia PR was introduced in 1973 and minor parties have held the balance since 1979; in NSW PR began in 1978 and minor parties have held the balance since 1988 (Griffith and Srinivasan 2001: 31, 95); in WA the dates are 1987 and 1997 respectively. If the function of the upper house has ceased to be that of a conservative check on democracy, it must find some constituency different from, ie incongruent with, the lower house. The Senate until 1949, NSW until 1978 and WA until 1987 (and Victoria up to the present) may be viewed as attempts to achieve incongruence which failed. They failed essentially because party discipline stemming from a "majoritarian" representation of people, rather than a proportional
representation of interests, overwhelmed the incongruence. PR has permitted minority balance of power which has neutralised the partisanship in the upper houses and achieved incongruence vis-à-vis the majoritarian lower houses.

3.5 PR inevitability

The above considerations indicate an inevitability about PR for a powerful upper house where parties are highly disciplined and the government has a compliant majority in the lower house. Two fundamental pressures pushing for PR can be identified: convenience for both major parties whether in government or in opposition, and promotion of genuine legislative deliberation.

With regard to convenience, if an upper house is not to frustrate government, it must be structured such that an opposition party majority does not occur. PR achieves this provided viable minor parties arise to take the opportunity. This was not the intended outcome of the introduction of PR in the Senate, or in SA or NSW (Griffith and Srinivasan 2001: 30-1, 94) and it was not specifically Labor’s intention in WA though some were aware that the electoral system they were introducing would permanently exclude Labor from a majority.\(^{24}\) Australian governments are certainly not known for declaring this arrangement convenient\(^{25}\) and would possibly prefer to solve the problem of upper house obstruction by assured government majority or by abolition (the various proposals are never very clear). However given the continued existence of an upper house and given that it is to be powerful\(^{26}\) and given that it is to contain disciplined parties, then PR is convenient for the government if it prevents an opposition majority\(^{27}\) – as it is now consistently doing in four Australian upper houses. It is also convenient for the opposition, since it means the opposition party can influence legislation to the extent it can persuade the balance of power holders to its view.

Despite the convenience, the majoritarian parties are antipathetic to the minor parties and ambivalent about a system actually designed to ensure they cannot hold a majority, yet they have not (so far) collaborated to establish a majoritarian electoral system for the upper houses which would exclude the minors.\(^{28}\) Since any replacement system would have to treat the two collaborators equally, there is the potential for an obstructionist upper house

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\(^{24}\) It was the Nationals’ intention, of course – and they hoped to be the holders of that balance of power.

\(^{25}\) Federal governments have been railing against the Senate ever since PR was introduced in 1949. In 1988 the premier of NSW called the Council “totally irresponsible” (Griffith and Srinivasan 2001: 96).

\(^{26}\) There are many weak upper houses in the world. Tsebelis and Money (1997: 3-4) argue that even weak upper houses are not entirely ineffectual.

\(^{27}\) In Britain a new independent committee appoints people to sit on the cross benches in the Lords. See http://www.houseoflordsappointmentscommission.gov.uk.

\(^{28}\) The suggestion is regularly made, eg Coonan (2000).
opposition. That is, they do obliquely recognise the convenience and this presumably inhibits such collaboration: it is better (they might calculate, and it was certainly Labor’s calculation in 1987) for the government to have to come to terms with minor parties than to have to come to terms with an opposition majority. An additional inhibition would be an opposition’s reluctance to yield its current, immediate (convenient) position of influence over government legislation, and the awkwardness of the opposition’s collaborating to change the system, since this would be an admission that its current frustration of its rival was inappropriate.

With regard to genuine parliamentary deliberation, if there is to be debate with a view to improving legislation, it must, by default, take place in the upper house since debate in a lower house, where the majority obeys the executive, has no effect upon the legislation under discussion. Where the two major parties are well-disciplined, minor party balance of power is the only possible means of providing the independence needed for such deliberation and PR is the only way to reliably provide minor party balance of power. Mulgan (1996: 202), discussing the legitimate role of the federal Senate and whether it “should” oppose the House of Representative’s government majority, points out that holding the executive accountable is a parliamentary function, rather than a “house-of-review” function, that it is an aspect of separation of powers and a house with an anti-government majority is better fitted to holding the executive accountable. Sharman (1999: 353-4), states that the minor parties in the Senate have “fundamentally altered the dynamics of the legislative process” and “PR has been the agency through which the Senate has been transformed.”

There may be another pressure toward PR in addition to the two pressures of government convenience and legislative deliberation applying to Australian upper houses – a democratic pressure. A democratic inevitability of PR would apply also to unicameral systems and it is noteworthy that whereas unicameral PR parliaments are common among parliamentary democracies,30 unicameral majoritarian parliaments are rare. They also tend to have performed poorly which would indicate that they felt the lack of a second chamber. They include New Zealand from 1950 until 1996 and Northern Ireland from 1921 until 1972,31 both of which have now adopted PR. PR was adopted for the unicameral ACT

29 Their numbers were increased by several polities with PR lower houses abolishing their upper houses in recent times: Denmark in 1953, Sweden in 1970, Iceland in 1991, Bavaria in 1998.
30 Of Lijphart’s 36 democracies, only three majoritarian countries are unicameral: Mauritius, Papua New Guinea and New Zealand 1950-1996. He has 11, mostly European, unicameral PR countries, plus New Zealand since 1996 (Lijphart 1999: 189, 212).
31 New Zealand abolished its upper house in 1950, and after decades of discussing the possibility of replacing it (Jackson 1991), instead radically transformed the electoral system from English plurality into German PR. In Northern Ireland the Unionist party held power for 51 years until civil war broke out; subsequently in 1982 and in 1998 attempts were made to introduce PR. Queensland, like New Zealand, left itself with a single majoritarian chamber after abolishing its Council in 1922. One apparent result was gerrymander. The Labor Party ruled from 1915 to 1957 except for a three-year
government in 1988\textsuperscript{32} and there have been other recent PR adoptions for Scotland, Wales and Greater London (Dunleavy and Margetts 2001). PR is making inroads into traditional Westminster environments. The democratic pressure would arise because majoritarianism allows the possibility of single party entrenchment which means a large section of the voters has little or no say in ruling. This is anti-democratic in essence and may lead to the disabling of opposition, the disregard of criticism and the distortion of electoral rules. PR usually prevents single party entrenchment.

3.6 The effects of a PR upper house

The above discussion implies that a majoritarian first chamber needs to be checked by a second chamber whereas a house elected by PR does not require a second chamber – at least in unitary (not federal) and parliamentary (not presidential) systems.\textsuperscript{33} But if a majoritarian lower house needs to be checked, what is the point of having it? Party discipline ensures that the executive will prevail in the lower house and that debate has no influence on the vote which will be along party lines, in favour of the unamended bill. With the lower house obedient to the executive, the so-called “house of the people” has become a legislative nonentity. Since the members are aware another place makes the real decision over legislation, lower house behaviour will reflect its impotence and debating there will not be – cannot be – with a view to improving the legislation. This is indeed apparent in House of Representatives scenes presented on television. Where an upper house is powerful, lower house interaction is about something else altogether.

The opposition more or less automatically opposes every contentious government proposal and may throw down a pretend challenge (amend the bill, refer it to a select committee, hold a referendum...) which the government treats with pro-forma disdain (the opposition has no policy, the opposition could have done that when it was in government...) accompanied by feigned regret at the lack of constructive discussion. This “debate” proceeds by way of personal put-downs and theatrical scorn. This more or less deliberate, almost formal, preclusion of meaningful discussion indicates that the lower house, collectively and subconsciously, actually apprehends that its deliberations are about something other than the interruption caused mainly by schism within the party (Morrison 1960: 351), followed by 26 years of Liberal-National coalition culminating in serious corruption.

\textsuperscript{32} PR was adopted by the ACT in 1988 but not for the Northern Territory’s unicameral legislature in 1974, nor for Papua New Guinea in 1975, which timings would indicate that the effects of PR were not appreciated in the seventies but were by the late eighties.

\textsuperscript{33} All of Lijphart’s (1999: 213) federations are bicameral, apparently needing the second chamber as a “states’ house”; bicameralism seems irrelevant to presidentialism per se (presumably because the executive does not depend on legislative confidence and does not dominate the legislature) and Lijphart’s lists (1999: 119, 212) indicate no empirical correlation.
subject, that the ostensible subject merely provides an excuse for reciprocal taunting and ritual threat display. MPs presumably view this conduct as normal but it is evident that they are performing roles created by, or encouraged by, the institutional structure and incentives.

Confrontational conduct has always been a feature of the lower house but where the upper house did not play the deciding role in shaping the legislation, or was not seen to play the deciding role, the content of the bill could be influenced by the lower house discussion, if not immediately then perhaps through later government party amendments in the upper house. The introduction of PR in the upper chamber and its consequent conversion to a genuine deciding (hence genuine debating) chamber, reverses the relative power of the houses to legislate. If an upper house elected on a restricted franchise lacks both the legitimacy and the tradition to interfere greatly with the government’s program, the lower house will feel itself important to the outcome of legislation. In the past, the knowledge, or even the illusion, that the upper house was not determinant and that the lower house was the more important, would have tended to lend substance to lower house debate. The present knowledge, clear to everyone, that the upper house will decide contentious matters through confidential and unpredictable bargaining between the executive and the balance of power holders, and that the lower house will subsequently approve of their decision, no matter what it is, makes lower house sittings meaningless for the purpose of law-making.

In recognising that the upper house has the determining say over legislation, the executive and its subservient lower house can choose between two attitudes or strategies in expectation of the Council’s examination: either push legislation through the formalities of the Assembly with minimal attention on the grounds that since it will be examined by the Council there is no point in fussing with it in the Assembly, or alternatively submit legislation which attempts to anticipate the Council’s concerns. Lower house committees, dominated by the government party, will, in so far as they deal with legislation, be conscious of the hurdles to be crossed in the upper house, presumably with the result that the ostensible matter under consideration will serve, as in the house, as a pretext for political point-scoring. Over time a tradition, or a modus operandi, will develop and the first few parliaments from 1997 (when the conservative majority in the Council ended) may be expected to establish that tradition, perhaps with an eye to developments in the Commonwealth and other states.34

34 According to Uhr (1997: 82-3), the House of Representatives is adapting to Senate innovations and there are “significant injections of multi-party decision making and shared responsibility.” He lists some changed practices, noting that “the traditional distinction between an initiating house of government and a reactive house of review is becoming increasingly blurred.” Reid (1973: 517) had a different interpretation: “The Executive has found it more and more difficult to control the Senate; in consequence, it has tried to compensate for its uncertain control over the Senate by intensifying its control over the House.” (italics original)
The introduction of PR to the upper house is a way to counter the mischievous-or-superfluous effect of partisanship, so it is ironic that the STV form of proportional representation widely adopted in Australia probably tends to strengthen party discipline, since an MP's career depends on position and influence in the party. PR is bound to make an upper house more partisan than a house of restricted franchise with its MPs trying to live up to the airs of non-partisan independence they gave themselves, though compared with Western Australia's 1965-1989 majoritarian interregnum, PR has probably reduced partisanship. Where a minor party holds the balance of power, committees are not dominated by the government which then depends on its MLCs to help build support for legislation in upper house committees. These MLCs may thus have more importance than when, as a commanding majority, they were simply required to behave like lower house backbenchers and support the government. It is something of a paradox that major party MLCs should become more powerful if they are not in a majority but with their participation in committees which are of genuine significance, the MLCs' role as legislators is enhanced; their allegiance to their party is decreased and allegiance to their house increased.

Another effect of PR is to radicalise the house, and not just as a result of the inclusion of minor "fringe" parties. An appointed upper house or a house elected on restricted franchise will inevitably be more conservative than the lower house, whereas an upper house elected without bias on a full franchise is likely to be less conservative than the lower, especially if the electoral districts are large, as they generally are, and the members are chosen by a PR system in which electors vote for a party list (as most do with the "above the line" ballot option). As a rule, the representative of a lower house single-member constituency cannot afford to be adventurous but must tend to seek the middle ground with a view to maximising constituency support (depending how "safe" the seat is). The individual electoral prospects of an upper house member elected by PR depend mainly on party rank, so there is not the need, at least for major party MPs, to maximise personal popularity with the electorate which leaves more freedom to be inventive, to experiment. This independence will be undermined if incentives applying in the lower house apply in the upper, namely either the prospect of promotion to the ministry or else the (perceived) need to perform constituency work.

These effects are perhaps only gradually coming to light; the impact of PR and minor party balance of power upon Australian upper houses is a recent phenomenon — apparent since 1980, and only since 1997 in WA — and upper house MPs seem to be still feeling their

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35 It is not an all or nothing. When the governing majority is narrow, splinter groups acquire power. From 1952 the slim government majority in the Senate (caused by the recent introduction of PR) saw more bills defeated and amended than with earlier government-controlled Senates (Fusaro 1968: 135).

36 The Senate began to form effective committees in the late 1970 when the DLP held the balance of power and in 1975 the dismissal of the Whitlam government demonstrated the power of the Senate
way into the exercise of their constitutional capacities. Upper house confidence is building gradually in the face of major-party aversion for the minor parties, in a context where electoral attention is overwhelmingly focussed on the lower house, where most media attention is concentrated on the ministers (who are predominantly from the lower house), and where lower house members exploit their chamber for publicity, attempting to attract media coverage through flamboyance. Executive governments complain of obstruction and of their difficulty in exercising the “mandate” the voters allegedly elected them to carry out. However, in the four Australian PR polities where no government can expect to have a majority in the upper house, the major parties are no longer in a position to make promises which presuppose a compliant parliament. As the public comes to an understanding of the shift in power and the politicians come to terms with it, the mandate lament, always dubious, should lose its force and fade away. If the voters understand that the government will not control the upper house, then it is – evidently – the voters’ wish that the government’s program be independently reviewed, which is to say that promised legislative programs are conditional, just as they are in any PR polity where the party composition of the prospective governments are not predictable.

If, with the passage of time, the public and politicians come to think that all genuine parliamentary functions have accrued to the upper house, and that legislation introduced by the executive is always tentative subject to multi-party correction by the upper house, then it should become less important which party wins the treasury benches, at least as regards legislative program. It may be that the separation of the upper (legislative) house from the house of government provides an independence which yields a more powerful check on government activity than a unicameral PR house would provide, though such an

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when opposition forces had a majority. However it is only since 1980 that unaligned parties have held the balance and it could become apparent to observers that this may be a stable pattern. An indication of lack of confidence is the Democrats’ repeated assertion that they will not block supply in the Senate. It is reminiscent of a child eager to show he or she is grown-up and responsible. It hardly makes political or representational sense to narrow options and renounce a bargaining position. Since rejecting supply (or any bill) is not, in fact, within the Democrats’ power, by acting as if it is, they are implicitly accepting that the (major) opposition party has some right to deny supply without having to take responsibility for it. Whether the Democrat senators are intimidated by the big parties or whether they feel overwhelmed, this behaviour looks like political immaturity, and appears to be an admission of a lack of legitimacy, either that the upper house is inferior, or the minor party is an upstart – quite as the major parties would insist. (A paradoxical effect is that in granting the opposition party a right to oppose simply for the sake of it, the presence of the third party – and the PR system – is exacerbating the two-party polarisation.)

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38 For discussion of mandates in connection with bicameral parliament see Goot (1999).

39 This is not to say the importance to the two parties would decline or the competition be less intense, for the prize and the glory would remain.

40 Riker (1992) asserts that “of the several methods of delay – supermajorityism, multipartyism, multicameralism – the best is multicameralism” on complex theory of choice grounds because “only multicameralism both prevents majority tyranny and promotes simple majority equilibrium.” (Riker 1992: 101, 113)
independent check would be undermined to the extent ministers are appointed from among upper house MPs.

Since sittings of the lower house are irrelevant to legislation and bills proposed by the cabinet require multi-party support in the upper house, the introduction of PR refashions the bicameral Westminster parliament toward a unicameral “consensus” parliament, though there are a number of differences. Unlike typical PR cabinets, which are multi-party, Australian cabinets are comprised of politicians from a single party in the Westminster style (there being no question of the upper house minor party members participating in the ministry) and the cabinet retains its monarchical Westminster veto over legislation. Australian upper house PR is a minimalist consensus arrangement since not only is the cabinet composed of a single party, but the legislature itself does not contain a range of parties; instead it consists of the two major groupings with the balance of power held by a handful of eccentrics – individuals outside mainstream opinion – who have limited party support and few staff, and who are regarded by their major party colleagues as amateur interlopers.

Moreover, although, as discussed above, one of the effects of PR is to reduce the need for the MP to carry out constituency work, this freedom might not apply to minor party MPs who do not have lower house colleagues working in the constituencies keeping a party presence before the voters. Where there are defined electoral districts and upper house MPs are provided with electorate offices, the minor party members will tend to do constituency work instead of being Lockean legislators. At election time, this also applies to the major parties, which prefer to regard the main duty of upper house MPs as being to work in the constituencies to get lower house members elected in the quest to win government.

As the effects of the introduction of upper house PR in the Australian system of strong bicameralism unfold, they are not only bending the nominally majoritarian democracy toward unicameral consensus democracy, but are also pushing the parliamentary democracy in the direction of presidential democracy. The cabinet is independent of the confidence of the genuine legislature, and although in formal terms the cabinet requires the confidence of the lower house, its majority automatically assures this. Thus the executive has become effectively independent from the parliament – the central feature of presidential systems.

