

Hon Dr Chrissy Sharp; Chairman; Hon Norman Moore; Hon Derrick Tomlinson; Hon Simon O'Brien; Hon Sue Ellery; Hon Peter Foss; Hon Kim Chance; Deputy Chairman; Hon Bruce Donaldson; Hon Bill Stretch; Hon Norman Moore; Hon Murray Criddle; Hon John Fischer; Hon Robin Chapple; Hon Ray Halligan; Hon Alan Cadby; Deputy President

ONE VOTE ONE VALUE BILL 2005

Committee

Resumed from an earlier stage of the sitting. The Chairman of Committees (Hon George Cash) in the Chair; Hon Sue Ellery (Parliamentary Secretary) in charge of the bill.

Clause 4: Part IIA inserted -

Debate was interrupted after proposed section 16I had been partly considered.

Hon CHRISTINE SHARP: I foreshadow that I will move the amendment in my name, which states -

Page 9, lines 25 and 26 - To delete “, the Central Metropolitan Region and” and insert instead -
(being a region that is generally to the north of the Swan River),

This amendment affects several things. The proposed deletion is not insignificant. This amendment will change the configuration of the metropolitan regions by deleting the newly named central metropolitan region from the bill. Instead, the Greens (WA) would prefer to keep the status quo regarding the North, South and East Metropolitan Regions. In addition, the Greens want them to have geographic context so that they are not arbitrary and are not simply lines on a map that can be moved around willy-nilly. This amendment will ensure they are geographically recognised locations. That is consistent with our position that this be a regional house that is grounded in the natural environment and that the system apply equally to the metropolitan regions and the non-metropolitan regions.

Members will note in the amendment the very important word “generally”. This definition is not meant to be overly restrictive so that it could create difficulties for the Electoral Commission when dividing the state’s electoral boundaries. One is very aware that when dealing with Council regions, even in the metropolitan area, we are dealing with extremely large areas. We think it is important for the electoral commissioners to have some flexibility. Nevertheless, the regions must correspond to recognised geographic locations. They should not be contrived in such a way that they no longer bear any relation to the notion, in this case, of being north of the river. The definition of “north of the river” could mean a fair way along the Swan River. We do not intend the electorates to extend as far as the seat of Avon. We are referring to the area in the centre of the city and the area that is generally known as being north of the river.

I emphasise that these definitions have been very carefully drafted to give some flexibility to the electoral commissioners. I have consulted with the Acting Electoral Commissioner and with Mr Justin Harbord from the Electoral Commission to ensure that these definitions are workable for the commission. I understand that they are. Some time was devoted to ensuring that. Again, I emphasise that the regions are not meant to be limited to these geographic locations but generally inclusive of them.

The CHAIRMAN: Before Hon Christine Sharp moves that amendment, I point out that Hon Norman Moore moved to delete the lines from page 9, line 20 to page 10, line 12, and that motion was lost. Therefore, the committee decided to keep those lines in their present form; that is, the lines that were not deleted. I am addressing my comments to Hon Christine Sharp in the first instance. Currently, I cannot let the member move the motion she was about to move. I wanted the member to complete her comments anyway because I did not raise the issue soon enough. To move that motion successfully, we would have to recommit proposed section 16I at a later date. The member cannot move that amendment. That is because we just agreed to not delete certain lines. However, I can deal with the amendment proposed by Hon Norman Moore. I cannot accept that amendment by Hon Christine Sharp at the moment, but I invite her to move amendment 17/4, which is to insert words additional to those currently in the bill.

Hon CHRISTINE SHARP: I move -

Page 9, line 27 - To insert after “Region” -

(being a region that is generally to the south of the Swan River) and the East Metropolitan Region (being a region that includes the hills and foothills of the Darling Escarpment)

This amendment is complementary to the remarks I have just made about wanting to give some geographic reference to the metropolitan regions, but with the same rider. The provision that the south metropolitan region be a region that is generally to the south of the Swan River means that this is not strictly limited but is generally so. The east metropolitan region will include the hills and the foothills of the Darling escarpment, but will not be limited by my amendment to the hills and foothills. We anticipate that the Electoral Distribution Commissioners will continue their current practice of bringing the east metropolitan region closer to the centre of the city.

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Hon NORMAN MOORE: During my earlier comments on proposed section 16I, I made the suggestion that there is no need to have the words “being a region that is generally to the south of the Swan River”. I would have thought that simply calling the region the south metropolitan region would achieve the same result. However, there is a word in the amendment that demonstrates the reason that Hon Chrissy Sharp was not prepared to accept my recommendation that we did not need this insertion, and that is the word “generally”. The member is now saying to the committee that the north metropolitan region should be generally to the north of the river and the south metropolitan region should be generally to the south of the river. However, the word “generally” does not mean exclusively. It means that the north metropolitan region could go south of the river and the south metropolitan region could go north of the river. I would have thought that if the Greens want to make this insertion, they would get rid of the word “generally”, because the north metropolitan region should be north of the river and the south metropolitan region should be south of the river.

Hon Dee Margetts: So what happens to the east metropolitan region if you make those hard and fast rules?

Hon NORMAN MOORE: They should not be made at all, because the electoral commissioners have for the past 20 years been quite capable of deciding what is north and south. However, this amendment refers to the south metropolitan region as being a region that is generally to the south of the Swan River. That means that it could go north of the Swan River. That is quite different from the scenario we have now. I do not know why the Greens want the electoral commissioners to have the capacity to move the south metropolitan region north of the river and the north metropolitan region south of the river if they so decide. I think that is an extraordinary proposition. We have accepted over a long period that the Swan River, for all sorts of reasons, divides the metropolitan area. There are people who live south of the river, and they are strange types of people, and the people who live north of the river are much stranger than the people who live south of the river. It is just part of the psyche of the metropolitan area. I do not know why the electoral commissioners would want the capacity to move the north metropolitan region south of the river and the south metropolitan region north of the river. If the Greens removed the word “generally”, I could live with it, but I do not think any of those words are needed at all because the commissioners have demonstrated over a period that they can work out what is north, south and east on the basis of the geography of the metropolitan area and also on the basis of the number of voters required in each of those three regions. It has not been a problem in the past, and I can see no reason that the Greens are seeking to do it now. I would much rather they got rid of those directions to the electoral commissioners because they are unnecessary.

Hon CHRISTINE SHARP: I understand the member’s concern, but I will explain why the amendment is qualified by the use of the word “generally” and why I am seeking to insert the definition in a broader sense. A fair bit of thought and consideration has been brought to bear on these words. The reason the amendment contains the word “generally” is that the Electoral Commission has seen fit to vary the metropolitan regions either side of the river. One example of that is the case of North Fremantle. North Fremantle is clearly north of the Swan River, yet it has been included in the South Metropolitan Region because the commission has followed the local government boundaries. Indeed, it has followed the community-of-interest issues of the people of North Fremantle in that they feel very much part of the port of Fremantle and of the South Metropolitan Region. That is why these words provide the commissioners very definitely with some flexibility to accommodate those kinds of considerations.

Secondly, the Leader of the Opposition asked why the definition is needed in the first place. As we know, the commission has for some time used the river as a major natural boundary to divide the metropolitan regions. There is no doubt about that. However, nothing in the act or the bill requires the commission to do so. There is nothing in the legislation to ensure that the metropolitan regions correspond in a general sense with the natural regions of the city. It has never been necessary. The commissioners have followed that anyway by their own sense. However, there is no instruction in the act or the bill and I seek to insert that instruction. Given that I will withdraw my amendment to delete the requirement for approximately the same number of districts, if we were to have approximately the same number of districts, some configurations of the metropolitan region could be quite inconsistent with these geographic regions as we know and understand them.

Hon SUE ELLERY: To assist members, I am advised by the officers of the Electoral Commission that the locality of North Fremantle was included in the South Metropolitan Region as a result of the 1994 redistribution.

Hon DERRICK TOMLINSON: The critical word that we are being asked to consider is “generally”, because that will allow the electoral commissioners some discretion in following this recommendation; it is a suggestion, not a prescription. If we follow the issue of a region being generally to the south of the Swan River, we are looking at a region that is south of the Swan River and west of the confluence of the Swan and Canning Rivers. Elsewhere, it is to the east of the river. Considering the confluence of the Swan and Canning Rivers, the existing

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seats of Armadale and Serpentine-Jarrahdale, both of which embrace the Darling Range, the Darling escarpment and the foothills, will be in the south metropolitan region. I did not quite follow what was said, because I was focusing on something else when the Chairman gave his ruling about the previous motion that we cannot discuss, but I am afraid I will have to consider that in context. That confluence of the Swan and Canning Rivers and the area to the west of that generally describes the south metropolitan region. However, there is an understanding that that is contrary to the suggestion that the Darling Range, the escarpment and foothills be included in the north metropolitan region. The Swan River flows through the Darling Range, the escarpment and the foothills approximately at Middle Swan, and bisects the district of Swan Hills. Ellenbrook, Bullsbrook and Gidgegannup - bearing in mind that Ellenbrook is the largest population centre of the seat of Swan Hills - would be generally considered to be north of the river, but also to embrace the Darling Range, the escarpment and the foothills, which creates some problem. If we were to follow that, the other proposed metropolitan region, which will be renamed "Central Metropolitan Region", would be the region bounded by the Canning River to its confluence with the Swan River and by the Swan River as far as Midland; therefore, it would embrace the existing seats of South Perth and Victoria Park. That would be the result of trying to follow, geographically, the notion of north and south of the river, because, although we talk in colloquial terms about north and south of the river, in fact the direction of the river changes at various places. If we follow the question of taking into account the hills, the foothills and Darling escarpment, in both instances -

Hon Christine Sharp interjected.

Hon DERRICK TOMLINSON: It embraces the hills and foothills of the Darling escarpment, because the Darling escarpment, the member will find, straddles places such as Roleystone and Kalamunda. I accept the member's point. It becomes very difficult to follow that geographic prescription, so we then go to the power of the word "generally". That allows the electoral commissioners some discretion. That discretion can result in a situation such as that following the electoral redistribution of 1994, in which North Fremantle, which is north of the river, was included in the South Metropolitan Region. The word "generally" would allow the commissioners some discretion, so that they would then be able to fit the area north of the Swan River into the east metropolitan region. Areas to the south that follow the hills and foothills, such as the electorates of Serpentine-Jarrahdale and Armadale, could also then be included in that region, even though if we were to follow the geography of the rivers, they would be in the south metropolitan region. It all depends on this word "generally". The rivers are a notional division. The notional division would follow the Canning River to the confluence with the Swan, and then the Swan River, in geographic terms. However, we are saying that the boundaries do not necessarily have to follow that course, because the word "generally" is included. This is a suggestion that the government would generally like the Electoral Commission to follow. When "generally" is applied to the notion of north and south of the river, or east and west of the river - whichever it might be - the opportunity arises to leave the boundaries exactly where they are - generally north of the freeway, and generally north and south of the river. This could become unnecessarily confusing, and therefore I agree with Hon Norman Moore. This is a matter for the commissioners. They are well-informed and well-advised people. The commissioners can make that decision in the context of the philosophy of the bill, which is to create some notion of equality. Therefore, I would have supported the amendment of Hon Christine Sharp that she intends to withdraw that the seats be of a comparable number. There will be six.

Hon Christine Sharp interjected.

Hon DERRICK TOMLINSON: That makes it even more necessary that that prescription not be used, because it is now three, four and six, is it not?

Hon Christine Sharp interjected.

Hon DERRICK TOMLINSON: Yes, I would suggest that we leave it as it is.

Hon NORMAN MOORE: I have been listening to the debate, and I have also had a quick look, via my colleague's access to the Internet, at the 1994 boundaries. They do not show the electorate of Fremantle extending across the river in that year. Although it may have done so before that - I do not know - that certainly was not the case in 1994, if the web site of the Electoral Commission is accurate, and I presume it is.

The issue here is whether we need to give the electoral commissioners any directions at all. I would really love to know what they think, because I have not had a chance to ask them about this. The problem is twofold. Firstly, the existing law does not give any directions to the Electoral Commission; it just says that there should be North, South and East Metropolitan Regions. Hon Christine Sharp has said that there should be some form of direction, and then has used the word "generally" in her amendment, which gives discretion within that direction.

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I wonder whether any of this is necessary at all. I have not been convinced that it is necessary, or that the electoral commissioners have a problem. Under the current arrangements, the electoral commissioners can, if they wish, create electorates that go over the river in either a northerly or southerly direction. The maps of the regions show that they have been able to come up with regions that most people would regard as north, south and east metropolitan. However, there is an element to this which we have not yet contemplated and about which I would like to hear from the parliamentary secretary. Under the current boundaries, North Metropolitan Region has a greater number of electors and more electoral districts than the other metropolitan regions. That is because it is a bigger region. It has seven upper house members, while the other two regions each have five. There are 14 Legislative Assembly districts in the North Metropolitan Region, 10 in the East Metropolitan Region and 10 in the South Metropolitan Region. Under the new proposals, I understand that there will be 42 seats in the metropolitan area. Will the parliamentary secretary nod in agreement?

Hon Sue Ellery: Yes.

Hon NORMAN MOORE: Three into 42 goes 14. That was not previously the case; the Assembly did not have 42 seats.

This legislation has a very long history. I was unfortunate enough to see the first draft a thousand years ago! I keep forgetting what was the first, second, third or fifteenth draft and what has been the Labor and Liberal Parties' positions, and now the Greens' position. I have gradually reached the stage at which I now know that 42 seats will represent the metropolitan area as opposed to 41, which was what the bill provided for. That means all the regions will have the same number of districts, because Hon Chrissy Sharp is withdrawing her amendment. Presumably, the government will not move any other amendments. Is it fair to say there will be 14 Assembly seats in each of the three regions?

Hon Sue Ellery: Yes.

Hon NORMAN MOORE: That being the case, the North Metropolitan Region must change its boundaries. It will need to be smaller and the other two seats will need to be increased. I gather the government might support the notion of "generally" because there are not enough people in the South or East Metropolitan Regions to make up the number of seats. The boundary will need to be on the other side of the river to include extra people to make up the increased number of lower house seats in those two regions. If that is a practical difficulty, I will go along with Hon Chrissy Sharp's proposition because it might solve the Electoral Commission's problems. If the boundary is the river, there might not be enough people within that geographical constraint to enable the three regions to have the same number of Assembly seats.

Hon SUE ELLERY: The three regions will have approximately the same number of seats. It is anticipated that that will be possible, not necessarily by extending the north region south over the river, but by extending it to the east. If Hon Chrissy Sharp's amendment is passed, there will be two points of discretion. The first point - in the words we are using now - would be the inclusion of the words "a region that is generally to the north of the Swan River", rather than "the region". The use of the word "a" rather than the word "the" is a point of discretion. The second point of discretion in that wording is the word "generally". Two points of discretion give the commissioners the capacity to move.

Hon NORMAN MOORE: I am trying to contemplate what we will achieve out of this because this is a very important part of this whole process. I am trying to visualise a region smaller than the present North Metropolitan Region, a larger East Metropolitan Region and a larger South Metropolitan Region. Can the parliamentary secretary give me some indication, albeit she is not an electoral commissioner, of how that might be achieved and whether, as is done now, the process moves from the river to the north and east in the metropolitan area. The parliamentary secretary knows what I am getting at, so maybe she can give me some idea. I assume that it would start at Fremantle, that the river and coast would be the starting point, and that it would then move north and east, and that the reverse would happen in the south metropolitan area; or would it start at Wanneroo and work its way down?

Hon SUE ELLERY: This is what could be done -

Hon Norman Moore: I appreciate it is not an absolute.

Hon SUE ELLERY: The commissioners could take the eastern boundary of the South Metropolitan Region and move it further east. They could take the eastern boundary of the North Metropolitan Region and move it west, so it would be longer and skinnier, if I may use that highly technical expression!

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Hon SIMON O'BRIEN: I do not want to delay things either, but I am sure that all members would agree that this is a serious matter. Sometimes when one puts down words, the meaning of which is secure in one's own mind, they might mean very different things to other people. What is at stake here is quite considerable. The other tendency of course is that when members of Parliament are considering this, we all think of how it will affect our electorates, but I guess the totality is something one must query.

Hon Sue Ellery: I am protecting your interests.

Hon Norman Moore: Which are against ours.

Hon SIMON O'BRIEN: What concerns me, of course, is that our interests may not coincide.

Hon Sue Ellery: I am sorry. I was being flippant and I distracted you.

Hon SIMON O'BRIEN: I appreciate that the parliamentary secretary was speaking lightly. I do not infer anything from that. It is proposed that 42 seats be placed in the metropolitan area. We are looking at three times 14. The South Metropolitan Region at the moment has 10 districts. It is now proposed that it have 14. The 26 000-odd voter electorates that now exist would be exchanged for the 21 500 to 22 000 voter seats. I am using mental arithmetic. There would be 14 slightly smaller electorates, the net effect of which would be that the South Metropolitan Region would be a bit bigger. I wanted to ascertain whether there could be a dramatic change. That is why I think it is important to get these matters on the record in case anyone has to refer back to these proceedings to try to work out the intent. In all the precedents we have, the commissioners have traditionally viewed downriver or the lower reaches of the Swan River as a sufficiently natural boundary that it forms a good reference point virtually by definition; in fact, it is about as major a key reference point as the Indian Ocean. Nonetheless, if the South Metropolitan Region expanded, and if, because of the ripple effect caused by what might happen in the South West Region it was not possible for the South Metropolitan Region to expand southward, for example, to take in Mandurah, it would have to go somewhere. I do not think it is the intention of the chamber or the government that all of a sudden the South Metropolitan Region will go north of the river to take in a couple of seats in Cottesloe, Nedlands or somewhere else. I certainly would not like that. I will not say anything flippant about how it might lower the average IQ on both sides of the river - I would not want to risk offending anyone on this matter.

I would appreciate it if the parliamentary secretary could give her views in response.

Hon SUE ELLERY: I am advised that what could happen is that the reduction in the number of voters per district could create one whole seat. In that case we would be looking for only another three. It is likely that we would keep looking east and slightly south, rather than cross to the north. Also, it is important to take into account that the bill refers to "approximately the same number of". It could be 13, 14, or 15.

Hon NORMAN MOORE: I have been listening to the debate and I will not pursue this matter further. The government and the Greens will pursue this. I am a little concerned because when I see changes like this being made, I always assume the worst. As the people with the numbers are doing their best to stitch up the ones without the numbers in this debate, I have to assume any change will not be in my interest. I will desist from arguing this point, other than to refer to the problem that the parliamentary secretary mentioned; that is, they have to consist of approximately the same number. The reason that originally it was approximately the same number was that there were to be 41 seats. It had to be approximate because we cannot divide three into 41 and come up with an even number - even I can work that out. However, now, when the figure is divided by three, it will be exactly 14. We should amend the clause so that they are the same.

It would be ludicrous for three regions in the metropolitan area to all return six upper house members, but have different numbers of lower house seats. The reference to "approximately" was included when we could not have three with the same number. However, now that it is possible to have three the same, we should get rid of the reference to approximately. We cannot deal with deleting anything yet, because that will come further down the track.

On a closer look, Hon Chrissy Sharp will delete that, so the word "approximately" will not apply any more. We should delete those words.

Hon Sue Ellery: Those words will stay.

Hon NORMAN MOORE: I think we had better delete those words. We will come to that when we come to it.

The CHAIRMAN: The reason I assume the Leader of the Opposition is saying that we will come to it when we come to it is that, based on the standing orders - I have to put into effect standing order 237(b) - we own those words for the time being, because we agreed not to delete certain words, and if the committee wanted to delete,

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for instance, the word “approximately”, it would have to be done on recommitment in due course. That is the point I am making.

