

Legislative Council

Tuesday, 30 August 1988

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

APPROPRIATION (CONSOLIDATED REVENUE FUND) BILL

Consideration of Tabled Paper

HON. J.M. BERINSON (North Central Metropolitan - Minister for Budget Management) [3.33 pm]: I move, without notice -

That pursuant to Standing Order No 152(c), the Council take note of tabled paper No 379 (Estimates of Revenue and Expenditure and related papers), laid upon the Table of the House on Tuesday, 30 August 1988.

This motion is to enable the Legislative Council to examine and debate the Budget papers associated with the Appropriation Bills which are now before the Legislative Assembly.

In his Budget speech, the Premier and Treasurer outlined the overall economic and financial parameters within which the Government has framed the Budget and the Capital Works Program for 1988-89. A copy of that speech is included in the Budget papers. I do not propose to cover that ground in detail again; but it is worth repeating that, under this Government's administration, Western Australia has played a major role in the national economic revival. We continue to outperform the nation in the crucial areas of job creation, investment and consumer demand; our housing industry has enjoyed a dramatic surge in activity; and our traditional mining and agricultural sectors have been boosted by a strong recovery in commodity prices. It is particularly pleasing that Western Australia has consistently outperformed the other States in terms of job creation. In 1987-88 employment increased by 4.3 per cent, almost double the growth recorded in 1986-87 which was also well above the national average. The latest figures also show that in July 1988 our unemployment rate dropped to 6.7 per cent, the lowest rate recorded in the State since November 1981. Due to that outstanding economic performance and the Government's prudent financial management, the State is in a sound financial position. Last year was the fifth in succession in which a Labor Government has recorded a surplus. Buoyant revenue collections meant that in 1987-88 we achieved a surplus of \$3.1 million without the need to draw upon accumulated short-term interest earnings, which amounted to \$199.1 million at 30 June 1988.

The highlights of the Consolidated Revenue Fund Budget and Capital Works Program are as follows -

A balanced recurrent Budget both in terms of financial outcome and content with estimated expenditure of \$4 044 million being matched by projected total revenue collections of the same amount.

A Capital Works Program of \$1 377 million.

No new taxes or tax increases but a continuation of our policy of reducing the burden of payroll tax on small businesses.

Maintenance of our unprecedented funding efforts to meet community needs for public housing and to help low income families into homes of their own.

The introduction of a comprehensive set of initiatives to combat the growth in crime, including the first stage of our plan to increase police strength by 1 000 over the next three years.

The provision of over 750 new teachers, teachers' aides and clerical support staff for schools to help improve the quality of education and to reduce class sizes.

Enhanced measures to build upon the State Government's highly successful regional development policies.

A comprehensive package of measures to assist business development and diversification in Western Australia.

The setting up of a \$12 million Western Australian Family Foundation as part of a much wider \$25 million social strategy package aimed at a fairer and better community.

Expenditure of \$14.2 million from the State employment strategies fund to stimulate employment opportunities, promote productivity and provide the training necessary for Western Australians to acquire the skills to support our growing economic base.

ECONOMIC DEVELOPMENT AND EMPLOYMENT

The Government regards it as self-evident that success in achieving prosperity for all Western Australians depends on developing an environment for private sector growth.

Taxation

Accordingly, we have decided to continue our policy of reducing the burden of payroll tax, particularly on small businesses, and there will be no tax rate increases or new taxes in this Budget. From 1 January 1989 the basic annual payroll tax exemption level is to be lifted by around seven per cent from \$275 000 to \$295 000. Together with commensurate and related increases in other payroll tax threshold levels, the cost of this measure is estimated at \$4.5 million in a full year. The move will exempt between 200 and 250 firms which would otherwise have become liable for payroll tax in 1988-89. About 90 per cent of employers currently paying payroll tax will have a reduced payroll tax liability compared to the previous scale.

Apart from the payroll tax concessions I have just described, the Budget makes allowance for -

- a reduction in betting taxes to assist the financially troubled racing industry at an estimated cost to Government revenue of \$4.6 million in a full year;

- the abolition of the third party insurance surcharge on motor vehicle registrations at a cost of \$4.7 million in 1988-89; and

- discontinuation of occupational health, safety and welfare registration fees, representing a saving to Western Australian businesses of \$3.5 million every year.

Industry Support

This year, our expenditure programs include the following measures to assist the development of our important secondary industries -

- A State contribution of \$2.8 million for a marine support facility in Cockburn Sound, comprising a shiplift and dry berth which will provide growth opportunities for ship building and marine based industries.

- Commencement of work on the \$7.6 million defence technology precinct aimed at enhancing the growth of a defence support industry in Western Australia.

- Start-up funding for the construction of a \$6 million advanced materials engineering park. The park will be a focus for existing Western Australian expertise and help attract strategic companies to the State.

We also plan to spend \$420 000 on grants to encourage innovative research activities in small firms which lack access to equity markets and will mount a \$565 000 program of trade promotion as one of the more direct ways in which Government can increase growth opportunities for local industry.

Tourism is important to an expanding Western Australian economy and the Western Australian Tourism Commission will receive a Budget allocation of \$17.5 million, an increase of 23.8 per cent.

Employment and Training

Despite the State's strong performance in job creation, there is no room for complacency, and this year an allocation of \$11.9 million will be made to the State employment strategies fund enabling expenditure of \$14.2 million from the fund in 1988-89. Highlights include -

- An allocation of \$4 million for apprenticeship training.

- Provision of \$1.7 million for industry training initiatives.

An allocation of \$1.4 million to encourage local communities to take a more active role in devising and exploiting local economic and employment opportunities.

\$1.7 million for the Joblink and employment development schemes.

\$1.5 million for community employment initiatives and other labour market programs including those concentrating on the long term unemployed.

\$1.4 million for the highly successful youth employment schemes and for associated research.

Special programs to improve employment prospects for groups disadvantaged in the labour market.

An expansion in the activities of the productivity policy unit to facilitate productivity improvements in individual enterprises and to help develop new approaches to productivity improvement.

We will also establish 2 000 additional Technical and Further Education student places to help reduce unemployment related to skill shortages and to meet the needs of the labour market.

The Government acknowledges that the partial rebate of the workers' compensation premiums on first year apprentices has been a welcome concession to employers. However, we believe that the revenue forgone could now be used more productively in targeting areas of labour shortage through the industry training measures I have just described, and the rebate scheme is to cease as from today.

Agriculture

An allocation of \$71.8 million is planned for the Department of Agriculture to continue its important programs of agricultural research, for extension and protection of agricultural industries and for the conservation of soil and water resources. We will improve the delivery of services to farmers by further decentralisation of the department's operations and, this year, the construction of a new research centre at Esperance will be completed and work or planning will commence on major regional complexes at Katanning, Albany and Geraldton. To protect our valuable pastoral and horticultural industries, a new quarantine checkpoint is to be built near Kununurra at an estimated total cost of \$1.7 million.

Indications are that the 1988 farming season will be a good one and applications for assistance from the Rural Adjustment and Finance Corporation are expected to be lower than recent years. Nevertheless, sufficient funding has been allocated to the corporation to allow it to meet anticipated ongoing needs and to provide support for any emergency situations that may arise during the year.

Regional Development

The Government has given a high priority to increased regional development and regional autonomy in this Budget. In 1988-89, allocations to the South West Development Authority and the Great Southern Development Authority will increase by 50.1 per cent and 46.4 per cent respectively. In addition, the Geraldton Mid-West Development Authority was established as a statutory body on 1 July 1988 and \$843 000 have been provided for its first full year of operations. Highlights of our regional expenditure program include -

Funding of \$3.5 million for the \$6.4 million small boat harbour and marina stage of the Geraldton foreshore development which is expected to be completed late in 1989.

The commencement of work on relocating Westrail's marshalling yards on the Albany foreshore at an estimated total cost of \$6.2 million.

A start to the \$5 million Bunbury Entertainment Centre with a total State Government commitment of \$3.5 million.

Funds for a major goldfields planning and development study.

Capital Works and Housing

The capital works programs of our departments and authorities have a significant direct impact on the State's economy. This year, our planned total works program amounts to \$1.377 billion compared with actual expenditure of \$928.2 million in 1987-88. However,

about \$160 million of the increase is due to under spending last year due, in part, to delays caused by more rigorous evaluation and cost justification procedures.

We have again given priority to the housing industry, the generator of a significant proportion of economic activity and jobs in this State. For the fifth consecutive year the maximum allowable amount under the Government borrowing program has been nominated for public housing at concessional rates of interest and we have also provided special funding supplementation of \$41.1 million to Homeswest on similar concessional terms. As a result, Homeswest will mount a \$272.4 million capital works program, an increase of \$98.4 million or 66.6 per cent on the amount spent last year. The 1988-89 new works program provides for a start to be made on the building or the purchase of 1 450 dwellings and will also allow \$102 million to be directed to income geared home loans assisting an estimated 2 000 families. The Government's efforts to accelerate the supply of urgently needed public housing have been outstanding and we will exceed our target of providing 6 000 homes for low and moderate income families in our second term of office.

Other notable elements of our Capital Works Program include -

- A \$106.6 million program for educational facilities, an increase of \$38.3 million on the amount spent last year.

- Expenditure of \$58.6 million on hospitals and health facilities.

- An allocation of \$49.8 million for suburban electrification.

- A start to the \$24 million inner harbour dredging and small boat harbour at Fremantle.

- Expenditure of \$17.8 million on the Perth City bus junction, which is due for completion next year at a total cost of \$31.4 million.

- \$3.3 million for the first stage of accommodating major Government computing facilities at Joondalup.

- Replacement of the outmoded and poorly designed police complex at Kalgoorlie.

- The commencement of a \$1.4 million program of cell modifications to try to prevent tragic loss of life.

SOCIAL DEVELOPMENT AND COMMUNITY SERVICES

The Premier recently outlined the Government's social strategy for Western Australia when announcing the formation of the Western Australian Family Foundation. Although I do not wish to repeat today the full details of our strategy, it is worth mentioning some of the initiatives that will be undertaken or introduced. These include -

- Increased funding of \$1.3 million for the Commonwealth-State supported accommodation assistance program, bringing the total program to \$10 million in 1988-89.

- An allocation of \$3 million for the family support services program recently transferred from the Commonwealth.

- Funds for the construction of a total of 25 new family centres and for the upgrading of another 15.

- The continued expansion of child care - six new child care centres are planned.

- An amount of \$1.1 million under the juvenile justice initiative and a further \$100 000 for the department to respond to calls for assistance from families in the area of troubled youth.

- Provision for a further 10 youth drop-in centres and a further amount of \$1.5 million to enhance the Government's youth strategies package which assists our youth achieve their full potential.

- Adoption of the recommendations of the Child Sexual Abuse Task Force involving the appointment of 14 additional staff at an estimated cost of \$683 000.

- An increase in the State Energy Commission dependent child rebate per child.

- Funding assistance of \$5.4 million for needy families.

The Government has decided also to extend the transport concessions that are currently available to pensioners to all holders of the Western Australian Government's Seniors Card and we will also introduce a subsidised taxi scheme from 1 November 1988 for people with acute physical or intellectual disabilities.

In concluding my comments on the Government's social strategy, I should add that our policy of holding down charges for essential services has reduced the financial burden on all Western Australians, and especially on those on low incomes. In 1988-89, there will be no increases in charges for domestic users of electricity and gas, water and drainage, Transperth and Westrail fares, fuel levy or hospital bed charges. And, as the Premier has pointed out, it has been the investment strategies of the State Government Insurance Commission which have given us the flexibility to fund the Western Australian Family Foundation and some of the concessions I have outlined today. The commission will make a contribution of \$31 million to our Budget revenues this year compared to less than \$2 million in 1987-88.

Education

To meet our educational responsibilities, we propose to allocate \$798.8 million to the Ministry of Education, an increase of 11.1 per cent. The Ministry of Education's program provides for -

- the appointment of an additional 500 teachers to help reduce class sizes to meet the demands of existing schools with increasing enrolments, new schools and school extensions; and

- an extra 250 support staff to allow further devolution of responsibilities to school communities as recommended in the Better Schools report.

The State Government boarding allowance for both Government and non Government students will be increased from \$250 to \$500 per year effective from 1 January 1988. The boarding allowance will now be paid to all eligible Government and non Government students, irrespective of Commonwealth assistance through the Assistance for Isolated Children Scheme.

The Government believes it appropriate to introduce new bus services and extend existing services to enable non Government primary and secondary students to have the same transport provisions to the nearest appropriate school as currently apply to Government students in rural areas. On the same equity grounds, the conveyance allowance scheme will be extended to cover eligible non Government primary and secondary students in rural areas who are unable to gain access to free contract bus services.

Subsidy arrangements for non Government buildings are now more accessible through the new loans scheme administered by the Education Department. Our Capital Works Program provided \$25 million for advances by way of low interest loans.

Health Services

Gross expenditure by the Health Department will increase by 11 per cent in 1988-89 to meet our commitment to a modern and comprehensive health system. Apart from meeting the ongoing running costs of our public hospitals, the highlights of our expenditure program include -

- Additional funding of \$6.7 million for the joint State/Commonwealth Home and Community Care Program which provides maintenance and support services for frail, aged and disabled people, helping them remain in the community, rather than in institutional care.

- Spending of \$3.7 million on the prevention of AIDS and for the acute care of AIDS sufferers.

- An allocation of \$5.6 million to the Patients' Assisted Travel Scheme, which makes specialist medical services accessible to the entire community.

- A \$3.2 million program to reduce hospital waiting lists especially for joint replacement and cataract operations, and funding of \$3.8 million for the construction of an additional operating theatre and associated support facilities at Royal Perth Rehabilitation Hospital.

The introduction of a Government subsidised spectacle scheme from 1 November to assist pensioner health benefit card holders. The subsidy will be 50 per cent of the cost of spectacles and contact lenses up to a maximum of \$50. It will be available once every two years.

The undertaking of a \$1.4 million breast and cervical screening program; and a \$1.3 million vaccination program aimed at significantly reducing hepatitis B among Aboriginal people.

The establishment of a \$1.2 million recompression facility at Fremantle Hospital.

A \$2 million program to attract more doctors to undermanned areas in the country.

The establishment of sexual assault referral centres at Bunbury and Geraldton, and funding to develop a network of health centres for women at Fremantle, Whitfords and in the goldfields.

The Government will also continue to give priority to combating alcohol and drug abuse and to broadly based preventative campaigns aimed at improving the health of the community.

Community Safety

Reflecting the Government's unprecedented drive to end the growth in crime, there will be a 26 per cent increase in the Police Department's budget in 1988-89. Allowance has been made for an additional 330 police officers, 10 police aides, 20 Aboriginal cadets and an additional 33 support staff, including 7 for the newly created Office of Crime Prevention. We have also decided to allocate \$3.8 million as a once off endowment to the University of Western Australia for the establishment of a crime research unit. This independent unit will compile a comprehensive and reliable information base and provide objective analysis and possible solutions to general law and order issues and rates of crime and imprisonment.

Time does not permit me to go into great detail about all areas of the Budget; however, I draw the attention of members to the following items of interest -

A further \$10 million has been allocated under the Aboriginal Communities Development Program - a joint Commonwealth/State initiative to provide a total of \$100 million over five years for projects aimed at materially improving the living standards of our Aboriginal people.

The Government recognises the importance of the arts in the lives of Western Australians and there will be a 13.9 per cent increase in the Budget for the Department of the Arts together with a \$1 million increase in funding from Instant Lottery proceeds. Some notable expenditures planned to promote the arts this year include an additional \$125 000 to the Western Australian Symphony Orchestra to complete the rationalisation and upgrade of the State's orchestral resources, \$400 000 for the first stage of the renovations needed to establish the Perth Institute of Contemporary Art in the Cultural Centre, a substantial increase in the funding of the Western Australian Film Council and outlays of \$150 000 which will make an important contribution towards the setting up of a fully equipped Conservatorium of Music.

Reflecting the Government's new approach to securing the health, safety and welfare of people in the workplace, \$12.3 million has been provided to the Department of Occupational Health, Safety and Welfare, an increase of 20.1 per cent.

A further \$25 million has been allocated to meet the estimated losses of the Teachers' Financial Society that will emerge during 1988-89. This is a provisional sum and, as the Premier recently announced, the cost to the Government of these losses was estimated at \$119 million at 30 June 1988. The Government believes that this debt should be cleared as quickly as possible consistent with our financial position and the need to ensure that the level of our charges and provision of services are not adversely affected. We will be looking at ways of achieving this over the course of the year.

Adequate sporting and recreational facilities are important to the well being of our community and \$3.3 million has been provided as a contribution to the Community Sporting Facilities Trust Fund, an increase of 11.8 per cent. We have also decided to

lift by one-third, or \$1 million, the support provided to sporting bodies through Sports Instant Lottery proceeds. Our Capital Works Program also includes \$632 000 towards a \$3.6 million commitment to provide facilities to host the 1991 World Swimming Championships and \$1 million for the major development and ongoing management of the Woodman Point Reserve.

An allocation of \$690 000 will enable regional bikeplan implementation in Geraldton, Bunbury and Mandurah and engineering grants to over 20 local authorities on a dollar for dollar basis. The bicycle safety helmet rebate scheme has been boosted by an additional \$150 000, taking the total allocation this year to \$250 000.

Included in the Budget for the Department of Corrective Services is an amount of \$323 000 for the appointment of 11 officers to operate the special handling unit which has been established following the inquiry into the fire and riot at Fremantle Prison. Provision of \$1.5 million has also been made for the first stage manning and operation of the Casuarina Prison due for completion in December 1989.

Funding of \$1.5 million has been provided to implement the Aboriginal visitors' scheme to help overcome the problem of Aboriginal deaths in custody.

An amount of \$2.8 million has been allocated for a State general election including \$300 000 for an enrolment campaign.

PUBLIC SECTOR MANAGEMENT

The Government will also introduce some changes and structural reforms to promote and improve public sector management and accountability. These include -

The establishment of a Motor Vehicle Policy Advisory Unit to undertake research and analysis of our motor vehicle fleet. This will assist the Government in monitoring and policy coordination aspects with the view to achieving long term savings.

To achieve economies and efficiency in public sector purchasing, the Education Supplies Branch has been merged with the Department of Services Supplies Division. The merger will rationalise warehousing, distribution and supply support.

In addition to substantial allocations for computing in individual departmental budgets a global provision of \$15 million has been made under the Miscellaneous Services Division to improve public sector productivity by the effective use of information technology.

I would also point out that the Budget this year has been brought down much earlier than usual to provide more timely advice to Parliament and to facilitate better public sector financial management. Due to its early introduction, however, some adjustments will be needed to reflect funding decisions and revised estimates included in the Commonwealth Budget.

BUDGET OVERVIEW

Last year, and for only the second time in 40 years, we aimed for a small surplus. There is no better demonstration of the restoration of the State's economic and financial fortunes than that we surpassed our goal. Total revenue amounted to \$3 810.4 million, \$3.1 million more than actual recurrent expenditures of \$3 807.3 million. It was the fifth year in succession in which a Labor Government had achieved a surplus on the Consolidated Revenue Fund.

For the current financial year and after bringing to account \$159.1 million of our available short term interest earnings, revenue collections are estimated at \$4 044 million, an increase of \$233.6 million, or 6.1 per cent on an adjusted basis. After adjusting for changed arrangements in respect of payroll tax on Commonwealth business enterprises, State taxation collections are expected to grow by 8.1 per cent in 1988-89 compared with an expected inflation rate of about six per cent and projected population growth of 2.6 per cent. With regard to State taxation, I would remind those critics who confuse collections with the taxing efforts of Governments, that the latest Grants Commission review indicates that our tax rates and policies are no more severe than the average of the other States. Indeed, our financial institutions duty, gambling taxes and stamp duties on property transactions were significantly less onerous than the average for the other States in 1986-87 and it is this last category which was largely responsible for boosting revenue collections well above budget last year.

Turning to our recurrent expenditures, total outlays are planned to be held to the level of our estimated revenue, \$4 044 million, an increase of 6.2 per cent if no allowance is made for changed accounting and Commonwealth funding arrangements. After taking into account these changes, the adjusted increase is nine per cent. The Consolidated Revenue Budget for 1988-89 is therefore in balance. Nearing the end of the second term of Labor Government, the Government is proud of its financial and economic management.

The State's finances have been well and truly restored, our economic buoyancy is beyond question, we lead all other States in terms of economic growth, and we are headed for an exciting period of diversified and regionally balanced development which will put our economy on an even sounder long term footing. This Budget aims at maintaining that record and keeping us ahead of the nation. But, just as importantly, it ensures that all Western Australians fairly share in the economic rewards we are generating. It reaffirms the Government's commitment to a fairer and better society with security and dignity for all.

I commend the Budget to the Council.

Debate adjourned, on motion by Hon G.E. Masters (Leader of the Opposition).

MOTION - URGENCY

Amendments to the Commonwealth Constitution

THE PRESIDENT (Hon Clive Griffiths): Honourable members, I have received the following letter -

Hon. C.E. Griffiths, M.L.C.,
Legislative Council,
Parliament House,
PERTH WA 6000

Dear Mr President,

Standing orders provide for the moving of an adjournment motion for the purpose of debating a matter of urgency.

In accordance with SO63, I wish to advise of my desire to move that the House adjourn until 10.30 a.m. on Friday 2nd September, 1988 so that the House can express its total opposition to the proposed amendment to the Commonwealth Constitution pertaining to so-called "Fair and Democratic" elections, because the proposed changes

- (i) will take away from the State Parliament its legitimate right to legislate for its own electoral system
- and
- (ii) will seriously diminish State Parliamentary representation of West Australian citizens living in country and remote areas.

Yours sincerely,

NORMAN MOORE, M.L.C.
Member for Lower North

The mover of this motion will require the support of four members.

[Four members rose in their places.]

HON N.F. MOORE (Lower North) [4.04 pm]: I move -

That the House at its rising adjourn until 10.30 am on Friday, 2 September 1988.

I have moved this motion so that the House can express its total opposition to the proposed amendment to the Commonwealth Constitution pertaining to so-called fair and democratic elections because the proposed changes would, firstly, take away from the State Parliament its legitimate right to legislate for its own electoral system and, secondly, would diminish seriously State Parliament representation for Western Australian citizens living in country and remote areas.

For the benefit of members not aware of the procedures involved in an urgency motion, a member simply moves for the House to adjourn at a particular time in order to provide an opportunity for members to discuss matters of some urgency. The motion is withdrawn at the conclusion of the debate. The question of urgency is obvious in light of the fact that the referendum is to be held on Saturday and that the matters I wish to raise are of particular relevance and interest to me, and of interest to my constituents.

The fact that I am simply moving to discuss one aspect of the referendum proposal does not in any way indicate I consider this to be any more or less important than the other questions; in fact, I argue strongly, as do other members of my party, that there should be a no vote for all four of the referendum questions. The area which probably has potential for the greatest effect on my constituents is the question of one-vote-one-value, the so-called fair and democratic elections proposal. I have therefore brought this to the House today because I wish to argue about it from the perspective of my constituents. I expect that other Liberal members in other Parliaments will be arguing about the other points, and perhaps arguing about the lot in one hit in some places.

Hon John Halden: They support the whole concept.

Hon N.F. MOORE: They support one proposal, the one I am arguing about now, for their own reasons. I am not seeking to be selective but to argue about the referendum proposal that I find affects me most. If one looks at part (i) of my proposal, the so-called fair and democratic election proposal, if passed, will take away from the State Parliament its legitimate right to legislate for its own electoral system. If we look back in history we find that the colonies of Australia together set up the Commonwealth Parliament and the Commonwealth Government. When they did that they gave the Commonwealth certain powers. Section 51 of the Constitution delineates the powers that the Commonwealth Parliament shall have and, of course, the residual powers - that is, the powers not included in section 51 - were to be retained by the States. The States retained quite deliberately, and quite properly, the right to determine their own electoral system. Within the new Commonwealth Constitution they provided an electoral system for both Houses of the Commonwealth Parliament. The House of Representatives was a single member constituency electoral system with Tasmania being guaranteed five seats, and it provided in the Senate that each State would have an equal number of representatives. In respect of the Senate in particular it was agreed that there would be no such thing as one-vote-one-value; there was no consideration except that the States would have an equal voice in the second Chamber. It was that requirement, or that desire by the States, which led to the Commonwealth being set up in the first place. Had the States not been given that guarantee, that assurance, and that safeguard it is my view that there would have been no Commonwealth Parliament set up in 1901.