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41 Minor party MPs probably also see themselves as supplying a service to the electors in the constituencies which is qualitatively different from that of the major parties.
42 Russell (2000: 291) actually has a heading What Upper House Members Should Not Do: Constituency Work and this was a major issue with Matt Stephens (see eg 1.7 in Ch 1; Brush 1991: 91).
43 Even where a single party has not achieved a majority and governs with the support of independents, it has arranged this support before being commissioned and is not in the ongoing position of facing surprises in the lower house.
44 The presidential effect would be increased by the large number of ministerial and secretarial positions within the Premier’s patronage, especially if these form a majority in the party room.
Although there is an inevitability about these developments, an inevitability shown not only by the logical lack of alternatives but by the parallel evolution in four polities, the consequences of the chain of events begun by abolishing the property qualification in the WA Legislative Council in 1963, could hardly have been foreseen. The result, so far, is a new hybrid parliament, a system whereby a single-party Westminster cabinet, with presidential independence from the legislature, must obtain consensus for its legislation in an environment of strong party discipline. Australia is the only established democracy that has a majoritarian parliamentary system combined with strong bicameralism. The hybridisation has occurred because this combination was not stable.

3.7 Conclusion

In a disciplined two-party environment, the old problem of bicameralism – that a powerful upper chamber is either redundant or a nuisance – does have a solution: neither governing nor opposition party should hold the majority. The only way to reliably ensure that minor parties or independents hold the balance of power is through a PR electoral system. When, in 1987, it became possible to form a majority interested in changing the system, the parliament adopted PR for the upper house as the parliaments of the Commonwealth, SA and NSW had before them. On this reasoning, the destiny of the Victorian Council is clear – when and if the anti-conservative numbers arise to force reform.

Before 1963, the Legislative Council, elected under a property franchise and with a permanent conservative majority, had a purpose: to represent property interests as a check on the democratic excesses of the lower house. By introducing adult franchise in 1963 the politicians unwittingly removed its purpose. When PR was introduced for the Legislative Council in 1987 they (again, more or less unwittingly) found a purpose for the Council. The new house would again reflect interests and ideologies as opposed to the Legislative Assembly’s representation of people and places.

Having minor parties holding the balance of power is convenient for the two major parties, notwithstanding their noisy utterances to the contrary, since the government does not face an opposition-dominated upper house and the opposition has some influence on legislation through its upper house presence. The upper house, formerly conservative-controlled, becomes a powerful independent legislature. With the upper house making the decisions, the lower house becomes irrelevant to legislation. With the lower house irrelevant and the real legislature making multiparty decisions, the parliament is functionally a unicameral consensus system. At the same time, since the executive controls the lower house and is independent of the confidence of the genuine legislature, the relationship between executive and legislature is that of a presidential system.
Labor governments will hope they have to rely on Democrats or Greens while Coalition governments will prefer to find themselves relying on One Nation. It would be logical to include these minor parties in the cabinet, thus securing cooperation through coalition and making the system more closely resemble a standard PR parliament. There is no present prospect of logic prevailing, however the situation may not be stable – there is so far only 22 years experience with it since the Democrats first won the balance of power in the Senate – and should minor party support grow and the changed voting pattern be reflected in the lower house to the extent that a balance of power there also came to be regularly held by minor parties or independents, the logic may become more forceful. The lower house would tend to become a genuine legislature, which would demolish the presidential independence of the executive, and the need for compromise bargaining in two houses may lead to earnest attempts to neuter the upper house – always an option if the two major parties collude.

References to Chapter 3


CHAPTER 4
GENETIC CAUSES: DEMOCRATISATION IN A DEMOCRACY, 1963 AND 1987

During the last seven hundred years it has sometimes happened that, to combat the royal authority or dislodge rivals from power, nobles have given the people some political weight.

(Alexis de Tocqueville, 1850: 10)

Democracy was not the original or primary aim; it was sought as a means to some other end or it came as a fortuitous by-product of the struggle.

(Dankwart A Rustow 1970: 353)

4.1 Introduction

Chapter 1 considered the biases, instabilities and pressures that pushed electoral reform toward the top of the political agenda for the Labor Party. Chapter 2 examined the specific circumstances of reasoning, striving and fortune that led to the 1987 reform. Chapter 3 argued that the shape of that reform (ie PR) was ultimately inevitable, dictated by the exigencies of Australian bicameralism. Chapter 4 seeks to understand the underlying process of adoption of the reform, showing that it conformed to a predictable sequence with predictable actors.

Chapter 3 argued, in effect, that the right answer to a general problem had been adopted, which is to say it was reform in a positive sense. However the fact that some arrangement is appropriate, or that it serves a function useful to the maintenance of a broader institution, does not explain why it was adopted. It may explain why it persists, but it does not explain its origin. It does not explain why the legislature voted for the arrangement. The usefulness of an arrangement could explain its adoption only if the politicians were assumed to be selfless, far-sighted and wise. Opinions on this differ sufficiently for such an assumption to be unwarranted and our everyday experience is of common adoption of wrong solutions – which makes comprehending the process of adoption of solutions (right and wrong) important. It is hard to imagine any political question could be more important yet there is little understanding of it. What are the conditions that allow reform to happen? What is “reform”? In 1987, the reform consisted of the adoption of PR. PR may well be the solution to the bicameralism dilemma as advanced in Chapter 3, and it may well be the solution to the problem of consensus in a divided society as is widely thought (see eg Lijphart 1999; Linder 1994) but how and why does a transformation from majoritarian to PR proceed? One researcher, Boix (1999), asserts that PR was introduced in Europe by conservatives to

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1 If functionality explained genesis we would be puzzling along with much else, as to why the Victorian Legislative Council has not long since adopted PR. No one is puzzling over this.

2 Reform by mistake is sometimes suggested. Witness the title, New Zealand Adopts Proportional Representation: Accident? Design? Evolution? and the authors discuss “reform by misadventure” (Jackson and McRobie 1998: 329). That such a despairing “theory” of the origins of reform should be seriously considered, signals both the dearth of understanding and the depth of the need to understand.
mitigate conservative loss of power upon the advent of manhood suffrage - effectively the
same circumstance as in the Western Australian Legislative Council in 1963, and in South
Australia in 1973 - which is an answer to why it occurred, but he does not examine the
process of the change.

The problem is to define what sort of event 1987 was and to see what theory might
apply to it. This chapter defines it as an improvement in democracy and it tests, and confirms,
Rustow’s 1970 description of the democratisation process.

Free and fair elections are generally held to be the *sine qua non* of democracy and
although pre-1987 Western Australia was no Soviet Union or Zimbabwe, a team of
international observers would not have been satisfied that elections to its Legislative Council
reflected the will of the people (Chapter 1).\(^3\) Democracy, they would have said, was deficient
in the WA upper house. The 1987 reform of the electoral boundaries and adoption of
proportional representation made the seats proportional to party votes, making the electoral
prospects of the two major parties approximately equal (as they were in the lower house), and
opened up the possibility of representation of minorities. After 1987, the hypothetical
observers might, as long as they were not too particular, have declared the electoral system of
the Council to be free and fair for the first time since its inception. “Free and fair” is relative.
With a weighting of 3:1 in favour of rural voters and the associated bias toward the National
and One Nation Parties, there is room for further democratisation, however the Legislative
Council is significantly freer and fairer than it was.\(^4\) Although this transformation occurred in
1987, there had been an earlier landmark in the democratic progress in 1963, and it could be
said that the Council electoral system became free in 1963 when adult franchise was granted,
and fair in 1987 when the bias toward the Liberal Party was removed.

It appears that the vast body of literature which deals explicitly with democratisation,
all refers to transformations from autocracy to democracy, not to improvements to
democracy.\(^5\) However if we disregard this dichotomisation and accept that democracy is a

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\(^3\) At the time, some did actually want to obtain an international opinion, “At the [Labor] Party’s State
Conference in July 1978 there was a proposal to seek redress against the State’s electoral arrangements
from the International Court of Justice.” (Phillips 1991: 218)

\(^4\) “The process of democratisation of state upper houses is now almost complete....there are two
exceptions. In Western Australia the Council’s electoral system remains heavily malapportioned...[and]
the conservative parties continue their unbroken hold on the Victorian Legislative Council.”
(Stone 2002: 278)

\(^5\) There is a considerable literature on institutional change of which democratisation within democracies
would be a logical subset, but it is thought of as “change”, not as democratisation. For example
Colomer (2001: 240-3) distinguishes “Democratisation” (of an autocracy) from “Change of democratic
regime” (being switches between majoritarian, PR and presidential systems), and “Institutional changes
within democratic regimes” (changes to the electoral rules). Issue 3 of the 2001 *Journal of Theoretical
Politics* was devoted to the topic of institutional change and there is an extensive discussion in Longley
and Olson (1991: 9-24) but there appears to be no theory pertinent to the present instance beyond the
generalities that “actors” will seek change if they think they will be better off under the new system,
and that what happens depends on the preceding circumstances. Perhaps trying to explain “change” in
matter of degree and that no polity is a perfect democracy, it follows that further democra
tisation may occur within an established democracy. The question is: How do such
improvements occur? What makes a legislature vote for a more democratic polity? On
occasion, an improvement in democracy might be debatable or difficult to recognise, but that
is not a problem in this instance of the democratisation of the WA Legislative Council. Free
and fair elections constitute the universally-agreed, major criterion of democracy and the
reform did in fact lead to a transfer of power and the overturning of a century of conserva
tive hegemony. As such, the change differs from the democratisation of an autocracy in degree
rather than in kind. Can “democratisation theory” be applied to it? As long as the theory is
not dependent on the dichotomy of national autocracy versus national democracy, it should be
possible.6

Potter et al (1997: 10) divide democratisation theories into three basic types: the
modernisation, structural, and transition approaches.7 In addition, Vanhanen (1997) offers a
Darwinian thesis. The following section briefly discusses and rejects the modernisation,
structural and Darwinian theories of democratisation. Subsequent sections then consider the
reform of the Western Australian upper house from the perspective of Rustow’s transitional
analysis. Rustow says that democratisation requires the presence of four “ingredients”. It is
shown that in 1987 all four were present but in 1963 none were present or were very weak.
No further case needs to be made that 1987 was a democratisation but was the 1963 extension
of the franchise not a democratisation? It is shown that 1963 gave voters no increase in
influence over their politicians – thus validating Rustow’s analysis. That is to say, these two
cases, 1987 and 1963, indicate that Rustow’s theory not only provides a general description of
how democratisation takes place, but is also a test for democratisation (ie it will expose a false
democratisation) which, in addition, allows some predictive assessment of the tactics and the
prospects for democratisation.

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6 Most democratisation literature concerns developing countries’ progress toward democracy while
some ponders failed modern democracies. Whether it concerns developing or modern societies the
dichotomy of democracy and non-democracy is implicit: there is a condition called democracy (or
“established democracy”) which a state has or might acquire. Presumably the gulf between “the”
democracies and the rest is so large that the dichotomisation is apt. No one would claim these
established democracies are perfect or that different levels among them do not exist, yet there is no
recognition of the contrary in the democratisation literature. Comparison of modern democracies is a
different field but there, too, little attention is paid to comparing how democratic they are (Lijphart
(1999: 276) tries and complains that most indices of democracy are too coarse to be of use in rating
democracy within the modern democracies.) and there seems to be no attention to explaining the
general process that leads to their becoming more democratic.

7 Vanhanen (1997: 11-21) has a survey of theoretical approaches to the study of democratisation
including a list of other surveys.
Chapter 4 democratising democracy

4.2 Democratisation Theories

The modernisation approach investigates the relationship of modernity to democracy. In 1960 Seymour Martin Lipset showed that indices of modernity – literacy rates, income, urban living, use of telephones and others – were correlated with democracy (Lipset 1960). Studies since (eg Diamond 1992; Lipset, Seong and Torres 1993) confirm the correlation between economic conditions and democracy but the connection is not clear: is there a causal link and if so does modernisation sustain democracy or vice versa? The relationship of modernity to the actual transition from autocracy to democracy is also unclear and the factors which cause the genesis of democracy may well be different from the factors which sustain it (assuming modernity does sustain it). Related to the modernisation thesis is the idea that certain beliefs or psychological states are required, such as consensus on democratic legitimacy (eg Diamond 1994: 11, 13; Fukujama 1996: 320), or a civic culture encompassing traditional and community attitudes (Almond and Verba 1989) but the causal connection is vague⁸ and, again, the factors are ones which are supposed to sustain democracy rather than explain its creation in the first place. The predictive and explanatory possibilities of the modernisation approach appear low, there are significant apparent anomalies (such as modern, wealthy, undemocratic Singapore and traditional, poor, democratic India – see eg Lipset 1981: 473), and the approach would not seem to apply outside the national, autocracy versus democracy dichotomy – which is to say it is not applicable to a democratisation which is an increase in democracy.

The structural approach is more directly concerned with transition as such. It postulates that as time goes by the power structures in a society change, and the new power balances cause changes to the system – possibly democratisation. By power structure is meant those interrelationships which people are caught in, and which are maintained by general participation but which are not subject to an individual’s influence. The monetary system is an example: each person supports it by participating but no individual can influence it. Other examples would be rural employment or a traditional division of labour. Over time the structure may evolve, and to match it power patterns would change. The predictive capacity seems to be almost none: just the non-specific assertion that after some structural change – some movement in civil society or some economic or demographic or other sociological shift – there will be a shake-out in the rules. In the end, probably all legislation is a response to changing circumstances. Essentially, the structural thesis appears to be that a change in the power structure results in a change in the power structure.

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⁸ Eg. “The level of a country’s development independently affects the orientations conducive to democracy of its citizens.” (Inkeles and Diamond, quoted by Lipset 1981: 474) It is a non-specific claim rather than an explanation.
In terms of democratisation, in 1966 Barrington Moore suggested that the route to liberal democracy was through the change in structure caused by industrialisation: agriculture was commercialised, peasants moved to towns, became bourgeois and wrested power from the landed classes (Moore 1966). This appears irrelevant to an incremental improvement to an established democracy and yet, writ small, the 1987 "democratisation" of the Legislative Council in Western Australia would fit his description: a drift of rural workers to the city in the post-war period reduced Labor's country support and over the same period Labor became bourgeois and wrested power from the Liberal Party in 1987. Just so. The difficulty is with the detail of actual events. Moore was able to make generalisations about the effect of the relationships between the state, landed gentry, commercial agriculture, peasants and bourgeoisie on democratisation which, like most macro democratisation discussion, do not appear to have application to the micro instance of the National Party and the Labor Party voting together to deprive the Liberal Party of power in the WA Legislative Council.

Tatu Vanhanen submits a theory of Darwinian struggle for existence. His argument is straightforward: (1) we, as living things, compete for resources, (2) possession of resources confers power and whoever has the most resources will have the most power, (3) if resources are very widely distributed, power will be widely distributed and society will be democratic. "Democratisation takes place under conditions in which power resources have become so widely distributed that no group is any longer able to suppress its competitors or maintain its hegemony." (Vanhanen 1997: 24) That wealth confers political power is a commonplace and, as discussed above, it is also commonly observed that democracy correlates positively with economic development. Vanhanen is providing an explanation for the correlation. However as an explanation it is so fundamental — biological survival — and so general, that it is a truism. Lacking is a mechanism for translating wealth to power. Is power purchased? It seems far more complicated. Vanhanen (1997: 24) submits that "power resources" consist of things other than material wealth: knowledge, skill, violence, even love or perhaps an idea. This creates a circularity problem: What is a "power resource"? Anything that contributes to the person's power. Such circularity makes testing difficult and means that testing must be of items the tester feels are appropriate.

Through the device of the property qualification for voting, the electoral system of the Western Australian Legislative Council did quite formally convert wealth into power. It would be plausible to assert that over the previous hundred years, resources in WA became more and more widely distributed among the citizens. By 1963, the distribution of wealth having reached a position where the property qualification became meaningless as a factor distinguishing power resources, the qualification was abolished as superfluous.\(^9\) But how,

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\(^9\) In 1963 the property qualification was a rent payment of seventeen pounds per year. As pointed out in Chapter 1, that is 6/6 per week or about the price of a paperback book. Turnout to Council elections
actually, did the general spread of resources induce the Liberal-Country Party Coalition to introduce adult franchise? Almost nothing is explained and this story does not begin to explain the democratisation of 1987, ie how the more even spread of resources made the concentration of power in one party's hands untenable. Vanhanen's theory is not contradicted but it can cast no explanatory light on the specific changes to the WA Legislative Council.

Vanhanen (1997: 21) dismisses Rustow as using "concepts that have not been operationalised". Just such an attempt to operationalise is set out below. Rustow's 1970 paper on democratisation was offered as an alternative to modernisation and structural theory and instead of postulating sociological or economic circumstances for democracy to come into being or to be sustained, Rustow postulated a dynamic, political process of conflict and negotiation as the genesis of democracy. From political development in Sweden and in Turkey, he inferred a process of transition from autocracy to democracy characterised by four "ingredients" which occur in a predictable sequence and are driven by predictable actors. All four ingredients are indispensable, ie if any ingredient is missing, democratisation will not occur. In so far as the ingredients have clear meaning, and in so far as we can recognise democratisation when we see it, that would seem to be a testable assertion.

Rustow's sequence of four ingredients is:

a background sense of national unity, fostered by administration and literati.

struggle, being serious and entrenched conflict involving a mass movement.

compromise: the conscious adoption of democratic rules by skilled political negotiators, to resolve a stalemated struggle.

habituation to the new rules by the elites and by the electorate.

The first ingredient, national unity, is not itself relevant to the WA Legislative Council. His purpose in setting this background condition is merely that there must logically be an agreed entity to democratise: "...the vast majority of citizens of the democracy-to-be must have no doubt or mental reservations as to which political community they belong to" which means excluding "situations of latent secession... or aspirations for merger." (Rustow 1970: 350-1) In the present instance, this translates to a requirement for consensus that the Legislative Council was a legitimate and accepted entity, an entity potentially subject to "democratisation". It is also not to be expected that "literati" would be interested in the technicalities of electoral reform. We should expect, instead, actions by those who are directly concerned - the politically literate, perhaps - to foster background unity in the circles affected by the democratisation-to-be: mainly members of parliament.