Hon DERRICK TOMLINSON: I have never been anywhere close to the electoral commissioners when they are deliberating on boundaries, but I assume they are directed by the principles contained in the legislation that they must take note of this, that and the other features, such as local government boundaries, roads or community of interest. They are guided by whatever might be in the act as it now stands. The second thing they would be guided by is the general principles of the act. The general principles of this act have been made quite clear because we have been debating them ad nauseam over the past few days, but they are about equality of numbers and equality of representation. If we are to have such important principles, why is it necessary to overlay and confuse the issue with another set of prescriptors or descriptors that are discretionary because of this word “generally”? We have a set of descriptors that must be taken into account by the commissioners; we have the principles of the act that the commissioners, as reasonable people, will take into account. Why confuse that with another set of descriptors that, by themselves, are confusing - north and south of a river and east-west of a river - when the river flows generally south west for some part of it and generally south for another part? We are talking about the north and south of a river that does not have an east-west direction. We are then adding that we will take that north-south notion to the Darling Range escarpment and foothills. The third is unnecessary if the principle of the bill is clear - it is - and if the factors that the commissioners may take into account are clear, as they are, and historically have been followed. Why confuse it? All we need say is that there will be three regions and we can anticipate that at the conclusion of the debate there will be three regions of 14 Assembly districts. I strongly suggest that we do not persist with this prescription.

I have sat here and watched - perhaps I should not have - the dialogue at the table. I see drawings on maps by which we could do this or we could do that or we could do something else. We are second-guessing the electoral commissioners. We are saying that they could do this or they could do that. They will do what is, in their best judgment, proper according to the principles of the act and the descriptors contained in it. Let us not play around with trying to second-guess. Let us make sure that if we want that discretion, it is given by restricting it to the descriptors that exist and we do away with this other, confusing set of descriptors.

Hon CHRISTINE SHARP: In the metropolitan area we are applying clear descriptors. They are all caught by the earlier requirement that they are generally co-extensive with the metropolitan region. However, we know that the districts will be based on an equal quotient. The regions will be made up of approximately the same number of voters. Therefore, if the principle of the bill, which is one vote, one value, is applied within the metropolitan region, the commission could decide to take that instruction in the new act in a way that it has not done before. It is dealing with a very different task from those in the past. I am attempting, by means of these amendments, to not undermine the principles I have just outlined. I want to overlay them with a further requirement. When the commission undertakes its task in the future, as it has many times in the past, it will take into consideration a further requirement: that the Legislative Council regions reflect in a flexible way the well-understood, natural geographic distinctions within the city. It should be done in a way that does not make the task impossible for the commission. When two different principles are applied, it could be almost unworkable. That is why they must be given flexibility. Nevertheless, it would be very sad if the application of the new principles led us into having metropolitan upper house regions that bear very little relation to the regions as we currently know them. I know that Hon Derrick Tomlinson and the Leader of the Opposition advocated that the regions should look very similar in the future to what they have been in the past. The point is that in applying the main principles of this bill, that could change quite dramatically. Therefore, I seek to ensure that they still bear some relation to the North, East and South Metropolitan Regions as we know them today.

Hon NORMAN MOORE: I am almost persuaded. That would put me at odds with my colleague Hon Derrick Tomlinson. I seek to achieve exactly what Hon Chrissy Sharp just said, which is that the regions in the metropolitan area should be more or less the same as they are today. The electoral commissioners were quite capable of determining that on their own in the past. However, I will try to persuade Hon Christine Sharp to continue with her amendment to delete “approximately the same number of” - when we reach it - because there should be the same number of districts within each region. I have been looking at this bill for too long. I was looking at Hon Christine Sharp’s amendment in the exact opposite light. Given that there can now be 14 Assembly seats in each region, we no longer need the word “approximately”. Because we are reducing the size of the North Metropolitan Region and increasing the size of the East and South Metropolitan Regions, the electoral commissioners may need to be given a direction on which way to go when making that change. The direction is outlined in the member’s amendment - that is, generally north of the Swan River, generally south of the Swan River and generally in the foothills and hills. I am persuaded to the view that I can live with Hon

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Christine Sharp's proposition provided she moves her other amendment, which is to delete "approximately the same number of".

Hon DERRICK TOMLINSON: I am sorry to stand again. However, perhaps I am just showing the sort of obstinate independence Hon Lynn MacLaren suggested members show. I can live with anything. As a matter of fact, I will live with anything. I will live with things that are intolerable in terms of the principles that I hold. I can live with this. I simply make the point that the more variables we require a decision maker to take into account in the decision-making process, the more complicated the decision becomes. Therefore, I prescribe to the proposition "Keep it simple, stupid", especially when the simple does exactly what the additional words intend. I think we will end up with an act that will contain words such as "In making the division of the state into regions, the commissioners shall give due consideration to community of interest, means of communication and distance, physical features, existing boundaries of regions and districts and existing local government boundaries". If that form of words were included in the bill - I am very confident a form of words very similar to that will be in the bill - it would become an interesting decision if the new regional boundaries of the metropolitan region strayed far from the notion of north and south of the river and an eastern region on a north-south configuration, simply because of the prescription that I anticipate will be in the act. Certainly, that form of words is in the current legislation and there is a similar form of words in the bill.

Hon Dee Margetts: They are going to be changing anyway.

Hon DERRICK TOMLINSON: Yes, I know that they will be changed. They will be changed to follow the principle of equality. The argument is three times 14. All of those variables are already included in the bill and will be in the act. Why confuse the situation with a set of variables which, in themselves, are confusing and which have a qualifier that they are discretionary? The variables in the bill and in the existing act are sufficient to guide the commissioners. Do not confuse the situation with variables that, in themselves, are confusing.

Hon PETER FOSS: I am not sure that the commissioners will have an awful lot of discretion. Hon Derrick Tomlinson and I have been members for the East Metropolitan Region for 16 years, and the distinct trend during that time has been for the boundaries to move increasingly west. The major population increases have been in the coastal area of Perth. I am not telling secrets known only to members of the East Metropolitan Region. To a large extent, the population growth has been in the North Metropolitan Region. That has worked out pretty well to some extent because the North Metropolitan Region has seven members, and the South and East Metropolitan Regions have five members each. The only aspect I find strange is that, generally speaking, the western boundary is the freeway, apart from a cookie bite in the middle at Perth. When I first became a member for the East Metropolitan Region, I lived within 100 metres of my electorate. The cookie bite has been getting bigger, and I have been getting further out of the electorate. I have not moved - it has. I thought I would be swamped by my electorate.

Hon Dee Margetts: Your electorate is running away from you!

Hon PETER FOSS: That is only the middle bit. Maybe they want to leave me undisturbed by constituents when I am at home. We will never know. If the north and south boundaries are kept at the river, and the region is to keep extending, it must be taken out some way. I imagine that by the application of the six-six-six model, some changes will be necessary. I suspect the only option is to extend the regions south to take in Mandurah and Dawesville. It is the obvious thing to do. The most obvious extension is not north, and there is no point extending further east, as the region is already halfway to Northam and York. Some of the East Metropolitan Region could even be left out. We have not only semirural, but completely rural areas as well.

Hon Paddy Embry: You could be running sheep.

Hon PETER FOSS: We do! We have sheep and everything in our electorate. The eastern boundary of the East Metropolitan Region could sensibly come further west. As a matter of demographics, the North Metropolitan Region will probably extend south and shrink in from the east. I do not think it will move any further north as there is no room to move.

The CHAIRMAN: The member will speak towards the Chair so he can be heard.

Hon PETER FOSS: I will, Mr Chairman. The region will not go north, but will definitely extend south and probably shrink in from the east. That being the case, the logical division between north and south is the river. That may be the reason for including the central metropolitan region. This will get away from the natural division. One then will have a central region running on either side of the river. I do not know whether it would be a clever idea as it would be a pain for anyone representing the central region, since most of the region would

Extract from *Hansard*
[COUNCIL - Thursday, 5 May 2005]
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Hon Dr Chrissy Sharp; Chairman; Hon Norman Moore; Hon Derrick Tomlinson; Hon Simon O'Brien; Hon Sue Ellery; Hon Peter Foss; Hon Kim Chance; Deputy Chairman; Hon Bruce Donaldson; Hon Bill Stretch; Hon Norman Moore;; Hon Murray Criddle; Hon John Fischer; Hon Robin Chapple; Hon Ray Halligan; Hon Alan Cadby; Deputy President

be a big hole in the middle - the Swan River. That would be inconvenient for members who represent it, I suspect.

Hon Derrick Tomlinson: You could ride the ferry.

Hon PETER FOSS: Yes. A central metropolitan region is not a very sensible idea, especially if we took the parliamentary secretary's definition of the Swan River - that is, it would not even be in Western Australia. The idea of east, south and north regions is a good one. I do not think words will make much difference as the commissioners will not have much option. If an attempt is to be made to take numbers into account, there will be no alternative but to push the South Metropolitan Region south and take the western boundary of the East Metropolitan Region further west.

Hon Derrick Tomlinson interjected.

Hon PETER FOSS: They are not bound by that, though. What will that do to the East Metropolitan Region? The unfortunate thing about that region is that it is rather large by comparison with the other regions. It is as long as the North and South Metropolitan Regions together, and is about twice their width. Even though it is a metropolitan region, it is actually quite large. If the truly rural part of that region were removed, it would probably become a slightly more manageable size. It might therefore be more practical in terms of representation. I suspect that practical considerations of how a region is stitched together will completely overrule any other words that we might want to include. I do not see much alternative.

There is one interesting fact about all this. I think that at long last, to get enough electors for the six members of that region, my house will finally come into the East Metropolitan Region. What a strange thing that will be! The moment I leave, my region will finally catch up with me.

Hon Ed Dermer: Are they trying to tell you something, Peter?

Hon PETER FOSS: Is there a connection? If I had a paranoid personality, I might think that there was. I am not a paranoid person. I understand the logic behind the reckoning of the -

The CHAIRMAN: Order, members! There are five separate conversations going on. I am not sure whether the five conversations are on my left or on my right, but Hansard is trying to record what is being said.

Hon PETER FOSS: My apologies, Mr Chairman.

The CHAIRMAN: It is not Hon Peter Foss, but every time he turns away it is somewhat difficult to hear his voice.

Hon PETER FOSS: I am not being very riveting; I will try to be, to stop the conversations.

Hon Kim Chance: I would actually like to take a break for a while.

Hon PETER FOSS: Yes; I have nearly finished.

It seems to me that, to some extent, these words will not make a big difference. In the end, people and reality must be dealt with. I suspect that reality will overcome all these ideas. The one difference that is important is the removal of the word "Central" and its replacement with "East".

Hon Norman Moore: That will happen anyway.

Hon PETER FOSS: I know; I agree. That is the significant difference. If "Central" remained, we would have ended up with a band that went right the way through on both sides of the river. Frankly, that would not have been a clever idea. Now that we have made the change to those names, the rest of the words are superfluous.

Hon KIM CHANCE: Mr Chairman, I ask that you leave the house until the ringing of the bells to allow some planning to be done.

The CHAIRMAN: I will leave the chair rather than the house.

Hon KIM CHANCE: You can leave the house as well.

The CHAIRMAN: The Leader of the House has invited me to take a particular course of action. If that suits the committee, I shall leave the chair until the ringing of the bells.

Sitting suspended from 5.48 to 7.30 pm

Hon NORMAN MOORE: The opposition will support Hon Christine Sharp's amendment on this occasion and the amendment dealing with the North Metropolitan Region. Therefore, we can stop arguing about that.

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Amendment put and passed.

The DEPUTY CHAIRMAN (Hon Kate Doust): I inform members that we cannot deal with Hon Christine Sharp's second amendment at 17/4. Before we deal with Hon Norman Moore's amendment 19/4, we will now deal with his amendment that has been circulated to members on a separate piece of paper.

Hon NORMAN MOORE: I move -

Page 10, line 2 - To insert after the word "of" the figure "5".

I am moving this amendment because members are aware that the committee decided to delete proposed subsection (3) of proposed section 16H and replace it with the dummy voting scenario that has been created by the people who work out those sorts of things. Proposed subsection (3)(a) states -

the Commissioners shall ensure that the region known as the Mining and Pastoral Region consists of 5 complete and contiguous districts;

That proposed subsection has now been removed. That means that there is now nothing in the bill to reflect the commitment made by the government at the last election that there will be five seats in the Mining and Pastoral Region. Therefore, what I am seeking to do under proposed section 16I(1)(b) is insert the numeral "5" so that it reads -

one region, to be known as the Mining and Pastoral Region, consists of 5 complete and contiguous districts that together form an area that is remote from Perth and in which the land use is primarily for mining and pastoral purposes;

That proposition will meet the commitment made by the Premier during the election campaign, and it is one that should be supported by the government. I suspect I will be told that the formula that was created to meet the requirement to deliver five seats in the Mining and Pastoral Region is all we need; we do not need a specific reference to the number five. However, all it says is that, for the time being, the formula delivers five. There is no guarantee that beyond this first redistribution it will remain as five. The only way that we can guarantee that in the future there will be five electorates in the Mining and Pastoral Region, and meet the guarantee given by the Premier, is if we insert the numeral "5". I have therefore moved the amendment to include the numeral "5", and I look forward to being advised by the government that it will maintain the commitment of the Premier by supporting the amendment.

Hon SUE ELLERY: The government will not be supporting the amendment. When the committee considered proposed section 16H, we carried an amendment - I think it was in the name of Hon Chrissy Sharp - to insert the large-district allowance. The formula within that amendment was agreed between the Greens and the government. It will ensure that we will meet the commitment that was given by the Premier during the election campaign. In a broader sense, it will also meet our commitment to the Greens and move the bill forward. We do not believe the amendment is necessary. We certainly do not accept that by not agreeing to this amendment we have in any way breached the commitment that the Premier gave during the election campaign.

Hon NORMAN MOORE: Can the parliamentary secretary give me an absolute assurance that into the future, five seats will be maintained in the Mining and Pastoral Region?

Hon SUE ELLERY: Subject to the enrolment in that region, the formula will deliver five seats.

Hon NORMAN MOORE: Here we have it! This is the first major broken promise of the Gallop government since its election. The government cannot give a guarantee because it does not know what the numbers will be in that region in the future. The government's formula will mean, in my judgment, that because the number of people living in the rest of Western Australia is growing quicker than the number of people in the Mining and Pastoral Region, it will not be very long before there are four seats, and not very long after that there will be three seats. Let me tell the Leader of the House what his leader said at the last election, and about the breach that he is about to be engaged in. A press release from the Premier, headed "Mining and Pastoral Seats Safe Under Gallop Government", states -

A re-elected Gallop Government has committed to maintaining the five current Legislative Assembly seats in the Mining and Pastoral Region.

Does it say "committed to keeping them until the next redistribution"? It does not say that at all. The press release goes on to state -

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“Our policy will see a guaranteed retention of existing representation rather than a continuous leeching of representation to the fast growing south west of the state.

The parliamentary secretary’s answer was: subject to the numbers in the Mining and Pastoral Region, under this formula it will have five seats. She knows as well as I do that the outcome of her amendment to the legislation to put in the dummy voting provision means that the same thing that happens now will happen in the future, because the formula will mean - just as the formula now means - that as the population of that area diminishes compared with that in the rest of the state, it will start losing seats. However, this press release does not state, “We will maintain it for four years.” It does not state, “We will maintain it for as long as the numbers stay there.” What does it state? It states that the government’s policy will mean a guaranteed retention of existing representation rather than a continuous leeching of representation to the fast growing south west of the state. The government’s bill, on the basis of the amendments it has made and its refusal to agree to my amendment, means that it is committing us to the same scenario that applies at present, and that in the future there will be no guarantee of five seats in the Mining and Pastoral Region.

I want the parliamentary secretary to tell me why she will not vote for my amendment, because my amendment satisfies the commitment made by her Premier. If she does not agree to the amendment I have moved, she will be reneging on the solemn promise made to the people in Kalgoorlie by the Premier during the election campaign. The press release states that the government has committed to maintaining the five current Legislative Assembly seats in the Mining and Pastoral Region. Had the Premier added “until the next redistribution” or “until the numbers drop below a certain amount”, what the government is doing tonight would be legitimate in the context of his commitment; however, he did not say that. The other part of the press release I read out states that it will see a guaranteed retention. I asked the parliamentary secretary to give me a guarantee and she would not. I wish the Premier was here tonight, and I wish the people of Kalgoorlie were here tonight to witness this. The Premier of Western Australia has made a commitment to the people of the Mining and Pastoral Region and at the very first opportunity he has reneged on it. I hope that the Greens have more enthusiasm for the Premier’s commitment than he has and that they might support the proposition I have put forward. I am saying to them that we should include in the bill, which will become an act, the provision that there be five seats in the Mining and Pastoral Region, because that is what the Premier said would happen. Here is an opportunity for the Greens to stand the government up as being liars.

Hon Ljiljanna Ravlich: I do not think that is very parliamentary.

Hon NORMAN MOORE: It is about the softest language I can think of to use about this matter, and I can think of a lot of words far more aggressive than that. The Premier will have told a lie to the people of Western Australia at the last election if the government does not agree to my amendment. It is not the only lie he told, but it is one that has been exposed tonight. I will give the parliamentary secretary a moment to contemplate what the Premier said. In fact, I will give her a copy of the press release if someone can make a copy for me, as I will need to keep a copy myself. She can also read the rest of it, as it also says things such as that the government will keep Kalgoorlie, Murchison-Eyre, North West Coastal, Central Kimberley-Pilbara and Kimberley. However, the maps that have been trotted out do not have those names on them at all. There is no doubt in my mind that this was one of those things that the Labor Party does during an election campaign to get itself over a bit of a hump and then thinks people will forget about it. I can tell members now that people will not forget about this, unless the parliamentary secretary can give me a guarantee that no matter what happens to the numbers in that electorate, it will retain five seats based on the existing system.

As the Premier said -

It is important that people who live in these regions are properly represented so that their unique needs are met by government . . .

We think this commitment gets the balance right between equal voting rights for all Western Australians and proper representation for people in rural and remote areas.

Full stop, end of press release. It does not say anywhere in that press release that it is “for the time being”. We all know why it does not say that. It is because that sort of commitment counts for nothing, so the Labor Party went on telling a great big fat fib on the basis that it would renege on it the moment it got a chance. Here we are about two months after the election and the Premier has broken a promise already, or the parliamentary secretary is doing it on his behalf. I presume the Premier supports what the parliamentary secretary is doing.

Hon Barbara Scott: A fibber.

Hon NORMAN MOORE: More than a fibber, a blatant liar.

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I want the parliamentary secretary to tell me, now that she has seen a copy of the Premier's press release, how her refusal to give me a guarantee that there will be five seats somehow meets the commitment made by the Premier during the election.

Hon SUE ELLERY: I have already indicated that the formula we debated last night and inserted in the bill will deliver five seats to the region that we are talking about. In fact, depending on what happens to the population, it could deliver six.

Hon Norman Moore: You know it won't.

Hon SUE ELLERY: There has been no renegeing on the commitment. We have met the commitment. We have inserted a formula in the bill that will deliver five seats.

Hon NORMAN MOORE: I must say that I am getting very, very angry about this, seriously angry. The Premier said in his press release that the Liberal Party would get rid of one of the seats; that the seat was going to be leached, as he called it, to the south west. Why was it going to be leached to the south west? It is because that is what the current law says. The current law says that if there are not enough voters for the required number of seats, the seats must shift. The projections for the Mining and Pastoral Region are exactly as the Premier said in his press release: the numbers in the south west are growing more quickly than in the north west, so that the seats will move from the north west to the south west if the government does not change the legislation. However, we are now changing the legislation in a way that will give us an identical outcome. The parliamentary secretary knows that. She said that there might be six. Is she suggesting that somehow the population of the north west will grow quicker than that of the south west?

Hon Kim Chance: It might. How do you know it won't?

Hon NORMAN MOORE: The Premier said that it would not. Is that another lie?

Hon Kim Chance: You are using this word "liar" very freely.

Hon NORMAN MOORE: I will use it as often as I need to.

Hon Kim Chance: I am not making a point of order, but I believe it is unacceptable.

Hon NORMAN MOORE: The Leader of the House can do something about it, if he wants to. Can he get up and tell me that this statement made by the Premier that he will guarantee - that does not mean guarantee for the next five minutes; there is no time limit - retention of the existing representation, rather than a continuous leaching of the representation to the fast-growing south west of the state, is true? That is what he said in his press release.

