Legislative Council

Wednesday, 27 May 1987

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

COMMITTEE STAGE OF BILLS

Advisers: Practice

THE PRESIDENT: I wish to make one or two comments for the information of honourable members in order to remind them of the method in which some of the procedures are to take place in this Chamber.

It has been a longstanding accepted custom in this place for Ministers of the Crown to be permitted to have advisers in the Chamber during the course of the Committee stage of a Bill. Indeed, to facilitate that longstanding custom, members will have noticed that in recent times the furniture has been altered to take account of it. I think that longstanding custom ought not to be interfered with. However, it has been suggested to me that a request may come at some time for other members to have the assistance of advisers alongside them during the Committee stages of Bills.

Bearing in mind that this sort of request comes about once every 50 years, it is reasonable to assume that members are not necessarily acquainted with the procedures involved. That facility is not available to other members; it is, however, available to private members who at some time may introduce a piece of legislation themselves, and when that piece of legislation reaches the Committee stage, that private member will be, and has been in the past, afforded the same opportunity available to Ministers.

I point that out simply for the information of honourable members so that at some future time a Deputy President, a Chairman of Committees, or a Deputy Chairman of Committees, who may not be familiar with that procedure, will not be caught not knowing what to do.

PRESIDENT'S GALLERY

Use

The second, and equally important, comment I wish to make is that in this Chamber—certainly in the years that I have been here and hopefully during the time I have been the Presiding Officer—the use of the President's Gallery is a facility which is retained for the benefit of members of this place. That facility is made available when an honourable member seeks approval to use it. The reason for the necessity to seek permission is that from time to time groups of visitors numerically exceed the number of seats in the President's Gallery, and that can be embarrassing if, for example, a member has previously gained permission for his or her guests to be seated there.

However, having received permission to sit in the President's Gallery, the same rules apply to those members sitting there as apply to any person sitting the Public Gallery. That is, there is to be no notetaking, no writing, and no passing forward pieces of paper from those visitors to members of Parliament. The same rules apply.

I remind honourable members of this because, although the request is not made often, it may be made in the future.

DOOR TO DOOR TRADING BILL

Second Reading

Debate resumed from 19 May.

HON. N. F. MOORE (Lower North) [2.40 pm]: This Bill has essentially one main aim, to replace the previous legislation which was called the Door to Door (Sales) Act 1964. In rewriting this legislation the Government has taken the opportunity to make some fairly substantial changes to the situation that applied under that Act.

The first point made in the second reading speech is that the main intent of the new Bill is that it be part of uniform legislation across Australia. I understand complementary legislation has been enacted in at least one other State, and I am also advised that in Tasmania, where this legislation has been enacted, it was recently amended. The argument that we should have uniform legislation for door-to-door sales has some merit when one considers that many national companies are involved in door-to-door selling, and it is fair to expect the rules will apply equally in each State. However, I have some concern from time to time about uniform legislation because it assumes that circumstances are the same in every State and that we want uniformity across the nation.

In these circumstances, it seems that may be the sensible way to go although transport difficulties in some parts of Western Australia may make it difficult to comply with certain aspects of the legislation—particularly that relating to return of goods—than in a smaller State like Victoria, for example. However, we are prepared to accept that on face value the intent of

this legislation for uniform Australia-wide legislation makes sense from the point of view of people involved in door-to-door selling.

The Bill also makes a couple of other fundamental changes to the way door-to-door salesmen and women can operate. The first is that it prohibits the supply or delivery of services during the cooling off period. The old Act contained a seven-day cooling off period; this Bill provides for an extension of that to 10 days. The second thing it does is to prohibit the payment of any moneys or considerations during that cooling off period. I understand this has been brought in because under the old Act people paid a deposit to the salesman at the door, and when things went wrong and the services were not provided, they had extreme difficulty in getting their money returned. I can see that sort of problem will arise with some of the unscrupulous types of people one finds operating as door-to-door salesmen from time to time.

I wonder, however, whether we are not using a sledge-hammer to crack a nut. If one looks at what the Bill says and relates that to a situation at somebody's front door, one can see it may be slightly absurd. If a door-to-door salesman comes to the door and offers to sell a person something, and it is an item which that person decides he or she particularly wants right away and is prepared to pay for, my reading of this Bill is that one cannot have the item offered straightaway; one has to wait 10 days to get it and to pay for it. If the salesman is selling something one decides one needs as a matter of urgency and it will save the trouble of going to the shops to buy it, it seems crazy that one cannot have it for 10 days.

I have already said I accept there are occasions when the payment of money has created difficulties, but I wonder whether the path down which we are going is the way to solve the problem.

Hon. J. M. Brown: Do you think they would leave it on appro?

Hon. N. F. MOORE: Maybe we should think about that more. This assumes that every person who opens a door to a salesman does not have enough brains, commonsense, and strength of purpose and character to make a decision on the spot. It assumes everybody in the community is unable to make that decision at the door and must wait 10 days. During that period, one is not allowed to pay any money or receive the goods. I think the title of this Bill could be changed to something else, perhaps the "End to Door to Door Trading Bill".

Hon. Kay Hallahan: That is rubbish.

Hon. N. F. MOORE: Who would go into the business of selling door to door if he could not get paid for 10 days and could not deliver the goods for 10 days? I wonder what sort of people would make the decision to buy something and then be told, "I am sorry, you cannot have it now; you have to wait 10 days." If that happened to me my reaction would be to say "I am sorry, I need it now. I do not want to wait 10 days; I have made up my mind. I am a mature individual, and if you will not sell it to me I will go to Garden City and buy one from Boans." I have the capacity to make a decision for myself about what I want to do with my money, when I want to spend it, and when I want the goods. The Government is saying that if I go to Boans in Garden City and buy a particular article I make a decision on the spur of the moment, hand over money to the assistant, take the goods—

Hon. Kay Hallahan: You initiated it.

Hon. N. F. MOORE: All right. The salesman comes to the door and has a product I want; I have had it in my mind to buy this product, and it happens that he comes to the door. Disregarding that, the Minister is assuming in this legislation that everybody in the community needs a 10-day cooling off period and is unable to make the decision at the door to pay and receive the goods then. Everybody has to wait for the 10-day cooling off period to expire.

Hon. Kay Hallahan: Most people agree with it.

Hon. N. F. MOORE: Maybe they do, but the Minister is using a sledge-hammer because some people cannot say no.

Hon. Garry Kelly: How do you get around the problem?

Hon. N. F. MOORE: I am not sure of that. I am raising the issue today because the Government is saying to people who sell door to door that they may as well give it away because people will not wait 10 days.

Hon. Kay Hallahan: They do.

Hon. N. F. MOORE: Maybe they do; they wait seven days now, and the Minister is extending the period by three days, so it is almost a 50 per cent increase in the waiting time; but under the existing system one can get the goods and can give them back during the cooling off period.

Hon. T. G. Butler: There are some slick operators.

Hon. N. F. MOORE: Of course there are, and I accept there are problems and people get conned. However, the Government is saying that we have to legislate for everybody because some people get conned.

Hon. T. G. Butler: That is right.

Hon. N. F. MOORE: I wonder how many people get conned by door-to-door salesmen in the total number of such sales. It may be five per cent or 50 per cent. I would be interested to know whether the Minister can tell me what sort of figures are involved. Are we looking at 50 per cent, 20 per cent, or one per cent of the customers?

Hon. Doug Wenn interjected.

Hon. N. F. MOORE: Instead of making long interjections about something which is different from what I am saying, Hon. Doug Wenn should make a speech on the Bill so that he can tell me what he really means. That would be helpful to me in deciding how I will vote on the Bill.

I wonder if we are going too far by introducing this type of legislation. Are we not just saying that everyone in Western Australia and, indeed, if it is uniform legislation, across Australia, is incapable of making a decision about spending his money to purchase goods or services from his door in an instantaneous way?

Hon. Kay Hallahan: I will have the answer for that.

Hon. N. F. MOORE: I am sure the Minister will answer it, but I am not sure that she will answer it to my satisfaction.

Hon. Garry Kelly: It is an independent purchase initiated by a salesman.

Hon. N. F. MOORE: Have members noticed that in a supermarket they will find everything set out around the checkout counter—chocolates, bootlaces, and razor blades—in order to attract the attention of customers? The sorts of things that are set out around the checkout counter are items that people buy when they see them. It is done deliberately, and members know as well as I do that in supermarkets the rows are set out and goods placed on shelves in such a way so as to attract people's attention to certain products and they buy on impulse. That happens in supermarkets now.

Is the Government going to bring in legislation which states that if a person buys on impulse and decides, after 10 days, that he no longer wants the item, he can return it and have his money refunded? If a person buys a packet of razor blades, will he leave it in the store for 10 days and then say whether or not he wants it? That is how absurd this legislation is. They are both examples of impulse buying. We will have in place severe legislation which deals with one aspect of impulse buying—that is, door-to-door selling—but we will not have legislation to protect people from impulse buying which takes place every day of the week in every supermarket in every city and town in Western Australia.

The Government cannot have it both ways. The Minister must realise that people who are able to make decisions about what they spend their money on can do so without having to wait 10 days as this legislation suggests. I hope the Minister is able to give me some hard evidence of the sort of difficulties that people are finding as a result of door-to-door activities which necessitate this rather severe action.

Hon. Kay Hallahan: Haven't you had any problems in your electorate?

Hon. N. F. MOORE: No, I have not, but that is not to say that there have not been any problems. I receive letters from my constituents about many subjects, but door-to-door sales is not one of them. My electorate is similar to the Minister for Consumer Affairs' electorate.

Hon. Tom Stephens: He has an urban electorate.

Hon. N. F. MOORE: Perhaps the member thinks that it is urban, but it is in the country.

Hon. Kay Hallahan: He may be in touch with his electorate.

Hon. N. F. MOORE: I am not saying that it is not a problem in my electorate. As I said, I receive letters of complaint about many things, but not one of them is about door-to-door salesmen.

I will recap on my argument and advise the House that I am prepared to go along with the passing of the Bill if the Minister is able to justify what I consider to be draconian measures regarding door-to-door sales. Under the present Act, there is a seven-day cooling off period, and at the end of seven days if the purchaser does not wish to proceed with the sale he or she can return the goods. If the person has them, and if the money has been paid, the person can receive a refund. I accept that under that system some people have had difficulty having the funds returned when the goods were not to their satisfaction and after seven days had decided that they no longer wanted them.

That system is now to be changed and we will have a 10-day cooling off period. During those 10 days there will be a prohibition on the supply of the goods or services, and a prohibition on the payment of any moneys for those goods or services. If one reads the second reading speech, it is quite clearly stated that the change has been brought about because some people had difficulty in having their moneys refunded.

Hon. Kay Hallahan: Or the goods could not be returned.

Hon. N. F. MOORE: It seems to me that by introducing this new measure we are taking away from people the right to make their own decisions. I would be happy to give that sort of power only if there were justifiable reasons.

I regret to say that the Minister's second reading speech does not give us too many reasons at all. Have there been thousands of complaints? What sort of goods are being sold which are not being returned, and what sort of people have not had their money refunded? To what extent do the changes to the Credit Act, as referred to in the Minister's second reading speech, change the situation in respect of door-to-door salespersons.

I indicate that I will reserve my judgment on the Bill until I have the Minister's response. The more I read about and look into this subject the more I think that it is a great sledge-hammer which is being used to crack a tiny nut. We will find out from the Minister how big is the nut.

HON. H. W. GAYFER (Central) [2.58 pm]: It was interesting to hear the remarks made by Hon. N. F. Moore. It brought to my mind the occasion when the original Bill was introduced into another place by the then member for Clontarf, Donald George May. Consequently, I asked the Clerk to obtain for me a copy of the speech made by Donald George May in order that I can quote from it during my speech.

Donald George May introduced the Bill into an atmosphere in which members did not believe that such protection was warranted. The sledge-hammer effect which Hon. Norman Moore spoke about was not needed. In fact, at that time it was news to me, a country boy, that there were certain salespeople going from door to door.

However, the Bill proceeded through the Parliament, was subsequently passed, and has been in operation for some time. One can see that it has been of great value. I inform the House of the reasons Donald George May used, in favour of the original legislation, in his second reading speech. I refer members to page 855 of *Hansard* dated 9 September 1964. Donald George May said—

> I believe that this Bill will meet what has become a real problem, where people who are not trained to resist specialised canvassers, frequently commit themselves to expenditure beyond their means and ability to pay, sometimes paying prices greatly in excess of the value of the purchases they intend to make. Where people are high-pressured into contracts it is my considered opinion that they should be given an opportunity to deny the contracts upon reflection.

He said later on the same page—

> However, this Bill is intended to overcome the problem of high-pressure door-to-door salesmen, and provides for a stay of proceedings, or "cooling off" period of seven days.

Later he talked about a Select Committee in England, and referred to an investigation on consumer protection. The committee was chaired by Mr Maloney QC, who said—

> There is an overriding need to protect the consumer against reprehensible pressures exercised in his own home. . . .

In the same report, quoting page 168, he says this—

> There is a proportion of hire-purchase trade initiated by unscrupulous sales men largely but not exclusively operating from door-to-door, who aim at getting business at all costs.

Those illustrations were used to bring in a door-to-door sales measure in this State. It has stood the test of time fairly well, but now it does not stand the test of time as far as unilateral use is concerned; in other words an all-Australian use.

The purpose of this Bill is to bring in legislation complementary to a national undertaking at present in operation in some States. There will be complementary legislation to give that type of protection wherever these people may be selling in Australia. This is the purpose, as I understand it.

It is easy for us to say that this can have no effect on us, because, after all, another law protects us. When we look at the borders between New South Wales, Victoria, South Australia, and Queensland—or any of the States—and take into account the modern modes of

transport to our State, it is essential that if we agreed to the establishment in the first instance in 1964 of a Door to Door (Sales) Act, we need something to protect the public from salesmen and other people who come from other States.

I welcome the fact that we are to have universal legislation dealing with this matter. Although not all States have it, I understand—and I hope the Minister will confirm this—it is the intention of all States to proceed with this legislation and make it universal.

I agree with Hon. Norman Moore that not everybody in Western Australia is incapable of making a decision at the door, but we are a rather exceptional part of Australia. Our people are exceptional. They have a lot more ability than many other people who are not able to say yes or no. The Bill is designed to protect the weak and those who cannot handle this type of high-pressure stuff.

I can give examples of the tactics, virtually lies, which are adopted at the door. One must be very strong indeed not to be included among the weak. These people are strong and very well trained. The Bill will serve a great purpose if it is used universally across the country. I see nothing wrong with the fact it prohibits the supply of goods and services during the cooling-off period of 10 days.

The old Bill provided for seven days. Now we have discovered that seven days is insufficient and 10 days should be the period. The Bill prohibits payment, including the deposit and trade-in, during the cooling-off period. I do not know what would happen if one really wanted something and gave a postdated cheque.

Hon. Kay Hallahan: It is illegal.

Hon. H. W. GAYFER: I do not know how to stop it, except that it is against the law. I will not enter into that argument. Despite current legislation, there are still many cases of buyers losing their deposits. That would be one reason why some things are being done and people are being taken advantage of.

Cash buyers are not as well protected as credit buyers. This Bill goes some way towards remedying that.

My party is very well aware of the legislation. I do not see anything wrong with this uniform type of legislation with the boundaries in Australia as they are. We do not believe the rights of the individual are being taken away; we believe the Bill is protecting the majority of people. If we accept that there are people to be protected—and that was accepted in 1964—surely that type of protection should be available against anybody coming from another part of Australia, an adjacent State or wherever.

Apart from these provisions, restrictions remain on the times when these people may call at residences, and requirements remain for them to produce identity cards; and they will still be obliged to announce the purpose of their visits. That is a very important part of the legislation introduced in 1964. It was approved of and has never been disclaimed by anybody in the community. This Bill seeks to take it one step further and protect the people from very high-powered and at times unscrupulous salesmanship employed by people disposing of what are sometimes doubtful products.

HON. FRED McKENZIE (North East Metropolitan) [3.09 pm]: I support the Bill, and the remarks I wish to make will somewhat parallel those of the previous speaker. The Minister said quite clearly in her second reading speech that the desire for this legislation is based on the uniformity about which Hon. Mick Gayfer has spoken. The Minister also indicated that legislation of an identical nature operated in Tasmania, and a Bill was currently under consideration in South Australia.

So it appears quite clear that other States are talking about legislation that will bring about uniformity; and why not? As members are aware, quite often salesmen cross borders to go into other States, and if there were a uniform set of laws in respect of door-to-door trading that would be a very good thing.

The only significant change I see in this legislation as against the legislation that preceded it is the extension of the cooling off period. Some of the things that were operating previously when people fell prey to salesmen at the door were tidied up when we passed legislation here in connection with the Credit Act.

It is important to remember that we have a duty to protect those people who do not have the strength to say no, particularly on the doorstep. They are being solicited to buy something. That is quite different from a person going out with the express purpose of shopping, when he might spot something in a shop and purchase it; but even in that area I, as a member of Parliament, often receive complaints from consumers who feel they have been pressured into buying something they really do not want.

Hon. N. F. Moore: You cannot protect people from themselves all the time.

Hon. FRED McKENZIE: Maybe, in time, we will be able to do something about that. As a result of this kind of purchase people quite often lose not only their deposits but, if they have signed and entered into a contract and the vendor cannot sell the repossessed goods for the price equivalent to the amount of the contract less the deposit, the consumers are liable to be sued in the courts for the remainder.

Hon. N. F. Moore: Don't you think consumers have some obligations? You cannot protect people from themselves in every circumstance.

Hon. FRED McKENZIE: We are not like Hon. Norman Moore—and not all people are members of Parliament. We have not all had the education that he has had.

Hon. N. F. Moore: Don't lump everybody together.

Hon. FRED McKENZIE: We have some onus to protect those people from the smart operators. It may well be that Hon. Norman Moore would be a smart operator.

Hon. N. F. Moore: I shouldn't think so.

Hon. Kay Hallahan: A protector of the smart operators.

The DEPUTY PRESIDENT (Hon. D. J. Wordsworth): Order! Order! I do not think Hon. Fred McKenzie should accuse another member of being a smart operator.

Hon. FRED McKENZIE: I said "maybe"; I did not say he was but that maybe he would be a smart operator. The position is that we have some responsibility to protect these people. The important thing to remember is that, with door-to-door sales, the consumer has not asked someone to come in to provide the goods or services; consumers are being solicited on the doorstep and had no intention of buying a particular article. They fall prey to doing so simply through slick salesmanship, and it has been our experience that generally they are the people in the community who can least afford it.

Hon. N. F. Moore: I am not arguing against the cooling off period.

Hon. FRED McKENZIE: We are only extending it from seven to 10 days. Surely there is nothing wrong with providing that additional period!

Hon. N. F. Moore: You are changing the conditions of the cooling off period—that is the significant argument. I am not arguing against a cooling off period.

Hon. FRED McKENZIE: Are the conditions being changed for the better, or for the worse?

Hon. N. F. Moore: That is for you to say.

Hon. FRED McKENZIE: I believe they are being changed for the better because they are giving more protection to the people who have been solicited—and I emphasise the word "solicited".

Hon. N. F. Moore: If you want me to support the Bill you must convince the House it is a good thing.

Hon. FRED McKENZIE: I think it is self-explanatory, and I do not believe the House needs any convincing. The Bill is quite a simple piece of legislation, as the member will see if he reads it. It is in layman's language and is something we can all really understand. I want Hon. Norman Moore to tell me why the conditions should not be changed. The Bill seems to me to be quite simple and of benefit not only to the consumers but also to the persons selling the goods, because if those latter people read the Bill they will understand just what they must provide and under what conditions they must work.

Hon. N. F. Moore: Most of them will cease to exist.

Hon. FRED McKENZIE: I welcome this piece of legislation and hope the House agrees to it. I have had plenty of experience—and no doubt other members have also—in regard to people who have bought goods and subsequently find themselves liable not only for the deposit, which they are willing to sacrifice, but also for the difference between the amount of their contract and the amount for which the repossessed goods are able to be resold. The consumer would have been quite happy to forfeit the deposit, but he is still liable for the shortfall.

In those circumstances, the more protection we can provide for unsuspecting consumers who are confronted on the doorstep by salesmen, the better it is for those people. I believe this legislation should receive the support of the House, and I support it.

HON. TOM HELM (North) [3.16 pm]: The questions raised by members during the second reading debate need to be answered. I can cite an incident which occurred in the North Province and which helped us recognise that this Bill goes some way towards solving the problem encountered by those people at that time.

The incident to which I refer was reported in the newspaper about a year ago and has been of concern to the Federal member for Kalgoorlie, Hon. Graeme Campbell, MHR. The incident involved the sale of video machines, tele-

visions, and the ongoing sale of video films to people in the North Province—people of Newman, Tom Price, and Paraburdoo. Members are probably aware that those areas are far away from the main sales areas in the Pilbara and Kimberley, so the people of those towns were at that time—although not so much now—very disadvantaged by the fact that they could not easily get hold of video films and machines. To obtain those items they would have had to purchase them during a holiday or some other such trip.

A door-to-door sales campaign was conducted in those inland mining towns, and the people were induced to buy video machines, television sets, and video films, to be paid for over a period of one year or 18 months. Quite a few of those people entered into contracts and some of them paid not only deposits but cash in full for the services they had been promised. When the firm went out of business, its business became part of a consumer affairs issue. There was not yet legislation in this State to deal with the problem, which amounted to a classic case of highly-trained, well-presented people offering a very attractive package to the residents of the mining towns of the North Province.

The Bill goes some way towards helping to protect those people. Not all of them could be described as being smart operators, or particularly clued up, but the package was very attractive to them at that time. Of course, it is recognised that after a salesman comes to the door in the north the chances of his being around in 10 days' time are slim and it is sometimes very difficult to conclude a deal. There are problems with that; but at the same time, if this piece of legislation had been in operation at that time, perhaps fewer people would have been sucked in by the kind of deal presented to them.

The Bill will help us to protect those people, and although—as Hon. Norman Moore pointed out—it may be seen to disadvantage both the consumer and the person supplying the goods and services, the publicity helped the people who supplied the video machines and films to supply a more attractive package to the residents of those mining towns. We saw more and more video outlets selling videos and television sets more competitively in those mining towns.

I am suggesting the people there should be encouraged to use the local firms. Of course, I cannot speak with authority about the metropolitan areas as can Hon. Norman Moore, but I can speak with authority about the area I represent. In that area the people would be advantaged by having a 10-day cooling off period.

I do not consider myself to be a particularly smart operator, but I like to think that I have been around, and I have had the experience of door-to-door salespersons knocking on my door, mostly trying to sell encyclopaedias. These salespeople are mostly very plausible and very well turned out, young people generally, and they have been especially trained for the job; they can offer very attractive deals. If a person has children he or she is wanting to educate as well as possible, these salespeople can make the encyclopaedias seem very attractive. The problem is that if someone agrees to sign an agreement or to give the salesman a deposit, the purchaser has very little assurance that he or she will see the salesman again. Very likely his or her best hope is a contact number in Perth.

The legislation goes at least some way to dealing with the problems that people in the north have in this matter; it also goes a long way to helping people in the metropolitan area. I support the Bill.

HON. DOUG WENN (South West) [3.22 pm]: I was interested to hear Hon. Norman Moore say that he needed to be convinced of the need to have this Bill. I would have thought that a simple reading of the Bill would be convincing, but obviously not. We will continue to try to educate the member and convince him of its worth.

Each Australian State will be introducing a Bill of this sort. In fact, even Tasmania sees the need for it, as does Queensland, and I would imagine that that must mean the Bill definitely has something going for it.

I have experience in door-to-door selling. Way back when I was, to use Hon. Tom Helm's words, young and presentable, I could be found standing at doors selling encyclopaedias. I thought I was quite good at it and it was a job I thought worth doing. I undertook a training course, and if Hon. Norman Moore is unsure about the scruples of some of these people, he should just grab the local paper and apply to undertake one of these courses for "tactics of salesmanship". If ever he needed convincing about the problem of high-pressure selling, especially the selling of encyclopaedias, such a course would teach him what was involved, I can guarantee it. After taking such a course a salesman learns not to ask for the husband but

for the wife. In my time we were told that it was easier to sell to the wife because the husband was more interested in watching the television than in educating his children.

Hon. Kay Hallahan: Women are much busier looking after the children.

Hon. DOUG WENN: It was accepted that that was the situation in those days, but thankfully that attitude is now changing.

The Bill indicates that many consumers, especially in the country—I do not agree with that necessarily because many people in the city seem a lot more gullible than country people—have fallen prey to unscrupulous vendors. Hon. Tom Helm mentioned door-to-door salesmen selling videos in Kalgoorlie, but the problem also affects many minor country areas, where many people need protection, especially from people selling home cladding or roofing materials. These people pick out the places to visit; they do not go up to just any house, especially not one that is beautifully painted with a sound roof. They pick on houses that look a little scruffy, where the people cannot afford to do any work on them.

Hon. N. F. Moore: Or they haven't got around to it.

Hon. DOUG WENN: No, they pick on places where the people do not have the money to do the work. But these door-to-door salesmen use the sales pitch of saying that it will cost these people just $2 a day over five years. To some people that sounds great and they are told that, of course, anyone can afford $2 a day. But the victims overlook the fact that, although it sounds great, they are still up for $3 000 or more overall. That is what is happening. Mr Moore says he has not heard of this happening. It seems he does not watch the television news or read the papers, because articles on this sort of thing appear regularly. A little old lady gets caught by the sales technique of an unscrupulous person saying, "I will paint your house for only $2 a day. You can handle it." When she signs the contract, the door-to-door salesman later comes up and says, "I've done the job. Sign this and give me your money."

In my time, when we made a sale—with me it was not very often because I did not have the experience in speaking that I have these days—the contract documents we used were from an Eastern States company which was unaffected by Western Australia law. Once the documents were signed and had been received back in the Eastern States, they were subject to a different set of laws.

The Bill provides that the sales documents should have a specific clause detailing a 10-day cooling off period. That seems reasonable because we always had a seven-day cooling off period. The Bill indicates that the contract should have the cooling off clause printed in bold print to draw the attention of the purchaser to the fact that he or she does have a 10-day cooling off period. This is also to be incorporated in the fair trading Bill before the South Australian Parliament, so that State obviously believes this sort of law is necessary, obviously because it has experienced similar problems.

People in the community are being caught by unscrupulous salesmen, and this Bill gives people a 10-day cooling off period. I do not see what the problem is with this as already we have a seven-day cooling off period, so what is three more days? I see no problem with the Bill and I do not see what is the problem for Hon. Norman Moore. I support the Bill.

HON. TOM STEPHENS (North) [3.29 pm]: I support the Bill and I am pleased to join with previous speakers who have expressed their support for it. It is a pity that Hon. Graham MacKinnon is no longer a member of the House, because he also had experience with door-to-door salesmanship. Were he here, his contribution along with the contribution by Hon. Doug Wenn and now one by me could have become the confession of door-to-door salespeople, because I also had the opportunity when I was much younger of being a door-to-door salesperson.

Soon after leaving school at the age of 16 years and 10 months, and before I went to university, I was looking for work. I saw an advertisement in a newspaper seeking door-to-door salesmen who could make good money. It advised that training was available in Sydney. After being accepted for the course, I was trained for a week as an encyclopaedia salesman. The training programme fascinated me because it focused my attention on an aspect now being dealt with by this Bill—that is, that door-to-door salesmen prey upon the susceptibilities of the weak. It concentrated on ensuring that, when a salesman knocks on a door, he maximises all of his advantages and the customers' disadvantages.

I completed the course and thought that, while trudging the hills of Sydney, I would test whether it was possible to be a salesperson of

encyclopaedias by not using the psychology which preyed upon the weak. I lasted for three nights and did not sell an encyclopaedia. I then became a builder's labourer for the vacation period to earn money to go on to do tertiary studies. I remained concerned that door-to-door salespeople were trained to place potential customers in a disadvantageous position.

When Graham MacKinnon retired from this place, he did not have the opportunity to be farewelled. Soon after his retirement, an article appeared in the *Sunday Times* of 18 May 1986 which included words which, had he been able to make a farewell speech, he would have included in that speech. I think what he said in that article should be considered against this Bill. He spoke about the differences between the Liberal Party and the Labor Party and said—

> The Liberal Party governed in that time and we pushed the ALP to the left and continued to do that, keeping our eye to the front and running the country.
>
> Unnoticed by us, they slipped out the left-hand door and ran around the back and came in on our right—smartly dressed, with their shoes polished and their hair done....a totally different party.

Members could imagine Graham MacKinnon saying that to us.

This Bill is an indication that we have not changed our colours and that we continue to be concerned for the weak in our community. We want to ensure that the community's interests are protected. This legislation is in its best interests. It will ensure that weak people, as Hon. Mick Gayfer referred to them, are not taken advantage of in their own homes.

I listened with great interest to the story told by Hon. Tom Helm about salespeople selling videos in the north west and the Kalgoorlie electorate. That became an issue for many members of Parliament to consider. My colleague in the lower House, Mrs Pam Buchanan, told me about her experience 17 years ago when she was a housewife in Roebourne. Apparently someone knocked on the doors of houses in Roebourne and purported to be a photographer. He suggested that he would do a family portrait after being paid a deposit. After taking the photographs, and shaking hands all around, he then told the family that the portrait would arrive in a couple of months from Perth. Not one photograph arrived in that area.

Hon. C. J. Bell: That was a cheap trip for him.

Hon. TOM STEPHENS: Yes, it was. This Bill focuses attention on those sorts of people who take advantage of people in their homes.

I have the vivid recollection of a salesperson who came into the Warmun Aboriginal community, with which I was associated. That community was completely inexperienced in dealing with salespersons of this type. He was selling clothes from the south. He described the clothes as cheap items of clothing and arranged for IOUs to be signed upon purchase. Subsequently, it became apparent that those people did not know what they were signing. The clothing was not cheap clothing but was clothing from Perth accompanied by the appropriate price tag. They were used to buying cheap clothes from volunteer and church groups. They now owned fashion garments from Perth. As it turned out, the community was able to prevail upon the good sense of the salesperson to allow the items to be returned the following day. It occurred to me, at that time, that if the person peddling the items was not prepared to listen to the advice of the community he would have been able to sue them, even though, in my view, they should have been protected from him.

The Bill distinguishes between goods and services in regard to what can be done at a door or what can be done before the cooling off period expires.

This Bill does not have the effect of banning hawkers; items can still be sold across the door. However, it bans the provision of services in that 10-day period. People cannot validly contract a service that would be started before the tenth day of that cooling off period. This is good legislation which has already won the support of people in the north west. I know that people who have been caught up in this video racket are pleased that the legislation will be on the Statute books.

I commend to the House the value of the legislation and I encourage members of the Liberal Party to vote with the Government to ensure that it becomes a Statute.

HON. KAY HALLAHAN (South East Metropolitan—Minister for Community Services) [3.41 pm]: I am generally very pleased indeed with the support from members opposite for this Bill. In spite of some concerns, and I accept that there would be concerns about the sort of changes proposed, the Bill has won acceptance generally speaking across indus-

try and consumer groups. I will deal with the particular concerns of Hon. Norman Moore, who represented the Opposition in this debate.

At the beginning of his speech I thought he supported the Bill and then I almost got the impression that the member was surprised at himself and he lapsed into some of the driest of the dry debate one could possibly hope to hear. The accusation was made that the legislation assumes that people cannot look after their own interests. That is a very silly thing for any member of this House to say; we are all aware that the legislation we enact in this Parliament is never intended in a general sense to apply to a majority of the community. It is for that section of the community which needs guidance, direction, and protection from the other sections of the community which need guidance, direction, and sanction if they do not act in a responsible manner towards their fellow man. That is the basis for the general legislation with which we deal, and this Bill is no exception.

With regard to the 10-day period which Hon. Norman Moore was concerned about, he said it was an extension of 50 per cent and that is blatantly obvious. However, this extension is accepted by the door-to-door trading industry and as far as I can ascertain there is no significant resistance to it. There is very good reason for changing the period to 10 days; we are dealing with an activity in the community that is nationally based in many aspects. As Hon. Mick Gayfer intimated, in Western Australia we do not live in splendid isolation from the other States and national companies have representatives in this State. If Western Australia decided to retain the seven-day period, we would impose quite extraordinary costs on the industry. I am told that they would incur huge costs if it were necessary to draw up different forms for sales in Western Australia, and that their training manuals and all other instructions put out to their employees would be very severely affected if Western Australia did not adhere to the agreement reached by the Standing Committee of Consumer Affairs Ministers.

Apart from the fact that the legislation prolongs the period and that people will have more time to reflect on their purchase and their financial position with regard to the commitment made at the door, it facilitates an industry which by and large is trying to act in a responsible manner. The industry also wants to keep its costs down and we are facilitating it to do so.

Sitting suspended from 3.45 to 4.00 pm

Hon. KAY HALLAHAN: The provision for the 10-day cooling off period relates to the delivery of services, not goods. This relates particularly to the home renovation industry, and perhaps Hon. Norman Moore would be interested in this and persuaded that there is a need for such a provision, because in the past, even though a cooling off period was in place, people would go along and start on the provision of renovation services as defined under the Bill and there was no way at the end of that cooling off period that there could be a return of those services.

This comes back to the definition of goods and services in the Bill. Goods can be returned if people consider after reflection that they have made an error in entering into an arrangement to purchase them. However, that cannot be done if one is concerned with roof cladding or wall cladding.

Hon. N. F. Moore: Why did the last Act allow services to be provided if in fact there was a cooling off period?

Hon. KAY HALLAHAN: Because I imagine people believed—and again it brings about the question of the necessity for this legislation—that there would be adherence to a sensible approach. That has not been the case. Many sections of this industry are quite notorious for their practices, and this has caused hardship. A person may have suffered a bereavement, or may be under acute stress, looking after small children, or perhaps may have economic problems, and that person may be faced with a salesman at his door. Members all know that psychology is a very important aspect of any sales training programme. I was very interested to hear the contribution by Hon. Mick Gayfer with regard to the former Minister, Don May, when he talked about the skills of salespeople at the door. I hope Hon. Norman Moore will agree that, even with the skills and advantages in life that he has had, when he is in a vulnerable state he may not be a match for a salesman who has had the benefit of psychological training and is out to get the best advantage in any selling situation.

This legislation has resulted from complaints which have been made, particularly to the Consumer Affairs Department in Western Australia. As a result of concerns raised in these complaints, the Minister agreed at the Standing Committee of Consumer Affairs Ministers to institute in this State the legislation that is being considered today.

I commend the Bill to the House.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (Hon. Garry Kelly) in the Chair; Hon. Kay Hallahan (Minister for Community Services) in charge of the Bill.

Clause 1: Short title—

Hon. N. F. MOORE: I want to make this point in response to some of the comments made by speakers on the other side of the Chamber during the second reading debate. At no time when I was speaking in the second reading debate did I give any indication that I was opposed to a cooling off period. In fact, I clearly support it and think it is probably necessary. However, I was complaining about the changes to the conditions which apply to the cooling off period, and that was the basis of my argument.

Secondly, as a general matter of principle, one must recognise that one cannot make the weak stronger by making the strong weaker. If one looks at that philosophical view, one realises why from time to time I get cross when this Chamber makes laws designed to help the weak when at the same time those laws will restrict the rights of the strong.

Clause put and passed.

Clause 2 put and passed.

Clause 3: Interpretation—

Hon. N. F. MOORE: Clause 3 contains a definition of cooling off period and defines it as a period of 10 days. The Bill extends the cooling off period from seven days to 10 days. During the second reading debate I asked the Minister for an explanation as to why the cooling off period has been increased from seven to 10 days. I do not recall the Minister giving an answer to that, so I wonder if she could tell me why the decision was taken to extend the cooling off period? Bearing in mind that at the same time further restrictions have been introduced on the activities of door-to-door salesmen, is this not just a bit of overkill?

Hon. KAY HALLAHAN: I did address this question in my summing up speech, and I cannot understand why it was not heard. However, the main reason why it has been agreed to go along with this clause is that this legislation is being implemented on a national basis. This State can continue with the seven-day cooling off period, which has worked reasonably well, but there seems to be a general concern that 10 days is more desirable; and it was agreed at the Ministers' conference that 10 days was a more satisfactory cooling off period.

Whether members are aware of it or not, this industry is one which is nationally based and operated. There are large selling institutions across this nation. If a seven-day cooling off period were to apply in this State, as opposed to 10 days in other States, the industry would incur considerable expense in having to print forms and training manuals for particular operations in Western Australia. The industry is not complaining about the 10-day cooling off period, so apart from the fact that Hon. Norman Moore has some whimsical objection to the extension of the period—

Hon. N. F. Moore: I object to that comment.

Hon. KAY HALLAHAN: I thought that was rather kind. I ask the Committee to support the extension from seven to 10 days.

Hon. N. F. MOORE: Before that description of me was used, I was going to sit down and let this pass. The Minister has demonstrated one of the difficulties of introducing this legislation. She has admitted that a seven-day cooling off period works well in Western Australia, yet we are going to increase that period by another three days. The consumer may have wanted the article on the same day it was purchased.

Hon. Kay Hallahan: You cannot get it on the same day.

Hon. N. F. MOORE: Hon. Doug Wenn talked about roofs on houses.

Hon. Kay Hallahan: They can do it within seven days but not 24 hours.

Hon. N. F. MOORE: The point I am making is that it has been decided on a national basis that because 10 days is the desired period in Sydney we should have the same period in Western Australia. To have 10 days instead of seven is not necessarily a move in the right direction. It may be a move in the wrong direction.

Clause put and passed.

Clauses 4 to 7 put and passed.

Clause 8: Consideration not to be accepted from consumer nor services supplied before expiration of cooling off period—

Hon. N. F. MOORE: I refer to clause 8(1). If a person comes to my door to sell me a service, and I decide to buy it and give him some money, he commits an offence and is liable to a penalty of $1 000, which is pretty extreme. Goods can be provided during the 10-day cooling off period. Does that mean if a seller is carrying a vacuum cleaner with him and a per-

son decides to buy it, the seller can leave the vacuum cleaner and come back in 10 days to get his money; and if the consumer does not want to proceed with the deal he can give the vacuum cleaner back?

Hon. Kay Hallahan: Yes.

Hon. N. F. MOORE: If the industry is to leave goods behind under this condition with a 10-day cooling off period, would the Minister indicate whether it has a view on that? I refer to clause 8(2) and (3). Can the Minister give me some indication as to what services are envisaged as being part of these regulations?

Hon. KAY HALLAHAN: Hon. Norman Moore does not think it is a satisfactory situation if a salesperson arrives at the door of a house to offer an item for purchase and the householder says, "Yes, I want that particular item", so the salesperson leaves the item and says he will call back in 10 days to pick up the cash, cheque or credit card, and the deal is completed.

If we do not have that cooling off period we undermine the tenor of the Bill, which is to create a protective mechanism for people who encounter pressures at their front door at random times in their lives. From the complaints I have received personally and the experience of the Department of Consumer Affairs, we need this Bill.

I refer to clause 8(3) which excludes from the regulations particular services particularly where those goods are provided by reputable companies. We are looking at an industry that has been going for a long time and there are good operators in the business. Where those operators are known and accepted, they will be exempted through regulations, but we need this legislation for the fly-by-night, the shonkie dealer and the shady operator who cause heartache and have a destabilising influence on families. Where people are in the business of providing services in a reputable and ongoing manner, there will be exemptions.

Hon. N. F. MOORE: I find that a most extraordinary explanation. It means that if one is not exempted, one is a shady operator.

Hon. Kay Hallahan: No.

Hon. N. F. MOORE: What the Minister said is that under clause 8(2) a person can be exempted if his or her credentials are considered by the Government to be legitimate.

If a person is not exempted then he is considered by the Government to be a shady operator. Just imagine what people will feel like when they cannot get their name on the list of exemptions, bearing in mind what the Minister has said in this Chamber. Is that a fair assessment of what the situation will be? If it is not, can the Minister give me some idea of the sort of companies which will be exempted so we can get some idea of the operators and whether or not they are shady?

Hon. KAY HALLAHAN: The honourable member is almost taking this matter to the other side of the equation in his usual style; but nevertheless providers of services who do not have an established track record will not get exemptions. That will cause the industry no trouble because it is anxious to establish a reputable image in the community. From time to time people do get ripped off. I am thinking particularly of some sections of the community. I do not want to name firms, but there are some people in the home renovation industry who have had some very undesirable methods of operation. They would not get exemptions but others who have established a good track record and have no complaints about the way they operate can look forward to an exemption.

Hon. N. F. MOORE: I think the Minister would get off the hook in relation to her comment that if people were not exempted they were shady and smooth operators; if she said that she meant that people who would not be exempted were those seeking to become exempted by virtue of providing a good service but who did not yet have a track record and were not shady characters, and, in addition, the shady characters to whom she referred.

Hon. A. A. LEWIS: Will the Minister give me an assurance that if a person is called to a farm to look at a service proposition and then makes a deal because the repair cost is too great, and sells the farmer a machine, there will be no cooling off period?

Hon. KAY HALLAHAN: The situation cited by the honourable member would not be considered an activity coming under this Bill. I take his point that someone could be called to provide a service and in the course of that some item is sold. That does not come under this Bill. We are talking about the unsolicited knock on the door and then, wham, people are hit with a selling technique.

Hon. A. A. Lewis: You can give me a complete and utter assurance on that?

Hon. KAY HALLAHAN: Absolutely.

Clause put and passed.

Clauses 9 to 23 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. Kay Hallahan (Minister for Community Services), and passed.

BUSH FIRES AMENDMENT BILL

Second Reading

Debate resumed from 19 May.

HON. W. N. STRETCH (Lower Central) [4.24 pm]: This is a short and simple Bill but it focuses on one of the most essential yet potentially one of the most dangerous forces of nature, and I ask members to take this matter seriously. Most of us know that fire is a great friend of man but a very dangerous foe. It is incumbent on us to take the greatest care not only when dealing with fire, but also when legislating on it. Things happen quickly in a bushfire, and those who have had the misfortune to fight a fire face to face know what I am talking about. Fortunately few of us have had to do that, but those who have will have found it an experience never to be forgotten. My first confrontation with fire was being burnt out in 1944 when I was about nine years old. It was a fire out of control in Victoria which took about 49 lives and burned about 50 miles from end to end, so I suppose I must declare an interest in this matter!

Fire has been a marvellous friend to Western Australia from the earliest days of settlement. Ships visiting our coast in the early 1600s reported in their journals the smoke of Aboriginal fires burning off country along the coast. Aborigines used fire to encourage fresh shoots of grass and natural bush feed so the kangaroos came back the following year and filled the larder for them. White settlement followed that tradition, and until the last five years there were still large cattle leases on the south coast where cattle were taken to fatten on the natural feed, and they did very well indeed.

Fire was used extensively by early white settlers for the clearing of land. It was a great friend of man in those days. It was used more and more and the areas being burnt became steadily larger until in the late 1960s, at the height of the land clearing boom, it was not uncommon for the clearing fire to cover in excess of 500 hectares of land in one burn. That brought its own difficulties and dangers. Fortunately, by this time farmers and people in agricultural areas had formed themselves into an efficient firefighting network of volunteer brigades working under the auspices of the Bush Fires Board and had established one of the finest bodies of volunteers which has served the State. I know country members will support me because the amount of manpower and equipment that can be called to an outbreak of fire is incredible. It is not uncommon to see a farmer with up to $10 000-worth of firefighting equipment kept on his property mainly for that purpose. In winter the tanks can be taken off the truck and it can be used for other purposes, but for six or seven months of the year the truck's main job is to help protect the farmer and his district from the ravages of wildfires.

I would like to pay tribute to those brigades and to the amount of time and money those people have invested. It is not only the farmer's own insurance; this equipment and manpower are available for all sorts of emergencies and are given willingly to help in areas far from the farmer's own holding. It is very much a community service as well as protection for the farmer's own assets.

I am proud to say that my district of Kojonup has a fine reputation in the development of fire control. I think the small brigade at Mobrup at the bottom of that Shire was the first to own its own two-way radio network. It was established in 1955 after my father bought two sets which were subsequently taken over by the brigade and paid for by fundraising on a local basis. This became the foundation of what is today a very widespread network, not only through the Kojonup Shire but right through the southern areas and much of the northern and eastern wheat-belts as well. It is a testimony to the faith of early workers in fire control who saw the difficulties of controlling fire as the cleared areas became larger. Fire develops its own speed and heat, and the bigger it gets the harder it is to control. Therefore, radio communication becomes absolutely vital in getting to the seat of the fire before it becomes too large. That is where radios have made such a contribution to modern-day fire control.

The old Forests Department built up a superb network of fire spotting and fire control for forest areas. Now that department has been reformed into the Department of Conservation and Land Management and its role has changed; it has become more difficult from a management point of view.

My lengthy introductory remarks may appear to be straying from the Bill, but I am painting a scenario for the benefit of members and pointing out that fire control, as it stands in this State at present, is, touch wood, very sound. It has its difficulties and there are some days on which it is very difficult to control a fire. On such a day all one can do is to push away at the edges of the fire and wait for a change in the weather or, as the Chinese now say, "There is no substitute for an inch of rain."

The Opposition has no qualms about the provision contained in the Bill to allow an officer of CALM to delegate his or her authority at the seat of a fire as a discretionary power. It removes the obligation under the current Act for an officer of CALM to automatically take control of a fire if it is in the vicinity of the State forest. It is an important distinction for a couple of reasons which have been stated already and for some unstated reasons which, to me, are far more important than the reasons which have been put forward.

One of the main reasons we have to face is that with the various amendments to CALM we have seen the greatest land grab in history. The department has so many areas of land under its control that it is now realising that it does not have the manpower or equipment to service those areas. It is a very serious matter.

The Opposition understands that the hazard reduction burning programme which my friend and colleague, Hon. A. A. Lewis, mentioned, is over 30 per cent behind schedule. The reasons for that are many. It has not been the best of years for burning; however, the main reason is that a shortage of manpower and equipment has led to a downturn in the burning programme.

Recently the Director of CALM briefed the Opposition on this Bill and stated that that was not the case. Unfortunately, in answer to a question asked in Parliament, it was stated that the department was behind in its programme and that it had difficulties in fulfilling its task. There is a great need for a changed approach in the method of hazard reduction burning in this State.

The State of Western Australia contains countless numbers of small reserves—timber reserves, Crown land, water reserves, small parks, and specialist areas set aside for flora and fauna and for various other land uses. Some of these reserves are situated in isolated areas and sheer logistics show that it is expensive and a time-consuming operation to get departmental staff and equipment to such areas.

When the department said that it had difficulties carrying out important burning in heavily timbered areas of the State it appeared evident to me that the role of the volunteer bushfire brigades should be brought into play. With that in mind I wrote to the Minister for Conservation and Land Management outlining my suggestion that in an area which was isolated from an established CALM depot an officer of CALM should assess the needs of that particular area. He would determine when the area needed burning and whether it should be burnt by a hot, cold, or warm fire. He would also determine what sort of wind would be desirable, what sort of wind would be desirable, whether it be burnt as a buffer zone, and whether the wildlife would be protected. The officer would set the parameters for the burn, then engage the local volunteer fire brigade to undertake the burning operation.

Members must bear in mind that the members of the volunteer fire brigades and their vehicles are already in place and it appears to be a sensible extension of their duties and a better utilisation of the State's resources to let the local people conduct the burn.

These days there are fewer wildfires because of the better control operations and firebreaks which come under the control of the volunteer fire brigades. Therefore many young people in local brigades have not seen a wildfire. Although I hope they never experience a wildfire, nevertheless, there must be the opportunity for them to train to prepare themselves in case one occurs.

I suggested in my letter to the Minister for Conservation and Land Management that it would be appropriate that the department make a small contribution to the brigade to recompense members for their time and the use of their vehicles for such burning operations. This would help to maintain the good relations between the officers of CALM and the volunteer fire brigades which has existed over the years.

To my sorrow, the Minister found my suggestion unacceptable and he gave some reasons which I did not think were valid.

Perhaps the Minister handling the Bill in this House could again put my proposition before the Minister for Conservation and Land Management. It is not an idea from the Opposition; it is an idea which was put forward in a genuine attempt to get these reserves burnt. After all,

in this Bill we are talking about improving fire control and ways of attaining it. The proposition which I put forward to the Minister contained a great deal of merit and it could lead to a safer environment and the better utilisation of manpower and equipment. As I said earlier, it would lead also to better trained firefighters throughout the community.

There is no doubt about the competence and the ability of firefighters within this State. In some ways this Bill will help to overcome some of the stumbling blocks; one of those being the delegation of authority. However, I must caution the Government in a couple of areas which relate to the practical difficulties that arise in the actual fighting of a fire.

As members know, time is of the essence in a firefighting operation and one must be careful about including the power of delegation of authority in this legislation. I have been in a situation where a fire, with flames 30 feet high, came out of the forest onto a pastured paddock. The homestead and the infrastructure around that homestead was situated 1½ kilometres away. In such a situation it is not practical for an officer to say, "I do not like the look of this and I would like to delegate my power of authority." It is reasonable to feel like this in such a situation. If members have never seen a fire coming from a forest I advise them that there is only one of two natural reactions to that.

Hon. G. E. Masters: Run like hell.

Hon. W. N. STRETCH: No, that is the third reaction!

There is a practical difficulty; that is, at what stage will the power of authority be handed over? We must be careful that we do not end up with a gigantic mix-up of control in the face of a fire.

The old Act had its difficulties, but one thing was abundantly clear: If someone from the Department of Conservation and Land Management were there, he would be in charge and everybody would know it. While that caused some difficulty in some places, there was an established chain of command. As any ex-service colleague knows, it is very important that this be established and understood clearly by everyone.

We accept the need to delegate, but we must give a lot of thought not only to how but to when we delegate this authority. It is something which will be worked out in negotiation with the brigade. Unfortunately with a wild fire we do not always get that sort of time.

Another difficulty is that the Department of Conservation and Land Management accepted the extension of its operations in taking over a gigantic mass of land. It has taken on a lot of extra staff, and many of them are not experienced. On their own admission they would not care to handle and take control of a wild fire. The department has taken on a lot of CES people. Without denigrating their efforts in any way, members will agree that many of them, faced with the prospect of a wild fire, would be out of their depth, and they would be the first to admit it. Therefore there is a need for this delegation of powers.

The department should have been a little more open in coming out and saying this. It should also say, "We are giving this power not only because it sounds like a good idea, but because we will work closely and in cooperation with the volunteer fire brigade organisation, using its resources and expertise in our hazard reduction programme." The greatest danger in wild fire is the build-up of forest litter or, in the case of pastures, dirty areas such as grass around buildings and things like that.

Another difficulty which caused a lot of grief in the debate in the other place was the question of liability for accidents or damage to personnel and equipment in the face of an uncontrolled fire, or where a controlled burn had become a hazardous situation. The Minister in the other place seemed to have difficulty outlining clearly who carried the insurance cover; who was responsbile for recompensing a brigade or an individual for any damage suffered in the fighting of the fire.

Hon. J. M. Brown: We know that one.

Hon. W. N. STRETCH: The member and I know the dangers. When the Forests Department or CALM was responsible, that seemed to be quite clear. I would like the Minister in charge of the Bill in this House, in contrast to the Minister in the other place, to be able to state quite clearly who will insure the workers and the volunteers in the case of a fire under control of a CALM officer. Who will insure and look after the workers when a volunteer fire brigade officer is in charge of the fire? Where does the transition take place? Is that transition of liability absolutely watertight? Are all firefighters covered at all times at a fire?

We do not want a situation where 100 men and $200 000 or $300 000 worth of equipment are put at risk, and some smart lawyer puts up a case saying, "There was some argument at the time whether the forest officer or the brigade

officer was in charge, so we deny liability" and the other fellow says, "I deny liability because we had not settled it either".

That situation needs to be clearly spelt out. It caused my colleagues and the National Party members in the other place many difficulties. If the Minister could clear up that matter once and for all, a lot of time would be saved. It is a real difficulty and worry. Everyone is happy to fight a fire when he can, but there are other considerations. No-one wishes to go into a situation where he is at risk of some injury. It is nice to know that one's loved ones are protected in the case of death or disabling injury sustained at a fire.

I began by saying that this was a simple Bill. I hope I have spelt out to the House and to the Minister in charge of it that there are some real concerns and difficulties. We have come a long way in fire control in this State, and we have come to the stage where many of us are very proud of it. There was some confusion in the debate in the other places as to the role of town fire brigades. That is not covered in this Bill. They also have built up an enviable reputation throughout Western Australia for the protection of people against fire. We are under no misapprehension about this Bill, although it caused difficulties in the other place.

The points I have made are the most salient in the debate. An enormous task faces the State in managing the large areas of land now under the control of the Department of Conservation and Land Management. The fire brigade movement can help in this area, and it is willing to do so for the reasons I have outlined. Only good can come out of this proposition.

I urge the Minister to have discussions with Hon. B. J. Hodge and see if he can be persuaded to my view that we make use of this force of willing workers who can help us to overcome the problem of managing this large mass of land the State now has under its control.

HON. TOM McNEIL (Upper West) [4.48 pm]: The National Party has no problems with this Bill. Like our colleagues, we are concerned, as we always have been, with the involvement of the bushfire groups as a whole in times of stress when a bushfire occurs.

Some 18 months ago in Lancelin the Army, having decided in extremely hot weather to conduct armed exercises using live ammunition, left the scene of the camp supposedly having dampened down in a professional manner the area they had used. They returned to their barracks only to find that within some 10 hours a fire was raging in that area. The Dandaragan Town Council and bushfire fighters were trying to contain the blaze. Some 24 hours later the Army returned to the scene. The fire was fought for some days, and shire equipment had to be used.

The Army received a bill for $27 000 for damage to shire equipment, but it would not meet the cost of fighting the fire or replacing machinery, so the shire received no recompense.

The matter went to Crown Law, and the Army denied negligence. Suffice it to say that we have not had a bushfire in that area since. We in this place know who started the fire, but could not prove it. The shire finished up $27 000 in the red as far as equipment was concerned, and $17 000 in additional expenses by way of fuel and burnt out tyres.

The point I make is that at a time of concern such as this there are not any bounds as to the amount of assistance one will receive. Even on that occasion the Army did come back and help fight the blaze. However, I can recall that the Chief Fire Officer at the time—and he was not a forestry officer—said to the Army personnel, "We must put a couple of graders through there." They said, "There is no bloody way we will go in there; there is live ammunition in there." They did not mind fighting the fire while they were unaware of what was there, but once they knew live ammunition was in the area they did not want to know about it.

Concern as to the designation of authority at the scene, as was pointed out by Hon. Bill Stretch, was expressed in another place by both the conservative parties. They were concerned that a paid officer of the Government who had authority to take command at the scene of the fire could pass this authority on to a volunteer who, for whatever reason, might make a decision that incurred loss of equipment and damage to property or life. The point made in the other place was: Would the officer who took charge as a volunteer be liable for any damage caused by carrying out the duties of being in charge of the firefighting units?

I notice that when the Minister was approached on this point he said, "For the third time, I give that assurance." The assurance was required by both conservative parties that, should a volunteer officer take over control of a fire and then make a mistake, he would not be liable under the Act. This is a most important point. Nobody in the farming sector minds go-

ing to a fire or coordinating all the various groups at his disposal to put up an effective force against fire; but in the event that a mistake in judgment is made we do not want there to be a possibility of other people coming back to that person at a later date and saying, "You are responsible; you are the person who ordered that group or equipment into that area, and as a result we are going to sue you."

Having stated the concern of the members in another place, and having read where the Minister has said, "For the third time I give that assurance", the National Party is prepared to accept that assurance and will not oppose this Bill.

HON. A. A. LEWIS (Lower Central) [4.53 pm]: I do not oppose the Bill, but would like the Minister to answer a few questions about it.

In his second reading speech the Minister referred to forestry officers or officers of the Department of Conservation and Land Management perhaps being junior and not very experienced in fighting fires. It could well be the situation—indeed, I have been in such a situation—where a person not very experienced in fighting fires is elected as a bushfire control officer. I wonder whether CALM is trying to throw away its responsibility to train people and equip them in the various areas. Surely CALM would not send an inexperienced officer to a farm forest fire on the border; or have we reached the stage, because of the complete demoralisation of the staff of CALM, where we do not have people of senior standing in that department to send to fires?

Already on the Table of the House is a revocation of forest order to take 40 000 hectares—100 000 acres—of forest into a national park situation. Who is going to do the burning of that land if CALM does not have the officers? We have read in the Press that CALM wants to take over half a million hectares of vacant Crown land in this State.

The bushfire associations in this State are the best in the world. Hon. Fred McKenzie, Hon. Vic Ferry, and I have travelled the world and seen comparisons. The Bush Fires Board is as useful as certain things on a bull. It has done nothing to strengthen volunteer bushfire brigades, and we have reached the point where this Bill leads us along the line taken by Victoria and South Australia; that is, that Government wishes to take over more land.

Many of us are seriously worried that the Government is going overboard in a couple of ways. Firstly, the Government has a policy, and has stated, that it wants to take over a great deal of extra land. It has proved by answers to questions in this House that it cannot do the hazard reduction burning on the land it has already. I want the Minister to tell me from where the resources will come to do the hazard reduction in the land the Government wishes to take over; from where the money will come for the maintenance of CALM's firefighting equipment, which has been neglected since the department was formed; and where the Government will find the money to train people for CALM so that they can go out and take charge of fires as is their duty.

I will make a few suggestions as to where the Government could save some money; I know the Minister is interested in that.

Despite strenuous opposition from the local members, the Bush Fires Board has stationed an officer at Manjimup. Manjimup happens to be one of the places very well served with CALM officers. If we lost 40 CALM officers we would still have more officers in CALM who know about fires than any officer appointed by the Bush Fires Board. For years the board has run a gin palace operation by asking people to come in and learn how to put out fires—and they are teaching their grandmothers to suck eggs—yet most of the people who attend the seminars are civil servants who never see a fire; and all they want is a keg of beer to come on at the end of the seminar.

[Questions taken.]

Hon. A. A. LEWIS: May I comment on our funny clock, Sir?

The PRESIDENT: No, you cannot unless it is on fire!

Hon. A. A. LEWIS: When I ceased my speech the clock showed 33 minutes past, and when the Opposition was asking questions it went to 31 minutes; when the Government was answering it went to 38 minutes, and now it is on 33 minutes. It is making a farce of the situation.

The PRESIDENT: The honourable member had 38 minutes remaining when he resumed his speech; he now has 37.

Hon. A. A. LEWIS: I will take issue with you, Mr President. There were 33 minutes on the clock; if the clocks are going to be used for the

benefit of members they should be accurate. I am not going to make any more than a small issue of it.

The PRESIDENT: Order! You are not even going to make a small issue of it. The fact is that the clock is accurate. Some human failure occurred inadvertently so that the precise time was not taken when your speech was interrupted by question time, and the clock continued. In the interests of ensuring that the honourable member was not short-changed, an extra five minutes was added and he then had 38 minutes. He is right, he did have 33 minutes and he now has 35.

Hon. A. A. LEWIS: Sir, I dispute that because you took up two minutes or so. My time should be 37 minutes because, according to your ruling on interruptions to a member's speech, I should get the extra two minutes. I am not going to take it further, but mucking around with clocks in this place and playing around with the system have gone beyond a joke.

To return to the Bill: as the Minister will be aware I know something about the subject. I am extremely worried that this Bill is based on the idea that penalties will cure our problem in regard to bushfires—penalties and a department shelving its responsibilities. It has been said that penalties in Victoria and South Australia have been substantially increased following the Ash Wednesday fires. When have we had fires comparable with those on Ash Wednesday? Is it a matter of luck that we have not had such fires? Of course not. We had a Forests Department and a volunteer bushfire brigade system in this State which had done the hazard reduction burning needed. Yet because Victoria and South Australia have increased their penalties, we are proposing to increase ours.

I ask the Minister to tell me how many times a breach has occurred and these penalties have been imposed. I doubt whether there have been more than one or two minor offences a year, and yet this Government, which is on a revenue hike with the Minister for Budget Management wanting more money, is obviously out to clobber people. No evidence is produced in the second reading speech of any need to increase the penalties. There has been a review by the Bush Fires Board in consultation with other States.

Hon. Vic Ferry and I made a special point of looking at the fire situation in Kilmore in Victoria, and Hon. Fred McKenzie will remember that. The situation there would not have been allowed to exist in Western Australia by the volunteer brigades—not the Bush Fires Board because that body has nothing to do with the actual day-to-day management of bushfires. The Minister can save $1 million by getting rid of the board and passing responsibility for fires to CALM, not to emergency services as he is tending to do, and let CALM and local government make the decisions about bushfires.

This is not a new approach by me. I have had these ideas for many years. I hope that most of the country members of this House agree with me. I ask them how often they have seen somebody from the Bush Fires Board in their areas and how often they have seen their own bushfire control officer. He is elected on a voluntary basis by the community. He has the job of saving our native vegetation and protecting the local community. He is part of the community and the Bush Fires Board is an outside entity.

Victoria and South Australia now have professional bushfire brigades and this Government wants to impose them on us. When we were in Kilmore, an area in which I lived 35 years ago, I asked why no burning off beside the roads had occurred. I was told that there was a professional country bushfire officer who did not think it was necessary. I told the farmers that it was their farms and I would not be allowing anyone to tell me what to do. One man, who was over 70, told me that he was too old to do it himself. I said that if he wanted to save his farm he should employ somebody to burn off beside the roads for him. I received no reply. We asked what had happened on the day of the fires at Kilmore. Wild oats were still six feet high within a foot of buildings because the professionals were looking after it, not the amateurs.

Hon. Neil Oliver: And the Army.

Hon. A. A. LEWIS: No, the Army had nothing to do with it. I wish Hon. Neil Oliver would look after his part of it and let me look after mine.

On the day of the Kilmore fires, an inspection was carried out by the chief of the country bushfires brigade. No-one was at home because they all had to line up beside the State-given firefighting chariot because the big boss was going to Kilmore to see whether the locals were doing the right thing by having their brass and shoes polished and their caps at the right angle

on their heads. The temperature that day was over 40 degrees. That is the sort of thing that goes on in Victoria.

I pay credit, though, to the western districts of Victoria because the people from that area gave this State its volunteer bushfires brigade. Those people came over here in droves and lectured us. I was a fire control officer at the time. The intention is now to install professionals who have no real knowledge of fighting fires.

Ash Wednesday in Victoria was caused by a series of events. People want to live an alternative lifestyle, but also want electricity and water and all the good things of life. They did not want to clear limbs away from powerlines, which is an absolute necessity in the bush. They also did not want to reduce any of the fire hazards underneath the lines or to burn the rubbish. They were allowed to get away with murder because the professionals were not game to take them on.

Hon. Bill Stretch and I have had dealings with CALM in relation to Jingalup, a low hazard area. Mr Stretch may not agree with me, but I believe it is a low hazard area.

Hon. W. N. Stretch: It can get hairy.

Hon. A. A. LEWIS: I agree that, if it is not burnt, it can get hairy. CALM does not have the time to carry out that task and it is the land that it controls that is giving us the problem. CALM's top officers are working their tails off trying to produce a report for the area. We need to get a better result from the Government, not just this "minus 36 per cent" sort of job. In five years the amount of land not burnt will double as will the time between burns and we will be in exactly the same position as Victoria and South Australia.

I see the same problems in the hills around the metropolitan area. We do not need a Bush Fires Board taking control of the outer metropolitan area. The amateurs know how to fight fires and know how to cooperate with CALM in relation to the forest and farming borders.

I want the Minister to tell me how many penalty increases there have been in the last five years. If the Minister is increasing penalties for the Government's sake in this Bill, we are wasting our time in this House. I am a farmer and one penalty really worries me. It relates to the failure of a landholder to extinguish a fire on his land. Will the Minister explain to me what happens when a fire control officer or an officer of CALM says that he will burn back 500 yards into a neighbour's property and the neighbour says there is no need to do that? Who is responsible? I think the answer to that will be that the fire control officer is in charge and everyone else is exempted. I think the Minister should look at that provision and provide me with the number of penalty increases. I realise that we may not complete the Bill tonight because some research will have to be carried out.

I want to know what are the penalties in Victoria and South Australia, and for what reason the Bush Fires Board has chosen Victoria and South Australia, probably the most inefficient bushfire fighting organisations in Australia, as its guide to penalties. I want to know the answer in the case of the failure of the landholder to extinguish a fire leaving his own property. I want to know why CALM wants to give away its control. I do not believe that this House can vote, firstly, for this Bill, and, secondly, to give CALM extra land. If CALM cannot control its fires and those of its neighbours, it should not be allowed to take over any more land until it can. The whole subject of bushfires should be considered by a Royal Commission or a Select Committee very soon. It is getting out of hand and so is the amount of money that we are spending on administration, by copying other States for the sake of it and not for any land management reasons. Fire is a land management tool.

We want an explanation before the Bill is passed and certainly before the Government is allowed any revocation of forests. The Government may have to toss up as to whether it wants revocation of forests and land put into CALM or this sort of amendment to the Bush Fires Act. That is the Government's problem; it is elected to govern; it has a mandate to govern. I know that it does not believe in one-vote-one-value or equality of people—we saw that last night. The Government members can wriggle and squirm as much as they like but the Government ruined the Bill from its point of view and made it succinct as far as I am concerned. We want the answers to these questions but I am sorry to give my great seafaring friend this sort of problem. I am sure that he, with his usual honesty, will supply the answers so that we shall know whether the Bill will go forward.

Western Australia has the best forest and bushfire fighting record in the world, not due to the Bush Fires Board but to the volunteers and the previous Forests Department, in the case of forest fires. I am horrified that Western

Australia should be copying Victoria, New South Wales and South Australia, which all envy our record. We do not envy their record.

I do not have the quote with me but Hon. Fred McKenzie and Hon. Vic Ferry will have seen a Tasmanian report on bushfires and forest fires in which it is stated that in this regard Western Australia is the greatest.

I want to know why we want these extra penalties and why we are going to change the order of things in our handling of bushfires. I have not seen an argument for change. I have seen a mild argument made above junior CALM officers, but those arguments can be rebutted when applied to a junior farmer who has no experience. These people have to gain their experience somewhere and usually during a fire there is someone senior in the vicinity who can tell them that it would be damned silly to burn in such and such a place and to burn elsewhere. I can remember being caught at a fire south of Broome Hill and Hon. John Caldwell was also there—I certainly remember the beer afterwards.

Hon. J. N. Caldwell: I remember the fire but not the beer.

Hon. A. A. LEWIS: The member has a selective memory. I would like these explanations from the Minister. I am sorry to cause him so much trouble because I know it is not his Bill but in the interests of this State the answers are necessary.

Debate adjourned, on motion by Hon. Fred McKenzie.

ACTS AMENDMENT (ELECTORAL REFORM) BILL

Reinstatement of Clause 8

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [5.36 pm]: I move—

> That in relation to the Acts Amendment (Electoral Reform) Bill so much of the Committee of the Whole House's resolution on clause 8 be rescinded with the effect and to the extent that subsection (1) and no more of that clause is reinstated.

After clause 8 was effectively eliminated from the Bill yesterday, I indicated to the Chamber that it was the Government's view that debate on the Bill should nonetheless proceed. That did not suggest any lack of recognition on our part about the importance of clause 8. The Government's view, however, is that a number of other very important matters are dealt with in this Bill and the House should have an opportunity of defining its attitude to them. Among these very basic propositions are those relating to the new dividing line between the metropolitan and non-metropolitan areas; the number of Assembly seats to be elected on each side of that dividing line; the question of moving from three-year terms to four-year terms; the proposal for all members of the Legislative Council to go to election simultaneously; and the establishment of a new Electoral Commission.

As I have said, all of these raise important questions and some clear indication of the House's attitude would be helpful in carrying forward the case of electoral reform. It was thought at the time—I confess I shared this understanding—that that discussion could proceed without any of clause 8 remaining. When we got into some difficulties on that proposition last night I suggested that we adjourn to allow the position to be clarified. The result of that process was to make clear that it would indeed impede the proposal to carry other matters forward if some minimum words of clause 8 could not be reinstated.

The motion I have moved would open the way to reinstating just the first four lines of clause 8 as printed; namely, that—

> Section 6 of the principal Act is repealed and the following section is substituted—
>
> Electoral regions and representation
>
> 6. (1) The State shall be divided into 6 electoral regions under the Electoral Distribution Act 1947.

There would remain no reference to the nature of the regions constituting those seats, or to the numbers of members to be elected to each. If I could indicate to the Chamber the procedure which I anticipate following—with its agreement—members will all understand that clause 8 cannot allow a fully fledged new electoral system to proceed in the form that I am now proposing to reinstate. A complete reform will require further consideration of how the regions are to be made up and represented. Given the reinstatement of these words, no purpose would be served by proceeding to vote on them. Therefore, I will move to have consideration of clause 8 deferred until the completion of consideration of clause 104.

I indicate to members at this stage, since concern was expressed last night as to the difficult procedure which might follow from that, that there are only two clauses which must necessarily be put aside as a result of the

proposed deferral of clause 8, and they are clauses 18 and 94. In order to simplify the procedure as far as possible, I propose in due course to move before any vote on clause 8 is taken that consideration of clauses 18 and 94 should also be deferred together with the deferral of clause 8.

I do not deny that the procedure I am now suggesting, which is a follow-up to the procedure which was put to the Chamber yesterday, is an unusual one. However, the issues are extremely important, and having come this far it would be a great pity not to clarify the views of the Chamber on the five specific issues to which I have referred, with the possibility thereafter of a recommittal or further consideration of clauses 8, 18 and 94 in the light of expressions of view which would result from a discussion of other parts of the Bill. I commend this motion to the Chamber.

HON. G. E. MASTERS (West—Leader of the Opposition) [5.43 pm]: This motion, which in the Attorney General's own words is most unusual, really supports the move by the Opposition over the past week to urge the Government to reprint the Bill. What developed last night was an absolute charade, where in fact there were difficulties in understanding when various amendments were to be debated and what position they took on the debating list, where they overlapped and where they did not. The words that the Attorney is proposing to put back into the Bill were critical to the debate. It was obvious that the various regional proposals were not going to succeed last night. It was obvious there was a great deal of common ground in other areas; however, it all depended on clause 8.

The various parties put their arguments forward as clearly as they could. The proper course of action would have been for the Attorney to withdraw the Bill, with a view to reprinting it and putting it into a consolidated form, and during that time to have attempted to reach some agreement on a regional proposal. It is obvious that all parties were keen to see some regional proposal coming forward. Whether there were differences of opinion does not matter; the principle seems to have been established. I would have thought some common ground could have been established over the next few weeks to justify the Government going back on this debate, because then members would all have known where they were going. As it is now, all that is being done is to introduce a device that will enable members to go through all the amendments put forward by the Government, the Liberal Party and the National Party. I do not know that there needs to be any more explanation than members already have. The amendments really put forward quite clearly the points of view of the various parties.

Every member knows that the Attorney General is a very smart operator, and no-one would have been in any doubt that he would come forward today with the sort of proposal that he has. If some members went home last night and thought this is all over, they would have been fooling themselves if they did not reach that conclusion. Knowing Hon. Joe Berinson, it was obvious that he would make the sort of move that he is making.

I would seek an explanation of whether what Hon. Joe Berinson is attempting to do is acceptable under our Standing Orders. I refer to Standing Order No. 187—

> Subject to Standing Order No. 245, no question or amendment shall be proposed which is the same in substance as any question or amendment which, during the same Session, has been resolved in the affirmative or negative, unless the order, resolution, or vote on such question or amendment has been rescinded.

The Attorney is seeking to rescind a vote. However, the Standing Orders go on at No. 188 to say—

> An order, resolution, or other vote of the Council may be rescinded, but not during the same Session, unless seven days' notice be given and an absolute majority of the whole number of members vote in favour of its rescision.

Does that not say that if the Attorney is seeking to rescind a decision of this House last night, there needs to be seven days' notice before the Attorney can proceed? I ask for a clarification before I proceed with my remarks.

The PRESIDENT: Has the Leader of the Opposition asked for a ruling?

Hon. G. E. MASTERS: Yes, otherwise I understand, if I sit down and Hon. Mick Gayfer commences, my remarks are finished.

President's Ruling

The PRESIDENT: Yes, that is precisely so.

Hon. G. E. MASTERS: So is it proper for me at this time to ask you, Mr President, to give an interpretation of the Standing Order that I quoted?

The PRESIDENT: I thought Hon. Mick Gayfer was going to ask a question in relation to the question that the member asked. The situation is quite clear. Standing Order No. 187 provides for the House to take the action that is proposed in the motion by the Leader of the House.

That is, it provides for the rescission of a motion previously agreed to. The Attorney General's motion simply proceeds to put that into effect. The honourable member then went further and asked a question in regard to the requirements of Standing Order No. 188, which reads—

> 188. An Order, resolution, or other vote of the Council may be rescinded, but not during the same Session, unless seven days' notice be given and an absolute majority of the whole number of Members vote in favour of its rescission.

I now draw honourable members' attention to page 2 of Standing Orders which defines the word "Council", and which reads—

> "Council."—Legislative Council of Western Australia or the Council sitting as a House in contradistinction to sitting in Committee.

What Standing Order No. 188 says is that if a decision is made by the House—that is, not a Committee of the House—then seven days' notice needs to be given of any motion to rescind that resolution. As the decision the Attorney General wishes to rescind was made while the House was in Committee, I am unable to find requirements in our Standing Orders to prevent the Minister from moving forthwith to rescind the decision. But further, I ask honourable members to reflect upon the purpose of the House going into Committee. One of the reasons for a House of Parliament going into Committee is that in Committee members can argue backwards and forwards, and alterations can be made to a Bill during the course of that Committee debate.

Standing Order No. 187 allows the House to take advantage of that in the same way as one would be able to if the Committee had not adjourned to a subsequent day. So the short answer is that Standing Order No. 188 does not apply, and the motion is in order.

Debate Resumed

Hon. G. E. MASTERS: I thank you, Mr President, for that interpretation. Obviously, I must accept your ruling but I think the Standing Orders need to be looked at. The fact is that if your ruling is correct—and it is—whenever the Government of the day in a Committee stage suffers a defeat, it will be able to bring the legislation backwards and forwards, if the House agrees, and that does not seem to be the way to deal with legislation of any sort.

I will raise that point at the appropriate time with the Standing Orders Committee and suggest that it ought to be looked at. I do not recall a similar situation occurring before. Nevertheless, the ruling is there and the Attorney General is in order. I suppose the Attorney General did the necessary investigation before he made this move and probably he half expected the decision which you, Mr President, have made. Nevertheless, I think it was a point worth making.

The words proposed to be reinstated are—

> 6. (1) That State shall be divided into 6 electoral regions under the *Electoral Distribution Act 1947*.

It does not sound over-important; indeed it is almost an off-the-cuff sort of comment which has to be—

Point of Order

Hon. H. W. GAYFER: I fully appreciate that Hon. Gordon Masters will now launch into a further discussion on clause 8, but I want to raise my objection to your ruling, Mr President, that the motion is in order. I was at the point of jumping up to argue the point of the motion rather than its consequential effect, if that was in order. Therefore, it would appear that to exercise my right at this juncture to argue the question, I must disagree with your ruling, Mr President. I am sorry that I have to do that—

The PRESIDENT: Order! Firstly, the honourable member has been in this place long enough to know that the time to take a stand as to whether he agrees or disagrees with a ruling by the Chair is when that ruling is made. Unfortunately, the honourable member cannot move to disagree with that ruling at this stage.

As far as Hon. Gordon Masters is concerned—and Hon. H. W. Gayfer can shake his head—

Hon. H. W. Gayfer: But, Sir, I jumped to my feet.

The PRESIDENT: The honourable member jumped to his feet prior to my giving the ruling. The honourable member did not jump to his feet after I gave the ruling. I spoke to the honourable member and indicated at the time he rose that I thought he was rising to make

some inquiry about the point of order that Hon. Gordon Masters had raised. At that stage I had not given a ruling.

Hon. H. W. Gayfer: With respect—

The PRESIDENT: I am happy that Hon. H. W. Gayfer should disagree with the ruling but unfortunately he rose too late to do so. In order to permit Hon. H. W. Gayfer to give the House the benefit of his knowledge on the subject, he can still give notice of a motion to move that the decision I made was wrong. He will be able to do that; that is the only facility I can offer him to exercise his right to advise the House that my ruling was wrong.

In the meantime Hon. Gordon Masters will not embark on a discussion about the merits of clause 8 of the Bill at all. What he is going to embark upon, if he wishes, is a discussion on the merits of whether or not the House ought to agree with the motion that is before the Chair; that is, whether or not the decision referred to will be rescinded. He cannot debate the merits of the contents of clause 8. He can only debate whether or not he agrees with that previous decision being rescinded.

Debate Resumed

Hon. G. E. MASTERS: I would beg to differ with that comment, Mr President, and again I seek your guidance; for if I were to seek to pursuade the House not to accept the proposal put forward by the Attorney General, surely I would have to give some reasons for it. The reason I am trying to give to the House is that the words which are to be reinserted could lead to a very dangerous situation and would, if left on their own, in my view be quite improper. For that reason I ask that somewhere along the line I be able to seek to amend those words so that there is some protection for the House and some protection for members during the debate.

The PRESIDENT: Order! The House is debating whether to rescind a motion that was agreed to by the Committee of this House and that motion was, "That the clause stand as amended". That is the motion that this House is now determining whether or not to rescind. Hon. Gordon Masters certainly cannot move any amendment to the words that are to be reinserted as a result of the successful passing of this motion. It is a very simple thing: The House either wants to rescind that motion or it does not want to rescind it. The merits of the original clause 8 are not the question before the House, which is whether or not the House should rescind the motion that the clause, as amended, stand as printed.

Hon. G. E. MASTERS: I bow to your ruling, Mr President. I felt strongly that unless I am able to put my argument forward I am hardly likely to persuade the members to my point of view.

Sitting suspended from 6.01 to 7.30 pm

Hon. G. E. MASTERS: I will not go into debate on the rest of clause 8 because that would be quite improper. Members know that clause 8 can stand on its own; it does not need proposed subsections (2) and (3). That point was made last night and on that basis members decided to reject the clause because proposed subsection (1) had certain implications and could be used for purposes we would not wish it to be used for.

This motion would reinstate proposed subsection (1). I would assume, from discussions with the Attorney General and his comments during the debate, that it would be the Government's intention to discuss clause 8 after the other clauses have been discussed.

Mr President, would it be possible under our Standing Orders for the Committee again to reject subsection (1) in clause 8—the part we are reinstating—and the House again decide to reinstate it at a later stage? Can I vote against that clause and again delete it during the next Committee debate?

The PRESIDENT: Hon. G. E. Masters has asked me to indicate whether, if this motion to rescind last night's decision is successful, the Chamber can at some subsequent time vote to delete the clause again. The answer, of course, is yes.

Hon. G. E. MASTERS: That takes a load off my mind. I wish to pose one other question for my benefit.

The PRESIDENT: Order! The procedure that is being discussed at the moment is very complicated and complex and if honourable members are going to carry on with audible conversations it makes my task very difficult if I am unable to keep close contact with what the honourable member on his feet is talking about. I ask other honourable members to refrain from audible conversation until we get this out of the way.

Hon. G. E. MASTERS: I want to be left in no doubt about this matter. If the Chamber decided to defeat clause 8 and come back to where we were, clause 8 would not exist at all. I

misunderstood the situation last night so I believe that point needs clarification. I urge members very seriously to vote against the Attorney General's proposal because the appropriate way to deal with this legislation is to rewrite or consolidate what the Government has put forward in both the Bill and 50 or more amendments. Of course, that is not the intention of the Government. My party will vote against the Attorney General's motion to reinstate certain words that have already been deleted.

HON. H. W. GAYFER (Central) [7.37 pm]: We have a motion moved by the Attorney General that so much of the resolution of the Committee of the whole House on clause 8 be rescinded with the effect and to the extent that proposed subsection (1) in that clause is reinstated.

That has been accepted by the House and certainly by yourself, Sir, as a correct procedure, basing your argument on Standing Order No. 187 which deals with motions and questions. Therefore, if that is your ruling I can offer no argument. You would hardly expect me to stand in this place and argue at this hour about the ruling made an hour and a half ago; and I have no intention of doing that.

Nevertheless, I do feel that the introduction of this motion, which allows a clause to be reinstated in the Bill, is hardly a proper procedure for the Attorney General to ask you to agree to for two reasons. Firstly, it is a highly irregular thing to do and, secondly, it sets a precedent. We had a lengthy debate on the issue—this was referred to by the Leader of the Opposition—and it was very clear that we were not ready to accept the clause, so we voted accordingly to disallow it.

The motion ruled correct by you, Sir—and it is moved in that manner by the Attorney General—is capable of amendment, and it is my intention to attempt to amend that motion. I do this for two reasons. The first is my belief that it is the only way that Standing Order No. 261 dealing with Bills cannot be taken lightly. It is a procedure which says that no new clause or amendment shall be proposed which is substantially the same as one already negatived by the Committee.

Hon. Garry Kelly: We are not in Committee.

Hon. H. W. GAYFER: It does not matter. It was negatived by the Committee. When we go back into Committee, unless my amendment is agreed to, there will be before it a clause which the Committee has already negatived. That could not, in my humble opinion, be discussed at the Committee stage; there is no jurisdiction.

Your ruling, Sir—and I have to agree with it—is most correct; but an entirely different ruling would have to be given by the Chairman of Committees as soon as we return to the Committee stage, unless that is disagreed with in Committee.

My problem is, of course, that when it comes to the Committee stage my persuasive eloquence might not be sufficient to convince the Chairman of Committees that the clause is wrongly within the Bill under discussion at that stage. But I am convinced there is no way that we can discuss that clause in Committee without its being amended, or being different from what it was when it was removed from the Bill.

I am rather concerned. I do not know whether my procedure should be to amend what is going to be wrong—and I will argue this in Committee—whether it is right that I should endeavour to amend it now and speak on the reasons for the amendment so that it would then go to the Committee stage in an amended form which should satisfy the Chairman of Committees, or whether I should leave it as it is and have it sent back when it is entirely wrong that it should even appear before the Committee. I am in a quandary.

The second part of my objection is that anything can happen in this wonderful and glorious place. We may agree, for example, to reinstate this in the Bill. There is nothing to say it is in the Bill just for the purpose of discussing the Bill. It becomes part of the Bill. The House could be prorogued. It may be part of the Bill not agreed to and not proclaimed. Nevertheless, in the future it could appear that that was what we intended—a State to be divided into six parts—and that was the stage we had reached when the House blew up, or an accident occurred, or something.

If we are to come down with ideas of doing things which are irregular, for heaven's sake let us try to do it in some form which will make it regular. That is all I am endeavouring to do.

The PRESIDENT: Order! Just to put the record straight, I remind the honourable member that I have already ruled that the procedure is not irregular. It may be unusual, but it is not irregular.

Hon. H. W. GAYFER: I accept that. I meant it would be irregular when it reached the Committee, not in front of you, Sir. Nothing is ir-

regular in front of you because you have ruled that way and I agree with your ruling. There is nothing wrong with your argument.

Secondly, to get over the problems in the back of my mind, we should ask the Committee to consider something from the House which should not apply in the Committee stage. I am afraid that something may happen which will cause this to remain forevermore as though it was a signal of correctness from the House itself.

Amendment to Motion

I move an amendment—

To add the following words—

> provided that this order shall lapse if the question "That clause 8 stand as amended" is not resolved prior to 7.00 am on Thursday, 28 May 1987.

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [7.49 pm]: I oppose this amendment. Indeed I have the greatest difficulty in understanding the point of it.

In the first place, I believe that the contents of the amendment constitute a fundamentally bad idea. The idea is that we should now, in advance of consideration of a very lengthy Bill with a huge list of amendments, commit ourselves to a timetable for reaching a conclusion on clause 8.

As I understand this amendment, Mr Gayfer is suggesting that clause 8 be discussed and a decision arrived at by 7 o'clock tomorrow morning. I have already indicated that it is my intention, given the carriage of the motion, to move that clause 8 and consequential clauses have their consideration deferred until the completion of consideration of clause 104. It is in the consideration of the clauses between clauses 8 and 104 that it is hoped the decision of the Committee on a number of important questions will be clarified, and that perhaps some guidance will be provided as to the way in which the Government should seek to have the substantive parts of clause 8 considered.

The truth of the matter is that the substantive parts of clause 8 so far do not exist, because the words to be reinstated under my motion go only to the bare bones of the proposed Council system. It goes no further than a reference to six regions. It says nothing about the nature of the regions or the number of members to be allocated to each; and it must be very clear to all members that consideration of clause 8 cannot be completed until this Chamber turns its mind once again to those fundamental questions about the nature and form of the regions which are referred to in the four lines to be reinstated.

Given that context, to purport to set a timetable limited to 7 o'clock tomorrow morning is totally unrealistic. It cannot be done—I can guarantee that now. In the first place, I am not planning to sit through until 7 o'clock tomorrow morning. I do not know what other members' ambitions run to, but it is not my ambition to sit through the night to 7.00 am.

The next thing that must be acknowledged is that even if we did sit until 7.00 am we might not reach clause 104. There are many important issues to be discussed in the meantime. We would therefore have the absurd position of now deciding to proceed but ensuring in advance that the whole purpose of the exercise is frustrated. If Mr Gayfer wants to frustrate it, he should vote against my motion; but I hope he will not. I hope he will support the motion, for the purposes that I have outlined—namely, to ensure that the remaining important elements of this Bill are fully aired in this House and that the House makes a determination on them. I hope he will support the motion on that basis. However, if it is in fact his opposition to that that he is trying to express through the amendment, I can only say it is better to oppose the motion now than to set, not simply an impractical, but an impossible timetable as well.

That relates to the content of the amendment; but putting the question of its objective desirability to one side I must say that I really do not understand how Mr Gayfer can advance this amendment as curing the problems which he perceives the Chairman of Committees facing in a few minutes' time. Unless I misunderstood the honourable member, he was saying that there is something wrong with this procedure which would put the Chairman of Committees, when he took his place, into difficulties. If he is right, the amendment will not help the Chairman. But, as I would ask the Committee to accept, Mr Gayfer is not right and the nature of the proceedings would not create the problems he fears.

I turn firstly to his reference to Standing Order No. 261, which provides—

> No new clause or amendment shall be proposed which is substantially the same as one already negatived by the Committee . . .

The purpose of the present procedure is not to open the way to a new clause or amendment which is substantially the same as one already negatived by the Committee; the purpose of the procedure is to rescind the previous rejection by the Committee and to reinstate the original provisions. So even if Standing Order No. 261 is relevant in a general way, I put it to the House that it is not appropriate in the particular circumstances which the motion seeks to cure.

As well as that, I should say that perhaps I could have overcome this concern by Mr Gayfer had I extended my earlier comments to indicate a consequential amendment that I have, subject to the carriage of this motion.

Hon. D. J. Wordsworth: We do not have a copy of that.

Hon. J. M. BERINSON: I have not moved it yet.

Hon. H. W. Gayfer: I have not heard that there is to be an amendment.

Hon. J. M. BERINSON: I concede that I could have allayed these concerns had I indicated in my introduction to the motion that this was the first stage of a procedural process. I did not do that, and if it led members astray I apologise for that. All I can do is to apologise and indicate the further process now.

Given the agreement of the House to the present motion, and an obligation to the President pursuant to Standing Order No. 430, I propose to move—

> That Standing Orders be suspended so far as to enable any further amendment to, or postponement of the clause before the question 'That clause 8 stand as amended' is put to the Committee on the Acts Amendment (Electoral Reform) Bill without a recommittal intervening.

I have had this proposed further motion copied during the dinner suspension.

Hon. H. W. Gayfer: Will it be presented to the House or to the Committee?

Hon. J. M. BERINSON: To the Committee. I believe that if there are no remaining concerns, it is the further motion which should cure the sort of problem that Mr Gayfer contemplates. However, I basically do not accept that the problems are there; nonetheless, it is important that we clear the decks in all respects, and I believe the further motion would do so.

Although it is premature, and I am not suggesting it is for the purpose of cutting short this debate, at the completion of my comments I will ensure that the further proposed motion is circulated.

HON. D. J. WORDSWORTH (South) [8.00 pm]: Hon. H. W. Gayfer's amendment has a certain amount of attraction for me despite all that the Attorney has said, because it would appear that after serious thought overnight it has been found that we cannot proceed in Committee with the other clauses because of a deficiency with clause 8. We are now being asked to reinstate clause 8.

If we reinstate the clause and then proceed, only to find ourselves in exactly the same situation in a couple of hours and we cannot proceed, and the Attorney again calls for progress to be reported as he did last night, we will have one major difference: When we knocked off last night, we did not have provision in the Bill for six regions; but if later tonight we find we cannot continue and the Attorney moves to report progress, the Bill will contain provision for six regions. That is the difference, and that is what Mr Gayfer is trying to overcome.

Hon. J. M. Berinson: That is not correct. I have already indicated that the Bill will not have six regions since no vote will be taken on clause 8. Consideration of the clause will be deferred until the completion of the rest of the Bill.

Hon. D. J. WORDSWORTH: But if later in the night we find ourselves unable to continue—

Hon. J. M. Berinson: It is an unresolved question.

Hon. D. J. WORDSWORTH:—we will have six regions in the Bill.

Hon. J. M. Berinson: Yes, but it has no effect, since it has not been voted on.

Hon. D. J. WORDSWORTH: If we are not being asked to vote now to put back the six regions in the Bill, I will go "he". Surely our vote will see the six regions put back into the Bill?

Hon. E. J. Charlton: Just to put it in, not to debate it.

Hon. D. J. WORDSWORTH: What does that mean? It sounds a bit Irish.

Hon. J. M. Berinson: You have had experience of a particular clause being passed over or deferred for later consideration. When that

happens, it has no status in terms of a decision of the Committee. It is simply something to be considered later.

Hon. D. J. WORDSWORTH: My only concern is that by placing the clause back in the Bill, the House is indicating that it accepts the six regions.

Point of Order

Hon. N. F. MOORE: Mr President, I seek clarification from you on one point before I make my comments on the amendment moved by Mr Gayfer. If we agree to the motion moved by the Attorney General to rescind the decision we took last night so that proposed new section 6(1) is reinstated, will that mean that the subsection simply becomes part of the Bill and has then to be debated at a later time, and that the decision to rescind last night's vote does not indicate a change of view from being one against the clause to one in favour of it?

Hon. D. J. Wordsworth: In other words, it will be a postponed clause?

Hon. J. M. Berinson: Yes.

Hon. D. J. Wordsworth: Why didn't you say so?

The PRESIDENT: Honourable members, I am not terribly sure whether I am good at explaining things clearly, but in my mind the situation is perfectly clear, and I shall try now to get out what is in my mind.

If the House agrees to the motion moved by Hon. J. M. Berinson, the stage that clause 8 will be at is that it will have been amended in such a way that it reads—

> Section 6 of the principal Act is repealed and the following section is substituted—
>
> Electoral regions and representation
>
> 6.(1) The State shall be divided into 6 electoral regions under the *Electoral Distribution Act 1947*.

If no-one did anything else after that occurred, the Chairman of Committees would say, "Honourable members, the question now is that clause 8 stand as amended." But before he did that, I would anticipate that the Attorney General would move to postpone discussion on clause 8 until some later time, so that a vote will not have to be taken at that point as to whether that amended clause 8 should stand.

The Attorney is nodding his head, so obviously I have explained it so that he understands it as I do, which pleases me.

Because of the unusual nature of this I do not believe that honourable members should proceed without fully understanding what is involved. I believe that answers the queries raised by Hon. N. F. Moore and Hon. David Wordsworth.

We are debating the amendment moved by Hon. H. W. Gayfer, and subsequent discussions must relate to that until it has been dealt with.

Debate (on amendment to motion) Resumed

HON. N. F. MOORE (Lower North) [8.08 pm]: Thank you, Mr President, you have clarified the matter in my mind. Clearly when we talk about rescinding something it does in a sense imply we are accepting the alternative, but in this case, as you pointed out to us, Mr President, it does not mean that.

What the Attorney is asking us to do with clause 8 is to have proposed new section 6(1) reinstated in the Bill, to proceed to debate the rest of the Bill, and then to come back to that clause after we have finished the rest of the Bill. The reason for his saying that is that it will enable us to debate the rest of the Bill on the assumption that there will be six regions.

Last night the Committee decided there would not be six regions; it tossed out that particular clause. Hon. H. W. Gayfer has moved an amendment to the Attorney's motion because he is frightened that this clause providing for six regions could be left in the Bill, although your clarification, Mr President, may have allayed some of his fears. His concern was that by passing the Attorney's motion we would be demonstrating that we accepted the clause as part of the Bill. He was concerned that, for some reason down the track, the Parliament might be prorogued or whatever and the clause would remain as part of the Bill and would be seen as an acceptance, in principle, by the Council of the view that there should be six regions.

Following your explanation, Mr President, I do not think that we need to worry about Mr Gayfer's concerns. I think we may not need to support his amendment. However, I make the point that it is my view that we should reject the motion moved by the Attorney General for all the reasons we raised last night. The House has already made a decision that there should not be six regions. He is now seeking our cooperation in putting that decision in the back of our minds, going through the Bill, and then coming back at the end of the Committee debate and deciding whether we will have the six

regions. The House has made its decision already. It should stand and we should defeat the Attorney General's motion.

HON. E. J. CHARLTON (Central) [8.11 pm]: This Bill had finally reached the Committee stage. I thought before last night that it would have been far better for clause 8 to be passed over and for the rest of the Bill to be discussed before clause 8 was considered. That was not done, and I believe we now have two options. We can reject the Attorney General's motion and the amendment moved by Hon. Mick Gayfer, and virtually stop proceeding with the Committee stage of this Bill; or we can pass the Attorney General's motion enabling the Bill to be further debated to its conclusion, with the provision that clause 8 be debated at the end of the Committee stage.

Most clauses in the Bill relate in one way or another to clause 8. If members desire this matter to be cleared up once and for all, they should allow the Attorney General's motion to proceed. We should proceed quickly with this debate without placing time constraints on it. It should be a very simple exercise. All members have to do is to cease this long protracted debate of every clause of the Bill and simply vote on amendments.

The amendments were placed on the Notice Paper a week ago. Members have had sufficient time in which to consider each of them and to know how they will vote on each of them. I believe our intentions should be to finalise this Bill and to get it out of the road.

Hon. H. W. Gayfer's amendment seeks to do what I am now proposing—that is, to see the whole matter finalised. If the debate continues in this way, we could spend until midnight tonight deciding whether we will agree with the Attorney General's motion.

Hon. N. F. Moore: It was decided last night that the clause should be deleted.

Hon. E. J. CHARLTON: I have said already what I believe should have happened, and it did not happen. If we want the matter finalised, we should cease this long-winded debate on each clause and get it over with.

HON. V. J. FERRY (South West) [8.15 pm]: I had no intention of entering this debate until Hon. Eric Charlton made his fascinating comments. He suggested that the Committee stage should proceed without our debating the clauses. If that is the case, I suggest that Hon. Eric Charlton stay at home and vote by telephone.

Hon. D. K. Dans: He said "at length".

Hon. V. J. FERRY: I reinforce the argument used by previous speakers on this matter that last night the Committee made a decision to defeat the clause, and that was that. The House should now stand by that decision. It has been pointed out that it would be competent for the House to reinstate that clause. If we did that again and again, we would never conclude this debate. The whole thing is ridiculous. I believe the House is making a mockery of its procedures by endeavouring to reinstate a clause that the Committee has deleted.

HON. ROBERT HETHERINGTON (South East Metropolitan) [8.17 pm]: I oppose the amendment and support the Attorney General's motion. In an effort to make what we are debating perfectly clear, I point out that the House is not debating a decision of the House. The Committee made a decision, and the Committee has reported that decision to the House. This House can now override that Committee's decision if it wishes.

Last night we reached the position where clause 8 ceased to exist, except as a number. That makes it impossible for the Committee to discuss other clauses of the Bill. The Attorney's intention is that other clauses of the Bill should be discussed so that we can find out whether there is agreement between the parties on other parts of the Bill. If we can find there is agreement, it may then be worth our returning to a discussion of clause 8. As I see it, clause 8 cannot be discussed without its being recommitted in Committee or without the Attorney's moving for the suspension of Standing Orders, which is intended by his motion.

Hon. H. W. Gayfer's amendment intends to negate the intention of the Attorney's motion. The Attorney, by his motion, wants this House to continue to act as a Parliament, a place where we can talk to one another. It is time we talked this out. I certainly do not want to talk it out until seven o'clock tomorrow morning.

I think Hon. Vic Ferry's remarks about Hon. Eric Charlton were drawing a long bow. Hon. Eric Charlton said that we should not talk at length on each clause as we might otherwise do, even though there should be a full and free discussion. This is what the Attorney's motion will allow and what the amendment will prevent.

I would certainly like to debate this matter tonight and tomorrow until we find out what

kind of consensus there is and whether the Government wants to again look at clause 8 to try to get agreement, or whether the Bill will be allowed to lapse. For this reason, I ask the House to reject Hon. H. W. Gayfer's amendment and accept the Attorney's motion.

HON. A. A. LEWIS (Lower Central) [8.21 pm]: Mr President, I would like to ask you a question. If the motion is agreed to, we go into Committee, and clause 8 finishes up at the same stage as it did last night, will we come back tomorrow with the Attorney moving his motion again? We made the decision 24 hours ago.

Mr President, you are an expert on Standing Orders. Is it allowable for the same question to be brought back again tomorrow night if the Government is defeated on the clause or the clause lapses? I would like an answer to my question because we could go on ad infinitum with the clause being brought back under the sort of motion being used by the Attorney General. How often can such a motion be moved in the House?

The PRESIDENT: Order! Honourable members, there seems to be some sort of fear that an attempt to rescind a motion or a decision is an action that is not contemplated by the Standing Orders of this House. That is not correct. The Standing Orders of this House contemplate that there will be, or may be, from time to time, a necessity to rescind a motion.

What started out earlier tonight in the way of queries was simply whether or not the particular method that was being adopted for the purpose of rescinding last night's motion was a proper procedure. I ruled that it was a proper procedure. Whether it was a proper procedure or not still does not remove the fact that it is proper for the House to rescind an action it has taken.

It is now beyond the stage of anybody arguing the point about whether it was proper, because I ruled that it was proper and I stand by that ruling. I am sure that every member has subsequently agreed with that ruling.

To answer the question raised by Hon. A. A. Lewis, the answer is simply that I gave a definition earlier of the term "Council". I point out to honourable members that on page 2 of the Standing Orders there is a definition of the term "Council". If the decision members are making now were subsequently desired to be rescinded, then Standing Order No. 188 would apply, because the House is not in Committee. The House is sitting as the Council. Therefore, to rescind this motion would require seven days' notice.

Does that answer Hon. A. A. Lewis' question?

Hon. A. A. Lewis: I will ask another question.

The PRESIDENT: That is the question I thought Hon. A. A. Lewis asked.

Hon. A. A. LEWIS: Even with seven days' notice—let us assume that seven days' notice is agreed to under Standing Orders—another rescission motion could be brought forward. How often in the one session can the Government, having had its motion defeated, move to rescind a motion? In 24 hours we have had four prospects.

Point of Order

Hon. E. J. CHARLTON: Is the question relevant? It has nothing to do with the amendment before the Chair.

The PRESIDENT: Order! I will allow the question.

Debate (on amendment to motion) Resumed

Hon. A. A. LEWIS: I am sorry that I upset Hon. Eric Charlton.

Hon. E. J. Charlton interjected.

The PRESIDENT: Order! I am allowing the question.

Hon. A. A. LEWIS: How often are we able to go through the process?

The PRESIDENT: As the member has now asked the question, I will answer it. The House has the solution in its own hands now. It can defeat the motion. If a member wishes to move to have that decision rescinded, it would require seven days' notice. If subsequently the motion is defeated again and a member wants to rescind it, he would give seven days' notice. If another member wanted to rescind the motion again, he would be required to give seven days' notice, and so on.

Hon. A. A. LEWIS: Sir, you would have very little hair left at the end.

The PRESIDENT: One of the things that I have that perhaps other members do not have is explicit faith in the intelligence of members of this House that they would not do that.

Amendment, by leave, withdrawn.

Motion Resumed

Question put and a division taken with the following result—

Ayes 19

Hon. J. M. Berinson	Hon. Tom Helm
Hon. J. M. Brown	Hon. Robert Hetherington
Hon. T. G. Butler	Hon. B. L. Jones
Hon. J. N. Caldwell	Hon. Garry Kelly
Hon. E. J. Charlton	Hon. Tom McNeil
Hon. D. K. Dans	Hon. Mark Nevill
Hon. Graham Edwards	Hon. S. M. Piantadosi
	Hon. Tom Stephens
Hon. John Halden	Hon. Doug Wenn
Hon. Kay Hallahan	Hon. Fred McKenzie *(Teller)*

Noes 14

Hon. C. J. Bell	Hon. N. F. Moore
Hon. Max Evans	Hon. Neil Oliver
Hon. V. J. Ferry	Hon. P. G. Pendal
Hon. H. W. Gayfer	Hon. W. N. Stretch
Hon. A. A. Lewis	Hon. John Williams
Hon. P. H. Lockyer	Hon. D. J. Wordsworth
Hon. G. E. Masters	Hon. Margaret McAleer *(Teller)*

Question thus passed.

Point of Order

Hon. D. J. WORDSWORTH: To my way of thinking, under the procedure which we have just adopted, this Bill is not before the House. Normally one has a recommital, and then the House is in a position to decide what to do about the Bill. Are you, Sir, going to send a message to the Chairman of Committees from the House to reinstate this clause, or how will the matter be dealt with?

The PRESIDENT: The situation is that the House has now made a decision. That order becomes effective immediately. When the House goes into Committee, the Committee is automatically in possession of the actions of the House. Quite properly, the House was not in Committee when the Attorney General moved his motion. Order of the Day No. 1 was called. Immediately, before the House went into Committee, the Attorney General rose and moved a motion. In the same way as a second reading debate is concluded and the House immediately goes into Committee—the President does not give a message to the Chairman of Committees—when the House goes into Committee now, it will be in possession of that information.

Hon. D. J. WORDSWORTH: My understanding is that the Leader of the House does not move that the House go into Committee again when he moves that Order of the Day No. 1 or No. 15, whatever it is, takes place. The Chairman automatically moves into the chair because the House is in Committee.

Standing Orders Suspension

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [8.34 pm]: Pursuant to Standing Order No. 430, Sir, I seek your indulgence to move without notice for the suspension of Standing Orders. The reason for the urgency is the importance of finalising this matter before the forthcoming long recess of the Parliament.

The PRESIDENT: Standing Order No. 430 requires the indulgence of the President. I consider the matter of such urgency that leave is granted.

Hon. J. M. BERINSON: I move—

> That Standing Orders be suspended so far as to enable any further amendment to, or postponement of, the clause before the question "That clause 8 stand as amended" is put to the Committee on the Acts Amendment (Electoral Reform) Bill without a recommittal intervening.

This has been circulated, and I think its intention will be clear. It is my intention, on moving into Committee, to move that consideration of clauses 8, 18, and 94 be postponed until the completion of consideration of clause 104. The carriage of the motion I am now moving would then allow the Committee to deal further with clause 8 in any way it thought fit.

HON. G. E. MASTERS (West—Leader of the Opposition) [8.36 pm]: I would like to clarify this in my own mind, because I do not know who writes these things, or if anyone in the House has taken the opportunity to examine the wording.

Hon. A. A. Lewis: We have only just received it.

Hon. G. E. MASTERS: I do not believe anyone outside the Parliament who is not used to this language would have the faintest idea what it means. Let me ask if my understanding is correct.

Does it mean that the Minister intends to defer clause 8 and two other clauses until after the rest of the clauses in the Bill have been debated? When we come to clause 104, the Attorney General will bring on for debate clause 8 and the other clauses, and the Committee will then be able to debate those clauses and, if necessary, amend them, reject them, or whatever. He has worded this motion so as to enable him to do that and debate those clauses

without having to come out of Committee and recommit the Bill. Is that the purpose? In other words, the Minister will not have to seek the permission of the House to recommit those clauses?

The PRESIDENT: That is the position.

Question put.

The PRESIDENT: To be carried, this motion requires an absolute majority. I have counted the House; and, there being no dissentient voice, I declare the question carried.

Question thus passed.

In Committee

Resumed from 26 May. The Deputy Chairman of Committees (Hon. John Williams) in the Chair; Hon. J. M. Berinson (Attorney General) in charge of the Bill.

Point of Order

Hon. H. W. GAYFER: My point of order relates to Standing Order No. 261. As you will recall, Sir, the Council a short time ago rejected my amendment which, had it been carried, would have allowed clause 8 to be rightfully included and put before the Committee because it was in an amended form then.

However, the Bill before us now contains clause 8 in a form which was finally knocked out by this Committee. Therefore, it is my belief that a clause or amendment has been included which is substantially the same as one that has already been negatived by the Committee. Therefore, I believe that the Committee stage should not be entered into with clause 8 reinstated in the Bill: It is exactly the same clause that was negatived and thrown out by the Committee, yet it has been reinstated for the Committee's approval without any amendment. That was the reason I moved the amendment.

I moved my amendment before the House when I wanted to add some other words to make it different from what was thrown out. My point is clear to me, if not to anybody else.

The DEPUTY CHAIRMAN (Hon. John Williams): This is not a new clause or an amendment; it is the original clause which has been reinstated by the House, and the House overrides the Committee.

Committee Resumed

Hon. J. M. BERINSON: I seek leave of the Committee to revert to clause 8, and I explain that the purpose of my seeking this leave is to enable me to move the foreshadowed motion to defer consideration of this and other clauses until after consideration of clause 104.

Leave granted.

Clause 8: Section 6 repealed and a section substituted—

Hon. J. M. BERINSON: I move—

> That consideration of clauses 8, 18 and 94 be deferred until after consideration of clause 104.

Hon. A. A. LEWIS: I do not agree to the Attorney General's motion. I believe that if we are dinkum about dealing with electoral reform—and we have had lectures from the honourable gentleman ad nauseam about being genuine and dinkum in dealing with clauses—he should tell us what is in his mind. We can go on and defer these clauses, but we will get nowhere. We must have some guidance as to where the Attorney General thinks he is going so that the Committee can decide what is going to happen.

I tend to agree with Mr Gayfer; I personally do not think that clause 8 should even be discussed again, but there have been rulings and decisions made that it will be discussed. I do not believe the Attorney General should be allowed to duckshove the clause under the carpet until he tells us what he thinks he is going to bring back at the end of the Bill. I do not believe we can fairly discuss the Bill until we know what is in the Government's mind about the standing of seats in regions, and everything else concerning the upper House. We have no guidance from the Attorney General because last night all four propositions were locked out.

Has the Attorney General something else in his mind that he is going to bring forward, or is he simply going ahead and have us debate the Bill and waste time? We have seen the Attorney General do that before and then pull out and say, "That was bad luck, chaps, let us have another go next time." I do not think the Committee should have to put up with that. When the Attorney General moves to consider these clauses at a later stage, he should give us some idea of what the Government has in mind.

Hon. N. F. MOORE: I agree with the comments of Hon. Sandy Lewis. He is quite right; the Attorney General is asking us now to consider the rest of the Bill on the assumption that there will be six regions and that clause 8 will be reconsidered. We should be given some indication as to what else will go into clause 8 before we consider the rest of the Bill, because it is germane to the whole argument.

The Committee decided yesterday that it did not want to have six regions; it has already decided that. The House has not decided that; it has simply said, "We will put it back into the Bill." My view is that we should debate clause 8 now. Let us make another decision; let us decide whether or not we will have six regions. Let us not sit around here for the rest of the night debating clause after clause on the assumption that there will be six regions, because we have already decided there should not be six regions.

Hon. J. M. BERINSON: I have moved my motion to honour an undertaking which I gave to the House. The undertaking was that I would move to have consideration of these three clauses deferred, and on my understanding of the position it was to a large extent on the basis of that undertaking that the House agreed to carry the motion which I proposed. I want to honour that undertaking. I think it is important to honour it, and that the Committee proceeds in accordance with the consequences that flow from that.

I have previously made it clear this evening that the purpose of continuing debate on the Bill altogether relates to the desirability of getting some clear indication on a number of important issues which do not relate directly to the question of regions. These questions include the positions of new dividing lines to be drawn between metropolitan and non-metropolitan seats, the division of the seats in the Assembly, and their allocation on either side of that dividing line. All of these matters—the question of Council members going at one time and the question of four-year terms—are matters on which the Government believes it is important that this Chamber should declare a position. Then one will come back to the crunch question of the Council.

I can only tell Hon. A. A. Lewis that I cannot anticipate what the Government will propose at the end of the day because that has not been decided. I make no bones about it. Hon. Norman Moore is correct. My understanding is that the discussions we are to have on all those other matters will have, as their basis, the fundamental but incomplete position of a Council elected from six regions. There is no point in getting away from that, but it is the furthest extent on which Hon. Norman Moore was correct. He was not correct when he said that the Chamber had rejected the notion of six regions.

In fact it was very clear from the debate at an earlier stage on clause 8 that a majority of members in this Chamber supported the notion of six regions. What they did not agree on was the boundaries, the nature, and the number of members to be allocated to each region. It was very clear, however, that the notion of six regions was acceptable to a majority of members.

Hon. N. F. Moore: It was defeated by a majority of members in Committee.

Hon. J. M. BERINSON: Hon. Norman Moore knows very well why it was defeated at the end. One of the reasons was—and I confess it readily—that I did not understand the procedural problems to which that would lead. That is the long and the short of it.

Members will recall that as part of that process, while I argued for the retention of the first four lines of clause 8, that was done in a very relaxed fashion and not as raising a serious issue at all. In principle it does not raise a serious issue, but in practice it does. That is what the Council found last night. We found that the Government wished to clarify these further questions, which were impeded very much by continuing on the basis that those four lines were not there. That is why we have gone through the remedial procedures tonight. That is where we are at, and I think we ought to proceed on that basis, with an understanding that there is no commitment to any particular form of a six-region system, nor is there any final commitment to a six-region system at all. But there is an understanding that the sensible further discussion of this Bill should proceed on the basis that we are contemplating, at a later stage of the proceedings, bringing back the six-region system for consideration in one form or another.

Hon. H. W. GAYFER: I moved an amendment earlier because the very thing I was frightened of is now happening. Clause 8 has become very substantial indeed. The Attorney General said earlier to the Chamber that clause 8 is just a "bare bones" clause. He said there was nothing there.

Hon. J. M. Berinson: That is right.

Hon. H. W. GAYFER: I challenge the Attorney now to say that it is just a clause made up of bare bones; it is in fact a skeleton on which the Government hopes to build something.

I am now fighting the intention of what the Attorney said. I wonder whether this Bill will be properly discussed by this Chamber, because I believe this Chamber has been misled as to why the legislation should be before it. That is my argument.

I argued before we went into Committee that it was the right of the Chamber to have a Bill brought properly before it. It would appear that where last night the Attorney's attitude was, "Let's forget about clause 8 and the fact that you voted it out. Let's get around this; I will be cooperative. Let us forget that you knocked it out so that we can progress down the line and can get a feeling. We don't really want this feeling to become a discussion now but we want a feeling of which way the Chamber might consider the Bill, clause by clause. We don't want to do anything at this stage because now clause 8 is not acceptable to you, the Bill is emasculated; but let's pull it back and work around that point. We now know where the National Party stands and we know where the Liberal Party stands, and the Government will cooperate by not continuing with clause 8."

That was my understanding—that the Government was not continuing with the clause by deleting it from the legislation and letting the Bill go, with talk in *Hansard* of what the legislation meant clause by clause. That is my understanding of what the Attorney was driving at.

For some reason I distrusted that line. I had a feeling at the back of my mind that the situation might not be exactly as we were told. If this is the case—that is, that it is exploratory now—and there is no intention of going any further than exploring the legislation clause by clause in order to find out the opinion of the Chamber while not proceeding with it any further, I must ask the Attorney a question which will, once and for all, prove that he is genuine. Will the Attorney now recognise pairs?

Hon. J. M. BERINSON: I feel like a character out of Kafka. I know I am being accused of something, but I really am not sure what. All that has happened so far is that I have moved a motion which I undertook earlier to move, and which I believe was a factor in attracting the support of the Chamber for the various propositions I have put forward.

There is no conspiracy here, and I do not have the power to enter into any sort of conspiracy which will produce some dreadful result which Mr Gayfer apparently contemplates. The facts are as the President put them to the Chamber a little while ago. We have an abbreviated clause 8 which has no status other than its presence as a clause in the Bill on which no decision has been made.

Hon. H. W. Gayfer: A decision was taken; it was thrown out.

Hon. E. J. Charlton: It has been reinstated.

The DEPUTY CHAIRMAN (Hon. John Williams): Clause 8 has now been reinstated. That was done by the House. Clause 8 will not stand until such time as it is put to the Committee and the Committee decides whether it should stand as part of the Bill. It is only there for the purposes of discussion.

Hon. J. M. BERINSON: I thank you for that intervention, Mr Deputy Chairman, which puts the position precisely. It only remains for me to respond to the last question put by Mr Gayfer, although again I have the greatest difficulty in seeing the relevance of the question to the motion I have moved. There is no question of pairs being made available on this Bill for reasons which Mr Gayfer well understands, and that is the requirement of this Bill in due course to attract an absolute majority of members.

Hon. H. W. GAYFER: I now take it from the Attorney General that we are not really doing exploratory work. It is far more serious than that. Pairs are off.

Hon. J. M. Berinson: They always are when absolute majorities are required.

Hon. H. W. GAYFER: I am saying that pairs are still off, although we were given an assurance that the procedure that we were adopting in relation to this Bill was one of an exploratory nature and notice only was being taken of what was said; there was no intention of going any further than hearing what the clauses meant. There is something more behind this than we are able to read into it at present. I believe this is another step towards the end which the Attorney General is seeking, but that is his business. What I object to is that a system which should not be used was used to get this before the Committee. Perhaps it was not irregular, but it was not rightly done. The President himself said it was a most unusual step, but not irregular. The President felt that to assist the Attorney General to do what he wanted in exploring this thing properly—and I thought that was what we were doing—every assistance should be given including the reinstatement of clause 8 as a vehicle to that end. I agree it has now been reinstated, but it is evidently in the mind of the Attorney to build on the bare bones and bring it back in some form or other at the end of the day, which was not the understanding of the Chamber at the time it was

proposed. I say this in spite of the motion on the Table, to which the Clerk is pointing, and of which I am aware.

If there was no intention that the Bill be anything other than an exploratory trip, the Attorney General would not be so sensitive about recognising pairs. The Bill is emasculated and carries very little weight in its present form other than as a vehicle for exploratory work. If that is all the Government intends, why will it not grant pairs? I have been here for 26 or 27 years, and I have seen pairs knocked out on only three occasions. I appeal to the Committee; there is something behind this other than that which has been suggested, otherwise pairs would be readily granted.

Hon. FRED McKENZIE: On the question of pairs, the position ought to be clear to the Opposition Whip and the National Party Whip. There has been a clear understanding between the Whips that when a constitutional Bill is before the Chamber no pairs are granted. I do not know what Mr Gayfer is talking about in saying it has only occurred three times in 26 years. Since I have been Whip in both Opposition and Government, pairs have not been granted on constitutional Bills.

It is true we do not need a constitutional majority during the Committee stage. However, I discussed this question with Hon. Margaret McAleer, the Opposition Whip, knowing that this Bill with a number of amendments would be protracted in the Committee stage, and she said there would be no pairs during the Committee stage. There was a clear understanding that even during the Committee stage—and I believe she consulted her leader on the matter and agreement was reached—that there would be no pairs on this Bill. It was recognised prior to discussion on the Bill. I thought in all fairness I ought to point that out to the Committee.

Hon. ROBERT HETHERINGTON: My understanding of what happened last night is quite different from that of Hon. H. W. Gayfer. I was no more privy to the internal mind of the Attorney General than he was. I can only judge what was said in this Chamber last night.

It was said that if clause 8 was rejected—and I remember rising and suggesting to the Committee that the words that had been reinstated should be left in—we would continue with the rest of the Bill, not as an airy-fairy exploratory affair, but as a serious exploration of the minds of the members and all parties to ascertain their attitude to the rest of the Bill. At the end of the exploration, we would consider whether we would leave the Bill in its emasculated form and let it die, or whether we would seek a recommittal of clause 8 so that the Bill became worthwhile. The understanding at that time was quite obvious to any member who listened; it could be done. The Attorney said tonight that he discovered overnight that if clause 8 were removed entirely we could not discuss the subsequent clauses and conduct our exploration. Therefore, he asked for reinstatement of part of clause 8—which did not commit us to anything in the long run because it could not stand as it was—to allow discussion on the rest of the Bill. When that discussion has taken place, he will move certain amendments in relation to clause 8, and the Committee will deal with them as it sees fit.

From what I can see, there was no attempt to tell the Committee anything but the truth. The intention of the Attorney is quite clear and his explanation to me was quite clear. What he has said tonight is sensible.

I would like a serious exploration of the rest of the Bill. The discussions so far, excluding the discussion tonight, on the clauses of the Bill have been most educational and inspirational and have taught me a great deal about the minds of most members of the Opposition and the National Party. It has not taught me very much about Hon. A. A. Lewis' mind.

Hon. A. A. Lewis: It is a free spirit.

Hon. ROBERT HETHERINGTON: It is a free spirit, and one cannot always grasp it.

I think we should carry the Attorney's motion and get on with serious exploration of a serious Bill so that we can come to some agreement at the end of a serious discussion which may take tonight and tomorrow. I do not know how long it will take. It is a serious Bill, and we have spent a long time on Bills before. I can remember Bills introduced by the previous Government on which we spent hours. I think we should spend time on this Bill to see if at the end of the discussion we can reach some agreement and have a Bill which the Committee and the House can agree on.

Hon. A. A. LEWIS: I will not get worked up about this. I happen to think that Hon. H. W. Gayfer is right. I also happen to think that the Attorney General is asking for the coin to lob not on heads or tails, but on its edge. He wants to bet on how the coin falls from that edge.

As I understand it we are in Committee and we will debate clause 8.

Hon. E. J. Charlton: No, we are not.

Hon. A. A. LEWIS: I would like to debate clause 8.

Hon. N. F. Moore: So we should toss out this motion.

Hon. A. A. LEWIS: We should toss out this motion because I do not believe in having six regions. If we go along with the Attorney, we will debate a Bill which states there will be six regions.

The Attorney made a very good plea for us to be practical, to deal with the rest of the Bill, and then to come back to clause 8. I disagree with the Attorney about having six regions, but he wants the Committee to debate the 104 clauses contained in the Bill on the assumption that there will be six regions. I am leaving the Attorney in no doubt at all that I will not agree to six regions. If we do what the Attorney wants and finally do not agree to six regions we will have wasted nine or 10 hours of our time. I cannot understand why members cannot sit around a table and discuss the matter.

I said to the Attorney General last night, and to the Minister for Parliamentary and Electoral Reform, that the only way we will reach agreement is by discussion, and not through the Committee system. We will not reach agreement by wearing members out. Funnily enough, I think that some members could outlast the Attorney. He has had a fairly tough week travelling on midnight flights. The matter should be discussed.

Hon. J. M. Berinson: That process has gone on for six months.

Hon. A. A. LEWIS: It has gone on outside the Chamber. Some people have not been consulted. My friend, the Leader of the National Party in this House, has not been consulted in regard to his view. I certainly was. When I was an Independent I was given a sort of leader status and I gave my comments to the Minister for Parliamentary and Electoral Reform. Unfortunately, as the Attorney is aware, he has lost my letter; but I will find a copy of it if it is needed. My colleague who is sitting next to me, Hon. Tom Helm, has seen part of the letter. If we handle the other clauses before clause 8, and we decide not to agree to clause 8, we will have wasted members' time unmercifully. I for one will not agree to six regions in any shape or form. A number of other members will not agree to it. We will be taking a risk by debating the other clauses until the early hours of the morning. Every clause following clause 8 will be debated on the assumption that we agree to six regions.

Clause 8 should be put to the Chamber again in order to ascertain whether we agree to six regions. If we do, the arguments many members use will be totally different from what we used and what our accepted practice would be.

The Government is wantonly wasting the resources of this Chamber by not taking a vote on clause 8 and by trying to have members sit in this place all night just to satisfy its whim.

If the Government is dinkum about this, it will say how many regions it wants right from the start. I agree with Mr Gayfer. The clause was thrown out last evening, and it should never have been brought back. I voted that way. But having been brought back, the Government should put the clause to the vote so that we do not waste any more time. I am sure the Attorney General agrees with me. He would prefer to know where he is going right from the start rather than playing around and going through a heap of clauses, finally coming back to find that we have one, two, seven, or 11 regions rather than the six in the clause.

Hon. G. E. MASTERS: The Liberal Party's position has been crystal clear right the way through the consideration of this legislation since November last year. That is now seven months later.

We opposed the restoration of this Bill to our Notice Paper after this long period. We made it clear why we opposed its reinstatement. With all the proposed changes, even some months ago, we said that the Bill should be rewritten. We opposed the second reading for the same reason. Our passionate pleas to the Government to rewrite the legislation, particularly in view of all the changes proposed by all the parties concerned, went unheeded. Last night clause 8 was eventually defeated after something like four hours of debate.

I suggest the intention of the Chamber is clear. If not on the six regions, certainly there is a strong difference of opinion in the critical areas which will have to be included at some stage or another in clause 8.

I draw the attention of members to a comment made by the Deputy Chairman of Committees who said that this part of the clause we are talking about could stand on its own, and indeed it could. We should remember exactly where we are at this time.

The purpose of the Minister's move to reinstate part of clause 8 is absolutely clear. He wants as much discussion as possible on the legislation. His intention is to pick the brains of

every member and analyse the speeches to come up with a Bill which will satisfy them, even if it does not satisfy my party.

We are being hunted by stealth. I have said that all along. We should not be fooled by what the Government is doing, nor should we misunderstand its intention.

Proposals have been put forward by my party, the National Party, and the Labor Party which could, as the result of private discussion, make far more ground than we will make tonight. Our discussion here has been an absolute charade. It is becoming worse by the minute. It is not our fault; it is the fault of the Government for trying to resolve a complex problem in the public forum of the Legislative Council when the difficulties are so great that it is unfair to suggest to members that we can come up with any realistic piece of legislation.

There is sufficient evidence now for the parties to sit down and see what can be worked out, if anything. There is enough, in the drafting of the amendments from all parties, to enable us to sit down and see whether some conclusion can be reached. I do not say the result would be successful, but we are not going to get anywhere by sitting in this Chamber for hours. All we are doing is providing one or two loopholes for the Government to jump through and grab what it can. That has been my fear all along.

I am not happy with the proposal to defer the debate on clause 8 to the end of the proceedings, but I suppose that the Government has made its intentions pretty clear at this stage. It has been obvious from the start that it will not make much difference, when the vote comes, whether Liberal members and I oppose the moving of clause 8 to the end of the Bill; the Government has made up its mind.

We have not shifted our position one iota. We know exactly what is going on, and I appeal to members not to be fooled by the Government's direction and the way it is moving.

Hon. H. W. GAYFER: I make it perfectly clear that when I opposed the moving of clause 8 to the end of the debate, I did so on the grounds that I believe it is improperly before the Chamber at present. I supported six regions earlier, but under a totally different concept. To oppose six regions now would appear to indicate that I have gone back on something I voted for previously, but I inform the Committee that I firmly believe that clause 8 has to go, and it must go at this stage. I therefore intend to vote against it.

Hon. J. M. BERINSON: Mr Lewis says we could reach the end of the Bill and then defeat the concept of a Council based on six regions. He is absolutely right. He also says that that would have the effect, after many hours of debate, that no Act would emerge at all. Again he is right, but I hope it does not come to that. I hope that in respect of the structure of the Council it will still be possible to come to some agreement on a reasonably acceptable basis.

However, even if the end result is as Mr Lewis anticipates—the eventual defeat of clause 8 and therefore the effective defeat of the Bill—it is not enough to say that we should not go down that route because a lot of time would have been wasted. In the first place, we would not waste as much time as we are wasting currently. The issues are fairly clear, and we could deal with them expeditiously if we got on with the job ahead of us.

Even if a fair amount of time is spent on the process and no Bill emerges, it is not necessarily the case that the time has been wasted. Electoral reform in this State has been a tortuous process. Even to reach the stage of having a detailed debate in Committee on electoral reform proposed by the Labor Party is in itself a historic event. The least we should do is to explore the possibilities to the furthest extent.

Among other matters, which will emerge from the discussion which I am encouraging the Committee to undertake, would be a clarification of the views of the respective parties on a whole series of important questions, each of them quite separate from what I agree is the fundamental sticking point in this Bill, and that is the structure and the manner of election of the Legislative Council.

What the Government is proposing involves nothing more than that. It is on that basis and in keeping with my earlier undertaking to the House that I put this motion to the Committee and ask for its support.

Question put and passed; clauses postponed.

Clause 10: Section 8A repealed and a section substituted—

Progress was reported after the Attorney General had moved—

> That further consideration of the clause be postponed.

Hon. G. E. MASTERS: What about clause 9?

The DEPUTY CHAIRMAN (Hon. John Williams): Clause 9 was postponed last night until after clause 104. I am obliged to go on to clause 10, and the Attorney General has moved that consideration of this clause be postponed.

Hon. G. E. MASTERS: Would it be in order for me to amend that motion to put the whole lot out of business?

Hon. J. M. BERINSON: It will be clear from everything that has gone before that it is important for this motion to be rejected so that discussion on clause 10 should be able to proceed. I would have been happy to allow clause 9 to also be discussed but I am told the previous decision of the Committee is against that. We should certainly not carry deferments of that kind any further. I urge the Committee to vote against this motion.

Hon. G. E. MASTERS: I was going to say we should not let previous decisions get in our way. We find ourselves in a dreadful situation. Clause 9 is central to a large portion of what we intend to discuss. There will also be complications in some of the other clauses as we get to them.

Point of Order

Hon. N. F. MOORE: Is there any procedure whereby clause 9 can be considered?

The DEPUTY CHAIRMAN: To help members of the Committee, I shall read Standing Order No. 319. It states—

> 319. A Motion contradictory of a previous decision of the Committee shall not be entertained in the same Committee.

Without another tortuous process, the answer is no.

Committee Resumed

Question put and negatived.

Hon. G. E. MASTERS: Proposed new subsection 8A(2) proposes that all members, whether they be members due to retire in 1989, whether they have a six year term, or a further three years to go, will retire in May 1989. The Opposition must oppose this subsection, to be consistent. As the position now stands, it will be difficult to support that proposition.

Hon. J. M. BERINSON: This is the first test of the unusual nature of the debate in which we are engaged. We are proceeding as Hon. Sandy Lewis said on a basis which contemplates that the deferred clauses will in fact be implemented. In particular, we are proceeding on the basis of a system with six regions and with all coucillors coming out simultaneously at each election.

In that context, it is important that subsection (2) of proposed section 8A should remain and to argue against it is really to repeat the opposition to the six-region system. As I said in my response to Hon. Mick Gayfer, we are proceeding on the basis that that part of clause 8 which remains, contemplates a six-region system. Even though its basis is not yet available to us, we are aware from earlier discussion that there is support within the Chamber for a system of six regions on one basis or another and with all members going to an election simultaneously at each general election.

Hon. G. E. MASTERS: The Attorney must understand that our support of this new subsection depended on the failure or success of our previous amendments.

If the National Party joined with the Labor Party on some of the earlier proposals which have not yet been dealt with, we would lose our amendments and would have to oppose this section. The great difficulty is that we are trying to do it back to front.

Under our proposal, it would be fair to say that if the amendments were successful, May 1989 would be acceptable. Under the present arrangments, if our earlier amendments were lost as a result of the combined effort of the National and Labor Parties, we would be forced to oppose this amendment.

I do not really see that it matters one way or another to say no, except that there is anticipation on the part of the Government that it will be successful in this area. But it is on the record that in certain circumstances we would have had to oppose a provision for "all out in May 1989".

Hon. E. J. CHARLTON: The National Party would have opposed the proposed amendment had it been put by the Liberal Party, because the National Party's written policy is for four years.

Hon. G. E. MASTERS: Members will note a Liberal amendment on the Notice Paper, and that amendment again refers to part of clause 8 which no longer exists. The Opposition's intent must be apparent to members. The clause as it stands causes us considerable concern. In normal circumstances, had our previous amendments been successful, we would have moved

the amendment. There is no point in moving it now. Again, this situation is an absolute charade.

Hon. J. M. BERINSON: I do not agree with the Leader of the Opposition that it does not matter which way members vote on clause 10, particularly on proposed section 8A (2). If we are to meet the purpose of this exercise, which is to clarify the stand of the various parties on the remaining clauses of this Bill, we need to understand the implications of proposed section 8A (2).

I believe members should vote for clause 10 in its present form if they support a system of four-yearly elections with all members coming out together at each general election. If members do not agree with that, they ought to vote against section 8A (2). By that means we will know at the end of the day, having decided one way or the other on clause 10, where we stand respectively. It is in that sense that if the Leader of the Opposition's position on the question of four-year terms and on the simultaneous election of all Councillors at all general elections is as he put it, he ought to vote against proposed section 8A (2).

Hon. MARGARET McALEER: Would the Attorney indicate whether in clause 10, proposed section 8A(3) correctly refers to "section 5 or 6 of the Electoral Act 1907 as amended by the Electoral Reform Act", because looking further through the Bill the reference seems to be to Electoral Commissioners.

Hon. J. M. BERINSON: Proposed section 8A (3) provides that where any casual vacancy in a province occurs before 1 January 1989, it should be filled as at present at a by-election, and the elected replacement continues to represent that province until the close of 21 May 1989. It is just a transitional provision. I am afraid I really cannot grasp the problem the honourable member has put.

Hon. MARGARET McALEER: I am inquiring whether the reference to the Electoral Reform Act is a mistake, because if we look where it is amended, the amendments appear to refer to the Electoral Commissioners, so I do not see where the reference to the Electoral Reform Act fits in.

Hon. E. J. CHARLTON: Is it that if a vacancy occurs, it will be filled as if the provisions of the Bill had not been enacted?

Hon. J. M. BERINSON: This matter requires brief consultation with the Parliamentary Counsel. The proceedings might be facilitated, Mr Deputy Chairman, if you left the Chair until the ringing of the bells.

Sitting suspended from 9.50 to 10.00 pm

Hon. J. M. BERINSON: I thank Hon. Margaret McAleer for drawing attention to a problem with proposed section 8A (3). It appears there was an error in the drafting of this section and certain words should be deleted. The error lies in the reference to section 5 or 6 of the Electoral Act 1907; the Act involved for the purposes of this provision is the Constitution Act Amendment Act. To remedy that situation, I move an amendment—

> Page 5, lines 24 and 25—To delete the words "of the Electoral Act 1907 as amended by the Electoral Reform Act".

Amendment put and passed.

Hon. G. E. MASTERS: I placed on record early in this debate the Liberal Party's position. I did not follow the reasoning of the Attorney General when he advised that my party should vote against this clause. That demonstrates the dilemma we are in. Our party believes that all Legislative Council members should vacate their seats in 1989, and an election be held for the whole House. From that time, some members would be elected for a three-year term and others for a six-year term. If that proposition were successful, we would not oppose all members vacating their seats in May 1989. Our dilemma is that we don't know what will be the position at the end of the day.

I am sure the Attorney General understands our position. Obviously clause 13 also demonstrates our position with regard to the four-year term for the Legislative Assembly and the terms for the Legislative Council.

Clause, as amended, put and passed.

Clauses 11 and 12 put and passed.

Clause 13: Section 21 amended—

Hon. G. E. MASTERS: We are coming to one or two of the crunch areas if the Liberal Party is to pursue the line of argument indicated since this Bill has been before the Legislative Assembly and the Legislative Council. Our party's position is that members elected to the Legislative Assembly should serve a term of three years, and those elected to the Legislative Council should serve a term of six years.

Clause 13 refers to a four-year term for the Legislative Assembly, and we oppose that proposition. I propose that the clause be deleted.

The DEPUTY CHAIRMAN (Hon. John Williams): I remind members that if they vote against the motion when I put the question that clause 13 stand as printed, the clause will be deleted.

Hon. J. M. BERINSON: The Leader of the Opposition is quite right in describing this provision as one of the crunch clauses. That is because it produces a very fundamental change in our present electoral system. Clause 13 provides that, as from the next election, elections for the Legislative Assembly will be based on a term of four years rather than the current term of three years. All members will be aware that this proposal is in line with the whole trend of development throughout Australia and in line with consistent public expressions of support for the extension of this move to the Federal Parliament as well.

Nobody is suggesting a four-year fixed term for the Legislative Assembly; all that is being proposed, in line with the position already in place in South Australia and New South Wales, is that the maximum term of the lower House should change from three years to four years. I do not believe that anyone who has put his mind to it could doubt the desirability of moving to that position.

Hon. G. E. Masters: It depends whether you are in Government or not, I guess.

Hon. J. M. BERINSON: Of course one's perspective would be modified according to which side of the Chamber one was sitting and that is why when these changes are made they are never made on the basis that the existing term should be extended by one year to create four years; it is always on the basis, as the present Bill suggests, that the four-year term should apply from the next election. The next election is up for grabs.

I naturally have a certain view as to its outcome, but members of the Opposition have often expressed their confidence and optimism as to the future. Putting both of those in the balance, all I can say is: let members make the decision now well in advance of the next election, where one cannot say in any definite way what is likely to happen. A week is a long time in politics, and let whichever party wins in 1989 have the first benefit of the four-year term which will thereafter apply.

Members all know what is said about three-year terms, especially for parties coming newly into Government, but it really applies to all. In the first year the Government is learning the job; in the second year it gets around to doing something; in the third year it is looking over its shoulder at the next election and is starting to suffer from something approaching creeping paralysis. I am not giving any secrets away when I describe the process in that way. It is very clear that it affects all Governments of whatever complexion. It gives rise to an excess of judgments based on short-term considerations rather than long-term benefits. That has historically applied most often to economic management, and it is one of the distinctive features of the May economic statement, that it was an unpleasant statement with unpleasant prospects attached to it, but it was still brought down as an expression of the Government's judgment as to the long-term needs of the Australian community.

Whether one likes the May economic statement, or whether one likes the current Australian Government, one thing has to be conceded by everybody, and that is that in bringing forward the May statement when it did, the Fedent really flew in the face of all previous experience in this country. How many times have members experienced the contrary situation approaching an election: The purse is suddenely loosened and quite often impractical and imprudent measures are agreed to, all in the hope of trying to attract short-term popularity until the next election.

A member interjected.

Hon. J. M. BERINSON: Who did not do it? R. G. Menzies did it. Certainly before the 1972 election, when the economy was moving into difficult circumstances, the Liberal Government of that time became very profligate and left an inheritance of an increasing problem. I do not want to be provocative about these things. Members have not altogether been strangers to that process from some Governments in this State in past years. All I am saying is that a term as short as three years does discourage the long-term view in the Government process, and when that happens the period during which fully responsible decisions are taken, even when they involve a measure of pain in the popularity polls, is reduced.

There is a widespread acceptance in Australia that there are too many elections, but that is really a separate question from the one that I am putting. I share the view that there

are too many elections, but probably for different reasons than would appear in public opinion polls, for example.

This is certainly a clause of the Bill which introduces a very fundamental change. It is in fact to test provisions of this sort that the Government has been anxious to have this discussion proceed. I commend this Bill to the Chamber. I obviously oppose the view that has been put by the Leader of the Opposition. The choice before the Chamber is as clear as it could be; if one wants to carry on with three-year elections, one votes against this proposition; if one believes the time has come to move to the four-year term, one supports the clause as drafted in the Bill. I hope that on this issue a clear majority of members will decide to support the Bill.

Hon. E. J. CHARLTON: The National Party's position is that four-year terms should be introduced, and that has been its position for a long period.

Hon. G. E. Masters: For both Houses?

Hon. E. J. CHARLTON: Yes. The National Party believes not only that, but also that there should be a minimum time during which the Government should have to run. While the National Party has not moved an amendment in that direction, there is no point in having a four-year term if after 18 months the Government can turn around and go to an early election.

I have no doubt whatsoever that the great majority of Australian people have had an absolute stomach full of politicians playing with the economic wellbeing of this nation, not so much from the State point of view, as history demonstrates, but from the Federal point of view, where this consistent early electioneering goes on and on.

As far as the May statement is concerned, I believe the majority of thinking people understand that the economic situation of the nation must be addressed; and they consider that the Government did not go far enough in making decisions that were going to change the direction of the nation by giving incentives for a recovery in its economic position. Further, today's decision by the Prime Minister to call an early election—it is probably better called a premature election—demonstrates just that. What has happened in the May statement is paltry in terms of the decisions that have to be made in the very near future, and decisions that should have been made three, four, or five years ago—progressive decisions.

So while I support the Government's move for a four-year term for both Houses of Parliament, I think members have seen demonstrated repeatedly in the Federal sphere these early elections just to satisfy a particular point of view. I also place on the record the historic fact that, when Prime Ministers have gone for early elections, they have not always succeeded. I am fairly confident that this move for an early election is going to be unsuccessful as well. However, that is beside the point. The fact is that the National Party supports a four-year term, and, while it has not so moved, it is committed to the running of the Parliament for a minimum time of very close to the maximum of four years.

Hon. G. E. MASTERS: I was surprised to hear Hon. Joe Berinson expounding the wonderful performance of the Federal Labor Government at this time when all of us are busy trying to expedite the progress of this Bill.

Hon. J. M. Berinson: I will not do it again.

Hon. G. E. MASTERS: I was a little surprised to see him take this opportunity to slow down the progress. The public is desperately worried about the financial situation in Australia and the fact that we are going broke very quickly as a result of Federal Labor Governments in recent years.

Hon. Kay Hallahan: What rubbish!

Hon. G. E. MASTERS: The Government was prepared to say, "Let us tighten our belts and make some strong decisions." That was no surprise. It would have been a surprise if the Government had started to hand out cash and spend money.

To return to the Bill and the proposal we are talking about, I am not all that worried whether the period is three years or four years; the Liberal Party position is that there should be split terms in the Legislative Council. It has been made obvious that some members would oppose an eight-year term for Legislative Council members while Assembly members enjoyed a four-year term. I do not mind whether it is four and eight years, or three and six years. To be consistent, we will oppose the four years on the clear understanding that the National Party and the Labor Party—or many of their members—believe that there should be a four-year term in the Assembly and an eight-year term in the Legislative Council. We are strongly opposed to that position. For that reason, and for consistency, we will oppose the provision of

a four-year term in the Legislative Assembly.

Hon. Garry Kelly: Are you opposed to that, or is the party?

Hon. G. E. MASTERS: I have just said that our party position is three years in the Assembly and six years in the Council, for the reason that quite a few members in this Chamber have already supported the split term for the Legislative Council, but they think eight years may be too long. Personally, because of experience in other States where a number of upper Houses enjoy an eight-year term, I am not personally opposed to four years in the Assembly and eight years in the Legislative Council.

Hon. MARGARET McALEER: I have always thought the argument for a four-year term very plausible, and it is one members of Parliament have sold to the public because undoubtedly they have a vested interest. I am inclined to agree with Hon. Graham MacKinnon, who said that there was an extension to the process which the Leader of the House outlined. Preparations for elections extend themselves but the country does not benefit. There is also a longer period of learning.

Hon. J. M. Berinson: In Government there would be a longer period.

Hon. MARGARET McALEER: We have all seen it demonstrated in the last 10 years! The practice of Federal Parliaments has been to shorten an already short term. The Australian people are very lucky to be able to call their Governments to account every three years, and they should not be conned into giving that away lightly.

Hon. H. W. GAYFER: This is the first indication of the stupid course that we are following. I now have to make up my mind whether to support four years or three years. I have advocated four years for as long as I have been in this place.

There are two basic concepts in the whole of this electoral Bill. One is that there be equal representation for metropolitan and country areas. That is no different from what other members of my party want. My second line is that there be split elections.

An Opposition member: That is essential.

Hon. H. W. GAYFER: There is nothing inconsistent there. When I had the Hospitals Amendment Bill passed last year, it provided for split elections for hospital boards. Members will remember that. I support my shire councils which have split elections. I support my clubs in the country which have split elections. The boards of directors of many companies have split elections for that very reason, and I sincerely support the preservation of split elections in this House. The continuity of this place can only be encouraged. However, I cannot debate this provision because we have lost clause 9.

Hon. J. M. Berinson: We will be back to it.

Hon. H. W. GAYFER: We will not be back to it before we have discussed this point. My line of thought on clause 9 would be three years, if I could be sure that split elections were retained. My two bottom lines are equal representation and split elections. I do not say my bottom line is four years, although I am an advocate of it. If I now have to vote for this, because I advocate four years and have advocated it, this argument could be used against me. Does the Committee understand what I am driving at?

Several members: Yes.

Hon. H. W. GAYFER: This becomes perfectly stupid because this is a consequential clause to clause 9 and it is important because of clause 9. I have to support this clause because I have always advocated four years, but if we debate clause 9 and find that is the only way split elections can be achieved, I will be joining those who say that split elections are obtainable only by three-year and six-year terms.

Hon. G. E. Masters: That is exactly right.

Hon. H. W. GAYFER: Somebody will say at that stage, "Mr Gayfer, you voted for it before, in clause 10." That is what Hon. Joe Berinson would say with the same velocity as I am saying it now.

But let us get back to the stupidity of this Bill. We are debating a Bill which does not mean a thing. We will come back to clause 8 later. We will cut out clause 9 and come back to that later. In the meantime, we will make all sorts of decisions. None of them has any relevance if we make an alternative decision on clauses 8 or 9. They are consequential on what we are talking about concerning the subsequent clauses.

The Bill is itemised right down the line. How can we jump from here to there and come back before the Press, or the ALP conference, and say, "That is what they meant in the Parliament"? We cannot do that because we are dealing with assumptions.

The Minister is an educated man. He knows that the second book of algebra is based on the assumption that $(a+b)^2$ equals $a^2+2ab+b^2$. Am I right? I am right; that is the assumption. If anyone can prove that assumption wrong, the second book of algebra goes out the window.

But here we are doing it the converse way. We are saying, "Right, we believe certain things are implied in clause 9. We are not too sure what they really are, but assuming that members on the Government side believe one thing and members of the Opposition parties believe another thing, we will go along and come to commonality except where we do not agree on the same things in clauses 8 and 10."

For that reason I am afraid I must raise a protest at the manner in which this Bill is being handled.

Hon. J. M. BERINSON: I understand Mr Gayfer's objection, but I think the problem is more apparent than real. What if the form of the present Act dealt with the period of service in the Assembly before the arrangements for the Legislative Council were dealt with? Mr Gayfer would still have to make up his mind about what he thought was an appropriate term for the Assembly, and he would still have to raise the reservations he has raised now.

I understand Mr Gayfer to be supporting this clause because he supports four-year terms in the Assembly; however, he reserves the right to change his position on that unless, when we come to the Council, there is an eight-year term on a staggered basis. That would be precisely the position that would apply if the parent Act had been drawn up with the Assembly being dealt with before the Council.

Hon. H. W. Gayfer: It is your Bill we are dealing with.

Hon. J. M. BERINSON: I understand that that is what we are doing, but what we are talking about—

Hon. H. W. Gayfer: Is nothing.

Hon. J. M. BERINSON: —is the respective principles. Firstly, should we have four-year terms; and secondly, if we do have a basic four-year term, should that apply in the Council on the basis that all members come out every four years, or that only half the members come up for election every four years? Those are the questions, and I think the choice before us is quite clear. I believe the people who support four-year elections should support that principle throughout, and this is an opportunity for them to express their points of view. In any event, we are dealing here with the Assembly alone. If later decisions lead members like Mr Gayfer to change their minds, there is ample opportunity for them to express that in the further processing of this Bill.

Hon. G. E. MASTERS: Here we go again: "There is ample time for you to change your mind later on if something else happens." That is the charade we have at the moment. We have had clause 8, which has now disappeared to the end—

A Government member interjected.

Hon. G. E. MASTERS: It might be a broken record, but Mr Gayfer has clearly indicated his problem, and he is quite right. It is possible that a person will be affected and influenced by future debate on clause 9. Clause 9 was a critical clause: it really was the cornerstone for our party.

Hon. J. M. Berinson: Could I just put this to you?

Hon. G. E. MASTERS: No, the Attorney General cannot. He has had plenty of opportunities. He can stand up when I have finished.

Several members interjected.

The DEPUTY CHAIRMAN (Hon. John Williams): Order!

Hon. G. E. MASTERS: The Attorney General can speak after I have spoken. He has the right to do that, and I am sure he will.

The DEPUTY CHAIRMAN: Order! I have called for order once, and I am not going to call it again. We are making rapid progress.

Hon. G. E. MASTERS: I share the concern of Hon. Mick Gayfer. He is quite right when he says he does not know which way to vote at this time. The Attorney General has said we can change our minds later if we want to, but that is not the way to deal with legislation. It must be progressive, and one thing must follow another. We should not simply be told, "Vote this way now, and if you change your mind we can turn the whole thing upside down." Debate on clause after clause will follow in the same fashion. I had difficulty with the previous clause for the same reason. I did not know whether to vote for an all-out election in 1989 for the Legislative Council, because it presupposes something may or may not happen in debate on a clause that was supposed to have come up before.

Because of the difficulties we have, I again urge members to vote against this clause.

Mr Deputy Chairman, under your ruling last night I do not think I need to move my amendment. We simply have the choice of voting for or against the clause. Mr Gayfer's problem is very real; he does not know whether to vote for four-year terms now and find four-year and eight-year terms are not acceptable at a later time. But I guess he can change his mind and do the opposite in a few hours' time. That is not the way to deal with this Bill.

Hon. C. J. BELL: Like Mr Gayfer, I am most concerned about this matter. Like him, I have no great aversion to four-year terms, but I have one overriding concern relating to elections for this Chamber, and that is that there are split elections. I do not believe that the Council can retain—or, before members of the Government respond, I will rephrase that and say attain—a true House of Review function without split elections. It is still not possible, and it will be shown inevitably that that will be so.

We need to clarify where we are going with regard to split elections or all-out elections for the upper House before we clarify whether we are going to have four-year or three-year terms. That is a fundamental principle of a House of Review, and I think we should resolve that question even if it means reporting progress again. We should resolve that before we go any further and make an error, which we will then have to redo in any event.

Clause put and and division called for.

Bells rung and the Committee divided.

The DEPUTY CHAIRMAN (Hon. John Williams): Before the tellers tell, I cast my vote with the Noes.

Division resulted as follows—

Ayes 19

Hon. J. M. Berinson	Hon. Robert Hetherington
Hon. J. M. Brown	Hon. B. L. Jones
Hon. T. G. Butler	Hon. Garry Kelly
Hon. J. N. Caldwell	Hon. Tom McNeil
Hon. E. J. Charlton	Hon. Mark Nevill
Hon. D. K. Dans	Hon. S. M. Piantadosi
Hon. Graham Edwards	Hon. Tom Stephens
Hon. John Halden	Hon. Doug Wenn
Hon. Kay Hallahan	Hon. Fred McKenzie *(Teller)*
Hon. Tom Helm	

Noes 13

Hon. C. J. Bell	Hon. Neil Oliver
Hon. Max Evans	Hon. P. G. Pendal
Hon. V. J. Ferry	Hon. W. N. Stretch
Hon. A. A. Lewis	Hon. John Williams
Hon. P. H. Lockyer	Hon. D. J. Wordsworth
Hon. G. E. Masters	Hon. Margaret McAleer *(Teller)*
Hon. N. F. Moore	

Clause thus passed.

Progress

Progress reported and leave given to sit again at a later stage of the sitting, on motion by Hon. J. M. Berinson (Attorney General).

SESSIONAL ORDERS SUSPENSION

Motion

HON. J. M. BERINSON (North Central Metropolitan—Leader of the House) [10.41 pm]: I move—

> That the House continue to sit after 11.00 pm to further consider the Acts Amendment (Electoral Reform) Bill.

HON. A. A. LEWIS (Lower Central) [10.42 pm]: I thought we had agreed on some Sessional Orders in this House to knock off at 11.00 pm because we thought that was a fair deal. Last week we had the House knocking off at 3.00 pm because the Leader of the House thought he did not have enough knowledge to go on at the time, although there were a number of other Bills on the Notice Paper we could have discussed. We have been asked, two nights in a row, to sit late at the Government's pleasure. The Government had something to do with the Sessional Orders, so why should we be asked to continue after 11.00 pm just to suit the Government? We should oppose the motion.

Question put and passed.

ACTS AMENDMENT (ELECTORAL REFORM) BILL

In Committee

Resumed from an earlier stage of the sitting. The Deputy Chairman of Committees (Hon. John Williams) in the Chair; Hon. J. M. Berinson (Attorney General) in charge of the Bill.

Clauses 14 to 17, and 19 and 20 put and passed.

Clause 21: Sections 5B to 5H inserted—

Hon. G. E. MASTERS: This clause in part deals with the appointment and the terms and conditions of the Electoral Commissioner and the Deputy Electoral Commissioner—obviously a very sensitive and important matter. In the other Chamber, the Government indicated that it accepted the Opposition's proposal that the Premier alone should not make these appointments but should first consult with the Leader of the Liberal Party, and I think also the Leader of the National Party. Consequently we see proposed section 5B(3) inserted in the Bill.

I wonder whether the wording of this proposed subsection is good enough. Our experience with this Premier and one or two of his promises gives us reason to doubt whether the wording is sufficient. On a number of occasions he has not lived up to his promises.

Nothing in the wording of this proposed subsection says that the Premier must take notice of the views of the leaders of the Liberal and National Parties. However, this proposition was supported by my colleagues in the Legislative Assembly, so I do not intend to try to change it now. But our experience with promises made by this Premier has been very unfortunate, to say the least.

Hon. E. J. CHARLTON: I fully support the comments of the Leader of the Opposition because we too believe that the Premier should consult with the leaders of the two Opposition parties before making these appointments. Any Premier at any given time has become leader of his party and Premier because of his capacity to do certain things; he has the ability to implement matters. This clause provides only that the Premier shall consult with the leaders of the other parties; it does not say that he shall take notice of them. If it suits a Premier of the day, I have no doubt he would take no notice of them.

Hon. G. E. Masters: Especially this Premier.

Hon. E. J. CHARLTON: I know a number of other Premiers who were prepared to do things to suit themselves.

I want it on record that, if this Bill is enacted, a Premier should not only consult with but also have the agreement of the leaders of the other parties before making any appointment.

Hon. G. E. MASTERS: I refer now to proposed section 5B(10) which states that no person who is or has been a member of the Parliament of the Commonwealth or of any State or Territory shall be appointed as Electoral Commissioner. In debate on the original Bill in the Legislative Assembly, the Government proposed that an ex-member of Parliament of any State or of the Federal Parliament could, after a break of three years, be appointed as an Electoral Commissioner. In my view it would be quite wrong for such a person to have the opportunity to serve as an Electoral Commissioner, not because he would behave improperly, but because all sorts of accusations could be levelled against him.

Hon. Garry Kelly: The Government has accepted that point of view.

Hon. G. E. MASTERS: I know, and I am saying, "Thank you very much". I believe the Government has taken the right course of action. I cannot understand why this was proposed in the Bill in the first place.

I refer now to line 6 on page 12 of the Bill. Is that a normal provision to apply to this officer? It seems unusual that it is necessary to lay the grounds for his suspension before the Parliament unless it is meant to protect him and there is good reason, and that reason should be drawn to the attention of the Parliament. Can the Attorney say whether there has been any experience of the need for it in the past?

Hon. J. M. BERINSON: This measure is designed to reinforce the independence of the office and, as I understand it, it is taken from similar provisions in the Parliamentary Commissioner Act.

Clause put and passed.

Clauses 22 to 30 put and passed.

Clause 31: Section 40 amended—

Hon. G. E. MASTERS: I move an amendment—

> Page 18, line 3—To insert after "Commissioner" the following—
>
> who shall hear the appeal in open session

I am rather surprised, after having read the debate in another place that the Government did not accept the proposition put forward by my party, which I understand was accepted by the National Party in the Legislative Assembly. The clause proposes to delete section 40(4) of the Electoral Act which talks about names to be inscribed from existing rolls, and states that if the Chief Electoral Officer rejects such claim he shall forthwith give notice thereof to the claimant, and the claimant may within the prescribed time appeal from the rejection of his claim to a magistrate and the provisions of division 4 shall apply.

The Government is proposing to give that task to the Electoral Commissioner, and I have no argument with that. However, having previously given a person the right to appeal to a magistrate, it is obvious that was a public appeal. There is no reason why the appeal to the Electoral Commissioner in future should not also be in open session. Surely there is no secret about what is going on. It may be that the hearing should be in closed session at times, but there is no reason why the people involved

and the public should not have the opportunity to listen to the proceedings. I urge the Government to support the amendment.

Hon. E. J. CHARLTON: The National Party believes this amendment is fair and equitable. We agree with the change proposed by the Government, but unless there is some valid reason, we see no case for saying that the hearing should not be in open session.

Hon. J. M. BERINSON: There is a valid reason for the form of this clause although, as I shall try to explain, it does not preclude hearings in open session. Under section 49 of the Electoral Act as it will be amended by this Bill, the Electoral Commissioner for current purposes "will be deemed to be and shall have all the powers of a court of petty sessions". Courts of Petty Sessions are normally open hearings, although the Justices Act provides that the court can be closed in special circumstances. So the competing positions we have are that under the amendment moved by Mr Masters, hearings would always be required to be in open session; whereas under the provisions of the Bill, hearings would be in open session unless the Electoral Commissioner decided there were special circumstances justifying a closed session.

Hon. G. E. Masters: Where does it say that would occur?

Hon. J. M. BERINSON: In section 49 of the Electoral Act.

Hon. G. E. Masters: Is there an amendment to section 49?

Hon. J. M. BERINSON: Yes, the amendment is to replace the word "magistrate" with the words "Electoral Commissioner". The provision which now applies to the magistrate will apply to the Electoral Commissioner.

The importance of the difference really comes down to a very fine and peripheral area, but it is one which it is thought desirable to protect. Members might remember that, following the Commonwealth-initiated inquiry into the security needs of particular people including judges, but going further than that, provision was inserted into various Acts around Australia including our own Act to allow so-called silent enrolment—that is, electors could meet their obligations to enrol with the assurance that their names and addresses would not appear in the electoral rolls. The Bill has been drafted in that way only to cover that small area. It is clearly contemplated that the current provisions would still apply and that the usual practice of the Courts of Petty Sessions would apply.

I am happy for whatever purpose is served under the current Interpretation Act to indicate to officers seeking guidance on the intention of the Parliament to make it perfectly clear that it is the intention that, except in peripheral areas, hearings should be in open session.

Hon. G. E. MASTERS: I appreciate those comments, but I find it hard to understand why there was a need to oppose the proposition put in the Assembly amendments. As long as I have a firm commitment from the Attorney General, as I am sure I have, that a clear indication will be given to the Electoral Commissioner that this Parliament expects that all appeals will be held in public, though there will be some occasions when there may be a need for a private session, I am happy to allow the clause to proceed. If that is the intention, I accept the Attorney's explanation and assume that exactly the same assurance will apply to two or three other amendments which may follow.

Hon. E. J. CHARLTON: The National Party accepts the Attorney General's explanation and thanks him for clarifying this matter.

Amendment put and negatived.

Clause put and passed.

Clauses 32 to 43 put and passed.

Clause 44: Section 80 inserted—

Hon. J. M. BERINSON: I move the following amendments—

> Page 24, lines 20 and 21—To delete "the prescribed form" and substitute the following—
>
> a form approved by the Electoral Commissioner
>
> Page 25, line 2—To delete "the prescribed form" and substitute the following—
>
> a form approved by the Electoral Commissioner

In the proposed multi-member elections for the Legislative Council, two or more candidates may lodge a claim to have their names printed in the order they specify in a group on the ballot paper. Such a claim may be withdrawn later.

I refer members in this respect to proposed section 80 subsections (1) and (3). To allow greater flexibility, it is now proposed that the

form of such a claim or withdrawal should be determined by the Electoral Commissioner rather than fixed by regulation.

Hon. G. E. MASTERS: I do not oppose the amendments. However, I wonder why we have shifted away from a prescribed form. I know the Government can say that the Electoral Commissioner could easily carry out this task and do it well. However, as we go through the Bill we will find other tasks for the Electoral Commissioner which we would rather see in a prescribed form or included in the regulations. Will the ballot papers which are referred to later in the Bill be examples of what will be included in the Act?

I wonder why the Government has moved in this direction. Perhaps we could get an indication from the Attorney now to cover him when the same question arises later.

Hon. J. M. BERINSON: This is purely a matter of administrative efficiency and flexibility, but one which is approached in line with a general review of procedures which the Government is attempting in a number of areas.

I think you, Mr Chairman, from your experience with the former Department of Lands and Forests, would be aware of the enormous flow of Executive Council documents and the associated formalities that apply to regulation-making requirements in a number of areas.

We are looking at the possibility of minimising those formalities unless there are positively necessary reasons for taking the other route. No more than that is really involved here. However, I think the process is worth pursuing. I do not believe for a moment that the provision of forms, for example, is likely to require the gazettal and tabling of papers and so on that are required in that process. It is on those administrative grounds that this amendment has been proposed.

Amendments put and passed.

Clause, as amended, put and passed.

Clause 45 put and passed.

Clause 46: Section 84 amended—

Hon. J. M. BERINSON: I move an amendment—

To delete the clause and insert the following clause—

Section 84 repealed and a section substituted

46. Section 84 of the principal Act is repealed and the following section is substituted—

Return or forfeiture of deposit

84. (1) The deposit made by or on behalf of a person nominated shall be retained pending the election, and after the election shall be returned if he is elected or—

(a) in the case of an election in a region where the relevant number is more than one, if the total number of first preference votes polled in his favour or in favour of the members of the group in which he is included is more than one-twentieth of the total number of first preference votes polled by all the candidates in the election;

(b) in the case of a single member election where there are more than 2 candidates, if the total number of first preference votes polled in his favour is more than one-tenth of the total number of first preference votes polled by all the candidates in the election;

(c) in the case of a single member election where there are only 2 candidates, if the number of votes polled in his favour is more than one-tenth of the total number of votes polled by both the candidates in the election,

otherwise it shall be forfeited to the Crown.

(2) On the death of a candidate before polling day, or on polling day before the close of the poll—

(a) the deposit made by or on behalf of that candidate shall be paid to his legal representatives; and

(b) the deposits made by or on behalf of the other candidates shall be returned."

The purpose of this amendment is to insert a new section 84. The amendment is complementary to the proposed amendment to clause 51 (a) and deals with the question of the return of deposits to certain candidates who have been affected by the death of a candidate in an election for which they have nominated. Because of the proposed amendment to clause 51 (a), candidates for an election which is aborted by the death of a candidate will not

automatically be candidates for a fresh election. It is therefore regarded by the Government as appropriate that in such cases their deposits be refunded.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 47 put and passed.

Clause 48: Section 86 amended—

Hon. J. M. BERINSON: I move an amendment—

Page 27, lines 12 and 13—To delete "between the hours of 11 a.m. and 12 noon on the day" and substitute the following—

for the period of one hour immediately prior to the hour

This amendment brings the wording in this clause into line with the rest of the Bill.

Everywhere else in the Bill where the nominating machinery is referred to, the reference is to the hour of nomination. For that reason, it is necessary to fix that time limit in a way that will match up with the provisions in the Bill, which presume that the hour of nomination is expressed to be noon.

The fact is that there are other parts of the Bill where the time is not specified, and this amendment is to cover those situations.

Hon. G. E. MASTERS: I refer to proposed subsection (2a) (a) at line 23 on page 27 of the Bill.

Will the amendment provide for the continuation of the present procedure of determining the position of candidates on the ballot paper; that is, the names of candidates are placed in similar sized envelopes, and the order in which they are drawn out of the ballot box determines the position of candidates on the ballot paper? It seems to me that it will be the same as the past procedure.

Hon. J. M. BERINSON: The answer requires a reference to schedule 2, which is on page 60 of the Bill. The honourable member will see that paragraphs 3 and 4 of schedule 2 provide that the slips shall be put into a ballot box.

Hon. G. E. Masters: A hollow opaque sphere.

Hon. J. M. BERINSON: Now I understand the reference to Lotto. They are little opaque balls which are put into large opaque ballot boxes, which are rattled around and one is extracted at a time.

Hon. G. E. MASTERS: I am pleased there has been a change of arrangement. I remember the old style of getting a small box and a number of large envelopes which just fitted in and putting the names of the various candidates on them. The first candidate's face always turned a funny colour because it was a dead certainty that his would come out last if put in. At one stage I rocked the box like the very devil but as soon as one's opponents get the knowledge of it—

Hon. J. M. Berinson: That is the idea, Mr Masters. You could not be sure.

Hon. G. E. MASTERS: If one has done it a number of times, one has the advantage. The Government has made a very good move. I am not sure what opaque balls look like though!

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 49 and 50 put and passed.

Clause 51: Section 88 amended—

Hon. J. M. BERINSON: I move the following amendments—

Page 30, lines 15 to 20—To delete paragraphs (a) and (b) and substitute the following paragraphs—

(a) in subsection (2) by deleting paragraphs (f) and (fa);

(b) in subsection (3) by deleting "on polling day" and substituting the following—

" for an election in a district";

Page 30, line 22—To delete "on or after polling day" and substitute the following—

after the close of the poll

Clause 51 looks to the amendment of section 88 of the Electoral Act which covers the situation of the death of a candidate after nomination. When an election has failed due to the death of a candidate, the effect of the proposed amendments, along with the amendment to clause 46, is to make a fresh start from the beginning of the election. Previous nominations lapse and the deposits are refundable.

I refer to clause 51 (b) and (c). Under section 88 (3) the death of a candidate in a district election after the close of the poll and before the count is completed causes the election to fail if the count shows the deceased candidate would have been elected.

Under proposed section 88 (4) if a candidate in a regional election dies after the close of the poll and before the count is completed, the name of that candidate will remain in the count and if he is "elected" the vacant position will bring into operation the procedure for filling such a vacancy in the Council.

I refer members to clauses 80 and 81. The amendments to clause 51 (b) and (c) are necessary to achieve consistency in the opening words of the two subsections.

Amendments put and passed.

Clause, as amended, put and passed.

Clause 52 put and passed.

Clause 53: Section 90 amended—

Hon. J. M. BERINSON: I move an amendment—

Page 31, after line 27—To insert the following paragraph—

(d) by inserting after subsection (12) the following subsection—

"(13) The issuing officer is not—

(a) authorized to issue postal ballot papers before the expiration of 24 hours after the hour of nomination;

or

(b) required to issue a postal ballot paper before the expiration of 48 hours after the hour of nomination. ".

The proposals to allow ticket voting make it necessary to ensure that no postal ballot paper may be issued until candidates or groups have registered their voting tickets. A period of 24 hours after nominations have closed is proposed for this purpose. Some issuing officers will have postal ballot papers available soon after that time but some may not. To allow for this, there will be no requirement to issue postal ballot papers until 48 hours after the close of nominations.

Hon. G. E. MASTERS: The Liberal Party will support the proposal for voting tickets for the Legislative Council but not for the Legislative Assembly. Although it does not make any specific reference here to that proposition it is appropriate that I make that comment.

Hon. E. J. CHARLTON: The National Party supports this amendment because it supports the proposal for voting tickets in Legislative Council elections.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 54 to 59 put and passed.

Clause 60: Section 113 amended—

Hon. J. M. BERINSON: I move an amendment—

To delete the clause and insert the following clause—

Section 113 amended

60. Section 113 of the principal Act is amended—

(a) in subsection (1)—

(i) by inserting before "prescribed" the following—"appropriate"; and

(ii) by deleting ", arranged in large characters in the order determined in accordance with section 86(2a)";

(b) in subsection (2) by deleting "in smaller characters"; and

(c) by inserting after subsection (2) the following subsection—

"(3) The printing in a ballot paper shall be in characters of such size or sizes as the Electoral Commissioner determines."

Hon. G. E. MASTERS: Will the Attorney explain?

Hon. J. M. BERINSON: The amendment is designed to enable the size of the characters used in the printing of ballot papers to be at the discretion of the Electoral Commissioner.

Hon. G. E. MASTERS: Could the Attorney give me the reason for the word "appropriate" in the amendment? What will be achieved by inserting the word "appropriate" before the word "prescribed"? Is there any specific reason for putting that word in?

Hon. J. M. BERINSON: Just to clarify this matter, I think the Leader of the Opposition is referring to section 113(1). This again is for the purpose of flexibility in meeting the requirements for the ballot papers by substituting the word "appropriate" for the word "prescribed", and was made for two different ballot papers proposed for the two Houses of Parliament, and the very different printing circumstances that could arise as a result.

Hon. G. E. MASTERS: My next question refers to the last part of proposed new subsection (3) which deals with the printing of the ballot paper in characters of such size or sizes as the Electoral Commissioner determines. I guess that during a State election the characters in a ballot paper will be of the same size throughout all electorates. There is no pro-

vision for, necessity or likelihood of, the ballot papers being printed in different characters of varying sizes throughout the State. There will be a standard form which the Electoral Commissioner can determine in respect of the size of characters used, and these will apply Statewide.

Hon. J. M. BERINSON: I believe that is the extent of flexibility proposed here and it is the intention to cover the possibility of different sized printing in the different ballot papers, especially when one considers the Council elections which are involved in the regional proposal. There is a possibility that the number of candidates in some regions could be very much larger than in others. To avoid the ballot papers being unwieldy in size, I believe that this provision leaves some scope to the Electoral Commissioner to use his judgment. It goes without saying that whatever the size of the print chosen by the Electoral Commissioner, it would certainly be of a good, legible size; but whether in the case of relatively few candidates the Electoral Commissioner chooses to make the print larger could, I believe, be reasonably left to him.

Hon. G. E. MASTERS: The Attorney would know that the Liberal Party and the National Party are proposing to have a standard style, as well as the same sized characters, in the ballot papers. I wonder whether, if the Liberal Party and the National Party are successful with that proposition, this will have any effect or will cause any difficulties.

Hon. J. M. BERINSON: That would not affect any decision that the Government subsequently took to fix the nature of the ballot papers. That is a question that can be considered independently.

Hon. E. J. CHARLTON: In other words, it relates directly to the number of candidates on the ballot paper, and the Electoral Commissioner will establish the size of the print accordingly?

Hon. J. M. BERINSON: As far as I can see that would be the main consideration. It is possible to conceive of other circumstances, such as if there were candidates with the same name in an electorate, where this could be modified.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 61: Sections 113A and 113B inserted—

The DEPUTY CHAIRMAN (Hon. John Williams): Within the amendments to this clause there are many which have almost the same identity. If the first clause or the first amendment I call is passed, anything I consider is like or entirely mirrors that clause cannot be dealt with. There has to be some form of agreement between members in respect of these amendments. I warn members that this is critical.

Hon. J. M. BERINSON: We are now reaching the consideration of the very substantial bulk of amendments on clause 61. On the other hand, I believe the issues involved are relatively limited. Mr Deputy Chairman, could we perhaps delay the proceedings for a couple of minutes while I put various pages together?

Sitting suspended from 11.41 pm to 12.30 am (Thursday)

Hon. G. E. MASTERS: I draw members' attention to an amendment of some size and consequence on the Notice Paper, only bettered by the Labor Party amendment, which is probably very much the same, and then the large and substantial National Party amendment. We are dealing with voting tickets. The Liberal Party has made it clear it will go along with a voting ticket based on the understanding that a regional system will be developed in the Legislative Council; and in that area we are not quite sure how we are to deal with the matter, but it must be based on a regional system.

We are opposed to the Labor Party's amendment, similar as it is, for the very good reason that the Labor Party proposes voting tickets for both the Legislative Council and the Legislative Assembly. Because of the regional system, a large number of candidates will seek to be elected to Parliament. At times, that large number will create a very difficult situation as far as sending out ballot papers is concerned, and as far as the voting public is concerned. Our amendment proposes voting tickets for the Legislative Council based on the regional proposals, and that voting ticket is very similar to the voting ticket used at the last election by the Federal Government. A number of people would say that there was a bit of a mix-up.

Hon. Garry Kelly: The House of Representatives was different from the Senate. That is why there was a mix-up.

Hon. G. E. MASTERS: I do not think it was because of that.

Hon. Garry Kelly: It was.

Hon. G. E. MASTERS: It is obvious there was an unusual situation at that time, and people were not used to a voting ticket. Another Federal election will be held on 11 July, and people will be more accustomed to the procedure.

What the Labor Party proposes is a different form of ballot paper, so that could only cause difficulty. We wish to mirror the Commonwealth practice in the format and layout of the ballot paper. I do not think I have any copies, but the Attorney General has one. It is almost identical to the National Party proposal, and mirrors the Commonwealth ticket, with the exception that we are suggesting—although it is not written into the proposal—that perhaps the voting ticket area as such should be a different colour. The ticket could be pink and white, with pink for the voting ticket and white for those who wish to make their preferences known.

One difference between the Liberal Party and the National Party proposals is that we think Independents should be able to register on a voting tickect, so we propose an alternative layout. We have two forms in two schedules which we will be talking about later.

What the Liberal Party is putting forward is reasonable. The advantage is that the format of the ballot paper will be the same as that of the Senate paper, or very similar, and that leads to a better understanding of the changed situation. I cannot see any reason why that proposition cannot be accepted.

Point of Order

Hon. G. E. MASTERS: Mr Deputy Chairman, perhaps you could advise me on how to deal with this proposal. Will we deal with my proposal first and vote on the Liberal amendment, and if that fails we go on to the others?

The DEPUTY CHAIRMAN (Hon. John Williams): Yes.

Committee Resumed

Hon. G. E. MASTERS: I was not sure. So the format is very clear. It sets out in no uncertain terms how the form should be made out. It sets out the name of the candidate, the political party, and there is a square on the voting ticket at the top of the page.

The process is a matter to be debated, but it would be the same as the Labor Party's proposal, with the exception that we are going only for the Legislative Council, not the Legislative Assembly. The proposal is that a person has a choice. He can put his tick in the box allocated for a political party, or fill in preferences according to choice. If the person chooses to fill in a voting ticket box and he decides to do the preferences as well, then if the preferences are filled in correctly they take precedence over the tick in the voting box. If the person makes a mistake with the preferences, then the voting box will apply. That is what the Labor Party has proposed. The difference is that our proposal applies only to the Legislative Council.

I do not think that the Opposition could be fairer than that. We have always made it clear that we think that the proposals for the Legislative Council, particularly if we adopt the regional system, are different and will be much more demanding as far as the public are concerned, simply because of the number of candidates.

It is interesting that the Commonwealth uses the same procedure; it does not have a voting ticket in the House of Representatives. The Assembly is a different proposition. There are rarely more than four Legislative Assembly candidates; it is normally about three. The candidates represent a community which quite often is a rural one or one in which the Assembly members are well known. They are certainly well known if they are city members. The very least that one could ask an elector to do is to make his personal choice in that respect. That has been the accepted practice, and there would be no trouble with that at all.

It is also very important that the prospective members of Parliament, the candidates in the election, perform on their own merits, which they do, as seen by the different voting patterns in the seats, as mentioned by the Attorney General.

I would be interested to hear the remarks of both the Attorney General and the Leader of the National Party. I move an amendment—

> Page 34, line 2—To insert after the line the following—
>
> **Voting tickets**
>
> 113A. (1) For the purposes of an election in a region a candidate or a group may, before the expiration of 24 hours after the hour of nomination, lodge a voting ticket with the Returning Officer.

(2) A voting ticket may be lodged under subsection (1) on behalf of a candidate or a group by a person who is authorised to do so by a notice in writing that has been—

(a) signed by the candidate, or by each candidate included in that group; and

(b) lodged with the Returning Officer at or before the hour of nomination.

(3) Where a candidate is included in a group, a voting ticket may not be lodged under subsection (1) by or on behalf of the candidate individually, but only by or on behalf of the group as a whole.

(4) A voting ticket lodged under subsection (1) must—

(a) indicate by consecutive numbers commencing with the number 1 an order of preference for all candidates in the election; and

(b) (i) in the case of a voting ticket lodged by or on behalf of a candidate who is not included in any group—indicate a preference for that candidate over all other candidates in the election;

(ii) in the case of a voting ticket lodged by or on behalf of a group—indicate preferences for the candidates in the group—

(A) in the order in which the names of those candidates are to appear in the ballot paper; and

(B) over all candidates in the election who are not included in that group.

(5) If—

(a) for the purposes of an election in a region for which there is a group—

(i) a voting ticket has been lodged under subsection (1) by or on behalf of a group; or

(ii) a voting ticket has been lodged under subsection (1) by or on behalf of a candidate not included in any group; or

(b) for the purposes of an election in a region for which there are no groups a voting ticket has been lodged under subsection (1) by or on behalf of a candidate,

then, except in the case of a voting ticket lodged by or on behalf of a candidate in an election in which there are not more than two candidates, the voting ticket shall be regarded as being registered in relation to the group or candidate, as the case may be, for the purposes of the election.

Hon. E. J. CHARLTON: The National Party's amendment is very closely aligned to or virtually identical with the amendment moved by the Liberal Party. In the amendment on the Notice Paper, the National Party refers to a form A, which is similar to the Commonwealth form used in the Senate elections. To simplify the situation, the National Party will support the Liberal Party's amendment, on the understanding that the proposed form to be used in Council elections will be based on the Commonwealth form, which also incorporates the party name as well as the candidates as part of the voting ticket.

The National Party does not support the proposition put forward by the Government of having a voting ticket for both Houses. The National Party believes, as has been explained by the Leader of the Opposition, that one will have a multiplicity of candidates, perhaps groups of candidates, and perhaps even Independents in a Council election. One simply does not have that in an Assembly election.

It is essential, especially since a Federal election has been announced, that an education programme be undertaken by all the electoral officers to educate and inform the electors of Australia about the different voting procedures in the House of Representatives and in the Senate. The same would apply if there were a similar situation in Western Australia; people need to be educated and informed, by means of wide, practical publicity, that they have to fill in the whole card in the case of an Assembly election, and that in the case of a Council election they have the option of either filling in the whole card or simply voting on a party arrangement.

If the Government accepts the amendment put forward by both the Liberal and the National Parties that a ticket system be applied and that it be based upon the Commonwealth form, then the National Party supports the Liberal Party's amendment.

Hon. J. M. BERINSON: With a view to limiting the number of times I speak on clause 61, I will attempt to summarise the differences between the Government and the Opposition parties in this area, and then to provide some indication of the way in which it would be helpful to proceed. As I understand the position, there are three main areas of disagreement between the Government and the Opposition which are indicated by the listed amendments.

In the first place, the Government believes that voting tickets should apply to elections in both the Legislative Council and the Legislative Assembly. The Liberal and National Parties have made it clear that they believe voting tickets should apply to elections for the Assembly only. That is the first major difference.

The second difference relates to the inclusion of party names on ballot papers. The Government's view is that party names should be printed on the ballot papers for both Houses. The Liberal Party's listed amendment provides them for the upper House only. The amendments listed by the National Party provide for the printing of party names on neither ballot paper. However, I understand from what Hon. Eric Charlton said that the National Party supports the Liberal Party's view, which would leave it in the position of agreeing to party designations on Council ballot papers but disagreeing with the Government in respect of party designations on Assembly ballot papers.

The third major difference relates to the form of the ballot paper. It is the Government's view that it should leave the position more flexible than is provided by the Opposition's amendments, and that the form of the ballot paper should be left to the Electoral Commissioner. I will attempt at a later stage of the debate to indicate the difficulties that will otherwise arise, and will also refer to an agreement reached during the short recess on the possibility of future measures to reintroduce some greater flexibility.

The amendment which the Leader of the Opposition has moved deals only with the first of the three items to which I have referred; it is directed to limiting voting tickets to Legislative Council elections only, and preventing their use in Legislative Assembly elections. The Government believes that that is a very unfortunate distinction to draw, and that it is difficult to perceive any principle which supports it. The practical problem has already been demonstrated by the experience in the last Federal elections. There really can be no serious question but that the availability of a voting ticket in the Senate but not in the House of Representatives led directly to an enormous increase in the informal vote in the House of Representatives election.

An Opposition member: It was only Labor voters, wasn't it?

Hon. J. M. BERINSON: I am not aware of any analysis indicating where it came from.

Hon. P. G. Pendal: That was Bob Hawke's assumption.

Hon. J. M. BERINSON: I do not think it is relevant. The relevant consideration is that the difference in the system between two ballot papers dealt with at the one time led to this enormous increase. It was in fact in the order of a doubling of the traditional pattern of informal voting. On the basis of that practical demonstration alone, the argument is very strong that the possibility of confusion should be eliminated and that the way to do it is to make the voting ticket available for both Houses. One would think that any argument opposed to that would be able to advance some serious matter of principle to establish that voting tickets in the Assembly are undesirable; but we have not heard that and I do not believe that any exists. Surely it is in the interests of the whole of the system, and of ensuring that every voter's intentions count, to simplify as far as possible the procedures involved in securing a formal vote.

As members will know, the Government's original Bill provided for optional preferential voting. It is just conceivable that on that basis one could say, "Since you only have to vote for one candidate anyway in a single-member constituency, it is hardly possible to be simpler than that and we should not pander to the difficulties voters might have in voting from 1 to 3, or 7, or 10, as the case may be, under the preferential system." However, in order to accommodate the very strong views advanced by the Opposition parties in support of a return to the full preferential system, the Government has listed its amendments which provide that a full preferential system should in fact apply to both Houses; and that would certainly apply to the ballot papers for the Legislative Assembly.

Once we reach the point where we have conceded a return to, or a continuation of, a full preferential system, what argument is left for saying that voters should be forced to fill in all boxes up to whatever number might be involved, rather than allowing them to indicate which is their preferred candidate and which is their preferred ticket? Certainly there has been no such argument advanced in this debate, and I have not seen it advanced anywhere else. I do not believe it exists; and that, frankly, is the only explanation I can find for the absence of reasoned argument in support of this differentiation.

I put it to the Committee that the present amendment does raise a very serious matter, and one we ought to approach on the principle that to the maximum extent possible we should help to ensure that the intention by every single voter is reflected in the vote which is actually cast. That is put at risk by the amendment, and that is why we should reject the amendment.

Having said that, I will deal with the second item of difference between the parties; namely, the designation of party names on the ballot paper. I am pleased to note the acceptance by the National Party of the desirability of party designations on Council ballot papers, and the use of voting tickets under the regional system would be almost impossible without that.

However, again I have to ask Opposition members to indicate on what basis of principle they differentiate this question as between the two ballot papers. If it is a good idea to put party designations on the Council papers for the purpose of clarifying to the greatest extent possible the position of the candidates being voted for, why should not the same provision apply to the Assembly? Why should it be harder? Why should it be more difficult for a voter for an Assembly candidate to decide for whom he should vote?

Hon. Neil Oliver: It is simple.

Hon. J. M. BERINSON: Mr Oliver says it is simple. I will be interested to hear the explanation.

Hon. Neil Oliver interjected.

Hon. J. M. BERINSON: In due course we will hear about it. As always, I am open to persuasion, but I think Mr Oliver would have to do a better job than he normally does to persuade me on this point.

Hon. Neil Oliver: I have never seen you being persuaded by anybody.

Hon. J. M. BERINSON: I seriously cannot find any sense in the proposition that it should be more difficult to identify a candidate's party on the Assembly ballot papers than it is to identify it on the Council ballot papers. That is the long and short of it. In the Commonwealth electoral system, even where they have a break-up between the voting tickets as between the two Houses, they have adopted a uniform practice in respect of party designations. What I am suggesting here is that that ought to be done by us as well.

The question of the form of ballot papers is also a very serious one, but there are some discrete amendments dealing with that particular question to come, and I will leave my comments to that point. For the moment, I urge the Committee to reject this amendment by the Leader of the Opposition, because it puts two very great barriers in the way of the efficient operation of elections. The first barrier is by way of the confusion which will undoubtedly arise because of the availability of voting tickets for one House but not the other. The second barrier is by way of the absence of party designations on the Assembly ballot papers as compared with the Council ballot papers. I urge the Committee to support the Government's position in both respects.

Hon. NEIL OLIVER: In the four years I have known the Attorney General here, I have not known of any member of the Liberal or National Parties who has managed to persuade the Attorney to change his mind on any issue. Still, I accept his challenge this evening to try to reverse the record of the past four years.

There is a very simple reason why the Leader of the Opposition has moved this amendment and why the National Party supports it. The reason stems from the role of the Executive arm of Government as compared with the role of the individual member.

Hon. J. M. Berinson: One day I will extract the number of amendments from the Opposition that I have adopted, and then you will be really sorry that you said something as cruel as that.

Hon. NEIL OLIVER: I am sorry the Attorney thinks I was cruel.

The reason the National Party supports the Leader of the Opposition's amendment can be related to clause 8 and to the Senate-type elections in Western Australia for two regions. It must be obvious to every member here that

with two regions, country and metropolitan, we would need a ballot ticket similar to the Senate ticket. It would be impossible to do otherwise.

Around the world one of the greatest electoral reforms which apparently has not been accepted by this Government is a reform which is the reverse of this Government's proposal; it is a tendency to place electoral reform back in the hands of individual members of Parliament rather than in the hands of the Executive. In Canada, the move is not to show a candidate's political affiliation on the voting ticket. I see no reason why in Western Australia, when there are just two or three candidates involved, their party affiliation should be displayed. It is a terribly simple thing.

The Attorney sees a problem with informal votes. Hon. Phillip Pendal has already said that the Prime Minister believes that the reason for the high number of informal votes among Labor supporters is that they do not use the educational system as well as other political party supporters.

I cannot understand why the Government believes we must show the party affiliation of candidates for lower House seats.

Hon. J. M. Berinson: I did not say we must have it, but that it was highly desirable.

Hon. NEIL OLIVER: The very reason that the Legislative Council should be different from the Legislative Assembly is that he is proposing that there be two regions in the State. The only way we can have a Senate-type ticket is to have a proportional representation ticket showing party affiliations.

It is very unfortunate, because personal representation will no longer count, which is exactly what the Labor Party wants. It is not interested in the individual; it is interested only in the mass. Were the Australian Labor Party to believe in the individual, we might even have a committee system in the Legislative Council, but we cannot have that because the ALP does not believe in the rights of the individual.

Hon. G. E. MASTERS: We believe that in the Legislative Assembly there is a personal relationship between candidates and voters, and that has to be considered. It is interesting to note that the House of Representatives does not have party designations on its ballot papers, and we are proposing an arrangement similar to the Federal scene.

Many of the problems we have had and will have concern the fact that voters will be able to use a tick, a cross, or the figure "1" to indicate their choice. We accepted the Government's wording, but with some strong reservations, certainly on my part, because we felt that this arrangement would cause problems. Despite our reservations, we accepted the Government's wording, and it was conceded that we were being very reasonable.

The problem with using a tick, a cross, or the figure "1" is that in different countries a different one of those three choices is used and this will confuse many people now here. I believe we should have decided on one or the other.

With the House of Representatives and the Assembly, a voter is required, when there are three candidates, for instance, to vote "1", "2", and "3". The Attorney might indicate later whether in future a person could merely use a tick, for instance, to indicate his preference. I believe it would have been preferable to say that a voter had to use the figure "1" in the appropriate box rather than having the choice of a tick, a cross, or a "1". Nevertheless, we have said that we should try this.

The Attorney's party, no doubt, strongly supports an optional preferential system of voting. I believe there should be optional voting; if someone does not want to vote, he should not have to. I am not likely to have the support of the Labor Party on this point, and probably not the support of my own party. Nevertheless I think one of these days we might seriously consider the matter.

I think that most of the things that should have been said have been said. There is a difference of opinion between the Labor Party, the Liberal Party and, in this case, the National Party on certain issues. It is now a matter of putting the amendments to the vote.

Hon. GARRY KELLY: I raise the plight of absentee voters who are voting outside their electorates. I have seen them go to the polling booths to vote for a candidate not knowing which party the candidate represents. They might have been out of their electorates for a long time or, especially in the case of a Federal election, the election might have been called early. When they ask the polling officials which party each candidate represents, they are told by the officials that they are not allowed to reveal that to the voters.

How do we get over that problem? The people representing the various parties may not be handing out very comprehensive how-to-vote material, or perhaps no-one may be handing out that material to assist the voter. How are those people supposed to cast a formal

vote? The Liberal Party says that, because voters have a closer personal attachment to the candidates for Assembly seats, it is not permissible to place the party for which each candidate stands on the ballot paper. However, that is permissible on the Council ballot papers. How does someone cast an intelligent and informed vote for Assembly seats? It is commonsense that the names of the parties should be included on the ballot paper.

Hon. W. N. Stretch: So you are voting for the party, not for the candidate?

Hon. GARRY KELLY: Under the proposed scheme, a voter can obtain the information that he requires at the polling booth in order to cast a valid vote. I cannot understand the logic of the Opposition's thinking by attempting to confuse the voting process. The aim of the electoral system should be to produce the maximum number of valid votes. Anything else should be avoided. In order to maximise the number of valid votes, we need similar voting systems for both Houses.

We saw the problem in the 1984 Federal election. The Australian Electoral Commission did a magnificent job informing the people about voting for the Senate. Because we have a different system of voting for the House of Representatives, the people translated the Senate voting system to the House of Representatives voting system which resulted in a much lighter number of formal ballot papers in the House of Representatives vote. If the Opposition's amendment is passed, we will have exactly the same experience. I urge the Committee to support the Government's proposal.

Hon. H. W. GAYFER: That was an impassioned plea by Hon. Garry Kelly. He said he could not understand. He does not understand because he has one philosophy and other members happen to have another. Each member of this Chamber is entitled to his own beliefs. Hon. Garry Kelly believes inherently in the party system. Other people believe that they should vote for the individual. That is the basis for the difference of opinion.

I fully understand that Hon. Garry Kelly does not understand. However, he should understand somebody else who may believe that he is entitled to vote for a person rather than for a party.

Hon. Garry Kelly: They still can.

Hon. H. W. GAYFER: Hon. Garry Kelly is promoting the party as the key thing to be considered at election time. I suggest that the voter should know the candidate he is voting for, and what that candidate stands for. He should not blindly vote for a party, otherwise we will have the ridiculous situation of there being no need to put names on the ballot paper at all.

We are agreeing partly to the proposal, and Mr Kelly is questioning why we do not agree to the whole thing. The point is that we do not really want to even go part of the way.

I do not believe that Mr Kelly has the right to criticise other people for their philosophies just because those philosphies contradict his beliefs.

Amendment put and a division called for.

Bells rung and the Committee divided.

The DEPUTY CHAIRMAN (Hon. John Williams): Before I appoint the tellers, I cast my vote with the Ayes.

Division resulted as follows—

Ayes 17

Hon. C. J. Bell	Hon. Tom McNeil
Hon. J. N. Caldwell	Hon. N. F. Moore
Hon. E. J. Charlton	Hon. Neil Oliver
Hon. Max Evans	Hon. P. G. Pendal
Hon. V. J. Ferry	Hon. W. N. Stretch
Hon. H. W. Gayfer	Hon. John Williams
Hon. A. A. Lewis	Hon. D. J. Wordsworth
Hon. P. H. Lockyer	Hon. Margaret McAleer
Hon. G. E. Masters	*(Teller)*

Noes 16

Hon. J. M. Berinson	Hon. Robert Hetherington
Hon. J. M. Brown	Hon. B. L. Jones
Hon. T. G. Butler	Hon. Garry Kelly
Hon. D. K. Dans	Hon. Mark Nevill
Hon. Graham Edwards	Hon. S. M. Piantadosi
	Hon. Tom Stephens
Hon. John Halden	Hon. Doug Wenn
Hon. Kay Hallahan	Hon. Fred McKenzie
Hon. Tom Helm	*(Teller)*

Amendment thus passed.

Hon. J. M. BERINSON: It might help the Committee if I indicate how I intend to proceed from this point. It appears to me that following the passage of the last amendment by Mr Masters, there will be a number of other amendments by him that are really consequential on the decision just made. I propose, at such points, to simply indicate that I accept those amendments on the basis that they are consequential, but it should be understood that that acceptance is not on the basis that those other amendments are acceptable to the Government.

From a practical point of view, we have to approach all the amendments to clause 61 as representing, on the one hand, a package of

measures by the Government and, on the other hand, a package of measures by the Leader of the Opposition. As I understand it, that is a reasonable way to proceed with those amendments listed. For the same reasons, I will not be pursuing my own amendments, which would cut across the sort of principle which has been adopted by the last vote.

Hon. G. E. MASTERS: The next amendment is simply consequential on the last amendment and is a numbering change to take account of the amendments that I have on the Notice Paper. I move an amendment—

> Page 34, line 5—To delete the section designation "113A." and substitute the following section designation—
>
> 113B.

The DEPUTY CHAIRMAN: Does Hon. Eric Charlton understand what will happen if that amendment is passed? Does he want to proceed with his amendments?

Hon. E. J. Charlton: No.

Amendment put and passed.

Hon. J. M. BERINSON: I move an amendment—

> Page 34, line 12—To delete "across" and substitute the following—
>
> in

I will be dealing more particularly with the proposed form of the ballot paper. At that time, I will repeat the arguments for greater flexibility in the approach to that. Part of the exercise will be to suggest that rather than bind ourselves to the precise form of the listed forms, we should allow for other possibilities. One such possibility is that instead of the names of candidates being listed across a paper, they should, in fact, be listed vertically down the paper. I will not go into the technical considerations involved in that.

This amendment would not cut across the Leader of the Opposition's proposal to include the listed forms in a schedule to the Bill. Should his proposal for the inclusion of a form in the schedule be carried, that carries the day. The fact that we have changed this wording from a requirement that names should be listed across a page is not at all inconsistent with the principle. The present amendment simply opens the way for every possibility, but would be overridden by any decision which we may make later this morning to include a particular form in the schedule.

Hon. G. E. MASTERS: The Attorney General made reference to the proposed ballot papers that would be included in the schedule. He is saying that if there were an alternative under the arrangements we discussed earlier, it could not be done without changing the word to a cross. A cross is specific.

Hon. E. J. CHARLTON: Provided the emphasis is placed on the accepted proposal, from the discussions that took place between the three parties, it is understood that the preference of the National Party is to stay in line with the Commonwealth form. That form goes across the page. The only reason one would want to change from that would be the fact that there are too many candidates in the election to have them across the page. I would not want to suggest that we change from that. The Senate style has been here for a long time. It is here to stay. It is only logical that in a State election we should try to stay as closely in line with the Senate style as possible. When people go to vote at an election and there is a multiplicity of candidates, it is accepted that there are two options for voting, and that the candidates be shown across the page.

Amendment put and passed.

Hon. G. E. MASTERS: I move an amendment—

> Page 34, lines 20 to 23—To delete the proposed paragraph (d) and substitute the following—
>
> (d) The names of candidates, if any, not included in any group shall be printed in the ballot papers in the order determined under section 87(6) and, where warranted by reason of the number of such candidates, may be printed as a group.

The intent of this amendment is quite clear. The names of the candidates, if any, not included in a group shall be printed in the ballot papers in the order determined. We have discussed that the orders determined will be by way of hollow, opaque balls.

Hon. J. M. BERINSON: This amendment will create problems for Independent candidates against others. Nonetheless, I accept this amendment as consequential to the earlier amendment, and I do not oppose it on that basis.

Amendment put and passed.

Hon. J. M. BERINSON: I have amendment (AH) listed. My understanding is that that necessarily goes because of the decision we took on amendment (AG).

Hon. G. E. MASTERS: I move an amendment—

Page 34, lines 27 to 35—To delete the lines and substitute the following—

(3) In printing the ballot papers for an election in a region—

(a) a square shall be printed opposite the name of each candidate; and

(b) where a voting ticket has been lodged under section 113A an additional square shall be printed in the prescribed position—

(i) in the case of a voting ticket lodged by or on behalf of a group—above the names of the candidates included in the group or above the squares printed opposite those names; and

(ii) in the case of a voting ticket lodged by or on behalf of a candidate—above the name of that candidate or above the square printed opposite that name, or, where the names of candidates are printed in a group as authorised by section 113B(1)(d), adjacent to the name of that candidate or adjacent to the square printed opposite that name,

in order to indicate that a voting ticket is registered in relation to the group or candidate, as the case may be.

(3A) Ballot papers for an election in a region shall be in the form of Form A or Form B in Schedule 3 as the case requires.

This follows our previous discussions and it deals with the printing and form of ballot papers. It deals with voting tickets and all matters we discussed earlier. The Attorney General has shown us the proposed ballot paper, which is based on the Commonwealth ballot paper. I do not think there is any need to repeat what has been said earlier except to say that it is consequential on our previous discussions. By now every member would understand what we are talking about.

Forms A and B, which have been shown to us by the Attorney General, will be—if we are successful in our amendment—included in schedule 3 of the Act. It will therefore be part of the Act itself rather than being enacted by way of regulation, or the Electoral Commissioners drawing it up themselves. It is necessary that these forms should be by way of schedule. That is the practice in the Senate.

Hon. J. M. BERINSON: There are significant objections to the adoption of forms A and B. The Leader of the Opposition is basically looking to implement a form in line with the Senate ballot paper, whereas the provisions of our Act and those governing the Senate elections are different in important respects. That is particularly the case where Independents are concerned. The Senate provisions do not provide the opportunity to Independents to nominate a voting ticket. This Bill provides such an opportunity, and when advantage is taken of that by an Independent candidate, the effect is to entitle that candidate to be listed separately in a column across the page.

The Senate system requires Independents to be listed as one group. That creates the possibility, if there is a significant number of Independents, of a long ballot paper indeed. On the other hand, as the Bill does not require Independents to nominate a voting ticket, the position will arise where some Independents might nominate a ticket and others might not.

The Bill then provides that those who have nominated a ticket get this spot, which can only be regarded as a preferred spot, across the page, whereas the non-nominating candidates are put in a group of this nature and can easily be submerged. As a result of that quite important difference, serious questions arise as to whether it is as reasonable as it sounds to move to a ballot paper based on the Senate system.

I have already indicated that the preference of the Government, as reflected in its amendments, would be to leave the form of the ballot paper flexible and at the discretion of the Electoral Commissioner. I accept, for present purposes, that the way the debate has gone would make it impracticable to seek to amend Hon. Gordon Masters' proposal in this respect.

Hon. Gordon Masters referred earlier to discussions during the break in which he, members of the National Party, and I participated. I think I am stating the position fairly by reporting to the Committee that it was agreed between us that Hon. Gordon Masters' present proposal to include these forms in the schedule to the Bill should proceed, but on the undertaking that before our consideration of the Bill is finalised an amendment will be produced which is of sufficient complexity to have made it impracticable to draw up tonight.

The amendment will be designed to provide that amendments to the forms included in the schedule will not require an amendment of the Act but can be prescribed by regulation. Hon. H. W. Gayfer raised the possibility that such a regulation could be prescribed after the last session of a Parliament and before the next election, leading to a situation where a decision by the Parliament to positively accept this table could be overridden by a regulation which the Parliament had no opportunity of disallowing.

It was therefore agreed between the various parties that the amendment directed at allowing amendments by regulation would be framed in such a way that the regulation would only take effect after tabling in the Parliament for 14 sitting days—that is, for long enough to equal the maximum time allowed for disallowance.

I believe I am representing fairly the approach which was agreed, and it is on that basis, though I confess reluctantly, that I will not take the Government's opposition to the adoption of the particular forms any further at this stage.

Amendment put and passed.

Hon. J. M. BERINSON: I move an amendment—

Page 35, line 1—To insert after "region" the following—

where the relevant number is more than one

By this amendment, provision is made for late alterations to the ballot papers if a candidate cannot stand for election. The proposed amendment applies to provisions in subsection (4) only when the election is for more than one candidate—that is, where there may be groups of candidates.

Amendment put and passed.

Hon. J. M. BERINSON: I move an amendment—

Page 35, line 7—To delete "(5) or".

The reference to section 87(5) is deleted as there should be no reason to change the order of groups on a ballot paper.

Amendment put and passed.

Hon. G. E. MASTERS: I move an amendment—

Page 35, line 8—To insert after the line the following—

Printing of political party names or "independent" on ballot papers

113C. (1) Subject to this section, where a candidate in an election in a region applies to have a name specified in the application being—

(a) a name of a political party;

(b) a composite name of two political parties comprising a name of one political party and a name of the other political party,

printed adjacent to the applicant's name on the ballot papers for use in the election, the name so specified shall be so printed on those ballot papers.

(2) Where—

(a) in accordance with subsection (1), a name is printed adjacent to the name of a candidate on ballot papers for use in an election; and

(b) a voting ticket square is printed on those ballot papers in relation to the candidate or in relation to a group in which the candidate is included,

the name so printed shall also be printed adjacent to that voting ticket square.

(3) An application under subsection (1)—

(a) must be in a form approved by the Electoral Commissioner;

(b) must be signed by the candidate;

(c) must contain a declaration signed by an authorised officer of the political party or, if the application is for the printing of a composite name, by an authorised

officer of each political party concerned, stating that the party supports the application;

(d) where the name of the applicant is to be included in a group, must be in the form of a joint application by all the candidates to be included in the group for the printing of the same name, adjacent to the name of each of those candidates; and

(e) must be received by the Returning Officer not later than the hour of nomination.

(4) The Returning Officer may reject an application under subsection (1) if, in the opinion of the Returning Officer, the name to which the application relates—

(a) is obscene;

(b) contains more than 6 words;

(c) is not a name of a parliamentary party and—

(i) is the same as a name of another political party; or

(ii) so nearly resembles a name of another political party that it is likely to be confused with or mistaken for that name;

(d) comprises the words "Independent Party" or comprises or contains the word "Independent" and—

(i) a name of a political party; or

(ii) matter that so nearly resembles the name of a political party that the matter is likely to be confused with or mistaken for that name; or

(e) contains the word "Royal" or any suggestion of royal patronage.

(5) Subject to this section, where a candidate in an election in a region who is not endorsed as a candidate in the election by a political party applies to have the word "Independent" printed adjacent to the applicant's name on the ballot papers for use in the election that word shall be so printed on those ballot papers.

(6) Where—

(a) in accordance with subsection (5), the word "Independent" is printed adjacent to the name of the candidate on ballot papers for use in an election; and

(b) a voting ticket square is printed on those ballot papers in relation to the candidate or in relation to a group in which the candidate is included,

that word shall also be printed adjacent to that voting ticket square.

(7) An application under subsection (5)—

(a) must be in a form approved by the Electoral Commissioner;

(b) must be signed by the candidate;

(c) where the name of the applicant is to be included in a group, must be in the form of a joint application by all the candidates to be included in the group for the printing of the word "Independent" adjacent to the name of each of those candidates; and

(d) must be received by the Returning Officer not later than the hour of nomination.

(8) The Returning Officer may, in any case, and shall, at the request of the candidate, refer to the Electoral Commissioner any question as to whether or not—

(a) a body or organization is a political party;

(b) a name is the name of a political party or a composite name of two political parties;

(c) an application should be rejected under subsection (4); or

(d) a candidate is entitled to make an application under subsection (5),

and, for the purposes of this section, the decision of the Electoral Commissioner on that question is final.

(9) For the purposes of subsection (8)(c) the Electoral Commissioner may form the opinion referred to in subsection (4).

(10) In this section—

"authorised Officer", in relation to a political party, means a person who has been nominated by the Secretary or the chief executive officer (however designated) of that party to be an authorised officer of that party for the purposes of this section by notice in writing, specifying the name and address of the person and signed by the secretary or chief executive officer, lodged with the Electoral Commissioner, and whose nomination has not been cancelled by notice in writing signed by the secretary or chief executive officer, lodged with the Electoral Commissioner;

"name" includes an abbreviation or acronym of a name;

"parliamentary party" means a political party at least one member of which—

(a) is a member of the Legislative Assembly or the Legislative Council or the Parliament of the Commonwealth; or

(b) was a member of the Legislative Assembly that most recently expired or was dissolved.

Claims etc may be lodged with Electoral Commissioner

113D. Where a claim, voting ticket, notice or application under section 80, 113A or 113C is lodged with the Electoral Commissioner it shall be deemed to have been made to, lodged with or received by the Returning Officer and to have been so made, lodged or received at the time at which it was lodged with the Electoral Commissioner.

Again the discussion has largely been completed. The wording has followed the Government's line exactly. I draw members' attention to the reference to the printing of political parties' names or Independents' names on the ballot papers. The Minister has already made reference to the Liberal Party's particular wish to give Independents the same opportunity as party candidates. Otherwise it simply is following the course where the returning officer may reject applications, where the name to which the application relates is obscene, where there are too many words, or where the name is not that of a parliamentary party. I am sure all members have already read this amendment and have followed it according to their own parliamentary interests. I do not think any further purpose is achieved in my proceeding to go through that lengthy amendment part by part when in fact there seems to be general agreement on this particular matter.

Hon. J. M. BERINSON: This amendment is also consequential on the amendment listed under (AC), and for that reason I will not deal with it in any detail. However, I will refer to one aspect of it. I move—

> That the amendment be amended by deleting the words "in a region" appearing in line 2 of new section 113C (1).

I have dealt in some detail with the differences between the Government and the Opposition parties on the question of party designations. All of us accept that party designations are appropriate on the Council ballot paper. The difference remains as to whether party designations should appear on the Assembly ballot paper. It is the view of the Government that they should, and although the amendment I have moved involves three words only, it is quite important because, if carried, it would have the effect of permitting party designations on Assembly ballot papers.

When I earlier spoke on this matter I said I had found it impossible to identify any principle that could be advanced against the acceptance of party designations on the Assembly ballot paper and that the practical arguments in favour of that course have to be strengthened by the concesssion by the Government in returning the ballots to a full preferential system.

With due respect to Opposition members who spoke after me on that occasion, I still fail to see any principled argument that can support the Opposition's amendment in this respect. Having canvassed the issue earlier, I see no need to cover the ground at any length now. But this matter should be tested because it is important; it goes to maximising the effective

casting of votes rather than the wastage of them by the confusion which still attaches to the full preferential system.

We should have a clear expression of the views of the parties in this Chamber, and I hope that even at this late stage there might be some support for what is both a practical and principled proposition; that is, that having moved to an acceptance of party designations, we should apply that uniformly over both ballot papers for any State elections.

Hon. E. J. CHARLTON: I listened with great interest to the Attorney General's comments. I cannot see anything wrong with the names of the parties being on the Assembly ballot paper. I know there are two sides to the argument, and this matter has already been canvassed.

Wherever possible the parties will distribute how-to-vote cards, and these will publicise which candidates belong to which party. The political parties are going out of their way to identify their candidates. Obviously this cannot be reasonably opposed.

As we have progressed through this Bill, it has become obvious that some issues have not been well researched or discussed in the party room. I have taken that on board and will discuss it with other members of the National Party. It is obvious that some fine tuning of the Act will be necessary in the future. It is my intention that this particular area be pursued.

Hon. G. E. MASTERS: I give fair notice that my party is opposed to that proposition for the reasons Hon. Mick Gayfer spoke about earlier at some length and with some depth of feeling. I have no doubts that my party will not be prepared to follow that course of action.

There is a need for party designations in Senate-type elections in the regions because of the large number of candidates. However, local elections involve a great deal of personal support and following, and I have not run into any problems in the Legislative Assembly areas when campaigning for or being involved in elections. It is a matter of a difference of opinion between the Labor Party and the Liberal Party. The Liberal Party will not shift from its position.

We have gone well down the line talking about regions, the Senate-type voting ticket, and party designations, and we will not deviate from the Federal system in this regard.

Amendment on the amendment put and negatived.

Amendment put and passed.

Hon. G. E. MASTERS: I move an amendment—

> Page 35, line 10—To delete the section designation "113B." and substitute the following section designation—
>
> 113E.

This is a consequential amendment and follows the previous amendments.

Amendment put and passed.

Hon. J. M. BERINSON: My understanding is that my amendment (AO) has gone.

The DEPUTY CHAIRMAN (Hon. John Williams): That is correct.

Clause, as amended, put and passed.

Clause 62: Section 114 amended—

Hon. G. E. MASTERS: I move an amendment—

> Page 35, line 23—To insert after "scrutineer" the following—
>
> at a time

This clause refers to scrutineers and the number of scrutineers who may be appointed by candidates to represent them at the polling booths. I raised the question of the provision for scrutineers to be appointed by candidates to represent them at polling booths during polling, but at a single-member election, not more than one scrutineer shall be allowed to each candidate at each polling place. I am suggesting that that should read, "Not more than one at a time".

The intent of the clause does not seem very clear. If it limits a person to one scrutineer all day, that person will be working long hours. I think the intent of the clause is that there should be only one scrutineer at a time. If that is the case, the Attorney General should be prepared to accept the amendment at this stage.

Hon. J. M. BERINSON: This is acceptable.

Amendment put and passed.

Hon. G. E. MASTERS: I am encouraged now to move the next amendment with some confidence.

I move an amendment—

> Page 35, line 28—To delete "one scrutineer" and substitute the following—
>
> three scrutineers

Not more than three scrutineers should be allowed to each group, but it seems to me that one scrutineer will be a severe limitation and

more scrutineers should be allowed. I am sure the Attorney General will accept that amendment with the same enthusiasm.

Hon. J. M. BERINSON: The Government opposes this amendment, but purely on practical grounds. It must be emphasised that the scrutineers we are talking about here are not scrutineers of the count but of the polling. If we were to allow three scrutineers for every group, as well as one scrutineer for every individual candidate, it is not hard to envisage a situation where voters will be unable to enter the polling booth because all the space will be taken up by scrutineers.

One needs only to look at form A to see the possibilities. It is not at all out of the question that one would have that many groups. One does not have to go to the extent of as many candidates as shown on the sample form, but it is not out of the ordinary to have that many groups and that many Independents, in which case, taking the sample form alone, one may have 18 scrutineers in the polling booth. It does not matter how many members there are in a group, or how many groups; one has at any one time a certain number of voters going through. The provision of the Bill itself is surely adequate for any legitimate purpose. Although there is no real principle involved, there is the practical question of having too many people for the purpose they are supposed to be serving.

Hon. G. E. MASTERS: I take the Attorney General's point. Although I do not think it is likely there will be 18 at one time, there is that faint possibility.

May I put forward another proposal for the Attorney General's consideration? Although it is not on the Notice Paper, may I suggest that the words should read "not more than one scrutineer at a time," exactly as we have said previously. That would clarify the matter. If they want three scrutineers, as long as only one is used at a time, that would not create any problem.

Hon. J. M. BERINSON: I would have no objection to the inclusion of those words here if the member would like to move that.

Hon. G. E. MASTERS: I could alter my amendment to meet that wording.

Hon. NEIL OLIVER: I am rather surprised at this, because in the Senate, where there might be anything up to 36 candidates—in Victoria on one occasion there were 98—every member had the option of having a scrutineer.

Hon. G. E. Masters: A scrutineer at the polling booth, not at the count.

Hon. NEIL OLIVER: For example, I have been a scrutineer at a polling booth. I think there were 110 candidates on one occasion in Victoria during the Whitlam era. There was never a problem. I draw that to the attention of the Leader of the Opposition. There could have been 110 scrutineers, but they did not all arrive at one polling booth at the same time.

I do not intend to proceed with the inclusion of the word "three" in place of "one", but I do intend that it would read "no more than one at a time". In other words, I am simply repeating my previous amendment so that proposed subsection (1)(b)(i) reads "not more than one scrutineer at a time shall be allowed to each group".

The DEPUTY CHAIRMAN (Hon. John Williams): I will seek leave for Hon. Gordon Masters to change his amendment.

Leave granted.

Hon. G. E. MASTERS: The amendment will now read, "not more than one scrutineer at a time shall be allowed to each group".

Amendment, as altered, put and passed.

Clause, as amended, put and passed.

Clause 63: Section 128 repealed and a section substituted—

Hon. E. J. CHARLTON: Both the National Party and the Liberal Party have amendments to clause 63. The amendment proposed by the National Party is to specify that clause 63 is covered by the marking of votes as in Assembly elections, and I think that is the whole idea of replacing the clause as stated. As I understand it, that is totally in line with the Liberal Party's amendment, except that its amendment is spelt out in more detail. I move an amendment—

> Page 36, line 9 to page 37, line 6—To delete the clause and substitute—
>
> **Section 128 amended**
>
> 63. Section 128 of the principal Act is amended—
>
> by inserting before the section—
>
> **"Marking of votes in an Assembly election"**

The National Party supports the proposal of deleting the clause where it relates to the voting procedures that take place in an Assembly election and is proposing that it be specified in this case that the marking of votes be as in an Assembly election.

Hon. G. E. MASTERS: Hon. Eric Charlton has put forward a proposition which he says is very similar to the line that the Liberal Party is

proposing to take. He did say, however, that it was not as carefully spelt out as the Liberal Party proposal. I suggest it would be better if it were spelt out carefully and thoroughly, because what the Liberal Party is saying is that there are two areas: There should be a method of how to vote on an Assembly ballot paper and there should be a procedure for marking votes in a Council election. I would prefer to see everything spelt out clearly so that there could be no misunderstanding.

In the amendment which the Liberal Party would put forward, it would be spelt out in such a way that there could be no doubt as to the intent. The Liberal Party is suggesting in its amendment that a person may place the numeral "1", a tick, or a cross in a voting ticket square, and that is in line with what the Labor Party proposed. I would ask the Attorney whether the Government would be intending to take careful note of the Federal election to see what the effects of these sorts of options are, because I think there may be a degree of informal voting as a result of the options of a tick, a cross, or a "1". Going back to what I said earlier, I think "1" ought to be the required marking rather than having the options that are put forward. The Liberal Party would prefer to support its own amendment, which it will do if the amendment of Hon. Eric Charlton fails. I would ask the member whether he would consider spelling his amendment out in more detail, so that members would know where they are going.

Hon. E. J. Charlton: To simplify things, the Liberal Party's amendment certainly does go into more detail, and I seek leave of the Committee to withdraw the National Party amendment standing in my name.

Amendment, by leave, withdrawn.

Hon. G. E. MASTERS: I move an amendment—

> Page 36, line 10 to page 37, line 6—To delete clause 63 and substitute the following—
>
> 63. Section 128 of the principal Act is repealed and the following section substituted—
>
> **How votes to be marked (Assembly Elections)**
>
> 128. (1) In an election in a district where there are only two candidates on the ballot paper an elector shall mark his vote on the ballot paper by placing the numeral "1" in the square opposite the name of the candidate for whom he votes.
>
> (2) In an election in a district where there are more than 2 candidates an elector shall mark his vote on the ballot paper by placing the numeral "1" in the square opposite the name of the candidate for whom he votes as his first preference, and consecutive numerals beginning with the numeral "2" in the square opposite the names of the remaining candidates so as to indicate the order of his preference for all candidates.
>
> **How votes to be marked (Council Elections)**
>
> 128A (1) In an election in a region where there are only two candidates on the ballot paper an elector shall mark his vote on the ballot paper by placing the numeral "1" in the square opposite the name of the candidate for whom he votes.
>
> (2) In an election in a region where there are more than two candidates on the ballot paper an elector shall mark his vote on the ballot paper—
>
> (a) by placing the numeral "1" in the square opposite the name of the candidate for whom he votes as his first preference and consecutive numerals beginning with the numeral "2" in the squares opposite the names of the remaining candidates so as to indicate the order of his preference for all candidates; or
>
> (b) by placing the numeral "1", a tick or a cross in a voting ticket square printed on the ballot paper.

Hon. J. M. BERINSON: Just to make the Government's position clear, both Mr Masters' amendment and the amendment which I have listed on page 25 have the effect of reinstating full preferential voting. The difference between us is that my amendment also refers to ticket voting in the Assembly. I accept that previous decisions taken by the Committee make it inappropriate for me to attempt to proceed with my listed amendments.

For that reason, other than to express my reservations on this matter, I will not take further the Government's opposition to this amendment by Mr Masters.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 64 and 65 put and passed.

Clause 66: Section 139 amended—

Hon. J. M. BERINSON: I move an amendment—

> Page 37, lines 27 and 28—To delete "elector's first preference for one candidate" and substitute the following—
>
> order of the elector's preference for all candidates

This amendment is consequential upon the amendment to clause 63 deleting optional preferential voting.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 67: Section 140 repealed and a section substituted—

Hon. J. M. BERINSON: I do not intend to proceed with the amendment (AW) listed on the Supplementary Notice Paper, as that fails as a result of earlier decisions.

I move an amendment—

> Page 38, lines 10 and 11—To delete "to the extent necessary for the purposes of" and substitute the following—
>
> as necessary under

This amendment is consequential upon the dropping of optional preferential voting and also the deletion of particular errors which were permitted under proposed section 140(4).

Amendment put and passed.

Hon. J. M. BERINSON: I move a further amendment—

> Page 38, line 15—To delete "to the extent that his intention is clear".

Hon. G. E. MASTERS: I raise the question here of the intention being clear, or the elector's intention being clear, or whatever words we decide to use. The argument that electors have an interpretation of intention, and clear intention, is always very difficult to solve; and again I come back to the discussion we had earlier in the debate when we discussed ticks, crosses, figures, and so on. I wonder whether it will not become increasingly difficult as time goes on.

For example, I am sure that one electoral officer in charge of a polling booth will make a responsible count but may well make an interpretation different from the intent of the elector, and make quite a different interpretation from another officer in charge somewhere else. It is very important that we clearly set out the requirements of how people vote in the Act. It is no good hazarding a guess about what they intended to do; we must return to the situation where people are trained through being involved in the voting procedures over a period of time—and most are—so that when a person intends to vote for a particular candidate he will be required to put the figure "1" in the box, as clear as a bell, and not a tick or a cross.

For example, if there were two people up for election and someone were to put a cross in one box and a tick in the other, I do not know whether that would be clear intent. I doubt very much that it would; it would certainly be informal. I would like the Attorney General's view on this, because if he has been involved in elections—and I am sure he has, as have we all—he will know that when one is a scrutineer one sees many disputes of this kind. I know Hon. Neil Oliver has been involved in such situations. Not just the odd one or two votes are being wasted, but often more than that. Sometimes 20, 30, or 40 votes may be under discussion, and may be challenged.

We are also looking at the circumstances in Western Australia, where often elections are won by two or three, or certainly 10 or 20 votes. In that case I think the situation becomes more difficult.

Hon. Garry Kelly: Surely you are talking about multiple vacancies where the electors must insert the numbers "1", "2", "3", and so on?

Hon. G. E. MASTERS: Has Hon. Garry Kelly ever scrutineered?

Hon. Garry Kelly: Yes.

Hon. G. E. MASTERS: Then he would have seen some of the difficulties that arise. We must get to the stage where people are used to voting clearly and in an understandable way, and that is surely by having them put figures in the box—"1", "2", "3", "4"—rather than a cross or a tick. The elector's intentions are not always clear; far from it. I would welcome the Attorney General's comments.

Hon. J. M. BERINSON: Not a great deal hangs on this amendment which, as I have indicated, is consequential upon the deletion of optional preferential voting. Together with other amendments such as the proposed deletion, in a moment, of section 144, it is necessary to accommodate the move back to full preferential voting. In certain circumstances it is

appropriate not to fill in all boxes where doubts can arise in a way that will not arise when we require all boxes to be filled in.

Amendment put and passed.

Hon. J. M. BERINSON: I do not intend to proceed with my amendment (AZ) in favour of the following listed amendment (BA) under Mr Masters' name.

Hon. G. E. MASTERS: I move an amendment—

> Page 38, line 20—To delete "a manner required or authorised" and substitute the following—
>
> > the manner required by section 128(2)

Amendment put and passed.

Hon. J. M. BERINSON: I move an amendment—

> Page 38, lines 22 to 32—To delete subsection (4) of the proposed section 140.

Proposed section 140(4) deals with errors where optional voting applies. Now that we have moved back to full preferential voting, this has no application.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 68 to 71 put and passed.

Clause 72: Section 144 amended—

Hon. G. E. MASTERS: I draw members' attention to the amendment (BD) standing in my name and also to the further amendment on the following page which must be coupled with this amendment. I move an amendment—

> Page 40, lines 5 to 14—To delete the lines and substitute the following—
>
> > (d) if the candidates have an equal number of votes the election shall be deemed to have wholly failed and a new writ shall forthwith be issued for a supplementary election.

The purpose of the amendment is to ensure that where there are equal votes in an election, there is a re-election.

It has always been the case when there has been an equal number of votes that the successful candidate is decided by drawing a name out of a hat, for want of a better description; but this has always raised the possibility of the decision being queried in a Court of Disputed Returns.

In this and the other amendment to which I referred, we are saying that when there are, say, five or six candidates and the fifth and sixth candidates have received equal votes, the old method of determining the successful candidate by drawing a name from a hat will continue; but where we have two final candidates and the vote is tied, there should be a re-election. In almost every case of a tied vote, we have a case taken to the Court of Disputed Returns. I see no point in following any other course of action, because the result will always be the same.

I ask members to give serious consideration to supporting the amendment for the reasons I have outlined.

Hon. E. J. CHARLTON: The National Party supports the amendment.

Hon. J. M. BERINSON: I am sorry to say that there has been a bit of a foul up and I can only ask members to understand that it has happened because of the pressures presented by this Bill. Earlier I should have distributed an alternative amendment dealing with tied votes. It is quite a lengthy amendment, but it amounts to a very simple proposition. Printed copies of the amendment are now being distributed.

The Bill originally provided that where votes were tied the election should be decided by a simple draw. The Leader of the Opposition has moved an amendment which would require that where there was a tied vote the candidates would automatically go to a new election.

The effect of the amendment is that, when there is a tied vote, the issue will automatically go to the Court of Disputed Returns for determination.

I think all of us would be aware that when there is a tied vote, the parties involved are virtually always able to throw sufficient doubt on particular votes cast for one party or another to lead to a new ballot. On that basis, it could be said that Mr Masters' amendment really avoids procedures that will inevitably lead anyway to the result he is advocating, and so we may as well get straight to the job. There is a problem with that, however, which makes the real problem less simple than it appears.

Mr Masters' proposition to send a tied vote to a new election could take effect only when it has been finally determined that there has been a tied vote. There will never be such a determination without the Court of Disputed Returns being called on to adjudicate. If the reality is that the Court of Disputed Returns is to be involved in the process, we may as well adopt the approach of requiring that to be done automatically where there is an apparent equality of votes and let the process go on from that stage.

If a returning officer declared an equality of votes, there would be no doubt that, before new writs were issued, a candidate would appeal to the Court of Disputed Returns on the basis that it was not really a tied vote, because some votes were counted against him or her which should not have been counted.

That seems to be the fact of the matter. It is for that reason that, while accepting the surface attraction of Mr Masters' amendment, I suggest to the Committee that the proposal I have circulated is to be preferred.

Hon. G. E. MASTERS: Although the explanation seems fairly simple and straightforward, we have been confronted with three pages of amendments at 2.40 am which, quite frankly, need some study and consideration. I indicated to the Attorney General the other day that I am not trying to slow down the passage of this Bill. We have made remarkable progress and have completed nearly the major part of it. However, we have significant amendments to consider. I ask the Attorney General to report progress so that it can be studied by the Opposition.

Hon. E. J. CHARLTON: I quickly perused the Attorney General's amendments. My first reaction is that they seem to go further than the amendment proposed by the Leader of the Opposition, which I supported because it addressed the tied vote issue. It appears that the Attorney General's proposition addresses it further and explains it more fully.

I wonder how far the Attorney General wants to proceed tonight to achieve a result.

Hon. J. M. BERINSON: I should have indicated to the Committee earlier that the amendments which I have just circulated are based on a recommendation of the Joint Select Committee on electoral reform of the Commonwealth Parliament, which was a recommendation supported by all parties. It has not been implemented by the Commonwealth yet, but that was the committee's conclusion.

I understand it is a bit hard to be expected to look at three pages of amendments at such short notice. For that reason, I will move for the deferral of further consideration of these clauses until the completion of consideration of clause 104.

I am well aware of the time. I assure members that I have been glued to this seat for longer than they have been glued to theirs and that I do not want this sitting to proceed inordinately. On the other hand, we are approaching clauses which are relatively non-contentious. I hope that we can summon enough stamina to keep going a little longer and try to get closer to the completion of the remaining clauses.

I therefore move—

That further consideration of the clause be postponed.

Question put and passed; clause postponed.

Clause 73 postponed, on motion by Hon. J. M. Berinson (Attorney General).

Clause 74: Part IV Division (4b) inserted—

Hon. J. M. BERINSON: As a result of an earlier determination by the Committee, there is no need for me to proceed with my amendment to this clause.

Hon. G. E. MASTERS: I move an amendment—

Page 44, line 1 to page 45 line 30—To delete the proposed sections 146E and 146F and substitute the following—

Informal and formal ballot papers

146E. (1) Section 139 applies to and in relation to ballot papers used in an election in a region.

(2) Subsections (1) and (2) of section 140 apply to and in relation to ballot papers used in an election in a region and in subsection (2) of that section, as applied by this section, "prescribed manner" means—

(a) where there are only 2 candidates on the ballot paper, the manner required by section 128A(1);

(b) where there are more than 2 candidates on the ballot paper, the manner authorised by section 128A(2)(a).

(3) A ballot paper shall not be informal under section 139(d) if the elector has marked his vote on the ballot paper under section 128A(2)(b).

(4) If a ballot paper—

(a) has been marked under section 128A(2)(b); but

(b) has also been marked so as to indicate the order of the elector's preferences in such a manner that it would not be informal under section 139(d) if it were not marked under section 128(2)(b),

the elector shall, for the purposes of subsection (5) and section 146F be deemed not to have marked his vote on the ballot paper under section 128A(2)(b).

(5) If a ballot paper has been marked under section 128A(2)(b) any indication of preferences on the ballot paper otherwise than under section 128A(2)(b) shall be disregarded for the purposes of this Division.

(6) For the purposes of this section and section 146F an elector shall not be taken to have marked his vote under section 128A(2)(b) if the elector has placed a preference mark in 2 or more voting ticket squares printed on the ballot papers.

(7) In subsection (4) "preference mark" means the numeral "1", a tick or a cross.

Ballot Papers deemed to be marked according to voting tickets

146F. Where an elector has marked his vote on the ballot paper under section 128A(2)(b) the ballot paper shall be deemed to have been marked in accordance with the voting ticket registered for the purposes of the election in relation to the candidate or group whose voting ticket square the elector has marked.

We are now dealing with formal and informal ballot papers. Members will note that to a great extent the Opposition's amendment follows the wording of the original clause, but with a number of exceptions. The Opposition makes reference to regions and the elections in those regions. I am sure that honourable members understand the purpose of this amendment. As a result of the amendments to the Bill, measures will be implemented to assist where people vote for different parties in the region and for the Assembly. I do not know whether it is necessary for me to go through the procedure of voting. Earlier this evening I made reference to how I perceived the proposals put forward by the Opposition.

Hon. J. M. Berinson: If it helps you, I accept this proposal as being consequential on earlier decisions.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 75 to 79 put and passed.

Clause 80: Part IVA inserted—

Hon. E. J. CHARLTON: The National Party does not intend to proceed with its proposed amendments to this clause. The amendments refer to the replacement of members as a result of a vacancy.

The National Party is concerned about clause 80, and it believes that the simple way out is for the leader of the particular party involved to fill the vacancy with a member from his party.

I asked the Government for a commitment that it will proceed with a change to the Constitution to allow that to happen. I was given an undertaking by the Minister for Parliamentary and Electoral Reform that this would be the case.

Hon. J. M. BERINSON: This question arises because the National Party's amendments, in their present form, raise the complication that a referendum would be required if they were passed. We are all well aware of the difficulties associated with that.

I am advised that the Minister for Parliamentary and Electoral Reform did give an undertaking in this respect and, of course, his undertaking stands. As I am advised however, and as I think I should make clear, his undertakings were subject to an all-party agreement on the referendum proposal, and sought to avoid the inevitable extra difficulties of achieving the carriage of a referendum where one or more parties are opposed to the proposal. On that basis, all I can say is that subject to that clarification, I can confirm that the Minister for Parliamentary and Electoral Reform did give an undertaking and that it will be respected.

Hon. E. J. CHARLTON: The National Party is of the opinion that it would be practical for the leader of the party to fill a vacancy of this nature.

Section 65 of the Constitution Acts Amendment Act states that councillors must be elected. The problem is that a referendum is required to enable that change to take place.

I thank the Leader of the House for guaranteeing the commitment that was given to the National Party that a referendum will take place at the next election in order that subsequent vacancies would be filled by the method proposed by the National Party. I certainly hope that all parties support the referendum. We all know how referendums work. If one party is opposed to a referendum, most people do not support it. Most people around

the world, particularly in Australia, vote no when it comes to referendums, and I am sure it is because they are afraid of the unknown.

The situation is quite clear: If a vacancy has been caused in a proportional representation region, a by-election cannot be held. It is not practical, and the National Party believes that its proposal is a much better way of handling such situations.

Clause put and passed.

Clauses 81 and 82 put and passed.

Clause 83: Schedules 1 and 2 inserted—

Hon. J. M. BERINSON: I move an amendment—

Page 60, lines 6 and 7—To delete clause 19 of proposed Schedule 1.

This is a consequential amendment arising from the move away from optional preferential voting.

Amendment put and passed.

Hon. G. E. MASTERS: I do not know whether I should be dealing with this amendment to delete "(1) (d) or". It is consequential on clause 72. Is that not the clause we have deferred? There is no point in my attempting to deal with it if we have not even considered the matter.

The DEPUTY CHAIRMAN (Hon. John Williams): It would make a nonsense of it if the Leader of the Opposition were to move the amendment, because clause 72 is consequential upon it and we do not know the outcome of clause 72.