Like other democratisation theories, Rustow's analysis is intended to describe and explain the change of a whole polity from autocracy into democracy; it was not intended to

trebled after 1963 so there was a measurable effect but this may have had less to do with the abolition of the restrictions than with the imposition of compulsory voting.
apply to improvements to existing democracies. However, if democratisation is a process, should not the process apply to any association of human beings? Organisations such as corporations, unions, charities, universities and sporting clubs are often, even usually, the setting for intense politicking as factions and individuals wrestle for influence. They vary greatly in the extent to which they are democratically organised and operated and no doubt now and again switch from autocratic to democratic, presumably by some more or less analysable process. Providing Rustow’s first ingredient, a background sense of national unity, is abbreviated to a background sense of unity, then his three-stage process of democratisation ought to apply to any coherent group of people. By contrast, the other well-known approaches to democratisation – the economic development / mass education / modernisation theory, and the civil society / power relationships / structural theory – do not lend themselves to analysis of entities other than states.

By its nature, seeking conditions or preconditions emphasises restrictions and sets hurdles to be jumped in order to qualify for democracy. Rustow’s description of the process is less specific but is more positive as it looks for possibilities, envisages a pattern of politicking and gives a place to the inevitable unedifying behaviour. It does not need to read minds in that it implies no cultural or attitudinal constraints. Given background unity, it seeks to explain the political change, to track the stages of the transition itself, not fathom the social circumstances that will permit or deny transition to democracy (apparently irrespective of political action). Since the population must fit into the new structure, there are constraints – all the interests and persons associated with existing economy and culture – but Rustow’s process approach places less emphasis on entrenched interests and more on the actions of individuals, making transition to democracy a matter of elite choice, a matter of leadership. Where preconditions place the weight on structure, Rustow’s ingredients recognise structure but put weight on agency: background unity is a very general specification of structure; struggle is by agents, specifically masses led by elites, including perhaps external influences; compromise is through agents, elites whose influence reflects their strength of following; habituation is by agents, people and elites, but the structure of new rules superimposed on old relationships pervades.10

10 Rustow is not alone though he seems to have been alone in 1970 (Waterbury 1997: 385-6). According to Waterbury (387), Adam Przeworsky (“Democracy and a contingent outcome of conflicts”, in Jon Elster and Rune Slagstad (eds) Constitutionalism and Democracy, New York, Cambridge UP, 1988, and Democracy and the market: political reforms in Eastern Europe and Latin America, New York, Cambridge UP, 1991) “stresses the rational pursuit of strategic advantage by diverse interests” and “treated democracy as a series of negotiated equilibria” and says that “successful transitions occur when bargained equilibria lead to the establishment of institutional arrangements from which no significant actors have any incentive to defect”. Waterbury himself (1997: 396) disputes the necessity for Rustow’s background unity.
4.3 Rustow's theory applied to 1963 and 1987

Rustow's description appears readily applicable to the 1987 democratisation of the WA Legislative Council. The unity criterion appears to have been fulfilled, at least after 1978 when Labor abandoned its abolition policy; the material presented in Chapters 1 and 2 shows there was struggle which ended in compromise in 1987; and in the fifteen years since then the new rules appear to have been accepted. At this cursory level, Rustow's analysis fits. As will be shown, the 1987 introduction of PR in the Council is almost a model confirmation of Rustow's analysis of democratisation.

But are Rustow's ingredients so general, so non-specific, that they could be made to fit almost any event? If his democratisation framework is applicable to the 1987 change, then it is also applicable to the 1963 reform. The 1963 changes to the electoral system could be viewed as part of the struggle that culminated in 1987, but real struggle seems only to have begun in 1971 (Chapter 1). The 1963 change democratised the franchise and though it had no democratising effect on representation in the Council and this failure to affect the Council was a major stimulus to the later struggle, Labor thought it would be a significant change toward greater democracy and such struggle as there was ceased, the goal having been achieved in full (Chapter 1). In short, 1963 may be regarded as an event for itself. Rustow's ingredients then provide ways to directly compare 1963 with 1987, that is, they provide a classification scheme to convert the specific (historic) differences between the two electoral reforms into general differences.11

Details of those specific events are set out in history Chapters 1 and 2 (and see also the Chronology at Appendix 1). The discussion below considers the events in the light of Rustow's four ingredients of background unity, struggle, compromise, and habituation, and finds that the 1963 change did not satisfy any of Rustow's conditions whereas the 1987 change satisfied, even exemplified, them all.

4.3.1 Background unity fostered by administration and literati.

Was there a general consensus that the Council was a legitimate and permanent entity? In 1963 Labor had a long-standing policy of abolition of upper houses and although ALP members would have seen little prospect of abolishing the WA Legislative Council, the house was not legitimate from the Labor point of view and Labor MPs often complained of it. Rustow remarks that national unity is strongest where it is taken for granted, that the more there is said about it - the louder the patriotic huffing and puffing - the less genuine the unity is likely to be (Rustow 1970: 351). Behaviour of members of the Legislative Council and Legislative Assembly illustrate this. Even though there seemed no prospect of encroaching

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11 Another putative democratisation that could be examined through the Rustovian lens would be the 1978 adoption of the requirement for a referendum to reduce or abolish a house of parliament.
on the Council or its prerogatives, to Labor complaints about the Council, Coalition MPs would rise and expatiate on the virtues of bicameralism and the worthiness of a house composed of people who had proved their suitability and competence through their ability to acquire wealth. Nobody ever found cause to launch into speeches justifying the existence of the Legislative Assembly. No one today troubles to justify the existence of the Legislative Council. Prior to 1963, Labor members may have been resigned to the Council’s immovable presence, but there was no taken-for-granted agreement from Labor MPs that it was legitimate and none from any MPs that it was inevitable or permanent. If Rustow is right, genuine reform could not, therefore, occur in 1963. Labor’s policy did actually recognise this as an obstacle to reform by stating explicitly that the policy for abolition must not be interpreted to prevent reform of the Council (WAPD 1977, 2036).

That the long-standing Labor view changed was an unforeseen result of the 1963 franchise extension. This bipartisan act normalised the Council franchise and though it may not have constituted a genuine democratisation, people thought it did and it had been undertaken with that intent, and the upper house came to be viewed, or construed, as a normal democratic assembly (Chapter 1). Campaigning for Council reform after 1971 by newly elected Labor MPs was an implicit recognition that abolition was impracticable. Any lingering abolitionists would have been quashed in 1978 when the Court government passed legislation making a referendum compulsory for any reduction of either house, thereby making abolition of the Council, for practical purposes, impossible. From that point acceptance of the existence of the body is not questioned and Labor abandoned its abolition policy that same year.

In short, at the time of the 1963 change, the first of Rustow’s “ingredients”, background unity, was unfulfilled. According to Rustow, real democratic reform was not going to happen in 1963 because Labor did not recognise the Council’s legitimacy. By the time of the 1987 change, the legitimacy of the Council was long since given and the background unity foundation was laid for Rustow’s struggle, compromise and habituation processes.

4.3.2 Struggle being serious and entrenched conflict involving a mass movement.

Labor had complained intermittently about the Legislative Council since the beginning of the century (Crowley 1960: 441) and Labor’s policy in Australia was for

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12 Like most of the world’s upper houses, the existence of the Council is contentious in principle (Chapter 3) and there are occasional murmurs about abolition, nowadays from disaffected Liberal and Nationals (see footnote 49 to Chapter 2). They are peripatetic expressions of frustration and no one bothers to defend the Council.
13 Referendums to abolish the upper houses of Qld in 1917 and NSW in 1961 failed. This and the record of failed federal referendums (36 out of 44) makes politicians pessimistic.
abolition of upper houses.14 The successful abolition of the Queensland Council in 1922 would have encouraged Labor MPs although there was no option in WA of “swamping” the house with “suicide” members as in states with an appointed Council.15 There were numerous bills in the 1930s, 40s and 50s to change boundaries, to limit the Council’s power to block supply, to introduce deadlock resolution mechanisms, to broaden the franchise, to hold referendums or to abolish the Council. Their fate in the lower house varied, some failing at an early stage, some passing the Assembly unanimously. Dissatisfaction with the Council was a permanent background feature in the parliament and each time the matter came up, Hansard shows the same arguments being presented in the chambers. In the end the Council voted down all change. Sometimes relations became heated yet, overall, the expression of dissatisfaction seems to have been muted even among Labor politicians. No doubt the apparent hopelessness of the reform cause would have contributed to its relegation.

David Black says that Labor’s attack intensified when the first woman MLC, Ruby Hutchison, was elected in 1954 and that pressure increased through the 1950s:

Bill after bill had been introduced during the 1950s and 1960s to provide for adult franchise in the Legislative Council, but it was not until 1962-3 that signs emerged that the non-Labor opponents might give way on the issue... The Victorian Upper House had been reformed to allow for adult franchise in 1950 and pressure was mounting in both Tasmania and South Australia for similar reforms, while the indirectly elected New South Wales [Council] had even been the subject of a referendum for abolition. (Black 1984: 34)

So there was some struggle leading up to the 1963 reform. However by 1963 inflation – quite unrelated to political struggle – had made the property qualification ineffective in itself while adult franchise and compulsory voting were, in the context of Australian voting systems, conservative and normalising reforms. In Lenore Layman’s words, “Eventually non-Labor accepted that it was time for the existing franchise to go. Consequently, by 1963 the proposals were no longer controversial and were passed by Council without a division.” (Layman 1991: 167) They never were controversial in themselves – just likely to lead to a loss of conservative power. Essentially the 1963 reform was a political deal whereby the Liberals would introduce standard compulsory franchise provided Labor would permit a redistribution of boundaries (WAPD 1963: 1174-5). There was no sense that the Liberals had succumbed to Labor’s campaign and Labor’s acquiescence,

14 Black (1984: 27) says ‘radicals’ wanted an elected Council in 1890 though, “If they could have gazed into a crystal ball they would probably have urged the retention of the nominated chamber on the Queensland and NSW model which proved amenable to ‘swamping’ in the twentieth century.”

15 Policy is one thing, practice another. The Queensland abolition notwithstanding, Labor’s abolition policy should be viewed with scepticism for it was always expressed from a position of opposition. Attitudes often change with the acquisition of power. In NSW from 1949 to 1959 when the Labor had the majority in the Council, the parliamentarians refused to abolish it (Parker 1960: 118). In New Zealand between 1914 and 1948 Labour’s national conference four times supported and four times opposed abolition of the Council (which was eventually abolished by the Nationalists in 1950) (Turner 1969: 62).
which was needed to make up a constitutional majority in the Assembly, was readily provided (Chapter 1, WAPD 1963: 1175, 1227-9, Buxton 1979: 49). Prior to 1963 there was no struggle that could be termed “serious and entrenched conflict involving a mass movement”. It was entrenched but low key and not “mass” even if the definition of mass be restricted to members of parliament.

A more serious struggle dates from the election of the John Tonkin government in 1971. Rustow says the protagonists of the struggle will represent well-entrenched social forces and the struggle will be profound, prolonged, and concern structural-cultural issues such as class, ethnicity and religion. The intensity of the struggle will tend to polarise protagonists behind two banners but will not be so intense as to disrupt the background unity; he calls it “a hot family feud” (Rustow 1970: 355). “Such a struggle is likely to begin as the result of the emergence of a new elite that arouses a depressed and previously leaderless social group into concerted action.” (352) The entrenched forces were the parties; the structural-cultural issues were city versus country as well as Labor versus Liberal and the new elites were Tonkin and Bryce and the other tertiary-educated people who got elected during the seventies as Labor MPs.

Reform of an upper house electoral system would never excite the population as might the prospect of democratisation of a country. Politicians care deeply about the electoral rules but the public finds the subject dry and esoteric. National democratisation is a front page world event; electoral reform is page three parochial. Still, the WA reformers, initially Tonkin, Bryce and Hawkes, saw public indignation as the path to reform – probably they could imagine no other – and tried to generate public engagement from 1971 throughout the years of opposition and through the first term of the Burke government. Over that time, the matter did succeed in gaining sufficient interest for Labor Premier Burke to be able to call the 1986 election a “quasi referendum” on electoral reform and for the leader of the Liberal Party to be at least slightly embarrassed about not having a relevant policy with which to go to the election (Chapter 2). The reformers’ real success up to that point was in raising the consciousness of other MPs. In 1971, their agenda was regarded as a nuisance by their colleagues and their 1972 bill to abolish the Council was known to their party colleagues as “the bill to shut up Tonkin and Bryce”, however over the years attitudes changed and by the late seventies electoral reform had become a major issue of inter-party antagonism.

Although the question would have had less salience if it had not been so doggedly held before the public, during the first Burke government it became clear to those most directly involved that any reform would depend upon the National Party’s winning the balance of power in the Council (Cowan 1985: 17 and Chapter 2). As far as deliberate electoral change to the Council was concerned, all the attention-getting activity – the street demonstrations, the parliament week conferences, the myriad failed bills, the provoked
ejections from the house, the newspaper support – up until the 1986 election when the Nationals achieved this balance of power, may look like a struggle but it was shadow boxing.

The real fights were elsewhere: (a) between Labor and Liberal, (b) within the National Party, (c) within the Liberal Party, (d) between the Nationals and the Liberals and, after the 1986 election when electoral reform suddenly appeared to be real possibility, (e) within the Labor Party. These are very much the sort of struggles Rustow describes, the struggles for power between groups of elites whereby resulting democratic rules (if any) are the outcome not of a principled intent to create democratic rules, but are the by-product of a power compromise (Rustow 1970: 353). In this view, any matters of principle being fought over are merely the ostensible grounds, almost a pretext, for the real struggle which is between the elites for advantage, for power. In the present instance, Labor was the only party to have an expressed position of high principle (one vote one value) and to a considerable extent it was phony – see (e) below.

(a) All the various struggles may be regarded as subsidiary battles in the never-ending war between the Labor Party and the Liberal Party, a war which is conducted according to the electoral rules. One side thought the rules were not fair but the other side refused to pay attention. Throughout the 1970s the Liberals had scorned Labor’s numerous attacks on the electoral system and numerous (disingenuous) bills proposing reform (Appendix 1, Chronology). Had it crossed their minds to do so, the Liberals could have negotiated reform with Labor on terms more favourable than those forced on them in 1987. They might have structured the Council to suit the major parties, not the minor parties. On June 9, 1987, the final night in the Council when the crucial clauses passed, instituting four year, full house PR elections in the Council, Robert Hetherington (ALP) pointed out the likelihood of minor parties holding the balance of power and then said,

I get no joy out of what is happening today because I believe that had we had an honest party opposite when we were in Opposition, we might have had a reformed Chamber that might have suited us all. (WAPD 1987: 2048).

Hetherington had been one of those proposing bills to the Liberal government during the 1970s and even if the bills were disingenuous – given that they were always foredoomed, it was all theatre so they could scarcely be otherwise – he was right in the sense that the Liberals had fumbled their opportunity. From 1974 to 1983 the Liberal Party had a majority in the Council and a compliant coalition in the Assembly. They were in a position to introduce whatever changes they wished – and in 1975 and 1981 they did, acting as if they were going to be in power in the Council forever. They evidently thought that because the prevailing rules had been in place for nearly a century they might go for another century. Why should the rules be changed just because one side suddenly found it couldn’t compete? It was arrogance and because of it, the Liberals did not construct a policy when they might
have been able to and were in a position to carry out the reform. The result was that when the hour came and they lacked the leadership to shape policy, they were unable to participate in the bargaining process.16

(b) Within the National Party the conflict was a heightening of the perennial tension between the rural delegate adherents of cross bench activism on the one hand and the supporters of Burkean parliamentary policy discretion and Coalition consensus on the other. To the cross bench activists it was a struggle for the distinct identity of the Nationals and even for their existence as a separate party (see Chapters 1 and 2). As the victors, by 1985, of this struggle, the leaders of the splinter group, Cowan and Stephens17, saw in proportional representation a way to secure NPA independence and power. Had they lost the internecine struggle, ie, had the coalition consensus faction won, the National Party would not have voted with the Labor Party to terminate conservative control of the Legislative Council.

(c) Within the Liberal Party there was a struggle to fill the leadership vacuum left by Sir Charles Court and there was a struggle between the supporters of reform and of the status quo which the party, in the absence of strong leadership, could not resolve (Chapter 2). Collateral damage included the 1981 "Hassellmander" (manipulation of the metropolitan boundary and of the two Northern Provinces and their four Assembly seats, see Chapter 1) and the consequent resignation of Liberal Bill Withers MLC and perhaps even the loss of the 1983 election, however the significant effect for present purposes was that internal divisions rendered the Liberal party unable to agree on a position and thus impotent in inter-party negotiations on electoral change.

(d) Between the Nationals and the Liberals, there is always tension but Court's humiliation of the Nationals in the 1970s and some Nationals' perception of Liberal ambitions to undermine the National Party, gave rise to entrenched and implacable hostility particularly between the brusque Court and the obdurate Stephens, and to a determination by Cowan and Stephens to provide independent rural representation. The precipitating event was the National walkout from cabinet in 1975. The formation of the rebel National Party in 1978 was a time bomb and when the rebels took over the party and won the Council balance of power in 1986, the bomb began to tick. The Liberal Party, having missed many chances to defuse it, watched it explode in its face in the Legislative Council on the evening of June 9, 1987 (see Preface).

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16 During its next term of government (after 1993) the Coalition actually issued a press release endorsing one vote one value (P95/198 of 28/11/95 signed by party leaders Premier Richard Court and Deputy Premier Hendy Cowan) but again there was no action – leaving it open for some future Labor government to again compel them (see note 44 of Chapter 2 and WAPD 2001: 2238).

17 After the 1978 split until 1985, the entire parliamentary National Party consisted of the leaders, Cowan and Stephens, with Tom McNeill MLC and, for a couple of years, Ray McPharlin MLA.
(e) Within the Labor Party the proposals for electoral reform had been basic fare for fifteen years. For fifteen years the ALP campaigned vociferously for one vote one value, endlessly declaring its fundamental propriety as a principle of democracy. For most of the period it was a device allowing a party which was performing poorly electorally, to assume the moral high ground and to attack the Liberals. As long as they were without prospect of implementation, the proposals were academic and there was no internal dissent. When the result of the 1986 election made reform appear to be a real possibility, the unity cracked and a division, similar to that within the Liberal Party, opened up between the supporters of reform and supporters of the status quo (see Chapter 2 and Appendix 6, Tonkin’s resignation letter).

The central negotiation was between the Nationals and the ALP government; but it was a Clayton’s struggle since the Nationals held the whip hand. The two parties were diametrically opposed on the ostensible main issue, one vote one value, and during the first Burke government engaged in private negotiation and public rehearsal of their positions (Chapter 2), but with their precarious electoral position, one vote one value was not negotiable for the Nationals. Negotiable were some details of boundaries though none of this was of significance prior to 1986 while the Liberals held a majority in the Council. After the 1986 election and the Nationals’ winning of balance of power in the Council, the new Minister for Parliamentary Reform, Mal Bryce, accepted the reality of the National inflexibility.

The Nationals’ single aim in Council electoral reform was to secure their position vis-à-vis the Liberals. The Nationals’ single fear was that Liberal and Labor would collaborate on one vote one value. Given agreement between the Nationals and Labor on a proportional representation system – and that was given in policy terms from the mid 1970s – the threat of Liberal cooperation in reform of the Council was Labor’s only bargaining chip. With the Liberal Party unable to articulate a position, that threat was empty and the Nationals, holding the balance of power, could impose their will.

In sum, although there was no mass popular struggle in Rustow’s context of national democratisation, and though the disdain of the Liberals and the Legislative Council was far from the oppression characteristic of national struggles for democracy, in the context of technical reform of a house of parliament, the 15 years prior to 1987 saw a web of struggles as serious, as entrenched, and as broad as an established parliament is likely to see.

4.3.3 Compromise conscious adoption of democratic rules by skilled negotiators.

According to Rustow the struggle ends in stalemate. Then, if exhausted, frustrated elites see their interests better served by democracy than by more struggle, there will be democracy. It will be a conscious choice depending on elite preference and bargaining skills, and the outcome will be a reluctant compromise.
In 1963 there was no such event; on the contrary, everybody was pleased. The changes were not the negotiated culmination of the desultory complaints of the previous 60 years but a simple agreement between the two major parties. Agreement was necessary as the government did not have a constitutional majority in the Assembly. The legislation introduced by the Brand Liberal government made the franchise for the Council the same as for the lower house and for most other Australian parliaments. It passed with the support of the opposition after a peaceful debate (Chapter 1). No one saw disadvantage in it, no greater change had been demanded by the ALP; no lesser degree of enfranchisement had been offered by the Liberals. There was no compromise, just cooperative alteration of the rules on the basis of a simple deal: full franchise for Labor; redistribution for the Liberals. As far as one vote one value is concerned, Labor had little to say and some Labor MPs’ speeches endorsed rural vote weighting (Chapter 1). The property qualification had become trivial and the 1963 reform appears to have been regarded by the political elites as normalisation of electoral arrangements which, in the Australian context, it was.

Is 1963 an instance of democratisation? If broader franchise means more democracy then it must be. On the other hand, if democratisation means increasing the people’s power, it is not. This point is considered in more detail below but at least in terms of representation in the Council, the people did not exercise more influence after 1963; on the contrary, the dominance of one party became more deeply entrenched. If greater influence of the people over the constitution of the parliament is the criterion, Rustow’s equation is confirmed, viz: no compromise = no democratisation.

By contrast, the 1987 changes were the product of negotiations between the Nationals and the ALP. The opportunity had been created by the 1986 election. The stalemate became apparent and the compromise was almost all on Labor’s part with the resulting reform meagre in terms of Labor’s long-held public position, since it was a defeat for one vote value.

The democratic outcome, says Rustow, depends on elite preference, perceptions and bargaining skills (Rustow 1970: 356).¹⁸ Premier Burke had understood this when he replaced Arthur Tonkin with Mai Bryce as Minister for Parliamentary Reform. That the Nationals’ preferences were mainly met is greatly attributable to clear perceptions and experienced leadership. (And Liberal non-participation was due to vague perceptions and floundering leadership.) The stalemate was that Labor wanted a city-country seat split which yielded one vote one value and the chance to win a majority in the Council but the Nationals would permit neither, they wanted Labor never to be able to win a majority and they wanted leverage over the Liberals, ie, rules which would give them the balance of power in the Council.

¹⁸ Most observers agree with Rustow: “There is... widespread agreement that political elites play a central role in democratisation.” (Bunce 2000: 707)
A stalemate occurs when no player can gain the upper hand, when some potential advantage – some modicum of power – is in dispute and no side has the strength to take it for itself. The Liberal’s permanent hegemony in the Council was available for the taking. Together, Labor and Nationals could take it, but neither could take it for itself. As Rustow says, the stalemated elites look to their interests. It was in both Labor and National interest to take the power from the Liberals. If neither party could have it for itself, they would have to put the power out of reach of both. It could only go to new parties or to the people. Had there been any way Labor could take over the Liberals’ position and themselves enjoy a century of control of the upper house, they would have pursued it, but the Nationals would help Labor take the power from the Liberals only providing Labor did not gain it. Had there been any real prospect of one vote one value Labor would have pursued it, the events of the Geraldton cabinet meeting notwithstanding, but that possibility was excluded by the lack of Liberal cooperation. The best Labor could achieve would be to help the Nationals to change the rules so no party would control the house. As Rustow says, if exhausted elites see their interests better served by democracy than by more struggle, there will be democracy. Labor could have carried on, aiming to win a majority in the Council in the next election, but its elites opted for democracy.\footnote{It could be said that there had been a sort of stalemate before the 1986 election with the Labor government legislating and bills being rejected by the Liberal-controlled upper house. If the Liberals had recognised it as a stalemate (by foreseeing later events) and resolved it with Labor, the resolution would probably have devolved less power to the people, as the people might have gained only the power to choose between a Labor or a Liberal majority on the basis of single member electorates.}

The mechanism is one Alexis de Tocqueville, writing in 1833, saw operating in France: “During the last seven hundred years it has sometimes happened that, to combat the royal authority or dislodge rivals from power, nobles have given the people some political weight.” (Tocqueville 1969 (1850): 10) In the Western Australian parliament, the politicians gave some weight to the people in order to dislodge their rivals. The people acquired some ability to decide the majority in the Legislative Council. If democratisation is increased influence of the people over their politicians, a democratisation did occur. Over those seven hundred years in France, no doubt the nobles clawed the power back from the people. With today’s highly educated public that is not as likely.

4.3.4 Habituation to the new rules by the elites and by the electorate.

In order to consolidate the new democracy – the compromise – has then to be sold to the loyal followers as a win. With the passage of time elites and people must come to accept the new rules as natural ones within which to act.

What followed the 1963 change was not Rustow’s growing acceptance of the new rules. On the contrary, 1963 gave rise to a growing dissatisfaction and the change of perception which made the Council a part of the democratic free-for-all (Chapter 1).
the Council was no longer a detached, privileged check on democracy, it now had to meet democratic expectations and the Labor Party could, without appearing illogical, express outrage at 80 years of unbroken conservative domination of the Council.

### Table 4.1 Legislative Council, parties’ seats 1950 – 2001

<table>
<thead>
<tr>
<th>Year</th>
<th>Size</th>
<th>ALP</th>
<th>Lib</th>
<th>CP</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>1950</td>
<td>30</td>
<td>8</td>
<td>14</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>1952</td>
<td></td>
<td>9</td>
<td>13</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>1954</td>
<td></td>
<td>13</td>
<td>9</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>1956</td>
<td></td>
<td>13</td>
<td>9</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>1958</td>
<td></td>
<td>13</td>
<td>9</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>1960</td>
<td></td>
<td>13</td>
<td>9</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>1962</td>
<td></td>
<td>13</td>
<td>9</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>1965</td>
<td></td>
<td>10</td>
<td>12</td>
<td>8</td>
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<tr>
<td>1968</td>
<td></td>
<td>10</td>
<td>12</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>1971</td>
<td></td>
<td>10</td>
<td>13</td>
<td>7</td>
<td></td>
</tr>
<tr>
<td>1974</td>
<td></td>
<td>9</td>
<td>18</td>
<td>3</td>
<td></td>
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<td>1977</td>
<td>32</td>
<td>10</td>
<td>18</td>
<td>4</td>
<td></td>
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<td>1980</td>
<td></td>
<td>9</td>
<td>19</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>1983</td>
<td>34</td>
<td>13</td>
<td>19</td>
<td>2</td>
<td></td>
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<tr>
<td>1986</td>
<td></td>
<td>16</td>
<td>14</td>
<td>4</td>
<td></td>
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<tr>
<td>1989</td>
<td></td>
<td>16</td>
<td>15</td>
<td>3</td>
<td></td>
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<tr>
<td>1993</td>
<td></td>
<td>14</td>
<td>15</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>1996</td>
<td></td>
<td>12</td>
<td>14</td>
<td>3</td>
<td>5</td>
</tr>
<tr>
<td>2001</td>
<td></td>
<td>13</td>
<td>12</td>
<td>1</td>
<td>8</td>
</tr>
</tbody>
</table>

The reason the 1963 rules were not accepted after 1963 was that Labor fared worse under them. (Table 4.1. The National Party decline a decade later was not, and was not perceived as, connected to the 1963 change in the electoral rules.) During the 1950s and early 60s Labor held 13 of the then 30 Council seats, then in the first elections of the newly democratised Council of 1965, Labor immediately lost 3 seats. Its fortunes did not begin to improve for 18 years until, at the 1983 election, Labor won government and found itself holding 13 of the now 34 Council seats. During the years from 1974 to the 1986 election, the Liberal Party held an absolute majority in the Council, a position it had not been in since the 1920s, and through the years 1965 to 1986 the ratio of percentage of seats won to percentage of two party preferred votes received averaged 0.77 for Labor and 1.18 for Liberal (for Liberal primary votes it was 1.30; see Summary Table 2).

The post-1963 electoral rules clearly did not favour Labor. Labor’s best post-1963 election was in 1986 which left it with 16 out of 34 Council seats. This is only one seat better than its pre-1963 position of 13 out of 30. Labor was at the peak of its popularity and two of these Labor seats were won very narrowly on second preferences from the Democrats, granted in return for an undertaking to institute electoral reform. If the 1963 democratisation had no (or negative) effect in terms of Labor’s hopes, it may nevertheless have been crucial in
the end. We can only wonder how the Australian Democrats (formed in the 1977) might have adapted to the pre 1963 rules; preference dealing would certainly have had a very different complexion with low enrolment, non-compulsory, property-qualified voting.

There is no dissatisfaction with the 1987 changes comparable to the dissatisfaction after 1963 though the parties are still coming to terms with the effects. The Nationals had hoped to hold the balance of power in the Council but lost it in 1997 and are feeling chagrined. There are still, today, Labor people nursing the hope, or under the illusion, that they might one day win a Council majority. Even as they come to realise they cannot, they compare the situation with pre-1987 and are pleased. The Liberal Party was upset and angry with the change in 1987 and some Liberals are still disgusted. There was talk of doing something about it during the Liberal term of government after 1993 but it came to nothing, and even after the 1996 election, with the fulfilment of the predicted effect of the change, namely the balance of power in the Council going to non-National minor parties, there was little complaint. It may even be that, under a Liberal government, Liberal MLCs actually have more authority and independence when the Council is not Coalition-dominated, because the Council is in a position to fulfil its vaunted role as a house of review and it is in the interests of the Liberal Premier and cabinet to consult their upper house party colleagues instead of simply requiring them to follow the government program. Rustow’s “habituation” is proceeding.

The correspondence to Rustow’s four “ingredients” may be summed up as:

<table>
<thead>
<tr>
<th>1963</th>
<th>1987</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Unity:</strong></td>
<td></td>
</tr>
<tr>
<td>No. Labor policy to abolish Council</td>
<td>Yes. Labor policy to reform Council</td>
</tr>
<tr>
<td><strong>Struggle:</strong></td>
<td></td>
</tr>
<tr>
<td>No. Normalisation of electoral rules</td>
<td>Yes. Web of inter- &amp; intra-party struggles</td>
</tr>
<tr>
<td><strong>Compromise:</strong></td>
<td></td>
</tr>
<tr>
<td>No. Labor – Liberal agreement</td>
<td>Yes. Labor compromise only Nationals content</td>
</tr>
<tr>
<td><strong>Habitation:</strong></td>
<td></td>
</tr>
<tr>
<td>No. Mounting Labor dissatisfaction</td>
<td>Yes. Acceptance even by Liberals</td>
</tr>
</tbody>
</table>

4.4 1963: Was it a democratisation?

According to Rustow all four criteria need to be satisfied for a democratisation to occur. In 1963 none were although in 1963 the franchise was extended to all adults which is an event normally thought of as a basic democratisation. Yet there is nothing intrinsically
democratic about making pencil marks on official pieces of paper. If voting has no effect it is a sham, and the evidence is quite clear that at the eight half-house elections after the introduction of full franchise, voter influence on the composition of the Council was not increased relative to the pre-1963 period. On the other hand, it could be said that adult franchise is a democratic fundamental and the reason Labor could not win was not the fault of the franchise; Labor could not win because of the location of boundaries in the single member electoral system and their relation to the distribution of Labor voters (Chapter 1). This vote wastage is a separate matter, so does not the granting of adult franchise deserve to be judged a democratisation? But vote wastage is not separate since voting necessarily refers to some geographic definition. Moreover, at the time the two were specifically linked, the introduction of full franchise being made, by a motion of the Legislative Council, explicitly dependent upon the redistribution of the boundaries (WAPD 1963: 1174). No one could impugn the democratising effect of introducing adult franchise, all else remaining equal. All else was not equal: the very purpose of the redistribution was to counter the effects of the franchise and a potentially democratising move was neutralised by other electoral changes.

The advent of adult franchise is considered to be a democratic landmark in every polity. But that is the long view. The same long view may be taken in Western Australia by conflating 1987 changes with the 1963 change. It would, after all, have been unthinkable to introduce PR in 1987 on the basis of a property franchise. However that is just a way of saying full franchise was a prerequisite for democratisation, not itself democratisation. According to Boix (1999), conservative regimes in Europe introduced PR early in the twentieth century to counter the effects of manhood franchise. The same was done in South Australia in 1973 (Jaensch 1977: 56-7). In those cases, although all else was not held equal, the ancillary electoral change (the introduction of PR) did not negate the franchise extension, so democratisation did occur.

The electoral outcomes indicate that the voters had, if anything, less influence on the Council after 1963, and the period to 1987, twenty-four years and eight elections, is a long time for one side to hold a majority. Nevertheless could these results, one-sided as they were, have been due to chance? That is to say, notwithstanding the poor results, did the Labor Party have a better prospect, after the 1963 reform, of winning a majority of seats? If it did, it would mean that there was some democratisation since a credible threat of being able to take power should provide influence over representatives. On the face of it, from electoral outcomes in the Council and from what can be discerned of the Coalition’s motives for the 1963 change (Chapter 1), the Liberals were more threatened before 1963 than after. But how threatened was it? Examination of the voting figures (Summary Table 5) shows that though Labor was not particularly unlucky, if it had been a little luckier, and if the DLP had not
existed, it could have won a majority in the Council, particularly in 1971 when it lost three Council seats by less than 1% and three other seats were won by the Liberals on DLP preferences (the electoral system cannot be blamed for the ALP-DLP split). Winning all six would have delivered a majority: 16 seats out of 30 or, if they had also won Lower North the previous election (missed by 2%), they could have had 17 seats in 1971.

Hypothetically, then, if everything had gone their way, a Labor majority looks possible post-1963. Was that an improvement on the pre-1963 position? A corresponding hypothetical can be applied to the pre-1963 Council. At the 1958 and 1962 1/3 house elections, Suburban Province was won by the Liberals. It was won by Labor in 1960. Had Labor won it in 1958 and 1962 it would have had 15 seats in the 30 seat house at a time of Coalition government (giving a Labor majority with a Coalition president). Had it won SE Province in 1956 (which it otherwise always won) then along with 1958 Suburban it would have had 15 MLCs in 1958 during a Labor government and then, from 1959, during a Liberal government. Hypothetically, then, a Labor majority was possible before 1963 and all in all, the prospects before and after 1963 are much the same. All indications are, therefore, that notwithstanding the radical extension of the franchise, the 1963 reform was not a democratisation in the sense of influencing the house, even at the level of a threat.