Hon Garry Kelly: We agree on one thing, anyway.

Hon N.F. MOORE: Good. The important thing is that at the same time they set up this system the States decided to retain control of a whole range of powers, and included in those powers were ones to make decisions in their own Parliaments in respect of electoral matters in Western Australia and the other States. That control has remained and, in fact, our electoral system in Western Australia, the system which applies to elect this Parliament, is determined by State legislation; it is determined by a variety of Acts of Parliament including the State Constitution. In fact, it was only last year, as members would be aware, that this Parliament made quite dramatic and significant changes to our electoral system.

Hon Garry Kelly: In the face of your opposition.

Hon N.F. MOORE: It is my entitlement as a member of Parliament to disagree, but I am saying that this Parliament has the power to make decisions about its own electoral system despite the fact that the end result may be something that Hon Garry Kelly does not like, or that I do not like. Last year I did not like something. I accept the fact that this Parliament makes decisions and passes legislation binding on all members of this House and all citizens of Western Australia.

The beginning of my argument is that the system of Government in Australia is a system which consists of a number of States in a federation. The Commonwealth Parliament, with certain powers, makes decisions affecting those areas over which it has control. The States

have retained other powers, including the power to determine how their electoral systems will operate and how their own Parliaments will be elected. From what I can gather, when the Constitution was first set up there was never any intention that the Commonwealth would have any control over State electoral systems. In fact, had it been intended that that should be the case, I doubt very much that the Commonwealth Constitution would have been set up at all.

The referendum on Saturday provides, in part, that we will have fair and democratic elections. First of all, the use of the words "fair and democratic elections", and the question itself, have been described by Garry Morgan as grossly biased. Garry Morgan spends his life asking people questions. That is what he does for a living, and he is well respected throughout Australia as being a pollster of some significance. I might add that the last poll in Western Australia was of some fleeting interest to members of this House because it showed us well ahead of the Government.

A Government member: It showed MacKinnon behind.

Hon P.G. Pandal: Just about level pegging.

Several members interjected.

Hon N.F. MOORE: It showed the Government would have been done last month.

Garry Morgan called the question which the Federal Labor Party is putting to the electorate next Saturday as blatantly biased. The Government is not supposed to be asking blatantly biased questions in a referendum. The intention is to ask unbiased questions and seek to provide unbiased views so that people can make up their minds. When the Government asks a question which is clearly biased, it has the effect of leading people to vote in a certain way, and we know which way this Government wants them to vote. The Government is quite happy to go to all sorts of extraordinary lengths to get a yes vote, including putting forward what has been described by Garry Morgan as a blatantly biased question. We could go into all sorts of things, like the use of ticks and crosses and a range of other devices, including biased advertising, to show the lengths to which this Government would go.

Several members interjected.

Hon N.F. MOORE: It was decided by the High Court to be biased and the Government was required to take it off. These are the lengths to which the current Federal Government will go to get a yes vote. The bottom line in this instance is the attempt to take away from the States their powers to legislate for their own Parliaments.

Hon T.G. Butler: Rubbish!

Hon N.F. MOORE: They can do it, according to the rules set down by the Commonwealth.

Hon Garry Kelly: Decided by the people in a referendum.

Hon N.F. MOORE: It is contained in the Commonwealth Constitution. This question No 2 in the referendum on Saturday will basically provide for one-vote-one-value for State Houses of Parliament, but it does not require one-vote-one-value for the Federal Houses of Parliament. The minimum provision of five seats for Tasmania is to be retained in the House of Representatives, and in the Senate the principle of having an equal number of members from each State is to be retained. Even some Labor members, writing to papers in various parts of the State, make it quite clear this does not apply to the Senate. They are putting as part of their argument that this referendum proposal applies only to State Parliaments, not to the Senate, because they know that Western Australians would not have a bar of having their representation in the Senate reduced; they know South Australians, Queenslanders and Tasmanians also would not. They know they would not get away with it, even if they wanted to, so they are trying to get by with some perversion, arguing on the one hand that this is for State Parliaments, but the system will be retained in the Senate where one-vote-one-value does not exist. That displays the absolute blatant hypocrisy of the Labor Party on this issue.

Hon J.M. Berinson: It does nothing of the sort.

Hon N.F. MOORE: They put forward forcefully in every forum they can find the view that one-vote-one-value is a principle which must be brought into our electoral system.

Several members interjected.

Hon N.F. MOORE: Members opposite cannot argue for a principle on the one hand, and then on the other hand say it should not apply somewhere else. It should apply to some similar area where members opposite say it should not apply.

Hon J.M. Berinson: Are you arguing against one-vote-one-value for the House of Representatives?

Hon N.F. MOORE: I am arguing against one-vote-one-value because I do not believe it is a correct principle. The electoral system should take other things into account. That is what I am about to argue in the second part of my motion. The absolute hypocrisy of the Labor Party is demonstrated by the fact that members argue for one-vote-one-value in every House of Parliament in Australia except the Senate, and to a lesser extent, the House of Representatives. That in itself describes the hypocrisy of the Federal Labor Party, which is putting forward a referendum proposal to apply to every State Parliament but not to the Commonwealth Parliament.

Hon Fred McKenzie interjected.

Hon N.F. MOORE: The member should have stayed outside. The Commonwealth Parliament does not have one-vote-one-value. Had the member been here when I explained it half an hour ago he would have known.

Hon Fred McKenzie: In the House of Representatives?

Hon N.F. MOORE: Tasmania is guaranteed a number of seats regardless of the number of voters.

Hon Garry Kelly: Like all the original States.

Hon N.F. MOORE: Okay. It still maintains in Tasmania. The point of the exercise is that the Government at this referendum is not putting a proposal for one-vote-one-value in all Australian States regardless of their population. The Government is not saying that, but it could if it wanted to. The Government is also saying that the Senate shall remain as it is with a balance - as it was at one time, I think - of about 16 to one in favour of New South Wales over Tasmania. I believe it is a little less than that now; it varies from time to time. The Government is prepared to accept that because it knows it cannot get away with changing it. That is the bottom line. The Government is arguing hypocritically that the State Parliaments have no right to decide for themselves whether there should be a weighting of votes in either of their State Houses, but there should be a weighting of votes in the Federal Parliament for reasons which we were told about when the Constitution was formulated in the first place. If it is necessary to have a compact, I would like to see one between the various regions of Western Australia. Perhaps then we may be able to start to say that areas in the remote regions of Western Australia are entitled to as much representation as the city. Perhaps we should start arguing about compacts and start looking at that, if that is what members opposite want to argue.

The bottom line is that the proposal, if passed, will transfer control of the States' electoral systems to the Commonwealth Constitution, and ultimately to determination by the High Court, which invariably rules in favour of the Commonwealth. That is understandable, because the Commonwealth appoints the people to the High Court whom it knows have a centralist view, or tend towards a centralist view.

Hon J.M. Berinson: That is an interesting reflection on the High Court.

Hon N.F. MOORE: It is an interesting reflection on the High Court. If the Attorney General wants to suggest to me that the Labor Party does not consider a person's views on these matters when appointing them to the High Court, he is having me on.

Hon Garry Kelly: And the Liberal Party.

Hon N.F. MOORE: Yes, of course. It is the same thing. Every Commonwealth Government, regardless of what it is, appoints people to the High Court whose views will be pro Commonwealth. It is as simple as that. We should be debating referendum questions which argue that the States ought to appoint members to the High Court. Perhaps all the States should be able to appoint one each, or something like that.

Hon Garry Kelly: Sir Garfield Barwick?

Hon N.F. MOORE: Or Lionel Murphy - come off it! If the member wishes to throw names around, maybe that is the sort of referendum we should be debating. Maybe we should be debating referendum questions which return to the States fiscal powers taken from them by the Commonwealth since 1901, and of course by decisions of the High Court, which invariably rules in favour of the Commonwealth.

Hon John Halden: If you say it long enough, people will believe you.

Hon N.F. MOORE: People do believe it. The member will find, as his party found out the last time it tried this, that people will vote no.

Hon Garry Kelly: Then why are you worried?

Hon N.F. MOORE: After Saturday, if people in other States do not support my argument, we could have the ludicrous situation where Western Australia voted against this proposal - in other words we could vote against allowing the Commonwealth Constitution to dictate our electoral system - yet the measure was passed because a majority of people in a majority of the other States passed it. In other words the situation could develop next Sunday morning where the citizens of every other State of Australia determined our parliamentary electoral system. That is not good enough for people in Western Australia. By laughing at that proposition, members opposite are implying that as far as they are concerned the views of the people of this State, under that scenario, are irrelevant.

Hon T.G. Butler: You sound like somebody who is hanging over a cliff by their fingernails.

Hon N.F. MOORE: I know exactly where I am going. The Labor Party is prepared, by supporting this particular proposal, to give away the legitimate powers of this House and this Parliament to make decisions about our own electoral system. The Labor Party is saying there should be written into the Constitution overriding guidelines as to how we should pass our own electoral legislation. In my view that is totally unacceptable and it is not proper that this Parliament or this State should give away its powers. One wonders what the Labor Party will do next for party political expediency and when the Labor Party will feel the need to give away more powers to the Commonwealth, which is something the Labor Party has supported over the years. The Labor Party is totally centralist and it gives away State powers whenever it gets the opportunity. These four referendum questions are all about giving Canberra more power at the expense of the State Parliaments.

Hon John Halden: When will the clichés stop so we can get down to some real arguments?

The DEPUTY PRESIDENT (Hon John Williams): Order!

Hon N.F. MOORE: In a letter to *The West Australian* this morning Mr Pearce - that joke of a Minister, the fellow who destroyed our education system and is now doing his best to destroy everything else he can get his hands on - says -

OPPOSITION parties have sought to make the referendum a party political issue.

They have argued against all four referendum proposals through vague references to a "hidden agenda" and a "power grab" by Canberra.

What a joke! What they are arguing for in this referendum proposal is to put in the Commonwealth Constitution the rules by which the Western Australian Parliament will determine its electoral system. If that is not a Canberra power grab, I do not know what is. It is total and absolute when it comes to power grabs and hidden agendas. The ultimate agenda of the Labor Party is to get rid of State Parliaments and members opposite know that as well as I.

Hon Robert Hetherington: It is not ours.

Hon N.F. MOORE: It is probably not on the agenda of Hon Robert Hetherington, but he will not be around for much longer to argue about it. It might have been his agenda when he was much younger and more aggressive on these sorts of issues, but his Federal parliamentary leader has on occasions been known to say that he believes the States ought to go. That is the bottom line in the Labor Party's hidden agenda.

Let us look at what the passage of referendum question 2 would do in practical terms in Western Australia. It would mean that the State electoral boundaries in Western Australia

would have to be redrawn because, as we know, at present they are not based on one-vote-one-value. We argued in this place for hours about where the lines ought to go and how many voters there ought to be in different electorates, but for some reason or other the Liberal Party lost the argument. We lost the argument, but we did not get a system in Western Australia based on one-vote-one-value. We got a system which was biased in favour of the country but considerably less biased than used to be the case under the previous system. I might add, given the opportunity, the Labor Party did not go for one-vote-one-value at the time; however, now the State Labor Government is asking the Commonwealth to do it for it.

The effect in the Legislative Council would be that there will probably be a proportional representation system across the State, and so we would have one electorate for all members of the upper House, each party would put forward a list of candidates and everybody in Western Australia would vote. Instead of having six regions as we have now, we would have one region across the whole State. That would ultimately mean, from the point of view of my constituents, that the vast majority of members of the Legislative Council would be people reflecting metropolitan interests because that is the way parties will be based. That is the way people would be endorsed and the way people would become elected because the power base of most parties is in the city, which is where most voters are. It stands to reason that ultimately, under this sort of proposal, this House would be totally dominated by city interests.

In respect of the Legislative Assembly I have looked at some possible figures. In 1986, prior to the new electoral system, there were 30 metropolitan seats and 27 country seats. The system we brought in the other day increased that number to 34 seats in the metropolitan area and reduced the country representation from 27 to 23. If we look at the metropolitan region and the country region as defined in the new electoral system and we bring in a one-vote-one-value proposal, as contained in the referendum question, we will get in the metropolitan area an increase from 34 to 42 seats and a decrease in the country area from 23 to 15. That is a difference of eight seats. The bottom line is that if this referendum - this so-called fair and democratic elections question - is carried, in Western Australia in the Legislative Assembly there will be a loss of eight country seats and an increase of eight seats in the city. If that is not a very large shift of power, I do not know what it is.

If one looks at what has already happened in the last year, from 1986 prior to the passage of the current electoral system, to what could occur under one-vote-one-value, one finds there will be an increase from 30 seats in the metropolitan area to 42 seats - an increase of 12 seats - and in the country area there will be a decrease from 27 to 15 seats, a decrease of 12 seats. In the event that this question is passed on Saturday, during the period of this Parliament in Western Australia we could have a decrease in country and remote area representation of 12 seats out of 57. That is a serious change in the power situation in Western Australia. With 15 seats out of 57, the country and remote areas would be virtually unrepresented; their views would be ignored because nobody would need to take a lot of consideration of them. When it comes to the power crunching, the voting and the numbers, they would miss out every time - 42 seats as against 15. That is the bottom line which concerns my constituents.

Hon Garry Kelly: What about the House of Representatives?

Hon N.F. MOORE: Does it not worry Hon Garry Kelly, as a Western Australian, that the western suburbs of Sydney have more seats than Western Australia? Does that not worry him from the point of view of the sort of deal Western Australia gets from the Federal Government? Does that not worry members opposite? It horrifies me. Labor Party members spend most of their time counting because they are numbers people.

Hon Garry Kelly: And you are not.

Hon N.F. MOORE: They are number crunchers and spend their lives counting numbers.

[Resolved, that business be continued.]

Hon N.F. MOORE: If members opposite who are experts on numbers cannot work out that, by having fewer seats than the western suburbs of Sydney we are disadvantaged, they cannot count.

Hon J.M. Berinson: That is like saying that New South Wales has more seats than Western Australia because its population is greater. Are you arguing against that?

Hon N.F. MOORE: I am arguing against that. I am also arguing for a weighted voting system. Members opposite can laugh all they like.

The DEPUTY PRESIDENT: Order!

Hon N.F. MOORE: I am arguing that people who are disadvantaged by virtue of distance from power centres should be given extra consideration in the numbers of electors or electorates. That has been the system that has existed in Western Australia since its first Parliament was elected. It has allowed country people and remote area people to have some representation and for their views to have some effect on the Government of the day. The Commonwealth Government is proposing that country members of Parliament - 15 out of 57 in the Legislative Assembly - have virtually no voice at all because when it comes to a country versus city argument, the city will win all the time.

Hon T.G. Butler: Your 9 000 will have the same say as our 97 000 every time.

The DEPUTY PRESIDENT: Order! I will not accept interjections while I am in the chair. If someone wants to join his family early for dinner he should continue in that fashion.

Hon N.F. MOORE: I am arguing on behalf of the people who live in country areas and especially on behalf of people who live in remote areas. The passage of this referendum proposal will seriously affect the quality and quantity of their parliamentary representation in the Western Australian Parliament, just as Western Australia is ignored by the Commonwealth Parliament all the time because of the limited numbers that we have in the House of Representatives.

Hon Garry Kelly: Are you suggesting that when the Liberal Party is in power it does not ignore us?

Hon N.F. MOORE: Maybe it is a reflection on the capacity of Western Australia to produce good Ministers.

Some people argue, as members opposite do from time to time, that the principle of one-vote-one-value has some merit except in respect of the Senate. How can they argue that that principle should not apply to the Senate? I have not heard one Government member say recently that the Senate ought to be a one-vote-one-value House but it cannot be for historical reasons. They are prepared to go along with the Senate not having one-vote-one-value representation, but they argue in favour of the principle applying in every other House of Parliament.

Let us look at what one-vote-one-value can do in practice. It does not do all of the wonderful things members opposite say it does. It does not ensure that the number of votes cast for a party will result in any equivalent number of seats being won. Theoretically, under one-vote-one-value, a party getting 50.1 per cent of the votes in every seat could win all of the seats and a party getting 49.9 per cent may not get any.

Hon Garry Kelly: True.

Hon N.F. MOORE: Let us look at some actual figures. In the 1975 Federal election, after the Whitlam redistribution, the Liberal Party in Western Australia received 58 per cent of the votes and won 90 per cent of the seats. In the 1977 Federal election, the Liberal Party received 60 per cent of the votes in Western Australia and won 90 per cent of the seats; in the 1980 Federal election it received 53 per cent of the votes and won 73 per cent of the seats; and in the 1983 Federal election the Western Australian Labor Party received 55 per cent of the votes and won 73 per cent of the seats. Therefore, the number of votes a party receives does not have to be even close to the number of seats the party wins if one talks in percentage terms. The one-vote-one-value principle in single member constituencies can deliver all sorts of rare and unusual results. That situation will exist unless there is proportional representation in both Houses of Parliament.

Hon Garry Kelly: Do you advocate proportional representation in both Houses?

Hon N.F. MOORE: No, because I believe in representation. Members opposite are arguing for one-vote-one-value and I am telling them that in single member constituencies all sorts of unusual things can occur.

Hon Garry Kelly: At least they are unusual; they are not the same as rigged boundaries producing these sorts of results.

Hon N.F. MOORE: One-vote-one-value has nothing to do with rigged boundaries. Governments can draw boundaries wherever they like and take in whatever pockets of population they wish and still have one-vote-one-value. A funny thing was that Bill Withers resigned from this House because he thought the Liberal Party had introduced the principle of one-vote-one-value in the north. The division of the Kimberley and Pilbara electorates in the 1980 electoral redistribution meant that the two seats had the same number of voters. However, the line was a funny one according to members opposite. Therefore, lines can be drawn wherever one likes.

One-vote-one-value does not stop the rigging of boundaries or unusual or absurd situations developing. It all comes back to the word "representation" which is why I support one member constituencies, certainly in the Lower House, because they provide for a member of the Parliament for a particular constituency. Because a member of Parliament for a constituency is so important in the operation of Parliament, I believe there should be a weighting of votes in country areas to allow country constituents to receive proper representation. With huge country electorates and scattered populations and vast distances in Western Australia, it is necessary, in my view, to have a system of weighting in favour of country electorates. The absurdity of the Federal seat of Kalgoorlie should be obvious to everybody. People living in that electorate have virtually no hope of seeing their member of Parliament in the same way as voters in city electorates do.

Some people also argue that, by not having one-vote-one-value, some Governments are elected with a minority of votes. I cannot find any occasion in the past in Western Australia when a party has become the Government after winning a minority of the votes. We have also never experienced a weighting of votes resulting in a minority Government. The system that exists should be a combination of a system that provides for proper and decent representation in Parliament for people living in all parts of the States and a system that provides for the party receiving the majority of votes having the majority of seats.

I raise these matters because I am very concerned that people in country and remote areas and certainly people in city electorates may not be aware of the consequences of voting yes for this blatantly biased question in the referendum. They should understand that two consequences could result from a yes vote. The first is that this Parliament would be giving away powers that it now has. The Commonwealth Government, under the Commonwealth Constitution, could determine how we in Western Australia elect our Parliament. That is the bottom line of that referendum question. Western Australians could vote against the question but see it passed because electors in New South Wales, Queensland, Victoria and South Australia make the decision that our Parliament is to be elected in a different way to the way in which it is elected now. That is unacceptable to me, and it ought to be unacceptable to all members of this House. We should be protecting the rights, powers and privileges of this House, not handing them over to what is virtually a foreign body to make decisions on our behalf.

Several members interjected.

Hon N.F. MOORE: Canberra is far enough away -

Hon Garry Kelly: It is not Canberra. Get that through your head.

Hon N.F. MOORE: The Commonwealth Constitution is Canberra, and the member for South Metropolitan should get that through his thick skull. Every time there is a problem with the Commonwealth Constitution, and the High Court rules on it, the Federal Parliament gets more power. Did the member not notice the situation with the Tasmanian dams, and the use of the external affairs power?

Hon Doug Wenn interjected.

Hon N.F. MOORE: Virtually every decision made by the High Court increases the power of the Federal Parliament. The Commonwealth Constitution has become the vehicle of the Federal Parliament to gain more and more power at the expense of the States.

We should be arguing in this referendum for, for example, a clarification of the powers in respect of external affairs. The Attorney General should take note that much more important questions in respect of the Constitution need to be resolved than the ones on which we are being asked to vote now. The importance of who has the power to do what, and the use of external affairs are blatant examples of the need for the situation to be resolved properly so

that everybody knows where we stand. These matters are not being argued about in this part of the referendum, and I wonder why. The answer obviously is that the Commonwealth likes things the way they are, and does not want change because that will take away powers it has acquired in recent times. That is the first reason I am opposed to this question.

The second reason is that it will diminish the State parliamentary representation of people living in the country and remote parts of Western Australia. I have already given the figures. The outstanding feature is that in a period of two years, in the event that this question is passed, country representation in Western Australia will decrease from 27 in the Assembly to 15 - a reduction of 12 seats. That is totally unacceptable in a country with the geographical features and size of Western Australia.

I hope the House will support these views, and that we can tell the people of Western Australia that they should vote no in respect of all questions, especially No 2, if they live in the country.

HON J.M. BERINSON (North Central Metropolitan - Leader of the House) [4.43 pm]: There seems to be a serious misprint in the member for Lower North's circulated motion - either that, or an unfortunate and misleading omission. In any event, an important word is missing from the first of his listed reasons for opposing question No 2 in next Saturday's referendum. The member for Lower North lists as that reason the argument that "it will take away from the State Parliament its legitimate right to legislate for its own electoral system". What the member actually means is that it will take away from the State Parliament its legitimate right to legislate for its own malapportioned electoral system.

Several Opposition members interjected.

Hon P.G. Pental: Your argument can only get better from here on. It is pitiful.

Hon J.M. BERINSON: That is the only difference this referendum will make. It will not make a scrap of difference to the State's powers to set up its own electoral system. However, it will remove the present capacity of the State Parliament to deliberately distort the electoral system - as has been the case in this State for the whole of our history - which the members opposite would like to preserve.

Hon P.G. Pental: And preserved by the Australian Labor Party, under your Government.

The **DEPUTY PRESIDENT** (Hon John Williams): Order!

Hon J.M. BERINSON: There are four questions to be decided in the referendum on Saturday and, if the Opposition's no campaign is to be believed, each of them involves some attack on State rights. Interestingly, this motion is directed to only one referendum question: the one which seeks to establish for the election of all Parliaments in Australia the principle of one-vote-one-value.

Hon N.F. Moore: Except the Commonwealth.

Hon J.M. BERINSON: Why has Hon Norman Moore singled out this one referendum question from the rest? He suggests the reason is simply for narrow constituency based considerations, but we know that his interests are much broader than that.

Hon N.F. Moore: There is nothing narrow about my constituency.

Hon J.M. BERINSON: We also know what is the interest of his party in supporting him.

Hon P.G. Pental: You tell us.

Hon J.M. BERINSON: The reason is that members of the Liberal Party see the change offered by question No 2 as so self-evidently justifiable that it is likely to pass, and that very prospect scares them witless. I do not argue against the proposal that the passing of question No 2 would have an impact in an area which, in this State, has been within the State's exclusive jurisdiction. Nor do I argue with the significance of a State's electoral system. That has always been acknowledged. Time and time again, when the possibility of Federal intervention by way of international conventions has been raised, this State Government has said clearly that we would prefer the State to achieve its electoral reforms in its own way.

