

LEGISLATIVE COUNCIL

Thursday, 1 September 1988

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

PETITION

AIDS - Condom Advertisements

The following petition bearing the signatures of 30 persons was presented by Hon P.G. Pental -

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 electors and residents of the State of Western Australia respectfully sheweth that:

The use of advertising which features a bus-length, inflated condom is offensive to many West Australians;

Since the metropolitan bus service on which the advertisements will appear are owned and operated by the State Government, the Government could and should act to abandon the advertisements;

And that as all such advertising is part of the joint Commonwealth/State anti-A.I.D.S. campaign, your petitioners humbly pray:

That all members of Parliament seek to persuade both Governments to abandon the condom advertising on buses.

And your petitioners, as in duty bound, will ever pray.

[See paper No 389.]

PETITION

Citizen's Initiated/Veto Referendum

The following petition bearing the signatures of 45 persons was presented by Hon P.G. Pental -

To the Hon the President and Members of the Legislative Council in Parliament assembled. The humble petition of the undersigned citizens of Western Australia respectfully sheweth that:-

Your petitioners express strong support for the concept of Citizens Initiated/Veto Referendum and request that a Bill be introduced into this place which will form the basis of Citizens Initiative/Veto Referendum legislation in Western Australia.

Your petitioners as in duty-bound will ever pray.

[See paper No 390.]

MOTION

Leave to Introduce

HON GRAHAM EDWARDS (North Metropolitan - Minister for Sport and Recreation) [2.35 pm] - by leave: I move -

That this House wish the West Coast Eagles great success in their historic first appearance by a Western Australian football team in the finals of the VFL competition and congratulate them on their fine performance as ambassadors for Western Australian sport.

I move the motion so that this House can record its support for this very notable and historic achievement. There is no doubt that on the weekend the Eagles will be going into a situation of great adversity, probably the greatest they have been in both on and off the field. There is

absolutely no doubt in my mind or in that of anybody who follows football in this State that on Saturday the Eagles will be the underdogs once again, both on and off the field. Certainly, the Eagles have performed much better than many football pundits and I would have expected or would have hoped for this year. Indeed, I thought their task was so great that they would have found it very difficult to be one of the final five teams. The fact that they have qualified for the final round in Victoria is a reflection of the ability, hard work and skills which have come to the fore under very difficult circumstances.

I simply hope that the Eagles will take up the fight and will give the Victorians something to think about. It is fitting that we recognise their achievement and that we give them every encouragement. We wish them all the very best for the weekend. I note also that the Eagles are moving into the finals of the VFL competition. I look forward to the time when the Eagles move to the top of a competition that is not a VFL one but a truly national one. I commend the motion to the House.

HON P.H. LOCKYER (Lower North) [2.38 pm]: On behalf of the Opposition, I endorse the motion. As one who has a relation in the side to play in Victoria on Saturday, I have kept a fairly close watch on the performance of the Eagles. Young Andrew Lockyer's persuasive tongue convinced me very early in the season that the Eagles would make the finals and as it turned out, he was right.

Hon D.K. Dans interjected.

Hon P.H. LOCKYER: As one who comes from the Fremantle area, Hon Des Dans would be aware that the young fellow played for that premier team, East Fremantle. They have always been good judges of winners. I have no doubt that you, Mr President, being as is well known to this House an East Fremantle supporter, would know that the people from the East Fremantle Football Club make up a portion of the Eagles. With all sincerity, I wish the team great success on Saturday and support the Minister's motion. I think it is a great thing for Western Australia to work against the adversity that the Victorians always confront our teams with, for example, by making rules that are somewhat difficult for us to comply with. All of that aside, it is a sporting event of some note, and it is my strong belief that the Eagles will do a good job in Melbourne on Saturday and give them the thrashing they deserve, covering themselves with great glory for Western Australia.

I support the motion.

HON TOM McNEIL (Upper West) [2.41 pm]: On behalf of the National Party, I endorse the remarks made by the Minister. It is interesting that the Eagles have got to the position that they are in, taking into consideration how the VFL has raped this State for years, taking the cream of the football talent. Some years ago I rose to my feet and rattled off 50 or 60 names of people they had taken from this State one way or another, and they will be active again on the weekend. It was an interesting exercise, and the list is as follows: To Essendon, Darren Bewick, Leon Baker, Tony Buhagiar, Shane Ellis, Bill Duckworth, Barry Day, Bill Valli, Wayne Otway, Graham Moss, and Alan Reid; to Footscray, Simon Beasley, Steven Hargrave, Brad Hardie, Jim Sewell, Ian Williams, Andrew Purser, Murray Rance, and Alan Daniels; to Fitzroy, Ron Alexander, Barry Beecroft, John Duckworth, Laurie Richards, Kevin O'Keefe, Gary Sidebottom, Brett Stephens, Dean Turner, Kevin Taylor, and Ian Miller -

Hon G.E. Masters: It's a good job Hon Tom McNeil did not have notice of this motion, or he would have gone on all day.

Hon TOM McNEIL: The list continues: To Richmond, Rob Wiley, David Palm, Maurice Rioli, Mark Hepburn, Tim Gepp, Dan Foley, Bruce Monteath, Brian Taylor, Peter Wilson, John Annear, and Michael Mitchell; to St Kilda, Phil Cronan, Bruce Duperouzel, Russ Reynolds, George Young, Phil Narkle, Alan Sidebottom, Brad Reynolds, and Nicky Winmar; to Geelong, Brian Peake, Peter Featherby, Gary Malarkey, Michael Crutchfield, Ramsay Bogunovitch, Brian Cousins, Stephen Sells, and Mark Bairstow; to North Melbourne, Phil Kelly, Peter Spencer, Kevin Bryant, Ross Glendinning, Jim Krakouer, Phil Krakouer, Mario Turco, Graham Melrose, Stephen McCann, and Barry Cable; to Collingwood, Max Richardson, Wayne Richardson, Mike Richardson, Steve Richardson, Stan Magro, Michael Christian, Gary Shaw, Kevin Worthington, Brett Yorgey, and Craig Starcevic. The list continues: to Hawthorn, Paul Harding, Gary Buckenara, Ken Judge,

Craig Hoyer, John Murray, Steve Malaxos, Rod Lester-Smith, and Clinton Browning; to Melbourne, Alan Johnson, Len Gandini, Ray Holden, Steve Turner, Warren Dean, Peter Thome and Earl Spalding; to Sydney Swans, Craig Holden, Doug Green, Gerard Neesham, John Ironmonger, Michael Lockman, Bob Beecroft, and Wayne Henwood. There are another 20 names of players who went to South Australia, and three who went to Queensland.

These players went to the West Coast Eagles: Joe Cormack, Troy Ugle, Don Holmes, Brett Hutton, Don Langsford, Kevin Caton, Chris Mainwaring, Chris Waterman, Murray Wrensted, Andrew Lockyer, Michael Brennan, Darren Bennett, Adrian Barich, John Gastev, Dean Laidley, Dean Warwick, Peter Davidson, Chris Lewis, Michael O'Connell, David O'Connell, Guy McKenna, Geoff Miles, Phil Scott, Glenn O'Loughlin, Mark Zanotti, Andrew McNish, Dwayne Lamb, Laurie Keane, Carl Langdon, John Worsfold, Wally Matera, David Hart, Glenn Bartlett, Alex Ishchenko, and Paul Peos.

I have reached the last sheet, and I know you have been waiting for that, Mr President. The greatest rapist of football in this State has been the Carlton Football Club, which has taken the following players: Peter Bosustow, Mike Aitken, Mike Fitzpatrick, Mick Jez, Peter Kenney, Ross Ditchburn, Alan Montgomery, Mike Smith, Jeff Ironmonger, Vince Cattogio, Warren Ralph, Ken Hunter, Rhett Baynes, Jon Dorotich, Wayne Blackwell, Richard Dennis, Steven Da Rui, Brad Shine, and Peter Sartori, a total of 20. In addition to that, the Carlton Football Club will probably run out next week, or next Sunday, with a list of players probably two of whom are home grown products. They will have eight Western Australian players hanging around, about six from South Australia, and they have pinched the blonde nut from the Sydney Swans who goes off his nut everytime he pulls a football in.

Hon E.J. Charlton: Rhys Jones.

Hon TOM McNEIL: Yes, Rhys Jones. Also we must take into consideration additional importees, such as Tom Alvin, Justin Madden, Mark Naley, Fraser Murphy, Adrian Gleeson, the Kernahan brothers, and Craig Bradley. These people do not know how to grow a home town footballer. There are another 22 players who played for the State this year. Do you insist that I read them Mr President - if you would like to hear them all it would complete the list.

The PRESIDENT: I think the member has made his point.

Hon TOM McNEIL: Our boys have had a tough year with the Melbourne Press and have been called everything from cowards to wimps, but we are proud of our young fellows, who have done this State proud in the face of tremendous opposition and competition, so I hope that this note of encouragement going to the team will be sent to the VFL umpires as well so that we will get a fair shake on the field on Saturday. Our boys have done well this year and I wish to add, as did all the other speakers, our very best.

HON A.A. LEWIS (Lower Central) [2.46 pm]: I support this motion with my tongue in my cheek, having been one of the people who trained with Melbourne. I came over here to engender all the skill that Hon Tom McNeil was talking about.

Hon John Halden interjected.

Hon A.A. LEWIS: I came to look after people like Hon John Halden, but unfortunately have not been able to do that properly because his manners have not improved. I wish the Eagles all the best on Saturday. Hon Tom McNeil put the case in a nutshell; they have had a rough trot this year - in fact, I think they have had a rough trot since they have been in the VFL. It would be probably better for us to win the VFL grand final and then bring the whole lot back home to play in the Western Australian Football League and tell the Victorians to go and play in their own mud patch with their own players and umpires and to leave alone the other States that really play football. I am sure that the Minister will give this message of encouragement to the Eagles. I hoped that the Minister would be a bit generous with the sport and recreation fund and shoot a few of us over there to see the match.

HON JOHN WILLIAMS (Metropolitan) [2.47 pm]: I support the motion and in doing so, as the Minister knows, I am wearing two hats. I can speak with that other hat on and say that the Western Australian Super Soccer League also wishes the Eagles well on their next foray into Victoria. I am sure that the Minister and his staff will be sending some form of telegram to the Australian Soccer Federation wishing our international team all the best in

their competition at the Olympics in Seoul where the Socceroos will be putting out an international team in an attempt to grab gold. That does not diminish the fact, I say with sincerity, that the Super Soccer League in this State wishes the Eagles all the best on their foray into the finals of the VFL.

HON MAX EVANS (Metropolitan) [2.49 pm]: I commend the Minister on his motion. Even more important than the match, I believe, as the Minister knows, is that football is at a crossroad at the moment and making the final will mean a great difference to football next season. The Eagles are seen to be winners, but for a while were not seen to be winners, although I thought that they could be winners. A lot of people can win matches. To do this they have to convince themselves that they can win them, and the Eagles have done that. That is the biggest hurdle to overcome. They can do much for football in this State.

Hon Tom McNeil's mentioning all the players who have left for Victoria and South Australia does not worry me, because those people moving on provided an opportunity for other people to make the grade in this State, and that is what it is all about, to move on to another game. I believe it is great for football in the long term that the West Coast Eagles have got this far. I know Neil Hamilton, the chairman of the board, will be relieved, because the Eagles have proved to themselves and to the public that they are capable of doing it. They could be the potential world champions. They have got to the final, and that is a big thing for next year. People will watch them, knowing they are VFL finalists. This will make a big difference to the game here, which is just coming good. The matches have been drawing better crowds in the last few weeks. I commend the Minister. This is very good for football, which is so important for Western Australia.

HON BARRY HOUSE (South West) [2.51 pm]: I too would like to support the motion and wish the Eagles well on Saturday. In doing so I hope Earl Spalding, Warren Dean, if he plays, and Alan Johnson do not get a kick, because they are playing for Melbourne.

This is an appropriate time to mention that a fight has developed in the Western Australian football organisation. We have a group of concerned individuals who are not going out to work on their own; they will work through established channels. They are concerned with the trend mentioned by Hon Tom McNeil: The rape of Western Australian football by the Victorian Football League. We do not have a truly national competition, and that is the problem. I look forward to the day when the Eagles contest the finals in a truly national final instead of in the VFL. The proposed system and the existence of a second, reserve side for the Eagles and the Bears poses a real threat to the existence of Western Australian and Queensland football clubs. Of particular concern to me is the effect on country football which will filter back through the whole system. I hope the Eagles win tomorrow, but I express my concern about the future of Western Australian football.

HON GRAHAM EDWARDS (North Metropolitan - Minister for Sport and Recreation) [2.52 pm]: In closing the debate on this motion, may I thank members for their indication of support for the motion and the Eagles. It is my belief that on Saturday there will not be a football follower who is not giving total support to the Eagles. I confirm the support offered here today and will convey to John Todd, the coach, and to Ross Glendinning, the captain, the best wishes of this Chamber.

Question put and passed.

The **PRESIDENT**: I advise honourable members that this motion now becomes the property of the House, and as President I will forward it, as is normal. I take it that East Fremantle will receive a similar message in due course.

Hon D.K. Dans: We will have one dissenter.

Hon Graham Edwards: A motion of condolence will be moved after the Grand Final.

The **PRESIDENT**: I wonder whether the House requires me to dispatch it in the normal way, or whether I should deliver it by hand on Saturday at the game!

Hon D.K. Dans: Give them a copy of the debate.

ROAD TRAFFIC AMENDMENT (RANDOM BREATH TESTS) BILL

Report

Report of Committee adopted.

Third Reading

Bill read a third time, on motion by Hon Graham Edwards (Minister for Consumer Affairs), and returned to the Assembly with amendments.

COMMUNITY CORRECTIONS CENTRES BILL*Report*

Report of Committee adopted.

Third Reading

Bill read a third time, on motion by Hon J.M. Berinson (Minister for Corrective Services), and transmitted to the Assembly.

ACTS AMENDMENT (COMMUNITY CORRECTIONS CENTRES) BILL*Report*

Report of Committee adopted.

Third Reading

Bill read a third time, on motion by Hon J.M. Berinson (Minister for Corrective Services), and transmitted to the Assembly.

PAROLE ORDERS (TRANSFER) AMENDMENT BILL*Second Reading*

Debate resumed from 25 August.

HON JOHN WILLIAMS (Metropolitan) [2.57 pm]: The Opposition will support this Bill. It is another example of what has happened in other places in respect of putting legislation into plain English. A difficulty has arisen over the terms "judgment" and "order" when talking to other States which required a transcript of a trial signed by a judge, or a transcript of this or that by the presiding court. There was no definition of the words "judgment" or "order". I will not take the Attorney General to task because he is one of those who want to speak plain English, but other Attorneys General at the meeting were legal people and they forgot that the interpretation of the Bill is somewhat different from their legal wording. However, this Bill corrects that difficulty and says that a certificate of a clerk of arraigns or a certificate of commitment will suffice. This has been done in New South Wales, and there is no reason for us not to do it; it is just a straightforward cleaning up of legal jargon put in the Act originally by a previous Attorney General.

I support the Bill.

Question put and passed.

Bill read a second time.

Committee and Report

Bill passed through Committee without debate, reported without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon J.M. Berinson (Minister for Corrective Services), and transmitted to the Assembly.

BILLS (2) - RETURNED

1. Acts Amendment and Repeal (Fair Trading) Bill.
 2. Real Estate and Business Agents Amendment Bill.
- Bills returned from the Assembly without amendment.