If the number of seats and relative prospects of winning a majority did not improve did, nevertheless, the competition improve in quality as a result of the widened franchise? The purpose of voting is to influence politicians. If "democratisation" means more influence for the people then there is another way that people might be empowered other than via their aggregate voting power to award or deny seats in parliament. A feature of the majoritarian system is that representatives have a distinct geographical constituency and are expected, and

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20 The pre-1963 Labor might-have-beens in more detail (and see Summary Table 6):
In 1962 in Suburban Province Liberal won 52%, Labor 48%
(In 1960 in Suburban Province Labor won 52%, Liberal 43%)
In 1958 in Suburban Province Liberal won 54%, Labor 39%
In 1956 in South East Province, Liberal won 51%, Labor 49%
Black (1984: 34) says that the 13 Labor MLCs through the fifties could conceivably have been increased "if the personal vote for certain Liberal incumbents had been overcome. Thus the franchise was seen as the last obvious stumbling block to an ALP majority being achieved in that House for the first time ever." The electoral outcomes after 1963 were a great disappointment to Labor; with 13 out of 30 MLCs, Labor had thought that only the restricted franchise prevented its winning a Council majority. The cause of its poor showing after 1963 was in part unpopularity – the ALP won only 21 Assembly seats in 1965, the worst result since the 1920s (Summary Table 1) – but was mainly the location of the boundaries of the 15 new upper house seats which replaced the previous 10. Also, before 1963, Liberal provinces tended to be larger than Labor provinces but after 1963, Labor-held provinces had far higher enrolments than Liberal provinces – see Table 1.2 in Chapter 1 and see Black (1984: 36) for more detailed discussion. The Labor and non-Labor average province size pre- and post-1963 may be compared from Summary Tables 6 and 3.

21 Indeed, if electoral parity of the parties is the criterion, the 1947 redistribution may be a better candidate since Labor’s Council outcomes improved greatly after it. Summary Table 6 would indicate that the 1947 redistribution was a greater step in the direction of fair competition than the 1963 extension of the franchise. See also Summary Tables 10c, 10d.
have an incentive, depending how “safe” the seat is, to look after all constituents, not just the supporters who voted for them. The 1963 introduction of normal Australian franchise (compulsory voting; abolition of the property qualification) made the politicians answerable to a wider cross section of citizens which might be expected to make them newly responsive, at both personal level and in policy terms, to the previously unenfranchised. That is, even though the electorate as a whole had no greater control over which party would represent it, newly enfranchised individuals might have more influence over their representative.

There are two distinct reasons why this probably did not apply to the 1963 reforms. Firstly, upper house MPs tend to be less oriented to constituency work than lower house MPs and to the extent they did respond to individual constituents, it is doubtful whether MLCs made their response contingent on whether the petitioning constituent was enfranchised. Apart from the crassness of inquiring as to a constituent’s franchise entitlement, politicians are out to build a reputation and wish to be seen to be helpful. Many find personal assistance to be the most gratifying part of their job. Hence, at the level of personal responsiveness, we would expect 1963 to make no difference – i.e. no democratisation. In the legislature, the behaviour of pre-1963 MLCs might be affected in the sense that they would tend to favour policies aimed to win the approval of propertied voters rather than all citizens, however where the property condition has become insignificant (as it had in WA) no such distinction could be made.

The second reason 1963 probably did not increase voter influence is that in a strongly partisan system, upper house members will be participating in their party’s election campaigns. Since government is won in the lower house via universal franchise, this requires that MLCs be sensitive to all citizens, propertied or not. Normally, this campaign participation would tend to be more engaged if the elections for the two houses are conjoint and prior to 1963 only every third election was conjoint whereas afterward every election was. However since 1954 Labor had been busy enrolling voters (Chapter 1) and upper house elections had been vigorously contested so MLCs’ electorate-consciousness would probably not have greatly increased as a consequence of the 1963 reform.

Overall, there seems to be neither evidence nor logic to support the proposition that the 1963 franchise reform enhanced voters’ influence. The “right to vote” may be necessary for democracy but attending a poll is not democracy; the electoral system must also be “fair”. If the vote merely gave more people the right to mark a ballot paper but made no difference, could have made no difference, and was not thought to have made a difference, to either the party composition of the legislature or to the responsiveness of politicians to the voters, then voters’ influence did not increase – which means no democratisation took place. Thus the assessment from Rustow’s criteria is correct. The evidence from the 1987 case indicated that
Rustow has correctly described how democratisation comes about and the evidence of the 1963 case indicates that his criteria constitute a valid test of whether democratisation has occurred.

At most, the 1963 reform might be regarded as a democratisation of attitude. As discussed in Chapter 1, electing the Council by adult franchise extinguished the legitimacy of the Council's claim to be a conservative check on democracy. The Council became a part of the democratic process and as such was expected to earn its majority by democratic means. Since, in a majoritarian democracy, the two sides must be evenly matched and 1963 left them (wittingly or unwittingly) uneven, it created an inherent instability, ultimately resolved in 1987 by instituting a proportional electoral system which obviated the democratic requirement for majoritarian parity. The 1963 reform triggered the events which led to democratisation rather than being, itself, a democratisation.

4.5 Conclusion

How does an event such as the 1987 reform of the Council occur? Is it a mistake or luck? What sort of an event is it? This chapter declared the 1987 reform to be a democratisation on the grounds that it provided an increase in influence of the people over the politicians. Theories of democratisation abound but are not applied to an improvement in an established democracy. Some theories are intrinsically unsuited to such application because they assume a national arena, or they set out conditions of modernity. Rustow's 1970 proposal - that, given sufficient background unity, democratisation is the by-product of a predictable sequence of elite struggle, compromise and habituation - does not specify a level of development and is suited to any social body.

Rustow's analysis is shown to be readily confirmed by the 1987 introduction of PR. It is also confirmed, negatively, by the 1963 franchise extension, which indicates that Rustow's theory is not only a description of the democratisation process but a test of whether a democratisation has occurred.

The events drawn on in this chapter (which are set out in the previous chapters) to test Rustow's process are quite detailed although his "ingredients" appear to be general and non-specific. If that level of detail is necessary to analyse a political change, testing demands detailed knowledge of events and it suggests that to refine the ingredients would require either even more detailed knowledge or else knowledge of a broader range of events. Objects for testing and possibilities for falsification are legion. It is open to see whether any of the

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22 Through the years after 1963, the seats-to-votes ratios for Labor tended to be around 0.75 and for Liberals about 1.2 (see Table 1.3 in Chapter 1 or Summary Table 2 and the caption thereto). This is
changes that were *prima facie* democratisations – for example the numerous introductions of PR and citizen-initiated referenda (CIR) during the twentieth century – fail any ingredient and if one does, then either Rustow is falsified, or modified, or else it was not a genuine democratisation. It is open to take putative democratisations – for example extensions of franchise to women or to 18 year-olds – to see how they stand in relation to the ingredients, and to take failed democratisations – for example the attempts in Australia\textsuperscript{23} to introduce CIR – to see if any can be construed as satisfying all ingredients. The validity of Rustow’s scheme as a test of democracy would be shown by applying it to changes other than democratisation, to see if any satisfy all ingredients.

However non-specific it may be, Rustow’s scheme does make an uncompromising prediction: these ingredients are required, all four and in sequence, otherwise there will be no democratisation. Rustow’s process will be much more easily applied to changes within the formal rules of an established democracy than to erratic life and death fluctuations within an underdeveloped autocracy. In a democracy, a plan for its improvement, ie for a transfer of some power from politicians to voters (a democratisation), becomes reality on the day a parliamentary majority votes for it. This majority of parliamentarians will vote to change the rules to introduce the plan if they see political advantage in it. By changing the rules to shift power from the politicians to the people, the parliamentary majority expects to obtain some increased leverage over the parliamentary minority which they vote down. This is far more confined and predictable than the autocracy-to-democracy circumstance. The events take place within a precisely specified legislative framework, and action outside the legislature is largely confined to overtly political circles directly connected with the legislature. The manoeuvring is relatively orderly and well-recorded, and the participants may talk without fear of their lives, so the incentives and disincentives are relatively easy to track down.

Rustow says there is no democratisation without a fight. A big fight. The fight will be between elites – politicians – about something or other. They will fight themselves to a standstill and finally settle for the transfer of power to the people as a compromise, as a second-best resolution which they do not like but which they reluctantly accept as being more in their interests than continuing the fight. Being in the majority, they vote for it in parliament. They are not at all interested in increasing the people’s power over themselves but they will bring this about if they perceive an associated gain relative to their rival elites who form the parliamentary minority. If Rustow is right then advocates of a democratisation (eg PR, CIR) should craft their campaign to fit this structure and these incentives.

\textsuperscript{23} Williams and Chin (2000) find about 35 introductions of CIR into Australian parliaments.
Victoria is a prospective case. The upper houses of the Commonwealth, SA, NSW and WA are PR; Victoria is the exception to the new Australian norm. If the Victorian Legislative Council changed to PR it would be a democratisation in the sense of increasing the influence of the people as adopted in this chapter. According to Rustow it requires a fight but unless Labor has a weapon there would seem to be no prospect of a fight. There was a tussle in the first term of the Cain government which won some concessions when there were predictions of a possible Labor majority at the next election, however thereafter the conservatives felt safe and defeated Labor attempts to introduce PR (Considine and Costar 1992: 204-6). Premier Bracks tried and failed and then set up a constitutional commission to look into the matter, due to report in 2002 (Griffith and Srinivasan 2001: 60). Since a commission is not a fight, Rustow would say the commission will achieve nothing. Presumably something must give Labor leverage such as a close election, a defection or conservative schism, or some other threat/incentive to use to lever a deal. When there is a fight which no one can win and a majority of MLCs see a compromise as preferable to the status quo, then, according to the argument of Chapter 3, that compromise will be some form of PR.

So it is possible to say something general about the process of reform. Where Chapter 3 showed that the reform adopted was the only practical one within the context of Australian bicameralism, this fourth chapter has shown that the sequence of events confirmed a theory which says that democratisation is an outcome of elite power struggle where, in Rustow's (1970: 353) words, "Democracy was not the original or primary aim; it was sought as a means to some other end or it came as a fortuitous by-product of the struggle."

References to Chapter 4


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24 Conservative schism appears to have played a significant role in the adoption of PR in SA as well as in WA (Summer 1983: 93).

25 All this assumes Victorian Labor genuinely wishes to reform the Council. Following Rustow, if Bracks were serious he should be increasing the heat, rather than holding yet another commission. But major party politicians do not like PR which has become better understood in the twenty years since the Democrats won the balance of power in the Senate. Failing some Arthur Tonkin firebrand, Victorian ALP politicians may prefer to retain the less legitimate, less active, conservative-dominated Council along with a lower house that has some say in legislation, rather than change to a Council with effective committees driven by a fringe party, and a lower house that is a legislative cipher. **Postscript:** In November 2002 the Bracks government was re-elected and Labor gained a surprise majority in the Council. Labor is thus in a position to defy Rustow and introduce PR without struggle or compromise.


CONCLUSION

The causes and consequences of human actions will always be wrapped in doubt and seen quite differently by different observers. Perhaps this is especially true of political actions, which play across a so much broader arena of human activity than most.

– Former Prime Minister Paul Keating, Curtin Oration, 2002

At the 1993 Western Australian general election a Greens(WA) candidate was elected to the Legislative Council. It was the first time, since early in the century when the political parties evolved, that an MLC was not aligned with one of the traditional sides of politics. At the next election, in 1996, the century-long conservative (Liberal and National) majority ended when three Greens and two members of the Australian Democrats won seats and together held the balance of power between Liberal and Labor. At the 2001 election five Greens and three One Nation members were elected, the Greens holding the balance of power.

It is unlikely that any party (or the conservative coalition) will ever again win a majority. The cause of this permanent change to the WA Parliament was the Council’s adoption of a proportional representation electoral system in 1987.

PR and minority balance of power have a number of consequences: the Council, formerly a conservative check on the popularly elected lower house, now becomes the more radical of the two houses, not only on account of the possible left wing nature of the balance of power holders but because, under PR, an MP’s career depends more on party rank than on broad constituency support so policy may be more adventurous. Council committees, not dominated by one party, become respected and effectual. The opposition party has influence to the extent that it can persuade the balance of power holders, while government party MLCs become significant legislators, not simply loyal backbenchers.

The Council, passing bills by multiparty consensus, becomes a true parliament: an independent Lockeian “Legislative” to be wooed by the executive. The majoritarian lower house, always controlled by the executive, is relegated to approving legislation negotiated with the minor parties in another place.

How and why did the 1987 reform occur? This dissertation sought both historical and political answers. These concluding pages summarise its findings.
Historical analysis – Chapters 1 and 2

The stability of the Council was first disturbed in the 1950s when the real value of the voter’s property qualification had declined and Labor began to win more seats. Fearing that Labor could win a Council majority, the Liberal-National Coalition government acceded to Labor’s long-standing demand and in 1963 introduced full franchise while at the same time redistributing the electoral boundaries. To Labor’s intense disappointment it lost seats and after two or three elections saw that with the new boundaries it could not win. Older Labor MPs accepted the situation, perceiving it to be as it had always been, but to new middle class blood a conservative bias under full franchise was insufferable.

Labor’s losses were predominantly in country districts so the party attributed its problem (mistakenly) to the rural malapportionment, which was 3:1 in the Council, and began to campaign for one vote one value. The temperature of the campaign was raised by including the lower house, which had a malapportionment of 2:1, although Labor did not have an electoral problem there. After the Coalition won government in 1974 Labor policy was hardened by electoral manipulations of the Charles Court government, particularly in 1975 and 1981, and by the time Labor was re-elected under Brian Burke in 1983, one vote one value had become a prominent issue. Arthur Tonkin, the new Minister for Parliamentary and Electoral Reform, pressed for reform but the Liberal majority in the upper house was immovable and it became clear that without conservative defection there would be no significant reform. The crucial defection had actually occurred a decade earlier.

The 1974 election had been the Country Party’s worst since it first won representation in 1914. Its Council representation fell from seven to three and it lost the balance of power for the first time since 1928. The CP still held the balance in the Assembly but the Liberal Party saw its dream of rule in its own right as achievable. That Liberal triumph was emphasised by the overbearing policies and personality of the Premier, Sir Charles Court, and in 1975 the three CP ministers resigned from Cabinet. In 1978, residual bitterness and fundamental policy disagreements led two CP MLAs, Hendy Cowan and Matt Stephens, to break away and form the National Party – with a policy of PR for the Council.

The divided parties reunited to form the NPA under Cowan and Stephens in 1985 and the new party narrowly won the Council balance of power at the 1986 election. Labor sought to negotiate reform with the Liberal Party but its leadership was now weak; it was unable to formulate a policy, and incapable of coherent negotiation. Labor had to turn to the NPA.
However the NPA depended on the rural malapportionment for its parliamentary presence and one vote one value was out of the question. Labor and the NPA introduced PR to the Council retaining the malapportionment. From the Nationals' point of view PR would ensure (a) that the Liberals would lose the Council majority held since 1974, and again be dependent on the NPA, and (b) that Labor would never win a majority and be able to introduce one vote one value. Like the NPA, Labor was pleased to terminate the Liberal hegemony. With the exception of those most intimately involved, Labor members did not appreciate that they would never win a majority. Many Labor MLAs had been against one vote one value and were relieved when it was abandoned. Through the years it had dominated the debate and so served as a distraction. To a large extent PR, a much more important step than one vote one value, was adopted in ignorance.

Political analysis – Chapters 3 and 4.

The WA Legislative Council is the fourth Australian upper house to have embraced PR. While the specific reasons for WA's 1987 reform seem clear, there has to be some underlying, general reason. Why did they adopt PR? The short answer is that they had no alternative.

Australia is unique among non-presidential parliaments in having fully elected upper houses equal in power to the lower. As in all bicameral systems, the purpose of the upper house is contentious. The majority in the lower house determines who forms the executive government, but what is the meaning of the majority in the upper house? Under restricted franchise the WA Council's task was to protect property interests, to check popular democracy. Under full franchise after 1963 it became a crude party house, compliant to Coalition governments and obstructive to Labor. The Council had no legitimate role. Where parties are strongly disciplined, the only way to avoid opposition party obstructionism and government party compliance is for neither party to hold the majority. The only way it is likely that no party will win a majority is through a PR electoral system.

Now, it is one thing to find that PR is the only way upper houses can perform as practical legislatures, that if there is to be change, that is the form it should take, but how is its actual introduction to be accounted for? Just because a practice is sensible does not mean that it will be adopted. The Senate adopted PR in 1949; South Australia in 1973, NSW in 1978 and WA in 1987. Logically, Victoria, too, must have no alternative. What are the general circumstances that lead to, or permit, the introduction of PR? More pointedly: under what circumstances do the major parties change the rules to ones which let minor parties enter parliament and take over the balance of power?
Apparently, no one has asked quite this question. There is a limited literature on institutional change within democracies but no theory which could be operationalised. There is a vast literature on democratisation and the 1987 adoption of PR might be regarded as a democratisation on the grounds that the people acquired more power over their politicians and the people's will was better reflected. However the literature is concerned with nation-state transformations from autocracy and the various theories are awkward or impossible to apply to democratisation within established democracy. An exception is Dankwart Rustow's (1970) process theory. Drawing on political developments in Sweden and Turkey, Rustow inferred four sequential "ingredients" needed to progress to democracy. These are: background unity, a serious but not destructive struggle between elites, a stalemate which the elites resolve by a compromise which relinquishes power to the people and, lastly, a period of habituation to the new order.

The 1987 event in WA fits Rustow's pattern well. The central point is that elites may devolve power to the people if they cannot otherwise gain an advantage over rival elites. Democratisation is thus either a fortuitous by-product or it is a tool of the intra-elite competition. Labor wanted one vote one value and the chance to hold a Council majority, but acceded to the National's PR plan although it meant it could never command the Council. Labor and the Nationals could take the power to form a Council majority away from the Liberals, but neither party could take this power for itself. In order to take the power, they had to pass it to minor parties and the people.

Rustow's sequence works as a test of democratisation and when applied to the 1963 franchise reform in WA, it indicates that the 1963 granting of adult franchise provided no increase in democracy. An examination of whether the PR adoptions in other Australian upper houses comply with Rustow is beyond the scope of this dissertation but if he is right, democratisation of the conservative-controlled Victorian Legislative Council awaits a more serious struggle between the politicians.

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In the oration excerpted at the head of this chapter Paul Keating said, "The causes and consequences of human actions will always be wrapped in doubt." and went on to say, "People make history but not as they please." Political outcomes depend on the particular constraints and opportunities of the time and upon chance and the vagaries of human will. Yet the 1987 reform does conform to a pattern. It was the result of the efforts of people making history according to general imperatives of power.
INTEGRATED BIBLIOGRAPHY

Improving Democracy Through Elite Power Struggle:
The Introduction of Proportional Representation
in the Western Australian Legislative Council


APPENDIX 1 CHRONOLOGY OF EVENTS
RELATING TO 1987 ELECTORAL REFORM

(Dates of bills and acts are of the bill's second reading in the house of introduction. A “bill” failed to pass. An “act” became law.)

Pre-1960 There were numerous bills in the 1930s, 40s and 50s to reform the electoral system: to change boundaries; to limit Council’s power to block supply; to introduce a deadlock resolution mechanism between houses; to broaden the Council franchise to spouses, servicemen, or everyone; to abolish plural voting; to hold referendums to reform or abolish the Council. Some measures were introduced and never proceeded with, some lapsed, some passed the Assembly (a couple unanimously) and were defeated in the Council. Some were debated at length with examples of unfairness of the property qualification, discussions on the merits of compulsory voting, how the Assembly was much more democratic, how the House of Lords had been subdued in 1911, how valuable having the wisdom of a second house was, and comparisons with unicameral Queensland and bicameral NSW.

In 1963 Council provinces were redesigned and its franchise brought into line with Australian norms; in 1987 the Council was changed to PR with non-partisan district boundary setting. The two decades between 1963 and 1987 were an interregnum, during which the parliament tried to avoid further necessary changes, ostensibly to deal with malapportionment but actually to give a raison d’être for the upper house. During this period the size of the parliament was increased on three occasions, the boundaries of northern electorates and the country-city boundary were manipulated, and the Country Party divided and reunited. The 1987 change was incomplete and one vote one value is still (in 2002) to be introduced.

1963-5 Coalition govt with Labor cooperation makes Council franchise same as Assembly. Property qualification and plural voting ended; voting compulsory. 15 provinces in 3 zones, each province 2 MLCs; 1/2 house elections every 3 years; (previously 10 provinces, 1/3 elections every 2 years) MLCs’ minimum age lowered from 30 to 21.
Metro zone: Metro, N Metro, S Metro, NE Metro, SE Metro
Ag, Mining & Pastoral zone: Central, Lower Cent, SW, S, SE, W, Lower W, Upper W.
NW Murchison Eyre zone: North, Lower North. (see Figure 1.3)

1971
13/11. By-election: Mai Bryce elected MLA for Ascot.

1972
Jan. Public meeting called by A. Tonkin, chaired by Graham Hawkes formed “Campaign for a Democratic Parliament”.
8/5. Voting age reduced to 18.
5/6. Sir Charles Court replaces David Brand as leader of Liberal Opposition.
5/10. Electoral Amendment Bill by T D Evans (ALP) to replace preference voting with first past the post and circular ballot papers. Defeated in Assembly.
5/10. Legislature of Western Australia Bill by A. Tonkin and M. Bryce to abolish both houses and make an 81 member single house and one vote one value. Defeated in Assembly for lack of constitutional majority.

1973
28/8. By-election; Brian Burke elected by 30 votes (after preferences – Lib won plurality).
Aug. Court claims electorate has lost confidence; tries to persuade Council to stop supply to Labor government but conservative-dominated Council declines.
1974
30/3. Charles Court Liberal government elected.

1975
7/5. NCP resigns from coalition with Liberals. Leaders Ray McPharlin and Matt Stephens resign, Dick Olds and Peter Jones elected leaders.
5/6. Under pressure from federal Nationals, NCP rejoins coalition with even less influence.
14/8. Electoral Districts Act Amendment Act by Court. Province added so Council increased by 2 to 32 and 4 extra seats to Assembly, all metro. Weighting 2:1 and 3:1 unchanged. Boundaries manipulated: in Armidale the country/city boundary goes down street.

1976
14/4. Assembly speech by Matt Stephens (NCP) promoting PR for Council (state divided into districts), a deadlock breaking mechanism, limit to Council’s power to stop supply, referendum requirement to alter bicameral system.
19/5. Constitution Acts Amendment Bill, Electoral Act Amendment Bill, Electoral Districts Act Amendment Bill all by Bertram (ALP) for PR-STV in Council. Whole state one district; half house elections (ie 16 seats). A Tonkin (ALP) named and evicted (again).
20/10. Electoral Act Amendment Act (No 2) – procedures for illiterate voters.

1977
19/2. Court Liberal government re-elected.
19/10. Acts Amendment (Constitution) Bill by Court to require referendum to abolish Assembly, Council or Governor. (Defeated in Council.)
1/11. Electoral Act Amendment Bill by Hetherington MLC (ALP)
15/11. Acts Amendment (Conjoint Elections) Bill by Hetherington.
15/11. Electoral Act Amendment Bill (No 2) by MacKinnon (Lib). Defeated in Assembly by Speaker’s casting vote.

1978
22/3. Acts Amendment (Constitution) Act by Court to require referendum to abolish Assembly, Council or Governor.
Aug. Cowan and Stephens (and others) resign from NCP and form National Party. NP wants separate identity with MPs as voter delegates; NCP prefers coalition. (Causes of schism are long-term electoral decline, 1975 leadership mess, poor relations between Stephens and Court.) Tom McNeil MLC and Ray McPharlin MLA later switch to NP.
Labor abandons policy to abolish Council in favour of reforming it.

1979
17/5. Electoral Act Amendment Act (No 2) providing for minority enrolments.
22/8. Electoral Act Amendment Bill by Jamieson (ALP) to add party name to ballot papers.
22/8. Motion by Stephens (NP) to appoint Select Committee to consider weighting, metro boundary, PR for the Council, deadlocks, 3 year term. Defeated 6/12/79.
24/10. Constitution Act Amendment Act by Court to recognise local government.

**1980**

23/2. Court Liberal government re-elected (from 31/1/82, Ray O'Connor Premier)

11/7. D K Dans MLC (ALP) rails against vote weighting.

12/8. Constitution Amendment Act to increase ministry by 2 to 15. Ruckus as NP votes with Labor to deny constitutional majority.

6/11. Electoral Amendment Bill (No 2) by Dowding (ALP) to lift enrolment restrictions on Aborigines. NP not present.

**1981**

30/4. Motion by Berinson MLC (ALP) that electoral system is "scandalous manipulation." Most extreme weighting in Assembly is Whitford (31 159 electors) to Murchison-Eyre (1 941) of 16:1. Average country-city weighting is 1.96:1.

6/5. Acts Amendment (Electoral Provinces and Districts) Act by Hassell MLA (Lib) to extend the metro area, adding 2 new seats to Assembly (now 57 seats) and a province to Council (now 17 provinces). Rockingham (Labor seat) switched to metro but not Liberal country seats of Dale, Kalamunda, Darling Range and Mundaring. Cowan and Stephens vote with Labor. "Shameless"; "outrage". Cowan talks of transparent double standard but McPharlin (NP) votes with government (he later rejoins NCP). In Council McNeil (NP) votes with Labor.

13/5. 2nd reading in Council by Masters: "I want to make one point very clear: the electoral system in Western Australia is one of the fairest which is known to exist." Bill Withers (Lib) unsuccessfully moves an amendment rearranging the Kimberly-Pilbara boundary.

22/9. Motion by Brian Burke (ALP) seconded by Mai Bryce that redistribution gazetted 28/8 was "fundamental corruption of the electoral system" - politicians drawing boundaries, vote weighting, 716 000 State voters in WA but 759 000 Commonwealth voters, voters have no choice in upper house. Defeated. Stephens votes with Libs; Cowan absent.

11/11. Bill Withers joins Labor to use debate on the 150th anniversary to criticise boundaries.

11/11. Electoral Districts Amendment Bill by Bill Withers MLC (Lib) to amend Kimberly/Pilbara boundary – defeated.

**1982**

25/1. Ray O'Connor replaces Sir Charles Court as Premier.

April. In *Burke v. State of WA* full Supreme Court rejects Brian Burke's application that Hassell's redistribution was unconstitutional.

7/4. Urgency motion by Dowding to discuss Withers's claim "that the alteration of the boundary between Pilbara and Kimberly is the worst gerrymander in the western world," and the "disgraceful state of the electoral rolls for the North Province."

13/5. Motion for a referendum on PR for the Council by Stephens (NP) seconded by Tonkin (ALP). Metro 18 seats, country 16. Passed Assembly by mistake, later ignored.

21/5. Bill Withers resigns as per threat made when he first objected to Hassell redistribution.

**1983**

19/2. Brian Burke Labor government elected. Arthur Tonkin Minister for Electoral Reform. Three electoral amendment acts: to amalgamate enrolments for state and federal elections; to allow referendums to be simultaneous with elections; to remove exemptions for Aboriginal enrolment. Also a referendum machinery act.

7/5. *West Australian* p.22. Article on proposed (22 seat) reform talks of AD holding balance as in SA and "future governments would rarely be in control of [the Council]." Labor got 48% of vote in 80 and 83 but holds only 13 of 34 seats. Libs with slightly lower vote won 19 seats. (See Summary Table 2)

Aug. Ferry Committee on Council committee system appointed.

3/8. Acts Amendment (Constitution and Electoral) Bill by Tonkin (ALP). PR STV system for single statewide electorate, reduce councillors from 34 to 22 (similar to SA); quota 8.34%; half-house elections simultaneous with Assembly. Would need referendum.
APPENDIX 1  Chronology
4 of 5

10/11. Acts Amendment (Parliament) Bill by Tonkin. Money bills (of broad definition) to have 1 month to pass Council else through automatically. Other bills 5 months else referendum or double dissolution.

1984
April. Interim Ferry report: Council is house of review and committees needed.
19/9. Acts Amendment (Fair Representation) Bill by Tonkin. PR STV, 4 regions, 32 members, quota for “Northern and Eastern” region 50.1%; for other 3 regions 16.67%. Half house elections.
2/10. NPA formed by unifying NP and NCP lay parties.
17/11. First NPA member elected (Eric Charlton MLC).

1985
30/1. NCP MLAs (Crane, Old, Jones) announce intention to join Liberals.
24/7. Internal Lib proposal (“10th draft”) for half-house elections, 2 x 9 MLCs (by PR) for city and 8 x 2 country provinces. Assembly to be 33 metro, 24 rural.
21/8. Electoral Amendment Bill by Tonkin for party names on ballot and other changes.
19/9. Acts Amendment (Resolution of Parliamentary Disagreements) Bill by Burke for Money bills as per NSW Constitution Section 5A.
25/3. Cowan, Stephens join NPA and are endorsed for their electorates, later leaders.
26/11. Equal Electoral Rights Referendum Bill by Burke for referendum on whether all people should have equal voting rights.

1986
8/2. Burke Labor government re-elected (from 19/2/88 Peter Dowding Premier). Mal Bryce MLA made Minister for Electoral Reform. (Tonkin becomes Police Minister.)
22/4. Tonkin resigns from ministry and parliament after Geraldton cabinet meeting. Accuses cabinet colleagues of cynicism and betrayal in wanting to “make absolutely sure that the bill [for electoral reform] ... is defeated.”
27/5. Premier Burke agrees to provide an office, 2 staff members and increased allowances for NP leader. NP supports increase in size of ministry.
May. Perth hearings of federal government select committee on electoral reform.
8/7. Acts Amendment (Electoral Reform) Bill introduced by Bryce.
23/7. MacKinnon responds to bill – Lib policy: 18 metro & 16 country MLCs, staggered elections with 33 metro & 24 country MLAs.
23/7. Cowan (NPA leader) responds to the bill. “Over the period that will be available to us to consider this legislation we should be able to reach some sort of agreement on what reforms are necessary. Perhaps for the first time in my time in this place, all the parties may reach agreement about whether we should make those particular changes to our electoral system and decide the method by which members of the Legislative Council are elected... ...I look forward to the ensuing months to see whether some agreement can be reached between the major parties on this matter of electoral reform.” (PD 1986: 2333)
7/10. Mensaros (Lib) responds. “As the minister has said, this debate might be some sort of substitute for private discussions, although it is difficult to imagine that being possible. Nevertheless I will try to behave accordingly... ...unless we were to have all our
amendments passed, even if some were accepted in isolation, we would have to vote against the Committee’s report and against the third reading.” (WAPD 1986: 2747)

Stephens (NPA deputy leader) responds. “If the Government is prepared to accept our amendments it will have our support at the third reading. We would like to put forward our amendments as a total package, and if they are accepted that way we naturally would support the third reading. If they are not fully accepted we will not be supporting the third reading.” (WAPD 1986: 2749)

23/10. Estimated effects of the 3 city-country proposals (WAPD 3558).

<table>
<thead>
<tr>
<th>Council</th>
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In 83 & 86 Labor would win majority in Council
Labor would never have won a majority
ditto


1987
9/5. Acrimonious Narrogin by-election (from death of Cambell Nalder) ends all hope of Liberal participation in electoral reform.
9/6. Acts Amendment (Electoral Reform) Bill passes in Council. Council to be elected by PR-STV in 6 multi-member regions coincident with Assembly districts with all MLCs retiring. Agriculture 5, East Metro 5, Mining & pastoral 5, North Metro 7, South Metro 5, SW Metro 7. City-country voter ratio remains 3:1 in Council and 2:1 in Assembly but city-country boundary realistically defined. All electorate boundaries to be redrawn by independent commission every second election. 4 year terms. Party names to appear on ballot papers with option of party ticket voting for Council.

1989

1993
6/2. Richard Court Liberal government elected. NPA retains balance of power in Council.

1995
12/9. McGinty v Western Australia: Labor opposition attempt to compel one vote one value.
28/11. Court/Cowan media statement announcing one vote one value – later quietly dropped.

1996
20/2. McGinty loses High Court case.
14/12. Court Liberal government re-elected. Conservatives lose control of Council when 12 ALP, 3 Greens and 2 AD MLCs (ie 17, half the house) elected (took effect 22/5/97).

2001
10/2. Geoff Gallop Labor government elected. Greens get 5 MLCs and balance of power in Council (13 ALP MLCs, 12 Lib, 1 National, 3 One Nation).
Dec. Bills for one vote one value passed in Council by simple majority. Clerk of Parliaments refuses to present to Governor and challenges in Supreme Court.

2002
17/4. Liberals lead fight as amici curiae against one vote one value bills in Supreme Court.
11/10. One vote one value bills struck down by Supreme Court.

2003
April (intended). One vote one value appeal by McGinty to High Court.

References to Appendix 1: see References to Appendix 3
1829 Colony founded.
1832 Legislative Council appointed by governor; Council simultaneously Executive Council.
1868 Elections for some Council members.
1870 Majority of Council members elected. Property franchise for both members and voters.
1877 Secret ballot introduced.
1890 Self-governance in WA; Legislative Assembly (lower house) elected to 30 single member districts for max 4 year term. Governor can dissolve Assembly but not Council. Size of Assembly increased through the 1890s. MPs who are appointed as ministers must seek re-election (repealed 1947).
1894 All members of Legislative Council now elected: 21 members in 7 provinces with 1/3 house elections every 2 years; plural voting; £100 voter property qualification.
1896 Council increased to 24; fixed 6 year term to start on 21 May.
1899 Assembly term reduced to 3 years. Council increased to 30 in 10 provinces with biennial 1/3 house elections (remains 30 till 1975); women may vote for both houses.
1900 MPs paid.
1901 Assembly districts increased to 50 (remain 50 till 1965).
1904 Plural voting abolished for Assembly.
1908 Optional preference voting introduced.
1911 Assembly and Council boundaries modified (not changed again till 1947). Voter property qualification halved to 50 pounds. Preferential voting made compulsory.
1913 Scaddan Labor government tries to introduce one vote one value, Council amends for metro and goldfields quotas to be one-third higher and agricultural one-fifth lower – Assembly declines and bill fails. (Black 1991a: 113)
1913 Scaddan attempts initiative (by 15% of voters) and referendum bill. Claims first time in Australia – out of frustration with Council (Black 1984: 117).
1920 Women eligible to sit in both houses (first in Assembly, 1921; first in Council, 1954).
1922 Liberal government: Electoral Districts Act sets 4 “zones”: Metropolitan, Agricultural, Goldfields, Mining with enrolment ratios of 6:3:3:2. Parliament relinquishes power to draw boundaries to independent commissioners except 4 seats in the north. No actual changes made as parliamentary assent to changes denied.
1923 Commissioners’ distribution fails to be enabled by Parliament when six government members cross the floor. Old boundaries (very distorted through population movement) remain in force.
1929 Redistribution of Assembly seats. Provinces now no longer always coincident with Assembly district boundaries.
1933 Compulsory voting for referendum on WA secession. (66.23% vote to secede.)
1936 Compulsory voting introduced for 1939 election.
1947 Members appointed ministers no longer need to resign and be re-elected. State divided into 3 zones: Metropolitan, and Agricultural Mining & Pastoral with enrolments in ratio of 2:1 with electoral boundaries to be decided by commissioners when seats out of balance – no parliamentary assent requirement – and North Province (with 3 seats) where boundaries to be in parliament’s hands. Council boundaries adjusted to match Assembly electorates except for Metro and Metro-Suburban provinces where enrolments made as equal as possible.

1948 Redistribution – first in Council for 37 years; first in Assembly for 19 years.

1954 Ruby Hutchison (ALP) first woman MLC.

1963 Council property qualification and plural voting abolished; franchise same as Assembly. Change from 10 x 3-member provinces to 15 x 2-member provinces.

1964 Enrolment, voting for Council compulsory; polling day invariably same as Assembly.

1965 One metropolitan seat added to make 51 Assembly seats.

1966 Redistribution of both houses.

1970 Voting age reduced to 18.

1971 Redistribution of both houses.

1973 Minimum age of MPs reduced to 18.

1975 Redistribution: Assembly size increased by 4 metro seats to 55, Council increase 1 metro Province to 32 seats.

1978 Referendum required for abolition or reduction in size of either house.

1981 Redistribution: Assembly increased by 2 to 57; Council by 2 to 34.

1987 Council changed to PR-STV in 6 regions coincident with Assembly districts with all MLCs retiring. City-country boundary by statute; other boundaries all in commissioner’s hands. Malapportionment 2:1 and 3:1 remains but enrolment anomalies eliminated.

References to Appendix 3


### APPENDIX 4 LEADERS OF MAJOR PARTIES SINCE 1950

<table>
<thead>
<tr>
<th>Labor Party</th>
<th>Liberal Party</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>F J S Wise</strong></td>
<td><strong>D R McLarty</strong></td>
</tr>
<tr>
<td>OL 1/4/47</td>
<td>OL 23/2/53</td>
</tr>
<tr>
<td><strong>A R G Hawke</strong></td>
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</tr>
<tr>
<td>OL 3/7/51</td>
<td></td>
</tr>
<tr>
<td>Prem 23/2/53</td>
<td></td>
</tr>
<tr>
<td><strong>J T Tonkin</strong></td>
<td><strong>D Brand</strong></td>
</tr>
<tr>
<td>OL 2/4/59</td>
<td>OL 1/3/57</td>
</tr>
<tr>
<td>Prem 3/3/71</td>
<td>Prem 2/4/59</td>
</tr>
<tr>
<td><strong>C J Jamieson</strong></td>
<td><strong>C W M Court</strong></td>
</tr>
<tr>
<td>OL 16/4/76</td>
<td>OL 3/3/71</td>
</tr>
<tr>
<td>Prem 1/1/67</td>
<td>Prem 8/4/74</td>
</tr>
<tr>
<td><strong>R Davies</strong></td>
<td><strong>R J O'Connor</strong></td>
</tr>
<tr>
<td>OL 21/2/78</td>
<td>OL 25/1/82</td>
</tr>
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<td><strong>B T Burke</strong></td>
<td></td>
</tr>
<tr>
<td>OL 18/9/81</td>
<td></td>
</tr>
<tr>
<td>Prem 25/2/83</td>
<td><strong>W R B Hassell</strong></td>
</tr>
<tr>
<td><strong>P M Dowding</strong></td>
<td><strong>B J MacKinnon</strong></td>
</tr>
<tr>
<td>Prem 25/2/88</td>
<td>OL 25/11/86</td>
</tr>
<tr>
<td><strong>C M Lawrence</strong></td>
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</tr>
<tr>
<td>OL 12/2/90</td>
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<td><strong>J A McGinty</strong></td>
<td><strong>R F Court</strong></td>
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<tr>
<td>OL 12/10/94</td>
<td>OL 12/5/92</td>
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<tr>
<td><strong>G I Gallop</strong></td>
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<tr>
<td>OL 7/10/96</td>
<td>Premier 16/2/93</td>
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<tr>
<td>Prem 10/2/01</td>
<td>OL 10/2/01</td>
</tr>
<tr>
<td><strong>Country Party</strong></td>
<td></td>
</tr>
<tr>
<td><strong>A F Watts</strong> 1942 - 62</td>
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<tr>
<td><strong>C D Nalder</strong> 1962 - 73</td>
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<td><strong>W R McPharlin</strong> 1973 - 75</td>
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<td><strong>R C Old (NCP)</strong> 1975 - 85</td>
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<tr>
<td><strong>H J Cowan (NP)</strong> 1978 - 84</td>
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<td><strong>H J Cowan (NPA)</strong> 1985 - 01</td>
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<tr>
<td><strong>M W Trenorden (NPA)</strong> 2001 -</td>
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</tbody>
</table>

Prem = Premier
OL = Opposition Leader

ELECTORAL COMPACT - W.A. STATE ELECTION 1986

Australian Labor Party of W.A. and Australian Democrats (W.A. Division)

This compact is entered into by the Australian Labor Party and the Australian Democrats because both Parties recognize that the electoral malpractices of gerrymander and malapportionment must be removed from the Western Australian electoral system. Both parties are committed to the creation of an electoral system that will give each elector, as nearly as practicable, an equal vote and will ensure that Parliament reflects accurately the cross section of opinion held in the community.

To help achieve electoral reform the two parties agree to the following:

1. Both Parties shall by advertisements, media statements and general publicity give prominence to the need for electoral reform and to this compact which recommends to voters the exchange of 2nd preferences between the candidates from each party in Legislative Council seats.

2. In all Legislative Council provinces where both Australian Labor Party and Australian Democrat candidates nominate, each will recommend by How-to-Vote cards, advertisements and other publicity that their supporters should direct their second preferences to the candidate of the other Party.

3. The Australian Democrats (W.A. Division) will nominate a candidate in at least the following Legislative Council elections:

   Metropolitan Province
   North Metropolitan Province
   South West Province
   Lower Central Province
   South Central Metropolitan Province
   Lower West Province
   West Province
   Lower North Province

4. In the campaign for the forthcoming State election the promises by the Australian Labor Party will include the following for the creation of a system of fair representation in Parliament.

Reform of representation to Parliament is a matter of priority.
Legislative Council:-

(i) Members of the Legislative Council will be elected from regions made up of groups of Legislative Assembly districts. Six regions are proposed:-

<table>
<thead>
<tr>
<th>Name of Region</th>
<th>No. of MLCs to be elected from the Region</th>
<th>No. of Legislative Assembly districts in the Region</th>
</tr>
</thead>
<tbody>
<tr>
<td>North East</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>Agricultural</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>South West</td>
<td>7</td>
<td>10</td>
</tr>
<tr>
<td>North Metropolitan</td>
<td>7</td>
<td>13</td>
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<tr>
<td>East Metropolitan</td>
<td>7</td>
<td>13</td>
</tr>
<tr>
<td>South Metropolitan</td>
<td>7</td>
<td>13</td>
</tr>
<tr>
<td>Total of members</td>
<td>34</td>
<td>57</td>
</tr>
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</table>

Broad communities of interest in the State are represented in the Regions.

(ii) Guided by the broad geographical descriptions of the regions, the Electoral Commissioners would decide which districts would be placed in each region. ALL electoral boundaries would be drawn by the Electoral Commissioners.

(iii) Elections in each region will be multi-member elections and the votes will be counted by a system of proportional representation. This method guarantees that the membership of the Legislative Council will more fairly reflect the wishes of the voters. Senators are elected by proportional representation.

(iv) Remote areas are to be given special consideration in the Legislative Council. Although the Australian Democrats and Australian Labor Party would prefer a system based on one vote, one value, a compromise is proposed which includes greater vote weighting than was proposed in 1984. The 1984 Fair Representation Bill proposed from 17% below to 7% above the average number of electors per member.

Vote Weighting in the Legislative Council.

<table>
<thead>
<tr>
<th>Name of Region</th>
<th>Percentage Above or Below the Average Number of Electors per Member. (ie: approx. 25 150)</th>
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</thead>
<tbody>
<tr>
<td>North East</td>
<td>- 20.5%</td>
</tr>
<tr>
<td>Agricultural</td>
<td>- 20.5%</td>
</tr>
<tr>
<td>South West</td>
<td>- 14.8%</td>
</tr>
<tr>
<td>North Metropolitan</td>
<td>+ 10.8%</td>
</tr>
<tr>
<td>East Metropolitan</td>
<td>+ 10.8%</td>
</tr>
<tr>
<td>South Metropolitan</td>
<td>+ 10.8%</td>
</tr>
</tbody>
</table>
Terms of Parliament:

All of the members of both Houses of Parliament should be accountable to the voters at each election. In addition and provided that the electoral system has first been reformed, Parliaments should run for four instead of the present three years. This decreases the term of office of members of the Legislative Council by two years and increases the term of office of members of the Legislative Assembly by one year. Without changing the average term of office of members, these reforms increase the democratic accountability of members of the Legislative Council who at present face only every second election. The reforms also give a little extra time between elections for government promises to take effect.

Four year terms for ALL members of Parliament avoids the unpopular prospect of eight year terms for members of the Legislative Council. More sensible multi member regional electorates can also be created when all MLCs retire at each election. It is undemocratic and distrustful of voters to have MLCs elected at the election before last still holding office. These changes would not take effect until the election after next due in 1989.

5. In the campaign for the forthcoming State election the Australian Democrats will advocate for the Legislative Council, a system of regional proportional representation similar to the above reforms promised by the Australian Labor Party.

6. When the law has been reformed to include the above principles of a fair electoral system, that reformed electoral system should be administered by a Western Australian Electoral Commission. This Commission would be a statutory body with guaranteed independence of operation and staffing and would impartially administer fair electoral laws.

7. ALL electoral boundaries will be drawn by the Electoral Commissioners in a re-distribution process that gives full opportunity for public participation. The invitation to corruption in the present Act which allows members of Parliament to actually draw some of the electoral boundaries will be repealed.

8. Any proposal made by a re-elected Labor Government to modify the powers of the Legislative Council shall not become law unless the proposal is approved by the voters at a referendum.

9. Early in the life of the next Parliament an A.L.P. Government will introduce a Bill incorporating the promises above, to create a fairer electoral system.

FOR AUSTRALIAN LABOR PARTY:

FOR AUSTRALIAN DEMOCRATS:
HON. PREMIER (Himself)

I hereby tender my resignation from the Ministry. Such resignation is to be effective immediately. I have informed the news media of my decision (see attached).

To hear my colleagues say, as they did in Geraldton on Sunday night, that we must make absolutely sure that the bill, which will contain the promises we had made to the people at the election, is defeated was to hear betrayed all that I have tried to stand for as a member of the Australian Labor Party. The fact that I made the promise on the part of the Government makes my own position untenable.

I had never thought it possible that I would hear such a betrayal of basic Labor principles from people whom I believed were my comrades in arms. I cannot continue to serve in a Government from which I feel totally alienated.

Further, I believe that such an insincere attitude to the question of electoral reform will be communicated to the people. This will have a disastrous effect upon the Government and upon the cause of electoral reform.

If our main purpose is to stay in Government and if we are prepared to be corrupted in the pursuit of that imperative, then we must part company.

Such a decision gives me great pain for I have a very real affection for many of my cabinet and caucus colleagues. Even more importantly, the Australian Labor Party, which I was proud to join at the age of nineteen, has been for me an expression of my basic belief as to the way in which society should be organised and governed. It will still have that role for me, even if I should so strongly disagree with those to whom its destiny may at present be entrusted.
Nor should these words be taken to mean that I do not recognise the great capacity for good that belongs to many of my former cabinet colleagues.

It seems that this Government is treading the same cynical path trodden by the Tonkin Government when its Legislative of Western Australia bill, with its attendant five minutes speech by the Minister, facilitated the union of conservatives on both sides of the Parliament in their ridicule of those who would introduce into Western Australia a decent and honourable electoral system.

The question arises: why is it that in Western Australia our Labor politicians are so loathe to tackle genuine electoral reform when it has been achieved so remarkably by Labor Governments in South Australia, New South Wales and Victoria?

There is no doubt in my mind that to compare our pre-election commitment on electoral reform to the confidence trick perpetrated upon the Australian Labor Party in the 1960's is arrant nonsense which could only be stated by those who are ignorant of the facts. The 1960's arrangement was a blatant malapportionment aimed directly against the Australian Labor Party. The Party's proposal enunciated before the election was to ensure that the Party which achieved the majority of votes also obtained the majority of seats. Under that scheme, a Party which obtained a minority of votes would not obtain a majority of seats. Nor should it.

I wish you well. Pragmatism in politics is necessary. But there is a line beyond which we should not go. When that line has been reached is a matter for judgement by each individual person. I believe that there has been a betrayal of basic principles. Such a course of action makes politics an ephemeral plaything.

Yours sincerely

ARTHUR TONKIN, M.L.A.

April 22nd 1986
## APPENDIX 7 Summary Table 1

### Summary Table 1: WA PARLIAMENT, SEATS CONTESTED AND HELD AFTER ELECTION 1916 – 2001

The Rise of the Liberal Party; the Decline of the Country Party

<table>
<thead>
<tr>
<th>Legislative Assembly</th>
<th>Uncontested</th>
<th>Contested</th>
<th>Election year</th>
<th>Size</th>
<th>ALP</th>
<th>Lib</th>
<th>CP</th>
<th>Other</th>
<th>Gov</th>
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</thead>
<tbody>
<tr>
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</tr>
<tr>
<td>50 21-27</td>
<td>9-16 7-16 1-3</td>
<td>14-25</td>
<td>–</td>
<td>1916-27</td>
<td>30</td>
<td>3-7 15-18 6-7</td>
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<td>2-5</td>
<td>1/3 house (10)</td>
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<td>7-16 10-13 1-4</td>
<td>15-24</td>
<td>–</td>
<td>1928-48</td>
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<td>26 27 22</td>
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<td>24</td>
<td>18 8</td>
<td>17 31 33</td>
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<td>51 23 19 9</td>
<td>18 33 34</td>
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<tr>
<td>26 17 8</td>
<td>2 49 37</td>
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<td>10 12 8</td>
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<td>22 23 6</td>
<td>2 49 50</td>
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<td>55 22 27 6</td>
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<td>3 0 57 51</td>
<td>1993</td>
<td>14 15 3</td>
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<td>32 16 5</td>
<td>4 0 56 54</td>
<td>1996</td>
<td>12 14 3</td>
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### Legislative Council

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</table>

Size: Until 1965 the Assembly had 50 members; from 1968, 51; from 1977, 55; from 1983, 57.
Lib includes LCL and Nationalist. CP includes NCP, NP and NPA.

Uncontested is the sum of seats actually uncontested plus those where there was no choice between Labor and non-Labor except 2001 where Alfred Cove won by anti-Liberal candidate.

Contested = Number of seats contested by ALP and Liberal Party respectively.

Gov: A = ALP government; others are Coalition (incoming or at the time of a 1/3 house election).

In the Assembly the CP had won 12 seats in 1947. There was an electoral redistribution in 1948 and the 1950 result marks the beginning of clear Liberal dominance of the Coalition.

There was a sea-change around 1970...

- In 1968 the number of country members in the ALP caucus fell below 50%, never to rise above it again.
- After 1968 for Labor and after 1971 for Liberal, the practice of uncontested seats ceased for both houses.
- In 1974 the Country Party’s vote share dropped (again), never to recover.
- In 1974 the Liberal Party gained a majority in their own right in the Council for the first time since 1928. The Liberal Party retained this Council majority through the elections of 1977, 80 and 83.

### References


The table indicates that, within seats contested, the Liberals were consistently more effective at converting votes to seats in the Council. This holds for first preference and even more for two party preferred votes.

Some qualifications:

1968: The 1968 figures are not included in the means owing to the small number of seats contested.

1971: In 1971 Labor lost 3 provinces (Lower North, Lower West, South West) by less than 1%. Had they won them, they would have won 7 of 15 seats which is effectively proportional to their 50.2% of the votes. A further 3 provinces (North, North Metropolitan, South East, Metropolitan) were lost on DLP preferences which went overwhelmingly to Liberal candidates. Winning all 6 would have given Labor a majority (16 seats of 30) in the Council.

3 of the provinces (North East Metropolitan, South Metropolitan, South East) won by the ALP seats they contested.

These figures do not really show that Labor's poor result in 1971 was due to the electoral system. These figures do not really show that Labor's poor result in 1971 was due to the electoral system. These figures do not really show that Labor's poor result in 1971 was due to the electoral system. These figures do not really show that Labor's poor result in 1971 was due to the electoral system. These figures do not really show that Labor's poor result in 1971 was due to the electoral system.
### APPENDIX 7 Summary Table 3

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<td>Lib</td>
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**Note 1.** The city-country ratio within each side shows the Liberal's country advantage (see Summary Table 3a for Coalition advantage).

*For some personal and preference information see Summary Table 3b.*

**Party in govt.** By-elections made no difference except NPA won Lib-held Central in 1984. Data from Black (1991) Legislative Council of WA.

**Summarized Table 3.** Shows that except for N and Lower N the ALP's higher enrolments stem from its dependence on Metro Provinces. The sum means only county ratios exclude country Party seats. In 1986 Labor won Lower W by 122 votes and South W by 70 on AD preferences, the NPA won South on ALP preferences.
### Summary Table 3a: COUNCIL PROVINCE ENROLMENTS 1965-86. ALP v COALITION ('000s)
(In 3 zones: Metropolitan; Agricultural, Mining & Pastoral; North-West. Half house elections)

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**Guide to location**
- Mt Marshall
- Katanning
- Albany-Esp
- Geraldton
- Rockingham
- Bunbury
- Kalgoorlie
- Gascoyne
- Pilbara

**Note**
1. The city:country ratio within each side shows the Coalition's country advantage (see Summary Table 3 for Liberal advantage).
2. In 1965 there were 1.8 times as many city voters as country; in 1968 there were 2.1 times as many city voters.
3. The average, per province, city:country enrolment ratio was 3:1 or more. It remained at 3:1 after 1977.
4. In 1977 and 83, seats won include 1 extra () for the new province. In 1983 SE became SC and the new SE was won by Labor.


Country Party seats are in italics. In 1968, 9 seats were uncontested.

In 1986 Labor won Lower West by 102 votes and South West by 70 on AD preferences; the NPA won South on ALP preferences.

Note 4. In 1977 and 83, seats won include 1 extra () for the new province. In 1983 SE became SC and the new SE was won by Labor.