Hon N.F. Moore interjected.

Hon J.M. BERINSON: Time and time again the entrenched anti Labor majority in this House has prevented that. That is the context in which we are now operating, and nothing

about this referendum can be understood outside that context. Even last year's reforms, modest as they were, were carried through only because members of the National Party in this Chamber supported them. They did that in the face of the most intransigent and vitriolic opposition by members of the Liberal Party in this House. Some of those members, particularly Hon Norman Moore, had their day of abusing their National Party colleagues, and practically calling them traitors. What was Hon Norman Moore so excited about then? What is he so excited about now? It has got nothing to do with being excited about democracy in elections, or with fairness to country voters.

Hon W.N. Stretch interjected.

Hon J.M. BERINSON: I say, with great respect to country voters, there is nothing different for them in this referendum than that which they already accept without complaint in elections in South Australia, Victoria, New South Wales -

Hon N.F. Moore: Why don't you get your atlas out sometime and have a look at Western Australia?

Hon J.M. BERINSON: - the Tasmanian Legislative Assembly and the Federal House of Representatives. Hon Norman Moore's argument that one-vote-one-value is somehow inconsistent with fair and democratic elections is really an argument that South Australia, Victoria, New South Wales and the lower Houses of Tasmania and the Commonwealth do not have fair and democratic elections. He almost went to the extent, in that respect, of casting doubts on the system which we have which allows New South Wales, with a population of six or seven times that of ours, having more members than us. In that respect he is going back, as in his argument about the Senate, to the very origins of the Constitution. He seems to ignore that the Federal compact, while providing equal numbers of senators from each of the States, also provides that the members of the House of Representatives from each State should be proportionate to the populations of those respective States. In respect of the length of Hon Norman Moore's comments and the excursion which that involved into constitutional history, a small tour of the outback, and his own biases with regard to the electoral system, the truth of the matter is that his concern has nothing to do with fair elections and nothing to do with democratic elections; nor is that the concern of the Liberal Party supporting him. Their real concern is that they still cannot get used to the idea that a majority of the people should be able to decide who holds a majority of the seats in any Parliament, but particularly in this Parliament, and in any Houses of Parliament, but most particularly in this upper House of the Western Australian State Parliament. For 90 years the anti Labor parties have distorted and manipulated the system so as to achieve and maintain an entrenched majority in this Legislative Council.

Hon P.G. Pental: Do you want a system like Wran had in New South Wales? It is a crooked system and you know it.

The DEPUTY PRESIDENT (Hon John Williams): Order! I remind honourable members once again that I have to protect both sides of the House, and I will do so without fear or favour. As I said earlier, if members want an early dinner with their families, they should continue interjecting as they are. I am warning members.

Hon J.M. BERINSON: I find it very hard to understand the last interjection by Hon Phillip Pental, who was complaining about the distortions of the New South Wales upper House electoral system, given that it has a system of proportional representation.

Hon P.G. Pental: I said the Assembly.

Hon J.M. BERINSON: With regard to the historic attempts of the anti Labor parties to entrench a majority in this House, irrespective of the voting intentions of the public, our self-respect as a State and as a Parliament should have demanded that we introduce one-vote-one-value under our own powers many years ago. I have been a member of this Parliament since 1980, and I do not think there has been a single year since that time when the Labor Party did not attempt to encourage the State Parliament to use its powers to reform our system. Time and time again the Labor Party was knocked back; it was knocked back again last year and such small changes as were implemented then are still lamented by Hon Norman Moore, but they leave us miles away from anything that could reasonably be described as a fair and democratic system.

It is fair to say that on a matter such as question 2, the State Government has had to face

competing interests. On the one hand, is its interest in fully preserving State's powers; on the other hand, is its long held and publicly declared interest in achieving the principle of one-vote-one-value as a system absolutely fundamental to the democratic process. It is indeed the fundamental importance of that second issue which encourages the Government to support the referendum. I again emphasise that the carriage of the referendum would still leave the State with unhindered powers in respect of the detailed electoral system for which it could legislate. The only restrictions on the State's powers in respect of electoral systems, given the carriage of this referendum, would be the requirement that all citizens should have the right to vote, and that the right of representation in Parliament should be on an equal basis. That is all a yes vote will mean; other than that the State's powers will remain undisturbed.

As to whether there is the need to provide for this overriding principle of one-vote-one-value, we should at least look for a moment to the system under which we will go to the next election. This is a new system, only agreed on last year, and certainly it involves some significant improvements on the system it replaces. Nonetheless we shall be left with the following: In the Legislative Assembly, 34 metropolitan districts with an average enrolment of about 20 000; and 23 country districts with an average enrolment of about 10 500. In other words, a weighted vote in favour of non-metropolitan voters of 1.89:1. In the Legislative Council the situation will be: 17 metropolitan members representing roughly 40 000 electors each; and 17 country members representing something like 14 500 electors each. The ratio in favour of non metropolitan electors in that case will be 2.79:1.

It has amazed me year after year, to the point at which I am no longer even mildly surprised, that Mr Moore and other members can stand in the face of those facts and figures - not only knowing about them but actually quoting them - and support them without blushing. Would members expect a person arguing for the proper representation for people of this State to blush when mounting an argument that the weighting of the votes should be of the serious proportions that it is? That system has continued for 90 years in this State and the Government says that that is long enough.

Hon P.G. Pendal: It was perpetuated by the Labor Party in the 1940s and 1950s. Your own party perpetuated it.

Hon J.M. BERINSON: If the Labor Party perpetuated it in the 1940s and 1950s, I am happy to say that it was absolutely wrong.

Hon P.G. Pendal: It is convenient to say that now.

Hon J.M. BERINSON: However, I doubt the historical accuracy of the member's comments, because it involves a suggestion that the Labor Party was ever in a position in this Council to do otherwise in the 1940s.

Hon P.G. Pendal: The Labor Party cooked the system in the 1940s.

Hon J.M. BERINSON: There have been lengthy periods in this State in which the Labor Party has gathered the support of a majority of the people and has governed as a result. Yet since 1890 we have not reached the position in which the Labor Party has been able to look to a majority in this Council and for practical purposes, despite the changes last year, the nature of the system remains the same. It is time to move beyond that. It is no good Hon Norman Moore sneering at the description of this question as one based on an effort to achieve fair and democratic elections, because it is designed to do that and, if carried, it will achieve that.

Hon N. F. Moore: It will not guarantee fair elections at all.

Hon J.M. BERINSON: I know that goes against Hon Norman Moore's grain and I know how disturbed he is at the prospect that of all four questions, on the current state of the polls this one appears to have the best chance of being carried. The Labor Party says that it cannot be carried soon enough.

[Questions taken.]

HON A.A. LEWIS (Lower Central) [5.24 pm]: I was extremely interested over the last 25 minutes to hear the Leader of the House say during question time that he did not wish to test his memory for too long. He said that to this House in his defence of the Government. The Leader of the House earlier talked about how Mr Moore could quote things without

blushing and how the vitriolic Opposition is scared witless about the one-vote-one-value system. You will remember, Mr President, that this is the same Labor Government which was offered one-vote-one-value and all members of the Labor Party in this place opted out because they thought they would lose. They ran for their burrows like the rabbits they are. The Leader of the House should be blushing now because he knocked back the opportunity; it is on his head. The Labor Party in the upper House will be responsible because of the deal done with the National Party. We all saw that.

Hon Mark Nevill: You would lose your seat.

Hon A.A. LEWIS: I am doing pretty well; the member should sit there long enough to get the pension. This Labor Government did a deal and now has the hide to say how hard it pushed over 90 years for one-vote-one-value.

Hon T.G. Butler: You can say that without blushing?

Hon A.A. LEWIS: I can, very easily, because the member sat there at that time and made the same inane interjections because he knew he was on the hook. I do not know how the member can think about chairing a State conference.

Hon P.G. Pandal: He is not.

Hon A.A. LEWIS: I know that he does not want to, but I wonder how Hon Tom Butler can be game enough to face ALP delegates when he, together with the Leader of the House and all other Labor members, refused an offer of one-vote-one-value.

Hon B.L. Jones: Are you intending to vote yes at the referendum?

Hon A.A. LEWIS: That is none of the member's business. I am not campaigning for either side. I would not have entered this debate except for the blatant hypocrisy of the Leader of the House. He can touch his nose because he knows he has had it. As he touches his nose he knows the noes will win.

Mr Berinson also horrified me by saying - as did many of his colleagues - that the people of the western suburbs of Sydney were more important than Western Australians.

Hon Mark Nevill: He said that there were more of them.

The PRESIDENT: Order!

Hon A.A. LEWIS: Mr Berinson also used the words "deliberately distorting things". Is not that what he has just been doing? If Hon Tom Butler wishes to take me up on this he can see the written agreements that the previous Deputy Premier had with me. Before the deal with the National Party, the Government was about to deal with some other people. But Hon John Caldwell was much stronger and convinced the Labor Party that he had the balance of power. That showed the great strength of the National Party. But now we have the hypocrisy of the Labor Party saying that it has argued against exactly what it has argued for.

During question time the Leader of the House did not want to trust his memory, and that is good because some of us have the advantage and remember what people said.

The PRESIDENT: Order! So many audible conversations are being carried on that even though Hon A.A. Lewis is talking at the top of his voice, I am battling to hear him. Honourable members will please refrain.

Hon A.A. LEWIS: I am sorry, Mr President, but I have not really raised my voice. If you want me to raise my voice so you can hear me, I can do so.

The PRESIDENT: I can hear you now.

Hon A.A. LEWIS: That is good.

The Leader of the House said during question time that there had never been a chance for the Legislative Council to do otherwise. That is not correct. The Council has always had a chance to do what it wishes. The Council has always chosen to have something other than one-vote-one-value.

Hon Garry Kelly: Why?

Hon A.A. LEWIS: Mainly because last time the Government members would not vote for one-vote-one-value. It is recorded in *Hansard* that the Government was challenged and was found to be wanting.

Hon P.G. Pental: For 30 years it suited the Labor Party.

The PRESIDENT: Order!

Hon A.A. LEWIS: Hon Joe Berinson said that last year the ALP was knocked back on one-vote-one-value. It was knocked back on one-vote-one-value only because of its own vote; it had nothing to do with this House. It was frightened that the National Party may have joined with the Liberal Party and knocked out its entire electoral reform. What is this nonsense that the ALP is going on with about one-vote-one-value? Do Government members believe in it? I think they do. I think the genuine ALP members like Hon Fred McKenzie and Hon Robert Hetherington -

Hon Kay Hallahan: And all of us.

Hon A.A. LEWIS: No, I do not think it applies to all ALP members. They knew that had they voted for one-vote-one-value at that time they would have certainly lost the next election. The Government is certain to lose it now because of its shenanigans - WA Inc and all the things in which it has been involved. It is a blot on Western Australia and the Government's actions are disgraceful. They are nearly as disgraceful as the Leader of the House losing his memory. However, it is only an indication of the way this Government is going. It loses its memory for figures. One need only look at the loss incurred from the collapse of the Teachers Credit Society - the figure has trebled since the original figure. We need only look at what the Government has promised. The Government said that national parks would be well off and would be allocated an extra \$3 million, but on reading the Budget papers which were introduced today that allocation was not granted. The Government is only making promises and the Australian people remember what happened during the Whitlam era very well. The Federal Government does not know where it is going and it does not even know who its leader will be. We know that Mr Hawke and Mr Keating are having back door meetings.

The PRESIDENT: Order! That has nothing to do with this motion.

Hon A.A. LEWIS: I beg to differ, Mr President, but because you have ruled I will go on berating the Labor Party and its attitude towards one-vote-one-value. It has used this catchcry in this place ever since I have been here. However, when it had the opportunity to do something about it its leader said that members could not vote for one-vote-one-value because the party would lose too many seats. Here we have a State Government which is meant to be supporting Mr Keating, or Mr Hawke, or even Graham Campbell, who shows a lot more sense than the other two. The Leader of the House in this place blatantly tries to distort the facts. His comments in *Hansard* are distorted just to support his scurvy mates in Canberra.

Hon Kay Hallahan: That is not very nice.

Hon D.K. Dans: It is nasty.

Hon P.G. Pental: It is accurate.

Hon A.A. LEWIS: Mr President, I know you would like me to ignore the interjections.

The people in Western Australia have to decide how they will vote on a completely biased question. They need only look to this Legislative Council to see a leader who deliberately knocked back the chance of having one-vote-one-value in this State, but who is now opposing Hon Norman Moore's motion. They will see how shoddily the Government operates and how shoddily the referendum questions were compiled.

HON GARRY KELLY (South Metropolitan) [5.36 pm]: Hon Sandy Lewis indicated that he would not say which way he will vote on the referendum questions. From the number of times he mentioned one-vote-one-value - he being a recent convert to the principle - I can only assume that he will, in fact, vote for it.

Hon A.A. Lewis: How do you know that I am a recent convert to it? You wouldn't vote for it. I said I would vote for it - you only talk about it.

Hon GARRY KELLY: Before dealing with the issue of one-vote-one-value I will refer to the second referendum question which contains a couple of relatively minor provisions. If this question is passed it will delete section 25 of the Constitution, which provides that a person can be prevented from voting for the Commonwealth Parliament on the basis of his or

her race. I do not think any member in this House would disagree about the desirability of removing the reference to race and racism as a basis on which a person votes. Section 25 also provides two grounds for the disqualification of persons over the age of 18 from voting. One is soundness of mind - I could make remarks about the opponents to the provision, but I will not on this occasion - and the other concerns persons who have been imprisoned for an offence.

Hon Norman Moore said he would advocate a no vote for all four referendum questions. That is typical of the approach by the Liberal Party in all States except Queensland. The Federal Liberal Party has been advocating a no vote to all questions and has abdicated its right to be called an Opposition. It has made a decision despite statements from various Opposition spokesmen regarding at least two questions for which they have indicated their support. I refer to question 3 on local government and to question 4. The Opposition is on record that it supports the inclusion of local government in the Constitution. The Opposition is not prepared to advocate both yes and no votes in the forthcoming referendum. It appears the Opposition has opted for the easy way out; that is, a no vote to all questions regardless of the merits of those questions.

In his diatribe against one-vote-one-value Hon Norman Moore referred to the theoretical possible result where one party gained 50.1 per cent of the vote and the other party 49.9 per cent of the vote, and all the seats could be won by a party that obtains a vote only 0.2 per cent higher than the other party. That is theoretically possible. He said that one-vote-one-value would not stop the rigging of boundaries. As far as that is concerned, he is right. However with independent Electoral Commissioners the possibility of boundaries being rigged by politicians is zero. The commissioners will decide on the boundaries; it is laid down that there shall be a certain number of seats and that figure will be divided into the number of voters; quotas have been set and the boundaries will be decided accordingly. It is only when politicians get their hands on a pen that the problem arises. Hon Norman Moore also said that he agrees with the weighting of votes, not only to the extent that vote weighting should apply in this Parliament, but also he advocated that somehow weight voting should apply in the House of Representatives, so that States such as Western Australia would have higher representation than they presently have. The problem with weighting is: Who decides what that weighting shall be? As soon as subjectivity creeps into the argument the possibility of distortion arises, together with the creation of a system designed to favour one group over another. If the amendment is passed it will be passed by the Australian people; not by the wicked men from the east in Canberra, but by the Australian electorate voting yes. It will be written into the Constitution and will lay down the ground rules under which this Parliament and all State Parliaments will enact their electoral laws.

Hon N.F. Moore: It is a pity the ground rules are not part of the question.

Hon GARRY KELLY: Those who support the no case often talk about the fine print and refer to the fact that the effect of the amendments on the Constitution is not stated. Every elector received a copy of the booklet I have in my hand, at the back of which is detailed the words to be included and deleted, to show the effect these amendments would have on the Constitution. It is not a hidden agenda. Although I have not seen a ballot paper from 1900, I would bet my bottom dollar that the question asked was, "Do you approve of the proposed Constitution?"; the question would not have asked whether the electors approved of clauses 1, 2, 3, and so on. The answer would have been yes or no, because there is no other way of doing it. I have already said that the proposed amendment will not hinder the States in their right to legislate, except within the broad framework that the redistribution must be carried out in accordance with the concept of one-vote-one-value. There is no intention of giving Canberra control. It is the Australian Constitution, not the Canberra Constitution.

Hon W.N. Stretch: It is not the Australian Constitution, it is the Commonwealth Constitution.

Hon GARRY KELLY: We are part of Australia, whether or not the member likes to think that.

Hon W.N. Stretch: There are seven Australian Constitutions.

Hon GARRY KELLY: There is one Australian Constitution and six State Constitutions. If the member wants to be precise, it is the Commonwealth of Australia Act of the Imperial Parliament.

Hon W.N. Stretch: We want to be absolutely correct, if we can.

Hon GARRY KELLY: Hon Norman Moore said this provision would not have been included in the original Constitution drafted in 1890, and further said that had it been proposed, it would not have been agreed to by the required number of delegates to put it into the Bill. So what? The Constitution was written in 1890 and it has been grudgingly amended eight times since then. It is a living document, it is not written in stone; it can be changed, and it is appropriate for Australians of the 1980s - as it was for the Australians of the 1890s - to decide what goes into the Constitution from time to time and, in updating the Constitution, to lay down the principles of democracy. In my view democratic elections and the conduct of those elections should be enshrined in the Constitution.

Much has been made of the so called exemptions in the Federal Parliament, and a great deal has been said about the Senate in particular. It is true the elections for the Senate are not carried out on the basis of one-vote-one-value; the same number of senators represents each State, and each Territory is represented by two senators. The Leader of the House made the point that it was part of the Constitution that the States would be represented equally in the federation in the Commonwealth Parliament; otherwise the compact would not have gone ahead. When we refer to one-vote-one-value, we are talking about representation of people. Taking the Constitution at its word, the Senate represents the States and the States have equality. The concept was borrowed directly from the United States Constitution, in which each State is represented by two senators. In theory those senators represent the States, not the people, and it was necessary to strike such a bargain in order to get federation off the ground. It has also been implied that the House of Representatives is not elected on the basis of one-vote-one-value because, horror of horrors, Tasmania retains its entitlement to five seats; the minimum of five seats laid down for the original States.

Hon N.F. Moore: It is not a horror. I support that.

Hon GARRY KELLY: If Hon Norman Moore is saying that the House of Representatives is elected on an imperfect system, and if his party is prepared to support a system whereby this Parliament becomes as imperfect as the House of Representatives, I will accept the bargain. It would be a vast improvement on the gross distortion in this House and in this Parliament generally.

With regard to the High Court interpretation, it has been said that the High Court always makes decisions which enhance or extend Commonwealth power. In the case of the question on fair and democratic elections, if the referendum were passed a State would have one year in which to comply with the provisions of the Bill. If any State did not comply within a year, an elector could take out a writ in the High Court complaining that his right to an equally valued vote was being denied. The High Court would hear the petition from that single elector. It is unusual for a citizen to be allowed to take such action. The High Court would consider the application and could issue an order requiring the State to redistribute to comply with the provisions of the Constitution. If it did not do so, both Houses of Parliament could be elected at large on a proportional representation basis, which of course would be on the basis of one-vote-one-value.

Hon N.F. Moore: Regardless of whether or not the people of Western Australia wanted it. That is the bottom line.

Hon GARRY KELLY: The member does not know that; he is suggesting that if the referendum were carried by the majority of people and the majority of States, but the people of Western Australia did not vote yes, that amendment should not apply in Western Australia.

Hon N.F. Moore: That is a possible scenario.

Hon GARRY KELLY: What is the alternative, a patchwork quilt type Constitution such as exists in Canada?

Hon N.F. Moore: This provides an opportunity for the other States to change our system against our wishes. I am defending our State parliamentary system which you are prepared to give away.

Hon GARRY KELLY: The State will not give away any of its power. The Constitution, if amended by this proposal, would lay down the guidelines under which the Parliament would

legislate to divide the State into electoral regions. It has been said that all the questions are unfair and, I think the term used was, grossly biased.

Hon N.F. Moore: Blatantly biased.

Hon GARRY KELLY: The question says, "to provide fair and democratic elections". The trouble is that members opposite do not want fair elections, they want elections on the rigged boundaries we have had in this State for a long period of time.

Hon W.N. Stretch: You aren't going to bring all this out again, surely?

Hon GARRY KELLY: Garry Morgan said the questions are grossly biased, but that is just his opinion.

Hon W.N. Stretch interjected.

Hon GARRY KELLY: I would suspect that he would be opposed to it, if he expresses an opinion like that.

Hon W.N. Stretch: Why?

Hon GARRY KELLY: The questions are not biased when one looks at the effect they would have on the Constitution.

Hon J.N. Caldwell: What about the small print?

Hon GARRY KELLY: As I said before, there is no small print. A circular has been sent to every voter in every household -

Hon Barry House: The four questions propose 33 changes.

Hon GARRY KELLY: I ask the member for South West what is the alternative? Is he suggesting we have a list of 33 changes, with inclusions and exclusions, on the ballot paper? People will vote yes to parts and no to parts, and it would be unworkable. It has never been done in that way, and I sincerely hope it never is.

Hon N.F. Moore: Maybe that is why it is voted against all the time. Maybe people don't understand. If you had 33 questions you would get a more intelligent vote.

Hon GARRY KELLY: A referendum, at the best of times, is a fairly blunt instrument for deciding whether to enact legislation. To say it is not difficult to amend the Australian Constitution is flying in the face of experience. It is difficult because people do not take the trouble to find out -

Hon N.F. Moore: Or read the fine print.

Hon GARRY KELLY: There is no fine print. The fine print, such as it is, has been circulated to every elector. If there were 33 questions, members opposite would complain that there were too many questions, and it would be confusing to the voters.

Hon W.N. Stretch: Asking those questions is just as meaningful as asking, "Do you want the sun to rise in the morning?" It is rubbish.

Several members interjected.

The DEPUTY PRESIDENT (Hon Robert Hetherington): Order! I have put up with a great deal of exchange of cross fire, but I am not going to put up with it much longer. We should have eight minutes of listening to the speaker on his feet and then quietly go to dinner and enjoy our meal better.

Hon GARRY KELLY: The document put out by the Constitutional Commission shows that the bulk of the proposals are the result of talking to people in the country. It is not just a bright idea from the brain of Lionel Bowen, sitting in Canberra pushing his own barrow. Subcommittees have taken evidence around Australia, and these questions reflect the views of all Australians.

Hon N.F. Moore: The biased views of some people.

Hon GARRY KELLY: What does Hon Norman Moore mean by "biased"? Anyone who does not agree with him is biased.

The DEPUTY PRESIDENT: Order! I suggest that the honourable gentleman address his remarks through the Chair.

Hon GARRY KELLY: I will take your advice, Mr Deputy President. All the questions are reasonable, modest amendments to the Constitution which will make the Constitution a more inspirational document than it is now.

Hon N.F. Moore: It does not take much to inspire you, Mr Kelly.

Hon GARRY KELLY: Before I proceed I would like to seek the House's permission to incorporate two documents in *Hansard* relating to question 2.

The DEPUTY PRESIDENT: What kind of documents are they?

Hon GARRY KELLY: They are advertisements setting out the points relating to the yes case for question 2.

Point of Order

Hon N.F. MOORE: May I see one of those documents before we give approval for them to be incorporated?

Hon Mark Nevill: You might change your mind.

The DEPUTY PRESIDENT: Do you want to have a look at them?

Hon N.F. MOORE: I would like to know what Hon Garry Kelly is seeking to incorporate.

Hon Kay Hallahan interjected.

Hon N.F. MOORE: I do not want to fill *Hansard* with pro yes case material.

Debate Resumed

The DEPUTY PRESIDENT: The honourable gentleman has asked leave to incorporate documents in *Hansard*. Is leave granted?

Leave denied.

Hon GARRY KELLY: That has set a precedent, and we will remember it.

Hon N.F. Moore: If I put up some electoral material to go into *Hansard*, I would expect you to say no.

The DEPUTY PRESIDENT: Order!

Several members interjected.

The DEPUTY PRESIDENT: Order! I am tired of this cross chatting in debate. Hon Norman Moore should subside and listen to Hon Garry Kelly, then he will find out what he wants to know.

Hon GARRY KELLY: I did not expect the members opposite to like what I wanted to incorporate in *Hansard*, or agree with it, but it has set a very interesting precedent for the inclusion of material in *Hansard* in the future. In view of the decision of the House I will read from one of the leaflets which was produced regarding question 2. It says -

On September 3,

The vote you cast could be your last.

Fact: Under the present Constitution, a government can take away your right to vote.

Fact: Some Australian States have rigged electoral systems.

Isn't it about time that your right to vote was guaranteed in the Constitution?

Isn't it about time you had the right to cast a vote that is worth the same as everyone else's?

That's true democracy.

On September 3, by voting Yes to Question 2 you will guarantee your right to vote in fair and democratic elections.

No politician or political party will then be able to take that away from you.

On Saturday September 3, play it safe, vote Yes to Question 2.

PLAY SAFE, VOTE YES.

It also advocates a yes vote to the other three questions.

In conclusion, I emphasise that these questions will not impinge on the right of this Parliament to legislate for elections conducted under the State Electoral Act, but will require them to be conducted on a democratic basis of one-vote-one-value. It is something of a trendsetter for the Western Australian Parliament but is nonetheless desirable. A lot of claptrap is spoken by members opposite about representation of people in remote areas of this State.

A Government member interjected.

Hon GARRY KELLY: About everything in general, but this in particular. The truth is that the Opposition does not care a damn about electors from remote areas. All the Opposition cares about is preserving its own hold on the numbers in this Chamber, and in Parliament generally. It does not care about remote areas. This Government has done more about improving the lot of people in remote and rural areas -

Hon P.G. Pandal: You have got to be joking.

Hon GARRY KELLY: - by its decentralisation policies and the initiatives it has taken in that field -

Hon P.G. Pandal interjected.

Hon N.F. Moore interjected.

Hon GARRY KELLY: - than the Opposition did in all the time it had control in both Houses in this place.

The DEPUTY PRESIDENT: Order!

Hon GARRY KELLY: The benefits country people have derived from having a weighted vote have been very few and far between. They have had a weighted vote for the better part of 90 years.

Hon N.F. Moore: They have benefited from it, if you go and have a look.

Hon GARRY KELLY: The drift to the cities has not altered one jot. The urban population has continued to grow. During the time that members opposite were in power, when they had a chance to do something about this, they did absolutely nothing. The Opposition should not come to this House and say it is worried about the battles and vicissitudes of people living in the country. All members opposite care about is their own political hides and making sure they have the numbers here, whether by democratic means or not. I urge electors in this State to support question 2 on Saturday.

Sitting suspended from 6.00 to 7.30 pm

HON D.K. DANS (South Metropolitan) [7.30 pm]: It was not my intention to speak in this debate tonight but I could not allow the opportunity to pass without saying a few words because I was rather surprised that Hon Norman Moore moved the motion. I do not challenge his right to move it, but I have heard all these arguments trotted out from both sides in the 18 years I have been here. In fact I heard all those arguments in however many years it was that I went along to constitutional meetings. That was one of my tasks.

Hon N.F. Moore: They weren't bad meetings.

Hon D.K. DANS: They were very good bun fights. It was one of my tasks as leader in Opposition and in Government to attend those fruitless meetings. There were many people from all political areas, including the Labor Government, who saw the need for certain constitutional changes. I would like to place on the record that this all came about through the foresight of the Leader of the Opposition in the Victorian upper House, Jack Galbally, who first suggested a constitutional commission without the Commonwealth. Later the Commonwealth came in but on every occasion we came near to reaching some kind of compromise, it came down to the kind of political debate we have heard tonight. Some members may recall that I became a little emotional when I suggested in Brisbane that that should be the last constitutional meeting of that type. One of these days I hope someone checks up to find out just how much those fruitless exercises cost the Australian public. It became so stupid that on one occasion we all met at the Windsor Hotel in Melbourne with representatives of the Victorian Liberal Party in attendance, and Malcolm Fraser and other

members of the Liberal Party from the various States met at another hotel in the same city. Out of that meeting came the famous "New Federalism" which is something we would all like to forget.

On Saturday the people of Australia will decide this issue by way of referendum. Whether a referendum is the right way or not, that is the way it is. Hon Sandy Lewis and possibly one other speaker seemed to be trying to drive this issue into a political corner by saying that these were the Australian Labor Party's recommendations. The present Federal Attorney General, Mr Lionel Bowen, after the Brisbane meeting - and I agree with Hon Norman Moore, they were very good social events -

Hon N.F. Moore: No, they were good debates.

Hon D.K. DANS: They led nowhere.

Hon N.F. Moore: That does not matter; the issues were raised in the proper forum.

Hon D.K. DANS: I think there was consensus that some constitutional changes were necessary. Hon Sandy Lewis passed some derogatory remark about the members of the Constitution Commission - I think he called them "scurvy people" - but I understand Hon Sandy Lewis. He does not necessarily mean the things he says. The commission includes Sir Maurice Byers, CBE, QC, the former Solicitor General for the Commonwealth, Chairman -

Hon N.F. Moore: He is not totally -

Hon D.K. DANS: I am not saying what he is or what he is not. The other members of the commission include Professor Enid Campbell, OBE, of the Faculty of Law at Monash University - I suppose if the Archangel Gabriel were on the commission Hon Norman Moore would say, "Well, he is biased." Another member is Hon Sir Rupert Hamer, KCMG, who may be biased -

Hon N.F. Moore: He'd oppose it.

Hon D.K. DANS: I am not saying who would oppose what. The commission includes Hon E.G. Whitlam, AC, QC, who I suppose would be biased; and Professor Leslie Zines, from the Faculty of Law at the Australian National University. If one looks at the back of the report one will see they were advised by a number of very eminent people on the advisory committees. Before I sit down, I think members should think about the players - the composition of those committees. They are all listed in the back of the report.

Hon Mark Nevill: Table it in *Hansard*.

Hon D.K. DANS: I think I might put it into *Hansard*. The advisory committees include, on the Australian judicial system, Hon Mr Justice D.F. Jackson; Professor James Crawford; Hon Mr Justice W.M.C. Gummow; Mr Roger Jennings, QC; Hon Mr Justice G.A. Kennedy; and Hon Mr Justice R. McGarvie. On the distribution of powers, the committee included Hon Sir John Moore, AC; Dr Breen Creighton; Hon Donald Dunstan, AC, QC; Hon Jack Ferguson, AO; Mr Geoff Lindell; Mr Paul Munro, who resigned on 30 June 1986; and Mr George Polites, AC, CMG, MBE. With respect to the Executive Government, the committee included Rt Hon Sir Zelman Cowen; Hon Kim Beazley, who resigned on 10 August 1986; Professor Donald Horne; Ms Susan Kenny; Hon Sir James Killen; Mr David Solomon; Hon John Wheeldon; and Associate Professor George Winterton. The recommendations which culminated in those four questions to be put to the Australian people are the recommendations of a commission advised by these people. The people whose names I have just read out are a good cross section of the Australian public. They are people skilled in various areas, and they had a great deal of input from people. Everyone is entitled to their opinion, but in respect of one-vote-one-value a multitude of opinions are brought forward, depending on what side of the House one happens to be sitting on. I think we have gone past that and whether this motion is carried or not, it will have no bearing whatsoever on what people vote for on Saturday. Given the track record of referendums in Australia, I suppose I could hold my breath or keep my fingers crossed, but this is a conscious effort to try to make those changes based on all of the things we debated at however many meetings of the Constitution there were. I cannot recall how many meetings there were, although I attended each, with the exception of the meetings held in New South Wales. We had meetings in every State of Australia and we were still getting nowhere because at the end of the day

whenever there was a possibility of agreement being reached, I must say the Queenslanders were consistent - they never agreed to anything.

Hon P.G. Pandal: It was the only time we ever got a drink out of you.

Hon D.K. DAns: That must have been an accident.

Hon P.G. Pandal: It was.

Hon D.K. DAns: I must have been feeling sick on that day. I might even buy the member one before I go.

The question became a political one because it depended on what view each party adopted. I think the member would have been dopey to think that it would not go that way. In all of those meetings, despite the debate, the friendships, the photographs and videos, it came down to the final decision of whether attempts to change the Constitution would become political. The commission has put its recommendations to the Federal Government and those recommendations will be dealt with by the electorate on Saturday.

It is a little late to rehash all of the arguments. I was surprised to hear Hon Sandy Lewis refer to Sir Zelman Cowen as a zombie.

Hon A.A. Lewis: I did not say that.

Hon D.K. DAns: The member used words to that effect. I know he is a cultured gentleman and does not normally use language like that. He surprised me.

Hon A.A. Lewis: Why would you vote against one-vote-one-value?

Hon D.K. DAns: I will look at the four questions, not at one in isolation.

I suggest that members read the commission's summary and come to their own conclusions about the questions. The decision by the Government to hold this referendum was an honest and sincere one and I hope the House votes against this motion. If it does so it will do a service, not only to Western Australia, but to Australia.

HON J.N. CALDWELL (South) [7.43 pm]: Unlike Hon Des DAns, I support this motion. Everybody is aware of the National Party's point of view on the referendum questions. In particular, we spent many months last year debating the question of one-vote-one-value, and the House supported the National Party's point of view on that matter.

Hon D.K. DAns: We should not be afraid of the Australian people having their say.

Hon J.N. CALDWELL: The first paragraph of the motion deals with the State Parliament's right to legislate for its own electoral system. I believe it would be terrible if that right were taken away. Those people in Canberra move in mysterious ways.

Hon D.K. DAns: You should understand that the Commonwealth exists only because of the States. The States were there before the Commonwealth.

Hon J.N. CALDWELL: Sometimes I wish that there was a larger desert between us and Canberra or even a sea, because we know what is best for our State. I believe we should be in charge of our destiny. I would not like the Federal Government telling me what to do with my land at Katanning and I do not want it telling me how to run Western Australia.

Hon D.K. DAns: Canberra tells you plenty of things now and you like it.

Hon J.N. CALDWELL: These questions do not scare us. However, I am deeply concerned for the country electors, the people we represent. How many times do we turn on our radios at the time of Federal elections and are told that decisions have been made about who will govern the country before our votes are counted? I believe that sort of treatment of Western Australia has given us an inferiority complex. If the one-vote-one-value principle applied, the same thing could be said for country people because city people would have the bigger say. I understand that more people live in the city than in country areas.

Hon D.K. DAns: The leader has pointed out already that we have one-vote-one-value in Federal elections.

Hon J.N. CALDWELL: Of course, country people's votes do not matter at all! The majority of this State's wealth comes from country areas and, for that reason, this House passed legislation allowing for a weighted vote for country people.

Another part of the motion refers to the diminished State parliamentary representation of Western Australian citizens living in country areas. That is a fact.

Hon D.K. Dans: How many complaints have you had from country people about one-vote-one-value in the Federal arena?

Hon J.N. CALDWELL: I do not think that is relevant; we are talking about one-vote-one-value in this referendum question. I believe we should have one-vote-equal-value. For example, people who live in Widgiemooltha have to pay more for their petrol than city people. It would be equal value if petrol there were the same price as it is in South Perth. They also have to pay more for groceries, Government charges, phone installations, and electricity. It is a privilege to live in the country and we should not be penalised for it. We do not expect our votes to be worth less than the votes of city people, which is why we should have an electoral system giving country people weighted votes.

The Government supported the National Party's views on electoral reform and weighted votes for country people. I am therefore amazed that one year later we see it being completely opposed to it in this referendum question.

HON P.G. PENDAL (South Central Metropolitan) [7.48 pm]: I support the motion moved by Hon Norman Moore. If I agreed with the remarks made by Hon Des Dans that we are simply going through the motions here, it would be time for us to pack up and go home. Surely if a referendum is about anything it is about people expressing views. Mr Dans was correct when he said that the referendum questions will be decided by the people. However, what have we been trying to do for weeks on end? People have been trying to influence the way other people will vote on Saturday.

Hon D.K. Dans: I did not object to the motion.

Hon P.G. PENDAL: No, but the member suggested that it was pointless raising a matter as important as this, and I wish to distance myself from those remarks.

Hon Norman Moore raised a very good question about whether we were frightened about debate or about hearing what people wanted to say. Only today I received an instruction from the Premier to take down from my electorate office window four signs supporting the no case. He told me that I contravened the arrangement in respect of members' electorate offices. As I pointed out to the Department of the Premier, my office window contains no material of a party political nature. Indeed, not one piece of material exhibited in that window has its origins in the Liberal Party.

Hon Mark Nevill: Would you allow someone to put four yes stickers in your window?

Hon P.G. PENDAL: No, because I do not happen to support that view. Mr Hawke has not allocated half a million dollars to the Opposition to put its views to the Australian people. Why? It comes back to the very good point Mr Dans just made about people being frightened to hear the strength of someone's argument. Therefore, I would not allow someone to have the facility to put four yes stickers in the window of the office provided by the Government. My point is that none of that material has its origins in the Liberal Party. All of the material is authorised by Bevan Lawrence who, as members would know, has some fairly close Labor connections. He has made it very clear that he has conducted that campaign on behalf of an independent group of people who do not believe that the referendum questions should be answered in the affirmative on Saturday.

I move on to another couple of points in support of what Hon Norman Moore had to say and to bring to the attention of the House what I consider to be an historically crucial effect of these referendum questions. But before I do that, I will partly correct something that Hon Des Dans had to say about the origins of those Constitution Conventions of the 1970s. It was true that Jack Galbally suggested them, but the then Liberal Premier of Victoria, Sir Henry Bolte, decided that something should be done.

Hon D.K. Dans: I do not dispute that.

Hon P.G. PENDAL: I was about to agree with Mr Dans. The point on which they both agreed was that a Constitution Convention should be held across Australia by the States.

Hon D.K. Dans: Without the Commonwealth.

Hon P.G. PENDAL: That is so. Good, logical grounds for that were argued at the time, but I

do not intend to go into them here. It may well have changed the course of constitutional development in this country if that bipartisanship that was started by Mr Galbally and was adopted by Sir Henry Bolte had been picked up by other people in Australia. As it was, the then Liberal Prime Minister, Billy McMahon, was prepared to see that convention go ahead on the basis that the States attended it and used it as a forum whereby they would come to common agreement, be they Liberal, Labor or National Party States. They could then put a combined case to the Commonwealth Government for a Bill to go through the Federal Parliament and ultimately to the Australian people. I firmly believe that had that occurred in that bipartisan way and at the behest of the States as was intended by those two people, the course of constitutional development and bipartisanship in those matters may well have been vastly different.

I disagree with what Hon Des Dans had to say about whether the Constitutional Conventions held in the 1980s exhibited any form of consensus for a Constitutional Commission of the kind that now operates and which was established under the Hawke Government. I attended the conventions in Brisbane and Adelaide and I do not believe that there was any such consensus.

Hon D.K. Dans: I didn't say that.

Hon P.G. PENDAL: If Hon Des Dans did not say it, I take it back. There was certainly no consensus among the delegates to the effect that there should be a commission deciding those matters rather than the elected members of the Parliaments of Australia. Hon Des Dans attempted to tell us that the persons on the list of illustrious people that he read out were a bipartisan group. I am not about to dispute that because I do not know enough about them. However, I do say that I am unaware of even one person who was appointed to the commission by the Hawke Government who was noted for his or her anticentralist views. Mr Dans mentioned Rupert Hamer from Victoria. Rupert Hamer was a very successful Liberal Premier, but one of his faults was never that he was an anticentralist. Therefore, claims that Sir Rupert Hamer and a few of the others, in that respect at least, were truly bipartisan are of dubious value when one is talking about altering the Constitution in the way that Jack Galbally and Sir Henry Bolte envisaged.

I was present at the convention in Adelaide when I heard a mini historic concession even by our own Attorney General who had to admit that by that stage he had become a born again States' righter. It just took him less time than most other people. I think it took him about four weeks of ministerial perks and hire cars to decide that in Adelaide.

Hon J.M. Berinson: I would have thought that that speech of mine was memorable enough for you to quote it correctly. I said I was converted while I was a member of a Federal Parliament.

Hon P.G. Pendal: I am delighted to hear that. I thought the Attorney was going to tell me the story of Marilyn Monroe again, which also stuck in my mind but for different reasons.

Hon J.M. Berinson: That is wrong too. It was Hedy Lemarr.

Hon P.G. PENDAL: Mr Dans was also wrong with respect to another important comment he made about the Constitution Conventions. I refer to his suggestion that everyone voted on party lines. That was certainly true of the Labor Party.

Hon D.K. Dans: I didn't say that.

Hon P.G. PENDAL: It was certainly true of the Labor Party, but it was not true of the conservative politicians who attended those conventions. I attended two conventions in two different capital cities with Hon Norman Moore and other people. The record shows that the only people who voted according to the merits or demerits of a proposition were people on the conservative side of politics because they were the only ones who had the right to vote according to their consciences. They could not be caucused in the way Mr Dans, Mr Berinson and every other Labor member throughout Australia was caucused.

Hon D.K. Dans: That's not true. The Tasmanians and South Australians caucused as a group, irrespective of parties, at great embarrassment to me, as a matter of fact.

Hon P.G. PENDAL: My point remains that on many occasions people from this and other Parliaments on the conservative side of politics voted according to the merits of the arguments that had been put up. Sometimes people found themselves on opposite sides even when they did not understand the merits. That certainly happened to me on one occasion.

The final point I make is that we are being asked to make an incredibly important decision across Australia on Saturday on all four of the proposed amendments which, in turn, will have a snowballing effect and will make more than 30 changes to the Commonwealth Constitution were we to be so unfortunate as to see the four questions passed. With respect to the matter before the House at the moment, that is, the protection of State voting rights, I make this prediction: If question 2 is passed on Saturday it will ultimately have the effect of cutting down the number of senators who represent Western Australia in the Federal Parliament. It will be said by some people that it is fanciful to say that one could in any way read into referendum question No 2 the possibility of its affecting the States' representation in the Senate. I put the argument to the contrary. I guess not many of us will be around in 25 or 30 years or however long it takes to see that prophecy come true.

However, it has happened before in the case of the Australian Constitution where it has been sworn on a stack of bibles in one decade that an amendment is intended to do A, B or C and a decade or two down the line it is found that X, Y or Z is the result. Why is that? Because there can be changes in attitudes among the judges who ultimately go to the High Court, and there are changes in interpretation. Mark my words, if question No 2 is passed on Saturday there will not be a generation pass in this nation before there are less than 12 senators representing Western Australia and the figure may well reduce to, if one took the one-vote-one-value approach at its face value, six Western Australian senators as opposed to 18 senators from New South Wales.

Why would one make that sort of prediction? For this reason: It is significant that in Australia this year there has been a major public debate about the course of tertiary education fees in this nation. Do you know, Mr President, there is even strong constitutional doubt as to whether the Commonwealth Parliament and the Commonwealth Government can impose tertiary education fees in the way in which it has through the Federal Budget only recently. The Commonwealth has based its capacity to impose the graduate tax on a constitutional change that occurred in the 1940s. The history, briefly, of this, and it shows the distortion that can occur if people allow it - and I fear that we are allowing a distortion with these four referendum questions on Saturday - is that in 1946 the people of Australia were asked to pass a referendum to widen the Commonwealth's powers, I think in relation to social services. One of the things it was intended to do was that the Commonwealth's power to extend benefits to students would be granted if there were a yes vote. They were the words used. A few years ago I went back and commenced to follow the debate in the newspapers of the day to ascertain what it was that ordinary Australians had to judge by. In 1946 the debate was about whether we should pass a social services amendment to the Constitution which would allow the Commonwealth Parliament to extend benefits to students.

Out of that very tenuous link of benefits to students later came Commonwealth encroachment in the field of tertiary education, in the first instance, and now as Hon Norman Moore pointed out a few months ago, an encroachment by the Commonwealth into fields other than tertiary education. That amendment in 1946, I repeat, made reference to the extension of benefits to students. Forty years down the track that has become the constitutional lynch pin for the Commonwealth's introducing a tertiary tax for graduates. Indeed, if any of the Guild of Undergraduates around Australia had any resources and any brains they might well challenge in the High Court of Australia the Commonwealth's capacity on that basis alone arising out of the 1946 referendum. If it is possible, after a period of 40 years, to distort the words "extend benefits to students" as a social service in order to give the Commonwealth power over tertiary and other forms of education, then so too will it be possible in 10, 20 or 30 years from today for someone to go to the High Court and challenge the right of Western Australia to have 12 senators representing this State in the Senate.

While the debate has been running today I have tried to work out, given the populations of New South Wales and Western Australia, and the fact that we currently hold 12 Senate seats each in those States, what could happen, and there is no doubt that the capacity will exist in a generation from now, based on population, to halve the number of Western Australian senators to six and increase the number of New South Wales senators to 18, because when New South Wales has 18 senators and Western Australia has six senators we will then have one-vote-one-value in relation to those States. That is one of the most horrific possibilities that comes out of the vote on Saturday.

Hon Fred McKenzie: What difference does it make, because people vote on party lines now. They do not vote on State lines; that is what happens.

Hon P.G. PENDAL: If someone as experienced and intelligent as Hon Fred McKenzie does not know the answer to that then he ought not be here because he knows that winning Government and controlling legislation is all about having a majority in a House of Parliament.

Hon Fred McKenzie: And people vote on party lines, not State lines.

Hon P.G. PENDAL: It may well be that Hon Fred McKenzie by saying that is saying I am right. He is the first one to admit the possibility; a senior and intelligent member of the Government party has just admitted that what I am saying may well be correct.

Hon Fred McKenzie: I am pointing out to the member the fallacy of his argument.

Hon P.G. PENDAL: I rest my case at no more than that; that it may be that no more than 10 years will pass before on a population basis, on a one-vote-one-value basis, one will be able to justify the High Court's arguing that Western Australia should end up with a mere six senators and New South Wales with 18, because that would give the correct proportions in relation to the relative votes and the number of people in those States. On those grounds alone, I believe people should reject the second question on Saturday.

Hon J.M. Berinson: How could the High Court possibly arrive at that conclusion when there is a specific constitutional provision relating to equal representation in the Senate.

Hon P.G. PENDAL: Mr Berinson is a capable lawyer and has been Attorney General of this State for the past four or five years so he would know that words mean what people want them to mean, and the High Court is no different from that.

Hon J.M. Berinson: But they have to be capable of interpretation.

Hon P.G. PENDAL: They do, indeed, have to be capable of being interpreted that way. But who, to answer Mr Berinson, would have thought a generation ago that the High Court could have made a decision in the case of the Tasmanian dams in 1983 based on the use of the external affairs power? That was unheard of 25 years ago. I go further and say that 25 years ago students of the law, probably including Hon J.M. Berinson in his more conservative days, would have sat around his lecture class or tutorial saying that anyone seeing the High Court interpreting a dams case in 1983 in the way it just did was being fanciful. That is what people were saying only 25 years ago.

I repeat that that great danger exists, that Western Australian people can take it or leave it and that the proof of the pudding will be in the eating, and I make a prophesy based on the very thing that happened in a High Court interpretation and a High Court judgment in the past 88 years which set the scene today, that in another generation Western Australian Senate representation will be reduced. Therefore, I support the motion.

HON MARK NEVILL (South East) [8.09 pm]: This urgency motion opposes the referendum on fair elections on two grounds, the first that "it will remove from the State Parliament its legitimate right to legislate for its own electoral system". On the face of it, that seems quite reasonable, but that statement has an underlying presumption that majority parties in this Parliament have always gone about their legislation with responsibility and have done that with both fairness and integrity and in an ethical manner. When we examine that assumption it just does not stand up. Let us go back to the seat of Kimberley, which Mr Moore mentioned earlier tonight. The Opposition in this House had the temerity to make the seat of Kimberley, which is the most remote from Perth, a country seat with the biggest population, an even larger seat. That puts the lie to their real concern about people's remoteness, their distance from Perth and the size of the population.

Hon N.F. Moore: One-vote-one-value would make it even bigger than it is now.

Hon MARK NEVILL: Members opposite would not have made Kimberley the biggest seat in the State and doubled its size, if they were honest about their own arguments. It had more electors in it than any other country seat in the State. That shows the Opposition's phoney approach to electoral matters in this Parliament.

Hon P.G. Pendal: Absolute tripe!

Several members interjected.

The PRESIDENT: Order!

Hon MARK NEVILL: If they want to do that they should do it consistently. We have Lower North Province, which the honourable member who moved this motion represents, which had probably 5 000 or 6 000 electors at the last election.

Hon N.F. Moore: It has 8 000.

Hon MARK NEVILL: Hon Des Dans had 80 000 electors. Do members remember that beautiful cartoon on the back of the *Daily News* two years ago saying that 45 000 voted for Mr Dans and 2 275 voted for Mr Moore?

Hon N.F. Moore: It was 60 per cent of the vote.

Hon MARK NEVILL: In the caption Mr Moore was saying, "Really, Mr Dans, you should not be here!" The honourable member argued against the electoral Bill changes which came in this year. He wanted to preserve the situation where he had one eleventh of the electors that some of the city members like Hon Fred McKenzie had. It is an untenable and dishonest position to take.

Hon N.F. Moore: Are you supporting the Senate situation?

Hon MARK NEVILL: Kimberley is two or three times as far from Perth as Hon N.F. Moore's small seat; yet they doubled the size and doubled the population of the seat of Kimberley. That is cynical politics.

Hon N.F. Moore: Do you support weighted votes for the Senate?

Hon MARK NEVILL: As long as the member opposite is honest.

Hon N.F. Moore: You be honest. Why don't you put up one-vote-one-value for the Senate?

Several members interjected.

Hon MARK NEVILL: The Opposition tried to save Liberal seats like Dale. Labor seats like Rockingham, which are further from Perth than Liberal seats such as Kalamunda, Darling Range and Mundaring, which I can see from the window of my Parliament House office, yet the Opposition calls them country electorates - and yet the seat of Rockingham had to go into the metropolitan area where it had three times the population because Rockingham voted Labor.

Hon John Halden: It was a disgrace!

Hon MARK NEVILL: We got one seat and the Opposition got three for the same population. The same thing happened in Queensland. I would support that proposition if conservative Governments could do things honestly and ethically, but they cannot. They cannot be trusted to do that. They have rorted the system for their own benefit.

Hon N.F. Moore: Tell us about that.

Hon MARK NEVILL: The conservatives have had small seats throughout the agricultural areas, but they are losing them and do not like it. Hon Phil Pandal brought in a red herring about the Senate.

Hon N.F. Moore: It is not a red herring; it is part of the question.

Hon MARK NEVILL: The United States House of Representatives has one-vote-one-value, and each State elects two senators. That has been going on for 200 years.

Hon N.F. Moore: Do you support weighted voting for the Senate?

Hon MARK NEVILL: That is not going to happen here because there is a specific provision for equal representation in our Constitution as there is in the United States. That argument is a red herring.

Hon N.F. Moore: Do you think that is fair?

Hon MARK NEVILL: The member who represents the least number of people in this Parliament says the proposed change will seriously diminish State parliamentary representation of Western Australian citizens living in country and remote areas. My view is

that it will not seriously diminish their representation; it will actually improve it. One day Opposition members in this Parliament will be in Government with one-vote-one-value. They will get there on their merits, and they will be far better members for it.

Hon P.G. Penda: Don't be so patronising.

Hon MARK NEVILL: They have had it too easy; they have had to work only half as hard as we have to get into this place, and they have paid the price. When we have one-vote-one-value and members opposite get back into office they will have deserved it.

Hon P.G. Penda: Some of the greatest leaders this State has ever known rorted the system.

Several members interjected.

The PRESIDENT: Order!

Hon MARK NEVILL: Members opposite must go back 40 years. We have only to go back three.

Several members interjected.

The PRESIDENT: Order!

Hon MARK NEVILL: Hon Norman Moore said that these new changes will seriously diminish his ability to represent his electorate. He has the smallest number of electors of any member of this House, and I wonder how seriously he represents his own electorate at the moment. I would like him to answer one question when he responds to this debate. Twenty per cent of the people in his electorate are Aborigines, and most of those live in the central desert area. I would like Mr Moore to tell us how many times since the last election he has visited those 20 per cent of his electors in the central desert region.

Hon N.F. Moore: Do you want me to go through your electorate?

Hon MARK NEVILL: I have been to every nook and cranny in my electorate.

Hon N.F. Moore: Sixty per cent voted for me.

Several members interjected.

Hon MARK NEVILL: I will await the honourable member's answer. If the present system has seriously diminished his ability to represent his electorate, I lament what will happen to him under the new system.

Several members interjected.

The PRESIDENT: Order!

Hon MARK NEVILL: Those are the two major points in this motion.

I want to go now to the real reason why the Opposition opposes these four referendum questions. The real reason is proposal No 2 for fair elections. John Spender said last May, after a shadow Opposition Cabinet meeting in the Eastern States, that an answer, no, no, yes, yes, was agreed to. When public comments were made he was rapped over the knuckles by the Leader of the Opposition, John Howard. We heard no more from John Spender, but the Opposition decided to be cynical and a uniform no vote was a lot easier to sell to the public. As a result the Opposition did not look at the questions on their individual merits, but treated them as one and wanted a no vote against them all. John Howard is on record in a letter to the Ryde Council in Sydney supporting the recognition of local government in the Constitution. The Liberal Party policy on trial by jury is exactly what is in the referendum questions proposed to amend the Constitution, but dozens of reasons have been found to oppose it.

Several members interjected.

Hon MARK NEVILL: The Liberal Party in Queensland and the Queensland State Liberal leader, Angus Innes -

Hon P.G. Penda: Don't point at me.

Several members interjected.

Hon MARK NEVILL: The Opposition's Liberal colleague in Queensland is voting yes for this proposal. Why?

Hon P.G. Pendal: Because it is in his interest to do so.

Several members interjected.

Hon MARK NEVILL: Because the Queensland National Party is the beneficiary.

Several members interjected.

Hon MARK NEVILL: Because the Liberals in Queensland are the victims of the gerrymander. What has the Queensland Liberal leader, Angus Innes, told the Leader of the Federal Opposition? He has told him to stay out of Queensland. There are divisions within the Liberal Party. There are those who want to oppose it and those who want to preserve it and there are beneficiaries of it who are asking people to vote no. Why do people like Andrew Hay and Malcolm Fraser support the four referendum questions? Because they are fair and reasonable propositions.

Hon N.F. Moore: You were not saying that about Andrew Hay last year.

Hon MARK NEVILL: If the Opposition has people as diverse as that supporting this referendums proposal, how can members opposite call it a "social plot"?

Hon P.G. Pendal: We thought they were a bit radical.

Hon MARK NEVILL: It just does not stand up. The real reason members opposite are opposing this proposal, and the other three, is that they want to preserve the gerrymanders in Queensland and Western Australia. That is the simple fact of the matter.

HON NEIL OLIVER (West) [8.21 pm]: The motion before the House this evening expresses concern that the changes proposed in the referendum question under discussion will take away from the State Parliament its legitimate right to legislate for its own electoral system and will seriously diminish State parliamentary representation of Western Australian citizens living in country and remote areas.

We have seven Constitutions in Australia. Each State has its own Constitution and ours received the Royal Assent on 21 October 1890. I find it strange that no real proposals have been made by Labor Governments to vary that Constitution to a one-vote-one-value system, which is really what we are talking about in this debate; that is, to alter the Constitution to provide for fair and democratic parliamentary elections throughout Western Australia. Why should the Federal Government have the right to interfere in the affairs of the States? That was never intended when the Federal Constitution was agreed to.

Hon John Halden: Oh, rubbish!

Hon NEIL OLIVER: It was never agreed that the Federal Constitution would allow our Federal Parliament to decide the manner in which elections are carried out within the States. It is interesting to note that Tasmania would not accept the House of Representatives being on a one-vote-one-value basis, because Tasmanians knew they would have only one representative - one elected member - in that House. So, to enable Tasmania to enter into the Constitution, the other States agreed to allow Tasmania to elect five members to the House of Representatives; and that situation remains to this day. If that is a gerrymander, so be it, but we hear nothing about it. I am interested to know why the current Hawke Labor Government should wish to impose one-vote-one-value upon the States while not intending at this stage to propose to the people that one of the Federal Houses of Parliament be represented on a one-vote-one-value basis.

Hon P.G. Pendal: That is a very good point.

Hon NEIL OLIVER: What is the principle just put forward by Hon Mark Nevill?

Hon John Halden: What is the principle called?

Hon P.G. Pendal: It is hypocrisy.

Hon NEIL OLIVER: That is a very good explanation - it is hypocrisy, because what the Hawke Labor Government wishes to do is to impose upon the States what it will not itself accept. If this question were to pass, what would lie in store for the States? A Government in Canberra - a Federal Government under a Federal Constitution - would be able to direct and override the legislation within States. I do not care if there are gerrymanders in the States - let the States look after their own affairs. That is what it is all about. There would not be a Federal Constitution today if these proposals had been put to the people. They

would not have been acceptable. There would not have been a Commonwealth of Australia. Incidentally, the Federal Constitution of Australia is one of the oldest in the world and the people of Australia are very reluctant to change it. It has stood the test of time and proved itself. That does not mean it must be changed.

Hon Doug Wenn: We will see on Saturday.

Hon NEIL OLIVER: This Government was elected by the people in 1983 and part of its policy platform then was that everyone's vote should be equal and, beside that, "Let the people decide." Since then no decision has been made and that proposal has not been put forward in this Parliament.

Hon Fred McKenzie: What a cheek you have.

Hon NEIL OLIVER: This Government went to the people with that proposal and was elected. It had a mandate to put it to this Parliament, and has failed to do so, just as it has failed in many other areas.

Hon Fred McKenzie: What a cheek! You have a country electorate and yet are living in the metropolitan area. Your electorate office is in Midland.

Hon NEIL OLIVER: The slogan was, "Let the people decide." That is the last thing this Labor Government wants to happen. The Government tells the people what it wants and the people of this State and Australia do not count; it is as simple as that. If the Government said, "Let the people decide", why does it not let the people decide?

Hon Doug Wenn: They did in 1983 and 1986. That is why you are over there.

Hon John Halden: You have sat there for six years. Haven't you learnt yet?

Hon NEIL OLIVER: One of the referendum questions to be asked on 3 September concerns the length of parliamentary terms. To change that requires an amendment to the Federal Constitution. This Government says, "Let the people decide", yet it decided on four year terms; the people did not. I might say that many people are very upset to know that four year terms will be introduced into Western Australia after the next State election. They are very surprised that this week they are required to answer that question in a Federal referendum and yet it has been passed already in Western Australia and enshrined in our Electoral Act. But that is enough of "Let the people decide".

Hon John Halden: Thank God for that.

The DEPUTY PRESIDENT (Hon John Williams): Order! Order!

Hon NEIL OLIVER: I return to the referendum proposal under discussion; that is, to alter the Constitution to provide for fair and democratic parliamentary elections throughout Australia. What does that have to do with the Federal Government when it will not put its own house in order? Currently a Tasmanian elector has 12 times the voting power of a New South Welshman. The Government has not put forward that proposal in this referendum.

Hon Mark Nevill: It is written in the Constitution.

Hon NEIL OLIVER: What is behind this question? What does it mean to the States? I believe the meaning is that if a person says yes to the proposals this will result in a rearrangement in the Senate - the States' House - which will set up a power base where everything is decided in the States of New South Wales and Victoria. I do not wish to delay the House on this matter, which is of grave importance to all people. If a person in the smaller States of Western Australia, Tasmania, South Australia or Queensland knows nothing about this referendum or is not fully informed on all referendum questions that person should vote no.

Hon John Halden: That is why you do.

Hon NEIL OLIVER: If a person going to the polls on Saturday does not understand the questions fully and all that flows from them -

Hon Fred McKenzie: He will vote yes.

Hon NEIL OLIVER: - he should immediately become a disciple to ensure his family and friends and everyone he contacts vote no.

HON N.F. MOORE (Lower North) [8.32 pm]: I thank all members who have contributed

to this debate; it has been a worthwhile exchange of views. Even though Hon Des Dans by interjection said the debate should not be held here, I did not interject in return because that is disorderly. This is the place for debate because this Parliament is being asked by the referendum questions to give up some of its sovereignty. In this question we are asked to give away our right to make laws in whichever way we deem fit in respect of our own electoral system. This proposal being written into the Constitution takes away certain powers and rights which we currently enjoy. I did not hear any Government speakers addressing that point; they seemed quite happy to allow that state of affairs to come about. I wonder whether this is not just the beginning, as Hon P.G. Pandal said, of a whole series of changes in relation to the powers attached to both Commonwealth and State Parliaments, and then ultimately what those Governments can do.

The question says: A proposed law to alter the Constitution to provide for fair and democratic parliamentary elections throughout Australia. I put to this House that if one-vote-one-value is a necessity for an election system to be fair, for the Labor Party to not then argue for this to occur in the Senate is being totally hypocritical. The Government cannot have it both ways. Either the one-vote-one-value is fair or it is not. If it is fair this question should relate to the Senate and the House of Representatives as well as to all Houses of Parliament throughout Australia. If one-vote-one-value is not fair the question is misleading.

During the dinner break I took a look at the Referendum Machinery Provisions Act 1984. Section 122, Part 1, under the heading "Misleading or deceptive publications, etc." says that a person shall not during the referendum period in relation to a referendum print publish or distribute or cause permit or authorise to be printed published or distributed any matter or thing that is likely to mislead or deceive an elector in relation to the casting of his vote at the referendum. The penalty for that, if the offender is a natural person, is a fine not exceeding \$1000 or imprisonment not exceeding six months or both, or if the offender is a body corporate a fine not exceeding \$5 000. They are the penalties for misleading people in respect of the answer to a question in a referendum; that is Commonwealth law. I suggest this question itself is misleading and deceptive and that has been vouched for by the views of Garry Morgan, a well respected pollster in Australia.

I return to the question of what is fair. The Government has argued that one-vote-one-value is fair and it supported the advertisement for the yes vote on the basis that what we will get is a fair electoral system. But if one-vote-one-value is fair and the Government is not applying this to the Senate it is misleading and deceiving the people. Do members opposite believe one-vote-one-value should apply to the Senate? No-one is prepared to answer that. That is the crux of the matter and demonstrates quite clearly the hypocrisy of the Labor Party on this question. If the Labor Party were consistent this question would relate to the Senate.

Hon Garry Kelly ran down a list of all the things this question does, as well as bringing one-vote-one-value, and then he tried to cover himself by saying that we cannot have that question applied to everything because we would then have 30 questions. That member demonstrated clearly that the question is deceptive because it does not tell us all the things involved. A whole string of changes to the Constitution are envisaged in these questions which bear no relationship whatsoever to the question being asked. That is where the deception lies. I suggest the whole referendum, particularly in respect of question 2, is in some way a breach of section 122, part 1, of the Referendum Machinery Provisions Act and someone ought to be prosecuted.

The two bottom lines in respect of this debate are: We are being asked to give away the sovereign rights of this Parliament to make decisions on its own electoral system. We should not give away that power; we should be looking at referendum questions which give back to this Parliament some powers which have been taken away by a succession of High Court decisions - particularly the external affairs question. The second bottom line is the reduction in country and remote area representation. As I have said, if passed the provision will make a reduction of eight seats in country and remote areas, and the alternative to that is of course an increase of eight seats in the metropolitan area. When one adds that to what has occurred in relation to legislation which was passed to change our electoral system last year, where country areas lost four seats, it means that in the period from the last State elections in 1986 to the next State election in 1989- if we agreed to this constitutional change and brought in legislation to bring in one-vote-one-value - country areas would have lost 12 seats in a three year period.

If that is not a diminution of the political representation and power in country and remote areas, then I do not know what is. It means a massive increase in influence and authority of city members of Parliament, and the ultimate result will be that the interests of country people will be severely diminished. It seems to me that the two issues which are raised in this motion should be taken on board by every Western Australian who believes in fairness. Fairness in Western Australia in the past has meant that people in this State have been prepared to accept a weighted voting system because they recognise that people in remote areas need additional support and a better representational system in our Parliament. I strongly urge the people in Western Australia to take on board the arguments put forward today.

It is traditional with urgency motions that we do not have a vote on the motion; it is simply a motion to enable debate and we do not vote on it.

Motion, by leave, withdrawn.

JURIES AMENDMENT BILL

Returned

Bill returned from the Assembly without amendment.

SUPREME COURT AMENDMENT BILL

Assembly's Message

Message from the Assembly received and read notifying that it had agreed to the amendment made by the Council.

BAIL AMENDMENT BILL

Returned

Bill returned from the Assembly without amendment.

SWAN RIVER TRUST BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Kay Hallahan (Minister for Community Services), read a first time.

Second Reading

HON KAY HALLAHAN (South East Metropolitan - Minister for Community Services) [8.43 pm]: I move -

That the Bill be now read a second time.

This Bill provides for a strengthened and better coordinated approach to protection of the Swan and Canning Rivers, particularly in relation to their planning, use, development and management. Since settlement, the Swan and Canning Rivers have been an integral feature of Perth. Initially, they provided the major transport route for the colony and it was logical that the metropolitan region grew up around them. Today the rivers are the major recreation and landscape feature for Perth and are subject to a wide range of uses and pressures. These include a strong community desire to maintain public access and conserve the rivers as a healthy living system. People want a diversity of recreational activities including fishing, water sports and passive activities such as picnicking, sightseeing and walking. As well, the rivers continue to provide a major transport route and a focus for residential and commercial development.

It has become increasingly clear to the Government that in order to balance all of the conflicting demands and provide protection for the waters, foreshores and catchments, the river system must be treated as a single entity. For example, there are currently 10 State Government agencies and 20 local government authorities with certain responsibilities for planning and management of all or parts of the rivers. It is vital that these bodies and the community work together to achieve our aim of maintaining and enhancing a functional healthy river environment for the enjoyment of present and future generations.

In the past, the responsibilities of the various bodies, State and local, have not always been well coordinated and there have been some inconsistencies, overlaps and gaps, both in management and planning activities. In particular, some applications for development around the river have caused conflict and uncertainty, with criticism that not all of the interests have received proper consideration. To overcome these difficulties and to provide for a strong sense of direction for planning, use and management of the rivers, the Government established two closely related reviews in November 1986. The first of these was the formation of a task force to prepare an overall strategy aimed at defining how the river should be managed now and in the future. The second was an independent legislative and administrative review to provide recommendations on procedures for decision making, particularly in relation to development proposals. This review was undertaken by Mr Chris Zelestis, a prominent Perth barrister.

In September 1987 the Government released the draft Swan River Management Strategy for public comment. I commend honourable members to read this document as it provides a valuable basis for the development of the management program for the Swan and Canning Rivers. Also in September the Premier announced that, as a result of the recommendations in the Zelestis review, the Government intended to introduce legislation into Parliament for a new body with overall accountability for the Swan and Canning Rivers. Procedures to establish this body, the Swan River Trust, are contained in the Bill, and the Acts Amendment Bill defines the trust's relationship to the other key Government bodies and legislation to do with the Swan and Canning Rivers. Before outlining the main elements of the Bill I wish to summarise how it is intended the trust will operate.

Mr Chris Zelestis in his review of legislative and administrative arrangements placed great stress on the need for coordination and clear procedures for all of the bodies, State and local, involved with planning and managing the river system. He also emphasised the need to treat the rivers as a regional asset and consider them as a whole in making any decisions. A balanced relationship between State Government and local government interests was therefore seen as vital and Zelestis' preferred approach was to establish a separate body, the Swan River Trust, which represented the key interests in providing advice and making recommendations to the Government of the day. This philosophy and Zelestis' detailed recommendations have been incorporated into the legislation to establish the Swan River Trust. Our aim is that the trust will represent State, local government and community interests, and that in providing advice and recommendations it will bring together all of the involved parties.

It must also be stated very clearly that the trust will not take over the existing implementation and management roles of local government and the involved State Government bodies. While the trust will have the responsibility of reporting to the Minister for Waterways on use and development of the rivers, responsibility for such matters as navigation and management of foreshore reserves will remain with the relevant State and local government bodies. However, it should be stressed that the establishment of the Swan River Trust provides for the first time a mechanism that enables local government authorities a direct input into the planning and management of the Swan and Canning Rivers. The trust will therefore have a very important role, to work in partnership with all of the involved bodies to ensure that the best overall planning and management of the rivers takes place. In this sense the trust can be said to be accountable for overall planning and management while other State bodies will be responsible for particular aspects of planning and management such as navigation, management of conservation reserves, definition of the parks and recreation area and flood control.

The Swan River Trust Bill incorporates the main recommendations of the Zelestis report and provides for a single body that will be a central contact for all matters to do with the Swan and Canning Rivers. In particular, it will provide for a central decision making mechanism for all applications for development or use of the rivers and for consolidated advice to be provided to the Government.

Part I of the Bill states that the Act will come into operation at a date to be fixed by proclamation and sets out certain formalities of the Bill. The Government's intention is that the Bill will not be proclaimed until regulations and administrative procedures have been developed to clearly set out how the development approval process will work in practice. This is most important as the Government wants to remove any current confusion about the

way in which development applications are referred and handled. Our intention is to have the Act proclaimed in early 1989. Development has been defined to include a new or changed use of land or the waters as well as the building of structures.

The area of responsibility for the trust is defined as the management area and is described in schedule 1. The management area comprises the waters of the Swan, Canning, Helena, Lower Avon and Southern Rivers and the adjacent foreshore presently reserved under the metropolitan region scheme. Local government authorities have been consulted about the extent of the boundary and their suggestions have been included as far as possible. If there should be a dispute as to the boundary of the land - that is, whether it is within the trust's management area - provision is made for ascertaining the views of affected persons or bodies and submission to the Governor for a final decision.

It is intended that the management area be extended in the future to include new foreshore reserve along the rivers as it is established under the metropolitan region scheme. Changes to the management area will be by regulation and the Bill provides that in each case local government and the Minister for Planning will be consulted before any regulations are made.

Part 2 of the Bill establishes the trust as a body corporate and sets out its membership. Of the eight members the chairman and two others are to be independent while three are to be nominated by the Ministers administering the State Planning Commission Act, the Marine and Harbours Act and the Water Authority Act respectively. The other two are the Waterways Commissioner and a nominee of the Local Government Association.

Clause 23 of the Bill provides for additional local government representation on the trust from a municipality whenever a development or any other relevant matter in relation to that municipality is being considered. Thus, the local government authority in whose area a river orientated development is being proposed will have direct representation on the trust for that proposal.

The functions of the trust are set out in clause 7. They include the specific role of advising and recommending to the Government on all development proposals and the broader role of working with other State and local bodies to protect and enhance the rivers for recreation, conservation and a range of uses. Additionally, the trust will take over the existing functions of the Swan River Management Authority and control pollution in the rivers as a delegated body under the Environmental Protection Act 1986. An important power provided to the trust is the ability to delegate to certain persons or bodies any of its functions other than a function vested in it by part 5. This will aid the trust in its working relationship with other Government agencies, especially local government. Staff of the trust will normally be provided by the Waterways Commission which has a Statewide role in advising on waterways management. Some additional staff will be provided to enable the trust to carry out its functions.

Part 3 provides for the preparation of a management program by the trust. It is intended that the program will define in some detail the operating procedures and policies the trust proposes to adopt and how it will interact with other State and local government bodies. Before the management program is finalised extensive consultation must take place and it must be advertised for public comment. It is therefore an important document which should provide a clear description of the trust's role and how it will carry out its functions in partnership with relevant bodies. The management program must be reviewed by the trust at least every five years.

Part 4 of the Bill sets out the financial provisions. The trust will be responsible for managing its own finances and in addition to receiving funds from Consolidated Revenue it will also be able to accept gifts and bequests. Therefore, it will be able to act as a trust in a financial and a social sense.

Part 5 of the Bill concerns development control and is central to the role of the trust in advising the Government on all applications for use and development on and around the rivers. It is proposed that all applications for development within the management area be referred to the Swan River Trust which in turn will be required to consult widely before reporting to the Minister for Waterways. When an application is for development on the foreshore reserve within the management area it will be forwarded to the trust by the local government authority with its recommendation. Where an application is for development

over the water it will be submitted by the developer direct to the trust. It will be an offence to carry out development without the approval of the Minister for Waterways. The trust will determine the level of documents to be submitted with an application and may advertise the proposed development for public comment. The Minister can direct the trust to advertise any proposal for public comment. In reporting to the Minister the trust must consider all public comments. Where reclamation of greater than one hectare is proposed the existing provision of section 60 of the Waterways Conservation Act, that the approval of both Houses of Parliament must be obtained, is continued.

Once the trust has reported to the Minister copies of the report shall be provided to the applicant, each relevant public authority and local government authority, and any person who made a submission if the proposal was advertised. The Minister may publish the trust's report. After considering the trust's report the Minister will determine the application by approval, approval in a modified form with or without conditions or restrictions, or refusal of approval. Any approval must be consistent with policies or approvals granted under the Environmental Protection Act and the trust's management program. Once approval has been granted the applicant has the opportunity to request reconsideration of any condition or restriction. Many applications will be for matters of a minor nature and the Bill provides for the power of approval to be conferred on the trust for certain classes of development prescribed by regulation.

Part 6 of the Bill sets out provisions for enforcement. Inspectors and authorised persons will be empowered to inspect and enter premises for the purpose of enforcing part 5 and the regulations. The trust's inspectors will be its eyes and ears and will demonstrate to the public that the trust is effectively monitoring the development approval process. Provision is made in the Bill for honorary inspectors so that responsible and interested members of the public can be actively involved in caring for the rivers. Inspectors and authorised persons will be able to take action where offences occur and in the case of minor offences will be able to serve on-the-spot infringement notices. Mostly the inspectors will have an educative role with the general public but it is important that in some cases on-the-spot action can be taken. Power is provided to the trust to serve notices to either stop or modify a development that contravenes an approval. If such a notice is served the affected person can appeal to the Minister who can confirm or vary the direction. A further important enforcement provision allows the trust to remove property that is abandoned, derelict or dangerous provided adequate notice has been served on the owner if that person can be found. Under the Waterways Conservation Act it is often very difficult to remove derelict or dangerous boats and some hazardous situations have occasionally continued longer than desirable.

Part 7 of the Bill contains a number of general provisions. Regulations can be made by the Governor to cover all the matters in the Bill that require further definition or detail. They can include a variety of matters that may adversely affect the amenity or good management of the land and waters in the management area and provide for the imposition of fees and charges. An important additional power to regulate is provided to control or prohibit the exhibition of advertisements or signs in the management area. This is a power that has not previously existed and is essential to maintain the visual attractiveness of the rivers. Provision is made in part 7 for the Minister to review the operation and effectiveness of the trust Act as soon as practicable after five years and report to both Houses of Parliament.

Schedule 1 describes the area in which the Bill applies while schedule 2 is a list of all the local government authorities whose boundaries abut the management area. Schedule 3 contains transitional provisions to allow the Swan River Trust to supersede the Swan River Management Authority.

In the drafting of the Swan River Trust Bill there has been extensive consultation, first through the preparation and consideration by the Government of the Zelestis report, and more recently with a number of State Government agencies, the local government authorities which abut the rivers, and the Local Government Association. I am certain this Bill would not have been so comprehensive or reached this stage without the assistance and cooperation of all concerned. When this Bill is proclaimed Western Australia will have legislation to the forefront of any in the world to protect, maintain and enhance the centrepiece of Perth, the Swan and Canning Rivers.

I commend the Bill to the House.

Debate adjourned, on motion by Hon A.A. Lewis.

ACTS AMENDMENT (SWAN RIVER TRUST) BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Kay Hallahan (Minister for Community Services), read a first time.

Second Reading

HON KAY HALLAHAN (South East Metropolitan - Minister for Community Services)
[9.00 pm]: I move -

That the Bill be now read a second time.

This Bill is consequent on the Swan River Trust Bill and provides for amendments to a number of Acts to give effect to the Swan River Trust Bill. In particular it incorporates recommendations in the Zelestis review of legislative and administrative procedures, provides clarification of the role of the Minister for Waterways in the planning process, and establishes the trust's relationship to the Waterways Commission and the Waterways Conservation Act.

Part 1 provides that the amendments shall come into operation on the day on which the Swan River Trust Act 1988 comes into operation. Part 2 sets out amendments to the Conservation and Land Management Act to provide a consultative mechanism between the trust and the Department of Conservation and Land Management where marine and land nature reserves or parks are to be established in the trust's management area or where any amendment is proposed to such parks and reserves or certain other reserves to which that Act applies.

Parts 3 and 5 amend the Jetties Act and Marine and Harbours Act to ensure that approval is granted under the Swan River Trust Bill 1988 before a jetty licence or riverbed lease is issued in the management area. In this respect the trust will play an important role in bringing potential developers together with key State and local government bodies to work out the best form for a development proposal on the rivers. Part 4 amends the Land Act 1933 so that the Swan River Trust is consulted before any land in the management area is reserved, or the purpose of any such reserve is changed, or the area diminished.

Parts 6 and 7 amend the Metropolitan Region Town Planning Scheme Act 1959 and the metropolitan region scheme to ensure that amendments made under the region scheme are not contrary to the provisions of the Swan River Trust Bill, that certain clauses of the metropolitan region scheme do not apply to a development to which the development control provisions of the Swan River Trust Bill apply, and that a planning control area under the metropolitan scheme Act cannot be declared in the management area of the trust. Part 7 also amends the region scheme to provide that where an application for development crosses into or abuts the trust's management area where a foreshore reserve does not exist, the State Planning Commission shall give full particulars of the application to the Minister for Waterways. As a consequence, the Minister for Waterways can make recommendations to the Minister for Planning concerning any development conditions which are required to protect the river environment. The Minister for Planning will then refer the Minister for Waterways' views to the State Planning Commission which will determine the application in the normal manner. If a difference or dispute arises provision is made for consultation at ministerial level to resolve the matter.

The philosophy behind this approach is that the Minister for Waterways should not have the absolute power to determine - approve or disapprove - a major development which enters or abuts the management area but which has wider implications than its effect on the river alone. It is intended that in these cases the application should go through the normal planning process but that the Minister for Waterways should have a strong say in the decision making for the development as it affects the rivers. Where a development abuts the foreshore reserve or in the opinion of the State Planning Commission is likely to affect the rivers, it will be referred to the Swan River Trust for advice.

Part 9 continues the theme by providing that where there is an appeal under the planning process against a decision of the State Planning Commission the Minister for Waterways shall have the same standing in the appeal as the Minister for Planning if the appeal relates to

land or waters that are in the trust's management area. In other words, where the Town Planning Appeals Tribunal hears an appeal, it shall have due regard to the views and recommendations of the Minister for Waterways.

Part 8 amends the Parliamentary Commissioner Act 1971 to place the Swan River Trust Bill 1988 under the jurisdiction of the Parliamentary Commissioner.

Part 10 amends the Waterways Conservation Act 1976 to make it clear that the powers and functions of the Waterways Commission under the Waterways Conservation Act do not apply to the trust's management area. Taken together with the Swan River Trust Bill 1988, these amendments clearly establish the trust's role over the Swan and Canning Rivers. Specifically, the trust is required to report to the Minister for Waterways on all major development proposals and uses of the rivers and carry out the tasks that are now performed by the Swan River Management Authority.

I commend the Bill to the House.

Debate adjourned, on motion by Hon A.A. Lewis.

ARTIFICIAL BREEDING OF STOCK AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Kay Hallahan (Minister for Community Services), read a first time.

Second Reading

HON KAY HALLAHAN (South East Metropolitan - Minister for Community Services) [9.05 pm]: I move -

That the Bill be now read a second time.

The Artificial Breeding of Stock Amendment Bill provides for controls over the various methods of artificially breeding livestock. This includes the collection and transfer of ova from one female animal to another. The present Act makes it an offence for a person - other than a veterinary surgeon - to carry out ovum transplants. This legislation, which has been in place for more than 20 years, was made at a time when the only technique for transplanting ovum was by surgical means. With advances in technology it is now possible - in fact, it is common practice - to collect ova in cattle and to transfer these - as embryos - to recipient cows without any surgery. This is done by flushing the ova out of the donor animals. The cattle industry requested a change in the legislation so as to permit these non surgical ovum transplant procedures to be carried out by persons who are not veterinary surgeons, provided they are suitably qualified and licensed under the Act. The amendments allow for this.

The issue has been widely canvassed with industry and it is believed the changes will have widespread support. In the interests of the welfare of the animals, and in line with longstanding principles, where a surgical technique is used this will continue to be carried out by veterinary surgeons who are fully trained in surgery.

The Bill also includes a new section which provides for the carrying out of ovum transplants not only on licensed premises but also on the property where the stock are, when both the stock and the property are in the one ownership. This allows the licensed operators to carry out ovum transplants on farms. Artificial breeding of livestock is now widespread. For industry to reap the benefits of this technology, the procedure should be made as readily available as possible to livestock owners.

I commend the Bill to the House.

Debate adjourned, on motion by Hon W.N. Stretch.

CHILDREN'S COURT OF WESTERN AUSTRALIA BILL

Committee

Resumed from 25 August. The Chairman of Committees (Hon D.J. Wordsworth) in the Chair; Hon Kay Hallahan (Minister for Community Services) in charge of the Bill.

Clause 25: Court may order compensation or restitution -

Progress was reported after the clause had been partly considered.

Hon P.G. PENDAL: As I recall it, on Thursday we reached the stage where we had dealt with one of my amendments in the first part of this clause, and that was that the Committee rejected the move by the Opposition to insert the words "parent or guardian". In view of that, it is pointless for the Opposition to move amendment (a), and in that case we will not proceed with it. I move --

Page 12 - To add after line 35 -

(3) In the case of damage or loss occasioned by a number of children, the Court may direct payment by all or some of such children, or parents or guardians, as it thinks fit.

This amendment or addition does not fall into the category of others moved earlier which the Opposition let pass. It is quite consistent to pass this subclause suggested by the Opposition in isolation from earlier amendments to this clause to which the Committee has not agreed. We have heard much in this debate from the Minister, who has talked about the desire to see the court's discretion preserved, and that is what proposed subclause (3) intends to do. It is argued by some that it is not necessary because it will be done in another form in another Bill subsequent to this one. It seems to me that one can never assume that we will go on to that Bill. As far as I am aware we are not dealing with Bills in tandem and we will get to that Bill in due course; therefore in the eyes of the Opposition this is still an important amendment which would give the Children's Court, in its reconstituted form, the chance to apportion compensation over a range of offenders as it thinks fit. I repeat that the amendment fits quite easily into the mould of remarks made by the Minister last week that we should not in any way interfere with the discretion of the court.

Hon H.W. GAYFER: The National Party believes that this amendment is entirely superfluous at this stage. We firmly believe that the amendments to be moved by the National Party in the subsequent Bill, the Acts amendment Bill, will more than cover the situation. We also believe that the Minister gave an assurance the other night that she would not proceed to the third reading of this Bill until the other one had been dealt with. I ask the Minister if my understanding is correct.

Hon Kay Hallahan: That is right.

Hon H.W. GAYFER: Therefore I cannot see any dangers emanating from the direction that Hon P.G. Pendal fears; that is, that this Bill might go through the House while the other one does not. I have complete faith in and understanding of the machinery of the passage of the two Bills. My party will not support this amendment.

Hon KAY HALLAHAN: The Government does not support this amendment. I have made it clear previously that I thought it was inappropriate to insert any of these amendments into this Bill. They will be dealt with more appropriately in the Acts amendment Bill and in fact I have indicated that the Government will support the amendment put forward by the National Party which adequately covers these provisions.

I am pleased Hon Mick Gayfer reminded the Committee of my undertaking not to proceed to the third reading until the Committee stage of the other Bill had been dealt with. Even if that were not the case, I do not accept that it is a reasonable point of view on the part of Hon Phillip Pendal to say that we cannot assume that the Bill will be dealt with. We are not here to play games. The Bill will be dealt with. As Hon Mick Gayfer pointed out, I gave that undertaking and will stand by it. I am sure members of the Committee would ensure I did it if I had some queer lapse of memory and failed to do so. However, that will not be the case. I ask the Committee to vote against the amendment.

Hon P.G. PENDAL: I have said before in these debates that one must be realistic when one sees that one does not have the numbers. For the record, I do not share Hon H.W. Gayfer's faith and confidence in the Government. Perhaps he should be reminded that it was not so very long ago, to take up the Minister's own words in her plea that we are not playing games, that we arrived here one morning to find that we did not even have a Parliament because there were people who felt they could play games overnight and prorogue the place. My second point is that, just like the Government, the Opposition takes advice from

Parliamentary Counsel, and Parliamentary Counsel's advice is that this amendment is necessary in this clause. That also is the advice of other people to whom we have referred the legislation. It is ludicrous to suggest that the subclause does nothing more than strengthen -

Hon Kay Hallahan: Confuse!

Hon P.G. PENDAL: - what the National Party members hope will be achieved in the Acts amendment Bill, and that is why it is there. I urge members of the Committee to support the amendment.

Hon H.W. GAYFER: We are reaching a stalemate because we, too, have taken wise counsel on this issue - perhaps not as wise as that taken by Hon Phillip Pendal, but we believe it to be so. His talk of the proroguing of Parliament is just a red herring because although that has happened I have said before that I accept the Minister's word that she will not proceed with the third reading of this Bill until the other Bill is passed. That assurance was given in the Chamber, so if this place is prorogued this Bill will not be on the books either. I cannot see the strength of Hon P.G. Pendal's argument at all.

Amendment put and a division called for.

Bells rung and the Committee divided.

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

Division resulted as follows -

Ayes (9)		
Hon Max Evans	Hon N.F. Moore	Hon John Williams
Hon Barry House	Hon Neil Oliver	Hon D.J. Wordsworth
Hon A.A. Lewis	Hon P.G. Pendal	Hon W.N. Stretch (<i>Teller</i>)

Noes (12)		
Hon J.M. Berinson	Hon Tom Helm	Hon Doug Wenn
Hon J.N. Caldwell	Hon Robert Hetherington	Hon Fred McKenzie
Hon H.W. Gayfer	Hon B.L. Jones	(<i>Teller</i>)
Hon John Halden	Hon Garry Kelly	
Hon Kay Hallahan	Hon Mark Nevill	

Pairs		
Ayes		Noes
Hon P.H. Lockyer		Hon D.K. Dans
Hon C.J. Bell		Hon J.M. Brown
Hon Margaret McAleer		Hon S.M. Piantadosi
Hon G.E. Masters		Hon Graham Edwards
Hon Tom McNeil		Hon T.G. Butler
Hon E.J. Charlton		Hon Tom Stephens

Amendment thus negatived.

Clause put and passed.

Clauses 26 to 39 put and passed.

Clause 40: Review by President of certain sentences -

Hon KAY HALLAHAN: I move -

Page 20, lines 1 to 5 - To delete subclause (3) and substitute the following -

(3) Where an application has been made under this section for reconsideration of a sentence of detention, an application may be made to the Court under the *Bail Act 1982* by or on behalf of the child and, if such an application is made, section 8 of that Act applies as if the consideration of bail

for the purposes of this section were a first consideration of bail for an offence.

This subclause achieves consistency with the Bail Act which will have been proclaimed by the time this Bill becomes law. I ask members to support the amendment in order to achieve that consistency.

Hon P.G. PENDAL: The Opposition has no difficulty with this amendment. However I ask the Minister what is the difference between this amendment and what is contained in the original Bill? My understanding is that clause 3 in the original Bill already gives the court power if a child applies, or someone applies on the child's behalf, for release of the child upon bail under conditions which the court thinks fit. What is the difference between that and the new amendment?

Hon KAY HALLAHAN: The difference will be that under section 8 of the Bail Act, provision will be made that a child must be advised on rights to bail and must be provided with application forms for bail.

Hon P.G. Pendal: Then that is no more than ensuring that a child's right to bail is entrenched even further into the Act than is currently envisaged by subclause 3.

Hon KAY HALLAHAN: It ensures that the normal provisions apply. It also brings that consistency across from the Bail Act. We are entrenching that.

Amendment put and passed.

Hon KAY HALLAHAN: I move -

Page 20, lines 9 to 14 - To delete subclauses (5) and (6) and substitute the following subclause -

- (5) Subject to subsection (6), where an appeal is instituted under section 41 in respect of the original order -
- (a) no application under this section may subsequently be made; and
- (b) any application made under this section and not finally determined when the appeal is instituted under section 41 shall be deemed to be withdrawn.

The deletion of subclauses (5) and (6) and substitution of a new subclause is in response to comments made by the Law Society that the right of appeal to the Supreme Court is more important than the right to seek a review by the president, and that the clauses previously constituted would have allowed the use of the review provisions but deny the right of appeal. The redrafted provisions safeguard the rights of appeal in all circumstances. The Law Society made this very clear. On consideration of the point of view put forward we are of the mind that the society was quite right that we would be very wise indeed to safeguard that right of appeal as it relates to care and protection orders. It would have been a mistake to only have review provisions within the Children's Court and to have denied access to the higher courts.

I ask members to support this amendment.

Hon P.G. PENDAL: Is the Minister suggesting that we are now ensuring the right of the child to appeal, not to the new judge of the Children's Court, but to the Supreme Court if that is the child's choice?

Hon Kay Hallahan: That is correct.

Hon P.G. PENDAL: I know that we are not allowed to discuss clauses other than the one being discussed by the Committee. However, I understand that the right of appeal from an order of the president to the Supreme Court appears in clause 43(4). Does that not ensure that the child's rights are protected? The Opposition has an amendment to clause 42 and, even though the Committee cannot discuss that now, I would like to hear the Minister's attitude on it because I believe we are talking about the same matters.

Hon KAY HALLAHAN: Clause 40 refers to sentences and clause 43 refers to care and protection applications. They are different matters.

Hon P.G. Pendal: Of course. Our amendment addresses that question.

Hon KAY HALLAHAN: I will not be supporting the member's amendment to clause 42. I believe there is confusion between the two. I will be happy to explain that when we get to clause 42.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 41 put and passed.

Clause 42: Order to review certain decisions of Court -

Hon P.G. PENDAL: I move -

Page 21, line 22 - To delete "to a Judge of the Supreme Court, sitting in court or chambers".

We believe our amendments will be helpful to the court's powers and also fundamental to the argument that the Government has put about the need to have the court as much a self contained unit as possible where, to the maximum degree, it is the master of its own destiny. Our first amendment suggests the power of the President of the Children's Court to review sentences should also be extended to a power to review care and maintenance orders. The amendments would provide for Child Welfare Act orders to be reviewed by the president in the same way that sentences are to be reviewed by him. As I said earlier, a right of appeal on an order from the president to the Supreme Court appears in a later clause. I am interested to hear why the Minister does not see value in the amendments.

Hon H.W. GAYFER: Mr Pendal is attempting to take the right of appeal from the Supreme Court and substitute it with the right of appeal to the president. I believe he is attempting to take away the right of an individual to have access to the higher court, which is a retrograde step.

Hon P.G. PENDAL: I assure Mr Gayfer that that is not the effect of my amendment. The clause refers to the capacity of the court to review certain decisions. The president will have the power to review certain things but not everything. We suggest that the president should have the power to review matters other than sentences to do with care and maintenance orders.

Hon Kay Hallahan: They are not maintenance orders; they are care and protection orders.

Hon P.G. PENDAL: I beg the Minister's pardon. We want him to have the power to do that but, at the same time, preserve the very point that Mr Gayfer referred to - that is, no rights of appeal to the Supreme Court would be touched by this amendment. We are talking only about the internal activities of the Children's Court and at the behest of the new president.

Hon KAY HALLAHAN: The member is confused. There is no president yet.

Hon P.G. Pendal: I know that.

Hon KAY HALLAHAN: The member referred to "the behest of the new president". There is no such person yet. I want to clarify that because it seems that the member is actually seeking to achieve the reverse of that which we previously safeguarded - the right of appeal to the higher court. It is a complex area. There is a right of review by the president of the court in relation to sentences. A care and protection application is not a sentence, it is a finding and there is no provision for the findings to be reviewed by the president because, at present, no options are available to the president in that regard for a range of other orders. That is the reason the appeal must go directly to the Supreme Court. A range of options on orders will be the subject of a large review to which I have referred members in some other clauses. The results of that review will be back here in 1989 or 1990. The review will consider some of the complicated issues. I assure the Committee that the Law Society will not support the amendment. To cut off a right of appeal to the Supreme Court, as distinct from the president, would be a retrograde step.

Hon P.G. Pendal: I agree, but that is not what the amendments do.

Hon KAY HALLAHAN: My advice is that Hon Phillip Pendal's amendment does that and that is what worries me. I am asking members of the Committee to vote against the amendment.

Hon P.G. PENDAL: If there is any confusion I can assure the Committee that it exists in the

mind of the Minister. My amendment, if passed, would mean that the president of the court would be able to review the care and protection orders in exactly the same way as he will be able to review sentences. As to the question about the person's right to be heard by a higher court, I have already indicated that that applies in clause 43(4) which we will debate shortly, and that right which Mr Gayfer correctly identified is fully protected.

I come back to what we are trying to achieve. Unless this amendment is passed the president of the court will be limited in what he is able to review. He has been able to review certain decisions of the court under clause 42 up until now. He is able to review the sentences, but he cannot review the care and protection orders that are subject to the Child Welfare Act. The amendment I have moved will allow the president the full range of review. It will extend the president's power to review rather than the other way around, which is what the Minister thought was the case.

Hon KAY HALLAHAN: I may have misled the Committee in what I said and it was quite unintentional. This matter is very complicated and we will have to bear with one another. Clause 42 relates to where a magistrate hears the case in the first instance. Clause 43(4) deals with a judge having heard the case in the first instance. There is a difference. Hon Phil Pental's amendment will deny direct access to appeal to the Supreme Court. I take back what I said previously because Hon Phil Pental is saying where the magistrate hears the case there can be no direct appeal to the Supreme Court. In effect we are taking away a right to that extent. It would be necessary to go to a review by the president of the Children's Court.

Hon P.G. Pental: Of virtually everything the magistrate has dealt with and that is what we are saying. At the moment the judge is limited in what he can review by way of the magistrate's actions.

Hon KAY HALLAHAN: I am afraid that what the honourable member is trying to do is to complete a simple exercise in a complex Bill. If we were to support what he is trying to achieve we will have to move a range of other amendments. I am not convinced they are of great benefit. It is a safeguard to provide an opportunity for people concerned to appeal to the Supreme Court. I am not sure we should put another obstacle in the way. This clause has been included in the legislation because we are dealing with young people, and the defendant or the prosecution should have quick access to the review process. We should not institute a process which requires a person to go down that route before appealing to the Supreme Court, and that is the effect of the member's amendment. I am strongly of the view that members of the Committee should defeat the amendment before the Chair, but I make the point that we certainly would take the matter up in a full review of the legislation.

Hon JOHN WILLIAMS: Like Hon H.W. Gayfer I find it a little confusing, but I find the answer quite simple. We are talking about a process which is written into the law in senior courts; that is, that there is a right of appeal. What we are trying to do is simple; that is, to ensure that in every case there is a right of review and a right of appeal. If a magistrate passes a sentence there is available to the defendant a right of review of the sentence by the judge. If the defendant is not satisfied with that he can appeal to the Supreme Court. If the facility were not available to do that it would mean that there is a cut-off point. Care and protection orders may be the same insofar as a case is heard by the judge or the president and he decides whether an order should be placed on a person for three years' care and protection. The party concerned may want to appeal against that decision to the Supreme Court. Perhaps the Crown will want the period extended to five years and the defendant may want it reduced to two years.

We should have in built in the system the stages of appeal that are available in other courts; that is, if the defendant appears before a stipendiary magistrate's court he has the right of appeal to another court.

Hon Kay Hallahan: Yes, the higher court.

Hon JOHN WILLIAMS: From the Supreme Court there is a right of appeal to the High Court. What is inconsistent with the Bill is the stages of the right of appeal. The Minister wants that right of appeal to the Supreme Court upheld, but I believe it should be at every stage and not at one stage only.

Hon KAY HALLAHAN: In some ways this is a dangerous path to go down. We have a new institution in our procedure of a judge within the Children's Court. We have not had

that before. This legislation will give the judge the right to review sentences and it is a good thing because we are dealing with juveniles and it is important that their cases are dealt with quickly. We are not achieving much if we then enforce into the system a review by a judge within the same court before people can proceed to the Supreme Court.

We are doing something that is too premature in the establishment of this court. If, after it has operated for two or three years, it is considered a good thing to do, I would be persuaded by it. At this stage it is not a good thing to do and we should retain some flexibility in a trial period of perhaps 12 months and then consider whether the proposition before the Chamber should be included in the legislation. One cannot argue about consistency because the judge is within that court and a case cannot be referred to a higher court per se. It is tempting to refer to it as comparable, but it is not. We should retain the ability to appeal directly to the Supreme Court, which is the case with the Children's Court at present. We would be making it more complicated than what already exists in a system which we agree is complicated and unsatisfactory. I cannot imagine the reason that we would want to take away one of the good things from that system and, therefore, I ask members to vote against the amendment.

Hon JOHN WILLIAMS: I am not arguing that at all. Are there not in the Children's Court from time to time cases which come under the Criminal Code?

Hon Kay Hallahan: Yes.

Hon JOHN WILLIAMS: We have to have those steps of justice right up to the Supreme Court for appeal, otherwise we are denying natural justice.

Hon Kay Hallahan: We are talking about care and protection.

Hon JOHN WILLIAMS: Care and protection is as much a sentence as gaol to some people. A care and protection order placed upon a child is a sentence.

Hon Kay Hallahan: That is not the case.

Hon JOHN WILLIAMS: I know that the Minister will say that it is an order, but in making that order, even with the best will in the world - perhaps the child is imperilled in its surroundings and the court must take it from its natural parents or its foster parents or whatever - the court is imposing a sentence. If a sentence is to be imposed, it must be seen to be just in every respect. I know a care and protection order is dressed up language, but a child may commit an offence under the Criminal Code and it may be decided that possibly the best thing that could happen to the child would be for it to be taken from its environment and put in care and protection.

Hon Kay Hallahan: That is not the case. These Acts are about separating criminal justice from welfare issues.

Hon JOHN WILLIAMS: I cannot get away from the fact that when a court alters the course of a person's life it is not just passing an order, it is passing a sentence. It is just as binding as sending a person to gaol for six months. It is the same justice.

Hon Kay Hallahan: It is not to do with justice.

Hon JOHN WILLIAMS: If we are not talking about justice, why are we calling it a court? It is where fairminded people meet under a certain set of laws to look at a particular case. It seems to be inconsistent with the fact that by using a double language we are in danger of endangering the person or persons who are being ordered or committed. I do not see any worries about putting it in now; it may never be used.

Hon Kay Hallahan: That is too hazardous a way to go.

Hon JOHN WILLIAMS: That is the Minister's opinion. To me, it is a simple and logical explanation.

Hon P.G. PENDAL: Hon John Williams is quite right. The Minister started off five minutes ago in a conciliatory mood but she has become less conciliatory as the debate has become more complicated. Clause 42 at present limits what a judge of the Children's Court can do. Without cutting off a child's right to be heard in a higher court, the judge whom this Government wants to appoint to the Children's Court should have the right to review not only sentences, but also care and protection orders. Mr Williams was quite right when he said that a care and protection order, whether called a penalty or a decision of the court, is an

imposition on a child. The Bill actually calls it a decision of the court and that terminology is in the heading of the clause.

A court may decide to sentence a child to a certain penalty. Under the amendment that we are moving that would be reviewable by the president. In addition, if the court decides to make the child the subject of a care and protection order, that too would be subject to the judge of the Children's Court being able to review the decision. To use one of Mr Williams' words, consistency demands that we pass the Opposition's amendment. It is quite pointless for the Minister to read all sorts of diabolical things into this amendment. It is not only very learned people and Parliamentary Counsel on the Government's side who have a chance to look at the legislation. That opportunity exists outside the Government service as well. I repeat that on their advice the president's power to review decisions of the court will be limited under the Government's proposals. Under our proposals the president will be able to review not only sentences, but also those decisions which impose a care and protection order on a child. I commend the amendment.

Hon KAY HALLAHAN: I make it clear to the Committee that what the honourable member presumes is the case is in fact not the case and it is not as simple as he sees it. It is a very complex area. I refer to one area in which the consistency to which Hon John Williams refers does not exist. I suggest Hon Phillip Pendal also thinks it exists. The president, for example, cannot review a sentence if there has been a guilty plea. That would have to go on appeal to the Supreme Court. So there is not what the honourable member seems to perceive as some logical step from magistrate to review by the president to the Supreme Court. The construct which honourable members have in their minds simply does not exist. I do not blame members for wanting to make logical constructs of things because it is by doing that that we make sense of it.

It is not a care and protection order; it is a finding that a child is in need of care and protection. The order will then be that the child be placed under care of the department or of wardship, or other options may be taken. If there is a finding that a child is in need of care and protection, an order is made. Some concepts are getting confused. Given the way that we are debating this clause, it more and more points out to us that the amendment put forward was not comprehensively thought through. Because of that, I would very much like the Committee to vote against it.

Hon P.G. PENDAL: At the moment, the president will have the power to review sentences. Under this proposal, the president will not have the power to review care and protection orders. We seek to give the president that all embracing power to be used in accordance with the Act.

A new point the Minister raised, however, was the business of where Hon John Williams and I are apparently going astray in our concept with respect to the president and the new Children's Court. That is because the Government has decided to put that in the Bill. At the moment we have a Children's Court, the highest officer of which is a magistrate, and there are judges in the Supreme Court and the District Court. The Government has made the decision to integrate into the courts a judge in order to overcome many of the difficulties that we are getting at. It is rather a matter of pride now that the Government cannot say, "Well, yes; a matter has been identified which would actually militate against what the Government is trying to do". That will make the position of judge meaningful within the new Act. If the Minister cannot accept that the judge would have an all embracing role to review, we might as well doubt the value of having a judge in the Children's Court, and go back to the existing situation; that is, a level of magistrate and the right of people to appeal to a higher court. The amendment is worthy of support and I hope the Committee will support it.

Hon KAY HALLAHAN: I need to clarify what I said a moment ago because I may have used a wrong word. I think I said that the president cannot review a case in which there has been a sentence on a plea of guilty. I should have said that if a person pleads not guilty, is found guilty and is sentenced, the judge can review the sentence but the person cannot appeal to the president against the guilty verdict. If we accept the amendment proposed by Hon Phil Pendal, without further amendments to clause 43(4), a serious situation would arise in that an appeal could not go beyond the judge to the Supreme Court. I said that the amendment was not comprehensive enough - and that was the obstruction in the partial proposal which Hon Phil Pendal has put before the Committee - and it would cut off the appeal to the Supreme

Court. The more we go on, the more I am convinced that this amendment should not be passed.

Hon P.G. PENDAL: The Minister is now clutching at straws; she has moved the argument from her earlier weak remarks to comments on what clause 43(4) does or does not provide. The right of appeal from the order of the president to the Supreme Court is preserved under the provisions of clause 43(4). This amendment will not interfere with that right. In clause 42 the Opposition is arguing that within the Children's Court - forgetting the Supreme Court and without in any way affecting the person's right to go to the higher court - we should at least make the president's job all embracing so that he is not just reviewing sentences but is also reviewing care and protection orders. By voting that way we shall in no way reflect on or adversely affect a person's right to go to the Supreme Court later. The Minister does not accept that.

Hon KAY HALLAHAN: The member is dead right, I do not accept that.

Hon P.G. Pendal: You admitted you misunderstood it and you are being pig headed.

Hon KAY HALLAHAN: That is not true. I have tried to be honest and to clarify the language. It is obvious that members opposite are not as clear on this point as I am, and I do not want to confuse the matter further. Having reviewed clause 42, clause 43(4) will not provide for an appeal from an order of the president. A new paragraph (d) would have to be included to allow that but at the moment it has not been drafted and is not included in the Bill. Clause 43(4) states, "Subject to this Act, when constituted by or so as to include a Judge, makes any finding, order or other decision . . ." The reference made by Hon Phil Pendal does not include a judge and that is why I am worried about ad hoc amendments. The member seems determined to make an error and I wish I could persuade him otherwise.

Hon JOHN WILLIAMS: Why not include an umbrella clause which states that every case heard in the Children's Court shall be appealable? Maybe there is some mechanism whereby sentences or orders in all cases appearing before the Children's Court could be made subject to review by either the president and/or the Supreme Court. People would then have the right to go where they chose.

Hon H.W. GAYFER: Do the comments made by Hon John Williams suggest that he doubts that the right of appeal to the Supreme Court exists? It seems to me that the amendment will take away a basic right to justice; that is, an appeal to the Supreme Court. The clause will allow instead that a review can be made by the President of the Children's Court. I am horribly scared of the Opposition's amendment. It is a very learned argument which is going over my head, but a basic principle is involved in layman's language - which I use so often - and it appears the child would have more protection with the right of appeal to the Supreme Court than by right of appeal to the President of the Children's Court. Is the Opposition including an amendment which would be a stepping stone, while retaining the other provision, if required?

Hon P.G. PENDAL: Under the provisions of clause 43(4), which we have not yet reached, the right of appeal to the Supreme Court is protected; the Opposition is not interested in interfering with that. We are dealing with clause 42, which is intended to give the President of the Children's Court the right to review sentences of the Children's Court, which is what the Government wants and we agree with, but we want to extend that so that the president has the power to review care and protection orders of the Children's Court. Finally, I make the point that we are seeking to add to a person's rights and not to subtract from them. That is quite explicit, both here and later in clause 43(4).

Hon KAY HALLAHAN: I accept that what Hon Phillip Pendal wants to do is not reduce any rights. Unfortunately, in clause 43(4) that appeal can only go to the Supreme Court when the judge has heard the case in the first instance. So it is not a safeguard for other cases that he thinks it is. By focusing on that clause Hon Phillip Pendal focuses on the very weakness of his argument, so I ask the Committee to vote against his amendment.

Amendment put and a division called for.

Bells rung and the Committee divided.

The CHAIRMAN: Before the tellers tell I give my vote with the Ayes.

Division resulted as follows -

Ayes (11)

Hon J.N. Caldwell
Hon Max Evans
Hon H.W. Gayfer

Hon Barry House
Hon A.A. Lewis
Hon N.F. Moore

Hon Neil Oliver
Hon P.G. Pendal
Hon John Williams

Hon D.J. Wordsworth
Hon W.N. Stretch
(Teller)

Noes (10)

Hon J.M. Berinson
Hon John Halden
Hon Kay Hallahan

Hon Tom Helm
Hon Robert Hetherington
Hon B.L. Jones

Hon Garry Kelly
Hon Mark Nevill
Hon Doug Wenn

Hon Fred McKenzie
(Teller)

Pairs

Ayes

Hon P.H. Lockyer
Hon C.J. Bell
Hon Margaret McAleer
Hon G.E. Masters
Hon Tom McNeil
Hon E.J. Charlton

Noes

Hon D.K. Dans
Hon J.M. Brown
Hon S.M. Piantadosi
Hon Graham Edwards
Hon T.G. Butler
Hon Tom Stephens

Amendment thus passed.

Hon P.G. PENDAL: I move -

To substitute the words "the Court constituted by the President".

Amendment put and a division called for.

Bells rung and the Committee divided.

The CHAIRMAN: Before the tellers tell I give my vote with the Ayes.

Division resulted as follows -

Ayes (11)

Hon J.N. Caldwell
Hon Max Evans
Hon H.W. Gayfer

Hon Barry House
Hon A.A. Lewis
Hon N.F. Moore

Hon Neil Oliver
Hon P.G. Pendal
Hon John Williams

Hon D.J. Wordsworth
Hon W.N. Stretch
(Teller)

Noes (10)

Hon J.M. Berinson
Hon John Halden
Hon Kay Hallahan

Hon Tom Helm
Hon Robert Hetherington
Hon B.L. Jones

Hon Garry Kelly
Hon Mark Nevill
Hon Doug Wenn

Hon Fred McKenzie
(Teller)

Pairs

Ayes

Hon P.H. Lockyer
Hon C.J. Bell
Hon Margaret McAleer
Hon G.E. Masters
Hon Tom McNeil
Hon E.J. Charlton

Noes

Hon D.K. Dans
Hon J.M. Brown
Hon S.M. Piantadosi
Hon Graham Edwards
Hon T.G. Butler
Hon Tom Stephens

Amendment thus passed.

Hon P.G. PENDAL: Amendment (g) is part of everything we have been talking about, and I move -

Page 21, lines 23 to 27 - To delete ", and the provisions of the *Justices Act 1902* apply as if the finding order, or decision were a decision within the meaning of section 197 of that Act and the applicant for the order to review were the appellant within the meaning of that section."

Amendment put and a division called for.

Bells rung and the Committee divided.

The CHAIRMAN: Before appointing tellers, I cast my vote with the Ayes.

Division resulted as follows -

Ayes (11)			
Hon J.N. Caldwell	Hon Barry House	Hon Neil Oliver	Hon D.J. Wordsworth
Hon Max Evans	Hon A.A. Lewis	Hon P.G. Pendal	Hon W.N. Stretch
Hon H.W. Gayfer	Hon N.F. Moore	Hon John Williams	(Teller)
Noes (10)			
Hon J.M. Berinson	Hon Tom Helm	Hon Garry Kelly	Hon Fred McKenzie
Hon John Halden	Hon Robert Hetherington	Hon Mark Nevill	(Teller)
Hon Kay Hallahan	Hon B.L. Jones	Hon Doug Wenn	

Pairs	
Ayes	Noes
Hon P.H. Lockyer	Hon D.K. Dans
Hon C.J. Bell	Hon J.M. Brown
Hon Margaret McAleer	Hon S.M. Piantadosi
Hon G.E. Masters	Hon Graham Edwards
Hon Tom McNeil	Hon T.G. Butler
Hon E.J. Charlton	Hon Tom Stephens

Amendment thus passed.

Clause, as amended, put and passed.

Clauses 43 to 53 put and passed.

Schedule I put and passed.

Title put and passed.

Bill reported, with amendments.

AGRICULTURE BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Kay Hallahan (Minister for Community Services), read a first time.

Second Reading

HON KAY HALLAHAN (South East Metropolitan - Minister for Community Services) [10.29 pm]: I move -

That the Bill be now read a second time.

The establishment of the Bureau of Agriculture in 1894 provided the people of Western Australia with the first agricultural services. These were so successful that the Department of Agriculture was soon after - in 1898 - created as an official arm of the Government under the control of the Minister for Lands. This arrangement persisted until 1904 when official recognition of agriculture in the portfolio of the Minister was documented.

The growth of a range of new activities at the turn of the century saw the agency become the Department of Agriculture and Industries in 1910. Many of these industries were, naturally enough, centred on agricultural enterprises. They included the Albany Cold Storage Works, the metropolitan and the Kalgoorlie abattoirs, the Perth State Markets and the State Dairy Farm. Other more general industries - the State Saw Mills, the State Brick Works and the State Implement Works - were also flourishing at that time. Undoubtedly, concern within Government circles about the possible lack of sufficient financial controls on industries run by State agencies led to the promulgation of the Government Trading Concerns Act in 1912.

Essentially, this Act required Government trading undertakings to keep proper books of accounts for parliamentary scrutiny. *Hansard* records show that some parliamentarians believed the 1912 Act would lead to a proliferation of State enterprises under the guise of requiring audit accounting procedures. This worry led to the introduction in November 1916, after a change of Government, of a Bill to repeal the Government Trading Concerns Act and to establish a new Act under which no new trading concerns could be established without the consent of Parliament.

In the final stages of the 1916 debate, the then Labor Opposition suggested that the real reason for the introduction of such stringent measures was to prevent any future Government from establishing trading concerns at will. As it was eventually proclaimed, the new Act provided, and still provides, that a department of the Public Service cannot undertake activities "with a view to making profits or producing revenue or competing with any trade or industry now and to be hereafter established" without parliamentary authorisation.

Many of the services offered by the Department of Agriculture to rural communities fall under at least two of the three restricting provisions of the State Trading Concerns Act 1916 as it was then enacted. These restrictions apply today. The irony of the situation is that, despite nearly 100 years of successful operation, the Department of Agriculture is not authorised to operate under its own Act. In fact, it has no mandate, no role and no mission spelt out by the Parliament.

It is time, in this day and age when Governments are increasingly calling for accountability, for the department to have a statement of what it is to be accountable for. Many of the department's current operations, which I am sure most people would support, are in fact being conducted illegally because the department has no charter. The Government does not intend to set up the Department of Agriculture as a trading concern in competition with private enterprise. In fact, the opposite could be said to be the case.

There is now an ever increasing range of agricultural services being offered by consultants and other groups, extending from advisory farm management services to diagnostic laboratories and research enterprises. In such a marketplace, it would be foolish not to begin to turn the attention of Government agricultural services to new areas, maintaining present services where these are not adequately provided by the private sector. But such a change in direction is strictly prevented by the State Trading Concerns Act, the requirements of which can be met only by parliamentary authorisation of the functions of the Department of Agriculture.

Cabinet has had these matters under consideration for the past several years. In April 1986, it directed that a committee be established to investigate and report on the most appropriate means of addressing the issues, including financial aspects arising from the promulgation of the Financial Administration and Audit Act 1985. The committee was of the unanimous opinion that -

a new Statute, establishing the Department of Agriculture as a department under the Public Service Act, should be prepared;

the proposed Statute should provide corporate powers for the chief executive officer, subject to the Minister;

the Statute should provide powers for the chief executive officer to administer the department and to support Government by the provision of a range of fee-for-service activities and by exploitation of intellectual property;

the department should be subject to the Financial Administration and Audit Act, with recognition of special intradepartmental activities, by way of administrative procedures; and

patents for intellectual property developed by officers of the Department of Agriculture should be held and exploited by the body corporate.

The Agriculture Bill gives effect to the views of the committee. It provides the statutory basis for a modern Department of Agriculture, to be progressively and appropriately redesigned to service rural communities in the late 1900s. It does not provide for radical change of the type introduced in some Eastern States departments of agriculture which are not yet of proven benefit.

As the Minister for Agriculture has said, the department has operated effectively for nearly 100 years without being held accountable under any specific Statute. In many ways it would be possible to question why it is necessary to change that situation. The department needs an Act to ensure that it operates within other laws, and in accordance with the wishes of Parliament. The Bill provides its manifesto. It provides a broad framework on which new and appropriate specific activities can be generated within the broad functions spelt out in the legislation. It obviates potential conflict with the State Trading Concerns Act.

The provision of corporate powers for the chief executive officer, subject to the direction and control of the Minister, will simplify the processes necessary to carry out the functions of the department, functions which in a broad sense have not been changed for many years.

The Bill provides for a review of the Act after five years of operation. While this is nowadays a regular inclusion in most legislation, it has particular relevance in this case. Since its inception almost 100 years ago the functions of the department have remained virtually unchanged. While review is an integral part of the corporate planning process now being put into place for the department, it would be appropriate for Parliament to be advised.

In conclusion, the Agriculture Bill sets the scene for the future growth of the Department of Agriculture. I commend the Bill to the House.

Debate adjourned, on motion by Hon W.N. Stretch.

PARLIAMENTARY TIMES OF SITTING

Extended Beyond 11.00 pm

HON J.M. BERINSON (North Central Metropolitan - Leader of the House) [10.35 pm]: I move --

That the Sessional Order regarding adjournment of the Council be suspended to allow business to be taken after 11.00 pm.

I indicate in moving this that I do not propose to have the House sit late this evening, but I would like the opportunity to be given for at least some reasonable debate on the second reading of the Acts Amendment (Children's Court) Bill.

Question put and passed with an absolute majority.

ACTS AMENDMENT (CHILDREN'S COURT) BILL

Second Reading

Order of the Day read for the resumption of debate from 23 August.

Question put and passed.

Bill read a second time.

House adjourned at 10.37 pm.

QUESTIONS ON NOTICE

THIRD PARTY INSURANCE - ROAD ACCIDENTS

Extended Cover

211. Hon P.G. PENDAL to the Leader of the House representing the Treasurer:

- (1) Has consideration ever been given to extending third party insurance cover from personal injury to the damage to vehicles involved in traffic accidents?
- (2) If not, will the Minister undertake to have such an extended third party insurance scheme considered for implementation?

Hon J.M. BERINSON replied:

- (1) Yes.
- (2) Not applicable.

GOVERNMENT PUBLICATIONS - "PUTTING FAMILIES FIRST"

Production Costs

220. Hon N.F. MOORE to the Leader of the House representing the Premier:

- (1) What was the total cost of producing the booklet "Putting Families First - A Social Strategy for Western Australia"?
- (2) How many of these booklets have been produced?

Hon J.M. BERINSON replied:

- (1) The total cost of the document has not yet been finalised.
- (2) Thirty thousand booklets were printed.

DORENDORF, MS LINDA - ABORIGINES

Yes Case - Government Promotions

222. Hon N.F. MOORE to the Leader of the House representing the Premier:

- (1) By whom is Linda Dorendorf being paid to promote the yes case for the Government amongst Aboriginal communities for the referendum to be held on 3 September?
- (2) Which Aboriginal communities have already been visited by Ms Dorendorf and which others are to be visited by her?
- (3) What is the total of travel and accommodation costs incurred for Ms Dorendorf, including hire car charges?
- (4) From what source is printed information being paid for the purposes of the promotion of the yes case for the Government, associated with Ms Dorendorf's visit to these Aboriginal communities?
- (5) What is the total cost involved for the printed information as outlined in part (4)?
- (6) Who is Ms Dorendorf's regular employer and what position does she hold?

Hon J.M. BERINSON replied:

(1)-(6)

Ms Dorendorf is employed by the member for Kimberley and she is paid by non Government sources.

MEMBERS OF PARLIAMENT - OFFICIAL CARS

226. Hon N.F. MOORE to the Leader of the House representing the Premier:

- (1) Which members of Parliament are provided with a motor vehicle by the Government and what is the reason in each case?
- (2) Which of the above members are entitled to the services of a Government provided driver?

Hon J.M. BERINSON replied:

(1)-(2)

The member would be aware that the Government maintains a vehicle fleet and pool of chauffeurs for use by members, parliamentary office holders, official guests of the State, the Ministry of the Premier and Cabinet and for other approved purposes which arise from time to time. If the member has a query about the use of a particular vehicle or access to the garage facilities, he should put it in writing and I will arrange to have it investigated.

PRISONERS - FREMANTLE PRISON

Drug Users

269. Hon G.E. MASTERS to the Minister for Corrective Services:

- (1) How many known drug users are there in Fremantle Gaol?
- (2) What are the most used drugs?
- (3) How are the drugs obtained by prisoners?

Hon J.M. BERINSON replied:

- (1) Any known instances of illicit drug use or trafficking of drugs in prisons result in charges being laid under the relevant legislation. In the 12 months to 23 August 1988, a total of 11 charges were laid under the Prisons Act 1981 at Fremantle Prison for unlawful drug use.
- (2) Prescription drugs.
- (3) Various methods have been detected in the past. For security reasons it would not be appropriate to provide details.

STATE GOVERNMENT INSURANCE COMMISSION

Insurance Charges

275. Hon P.H. LOCKYER to the Leader of the House representing the Treasurer:

With regard to the record profit of the SGIC, what steps has the Government taken to lower the SGIO insurance rates in Western Australia?

Hon J.M. BERINSON replied:

None. Section 7(6) of the State Government Insurance Commission Act 1986 prevents the Insurance Commission from doing anything which confers an unfair commercial advantage on the Insurance Corporation which trades as SGIO.

ABORIGINAL ART - STATE GOVERNMENT

Louis Allen Collection

281. Hon P.G. PENDAL to the Leader of the House representing the Minister for The Arts:

What was the date on which the Government was first approached to buy the Louis Allen collection of Aboriginal art?

Hon J.M. BERINSON replied:

In December last year the Government became aware that the Robert Holmes a Court collection had been offered the Louis Allen collection of Aboriginal art. The Government was provided with a full catalogue of all works in the Louis Allen collection and satisfied itself with respect to the authenticity, condition and value of the works. Ann-Marie Brody, Curator of Aboriginal Art for the Robert Holmes a Court collection and a recognised authority, had personally checked each item in the Louis Allen collection and described the collection as a "superb acquisition for Western Australia". Negotiations were then commenced with Mr Louis Allen himself. The Government requested

Mr Roderick Anderson, then Curator of Art with the Robert Holmes a Court collection, to act as its agent.

The then Premier, after consultation with the Minister for The Arts and the Minister for Aboriginal Affairs, approved the purchase through a special allocation under the Miscellaneous Services vote. The Chairman of the Board of the Art Gallery, Mr Robert Holmes a Court, as Mr Anderson's employer, was aware of the intended purchase. The purchase of the collection was concluded on 18 February, after all works had been checked and packaged. The owners of the collection at the time of purchase were Mr and Mrs Louis Allen. Mr Anderson received no payment or commission at all for his services. The negotiations for the acquisition were conducted quickly as several institutions were interested in acquiring various works from the collection and there was a strong possibility that the collection would be split up. The Government is proud to have acquired this outstanding collection and to be returning it to Australia. It will be an asset of great significance and growing value to the State.

ABORIGINAL ART - STATE GOVERNMENT

Louis Allen Collection

282. Hon P.G. PENDAL to the Leader of the House representing the Minister for The Arts:

- (1) Who was first approached within the Government to purchase the Louis Allen collection of Aboriginal art?
- (2) Who made that approach to the Government?

Hon J.M. BERINSON replied:

See reply to question 281.

ABORIGINAL ART - STATE GOVERNMENT

Louis Allen Collection

283. Hon P.G. PENDAL to the Leader of the House representing the Minister for The Arts:

When the Government was first approached about the possible purchase of the Louis Allen collection of Aboriginal art -

- (1) To whom was the matter referred in order to get opinion on its artistic and financial value?
- (2) Why was the WA Art Gallery and its director, Mrs Churcher, not consulted?

Hon J.M. BERINSON replied:

See reply to question 281.

ABORIGINAL ART - STATE GOVERNMENT

Louis Allen Collection - Purchase Price

284. Hon P.G. PENDAL to the Leader of the House representing the Minister for The Arts:

- (1) In the matter of the Louis Allen art collection, which account did the \$2.1 million purchase price come from?
- (2) Was the Premier and/or the Minister for Budget Management consulted on -
 - (a) the purchase; and
 - (b) the approval to release funds for the purchase?

Hon J.M. BERINSON replied:

See reply to question 281.

ABORIGINAL ART - LOUIS ALLEN COLLECTION OF ABORIGINAL ART

Owner - Negotiator

286. Hon P.G. PENDAL to the Leader of the House representing the Minister for The Arts:

In the matter of the purchase for \$2.1 million of the Louis Allen collection of Aboriginal art -

- (1) Who was the owner of the collection at the time of its sale to the WA Government?
- (2) Who was the principal negotiator acting on behalf of the vendor?

Hon J.M. BERINSON replied:

See reply to question 281.

ABORIGINAL ART - LOUIS ALLEN COLLECTION OF ABORIGINAL ART

Commission

287. Hon P.G. PENDAL to the Leader of the House representing the Minister for The Arts:

In the matter of the Louis Allen collection of Aboriginal art, will she reveal the commission involved in the \$2.1 million purchase and the name of the person who received that commission?

Hon J.M. BERINSON replied:

See reply to question 281.

ABORIGINAL ART - STATE GOVERNMENT

Louis Allen Collection - Date Purchased

289. Hon P.G. PENDAL to the Leader of the House representing the Minister for The Arts:

On what date did the Government conclude the purchase of the Louis Allen collection of Aboriginal art?

Hon J.M. BERINSON replied:

See reply to question 281.

ABORIGINAL ART - LOUIS ALLEN COLLECTION OF ABORIGINAL ART

Henderson, Hon Yvonne

290. Hon P.G. PENDAL to the Leader of the House representing the Minister for The Arts:

- (1) What steps did she take to determine just what portion of the Louis Allen collection of Aboriginal art was included in the purchase, ultimately concluded at a price of \$2.1 million?
- (2) From whom did she seek that information?

Hon J.M. BERINSON replied:

See reply to question 281.

ABORIGINAL ART - LOUIS ALLEN COLLECTION OF ABORIGINAL ART

Bridge, Hon Ernest

291. Hon P.G. PENDAL to the Minister for Community Services representing the Minister for Aboriginal Affairs:

- (1) Is the Minister aware of the purchase, for \$2.1 million, of the Louis Allen collection of Aboriginal art?
- (2) Did he become involved in the matter in any way during this year?

- (3) Is it correct that he has sought, or has suggested someone else seek, the full catalogue encompassing the purchase?
- (4) Has he discussed the matter with any other Minister and if so for what purpose?

Hon KAY HALLAHAN replied:

- (1) Yes.
- (2) My office was consulted on the matter.
- (3) A catalogue was made available for my perusal.
- (4) Discussions did take place between my office and the Department of the Premier.

TOURISM - WESTERN AUSTRALIA

Government Accountability - Value of Tourism Campaign

294. Hon P.G. PENDAL to the Minister for Consumer Affairs representing the Minister for Tourism:

- (1) What action is being taken to combat the alarming fall in regional tourism, from 5.5 million, when the Government came to office, to 5.3 million in 1986-87?
- (2) How does the Government account for this given the generous Budget allocations for tourist promotion in that period?
- (3) Will the Government act on an Opposition suggestion for the commencement of a value-of-tourism campaign in WA?
- (4) If so, will she give an absolute assurance that any such campaign will be non political and that neither she nor the Premier will be featured?

Hon GRAHAM EDWARDS replied:

(1)-(2)

There is no alarming fall in regional tourism. In fact, the growth of the State's visitor numbers over recent years has been outstanding. It is a fact, however, that the 1986-87 period did record a visitor concentration on the Perth metropolitan area in association with the America's Cup defence, the effect of which was to reduce regional visitations by Perth residents for the period in question. This is a known effect of hallmark events as is currently being reported in Queensland where the influence of World Expo 88 is having an influence on regional tourism in that State. It is pleasing to report, however, that the September-December 1987 quarterly figures show a continuation of the healthy growth for regional tourism in Western Australia, with a five per cent increase being recorded over the same quarter in 1984-85. Interstate and international visitor numbers showed dramatic increases of 23 per cent and 46 per cent respectively over the period 1984-85 to 1986-87 evidencing the success of the Government's tourism policies.

- (3) The Western Australian Tourism Commission has been planning a major value-of-tourism campaign for some considerable time - well in advance of any claims by the Opposition that it was its suggestion. Further details of the campaign will be announced shortly by the Government.
- (4) The campaign will use the most effective means to communicate the social and economic values of tourism to a wide cross section of community interests.

WA SPORTS CENTRE TRUST

Board Members

296. Hon P.G. PENDAL to the Minister for Sport and Recreation:

With reference to the Western Australian Sports Trust, what are the names of the board members?

Hon GRAHAM EDWARDS replied:

John Bloomfield
Sean Walsh
Norman Ashton
Tim McComish
David Hart
John Graham
Tom Hoad

ABORIGINAL ART - STATE GOVERNMENT

Louis Allen Collection of Aboriginal Art - Purchase Date

300. Hon P.G. PENDAL to the Leader of the House representing the Minister for The Arts:

Will the Minister advise the date on which it was publicly announced that the State Government had purchased the Louis Allen collection of Aboriginal art?

Hon J.M. BERINSON replied:

The Government announced that it expected to purchase the Louis Allen collection of Aboriginal art on 17 January 1988.

MINISTER FOR CONSUMER AFFAIRS - BUILDERS REGISTRATION BOARD OF WA *Powers*

303. Hon G.E. MASTERS to the Minister for Consumer Affairs:

Does the Minister for Consumer Affairs have powers to direct the Builders Registration Board?

Hon GRAHAM EDWARDS replied:

No.

SWAN BREWERY SITE - FIRES

Stables - Arson

307. Hon P.G. PENDAL to the Minister for Consumer Affairs representing the Minister for Police and Emergency Services:

I refer to the fire which partly destroyed the historic stables at the site of the old brewery in Mounts Bay Road before they were demolished by the Government recently and ask -

- (1) Was anyone ever charged over the fire?
- (2) If so, with what result?
- (3) What motive was established for this act of arson?

Hon GRAHAM EDWARDS replied:

- (1) Yes.
- (2) A male juvenile appeared before the Perth Children's Court on 12 July 1985 and was placed under the control of the Department of Community Services until 18 years of age and to be detained in custody for six months.
- (3) Not known.

SWAN BREWERY SITE

Stables - Heritage Bill

308. Hon P.G. PENDAL to the Minister for Community Services representing the Minister for Planning:

- (1) Why did the Minister list the historic old brewery stables at page 108 of his Heritage Bill as a building that had to be saved?
- (2) Why subsequently did the Minister give approval for the demolition of the building?
- (3) How many other buildings listed in the schedule to the Minister's Bill will be demolished before the Bill is made law?
- (4) Is he aware that under his own Bill he is liable for fines and imprisonment for the act of damaging or destroying heritage places listed in the Bill?
- (5) If so, why did he permit the stables to be demolished?
- (6) Is he correctly reported in *The West Australian* of 8 August that "the bricks (from the stables) would be stockpiled until their future was decided"?
- (7) If so, what progress has been made on determining the fate of these historic bricks?
- (8) What action has been taken against the WA Development Corporation and LandCorp for going ahead with the demolition of the stables only weeks before the Bill protecting the stables might become law?
- (9) Has the WADC broken the spirit of the proposed Heritage Places Act?

Hon KAY HALLAHAN replied:

- (1) The Swan Brewery site including stables is included in the provisional list of the Heritage Places (Western Australia) Bill. That means that the site is both classified by the National Trust and on the Register of the National Estate. There has been no formal evaluation of any place on the provisional list by any State body; that will not occur until the Bill is enacted.

The supporting documents for the provisional list, of which the member has received a copy, indicate that, at the time the provisional list was compiled, there was some doubt about the values of the Swan Brewery site including the stables. Specifically, those documents state, "Further definition and assessment of the site is necessary."

The provisional list is not a list of buildings to be saved at any cost. It is a list of potential candidates for the proposed Register of State Heritage Places which has been compiled from existing information. The mere fact that a place is on the provisional list does not have any implications in terms of development.

- (2) Demolition of the stables was part of a total redevelopment plan/package for the Swan Brewery site that I approved. Approval was given on the basis of information available to me at that time.
- (3) The answer to this question depends on the degree of support for the Bills by the Opposition parties. I would hope there would be no other demolitions but the members on the other side of the House should note that the issuing of demolition licences is a matter for local governments to decide.
- (4) I have already explained that inclusion in the provisional list does not restrict development. The provisional list is merely a compilation of existing information for public information. The penalties under the Heritage Places (Western Australia) Bill relate to unauthorised activities on a place entered in the Register of State Heritage Places.
- (5) Not applicable.
- (6) Yes.
- (7) There have been some discussions but no final decision has been made yet.
- (8) I refer the member to the answers to question (1), (3) and (4).
- (9) No.

QUESTIONS WITHOUT NOTICE

AIDS - PRISONERS

Positive Tests - Accommodation

131. Hon G.E. MASTERS to the Minister for Corrective Services:

I refer the Minister to question 268, in which I asked how many known cases of AIDS were there in Western Australian prisons. The answer was none. What then happens to those prisoners who, having undergone tests, are diagnosed as having AIDS? Where are they sent to, particularly if they are long term prisoners, and perhaps murderers?

Hon J.M. BERINSON replied:

Under the arrangements which I indicated to the House last week, all prisoners testing positive for AIDS will go to the Fremantle Prison infirmary. There has already been a number of such prisoners held in those circumstances, but all of them have since been released. The answer indicating "none" in response to the member's question is an indication that no prisoners now in the prison system have been tested AIDS positive.

AIDS - PRISONERS

Tests - Government Policy

132. Hon G.E. MASTERS to the Minister for Corrective Services:

- (1) As I understood from the Minister's comments - and there was also a private conversation with the Minister - when I asked him if the new Government program was to require prisoners to undergo testing for AIDS if they were considered at risk for certain reasons, the Minister said that would be the policy. I assume from what the Minister has now said that that policy is not being pursued at the moment but is about to be introduced?
- (2) If it is, I would assume that as a result of those tests there will be quite a number of people who will be tested AIDS positive. Is it the intention of the Government to increase the infectious diseases unit in the infirmary, because at the moment - as the Minister said in an answer to a question - there are six beds. I would imagine that is nowhere near adequate for what probably will occur when the tests are carried out.

Hon J.M. BERINSON replied:

- (1) The testing procedures were due to commence either last week or this week. I am not able to indicate precisely the date of implementation. I can say that the testing system has either been implemented or its implementation is imminent.
- (2) I do not believe we can take it for granted that there will be large numbers of prisoners testing AIDS positive. Until we conduct the tests along the lines already indicated, that has really to remain in the realms of conjecture. However, the accommodation required for that purpose will be provided, and if it involves an extension of the facilities beyond six beds, that will have to be provided as the need emerges.

STATE GOVERNMENT BUDGETS - R & I BANK

Payments to Statutory Authorities - \$35 Million

133. Hon P.G. PENDAL to the Minister for Budget Management:

As the Minister in charge of miscellaneous service payments within the Budget, I refer him to today's Budget papers, which indicate an item under payments to statutory authorities last year, specifically an amount of \$35 million to the R & I Bank, an amount which was not allocated in last year's payments to statutory authorities. Since it is not allocated as an

ongoing figure for this financial year, can the Minister indicate whether that \$35 million bears any relationship to the \$25 million that he mentioned today in his speech to Parliament on the Teachers Credit Society?

Hon J.M. BERINSON replied:

Mr President, I think you will understand my difficulty in getting to grips with the particular line item. If I understand the question correctly, Hon Phillip Pental is referring to an expenditure in 1987-88.

Hon P.G. Pental: Yes.

Hon J.M. BERINSON: If that is the case, then from memory, and subject to correction, that relates to the agreed increase in capital of the bank last year and not to any matters related to the Teachers Credit Society.

PUBLIC SECTOR EMPLOYMENT - GOVERNMENT POLICY
Corrective Services, Department of - Employment Level

134. Hon G.E. MASTERS to the Minister for Corrective Services:

- (1) Is it still the Government's policy to reduce the size of the public sector by three per cent, I think, as recommended by the staff utilisation review committee?
- (2) If so, does this apply to the Department of Corrective Services? I ask that in the light of the answers the Minister gave to me in answer to question 207, where I asked what were the staffing levels for the Department of Corrective Services.
- (3) It appears there has been an increase of 128 items in the Department of Corrective Services. What is the reason for that?

Hon J.M. BERINSON replied:

(1)-(3)

The efforts of the Government to reduce the total public sector work force by three per cent relates to an earlier year. I do not want to trust my memory too far as to whether that was the 1986-87 year or the 1987-88 year.

Hon G.E. Masters: It was probably 1986-87.

Hon J.M. BERINSON: Whatever year it was, the target was achieved and was actually reported on at the time. It was never a part of that program that the three per cent reduction should apply uniformly over the public sector work force. Some parts of the public sector were obviously better placed to meet that target than others. There were certain areas, such as education, the police, and hospitals, where that target could not be achieved because of the growth rate of the services required. Mr Masters' question goes to more recent expansion within the Department for Corrective Services, which relates in the main to the additional staff required for the expansion of various prisons within the system. In the last year or so, we have had additional beds in the remand centre, Canning Vale prison, Albany prison, and in some others that I do not like to trust my memory on. Each of these has involved additional staff and all of those requirements simply have to be met in the interests of security.

STATE GOVERNMENT BUDGETS - R & I BANK
\$35 Million - Capital Injection

135. Hon P.G. PENDAL to the Minister for Budget Management:

This question is supplementary to that which I previously directed to the Minister regarding the \$35 million item in the Budget for the R & I Bank.

- (1) Did the Minister lead the House to believe that that represented, to the best of his knowledge, a capital injection of \$35 million?
- (2) If it was a capital injection and therefore had nothing to do with the \$25 million mentioned at page 22 of the Minister's speech today, why

was it not allowed for in last year's Budget? In other words, does it not indicate that the \$35 million payment is a last minute item included in last year's Budget, since it was not allocated at the time of the Budget?

Hon J.M. BERINSON replied:

(1)-(2)

As I keep saying, I do not like to rely too far on my memory. After all, the Estimates run to 156 pages and each of them has about 100 items on it.

Hon P.G. Pendal: It is the biggest item in your Budget by far.

Hon J.M. BERINSON: All I am saying is that it is very difficult to be too precise or too confident about individual items, but I think I can be on this one. The position is that the requirement for additional R & I Bank capital was not anticipated at the time that the last Budget was drawn up. That was drawn clearly to the attention of members during the last session of this Parliament when supplementary amounts were voted, and one of those was clearly specified to be for the purposes of meeting the R & I Bank's need for additional capital, that arising in turn out of Reserve Bank requirements. My only hesitation at the moment is in respect of whether the whole of the \$35 million was for the capital injection. My memory is that all of it was, but I would prefer to check that before being more definite.

The second part of the honourable member's question, as I understood it, asked why last year's payments did not show the \$25 million referred to in the Treasurer's Budget speech today in respect of payments to the R & I Bank on account of the Teachers Credit Society deficit. The reason for that not being done in last year's figures is that it is an amount to be paid in this financial year and provision has been made for that purpose accordingly.

Hon P.G. Pendal: That is the \$25 million - I appreciate that.

STATE GOVERNMENT BUDGETS - R & I BANK \$35 Million - Taxpayer Funding

136. Hon P.G. PENDAL to the Minister for Budget Management:

I thank the Minister for his answer to my previous question, and now ask him whether that does not represent some form of double dipping, in that \$35 million is required out of the taxpayer's pocket as a capital injection into the bank, at the same time as \$119 million is required over a given period, again to help the bank out, representing in all a total of \$154 million - a figure which the taxpayer must meet and not the bank itself?

Hon J.M. BERINSON replied:

I am not sure that I understand the member's question. The reason for the capital injection has nothing to do with any losses emerging under the Teachers Credit Society arrangements. That capital injection is required because of the growth of the business of the R & I Bank and the Reserve Bank requirements that growth of business be matched in specified proportions by growth of capital.

The question of any payments on account of the Teachers Credit Society situation has no relationship to the capital requirements of the Reserve Bank, and having now had another opportunity to look at page 58 of the Estimates I notice that item 91 indicates both the payments made last year and the estimates for this year. In other words, all payments in respect of the Teachers Credit Society are specially specified on page 58 and do not relate to the R & I Bank payments.

STATE GOVERNMENT BUDGETS - R & I BANK \$35 Million - Taxpayer Funding

137. Hon P.G. PENDAL to the Minister for Budget Management:

I am not suggesting there is a connection between the \$35 million capital injection which the Minister has explained and the \$119 million required to bail out the Teachers Credit Society. My question is: Does it not still mean in the final analysis that the taxpayers themselves are funding that operation to the tune of \$154 million?

Hon J.M. Berinson: Which operation?

Hon P.G. PENDAL: Well, both: An injection of capital to the extent of \$35 million; and a bail out to the tune of \$119 million. The taxpayer is still meeting it.

Hon J.M. BERINSON replied:

Of course the taxpayer is meeting both amounts, but these are being met for entirely different reasons.

Hon P.G. Pendal: I am not disputing that.

Hon J.M. BERINSON: The payment of funds towards the capital of the R & I Bank is to enable the continued growth of the R & I Bank and through that process continuing substantial returns to the State. That is in the nature of an investment. The payment to the R & I Bank on account of Teachers Credit Society losses has no relationship to that. It has never been doubted by anyone, I would think, that these losses have to be met out of public funds. That is the only source for them, given the Government's undertaking in this respect. So, yes, both items come out of the same Budget but for entirely different and unrelated purposes.

STATE GOVERNMENT BUDGETS - R & I BANK \$35 Million - Capital Injection

138. Hon P.G. PENDAL to the Minister for Budget Management:

- (1) Is it not the case that the \$35 million capital injection reflects in the accounts of the R & I Bank in a manner that suggests it operates as a viable organisation?
- (2) If that \$35 million did not come out of Consolidated Revenue, does that mean that the bank either could not exist or could not expand?

Hon J.M. BERINSON replied:

(1)-(2)

The position is that it could not continue at its scale of operations with continued Reserve Bank approval. This matter was dealt with at some length in our last session and, as I am sure I pointed out then, the R & I Bank as a State bank is, strictly speaking, not subject to Reserve Bank capital requirements because it is exempted from those requirements by the Constitution. Nonetheless, it has been the practice of all State banks, to the maximum extent possible, to meet the general prudential requirements of the Reserve Bank because in the last resort it is the support of the Reserve Bank that acts as a further bolster to the confidence which depositors are entitled to have in the whole of the banking system in this country. The Reserve Bank stands behind all the banks which meet its requirements; it stands behind the R & I Bank. Whether the R & I Bank strictly speaking meets its requirements, it has always been the aim of the bank to ensure that its prudential provisions meet Reserve Bank standards; it is the judgment of the Government that to the greatest extent possible it should continue to do so.

STATE GOVERNMENT BUDGETS - R & I BANK \$12 Million Allocation

139. Hon P.G. PENDAL to the Minister for Budget Management:

Does the \$12 million that was allocated to the Swan Building Society in the last financial year represent the full level of the State's indebtedness in its actions on behalf of that society?

Hon J.M. BERINSON replied:

I have been doing my best to answer a number of questions which strictly do not relate to my portfolio.

Hon P.G. Pandal: I am sorry but they do.

Hon J.M. BERINSON: I am sorry but they do not, and I will tell the member why.

Hon P.G. Pandal: The Minister answers what he wants to answer.

Hon J.M. BERINSON: Not at all.

Hon P.G. Pandal: He hides behind the Treasurer.

Hon J.M. BERINSON: I am delighted to answer this question, but the only way in which I can answer it at the moment is by saying I do not know. The reason that I do not know is that while the miscellaneous services vote is under my authority, the way in which particular amounts which are called on under this vote are arrived at are not within my authority. So, for example, I have no idea about the detail of item 71 dealing with compassionate allowances to various persons.

Hon P.G. Pandal: We will not lose any sleep over that amount.

Hon A.A. Lewis: Compassionate allowance of \$400 - you would not know about it.

Hon J.M. BERINSON: That means that in one department or another some payment has been authorised; I have accepted that it has been properly authorised and the payment is therefore under my authority. There is no question of my wanting to avoid a question on the Swan Building Society. All I have to say to the member is that since I am not responsible for building societies any more than I am, by the way, for the R & I Bank, I have to ask him to put that question on notice.