Hon Kim Chance: Do you want to commit the state to locking in five seats for all time, regardless of its numbers? What happens if it is entitled to six, if the legislation limits it to five?

Hon NORMAN MOORE: I did not say that it would get five seats, did I?

Hon Kim Chance: You are trying to lock the state into five by your amendment. The statement clearly contemplates the present tense. You are trying to lock the state in for all time to five, even though it might be entitled to six.

Hon NORMAN MOORE: I will tell the Leader of the House what I will do. I will amend my amendment to satisfy his proposition. What if I alter it to read "consists of at least 5 complete and contiguous seats". Would that be suitable?

Hon Kim Chance: I will not support that, but it would be better than what you are proposing.

Hon NORMAN MOORE: I thank the Leader of the House. He has solved the problem, because, as he and the parliamentary secretary have both said, there might be six seats.

Hon Kim Chance: What happens if there are only enough numbers for one?

Hon NORMAN MOORE: That is the government's problem, because of what the Premier said.

Hon Kim Chance: I do not think it is; you are misreading what the Premier said.

Hon NORMAN MOORE: Absolute tripe! Would the Leader of the House like a copy of the media release?

Hon Kim Chance: Where does it say, in that media statement, that we will keep five seats in the Mining and Pastoral Region for all time, regardless of whether or not anyone lives there? Where does it say that, because that is what you are implying?

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Hon NORMAN MOORE: It does not say that, and it also does not say that the government will guarantee five seats until it brings in legislation that might give four, or six, or 59. There is no time limit attached to this guarantee, of any description at all. When there is no time limit, it is assumed that it is forever, because if he wants to make a guarantee for four years or five years or three years, that is what he would have said. The Premier's words are that government policy will see a guaranteed retention of existing representation rather than a continuous leaching of representation to the fast-growing south west of the state.

Hon Kim Chance: That is what it does.

Hon NORMAN MOORE: This legislation says that, for the time being, based on the formula, and assuming the formula is right, there are five seats for now.

Hon Kim Chance: That honours the promise.

Hon NORMAN MOORE: The government's formula may very well create a scenario at the next redistribution in which there will be only four seats. That is no guarantee of five. Let us get serious about this. I seek leave to make an alteration in my amendment to add the words "at least" before the numeral "5", so that the amendment reads -

Page 10, line 2 - To insert before "5" the words "at least".

Amendment, by leave, altered.

Hon NORMAN MOORE: That covers the problem raised by the Leader of the House, who argues that those people should not be disadvantaged if they are entitled to six seats. However, he, the parliamentary secretary and I all know that the number will not go up; it will go down.

Hon Kim Chance: You do not know that.

Hon NORMAN MOORE: That has been the history of the north west for a very long time. Last time there was a redistribution, a seat was taken away. The number of seats went from six to five. The Premier in his press release foreshadowed that there would be fewer. Why would he give a commitment to five seats if he thought that five would remain. If he thought that they would not be leached to the south west, why would he make the commitment?

Hon Kim Chance: He foreshadowed that there would be leaching under the current electoral laws.

Hon NORMAN MOORE: I know, and why does that happen?

Hon Kim Chance: We have introduced the large-district allowance, which does prevent that leaching - the large-district allowance which you do not seem to like. I cannot work that one out.

The DEPUTY CHAIRMAN (Hon Kate Doust): Hon Norman Moore has the floor. Let him complete what he wants to say. If members want to make a contribution, they can seek the call.

Hon NORMAN MOORE: The Premier made his commitment on the basis of the Labor Party policy of one vote, one value, which did not contain at that time anything to do with dummy votes. He went to Kalgoorlie and he said -

A re-elected Gallop Government has committed to maintaining the five current Legislative Assembly seats in the Mining and Pastoral Region.

I read that and everybody in the goldfields read it as meaning that what we have now we will keep. The government has not done that. Firstly, it has changed the names. They might be changed back again, but I do not know. Secondly, the government has put in place a formula that can change that commitment. It might not, but in my view it will. I am giving the Leader of the House an opportunity to enshrine in this bill, and the act as it will be, the Premier's commitment. All the Leader of the House has to do is insert the figure "5", so that what the bill will then state is -

... the region known as the Mining and Pastoral Region consists of 5 complete and contiguous districts;

That could be said in the way that the Premier said -

A re-elected Gallop Government has committed to maintaining the five current Legislative Assembly seats in the Mining and Pastoral Region.

It is the same thing; it is no different. Why did the Labor Party find it so easy to put that statement out during the election campaign and so hard to put it into the bill? What is the problem? If the government reckons that the numbers will increase, what is the problem? My additional words at least cover the scenario that the Leader of

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the House has raised when my original wording might have disadvantaged those people. We have fixed that up, and I thank the Leader of the House for drawing it to my attention.

Hon Kim Chance: I always try to help.

Hon NORMAN MOORE: It is very kind of the Leader of the House and it is very helpful. That covers that problem by which we might disadvantage them in the future. All I am asking the Leader of the House to do is put into this bill what the Premier said would happen. Why did he say it in Kalgoorlie? He did not have to. Nobody said that Dr Gallop must go to Kalgoorlie and give a commitment. He made the decision himself, with a bit of help from his friends; namely, the member for Murchison-Eyre, probably the Kalgoorlie candidate, probably the Independent candidate for North West Coastal and probably the Labor Party candidate for North West Coastal, namely the Speaker. All those members were under pressure because of one vote, one value. They all gave him a bit of a hand. All the Premier had to say was that the government would leave the Mining and Pastoral Region as it is. He did it and everybody thanked him for it. Even the *Kalgoorlie Miner* ran a front page with the headline that it was a dead issue. It said that one vote, one value was dead. Everybody heard it on the radio and read it in the newspaper. They said that it was a dead duck and thanked Dr Gallop very much. They said, "Thank you very much, Geoff. It is always good to have good news Gallop come to Kalgoorlie and give us good news. You have taken away this threat to our representation and we appreciate it, Geoff." Some people probably voted for him because of it.

Hon Paddy Embry: The member for Kalgoorlie told him the same thing.

Hon NORMAN MOORE: Yes, but it was a flying visit.

Hon John Fischer: He was not misreported.

Hon NORMAN MOORE: He travelled back and forth in a day, "Good News" Geoff - all over, red rover. These are his words, not mine and not those of the *Kalgoorlie Miner* or the ABC.

Hon Kim Chance: I accept that.

Hon NORMAN MOORE: He told people to contact Guy Houston. Perhaps I should telephone Guy Houston and ask him whether it is a mistake. Is it what he said or not? I will read it again loud and clear, because I want it to sink in -

A re-elected Gallop Government has committed -

"Committed", not just thinking about or might but it has committed -

to maintaining five current Legislative Assembly seats in the Mining and Pastoral Region.

Hon Kim Chance: That is exactly what we have done. It does not say "maintaining for all time, regardless of population shift". You are reading something into it which is not there. It says "maintain" which is what we have done.

Several members interjected.

The DEPUTY CHAIRMAN (Hon Kate Doust): Order!

Hon NORMAN MOORE: The Leader of the House can argue this until the cows come home. If he looks in the mirror and tries to argue that to himself, he will go red.

Hon Kim Chance: Your argument will cause you to blush, because you are not telling the truth.

Hon NORMAN MOORE: Is the Leader of the House calling me a liar?

Hon Kim Chance: You are putting a construct on it.

Hon NORMAN MOORE: Is the Leader of the House telling me I am a liar?

Hon Kim Chance: I said that you are not telling the truth.

Hon NORMAN MOORE: It is the same thing. I keep quoting the Premier.

Hon Kim Chance: You are making an honest mistake. You are simply reading into the Premier's words an intent that is not there.

Hon NORMAN MOORE: What sort of conclusion should anyone reading this press release reach? Should they reach the conclusion it is a commitment? It says that it is a guaranteed retention. Most guarantees have a date - a 10-year or 12-year guarantee.

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Hon John Fischer: You cannot trust the Premier.

Hon Kim Chance: We have honoured the guarantee. How can you say anything else? Five means five and we have done it.

The DEPUTY CHAIRMAN: Order! Hon Norman Moore has the floor. I ask members to let him make his contribution. If anyone else wants to make a contribution, they can do so when he resumes his seat.

Hon NORMAN MOORE: When one buys a washing machine, the paperwork says that it is guaranteed for five years, or something else is guaranteed for five minutes, and one pays accordingly. If there is no time limit on the guarantee, it is open ended. That is the guarantee. There is no time limit given on this; that means there is no time limit. If the Premier had meant that this particular guarantee will last until the new formula the Greens have concocted will take away one of the Labor seats, he should have put it in the press release so that people knew when the guarantee expired. Words escape me when I hear the Leader of the House trying to defend the indefensible. The government made a commitment, and it can abide by that commitment by agreeing to my amendment.

I thank the Leader of the House for giving me the suggestion to include these two words. It will mean that should there be a massive growth in population that is against all the laws of nature and every prediction under the sun and the area needs more than five seats, people will not be disadvantaged - they will be covered.

Again I suggest to the parliamentary secretary that she think long and hard about her role in breaking a fundamental promise made by the Labor leader during the election campaign.

Hon Sue Ellery: I have not broken anything and neither has the Premier.

Hon NORMAN MOORE: He has and everyone here knows that.

Hon Kim Chance: A handful on your side do; the other people on your side are blushing with embarrassment. Several members interjected.

The DEPUTY CHAIRMAN: Order! Hon Norman Moore might address his comments to me and not encourage other people to participate in the debate.

Hon Barry House: They have all been to the Carmen Lawrence school of truth.

Hon NORMAN MOORE: They are all graduates of that.

One of the things that really distresses me about this sort of stuff is it proves conclusively that Dr Gallop, who told us a long time ago he is something quite special, is nothing more than a grubby politician who is prepared during an election campaign to make a statement like this knowing full well that people will read it and then to change it the very first moment he has after the election to do so. That is what it is all about. It is a grubby sleight-of-hand trick. He misled the people of the Mining and Pastoral Region, and they know and he knows that at the redistribution after next, they will lose a seat if members opposite do not agree to this amendment. The government did not wear it at the last election, but after a redistribution at which a seat goes, and a subsequent one at which another seat goes, they will know conclusively that the Premier was a liar on 11 February 2005. That is a very compelling reason the government and the Greens (WA) should support my amendment.

I hope the parliamentary secretary will tell me how long the guarantee will last for. Is it an open-ended guarantee, as I have read it, or is there a time limit?

Hon Sue Ellery: We have met the commitment we made.

Hon NORMAN MOORE: Stand and speak on behalf of the government and tell me how long the guarantee will last.

Hon Sue Ellery: I have already provided an answer.

Hon NORMAN MOORE: It is a pathetic answer.

Hon Graham Giffard: You just do not like it, that's all.

Hon NORMAN MOORE: That is because Hon Graham Giffard is not telling the truth. Tell me how long the guarantee will last. He is a typical bloody union heavyweight - or should I say lightweight? He has got used to telling everyone what they are supposed to hear. I apologise for calling the member a heavyweight - I meant lightweight. He knows where he comes from; they all know where they come from. They are used to this sort of stuff. They trot it out for their own advantage at the time and renege on it when it suits them.

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It is to the advantage of the Labor Party for there to be five seats in the Mining and Pastoral Region. That is why Geoff told everyone they would get that. That is why the government has slipped in the slimy little amendment to the original bill to make sure that the boundaries were not in the places they are now. The government had reneged on the guarantee. Prior to the amendments moved by the Greens, the bill did not require the boundaries to be drawn where they are now. It was left to the Electoral Commission. In fact, a clause was put in deliberately to say that it could not operate on a 10 per cent plus or minus variation of the quotient. That was a slimy move designed to breach the Premier's commitment - made twice in one press release, for crying out loud! Imagine if we looked at all the government's press releases and read them carefully to try to find some truth in any them. The government promised it would keep what was there now but it is not doing that. It is not delivering what it promised at all. I have argued that the government has broken its promise about the five seats because they may become four.

Let us now look at the other part of the equation - to maintain the five current seats. Will the parliamentary secretary tell me whether the funny formula she has created with the Greens will deliver five seats that are the same as the current Assembly seats in the Mining and Pastoral Region?

Hon SUE ELLERY: The formula will guarantee five electorates in the Mining and Pastoral Region. The commissioners, as the Leader of the Opposition is well aware, may make some changes to the boundaries of those five electorates and may decide to change the names of those five electorates. The guarantee was that five electorates would be maintained within the Mining and Pastoral Region, and that is what the formula will deliver.

Hon NORMAN MOORE: I just cannot believe this. It virtually ignores the words of their Premier. Does the parliamentary secretary want me to read it again? The press release states -

A re-elected Gallop Government has committed to maintaining the five current Legislative Assembly seats in the Mining and Pastoral Region.

The five current seats are the five seats that are currently there. It continues -

“Our policy will see a guaranteed retention of existing representation . . .

The five electorates . . . that will be maintained are:

- Kimberley
- Central Kimberley-Pilbara
- North West Coastal
- Kalgoorlie
- Murchison-Eyre

Hon Sue Ellery: Do you think they wanted those five names or did they want five seats in the Mining and Pastoral Region?

Hon NORMAN MOORE: The parliamentary secretary is not even being clever. People who live in those electorates know what their electorate is. They would read this press release, or the coverage of it, and realise that they live in the Kimberley and that Dr Gallop will keep the Kimberley as it is because he will maintain the five current seats. A person might live in Kalgoorlie and he would think that Dr Gallop was going to keep Kalgoorlie as it is, which is what the press said and what everybody believed. If the government had no intention of saying that, it should have said something else. It should have said that Dr Gallop has committed to maintaining five Legislative Assembly seats in the Mining and Pastoral Region, but they may not be the same ones that exist now, they may not contain the same number of electors and they may not be retained beyond the next redistribution. I have said enough on this point. There is no question in anyone's mind that a major election promise has been broken as quickly as it could be broken; that is, the Premier has broken it at his first opportunity tonight.

Amendment put and a division called with the following result -

Extract from *Hansard*
[COUNCIL - Thursday, 5 May 2005]
p1346c-1383a

Hon Dr Chrissy Sharp; Chairman; Hon Norman Moore; Hon Derrick Tomlinson; Hon Simon O'Brien; Hon Sue Ellery; Hon Peter Foss; Hon Kim Chance; Deputy Chairman; Hon Bruce Donaldson; Hon Bill Stretch; Hon Norman Moore; Hon Murray Criddle; Hon John Fischer; Hon Robin Chapple; Hon Ray Halligan; Hon Alan Cadby; Deputy President

Ayes (13)

Hon George Cash (<i>Teller</i>)	Hon Peter Foss	Hon Simon O'Brien	Hon Bruce Donaldson
Hon Murray Criddle	Hon Ray Halligan	Hon Barbara Scott	
Hon Paddy Embry	Hon Barry House	Hon Bill Stretch	
Hon John Fischer	Hon Norman Moore	Hon Derrick Tomlinson	

Noes (17)

Hon Alan Cadby	Hon Adele Farina	Hon Lynn MacLaren	Hon Giz Watson
Hon Kim Chance	Hon Jon Ford	Hon Dee Margetts	Hon Ed Dermer (<i>Teller</i>)
Hon Robin Chapple	Hon Graham Giffard	Hon Louise Pratt	
Hon Kate Doust	Hon Nick Griffiths	Hon Ljiljanna Ravlich	
Hon Sue Ellery	Hon Kevin Leahy	Hon Christine Sharp	

Pair

Hon Robyn McSweeney

Hon Ken Travers

Amendment, as altered, thus negatived.

Hon CHRISTINE SHARP: Amendment 19/4 standing in my name involves the deletion of “the remaining” and the insertion of “one”. This refers to the definition of the South West Region. The idea is that the south west is not something that is prescribed as left over from everywhere else, but is its own place. What is the place? A subsequent amendment relates to a definition. Do you want me to move both amendments together, Madam Deputy Chair?

The DEPUTY CHAIRMAN (Hon Kate Doust): If the committee is happy to deal with them in that way, that is acceptable.

Hon CHRISTINE SHARP: I move -

Page 10, line 13 - To delete “the remaining” and insert instead “one”.

Page 10, line 14 - To insert after “Region” -

(being a region that includes coastal and forest areas in the south-west of the State)

I draw your attention, Madam Deputy Chair, to the typographical error in the supplementary notice paper. An end bracket is required at the end of the words in the second amendment.

The DEPUTY CHAIRMAN: We note that.

Hon CHRISTINE SHARP: This completes a series of amendments that we have been debating today to provide greater geographic reference in the definition of the Legislative Council regions. In this case, the amendments relate to the South West Region. In particular, I was concerned that the South West Region should not be described simply as that which is nowhere else, having removed the metropolitan regions, then the Mining and Pastoral Region and then the Agricultural Region. It is not satisfactory to describe the South West Region as that which is left over, as it is a very important part of Western Australia.

I consulted the Electoral Commission officers on these amendments. The advice I received on the application of this definition was thoughtful and generous. The definition is sufficiently broad to allow the Electoral Distribution Commissioners to do the division in a way that is workable for them, but nevertheless points to the inherent characteristics of the south west, which are very important to that area's regional identity. Interestingly, and it has been referred to several times in this debate, when the commissioners sought to remove the town of Bridgetown from the South West Region during the last division, there was a great outcry in that town because Bridgetown very clearly identified itself as being in the south west. If the commission decided under some future division that it would seek to remove the town of Denmark by moving the district of Stirling into the Agricultural Region, it would find that people in that area would similarly bitterly complain against that division.

I am sure that all members will have noticed that this definition contains the word “forest”. Its definition is quite technical. It is not defined as tree cover per se, because one of the amazing things about our flora is that perennial vegetation grows throughout the state. The definition of forest can mean an area of tall trees where the

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canopy joins. The description of the south west as including forest areas alludes in a general sense to the boundary where the jarrah forest changes into the wandoo country. Wandoo is technically a woodland; it is not a forest because in that wandoo vegetation association the canopy is not closed.

Hon Paddy Embry interjected.

Hon CHRISTINE SHARP: Forest is a technical term.

Hon Paddy Embry interjected.

Hon CHRISTINE SHARP: No, this is not state forest, otherwise I would have said it was state forest. This is defined as forest because where the vegetation grows, the trees are tall and the canopy is closed. It has a clear botanic definition. I hope that the committee will support this amendment, as it supported our earlier amendments. That would ensure that under this scheme the South West Region is not considered the rump or the remainder, but is characterised by its coast and its magnificent forests.

Hon NORMAN MOORE: It is overwhelming when Hon Chrissy Sharp talks about the south west and how it could not possibly be referred to as the remaining region or the last thing to be thought of. I agree with her. I am sure that when her constituents read what the member said tonight about how important the region is and how it should be called one region instead of "the remaining region", they will be as overwhelmed as I was with the member's enthusiasm for the region. However, I am sure that when they read she voted to take away four members of Parliament from the region, they will be absolutely underwhelmed by her comments.

The member just made a very good case for why the region should elect more members of Parliament rather than take away the four existing members. Hon Christine Sharp's lovely words sound very good and we can all get a bit choked up about the forest and the coast and how important the south west is, but she cannot say those words and take away the region's representation. The member wants to take away from the region four members of Parliament; that is, one upper house member and three lower house members. They will not forget her. The one thing about Hon Christine Sharp's political career is that she will not be forgotten quickly.

Hon Ljiljanna Ravlich: You will be.

Hon NORMAN MOORE: I certainly hope so. There is one thing about the future of the Minister for Education and Training that I will not mention right now. We can worry about that when it happens.

I am happy to go along with the member's proposal. I want the parliamentary secretary to confirm that the amendment, which states, in part, "being a region that includes coastal and forest areas in the south-west", does not mean that every forest must be in the south west, but can mean forests elsewhere. Does it simply mean it must include some forest and some coast? I think it is quite superfluous, but if it makes the member feel better, I am happy to vote for it.

Hon BRUCE DONALDSON: This is becoming a humorous half hour. I have heard everything now. First we have been delivered imaginary voters. We do not know how members opposite worked out their numbers. We do not know whether the sheep and cattle in the Mining and Pastoral Region are counted as voters. The debate then moved to the south west, and what have we heard? We have heard about the forest canopies and woodlands. Will this be part and parcel of a new electoral system? The Greens (WA) are not concerned with the electors. They are more concerned about the land and the trees that grow on it. I wonder whether the Greens will be counting their friends - the ones with the dreadlocks who prance around and pee in the forests? I wonder whether the Greens will be counting the rent a crowd - the great unwashed?

Hon Ljiljanna Ravlich: You have not been spying, have you?

Hon BRUCE DONALDSON: I just read about it in the newspapers. Now I have just about heard everything. I thought the people of Western Australia - the men, women and young people over the age of 18 who vote - were the ones who counted most of all. Now districts will be set up based on land and trees. I am disappointed that we did not include in the Agricultural Region not only land used primarily for agricultural purposes but also the fishing industry. What about the fish? Are we not entitled to count them? That would be just as stupid as what we have just heard from Hon Chrissy Sharp. I had hoped we would have a meaningful and mature debate. It is turning into a kids' comedy hour. If we do what has been suggested by Hon Chrissy Sharp, the Electoral Distribution Commissioners will have to go tearing around the forest to find out whether the canopies of the trees in the forest touch each other or whether it is a woodland! There will be a percentage of woodland and a percentage of forest, but do not worry about how many people are there! So long as we get the equation on the land use right, do not worry about the people! I thought this was about people who walk to a polling booth and

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vote. I do not know how the trees and the woodland, or the cattle and sheep in the north west, are going to march into a polling booth and vote.

Hon Dee Margetts: You wanted the number of people to be discounted! You are all over the place. You are inconsistent.

Hon BRUCE DONALDSON: Excuse me! I am not discounting the people. I am saying the Greens are. The most important thing in those districts is not the trees and the woodland, but the people. Obviously it must take about four days to get over the hallucinations! Perhaps it is the magic mushrooms! Perhaps they found out where Hon Tom Stephens found the magic mushrooms! They prance around the forest and hug trees and play ring a ring a rosey and have magic mushrooms for tea! It takes them about four days to get it out of their system. Perhaps when Hon Chrissy Sharp comes back tomorrow she will be in a better frame of mind to talk a bit of sense and stop pandering to the people who support her - which is a handful of greens, and getting fewer and fewer.

Hon SUE ELLERY: The government supports the amendment. As I have said to Hon Norman Moore, I agree with him that this will not mean that every district that has a forest in it will need to be part of the South West Region. The deletion of the words "the remaining" and the insertion of the word "one" will make it consistent with the two paragraphs above it. The addition of some prescriptive words will also make it consistent with how we have described the Mining and Pastoral and Agricultural Regions .

Amendments put and passed.

Hon NORMAN MOORE: I move -

Page 10, line 19 - To delete "the relevant day" and insert instead "1 January 1987".

This provision of the bill relates to the definition of the "metropolitan area of Perth". Quite a significant change will be made. The existing law, the Electoral Distribution Act, defines the "metropolitan area of Perth" as the region described in the third schedule to the Metropolitan Region Town Planning Scheme Act 1959 as it was on 1 January 1987. That line is on a map and we all know where it is. That is the metropolitan area for the purposes of the Electoral Distribution Act and, because that definition in the Electoral Act will be replaced, that will be the metropolitan area boundary for the purposes of the Electoral Act. I am seeking to return to what we used to have, so that the line that was drawn on 1 January 1987, which I think is still the boundary of the metropolitan area, remains and that we do not create a situation in which any amendment to the third schedule to the Metropolitan Region Town Planning Scheme Act made by a government or Parliament in the future can affect the Electoral Act to the extent that the metropolitan area boundary is important in this legislation. It is probably not as important as it used to be, because we will now have this coextensive proposal that the government has put forward. I much prefer a situation in which a change to the metropolitan region boundary does not simply mean that it is changed in the context of the electoral laws and that any change to the metropolitan boundary for the purposes of the electoral laws should be part of any amendments to the electoral laws themselves. This amendment will mean that the relevant day will be the day the redistribution commences. Any time a government wants to change the Perth metropolitan boundary by changing the Metropolitan Region Town Planning Scheme Act 1959, it has the consequential effect of changing the boundary of the Perth metropolitan area. I would rather we had some certainty on that issue, and that certainty is contained in the Electoral Act so that it cannot simply be changed for other purposes. I seek the support of members to return the metropolitan area of Perth to that area as described in the third schedule to the Metropolitan Region Town Planning Scheme Act as it was as at 1 January 1987 when the legislation was first introduced.

Hon SIMON O'BRIEN: This is a very important point raised by Hon Norman Moore. By way of illustration, I point out that at the moment, the South Metropolitan Region has certain immoveable boundaries; namely, the Swan River for all intents and purposes in the north, the Indian Ocean in the west and the boundary of the metropolitan region, in the terms that we are dealing with now, in the south. In due course, if this legislation is passed, we will see a redistribution, and the South Metropolitan Region, which comprises 10 current districts of about 26 300 people, will instead have 14 districts of a shade under 22 000 people. Either way, it will expand somewhat. At the moment, one anticipates that it will expand simply to the east, and probably into the area that we now know as the district of Serpentine-Jarrahdale, which seems reasonable, and perhaps a little into Thornlie and Belmont. We do not know, but that is the sort of thing we would expect. We all know that there will be a ripple effect around the metropolitan area as the current North Metropolitan Region sheds some voters that are required by east metro and south metro.

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There is another possibility involving legislation that does not deal primarily with electoral matters; for example, the Metropolitan Region Town Planning Scheme Act 1959. It may be convenient for a government in the near future or the longer term, for town planning purposes and all the other things that go with it, under that act to extend the metropolitan area to Mandurah and its surrounds, or perhaps even further down the coast. A very good option in the immediate or near future may be to contemplate officially extending the metropolitan area to encompass all of Mandurah and its hinterland for the purposes of the metropolitan region scheme. That would have a pretty major impact on the electoral laws. The development of an area of government in one area would have a massive effect on an area that it really should not impact upon. In due course there may be a reason for the government or the Parliament of the day to decide to expand both the metro region and, coincidentally, the electoral regions within it. That is a matter for others in the future. However, for now, it is one good illustration of why Hon Norman Moore's proposition should be supported; otherwise there could be consequences that I do not believe the government would want to entertain or that it would even remotely consider desirable. I hope therefore that this amendment will have the government's support.

Hon SUE ELLERY: The government will not be supporting this amendment. The bill allows the Electoral Distribution Commissioners to acknowledge changes to the metropolitan area of Perth. The 1987 reference was to the terms of the political arrangement that was entered into at that time that resulted in the state being divided into two parts. The people who reached that political settlement needed an absolute line as the measure of where to apply the two different quotients. Under this legislation there are six regions, and the Electoral Distribution Commissioners will apply a range of criteria to draw their boundaries. Over time the commissioners ought to be able to assess where the metropolitan area is shifting to and/or from, and they will apply those criteria independently. The need for the absolute line in 1987 is not before us in this legislation.

Hon NORMAN MOORE: I understand what the parliamentary secretary is saying and that the relevance of the metropolitan boundary is significantly diminished in the context of this bill; however, the bill still refers to it. Proposed section 16I(1)(a)(ii), relating to the metropolitan regions for the Legislative Council, refers to areas that are coextensive with the metropolitan area of Perth. Coextensive means that the location of the region must be taken into account because it relates to the metropolitan area. It is not out of the question that the government could bring in an amendment to the Metropolitan Region Scheme Act for planning purposes and put Mandurah into the metropolitan area. The Electoral Distribution Commissioners could then start being coextensive down to Pinjarra or somewhere. There could be quite a significant impact on the electoral system by virtue of a change in the act for planning purposes. It would be better if there were some sort of certainty about this. If the metropolitan region boundary is changed, for whatever purpose, a deliberate decision should be made on the Electoral Act.

Hon SIMON O'BRIEN: I would like to explore this just a little further. From all that I have observed of the Electoral Commission over the years, and considering the terms of the legislation, which is not dissimilar in its general tone and demeanour to existing legislation, it seems to me that the electoral commissioners would generally take the terms literally. The 1987 line was an absolute. On one side was the South Metropolitan Region and on the other side the South West Region. At that point, the coincident local government areas are Rockingham and Mandurah. It is a clear divide between the metropolitan area and the country, which is recognised in a whole range of matters, including local government and public transport. The electoral commissioners drawing the boundaries had no trouble with that. It was clearly set. Similarly, I do not think they will have any trouble here, in that there is a little bit of grace where it seems appropriate. If we maintain the South Metropolitan Region hypothetical for a moment, it may be convenient for the sake of the numbers - because this is about getting even numbers - that that boundary move just a little north or south. In fact, it would be a good place for that to happen. For the south west, the boundaries find their own way, in accordance with the directions given in this legislation, such as community of interest and natural features. Any changes will create a ripple effect through all the contiguous electorates. It may well come about that the existing boundary, which will still be the edge of the official metropolitan area, will remain the electoral boundary. Conversely, it may be convenient, if a few hundred more voters are required, to move the boundary down to take in the new and growing Madora area, without getting to Mandurah. That would seem to be consistent with this legislation; that is, a bit of flexibility beyond the metropolitan area boundary is allowed for just that circumstance. Conversely, the boundary might move up a bit, and Singleton might drop into a new north Mandurah electorate; I do not know. We all recognise that and understand it.

However, I am contemplating a situation in which there is a radical change. People have been asking for a long time now what the difference is between Rockingham, which is part of the metropolitan area, and nearby Mandurah. Members have heard it before.

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Hon Derrick Tomlinson: Especially now that a railway is being built.

Hon SIMON O'BRIEN: That is true; a railway linking the various regional centres does have that impact. It used to be a full-day trip to visit Rockingham, but now I find myself occasionally going there twice a day, from the centre of Perth. If the metropolitan region, for the purposes of the Metropolitan Region Town Planning Scheme Act 1959, were to be extended to take in Mandurah - I can see that happening - then, clearly we could no longer say that the South Metropolitan Region would stop where it now does, and the rest would be the South West Region, because it would be a heck of a departure to include the whole City of Mandurah. It is not a minor adjustment. I think the parliamentary secretary clearly understands the point I am making. Does the parliamentary secretary know, through her discussion with the minister and others, whether the government is contemplating taking in the Mandurah areas or, indeed, contemplating a different scenario whereby the South West Region could be expanded to take in places north of where it currently lies?

Hon SUE ELLERY: No, not that I am aware of. There has been no contemplation of or discussion about the proposition Hon Simon O'Brien has put. A change to the Metropolitan Region Town Planning Scheme Act must occur with parliamentary consideration. If a bill to extend the metropolitan area is introduced, it will be open to us at the time to move any consequential amendments.

Hon Simon O'Brien: To this act?

Hon SUE ELLERY: Yes, any consequential amendments that Parliament may want to consider at the time to exclude, if it is what Parliament wants to do, the change we are making to that act from having any effect on this act.

Hon NORMAN MOORE: I do not want to be argumentative, but I do not think the parliamentary secretary is right. What is being provided for in this bill is the region at the relevant time - whatever region, at the time of redistribution, is regarded as the metropolitan region. I think what the parliamentary secretary is doing is aligning the Electoral Act with the Metropolitan Region Town Planning Scheme Act, and whatever the change to that act, it has the effect of applying to this act.

Hon BILL STRETCH: Has the parliamentary secretary or any of her advisers read the book *Frauding of Elections?* by Amy McGrath? It is the successor to her other book, *Frauding of Votes?* from 1996. The book concentrates mainly on the federal electoral commission. It contains many headings that bear studying. They are worth bearing in mind when the government looks at giving itself the ability, through the Electoral Distribution Commissioners, to manoeuvre boundaries. This legislation gives the government the scope to move catchment boundaries in or out according to its political will.

Hon Sue Ellery: It gives the commissioners the power.

Hon BILL STRETCH: It gives the commissioners - that is, the government - the ability to adjust boundaries. It has happened before. I only have this book with me and not the book *Frauding of Votes?* I seek leave to table the book.

Leave granted. [See paper 326.]

Hon DERRICK TOMLINSON: I just want the parliamentary secretary to make it quite clear so that I understand. The amendment seeks to replace "relevant day" with "1 January 1987". As it is in the bill, "relevant day" is explained in proposed clause 16A, which reads -

... in relation to a division of the State into districts and regions in accordance with ... 16E(a) or (b) or 16F(1) ...

Under proposed section 16E, the date is some day -

- (a) as soon as practicable after 26 February 2007; and
- (b) as soon as practicable after the day that is 2 years after polling day for any subsequent general election ...

The relevant day changes after each election. It is possible that we could have a change in the metropolitan region boundary at any time, not just immediately, in the sequence of the elections anticipated in the bill. The very area that Hon Simon O'Brien referred to - that is, the Mandurah area - is the most likely foreseeable change in the boundary of the metropolitan region. Even the railway is referred to as MetroRail and it will extend to Mandurah, which is outside the metropolitan area. Surely it is logical that that will be the direction of change.

Am I right in my interpretation that the relevant day is a moveable day?

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Hon SUE ELLERY: Does the relevant day change? Yes. The relevant act stays the same unless Parliament makes a decision to do something different to the act.

Hon NORMAN MOORE: The first relevant day we are talking about is 26 February 2007; that is, two years after the last election. At that day the next redistribution commences and the population of Western Australia on that day will determine where the electorates go, and the metropolitan region boundary at that day will be the metropolitan region boundary for the purpose of that redistribution. Two years after the next election we go through the same process, so the relevant day for the following redistribution will be two years after the next election.

Hon Sue Ellery: It changes.

Hon NORMAN MOORE: That is right. It depends on the date of the election.

The concern we have about the metropolitan region boundary is this: the government is putting into the Electoral Act words that relate to where the metropolitan Legislative Council regions will go and they will be coextensive with the metropolitan area. I suspect that "coextensive" means fairly close to. If it transpires that the government decides to amend the Metropolitan Region Town Planning Scheme Act for planning purposes between now and 26 February 2007, the boundary determined by that amendment will be the boundary on the relevant day for the next redistribution. The government, with the numbers in the Legislative Council, can change the Metropolitan Region Town Planning Scheme Act to change the boundary of the metropolitan region to include, for example, Mandurah. When the electoral commissioners do the redistribution on 26 February 2007, Mandurah could be in the metropolitan area by virtue of an amendment to the Metropolitan Region Town Planning Scheme Act. The amendment might have nothing to do with electoral purposes, but it will have planning purposes. However, the amendment will mean that when the electoral boundaries are drawn on 26 February 2007 they will be based on the metropolitan region scheme boundary that has been amended in the meantime. If Mandurah is part of the metropolitan area, an area coextensive to that might well be Ravenswood or Pinjarra. It means that the electoral dynamics will be changed quite dramatically by an amendment to the Metropolitan Region Town Planning Scheme Act, which has no reference whatsoever or relevance, at the time of the amendment, to the electoral system. However, it will have a consequential effect. We ought to know where the metropolitan region boundary is and be certain of where it is in the context of the electoral redistribution. Where it is, is important. Any overlapping to make up the numbers to get the seats in the metropolitan area must be at least coextensive with it. That is a concern.

I would much prefer, if the government is to change the metropolitan region boundary for the purposes of the electoral system, that that be the amendment it makes for the purposes of the electoral law. It should not be in the context of a planning law that may have nothing at all to do with the electoral system, but changes to which will have a consequential effect on the Electoral Act. That is the concern we have. The government has given some indication that there is no intention to change the metropolitan boundary. However, it could be done ostensibly for planning reasons, with the government knowing that the consequential effect on the electoral system could be quite dramatic. It would not be debated in the context of the electoral system. That is the problem I have with what the government is seeking to do. It is a pity that the boundaries are related to acts rather than there being a separate metropolitan region boundary that relates to the Electoral Act. That is the problem but, quite frankly, I do not know what the answer is.

Hon DERRICK TOMLINSON: I will add to what Hon Norman Moore has argued. I think it is unlikely that before 26 February 2007 there will be a change in the planning act, but it is feasible, given the rate of decision making of this government, that there could be a change before 2011 in the planning act. As such, the metropolitan region will be redefined. By redefining the metropolitan region in the planning act we impose a new boundary on the Electoral Act. The Electoral Act specifies clearly that there will be three regions in the metropolitan area: north, south and central or east. One is north of the river, another is south of the river and the other somehow follows the north-south orientation of the Darling escarpment. However, each of these regions must have an equal number of districts - 14.

I do not suppose we should legislate on the basis of a hypothetical argument, but let us consider Mandurah being part of the metropolitan area and take it out of the south west. What would that do to the fiercely argued principle of equal districts for the rural areas, particularly when we also have a formula that applies to the large areas in the Mining and Pastoral Region, whatever name it is given? That would have a flow-on effect, which would result in a squeeze: pressure from the growth of the metropolitan area, with a fixed number of seats, and pressure from the north because, even though five seats were promised, it might become six or it could become two. The whole principle of the act is thrown out of kilter. We would be making a determination based on what

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we know now and contain in that legislative determination some prescriptive variables. We have also set in the same act some flexible variables. One of the prescriptive variables is the metropolitan area boundary and the number of seats and regions within that boundary. We would then allow a flexible definition of the boundary of the metropolitan area, because it will change and is set as a movable feast according to the decisions in the planning law. The decision in the planning law is to change the metropolitan boundary. We are creating something that in the future will be unworkable. Perhaps that is a good thing, because in four years time we will be back here -

Hon Sue Ellery: You will?

Hon DERRICK TOMLINSON: Who knows. It is such an uncertain future. The parliamentary secretary seems to be provoking me for the sake of histrionics; please do not. When I say "we", I mean the institution that will continue regardless of the persons who are in it. We will be back here debating a brand new electoral act because the circumstances that have guided this act have been changed by virtue of the principles contained in this act. I understand what the government is trying to do, but there are some unseen consequences because we are legislating on the run; we are forcing a decision to be made before 21 May; and we are forcing a decision to be made on the basis of an agreed electoral system that the government does not want but is prepared to accept because it is two-thirds of the cake. I mean this as a principle: if the government is genuine about electoral reform, it should not do it on the run; it is far too important. We need to sit down, calmly and rationally, in a fully inclusive consultative process to determine what are the principles that the electorate of Western Australia wants. It is not as though we can get it through by some behind-the-chair dealing.

Hon Sue Ellery: What if some party won't come to negotiate?

Hon DERRICK TOMLINSON: I am not interested in parties. What I said was inclusive consultation.

Hon Ljiljanna Ravlich: You had the option.

Hon Norman Moore: How would you know?

Hon DERRICK TOMLINSON: I am being provoked, but I am going to control myself. I am arguing for inclusive consultation. I referred to electors. In my experience, three per cent of electors belong to political parties, and 97 per cent do not. By this simple example alone, the government exposes the flaws of the bill, and those flaws are compounded because of the way in which we are legislating on the run through deals. The Parliament will be back here, if not before the end of 2006, certainly after the next election, to negotiate or argue for a whole new Electoral Act simply because the government tried to rush legislation through to suit the circumstances. It is not the way to legislate.

The DEPUTY CHAIRMAN (Hon Simon O'Brien): A number of questions may be raised about the amendment - that certain words be deleted - but I ask members to recognise that the amendment is the limit of the question before the Chair.

Hon BRUCE DONALDSON: For clarification, if the chamber allows schedule 3 of the Metropolitan Region Town Planning Scheme Act 1959 to be superimposed on the Electoral Act, any changes to the metropolitan region boundary outlined in that act will be imposed on the Electoral Act. As suggested, Mandurah could be very much part of that process. Any change to the Metropolitan Region Town Planning Scheme Act requires only a simple majority. Given that moves will be made further ahead in the bill to entrench the regions into the Electoral Act, it seems that the entrenchment provisions could be bypassed by using the Metropolitan Region Town Planning Scheme Act. Maybe I have that wrong, but I want some clarification on that matter.