**Note 4.** Cumulative seats give the state of the house from two elections.
**APPENDIX 7 Summary Table 3b: COUNCIL PROVINCE ENROLMENTS 1965-86. ALP v LIBERAL (’000s)**

(In 3 zones: Metropolitan; Agricultural, Mining & Pastoral, North-West. Half house elections)

**Summary Table 3b: Notes on incumbents and preferences**

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**Guide to location**

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**ALP v Liberal**

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**Notes:**

- *abs = absolute unopp = unopposed pr = second preferences PP = Progress Party (1980: 67% to ALP) D = DLP AD = Aust Democrats L = Liberal

In 1986 Labor won Lower West by 102 votes and South West by 70 on AD preferences; the NPA won South on ALP preferences.

In the country areas Labor preferences were distributed on five occasions: in 1974 in South and Upper West to the Liberal Party (because the CP ran as the NA which included the DLP); in 1977 in Upper West to the NCP; in 1986 in Central and South to the CP and NCP.
### Summary Table 4: PARTY REPRESENTATION, METRO AND RURAL, 1965-2001

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Data from Black (1991) *Leg Council 1890-1989*, from the members lists in Hansard session editions and from WA Electoral Office. Under Gov, A = ALP win; L = Liberal/CP coalition win. Underlined figures include an independent former party member (2 former Liberals in 1996 & 2001). In 2001 there were 3 independent Liberals and 1 independent Labor. CP includes NCP, NP and NPA. CP seats are all in the Agricultural, Mining and Pastoral (AM&P) zone. In 1968 39% of ALP MPs were from the country, dropping below 50% for the first time. It has remained below 50%. (Until 1927, 93-70% of ALP MPs held country seats. Between 1928-50: 69-81%. 1953-65: 59-52%. 1968-01: 42-30%.) In 1993 a Greens MLC was elected; in 1996, 3 Greens (incl 1 country) and 2 Australian Democrats MLCs were successful. In 2001, 5 Greens (3 country) and 3 Pauline Hanson's One Nation (all country) were elected to the Council.

Until the 1987 change the Liberals had more than a proportional number of country MPs. After 1987 they are proportional (eg in 2001, 47% of Liberal, and 44% of all seats are country), only slightly more than Labor. The main cause was the ending of vote wastage in the AM&P zone with PR. Overall country-city vote weighting stayed about the same from the 1960s to the present (2:1 in the Assembly; 3:1 in the Council) with the number of city seats being increased; in 1968, 1977 and 1983 (increasing the the size of parliament) and in 1987 (at the expense of country seats).
**Summary Table 5: LEGISLATIVE COUNCIL, PARTY FORTUNES AND POSSIBILITIES, 1965-86**

*Labor "might have been" in italics (includes previous election's "might have been")*

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Vote % is 2 party preferred. Percentages do not add to 100 as parties contested different seats.

"Might have been" are cumulative, eg the 17 in 1971 include 1 from 1968 half-house election.

In 1971: in North, ALP won 44.1%, Lib 44.7% of primary vote; DLP won 11.2% of which 78% preferences went to Lib in N. Metro, ALP won 45.9%, Lib 42.4% of primary vote; DLP won 11.8% of which 86% preferences to Lib in SE Metro, ALP won 45.0%, Lib 43.2% of primary vote; DLP won 11.8% of which 85% preferences to Lib Labor was not especially unlucky. In Lower N it got 35.6% of DLP’s 7.3% and won by 0.1%.

If all luck had gone to Labor in 1968 and 1971, ie 17 of 30 seats, it would have had a constitutional majority (but it lacked a constitutional majority in the Assembly) and after 1974 would have had an obstructing majority in the Council.
## Summary Table 6: COUNCIL PROVINCE ENROLMENTS (in '000s), ALP v. NON-LABOR AT 1/3 HOUSE ELECTIONS, 1936-62

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| Sum         | 18.3      | 16.7      | 16.7      | 15.7      | 16.7      | 15.7      | 16.7          | 22.8     | 21.5     | 19.3     | 20.1     | 19.7     | 19.1     | 19.1     |
| Average     | 6.1       | 6.4       | 6.4       | 6.4       | 6.4       | 6.4       | 6.4           | 6.4      | 6.4      | 6.4      | 6.4      | 6.4      | 6.4      | 6.4      |

| City:country | 0.8       | 1.2       | 0.9       | 1.3       | 1.2       | 1.0       | 0.9           | 1.2      | 1.2      | 1.2      | 1.2      | 1.2      | 1.2      | 1.2      |
| All city:cty | 1.1       | 1.2       | 1.1       | 1.2       | 1.2       | 1.2       | 1.1           | 1.2      | 1.2      | 1.4      | 1.4      | 1.4      | 1.4      | 1.4      |
| Avg city:cty | 2.5       | 2.8       | 2.6       | 2.6       | 2.8       | 2.8       | 2.6           | 2.7      | 3.4      | 4.1      | 4.0      | 4.2      | 4.5      | 4.5      |

| Seats won  | 3  7  3  7  2  8  3  7  3  7  1  9 | 4  6  4  6  5  5  4  6  4  6  5  5  4  6 |
| Cum. seats | 8  22 8  22 8  22 8  22 8  22 7  23 | 8  22 9  21 13  17 13  17 13  17 13  17 13  17 |

A = ALP; n-L = non-Labor
Party in government shown in **bold type** (A or n-L). CDL (1946, 48) and CP in *italics*. Data from Black Legislative Council of WA, 1991.
Cumulative seats shows the total ALP and non-Labor for the house, ie the sum of seats won over three elections.
Half the seats in the house could be won by winning 5 seats at three successive elections. Labor did have a chance of this from 1958 to 1962:
* Labor suffered 3 anomalous losses in 1958 and 1962 in Suburban and in 1956 in South-East Province. The vote shares were:
  * In 1962 in Suburban Province Liberals won 52%, Labor 48%. In 1958 in Suburban Province Liberals won 54%, Labor 39%.
  * In 1956 in South East Province, Liberals won 51%, Labor 49%. Bye-elections do not disturb the pattern after 1956.

Until 1963, voting was subject to a property qualification; neither enrolment nor voting were compulsory.
The ratio of city to country electors and the per province average city:country ratio increased from 1954 owing to campaigning to enrol city voters
Until 1963, one third (10 seats) of the Council were elected every two years, thereafter half (15 seats) were elected every 3 years.
A change from 10 to 15 provinces would cause the average size of seats to decrease 33%, but owing to the franchise changes average enrolment trebled to about 30000. See Summary Table 3 or 3a where see also relative increase in ALP seat sizes compared with Liberals.
Summary Table 7a: ALP COUNTRY REPRESENTATION, BOTH HOUSES

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Data from Buxton (1979: 38) and Summary Table 4.

Effectively from inception of the CP, Labor has been disproportionately urban.
Data from Summary Table 7a.
Summary Table 7b: LIBERAL METRO AND RURAL REPRESENTATION

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Data from Hughes & Graham (1968) and from Summary Tables 4 & 6. Independent metro Liberals are excluded.

Figure 1.4 Liberal Metro & Rural Representation, 1939-2001

Data from Summary Table 7b.
Rural and metro wins in the Assembly are roughly in line except for 1956.
Rural and metro wins in the Council are roughly in line except from 1965 to 1986.
Summary Table 8: WA LEGISLATIVE COUNCIL PARTY PROPORTIONALITY 1989-2001

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</table>

A blank means zero, i.e. no votes or no seats.
* The election was in 1996; The Council did not change until May 22, 1997.

Summary Table 9: PROVINCE AND STATUTORY SEAT WINNERS AND ENROLMENTS (in '000s)
NORTH AND LOWER NORTH PROVINCES 1968-86

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<th></th>
<th></th>
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<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>A</strong></td>
<td><strong>lib</strong></td>
<td><strong>A</strong></td>
<td><strong>lib</strong></td>
<td><strong>A</strong></td>
<td><strong>lib</strong></td>
<td><strong>A</strong></td>
<td><strong>lib</strong></td>
</tr>
<tr>
<td>Lower N.</td>
<td></td>
<td></td>
<td></td>
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<td></td>
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<td></td>
</tr>
<tr>
<td>Gascoyne</td>
<td><em>lib</em>²</td>
<td></td>
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<td><strong>lib</strong></td>
<td><strong>A</strong></td>
<td><strong>lib</strong></td>
<td><strong>A</strong></td>
<td><strong>lib</strong></td>
</tr>
<tr>
<td>Murch.-Eyre</td>
<td>2.6</td>
<td>3.3</td>
<td>3.8</td>
<td>3.6</td>
<td>3.8</td>
<td>4.0</td>
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<td></td>
</tr>
<tr>
<td>Kimberley</td>
<td><strong>A</strong>²</td>
<td><strong>lib</strong></td>
<td><strong>A</strong></td>
<td><strong>lib</strong></td>
<td><strong>A</strong></td>
<td><strong>A</strong></td>
<td><strong>A</strong></td>
<td><strong>A</strong></td>
</tr>
<tr>
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<td>5.3</td>
<td>9.1</td>
<td>14.2</td>
<td>16.7</td>
<td>10.6</td>
<td>15.0</td>
<td></td>
</tr>
</tbody>
</table>

* Redistributions preceded these elections in 1966, 1971, 1975 and 1981. No changes were made to northern boundaries except in 1981 when the Coalition government moved the Pilbara - Kimberley boundary westward.

1 The column indicates whether ALP or Liberal won the Assembly seat. Data from Black 1997.

2 A or lib shows the party winning the province. Province enrolment is the sum of the two seats.

Assembly gerrymander
Before the reforms in 1987, redistributions in WA were in the hands of the Electoral Commissioner except for these 4 "statutory seats" which were the prerogative of the Parliament. After the 1971 election it was evident that the enrolment in the seat of Pilbara was at a historic high, however no change to the boundaries was made at the subsequent redistribution. By the time of the 1975 redistribution, the enrolment of 9100 exceeded that of country electorates in the South West of WA (eg the "country" electorate of Mundaring had 8524 on its roll) and Kimberley had also begun to climb, however there was no move to restore the malapportionment. By 1980, the Pilbara enrolment exceeded that of a metropolitan electorate (eg Perth had 14222 electors) and Kimberley, with an enrolment now twice its historic value, was lost to Labor as was North Province as a whole. In 1981 the Coalition government moved the boundary between the two Assembly seats making them approximately the same, presumably in the hope that by shedding the voters of the new mining towns, Pilbara might remain Liberal. The low enrolments of the two less remote, Liberal voting, Lower North electorates were preserved.

Given that the justification for malapportionment is remoteness and given that the two northern seats are the most remote in WA, if not in the Western world, the failure to act in 1975 was at least a sin of omission and the move in 1981, a straightforward Liberal gerrymander.
Summary Tables 10a, 10b: COUNCIL ENROLMENTS PER SEAT WON 1965-86

Summary Table 10a ENROLMENTS (in '000s) PER SEAT WON 1965-86
(data from Summary Table 3)

<table>
<thead>
<tr>
<th>Year</th>
<th>ALP Enrol Sum</th>
<th>Seats won</th>
<th>Enrol Mean</th>
<th>City: cntry</th>
<th>Liberal Enrol Sum</th>
<th>Seats won</th>
<th>Enrol Mean</th>
<th>City: cntry</th>
</tr>
</thead>
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<td>1965</td>
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<td>2.0</td>
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<tr>
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<td>6</td>
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<td>103.6</td>
<td>4</td>
<td>25.9</td>
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<td>4</td>
<td>41.3</td>
<td>5.4</td>
<td>334.6</td>
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<td>13.9</td>
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<td>9</td>
<td>28.2</td>
<td>0.4</td>
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<tr>
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<td>8.8</td>
<td>352.9</td>
<td>9</td>
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<td>1.8</td>
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<td>53.5</td>
<td>4.7</td>
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<td>7</td>
<td>57.8</td>
<td>8.4</td>
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<td>9</td>
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<td>1986</td>
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<td>9</td>
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<td>192.7</td>
<td>6</td>
<td>32.1</td>
<td>0.9</td>
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<td>44</td>
<td>53.4</td>
<td>7.4</td>
<td>2146.7</td>
<td>64</td>
<td>33.5</td>
<td>1.3</td>
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</table>

Summary Table 10b ENROLMENTS (in '000s) PER SEAT WON 1965-86
(data from Summary Table 3a)

<table>
<thead>
<tr>
<th>Year</th>
<th>ALP Enrol Sum</th>
<th>Seats won</th>
<th>Enrol Mean</th>
<th>City: cntry</th>
<th>Coalition Enrol Sum</th>
<th>Seats won</th>
<th>Enrol Mean</th>
<th>City: cntry</th>
</tr>
</thead>
<tbody>
<tr>
<td>1965</td>
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<td>32.4</td>
<td>5.0</td>
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<td>6</td>
<td>42.2</td>
<td>9.7</td>
<td>196.0</td>
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<td>21.8</td>
<td>0.5</td>
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<td>41.3</td>
<td>5.4</td>
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<td>33.8</td>
<td>1.3</td>
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<td>1.1</td>
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<td>80</td>
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<td>53.5</td>
<td>4.7</td>
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<td>1.3</td>
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<td>7</td>
<td>57.8</td>
<td>8.4</td>
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<td>28.4</td>
<td>0.4</td>
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<td>62.8</td>
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<td>249.2</td>
<td>8</td>
<td>31.2</td>
<td>0.6</td>
</tr>
<tr>
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<td>44</td>
<td>53.4</td>
<td>7.4</td>
<td>2530.1</td>
<td>82</td>
<td>30.9</td>
<td>0.8</td>
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</table>

All the data except the final lines are taken from the last three lines of Summary Tables 3 or 3a.

From 1965 to 1986 the ALP had an average enrolment of 53400 per seat while the Liberals had 33500 and the Coalition had 30900.

From 1963 to 1986, in the seats they won, the ALP had about 7.4 city voters per country voter while the Liberals had 1.3 and the Coalition had 0.8. These values are simple averages of the column above, so are indicative only.
### Summary Tables 10c, 10d: COUNCIL ENROLMENTS PER SEAT WON 1936-46, 1950-62

**Summary Table 10c** ENROLMENTS (in ’000s) PER SEAT WON 1936-46  
(data from Summary Table 6)

<table>
<thead>
<tr>
<th>Year</th>
<th>ALP</th>
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<th></th>
<th>non-Labor</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Enrol</td>
<td>Seats</td>
<td>Avge</td>
<td>Enrol</td>
<td>Seats</td>
<td>Avge</td>
</tr>
<tr>
<td></td>
<td>Sum</td>
<td>won</td>
<td>p seat</td>
<td>Sum</td>
<td>won</td>
<td>p seat</td>
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**Summary Table 10d** ENROLMENTS (in ’000s) PER SEAT WON 1950-62  
(data from Summary Table 6)

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<th>Year</th>
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<th></th>
<th></th>
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</thead>
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<tr>
<td></td>
<td>Enrol</td>
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<td>Avge</td>
<td>Enrol</td>
<td>Seats</td>
<td>Avge</td>
</tr>
<tr>
<td></td>
<td>Sum</td>
<td>won</td>
<td>p seat</td>
<td>Sum</td>
<td>won</td>
<td>p seat</td>
</tr>
<tr>
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<td>6</td>
<td>10.4</td>
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<tr>
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</table>

All the data except the final lines are taken from Summary Table 6.

From 1936 to 1948 there was an average of 6700 electors enrolled in Labor held districts and an average of 9200 in non-Labor held seats.

From 1952 to 1962 Labor had 10000 electors per seat and the non-Labor had 13700

"n-L" (non-Labor) is mainly coalition but includes up to 3 "other" in the years 1936-48.
Summary Table 11: PARTY REPRESENTATION IN THE LEGISLATIVE COUNCIL 1916-2001
(Data from Edwards 1984 Vol 2: 75; prior to 1948 Liberals and independents approximate)

<table>
<thead>
<tr>
<th>Govt Year</th>
<th>ALP Green AD</th>
<th>Lib</th>
<th>CP NCP</th>
<th>NP NPA</th>
<th>Other</th>
<th>ALP + Gr+AD</th>
<th>Total seats</th>
<th>ALP+ %</th>
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</thead>
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<td>2</td>
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<td>1990</td>
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<tr>
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<td>10</td>
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<td>47</td>
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</table>

A = ALP government, other years are Coalition.
The last column, ALP+, refers to the sum of ALP+Greens+AD
Summary Table 12: LEGISLATIVE COUNCIL POST-1987 CITY-COUNTRY MALAPPORTIONMENT
Enrolments in '000s.

<table>
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<th></th>
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<th></th>
<th></th>
</tr>
</thead>
<tbody>
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<td>South Metro</td>
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<td>222.6</td>
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<td>251.2</td>
<td>50.2</td>
</tr>
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<td>40.8</td>
<td>215.0</td>
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<td>247.4</td>
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<td>267.5</td>
<td>53.5</td>
</tr>
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<td>85.4</td>
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<td>90.9</td>
<td>18.2</td>
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<td>13.0</td>
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<td>13.4</td>
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<td>2.82</td>
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</tr>
</tbody>
</table>

Summary Table 13: LABOR TWO-PARTY PREFERRED VOTE IN THE AGRICULTURAL, MINING AND PASTORAL ZONE, in '000s and %.


<table>
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<tr>
<th></th>
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Proportional seats: 2.3 3.8 2.9 2.4 2.5 3.1 3.0

In 1968 Labor unsuccessfully contested Lower Central and West provinces and won South East unopposed.

Data from Black (1991) Legislative Council of Western Australia

Seats won by the Country Party in italics. Provinces not contested by Labor are blank.

Proportional seats is the average percentage multiplied by the number of contested provinces.

Labor won South East Province at every election; in 1986 it won South West and Lower West on Democrats preferences.