Hon. G. E. MASTERS: If I were to be successful with my amendments to clause 72, the amendment I am now proposing would be a drafting and tidying up exercise. It would be automatic. I will not proceed with the amendment. I move an amendment—

Page 60, line 17—To delete "(h)" and substitute the following—

(g)

This is just a renumbering exercise.

Hon. MARGARET McALEER: Has (g) already been referred to in clause 72 under amendment (BJ)?

Hon. J. M. BERINSON: It would be appropriate to deal with this item in the same way as Hon. G. E. Masters' item is to be dealt with.

The DEPUTY CHAIRMAN: Your amendment is postponed until after consideration of clause 72.

Amendment thus postponed.

Hon. E. J.CHARLTON: As we did not proceed with that amendment, does the Leader of the Opposition wish to make a comment about seeking to have it incorporated in the schedule?

Hon. G. E. MASTERS: Yes, I do. If Hon. E. J. Charlton is not going to proceed with his amendment, obviously I would seek to include in the legislation my forms A and B, which have been seen by both Hon. E. J. Charlton and Hon. J. M. Berinson. I would have thought they were consequential on the debate which went into the detail of the configuration of the ballot papers. Unless there is any argument to that effect, I intend to move my amendment.

Hon. E. J. CHARLTON: My understanding was that it would only be form A. That was the arrangement. The other point that was agreed to, as the Attorney General has pointed out, is that comments will be made in order to have written into the Bill an explanation about how it will be set up and put in place. To simplify the situation, it would be preferable if the Leader of the Opposition sought to have it included.

Hon. G. E. MASTERS: Am I at liberty to talk about my proposal to include the forms in the schedule? I understand what Hon. E. J. Charlton is talking about. Quite obviously he is saying that his proposed amendment reflects form A. The query I have in respect of this form is that there does not seem to be a provision for Independents, whereas in the legislation we have included a provision for Independents to have the opportunity to have a voting ticket. I am not sure that by including the National Party proposal, which is virtually the same as my own proposal, it would necessarily suit the Bill as it is worded now.

Hon. E. J. CHARLTON: I feel that, as we have already agreed, Independents should have part of the voting ticket. As has been shown by the Leader of the Opposition's form, it fits completely with the National Party's wish to have Independents listed as part of form A. I believe it is totally related and consistent, and would add to the agreement which has already been reached in respect of the legislation. The Attorney mentioned earlier that he would accept the move by the Leader of the Opposition to have the Liberal Party's view of form A incorporated at this stage.

Hon. G. E. MASTERS: With a little prodding, I now recall that during the debate reference was made to forms A and B. In fact, they should be included and the words are already in the legislation. Even though there may be some difficulties which Hon. E. J. Charlton sees, the process the Attorney has outlined ought to be followed because it would overcome any difficulties. In fact changes, if necessary, could be made. I apologise if earlier I did

not point out that those two forms would be included; but in fact we have already done that, so it is simply a matter of putting it in the record in the correct stage of the proceedings.

Hon. J. M. BERINSON: I move—

That further consideration of this clause be postponed until after the consideration of postponed clause 72.

Question put and passed.

Clauses 84 to 86 put and passed.

Clause 87: Section 1A inserted—

Hon. J. M. BERINSON: I move an amendment—

Page 62, line 26—To delete "*1907.*" and substitute the following—

1907;

"Metropolitan Area" means the region that was, as at 1 January 1987, described in the Third Schedule to the Metropolitan Region Town Planning Scheme Act 1959.

This is an extremely important part of the Bill which seeks to establish the new boundary between the metropolitan and non-metropolitan areas. As members will note, it is proposed that the boundaries in future should follow those provided, in the third schedule to the Metropolitan Region Town Planning Scheme Act 1959. Without getting too excited about the history of the current dividing lines between metropolitan and non-metropolitan areas, it is very clear that this has always involved a highly political decision in which lines were deliberately drawn to maximise the advantage to the people drawing them. Nothing could be worse, in an electoral system, than the ability of a Government to tailor developments to its own purposes by drawing its own lines.

Having said that, it has to be acknowledged that if we are to continue to draw a distinction between metropolitan and non-metropolitan areas, a line has to be established somehow and the decision, as a political decision, cannot reasonably be left to the Electoral Commissioners. The Government has adopted the existing lines of the metropolitan region town planning scheme, and that ought to be accepted as a proper basis for proceeding on a number of grounds.

In the first place, it includes the area which would be understood as the metropolitan area. Secondly, it has been in place for 20 years so there is no question of some recent convenient adjustment by the Government of the day in order to serve its own purposes. It constitutes a line by which a clear distinction is drawn between the metropolitan and non-metropolitan areas in a way which does not exist with the current dividing lines where, for example, the division between metropolitan and non-metropolitan areas can run through the middle of a suburb such as Armadale. Other parties have suggested from time to time that the MRPA boundary would be an appropriate one if changes were to be made, and I believe that those were appropriate proposals.

In summary, the MRPA boundary provides a boundary that make sense if we are to continue with a division based on metropolitan and non-metropolitan considerations. Should there be any suggestion that the choice of this line has been guided by an attempt by the Government to improve its position, I draw attention to the fact that the Bill, as originally drawn, would have resulted in 39 seats in the metropolitan area compared with 18 seats outside, whereas the current proposal is that the division inside and outside the line should be 35-32. There is no perfect method of arriving at a decision on a question of this nature, but the MRPA boundary provides us with as close as one can get to a decision which is not influenced by current considerations and which can fairly be described as producing as good and as fair a result as all parties could expect.

Hon. E. J. CHARLTON: The National Party came to the decision on this matter some time ago that urgent changes were required to be made to the Electoral Act. Such changes were included in the National Party's policy, and among those changes was one which dealt with the metropolitan area in respect of Legislative Assembly seats. The National Party took the view that, to establish a line which could be accepted by everyone without question, it was necessary to follow the metropolitan plan.

Obviously there are anomalies because we shall include in the metropolitan area some areas which are not metropolitan. However, if we do not accept that situation, it will be left to the commissioners to draw the boundaries, and they must be given some guidelines. It would be difficult for the commissioners to draw the boundaries outside the metropolitan area, and if they are not given some basic guidelines to work on as far as the metropolitan area is concerned, there will be a large question mark over the drawing of the boundaries.

As Hon. Neil Oliver explained earlier, under this proposal some people who have an affinity with a rural area will be included in the metro-

politan area. Also, under this proposal, they will not have the weighted voting provided for in non-metropolitan seats. The commissioners will be better equipped to draw the boundaries, particularly in the southern area and the metropolitan south east area.

The National Party has decided as part of its policy to accept the metropolitan region plan, and for this reason we support the proposal.

Hon. G. E. MASTERS: I find it extraordinary that the National Party should support the Government's proposal; the Liberal Party is very much opposed to it. I am equally amazed that the Labor Party has taken this course of action.

For as long as I can remember — I have been a member in this place for 13 years and many members have been here longer—the Labor Party has called for an independent person or group to make an independent assessment of the metropolitan area. I have a special interest in this matter because my electorate is about to be gobbled up, and I have stoutly resisted it for a long time. It was obviously assumed that an independent commission would set up the metropolitan area boundaries.

A Government member: This is independent.

Hon. G. E. MASTERS: No, it is not. For as long as I can remember the Labor Party's policy has been that the boundaries should not be set by the Government or politicians. We are saying now that a Government body has set this boundary. I agree and understand that the Minister has proposed that the MRPA boundary, which he says has been in place for ten years, will be used and will not be changed even if the MRPA boundary is changed by the Government body and with the authority of Parliament. We all know that if the MRPA boundary is changed in the near future pressure will be applied for the metropolitan boundary to be extended to the changed MRPA boundary. It is almost certain that that would happen.

I am absolutely staggered and amazed that the Government and the National Party could not have considered the metropolitan boundary and even perhaps have driven around some of the areas we are including in the metropolitan area. For example, the MRPA northern boundary will go as far north as Two Rocks, where it will go through the Yanchep National Park. It will include the RAAF base at Pearce, pass to Bullsbrook East, and go very close to the edge of Muchea. That is all country area; there is no suggestion that it is urban at this time. The boundary takes in the Walyunga National Park, and covers Wooroloo and goes a long way beyond Chidlow and Sawyers Valley. It also includes Kalamunda. There is an argument that Roleystone and Pickering Brook are on the edge; and I have an interest in Pickering Brook. The boundary goes from Bartons Mill to the Canning Reservoir. I do not know whether the National Party understands that the boundary takes the metropolitan area down to Karnet Rehabilitation Centre, Keysbrook, and Serpentine. No-one in their right mind would suggest that these are metropolitan or urban regions.

Vast areas of rural land and property will be included in the metropolitan area, and there is no justification for doing this. The Liberal Party has suggested a compromise, and I ask members to consider it seriously. We are saying that the commission, which we all agree should be independent, should divide the State and draw the boundary for the metropolitan area. I draw members' attention to my proposed amendment to clause 94. We propose that the metropolitan area should be mainly urban in character. It is quite simple, and it will not be a difficult exercise for an independent commission to make an assessment of what is obviously urban and what is obviously rural. Any one of us could drive around the area in the hills, north of Wanneroo, and south of Armadale, and quite easily draw the boundary lines.

The alternative to the Government's proposal is contained in my amendment that the metropolitan region shall consist of districts which are mainly urban in character; contain a significant proportion of electors whose occupational activity is primarily non-rural and who contribute to the economy of that region; share a community of interest; and are wholly situated within 50 kilometres of Parliament House. The distance will not go further than 50 kilometres. I do not know whether the MRPA boundary goes further, but I suggest it does.

I put it to members in all seriousness that we should not take the easy way out — it would not be difficult for an independent commission to do the job. It must set boundary lines all over the State, and if the National Party and the Labor Party have their way, the commission will be asked to draw much more difficult lines and make more difficult decisions in some of the regions. For instance, it could have to draw lines through the middle of Kalgoorlie, Geraldton, Katanning, or whatever.

This is a simple decision; it is not going to be too hard to ask them to do that job. The Government is taking the easy way out. Someone has drawn the MRPA line, which seems simple and straightforward. The Government is not considering people who are very rural in their pursuits and their lifestyles. They are to be embraced in a massive metropolitan area.

I have a large map here to demonstrate to members how big the metropolitan area is. I urge members to think seriously about what they are doing. Obviously members have been well north of Yanchep and Two Rocks. The Bullsbrook area is all rural, with some very big farms. Members know Jarrahdale, Serpentine, and Keysbrook, where profitable farms are operating. It is quite wrong for the Parliament to take the easy way out when there is a simple alternative.

We are not arguing whether a Government department draws the line. We are saying there should be an independent authority with the expertise to draw lines all over the State. The easy part of the job would be drawing the line between the metropolitan and country areas.

Mr Deputy Chairman, with your permission I would like to swing that map around so that members can understand what they are doing and how far they are going. It is easy to see what we are talking about. There is the MRPA line and there is Two Rocks. It goes beyond that. All this is country area, and it is being included in the metropolitan area. The line down the Darling Range scarp and beyond is metropolitan area, and all the south west country areas are to be included. It is probably double the size of the existing metropolitan area.

Not a large number of extra voters will be included as a result of the Government's proposals. The difference between the proposal I am putting forward and the Government's is only a few thousand voters. We should not contemplate including genuine country people running profitable farms in the metropolitan area when they cannot be considered as metropolitan dwellers in any way.

It is my intention to try to persuade the Committee to adopt the proposal put forward by the Liberal Party in all sincerity. There are no tricks. An independent commission will set the boundaries. We will oppose the Government's proposal very strongly. I imagine the National Party members would be considerably embarrassed, understanding country people as they do, and they will support the Liberal Party.

Hon. E. J. CHARLTON: I want to make a brief response to what the Leader of the Opposition had to say in putting forward his argument about why we should not follow the MRPA plan in determining the boundaries for the metropolitan area. It must be recognised that we have a boundary around the metropolitan area based on the regional plan, and in that area are some rural properties.

Hon. G. E. Masters: Not some, a lot.

Hon. E. J. CHARLTON: Just because a part of the metropolitan area is rural in form, with holdings larger than a quarter or half an acre, that should not be a criterion to attract a vote weighting.

The reason for vote weighting is not being a farmer, because in the country areas everyone is not a farmer. People come from all walks of life. The reason for vote weighting is that these are more sparsely populated areas where people do not have all the services and everything else available in the metropolitan area. Whether people are suburban, semi-rural, rural, or whatever, we must understand that they cannot be classified. The Liberal Party is not in a position to point the bone at the National Party and say, "You are not being very responsible in putting forward a proposal that the metropolitan area should be based on the metropolitan region plan." We have had this terrible anomaly for a long time of suburbia being part of the country area of this State as far as voting is concerned.

Hon. N. F. Moore: You should remember that you were part of the coalition Government which brought in that line.

Hon. E. J. CHARLTON: With respect to Mr Moore, I feel very poorly about being part of that coalition.

Hon. Tom Stephens: It is a different party.

Hon. E. J. CHARLTON: I remind Mr Moore, with respect, that I do not deny the National Country Party, at that time in coalition, was part of that decision. It has been part of a lot of decisions.

Hon. N. F. Moore: You are saying the Liberal Party decided on the line.

Hon. E. J. CHARLTON: I did not say that. I said that I was not happy with what has gone on for so long.

Hon. N. F. Moore: That the Liberal Party did.

Hon. E. J. CHARLTON: I apologise. I will clarify this and say it was the previous Government. I have no trouble in recognising that point. I am talking about the future situation.

I find it hard to take seriously the comments of the Leader of the Opposition that just because people are not suburban, or do not live in suburbia—they have a farm or a smallholding—they should automatically attract vote weighting.

Hon. G. E. Masters: What about the people of Bunbury, Geraldton and places like that?

Hon. E. J. CHARLTON: I have had a lot of trouble in the last two months convincing people that vote weighting should be maintained, together with the number of members elected to this place from the non-metropolitan area. In response to what the Leader of the Opposition said, the difficulty I have with his comments is that he appears to me to be putting forward a proposal to draw boundary lines for the metropolitan area based on the totally built-up area of suburbia. This will result in anomalies. We must achieve something with fewer anomalies.

Because a number of people will be placed within the metropolitan area under the regional planning scheme just because they live a different lifestyle, they automatically become part of the non-metropolitan area. That is not an accurate assessment. I am prepared to stand up and be counted on that point.

Hon. NEIL OLIVER: I am disappointed with the remarks of Mr Charlton. We are basically talking about weighting for country people. There is a need for change in the boundaries. I have already said that.

I am talking about the people in the area where I live. We do not have the services of the fire brigade. This is exactly the same as legislation we spoke about earlier. There are no facilities like hospitals. There are district high schools. Children are required to stay at hostels, just like someone who lives at Merredin. They suffer a lack of services available in the metropolitan area. That is a fact of life.

Who decided the MRPA line? I had a look at the MRPA Act, and I cannot see in it who decided where that line would be. The Attorney might be able to enlighten me as to how that line came into existence and whether it was approved by this Parliament.

Hon. Tom Stephens: It is in the third schedule.

Hon. NEIL OLIVER: Yes, I know that. It appears to me that the line was decided upon by this Parliament, and I would like to know who drew the line and presented it to the Parliament so that it should ratify the third schedule. It is all very well for Hon. Eric Charlton to say that the towns of Northam and Bunbury cannot be taken into account, but if that is so I want to ask all the members of the National Party whether they have rural properties which are not allowed to be subdivided, and which must always follow the rural pursuit of the property.

Hon. Eric Charlton: We are talking about representing people.

Hon. NEIL OLIVER: I am talking about rural properties which are totally restricted to rural activities, not like somebody out at Mukinbudin who might like to break his 3 000 acre property in half, which he can do.

Hon. Eric Charlton: People are broken in half down there, not the properties.

Hon. NEIL OLIVER: They may well be. If that is what the member thinks, I will be talking during debate on the Supply Bill about some of the problems, because I will tell the member about grape growers who are living on $8 000 a year and having to pay for two people to clean up.

Hon. Eric Charlton: That is not going to change that situation.

Hon. NEIL OLIVER: Is the member going to tell me that somebody representing east metropolitan is going to understand the circumstances of people living in a rural area?

Hon. Tom Stephens: Yes, and we will include Hon. Fred McKenzie.

Hon. NEIL OLIVER: That is good for the member. I do not expect to be representing the area. I am putting a plea for those people, who are rural, agricultural people, following agricultural pursuits, and who are not permitted in any way to subdivide their land or reduce their agricultural activities. They are confined within this straitjacket plan because they are in the MRPA area. For the information of members, they are also subjected to the additional fuel costs. All those factors are appropriate to people living in rural areas.

If members are going to be fair and are going to say this is a Bill for electoral reform in this State which gives a weighting to rural people, then certain people in the rural areas are going to be disenfranchised to the benefit of people who live in Bunbury and Albany, in streets

where buses and cars go past their doors. My youngest child had to leave at 7 o'clock in the morning to get to school on the school bus, and came home at 6.00 pm. That is called living in a rural community.

If members want to talk about a rural community, let them include a rural community; let them take the proposal put forward by the Leader of the Opposition. Let the Electoral Commissioners draw a line, independently of the one here in the Parliament, which takes into account areas that are of a rural or agricultural nature. I do not know who drew that MRPA line, but I would say it was drawn up by a commission appointed by the Parliament, and ultimately brought to this Parliament for ratification. If any member can enlighten me as to any other way in which the MRPA third schedule was passed through this Parliament or how that line was arrived at, please tell me.

Hon. Garry Kelly: Was it a politician?

Hon. NEIL OLIVER: All I know is there is an Act which states the third schedule draws the line of the MRPA boundary, and it reads exactly like the current Electoral Distribution Act, and that is from roads such and such, and it goes right around the metropolitan area and spells it out.

Hon. Garry Kelly: It is beautifully simple.

Hon. NEIL OLIVER: Yes, exactly the way it is now, and drawn in exactly the same way. I assure the Government that if it is going to go ahead and say this is a fair representation, an electoral Bill which is fair to all the people of this State—and members have heard this time and time again, ground over the first, second, and third editions—that is fine. If that is the way the Government feels about the Swan Valley and certain parts of the outer metropolitan area which are totally rural, some of them being 3 000 acre farms, and they are expected to be recorded as metropolitan areas, then this Act is a gerrymander.

Hon. Kay Hallahan: Do not give us that rubbish.

Hon. NEIL OLIVER: Do not try and tell me that it is not.

Hon. J. M. BERINSON: Hon. Neil Oliver asked who drew the metropolitan region boundary. The answer is that I do not know, but I am sure of one thing, that it was not drawn by politicians looking for a line to establish their own political advantage in future elections. That is the experience members had for years.

Hon. Neil Oliver: I did not ask that.

Hon. J. M. BERINSON: That is the experience members had for year after year while the present metropolitan boundary was being established; and whatever else can be said about the Government's choice of the MRPA boundary, that criticism cannot be levelled.

I have only one other comment to make, which relates to Hon. Gordon Masters' contribution when he again referred members to earlier arguments by the Labor Party in support of all lines being drawn by independent commissioners. There is no challenge in that because, as the member will be aware, the original Bill before this Chamber did provide that all boundaries would be drawn on a State-wide basis by independent commissioners. The Government has moved from that, not in response to its own preferences, but to pressure from the Opposition parties during consultation with them. That consultation made it clear that it would be necessary to establish a metropolitan boundary. There is no doubt that when one moves to that, one is making a clearly political decision which has to be taken at the political and not at the administrative level; and that is what members are doing.

With respect to all the members who have contributed to this debate, I think this issue has been covered as far as it can be taken, and the view of the Chamber ought now to be tested by moving to a vote.

Hon. G. E. MASTERS: The Attorney very spiritedly stood up and said that he and his party were not guilty of drawing political lines or drawing lines for political advantage. I suggest to the Government that if one looks at its proposals in the regions that were put forward in debate two days ago, one would see from the guidelines written into its amendments that it intended to certainly make sure that Kalgoorlie, for example, was included in the agricultural area.

Hon. Garry Kelly: That is where it is now.

Hon. G. E. MASTERS: I am talking about regions—about a proposed Government agricultural region. The National Party and Liberal Party members know that the wording of the Government proposal was simply to make sure that the Kalgoorlie area was included in the agricultural area for the purposes of the region, and certainly to have a strong impact on the number of votes that the Labor Party received within that region. So do not let us hear rubbish about the drawing of lines for political

advantage. The Government is on very tender ground when it raises that subject in this debate.

The Attorney General also said that the Government shifted its ground in a spirit of compromise and to meet some Opposition requirements. Members opposite know very well that for one reason or another the proposal suits them. They could quite easily have stood their ground.

Hon. Garry Kelly: With what result?

Hon. G. E. MASTERS: The Government would have had our support, would it not? I do not know whether the honourable member has bothered to read the debates held in another place over six months ago, when Andrew Mensaros, our spokesman, said he would support that proposition.

Hon. Garry Kelly: One-vote-one-value?

Hon. Kay Hallahan: They would never support that—don't believe it.

Hon. G. E. MASTERS: I am saying that the Government has, for one reason or another, made the decisions it is now putting before this Chamber; but we do not want any humbug about the reasons, with members opposite being sanctimonious and saying it is for our good or the good of anyone else. It is for their own good; they know it and we know it.

I guess the Committee is going to decide that the MRPA boundary is the metropolitan boundary so far as the Government and the National Party are concerned. All I can say is that they are intending to include in the metropolitan area substantial farming and rural sectors where people are, and will be most upset to think they are included as part of the metropolitan area when people in Bunbury, Geraldton, and other major towns living in much more urban circumstances are still classified as country people.

Hon. NEIL OLIVER: I was not talking about the past. I would appreciate it if the Attorney General would look to the future. I asked who drew the MRPA boundary. Possibly it was the MRPA commission. If there is to be an amendment to the MRPA boundary, and that is most likely in the years ahead, who will actually draw that boundary in the future?

Hon. J. M. Berinson: That will be irrelevant.

Hon. NEIL OLIVER: It must come to this Parliament for ratification, as did the amendment to the third schedule of the Electoral Districts Act.

Hon. J. M. Berinson: It will have no effect on the electoral system. The boundary is fixed now, and there will not be any change to it in future.

Hon. NEIL OLIVER: If there is to be development outside, that would encroach upon agricultural areas as those areas became urban, such as Kalamunda and Lesmurdie. Surely there would be pressure on the Government—and the Government, if it were a Liberal Government, would have pressure from the Labor Party—to ensure that the lines were changed.

I am saying that ultimately the MRPA boundary line would be set by Parliament, just as the other lines are; so members opposite should not try to back into the past and talk about some other lines that were drawn. I am referring to the MRPA line which, from what I can gather by examination of the MRPA Act, was ratified by this Parliament.

Amendment put and a division called for.

Bells rung and the Committee divided.

The DEPUTY CHAIRMAN (Hon. John Williams): Before the tellers tell, I cast my vote with the Noes.

Division resulted as follows—

Ayes 19

Hon. J. M. Berinson	Hon. Tom Helm
Hon. J. M. Brown	Hon. Robert Hetherington
Hon. T. G. Butler	Hon. B. L. Jones
Hon. J. N. Caldwell	Hon. Garry Kelly
Hon. E. J. Charlton	Hon. Mark Nevill
Hon. D. K. Dans	Hon. S. M. Piantadosi
Hon. Graham Edwards	Hon. Tom Stephens
Hon. H. W. Gayfer	Hon. Doug Wenn
Hon. John Halden	Hon. Fred McKenzie *(Teller)*
Hon. Kay Hallahan	

Noes 13

Hon. C. J. Bell	Hon. Neil Oliver
Hon. Max Evans	Hon. P. G. Pendal
Hon. V. J. Ferry	Hon. W. N. Stretch
Hon. A. A. Lewis	Hon. John Williams
Hon. P. H. Lockyer	Hon. D. J. Wordsworth
Hon. G. E. Masters	Hon. Margaret McAleer
Hon. N. F. Moore	*(Teller)*

Amendment thus passed.

Clause, as amended, put and passed.

Progress

Progress reported and leave given to sit again, on motion by Hon. J. M. Berinson (Attorney General).

House adjourned at 3.56 am (Thursday)

QUESTIONS ON NOTICE

MIDLAND ABATTOIRS

Equipment Sale

169. Hon. MARK NEVILL, to the Minister for Sport and Recreation representing the Minister for Agriculture:

Is it correct that the new owner of the Midland abattoirs site has sold $200 000 worth of equipment and material from the site?

Hon. GRAHAM EDWARDS replied:

As with most, if not all, of the claims made by the Opposition with respect to this matter, there is no substance in the assertion. The claim is baseless and without any foundation. This assertion is similar to many other outrageous claims made by the Opposition. Not only is it not correct, but no attempt has been made to substantiate it with any evidence or justify its truth. I repeat what I have said before with respect to the price paid by Mr Ellett for the Midland land. It was entirely adequate and in line with the only independent valuation made. That is the valuation made by Baillieu-Justin Seward. The adequacy of that price is fully demonstrated in the Legislative Assembly Select Committee report on this matter.

What Opposition members have failed to grasp is that the abattoirs section of the site actually had a negative value because of huge demolition costs, particularly underground costs.

It is in a similar position, as far as valuation is concerned, to the old East Perth power station. This site, despite its superb position on the banks of the Swan River, also has a negative value which makes it very difficult to redevelop because of the demolition costs.

In fact, additional costs to remedy defects to the Midland site have been significantly above earlier estimates. They include $560 000 to pile part of the site to bolster defective foundations, and $366 000 to upgrade high tension power. The value of items sold from the site would not approach $20 000, let alone $200 000.

MIDLAND ABATTOIRS

Redevelopment: Public Environment Report

194. Hon. NEIL OLIVER, to the Minister for Community Services representing the Minister for Environment:

With respect to the redevelopment of the Midland abattoirs and saleyard—

(1) When was the public environment report advertised?

(2) Has all the advice been received from Government departments, the public, and local authorities?

(3) Have the recommendations and report been received by the Government?

(4) Does the environmental impact assessment support the proposed development?

(5) How many submissions were received from the general public?

(6) Will the Minister table the report?

Hon. KAY HALLAHAN replied:

(1) 7 May 1987.

(2) No.

(3) No.

(4) The assessment is still in the public review period, and until it has finished the EPA cannot prepare an assessment report.

(5) The period for public comment does not close until 1 July 1987.

(6) In accordance with section 44 (3) of the Environmental Protection Act, the Minister for Environment will arrange for the EPA's report to be published and be available publicly.

QUESTIONS WITHOUT NOTICE

CRIME

Sexual Assault: Review

53. Hon. P. G. PENDAL, to the Attorney General:

I refer to that now notorious case of the individual who was sentenced to four years' imprisonment for continuing to have sex with a woman for thirty seconds after she had withdrawn consent.

(1) Has he been correctly reported as saying that a review of this provision is likely in the next twelve months?

(2) Can he be more specific than that?

(3) Is not an earlier review now imperative in view of the adverse reaction and in view of the likelihood that other males might be similarly entrapped?

Hon. J. M. BERINSON replied:

(1) to (3) The statement I made following public comment on the case to which the member refers related to the Act as a whole. I indicated at that time that I had previously said, when the Bill was being considered in the Parliament, that it would be appropriate to review it after a reasonable period of operation. That was because of the significant differences in the law which that Act created. My comments, therefore, were not directed to that particular case but to the review of the Act as a whole.

I would not regard it as appropriate to respond in any way to the other parts of the member's question, as my understanding is that an appeal has been lodged in this case and not yet disposed of.

CRIME

Sexual Assault: Review

54. Hon. P. G. PENDAL, to the Attorney General:

I address a supplementary question to the Attorney General on that subject, and thank him for the information he has provided. Can he see my purpose in asking the question, which is to seek clarification of several Press reports where the word "likely" is used? In the circumstances where that review in twelve months is likely, I am trying to determine whether the Attorney General could be more specific in that regard.

Hon. J. M. BERINSON replied:

I cannot be more specific at this stage because the purposes of a review would really depend on the nature of the experience we have of the operation of the Act. It has been going for quite a short time only at this stage and I will not, therefore, commit myself right now as to the timetable of the review.

In the light of experience, it could well be the case that a review in about twelve months' time would be appropriate.

JUNIOR SPORT

Report

55. Hon. TOM McNEIL, to the Minister for Sport and Recreation:

I draw the Minister's attention to the front page article in *The West Australian* of 25 May in which four particular points were recommended as major changes urged in junior sport. The paper said that the report was by a top level committee of sports administrators and will be closely studied by the Department of Sport and Recreation.

(1) Is the Minister aware of a report which was prepared by a Select Committee of this House some three years ago?

(2) Has the Minister studied the report prepared by the upper house committee?

(3) If he has, does he see a similarity between the recommendations proposed in the article and those prepared by the Select Committee?

Hon. GRAHAM EDWARDS replied:

(1) to (3) I noted the report which was put forward by the member asking the question. I have not studied it, but I did read it with great interest. I am aware that some mutually supporting recommendations were put forward by the two committees. I think that is excellent and should be supported.

I am not quite sure whether I was quoted as saying "administrators" or not, but certainly anyone who knows Brian Douge knows he is not only an administrator. He is a person who has a great involvement in sport himself in a number of areas; he is also a person who, to my mind, sets a great example to young people because of his dedication to sport and because of his commitment to achieving the top

in his chosen sport. He is also a person who sets a great example to adults because of his philosophy that children should be able to get more enjoyment out of sport.

If those recommendations put forward by both his committee and the Select Committee are mutually supportive, then, as the Minister responsible, I will support them absolutely. There is no claim by anyone that the committee tried to supersede what the Select Committee did.

JUNIOR SPORT

Report

56. Hon. TOM McNEIL, to the Minister for Sport and Recreation:

Since this panel of sports consultants has had the benefit of looking at the report prepared by the upper House committee, has the Minister examined the report of Dr Douge and will he make it available to the members who sat on the Select Committee?

Hon. GRAHAM EDWARDS replied:

I will get a copy of the report for the member. I did have one for him today, but it was swiped by someone else from the Opposition. Hopefully, those reports will be available to everyone in the very near future.

To placate Hon. Tom McNeil, I might also say that the report which he and other members from this Chamber presented is held in high regard by the department and referred to often.

QUESTIONS ON NOTICE

Answers: Delays

57. Hon. H. W. GAYFER, to the Leader of the House:

(1) Is the Leader of the House aware that it is much easier for members to get answers to questions by asking questions without notice than it is by placing them on the Notice Paper?

(2) Is he aware that in today's answers to the written questions there are in fact only two answers given to a series of questions asked over two days, of which notice was given?

(3) Is he also aware that these postponed questions ranged through questions 134, 162, 180 to 193, and 195 to 209?

(4) Would the Leader of the House inform me whether it is lack of staff which has caused these questions not to be answered, or is the Leader of the House too busy to peruse the questions that have been prepared for him to answer, and therefore they do not appear?

(5) Would the Leader of the House assure the House that the questions which are placed on the Notice Paper are expedited so that members can use them as a result of asking them in the direct manner as decided by this House, as in days gone by?

(6) Would the Leader of the House like to comment on whether it would be much better if we returned to the old idea of getting up and asking our questions directly on the day after notice was given, as was done for 70 years, when great satisfaction was received by members in getting prompt attention to the questions they asked?

Hon. J. M. BERINSON replied:

(1) to (6) The honourable member has asked questions which relate to the functioning of the offices of a great many Ministers. I cannot speak for the position of each of them with any detailed knowledge, but I can say I am quite sure all Ministers are attempting to respond to questions as quickly as possible.

What I cannot tell from the supplementary Notice Paper which contains the questions is just how long those questions which have not had a reply have been on the Notice Paper. I am therefore unable to even offer a comment as to whether there really is a case for expedition.

The honourable member has been here much longer than I so his knowledge of what I am about to say will be much greater. My impression is that the number of questions now being asked exceeds those asked in earlier times.

Hon. H. W. Gayfer: The staff exceeds what was there before.

Hon. J. M. BERINSON: I am quite sure that is so, but I believe the member is referring to ministerial staff rather than departmental staff. Most of these questions call for departmental responses. Some require the extraction of factual material in great detail, and that is a matter ministerial staff cannot handle; we have to go to the department for that.

In summary, I can assure the honourable member that Ministers are attending to these questions as expeditiously as possible. I can only ask honourable members to accept and appreciate the pressures Ministers are under from time to time, and if the responses are not as speedy as they would like and they bring particular matters they regard as urgent to my attention, I will attempt to see that they are brought forward as far as possible.