

Legislative Council

Thursday, 16 November

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

PETITION - HOMOSEXUALITY

Decriminalisation - Opposition

The following petition bearing the signatures of 96 persons was presented by Hon P.G. Pandal -

To the Honourable the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled:

The humble petition of the undersigned citizens of Western Australia respectfully sheweth that:

1. We oppose the decriminalisation/legislation of homosexual behaviour under any circumstances for any reason.
2. We regret that the Labor Party (albeit through a private member's Bill) is attempting to decriminalise homosexual behaviour for the fifth time in Western Australia since 1973.
3. We note with alarm that homosexual behaviour is directly responsible for 88.4 per cent of all AIDS cases in Australia, and indirectly responsible for many more. (Reference: NH & MRC Special Unit in AIDS Epidemiology and Clinical Research Report, Faculty of Medicine, University of New South Wales, 25 March 1989.)
4. We reject the false argument that the way to combat AIDS is to decriminalise the unhygienic behaviour which is primarily responsible for the transmission of the disease.

Your petitioners therefore humbly pray:

That all members of the Legislative Council vote against the Criminal Code Amendment (Decriminalisation of Homosexuality) Bill 1989. And your petitioners, as in duty bound, will ever pray.

[See paper No 619.]

PETITION - VIDEOS

X Rated - Banning Maintenance

The following petition bearing the signatures of 61 persons was presented by Hon Fred McKenzie -

To: The Honourable the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled:

We, the undersigned, being concerned that X-rated videos may be legalised in Western Australia, in response to a self-interest survey of uncertain and inaccessible methodology, do ask that Parliament maintains the ban on X-rated videos, because Parliament has a strong obligation to protect women and children and because Parliament exists to create an environment, by rules, in which the human personality, the human dignity, and the human spirituality burgeons. Your petitioners as in duty bound shall ever pray.

[See paper No 620.]

CRIMINAL CODE AMENDMENT (DECRIMINALIZATION OF HOMOSEXUALITY) BILL

Committee

Resumed from 15 November. The Deputy Chairman of Committees (Hon Garry Kelly) in the Chair; Hon John Halden in charge of the Bill.

New clause 20 -

Progress was reported after the proposed new clause had been partly considered.

Hon P.G. PENDAL: I refer to Hon John Halden's extraordinary response last evening to my suggestion that the matter should go to a referendum of the people before the Governor is permitted to give the Royal Assent to the legislation.

Hon John Halden: I thought my comments were fairly well considered.

Hon P.G. PENDAL: If one thinks a little more than superficially about what Hon John Halden said it appears the member was saying, in essence, that under no circumstances could the people of Western Australia make any sort of judgment on this important issue. He was saying that the people of Western Australia are ignorant, notwithstanding that the only available evidence is the Westpoll which ironically surfaced in the course of last night's debate.

The world is presently full of politicians who will not listen to what the people have to say. It is no secret to anyone who bothers to read a newspaper or watch a television program that it is becoming apparent throughout the world that people of the most conservative bent are rising up in the face of Governments which aim to suppress the real feelings of the bulk of the population. Some people may think that only applies to countries which have been subjected to oppression and suppression of views for a long time. However, I put to members that the best way to produce that sort of pent up set of demands - such as we are seeing now in eastern Europe - is to do what Hon John Halden suggests in this case; that is, under no circumstances allow the people any sort of mature discussion on this issue let alone make a decision on it. That is an insult! This Government will find itself increasingly under pressure from people fed up with that sort of attitude. We saw that at lunchtime outside this building. There was a huge campaign involving people who are in the main conservative types and who have never bothered to take to the streets before.

Hon George Cash: A few Labor people were there, I noticed.

Hon John Halden: Name some. You talk a lot!

Hon P.G. PENDAL: These people have taken to the streets because they feel their valid aspirations are not being listened to by the Government of this State.

Hon T.G. Butler: How many people do you reckon were there?

Hon P.G. PENDAL: I do not know; I do not sit around with my calculator.

Hon John Halden: Were there 20 000?

Hon P.G. PENDAL: That was the figure the Premier settled on earlier in the week.

Several members interjected.

The DEPUTY CHAIRMAN (Hon Garry Kelly): Order! I ask Hon Phillip Pendal to address his remarks to whether new clause 20 should be inserted in the Bill and to not raise happenings which have occurred outside the Parliament at lunchtime.

Hon P.G. PENDAL: I do agree, but they are not totally extraneous and have a relationship. However, I take your point, Mr Deputy Chairman, that we need to make a connection.

Several members interjected.

The DEPUTY CHAIRMAN: Order!

Hon P.G. PENDAL: The reason I -

Several members interjected.

The DEPUTY CHAIRMAN: Order! Hon T.G. Butler and Hon Norman Moore should cease interjecting.

Hon P.G. PENDAL: This Bill to decriminalise homosexuality should go to a referendum because it was an expression of sentiment in relation to this matter that brought those people into the street outside Parliament House today. In most cases we are talking about the right of ordinary people to be heard on issues that are of direct significance to them. No-one can say that the question of whether a Parliament decriminalises homosexual behaviour is not a matter of significance to the majority of people in this State. There are few issues that are

worth putting to a referendum or that rouse the passions of the ordinary people, but this is one of those top half dozen issues.

Hon John Halden: The reason you want to put it to a referendum is this letter.

Several members interjected.

The DEPUTY CHAIRMAN: Order!

Hon P.G. PENDAL: If I could get in a word edgewise, my reply to Hon John Halden's assertions that my reasons are wrong or not proper in putting this matter to a referendum is that there is nothing sinister involved; after all, it was his Government that gave us the Referendums Act. Why is the Government frightened of this?

Hon T.G. Butler: We don't trust you.

Hon P.G. PENDAL: Hon Tom Butler is a half-witted individual; it is an Act of Parliament of his party.

Hon Graham Edwards: How long did it take you to think that up?

Hon P.G. PENDAL: I will start on the Minister in a moment and I will not take nearly so long.

The DEPUTY CHAIRMAN: Order! I remind honourable members that during the Committee stage of a Bill every member has at least 10 minutes in which to raise a point on any clause. If any member has anything to say about whether this new clause should be inserted he should wait for a few minutes as he will then have an opportunity to put the points he wants to put.

Hon P.G. PENDAL: Some members get 10 minutes but others get only seven because they have to put up with interjections which have nothing to do with the subject at hand.

Hon John Halden says that we wish to use a referendum for some sinister and improper motive. We want to use the process of a referendum for the very purposes outlined in the second reading speech given by Hon Joe Berinson five years ago. There is nothing sinister about what Mr Berinson said, nor anything improper about resorting to a decision of the people. We seek to do no more and no less than that. This is not something that the Government loses control of. The provisions of the Referendums Act spell out in detail the way in which cases are prepared at Government expense and how those cases are assembled under the supervision of the people who advocate either side of the argument. Those are not rules drawn up by the Parliamentary Liberal Party. The Opposition in this place agreed with that proposition when it came to this Parliament. There was no suggestion on our part that one should not institutionalise the way referendums are implemented.

Hon GEORGE CASH: I support the amendment. As this amendment was moved late last night I will repeat it. It states -

Referendum required

20. The Governor shall not assent to this Act unless it has been ratified by a referendum to be held in conjunction with the next general election for the Legislative Assembly after this Act is passed and the provisions of the *Referendums Act 1983* apply accordingly.

The Referendums Act, which was assented to on 22 December 1983, was introduced by the Labor Party. The *Hansard* record of that day clearly reflects the intentions of the Australian Labor Party in Government on the virtues of, firstly, having a Referendums Act pass both Houses of Parliament. The comments of members who spoke at that time indicate clearly that they believed the people of Western Australia were entitled to go to a referendum to decide matters of community interest. There is no other matter presently before the community which interests it more than the Bill presently before the Chamber. It is fair to say that all members would have received letters in support of this Bill. In my case there was probably a 4:1 ratio opposing the carriage of this Bill in either its present form or in an amended state.

In the time I have been in Parliament, not just in this place, but also in the Legislative Assembly, no matter has attracted so much public interest as the question of whether homosexuality should be decriminalised in Western Australia. It should also be noted that

this is the fifth occasion on which the Labor Party has introduced a Bill into this place to decriminalise homosexuality. Clearly the Labor Party has a mission in life. It wants this Bill carried, although I am surprised that only one person from the Government benches has so far spoken on this matter.

Hon P.G. Pental: That is a very interesting point.

Hon Graham Edwards: It is a vote of confidence. Single-handedly the member has been doing the lot.

Several members interjected.

The DEPUTY CHAIRMAN (Mr Kelly): Order!

Hon GEORGE CASH: It is clear that only one person on the Labor side of this Chamber has spoken in favour of this Bill, and that is Hon John Halden. He was nominated by the Labor Party to introduce the legislation into this place. Reference to *Hansard* indicates that a number of members of the Opposition have expressed their opposition to the Bill and to many of the amendments, and it is clear to the public where members of the Opposition stand on this matter. What concerns me is that no other member of the Government has stood up to defend the Bill.

Hon P.G. Pental: Because they are gutless.

Several members interjected.

Hon Mark Nevill: What is the view of the Opposition backbenchers who have not spoken?

The DEPUTY CHAIRMAN: Order!

Hon GEORGE CASH: Only one Government member has spoken on this Bill, although there have been many interjections. They sit in their seats and make the occasional interjection to try to score a point, but none of them is prepared to rise to his feet and make a genuine comment about whether he or she supports this Bill. This is a worry.

Several members interjected.

Hon GEORGE CASH: Hon Sam Piantadosi is a friend of mine, and I would not want him to be put into the position of saying whether he supports the Bill.

Hon Sam Piantadosi: I do.

Hon GEORGE CASH: I am surprised that he does.

Hon Sam Piantadosi: Why?

Hon GEORGE CASH: Given the common friendships the member and I enjoy in particular areas in Perth, I am surprised. I refer to the Osborne Park and Balcatta areas. If Hon Sam Piantadosi is prepared to nominate his position I respect him for that, and I am sure the community will as well. As far as other Government members are concerned, no-one has stood up to say that he supports the Bill.

Several members interjected.

Hon GEORGE CASH: I do not believe what Hon Tom Stephens says. One person in particular who I do not believe supports this Bill is Hon J.M. Berinson.

Hon Tom Stephens: What nonsense!

Hon GEORGE CASH: Hon J.M. Berinson and I live within a few hundred metres of each other.

Hon P.G. Pental: You cannot be blamed for that.

Several members interjected.

The DEPUTY CHAIRMAN: Order! I draw the attention of the Leader of the Opposition to the fact that we are talking about whether new clause 20 should be inserted in the Bill. I suggest he is straying wide of that mark.

Hon GEORGE CASH: Thank you Mr Deputy Chairman. We are discussing that amendment and I put it to the Chamber that the community of Mt Lawley, a place where Hon J.M. Berinson also lives, is predominantly Jewish, and it is very much opposed to this Bill. It surprises me that someone like Hon J.M. Berinson could be seen to be supporting this sort of

legislation. So that we can take the subject out of this place and remove the emotional argument which has been put from both sides - I refer particularly to Hon John Halden and some of my comments on this matter - the matter should be firmly and fairly placed before the people of Western Australia so that they can decide for themselves whether they are prepared to support this legislation. If the community decides by an overwhelming majority that this is the sort of legislation they want passed, that will be their decision and the legislation will come into effect. But to avoid going to the public and asking for their opinion seems to indicate that the Government is very unsure of its position and knows that it would probably lose any consequent legislation.

If we look at recent polls - and I am not one to take too much notice of polls - in *The Bulletin* about a month ago a proposition was advanced that something like 73.9 per cent of a group of people asked whether they supported the decriminalisation of homosexuality suggested that they did support it; yet this morning's *The West Australian* indicates that a Westpoll taken in the last few days showed 57 per cent of those polled were against the proposition.

Hon Mark Nevill: Mr Pental does not believe Westpolls.

Hon P.G. Pental: I do not.

Hon GEORGE CASH: I suggest to Hon Mark Nevill that I do not put a lot of value in polls. The only true poll is a general election.

Several members interjected.

Hon GEORGE CASH: Hon Tom Stephens is wrong. I have always said that in the end the electoral officer, or the person who declares the poll, makes the ultimate decision by nominating what the people have suggested. I might not like the process we go through to determine that, but I always accept that in the end the people declared to be elected are the people elected.

I have faith in the community's ability to make a decision in respect of this matter. I ask members of the Government why they are running away from this issue today. Why do they want the matter closeted in this Parliament and not allowed out? Is it because in this place the Government believes it might have the numbers and will therefore use the brutality of numbers to achieve its will?

Several members interjected.

Hon John Halden: You have lost all credibility!

Hon GEORGE CASH: We have seen it before. The Leader of the House has tried on a number of occasions to sway the House, only to complain that when he does not win the brutality of numbers have gone against him.

Hon Mark Nevill: Mr Berinson is here now.

Hon GEORGE CASH: I shall ask him the question. He was out of the Chamber a few minutes ago when I advanced the proposition that I was extremely surprised he was actively supporting this legislation. I asked some Government members whether they supported the legislation. Hon Sam Piantadosi indicated that he did. I ask if the Leader of the House supports this legislation.

Hon J.M. Berinson: Yes.

Hon GEORGE CASH: That is something that the community in which the Leader of the House and I live -

Hon J.M. Berinson: My reasons for supporting it are recorded in *Hansard* twice.

Hon P.G. Pental: By one line interjections!

The DEPUTY CHAIRMAN: Order!

Hon GEORGE CASH: Is it not a pity that the Leader of the House does not rise to his feet and make a statement so that the people who live in the community -

The DEPUTY CHAIRMAN: Order! This is the second time I have had to do this. We are debating whether new clause 20 should be inserted in the Bill. The honourable member is now talking about matters quite remote from that. I ask the Leader of the Opposition to confine his remarks to whether the new clause should be inserted.

Hon GEORGE CASH: Mr Deputy Chairman, I take your point. I support the inclusion of the amendment moved by Hon Phillip Pandal. I certainly do not want to earn your wrath again by straying from the subject, but I pose two questions the Chamber may wish to consider: Why is the Leader of the House apparently leaving the Chamber?

The DEPUTY CHAIRMAN (Hon Garry Kelly): Order! That is quite irrelevant.

Hon GEORGE CASH: My second question is this: Why has the Leader of the House refused to assist the person handling this Bill with its complexities, as he started off doing?

Hon John Halden: That is just not correct.

Hon GEORGE CASH: From that point, the Leader of the House has not returned to the centre table.

Hon REG DAVIES: I am pleased to support Hon Phillip Pandal's amendment. I believe a referendum would gauge the true feelings of all Western Australians on this issue. This Bill seeks to bring about a major change in the moral direction of the Western Australian community. It is very difficult for members of Parliament to make decisions of a moral nature on behalf of over one million Western Australians. Members of this place must decide whether to support or oppose this Bill; we must decide what is morally best for over one million Western Australians. This legislation quickly gained prominence on the Notice Paper, and we have been afforded little time to research it adequately.

Hon John Halden: You know that is not the case at all.

Hon REG DAVIES: We have been given little time to address the many issues which appear to be troubling the general public. These same issues also trouble us. Many members are aware that the community is dramatically divided in its opinion and sentiment. There are conflicting results in opinion polls conducted by newspapers, magazines and television, and these are adding to the confusion. There is division within the churches. Most importantly I believe there is no firm advice from the Australian Medical Association to indicate that decriminalisation of homosexuality will help combat the spread of AIDS. Having a referendum might prompt the AMA to come out with a firm statement on the direction in which the medical fraternity considers would be best to assist in preventing the spread of AIDS, instead of the fairly weak statement it came out with, which was that we should treat this as we would treat abortion.

Hon Mark Nevill: Would you change your mind if the medical association did that?

Hon REG DAVIES: I have already indicated that my concern with this Bill is that we have no evidence to suggest that decriminalisation of homosexuality will help prevent the spread of AIDS. The major political parties did not address the need to change the law during the recent State election campaign and members are unable to assess the community's attitude. I believe this is a major issue and a major change in the moral direction in this State.

Hon Mark Nevill: That is nonsense.

Hon REG DAVIES: It has major medical implications, and the people of this State must be given the opportunity to give this Parliament a clear direction. I would be quite prepared to stand up and be counted and support this Bill, with or without Hon Peter Foss' proposed amendments, if this Chamber were prepared to trust the judgment of the people of Western Australia and allow a referendum to take place. A referendum would allow the public time to consider all aspects -

Hon Mark Nevill: You are speaking on the Committee stage, not the second reading.

Hon REG DAVIES: I am addressing the issue of Hon Phillip Pandal's proposed amendment.

Hon N.F. Moore: And very well too. Don't take any notice of the interjections.

Hon REG DAVIES: If we were to have a referendum on this issue, the public would have the time necessary to consider all aspects of the issue. A referendum would also allow interested groups within the community to put the facts before the public. It would allow rational and, most importantly, informed debate to take place. At the same time that might dispel a few myths and fears. A referendum might even afford us the opportunity to put other questions of a moral nature to the people of this State. I am sure it will not be too long before the Government -

Hon Sam Piantadosi interjected.

Hon REG DAVIES: I am anxiously waiting to hear Hon Sam Piantadosi's contribution on behalf of the people of the North Metropolitan Province, which we both represent. Hon Sam Piantadosi earlier commented that he unequivocally supports the legislation before us.

It will not be too long before this Government sees the need to address moral issues such as making legal abortion and the use of marijuana.

Hon John Halden: Are we going to have yet another red herring, Reg?

The DEPUTY CHAIRMAN (Hon Garry Kelly): Order! I ask the member in charge of the Bill to refer to other members by their correct titles. I ask the member speaking to address his remarks to the Chair.

Hon REG DAVIES: A referendum would also allow us to address other moral issues and to get the real views of the community of Western Australia. As far as costs are concerned, I was amazed at Hon John Halden's performance last night. He complained about the massive cost a referendum would be to the people of this State. His whole argument lacks credibility when he makes comments of that nature. The sheer audacity of any member of the Labor Government in pretending to be concerned about using taxpayers' funds for a legitimate reason after the Government's own record of mismanagement has been publicly documented is beyond my comprehension. I urge members to think very carefully about the proposed amendment, and I urge them to support it.

Hon TOM HELM: We can do without the emotion in this debate; we should talk about why we need to go to a referendum and why we are talking about adding a new clause 20 to something we have been debating for the last few days when there was not even a new clause 1 before we began to debate it. In moving for this proposed new clause, Hon Phillip Pandal asked the Chamber to put the Bill to the acid test and ask the people of Western Australia to express their views on this issue. We have been doing that same thing for the past few days. We have done it now five times, and this is the first time that anyone has suggested we have a referendum on this issue.

Hon Reg Davies: You have a lot of new members.

Hon TOM HELM: The new members are quite entitled to have a referendum as well if they think it is a good idea. If we are not competent in this Chamber, if it is something beyond our purview and something we should not get ourselves involved in, we should have been advised of that. If any member thought we should not become involved in that, the Chamber should have been advised at the beginning of the debate, or when we first started debating this issue four Bills ago. I wonder whether people will be taken in by the proposal that a referendum is a good idea, especially as this Chamber has debated this subject so many times. Is it because certain pressures from various areas have been applied? I quote from a letter from the Curtin Division of the Liberal Party, which has been referred to a number of times, although I am not suggesting that any pressure is applied to members of Parliament, especially those with a free vote! The letter was addressed to Hon W.N. Stretch.

Hon Reg Davies: We listen to our members.

Hon TOM HELM: The letter relates to the subject of the decriminalisation of homosexual activity and states the following -

A meeting of Curtin Divisional Council last night discussed the above subject and in particular the way in which the high feeling currently held by many members of the Party can be diffused.

It was resolved that I should write to you in your capacity as secretary to the shadow Cabinet to suggest consideration of a further amendment to the Bill to provide for the issue to be put to a referendum.

Although this runs a risk of there being further distractions from the Save Our State Campaign -

That is a responsible move, is it not?

Hon Reg Davies: I would like to see our State saved.

Hon TOM HELM: The quote continues -

- the great majority of people are likely to accept such a move. It may also be possible for a referendum to accommodate Mr Foss' amendments.

This is from people who belong to a party which has a free vote.

Hon P.G. Pandal: That is entirely consistent.

Hon TOM HELM: There is no pressure on any member of the Liberal Party to vote one way or another.

Hon P.G. Pandal: There is always legitimate pressure on all of us.

Hon TOM HELM: The referendum suggestion does not come from a member of Parliament with a free vote, and this letter is written with a party letterhead suggesting a course of action has been taken by Mr Pandal. Maybe the matter was put to the vote and some members decided that the referendum was the only way to get this Bill passed.

Hon P.G. Pandal: It is that certain members have exercised their right.

Hon TOM HELM: Let us say that the referendum idea has come out of the blue and it is time the people debated this issue - regardless of the fact that they have had time to interpret what most of us have had to say on this issue.

An Opposition member interjected.

Hon TOM HELM: We saw the number of people incensed enough to march on Parliament House at lunchtime. How many people were involved? Not a majority, I am sure.

Hon P.G. Pandal: You tell us.

Hon TOM HELM: Mr Pandal voted for the Referendums Act in 1983.

Hon P.G. Pandal: It is your Act.

Hon TOM HELM: Does the member think that this call for a referendum is all right simply because Hon J.M. Berinson supported the Referendums Act? Continuing to develop the situation that we have a referendum - and the coward's way out is taken - what will happen? We on this side support the decriminalisation of homosexuality and have the courage of our convictions. I interpose further to praise Hon John Halden on the way he has handled the Bill; we on this side are keeping quiet to allow the members opposite full opportunity to debate the Bill. As far as we are concerned the debate has taken place, we are prepared to go to any forum to debate the issue.

Hon P.G. Pandal: Would you agree to a referendum?

Hon TOM HELM: We will not waste people's time by talking about a referendum. I refer back to the Referendums Act of 1983 and quote section 9 as follows -

9. (1) In the case of a referendum as to a Bill, if within four weeks of the passage of the Bill through both Houses of Parliament there is forwarded to the Chief Electoral Officer

- (a) an argument in favour of the Bill, complying with such conditions or requirements as may be prescribed, and authorised by a majority of those members of both Houses with whose concurrence the Bill was passed who desire to forward such an argument; or
- (b) an argument against the Bill, complying with such conditions or requirements as may be prescribed, and authorised by a majority of those members of both Houses who voted against the Bill and desire to forward such an argument

I realise that this is a selective quote, but the Act goes on to state the rules and regulations regarding referendums. The Act suggests that the arguments for and against an issue should be presented to the electorate. The arguments for and against decriminalisation of homosexuality -

Hon P.G. Pandal: You do not want that, by jingo!

Hon TOM HELM: - would be required to be presented. We would have to ask the electorate whether it wanted to consider documents inches thick containing facetious arguments against the Bill. If it goes to a referendum, people in the electorate will be asked

whether they have read *Hansard* lately to see what we have been doing here. We have been listening to the facetious arguments put forward by the Opposition, and especially Mr Pandal, opposing the Bill. He gave us the moral argument peripheral to the issue but did not listen to Hon John Halden and Hon Peter Foss's arguments. If we have a referendum, a document as thick as the thickest *Hansard* would be sent out for the enlightenment of the electorate, which might give the postman broad shoulders but would achieve little else.

Hon DERRICK TOMLINSON: My reasons for supporting the amendment to send this issue to a referendum are quite different from those that have been proposed by most of my colleagues on this side. My reasons relate to new clauses 18 and 19. If the vote goes the way it has in the past few days, the preamble will be adopted shortly. It had been my intention to ask that the amendments in part 2 which make proselytising unlawful be ruled out of order. However, my colleague, Hon Peter Foss, was well informed and properly advised that he should move a motion that instructed the Committee to accept it; therefore, I was precluded from that action. My reason for suggesting that these amendments are out of order is that they extend the scope of the Bill. The Bill in its initial form was about the decriminalisation of sodomy. In its extended form, with the adoption of new clauses 18 and 19, it makes other things unlawful which are contrary to community feeling. The preamble will invoke the moral condemnation of this Chamber against homosexual behaviour.

Yesterday I invited Hon Peter Foss to define homosexual behaviour. I asked if he had intended a narrow definition of homosexual behaviour and whether it involved carnal relations between homosexual people or a broader meaning relating to lifestyle. He spoke of sexual behaviour in terms of an act of congress. However, he refrained from offering a definition and argued in terms of - I ask him to correct me if I am wrong - the rule of the courts versus the rule of the Parliament. He suggested that this was a matter that needed to be defined and ruled upon by the courts.

Proposed new clauses 18 and 19 and the proposed preamble outlaw homosexual behaviour in various ways. Proposed new clause 18 states that the "encouragement or promotion of homosexual behaviour shall not be capable of being a public purpose". Proposed new clause 19 states that it will be "unlawful to promote or encourage homosexual behaviour as part of the teaching in any primary or secondary school institution". As much as I find abhorrent the encouragement or promotion of homosexual behaviour in a primary or secondary school curriculum, I find more abhorrent the denial of freedom of speech. No group in the Australian community is denied the freedom of speech or of action that would be denied homosexuals under proposed new clause 18. The form of censorship that is proposed in proposed new clause 19 is contrary to every principle of education adopted by every State education system throughout Australia.

The DEPUTY CHAIRMAN (Hon Garry Kelly): Order! I have given the member a great amount of latitude. However, we are debating whether to insert proposed new clause 20. If the member can show me how he is leading up to that, I will allow him to continue.

Hon DERRICK TOMLINSON: My argument is that, in the new clauses that we have already adopted, we have extended the scope of the Bill to a dimension which was not contemplated in the original Bill, previously in any of the debate in this Chamber, or in submissions that I have received. It is a matter that is worthy of considerable public debate. In 1951 there was an attempt to outlaw communism in this country.

Hon John Halden: That bow is a bit long, Mr Tomlinson.

Hon DERRICK TOMLINSON: The member might say that the comparison is a long one, but we should remember that, in 1951, even though the communists in this country were a very small minority, the people of Australia at referendum voted against the outlawing of communism because that would have been contrary to the civil liberties of this country and to freedom of speech.

Hon Graham Edwards: They did it because of Bob Menzies.

Hon DERRICK TOMLINSON: They may have, but they stood by those two principles. They protected their rights, their civil liberties and their freedom of speech. That is what I was leading up to. The amendments adopted already and the preamble extend the scope of the Bill to a point where it is essential that not just this Parliament decides, or that we, through rational debate, decide that these matters discriminate against a minority in our

community, but that the people decide whether they want moral condemnation, disapproval, or censorship of any group in this community.

Two days ago Hon John Halden referred to a "most significant decision" of the homosexual community when it agreed to the extension of the age of consent to 21. I put it to the Committee that if the homosexual community agreed to this moral condemnation, disapproval and denial of speech, it would be truly a momentous decision. I would be surprised indeed if the Labor Party approved of a denial of rights. My party would not. Because the amendments have extended the scope of the Bill beyond the simple question of the decriminalisation of sodomy and because they open up a Pandora's box of censorship and denial of liberty, I suggest that the matter be decided at referendum.

Hon PETER FOSS: Hon Derrick Tomlinson should have delivered that speech while standing on his head because that is what he did to his arguments; he inverted the situation completely. It is not a matter of discriminating against a part of society; they are being discriminated against already. Homosexuals are being prosecuted merely for being that.

Hon Derrick Tomlinson: That is not true.

Hon PETER FOSS: They are being prosecuted merely because, by being homosexual, they engage in sexual conduct which is appropriate to homosexuals. That is where the discrimination lies.

Hon Derrick Tomlinson: They are prosecuted for their conduct.

Hon PETER FOSS: Exactly. They are prosecuted for being homosexual and carrying out that conduct. They are being discriminated against.

Hon Derrick Tomlinson: They are not being prosecuted because they are homosexuals.

The DEPUTY CHAIRMAN: Order!

Hon PETER FOSS: They are prosecuted for their conduct which goes with it. Nothing in this Bill says that people may not promote homosexuality. There is no restriction on the freedom of speech. What is stopped by these amendments is the spending of public moneys on the promotion of homosexuality and the teaching of it in schools. Hon David Wordsworth and Hon Barry House have both said that they are concerned that, by decriminalising sodomy, it will be taught in schools. They plainly believe that, at present, that is being prevented and believe that is desirable.

I believe it is important in schools that we have a different situation from that which applies in the public arena. We do not want many things taught in our schools. Facts may be taught; there is no limitation whatever on facts. People can be taught what homosexuality is. What is being stopped is the active canvassing of children to become homosexuals - proselytising - not telling people what it is but trying to change the views of children so that they believe that homosexual behaviour is normal. Hon Derrick Tomlinson may consider that is equivalent to banning people from being members of the Communist Party - an act - but it is not the same at all. If he is going to make an equivalence of acts, banning the Communist Party is much more like prosecuting people for sodomy. The public are validly concerned about public money being spent on promoting homosexuality. I would be very interested to hear if any member on this side of the Chamber supports the spending of public moneys on the promotion or encouragement of homosexual behaviour, because that is what these provisions are directed at. I firmly believe - I thought that all members on this side of the Chamber believed also - that we do not want teachers in our schools to use their positions of trust, care and responsibility as referred to in the preamble to convert people to thinking that homosexuality is right. It may be that Hon Derrick Tomlinson sees that as a massive infringement of the right of speech. If it were permitted, it would be a massive infringement of the right of parents who send their children to school for them to be taught facts and mores which are accepted by society, for their children to be taught to believe in things the parents do not consider acceptable.

The DEPUTY CHAIRMAN (Hon Garry Kelly): I have given the member a great deal of latitude because I allowed him to respond to the comments of Hon Derrick Tomlinson. However, I remind Hon Peter Foss that we are dealing with proposed new clause 20 relating to a referendum.

Hon PETER FOSS: The reason I believe this is a difficult matter for consideration and why

it should not go to referendum has been quite evident in the debate in this Chamber and that which has taken place in the community. Even in this Chamber, having debated the subject for hours, members are still raising the argument that at the moment it is not possible for children to be taught about homosexuality in schools, and that it is not possible for public moneys to be spent on encouraging homosexuality. I have heard it said in this Chamber even after I explained in the second reading debate the intention of the amendments.

Hon D.J. Wordsworth: There was a court case in 1983 in the Pilbara on this matter.

Hon PETER FOSS: That may be the case. I have sat opposite members in this Chamber who do not understand the amendments. I do not believe they want to understand them, but it takes a tremendous amount of personal explanation before people realise what is sought by the amendments I have proposed. I have little faith at all that it would be possible for this Bill to be considered by the public and for the real merits of it to be debated and voted upon. It is difficult to get certain things across by way of referendum, and one cannot legislate by referendum. Certain things can be submitted to referendum, and it may have been possible, before I made my amendments, to have put that simple Bill to the people. However, I doubt it. The member who moved this Bill referred to its content as the decriminalisation of homosexuality but we have never debated that subject; we have debated the decriminalisation of sodomy. There is confusion in the minds of many people in this Chamber and certainly among people in the community. I do not believe many issues lend themselves easily to referendum and certainly, as it presently stands, this Bill is not one of them.

The debate that would take place, if the correspondence I have received is any indication, would not be a debate aimed at exploring the intricacies and rights and wrongs of the Bill, but would be a clash in the main of prejudices. It would be divisive in the community and would not enable the issues to be decided as they should. This Parliament has a responsibility to tackle this very difficult moral problem. The difficulty in grasping the issues, the different matters raised, and the different approaches taken indicate that it is not a simple black and white problem. It is one of the more difficult moral problems I, and probably most members, have encountered. Hon Derrick Tomlinson has raised new moral problems and they cannot be solved by a yes or no vote in the community.

Hon Derrick Tomlinson: It must be decided on the moral values of the community.

Hon John Halden: They do not exist in the community.

Hon Derrick Tomlinson: For the benefit of Hon John Halden, I advise that moral values do exist in the community.

Hon PETER FOSS: People forget the responsibility of Parliament; Parliament exists to make these difficult decisions, to talk these matters out - that is where the name comes from - and, hopefully, to arrive at a sensible solution to the difficult problems. This is an example of how that can happen. We started with a Bill introduced by one party which simply proposed to decriminalise sodomy. We have finished with a Bill which not only deals with requirements of the Labor Party, but also flies in the face of some Labor Party policies by meeting the demands and requirements of society at large by taking account of hesitation in the community that taking a caring action could lead to consequences that were not intended. I do not believe that process can be taken to referendum. Referendums may be suitable for black and white issues, but this is not a black and white issue. Therefore, it is not suitable for referendum.

Hon P.G. PENDAL: The one value so far of the Committee stage is that the Opposition has managed to flush out one more member of the Government, which brings to the grand total of two the number of people who have either been permitted or have dared to speak on any stage of this Bill.

Hon Tom Stephens: That is incorrect.

Hon B.L. Jones: Do you know who seconded the Bill?

Hon P.G. PENDAL: I am talking about the Committee stage. It indicates the level of division within the Labor Party itself over the matter. There is very good reason why the Government is not prepared to go to a referendum on this issue. That reason can be found in an article which appeared in the magazine section of *The West Australian* last Saturday; the

refusal to go to a referendum relates to the preservation of Peter Dowding's leadership. Even from a newspaper that now has the secondary name of the *Government Gazette* -

Point of Order

Hon GRAHAM EDWARDS: You, Mr Deputy Chairman, have been very tolerant in allowing the debate to flow, but the matter the member is raising has absolutely nothing to do with the matter before the Chair.

The DEPUTY CHAIRMAN (Hon Garry Kelly): I do not think I have been too tolerant in allowing the debate to flow, because I have pulled up several members and brought them back to the clause in question. I agree that the member is perhaps drawing a long bow, but he said the reason the Government is not prepared to go to a referendum is connected with the Premier's leadership, and this point is relevant to the question before the Chair. There is no point of order.

Committee Resumed

Hon P.G. PENDAL: The article from which I will quote is significant for a number of not just political but also journalistic reasons, to which I will refer later. Members should bear in mind that this article relates to the major reason that the Premier is not prepared to allow this matter to be decided by referendum. The article states with regard to the Premier -

He stands at the pinnacle of his professional success - but staring down into the abyss of humiliating defeat.

Hon Graham Edwards: He does not get a vote in this Chamber.

Hon P.G. PENDAL: If the Minister continues to interject, I will stand again in my next 10 minutes and read from this article. The Minister can please himself if that is the way it has to be done. The article continues -

He faces the danger of losing office through a constitutional crisis with an almost cavalier abandon - but that is not the real threat. He is becoming a general without the support of his army, including his top lieutenants. As his premiership lurches along, his flaws have become alarmingly obvious to some of his closest colleagues.

"His top lieutenants" include Mr Berinson, Mrs Hallahan, Mr Edwards and other members of the Labor Cabinet in this Parliament and that is why this Government refuses to go to a referendum. I find it extraordinary that an article containing an amazing observation like, "He is becoming a general without the support of his army, including his top lieutenants," is confined to "page 410" of *The West Australian*; on any other occasion it would be a page 1 story.

Hon Graham Edwards: It is not Mr Dowding's leadership that is in contention and you know it.

The DEPUTY CHAIRMAN: The Minister will come to order.

Hon P.G. PENDAL: A few minutes ago Hon Tom Helm quite properly raised the question of a Liberal Party letter on the need for a referendum. He knows that letter found its way to page 2 of *The West Australian* today.

Hon John Halden: It was good, wasn't it?

Hon P.G. PENDAL: Just be quiet for a minute. I was not enamoured of that article but it was a valid use of a good news story. One wonders why the same level of evenhandedness is not used by *The West Australian* on the matter of the placement of the Dowding story.

The DEPUTY CHAIRMAN: Order! The member's last comment had nothing to do with new clause 20. I ask the member to get back to the clause in question.

Hon P.G. PENDAL: I was making the point that the reason why the Government will not consider a referendum is to preserve the Premier's leadership position. Mr Dowding knows that he is in strife; the media know he is in strife; his own colleagues know he is in strife. The Premier's colleagues do not want to put his leadership on the line with a referendum. Indeed, there are many people who say he would not last as long as it would take to get a referendum to the line. One can see why the Government is reluctant to take the matter to a referendum. No greater facility can be offered to the people of any democracy than the chance to decide on the fate of either a Government or an individual issue. Hon Peter Foss

said the matter should not go to a referendum but his reasons for advancing that point of view are amazing. Hon Peter Foss says it is because the issue is complex and highly emotional - and I agree with that.

The very purpose of having a referendum is to give the people an opportunity to make a determination on an issue. In a democracy we cannot ask a voter going into a booth to sign a statutory declaration that he understands everything that is involved. Hon Fred McKenzie will recall the Federal referendum questions put to the people a year ago. Those questions were highly complex but they were put to a referendum. If one accepts the argument of Hon Peter Foss and Hon John Halden one would never hold a referendum because referendums invariably produce a lot of emotion. If that is the case, why did the Government go the trouble in 1983 of introducing the Referendums Act? I am sure Hon Fred McKenzie can see my point.

Hon Fred McKenzie: You never spoke about referendums in the second reading debate.

Hon John Halden: The idea came from the Curtin divisional council.

Hon P.G. PENDAL: No, it did not. You will be surprised to know that the referendum question was with the Clerk two weeks ago. It has now been claimed that my amendment was moved as a result of a letter from the Curtin divisional council -

[The member's time expired.]

Sitting suspended from 3.45 to 4.00 pm

[Questions without notice taken.]

Hon D.J. WORDSWORTH: I raised the issue of a referendum being held on this matter in my speech in the second reading debate. I therefore support Hon Phillip Pendal's amendment. It is a suitable issue to put to referendum. When I was in America last year I saw people's referendums used in a way that I think would help us to decide issues in this State, particularly moral issues and issues about which political parties have difficulty formulating policies. Members have asked what we are doing here if we are going to put matters to referendums. One of the reasons we are in Committee is to amend Bills and put them in a suitable form. I do not think we could expect the public to amend legislation.

Hon Tom Helm: Why?

Hon D.J. WORDSWORTH: It would be our duty to put legislation into a form upon which the public could vote.

Hon Tom Helm: Why can't we do that with all legislation? Why don't we all go home and let the public deal with the lot?

Hon D.J. WORDSWORTH: We would have to deal with these matters in Committee. If the member listened he would have heard me say that it is our duty to debate all Bills, to send to Committee those that need to be sent to Committee to be amended, and to send to referendum questions of morality or matters upon which political parties cannot make decisions. Abortion is one issue that should be decided by referendum and daylight saving is probably another. I support very strongly this matter being sent to referendum. I am a bit surprised that Mr Foss argued against it. He said that the public were not intelligent enough to be able to vote on this matter.

Hon T.G. Butler: I doubt he would say a thing like that.

Hon D.J. WORDSWORTH: I think he said he was one of the few members of Parliament, except for those who agreed with him, who were able to understand it. He forgets that electors were intelligent enough to vote for him and put him in this place. Surely if he had enough confidence in their putting him into Parliament, he should have enough confidence in their voting for his legislation.

Hon Fred McKenzie: You know, Mr Wordsworth, that very few referendums are carried.

Hon D.J. WORDSWORTH: Perhaps they are very conservative. Nevertheless, I think it would be sensible to send this matter to the people, in spite of the fact that Mr Foss thinks otherwise. Only 200 voters voted for Mr Foss, but that is not to say that they are not sensible. They decided to vote on a ticket because of the way it was set up under the Electoral Act in the last sitting of Parliament. I believe that the people should have a say on important moral questions.

Hon MARGARET McALEER: Earlier in the progress of this legislation, I was drawn to the idea of referring this Bill to a committee. If the proposed legislation committee was in existence, that would have been the committee I would have chosen. That not being so, I thought a Select Committee could scrutinise the Bill to make sure that it does the things that we propose it should do or that nothing had been inadvertently dropped out of it in the drawing of the Bill. I did not see that as a delaying tactic because a Select Committee could report back fairly quickly. However, there was no great support for that.

When the idea of a referendum to be held in conjunction with a general election was first floated, it did not attract me for two reasons. First, the next election could be three years away; and, second, being tied to a general election, the issue would become highly politicised. At least at this time, people of all political persuasions have different views about it. All the same, I did not dismiss the idea of a referendum out of hand. A genuine reason for holding a referendum in conjunction with an election is the considerable expense that would be saved. I have supported our policy of citizens initiated referendums which implies that we would be in Government and would be on the receiving end of any flak that would eventuate. I accept too that party politics would inevitably enter into referendums of that sort. I am aware also that Hon Phillip Pandal may be persuaded to amend his amendment to allow for a referendum to be held sooner than the next general election.

It is quite true that to hold a referendum standing alone would be a considerable expense, and many people among those who oppose this Bill consider that expense to be well justified. I have received calls from many respected constituents asking me to support this referendum. Some ask me to support it at any price and, even allowing that they consider they might lose the referendum, they feel the delay would be worthwhile. Others have acknowledged that the long delay in holding the referendum at the same time as a general election is not satisfactory and yet, at the same time, feel the expense of a referendum on its own might not be justified.

I am aware, as Hon Phillip Pandal pointed out, that the Referendums Act allows a Bill to be subject to referendum, and the Commonwealth constitutional referendums to which we are accustomed precede the passing of any changes into the Constitution. As I recall, the Liberal Party policy in citizen initiated referendums, or that part which it was prepared to implement when first in Government, predicated that a Bill would be first enacted and, if a petition were presented which fulfilled the right conditions, a referendum would take place, but after the legislation was in operation. The daylight saving referendum took place some years ago after a trial period of daylight saving. I feel reasonably certain that the complications of this Bill, with the Foss amendments, would be difficult for many people to understand. I am reasonably certain that the effects of the Bill - if it becomes an Act - will not be what its opponents anticipate. Therefore, I believe it deserves a trial period and should not be subject to a referendum beforehand.

When all is said and done, I have now contemplated four Bills on the decriminalisation of sodomy over a period of 12 years. The first, which was successful in a Liberal dominated Legislative Council, was probably the least well drawn. The last, Mr Bob Hetherington's Bill, was far more satisfactory but in that period community attitudes had changed, although gradually, and had undergone a very profound change. There was then a far greater fear of the consequences of the decriminalisation of homosexual acts in private between consenting adults. That fear still exists but not to the same extent. I did not support Mr Hetherington's Bill because although it was in fact the staff in this Parliament - the telephone operators and the secretaries - who took most of the telephone calls, who were worn out and reduced to tears, I was made aware of the strong feeling that existed against the legislation. I felt it was proper that stronger safeguards should be incorporated in the Bill Mr Hetherington had introduced to meet the fears people were expressing. The most prominent of those fears related to children in school. The Government offered a preamble which did not seem to me to be strong enough, or would not be seen as strong enough, to act as a proper safeguard. I was not able to offer suitable amendments from my own resources.

I certainly believe - although no-one can be certain - that in the case of this Bill the Foss amendments provide appropriate safeguards. In my view the Criminal Code as it stands with respect to homosexual acts in private between consenting adults is neither right nor just and, that while the code is not enforced and, therefore, in practice the injustice is mitigated - as Hon Derrick Tomlinson said although in different words - injustice is not obliterated. I am

also mindful of the suggestion he seemed to make that the law as it stands could be activated at need. While I believe it to be unenforceable on a large scale, I know this possibility understandably worries many homosexual people, their parents, relatives and friends. Of course, it is hardly possible to envisage that even under the pressure of fear our Western Australian community would try to invoke the present law against active homosexuals, but strange things have been done by communities when they have felt threatened. Of course, people do not need a law to attack an outcast group, but there is no point in providing a vestige of legality for some such, no matter how remote, possible behaviour. For those reasons, and because I believe on balance the protection, psychological or otherwise, which people believe is provided by the present law is becoming more and more ineffective, and that this protection will be provided by the Bill, I wish it to be enacted and proclaimed.

Hon J.N. CALDWELL: Many members in this Chamber may have wondered why the National Party has not participated in the Committee debate. I remind members of Hon Eric Charlton's comments in the second reading debate when he spoke on behalf of the three members of the National Party in this Chamber and signified our opposition to the Bill. It was considered that the National Party's position was put strongly enough to make it unnecessary to participate further in the debate. Hon Eric Charlton very clearly explained the reasons for the National Party's opposition to this Bill; it is completely against everything the family stands for, and the family is the backbone of this State. We must give serious consideration to this legislation and its relationship to the family unit. It has been said that Australia must populate or perish; if this Bill is passed, it will do nothing to assist an increase in our population. We must consider the majority of people in this country and ensure that they are adequately protected.

I have copies from *Hansard* of three days of parliamentary debate. The battle lines have been drawn and considered by all members. The National Party respects the points of view of other members, but I firmly believe that the debate has been long enough. It is becoming abundantly clear how members will vote. The National Party is disappointed to note the indication of the way members will vote because it does not believe this Bill should be passed. I indicate that the National Party will support Hon Phillip Pendal's amendment.

Hon P.G. PENDAL: I have learned in this Chamber how to count and it is clear as a result of the stance taken by Hon Margaret McAleer and Hon Peter Foss that this amendment will not succeed. I regret that. I thank Hon John Caldwell for his remarks, on behalf of the National Party, in support of the proposed amendment. I share with him, as do the overwhelming number of members on this side of the Chamber, a bitter disappointment that this Bill will now become law, without the Government of the day having the courage to put its convictions to the test. I also, like Hon John Caldwell, see no point in prolonging this debate and making this week's *Hansard* even more bulky simply for the sake of it, so I will conclude by directing my remarks to the two members of this Chamber - Hon Margaret McAleer and Hon Peter Foss - who are capable of agreeing with this amendment, given that the Labor Party members are incapable of changing their view, because it has been imposed on them by the party, and given also that the National Party is prepared to support the bulk of Liberal members.

First, my proposed amendment is not a stunt. Second, Hon Margaret McAleer is quite correct in saying that the Parliamentary Liberal Party in this State became the first major political party anywhere in Australia, at a Federal or State level, to make a public commitment, this time last year, to the principle of citizens initiated referendums. My proposed amendment would have made some concession towards that sort of facility, using as its base the Referendums Act 1983, which was sponsored by the very Government now resisting its own provisions. The two members to whom I am directing my remarks will know as well as I that throughout the Australian community there is a keen feeling of alienation on the part of an overwhelming number of voters, who are fed up with party politics as they see it. The sad thing is that most Australians do not see party politics as being of much value. It is ironic that at this very moment in the history of the world we are seeing people in Hungary, China, Poland, and many other places dying for the right to take part in party politics. I hope that is one thing about which members opposite can at least agree with me. It is a great shame that party politics is held in disdain by the bulk of the Australian people, who see politics as being in a mess. I must admit they can see that as much on the conservative side of politics as the Labor or socialist side. Most people regard

Governments, Oppositions and political parties as irrelevant. Given that, I would have thought this may be the one occasion on which we could, as a bipartisan gesture, provide to the people of Western Australia - who are so alienated and disaffected - the opportunity to vote on this vital issue.

During the Committee stage, Hon Reg Davies made a magnificent gesture, in view of the agonising which I know he experienced about this Bill, when he said that if this matter were put to a referendum, and were to succeed, he would be prepared to come back to the Parliament and change his vote. I am sorry that Hon John Halden should snigger.

Hon Mark Nevill: Should we at the same time have a referendum about abortion? Would that change your view?

Hon P.G. PENDAL: Yes, if that is what the member wants. I have only four minutes left, and if I do not finish because of the member's interruption, I will get someone else to speak so that we have another 10 minutes. I feel very strongly about this matter, which is about to be put to a vote, being treated with disdain by some members of the Chamber. I say now for the record that notwithstanding my own strong opposition to what this Chamber is about to do, I agree with Hon Reg Davies; I would have been prepared, had the matter gone to a referendum of the people, and had it been approved, to change my vote.

Hon Mark Nevill: So it is not a moral issue for you?

Hon P.G. PENDAL: It is a highly moral issue for me, but I believe the people have the right to make a decision and express their view to the Parliament; if they were to disagree with my stance, then notwithstanding my own moral and parliamentary position, I would have been prepared to change my vote. I am disappointed about one aspect of Hon Margaret McAleer's argument; the rest I can respect, and even accept to some extent. I cannot accept the argument that one of the elements to be considered here is the question of expense.

Hon Margaret McAleer: I thought that in tying the referendum to a general election you were trying to save the State some money.

Hon P.G. PENDAL: The member knows I was prepared to take out of my amendment those words which refer to a referendum being held in conjunction with the next State election.

Hon Margaret McAleer: I acknowledge that.

Hon P.G. PENDAL: I acknowledge I misheard what the member said.

I am genuinely puzzled by the attitude of this Government, which one year introduces legislation to enshrine people's right to decide these matters at a referendum; then only a few years later says it cannot let people decide this matter because it is too complex. It is no good Mr Butler sitting there and tut-tutting like a cocky in a cage, because it was his party which brought into the Parliament the Bill which gave people the right to decide these things at a referendum. I am appalled at the suggestion made by some members that we cannot trust the people because this is too complicated. In the past there have been equally complex matters which have gone to the people, some of which have actually been given an affirmative vote in a referendum. It is not true to say that the questions asked in a referendum are rarely passed. That has certainly been the general track record, but there have been many occasions when issues which were just as complicated as this have been put to the people, and their better sense of -

[The member's time expired.]

Hon BARRY HOUSE: I indicate my support for Hon Phil Pendal's amendment. I opposed the second reading of this Bill, but given the way the vote has gone, I accept that situation is a reality. It would provide a safety valve if a referendum were to be part of this legislation. Like Hon Reg Davies and Hon Phil Pendal I am prepared to change my vote in this Chamber if a referendum comes back with a yes vote for the legislation as it would stand. I do not support it at the moment because since the Government has mooted -

Hon Reg Davies: I would cross the Chamber now if the House agreed to that amendment.

Hon BARRY HOUSE: I would be prepared to change my vote after a referendum because I would like to see what the people have to say on the matter. We live in a democracy, which is supposed to exist for the people, and on this issue we are not getting a true representation of the people's wishes. One side of the House is voting according to the Labor Party

Caucus' wishes and on this side of the House we are voting according to our consciences. I believe several members on the other side of the House feel very uneasy about the legislation and were they allowed a true conscience vote they would possibly vote in a different way.

Hon Doug Wenn: Name one.

Hon BARRY HOUSE: Mr Wenn can speak on this matter also if he wishes.

Hon Doug Wenn: Can you look at your men and say that?

Hon BARRY HOUSE: Since the Government mooted its intention to introduce this legislation, which the Ministers in this Chamber were unprepared to do, I have been flooded with letters, phone calls and representations from all sorts of people supporting and opposing the legislation. I know every other member in Parliament has come under the same sort of pressure. Certainly, the representations made to me in support of the legislation have not been as strong as the representations made opposing the legislation. However, I know it is an issue on which people are prepared to take a strong public stand, an issue which divides the community and about which people are very emotive. Therefore, we should give them the chance to have their say. This issue has brought people out of their homes and caused them to overcome their traditional apathy. The expense of referendums does not come into it at all because we live in a democracy and the people are supposed to have their say on matters of importance. When the clause is inserted in the legislation, I hope in a few moments, it will include the proviso that the referendum be held during the next State election, making the expense to this State very minimal. The clause gives members of the Labor Party a way to salve their consciences by supporting this clause. I will not hold my breath waiting for that to happen but I urge them to support it. I support Hon Phil Pental's clause.

Hon P.G. PENDAL: Usually, a Government can resist a referendum by saying it has a mandate for a particular issue. For example, it would say that we do not need a referendum on how to implement the provisions of the Burt commission because it was part of the party's pre-election policy document. However, the reverse of that is also true: Because the Government does not have a mandate to pass this legislation, the matter should go to a referendum. Who among the Labor Party had the courage to say prior to the election that upon re-election they would introduce a Bill to decriminalise homosexual conduct?

Hon Tom Helm: I did.

Hon P.G. PENDAL: Did Mr Helm? I take my hat off to him.

Hon N.F. Moore interjected.

Hon P.G. PENDAL: I was about to come to that point. Even if Mr Helm said it pretty silently and circulated it on his newsletter in the Pilbara to his mother, his sister and a couple of friends, the fact remains that the Government did not make any mention of this as an issue prior to the election, so it cannot claim to have that mandate.

Hon T.G. Butler: The Opposition did not have a mandate to oppose it. It did not say that during the course of the campaign it would vote against homosexual law reform.

Hon P.G. PENDAL: No matter how much I disagree with Mr Foss and Mrs McAleer I have always accepted their right to vote for this legislation and I acknowledge the courage it takes to do so, because I have been in that position before. But it is remarkable that the only person in the Labor Party who feels capable of saying that what this Government is doing is wrong is a retired member of the Federal Parliamentary Labor Party, Kim Beazley, who is no ordinary member; he is one of the most widely respected members of the Labor Party. He was one of the few respected members of the Whitlam Ministry and only a few days ago his letter appeared in a local newspaper. It said -

The Federal Government paper "AIDS, a Time to Care and a Time to Act" documents the fact that between 1982 and 1987 86 per cent of AIDS transmission was by homosexual acts, six per cent came from blood transfusion and four per cent from needle sharing.

The CHAIRMAN: Order! We are talking about inserting a clause for a referendum. Please relate your remarks to that.

Hon P.G. PENDAL: I am making the point that Mr Beazley's own remarks add weight to the call for a referendum to be held, not for the reasons in that first paragraph but for the reasons in the following two paragraphs, which read -

In NSW (with legal sodomy) the incidence of AIDS in that period was 4.07 per 100 000 nearly six times the incidence in WA and nearly 10 times the incidence in Tasmania, two states in which homosexuality is illegal.

The police do not pursue sodomites into private homes so the campaign for legality is a campaign for approval, as is the use of the word "gay" to cover the risk of an incurable disease.

Hon Fred McKenzie: He did not suggest a referendum.

Hon P.G. PENDAL: I am not saying he did, but he adds weight to my point that there are people within the Labor Party who are as frightened as people in the Liberal Party about doing what we are about to do here for the next couple of minutes. Again, we are greeted with that sort of derisory laughter, that childish, immature laughter from the President of the ALP in this State, whose only contribution is to giggle like a blasted schoolboy.

My final plea to members to support this move for a referendum, is again directed, not to the Labor Party members - who must act like goats in all of this because their party demands they do - but to Hon Margaret McAleer and Hon Peter Foss. I do so for all of the reasons I have mentioned but in the final analysis for this: They know - and it is time to put the record straight - that on the question of a referendum, as distinct from the decriminalisation issue, the Liberal Party took a party vote for the purposes of a referendum. That constitutes not an instruction such as members opposite are confronted with, but it goes to all members on this side as the strongest possible recommendation that they accept the request of their fellows to support a referendum.

We accept, and I accept, that this decision is not binding on them. Woe betide the day the Liberal Party or the National Party ever go down the path the Labor Party has been locked into for generations, where people are hidebound to come into this Chamber and to go to one side of the Chamber or the other regardless of whatever their strong beliefs, feelings and consciences say.

In the final analysis it becomes a question of the freedom of the individual. There are only two people who can decide that here because the other members of the Opposition have decided that they will support a referendum. Some members on this side have even said - including but a few minutes ago Hon Barry House - they would be prepared to change their vote on the Bill and its content were this matter permitted to go to a group of people who have shown that in a liberal democratic society they are the best people to decide such an issue. They have been shown to be better than High Court judges, judges of the Supreme Court - and with the greatest respect to Hon Peter Foss - the best lawyers in town, and the best intellectuals at the University of Western Australia or anywhere else. They are the ordinary average Western Australians who should be able to decide this matter in a vote in a referendum.

I implore those two members, when this goes to the vote, to show people on the other side of the Chamber and the people of Western Australia that they, like us, and unlike the Labor Party, are not frightened to let the people decide on this issue.

Hon MARGARET McALEER: With respect to Hon P.G. Pendal's final appeal I feel I should refine his statement somewhat. The party room took a vote on the referendum and a query was raised as to whether it was binding on members of the Legislative Council. It was clearly said that it was a recommendation to members of the Legislative Council.

Hon P.G. Pendal: That is what I said.

Hon MARGARET McALEER: When Liberal Party members of the Legislative Council met no vote was taken. I make that point simply for the interest of Liberal Party members.

New clause put and a division called for.

Bells rung and the Committee divided.

The DEPUTY CHAIRMAN (Hon Garry Kelly): Before the tellers tell I give my vote with the Noes.

Division resulted as follows -

Ayes (14)

Hon J.N. Caldwell	Hon Max Evans	Hon Muriel Patterson	Hon D.J. Wordsworth
Hon George Cash	Hon Barry House	Hon P.G. Pental	Hon W.N. Stretch
Hon E.J. Charlton	Hon M.S. Montgomery	Hon R.G. Pike	(Teller)
Hon Reg Davies	Hon N.F. Moore	Hon Derrick Tomlinson	

Noes (17)

Hon J.M. Berinson	Hon John Halden	Hon Margaret McAleer	Hon Bob Thomas
Hon T.G. Butler	Hon Kay Hallahan	Hon Mark Nevill	Hon Doug Wenn
Hon Cheryl Davenport	Hon Tom Helm	Hon Sam Piantadosi	Hon Fred McKenzie
Hon Graham Edwards	Hon B.L. Jones	Hon Tom Stephens	(Teller)
Hon Peter Foss	Hon Garry Kelly		

Pairs

Ayes

Hon P.H. Lockyer

Noes

Hon J.M. Brown

New clause thus negatived.

Hon PETER FOSS: I move -

To insert before clause 1 as a preamble the following -

WHEREAS, the Parliament does not believe that sexual acts between consenting adults in private ought to be regulated by the criminal law;

AND WHEREAS, the Parliament disapproves of sexual relations between persons of the same sex;

AND WHEREAS, the Parliament disapproves of the promotion or encouragement of homosexual behaviour;

AND WHEREAS, the Parliament does not by its action in removing any criminal penalty for sexual acts in private between persons of the same sex wish to create a change in community attitude to homosexual behaviour;

AND WHEREAS, in particular the Parliament disapproves of persons with care supervision or authority over young persons urging them to adopt homosexuality as a lifestyle and disapproves of instrumentalities of the State so doing:

Be it therefore enacted by the Parliament of Western Australia.

Hon DERRICK TOMLINSON: My contribution is more in the nature of a question than anything else. It is my understanding that in this drafting of the Bill, Neil Roberts, the legal spokesman for the gay law reform group of Western Australia, consulted closely with Hon John Halden. I also understand that Mr Roberts drew heavily upon corresponding legislation enacted by the Victorian Parliament, and the draft he proposed included the preamble adopted by the Victorian Parliament. That preamble does not appear in the Bill presented by Hon John Halden.

In drafting his amendments and his preamble, I understand Hon Peter Foss also took from Neil Roberts the Victorian legislation and this preamble is a revision and a tougher one than the original. I can understand why Hon John Halden and members of the Government have agreed to the adoption of Mr Foss' preamble because without adopting it and his amendments the Bill would not have reached this stage. I direct a question to Hon John Halden: Will he explain why there was no preamble in the Bill when it was first presented?

Hon JOHN HALDEN: Hon Derrick Tomlinson seems to have a wrong perception in that he believes Neil Roberts was significantly involved in the drafting of the Bill. Certainly I had lengthy discussions with him on the matter. Also we collectively spoke to Hon Peter Foss regarding his amendments, but, to the best of my knowledge, it was not Neil Roberts who drafted these amendments.

I did not believe there was a great need for a preamble as I did not believe the preamble in the Victorian legislation offered anything spectacular. I am happy to accept the preamble - it

makes no significant difference to me. I would prefer it not to be there, but Hon Peter Foss wishes it to be in the legislation and I will accept that.

Hon DERRICK TOMLINSON: I thank Hon John Halden for his answer. I draw his attention to the fact that the preamble makes a significant difference to the amendments which have been passed. The previous amendments proposed by Hon Peter Foss make a significant difference because the original Bill was about the decriminalisation of sodomy. The Bill as amended makes certain acts unlawful.

The preamble states that Parliament disapproves of certain things and certain aspects of homosexual behaviour. When we speak of disapproval, we are talking about an expression of disapprobation. In defining that term I do not refer to the Concise Oxford Dictionary: I refer to the Oxford Dictionary, which is the standard for the English language throughout the world. When speaking about disapprobation we are talking about moral condemnation. Therefore, the decision of this Parliament will enact moral condemnation on certain aspects of homosexual behaviour - that is significant. There is nothing in the Statutes to condemn homosexual behaviour at the moment.

Hon John Halden: Except 14 years in gaol for sodomy!

Hon DERRICK TOMLINSON: Sodomy is not exclusive to the homosexual community by any means, as was stated in the member's second reading speech. The Bill was about the decriminalisation of sodomy and now we are talking about the disapproval of homosexual behaviour and making certain acts unlawful. That decision opens up the courts to civil action against the homosexual community. This preamble is a form of censure and censorship against a group in the community. It is something which has not been exercised against any other group. The amendments that have already been adopted make a significant difference to this Bill as to what may happen in the community. If Hon Tom Butler were a betting man, I would bet him that this law will be tested in the courts in a short period of time.

Hon T.G. Butler: What are the odds?

Hon DERRICK TOMLINSON: So, the member is a betting man.

This will offer an opportunity for members of the community to impose a moral and legal censure against the homosexual community which was not open to them before. This will open up a Pandora's box if the legislation is enacted.

Hon JOHN HALDEN: We have spent many long hours discussing this Bill but I cannot allow the malicious rumour peddling to continue. The comments made by Hon Derrick Tomlinson were clearly rebutted previously. What he has to say is not appropriate; he is rumour mongering and introducing a whole series of red herrings. In fact, this debate has been full of red herrings and as we get to the last stage of the debate we are seeing more. Hon Peter Foss rebutted the argument with greater clarity than I could, and these outrageous comments do no good whatsoever in the dying stages of the debate on this Bill.

Hon GEORGE CASH: I generally support the comments made by Hon Derrick Tomlinson as I do not believe the explanation given by either Hon Peter Foss or Hon John Halden were sufficient to allay my fears on the question of homosexual behaviour in the community. Given the votes that have taken place in the House, and given the fact that numerous amendments have been agreed to by this Chamber - often by division admittedly - the wording of this preamble will give some indication to the public that this Parliament does not believe that sexual acts between consenting adults in private ought to be regulated by criminal law. The most important aspect in the preamble is a statement which reads as follows -

AND WHEREAS, in particular the Parliament disapproves of persons with care supervision or authority over young persons urging them to adopt homosexuality as a lifestyle and disapproves of instrumentalities of the State so doing:

I think the foregoing statement is equally as important as the following -

AND WHEREAS, the Parliament does not by its action in removing any criminal penalty for sexual acts in private between persons of the same sex wish to create a change in community attitude to homosexual behaviour.

I regret the Bill has reached the Committee stage. I hope that the people who like myself

will be disappointed if the amendment is carried and becomes law in Western Australia will recognise in the preamble a message to the community that this Parliament disapproves of the promotion and encouragement of homosexual behaviour in Western Australia.

Preamble put and passed.

Title -

Hon PETER FOSS: I move -

To amend the title to read -

An Act to amend the Criminal Code and to make certain acts unlawful.

Amendment put and passed.

Title, as amended, put and passed.

Bill reported with amendments, an amendment to the title, and a preamble.

ACTS AMENDMENT (REMUNERATION OF GOVERNOR) BILL

Assembly's Message

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

TAXATION (RECIPROCAL POWERS) BILL

Returned

Bill returned from the Assembly without amendment.

TRAVEL AGENTS AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Graham Edwards (Minister for Racing and Gaming), read a first time.

Second Reading

HON GRAHAM EDWARDS (North Metropolitan - Minister for Racing and Gaming)
[5.26 pm]: I move -

That the Bill be now read a second time.

This amendment Bill arises out of an agreement reached by the Standing Committee of Consumer Affairs Ministers in Hobart of July 1989. Following a report to Ministers from a national working party set up to examine amendments to the uniform Travel Agents Act certain recommendations were agreed upon.

Central to the protection to consumers offered by the Travel Agents Act is the travel compensation scheme. Licensed travel agents are required as a condition of their licence to become and remain members of the fund. In the event of the financial collapse of a travel agent, consumers are compensated if they meet the criteria of the compensation scheme as determined by the trustees. The scheme has worked successfully on a national basis and has provided certainty and financial comfort to consumers since its inception.

This Bill corrects an anomaly in the Western Australian legislation that is not present in the other States. Under the present law, if a travel agent has membership of the travel compensation fund cancelled he or she still remains licensed in Western Australia until the commercial tribunal conducts a hearing and cancels or suspends the licence. During the interim period between removal from the fund and suspension of the licence, which is sometimes a period of weeks, consumers are at risk if the agent continues to trade, as consumers are not covered by the fund.

This amendment allows for automatic suspension of the licence upon cancellation of membership from the fund. Once the travel agent has regained membership of the fund the licence is automatically reinstated.

This Bill will enhance consumer protection contained in the Travel Agents Act in this State. I commend the Bill to the House.

Debate adjourned, on motion by Hon P.G. Pendal.

LOCAL GOVERNMENT SUPERANNUATION AMENDMENT BILL

Second Reading

HON GRAHAM EDWARDS (North Metropolitan - Minister for Racing and Gaming) [5.28 pm]: I move -

That the Bill be now read a second time.

The Bill seeks to amend the Local Government Superannuation Act 1980. In response to employer, employee and union requests, the Government proposes to extend the coverage of the Government employees' superannuation scheme to State agencies now included in the local government superannuation scheme. This decision is in line with the Government's policy of providing superannuation to all of its employees through membership of the Government employees' superannuation scheme.

As the Government employees' superannuation scheme offers a higher level of benefits than the local government superannuation scheme, this change will be of benefit to the affected employees. The employing agencies are -

Zoological Gardens Board
Metropolitan Cemeteries Board
Keep Australia Beautiful Council (WA)
Fremantle Cemetery Board
Waterways Commission
Kings Park Board

The proposed arrangements will also apply to certain employees of the Department of Conservation and Land Management who were previously employed by the now defunct National Parks and Wildlife Authorities.

Transfer to the Government employees' superannuation scheme is to be optional and at the discretion of each member. It is proposed that all transferring members be treated as new members of the Government employees' superannuation scheme.

Each transferring member's accrued superannuation entitlement in the local government superannuation scheme will be fully protected and reserved without penalty, irrespective of the period of membership in the local government superannuation scheme. The preserved benefit will remain in the local government superannuation scheme and continue to accrue interest at the rate applicable to other members of the scheme.

To give effect to this arrangement, it will be necessary to prepare suitable regulations as the benefit entitlements in the local government superannuation scheme are set out in the supporting regulations and not the Act.

After the proposed amendments come into effect, employees in the agencies concerned who are not already members of the local government superannuation scheme will have access only to the Government employees' superannuation scheme. These proposals have the endorsement of the Local Government Superannuation Board and the Government Employees Superannuation Board.

I commend the Bill to the House.

Debate adjourned, on motion by Hon P.H. Lockyer.

ACTS AMENDMENT (PREVENTION OF ACCESS TO RECORDS) BILL

Second Reading

HON P.G. PENDAL (South Metropolitan) [5.30 pm]: I move -

That the Bill be now read a second time.

The purpose of this Bill is to prohibit the State of Western Australia from passing to the Commonwealth any information capable of being stored and used as part of a national ID card system. A national ID system - that is, an Australia Card - could not succeed if information vital to its functioning were denied to it. Information crucial to an ID card system relates to the details of a person's birth and marriage, and details held by the police on behalf of holders of drivers' licences. That storage of information is in the hands of the State Government acting under the provisions of the Statutes this Bill seeks to amend.

The Bill also underlines one of the strengths of the Federal system; that is, a system which distributes political and administrative power to two Parliaments and not just one. This is a classic case of one sphere of Government being constrained by the actions of another. I see that as a good thing. Whereas many people consider it a nuisance that some decisions require the actions of two Governments or two Parliaments, I think that also is a good thing.

As members know, the whole question of information storage has been a powerful topic of debate in this State, nationally and throughout the world in recent times. But storage is one thing, and access to that information is quite another. The Opposition sees, on the one hand, the need for balance between the right to privacy and, on the other hand, the right of access to information. It is an issue on which the Opposition has managed to set the agenda. The Liberal Party has introduced legislation in another place in the form of a freedom of information Bill to enshrine people's right to access with certain reasonable limitations.

On the other side of that debate, the Liberal Party now introduces this Bill designed to protect the interests and the privacy of ordinary Western Australians whose personal information is stored by the Registrar of Births, Deaths and Marriages and the Commissioner of Police. The latter is, of course, highly topical today because of the extraordinary events of the last week in which a senior policeman claims his privacy has been invaded in a serious way. Many people are now asking whether the proper procedures have been followed in the case of Deputy Commissioner Peters' privacy. If he, at the very pinnacle of the Western Australian Public Service, is able to become the victim of alleged foul play, what hope is there for the protection of the privacy of 1.6 million ordinary Western Australians?

That is relevant because this Bill seeks to provide heavy penalties for the unauthorised disclosure of information to Commonwealth authorities. A penalty of \$5 000, or imprisonment for two years, will attach to the illegal disclosure of information under the provisions of this Bill. That should underline the seriousness with which the Opposition views this matter. It is one thing for the State of Western Australia to safeguard the information entrusted to it. It is quite another for the Commonwealth to seek to use or misuse that privileged information for ID purposes. This Bill makes it illegal for that State-held data to be used by, or passed to, the Commonwealth. I commend the Bill to the House.

Debate adjourned, on motion by Hon J.M. Berinson (Leader of the House).

MUSEUM AMENDMENT BILL

Second Reading

Debate resumed from 20 September.

HON KAY HALLAHAN (East Metropolitan - Minister for Local Government) [5.35 pm]: The Government opposes this Bill, and I will refresh members' memories of the statements made by Hon Phillip Pental in his second reading speech. He maintained that the vehicles in the collection referred to are of significance, and stated that Mrs Henderson, the former Minister in charge of this area, made a commitment with regard to those vehicles which the present Minister, Mr Parker, is disregarding. He also asserted that the Western Australian Museum was forced to offer these vehicles for sale by a functional review. I thought it would be useful to go through those points and indicate that the Government does not support either the Bill or the contentions of Hon Phillip Pental.

The Museum seeks to develop its transport collection with vehicles relevant to the history of this State. Probably the strongest way I can get across to members the reason for the disagreement in this area is to point to the very great difference between items of historical significance that the Museum thinks should be maintained in order to reflect our very great history and heritage, and collectors' items which are of interest mainly to collectors. I am concerned that the Liberal Party seems to be set on a course of meeting the needs and

interests of certain groups, and wants to advantage them without any strong viable position or supportable view in this undertaking.

I also point out that the Museum trustees make decisions about the policy governing the Museum, and the items it collects or would like to acquire to uphold the great history of our State. The Museum wants to acquire additional material to illustrate the story of how the logistic problems in this vast State were overcome in the past. The collection in question does not fall into that category. The 10 vehicles to be sold are irrelevant to the history of this State, they cost the taxpayers money for maintenance, and occupy valuable storage space. When sold they will provide a significant amount of money which can be used to preserve the history of this State. The Museum trustees advise that other museums display esoteric vehicles and they feel the veteran and vintage car enthusiasts are well catered for both in Western Australia and elsewhere in Australia. No other State museum has shown interest in acquiring these vehicles, including the National Motor Museum at Birdwood Mill in South Australia. In addition, they are not protected by the Commonwealth Government cultural object export regulations.

The Liberal Party in Western Australia is making great play of this matter; admittedly there was some advantage for Hon Phillip Pendal in the high profile he gained through this issue. I would hate to think that it was done for that reason.

Hon Max Evans: Did you go to Beverley?

Hon KAY HALLAHAN: Is the Opposition suggesting Government by rally? I come from a family in which the males are motor vehicle enthusiasts.

Hon D.J. Wordsworth: It is a pity it did not express itself in the females of the family.

Hon KAY HALLAHAN: I do have an appreciation of the interest, enthusiasm and passion that people have for vintage and veteran cars.

Hon P.G. Pendal: In things vintage? We can understand that.

Hon KAY HALLAHAN: So I am not in any way discounting that. Nevertheless, that does not validate their view that these vehicles should be in a museum which portrays this State's history. In respect of the complaint made by the member against Mrs Henderson, she did give a commitment to try to sell the vehicles within our State; that effort failed because no tenderer offered what was regarded as a reasonable price. If members opposite are telling me there was a wonderful rally, and great support was expressed, then surely the challenge is for the very great number of vintage car enthusiasts within that industry - and it is somewhat of a minor industry - to fund the purchase of these vehicles.

Hon Max Evans: She wanted to sell the lot at one sale; not individually. That is beyond the capacity of anyone's private purse.

Hon KAY HALLAHAN: No-one is suggesting that people do it on that basis. There are car clubs and combined car clubs -

Hon Max Evans: They comprise individual people.

Hon KAY HALLAHAN: We are all individual people; banded together we have great resources and strengths.

The Functional Review Committee highlighted what had already been identified as a problem: The Museum had acquired a collection which restricted its ability to expand its transport and technological collections but which really added very little of relevance to the role of the Museum. This collection was purchased by the State; the State has the right to dispose of it. I understand the collection was imported into the State in the 1960s, essentially for exhibition purposes. We need to get into perspective what we are talking about. There is a difference between what is of interest to a collector and what is of legitimate interest to a museum.

Hon P.G. Pendal: That is not even what the Museum is saying. The Museum said that the collection was brought in from outside; therefore it is not part of this State's culture. We say you could flog that big whale over there on that basis!

Hon KAY HALLAHAN: We are saying it had nothing to do with our history, nor the development of our State. I am not sure whether there is a great difference between what we

have both just said. The Government has followed the advice of the trustees appointed to the Museum. It is not a question of Government determining the position; it is a matter for the trustees, who have made their recommendation to the Government.

Hon P.G. Pental: That is not true either. The Functional Review Committee decided that the trustees -

Hon KAY HALLAHAN: Hon Phil Pental thinks he has a mortgage on what is right. I am sorry to have to disillusion him, but I am telling him that cannot be true. The trustees of the Museum have, quite independently, developed and adopted a policy for disposal of unwanted materials. That policy ensures that the heritage of our State is well protected. The Government is not proposing to interfere with the workings of the Museum. That is the crux of the position taken by the Government. That position is very different from deciding which collections should be kept and what the Museum, acting on behalf of the people of the State, will do on the basis of the information it has.

I understand the trustees believe that the money earned from the sale of these vehicles can be well spent in other ways. I make the point - which would probably be quite reassuring to members opposite - that the money will not go into the Consolidated Revenue Fund, if that is their fear. Second, it will not take the place of the funding already allocated to the Museum. That money will be in addition to the Museum's budget, and will be used by it for Museum purposes. It will be put to use in four general areas: First, to upgrade existing collections of motor vehicles; second, to acquire additional historically important vehicles; third, to acquire additional items for the Museum generally; and, fourth, to improve existing collections by better conserving them.

I have expressed some concern about the position of the Liberal Party because I understand that under the Liberal plan, which was unveiled by Hon Barry MacKinnon, certain details were listed as policy, which would give the combined car clubs a very privileged position.

Hon P.G. Pental: You mention Mr MacKinnon. What was that in connection with?

Hon KAY HALLAHAN: He launched the Liberal plan. That was all I said. I do not suppose the member would disagree that Mr MacKinnon might launch a Liberal plan.

Hon P.G. Pental: He did a very good job, and it was a good policy.

Hon KAY HALLAHAN: The policy is that -

- * The Combined Car Clubs Association of W.A. would be allocated land - probably at Whiteman Park - on which to build a W.A. Museum of Transport;
- * The Club would be given an interest-free loan to assist with construction;
- * The 10 vehicles will remain under State ownership and the C.C.C.A. of W.A. and other private museums or individuals would be given exhibition rights to display the cars in Perth and regional centres like Bunbury, Albany, Kalgoorlie and Geraldton and Port Hedland;
- * A modest annual "restoration grant" will be made to the C.C.C.A. of W.A. to help in readying the cars for exhibition and use;
- * Apart from "exhibition rights" the C.C.C.A. of W.A. and others, as a quid pro quo, will be permitted road use of the restored vehicles on appropriate occasions;
- * Tax deductibility for donations to the project would be negotiated either directly with the Federal Government by a State Liberal Government, or alternatively, the proposed Arts and Heritage Foundation announced by the Liberals in April will be used to provide tax deductible status for the project.

These are extraordinary benefits and advantages, and it is a very comprehensive plan to appeal to a sectional interest within our community, and to give a relatively small number of people quite enormous resources for an interest which the trustees of the Museum do not think is of historical significance to the State. The support which the Liberal Party was prepared to give to this small section of the community does not stand up well for the Liberal Party. Some of these people would have struggled to get their vehicles together and to keep them running; others would be very well resourced to do that; then having made available to

them extraordinary resources, they would have had the pleasure of having these vehicles at their disposal on significant occasions.

Hon Fred McKenzie: What about the railways historical museum?

Hon P.G. Pental: I promise you that under a Liberal coalition Government, your museum would be looked after.

Hon Fred McKenzie: How many millions of dollars?

Hon P.G. Pental: I cannot give you that off the top of my head. You will need to give us a couple of weeks in Government.

Hon KAY HALLAHAN: The Government is acting on the advice of the Museum trustees, who have the responsibility to manage our Museum, and make a judgment about what should be housed. We are talking about a collection imported into this State in the 1960s; it was purchased, not acquired. Therefore, it seems to me to be a reasonable decision for the trustees to sell these vehicles. I reiterate there was no going back on the decision of Hon Yvonne Henderson in her role as Minister. She attempted to carry out the undertaking she gave. There was no interest sufficient to warrant the selling of these vehicles, and the recommendation now is that they be auctioned in the international forum.

Hon P.G. Pental: And a disgraceful decision it is too.

Hon KAY HALLAHAN: It is not a disgraceful decision, but we are used to extravagant language from Hon Phillip Pental.

Hon P.G. Pental: You are flogging off historic police stations and vintage cars.

Hon KAY HALLAHAN: Hon Phillip Pental will get bumps all over his tongue.

Hon P.G. Pental: The Minister's dress looks as though it will be next.

Hon KAY HALLAHAN: This is a very stylish dress.

Hon P.G. Pental: Someone said it was vintage.

The DEPUTY CHAIRMAN (Hon Doug Wenn): Order! Let us stick to the Bill.

Hon KAY HALLAHAN: As a matter of fact, I am inclined to agree with Hon Phillip Pental about that, but I have been told it is very stylish. Why I believed the people who told me it was stylish, I have no idea.

Hon P.G. Pental: Get a refund!

Hon KAY HALLAHAN: We as a Government reject the Bill and I ask members on this side of the House to vote against it, regardless of what they think of my dress.

HON DERRICK TOMLINSON (East Metropolitan) [5.51 pm]: I cannot let pass the Minister's remarks that the Museum is there to portray the State's history, and I am quite sure she will want to defend any misrepresentation of the purpose of the Museum. It is true that the WA Museum holds a good collection from both the prehistory and the history of Western Australia and in a variety of museums in various parts of the State there is an extensive collection showing the history of the State in peculiar parts or peculiar ways of that history. However, the Museum does not exist solely for that purpose. I am constantly demanded by my seven year old son to take him to the Museum during school holidays. His reasons for wanting to go to the Museum during the holidays is that he is absolutely obsessed, at this stage of his development, with dinosaurs. He wants me to take him during every school holidays to see the dinosaur display at the WA Museum. The interesting thing about the dinosaur display at the WA Museum is that the dinosaurs there are not peculiar to Western Australia; in fact, they do not come from Western Australia. Hence while it is true that the Museum does contain an excellent collection of Western Australian flora and fauna it also contains an excellent and extensive collection of exotic flora and fauna. I put it to the Minister that if the Museum existed solely to portray the State's history it would be failing in its function as a museum.

Hon P.G. Pental: That is the very point at issue.

Hon DERRICK TOMLINSON: The Percy Markham collection of vintage cars was bought by the WA Museum for, I understand, a sum of about \$140 000. The interesting thing about that is that not long after he was paid the sum of \$140 000 Percy Markham made a donation

of \$140 000 to the WA Museum; hence while there was a purchase there was a subsequent donation equal to the purchase price. Now that collection is to be sold. Why? It is to be sold because the Functional Review Committee arrived at the opinion that the Museum was well endowed - it had plenty of money and if it wanted to acquire more articles for its collection it could very well sell some of its existing assets and use the cash to buy other assets. So this historically important - this heritage-important - collection of motor vehicles is to be sold. And why? It is to be sold because the Government was unwilling to finance an acquisition fund by the Museum, for the very simple reason that this Government is trying very hard to balance a budget in very difficult circumstances. Therefore, it reasons, "Let us sell off our heritage and balance our budget; let us use our heritage to pay for our mistakes!"

Debate adjourned, on motion by Hon Barry House.

ADJOURNMENT OF THE HOUSE - ORDINARY

HON J.M. BERINSON (North Metropolitan - Leader of the House) [5.55 pm]: I move -

That the House do now adjourn.

Adjournment Debate - Sitzings of the House - Early Advice - Thursday, 23 November

I will take just a moment to refer to next week's proceedings in the House. As members will know, we have agreed to extend the sitting times on Thursdays to include a morning session from 11.00 am and also to continue after dinner. I did indicate that I would aim to advise the House on the Wednesday of each week, at least, as to whether an evening sitting would be required on the Thursday. Some objection to that was raised on the ground that that did not provide sufficient notice to members, given their obligations at this time of the year, and I accept that as reasonable. Accordingly I take the opportunity to indicate, having reviewed the state of the Notice Paper, that it would be my intention to have the House sit next Thursday evening.

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [5.56 pm]: Firstly, while I appreciate the comments of the Leader of the House I am not necessarily pleased with the idea that we will sit until 11 o'clock on Thursday nights. However, the House has made its decision and so be it. I do appreciate the Leader of the House's early advice on the matter.

As to the structure of the business of the House during next week, because of a shortage of time we have not been able to complete the Museum Amendment Bill - a Bill introduced by Hon Phillip Pandal and one which the Opposition wishes to see completed at the earliest possible time. Equally, the Rothwells Ltd inquiry matter, which was introduced by Hon Bob Pike, has at times been much closer to the top of the Notice Paper than it is now and I ask the Leader of the House to give reasonable consideration to seeing that those matters are dealt with expeditiously.

I also refer the Leader of the House to other Opposition business in the form of Order of the Day No 36 on today's Notice Paper - the General Elections (Prohibition of Government Advertising) Bill, again introduced by Hon Phillip Pandal. That is a matter we are keen to have discussed and I would be pleased to enter into any negotiations, along with the Leader of the National Party, that may speed up or assist the flow of business through this House by negotiation.

HON E.J. CHARLTON (Agricultural) [5.58 pm]: I endorse the remarks of the Leader of the Opposition, but the ball is in our court. It is not for me to suggest how long we should take to debate certain measures. I, too, want some legislation proposed by members on this side of the House to be debated next week. We have taken longer than we should on legislation this week. I am not being critical of anyone; everyone has the right to speak as long as he or she likes. But we should bear this point in mind when we are asked to sit late on Thursdays.

HON J.M. BERINSON (North Metropolitan - Leader of the House) [5.59 pm]: I will respond to Hon George Cash's comments by indicating that I have already privately assured Hon R.G. Pike that his Order of the Day listed No 8 today will be brought on sometime on Tuesday, although it might be late on Tuesday. I am happy to undertake to complete the Museum Amendment Bill on Wednesday at the latest. I am assuming that will not take all

that long. I also accept willingly the suggestion by the Leader of the Opposition that he, Hon E.J. Charlton and I should consult on next week's procedures, indeed on each week's procedures. I will take up that suggestion immediately after the adjournment.

Question put and passed.

House adjourned at 6.00 pm

QUESTIONS ON NOTICE

**TECHNOLOGY AND INDUSTRY DEVELOPMENT AUTHORITY - AUSTRALIAN
SHIPBUILDING INDUSTRIES (WA) PTY LTD**

Defence Maintenance Work - Tender Procedures Report

634. Hon GEORGE CASH to the Leader of the House representing the Minister for Economic Development and Trade:

Further to question 355 of 19 September 1989 -

- (1) Did the report make any reference to tendering procedures for work to be done by Australian Shipbuilding Industries and, if so, will the Minister provide details?
- (2) Were there any references in the report regarding the adequacy - or otherwise - of tendering facilities for defence projects at the Australian Shipbuilding Industries ship lift facility and, if so, will he provide details?
- (3) Did the report make any recommendations and, if so, will he table those recommendations?
- (4) If not, why not?

Hon J.M. BERINSON replied:

The Minister for Economic Development and Trade has provided the following reply -

- (1) (a) Yes.
(b) No. The references were based on comments from individual companies which were provided on a "commercial-in-confidence" basis. The terms of reference - see attached - for the report did not require such comments.
- (2) (a) Yes.
(b) No, see (1)(b).
- (3) (a) Yes.
(b) No, see (4).
- (4) The "commercial-in-confidence" restrictions preclude tabling of the report and its recommendations. Any comments on tendering procedures have not been accepted by the State Government as they are the subject of commercial contractual arrangements between Australian Shipbuilding Industries and the Department of Defence, in which the State Government has no legitimate role.

ATTACHMENT

**LOCAL INDUSTRY PARTICIPATION IN DEFENCE PROJECTS -
CURRENT RAN DOCKINGS AT THE MARINE SUPPORT FACILITY,
JERVOISE BAY**

TERMS OF REFERENCE

1. Determine the current status of the HMAS OXLEY intermediate docking and the HMAS SWAN refit in relation to:

The names of local and interstate companies which were awarded work on these two projects;

The work packages awarded to each company;

The value of this work and approximate manhour content, by type;

The names of local companies which bid for or were initially considered for work but were unsuccessful;

On a specific company basis, the reasons why these local companies were unsuccessful;

Identify attributes of successful companies including importance of QA/QC.

2. Recommend follow-up action by TIDA to increase local involvement in future projects of this nature with specific reference to:

identifying key companies which could act as coordinators for future sector bids;

identifying stages in the refit tendering process where TIDA initiatives are appropriate to promote the maximization of local companies participation;

identifying potential TIDA initiatives required to assist previously unsuccessful local companies to win future contracts.

3. Three meetings with TIDA officers are proposed during the progress of the contract. These will be:

immediately on award of the contract;

mid-way through the contract;

for discussion of draft report.

4. Five copies of the final report are required

SPORT AND RECREATION - NEW PROJECTS

Ongoing Projects - Funding

756. Hon E.J. CHARLTON to the Minister for Sport and Recreation:

- (1) What new sporting and recreation projects are being funded in the 1989-90 financial year?
- (2) At what cost?
- (3) Which ongoing projects are being funded in the 1989-90 financial year?
- (4) At what cost?

Hon GRAHAM EDWARDS replied:

I assume that the honourable member is referring to sporting and recreation capital facility projects funded from the General Loan and Capital Works Fund and the Community Sporting and Recreational Facilities Fund.

(1)-(2)

General Loan and Capital Works Fund - nil.

Community Sporting and Recreation Facilities Fund -

	\$
Wyalkatchem Golf Club	20 000
- Redevelopment of Golf Club	
Toodyay Tennis Club	20 000
- Upgrade four tennis courts with synthetic grass	
West Stirling Tee Ball and Softball Club	20 000
- Construction of Clubrooms	
Albany Sea Rescue	20 000
- Construction of Amenities Block	
Walliston Riding and Pony Club	15 000
- Reconstruction of clubhouse, Kalamunda	
Trigg Island Surf Life Saving Club	25 000
- Planning of clubhouse	

Shire of East Pilbara	25 000
- Construction of swimming pool in Marble Bar	
Shire of Boddington	168 000
- Construction of recreation centre	
- Recreation grounds, Boddington	
Shire of Shark Bay	20 000
- Construction of recreation centre, Denham	
Shire of Donnybrook-Balingup	65 000
- Construction of aquatic centre and recreation centre - VC Mitchell Park, Donnybrook	
Women in Sport Council	250 000
- Provision of child care facilities	

(3)-(4)

General Loan and Capital Works Fund -

Detail provided on pages 22 and 43 of the printed Estimates of Expenditure for the General Loan and Capital Works Fund.

Community Sporting and Recreation Facilities Fund -

\$2.03 million is committed to projects approved in previous financial years. There are a large number of projects involved and it would take considerable effort to extract this information. If the member is interested in any particular project I would be pleased to obtain the relevant information.

EDUCATION - COUNTRY HIGH SCHOOL HOSTELS AUTHORITY

Termination - Legislation, Government Intention

759. Hon N.F. MOORE to the Minister for Local Government representing the Minister for Education:

- (1) Is it the Government's intention to legislate to terminate the Country High School Hostels Authority?
- (2) If not, why not?

Hon KAY HALLAHAN replied:

The Minister for Education has provided the following reply -

(1)-(2)

No decision has yet been made on the future of the Country High School Hostels Authority.

PRISONS - FREMANTLE GAOL RIOT

Prison Officers - Compensation Claims

764. Hon GEORGE CASH to the Attorney General:

- (1) How many prison officers made claims for compensation subsequent to the riot at Fremantle Gaol?
- (2) How many of those claims have been finalised, and what were the outcomes of those finalised claims?
- (3) How many claims are yet to be finalised, and what is the reason that these claims are still outstanding?
- (4) Is the Crown Law Department allowing full access to transcripts and documents of relevant criminal proceedings against inmates involved in the

riot to ensure that compensation proceedings for prison officers can proceed effectively?

(5) If not, why not?

Hon J.M. BERINSON replied:

(1) Eleven.

(2) None.

(3) Eleven. Two applications require further information which is being obtained. Listing such matters is within the discretion of the Assessor, Criminal Injuries.

(4) Yes.

(5) Not applicable.

TRAFFIC LIGHTS - MILLIGAN STREET-ST GEORGE'S TERRACE

Time Phases - Adjustments

766. Hon GEORGE CASH to the Minister for Racing and Gaming representing the Minister for Transport:

(1) Have adjustments been made to the time phases of the traffic lights at the corner of Milligan Street and St George's Terrace and, if so, will the Minister indicate the reasons for such changes?

(2) Is the Minister aware that the current time phases of these traffic lights is causing a significant delay to traffic in Malcolm Street?

(3) What action does the Minister intend to take to alleviate this unsatisfactory situation?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following reply -

The Minister for Transport has advised me to refer the honourable member to the response given to question on notice 738 which outlines the situation at the intersection of Milligan Street and St George's Terrace.

COMPANIES (WA) CODE - REPRINT DATE

Amendments

767. Hon GEORGE CASH to the Attorney General:

(1) When was the Companies (WA) Code last reprinted?

(2) How many amendments to the code have been made since that reprint?

(3) Have all subsequent amendments to the code been made available to the public through the Government Printer?

Hon J.M. BERINSON replied:

(1) A reprinted version, correct as at 30 June 1984, was published by the Government Printer. It is believed that WA is the only State ever to have published a reprinted version, which is so out of date now that it would be likely to mislead the public.

(2) Since the WA revised version in 1984, there have been 10 Acts of the Commonwealth, some of them with different parts coming into operation at various times, which amended the code and most of these have also been the subject of "translator" regulations.

(3) No. All States have relied on the text published commercially by CCH Australia Ltd. That is now in its eighth edition and shortly to be republished in view of 158 pages of amendments made to the various codes. CCH presumably has the size of market to make this an economic proposition. Officers are not aware of any separate demand for a similar publication to be made by the State Government.

EDUCATION - CURTIN UNIVERSITY
Minnesota Office - Establishment Cost

772. Hon D.J. WORDSWORTH to the Minister for Local Government representing the Minister for Education:

With reference to question 705 of 24 October 1989 -

- (1) What is the capital cost of setting up such an office in Minnesota?
- (2) What is its expected annual running cost?
- (3) How many students would be required to make it pay?
- (4) Would the curriculum have to be altered in order to accommodate overseas students?
- (5) If so, would this restructured curriculum not cause disadvantage to Australian students?

Hon KAY HALLAHAN replied:

The Minister for Education has provided the following reply -

- (1) \$243 000 Australian. An export development rebate application is being considered and this could reduce the amount by up to 70 per cent.
- (2) The office will be self-supporting on the basis of student fees of \$5 100 Australian and research consultancy fees.
- (3) There is a planned initial intake of 120 students for first semester 1990. When fully operational in 1991 there will be 400 students.
- (4) The curriculum for this program is an adaptation of Curtin curricula.
- (5) No, see previous item.

ROTHWELLS LTD - KALGOORLIE COLLEGE
Funds Investment

773. Hon N.F. MOORE to the Minister for Local Government representing the Minister for Education:

- (1) Is it correct that the Kalgoorlie College invested funds with Rothwells?
- (2) If so -
 - (a) how much was invested;
 - (b) when were the funds invested; and
 - (c) what amount did the college receive following the liquidator's recent decision?
- (3) Which other Government educational institutions invested in Rothwells and how much was invested in each case?

Hon KAY HALLAHAN replied:

The Minister for Education has provided the following reply -

- (1) Yes.
- (2) (a)-(b) Varying amounts between 11.9.87 and 1.6.88 as the college used the investment account for operating purposes; however, the amount remaining in the account when Rothwells closed was \$30 841.42 made up of \$20 000 capital and \$10 841.42 interest.
- (c) \$24 708.57 was received on 3.11.89 and the liquidator has advised that the balance should be repaid early in the new year.
- (3) None.

EDUCATION - ADAM ROAD-SEALINKS PREPRIMARY

Toilet Handrail - Disabled Children Assistance

775. Hon BARRY HOUSE to the Minister for Local Government representing the Minister for Education:

- (1) Is the Minister aware of a longstanding request for a handrail in the toilets to provide assistance for children with disabilities at the Adam Road-Sealinks Preprimary School?
- (2) What is the reason for the delay in fitting the handrail?

Hon KAY HALLAHAN replied:

The Minister for Education has provided the following reply -

- (1) This request for the handrail in the toilets to provide assistance for children with disabilities at the Adam Road-Sealinks Preprimary was presented to the District Office in August 1989.
- (2) The delay in fitting the rail has occurred because the officer concerned with obtaining a quote for the work has been ill and away from work. A quote has been received and the work will proceed if requires. The student will be leaving the preprimary in five weeks and attending the primary school in 1990. The primary school has been modified to meet her needs.

RAILWAYS - YORK-QUAIRADING RAIL LINE

Freight Transport Restrictions - Line Maintenance

777. Hon GEORGE CASH to the Minister for Racing and Gaming representing the Minister for Transport:

- (1) Are there any restrictions imposed on the carriage of freight between York and Quairading due to the condition of the rail line?
- (2) If so, will the Minister provide details?
- (3) Are sufficient funds available to ensure that this important link is adequately maintained, and if not, why not?
- (4) Is the Government considering closing or further restricting the York-Quairading rail link and, if so, will the Minister provide details?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following reply -

- (1) No.
- (2) Not applicable.
- (3) Yes.
- (4) No.

EDUCATION MINISTRY - MODERN GREEK LANGUAGE

Languages Other Than English Strategic Plan - Inclusion Suggestion

780. Hon GEORGE CASH to the Minister for Local Government representing the Minister for Education:

- (1) Was Modern Greek one of the languages suggested by the Ministry of Education for inclusion in a strategic plan for LOTE in Western Australia?
- (2) If so, why has Modern Greek been removed from this list?
- (3) In how many Government schools is Modern Greek now taught?
- (4) Is the Minister aware of the concern expressed by the Greek Orthodox community of WA in the apparent lack of support being offered by the Government for the teaching of Modern Greek in Government schools and, if so, what action is the Government taking to alleviate this situation?

Hon KAY HALLAHAN replied:

(1)-(2)

The ministry's policy for languages other than English (LOTE), outlined in the strategic plan, promotes the teaching of all languages, including Modern Greek.

A number of languages which are of particular relevance to WA are identified for immediate development: Aboriginal languages, Chinese, French, German, Indonesian, Italian, Japanese.

The provision of LOTE programs for non-English background speakers - which could include Modern Greek - is also stated as one of the expected policy outcomes.

(3) Modern Greek is presently taught in -

- 15 Government primary schools
- 3 Government senior high schools
- 2 Government Saturday School of Language Centres

(4) The ministry will continue to liaise with and seek the views of interested community groups at every phase of the implementation of the LOTE strategic plan.

The ministry will also continue to support Greek language programs through the regular school curriculum, provided viable class numbers of students can be supported, or through special programs such as the ethnic school program and the Saturday School of Languages.

Funding provided by the Government for Modern Greek language classes in 1988-89 through the ethnic school funding program has been \$28 530. A similar amount has also been provided by the Commonwealth Government.

WESTRAIL - AUSTRALIAN POSTERS

Contract Establishment - Act

781. Hon GEORGE CASH to the Minister for Racing and Gaming representing the Minister for Transport:

Under which section of which Act was the recent contract between Westrail and Australian Posters founded?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following reply -

Under sections (13) and (2) of the Government Railways Act 1904.

COMMISSIONERS OF DECLARATIONS - DENHAM (SHARK BAY)

Statistics

785. Hon P.H. LOCKYER to the Attorney General:

- (1) How many commissioners of declarations live in Denham (Shark Bay)?
- (2) What are their names?

Hon J.M. BERINSON replied:

(1)-(2)

The Declarations and Attestations Act provides a wide range of *ex officio* commissioners by virtue of their occupation or position. No records are maintained of how many persons in Shark Bay meet the requirements of the Act or, if appointed, still reside in Shark Bay.

HOUSING - HOMESWEST
Exmouth - Increase, Steps Taken

786. Hon P.H. LOCKYER to the Leader of the House representing the Minister for Housing:

What steps are being taken to provide extra Homeswest housing in Exmouth to keep up with the expected increased demand for housing with the advent of a marina in the town and the expected increase of the population?

Hon J.M. BERINSON replied:

The Minister for Housing has provided the following reply -

Homeswest presently has six vacant single residential lots in Exmouth. Homeswest is in the process of acquiring a further 10 houses. Six joint venture units are to be built in 1989-90. The Department of Land Administration is pursuing purchase of land suitable for development north of the town and Homeswest will be seeking lots from this development to meet future demand.

ROAD TRAINS - NORTHERN HIGHWAY, KIMBERLEY
Restrictions

789. Hon P.H. LOCKYER to the Minister for Racing and Gaming representing the Minister for Transport:

- (1) Has the Government any intention of restricting road trains on any part of the Northern Highway in the Kimberley?
- (2) If so, why?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following reply -

(1)-(2)

Each application for a road train permit is assessed on the details of the road train configuration, the road conditions and the nature of the cartage. There is no intention of changing this policy.

HEALTH - PATIENTS ASSISTED TRAVEL SCHEME
Rural Doctors - Criteria

790. Hon P.H. LOCKYER to the Minister for Local Government representing the Minister for Health:

What is the criteria for doctors in country areas with respect to the Patients Assisted Travel Scheme?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

The patients assisted travel scheme was established to help country residents with expenses incurred in travelling to obtain specialist medical attention not available locally or from visiting practitioners. The State Government increased the funding for the scheme by \$1.7 million in this year's Budget, bringing the overall funding to \$7.3 million. To be eligible for assistance a patient must be required to travel more than 50 kilometres to the closest specialist.

Patients must be referred by a doctor, a dentist or an optometrist, as appropriate, for one of the following specialist services -

- (a) specialist medical service covered by an item in the Commonwealth Medicare benefits schedule book;
- (b) specialist oral surgery covered by an item in the Medicare benefits for services by dental practitioners booklet;
- (c) specialist services involved in the fitting of an artificial limb;

- (d) specialist services involved in the fitting of an artificial eye;
- (e) dental treatment covered by an item in the Medicare benefits for services by accredited dental practitioners in the treatment of cleft lip and cleft palate conditions booklet.

The scheme is closely monitored and a major overall review will be completed by the end of 1989.

QUESTIONS WITHOUT NOTICE

McCUSKER, MR MALCOLM - COMPANY LIST

Extension - Attorney General's Invitation

437. Hon GEORGE CASH to the Attorney General:

Has the Special Investigator, Mr Malcolm McCusker, QC, invited the Attorney General to consider adding any other companies to the list which the Attorney General has previously circulated in this House?

Hon J.M. BERINSON replied:

No.

McCUSKER, MR MALCOLM - COMPANY LIST

Extension - Powers

438. Hon GEORGE CASH to the Attorney General:

Will the Attorney General confirm that the Special Investigator, Mr Malcolm McCusker, QC, has the power to make that request if he thinks it proper?

Hon J.M. BERINSON replied:

It would always be open to Mr McCusker to seek an extension of the list of companies attached to his appointment. However, as he himself has made clear, that is unnecessary since he does not regard himself as limited in his inquiries to the specified companies.

STATE FINANCE - BUSINESS LOSSES

Leader of the House - Blame Acceptance

439. Hon P.G. PENDAL to the Leader of the House:

I refer to the march on Parliament House today and ask: Given the Leader of the House's positions as both Attorney General and Minister for Budget Management -

- (1) Is he prepared to accept any blame for the business losses of the Western Australian Government?
- (2) Is he prepared to have his involvement subjected to the scrutiny of an open inquiry?

Hon J.M. BERINSON replied:

- (1) I have made clear on many occasions that as a member of Cabinet I accept the collective responsibility of Cabinet for all of its decisions and that would apply here as well.
- (2) The question about the public inquiry is really a fatuous one and I would have thought that Mr Pendal would be embarrassed to attempt to base it on as limited a demonstration as the Liberal Party, after six months of organisation, was able to achieve today.

PEOPLE FOR FAIR AND OPEN GOVERNMENT - PARLIAMENT RALLY

Attorney General, Cabinet Member - Stand Aside Request

440. Hon P.G. PENDAL to the Attorney General:

Supplementary to the previous question, is he prepared to voluntarily stand aside as a member of the Cabinet, as requested at today's rally led by Mr Bevan Lawrence?

Hon J.M. BERINSON replied:

I hope that Mr Pental will be neither surprised nor disappointed if I say no.

Hon P.G. Pental: Certainly not, but it shows you have no shame.

PRISONERS - AIDS TESTS
Compulsory Tests - Prison Admission

441. Hon GEORGE CASH to the Minister for Corrective Services:

- (1) Are prisoners required to undergo a compulsory AIDS test when they are admitted to prison?

Hon J.M. Berinson: I was distracted at one point and I would appreciate it if you could repeat the question.

Hon GEORGE CASH: Thinking about your resignation, I suppose.

Hon E.J. Charlton: No, his superannuation.

The PRESIDENT: Order!

Hon GEORGE CASH: The question is -

- (1) Are prisoners required to undergo a compulsory AIDS test when they are admitted to prison?
- (2) Are prisoners again tested for AIDS on their discharge from prison?
- (3) If not, given the high possibility that inmates could be subjected to homosexual acts while in prison and the consequent risks of their contracting AIDS as a result, will he reconcile that with his answer?

Hon J.M. BERINSON replied:

(1)-(3)

Last year major changes were made to the system for dealing with the AIDS risk in the Western Australian prison system. Following a thorough interdepartmental review a requirement was introduced which requires all prisoners with sentences of more than a few days to undergo a compulsory assessment for AIDS risk. Any prisoner found to have AIDS or who refuses to be tested is medically isolated. In other States, policies in this area range from Tasmania and South Australia where prisoners are generally integrated with the prison mainstream to other States where they are isolated. There has been an extensive education and training program for prison staff to facilitate the introduction of the new measures.

The question of AIDS in the prison system is extremely complex and the treatment of it throughout Australia varies greatly. However, the Government realises that the high density and confined nature of prison life means the disease risk factor requires special measures. The new measures to which I have referred were drawn up after extensive consultations with the Health and Corrective Services Departments, Prison Officers Union, the AIDS Council and the Alcohol and Drug Authority.

In response to the Leader of the Opposition's later question, there is no requirement for compulsory tests on release into the community.

PRISONERS - CONDOMS
Government Policy

442. Hon GEORGE CASH to the Minister for Corrective Services:

Supplementary to the previous question, is it Government policy to issue condoms to prisoners during the duration of their sentences; and if not, why not?

Hon J.M. BERINSON replied:

The answer is no. As I have indicated previously the question has not even been open while homosexuality has constituted an offence. I have to say,

however, that I would doubt very much - indeed, I would be close to certain - that whether or not homosexuality is decriminalised condoms would not be issued.

ROADS - RURAL AREAS

Rate of Decline Details - Repairs Cost

443. Hon E.J. CHARLTON to the Minister for Local Government:

Has the Minister sought or does she or her Government have available any details on the rate of decline of country roads within this State and the likely cost of bringing them back to an acceptable standard in the immediate future?

Hon KAY HALLAHAN replied:

I suggest that the member place that question on notice for a response from the Minister for Transport, who is responsible for the allocation of road funding.

The PRESIDENT: That question will be placed on notice.

ROADS - RURAL AREAS

Country Shire Councils Association's Funding Commitment - Ministerial Discussions

444. Hon E.J. CHARLTON to the Minister for Local Government:

Supplementary to the previous question, has the Minister had any recent discussions with the Country Shire Councils Association as to its commitment's increasing to maintain its component of the road system?

Hon KAY HALLAHAN replied:

The Country Shire Councils Association has been conducting quite a campaign to gain more funding for roads in country areas. I presumed that all members had received information from that association on the matter.

PRISONS - WOOROLOO AND KARNET

Unit Management

445. Hon GEORGE CASH to the Minister for Corrective Services:

- (1) Has unit management been introduced into the Wooroloo and Karnet prisons?
- (2) If so, what improvement in prison management has been noted since the introduction of the system?

Hon J.M. BERINSON replied:

(1)-(2)

That is a matter which requires detailed administrative comment. I would ask that the question be treated as on notice.

DEATHS IN CUSTODY - 100 PER CENT INCREASE

Reasons

446. Hon GEORGE CASH to the Minister for Corrective Services:

While the Minister may believe that the previous answer requires research I remind him that he tabled a document in this place yesterday or the day before which related to the matter. I am surprised he cannot answer the question.

Can he advance any reasons behind the 100 per cent increase in deaths in custody between the years 1987-88 and 1988-89 given the initiatives of the Government to reduce deaths in custody?

Hon J.M. BERINSON replied:

A question involving deaths in custody cannot be treated en globo, so to speak. Every case is an issue in itself and would require analysis of particular cases in order to provide a response. I am happy to have a breakdown prepared if the Leader of the Opposition would like that.

DEATHS IN CUSTODY - 100 PER CENT INCREASE

Case Analysis

447. Hon GEORGE CASH to the Minister for Corrective Services:

- (1) Has that analysis been done?
- (2) If not, why not?

Hon J.M. BERINSON replied:

(1)-(2)

I am not aware of a detailed breakdown for comparative purposes between the two years in question. It may have been done; if it has, I am not aware of it. Given the interest of the Leader of the Opposition I am happy to deal with the question further.

PRISONS - CASUARINA

Prisoners - Alarm Testings

448. Hon GEORGE CASH to the Minister for Corrective Services:

- (1) Are any prisoners presently held in any part of Casuarina Prison, recognising of course the prison is not as yet built?
- (2) If not, why is it necessary to test the alarm siren at the prison at early hours of the morning? I advise the Minister that the alarm has been tested at 2.00 am for up to 20 minutes.
- (3) Will the Minister take steps to ensure that this testing is curtailed as it is causing undue disturbance to nearby residents?

Hon J.M. BERINSON replied:

(1) No.

(2)-(3)

I am not aware of the testing arrangements. I will make inquiries.

PRISONS - BANDYUP

Visitors - Facility Improvements

449. Hon GEORGE CASH to the Minister for Corrective Services:

- (1) Have improvements to facilities for prisoners receiving friends and relatives at Bandyup Prison been completed?
- (2) If not, will the Minister advise when the improvements will be completed in view of the statements contained in the annual report of the Department of Corrective Services which he tabled in this House a few days ago?

Hon J.M. BERINSON replied:

(1)-(2)

I have the feeling I am under examination; that I am going to get marks if I can remember the detail of matters in the report.

Hon George Cash: At the moment you are failing badly.

Hon J.M. BERINSON: I do not regard it as my responsibility to be aware on a daily or even a monthly basis of the progress of building works. It follows I am unable to provide the answer that Mr Cash wants. If he is genuinely seeking information he could place the question on notice and I will obtain the information for him.

PASTORAL LAND TENURE PROPOSAL - PASTORAL LEASED BOUNDARIES

Survey

450. Hon TOM HELM to the Minister for Lands:

Could the Minister advise whether it is proposed to survey the current boundaries of pastoral leases as part of the pastoral land tenure proposals?

Hon KAY HALLAHAN replied:

I thank the member for some notice of the question. The Government commenced a program some time ago to survey all pastoral leased boundaries. Under conventional methods this work was estimated to take 12 years. I am pleased to announce however that this year's Budget has provision for new surveying technology by the acquisition of satellite ground stations, known as the global positioning system. This technology uses signals bounced off orbiting satellites to establish positions on the ground with great accuracy. This technology when fully operational will allow a saving in time on the pastoral lease project alone of six years or 50 per cent and saving in costs of 34 per cent.

WESTRAIL - LAND LEASE, KALGOORLIE
Caravan Park - Kalgoorlie City Council's Concern

451. Hon D.J. WORDSWORTH to the Minister for Local Government:

Is the Minister aware of the concern in Kalgoorlie that Westrail is leasing land for a caravan park, bypassing local government and other health requirements?

Hon KAY HALLAHAN replied:

I met with the council of the City of Kalgoorlie/Boulder last week. It expressed its concern on the matter and I have indicated I will be taking up the matter with the Minister for Transport.

PRISONS - GREENOUGH REGIONAL
Breakout - Security Upgrade, Inefficiency Reasons

452. Hon GEORGE CASH to the Minister for Corrective Services:

I refer the Minister to earlier answers he gave in respect of the recent breakout of prisoners from Greenough Regional Prison. In view of the need to post an additional seven prison officers to Greenough, will he advise why the costly upgrading of security at Greenough Regional Prison - which has been implemented in recent months - appears to be ineffective?

Hon J.M. BERINSON: I have some difficulty in linking the two parts of the question. If Mr Cash would like to elaborate it might help.

Hon GEORGE CASH: The Minister has advised the House that, as part of the security arrangements at Greenough Prison, additional prison officers were to be transferred to the prison. My understanding is that was to increase the level of security. In view of the huge amount of money spent recently at Greenough Regional Prison in upgrading the security system, can the Minister say whether the need to send the additional prison officers to the prison is an indication that the security system in place presently is not working effectively?

Hon J.M. BERINSON replied:

There is an element of confusion in the proposition that Mr Cash is putting to me. The fact is that the upgrading of the perimeter security and the approval given some months ago to the increase in staff at Greenough Prison were really part of the one exercise. As he rightly says, it was an exercise designed to upgrade the level of security for that institution. The fact of the matter is that the new perimeter security was designed to achieve that higher level of security but the break-out showed it was insufficient for the purpose. That is not at all uncommon with the prison experience. It is very often the case that it is only after a system has been tested by the prisoners - notwithstanding the most rigorous testing by prison officers - those weaknesses emerge.

I can well remember as a member of the Opposition in this House being conducted through the Canning Vale Prison, coincidentally by Mr Hill who is now Executive Director.

Hon R.G. Pike: We will do that for you again in the near future.

Hon J.M. BERINSON: He was one of the deputies at that time. This was prior to the prison's official opening. As we moved around I made the comment, not having any experience of prison requirements, that this all looked very secure to me especially given the high and solid fence there. I said, "You must feel very confident that this one is going to be escape-proof." He said, "You can never be confident that any prison is escape-proof. Even now, among the staff, the only matter in question is where the first break-out will be." As it happens, Canning Vale has been consistently upgraded since that time and has turned out to be a very effective and secure prison. However, it is in the nature of these institutions that they all have weaknesses and that extends to the maximum security level. When something goes wrong, naturally it is investigated immediately and the weaknesses that are thrown up by the investigations are addressed; and that is what we are doing in the case of Greenough.

STANDARD SURVEY MARKS ACT - EARLY TREE MARKS

Preservation Request - Act Amendment Consideration

453. Hon W.N. STRETCH to the Minister for Lands:

In relation to the Standard Survey Marks Act, the Minister will be aware that many of the early surveys in Western Australia were done by carving marks into trunks of trees. Some of these have already deteriorated and some have been burnt and lost. Many of them have historical significance. The Act as I read it prohibits anyone from removing or preserving these marks in another place. Will the Minister give consideration to amending the Act to allow for the replacement of these marks with modern survey marks to allow the old marks to be moved into museums for preservation for local districts' historical interests?

Hon KAY HALLAHAN replied:

As I indicated in response to a previous question, there has been enormous change in updating the equipment used. That may mean that greater accuracy in survey marks will be available in the near future. In view of that, I would be happy to consider the point raised in the member's question and consider amending the Act given the technological changes that are taking place in the survey industry and certainly in the Department of Land Administration.