Hon SUE ELLERY: The answer is that the Metropolitan Region Town Planning Scheme Act can be amended in that way at the moment. What we do when we get to provisions described as entrenchment clauses remains to be seen.

Hon NORMAN MOORE: Quickly, the point made by Hon Bruce Donaldson is absolutely right. In the event that the chamber agrees to include most of part IIA of the bill into the Electoral Act, and entrenchment is applied, it could not be changed without an absolute majority. However, a potentially significant amendment to another act - namely, the Metropolitan Region Town Planning Scheme Act - could be changed with an ordinary majority and have consequences for the Electoral Act. That is what is being said and that is the concern that is being raised. We will vote against the proposed section and hope that we can keep the existing provision in place.

Extract from *Hansard*
[COUNCIL - Thursday, 5 May 2005]
p1346c-1383a

Hon Dr Chrissy Sharp; Chairman; Hon Norman Moore; Hon Derrick Tomlinson; Hon Simon O'Brien; Hon Sue Ellery; Hon Peter Foss; Hon Kim Chance; Deputy Chairman; Hon Bruce Donaldson; Hon Bill Stretch; Hon Norman Moore; Hon Murray Criddle; Hon John Fischer; Hon Robin Chapple; Hon Ray Halligan; Hon Alan Cadby; Deputy President

Hon BILL STRETCH: I will not delay things. However, I just want to put this in a clear context for the 97 per cent of non-party members and non-enthusiastic students who do not fully understand what we are doing when we talk about the effect of amending one piece of legislation by another. We could look at the Metropolitan Region Town Planning Scheme Act as a football field, with two parties playing. The party in power is defending and the party attacking has a full forward with a limited kicking range. The government is not silly. I am not naive; I have been here too long. I bet members that the backroom boys worked out long ago that they can shaft the Greens and everybody else by adjusting the metropolitan region scheme boundaries. Let us not kid ourselves. I bet it is all worked out. It is plan B, C or D. The Labor Party is very patient; I learnt that a long way back. The government is saying, "Sampi can't kick that far; we'll just move the goalpost out a bit." It might include Mandurah. It could possibly be expanded to the hills. It might even go out to Northam. That is not beyond the bounds of possibility. In simple parlance, so that the 97 per cent understand, this legislation will give the government of the day the right and ability to very simply move the goalposts to make sure that the opposition of the day cannot kick enough goals against it to win government. It is not fair. It is another sneaky little move of the Labor Party to entrench itself in power and, as I said the other night, to guarantee absolute power. Absolute power corrupts absolutely.

[Interruption from the gallery.]

The DEPUTY CHAIRMAN (Hon Simon O'Brien): Order! I ask the observers in the public gallery to refrain from audible comment. There is no opportunity for anyone except members on the floor of the house to participate in the debate.

Amendment put and a division taken with the following result -

Ayes (14)

Hon George Cash	Hon Peter Foss	Hon Norman Moore	Hon Derrick Tomlinson
Hon Murray Criddle	Hon Ray Halligan	Hon Simon O'Brien	Hon Bruce Donaldson
<i>(Teller)</i>			
Hon Paddy Embry	Hon Barry House	Hon Barbara Scott	
Hon John Fischer	Hon Robyn McSweeney	Hon Bill Stretch	

Noes (16)

Hon Kim Chance	Hon Adele Farina	Hon Kevin Leahy	Hon Ljiljanna Ravlich
Hon Robin Chapple	Hon Jon Ford	Hon Lynn MacLaren	Hon Christine Sharp
Hon Kate Doust	Hon Graham Giffard	Hon Dee Margetts	Hon Giz Watson
Hon Sue Ellery	Hon Nick Griffiths	Hon Louise Pratt	Hon Ed Dermer <i>(Teller)</i>

Pair

Hon Frank Hough

Hon Ken Travers

Amendment thus negatived.

Hon NORMAN MOORE: I ask the parliamentary secretary to give me a guarantee that if on the next relevant day, 26 February 2007, after the redistribution is done, it transpires that the Mining and Pastoral Region has only four seats, the government will return to Parliament to change the act to provide for five seats.

Hon SUE ELLERY: I cannot give that commitment.

Hon NORMAN MOORE: The parliamentary secretary should try. That is what the Premier said. I believe the guarantee given by the Premier is only a one-term guarantee! One would think that the commitment would relate at least to when the redistribution takes place in two years. I am asking the parliamentary secretary to give me a commitment that the five-seat guarantee will relate to at least the first redistribution under the act. I think the parliamentary secretary should give that guarantee.

Hon Kim Chance: I understand what you are saying, but I don't think the parliamentary secretary can do that.

Hon Dr Chrissy Sharp; Chairman; Hon Norman Moore; Hon Derrick Tomlinson; Hon Simon O'Brien; Hon Sue Ellery; Hon Peter Foss; Hon Kim Chance; Deputy Chairman; Hon Bruce Donaldson; Hon Bill Stretch; Hon Norman Moore; Hon Murray Criddle; Hon John Fischer; Hon Robin Chapple; Hon Ray Halligan; Hon Alan Cadby; Deputy President

Hon NORMAN MOORE: I recognise the difficulty the parliamentary secretary has in giving me that guarantee. However, the Minister for Electoral Affairs should indicate to me, by mail if necessary, that that will be the case. The government has given a commitment that five seats will be distributed among the Mining and Pastoral Region. It is highly unlikely, but, if for some reason after the first redistribution is completed under the act, a mistake is made in the formula or the population of the Mining and Pastoral Region changes so significantly that the formula delivers only four seats, will the government amend the act to ensure those five seats?

Hon KIM CHANCE: The Leader of the Opposition's point has some validity because it is an event that could happen during the mandate period of the government. Although neither the parliamentary secretary nor I is able to provide the Leader of the House with the assurance he seeks, we will discuss it with the Minister for Electoral Affairs.

Hon Norman Moore: Will you respond to me in writing?

Hon KIM CHANCE: Yes.

Proposed section, as amended, put and passed.

Proposed section 16J: Matters to be considered in dividing the State into regions and districts -

Hon NORMAN MOORE: I move -

Page 10, line 30 - To delete the line.

Page 10, line 30 deals with land-use patterns. I also propose to move an amendment at page 11, line 3, to delete the line. Page 11, line 3 deals with the trend of demographic changes. I am moving these amendments not necessarily to vote against the inclusion of these lines in the bill, but because I want to know what they mean. I understand that this was discussed about four years ago when the government had its first shot at one vote, one value, and these criteria were added by the Greens. I want to know what these criteria mean. I understand what "community of interest" means. I understand what "means of communication and distance from the capital" means. I understand what "physical features" means. I understand what "existing boundaries of regions and districts" means. I understand what "existing local government boundaries" means. I understand what the "trend of demographic changes" means. However, I do not know what "land use patterns" means in the context of determining where the electoral boundaries should go. I would appreciate an explanation from the parliamentary secretary and/or Hon Chrissy Sharp of what "land use patterns" means in the context of this proposed section.

Hon CHRISTINE SHARP: I will defer in a moment to the technical advice that the parliamentary secretary might be able to provide, but I want to say at this point that although I have had no influence on the inclusion of the particular criteria to be considered, I think what "land use patterns" means should be pretty straightforward. A clear example is the member's own region of Mining and Pastoral. Mining and pastoral is a classic description of the prevalent land-use patterns in that part of the state.

Hon NORMAN MOORE: I am interested in that remark. If we are going to use land-use patterns to determine where the boundary of the Mining and Pastoral Region should be, I suggest my understanding of land-use patterns and the member's understanding are quite different. The land-use pattern in Kalgoorlie-Boulder is virtually identical to the land-use pattern in Morley or Yokine; it is urban. The land-use pattern in Kununurra is horticultural and agricultural. The land-use pattern in Meekatharra is semidesert as far as the eye can see, with scrub and pastoral country. The land-use pattern in Warburton is quite different from anywhere else in the state. The land-use pattern in the Simpson Desert is sand. That does not make it one region, does it? How does land-use patterns have anything to do with determining where the boundaries of the Mining and Pastoral Region should be? It would be possible, if I understand correctly what this means, to determine the boundaries for the Assembly seats within the Mining and Pastoral Region on the basis of land-use patterns by saying all the urban area of Kalgoorlie-Boulder should be one electorate, because the land-use pattern is urban; and all the Kimberley should be one electorate, because the land-use pattern is essentially tropical right across the region. Is that the sort of thing we are talking about? When we look at the regions for the Legislative Council, so far as I know there are no land-use patterns that are identical across any of these regions. The land-use patterns in the metropolitan area are the same because they are all urban, but the land-use patterns in the south west vary dramatically from Dunsborough to Pemberton even though they are in the same region, so how does it work?

Hon MURRAY CRIDDLE: I was expecting some sort of explanation. The issue of interest to me is the means of communication and distance from the capital. When I commented on this issue, I well remember the Leader

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of the House explaining to me that distance had nothing to do with one vote, one value; yet it will be a consideration in dividing the state into regions and districts. That is an interesting contradiction of the view of the Leader of the House when he told me that distances had no effect on the distribution of votes throughout the state. If there is a difference of opinion between me, the Leader of the House and the act, perhaps the parliamentary secretary will explain to me where that all fits together.

Hon KIM CHANCE: While the parliamentary secretary is engaged in determining another question, and as the member's comments relate to something I said, I will respond, if not on her behalf. I do not think there is an inconsistency. My argument was that no matter how many votes a person at Nullagine is given, he or she will not be one kilometre closer to Perth. If a group of people are disadvantaged by distance, regardless of what is done to the Electoral Act, that disadvantage will always remain; in other words, it is not a disadvantage that can be corrected by the Electoral Act, in whatever form. In this context we are dealing with a different matter; it is not so much what value a vote should have; it is when there is a community of interest such that the commissioners need to take a matter into account to determine what part of the state should be linked with what other part of the state in determining the shape of a district or region. In that regard, the means of communication and distance from the capital could be taken to mean a number of things. It could mean, for example, with regard to communication, that a part of an electorate that has access to a regional town, and thus access to air services via that regional town to the capital, could realistically be included in one electorate; whereas another part of the region that has access to a different regional centre that has the same kinds of air services or communication services should reasonably be in the same electorate as the other town even though it may be further away. It seeks to allow the commissioners to take account of the natural regional centre that would service a particular area, which, regardless of distance, could be an issue that is determined by where the arterial road systems or the air services are. I think that the commissioners need to be able to take that into account. To illustrate that, Newman and Port Hedland are quite close together, but to travel from Newman to Port Hedland by regional public transport, people must travel to Perth. The only way they can go by air from Newman to Port Hedland is, as far as I know, by charter aircraft; the situation may have changed.

Hon Murray Criddle: You have to do exactly the same from Geraldton.

Hon KIM CHANCE: Yes; but as far as I know, people cannot fly on Skywest from Newman to Port Hedland. The channel, sadly, is through Perth. Perhaps that is an extreme example of what happens over and over again. When the commissioners determine where the dividing line will be between the Pilbara seat and the Kimberley seat, it would be logical for the commissioners to consider which part of the state is more easily serviced by Port Hedland and which part of the state is more easily serviced by Broome. I think that is why that is included in the proposed section. It has nothing to do with vote weighting, which was the comment I made in respect of what the member referred to earlier.

Hon MURRAY CRIDDLE: I have listened to the Leader of the House on a couple of occasions tonight say five is not five; he is now saying distance is not distance. The Leader of the House and I will have to agree to disagree. I am dumbfounded at what I have heard. It is no good me taking the matter any further; the argument has already gone 360 degrees. I put on the record that the argument demonstrates to me that distance is a factor.

Hon SUE ELLERY: The term "land-use patterns" has no mystery about it. In the context of proposed section 16J(a), it is one factor to which the Electoral Distribution Commissioners shall give due consideration. For example, if there is a diversity of land-use patterns in the circumstances they are considering at the time, they might place less weight on that criterion when they are making their decision than they might place on another criterion. On the other hand, if at the time they are making a determination about boundaries and referring to the configuration of land-use patterns in a particular seat, they might place more weight on land-use patterns in that circumstance. It is one criterion that the commissioners might use to make their decision. Depending at the time on the configuration of the area and the circumstances of the boundaries that they are looking at, it might have greater weight than any other criterion that is listed in paragraph (b).

Hon CHRISTINE SHARP: I am again surprised by the Leader of the Opposition's concern about the use of the phrase "land-use patterns" in paragraph (b). I would have thought the meaning was fairly clear and would be a useful criterion for the commissioners to take into account. However, I want to comment on the dialogue between Hon Murray Criddle and the Leader of the House about the meaning of paragraph (c). It was my view that proposed section 16J might be helpful if it were amended to include the words "transport systems". Paragraph (c) reads "means of communication and distance from the capital", but, as the Leader of the House said, it is not so much the distance from the capital that is a significant factor in servicing an electorate but how people get from A to B.

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Hon Derrick Tomlinson interjected.

Hon CHRISTINE SHARP: It may well be and I would like some explanation of that to see whether it is included. It was suggested to me that perhaps this was not appropriate because under these factors the commissioners will be required to consider, not so much how members of Parliament get around in doing their job and in ensuring that they have regular contact with people in their electorates, but rather how members of the public communicate and the distance they are from the capital; factors relating to the efficiency of members were, therefore, irrelevant. However, that appears to be contrary to what the Leader of the House has said and I would appreciate some clarification on that point from the parliamentary secretary.

Hon SUE ELLERY: I am sorry, the Leader of the House addressed that point and I did not hear any of it because I was engaged in a conversation with the advisers at the time. Will the member repeat it?

Hon CHRISTINE SHARP: I will turn it into a more direct question. It appears to me that a very important factor for determining boundaries is not so much how far it might be from A to B, but more the method by which people get there and whether there is a direct communication route. I think that is precisely what the Leader of the House was referring to in his example. The transport system in Western Australia is essentially radial, going from the city out to different areas and back again. It is very hard to get from one part of the regions to another without coming back to Perth. Does proposed section 16J(c), "means of communication and distance from the capital", include taking into account the way our transport system works in order to assist the movement of members of Parliament through an electorate to provide efficient contact with the electors in that area?

Hon KIM CHANCE: I had to take advice on the wording, and the point picked up by Hon Christine Sharp, partly from what I said. It is very clear that, in the end, the structure of the transport system is much more important than the distance. Hon Christine Sharp used the term "the radial structure of our transport system", but Hon Barry House made the point last night that the north-south transport lines in the south west are generally very good, but they become very confused when people try to move east-west. That is also the case in the mid-west, the north west and the northern part of the state, including the Kimberley. That is why I used that example of where to draw the line between the Pilbara and the Kimberley. Where is the natural centre? Is it Broome or Port Hedland? Is it somewhere between De Grey and Wallal Downs stations? I am not sure where the dividing line is. That is partly why I took the advice then. I am informed that this is the wording in the current act, and that it has been there for some years. The understanding is that the question of transport has taken in the meaning of the word "communications". That seems a little far-fetched to me.

Hon Derrick Tomlinson: At one time, walking from place to place was the only means of communication.

Hon KIM CHANCE: Hon Derrick Tomlinson is supporting the interpretation of the wording as it stands in the act now, and I think I also put the two together when I first responded. If the committee is satisfied with what has been in the act since 1987 -

Hon Murray Criddle: This would change dramatically the distances around the state. It is a totally different result.

Hon KIM CHANCE: This sets the factors that the commissioners will take into account when they determine the shape of an electorate. To that extent there is no major change.

Hon Murray Criddle: You made a decision, because of all those factors, to have an enormous allowance in the north west and the Mining and Pastoral Region. If you cross a line into the Agricultural Region it stops altogether.

Hon KIM CHANCE: No, the electorates in the Agricultural Region are substantially smaller than those in the Mining and Pastoral Region.

Hon Murray Criddle: It depends on whether you are on one side of the line or the other.

Hon KIM CHANCE: The electorates are still larger in the Mining and Pastoral Region, in one case eight times larger. I do not think there is an issue there. If this wording has worked effectively in the existing act since 1987 or whenever, there is no reason to expect the commissioners to differ from their present position in their understanding of the words.

Hon JOHN FISCHER: I am quite happy with proposed paragraphs (a), (c), (d), (e) and (f). They contain some of the reasons that I have used in the argument certainly to maintain the five regions in the Kimberley and also to support the defeated amendment of Hon Murray Criddle on the number of seats in the Agricultural Region. The only definition I could not get from the answer to the Leader of the Opposition was on land-use patterns. What

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exactly is meant by land-use patterns? The maps that I have seen of the intended division of the Mining and Pastoral Region include, as the Leader of the Opposition quite correctly pointed out, quite different land-use patterns. There could be a good argument that the way in which the seat of Kimberley is bounded at the moment is correct, because Halls Creek is a lot different from Broome, Derby, Wyndham or Kununurra. I would like the Leader of the House or the parliamentary secretary to give me a better description of what is intended by land-use patterns. I am a little wary of putting in too many definitions, because I do not want to see the boundaries changed to any great extent.

Hon SUE ELLERY: There was an exchange earlier on this clause when the Leader of the Opposition asked exactly the same question.

Hon John Fischer: I know.

Hon SUE ELLERY: The land-use patterns are the land-use patterns are the land-use patterns. Depending on the particular diversity or sameness and depending on whether all the other criteria are less or more helpful to the commissioners in determining the boundaries in a particular area that they are looking at, the fact that the land-use patterns in the Kimberley are so diverse might mean that the criterion has an influence that is less or more than that of any of the other criteria that they will take into account. It may be that where land-use patterns are markedly similar, that criterion will get greater weight than other criteria to be considered by the commissioners to determine particular boundaries.

Hon NORMAN MOORE: The reason I asked the question about land-use patterns is that the government has included it as a new criterion; it is not in the present Electoral Distribution Act. I think it is appropriate that the parliamentary secretary give us an explanation of why it is in the bill and why the positive decision has been made to include it when it was not included before. All the explanations given to me tonight about land-use patterns do not tell me anything. It will not cause the world to come to an end if it is included in the bill.

I note that land-use patterns are second on the list of criteria, at proposed paragraph (b). I wonder why it is second on the list and not at the bottom of the list, because it is a new one.

Hon Sue Ellery: They are not listed in any order of priority.

Amendment put and negatived.

Hon NORMAN MOORE: My next amendment relates to proposed paragraph (g), "the trend of demographic changes". I move -

Page 11, line 3 - To delete the line.

The new system provides for a redistribution every four years. Proposed section 16H(2) states that -

The Commissioners shall divide the State into districts in accordance with the principle that, for each district, the number of electors that the district would have had at the relevant day must not be more than 10% greater, or more than 10% less, than the average district enrolment at the relevant day.

That means that at the relevant day, which is two years from the election, the Electoral Distribution Commissioners will take the number of electors in Western Australia and divide them up into electorates. The commissioners will use the criteria in proposed section 16J to decide where the boundaries will go. I do not think there is a need for the trend of demographic changes to be considered at all. We are dealing with a scenario at a particular point in time. Where people live on the relevant day is all that matters. It does not matter where they live tomorrow, the next day or three years down the track.

The trend of demographic changes has been included in the past because the electoral commissioners had to carry out redistributions over a two-term period. When the scenario is considered four to eight years down the track, the demographic change will need to be taken into account, because that is what will happen at the second election after the distribution. With the redistribution every four years, and the distribution related to the circumstance at the relevant day, there is no need to include demographic change trends. I suggest that paragraph (g) be deleted.

Hon SUE ELLERY: Looking forward or backward is part of the normal distribution process in other jurisdictions, as it is currently in Western Australia. The Leader of the Opposition is right.

Hon Norman Moore: Good grief. I do not believe you said that.

The DEPUTY CHAIRMAN (Hon Simon O'Brien): Order! It has happened before.

Hon SUE ELLERY: I slipped; I am getting tired.

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The bill indicates to the Electoral Distribution Commissioners that they have to look at the number of electors at the relevant day. The Leader of the Opposition is right in that sense; that is what they are required to do. However, where the increase in electors in the district is not linear and it does not prevent them from looking forward in respect of numbers, there is a 10 per cent tolerance either side of the average enrolment. It would then be appropriate for the commissioners to set a particular district at, say, under eight per cent, if they considered that the trend in the district was that numbers were on the increase.

Hon NORMAN MOORE: I am glad I was half right, but I think I am totally right.

It does not matter what the demographic changes might be beyond the relevant day or between the relevant day and the election. The boundaries will be drawn on that day for the next election, and whether the enrolment in an electorate grows will not make any difference. The result of this legislation is that on a particular day two years after an election the commissioners will determine where everyone lives and where the boundaries will be drawn, and they will be the boundaries for the next election. As I understand it, we are not trying to work out where everyone will be living two years down the track when the election day is held. Are we?

Hon Sue Ellery: No.

Hon NORMAN MOORE: If we are not, then it should be left as it is. The trend of demographic change is irrelevant if we say the relevant date is the date on which the boundaries will be set. What happens in the next two years is quite irrelevant. If the scenario is that the government is trying to arrive at a situation in which all the electorates have the same number of electors on election day as opposed to the relevant day, demographic changes have to be taken into account. In my view, that is not the intention of the legislation. I would much rather that the government did not have this in the legislation for the very simple reason that it is one area in which there is a degree of guesswork which, over the years, has proved to be very inaccurate in some cases. It is very hard to predict demographic change and there is an element of subjectivity attached to it that we should not have in our electoral system. One of the reasons I supported the four-year redistributions was to eliminate, to the extent we could, the subjectivity of demographic change projections. As members all know, there have been some wide variations from the mark. It would be only fair and proper if we said that such and such was the relevant day and the election will be held on the basis that the boundaries are drawn on where people live on that day. We all know where it is and what the situation is and we are not relying on what might happen over the next two years. I seriously believe that this criterion should be deleted.

Hon KIM CHANCE: This is one of those cases where we are all in furious agreement of 80 per cent of the point. I agree with what the Leader of the Opposition has said. I believe that there is genuinely less need in this legislation for this provision than has existed in the past when we were looking at much longer periods between reviews. We disagree on the point of whether there is no need. The Leader of the Opposition has made the point that we should be able to make a decision now about where the electorates are for the election that will be held two years hence from that point in time. That sounds like a reasonable proposition. Members from the North Metropolitan Region may be able to help me. I understand that, at its peak, the rate of growth in the northern suburbs was of the order of 10 000 electors a year. Is that right?

Hon Ray Halligan: Around Wanneroo.

Hon KIM CHANCE: That equates to two electorates every term of government or one full electorate every two years. We must allow the commissioners to take account of what is blindingly obvious will happen and not what might happen. That is where we need to be clear about what we are doing. If we do not, we are condemning electorates such as Wanneroo and Joondalup - at least in the past, using our rear-vision mirror - to always being over the quota. On the historical figures, the commissioners will set the boundaries on the basis of the numbers known now in respect of an election to be held two years hence, but a complete electorate will pop up in terms of population between then and the election. I do not believe that will happen much more in the northern suburbs but, with the growth that is occurring now and is projected to occur in the southern suburbs, there will be the same Wanneroo-Joondalup type of problem revisited all the time unless the commissioners are given some capacity to deal with that. It is the same with some of the country electorates. The one that springs to mind most quickly is Roe. That electorate has a long pattern of steady, or even declining, population. Roe is an electorate - and we have discussed this at some length - that will become uncomfortably large, physically. If the commissioners are not able to take account of just one significant factor - that is, the growth in population in Ravensthorpe-Hopetoun as a result of the mining activity that we know will happen - Roe may be forced to get physically even larger. As I said, I understand and agree with 80 per cent of what the Leader of the Opposition has said, but I do not believe we ought to take away from the commissioners the capacity to have that flexibility based on known future demographics. We certainly should not be encouraging them to speculate in areas in

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which they think things might happen. I have seen some pretty unusual submissions one way or the other over a period of years, but when they know something might happen, the commissioners ought to have the capacity to have a degree of flexibility about the number.

Hon CHRISTINE SHARP: I am inclined to think that the Leader of the Opposition has a very good point because of the reduction in the time frame for the new division from eight years to four. I refer to the Leader of the Opposition's example of Ravensthorpe and the changes that would occur to the electorate in Roe. What would happen, for example, if the environmental approvals for that mine did not get passed, or, for some other reason, the mine could not go ahead, like when acid sulphate was found in the soil at the Beenup mine near Augusta? There could be a fairly significant error in anticipating the changes. Is there not a really solid argument that it is better to be definite and sure of what is being counted, rather than trying to anticipate changes that may not take place? For example, my colleague Hon Lynn MacLaren referred to a proposed massive housing development at Port Coogee. The environmental approvals for that may not be straightforward. Something may hold the approval up significantly, for some years. The Leader of the Opposition is making a very valid point.

Hon KIM CHANCE: I will not go to the wire on this. I just ask people to consider that the commissioners have that discretion. I am sorry to use esoteric Latin terms such as "it should be blindingly obvious" before the commissioners use that power, but I mean that it should be known to the commissioners beyond all reasonable doubt that the mine will go ahead or that a particular subdivision will go ahead before they factor it into their calculations. That would cover the honourable member's concern.

The DEPUTY CHAIRMAN (Hon Simon O'Brien): Hon Robin Chapple has the call.

Order! I point out to Hon Lynn MacLaren that she is not meant to walk between the Chair and the member with the call.

Hon ROBIN CHAPPLE: I am seeking some clarification. I was looking for my copy of the original bill, but I do not have it. It is my understanding that the review will occur two years out from the next election. By the time the review is concluded there will be only two years between the review and the next election.

Hon SUE ELLERY: It will commence two years from the date stated by the member, but it is more likely to finish in 18 months than in two years.

Hon ROBIN CHAPPLE: If it is only 18 months between its conclusion and the following election, and there is not a dramatic change in both the numbers -

Hon Kim Chance: It depends how old your data is. It may be six months old.

Hon ROBIN CHAPPLE: Under the original legislation, the review was conducted immediately after that election was concluded in that eight-year cycle. Therefore, we were in the region of seven years out from the next election when the review was conducted. I can see that it was necessary to take into account some demographic change. I take on board what the Leader of the Opposition is saying: there can be dramatic change. My personal view is that it will be more akin to reality at the time of the election to work on the status quo at the time of redistribution. I seek some advice in that regard.

Hon SUE ELLERY: It will be a shorter period. Therefore, it will eliminate a great degree of the guesswork that the commissioners had to undertake under the previous regime.

Hon MURRAY CRIDDLE: I support the amendment moved by Hon Norman Moore. This matter has significantly affected the Agricultural Region over time. Some of the arguments raised about possible changes to planning and so forth are also reasonable. This amendment should be supported.

Hon CHRISTINE SHARP: I will ask another question of the parliamentary secretary, so that I can be sure that I understand how this provision will be used by the Electoral Distribution Commissioners and what proposed section 16J actually means. It is entitled in part "Matters to be considered". Does that mean that they are matters that the commissioners must take into account or does it simply offer the commissioners a range of things that they may take into account, and that they can decide whether any of those things in the check list are relevant to the boundaries? If it will be that they must take them into account, I will have some concerns because of the inherent inaccuracies in guesswork.

Hon Kim Chance: It is must. It says "shall give due consideration."

Hon SUE ELLERY: The Leader of the House is right, but there is more. It states that the commissioners shall give consideration, so they must give consideration. However, they must give due consideration. I will give the

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same answer that I gave when I responded in an earlier part of the debate. The commissioners may give greater weight to one of those criteria than to others in their consideration, depending on the particular circumstances. That will be for the commissioners to determine. They shall give due consideration to the criteria. Depending on the particular circumstances with which they are dealing, any one of those criteria may have greater weight placed on it than it would in other circumstances.

Hon CHRISTINE SHARP: I thank the parliamentary secretary for her explanation. That satisfies me, because the critical word to which I had not really given due consideration was “due”. That provides me with exactly the answer I was seeking.

Hon RAY HALLIGAN: The Leader of the House spoke about providing the commissioners with flexibility. Hon Chrissy Sharp has already made mention of the heading of proposed section 16J, “Matters to be considered in dividing the State into regions and districts”. To me, that appears to provide the flexibility. However, I am making an assumption. I would like the parliamentary secretary to advise whether we are trying to be totally prescriptive in setting out the areas to which the commissioners shall give due consideration. It seems to me, and I ask the parliamentary secretary to correct me if I am wrong, that the heading provides the flexibility. However, it then goes on to say that, among other things, the commissioners shall give consideration to the matters contained in paragraphs (a) to (g). Weighting was mentioned. The proposed section contains no mention of weighting. I think that is a given. It seems pretty obvious that the commissioners will decide how much weight they will give to each of those matters. I suggest that the proposed section is asking that these things be considered. Anyone who asked the commissioners at a later stage why they reached the conclusion that they did could ask whether they considered the matters listed in this proposed section. One would expect the answer to be yes.

Hon SUE ELLERY: Hon Ray Halligan is correct.

Hon Ray Halligan: We are doing well tonight over this side.

Hon SUE ELLERY: That is two right on that side! As I just described to Hon Chrissy Sharp, the commissioners will be required to take these things into consideration. They must give them due -

Hon Ray Halligan: They are not the only things one would expect they might consider.

Hon SUE ELLERY: That is true. As I was describing, the extent to which they give them due consideration will depend on the particular circumstances.

Hon NORMAN MOORE: I reassert the position I began with; that is, it is better that the electoral commissioners divide the state into districts based upon the numbers at the relevant day and that we take away the subjectivity that demographic trends create. I assume that the government wants to retain demographic trends on the basis that it wants to ensure that all districts have the same number of voters on election day. The problem with that is that judgments are made based on assumptions. We have seen in the past many occasions on which those assumptions have gone astray and strange outcomes have been delivered, as has been acknowledged tonight. It is far better to have the certainty of a particular day. We know exactly how many people live in a district on a particular day and we know that that cannot change or be influenced by some subjective analysis and assessment by the Electoral Commission when those boundaries are drawn. I proceed with the amendment I have proposed, which is to delete the trend of the demographic changes.

Amendment put and a division taken with the following result -

Ayes (15)

Hon Alan Cadby	Hon John Fischer	Hon Robyn McSweeney	Hon Bill Stretch
Hon George Cash	Hon Peter Foss	Hon Norman Moore	Hon Derrick Tomlinson
Hon Murray Criddle	Hon Ray Halligan	Hon Simon O'Brien	Hon Bruce Donaldson
(Teller)			
Hon Paddy Embry	Hon Barry House	Hon Barbara Scott	

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Noes (16)

Hon Kim Chance	Hon Adele Farina	Hon Kevin Leahy	Hon Ljiljanna Ravlich
Hon Robin Chapple	Hon Jon Ford	Hon Lynn MacLaren	Hon Christine Sharp
Hon Kate Doust	Hon Graham Giffard	Hon Dee Margetts	Hon Giz Watson
Hon Sue Ellery	Hon Nick Griffiths	Hon Louise Pratt	Hon Ed Dermer (<i>Teller</i>)

Pair

Hon Frank Hough

Hon Ken Travers

Amendment thus negated.

Proposed section put and passed.

Proposed section 16K: Power of Commissioners to modify boundaries of districts -

Hon NORMAN MOORE: This proposed section states -

In the exercise of the powers conferred on the Commissioners by this Part, the boundaries of the districts may be modified by the Commissioners by excising portions from them, or by adding other portions to them and the districts may be designated and redesignated.

This proposed section is also in the Electoral Distribution Act. We have just provided, in every other proposed section in this part, all the powers for the commissioners to do this anyway, so why is it necessary to have this proposed section? Is it just belts and braces?

Hon SUE ELLERY: I have been dreading the day when I would have to say this in this chamber: it is because we have always done it this way.

Hon Norman Moore: That is what I thought you would say!

Hon SUE ELLERY: My advice is that it does not need to be in here, so if it is causing the member particular offence -

Hon Norman Moore: It does not offend me. I just wanted to know why it is in here.

Proposed section put and passed.

Proposed section 16L put and passed.

Proposed section 16M: Transitional provisions -

Hon SUE ELLERY: I move -

Page 12, line 4 - To delete "*One Vote One Value*" and insert instead "*Electoral Amendment and Repeal*".

Page 12, line 9 - To delete "*One Vote One Value*" and insert instead "*Electoral Amendment and Repeal*".

Page 12, line 13 - To delete "*One Vote One Value*" and insert instead "*Electoral Amendment and Repeal*".

Page 12, lines 18 and 19 - To delete "*One Vote One Value*" and insert instead "*Electoral Amendment and Repeal*".

Page 12, lines 25 and 26 - To delete "*One Vote One Value*" and insert instead "*Electoral Amendment and Repeal*".

Hon NORMAN MOORE: The opposition supports the amendments with great enthusiasm, because they reflect what the bill will do as opposed to the rubbish that will be deleted. This bill is getting so far away from one vote, one value that it bears scant resemblance to the very notional principle of one vote, one value. The more we go through it and the more we see what is likely to come out of it, the further away we get from the fundamental principle. I cannot believe that the Labor Party has allowed itself to be treated like this and has

Hon Dr Chrissy Sharp; Chairman; Hon Norman Moore; Hon Derrick Tomlinson; Hon Simon O'Brien; Hon Sue Ellery; Hon Peter Foss; Hon Kim Chance; Deputy Chairman; Hon Bruce Donaldson; Hon Bill Stretch; Hon Norman Moore; Hon Murray Criddle; Hon John Fischer; Hon Robin Chapple; Hon Ray Halligan; Hon Alan Cadby; Deputy President

allowed the Greens to amend its fundamental principle, which it has told us has been part of its catechism for the past 100 years.

Amendments put and passed.

Proposed section, as amended, put and passed.

Proposed section 16N: Absolute majorities required for Bills affecting one vote one value principle -

Hon NORMAN MOORE: I am quite happy to defer my amendment to the next amendment on the supplementary notice paper, which will be moved by Hon Alan Cadby. I understand that he will slightly alter his amendment to use some of the words contained in mine, so I will defer to him.

Hon ALAN CADBY: In the amendment I will now move, the first six words in my original amendment have been replaced with the first nine words in the amendment proposed by Hon Norman Moore; in other words, the wording used is the same as that which appears in the bill. I move -

Page 12, line 29 to page 13, line 5 - To delete the lines and insert instead -

- (1) A Bill that expressly or impliedly amends or repeals any of the provisions of this Part, other than Division 2, section 16H(3) or (4) or section 16M,

The amendment is self-explanatory. It is an entrenchment provision, which is similar in nature to section 13 of the Electoral Distribution Act 1947. This means that an absolute majority of both houses will be required on any bill that alters the act, except the noted provisions; that is, division 2, which deals with districts, regions and representation, and proposed section 16H(3) and (4), which deals with the large-district allowance.

Hon SUE ELLERY: I ask you, Mr Deputy Chair (Hon Simon O'Brien), to leave the chair to enable some discussion to occur. This is the first time I have seen this form of words. I understood that we would take a different course of action, and we need to have some discussion about it.

The DEPUTY CHAIRMAN (Hon Simon O'Brien): I will leave the chair until the ringing of the bells.

Sitting suspended from 10.28 pm to 12.09 am (Friday)

The CHAIRMAN: Members, we are dealing with clause 4, proposed section 16N.

Hon ALAN CADBY: I seek leave to withdraw my amendment.

Amendment, by leave, withdrawn.

Hon NORMAN MOORE: I move -

Page 12, line 29 to page 13, line 5 - To delete the lines and insert instead -

- (1) A Bill that repeals or alters any of the provisions of this Part, other than section 16M,

I will explain this amendment quickly, as it would be handy if we could finish this committee stage tonight. I will not waste a lot of time arguing about this amendment, as I suspect it will be amended. The provisions in this bill that relate to proposed part IIA, other than proposed section 16M, should be entrenched. Proposed section 16M relates to the transitional provisions and obviously does not need to be entrenched. This amendment to proposed section 16N simply means that the rest of proposed part IIA, which goes into the Electoral Act, will be entrenched and require an absolute majority of both houses before it can be amended or repealed. The amendment gets rid of the rather strange proposition put forward by the government in its bill that sought to entrench only the one vote, one value principle, and puts in place a proper entrenchment provision for virtually all of proposed part IIA. I argue this because these are fundamental issues for our electoral system. Even though this house has made some decisions tonight that I do not agree with, I still believe that the provisions have been placed in the legislation properly, because the house has done so through the required majorities in the committee stage. I suspect the legislation will also achieve the required majority on the third reading. Even though I do not agree with some of the proposed sections, I still believe that they should not be changed in the future without an absolute majority. If we are to be serious about this, we cannot have an absolute majority for those things we like and a simple majority for those things we do not like. That should not be done, in my view. We should put in an entrenchment provision that covers all this legislation, with the exception of the transitional provision, and then any future government would require an absolute majority for any changes it may wish to make. That is appropriate and proper with legislation of this magnitude.

The CHAIRMAN: The question that was left hanging was that the words proposed to be deleted be deleted, and the question is that that motion be agreed to.

Hon Dr Chrissy Sharp; Chairman; Hon Norman Moore; Hon Derrick Tomlinson; Hon Simon O'Brien; Hon Sue Ellery; Hon Peter Foss; Hon Kim Chance; Deputy Chairman; Hon Bruce Donaldson; Hon Bill Stretch; Hon Norman Moore; Hon Murray Criddle; Hon John Fischer; Hon Robin Chapple; Hon Ray Halligan; Hon Alan Cadby; Deputy President

Amendment (deletion of words) put and passed.

The CHAIRMAN: The question now is that the words proposed to be inserted be inserted.

Hon KIM CHANCE: I seek your advice, Mr Chairman. As I understand it, there is to be another amendment. At what time can a further amendment be moved?

The CHAIRMAN: The amendment we are dealing with at the moment are the words proposed by Hon Norman Moore, which are -

- (1) A Bill that repeals or alters any of the provisions of this Part, other than section 16M,

The question I am putting is that the words proposed to be inserted be inserted. If there is to be an amendment, now is the time to raise it.

Hon ALAN CADBY: I move -

That the amendment be amended as follows -

To insert after "than" the words "Division 2, section 16H(3) or (4) or"

Hon NORMAN MOORE: I oppose this amendment to the amendment on the basis of my explanation earlier. Division 2 of the bill refers to the number of electoral districts in Western Australia and the electoral regions' representation. It indicates how many members of Parliament there will be in the Assembly, how many regions there will be in the Legislative Council and how many members there will be in each region. These amendments should be made only by a Parliament where an absolute majority is present in both houses.

Division 2 should not be excluded from the entrenchment provision. Proposed section 16H(3) and (4) is a new provision put in the bill by the Greens - it talks about dummy voters. Again, it should not be amended without an absolute majority. Given a choice, I would not have it there at all. If the house votes for the third reading by an absolute majority and includes that provision in the bill, it should require an absolute majority to take it out again. I am seeking to be consistent. I will vote against Hon Alan Cadby's amendment to the amendment. In the event that it is agreed to by the chamber, the opposition will vote for the new amended motion.

Hon SUE ELLERY: I support the amendment moved by Hon Alan Cadby and oppose the amendment moved by the Leader of the Opposition.

The CHAIRMAN: We are dealing with the amendment to the amendment.

Hon SUE ELLERY: I support the amendment moved by Hon Alan Cadby. This amendment retains the status quo. It means three things can be changed by a simple majority: first, the provisions in proposed sections 16C and 16D - the districts, regions and representation, which refers to the six members for each region; second, proposed section 16H(3) and (4) - that is, the large-district allowance; and, third, the transitional provisions under proposed section 16M.

Hon CHRISTINE SHARP: I support Hon Alan Cadby's amendment to the amendment put by Hon Norman Moore regarding the entrenchment provisions in this bill. We understand that the scope of Hon Alan Cadby's amendment will entrench all the provisions inserted by this bill into the Electoral Act 1907, which correspond to what is being repealed in the Electoral Distribution Act 1947; that is, Hon Alan Cadby seeks to reinsert a level of entrenchment into the electoral system that is currently in the electoral system. We agree with his proposition that that is the proper level at which that entrenchment should be secured.

When dealing with this legislative change, a number of enticements have been offered to us to change our position: for example, the enticement of going with seven representatives in certain regions, which we know could in some cases be to our advantage; and also the enticement for us in rejecting the changes to Hon Norman Moore's amendment made by Hon Alan Cadby's amendment because -

Hon Barbara Scott: For you or Western Australians?

Hon CHRISTINE SHARP: Please let me continue, and perhaps it will become clearer. Effectively, the difference between the two versions of entrenchment is the large-district allowance and the six-by-six model. Members will recognise immediately that they are the very provisions that have been advocated by the Greens (WA). The enticement that the Leader of the Opposition is providing to us this evening is that we can entrench the very provisions that we have advocated and which the Leader of the Opposition and opposition members have so vigorously opposed. He is now making the offer to enable us to entrench those very things.

Hon John Fischer interjected.

Hon Dr Chrissy Sharp; Chairman; Hon Norman Moore; Hon Derrick Tomlinson; Hon Simon O'Brien; Hon Sue Ellery; Hon Peter Foss; Hon Kim Chance; Deputy Chairman; Hon Bruce Donaldson; Hon Bill Stretch; Hon Norman Moore; Hon Murray Criddle; Hon John Fischer; Hon Robin Chapple; Hon Ray Halligan; Hon Alan Cadby; Deputy President

Hon CHRISTINE SHARP: However, we figure that it would be essentially incorrect of us to seek to include in the electoral system entrenchment provisions that are greater than those that already exist. At the moment there is nothing in our electoral system that requires particular regions to have particular numbers of members. That is not currently entrenched in the law. If this amendment to the amendment does not pass, we will be increasing the level of entrenchment, albeit in a way that secures those things that we advocate and think would be a good thing. That is why it has taken us some time this evening, downstairs, to think about this. In the overall scheme of things, it is not very long at all, but we are considering a pretty serious proposition. However, on balance we have decided, at half-past-midnight tonight, that we prefer to return to our support, as we indicated some time ago, for the entrenchment provisions as advocated by Hon Alan Cadby.

In finishing, there were some other perhaps symbolic reasons for adopting this position. It is not that they are necessary reasons, but they are fitting; that is, in many ways throughout the debate Hon Alan Cadby has represented the very constitutional majority that is at stake here. He is the eighteenth vote enacting all of this change. That member has made it quite clear that while he is very pleased to cooperate with the changes and the implementation of one vote, one value, he is not altogether happy with provisions in the bill. These are the very things that we have advocated; namely, the large-district allowance and the six-by-six system. In a sense, it is fitting that we defer to Hon Alan Cadby in that sense, too. There are many very important reasons for resisting the enticement, the temptation offered by Hon Norman Moore's amendment and to say to the Leader of the Opposition that, despite his taunts earlier in the day about our seeking to bribe the entire Parliament with our demands, we think that effectively it would be improper of us to do so.

Hon PETER FOSS: I have generally refrained from participating in the debate of late, but I feel I must comment here to set the record straight. One of the basic propositions that Hon Chrissy Sharp put forward about having greater entrenchment than is currently the case is incorrect. The level of entrenchment is to be reduced by these changes. At the moment, section 6 of the Electoral Distribution Act reads -

- (1) The Commissioners shall -
 - (a) divide the Metropolitan Area into 34 districts; and
 - (b) divide the area comprising the remainder of the State into 23 districts.

That is fixed; it cannot be changed without an absolute majority of members of Parliament. Section 6 further reads -

- (2) The Commissioners shall make the division of an area mentioned in subsection (1)(a) or (b) into districts in accordance with the principle that the number of enrolled electors comprised in any district in the area must not be more than 15% greater, or more than 15% less . . .

That is also in the provisions the Greens included in the bill - namely, the amount of margin. It specifically states the number in the northern region. By having a wider margin, this act possibly allows the five seats to be retained. If that provision is removed, that requirement will go.

Hon Christine Sharp: What are you reading from?

Hon PETER FOSS: It is the Electoral Distribution Act 1947. Where Hon Chrissy Sharp got the idea that changing the numbers in the Legislative Council or taking away representation from those areas was not entrenched, I do know. It is part of that act.

Hon Christine Sharp: It's the number of regions, not -

Hon PETER FOSS: It is only within the regions. That is new. The impact in the end was fixed because of the way it was set up with the rest of the bill. The Greens have changed the structure. They have freed things from entrenchment that were previously entrenched, and that was partly because the Greens changed the method to arrive at that result. The Electoral Distribution Act arrived at a result that froze the type of representation in a different manner. The Greens changed that by coming up with the idea of the laa laas, which were not part of the legislation before. Hon Chrissy Sharp has attempted to change the result by a different method. The guarantee given to people about representation has been removed because it can be changed by a simple majority. That is my point. The member is wrong in her basic premise that she is increasing the amount of entrenchment; she will take away some of that entrenchment. Some of it will be definitely reduced. The protection will be taken away from some of it because the Greens' new method of protection is not entrenched. I am not necessarily trying to change the member's mind at this late hour, but I would hate to have on the record an incorrect statement by both Hon Alan Cadby and Hon Christine Sharp that was not supported by the provisions.

Hon Dr Chrissy Sharp; Chairman; Hon Norman Moore; Hon Derrick Tomlinson; Hon Simon O'Brien; Hon Sue Ellery; Hon Peter Foss; Hon Kim Chance; Deputy Chairman; Hon Bruce Donaldson; Hon Bill Stretch; Hon Norman Moore; Hon Murray Criddle; Hon John Fischer; Hon Robin Chapple; Hon Ray Halligan; Hon Alan Cadby; Deputy President

Hon Alan Cadby interjected.

Hon PETER FOSS: At some stage somebody said that it would not increase it, so Hon Chrissy Sharp chooses to meet Hon Alan Cadby's wishes. I think Hon Alan Cadby's amendment was intended to meet Hon Norman Moore's wishes, and that was probably a misunderstanding of Hon Norman Moore's wishes. Many of the things that are currently within section 13 of the Electoral Distribution Act or which are in the legislation in another way have now been removed from that protection. It means that the relationship, which was previously guaranteed by a different method, can be fundamentally altered. The point I think Hon Christine Sharp is making is that section 9 of the Electoral Distribution Act does not say what the regions are to be as between each other.

Hon Christine Sharp: Yes.

Hon PETER FOSS: However, that is the only part. The only reason that was not included is that it has been guaranteed in another way; that is, by the laa laas and all the other things. The member has now specifically said how many are to be in each. The relationship between the two - the number of members in the lower house and the margin of difference - was included, but that has now been taken out.

Hon Christine Sharp: I do not know what you mean by the margin of difference.

Hon PETER FOSS: Part of the laa laas is the 15 per cent and 20 per cent.

Hon Christine Sharp: As they pertain to the large-district allowance?

Hon PETER FOSS: Yes. That whole thing has been removed. The ratio of allowance of tolerance is a very important electoral matter. It was the general overall width of that which allowed the gerrymander in Queensland. The tolerance is in fact an essential, entrenched provision, because that is the area that most easily lends itself to gerrymander. Let us not forget that gerrymander is one of the possibilities. One of the useful things about this house and an absolute majority being required is that it makes gerrymander much harder than might otherwise be the case. Somebody will obviously control the house. If the somebody who controls this house also controls the other house, that somebody can change very important provisions of this legislation. If, on the other hand, an absolute majority is required, we know how difficult it is to get an absolute majority in this house. A gerrymander then becomes considerably more difficult.

I agree with Hon Norman Moore. Things are so fundamental in the basis of change of who ends up in Parliament that it should be entrenched. That is one of the things that came up in Marquet. Marquet made it quite clear that that was one of the things that one would regard as the Constitution of the state. It makes a heck of a difference. Those who are elected to Parliament end up deciding who is the government and who will run the state, so this is a pretty important constitutional issue. I am alarmed as a constitutionalist and a parliamentarian that anybody who happens to gain momentary control of the two houses will now have the capacity to change who will represent us in Parliament. That is unfortunate. Even though I do not necessarily agree with what is being put in place, I am far more afraid of a situation in which a party - it might even be my own - has the capacity to alter the Constitution of this state in such a fundamental way. I know that members say it is a self-denying matter. I am urging members to do this not because it is a matter of taking the advantage but because it is a matter of having something which is constitutional and which requires a degree of consensus in the community. I am sorry. The saying goes that one may not agree with what another person says, but will defend to the death that person's right to say it. In the same way, I do not agree with these constitutional changes but I will fight to the death to make sure they are constitutional. That is the difference.

I do not believe that matters regarding the Constitution should be that easily pushed around. I am suspicious of a government that wants to do that. It is not for the benefit of the Greens (WA) that I am suggesting this should not be done. I am rather afraid of what would happen if somebody were given that power. What goes around has a tendency to come around. Once the leash has been taken off, it raises the risk of a form of gerrymander, despotism or whatever else. I am alarmed at the Greens' basic assumption because I do not think it is correct and I am alarmed at some of the Greens' arguments. I do not want to keep members here later than is necessary but I had to put on the record the reasons I did not agree with the Greens and why I thought some of the logic was alarming and concerning. I totally support Hon Norman Moore's position. I oppose the amendment to the amendment that has been moved. In the interest of Western Australia, irrespective of what members opposite think our constitutional position should be, once it has been established, it should be difficult to amend except under unusual circumstances.

Hon Dr Chrissy Sharp; Chairman; Hon Norman Moore; Hon Derrick Tomlinson; Hon Simon O'Brien; Hon Sue Ellery; Hon Peter Foss; Hon Kim Chance; Deputy Chairman; Hon Bruce Donaldson; Hon Bill Stretch; Hon Norman Moore; Hon Murray Criddle; Hon John Fischer; Hon Robin Chapple; Hon Ray Halligan; Hon Alan Cadby; Deputy President

Hon CHRISTINE SHARP: I seek the advice of the parliamentary secretary. My understanding is that Hon Alan Cadby's amendment would entrench all those elements in the Electoral Distribution Act 1947 that we are repealing. I seek clarification of whether that is the case.

Hon SUE ELLERY: The answer is yes.

Hon PETER FOSS: I disagree with that. The Greens (WA) moved an amendment to proposed section 16H. Currently there is a guarantee of country members of X number of people. The total number is guaranteed. The Greens have substituted for that total guarantee a laa laa, which will not be entrenched. Currently the guarantee will be totally deleted. The Greens' amendment preserves it for the Mining and Pastoral Region. That is not entrenched. There is no way anybody could say that everything that was entrenched in the Electoral Distribution Act is contained in this bill. Hon Christine Sharp might say it is a new way of doing it and therefore the exact provision is not there, but the effect is there; it is exactly the same. What was guaranteed for the whole of the country area is now guaranteed for only the Mining and Pastoral Region. That is not entrenched. To say that everything is in there just because four-fifths of it has been deleted and the remaining one-fifth is being kept in another way is a nonsense. It is in there and it should stay in there. Proposed section 16C is not entrenched. That is the section that deals with how many electoral districts there will be. Is the number of electoral districts currently entrenched? Yes. It is entrenched in section 6 of the Electoral Distribution Act. Therefore, to say that everything is in there is wrong. Where is the entrenchment provision to fix the number of members in the lower house? It is not there. Therefore, it is not all in there. That is a blatant misrepresentation by the parliamentary secretary. The equivalent of section 6 of the Electoral Distribution Act is in proposed section 16C of this bill. Is proposed section 16C entrenched? No. So the answer is false. Where is the equivalent of the distribution into country and city seats, which is in the Electoral Distribution Act? The only thing that is left is proposed section 16H of the bill. Is proposed section 16H entrenched? No. The bits that are not entrenched are the bits that matter. The bits that are entrenched are the bits that do not matter. Although I do not believe we should take it out, I do not think anyone will be going to the wall on who the electoral commissioners will be and what the process will be. I do think it should be in there, but it is not exactly what we would call critical. It is rather like a bikini. The central bits are not there. If that is what the parliamentary secretary was told, she was told a very extraordinary statement; and if that is the basis on which both the parliamentary secretary and Hon Alan Cadby have acted, they have been led up the garden path. The parliamentary secretary's decision was made on a false premise, and what she has said is incorrect. They are not all in there. A basic read of the bill shows that is the case. Section 6 is not in there. It is now out. The equivalent of the division between the city and the country, which is minutely kept so far as the Mining and Pastoral Region is concerned, is not in there. I am sorry, but I do not agree with the parliamentary secretary.

Hon SUE ELLERY: In response to the question put to me by Hon Chrissy Sharp, I will provide an answer in these terms: in the bill that is before us, the equivalent of proposed section 16H(1) and (2) is in the Electoral Distribution Act in section 6(1) and (2); sections 3 and 4 are new and different; and the equivalent of proposed sections 16C and 16D is in the Constitution Acts Amendment Act in sections 19 and 6. The difference between the position I am putting and the position Hon Peter Foss is putting is how we characterise the provisions.

Hon PETER FOSS: Is the parliamentary secretary saying that the equivalent of section 6 is entrenched, or is she just saying it is in there but it is not entrenched?

Hon Sue Ellery: I said that is where it is. It is not entrenched.

Hon PETER FOSS: No. Therefore, the parliamentary secretary cannot say that everything that was entrenched in the Electoral Distribution Act is now entrenched in the bill. I am amazed. Can the parliamentary secretary tell me where the equivalent of section 6 is entrenched? Section 6 of the act provides that there will be 57 members. Is that in the proposed section of the bill? Yes, it is. Is it entrenched? No. How did the parliamentary secretary give the first answer, which is that everything that is entrenched in the act will be entrenched in the new legislation?

Hon SUE ELLERY: Section 6 of the Electoral Distribution Act refers to the particular numbers of districts. It relates to the numbers; it does not fix the numbers.

Hon PETER FOSS: That would have to be one of the most extraordinary answers I have ever heard! The section provides that there will be 34 districts in the metropolitan area and 23 in the country area; that adds up to 57. To change section 6 of the act, an absolute majority is required. To expand the number of members, that section would need to be amended and a constitutional majority would be required. I agree that it appears that the number cannot be reduced, but there is an argument about that because the section of the Constitution that provides that the number cannot be reduced seems to speak to the present rather than to the original time.

Hon Dr Chrissy Sharp; Chairman; Hon Norman Moore; Hon Derrick Tomlinson; Hon Simon O'Brien; Hon Sue Ellery; Hon Peter Foss; Hon Kim Chance; Deputy Chairman; Hon Bruce Donaldson; Hon Bill Stretch; Hon Norman Moore; Hon Murray Criddle; Hon John Fischer; Hon Robin Chapple; Hon Ray Halligan; Hon Alan Cadby; Deputy President

However, the act cannot be amended to increase the number of members without an absolute majority. However, once this legislation is passed, that will be able to be done. What does proposed section 16C provide? It provides that the state shall be divided into 57 electoral districts. It states exactly the same thing. The only thing that it provides that the act does not is that each district will return one member. It would be most interesting if anyone proposed to have two members for every district. I have never heard that suggestion.

Hon NORMAN MOORE: Hon Peter Foss has compared proposed section 16C of the bill with section 6 of the Electoral Distribution Act, and they are virtually identical. The parliamentary secretary is now telling us that if we agree with the amendment moved by Hon Alan Cadby, proposed section 16C will be one of those parts of the new legislation that will not be subject to an entrenchment provision. The number of electoral districts will be able to be changed with an ordinary majority, which cannot be done under section 6 of the Electoral Distribution Act. I think we are being had by the parliamentary secretary, who seems to misunderstand this. Similarly, proposed section 16D of the bill and section 9 of the Electoral Distribution Act refer to dividing the state into six regions. That provision is currently entrenched in the act, yet the parliamentary secretary is saying that it should not be in the new legislation. I think that the parliamentary secretary is misleading us.

Hon PETER FOSS: That worries me more in the context of the work we are presently doing, because it is quite clear that both the Greens and Hon Alan Cadby relied on a representation that was made to them which I think is false. Whether it changes what their decision would have been is another matter altogether. It does not get over the fact that they came into the house having been told something that I think is a load of cobblers. That does worry me because we took time out to consider these things and everybody did it in good faith. It might seem strange but it seems an awful long time ago that people worked very hard to reach some agreement in good faith. We get back into this place and find that the Greens now do not accept it. They had not said they would accept it, but it was not a problem that was raised with us when we were discussing it. The reason the Greens are saying that is because they have been told something that is incorrect. I do not know the decision the Greens would have arrived at had they had the correct position. That hypothetical question does not arise as it was not even possible. Now, after everybody has worked hard to get an agreed result, hopefully on the basis of a full and faithful disclosure about what was happening, we find the Greens have been sold a lie. That just is not correct. I do not know what we should do. However, it worries me that when we are trying in a genuine way to resolve this matter, people are giving what I can only say is outrageously incorrect information. I really do not know where we go from here, but I am concerned. I think it is quite incorrect and quite wrong.

Hon SUE ELLERY: I have not misled anybody. What I said when I stood to support the amendment moved by Hon Alan Cadby was this: we support it because it retains the status quo. It means that three things will be able to be changed by a simple majority under proposed sections 16C and 16D. Proposed section 16C relates to section 19 of the Constitution Acts Amendment Act. Proposed section 16D -

Hon Norman Moore: Hang on, it also relates to section 6 of the Electoral Distribution Act.

Hon SUE ELLERY: That is why I made the point when I stood later about it depending on how the provisions were categorised.

Hon Peter Foss: You were asked specifically whether everything in the Electoral Distribution Act is in here and you said yes.

Hon SUE ELLERY: I am responding to an interjection from Hon Norman Moore, not anybody else. Proposed section 16D relates to section 6 of the Constitution Acts Amendment Act.

Hon Norman Moore: It also relates to section 9 of the Electoral Distribution Act.

Hon Peter Foss: You said it was in here.

Hon SUE ELLERY: When I stood later, I said that the difference between Hon Peter Foss's position and the government's position on this issue was how the provisions were categorised.

Hon PETER FOSS: I think we are getting close to having a contempt of this Parliament. Hon Chrissy Sharp stood and specifically asked the parliamentary secretary whether everything that is entrenched in the Electoral Distribution Act was also entrenched in this bill and she answered yes. She did not say, "Yes, but it is also in some other act." The reality of the matter is that the parliamentary secretary was asked whether it was entrenched in this bill and she said yes. It is not. That is incorrect. She is saying that that is okay because it is entrenched somewhere else. I am raising this matter. I am saying that the parliamentary secretary has misled the house. She has certainly misled the Greens. It is not entrenched in this act. Is the parliamentary secretary saying it is entrenched elsewhere?

Hon Dr Chrissy Sharp; Chairman; Hon Norman Moore; Hon Derrick Tomlinson; Hon Simon O'Brien; Hon Sue Ellery; Hon Peter Foss; Hon Kim Chance; Deputy Chairman; Hon Bruce Donaldson; Hon Bill Stretch; Hon Norman Moore; Hon Murray Criddle; Hon John Fischer; Hon Robin Chapple; Hon Ray Halligan; Hon Alan Cadby; Deputy President

Hon Sue Ellery: No.

Hon PETER FOSS: No, the parliamentary secretary is saying that it did not come from that act; it came from another act. Is that what she is saying? Is she trying to say it is entrenched but it is not entrenched in this bill?

Hon Sue Ellery: Where it is not entrenched.

Hon PETER FOSS: So section 6 is not entrenched? The parliamentary secretary is saying that sections 6 and 7 -

Hon Sue Ellery: Section 6 is not entrenched.

Hon PETER FOSS: Let us get the facts right. Is the parliamentary secretary saying it is entrenched somewhere else or is she saying that it was not entrenched?

Hon SUE ELLERY: Section 6 of the Constitution Acts Amendment Act is not entrenched.

Hon PETER FOSS: Mr Chair, I am really getting upset with this parliamentary secretary. She was asked a very clear question by Hon Chrissy Sharp -

Hon Sue Ellery: Everything I am saying is on advice; he knows that.

Hon PETER FOSS: What she asked was: is everything that was entrenched in the Electoral Distribution Act entrenched in this act? The parliamentary secretary said yes. I heard it, and I am sure Hon Christine Sharp heard it. In fact, it is obviously what she was told before she came into the chamber, because that is what she said is preserving the status quo. However, section 6 of the Electoral Distribution Act is entrenched. The fact that the provision might also be in the Constitution Acts Amendment Act and not be entrenched there does not stop it being entrenched in this act. At this moment, the section is entrenched in the Electoral Distribution Act. The point I am raising now is not whether we should or should not agree to this amendment, but that both Hon Alan Cadby and the Greens (WA) were given false information. Secondly, in response to a direct question from Hon Christine Sharp, that false information was repeated.

Hon Sue Ellery: They were not given false information; they asked for advice about preserving the status quo and that is what they got.

Hon PETER FOSS: Then it is wrong, because section 6 says quite plainly that the state is divided into 57 districts. Section 9 says that the state will be divided into six regions. Those provisions are in the Electoral Distribution Act, which is entrenched, from one end to the other. Now the provision is being taken out of that act and put into the Electoral Act, in which it will not be entrenched. How can the parliamentary secretary say, in response to the question from Hon Christine Sharp, that everything that was entrenched in the Electoral Distribution Act is now entrenched in the Electoral Act? That is incorrect, and the parliamentary secretary is maintaining that position, as far as I can see, in the face of the fact that her error has been drawn to her attention.

The CHAIRMAN: I am sorry to interrupt you, Hon Peter Foss, but the Leader of the House wishes to make a request of me.

Hon KIM CHANCE: Mr Chairman, I ask that you leave the chair until the ringing of the bells.

The CHAIRMAN: The Leader of the House has invited me to leave the chair until the ringing of the bells. That is a course of action I propose to take.

Sitting suspended from 1.02 to 1.33 am

Hon SUE ELLERY: When I was asked by Hon Chrissy Sharp whether everything that was entrenched by the current legislation was also entrenched by this bill, I answered yes. I should have qualified the answer to the extent of saying yes, those provisions of the Electoral Distribution Act that now appear in the bill will be entrenched. Proposed sections 16C and 16D in the bill were not transferred from the Electoral Distribution Act; they replace sections 19 and 6 from the Constitution Acts Amendment Act 1899. Those provisions in the 1899 act can be amended by a simple majority. The provision that sets the numbers exists in the Constitution Acts Amendment Act, not the Electoral Distribution Act. In attempting to confine my answer to a brief yes or no response - it was my decision to do that - I erred by not providing a full and detailed context. This has led to our disagreement, and I apologise for that.

Hon PETER FOSS: I hear what the parliamentary secretary says and I am glad to hear that she has qualified it, but I still do not think it is correct. Even though the Constitution may contain an identical provision to what is in the Electoral Distribution Act, the Electoral Distribution Act specifically states that in the end there shall be 57 Legislative Assembly districts and there shall be six regions. That provision is entrenched by section 13.

Hon Dr Chrissy Sharp; Chairman; Hon Norman Moore; Hon Derrick Tomlinson; Hon Simon O'Brien; Hon Sue Ellery; Hon Peter Foss; Hon Kim Chance; Deputy Chairman; Hon Bruce Donaldson; Hon Bill Stretch; Hon Norman Moore; Hon Murray Criddle; Hon John Fischer; Hon Robin Chapple; Hon Ray Halligan; Hon Alan Cadby; Deputy President

Whether it is also contained in another non-entrenched provision is immaterial. It is entrenched by that act; therefore, it is entrenched. To say that in another act it is not entrenched does not mean that it is not. If the parliamentary secretary were to say that it is entrenched somewhere else, that is slightly different, but that is not what she said. Is that what the parliamentary secretary intended to say - that it is entrenched but it is entrenched elsewhere?

Hon SUE ELLERY: No, but I do agree with Hon Peter Foss. We differ.

Hon PETER FOSS: We may differ, but does the parliamentary secretary agree with me that sections 6 and 9 of the Electoral Distribution Act set the number of districts at 57 and the number of regions at six? Does the parliamentary secretary also agree - and she may not agree - that every section of this act is entrenched and that, therefore, sections 6 and 9 are entrenched irrespective of whether they are also found in any other act?

Hon SUE ELLERY: No, section 6(1) does not set them. It outlines how to arrive at the number of 52, which is fixed by section 19 of the other act.

Hon PETER FOSS: That would have to be the cutest and most absurd argument I have heard. It may be set in another act, but there is nothing in section 6 to say that it can be divided into any other number of districts. It is quite precise. It says the commissioners shall divide the metropolitan area into 34 districts - so far there are 34 - and they are required to do that by an entrenched provision. Also, the commissioners are required to divide the area comprising the remainder of the state into 23 districts. It does not leave anything out. Therefore, the whole state is divided into 57 districts. That is a requirement that is obligatory and entrenched. It cannot be divided into 59, because the act says it must be divided into 57, and currently we are changing it to be divided into 59 and putting one person in each district.

Anything that says it must be divided into any other number is contrary, expressly, to section 6 of this act. Strangely enough, this was one of the provisions that was referred to by the High Court in Marquet. In the argument about whether this dealt with the Constitution of the state, they said they believed anything that dealt with the way in which people are sent to Parliament does concern the Constitution of the state and is quite fundamental.

I think that has to be the cutest and most absurd argument I have ever heard. Every member in this chamber who is not a lawyer would say they understand that section 6 requires 57 districts. The new provision requires 59, with a requirement that there will be an extra member in each seat. Whether another act says there will be 57 districts is irrelevant. The fact that we have two acts saying the same thing and one of them is entrenched means that the part that is not entrenched cannot even be changed by the Constitution in such a way as to require a change to section 6 unless there is an absolute majority. Otherwise, section 6 would be impliedly amended - in fact there is an inconsistency and the legislation is being amended - but it cannot be. I cannot see how anybody, lawyer or not, can agree with the parliamentary secretary's absurd explanation.

Hon SUE ELLERY: I have put the government's position; that has not changed. I appreciate that we differ, but we will continue to differ.

Hon PETER FOSS: I am not quite sure what we do with somebody who differs in the face of a clear provision in an act. I know we differed before on what I thought might be a moot point as to whether "amend" included "repeal", which was the last cute point that came out of this government. That was at least arguable.

The interpretation that enables the parliamentary secretary to say the entrenchment provision - which requires the commissioners to divide the state into 57 districts, which cannot be changed without an absolute majority - can be changed when exactly the same words are used in the new act is nonsense. If the parliamentary secretary is arguing that it is not substantive but it happens to coincide for convenience sake with the Constitution, that is nonsense. It is a substantive provision requiring the state to be divided into 57 parts. The bill could have included a provision that said the commissioners must divide it into 114 parts with two members in each. The fact is the substantive provision says there shall be 57 parts. The commissioners cannot do anything else, because that is what they are told to do. The parliamentary secretary may say otherwise, but it is a facile excuse for what was quite misleading.

Amendment on the amendment put and a division taken with the following result -

Extract from *Hansard*
[COUNCIL - Thursday, 5 May 2005]
p1346c-1383a

Hon Dr Chrissy Sharp; Chairman; Hon Norman Moore; Hon Derrick Tomlinson; Hon Simon O'Brien; Hon Sue Ellery; Hon Peter Foss; Hon Kim Chance; Deputy Chairman; Hon Bruce Donaldson; Hon Bill Stretch; Hon Norman Moore; Hon Murray Criddle; Hon John Fischer; Hon Robin Chapple; Hon Ray Halligan; Hon Alan Cadby; Deputy President

Ayes (17)

Hon Alan Cadby	Hon Adele Farina	Hon Lynn MacLaren	Hon Giz Watson
Hon Kim Chance	Hon Jon Ford	Hon Dee Margetts	Hon Ed Dermer (<i>Teller</i>)
Hon Robin Chapple	Hon Graham Giffard	Hon Louise Pratt	
Hon Kate Doust	Hon Nick Griffiths	Hon Ljiljanna Ravlich	
Hon Sue Ellery	Hon Kevin Leahy	Hon Christine Sharp	

Noes (14)

Hon George Cash	Hon Peter Foss	Hon Norman Moore	Hon Derrick Tomlinson
Hon Murray Criddle (<i>Teller</i>)	Hon Ray Halligan	Hon Simon O'Brien	Hon Bruce Donaldson
Hon Paddy Embry	Hon Barry House	Hon Barbara Scott	
Hon John Fischer	Hon Robyn McSweeney	Hon Bill Stretch	

Pair

Hon Ken Travers

Hon Frank Hough

Amendment on the amendment thus passed.

Hon NORMAN MOORE: The opposition will support the amended amendment simply because at least something will get entrenched. If we were to defeat the amended motion, nothing would be entrenched.

Amendment, as amended, put and passed.

Proposed section, as amended, put and passed.

Clause 4, as amended, put and a division taken with the following result -

Ayes (17)

Hon Alan Cadby	Hon Adele Farina	Hon Lynn MacLaren	Hon Giz Watson
Hon Kim Chance	Hon Jon Ford	Hon Dee Margetts	Hon Ed Dermer (<i>Teller</i>)
Hon Robin Chapple	Hon Graham Giffard	Hon Louise Pratt	
Hon Kate Doust	Hon Nick Griffiths	Hon Ljiljanna Ravlich	
Hon Sue Ellery	Hon Kevin Leahy	Hon Christine Sharp	

Noes (14)

Hon George Cash	Hon Peter Foss	Hon Norman Moore	Hon Derrick Tomlinson
Hon Murray Criddle (<i>Teller</i>)	Hon Ray Halligan	Hon Simon O'Brien	Hon Bruce Donaldson
Hon Paddy Embry	Hon Barry House	Hon Barbara Scott	
Hon John Fischer	Hon Robyn McSweeney	Hon Bill Stretch	

Pair

Hon Ken Travers

Hon Frank Hough

Clause, as amended, thus passed.

Clauses 5 to 10 put and passed.

Title put and passed.

Progress reported, with amendments.

Recommittal

On motion by **Hon Sue Ellery (Parliamentary Secretary)**, resolved -

That the bill be recommitted for the further consideration of proposed section 16I of clause 4.

Hon Dr Chrissy Sharp; Chairman; Hon Norman Moore; Hon Derrick Tomlinson; Hon Simon O'Brien; Hon Sue Ellery; Hon Peter Foss; Hon Kim Chance; Deputy Chairman; Hon Bruce Donaldson; Hon Bill Stretch; Hon Norman Moore; Hon Murray Criddle; Hon John Fischer; Hon Robin Chapple; Hon Ray Halligan; Hon Alan Cadby; Deputy President

Committee

The Chairman of Committees (Hon George Cash) in the Chair; Hon Sue Ellery (Parliamentary Secretary) in charge of the bill.

Clause 4: Part IIA inserted -

Proposed section 16I: Basis for division of the State into regions -

Hon CHRISTINE SHARP: I move -

Page 9, lines 25 and 26 - To delete “, the Central Metropolitan Region and” and insert instead -
(being a region that is generally to the north of the Swan River),

This amendment provides a definition of the North Metropolitan Region as being a region that is generally to the north of the river, but it is not limited in that way. My amendment also removes the nomenclature from the bill of the “Central Metropolitan Region”.

Hon NORMAN MOORE: The opposition supports this amendment.

Amendment put and passed.

The CHAIRMAN: The next amendment is in the name of Hon Christine Sharp. Although it deals with the same line as the amendment proposed by Hon Norman Moore, Hon Christine Sharp’s amendment is first in time.

Hon CHRISTINE SHARP: I do not intend to move that amendment, Mr Chairman.

Hon PETER FOSS: Has amendment 17/4 already been passed, or is the member not going to move that amendment?

The CHAIRMAN: We have already dealt with that amendment.

Hon NORMAN MOORE: My handwritten amendment has been circulated. It seeks to amend page 9, line 28, to delete the words “of approximately” and insert instead “, as nearly as practicable, of”. The amended subparagraph would read -

each consist, as nearly as practicable, of the same number of complete and contiguous districts;

The fundamental argument is that if there are to be 42 districts and three regions in the metropolitan area, in my opinion each region should have 14 seats. I am advised that there may come a time when the number of districts could be 43 or 41 or some other number that does not divide equally by three. Therefore, a situation would result in which one region would have more or fewer districts. The proposition in the government’s bill is for the districts to be approximately the same. I was contemplating moving an amendment that if the number of districts was equally divisible by three, they should be the same and if not, I would use some other words. I took advice from the parliamentary draftsman and the words “as nearly as practicable” seemed to be a better way of putting it. That means that we are not looking at something approximate but at something that is as close as possible to what can be achieved. I would expect that if the number of districts in the metropolitan area were divisible by three, they would all be the same and if not, the numbers would be as near as practicable to the same. I move -

Page 9, line 28 - To delete “of approximately” and insert “, as nearly as practicable, of”.

Hon SUE ELLERY: The government will oppose the amendment. We gave consideration to whether we could accept the words used in the Leader of the Opposition’s amendment. However, our best advice was that that would place too much restriction on the electoral commissioners and that the existing words “of approximately the same” provide the commissioner with the greatest flexibility.

Hon NORMAN MOORE: This is getting appallingly ridiculous. Why does the government want any flexibility above what is practicable? Why does it want any more flexibility than getting as close as possible to the same number of seats in each region? I heard that Hon Chrissy Sharp would delete “approximately the same number as” at, I think, the request of the government. I am getting the impression that a situation could arise whereby one region might have 15 or 16 seats and another will have 10 or 12. Why is any flexibility needed above an absolute requirement that as close as possible to the same number of Legislative Assembly seats will be created in each region? What flexibility could the government possibly want beyond that? I wonder what on

Hon Dr Chrissy Sharp; Chairman; Hon Norman Moore; Hon Derrick Tomlinson; Hon Simon O'Brien; Hon Sue Ellery; Hon Peter Foss; Hon Kim Chance; Deputy Chairman; Hon Bruce Donaldson; Hon Bill Stretch; Hon Norman Moore; Hon Murray Criddle; Hon John Fischer; Hon Robin Chapple; Hon Ray Halligan; Hon Alan Cadby; Deputy President

earth is going on. If the government has an idea that one metropolitan region will have 15 or 20 Legislative Assembly seats and another will have 10 or so, I would like to know why and which ones.

This is absolutely pathetic. I sought advice from the government officers about what was a better way of wording the amendment to achieve a more direct requirement. I could have moved another amendment that if the number of districts was equally divisible by three, all the districts should be equal and if it was not, the government should achieve the closest possible number to it. However, I took the advice of parliamentary counsel and I expected the parliamentary secretary to take some notice of the amendment. It is a far better proposition than is the government's. The word "approximately" can be any variation on a theme.

Hon SUE ELLERY: The words in the Leader of the Opposition's amendment were drafted for him by parliamentary counsel; however, that was not the advice that was provided to me about what was the best form of words to be used. Those words were provided to the Leader of the Opposition, but that was not the advice I received about the best form of words to use.

Hon NORMAN MOORE: By whom, parliamentary secretary?

Hon Sue Ellery: By parliamentary counsel.

Hon NORMAN MOORE: What sort of a dope am I to take any notice of the advice these people are providing? I sought advice from parliamentary counsel and I took their suggestions in good faith. Now I am being told they have changed their minds. I will not cut my throat over this matter, but I cannot understand what on earth is going on. Does the parliamentary secretary believe that the number of districts in the Metropolitan Region should be a significant variation from the number of districts in the other regions? How can the parliamentary secretary justify that when this bill is about one vote, one value? I would have thought all the regions in the metropolitan area should have the same number of districts and get as close as possible to the sacred script of one vote, one value. The parliamentary secretary is now asking us to agree that we can have a variation that relates to approximately the same thing, when I am asking for something more specific than that.

Hon SUE ELLERY: I need to make a correction. That advice was not provided to me by parliamentary counsel. It was provided to me by other advisers.

Hon Norman Moore: Like whom - the Attorney General?

Hon SUE ELLERY: No. I have not spoken to the Attorney General.

Hon PETER FOSS: The parliamentary secretary has made a very important correction, because the reason I was rising was to express alarm that parliamentary counsel are getting involved in what I regard as policy. It is very reassuring to find it was not parliamentary counsel. I am very pleased the parliamentary secretary made that particular correction.

Amendment put and a division taken with the following result -

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Hon Dr Chrissy Sharp; Chairman; Hon Norman Moore; Hon Derrick Tomlinson; Hon Simon O'Brien; Hon Sue Ellery; Hon Peter Foss; Hon Kim Chance; Deputy Chairman; Hon Bruce Donaldson; Hon Bill Stretch; Hon Norman Moore;; Hon Murray Criddle; Hon John Fischer; Hon Robin Chapple; Hon Ray Halligan; Hon Alan Cadby; Deputy President

Ayes (15)

Hon Alan Cadby	Hon John Fischer	Hon Robyn McSweeney	Hon Bill Stretch
Hon George Cash	Hon Peter Foss	Hon Norman Moore	Hon Derrick Tomlinson
Hon Murray Criddle (<i>Teller</i>)	Hon Ray Halligan	Hon Simon O'Brien	Hon Bruce Donaldson
Hon Paddy Embry	Hon Barry House	Hon Barbara Scott	

Noes (16)

Hon Kim Chance	Hon Adele Farina	Hon Kevin Leahy	Hon Ljiljanna Ravlich
Hon Robin Chapple	Hon Jon Ford	Hon Lynn MacLaren	Hon Christine Sharp
Hon Kate Doust	Hon Graham Giffard	Hon Dee Margetts	Hon Giz Watson
Hon Sue Ellery	Hon Nick Griffiths	Hon Louise Pratt	Hon Ed Dermer (<i>Teller</i>)

Pair

Hon Frank Hough

Hon Ken Travers

Amendment thus negatived.

Proposed section, as further amended, put and passed.

Clause 4, as further amended, put and passed.

Bill again reported, with a further amendment.

As to Further Report

HON KIM CHANCE (Agricultural - Leader of the House) [2.10 am]: I move -

That the further report of the committee be adopted.

Point of Order

Hon NORMAN MOORE: I do not believe that the report can be adopted without leave, because it has been amended and the clauses have been opposed.

The DEPUTY PRESIDENT (Hon Simon O'Brien): That is substantially right.

Debate Resumed

Hon KIM CHANCE: I seek leave to move to the adoption of the report.

Leave granted.

Further Report

HON KIM CHANCE (Agricultural - Leader of the House) [2.11 am]: I thank members for their courtesy. I move -

That the further report of the committee be adopted.

Question put and a division taken with the following result -

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Hon Dr Chrissy Sharp; Chairman; Hon Norman Moore; Hon Derrick Tomlinson; Hon Simon O'Brien; Hon Sue Ellery; Hon Peter Foss; Hon Kim Chance; Deputy Chairman; Hon Bruce Donaldson; Hon Bill Stretch; Hon Norman Moore; Hon Murray Criddle; Hon John Fischer; Hon Robin Chapple; Hon Ray Halligan; Hon Alan Cadby; Deputy President

Ayes (17)

Hon Alan Cadby	Hon Adele Farina	Hon Lynn MacLaren	Hon Giz Watson
Hon Kim Chance	Hon Jon Ford	Hon Dee Margetts	Hon Ed Dermer (<i>Teller</i>)
Hon Robin Chapple	Hon Graham Giffard	Hon Louise Pratt	
Hon Kate Doust	Hon Nick Griffiths	Hon Ljiljana Ravlich	
Hon Sue Ellery	Hon Kevin Leahy	Hon Christine Sharp	

Noes (14)

Hon George Cash	Hon Peter Foss	Hon Norman Moore	Hon Derrick Tomlinson
Hon Murray Criddle (<i>Teller</i>)	Hon Ray Halligan	Hon Simon O'Brien	Hon Bruce Donaldson
Hon Paddy Embry	Hon Barry House	Hon Barbara Scott	
Hon John Fischer	Hon Robyn McSweeney	Hon Bill Stretch	

Pair

Hon Ken Travers

Hon Frank Hough

Question thus passed.

Further report adopted.