STATE ENGINEERING WORKS REPEAL BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon J.M. Berinson (Leader of the House), read a first time.

On motion by Hon J.M. Berinson (Leader of the House), resolved -

That leave be granted to proceed through all remaining stages of the Bill in one sitting.

Second Reading

HON J.M. BERINSON (North Central Metropolitan - Leader of the House) [3.04 pm]: I move -

That the Bill be now read a second time.

This legislation is necessary to complete the winding up of the State Engineering Works which was closed by this Government on 2 October 1987. Since the closure of the works all the assets have been sold and the land is currently being advertised for tender for residential development. This action has resulted in losses associated with running the works being curtailed, prime land being made available for residential development, and the future generation of a significant financial return to the Government from sale of the land. Members will be interested to know that this rationalisation of industry in a very competitive area has not resulted in a loss of employment in the State, as all equipment was purchased by the private sector and placed in existing works in and around Perth. Upon proclamation of this legislation the Board of the State Engineering Works will prepare a final annual report which will conclude the affairs of the works.

The Government is pleased to be able to introduce this legislation which has economic benefits to the State while retaining its engineering capacity and associated employment. I commend the Bill to the House.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chairman of Committees (Hon Garry Kelly) in the Chair; Hon J.M. Berinson (Leader of the House) in charge of the Bill.

Clause 1: Short title -

Hon G.E. MASTERS: The Opposition does not oppose the legislation. It is simply a matter of tidying up the State Engineering Works. As the Minister said in his second reading speech, when the State Engineering Works was wound up there was great concern among its work force that they would lose their jobs. Many of them have been transferred and others have found other employment or have accepted redundancy. With that occurring, it seems they have been reallocated.

The interesting point to most people is a large area of very valuable land, which resulted from the clearing of the State Engineering Works and its equipment. I understand that the Western Australian Development Corporation, for example, may well be involved in handling that land and marketing it. The large area of valuable land has come under a development operation from a private company, which is developing and redeveloping it. The WADC is involved with that and I hope it is not involved to any great extent. I have some detailed questions on the legislation I would like to ask the Minister during a later stage of the Committee.

This very valuable piece of land, as many people would know if they looked at it, has a tremendous development potential. The land rises from the main highway to the top of the hill where it overlooks the ocean, the city and the river. I am sure Hon Joe Berinson knows that very well indeed. I saw the land last weekend and realised its potential. I hope the Western Australian Development Corporation will not play funny games with this land. I understand the Government intends to get the best value from it, and I am not sure the WADC is always able to do that. I am sure that greater rewards would be gained by putting the land out to tender than by using the WADC. The Leader of the House will be able to tell

me whether it is being handled by the WADC and to what extent the private sector is involved. I would also like to know what has happened to the valuable equipment. I understand some has gone to the private sector and some, perhaps, to the Midland workshops. I am not sure about this and, again, ask the Leader of the House to give me an indication of where the equipment has gone. It is very valuable stuff which would be of use to manufacturers in their export industry drive. I look to the Leader for reassurance in that respect.

I have little more to say, depending upon the answers of the Leader of the House. There are some important areas in this legislation which need consideration. It is an important Bill, and the land is of great value. With those remarks I support the Bill.

Hon J.M. BERINSON: If it suits the Leader of the Opposition, I am happy to provide him with detailed replies to those questions during the recess. I do not have details -

Hon G.E. Masters: You're a bit busy during the election campaign, aren't you?

Hon J.M. BERINSON: - of the way in which the equipment has been disposed of, but I would not think that is crucial to a decision on this Bill. The fact is that the equipment has been disposed of, and as the Leader of the Opposition would like further details on that disposal, I will be happy to provide them to him in writing.

Hon W.N. STRETCH: I support the remarks of my leader, and take this opportunity to point out the great historic role that the State Engineering Works has played in the development of Western Australia. When I first came to Parliament I was concerned with the legislation before the House then. