WESTERN AUSTRALIA

PARLIAMENTARY DEBATES

(HANSARD)

THIRTY-FOURTH PARLIAMENT
FOURTH SESSION
1996

LEGISLATIVE COUNCIL

Tuesday, 3 September 1996

Legislative Council

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THE PRESIDENT (Hon Clive Griffiths) took the Chair at 3.30 pm, and read prayers.

BILLS (2): ASSENT

Messages from the Governor received and read notifying assent to the following Bills -

1. Dog Amendment Bill
2. Official Corruption Commission Amendment Bill

PETITION - ABORTION, DECRIMINALISATION

The following petition bearing the signatures of 40 persons was presented byHon J.A. Scott -

> To the President and members of the Legislative Council in the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned residents of Western Australia request that a Parliamentary Inquiry be established to review Criminal Code sections 199, 200, 201 and 259.
>
> Your petitioners therefore humbly pray that the Legislative Council will review the legal status of abortion in Western Australia to decriminalise abortion when performed by qualified medical practitioners.
>
> And your petitioners as in duty bound, will ever pray.

[See paper No 558.]

PETITION - STRATA TITLES ACT, CHANGES

The following petition bearing the signatures of 239 persons was presented by Hon Graham Edwards -

> To the Honourable the President and members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned urge the Government to recognise the considerable concern and confusion caused by changes to the Strata Titles Act particularly to duplex owners and call on the Government to fully explain how people must comply with the statutory obligations particularly in relation to workers compensation insurance and if the Government is unable to do this, we further call on the Government to repeal or simplify those sections of the Act.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners as in duty bound, will ever pray.

[See paper No 559.]

ROYAL COMMISSION INTO THE CITY OF WANNEROO

Interim Report, Tabling

Hon N.F. Moore (Leader of the House) tabled the interim report of the Royal Commission into the City of Wanneroo, and on his motion it was resolved -

> That the report do lie upon the Table and be printed.

[See paper No 546.]

JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Nineteenth Report on Select Committee on Procedure Final Report, Tabling

Hon B.K. Donaldson presented the nineteenth report of the Delegated Legislation Committee on the final report of the Legislative Assembly's Select Committee on Procedure, and on his motion it was resolved -

That the report do lie upon the Table and be printed.

[See paper No 560.]

MOTION - URGENCY

Strata Titles Act, Changes

THE PRESIDENT (Hon Clive Griffiths): I have received this letter addressed to me at Parliament House dated 3 September -

> Dear Mr President,
>
> At today's sitting, it is my intention to move under SO 72 that the House at its rising adjourn until 9.00 am on 25 December 1996 for the purpose of discussing the Government's continued failure to resolve the Strata Titles concerns as expressed by many people in the community.
>
> Yours sincerely
>
> Graham Edwards, MLC
> Member for North Metropolitan Region.

In order that this matter can be discussed, it will be necessary for at least four members to indicate their support by rising in their places.

[At least four members rose in their places.]

HON GRAHAM EDWARDS (North Metropolitan) [3.42 pm]: I move -

> That the House, at its rising, adjourn until 9.00 am on 25 December.

Members of the Council will be aware that there is an immense amount of concern in the community regarding people's obligations under the recently changed Strata Titles Act. I have brought this matter to the attention of the Council previously, and I will continue to do so until we have a resolution of these problems.

Last Tuesday an organisation called STAG presented me with a petition on the steps of Parliament House. The petition was not in a form that could be presented in the Council. I want to draw attention to that document today because it contains an outline of the problems that most people are experiencing and some suggested resolutions of those problems. The document states -

> The Honourable the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled
>
> We, the Strata Title Action Group, representing strata title owners, urge the Government to consider our Petition of Needs as outlined below.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

This petition sets out what STAG is, as follows -

> STAG is an acronym for Strata Titles Action Group, a growing group of Strata Title owners who are not confident that the current Committee looking into strata ownership and insurance matters on behalf of Government (through comments made publicly and privately by some of its members), have a full understanding of end user needs. Neither do they appreciate the enormous stress (placed particularly on the elderly), and strong emotional sense of injustice felt by duplex and triplex owners.

Its objectives are -

> For every duplex and triplex owner to have undisputed ownership of their strata property, and all the structures on the lot, including the surrounding land; and
>
> For every duplex and triplex owner to have the absolute freedom of choice in matters relating to the insurance of their property.

The group then poses this question -

> WHY ARE THE OBJECTIVES NECESSARY?

Existing legislation requiring properties to be jointly covered under one insurance policy with premiums apportioned according to unit entitlement is unfair because:

1) The legislation is undemocratic, un-Australian, impinges on our civil liberties, and erodes freedom of choice. It forces one party to take the initiative and become a revenue collector.

2) Where a neighbour is tardy in payment of his share of the premium, or refuses to pay his share, the onus is on the other party to pay the full premium and take action to recover the costs. This is a daunting task for anyone, but particularly frightening for the elderly.

3) One party is forced to be responsible for his neighbour who may be negligent in property care (thus incurring higher premiums, excesses etc. by default).

4) In many cases the elderly and pensioners on low incomes are being hurt and discriminated against because the Law is making them their neighbour's keeper.

5) The Insurance Council has advised that, in the case of a false declaration being made on the insurance proposal form by one party, his constitutes a breach of contract and could prejudice any claim. There is no way of knowing, or checking on, one's neighbour's insurance history.

6) It is a fact that many people do not enjoy good relations with their neighbour. The potential for conflict in this situation is patently obviously

7) Many people such as pensioners, war veterans, etc. receive discounted insurance which they stand to lose if compelled to take out insurance with their neighbour.

8) A significant number of people conveniently paid their building insurance on a monthly basis with their mortgage repayments. This is now impossible because of the requirement for joint insurance. Similarly, HBF offer a monthly instalment scheme, and many other insurance companies allow their members to pay their premiums in two equal instalments - all now made impossible because of the Act.

9) Those people with a mortgage may be required to take out a separate "Interest of Mortgage" policy to protect their mortgagee's interests - a further additional expense.

10) There are people in the community who do not insure anything - whether it be their homes, their home contents, their cars, etc. They take a calculated risk but that's their decision and they alone face the consequences in the event of loss or damage. It would be impossible to extract that person's share of the premium if one's neighbour falls into this category.

11) A joint bank account would need to be held in the Strata Company name for the processing of reimbursement cheques from an insurer in the event of a claim. Unless both parties happen to have accounts with the same bank, this could necessitate one, or both proprietors, having to undergo the 100 point I.D. check in order to do this. This joint account, incurring fees and other costs, would be a further, unnecessary expense and burden on the owners and would be opened purely for the purpose of depositing cheques in the event of an insurance claim which might never eventuate.

I do not agree with every one of those points but, in the main, I agree with what STAG is saying. I compliment Mrs Norma Pearson and Mrs Margaret Lindsay, who are I think the prime movers and are certainly the motivating force behind STAG. They have done an excellent job. They are just two ordinary women from the community. They are not political, but very concerned. They can see the iniquities of the legislation. They can also see the concern and anxiety that is being caused, particularly to many elderly people, as people try to come to terms with their responsibility under this Act. I congratulate those two women for their commitment and the work that they have been doing in this area.

I do not believe that I have approached this issue in a political way; I certainly have not sought to lay blame. I recognise that the current Minister fairly recently took over the responsibility for this issue and has walked into it fairly cold. However, I have some concerns about the way he is addressing the issue. I also have some concerns about the way in which the Government is responding to the issue. On Saturday morning, 29 June, I attended a fairly big meeting in Kingsley, attended by representatives of the insurance industry and the Department of Land Administration. The meeting was chaired by Paul Filing, the Independent federal member for Moore. Cheryl Edwardes attended. Everyone was given a fair go and an opportunity to have a say. At the conclusion Cheryl Edwardes indicated that the Government would bring forward a response to Cabinet within a week; that from that

response approval would be given to draft legislation; and that legislation would be introduced fairly soon into the Parliament. That date is long past and we have not seen any action that was promised that morning.

I attended another meeting at Scarborough on Monday night, 19 August. I chaired that meeting, which was a very positive one. It was attended by two representatives of the Department of Land Administration, one of whom was there specifically to represent the interests of the Minister. It was also attended by a representative of the insurance industry and a number of people from within the community, including Anne Barratt, the endorsed ALP candidate for the seat of Innaloo. She called the meeting because the issue had been brought to her attention during the course of her door knocking in the community. I was very complimentary of the presentation by the Department of Land Administration, which set out the issue quite well. Once again we were told that the Minister would be taking the response to this issue to Cabinet at the end of that month and would be getting approval to draft legislation which would flow from that. I assume, perhaps wrongly, because I have not heard the Minister make any statement, that the matter has not yet gone to Cabinet.

This is a very complex issue. There is no doubt about that. There is no quick fix; but the Government must recognise the sincerity of the people involved in the argument. If the Government is dinkum it would want to work to have this problem resolved. I do not think that anyone will score any points by not meeting deadlines as promised. It would have been far better for the Minister to be very honest with the group of people and to tell them exactly what was the situation.

To reinforce the concern people feel about the issue, I will read from a letter I received last Tuesday morning from a man. He writes -

> Dear Sir, thank you for trying to hasten the horrible strata title mess.
>
> I have a united, a duplex, adjoining a home facing [the street]. The only thing adjoining our units, are the roof. I have a personal driveway [in another street]. My neighbour has his facing [the street]. Fred has become because I will not sign to join a corporate body. I have every document one could think of to sign. I am dazzled with law & by laws.
>
> I am 78 year of age . . . and have just survived a major cancer bowel operation & more is to follow. I am a veterans affair pensioner. I want peace of mind.

That is a fair reflection of the concern that many people in our society are feeling. This issue demands that the Government take action and tell the community what it is doing. I indicated with the STAG document that this concern was being felt in the community. I also indicated that much of that concern is impacting on elderly people. For that reason I have not sought to exacerbate affairs or got stuck into the Government in a political way. I want the Government to use its resources to resolve the problem. I have a commitment from both Jim McGinty and Hon Mark Nevill that we will debate the legislation and do everything we can to ensure that the legislation passes through the Parliament as quickly as possible. A lot of complex matters must be looked at. The Opposition will do everything it can to hasten the resolution of this matter. I am greatly concerned for the number of aged people who are worried about the issue. I have received letters from people of 78 years of age expressing their concern.

HON GEORGE CASH (North Metropolitan) [3.59 pm]: I am pleased to be able to speak to this motion. I am pleased that Hon Graham Edwards when moving the motion made it clear that he does not want to make a political issue of this. There is no need for it to be a partisan debate, because all members of this House owe a duty to people who own strata properties and who may be concerned or anxious about the recent amendments that went through this House. Those amendments were agreed to by all members of this House. Both sides of the House must get together and pass the necessary amendments that have been identified and ensure that the anxiety in the community is set to rest. There is no doubt that a house, whether it be a strata title house or a house on a single fee simple lot, is often a person's most valuable asset; it often takes people their whole lives to pay the bank for them. We are talking about a serious matter. I want the discussion of this motion to be treated very seriously.

Hon Graham Edwards referred to the Strata Titles Action Group. The Minister for Lands has ensured that two members of that group are on the task force that is considering necessary changes to the Strata Titles Act. Therefore, direct input from strata title owners and the action group is being made to the Minister. No bureaucratic curtain has been put up. That task force will respond directly to the Minister and it comprises a number of members, two of whom are members of STAG.

For more than 30 years - that is, since 1966 when the original Strata Titles Act was passed by this Parliament - people have been required to insure their premises. If the premises are insured, because common property often stretches beyond the boundary of a person's unit into other sections of the property, a joint and several insurance policy has been required. That has been the case for about 30 years, but it has been a sleeper because, until earlier this year when the Parliament agreed to the most recent amendments, it was not an issue in the community and many people

who owned strata title units did not realise their obligations under the then legislation. The new amendments have highlighted the insurance issue. Because of the concerns of Western Australian strata title owners, the Government has acted. Last Monday or the Monday before, Cabinet agreed to a number of proposed amendments to the Strata Titles Act. The Minister for Lands hopes that those amendments will be passed by the end of this year. I understand they are being treated as urgent; they have top priority in the Government's legislative program. I am pleased that Hon Graham Edwards has a commitment from both Mr McGinty and Hon Mark Nevill, who is the shadow Minister for Lands, that the proposed amendments will be expedited, because, as I said, there is no need for the matter to become partisan; it will only increase anxiety in the community.

Many people in the community who own strata title properties do not fully understand, not unreasonably so because of the complexity of the strata titles legislation, what they own, what they do not own, what they are responsible for and what they are not responsible for in respect of their liability. Owners of a duplex erected on a single lot with gardens on both sides of a fence and enclosed believe they have absolute rights in relation to the garden on their side of the fence. Just because they believe that to be the case does not in law make it the case. That is one of the difficulties we face with the legislation. At present, very complicated agreement documents relating to ownership have to be drawn up. However, the Minister proposes an easy minimisation of the common property; that is, that a one page document be signed by both parties which says that that which is one side of the fence is owned and controlled by one person and that which is on the other side is owned and controlled by the neighbour. The Minister hopes that the amendment will reduce the complexity of the present agreement to a one page document for agreement on those issues so that the owners can get on with life rather than have this cloud hanging over them.

Conversion to survey strata plans is, at the moment, complex and complicated. That is not because, in 1966 when these matters were introduced to the Parliament, people wanted them to be complex and complicated; it is because, over a period, builders and developers pushed the strata title laws to the limit and, as a result, all sorts of permutations of what can and cannot be a strata survey arose. Again, it is intended that the procedures in that regard be eased as much as possible to try to reduce the cost of converting existing strata properties to survey strata plans.

The legal complexities of green titles are not fully understood by the community. That is not unreasonable. Not all people are property lawyers. However, people often talk about wanting a green title for their property, notwithstanding the fact that it is part of a strata plan. Again, the Minister's task force has looked at the matter and has advised him to try to make as easy as possible the conversion of the properties where it is legally possible to bring them across to a green title. That will not apply to all. However, where it is possible, the procedures will be made as easy as possible. The Government is working hard to bring into this House the amendments that have to be made to the Act so that we as a bipartisan group can agree to them and have them proclaimed as soon as possible to reduce the anxiety that is currently in the electorate.

Some people may think that the amendments that went through this Parliament earlier this year were not fully considered by the Parliament. That strata titles legislation was referred to the Legislative Council's Legislation Committee on at least two occasions. Recommendations by the committee were adopted by the Government and agreed to by the Parliament. Therefore, the Parliament had a good look at the changes that were made. However, some sleeping issues have come to the fore and Hon Graham Edwards is right in raising them in this place. I have raised them with the Minister and I do not run away from the fact that I was the Minister for Lands who brought the legislation into this House in the first place. However, it is important to ensure that the community fully understanding that amendments will be introduced into the Parliament and I hope passed by it before the end of this year.

HON MARK NEVILL (Mining and Pastoral) [4.08 pm]: It is five months since the amendments to the Strata Titles Act were proclaimed. It has been the Opposition's endeavour to keep as much pressure on the Government as possible to get it to address the problems that have come to light since that Bill was proclaimed last April. A lot of priority legislation is before the Government. Unless pressure is put on it, it is easy for changes to be put onto the backburner and other issues made more prominent. Therefore, we make no apologies for raising the matter in the House on a number of occasions in May and moving a disallowance motion in late May and debating that motion in July. Discussions have subsequently taken place. The Opposition has not created hysteria among the public because it has acted responsibly. It knows many of the people who occupy these strata title premises are elderly and they have enough anxiety and concern, without adding to it. I doubt very much whether government members, prior to 1993, would have acted in such a restrained manner. Opposition members have endeavoured to be positive in their comments in this House, and they have made suggestions about changes to insurance practices. The Opposition suggested that all insurance companies be given exemption to offer workers' compensation insurance so that strata title owners could obtain all their cover from one insurance company as part of a package, rather than their needing to obtain the workers' compensation insurance from a separate insurer. The Opposition also suggested ways of allowing people to gain exclusive possession of their property, to avoid the odd situation in which people jointly own the walls of their adjoining properties. That is understandable in a high rise building with many units sharing

common walls. In those circumstances it is in the interests of everyone to have a share in the total property so that no damage can be caused and everyone's interests are protected. However, that requirement, which is built into the Act, is not necessary in many cases involving villas and townhouses. The Opposition suggested a simple solution to that problem.

The Opposition also suggested solutions to the problems of dispute resolution. At the moment decisions of the strata titles referee are not enforceable, and it is an expensive and complex procedure to have them enforced through the Local Court. The Opposition suggested that a strata titles commissioner be appointed with the powers of a magistrate to make decisions in those matters. The aim of the amendments to the Strata Titles Act was to simplify the legislation for duplexes and triplexes. Clearly there is room for improvement in that area. In some cases, particularly in the insurance area, matters have become much more complex as a result of the changes.

For a couple of months the Government has been promising that legislation will be introduced into the Parliament as soon as possible. That appears to be some weeks, if not months, away. The Opposition will certainly support legislation if it believes it addresses the issues. The Opposition hopes that information on the agreement reached by Cabinet on Monday will be circulated to opposition members so that they have plenty of time in which to comment, rather than its being brought to attention in the last week of the session that the proposals do not address the issues.

The Opposition has indicated that three areas need to be addressed in the strata titles issue. It has suggested that the Government set up a small board which would provide information to the public. The board would deal with complaints and disputes when they arise. At the moment people must go to the Department of Land Administration for information. There is a dearth of knowledge among real estate agents about the Strata Titles Act. Many insurers also have limited knowledge of that legislation. Certainly, if they have that knowledge in many cases it is not being passed to purchasers and people seeking insurance cover. A small board would be ideal to provide information to the public and to advise the Government on the operation of the Strata Titles Act. It could provide suggestions on how to overcome disputes and deal with similar situations. The Opposition also suggested the publication of a plain English guide to the Strata Titles Act. I drew to the attention of the House a fairly simple publication produced by the New South Wales Department of Fair Trading entitled "Strata Living". It is 23 pages long and contains a wealth of simply presented information for people living in strata title properties.

In many cases the problem of converting strata title plans to surveyed strata title plans is one of cost. I am sure the Government has a role in solving this by negotiating some contracts - with the Institution of Surveyors or the other professional institute. As so much work will be involved, perhaps a competitive rate could be negotiated on behalf of strata title owners for these surveys to be carried out. That would give people exclusive possession of their properties. It seems to be an area of major cost, but that cost could possibly be reduced if the contracts were agreed to in bulk. Most people live in strata title units by choice, but that choice is often determined by their income. People who have sufficient money generally prefer to live in properties with separate titles. Strata title properties are better suited to senior citizens, but often these owners have limited income. The cost of surveying their property would hardly be worthwhile unless it increased the capital value of that property.

The Opposition will continue to press this Government to introduce the legislation to this Parliament. There is no doubt in the minds of opposition members that some of the problems are tricky and difficult but, with resolve, I am sure they can be solved. The Opposition will certainly assist the passage of this legislation through this House. I support the comments of Hon Graham Edwards.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [4.18 pm]: Hon George Cash has very succinctly summed up the response of the Government to this motion. In order that there be no lack of understanding, I indicate that this is a matter of significant and high priority to the Government. The Minister for Lands is leaving no stone unturned while trying to solve the problems. The extent of the problems was not known at the time the legislation went through this House. As Hon George Cash said, the Bill spent some time with the Legislation Committee. Since that committee, with all its great expertise, did not foresee some of the difficulties that have arisen, that demonstrates that obviously nobody else did. As a result of the legislation which came into effect in April this year, a whole range of problems have become evident and the Government is in the process of resolving those problems. All members who have spoken today recognise the complexity of the issue and the complexity of the solutions.

It is the view of the Minister for Lands that it would be better to get this matter right next time than rush in now with an amendment which, on the surface, may appear to resolve the problem, but which may create further difficulties down the track. We need only look at the history of legislation to know that it is not impossible to pass legislation in this Parliament which creates problems later on. The Minister for Lands has set up a range of activities such as help lines to the Department of Land Administration, public seminars, the distribution of information brochures and newspaper and radio advertisements to indicate that the Government is aware of the problem and is endeavouring to fix it. A task force has been established to examine the issues raised by people in the community who have expressed concern about this matter. As someone said, the Strata Titles Action Group has two representatives on

the task force. That is an appropriate course for the Minister to follow because it gives those people who have indicated their direct concern a role in finding a solution to the problem. When Hon Graham Edwards says they are not happy with the findings of the task force, I and, I am sure, the Minister for Lands, will be interested to know the variation between the views of STAG and its members on the task force. As has been indicated, the task force recommendations are being put to the Minister. He has broad Cabinet approval to have legislation drafted which, we hope, will resolve once and for all the issues that confront strata title owners.

Again, it is the view of the Minister, and I concur with him entirely, that it is better to make sure we get right the answers to this issue and spend as much time as necessary finding those answers than to rush in with legislation which may seem to resolve it but which may create further problems down the track. A number of strategies are being adopted to which Hon George Cash referred; for example, options to enable owners to choose the type of insurance policy they want; ways to minimise the amount of common property; and ways of making conversion of titles easier to achieve so that people have not only a better understanding of their situation, but also ownership of land which they did not previously have.

Although the Opposition has indicated it is not taking a partisan approach to this - the Government appreciates that - it has given notice that it will continue to raise this matter as often as it feels it is necessary. The motion includes the words "the Government's continued failure to resolve the matter". The matter is not unresolved because of capricious action by the Government. It is a reflection of its complexity. We have all heard how long it has taken for this situation to evolve. As I said, it is the Government's aim to take as much time as is necessary to get it right. The Government intends to introduce legislation as soon as possible, certainly within this session. I appreciate the Opposition's indication that it will do what it can to expedite legislation through both Houses. Hon Graham Edwards should be assured that there is no intention by the Government to delay unnecessarily or not resolve this issue. It is a high priority of the Government and it will be resolved as soon as possible. I thank the member for raising the matter, but we are sorting it out.

HON B.M. SCOTT (South Metropolitan) [4.24 pm]: I add my support to the concern raised by the members who have spoken this afternoon about the complexities of the Strata Titles Act. That concern is shared by many people who believe that legislation must be put through the House as soon as possible. I agree with the Leader of the House that the Minister inherited a very complex piece of legislation. Many people who have entered into strata title agreements have not always been aware of their complexity.

I lived in a strata title property for approximately 10 years and was on the corporate body of the complex; therefore, I have first hand experience of that situation as a developer and a resident. Some of the areas of complexity came to the fore only when I moved into that property. I will highlight one or two of those. Hon Graham Edwards mentioned that some people do not even bother to insure their property. Insurance is a personal matter. Motor vehicle owners do not always insure their car, although they are compelled to have third party insurance in the event of their vehicle causing damage to another vehicle or person.

In the case of strata titles, all the property outside the walls is common. Although a unit owner may have exclusive rights to an area, as we did to our front garden, legally it is common property. Public liability and workers' compensation must be covered by the corporate body or more than one owner. It is a complex situation. It is often not understood by residents of strata title dwellings that if a child or a worker were to have an accident while on the roof of a set of units the corporate body would have to pick up the responsibility for any insurance claim resulting from the accident because the roof is common property.

I am not laying the blame for this difficult situation with any Government or Minister, because the situation has escalated since 1966. As we have heard, not all properties are divided evenly. The Government should take on board some of the suggestions made by Hon Mark Nevill, such as putting in place a disputes resolution body and a complaints mechanism. He has also suggested the distribution of a publication which is simply worded and easily understood. As other speakers said, many of the people who live in strata titles are elderly and on their own and have many other things in their life to worry about. I support the remarks of the Leader of the House. As a member of government I will certainly take on board the issues raised in today’s debate. We will be working towards a fast resolution of the problem.

HON GRAHAM EDWARDS (North Metropolitan) [4.28 pm]: I thank members for their comments and I particularly thank Hon Mark Nevill for the constructive things he had to say. I am pleased that the Minister has now taken this matter to Cabinet and has approval to draft legislation. I ask the Leader of the House to ensure that the Opposition is given an opportunity to examine the resolutions put forward by the Minister so that we can fully understand and appreciate them by the time they come to this place in legislation. I am sure that will help with its passage. It will also enable us to jointly expedite the resolution of these problems.

The motion was worded a certain way because dates have been given by Ministers of the Government about when this matter would be taken to Cabinet. One of those dates was almost two months ago and was not met. I would much prefer the Government to take the line of the Leader of the House and say that it is aware of the problems and working to resolve them rather than saying the matter will be fixed by a certain date and for us then to see that date go by without action being taken. People then worry that their needs are not being properly met.

Hon N.F. Moore: I did not want to get into an argument about it. I think you may have misinterpreted something said at a meeting.

Hon GRAHAM EDWARDS: I am trying to condense my arguments; I could have said much more. I want to keep this matter before the Government so that jointly we can do what we can to have it resolved.

[The motion lapsed, pursuant to Standing Order No 72.]

COMPETITION POLICY REFORM (WESTERN AUSTRALIA) BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon N.F. Moore (Leader of the House), read a first time.

Second Reading

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [4.30 pm]: I move -

> That the Bill be now read a second time.

This Bill is an important element of a new national competition policy. Its purpose is to apply as Western Australian law reforms agreed to by all States and Territories and to assist in creating a single, uniform scheme for applying and enforcing competition law through Australia and across the whole economy. This is a new, integrated and complete approach to national competition policy, which balances economic efficiency and broader elements of the public interest. It will help to dismantle barriers to competition, and to promote competition across the economy. It will help to provide the domestic policy framework we need to realise growth opportunities. The objective is an economy that provides more opportunities for all Western Australians.

In 1992, following agreement between all States and Territories on the principles of competition reform, the Commonwealth Government commissioned the National Competition Policy Review, chaired by Professor Fred Hilmer. The report of that review - the Hilmer report - was released in August 1993, and its recommendations have been generally adopted in the legislation and policy framework developed since. This legislation is part of that. The Hilmer report envisaged a national competition policy in which the Commonwealth, States and Territories cooperated to ensure that universal, uniform rules of market conduct would apply to all market participants regardless of their form of ownership. The Government supports that objective. It is entirely consistent with and complementary to the Government's own approaches to revitalising business and the economy generally.

This Bill is part of the national competition policy package developed between the Commonwealth and the States and Territories in 1994. The package does not compel specific reforms by Governments and does not seek competition for competition's sake, but rather focuses on encouraging competition where it is in the public interest. Governments will retain responsibility for setting their own timetables and agendas for progressing reform. The components of the package are -

> the Commonwealth Competition Policy Reform Act, which provides for amendments to the Trade Practices Act to create the Competition Code, and which came into force in July 1995;
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> the conduct code agreement, under which all Australian State and Territory Governments agree to apply the Competition Code as their own law;
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> the competition principles agreement, which sets out a range of principles agreed to by all State and Territory Governments, dealing with -
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> > review of anticompetitive legislation and regulations;
> >
> > elimination of net competitive advantages enjoyed by government businesses which compete with the private sector;
> >
> > structural reform of public monopolies;
> >
> > prices oversight; and
> >
> > access to services provided by means of essential facilities;

the agreement to implement national competition policy and related reforms.

The Commonwealth Government's Competition Policy Reform Act creates a second version of part IV of the Trade Practices Act which, together with other parts of the text in that Act, will be known as "the Competition Code". Essentially the code contains the rules set out in part IV of the Trade Practices Act, modified to refer to "persons" rather than "corporations", and other supporting provisions which make it workable. The text of the Competition Code is to be made operative by state and territory laws which will apply the code within each jurisdiction as state or territory law. That is what this Bill will do.

Part IV of the Trade Practices Act prohibits various forms of anticompetitive conduct, such as contracts which substantially lessen competition, misuse of market power and mergers and acquisitions which substantially lessen competition. Limitations on the Commonwealth's constitutional power have meant that unincorporated businesses operating solely in intrastate trade have not previously been covered by the competitive conduct rules in the Trade Practices Act. This sector of the economy includes some significant businesses.

One of the main features of the Competition Code is that it creates a framework for extending the operation of these competitive conduct rules to currently exempt businesses, and facilitates their further extension by state and territory legislation. The central scheme of the reforms envisages that there will be one set of rules and one enforcement agency, the Australian Competition and Consumer Commission, and that enforcement action will be brought in the Federal Court by the commission. A further consequence is that the "shield of the Crown" protection for government businesses, including those of the Commonwealth Government, will be removed. Government activity, such as taxing and licensing, is excluded but to the extent that government carries on a business it will be required to comply with part IV of the Trade Practices Act. Exemptions from the competitive conduct rules of the Trade Practices Act will be possible, but restricted to cases where there is a clear public interest in doing so.

The Australian Competition and Consumer Commission has been formed by merging the Trade Practices Commission and the Prices Surveillance Authority. The commission will be responsible for enforcement of the competition and consumer protection provisions of the Trade Practices Act and the provisions of the Competition Code. The National Competition Council has been established by the commonwealth Act as a general high level policy body with the ability to make recommendations about a range of issues related to competition and to the administration of the national scheme. Participating Governments will determine a work program for the council. The Trade Practices Tribunal will become the Australian Competition Tribunal. It will retain its current responsibilities, and take on some which are outlined in the commonwealth Act. The amendments to the commonwealth Act are to take effect in several stages, the first of which began on 19 July 1995.

The package provides strong incentives for State and Territory Governments to participate fully in the new regime. If they do so, Governments will retain the capacity to exempt specific conduct from the competition laws. They will also have a role in making appointments to the new institutions, in determining the work program of the new National Competition Council, and in a range of other matters. The Bill supplements the package in a critical way. It is the means of ensuring that the objective of a uniform and universal set of rules relating to competition in Australia is achievable.

The central purpose of this Bill is to apply the Competition Code as if it were a law of this State. In conjunction with similar legislation in all other jurisdictions, its effect will be to invest the national agencies with the ability to administer a single scheme which is capable of addressing competition issues at all levels of the Australian economy and in any part of the country in a manner which is nationally consistent. The Bill contains provisions which will allow the State to assume responsibility for the administration of the competition rules within its own borders should either of those situations arise. These provisions reflect both the Government's commitment to the principles of reform in this area and its desire to see that any outcomes are managed in the State's best interests. An important element of the package is that prior to future modifications to the Competition Code by the Commonwealth, the Commonwealth must consult with all jurisdictions and seek a vote from all jurisdictions prior to taking the amendment to Parliament. The State is committed to implementing the reforms, which are in the long term interests of the entire community, of which this Bill is a part. For these reasons I strongly commend the Bill to the House.

Debate adjourned, on motion by Hon Tom Stephens.

COMPETITION POLICY REFORM (TAXING) BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon N.F. Moore (Leader of the House), read a first time.

Second Reading

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [4.37 pm]: I move -

That the Bill be now read a second time.

This Bill supports the Competition Policy Reform (Western Australia) Bill 1996. Section 37(3) of that Bill creates and imposes the liability to pay any fees which may be prescribed by regulations made under that Bill, except to the extent that those fees may be taxes. In the case of taxes, section 46(7) of the Constitution Acts Amendment Act 1899 clearly directs that a Bill imposing taxation shall deal only with the imposition of taxation. The purpose of this Bill is to ensure that to the extent that any fee referred to in section 37(3) of the Competition Policy Reform (Western Australia) Bill 1996 may be considered to be a tax, it can properly be imposed. This Bill has no other purpose and operates entirely as a supplement to the Competition Policy Reform (Western Australia) Bill 1996. I commend the Bill to the House.

Debate adjourned, on motion by Hon Tom Stephens.

BUILDING AND CONSTRUCTION INDUSTRY TRAINING FUND AND LEVY COLLECTION AMENDMENT BILL

Introduction and First Reading

Bill introduced, on motion by Hon N.F. Moore (Minister for Employment and Training), and read a first time.

Second Reading

HON N.F. MOORE (Mining and Pastoral - Minister for Employment and Training) [4.39 pm]: I move -

That the Bill be now read a second time.

This Bill seeks to amend the Building and Construction Industry Training Fund and Levy Collection Act 1990 to implement the recommendations of a review conducted in accordance with the Act, the report of which was tabled in the Parliament on 11 August 1994. The Act, which incorporates the associated Building and Construction Industry Levy Collection Act 1990, established a fund to be administered by a tripartite board, the Building and Construction Industry Training Board. Membership of the board is prescribed by the BCITF Act and consists of employer groups, employee groups and government representatives. The fund was intended to give industry a voice in addressing in a comprehensive way the training needs of the building and construction industry, in addition to training already provided by Government through the technical and further education system. The Act also instituted a training levy, set at 0.2 per cent, which applied to all sectors of the industry. The levy is applied to the estimated value of all residential, commercial and civil engineering construction projects over $10 000. Originally it was $6 000.

The BCITF was established as a statutory authority with powers under section 7 of the Act to ensure the efficient collection of the levy, and to control and administer the fund. Section 32 of the Act provides for a review within six months, commencing on the third anniversary of the day on which the Act came into operation. Mr Len Hitchen was appointed as reviewer of the Act on 2 March 1994. Advertisements calling for submissions, with a closing date of 8 April 1994, were placed in the Press on 9 and 12 March 1994. The following terms of reference were set, having regard to the provisions of the legislation -

> To review and advise the Minister for Employment and Training on the Building and Construction Industry Training Fund and Levy Collection Act, in particular -
>
> > the effectiveness of the building and construction industry training board established under the Act;
> >
> > the attainment of the objects of the Act, including -
> >
> > > the efficient and effective collection, control and administration of the levy;
> > >
> > > the efficient and effective formulation and implementation of the operational plans; and
> > >
> > > the extent to which the fund has improved the quality of training and increased the number of skilled persons in the building and construction industry;
> >
> > the need for the Act to continue in operation; and
> >
> > any changes that might be necessary concerning the future role, structure and operation of the board and the levy-fund to improve the effectiveness of the intent of the Act should the reviewer recommend the continuance of the Act.

Mr Hitchen, with policy analyst support from the Education Policy and Coordination Bureau, consulted widely, including visits to country centres to talk to builders, employees and subcontractors.

The conclusion of the review was that the BCITF Act had not been an effective mechanism to promote training in the building and construction industry and that, on balance, there was no need for the levy to continue. The review considered that the levy should be abolished. In making this recommendation, the review noted the Commonwealth Government had effectively abandoned the Australian training guarantee levy, the existence of which was used as a justification to impose the BCITF levy in the first place. In the event that the Government determined to retain the fund, the review advanced a series of recommendations to correct the failings of the current legislation.

In considering the report, the Government was mindful of the cyclical nature of the building and construction industry and the difficulties this can cause for the continuing employment of apprentices. Therefore, the views of the employer and employee parties were sought and it was decided that the fund would be extended for a further three years with the reforms advocated in the review. This would allow time for the industry to put in place its own voluntary arrangement if it deems this appropriate. Specifically the Government decided that the amendments as contained in this Bill should allow for the achievement of the following objectives and tasks -

(a) Reduction in the size of the board and abolition of the tripartite membership and voting system which the review found had not engendered the cooperative approach between the parties that the framers of the Act had envisaged and, as a consequence, had stifled decision making;

(b) an independent chair appointed by the Minister; members appointed by the Minister on recommendation from the industry, but not representing specific groups as in the current Act; the board to include members with expertise in finance and evaluation;

(c) complete separation of the BCITF from the Building and Construction Industry Training Council, including abolition of common membership and a new funding relationship with the council based on a resource and performance contract;

(d) the objects of the Act to be reviewed and tightened and the requirement for sectoral distribution of funds to be removed;

(e) clarification of the ambit of levy coverage;

(f) an appeals mechanism with a ministerial veto to ensure there are no continuing anomalies in the application of the levy;

(g) administration staff independent of the Building and Construction Industry Training Council secretariat; increased accountability, including use of tenders in the allocation of funds;

(h) provision for organisations which establish their own training arrangements to apply to the Minister for exemption; and

(i) incorporation of a sunset clause after three years of operation.

In the event that the sunset clause is invoked, the Bill makes provision for the Minister to have the power to deal with all the moneys and assets of the fund on its cessation, by transferring them to a trust to be used at the direction of the Minister for purposes consistent with the original intention of the Act.

Industry groups or enterprises prepared to establish their own voluntary training arrangements will be encouraged to do so. The amendment Bill provides for arrangements whereby organisations may apply for a reduction or exemption from the levy. It is proposed under this arrangement that the Minister would set the policy, while the applications for reduction or exemption would be made to the board of the BCIT fund. Its decisions are to be based upon the published policy, and provision will be made in the Bill for appeals to be directed to the Minister.

In conclusion, the Government has been made aware of the significant issues surrounding the operations of the building and construction industry training fund. In particular, the overlapping membership and functions of the Buiding and Construction Industry Training Council and the BCITF Board cause major concerns about conflict of interest when the beneficiaries of the fund are also determining the disposition of the moneys. This Bill corrects that and other problems identified in the statutory review and will allow the fund to achieve the objects of the legislation better, while encouraging the building and construction industry to assume responsibility progressively for its own training. Accordingly I commend the Bill to the House.

Debate adjourned, on motion by Hon Tom Helm.

ELECTORAL LEGISLATION AMENDMENT BILL

Report

Report of Committee adopted.

Third Reading

Leave granted to proceed forthwith to the third reading.

Bill read a third time, on motion by Hon N.F. Moore (Minister for Parliamentary and Electoral Affairs), and transmitted to the Assembly.

CENSORSHIP BILL

Committee

The Chairman of Committees (Hon Barry House) in the Chair; Hon Max Evans (Minister for Finance) in charge of the Bill.

Clause 1: Short title -

Hon N.D. GRIFFITHS: Supplementary Notice Paper No 17-3 contains an amendment listed under the name of the Minister for Finance which I foreshadow that the Opposition intends to support. I note the Minister's comment at the conclusion of the second reading debate in which he foreshadowed his support for the amendment standing in my name to clause 100. I record my thanks to the Minister for that support.

I draw the Committee's attention to the four other amendments I have on the Notice Paper which canvass a variety of issues which should facilitate our discussion on a number of issues in the Bill. The motivation for those amendments - apart from facilitating discussion, which in itself is a good thing - is to improve the Bill in a manner consistent with the points raised in my contribution to the second reading debate. I will deal with the relevance of those matters when they are debated.

This Bill will not necessarily engage the Chamber for a long period. What was called a Legislation Committee debate was held in the other place, although I regard that debate as a normal Committee debate without the imposition of the guillotine. I have looked at that debate and I do not propose, as far as I can reasonably avoid, to go over matters raised within it, but some overlap may occur. Those matters were dealt with by a number of elected representatives of the people. In so far as a decision has been reached, opposition members will contribute when they believe they can add something new or matters of sufficient importance to the debate. Some of my colleagues are keen to make further contributions to this Bill, which comprises 113 pages.

If the Committee finds it is occupied for a little time after dinner, so be it. It is our duty to deal with the matter. The legislation relates to a regime run by the Federal Government, and for all intents and purposes it will provide the capacity for the State to intervene in some circumstances. Therefore, we have a duty to give the measure a degree of scrutiny.

In conclusion, I do not see my role, or that of other opposition members, as going over matters dealt with relatively substantially by the other place. As I stated in the second reading debate, a lot of common ground has been found on both sides of the Chamber in relation to amendments. Government and opposition members have differences, but we hope to achieve an appropriate degree of balance. I am sure we will not satisfy everybody in doing so, but at least we can satisfy ourselves.

Clause put and passed.

[Questions without notice taken.]

Clause 2: Commencement -

Hon N.D. GRIFFITHS: Will the legislation be proclaimed as a whole? If not, what parts are proposed to be proclaimed separately?

Hon MAX EVANS: It is anticipated that it will be proclaimed as one Bill, but it could be a month or so before everybody is advised beforehand.

Hon N.D. GRIFFITHS: Will we be given a month's notice, or will it be proclaimed in about a month's time?

Hon MAX EVANS: It was decided that with the bringing together of three Acts an educative process should be undertaken to let people know what was coming on. That will occur about a month before the Bill is proclaimed.

Clause put and passed.

Clause 3: Interpretation -

Hon CHERYL DAVENPORT: How is it planned to enforce the provision on acceptable proof of age? I cite this example: My son left school at the beginning of this year and has now turned 18. He does not look his age. When he was still 17 he did not have a student card or a driver's licence, and he certainly did not carry around a birth certificate or a passport. It is difficult to tell the age of some young people when they are 15 through to 18 years of age.

Hon MAX EVANS: I am aware of this problem with regard to liquor. The identity card is no longer accepted in the liquor industry because there have been many forgeries. It is up to the person who wants to prove the point to carry identity, such as an extract of his birth certificate. The Government is considering a new identity card. The licensing division of the Department of Transport will produce a special card with a photograph that cannot be tampered with.

Hon CHERYL DAVENPORT: One of my concerns is that this legislation puts a lot of onus on people selling tickets in a picture theatre, for example, to make that determination about age if no identity card is carried.

Hon MAX EVANS: I understand that theatres operate under those rules now. Nothing will change as far as that is concerned.

Hon N.D. GRIFFITHS: I welcome the extent of the definition of child pornography in this clause. This extended definition deals with the matter on a practical basis. It is appropriate. As I indicated when we dealt with the matter earlier, it brings the definition of child pornography to the same standard that used to apply to tobacco advertising when that was permitted on television.

Hon CHERYL DAVENPORT: I assume that computer programs and associated data under the definition of article includes the Internet?

Hon MAX EVANS: The Bill refers to the program that is run within a computer to link into the Internet. The Internet itself is not a computer program.

Hon CHERYL DAVENPORT: The definitions of both child pornography and contentious material contain the words "reasonable adult". What is the definition of a reasonable adult? Some of us would consider as reasonable adults people who have in fact engaged in such things as trafficking child pornography and contentious material.

Hon MAX EVANS: Hon Nick Griffiths pointed to himself as a reasonable adult.

Hon N.D. Griffiths: You were pointing to me.

Hon MAX EVANS: The objective test would be applied by the court; the court would decide what a reasonable person would do.

Clause put and passed.

Clauses 4 and 5 put and passed.

Clause 6: Application -

Hon MAX EVANS: I move -

> Page 9, line 22 - To insert after the words "apply to" the words "radio or television".

Hon N.D. GRIFFITHS: I note that the Minister made a brief reference to this when he concluded the second reading debate. I understand the point he made, but I would like him to elaborate on it.

Hon MAX EVANS: Clause 6 of the Bill is a model provision included in all censorship legislation in all States and Territories. It provides that the Bill will not apply to broadcasting services to which the commonwealth Broadcasting Services Act 1992 applies. Secondly, at the time the model provision was drafted, the commonwealth Broadcasting Services Act 1992 was limited in application to television and radio. Thirdly, the former commonwealth Minister for Transport and Communications, Mr Lee, directed the Australian Broadcasting Authority in July 1995 to conduct an investigation into content regulations along online services, including the Internet. The ABA reported in June 1996 and recommended that it be responsible for developing, registering and monitoring codes of practice that would be used as offences under various State and Territory legislation, such as the Western Australian Bill. Fourthly, in making its report, the ABA held that online services were not broadcasting services within the commonwealth Broadcasting Services Act 1992 and that the Act would require amendment before the ABA could assume any jurisdiction over online services. Fifthly, the current commonwealth Minister for Communications and the Arts, Senator Alston, has announced his intention to amend the commonwealth Broadcasting Services Act 1992 to include online services with a definition of broadcasting services so that the ABA may begin work in relation to codes of practice.

This amendment will therefore amend clause 6 of the Bill to make it clear that the Bill does not apply to radio or television broadcasting services to which the commonwealth Broadcasting Services Act 1992 applies, but will apply to online services or computer services notwithstanding that they may be broadcasting services under the commonwealth Act. If clause 6 is not amended, when the Commonwealth amends the Broadcasting Services Act 1992 to make online services broadcasting services it will be of no effect.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 7 and 8 put and passed.

Clause 9: Restricted publications -

Hon N.D. GRIFFITHS: I am concerned about the width of the potential application of clause 9. I raise my concern so that the Minister can have the opportunity to allay it. The clause provides that "A publication will be classified as restricted if, in the opinion of the Minister . . .". It is important that people note the phrase "in the opinion of the Minister". I do not want at this stage to address clause 10 or the appellate procedures foreshadowed in later clauses - I will deal with them later. However, this phrase "in the opinion of the Minister" has been the subject of adverse comment by some. Hon Reg Davies interjected a few moments ago, after I said the words "I do not want to" by saying "engage in matters of personality". He is correct: I do not want to engage in matters of personality.

I note that the Attorney General is not dealing with this Bill, even though on my copy of the second reading speech his name is mentioned. I understand the reasons for that. I also understand that the Minister for Fair Trading has an interest in the Bill - when she was Attorney General it was one of her portfolio responsibilities. When she ceased to be Attorney General she retained these responsibilities in her new portfolio. It is a matter for the Government to determine which pieces of legislation and areas of policy are the responsibility of particular portfolios. I can see the sense in having Hon Peter Foss not engaged in the handling of this matter - among other things, he is Minister for the Arts. I can see the potential for conflict there. The fact that Hon Peter Foss is not handling this matter, notwithstanding what is on the front page of the second reading speech -

Hon Max Evans: I wish he was.

Hon N.D. GRIFFITHS: - and notwithstanding the fact that Hon Max Evans wishes he was, is not a proper matter for adverse comment, and therefore I will not comment on it adversely. The fact that Hon Cheryl Edwardes is the Minister dealing with this is, again, not a matter for adverse comment. We are concerned with the wording of the Bill. It could be that Hon Cheryl Edwardes, or next week Hon Max Evans, will be for all intents and purposes the primary censor of Western Australia. He may say that that will not come to pass; he may resign if he is offered the job.

My concern relates to the phrase "in the opinion of the Minister". It has been raised by a number of commentators. To some extent that concern revolves around personality. That is not a pertinent criticism in one sense, although in another sense we must rely on whatever standards a particular Minister in the future brings to the job; whether that Minister in the carrying out of his or her duty will do what this Bill envisages the Minister will do, or whether that Minister appropriately reflects what may be called community standards - and by that I do not mean the lowest common denominator approach or anything goes. It can be a matter of concern if someone with a particular minority view - perhaps having a not too civilised view of the arts, dare I say a Philistine - were to find himself or herself the occupant of this ministry.

Several members interjected.

Hon N.D. GRIFFITHS: There is the potential.

Hon Kim Chance: Heaven forbid.

Hon N.D. GRIFFITHS: It will not occur when we resume our rightful place.

Several members interjected.

Hon N.D. GRIFFITHS: I know that that member is trying to censor my comments as well. That the Minister can impose his or her opinion in a way which really is contrary to the approach of our society is of concern. We may have a non-mainstream Minister dealing with arts, morality and the like. The dangers are there. I note that the Minister for the Arts is not joining in this debate. I have already excused the Minister for the Arts for not joining in the debate, because it is more appropriate that he does not handle the Bill.

Hon Peter Foss: I agree.

Hon N.D. GRIFFITHS: Several aspects of this clause cause me concern. The matters I have outlined also have relevance to the next clause. The clause then goes on to deal with "by reason of the nature", which is a word with great width, breadth, depth and length of meaning. It then refers to "or extent of references in the publication to matters of sex, drug [abuse] or addiction, crime, cruelty, violence". This next part I find very interesting. It is "or revolting or abhorrent phenomena". I and I think most people in the community can understand why we are talking about sex because people like to talk or hear about sex. Drug abuse or addiction, crime, cruelty and violence I can understand, but why move on and engage in these other categories? The former categories cover all the matters about which we should be concerned. However, I do not have the fertile mind of some other people, and perhaps I am about to hear something which is revolting when we deal with revolting or abhorrent phenomena.

Hon Reg Davies: We are not talking about drug abuse but misuse. One could be educational.

Hon N.D. GRIFFITHS: That is a very good point. It does refer to drug misuse, but it has to be unsuitable reading for a minor, so that aspect is covered. I do not like the phrase "or for any other reason". The bottom line is that we are dealing with a definition.

Hon Kim Chance: It is almost a King Henry-type power.

Hon N.D. GRIFFITHS: It can be whatever the Minister wants it to be. It is not tight enough. When we move on to other clauses, the Committee will see that if the restricted publication definition is wide, it can lead to widening the sorts of behaviour that can be the subject of sanction. This clause must be tightened up substantially. I have not placed any amendment on the Notice Paper because I do not think it is necessary or appropriate that I do so. The Minister must provide an explanation. If the explanation does not allay the concerns of the Committee, the Minister must move to have the consideration of this clause postponed and come back with an amendment, perhaps when we deal with the Bill later this evening.

Hon MAX EVANS: The member commented on personalities having power. Parliament will never be free of that. The personalities might not always match the Bill. One never knows what will happen. The Office of Racing and Gaming had to put up with the fact that it has a Minister who does not drink or gamble, but we still seem to be surviving. It has not affected the legislation one way or the other.

Hon N.D. Griffiths: The department was very game!

Hon MAX EVANS: Yes. The publication must be classified in accordance with the guidelines in clause 8. The Minister has regard to advice from the State Advisory Committee on Publications, which will become the Censorship Advisory Committee. She has always taken advice from that committee. The Minister has regard to notional guidelines used to classify publications. The Minister's decisions are subject to appeal to the District Court. The Minister is politically accountable for her decision. I understand that most of this clause comes from the Indecent Publications and Articles Act. I remember, and Hon Nick Griffiths may remember, that Bills like this used to have a little indication in the margin showing the origin of the clause. It is a great pity they have been dropped, because they often gave a reference back to further case studies, etc. It would have been useful in this case. I understand that in the other place members were happy with this clause because it goes back to 1972 legislation. Two members of this Chamber were discussing censorship with a member of the other place, so there may be a difference of opinion in this Chamber on that matter. However, I understand that they were satisfied with the clause in the Bill.

Hon REG DAVIES: I share many of the concerns expressed by the shadow Attorney General. I am particularly concerned that the state censor, as the Minister will be known after this Bill becomes an Act, can in her opinion change classifications. Can the Minister tell me whether she has to take advice from a board or a group of people prior to making decisions; or, if she takes the advice and looks at documentation that she has before her which the Minister just outlined, if the Minister thinks fit, can she classify something as a restricted item?

Hon MAX EVANS: This legislation is as it is today. The Minister has been taking advice from the committee. She could overturn its advice. The committee is made up at the present time of Dr Rosemary Coates, Mrs Robyn Quin, Father Dennis Claughton, Mrs Gwendoline Roderick, Mr J.S. Ford, Mrs Dallas Pegrum and Lynette Quinlivan.

Hon Reg Davies: How many males are on the committee?

Hon MAX EVANS: Three.

Hon Reg Davies: Is one a priest?

Hon MAX EVANS: Yes.

Hon CHERYL DAVENPORT: I do not think that the debate in the other place cleared up my concern. The Law Society had concern that a Minister's decision under such powers as this would have difficulty being judicially

reviewable. Can the Minister tell me whether that is the case? If those powers are so wide and a decision cannot be judicially reviewed, we could be in some trouble down the track.

Hon MAX EVANS: I refer the member to clause 19 which reads that a person aggrieved by a decision of the Minister under this part as to classification of a publication may appeal to the District Court against that decision within 28 days after it is made. I am not too certain as to what the member is referring to. I do not think the clause was inserted after the Law Society expressed concern. That right is always there.

Sitting suspended from 6.00 to 7.30 pm

Hon N.D. GRIFFITHS: I recall Hon Max Evans making reference to that which is already the law. This is an appropriate time to review that which is already the law. As we know, this measure is, among other things, a substantial re-enactment of the three Acts which currently govern the censorship regime in Western Australia. I am concerned that some of the matters raised by me have not been fully dealt by Hon Max Evans. He and I share a great interest in some of these matters. However, I would appreciate a further explanation of the words "or for any other reason". I note what is said in clause 8. However, that does not deal substantially with the point raised.

Hon MAX EVANS: The Bill tries to cater for every possible circumstance. There are many ways people get around legislation in an attempt to beat the system. Those words were included to enable the Minister to make a decision and for the appeal court to give some balance to this matter of classifications and restricted publications. It is not possible to draft a provision which meets all things of which human imagination is capable. We could sit all night talking about other words. However, a lot of time has been spent on the legislation and getting this through is important.

Hon N.D. GRIFFITHS: I do not think it is appropriate in drafting a penal provision to include words which cover every conceivable contingency and those which have not yet been conceived. This is an illustration of the point raised by me and others in the second reading debate, to the effect that this legislation is the sort of legislation that would benefit from a careful examination by the Legislative Council's Standing Committee on Legislation. This clause illustrates one of the weaknesses in the Bill; that is, in trying to cover everything, it covers too much. I set down three principles of regulation: The protection of children; the protection of persons who do not wish to receive unsolicited material of a particularly offensive category; and the protection of society from what may be a matter of judgment with respect to the effects of certain types of materials on human behaviour to the detriment of society. I know the jury is out on the third category. People can argue about that for the rest of eternity. However, I do not think this wording satisfactorily deals with censorship. It goes too far. It unduly impinges on what I refer to as the qualified right of adults to see, hear and read.

Hon MAX EVANS: The Government is staying with the wording. It believes it has been well worked out and must be given a trial in that format.

Hon CHERYL DAVENPORT: The Minister says the legislation has been well canvassed. Given that we will not have the opportunity to send it to the Legislative Council's Standing Committee on Legislation, which would be able to ask for submissions from the public, what community consultation has been undertaken on this clause?

Hon MAX EVANS: The legislation has been in the public arena since October last year. The committee stage in the other place took 13 hours. I have not read the transcript of that debate and I do not know whether Hon Cheryl Davenport has. It was well debated. As Hon Nick Griffiths said, not everyone in either party agreed with all parts of it. This was one of the clauses for which the Opposition in the other place pushed for more changes, partly because it was part of the previous legislation.

Hon N.D. GRIFFITHS: The Minister's comments are an example of the reason this clause and other clauses in the Bill should be dealt with by the Standing Committee on Legislation. Notwithstanding hours and hours of debate in the other place, that House did not look at it. Yet I have looked at it, Hon Cheryl Davenport has looked at it, Hon Reg Davies has looked at it and Hon Max Evans has looked at it. He understands the concerns better than most. I appreciate that, as a Minister of the Government, he has an obligation to move legislation along at a reasonable rate. However, this sort of clause is something we should try to avoid. It goes too far. It impinges too greatly on proper freedoms and I do not think that is the reasonable intent of the Government. I do not think the Government is guilty of mala fides. The clause does not set out to do what the Government wants it to do. This is, after all, supposed to be a Government which is a coalition of parties, one of which goes by the name "Liberal". This clause offends what I understand to be basic premises of liberalism.

Clause put and passed.

Clause 10: Refused publications -

Hon N.D. GRIFFITHS: Clause 10 is another example of power being bestowed on the Minister. The phrase "in the opinion of the Minister" is used again. The clause commences with the words "A publication will be classified as refused if, in the opinion of the Minister, the publication", and then goes on to deal with a number of matters. If we accept for the moment that there should be the test of the opinion of the Minister, albeit subject to the matters listed and the direction from the Parliament to the Minister, and that the opinion of the Minister is the appropriate determination, I query whether some of the phrases are too wide and whether they are matters that should be subject to censorship. For example, the Minister may well reach the opinion that an instruction manual of the Special Air Service regiment instructs in matters of violence. Frankly, I would be surprised if it did not do so. I would be very concerned if a Minister could make that determination. Of course, the Special Air Service is a commonwealth instrumentality.

Clause 10(b) states that a publication will be classified as refused if, in the opinion of the Minister, the publication instructs in matters of violence. I have visited the Police Academy in Maylands. I have not looked at its manuals on how to shoot guns, but I have been to its firing range and I know that police officers are instructed in matters of violence. I would be surprised if publications were not used to instruct police officers in matters of violence. That is proper in the sense that it is sanctioned by the community for the good of the community. I am not being trite, but I am looking at the words of this clause. I do not think it is couched properly. It is no defence to say these words are contained in other legislation. That is not good enough. We have a duty as legislators to get it right and when the Minister with carriage of the policy which this Bill implements receives an instruction from Parliament of the kind contained in clause 10, he has an obligation not to ignore the matter. He has a duty to follow the precepts of the legislation and reach an opinion. In a perfect world one would not like to see violence; however, we all know police officers use violence. I am not criticising them. In the clause are matters which, in the normal course of everyday life, we do not want to know about or see. However, we know they happen for the good of society as a whole. Subclause (c) contains the words "likely to cause offence to a reasonable adult". I suppose it can be assumed that a reasonable adult would not be concerned about a police manual instructing police about violence, but subclause (b) does not contain that phrase.

Subclause (c) deals with sadomasochism and other matters which can be politely referred to as rather extreme forms of sexual conduct. I do not know whether it is necessary to go that far, strong as my view is on subclause (b). Subclause (c)(vi) underlines the meaning of the words "the opinion of the Minister". The wording of that paragraph gives rise to the concern people have voiced about the phrase. I refer to it briefly so that it is on the record. It states "an act or matter that the Minister has determined, having regard to the standards of morality, decency and propriety generally accepted by reasonable adults, is contrary to the public interest". Those words go too far.

We live in Western Australia and this State has had some strange Ministers. I will not have a go at the current lot because some of them have thin skins.

Hon Max Evans: None of yours was strange?

Hon N.D. GRIFFITHS: None at all. Some Ministers from the Liberal-National Party coalition have had some very strange standards. One, for example, wanted to lock up people if three or more of them gathered on a street corner to chat about something. Some strange use has been made of the public interest from time to time. My overall area of concern with this clause is the width of application, particularly with respect to subclause (b), to which I have referred. What will happen to the police manual dealing with violence, and the very wide wording set out in subclause (c)(vi)? I am not too concerned about the other aspects of subclause (c), but I am not sure whether the Government is going too far in preventing adults from reading, watching or listening to that which they will, provided it deals with those three matters of the protection of children, and the protection of people from unsolicited material and from matters which may cause detriment to society if they affect behaviour. I suppose these matters arguably come into that category, but it is a matter of argument, and I am very concerned that this clause goes too far.

Hon MAX EVANS: I refer the member to clause 8(d). The police and the Special Air Service manuals are examples which should be taken into consideration when making decisions about the publication of documents. If a document has been written by the Irish Republican Army or the Iraqis it could be banned. Taking into consideration for whom it is written is important. A committee is in place to advise the Minister and has been used before. Three out of its seven members were appointed by the previous Government. A couple of others retired and had to be replaced.

Hon N.D. Griffiths interjected.

Hon MAX EVANS: I do not know what will be the membership. The committee advises the Minister, but his decisions will be subject to appeal.

Having heard the views expressed by Hon Nick Griffiths, surely someone such as he would be pleased to see words such as "contrary to the public interest", which cover all eventualities, once again on the advice of the committee.

Hon N.D. GRIFFITHS: I do not want to discuss matters which are contained in later clauses. However, the Minister made reference to the role of the advisory committee in the context of this clause. The responsible Minister can act on his own initiative. The committee is an advisory body. We will deal with the issue of appeal later. However, at the end of the day appeal is simply a matter of having the opinion of a District Court judge swapped for that of a Minister.

Hon MAX EVANS: I take note of what the member said. The Minister can make unilateral decisions, but there will be a judge of appeal. On subjects such as this that are very broad, from time to time people's personal ideas or thoughts must affect their decisions. Fortunately I have no discretion or power on liquor laws or state taxation. I would be in a terrible position if I did have that power. However, on subjects such as this a Minister must have some broad powers which can be subject to appeal in the District Court.

Clause put and passed.

Clauses 11 to 18 put and passed.

Clause 19: Appeal -

Hon N.D. GRIFFITHS: I referred to appeals briefly during discussion on clause 10. Although in dealing with appeals the District Court judge can deal with matters of form, this clause is not really providing an administrative review as such but the capacity for a District Court judge to substitute his or her opinion for that of the Minister. I do not want to canvass concerns people have raised about matters being in the opinion of the Minister. From my perspective there is something to be preferred in the Minister's forming the opinion, and that opinion being the final determination, rather than that of a District Court judge. The Minister is answerable politically. If the Minister does something stupid he will be disciplined by his or her colleagues; if not, his or her colleagues may find themselves disciplined by the electorate. I am a great believer in that system. When Ministers do something stupid and make a bad decision the appropriate way of dealing with it is not to shoot the matter off to, in this case, a District Court judge, but for the Minister to cop the flak, to be held up to ridicule, to be sacked by the Premier of the day, to be shoved off to another ministry - that has happened quite a bit over the past three and a half years - to be sanctioned by his or her own party to the extent of not being preselected again or in the end to be dealt with by the people by losing his or her seat. I am not knocking District Court judges; some are very nice people, but none of that happens to a District Court judge. I am not suggesting anything should happen to a District Court judge if he makes a decision which goes against the grain.

The tenor of this Bill is to the effect that the Minister has power. We are giving what the Bill says is a political decision - I say it is a political decision, but Hon Derrick Tomlinson may disagree with me - to an unelected, unaccountable District Court judge. Irrespective of from which party Ministers come they end up listening to people - although they may not hear them very well - from all walks of life with many points of view. At the very least Ministers are exposed to members opposite putting a contrary point of view. In a matter such as this which deals with the day-to-day application of community values in the terms of clause 8 and other clauses, the Minister should be - more often than not he is - in a better position to deal with the matter than someone who finds himself or herself in the more cloistered position of a District Court judge. For good and proper reasons District Court judges generally do not have much to do with the rest of the community.

Hon Max Evans: They came from the community.

Hon N.D. GRIFFITHS: To a degree. Unlike members of Parliament, the judiciary is not a representative body. I am not sure whether members of Parliament as a whole are really representative of the community. However, overall we are certainly more representative of the community than are members of the judiciary. The Legislative Council is representative to a degree; so is the other place.

The thrust of my comment is that this provision is misplaced. I do not say this from a party political point of view, but as a member of this House I would prefer it if we defeated this clause. I leave that in the Minister's hands. I would be delighted to be present in the other place if we were to return the Bill with this clause defeated. I would enjoy watching the faces of members on both sides of the Chamber when they read the note sent to them.

Hon MAX EVANS: We seem to have done a complete backflip from where we were two pages ago.

Hon N.D. Griffiths: You must listen.

Hon MAX EVANS: I listened very carefully. I thought before that the member thought the Minister could do nothing right; now he is saying she cannot do anything wrong. The system has been set up for a long time where District Court judges, selected for their background, give their opinions for better or for worse. If there was no right of appeal to the Minister, I think the member would have argued about why there was no right of appeal. It is only

in respect of publications, and I believe strongly it should remain in the Bill in order to look after a person aggrieved about a decision.

Hon N.D. GRIFFITHS: The Minister is not being very charitable in his comments. If this clause was not there, I would not ask for it to be there. It should not be there, because it serves no purpose. It does not look after a person aggrieved. The Minister has been given a job by the Parliament. A person who does not like the Minister's decision can have a second bite. Why put a District Court judge in this position? A District Court judge does not have the qualifications that a good Minister should have, no matter how worthy any particular District Court judge may be. It is not appropriate for the Minister to suggest that I would put in that clause. It is also not appropriate to say that because I made some critical - not definitively critical - comments about the phrase "in the opinion of the Minister" it is then inconsistent on my part to say that there should not be an appeal to a District Court judge. I did commence by saying that given that we decided some clauses back to have the words "in the opinion of the Minister", when we move on and deal with the question of appeal, it is inappropriate. We are really saying it is an executive function, but we are sending it to a member of the judiciary. I do not like that mixture.

Clause put and passed.

Clauses 20 to 57 put and passed.

Clause 58: Merit or *bona fide* medical article -

Hon N.D. GRIFFITHS: I move -

Page 38, lines 18 and 19 - To delete the lines.

This is the second clause in part 7, which deals with offences. Much of what is said in clause 58 is appropriate. It commences with the words -

It is a defence to a charge of an offence in this Division to prove that the article concerned is -

(a) an article of recognised literary, artistic or scientific merit; or

(b) a *bona fide* medical article.

This clause would be better law if it stopped there, because it continues with the words -

and that publishing the article is justified as being for the public good.

There are three ways of dealing with this clause. The first is to leave it as it is. The second is to change its wording so that rather than have the rider of raising as a defence "and that publishing the article is justified as being for the public good", the prosecutor had to show that the article was not for the public good. That is not an appropriate way to go.

The preferred course is the one that is contained in my amendment, which is to delete the words "and that publishing the article is justified as being for the public good". It should be a sufficient defence that the article is of recognised literary, artistic or scientific merit, or is a bona fide medical article. It should not be necessary to go further by saying "and that publishing the article is justified as being for the public good".

It might be said that there would be no difficulty in convincing a court that an article of recognised literary, artistic or scientific merit that was published was justified as being for the public good. I hope that will be the case in most instances, but in so far as that is the case, these words are unnecessary with regard to advancing good public policy. I do not like unnecessary words in legislation. In so far as the words require further proof on the part of a person who is being prosecuted, they go too far. The clause as I have proposed it be amended will do the job and will amount to good, proper public policy. To go further than that is to go too far and will do nothing to deal with those three qualifiers that I have put on the freedom to receive information.

Hon MAX EVANS: The Government opposes this amendment. I am surprised at Hon Nick Griffiths' view about the words "and that publishing the article is justified as being for the public good". I believe they give a clearer defence than might be obvious in paragraphs (a) and (b). The requirement that publishing the article is justified as being for the public good is a new requirement. The public good test is based on the United Kingdom Obscene Publications Act 1959 and was introduced by the Minister as a result of public concern that the existing artistic merit test was too wide and resulted in dubious claims of artistic merit so as to avoid prosecution.

The Mapplethorpe Retrospective and a poem published in the magazine *Nova* gave rise to concerns that the defence of artistic merit contained in section 5 of the Indecent Publications and Articles Act was capable of exploitation. The concern was that the availability of this defence permitted material of dubious artistic merit, which, without the protection of this defence, would be considered child pornography or otherwise indecent or obscene, to escape

prosecution. Although there was pressure to remove completely the artistic and literary merit defence in relation to child pornography, this was not accepted, particularly because the definition of "child pornography" has been widened in the Bill. Every modern Western civilisation recognises that artistic and literary merit may justify what would not necessarily be justified if published simply to satisfy prurient interests.

There is no suggestion that child pornography in its worst form - that is, the graphic depiction of children in sexual activity - could be justified by artistic or literary merit, but without this defence many works of recognised merit would be prohibited and writers would be prevented from writing about subjects such as child abuse and incest. Nonetheless the concern about the possibility of dubious works being shielded from prosecution by the existing definition of artistic and literary merit is real and justified.

By way of compromise, the Bill amends the defence of artistic and literary merit to adopt the approach of the United Kingdom Obscene Publications Act 1959, which includes a public good test in the artistic and literary merit defence set out in section 4 of that Act. This public good element is intended to make the artistic merit test more difficult to establish; but, as has been proved by the operation of a public good test in the United Kingdom since 1959, such a test will not stifle free and wide ranging expression of artistic and literary ideas. Some material will continue to be published in reliance on this defence that many members of the community would rather was not published at all, but the provision is intended to achieve a balance between the rights of individuals and the rights of the public. In considering this test, the United Kingdom courts have held that they may take expert advice as to the artistic and literary merits of any publication, but at the end of the day it is for the courts to determine whether the publication can be justified on the balance of probabilities. There are no direct Australian precedents on the public good test, although assessment of the public good has been part of the development of obscenity law in other Australian States, such as Victoria.

It should also be noted that the defence of artistic and literary merit is relevant only to prosecutions under the general indecency provisions and material that has been classified as exempted from the general indecency provisions unless it has been refused classification. Any persons concerned about the prospect of being prosecuted based on their work being indecent or obscene can submit that material for classification and then, as long as they comply with the restrictions applying to that classification, they are protected from prosecution. The classification process takes into account artistic and literary merit; for example, the Art Gallery of Western Australia could apply to have the Mapplethorpe Retrospective classified - I am advised that the vast majority of that collection would be classified as restricted or unrestricted - and very few items might be refused. Members should note that the Mapplethorpe Retrospective was open to minors, the Art Gallery declining to restrict access to adults.

Hon DERRICK TOMLINSON: I listened with interest to the argument put forward by Hon Nick Griffiths. It had a great deal of force. The tail on the clause adds a second test which can quite effectively negate the first two. Let us take as an example *Lady Chatterley's Lover* by D.H. Lawrence. I consider it a piece of pernicious, pornographic literature. However, some people deemed it to have literary merit -

Hon P.R. Lightfoot: It was when you were a boy.

Hon DERRICK TOMLINSON: - therefore, the ban on the publication was lifted. That was determined by a court judge, not a Minister of the Crown. The unfortunate thing about the lifting of the ban on that book, on the ground of literary merit, was that D.H. Lawrence was lionised as an author of some merit. Generations of schoolboys and schoolgirls have had inflicted upon them his book *Sons and Lovers*. It would have been in the public good not to lionise D.H. Lawrence and so prevent those children having *Sons and Lovers* imposed on them.

Hon Kim Chance: You have been wanting to make this speech for 30 years!

Hon DERRICK TOMLINSON: I will turn to clause 40(5) so that members understand the consequences of what Hon Nick Griffiths is saying about clause 58. Clause 40(5) refers to things that promote crime or violence, or incite or instruct in matters of crime or violence, and so on. Clause 58(a) says that it is a defence to a charge of an offence in this division to prove that the article concerned is an article of scientific merit. Let us take the case of a publication that is deemed to be of scientific merit. Under clause 58(a) the defence prevents a classification on that material. The second defence is that it must be in the public good. Even though this publication contains information of scientific merit, the public good test is applied. The public good test is that it instructs in matters of crime or violence. We then impose on the propagation of knowledge, which is deemed to be of scientific merit, a prohibition on the ground that it may promote crime or violence, or it may instruct in crime or violence. That would be an abuse of the power of censorship. On one hand, we deem it to be of scientific merit and therefore worthy of publication. Whether people read it is irrelevant. On the other hand, it is published; it is available for scientific research, for scholastic study. However, on the test of public good, some individual looks at it and says, "Oops, this tells how to make an atomic bomb."

Hon Doug Wenn: You can get it on the Internet.

Hon DERRICK TOMLINSON: I suggest there is some merit in the argument of Hon Nick Griffiths. If we argue on the grounds of paragraphs (a) and (b) and then negate the argument on the ground of public good, a censorship is being imposed that is contrary to the principle that clause 58 is trying to advance. The amendment to delete the words has merit.

Hon MAX EVANS: The Government is not convinced by the arguments put forward in favour of the amendment. The current proposition is a compromise, having been debated outside the Chamber. It is based on the British Obscene Publications Act 1959. We believe it gives another alternative to the defence; that is, that the article can be of recognised literary, artistic or scientific merit or a bona fide medical article. The Government opposes the amendment.

Hon N.D. GRIFFITHS: I listened with interest to what the Minister said. In so far as the matter is based on public concern, I query whether it is. In any event the public concern is misplaced. The Minister pointed out there were no direct Australian precedents. That concerns me. His explanation does not move me away from the position of advancing the amendment. I trust the Committee will see fit to support the amendment.

Amendment put and a division called for.

Bells rung and the Committee divided.

The CHAIRMAN: Before the tellers tell, I cast my vote with the noes.

The division resulted as follows -

Ayes (12)

Hon Kim Chance	Hon N.D. Griffiths	Hon Tom Stephens
Hon J.A. Cowdell	Hon John Halden	Hon Derrick Tomlinson
Hon Cheryl Davenport	Hon Mark Nevill	Hon Doug Wenn
Hon Graham Edwards	Hon Sam Piantadosi	Hon Tom Helm *(Teller)*

Noes (14)

Hon George Cash	Hon Peter Foss	Hon N.F. Moore
Hon E.J. Charlton	Hon Barry House	Hon B.M. Scott
Hon M.J. Criddle	Hon P.R. Lightfoot	Hon W.N. Stretch
Hon B.K. Donaldson	Hon P.H. Lockyer	Hon Muriel Patterson *(Teller)*
Hon Max Evans	Hon Murray Montgomery	

Amendment thus negatived.

Clause put and passed.

Clause 59: Indecent or obscene articles -

Hon N.D. GRIFFITHS: This is one of the few clauses on which I foreshadowed I would speak. A number of aspects of the clause may take this legislation too far. First, this clause will deal with the offence as follows: "A person must not with intent to sell or supply the article or the copy to another, possess or copy, or sell or supply, or offer to sell or supply, to another an indecent or obscene article." That is understood. Subclause (5) states that a person must not possess or copy an indecent or obscene article. We are dealing with matters which may be of great import and moral implication, and I query whether this sort of regulatory regime goes too far.

I note how many members use the photocopier in this place - I do not refer to the material they photocopy - and subclause (9) indicates that in proceedings for an offence, "evidence that a person had possession of, or made, 10 or more copies of an indecent or obscene article is evidence that the person intended to sell the article and, in the absence of evidence to the contrary, is proof of that fact". Two aspects of that subclause cause me concern. The wording of "intent to sell or supply" is the same wording as that used in the Misuse of Drugs Act; therefore, this provision uses that sort of criminal descriptive language on these matters, which, frankly, do not seem to be in the same league. That in itself is not important, but the arbitrary limit of 10 copies is. If one must have a limit, I suppose that 10 is as good as 12, 15 or 20 copies. I have seen what happens on photocopiers from time to time.

I am concerned that evidence of possession of the copies is proof of that fact of intent. I could have made 10 photocopies to decide which of the 10 was the best copy, and that may be "evidence to the contrary". However, I do not like these provisions as a matter of principle. Will the Minister justify the wording in subclause (5)? The

justification cannot be that it is there already; he should argue why we should persist with the regulatory regime, why the use of a reversal clause and why pick on 10 copies.

Hon MAX EVANS: I understand that clause 59(5) brings the indecent or obscene articles into line with refused classification publications, films and computer games. Subclause (9) is similar to clause 81(3), which states that it is reasonable to assume that a person is unlikely to acquire 10 or more copies of film for personal use. Defendants may be able to avoid this assumption if they can provide evidence that they had the film, or the photocopies in this case, for legitimate reasons. Similarly the prosecution will be able to take action if a person has fewer than 10 copies of film, if the prosecution can prove the intention to sell or publicly exhibit.

It comes back to the proof regarding the 10 copies. The absence of evidence to the contrary is "proof of that fact". It is up to the person to give evidence regarding why he or she produced 10 photocopies and what that person will do with them. That is clear. The same situation arises in clause 81 in relation to films.

Clause put and passed.

Clause 60 put and passed.

Clause 61: Refused publications: offences -

Hon N.D. GRIFFITHS: Again, I note it is an offence if a person possesses or copies a refused publication. Subclause (3) states that a person must not publish anything likely to be understood as conveying that the person publishes or supplies refused publications. It is reasonable to say that we should not advertise if people do the wrong thing. Subclause (3) also states that a person must not publish an advertisement for a refused publication. My concern is that possession itself gives rise to an offence. I note the category of matters which can be refused publication, but I query whether possession goes more than a little too far. It is not a healthy thing to maintain a range of matters which can be governed by criminal sanction. There must be some point to the exercise. I do not know whether this clause appropriately deals with the matters which the Opposition canvassed in the second reading debate.

Hon MAX EVANS: I am advised that this clause provides that it is an offence to possess extreme literature which should not be available. I understand the New South Wales Government is considering introducing an amendment to its legislation in this vein. It believes that its existing legislation does not provide for sufficient protection.

Clause put and passed.

Clause 62 put and passed.

Clause 63: Sale or supply of restricted publications -

Hon N.D. GRIFFITHS: I have an amendment to this clause on the Supplementary Notice Paper, but I do not propose to move it. The reason I placed it on the Supplementary Notice Paper is that the purpose behind subclause (3) is to protect minors. As a principle, a minor should not cease to be protected if he or she happens to be an employee. I envisage that if I were to persist with the amendment there may be a practical difficulty which I have not perceived. I simply put the amendment on the Notice Paper to canvass the question of protection in the hope that the Minister will give it further consideration.

Hon MAX EVANS: This clause recognises that currently the employment of minors on premises where restricted publications are sold gives rise to offences by the employer and supplier, even though the minors are lawfully employed. Many minors are employed in newsagencies, delicatessens, and service stations. Currently 750 outlets are registered to sell restricted publications. A minor could simply be asked to take a box out of a car and take it into the premises. Many things a minor does could make him or her unemployable. I know that newsagencies do not make very much money and this could incur an additional cost for them.

Clause put and passed.

Clauses 64 to 80 put and passed.

Clause 81: Possession or copying of certain films -

Hon N.D. GRIFFITHS: Again, I refer members to subclause (3). It is an inappropriate clause and when I see it, the very least I can do is to say I do not like it.

Clause put and passed.

Clauses 82 to 98 put and passed.

Clause 99: Interpretation -

Hon N.D. GRIFFITHS: This clause is the first clause of division 6, which deals with computer services. This clause introduces the concept of a code of practice. The interpretation of a "code of practice" is a code of practice, as amended from time to time, that is approved and published under proposed section 100. When the Committee deals with clause 100 I will make further comment.

Clause put and passed.

Clause 100: Codes of practice -

Hon N.D. GRIFFITHS: Under this clause the Minister may approve any code of practice relating to computer services. Mr Chairman, I seek your indulgence because I wish to refer to clause 102 to make an observation so that members will understand clause 100. Both clauses 100 and 102 set out a number of offences. Clause 102(3) states that it is a defence to a charge of an offence against proposed subsection (1) or (2) to prove that the defendant complied with the code of practice.

The difficulty with clause 100 when read with clause 102 is that Parliament says what is the offence; however, Parliament does not have an input into what are the defects. It is appropriate in those circumstances, at the very least, for Parliament to view the code of practice and to disallow it; that is, it is appropriate that the code of practice be dealt with as delegated legislation. It is for that reason that I have placed on the Notice Paper proposed new subclause (5). I thank the Minister for foreshadowing the Government's acceptance of the amendment in his response to the second reading debate. I move -

Page 73, after line 26 - To insert the following new subclause (5) -

(5) A code of practice approved and published under this section is a regulation for the purpose of section 42 of the *Interpretation Act 1984*.

Hon MAX EVANS: As the Minister could develop a code of practice without anybody else being able to check it out, the Government supports this amendment.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 101: Objectionable material: offences -

Hon N.D. GRIFFITHS: Subclause (2) contains words which are unnecessary. I do not want to repeat the arguments that were given on that clause on which we divided a few moments ago. However, the observations made by me and by Hon Derrick Tomlinson are pertinent to this clause. Subclause (2) should stop at paragraph (b); however, it does not stop there, it goes on. Again we have this question of the public good being added on to the question of recognised literary, artistic, or scientific merit or a bone fide medical article. The issue has been canvassed. I will not restate it. It would be a most unusual turn of events if three more members were to cross the floor at this stage. I would have caused an amendment to be promptly written and forwarded to you, Mr Chairman, in the event that the previous amendment which led to the committee dividing had been successful.

Clause put and passed.

Clauses 102 to 105 put and passed.

Clause 106: Exemption of approved organization -

Hon N.D. GRIFFITHS: One of the matters that interests me about this clause is that approved organisations can be otherwise exempt from the operation of the law, so that as matters develop in our community we can have one set of standards applied to one set of people and another set of standards applied to the community at large. I can well appreciate how necessary it is to have something like this given the width of many of the clauses, some of which I have brought to the attention of the community. However, I note that the Minister may direct in writing that part 7 does not apply. Part 7 deals with offences that cover the broad range of matters, among other things, child pornography, which is bad for the community at large, yet some people will be exempt. That is in the context of the committee having a particular view about the public interest defence being a further barrier to people engaged in literary, scientific, artistic or bone fide medical pursuits for the purposes of publication and similar such matters. Something is inherently contradictory in the way we are going about this when we say that a set of laws will apply to the community at large, but the Minister can say that certain organisations will be exempt as a matter of general principle. The real reason is that, to a great extent, the censorship laws do not work. If they were to be applied with the rigour suggested by some, then many matters which enrich our society would not be able to be viewed by people having a legitimate interest in viewing them. It is a curious practical clause which admits that we, as a community,

just have not come to grips with the issue; we do not really handle it well, and it appears that we will not handle it well. I suppose that is why shortly we will send it off to the Commonwealth to deal with it, for the most part.

Hon MAX EVANS: The clause empowers the censor or the state Minister to respond to an application by an organisation approved under clause 109 to exempt a film shown at specific events from offence provisions in part 7. The clause will allow exemptions to be granted for films being shown at film festivals or similar events. It sets out the administrative steps to apply for an exemption. I have been advised that there has been a strong push from the film industry to bring in films for a particular festival which may be for a few days. The industry may not want to go through the long procedure which is otherwise required. Often, the films are shown at short festivals and can return later for general viewing. It is not always that they are doubtful films; it is just a case of wanting approval for films to be shown at festivals. There was a sign that people wanted legislation to make it easily available for quick approval. Therefore, exemptions must be approved for such organisations.

Clause put and passed.

Clauses 107 to 110 put and passed.

Clause 111: Interpretation -

Hon N.D. GRIFFITHS: A few moments ago I mentioned that Hon John Cowdell implied that wishful thinking could be an offence under this legislation. When I read this clause I think he was probably on the right track. I have placed on the Notice Paper an amendment to delete subclause (2) which reads -

> In this Part, a reference to an offence includes a reference to an offence that there are reasonable grounds for believing will be committed.

I suppose we could always say there are reasonable grounds, but we are not talking about an attempt to do something which is an offence; we are talking about "reasonable grounds for believing will be committed". This is an example of taking things too far. I move -

> Page 81, lines 10 to 12 - To delete subclause (2).

Hon MAX EVANS: The Government does not support the amendment. Clause 111(2) comes from the model provisions which were drafted for censorship legislation for all States and Territories. It is a new provision for Western Australia. Clause 111(2) is directly relevant to the power of entry and seizure provided in clause 112. It will allow a police officer who has entered premises under clause 112 to seize anything which is connected with an offence which the police officer considers on reasonable grounds will be committed, in addition to offences which are being or have been committed. This power is particularly relevant to the difficulties which police have encountered in relation to data stored in computers or other storage devices such as floppy disks and CD-ROMs which store massive amounts of data which can require specialist knowledge to examine. For example, the provision will allow police to seize computer disks which they believe on reasonable grounds may contain illegal material which could be sold or otherwise published but which may require specialist examination either because of security passes, encoding of data, and the need to use specialised equipment or programs to examine the data, or simply because the amount of data stored on the disks prevents examination there and then. Without the power to seize such material there and then, it is likely that any illegal material will be destroyed before the police can obtain a warrant. This power can be used only when the police have established a reasonable belief that an offence will be committed.

Clause 117 provides a mechanism for the return of seized property when no-one is subsequently charged with an offence within 60 days of the property being seized. In such circumstances, the police must apply to a Court of Petty Sessions and the person from whom the property was seized will have an opportunity to show cause why the property should not be forfeited. If the court is not satisfied an offence has been committed and the property should be forfeited the property must be returned. New provisions are required to deal with the rapid advance in technology. The Government opposes the amendment.

Hon N.D. GRIFFITHS: I note the Minister's comments. The fact it is contained in a model provision does not advance the merits one way or another. The fact it is not, makes it incumbent on the Government to justify its stance. I regret it has not justified its stance. I do not see any need to repeat my earlier observations. I persist with my amendment. I trust that the Minister will at the last minute have a second thought.

Amendment put and negatived.

Clause put and passed.

Clause 112 put and passed.

Clause 113: Obstruction -

Hon N.D. GRIFFITHS: We have in Western Australia a Police Act which deals with matters relevant to hindering members of the Police Force in the execution of their duty. We have recently passed over pieces of legislation which have within them similar words; in doing so, we have persisted in having a number of offences of similar wording which substantially do the same thing. This is bad practice. It is condemned by implication in the Law Reform Commission report on police offences. I referred to that report earlier in this Parliament. In its final report on police offences the Law Reform Commission suggested a new wording for the relevant section in the Police Act. It suggested that the other sections in the Police Act, which, for the most part, repeated the substance of this sort of offence, be done away with; that is, within the Police Act there be only one offence set out dealing with this sort of conduct. However, during this session other pieces of legislation have created new offences of substantially the same wording. A person must not delay, obstruct or otherwise hinder a member of the Police Force or an authorised person in the performance of his or her functions under this Bill. The Police Act contains an offence that deals with hindering the police. However, the wording of this clause goes further. Why the Government wants to place on the Statute book another offence that deals substantially with the same matter, I do not know. Is it a case of words for words' sake? This is bad policy. It is cluttering up the Statute book unnecessarily.

Hon MAX EVANS: This clause is similar to provisions in the Video Tapes Classification and Control Act and the Censorship of Films Act. I like this Bill having a separate provision rather than relying on provisions in other legislation. People can reference it in this Bill rather than their having to refer to obscure legislation. Debate has occurred in my party about whether these provisions should be repeated in legislation. I believe that it makes it simple to understand; it is known exactly how it affects this legislation.

Clause put and passed.

Clauses 114 to 118 put and passed.

Clause 119: Membership of Committee -

Hon N.D. GRIFFITHS: This clause is a hotchpotch of tokenism. It points out that the committee is to comprise not less than three and not more than seven persons, and an officer of the Public Service appointed by the Minister. Members must consider the arithmetic. Subclause (2) states that at least one is to be a woman. Some may say that that is rather offensive: At least one person does not have to be a man. At least one is to be a recognised expert in art, literature or science, and at least one is to be a legal practitioner. I do not want to knock legal practitioners, but I do not think they have any great legal expertise in that area. At least one is to be, at the time that person is initially appointed, the parent of a minor. One could be a woman who looks after a minor, or even a legal practitioner and a recognised expert in art, literature or science. More than one hat could be worn. Many in the community would find this singling out of women offensive. People who describe themselves as feminists may find it offensive also. It is the language of tokenism and it does not appeal to me.

How will the recognised experts in art, literature or science be recognised? I suppose we will know them when we see them, or when they are appointed. Why does the clause not provide for a committee of not less than three and not more than seven persons appointed by the Minister? A sensible Minister would obtain a cross-section from the community of, dare I say it, sensible people. Why must the Bill circumscribe the Minister's power of appointment to this extent, and in doing so use language that many would find silly and offensive? It is not necessary and I do not like unnecessary words in legislation.

Hon MAX EVANS: The member makes some good points. However, at this time the Government does not propose to make any changes.

Clause put and passed.

Clauses 120 to 139 put and passed.

Clause 140: Power to demand name, age and address -

Hon N.D. GRIFFITHS: This clause provides wide powers of demand. It is an example of the regulatory regime going too far. I appreciate circumstances where it is proper that a demand be made. This clause is the last example I will refer to this evening of the Bill going a little overboard in regulation. In saying farewell to the Censorship Bill until tomorrow - it has been amended and I think we should follow convention, if only for the consideration of the report - I look forward to its ending up with the Commonwealth and trust we do not debate the matter further in this century.

Clause put and passed.

Clauses 141 to 153 put and passed.

Schedule 1 put and passed.

Title put and passed.

Bill reported, with amendments.

LISTENING DEVICES AMENDMENT BILL.

Second Reading

Resumed from 21 August.

HON N.D. GRIFFITHS (East Metropolitan) [9.10 pm]: This is a short Bill that seeks to amend the Listening Devices Act 1978. It deals with the operations of the revamped Official Corruption Commission and proposes to enable an officer of the commission to use a listening device if authorised by a member of the commission. The commission is referred to in the Bill under its new name, the Anti-Corruption Commission. The Bill provides for the Anti-Corruption Commission to furnish the Attorney General with a report dealing with the use of listening devices provided such use is authorised under the provisions of this Bill. I propose to make some observations about that aspect in Committee.

The Bill is probably more significant in what it fails to do. Last week I asked the Attorney, representing the Minister for Police, a number of questions about the use of listening devices by the Police Force. I also asked him a question about the decision of the High Court in Coco *v* The Queen. That decision has caused difficulties for law enforcement authorities in Australia. The Bill, which comes before us late in this Parliament, is deficient in that it does not deal with the difficulties that law enforcement authorities within Australia have faced and continue to face in respect of listening devices. I say "within Australia", but, of course, we are dealing with Western Australia.

The difficulty is that, since the decision was handed down, the official position of law enforcement authorities is that they may not enter private premises without permission, because to do so would be a trespass. Before the decision, it was the view of law enforcement authorities - whether they be the Western Australia Police Force, the Australian Federal Police, people dealing with the NCA or whatever - that because there was a listening devices Act in Western Australia, or similar such provisions in other jurisdictions, they had implied permission to trespass. I note, therefore, that this Bill merely provides for the authorisation of officers engaged by the Anti-Corruption Commission to use listening devices. There is a concern that all this does is perhaps permit those officers to have the opportunity - and I trust they will not - to engage in activity that other law enforcement agencies in Australia for the most part say they cannot engage in unless the difficulty raised in Coco *v* The Queen is addressed. I know that law enforcement officers can go into hotels and other public places, and I also know that there are some very effective listening devices, for example, those that do not need to be placed on someone's property to be effective. However, that is not the case with all listening devices. My primary complaint is that the practical difficulty faced by law enforcement authorities operating in Western Australia as a result of Coco *v* The Queen - and that is how they see it - is not being dealt with in this legislation and here was an opportunity to deal with it. I regret that has not come to pass.

HON PETER FOSS (East Metropolitan - Attorney General) [9.17 pm]: I thank the member for his contribution. There is no doubt that the Coco decision has made law enforcement officers aware of problems that already exist rather than caused problems. As the member quite rightly points out, there are many devices that can be used without requiring trespass. The Minister for Police has been drafting and dealing with a total replacement Bill to cover surveillance devices. That draft legislation has been put to various agencies over a period. That has been a fairly lengthy process, as one might expect it to be. One would also expect the process to be lengthy when considering the Coco decision and how it should be dealt with. It is an important matter of policy. Interestingly, in many ways there are probably fewer problems with regard to the ACC than most law enforcement agencies. The member will appreciate that there is a strong possibility that some listening may need to take place on government premises. If that is the case then, of course, the owner of those premises can give permission; that is, the Crown can give permission. I would therefore expect that the only area that would be obstructed by the Coco decision is listening requiring going onto private premises. Going onto government premises can be handled simply by the owner's giving permission, and the member will note that permission is already granted by the Act itself. The Coco decision needs to be dealt with, but I do not believe that this is the appropriate context.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chairman of Committees (Hon W.N. Stretch) in the Chair; Hon Peter Foss (Attorney General) in charge of the Bill.

Clause 1 put and passed.

Clause 2: Commencement -

Hon N.D. GRIFFITHS: When is it proposed that the Act will come into operation?

Hon PETER FOSS: I believe that the principal part of the anticorruption legislation will be proclaimed in two parts. The first will allow the constitution of the Anti-Corruption Commission under the new provisions. This is so that the new committee can advertise and recommend and the commission can be appointed. Once the commission is in position the remainder of the anticorruption legislation will be proclaimed.

Hon N.D. GRIFFITHS: The Attorney General has given a sequence of events. I want to know when it will come to pass.

Hon PETER FOSS: We are dependent upon the committee to recommend the ACC. As the member will know, parts of the events are not controlled by the Government, in particular the calling of nominations and the recommendation by the committee to the Governor. Finding appropriate people is obviously necessary. Two people must be appointed. Mr Porter resigned from the Official Corruption Commission at the time of the assent to the legislation. We already had one vacancy, and so two must now be filled before we proceed. It may be a month or so.

Hon N.D. GRIFFITHS: I take it that the Government's timetable is to have this in place in a month or so, or will it drag out for much longer?

Hon PETER FOSS: Our desire is to have it in place immediately. Our problem is that, under the scheme, some matters are not in our hands but in the hands of the committee; that is, the Chief Judge, the Chief Justice and the Solicitor General. I am only guessing as to their timetable. Our timetable would be to have it immediately, but we are advised that certain things cannot be done until the Act has been assented to and certain parts proclaimed. That having been done, they can proceed lawfully to do it. As I said, I would like to have seen it done yesterday, but I am afraid things are not in our own ability to control. I am giving a guess, and the member can probably guess just as well as I.

Clause put and passed.

Clauses 3 to 5 put and passed.

Clause 6: Section 5A inserted -

Hon N.D. GRIFFITHS: There is a difference in the treatment of police officers and officers of the ACC. Why have we not grasped the opportunity to amend the Listening Devices Act further so that there would be consistency? The wording of proposed section 5A(1) is more or less in the same terms as section 5, with a difference. The opening words are "Subject to subsection (2)". Putting those words to the side for one moment, the words "the ACC shall furnish to the Attorney General on request a report containing such particulars as the Attorney General requires" are very wide in their application, but subject to proposed subsection (2). I contrast the wording of proposed subsection (2) with that of the Listening Devices Act. Section 5 provides that the Commissioner of Police shall furnish to the Minister on request a report containing such particulars as the Minister requires of the use of any listening device by any member of the Police Force to overhear, record, monitor or listen to any private conversation to which the member was not a party. There is no "subject to" provision and nothing in the Act deals with the relationship between the Commissioner of Police and the Minister for Police to the effect that such a report shall not disclose the detail of information obtained by any particular use of a listening device. I draw that to the Government's attention so that there could be at the very least a degree of consistency. I trust that the Government has already taken this on board. However, when the question of surveillance is looked at, hopefully in the relatively near future after proper reflection, and dealt with by a functioning Legislation Committee as part of the process, I hope we will have consistency and the appropriate balance in policy.

Hon PETER FOSS: This illustrates a difficult point of accountability with which we have to deal. We would all agree that the Anti-Corruption Commission, in using a power such as this, must have some accountability. If anything, as Hon Nick Griffiths suggested, it should be more accountable. To be totally consistent, the current Listening Devices Act says that the information should be provided to the Minister. The first aspect that occurred to the Government was that "the Minister" will be the Minister having the conduct of that Act, and that would normally be the Minister for Police; that is, the Commissioner of Police would respond to the Minister for Police. There were two objections to that. We do not believe that the ACC should be responsible to the Minister for Police, because the ACC is not the responsibility of the Minister for Police and nor should it be. The next point was whether we then make it responsible to the Minister who has responsibility for the ACC. That again was thought to be inappropriate because that would normally be the Premier, and, in view of the nature of the ACC and the general intent for the ACC to be independent of government, which is a problem when we try to have accountability, we felt

that the person to whom it should most appropriately be accountable is the only officer of government who has an independent role apart from Cabinet; that is, the Attorney General. The only officer who has a role, admittedly in another context but a context to give advice independently of the remainder of Cabinet, is the Attorney General. That is the reason the Attorney General was picked as the appropriate person to receive the accountability in this respect from the ACC.

Generally speaking, the ACC communicates with the Attorney General rather than the Premier on many issues. Perhaps it was thought that the Attorney General had the appropriate experience in dealing with the matters that tend to arise. They tend to be matters of law rather than operational matters. The question then was to what degree should there be that accountability, keeping in mind that the principal area of investigation of the ACC is to encompass government and its various arms. It goes beyond that. It picks up members of Parliament. However, the bulk of the likely complaints and the bulk of its designated area is government itself. Therefore, we have to have a balance between the need for accountability, particularly the need for accountability in respect of the exercise of an important power which infringes on the liberty of the subject, and the need for government not to be able to know too much about what and who is being investigated by the ACC. That is why the "subject to" of proposed section 5A(1) picks up proposed section 5A(2), which in the general wording of the remainder of the Listening Devices Act restricts the detail of conversations from being disclosed. Therefore, under proposed subsection (2), the general nature of the operations can be determined but the detail of the information obtained is not to be. I admit that is a difficult policy decision. However, keeping in mind that we are trying to balance the need for accountability against the ability of government itself to know the details of what is being investigated with respect to its members, it was a very hard balance to make, but it was the balance that was decided upon.

Hon N.D. GRIFFITHS: The wording of the clause that is before us is probably appropriate. I can see the arguments that can be advanced and which have no doubt been taken into account in arriving at this wording. The thrust of my comments was not so much to criticise the wording of this clause but to point out that some considerations were applied to the wording of this clause which could be applied to amending section 5 as it currently stands. Section 5 provides the Minister who has the responsibility for the Listening Devices Act - it need not be the Minister for Police necessarily - with a capacity to obtain information which may impinge unduly on what is occurring. I hate using that phrase "operational matter". However, it may have the capacity to impinge on operational matters. Sometimes it is better, once one is satisfied that accountability is in place, not to have too much knowledge of the day to day concerns of what is going on, otherwise there may be all sorts of prejudicial complications on the part of many concerned. That is the reason I raised the matter. It was not so much a criticism of what was in place as a suggestion that, in looking at the listening devices legislation down the track, the same sort of policy considerations be applied. I know the two agencies are not the same; there are differences. However, there is merit in what has been advanced and there is merit in giving consideration to whether and to what extent the current section 5 can be modified.

Hon PETER FOSS: I will make sure that those remarks are conveyed to the Minister for Police who has the conduct of the surveillance devices drafting. The other aspect that might be considered is whether the Attorney General should have a more general involvement even in the Listening Devices Act. Assuming that the Minister will be the Minister for Police, it might be appropriate that some of the oversight still be with the Attorney General rather than the Minister for Police.

Clause put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon Peter Foss (Attorney General), and passed.

CRIMINAL CODE AMENDMENT BILL (No 2)

Second Reading

Resumed from 22 August.

HON N.D. GRIFFITHS (East Metropolitan) [9.40 pm]: The Australian Labor Party in this House supports this Bill. It does so for a number of reasons but, in doing so, it recognises and points out that the Bill is an admission of failure, not just on the part of this Government but on the part of all concerned with this area of public policy. It is an admission of failure about the way in which our society operates and an admission of failure on the part of all who,

in whatever way, have contributed to this debate on law and order. I make those comments because when dealing with these matters it is better that they not be a political football, but that they be dealt with by cool heads and, if at all possible, in a bipartisan way. In dealing with the Bill, notwithstanding that expressed desire that it is better for us all to work together to achieve good policy outcomes, it is necessary for me to be critical of the Government in this area because the Government has now been in office for three and a half years. Before 1989 the duration of the Parliament was three years.

This Government has had the responsibility for dealing with this area and there are distinctions between the position of the party for which I speak in this debate and the position of the Government. In dealing with the policy of this Bill it is appropriate that I draw to the attention of the House these differences. This admission of failure on the part of the Government is a belated attempt to deal with community concern. It is part of a number of measures brought forward by this Government which, unfortunately, taken together lack balance. The Labor Party puts forward the proposition that dealing with this area is a matter of balance encapsulated, as our leader would put it, in the phrase "tough on crime and tough on the causes of crime". Because this Bill is not part of a balanced approach, it will not work. It will not work because it is not part of an approach that addresses the need for a Bill such as this. It does not address the causes of crime. Of course, when dealing with a Bill to amend the Criminal Code it would be unrealistic to expect reference to be made to the causes of crime. However, in putting the policy of this Bill in context it is incumbent on me to make a number of references to some matters which are relevant to the causes of crime and, in so doing, I trust I will illustrate why this Bill will not do the job.

The job is not to send lots of people to prison or to spend a lot of money building more and more prisons. The job is to make our community happier. The Bill in itself does nothing about the ethos of our community. It does nothing about enhancing community standards, bringing people together or building a sense of community. It is not part of that package. I suggest that in recent times the more we have tended to undermine a sense of community, the more we have tended to increase the rate of crime. This Bill deals substantially with a particular sort of crime - burglary and an extension of that described as home invasion. In itself it does nothing to enhance a sense of community - nor can it - and that is the first thing about which this Parliament should be concerned. The Bill does nothing about poverty or the primary cause of poverty - unemployment. The Bill was introduced just after a federal Budget which told us that economic growth would slow and unemployment continue to be higher than 8 per cent, notwithstanding five years of economic growth. The Bill does nothing about addressing the alienation in our community, exacerbated to a great extent by unemployment; the alienation exacerbated by the unnecessary criminalisation of a number of our youth as a result of failing to take up an expiation notice regime dealing with cannabis; an alienation felt by youth in the context of career, work and education opportunities being limited by the new higher education contribution scheme; an alienation of youth made worse by people talking about restricting the civil liberties of people just because they happen to be young; and an alienation of youth caused by such things as the arguably illegal Operation Sweep. This Government feels that it is all right to have a go at people because they are young. I do not think that is the way to treat our future.

It is a Bill which cannot deal with our society's failure to engage in constructive reconciliation to right what I consider to be the wrong of the awful over representation of our Aboriginal people in the crime statistics and among the ranks of the imprisoned. Of course, it is a Bill which cannot deal with measures that are fundamental to making our society function better and which promote health, education and job training. Jobs are the macro key. Bad health can be related to crime. Many people commit crimes such as the kind dealt with in this Bill because of an arguable disorder of the mind. I know defences exist, but in practice they do not really operate.

In addition, specific measures can be undertaken to minimise the occurrence of crime. Those measures have been announced - I mention this briefly to put in context the Opposition's support for the Bill - to a significant extent by the Leader of the Opposition in a number of policy documents, in particular "Crime Prevention - New Strategies". In that document the Leader of the Opposition deals with the complexity of this problem and puts forward a number of measures which, if adopted, will be of use in minimising the occurrence of this offence which has given rise to this Bill.

In dealing with those matters, apart from dealing with the macro categories to which I referred a few moments ago, considerable research has led many to the conclusion that antisocial behaviour early in life can lead to a greater incidence of severe antisocial or criminal behaviour later in life. If a young child is not getting on at school, appropriate resources should be put in place at that stage. Appropriate programs are in place to deal with that. Similarly, appropriate programs can be introduced to provide training, education and job opportunities for people who have committed, and regrettably persist in committing, crimes. These are necessary, important and fundamental. In dealing with crime, programs which provide a climate which promotes happiness are probably the cheapest and most effective method of delivering the goods. I return to that community ethos in which solid happy communities are based on important age old foundations; namely, happy functional families rather than so many regrettably dysfunctional families which exist in our society for a variety of reasons.

My party offered a number of proposals to deal with this issue of increased crime, particularly burglary and what has been referred to as home invasion. In Committee I propose to enter into some of the more specific matters. However, I mention in passing that some of the concepts contained in this Bill are taken from the measures proposed in May this year by my leader, the member for Fremantle. It is a belated attempt on the part of the Government to dampen community disquiet by showing that it is doing something. Those measures were taken from - if I may say it, copied - the proposition of mandatory terms of imprisonment after three convictions. The notion of "three strikes you are in" was put forward by my leader in May this year because of community concern about this specific type of offence, which has become prolific.

The rationale behind this notion of mandatory imprisonment is to meet what is here and now a pressing concern on the part of the community about this specific form of offence. It was said that is necessary at this time to send to the community at large the message that the legislators want the incidence of that form of offence dramatically lowered because it is bad here and worse in the Northern Territory. The figures move around a bit. It is considered necessary at this stage in our society's development, failing though we are as a society, that that message be sent. The Bill copies our proposal to increase penalties in a number of areas; for example, if a dangerous weapon is involved in committing an offence in someone's home.

This Bill upgrades penalties but, unlike our proposals, it does not upgrade the penalties in an appropriate manner. I do not want to be too unkind; I can see some logic. I can understand the regimes being imposed in the upgrading. However, unlike what the member for Fremantle proposed on our behalf in May this year, it does not send the appropriate message. It does not relate the particular offence about which we are concerned with appropriate precision to the penalty prescribed. It does not deliver to would-be criminals the message that the time with appropriate precision matches the crime.

The matters proposed by my leader are contained in an opposition policy document called "Home Invasion and Burglary", dated 5 May 1996. That document has received a substantial amount of publicity in the community, and I do not think it is necessary to go through it. I know the Government is aware of it because of the copycat legislation, albeit flawed, that it has prepared and we are now debating. I think anyone who was concerned to look at *Hansard* would probably have seen the document.

This Bill is yet another indication of the failure of the Government's law and order policy. Although it may not be a failure, I sometimes hear it said that the Government's law and order policy is not about a safer Western Australia but about how to win votes. I do not want to be unkind, but the failure of the Government's law and order policy and the need for a strengthened criminal law to operate against the offences targeted by this Bill are brought home to us by considering what is said in the budget papers.

Budget Paper No 6 - which is the Budget that we passed in June, so these are the up to date budget papers of this Government - states in division 85, Police Service, under the heading "Significant Issues and Trends"-

> There has been a continuing increase in offences against the person and offences against property. The number of offences against the person in 1995 was 16,584, a rise of 10.7% compared with 1994. The number of offences against property in 1995 was 202,724, a rise of 7.6% compared with 1994.

If that were not bad enough, another aspect of crime which is relevant to this Bill is community perception. If our community is fearful of crime, it is less happy. Its fears need to be allayed. It needs to know that at this time in our history we are dinkum about dealing with this offence which is causing so much anxiety. That anxiety is spelt out in the budget papers, which state -

> Analysis of the Police Service's Community Perceptions Survey has identified that people in the community fall into one of four groups based on their perceptions of safety. 20.5% always feel safe, 36.4% only feel safe during the day, 23.9% feel fairly safe most of the time, and 19.2% feel unsafe most of the time. Over the last three years there has been a trend for some people who previously felt safe during the day to move into the group who feel unsafe most of the time.

In dealing with these matters, it is better to be bipartisan and not to engage in point scoring, but I note that reference to the last three years. We have heard a number of comments about statistics and the fact that they move around. I have referred to some statistics in the budget papers. The prevalence of those sorts of statistics gives rise to community concern and also provides justification for the measures that are contained in this Bill.

It is appropriate to refer to the Australian Bureau of Statistics' national crime statistics for 1995, which are the latest figures provided by the Australian Bureau of Statistics. In dealing with this matter, we should consider certain aspects. It is not just that Western Australia as such has a particular rate; it is how we as a Western Australian society are coping in comparison with other parts of our country, and the reasons for any differences. The Australian Bureau of Statistics' categorisation of unlawful entry with intent is similar to our Police Department's categorisation of

burglary. It refers to it as UEWI offences, and I will use those letters in referring to it. It states that offences involving UEWI are often described as burglary or break and enter offences, and that instances of UEWI offences have been relatively consistent over recent years; and it refers to the numbers in 1993 and 1994. It then states -

> Victimisation rates for the States and Territories vary with the highest rates per 100,000 people occurring in Western Australia (3,524) and the Northern territory (3,039).

I know this is a little out of date, but it must be seen in the context of what is occurring. The Northern Territory and Western Australia have some things in common. I referred to this when I dealt with our failure to engage in constructive reconciliation with our Aboriginal population. It continues -

> The lowest rates were recorded in Victoria (1,575) and the Australian Capital Territory (1,602).

Those are big differences across Australia, and they say something about how our society is dealing with the problem and why we need to address the problem in part by being tough on criminals. More importantly, we need to work hard to address the causes of these differences.

I refer to an article in *The Australian* of 26 August, and also to a number of these matters so that the stance of my party in supporting the Bill can be understood. This article is headed "Burglary blackspot baffles the experts". With respect to unlawful entry offences, burglary and the like, it sets out matters contained in the relatively recent report of the Australian Bureau of Statistics as at 30 June 1995. This article points out that Western Australia is the country's burglary black spot and that experts will now examine why there are such wide divergences between the States. In a moment I will come to the recent police statistics that show a reduction in the rate of burglary. Those statistics should measure that reduction with the rate last year and the year before, but also how it compares with elsewhere in Australia. The newspaper article is consistent with much of the report of the Australian Bureau of Statistics dealing with the incidence of crime and states -

> While the number of burglaries of homes and properties has shot up over the last three years in Western Australia, NSW and the Northern Territory, the incidence has fallen in the other States with South Australia showing the most dramatic decrease.

There is a further reference to Western Australia that states -

> In Western Australia, last year there were 3.52 burglaries per 100 people, an increase from 3.14 per 100 people in 1993.

The police statistics give that reference. By way of a contrast, the report states -

> However, in South Australia, in 1993 there were 2.8 burglaries for every 100 people and by last year that number had gone down to just over two burglaries per 100 people.

In other words, in 1993 there was not that much difference between Western Australia and South Australia, but in 1995 the gap has widened immensely, and I suggest it remains. I note the reference to Victoria as remaining the safest place for burglaries with just 1.57 burglaries for every 100 people last year, down from 1.8 in 1993. Although those figures move around a little, Western Australia is not performing very well.

I now turn to the Western Australia Police Service summary of reported crime. This statistics report deals with 1993-94, 1994-95 and 1995-96. In it I note the total offences against a person have increased by 9.5 per cent. We are concerned with burglary. Per 100 000 people in 1993-94 the figure was 3 195.1; in 1994-95 it was 3 518.6; and in 1995-96 it was 3 242.1. There is clearly a reduction in 1995-96, the summary pointing out it is 7.9 per cent. We must bear in mind that compared with 1993-94, 1994-95 shows a substantial increase of 10.1 per cent. The figures for 1995-96 compared with those for 1993-94, unlike in the other jurisdictions to which I have referred, show the trend is not going down. It seems to me that as a society we have not been successful in dealing with burglary. From the evidence I have provided the House, other parts of the country appear to have done remarkably better. We have failed to do better because of the nature in a part of this society that has been constructed, I regret, by those currently in power. When they tear down matters important to the community, when they treat people badly, when they deal with people in an unfair way, they add to the sum total of misery and alienation and they exacerbate the crime from which we suffer. I accept that the Government may wish to disagree with that proposition.

We are doing badly. Our treatment of this issue has been a failure and, to my mind, the movement in the statistics over a recent period in no way proves it has been a success. We will continue to be failures in this area while we ignore the big issues that deal with how our society is structured. While we continue to move our society along paths that make it more unfair, we will continue to have increased crime, at rates higher than we should reasonably expect.

In making my comments I have tried to be as bipartisan as I can; however, there are differences of philosophy between those on this side and those on the other side. I can summarise it this way: We believe in a balanced approach. We believe good policy is concerned in this area, as in so many other areas, not just in discouraging that which is wrong, but encouraging that which is good. We believe in a balanced approach. We say that a society is not run purely by the use of the stick, by preaching punishment, but by encouraging people to have self-esteem and to participate; by encouraging the good in people. Regrettably those on the other side place greater emphasis on punishment and do not balance it with the positive approach that I entered politics to advance. I trust that most, if not all, of my colleagues in this place are here because they want to encourage that which is good in people, and not just to emphasise discouragement of that which is bad.

HON J.A. SCOTT (South Metropolitan) [10.40 pm]: I share many of the concerns expressed by Hon Nick Griffiths. When I see such Bills come before the Parliament, I despair that we will ever have a Government which deals with the causes, not the effects, of crime. Hon Nick Griffiths is quite correct in stating that this Bill is directed to the failure of government policy relating to not only the area of crime, but also the whole of government policy, from industrial through to social policy. In fact, it has its roots in the overall thrust of this Government. The greatest failure relates to the breakdown of the sense of real community in our populace as a result of those policies.

I agree that home invasion is certainly a very nasty thing to happen to anybody. It has occurred to me personally in recent times, and it is not something which anybody enjoys. People engaging in it certainly should suffer some sort of punishment. However, it is pointless to continually look at longer sentences and more gaols while completely ignoring the causes of the problem. The Government acts as though we have this increasingly evil society in which all young people are a potential threat to the community. The Government builds these fears for its own purpose; that is, largely because the political number crunchers have done their homework and discovered that we have an ageing population, and the people the Government is looking at locking up and sweeping off the street are in many instances below the voting age. The Government is not looking at why these people are committing these crimes.

Hon Peter Foss: Are you saying this with some knowledge about what we are doing, or do you assume? You're wrong; we are looking at causes.

Hon J.A. SCOTT: The Government is doing things. It relates to the actions of the Federal Government, along with this Government's industrial policy, as they are both negative.

Hon Peter Foss: You're making a categorical statement that we are not looking at the causes of crime. This Bill will not do that, but why will you not look at what we are doing?

Hon J.A. SCOTT: There are one or two programs which the Government is applying in this area, like the juvenile justice programs.

Hon Cheryl Davenport: They are not full programs.

Hon J.A. SCOTT: The Government is half doing it.

Hon Peter Foss: Have you bothered to inquire whether we are doing something?

Hon J.A. SCOTT: Yes, I have. I am talking about what the Government is doing negatively - that is my concern. The Federal Liberal Government has just changed some programs. The Labor Party is to blame in this area also as people on Job Search face increased penalties to make it harder to receive the benefit in the first place. Also, if somebody has the temerity to move to another area where there are fewer jobs - even though there are not enough jobs to go around - maybe because it is cheaper to stay with a friend, that person can be cut off from the benefit for 13 weeks or 26 weeks - half a year! What are people going to do for 26 weeks without income? They will break into houses. It is obvious. Either that or they starve on the street. It is pathetic to look at gaoling people who may not have any income.

Hon Peter Foss: Are you supporting that behaviour?

Hon J.A. SCOTT: I am not supporting the Government's behaviour; I think it is sick! I know that this city, like any other city, has street kids. Anybody who watched the two recent programs on ABC television would know that kids are living on the streets, but what is the Government doing about it?

Hon E.J. Charlton: Why are they living on the street?

Hon J.A. SCOTT: It is for a whole lot of reasons.

Hon E.J. Charlton: Some of the parents couldn't care less.

Hon J.A. SCOTT: In some cases, that is correct. What is the Government doing? It introduces legislation so people do not draw on the subways.

Hon Peter Foss: Do you support that and people breaking into houses and not being gaoled?

Hon J.A. SCOTT: No, I do not. Nor do I support the stupid, short-sighted government policy based on greed and division that we get from our Government. Basically, the Government would rather spend money on gaols than education.

Following the federal Budget I listened to an ABC radio program on which a sex worker madam outlined that many more people working in the sex industry were students trying to get through university because it was harder for them to get an income. No jobs are available for them. The Government deals with that problem by raising the level of the higher education contribution scheme, so that women who actually get HECS -

Hon Peter Foss: That was in Japan.

Hon J.A. SCOTT: It was in Australia, Mr Foss.

Hon Peter Foss: I am sure the one I read about was in Japan.

Hon J.A. SCOTT: The Minister did not listen to the same program. He may have thought it was a good thing.

Hon Peter Foss: No, I did not. I do not like the things you seem to support; I do not like graffiti either.

Hon J.A. SCOTT: It is an absolute disgrace.

Hon Peter Foss: So are you!

Hon J.A. SCOTT: Am I a disgrace because I care about something like that?

Hon Peter Foss: Because you do not find out the facts.

Hon J.A. SCOTT: The facts according to Mr Foss. I do find the facts; I talk to people who work with the street kids. I talk to people who say that the Government underfunds their programs. These people are stretched to their gills because the Government will not give them two bob to support a proper program. Instead, the Government builds multimillion dollar boot camps even though everybody told it, including members of this House and experts in the field, that they do not work. What does the Government do to get votes? It runs around using political expediency to build up fear in the community. The criminologists at UWA and Curtin University point out that the biggest problem in Western Australia is the fear of crime, built largely by people like Hon Peter Foss.

Hon Peter Foss: Come on; what did I do? When did I build a fear of crime?

Hon J.A. SCOTT: With this sort of knee jerk reaction the Minister's party has built this image that people's homes are under siege. I do not support this way of dealing with the problem. I do not support breaking and entering homes - no sensible person does. It is an invasion of people's privacy and a terrible thing to do. If Hon Peter Foss experienced 26 weeks without an income, I wonder what he would do.

Hon P.R. Lightfoot: He would not break into somebody's home.

Hon J.A. SCOTT: He would probably talk somebody into lending him some money. Not everybody has the same gift as the Minister of turning black into white. The changes which have occurred in society over recent years concern me because they have created a huge division in our society. I remember, when I came to the city from the country in my first car, I was able to leave my car unlocked in Hay Street all day. Everybody did that because nobody had their car stolen. There are many reasons for that. A lot of things were different in those days. For example, people in the streets would say hello, people had a sense of community and anybody who wanted a job could get one.

Hon Peter Foss: There was a good Liberal Government in those days. Menzies did it well.

Hon J.A. SCOTT: How the mighty have fallen! Perhaps it was the good Liberal Government in those days. I did have some respect for Sir David Brand.

Hon E.J. Charlton: Then we had Lionel Murphy and Gough Whitlam who said that everyone should get a living regardless of whether they got a job.

Hon J.A. SCOTT: The Minister for Transport said that everybody should get a job. However, the Government's policies make it very difficult for people to do that. It is an unfortunate dichotomy.

Hon Peter Foss: Are you saying there is more unemployment now than when we came to government?

Hon J.A. SCOTT: There certainly is a high level of youth unemployment.

Hon Peter Foss: It has come down.

Hon J.A. SCOTT: Very marginally.

The DEPUTY PRESIDENT (Hon W.N. Stretch): Order! I suggest Hon Jim Scott address the Chair and the Bill, and he will be given the protection of the Chair.

Hon J.A. SCOTT: If the Minister is so concerned perhaps he and his party will look at doing something about the young people who live in the streets. What has the Government provided for these people?

Hon Peter Foss: What about the Bill?

Hon J.A. SCOTT: I am dealing with the philosophy behind the Bill.

The changes to the industrial laws have created many changes.

Hon Peter Foss: Are those changes causing burglaries?

Hon J.A. SCOTT: They certainly are.

Hon Peter Foss: Is it all the unionists?

Hon J.A. SCOTT: The Minister is unable to grasp the fact that what the Government has done has had an effect in many areas. It is obvious that the working hours of people are changing. There is a great move towards people working part time or shift work. Parents find it very difficult to structure their working hours to allow time with their family. The result is that their children are not receiving sufficient family contact.

Hon Peter Foss: Is that the result of the changes to the industrial relations laws?

Hon J.A. SCOTT: Yes, it is - it is the good old economic rationalist, make a quid in any way he can without thinking of the effect on the broader community! That adequately describes this Government's policies. The Minister thinks it is very funny, but it is not.

Hon Peter Foss: I do not think it is funny; I think you are very funny.

Hon J.A. SCOTT: It is a tragedy. A division is occurring between different parts of the community. When this Government came to power it attacked people who had and have very little chance of fighting back. This Government is about dispossessing Aboriginal people of their land. It is not about helping young people, but apprehending them for drawing on buildings.

Hon Peter Foss: You support graffiti artists, don't you?

Hon J.A. SCOTT: I do not support graffiti artists, but I am not very worried about them. They have mostly targeted what were unsightly areas along the railway line.

Hon Peter Foss: What about the people whose properties have been targeted?

Hon Cheryl Davenport: Why not find out why they are doing it?

Hon E.J. Charlton: It is because they do not want to go to school.

Hon Cheryl Davenport: It is because they have nothing to do.

The DEPUTY PRESIDENT: Order! There is only one person on his feet addressing the Chair and it is Hon Jim Scott.

Hon J.A. SCOTT: I am glad the question of why young people are doing this has been raised. It comes back to what I said previously; that is, they are not respected by the Government. The community has a growing hatred for and a fear of young people, who are constantly maligned by the Government and the media. People like Howard Sattler are scurrilous in their actions which promote this fear.

Hon Peter Foss: Why don't you speak on the Bill?

Hon J.A. SCOTT: I am doing that. The Minister may not be able to understand the connection, but I must remember that he is an economic rationalist.

Several members interjected.

Hon J.A. SCOTT: I am speaking about the worthlessness of this legislation if it does not deal with the social problems. If the Minister feels guilty about it and wants to keep interjecting, that is all right, but he really should keep quiet and listen.

Hon Peter Foss: I certainly won't listen to you; I might keep quiet.

Hon J.A. SCOTT: Young people are doing these things because they do not care about society. Their community has let them down.

Hon E.J. Charlton: They don't mind taking -

Hon J.A. SCOTT: Who are "they"?

Hon E.J. Charlton: The people you are talking about.

Hon J.A. SCOTT: The Minister for Transport talks about people not working. Youth unemployment is approximately 26 per cent -

Hon Peter Foss: It is 18 per cent.

Hon J.A. SCOTT: I am referring to Australia-wide. It is much more than 18 per cent. Figures are bandied around and the Minister is now saying that youth unemployment is down to 18 per cent.

Hon E.J. Charlton: We had 13 years of a Federal Labor Government and 10 years of a State Labor Government and they are the figures they came up with.

The DEPUTY PRESIDENT (Hon Barry House): Order!

Hon J.A. SCOTT: The figures have been disguised and the Government is making it harder for youth to register for the Job Search allowance. They must wait 13 weeks - from the time they leave school to the time they can register -

Hon Peter Foss: The participation rate is higher than it used to be.

Hon J.A. SCOTT: Young people are being asked to apply for the Job Search allowance in the October of the year they leave school, even though it is illegal. It means that by the time they finish school they are entitled to a Job Search allowance, otherwise they must wait 13 weeks. Of course, it means that these people can be kept off the unemployment list. There is a constant rejigging when the situation is not improving. This Government and the Federal Government would like to implement a youth wage which would result in slave labour.

Hon Cheryl Davenport: Yes, $2 an hour.

Hon E.J. Charlton: It would take more than that to make you work.

The DEPUTY PRESIDENT: Order! The member should make his comments relative to the Criminal Code Amendment Bill (No 2). I am battling to grasp the relevance of his comments.

Hon J.A. SCOTT: The Government wants to pass a Bill which will deal with home burglary by extending the gaol term. It is a short sighted policy. I am indicating what the Government should be doing to resolve the problem. I understood that in the second reading debate members should debate the philosophy behind the Bill. I have been pulled up for doing that. My philosophy, as opposed to the Government's philosophy, is that the Government should deal with the cause, not the effect. The Government is doing all sorts of itty-bitty things around the place in a half-hearted way. As I said, the juvenile justice teams were set up but not in a comprehensive way like in New Zealand, where they have been very successful. I heard the Minister for Police on radio this morning complaining about the bleeding hearts who had stopped the street sweeps in Fremantle and Northbridge.

Hon N.D. Griffiths: He has a heart of stone.

Hon J.A. SCOTT: The Minister did not say that the police were breaking the law by taking juveniles to the police station, where no properly trained people were available to deal with them, or to their parents. The interesting point about this issue is that when it was investigated after the community had jumped up and down about it, it was quite opposite to what the Minister said this morning. The Minister said there had been no complaints and the people had supported these street sweeps. I know that was not the case in Fremantle, because I attended a series of public meetings following those street sweeps, and there were some irate parents whose children had been seized from outside shops while they were inside and others were mystified by the disappearance of their kids while they were walking home from the movies. The parents, of course, could not be contacted because they were still away from home!

Hon N.D. Griffiths: You cannot go to a high school social under the Liberal Party.

Hon J.A. SCOTT: The Minister's attitude worried me. What kept coming out was that the business community supported this action. The same was said in Northbridge. However, the full community did not support this action.

Hon N.D. Griffiths: I do not think the business community did either. It was just a few fascists.

Hon J.A. SCOTT: Some of the business community did support it. The Northbridge traders' representatives said they supported that action.

Hon J.A. Cowdell: Next we will get the Brazilian business community solution - just shoot them!

Hon J.A. SCOTT: I do not think it is such a far step away.

Hon Peter Foss: I could tell members about that; it is quite enlightened, really.

Hon J.A. SCOTT: The broader community pointed out to those people who attended those public meetings, which included representatives from the business community, the police and the council, that it was not kids who were causing the problems but older people coming out of night clubs who were full of alcohol and aggression. Soon after, a program was put in place in Fremantle which has been successful. However, that was not based on what the Government wanted to do.

Hon Peter Foss: That program came out of the Health Department when I was Health Minister.

Hon J.A. SCOTT: That program was based largely on the resentment of that community, which said there should be greater control over those night clubs.

Hon Peter Foss: It came out of the Health Department. It was initiated by my department and had nothing to do with the sweeps.

Hon J.A. SCOTT: I beg to differ.

Hon Peter Foss: I happen to know, because I was involved in it.

Hon J.A. SCOTT: I attended all those meetings and listened to what those people had to say. Those meetings were attended by kids who were resentful of being dragged off the streets. They were speaking out for themselves in a most forthright manner I am pleased to say. Also people of the same conservative ilk as Hon Eric Charlton were saying, "Where are your parents? Why weren't your parents looking after you?" One young woman said her mother was a heroin addict and did not give a damn about her, and her stepfather sexually assaulted her, so she was not living at home. That young woman must look after herself. Those lovely, conservative people like Hon Eric Charlton might find that a bit unpalatable in some ways, but it is a reality for some young people.

Hon E.J. Charlton: Of course it is reality, but with people like you promoting that kind of thing we will have more and more of it. The only time you are able to do something about it you oppose it!

Hon J.A. SCOTT: What is this Government doing about it? Hon Eric Charlton presides over a transport system that shuts down before midnight, so young people cannot get home.

Hon Peter Foss: It used to stop at half past seven.

Hon J.A. SCOTT: That was pretty poor too. The Government can do many things like that. One area in which the Government has moved, and this is something I believe will be successful in stopping house breaking, is in the regulations controlling pawn shops. That has cut down the dealing in stolen goods and has improved the situation. However, when the Government is not dealing with the cause - that is, poverty, drug addiction, violence in the home and so on - society will still have people who must get money somehow. Unless the Government starts to tackle those problems in a real way they will continue.

Hon Peter Foss: I agree, but I disagree with your saying we are not tackling them.

Hon J.A. SCOTT: The way in which this Government is dealing with the problem is pathetic.

Hon Peter Foss: You probably know as much about that as everything else.

Hon J.A. SCOTT: I talk with the people who deal with these problems and they do not think the Government is doing a wonderful job of providing them with the wherewithal to do their job.

Hon Peter Foss: That is probably like you.

Hon J.A. SCOTT: Maybe it is because of people like the Minister.

Hon Peter Foss: I would hate to think Hon Jim Scott is holding me responsible for him.

Hon J.A. SCOTT: Hon Nick Griffiths cited a paper on how safe people feel in our community.

Hon N.D. Griffiths: That was the budget paper - significant trends and issues of the Police Service!

Hon J.A. SCOTT: When Hon John Cowdell asked me how often I felt safe, I said that I felt safe practically all the time except when I thought about the divisive policies of this Government. I seriously believe that if the Government continues to attack our young people, it will achieve a huge division in our society - that is, elderly people versus young people. The Government is whipping that up.

Hon Peter Foss: Nonsense!

Hon J.A. SCOTT: Indeed, the Minister is.

Hon Peter Foss: You are standing in here being divisive, unlike Hon Nick Griffiths, who is extremely bipartisan.

Hon J.A. SCOTT: I am greatly concerned about the direction in which this Government is going. I see it as a selfish direction. The Government supports people not paying a reasonable level of taxation in order to promote business. In the long run it does not promote business, because it runs down all sorts of infrastructure that taxes provide. It also means we have a much greater crime level, because too little money is spent on education and on programs to retrain people, and too few social networks are left in this community. The Government has run down practically every social network since it has been in government. The Government has tried to corporatise even in the area of welfare provided by volunteers. This Government has a disgraceful record! It should realise that this legislation will result in antisocial behaviour in some parts of the community, and that it will have an economic effect -

Hon Peter Foss: Are you saying that our current social problems originated in the last three years?

The PRESIDENT: Order!

Hon J.A. SCOTT: I recognise that the previous Government should take some blame. After all, it brought in that crazy young offenders legislation - this Government has improved that a little.

This Bill will not provide jobs for people; it will penalise people who are not trying hard enough to get the non-existent jobs! This Government is looking at the worst side of people. We must change our point of view. Hon Nick Griffiths said something along these lines. We must look for the good in people and promote within our society a more caring attitude towards people who are deprived. We must train people who cannot find jobs because they lack education. We need intervention programs which consider what causes people to drop out. As Hon Nick Griffiths pointed out, almost all juvenile offenders start with bad schooling experiences.

Hon E.J. Charlton: Or with not attending school, perhaps?

Hon J.A. SCOTT: Some of the problems originate in the home, before any schooling.

Hon Peter Foss: Some people can predict the chances of criminality before a child is born, by looking at the circumstances.

Hon J.A. SCOTT: I thought the Minister was about to say "by looking at the genes". I am pleased he did not say that.

Hon Kim Chance: They usually measure the size of the head!

The PRESIDENT: Order!

Hon J.A. SCOTT: I do not reject completely what the Government is about to do, but I suspect that it will not work -

Hon Peter Foss: What do you mean by "work"?

Hon J.A. SCOTT: I mean that these provisions will not stop home invasion.

Hon Peter Foss interjected.

The PRESIDENT: Order! Minister, when I say "order", do not defy me and keep on talking! I suggest that when the honourable member finishes, you will probably want to make another statement.

Hon J.A. SCOTT: I do not think this legislation will achieve its objectives. It will not ensure that home owners will feel secure in their properties. It will cause more taxes to be spent on the building of gaols. It will create a more divisive society. I doubt whether many starving people will worry about facing longer gaol terms, because at least they will be fed in gaol. This legislation represents a very expensive way to deal with the problem, it will not have a lasting effect, and it will not improve our society. I am ashamed to say that the Government is dealing with the effect rather than with the cause. Until we deal with the cause in a serious way, rather than in a half-hearted way, the

situation will continue to decline rather than to improve. Until the Government recognises the need to start dealing with the problems that beset people, people will continue to feel degraded. Many offences are committed by people with a drug addiction, and I do not think the Government is doing enough about drug trafficking. We all know about the "Northbridge mafia", but very little is done about apprehending people who deal in drugs -

Hon Peter Foss: They have been apprehended, and we have seen the nasty things that happen to witnesses.

Hon J.A. SCOTT: That happens, but the Government is not dealing with those people severely enough -

Hon E.J. Charlton: Why don't you talk to Mr Kizon and sort him out?

Several members interjected.

The PRESIDENT: Order!

Hon Tom Stephens: You are in government! You should do something about it! This is one of the best speeches heard in this House for a long time!

The PRESIDENT: Order! When I call for order, it means everyone should come to order. I do not want to hear outbursts from both sides of the House at this time of the night. The honourable member is winding up his comments and he is entitled to be heard in silence.

Hon J.A. SCOTT: This issue concerns me very deeply because it strikes at the heart of our society. I am very worried that the path we are about to take is not only wrong but also will be very damaging. This Bill will exacerbate many of the problems we currently face. We can work in many areas to address the problems, including home invasion. This would be better than sending people to gaol for longer terms or inflicting heavier fines, because usually people who steal do not have any money. They steal either because they do not have money or because they need money to feed an addiction to a substance, which really is a sickness they cannot control. That diminishes their responsibility. In many instances it is a dangerous situation when such people break into a home. The threat of longer gaol sentences is likely to result in physical harm to the residents of a home being broken into. Often the offenders are affected by drugs. Therefore, they do not think in the same way as we in this House think. It is very dangerous to take this path with this legislation.

The apprehension of an offender breaking into a home can result in a very dangerous situation. I have had some experience in this regard, when some years ago - before this Government came to power, but not long before - the building next door to my home was broken into. I heard people calling out, "Put down the knife!" and "Where is the money?" I immediately telephoned the police, who said that they were on their way. It sounded like an extremely serious situation; it was as if someone was being beaten up. However, the police did not arrive. Some 20 minutes later I banged on my neighbour's door and yelled out, "Police!" People ran out the door and down the back alley. I raced back to my house because I wanted to check my family in case the offenders came over the back fence.

[Debate adjourned, pursuant to Standing Order No 61(b).]

House adjourned at 11.00 pm

QUESTIONS ON NOTICE

HEALTH DEPARTMENT - ABORIGINAL MEDICAL SERVICE, PAP SMEAR CLINICS FUNDING; TESTS

411. Hon MARK NEVILL to the Attorney General representing the Minister for Health:

(1) How many Aboriginal medical services were given funding for pap smear clinics?

(2) How much money was involved in each case?

(3) How many tests were done by each AMS?

Hon PETER FOSS replied:

(1) Four.

(2)	1994-95	Perth Aboriginal Medical Service	$40 700
		Mawarnkarra	$44 000
		Geraldton	$44 000
		Bega Garnbirringu	$13 000
(3)	1994-95	Perth Aboriginal Medical Service	491 women
		Mawarnkarra	49 women
		Geraldton	320 plus women
		Bega Garnbirringu	106 women

LEGAL AID COMMISSION- MARQUIS, JEFFREY ROY, PROPERTY SETTLEMENT PAYOUT

571. Hon MARK NEVILL to the Attorney General:

(1) Why did the Legal Aid Commission make a property settlement payout by order of consent to Jeffrey Roy Marquis on 5 May 1995 filed under PT1312/90?

(2) What was the payment for?

(3) Why was not Mrs Anne Marquis a party to the settlement?

(4) Why has not Mrs Anne Marquis been advised of the terms of the settlement between the Legal Aid Commission and Jeffrey Roy Marquis?

Hon PETER FOSS replied:

(1)-(4) The matters raised by the member's question fall under the Family Law Act which provides for restrictions on the publication of Family Court proceedings. To provide an answer to the questions would require that details of a Family Court case be revealed. I am not prepared to do this, therefore I will refrain from answering this question.

CONSERVATION AND LAND MANAGEMENT, DEPARTMENT OF - TIMBER HARVESTING PLANS, SOUTHERN FOREST REGION

574. Hon J.A. SCOTT to the Minister for the Environment:

Would the Minister for the Environment provide the Department of Conservation and Land Management's "Timber Harvesting Plans" for the southern forest region for 1997 and 1998?

Hon PETER FOSS replied:

Preparation of plans for timber harvesting in the southern forest region for 1997 and 1998 are currently in progress and therefore not available for distribution.

CONSERVATION AND LAND MANAGEMENT, DEPARTMENT OF - VALLEY OF THE GIANTS, REGISTERED BUSINESS NAME

575. Hon J.A. SCOTT to the Minister for the Environment:

(1) Has the Department of Conservation and Land Management sought to register any business name and/or trademark containing the words “Valley of the Giants”?

(2) If yes -

(a) what are the names/trademarks CALM has sought to have registered;

(b) which names/trademarks have been registered;

(c) when did CALM first apply to have the names/trademarks registered;

(d) why has CALM registered or sought to register these names/trademarks; and

(e) when was the name "Valley of the Giants" first gazetted as a geographic name in Western Australia?

(3) Has the name "Valley of the Giants" ever ceased to be a gazetted geographic name?

(4) If so, when?

(5) Has a study been undertaken to ascertain what the impact will be for other, often long term, users of the name if, and when, CALM has it registered as a business name and/or trademark?

Hon PETER FOSS replied:

(1) Yes.

(2) (a) Valley of the Giants, Valley of the Giants Tree Top Walk, Valley of the Giants Ancient Empire. All with logos.

(b) None has been registered. Applications have been submitted.

(c) CALM first applied to have name/trademark registered in January 1996.

(d) CALM is seeking to register trademarks to protect its goods and services and the reputation of the Valley of the Giants. The Government has developed a tourist icon at the Valley of the Giants tree top walk and the Valley of the Giants ancient empire. Residents and visitors to Western Australia will now be able to experience the uniqueness of the tingle forest in an environmentally sustainable fashion. New walkways and boardwalks will stop compaction of root zones and the associated negative effects on the health of the forest. This development is world class and the trademark applications have been made to safeguard the proprietal rights for use of the registered names and logos and protect the interests of the Government.

(e) It has never been gazetted as a geographic name, although it was approved a geographic name by the Minister for Lands on 4 April 1996.

(3)-(4) Not applicable.

(5) No. CALM has sought to protect the State's interests against future claims that may arise if another party were to register the names and logos. CALM expects that the Valley of the Giants will develop an international reputation and that other local businesses that may use the name "Valley of the Giants" will benefit significantly.

PAPPOTO, SAMUEL JOHN- DISTRICT COURT CASE

608. Hon KIM CHANCE to the Attorney General:

In the case of Samuel John Pappoto, who, on 20 June 1996 in the District Court of Western Australia, pleaded guilty to a charge of threatening with intent to cause detriment, I ask -

(1) Was Mr Pappoto fined $2 000 with three months to pay for the offence?

(2) Does Mr Pappoto have any previous convictions?

(3) Is Mr Pappoto currently subject to a $10 000 good behaviour bond for three years, imposed on 24 September 1993, after being convicted of two charges of company fraud?

(4) Did the crown lawyer acting for the Director of Public Prosecutions in the case bring Mr Pappoto's previous record to the attention of the court?

(5) If not, why not?

(6) At the time of the June case, was Mr Pappoto in breach of a community service order also imposed on 24 September 1993?

(7) Bearing in mind Mr Pappoto's previous record, why did the Crown Prosecutor tell the court on 20 June 1996 that the offence could be disposed of by way of a fine?

(8) Finally, is Mr Pappoto being treated differently because he is, or will be, a crown witness?

Hon PETER FOSS replied:

(1)-(4) Yes.

(5) Not applicable.

(6) A matter for the commonwealth jurisdiction. Not appropriate to answer.

(7) Criminal Code section 17A(4).

(8) No.

CONTAMINATED SITES- POLICIES, COMMUNITY GROUPS CONSULTATIONS

621. Hon J.A. SCOTT to the Minister for the Environment:

I refer the Minister to question on notice 432 of 16 May 1996 and ask which community groups have been consulted on the Government's proposed policies for dealing with contaminated sites?

Hon PETER FOSS replied:

The first step in the preparation of a policy on the assessment and management of contaminated sites was the release of a discussion paper in August 1995. Several groups were given a specific briefing on the paper. They were the Conservation Council of WA, the Chamber of Commerce and Industry, the Chamber of Mines and Energy, the Australian Institute of Valuers and Land Economists, and the Urban Development Institute of Australia. The public were also given the opportunity to comment on the proposals through the public release of the paper. This opportunity was taken up by 73 groups. A list of those groups is available from the Department of Environmental Protection, and will be released together with a summary of submissions and a position paper on contaminated site management. It is expected that these documents will be released before the end of 1996.

DAWESVILLE CUT - IMPACT ON COASTAL EROSION

622. Hon J.A. SCOTT to the Minister for the Environment:

(1) What effect has the Dawesville Cut had on coastal erosion on coastal regions north of the cut?

(2) How much does the maintenance and upkeep of beaches, suffering from erosion north of the Dawesville Cut, cost?

(3) What monitoring of coastal erosion and degradation is undertaken on coastal ecology north of the Dawesville Cut?

(4) If none, why not?

(5) If so, how much does this monitoring cost?

(6) What have been the results of this monitoring?

(7) How many road structures have been damaged?

Hon PETER FOSS replied:

(1) Monitoring of beach profiles north of the Dawesville Channel has been undertaken by the Department of Transport. Monitoring reports indicate that some erosion has occurred on the beach areas north of the channel.

(2) This question would be best directed to the Minister for Transport.

(3)-(4) Beach monitoring has been undertaken by the Department of Transport. Preliminary results of these studies were submitted to the Department of Environmental Protection in May 1996. It is understood that the results of all surveys of the northern beaches will be combined to accurately determine rates of change. These results are expected to be submitted to the DEP in the near future.

(5) This question would be best directed to the Minister for Transport.

(6) See (1).

(7) No such damage has been reported to the Department of Environmental Protection.

ENVIRONMENTAL PROTECTION AUTHORITY - MEMBERS' TERMS, EXPIRY DATE

623. Hon J.A. SCOTT to the Minister for the Environment:

(1) Who are the current members of the Environmental Protection Authority and when do their current terms expire?

(2) What are they paid for the positions they hold on the EPA?

(3) How frequently do they meet with members of the EPA?

Hon PETER FOSS replied:

(1) Dr Raymond Steedman, Chairman - 31.12.96
Mr Bernard Bowen, Deputy Chairman - 31.12.97
Mrs Marion Blackwell, member - 31.12.97
Mr Christopher Rowe, member - 31.12.97
Dr Brian Logan, member - 31.12.96.

(2) Chairman - $102 024 per annum (base salary)
Deputy Chairman - $19 524 per annum
Members - $14 956 per annum.

(3) Regular all day meetings once a fortnight consisting of -
Committee meetings - 15 days per annum
Board meetings - 23 days per annum
Preparation time - 38 days per annum
In addition, site visits throughout the State subject to policy and assessments, on average 24 days per annum
On average, each member attends to EPA business for 100 days per annum.

RADIOACTIVE WASTE - FROM HOSPITALS AND UNIVERSITIES, DISPOSAL SITES

625. Hon J.A. SCOTT to the Minister for the Environment:

I refer the Minister to question on notice 434 of 16 May 1996 and ask how and where is radioactive waste from hospitals and universities being disposed of while a decision on suitable sites is still being investigated by the Radiological Council?

Hon PETER FOSS replied:

Radioactive waste generated by hospitals is segregated into a number of categories and consigned for disposal according to the requirements set down by the Radiological Council of WA. Waste for which no suitable disposal option exists is stored until the level of activity decreases sufficiently for it to be transported and disposed of in accordance with the requirements of the Radiological Council and relevant codes and standards. Some wastes are suitable for disposal at the intractable waste disposal facility at Mt Walton East and these wastes are held in store until a sufficient quantity accumulates to warrant mounting a disposal operation. Other wastes, meeting strict criteria, may be disposed of at class IV lined landfill sites.

JANDAKOT BOTANICAL PARK - ESTABLISHMENT DATE; PROTECTION

626. Hon J.A. SCOTT to the Attorney General representing the Minister for Planning:

(1) Is the Jandakot botanical park formally established and protected by zoning and land use controls?

(2) If not, why not?

(3) If yes, when did this occur?

Hon PETER FOSS replied:

(1)-(3) Land for the Jandakot botanical park was reserved for parks and recreation as part of the south west corridor, stage A, major amendment to the metropolitan region scheme between November 1993 and February 1994. As full consolidation, implementation and funding of the park will take a number of years, the park will be established in two phases: Phase 1 - interim management: Land acquisition, consolidation and a coordinated approach towards the formulation of an overall management plan. Phase 2 - full establishment: Finalisation and implementation of an overall management plan, final vesting and funding arrangements and park development.

INNER PEEL DEVELOPMENT STRATEGY - SUBJECT TO ENVIRONMENTAL ASSESSMENT OR PLANNING ACT

627. Hon J.A. SCOTT to the Attorney General representing the Minister for Planning:

Will developments that fall within the inner Peel development strategy be subject to environmental assessment or the new Planning Act?

Hon PETER FOSS replied:

Both.

MINES OCCUPATIONAL HEALTH AND SAFETY ADVISORY BOARD - RADIATION SAFETY SUBCOMMITTEE, MEMBERSHIP

633. Hon J.A. SCOTT to the Leader of the House representing the Minister for Mines:

(1) Who are the members of the Radiation Safety Subcommittee of the Mines Occupational Health and Safety Advisory Board?

(2) How are these members appointed and what are their terms of office?

(3) How frequently does this subcommittee meet?

(4) What were the dates of its meetings in 1995 and 1996?

(5) Are the members paid for their services?

(6) If yes, how much?

(7) What are the functions of this subcommittee?

(8) Are the minutes of the subcommittee available to the public or to the Parliament?

(9) If not, why not?

(10) Are there any representatives of the work force or the trade union movement on the subcommittee?

(11) If not, why not?

(12) What is the relationship of this subcommittee to the Radiological Council of Western Australia?

Hon N.F. MOORE replied:

The Minister for Mines has provided the following reply -

The member asked a series of similar questions on 7 May 1996; refer to question 359. Although it had not met since late in 1995, the Radiation Safety Subcommittee was not formally dissolved until the Mines Occupational Safety and Health Advisory Board resolved in July 1996 that a specialist radiation subcommittee is no longer required, given the current radiation safety performance in the industry. MOSHAB determined that any further radiation safety issues which arise can be dealt with by its Occupational Safety and Health Standing Committee, which is authorised to second particular expertise for specific tasks as required.

(1) The subcommittee no longer exists. Members of the subcommittee at the time of its disbandment were provided in question 359(1).

(2) Not applicable.

(3) Not relevant. For details of frequency of meetings of previous subcommittees, refer question 359(2).

(4) Meeting dates for 1995: 14 February, 11 April, 13 June, 5 September. In 1996 no meetings were held as they were not considered necessary, there being no further business to deal with.

(5) Members were not paid for their services, but the independent chairperson was paid an annual stipend.

(6) The chairperson was paid an annual stipend of $5 100.

(7) No longer applicable.

(8) Yes.

(9) Not applicable.

(10)-(11)
Refer to question 359(3) of 1996.

(12) Not applicable.

ENVIRONMENTAL PROTECTION, DEPARTMENT OF - SYSTEM 6 REVIEW

637. Hon J.A. SCOTT to the Minister for the Environment:

(1) Is the Minister aware that his department is carrying out a review of the System 6 report?

(2) If yes, when did the review commence, when will it terminate and will there be a report?

(3) Which System 6 recommendations, if any, has the coalition Government implemented?

(4) What protection, if any, is the Minister providing for new areas which have been nominated during the System 6 review?

Hon PETER FOSS replied:

(1) Yes.

(2) The review commenced in late 1994. It is a staged process; the first stage report will be released as a draft report for public comment in late 1996, with a final report expected about the end of the financial year. The second stage of the report, covering the remainder of the System 6 area could be released as a draft by the end of 1997 or mid 1998.

(3) Implemented: M11.1, M22.1, M22.3, M22.4, M23.2, M32.1, M32.2, M74.3, M84.4, M104.1, M104.2, M104.3, M108.4, M108.5, C35.1, C35.2, C35.3.
Part implemented: M20.1, M25.1, M27.1, M27.2, M31.4, M74.4, M90.2.

(4) It is not appropriate to provide protection to nominated areas until such time as they have been accepted as recommendations. Action has, however, been taken to provide interim recognition to 47 areas known to be significant. Based on the information gained from previous studies, I am advised that the EPA has recognised a number of sites on the coastal plain as threatened or poorly reserved plant communities deserving of interim recognition, pending the completion of the update. The EPA has written to the relevant landholders, government agencies and local government to indicate the significance of these areas and seek their cooperation in referring development proposals that could affect these areas to the EPA. This does not provide statutory protection but it does help avoid the situation of a significant area being developed because decision makers were not aware of its importance.

NATIONAL PARKS - EXPLORATION LICENCES OR TEMPORARY RESERVES

647. Hon J.A. SCOTT to the Leader of the House representing the Minister for Mines:

(1) Which national parks in Western Australia currently have exploration leases and/or temporary reserves over them, and by which companies?

(2) Which national parks in Western Australia are being considered for exploration licences?

(3) Is it the intent of the Government to allow continued exploration in national parks in Western Australia?

(4) Will the Minister rule out allowing excisions, explorations or mining activities in any national parks in this or the next term of government?

Hon N.F. MOORE replied:

The Minister for Mines has provided the following reply -

(1) The following national parks have exploration licences or temporary reserves over them -

Collier Range National Park	Great Central Mines NL
Collier Range National Park	Aberfoyle Resources Ltd
Collier Range National Park	BHP Minerals Pty Ltd
D'Entrecasteaux National Park	Cable Sands (WA) Pty Ltd
Drysdale River National Park	Australian Kimberley Diamonds NL
Drysdale River National Park	Beta Creek Diamond Exploration NL
Drysdale River National Park	Dioro Exploration NL
Fitzgerald River National Park	John Francis Dowling
Fitzgerald River National Park	Janos Locsei
Fitzgerald River National Park	Robert James Wanless

Fitzgerald River National Park	Falx Pty Ltd
Goongarrie National Park	Aurora Gold (WA) Pty Ltd
Karijini National Park	BHP Iron Ore Corporation Pty Ltd
Karijini National Park	CI Minerals Australia Pty Ltd
Karijini National Park	Mitsui Iron Ore Corporation Pty Ltd
Karijini National Park	BHP Australia Coal Pty Ltd
Karijini National Park	Mitsui Iron Ore Corporation Pty Ltd
Karijini National Park	Hamersley Exploration Pty Ltd
Karijini National Park	Mitsui Iron Ore Development Pty Ltd
Karijini National Park	Nippon Steel Australia Pty Ltd
Karijini National Park	Robe River Mining Co Pty Ltd
Karijini National Park	North Mining Ltd
Karijini National Park	Sumitomo Metal Australia Pty Ltd
Leeuwin-Naturaliste National Park	John Andrew Simpson
Leeuwin-Naturaliste National Park	Panorama Resources NL
Leeuwin-Naturaliste National Park	Blade Exploration Consultants Pty Ltd
Leeuwin-Naturaliste National Park	Desmond James Hockley
Millstream Chichester National Park	Stockdale Prospecting Ltd
Millstream Chichester National Park	John Herbert Emmott
Moore River National Park	Isk Minerals Pty Ltd
Nambung National Park	RGC Mineral Sands Ltd
National Park Reserve 26177	The Shell Co of Australia Ltd
Purnululu National Park	BHP Minerals Pty Ltd
Purnululu National Park	Peter Geoffrey Lewis
National Park Reserve 2065	CRA Exploration Pty Ltd
National Park Reserve 25243	CRA Exploration Pty Ltd
National Park Reserve 37883	Zephyr Minerals NL
National Park Reserve 41051	Aberfoyle Resources Ltd
Rudall River National Park	Samantha Mining and Exploration Pty Ltd
Rudall River National Park	CRA Exploration Pty Ltd
Rudall River National Park	Mount Isa Mines Ltd
Rudall River National Park	Omega Mines Ltd
Rudall River National Park	Cameco Australia Pty Ltd
Rudall River National Park	Ual Pty Ltd
Rudall River National Park	Placer Exploration Ltd
Rudall River National Park	Australian Platinum Mines NL
Scott National Park	Cable Sands (WA) Pty Ltd
National Park Reserve 23307	Cable Sands (WA) Pty Ltd
Watheroo National Park	Bentonite (Australia) Ltd
Windjana GorgeNational Park	Bradley John Lockyer
Windjana Gorge National Park	Ellendale Diamond Mines NL

(2) The following national parks have applications for exploration licences over them -

D'Entrecasteaux National Park
Fitzgerald River National Park
Kalbarri National Park
Leeuwin-Naturaliste National Park
Moore River National Park
Purnululu National Park
National Park Reserve 26890
National Park Reserve 40250
Rudall River National Park
Scott National Park
Stirling Range National Park
Windjana Gorge National Park
Yalgorup National Park
Yanchep National Park

(3) The Government's policy is that mineral exploration is not excluded from national parks. However, any such exploration is subject to very rigorous environmental assessment and performance obligations.

(4) No. However, any excision of an area from a national park or the grant of a mining lease would be subject to approval by both Houses of Parliament.

MINING INDUSTRY - MINING LEASE 26/131, OWNER; DRILLING INQUIRY

651. Hon J.A. SCOTT to the Leader of the House representing the Minister for Mines:

I refer to mining lease 26/131 condition No 26 which states "No mining, excavations or drilling within 60 metres of the natural surface of any gazetted townsite, lots, roads, streets, rights of way and reserves other than those for mining without approval of the City of Kalgoorlie-Boulder" -

(1) Who are the owners and managers of mining lease 26/131?

(2) Have the owners or managers breached condition No 26 by conducting drilling within 60 metres of Bulong Road in the last nine months prior to seeking approval from the City of Kalgoorlie-Boulder?

(3) If yes, will the Minister for Mines impose a maximum fine or forfeit the mining lease?

(4) If not, why not?

(5) Will the Minister investigate and state when the owners or managers commenced drilling on all the different occasions close to Bulong Road in the last nine months?

(6) If yes, please state on what dates?

(7) If not, why not?

(8) On what date was approval given by the City of Kalgoorlie-Boulder, as per condition No 26, to conduct drilling near Bulong Road?

Hon N.F. MOORE replied:

The Minister for Mines has provided the following reply -

(1) Homestake Gold of Australia Ltd and Kalgoorlie Lake View Pty Ltd. It is managed by Kalgoorlie Consolidated Gold Mines Pty. Ltd.

(2) No.

(3)-(4) Not applicable.

(5) Yes.

(6) Drilling took place close to Bulong Road on the following dates -

25 to 29 March 1996; 27 June to 5 July 1996; and 2 to 12 August 1996.

(7) Not applicable.

(8) No approval was required for this drilling as there was no overlap of this lease with the townsite boundary.

[*Amended answer to part (8).*]

(8) No approval from the City of Kalgoorlie-Boulder was required for this drilling as the area close to Bulong Road in which the drilling took place is not within the townsite boundary.

MT LESUEUR NATIONAL PARK - CRA COAL MINING LEASES, EXPIRY DATE

661. Hon J.A. SCOTT to the Leader of the House representing the Minister for Mines:

(1) When do CRA's mining leases at Mt Lesueur National Park expire?

(2) Will CRA be allowed to renew the leases?

(3) Can the Minister for Mines assure the House that no excision, exploration or mining will be allowed at Mt Lesueur National Park by the Government now and beyond the next state election?

(4) Have CRA and joint venturers Hill River made plans to explore and/or mine on their leases at Mt Lesueur?

(5) If yes, what are they?

(6) Do these companies have exploration or mining leases in any other national parks and, if so, where are they?

Hon N.F. MOORE replied:

The Minister for Mines has provided the following reply -

(1) There are 29 coal mining leases on the national park which expire as follows -

Eight on 31 December 1997;
Eight on 31 December 1999;
Four on 31 December 2002;
Eight on 31 December 2003; and
One on 15 November 2009.

(2) The coal mining leases which were issued under the repealed 1904 Mining Act cannot be renewed. However, the joint venturers may reapply for these areas subject to the Mining Act 1978.

(3) The present Government's policy is that exploration and mining will not be excluded from national parks. However, any proposal to carry out such activities within a national park - including Mt Lesueur National Park - will be subject to a very rigorous environmental assessment. The Government cannot make a commitment on behalf of a future Government.

(4) The Hill River joint venturers undertook considerable exploration and planning for mining at Mt Lesueur in preparation for its unsuccessful bid for a coal fired power station.

(5) The joint venturers' plans were fully documented in the ERMP that was submitted at the time of the bid.
(6) Yes; exploration licences and mining leases are current over the following reserves -

Rudall River National Park
National Park Reserve 25243
National Park Reserve 2065

MINERALS AND ENERGY, DEPARTMENT OF - SERVICE STATIONS CEASING OPERATIONS INFORMATION

663. Hon J.A. SCOTT to the Leader of the House representing the Minister for Mines:

(1) Are operators or owners of service stations obliged to inform the Department of Minerals and Energy when they cease operations?

(2) If yes, how long after ceasing operations must they inform the department that they have ceased operating?

Hon N.F. MOORE replied:

The Minister for Mines has provided the following reply -

(1) The licensee or operator of a service station is only required to notify the Department of Minerals and Energy if any underground tanks at the premises are to be taken out of service. Specific approval is then required for the manner in which the tanks are to be rendered safe. Hence, if operations cease - pending sale or further lease of the service station - and the tanks are intended for further use, there is no obligation to notify the department. The subsequent obligation is on the new owner/operator to notify the department in order to transfer the licence.

(2) The above obligation is to obtain an approval prior to rendering a tank safe. The operation of this provision relies on a judgment regarding the point where "an underground tank to be taken out of service". This may be following the expiry of the licence, the identification of a tank failure, or the department receiving advice that a particular site is to be closed down.

WORKSAFE WESTERN AUSTRALIA - DAVISON INDUSTRIES, PINJARRA, INCIDENT INQUIRY

670. Hon A.J.G. MacTIERNAN to the Minister for Finance representing the Minister for Labour Relations:

(1) In respect of WorkSafe Western Australia's visit to Davison Industries, Pinjarra on 1 August 1996, did WorkSafe Western Australia officials conclude that a chemical explosion had taken place on 24 July 1996?

(2) Did the improvement notices issued by WorkSafe Western Australia relate to the incident?

(3) Will the Minister for Labour Relations table the report on the incident?

(4) Why did it take WorkSafe Western Australia seven days to arrange an inspection after being notified of the incident?

Hon MAX EVANS replied:

(1) WorkSafe Western Australia's occupational hygienist who investigated the incident which occurred at Davison Industries on 24 July 1996 considered it more appropriate to describe the incident as a small chemical fire, not a chemical explosion.

(2) Three of the six notices issued related to the incident.

(3) Yes. The report dated 2 August 1996 prepared by the occupational hygienist following the inspection states -

To: File
From: L. Gordon
Subject: Davison Industries
Date: 2 August 1996
File: 032007 V02

Following a complaint from Mr Darren Winton and the AWU regarding an explosion at Davison Industries an inspection of the premises was carried out on 1 August 1996. An inspection of most areas of the plant was carried out. The canola oil plant was not inspected. The reported 'explosion' may be too strong a term in which to describe an incident that took place on Wednesday 24 July 1996. I spoke to Rae Davison Managing Director, Mario Martini Production Manager, David Munut chemist, Mark Oswick Deputy Chief Fire Chief and several other employees regarding the incident.

Waste from the herbicide and insecticide areas is disposed of via an evaporator. This is an open shallow tank which is heated by steam. This reduces the amount of water that needs to be disposed of and also appears to break down most of the insecticides and herbicides (apart from glyphosate and paraquat). There is no thermostat to regulate temperatures on the evaporator although the chemist estimates that the temperature is around 45C. It is also not known what the breakdown products of the chemicals are when disposed of this way but they believe they are not that different to the natural process that breaks down the pesticides when used on weeds, insects etc. WorkSafe will need to discuss this with DEP and DME. The details of the incident are set out in a report prepared by the company and were generally confirmed by the persons I spoke to on site. The fire was a relatively small one and the heat generated also appears to have been small since the PVC steam pipes were not scorched nor was there signs of buckled metal or smoke. Nevertheless the incidence did highlight the need for a better system to ensure that wastes containing flammable or incompatible chemicals were not disposed of in the evaporator. There was also a need to train staff involved in waste disposal so that they were also aware of the need to check what went in to the evaporator.

A prohibition notice was issued preventing the evaporator being used until the company had come up with a procedure to prevent fires in the evaporator. A qualified chemist would have to be responsible for ensuring that wastes disposed of in the evaporator were not flammable or incompatible. Mr Davison agreed to have this done by the next morning. It was pointed out that this was an interim measure pending discussions with DEP and DME. The general impression I got was that the company had made improvements in many areas but there were some gaps in their procedures and training. A number of allegations made by M Winton and the AWU could not be substantiated while some others could. Other notices regarding induction training, emergency procedures, and ventilation in the insecticide formulating area were issued (a total of 5 improvements and 1 prohibition).

Further discussions with other departments including agriculture to be held regarding waste disposal.

Len Gordon.

(4) The inspection was undertaken following discussion with the Department of Minerals and Energy and the Department of Environmental Protection. Because no-one was injured and the plant was relatively undamaged and operating normally, it was considered unnecessary to undertake an immediate inspection.

QUESTIONS WITHOUT NOTICE

STANDING COMMITTEE ON ESTIMATES AND FINANCIAL OPERATIONS - COMMONWEALTH BUDGET 1996-97 IMPACT ON STATE BUDGET CONSIDERATION

707. Hon JOHN HALDEN to the Chairman of the Estimates Committee:

hen does the Standing Committee on Estimates and Financial Operations plan to reconvene to consider the impact of the 1996-97 federal Budget on the state Budget?

Hon MURRAY MONTGOMERY replied:

I thank the member for some notice of this question. The Standing Committee on Estimates and Financial Operations will discuss the impact of the federal Budget on the state Budget at its next meeting, which is on Thursday.

METROBUS BOARD - MAINTENANCE

708. Hon TOM HELM to the Minister for Transport:

(1) Has the senior management, maintenance, at MetroBus been directed by the board not to undertake maintenance of buses operated by the private companies which won the contracts to provide bus services?

(2) If so, will the Minister overrule the board's directive and allow its maintenance workers to provide services, if required, to private bus companies, thus ensuring that maintenance workers retain their jobs and expertise?

Hon E.J. CHARLTON replied:

(1)-(2) I am not aware of any directive by the board to the maintenance division of MetroBus not to carry out work on buses operated by the private sector. The private operators who are operating the same vehicles which are used by MetroBus will, in taking over the depots, employ people to undertake the day to day maintenance of buses at the depots from which they operate, many of whom are currently employed by MetroBus at those depots. Of course not all of the employees of MetroBus will be employed by the private sector. The bottom line is that the operators are required to maintain the vehicles to a better than current standard of maintenance and they will do that wherever they see fit.

CORONERS ACT - PROCLAMATION DATE

709. Hon N.D. GRIFFITHS to the Attorney General:

(1) Is the Coroners Act yet to be proclaimed?

(2) When will it be proclaimed?

(3) What is the reason for the delay in its proclamation?

Hon PETER FOSS replied:

(1)-(3) The Coroners Act is intended to be a new administrative system as much as anything else. A fundamental part of the new coronial system will be the new State Coroner. Once appointed the new State Coroner will be obliged to set up the systems which will operate under that Act. These systems will be extensive and it is one of the reasons that, in the selection of the coroner, the ability to set up systems is an important part of the qualifications. The advertisement for the position of State Coroner led to an almost unprecedented number of applications. Approximately 63 were received. That number has been reduced to an interview list, and I am not sure of the size of that list. The interviews are taking place. It has been a lengthy process to select the coroner.

I expect it to be finalised shortly and the new appointee will then take up the position. I do not see it as a delay; it was always intended that there be a lengthy process before the Act came into effect. I understand it was always meant to be January and there would be a period during which the new State Coroner would have the capacity to make sure that the systems are properly set up. The appointment of the first State Coroner is vital. Although it is always important to have a good person at the helm, probably no person will have a greater influence than the first State Coroner because that person will set the blueprint for how the state coronial system will function in the future.

WETLANDS - PROTECTION; POLICY

710. Hon J.A. SCOTT to the Minister for the Environment:

(1) Is the Minister aware that the coalition promised to give unprecedented attention to the protection of wetlands in Western Australia's environment?

(2) What, if anything, has the Minister done to honour this promise?

(3) When does he intend to finalise and implement the state wetlands policy which was released for public review in 1992?

(4) Will it be timed for release prior to the next state election?

(5) Why has the finalisation of this policy taken so long?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) Yes.

(2) I refer the member to my responses to questions 3254 on 5 September 1995 and 146 on 2 April 1995.

(3)-(4) It is intended to finalise and release the wetlands conservation policy for Western Australia before the end of this year. It will then be implemented progressively.

(5) Finalisation of the policy has required consideration and assessment of the range of comments that have been received, the assignment of responsibilities to relevant agencies and the cost of implementing the policy.

I find the questions from Hon Jim Scott about the delay on certain matters rather strange.

Hon Mark Nevill: We know how you feel, don't elaborate.

Hon PETER FOSS: I find that members of the Greens movement insist on anything that the Government does to be conducted with public consultation and that due consideration be given to that public consultation. In matters relating to the environment, the Government has made a great effort to ensure that there is public consultation.

Hon J.A. Scott: That was in 1992.

Hon PETER FOSS: I know that. The Government is continuing to carry out that consultation. The member is aware that in 1992 the previous Government was in office. This Government intends to give the proper consultation and I hope the member will support the Government in its determined attitude with regard to making sure that not only does it listen to the consultation, but it has the means to carry it out. Many members have had the experience of policies, even though they are announced with great fanfare, not containing a program to be implemented.

MAIN ROADS WESTERN AUSTRALIA - KWINANA FREEWAY ACCIDENTS, RAILS CONSTRUCTION

711. Hon MURIEL PATTERSON to the Minister for Transport:

I refer to the tragic Kwinana Freeway accident at the weekend, where a car, which was out of control, hit an oncoming car killing a woman. I understand there have been similar accidents during the last 12 months on the same section of the freeway.

(1) Will Main Roads Western Australia consider putting skid rails on this unprotected area?

(2) If so, when?

(3) If not, why not?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

(1)-(2) This accident, like all accidents where death and injury occur, is a cause for considerable grief within the community of Western Australia. Main Roads will place a barrier in the median strip of the freeway at the location of the accident to which the member referred. This will be done as quickly as possible.

(3) Not applicable.

I am advised there have been a number of accidents in that general vicinity over a certain time. An accurate assessment of why the accidents have occurred has not been made. To try to stop cars from crossing over the median strip into oncoming vehicles, a rail will be constructed.

HOSPITALS - BUNBURY CAMPUS SITE, CONTAMINANTS STUDY

712. Hon JOHN HALDEN to the Attorney General representing the Minister for Health:

I refer to the proposed new hospital campus in Bunbury.

(1) Will the Minister confirm whether the site was previously used as -

(a) a nightsoil deposit site; or

(b) a rubbish tip?

(2) What studies were undertaken to see whether contaminants remain on the site?

(3) If such a study was done -

(a) who carried it out;

(b) when was it completed;

(c) what was the cost of the study; and

(d) will the Minister table a copy of the report on the study?

(4) What materials are being extracted from the site?

(5) Where is the extracted material being dumped?

(6) Has the Shire of Capel indicated that it is unhappy with the current disposal site and, if so, what action is being taken to identify an alternative site?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1)-(6) The Minister for Health is unaware whether the site was previously a night soil deposit site or rubbish tip. Will the member please put the question on notice so it can be investigated fully?

FIX AUSTRALIA FIX THE ROADS CAMPAIGN - COSTS

713. Hon J.A. COWDELL to the Minister for Transport:

(1) What is the total contribution of the State Government to the Fix Australia Fix the Roads campaign since its inception?

(2) What are the additional estimated salary and administrative costs borne by Main Roads and the Department of Transport?

(3) What is the estimated contribution by the State Government to this campaign this financial year?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

(1) The State Government has contributed $625 050 from 1993-94 to 1995-96. It is important to recognise that the campaign has a number of objectives, not the least of which is to help inform all Western Australians about the State's 10 year road program. A further objective is to raise the awareness of the Western Australian public about the needs of the road network and that adequate road funding helps to reduce unemployment, road trauma, pollution and the cost of living. The campaign is receiving widespread support from the public. Research undertaken following the first phase of the campaign indicated strong support for increased road funding from the Federal Government's fuel excise - that has not been forthcoming. More than nine out of 10 respondents believed that the States should be repaid more than they are currently paid by the Federal Government from the federal fuel excise. In excess of four out of five respondents believed that the amount returned to the States should be at least double current amounts. There was an increase of 10 per cent in the number of people who perceived a link between increased road funding and economic development. Research also indicated support for tied road funding.

Only 7¢ a litre of 36¢ a litre of the Federal Government's fuel excise collected from road users is being returned to roads. Since the campaign commenced in early 1994 the federal fuel excise has increased by around 7¢ a litre. None of this money has been returned to roads. The steering committee has modified its primary objective and now seeks an increase in the allocation of the federal fuel excise to at least 40 per cent of collections. First, it was doubled from 7¢ to 14¢ and now it has increased to 40 per cent of total collections.

The campaign is supported by the Royal Automobile Club of Western Australia, West Australian Road Transport Association, Australian Road Federation (WA), Traffic Board of WA, Western Australian Municipal Association, Australian Tourist Industry Association (WA), Chamber of Mines and Energy (WA), Motor Trades Association, WA Farmers Federation, Pastoral and Graziers Association (WA), Livestock and Transporters Association (WA), Department of Transport, Main Roads WA, Transport Workers Union (WA), Petroleum Retailers Association (WA), and the Civil Contractors Federation.

It should also be noted that the organisations represented on the Fix Australia Fix the Roads Committee such as the RAC and the Chamber of Mines have contributed $77 807 over the life of the campaign. In addition to direct monetary contributions from committee member organisations, they have actively supported the

campaign by publishing editorial information in journals and magazines, appearing on talk-back radio, issuing press releases, distributing campaign material, etc.

(2) The involvement of Main Roads forms part of its day to day activities and helps in the road funding consultation process with people external to Main Roads.

(3) A sum of $300 000 has been allowed for by the Department of Transport. However, the budget set by the campaign committee for 1996-97 is $55 500 and the bulk is expected to be raised from supporting groups. With the Federal Budget outcome for roads in Western Australia -

Hon J.A. Cowdell: It must be a Federal Liberal Government - it is not an issue any more.

Hon E.J. CHARLTON: It is still an issue. Hon John Cowdell will not see me backing down with the change of Government. With the federal budget outcome for roads in Western Australia it is likely the campaign will need to continue with vigour to ensure that Australia's roads are adequately funded. It is likely that a similar campaign will commence in Queensland in the near future to support our efforts to have more of the $10.3b federal fuel taxes returned to roads. It is in the interests of all Western Australians to support the campaign, and with the changed circumstances in Canberra the member and his colleagues may see the matter in a different light.

SKILLED LABOUR - SHORTAGES

714. Hon JOHN HALDEN to the Minister for Employment and Training:

(1) In what employment areas has the Department of Training or the State Training Board advised the Minister of anticipated skill shortages in Western Australia in the next three years?

(2) Has the Minister been provided with the approximate number of workers who cannot be sourced from within Western Australia to fill those skill shortages?

(3) If so, what are they?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) Individual metal and electrical trades; engineering professionals and para-professionals; and administrators related to the management of large scale commercial construction projects.

(2)-(3) Yes. The Worley report commissioned by the State Government indicates that, based on current supply and demand estimates, there exists the potential for a significant shortfall of workers to occur in 1997-98 at the height of activity in the State's resource development sector. However, the report acknowledges that this shortfall is potential only and recommends a range of strategies for ensuring that new jobs go to Western Australians. The State Government is acting on these recommendations and already an additional $10m in training funding has been committed over 1996 and 1997 for occupations likely to experience high demand, particularly those in trade and engineering areas.

CREDIT CARDS - PREMIER'S OFFICE

715. Hon JOHN HALDEN to the Leader of the House representing the Premier:

(1) Who has used government credit cards in the Premier's office since 1994?

(2) For what purposes can they be used?

(3) Since 1994, have these government credit cards been used for purposes other than that allowed?

(4) If so, please provide detail of this.

(5) Have all expenses recorded on these cards been ratified and paid for?

Hon N.F. MOORE replied:

I thank the member for some notice of this question. Obviously due to the short notice of this question I am unable to provide a response and ask that the question be placed on notice.

SALINITY - EXPENDITURE

716. Hon J.A. SCOTT to the Minister for the Environment:

(1) Is the Minister aware that the coalition promised "to commit unprecedented resources to combat salinity"?

(2) Will the Minister explain what, if anything, he has done to honour this promise to the people of Western Australia and what new resources the Government has allocated to the fight against salinity?

(3) Does the Government expect to receive funding to tackle salinity problems in Western Australia from the Commonwealth's partial sale of Telstra?

(4) What contingency plans does the Government have to fund salinity programs if this money is not forthcoming?

(5) What is the estimated annual cost in lost production of failing to counteract salinity?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) Yes.

(2) The State Government already is spending around $15m a year on salinity and related natural resource management programs. That is money being spent directly on salinity. As Hon Jim Scott knows we also have entered into arrangements where we manage the expenditure of other money which has as its primary intent tree plantations for woodchips. That is money spent on salinity which we manage, but is not included in that amount.

The Government has prepared in draft form a new and comprehensive salinity action plan to address this single biggest threat to land and water quality in Western Australia. The draft is to be discussed by Cabinet soon; therefore, it is not appropriate to provide details of the action plan until Cabinet has agreed on the program. However, the following points can be made. The plan involves a coordinated campaign by landowners, Government and the community to invest in well planned and targeted protection and restoration programs over the next 30 years. While the majority of the investment in salinity management will be carried out by the landowner, the Government recognises its role in providing leadership; incentives to action, particularly where the public benefit is high; and integrated technical support. The Government is planning to invest funds to create the climate and provide information to drive existing commercial solutions; support industry development to foster further commercial options; provide incentives for farmers where commercial options on their own will not adequately mitigate salinity; and carry out works to recover catchments where protection of environmental values, water resources and infrastructure will provide significant public benefit.

(3) Yes.

I take this opportunity to ask Hon Jim Scott whether he will use his influence within the Greens (WA) Party to support this very worthy matter, which is being obstructed by his party in the Senate. His party obviously has allowed an ideological objection to the sale or privatisation of assets to prevent a very worthy support for the environment of Western Australia.

The PRESIDENT: Order! The Minister cannot make a speech!

Hon PETER FOSS: To continue -

(4) The Government is intending to reallocate about $4.8m from existing agency budgets and is also seeking considerable additional funds for salinity management from the consolidated fund.

(5) Already 1.8 million hectares of formerly productive land, or about 9.4 per cent of Western Australian farmed areas, is affected by salinity. If the current rate of salinity expansion continues, there will be a resulting annual loss - land value and lost potential production - to agriculture of approximately $64m each year.

TAFE - ENROLMENTS, IMPACT OF COMMONWEALTH BUDGET

717. Hon JOHN HALDEN to the Minister for Employment and Training:

(1) Following the Federal Government's decisions on tertiary education cutbacks and changes to student benefits, has the Department of Training provided the Minister with a report on the consequences to TAFE enrolments?

(2) Is it likely that TAFE enrolments will increase; and, if so, by how many full time students?

(3) What are the likely cost implications?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1)-(3) At this stage it is not considered feasible to reliably predict any effect on student enrolments in TAFE that may result from the Federal Government's changes to higher education policies and funding. The Department of Training does not keep information on financial assistance to students, and therefore I am unable to respond.

LIBRARY AND INFORMATION SERVICE OF WESTERN AUSTRALIA - LEGAL DEPOSIT LOSS; NEW LEGISLATION

718. Hon JOHN HALDEN to the Minister for the Arts:

(1) Has the Library and Information Service of Western Australia lost its legal deposit status?

(2) If yes, why has this occurred?

(3) Is the Minister aware of the effect of this loss of legal deposit status on WA's historical and heritage collection?

(4) What measure is the Minister taking to solve the problems caused by the lapse of legal deposit?

(5) Does the Minister intend to introduce legislation; and, if so, when?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) Yes.

(2) In 1994 the Copyright Act 1895 was repealed on the basis of advice from the Crown Solicitor's Office to the then Attorney General's Office in December 1991 that it was obsolete and could be repealed. While that view was largely correct, it did not take into account that the legal deposit provisions of the 1895 Act was still in force and in use.

As a matter of interest, that is the statement that was made. I have doubt about whether they were in force. They were certainly in use. In 1901 the Constitution gave power of copyright to the Federal Government, and the Federal Government has legislated in that regard. It would be interesting to know whether there is legal power to require legal deposit without it being part of the copyright law.

(3) Yes.

(4) Amendments to the Library Board of Western Australia Act will need to be made to include legal deposit provisions. In the meantime, publishers will be asked to adhere to the spirit of the legislation. Again, there is still the question whether it could legally be done in view of the constitutional assignment of the copyright power to the Commonwealth.

(5) Yes, depending on legislative priorities.

HEALTH DEPARTMENT - DISCHARGE PLANNING POLICY

719. Hon KIM CHANCE to the Attorney General representing the Minister for Health:

(1) Is the Health Department's current policy regarding discharge planning still based on the policy guidelines launched in September 1992?

(2) Are any reviews of the department's discharge planning policy either planned or under way?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) Yes.

(2) Currently the department is encouraging the development of best practice guidelines which include appropriate discharge planning. Many hospitals are developing clinical pathways and the development of discharge planning guidelines is an integral part of those pathways. In this way the department's discharge planning policy is being continuously reviewed.

TELSTRA - SALE; CROSS-SUBSIDIES FOR COUNTRY AREAS, REMOVAL ASSESSMENT

720. Hon JOHN HALDEN to the Leader of the House representing the Minister for Commerce and Trade:

I refer the Minister to the comments of the Federal Minister for Communications and the Arts - perhaps soon to be the erstwhile Minister - Senator Richard Alston regarding the final sale of all of Telstra being desirable.

(1) Would the removal of cross-subsidies for country areas have a particularly detrimental effect on Western Australia?

(2) Would the removal of cross-subsidies provide a barrier for business investment in Western Australia, particularly in regional areas?

(3) If so, what plans does the Government have to attract business investment to Western Australia?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1)-(3) The comments attributed to the Minister for Communications and the Arts go beyond the Federal Government's commitment to sell one-third of Telstra. In a situation where improvements in technology are dramatically reducing the cost of long distance calls, it is difficult to assess the extent of cross-subsidy at some future date. This Government supports the expansion of the universal service obligation to protect vulnerable areas of Western Australia. Preliminary investigation of the post deregulation communications environment suggests that the State will need to take on greater responsibility. This Government will continue with its successful investment attraction, enterprise development and regional development programs, which have resulted in significant business investment in regional Western Australia.

EXMOUTH MARINA - CIVCON PTY LTD

721. Hon TOM STEPHENS to the Minister for Transport:

Does the Minister have an answer to the question I asked last week regarding Civcon Pty Ltd, and will he now provide that answer?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

(1) Civcon owned or had made arrangements to lease suitable plant at the time of tendering.

(2) The information was made available.

(3)-(4) I repeat that normal credit and commercial checks were made. The Department of Transport is holding retention moneys on the contract and they will not be used to meet the costs referred to in (3).

WESTRAIL - TENDER NO 18685, CLEANING SERVICES

722. Hon KIM CHANCE to the Minister for Transport:

With regard to Westrail tender No 18685 for cleaning services for Westrail country rail and road passenger vehicles -

(1) Did the tender process call for bids for the price per unit cleaned?

(2) What was the price initially submitted for the substantive contract - not the interim contract - by the successful tenderer?

(3) Was this a higher or lower price than the bid by other tenderers?

(4) Was the successful tenderer asked to alter its initial bid after it had submitted its price but before the contract was let?

(5) If so, in what respect did the successful tender alter its bid?

(6) Why was this tenderer asked to alter its bid?

(7) What price did the successful tenderer finally bid?

(8) Was the successful tenderer's final bid higher or lower than that of other tenderers?

(9) If lower bids were made, why was the lower bidder not awarded the contract?

(10) Were any of the tenderers locally based - that is, in the mid west region?

(11) If so, what allowance, if any, was made in the local tenderer's favour under regional preferential purchasing arrangements?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

(1) Yes.

(2) $767 690 per annum, which is a calculated figure based on the estimated task for 12 months.

(3) The successful tenderer provided the lowest overall price to provide cleaning services at all locations.

(4) No.

(5)-(9) Not applicable.

(10) Yes.

(11) A regional preference allowance was not applied. The successful tenderer has a base in the mid-west region and therefore application of the allowance would not have affected the outcome.

TRADING HOURS - MOTOR DEALERS, SATURDAY AFTERNOON TRADING BE DISCONTINUED SUBMISSION

723. Hon TOM HELM to the Minister representing the Minister for Fair Trading:

(1) Has the Minister received submissions from motor dealers asking for Saturday afternoon trading to be discontinued?

(2) If so, how many submissions have been received?

(3) When will the Minister respond?

(4) Has the Minister given any commitments to the traders?

Hon MAX EVANS replied:

I thank the member for some notice of this question. The Minister for Fair Trading has provided the following reply -

(1) Yes.

(2) (a) An industry submission was received from the Motor Trade Association;

(b) 45 respondents to an industry survey;

(c) approximately 48 from individual dealers; and

(d) some 616 names on separate petition sheets.

(3) The proposal is being examined and the Minister will respond shortly.

(4) Yes - a commitment to consider the proposal.

EDUCATION DEPARTMENT - SECONDARY EDUCATION, GREATER BUNBURY AREA, REVIEW

724. Hon JOHN HALDEN to the Leader of the House representing the Minister for Education:

(1) Was a review conducted of secondary education in the greater Bunbury area?

(2) If yes, did the Minister or the chief executive officer receive a report on the review?

(3) Did the review recommend that the three government high schools be retained as years 8 to 12 schools?

(4) Will the Minister table the report?

Hon N.F. MOORE replied:

I thank the member for some notice of this question. I do not have the answer to the question. I ask that it be placed on the Notice Paper.

LIVE SHEEP TRADE - BUNBURY PORT

725. Hon TOM HELM to the Minister for Transport:

I ask this question on behalf of Hon Doug Wenn.

(1) Is the Minister aware that in the just released "Priority Projects Register" from the South West Development Commission live sheep exports from the Port of Bunbury are listed as a priority project?

(2) Will the Minister confirm his statement in the *South Western Times* of 8 August this year that the State Government has no intention of allowing live sheep exports through the Port of Bunbury?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

(1) Yes.

(2) The Government's policy is that the export of live sheep from particular ports is a matter for commercial negotiation between the relevant parties. Under this policy the Government has no intention or policy to export live sheep from any port in preference to another. I am aware that a commercial approach to export live sheep from Bunbury was made; however, this did not come to fruition. To my knowledge there is no intention to export live sheep from Bunbury in the near future.

I have said publicly on a number of occasions that it is proper for anybody to go to any port and seek information on price or the availability of space to export any product from any port. It is the responsibility of any port to then meet any criterion as a corporate citizen in that area.

WATER CORPORATION - HUMAN RESOURCES OFFICERS EMPLOYMENT

726. Hon JOHN HALDEN to the Minister representing the Minister for Water Resources:

(1) How many officers are employed in the corporate human resources section of the Water Corporation?

(2) How many officers are employed as regional human resources managers of the Water Corporation?

(3) What number and classification of the employees referred to in parts (1) and (2) are required as part of their duties to be familiar with and/or to appear in industrial tribunals, in particular, the Western Australian Industrial Relations Commission and the Australian Industrial Relations Commission?

(4) Other than those referred to in parts (1) to (3), are any other officers, either in permanent or consultant positions engaged by the Water Corporation, required as part of their duties to be familiar with and/or to appear in the industrial tribunals, in particular, the Western Australian Industrial Relations Commission and the Australian Industrial Relations Commission?

(5) Is the Water Corporation entitled to seek advice and assistance from the Department of Productivity and Labour Relations on matters in industrial tribunals?

Hon MAX EVANS replied:

I thank the member for some notice of this question. The Minister for Water Resources has provided the following reply:

(1) Ten officers are employed in the corporate human resources section of the Water Corporation as at 3 September 1996.

(2) Seven officers are employed as regional human resources managers of the Water Corporation, not including three divisional human resources managers.

(3) One senior executive contract; five salary, PT 18/19; four salary PT 20/21.

(4) Three divisional human resources managers.

(5) The Water Corporation is entitled to seek advice from DOPLAR in relation to government policy and standards.
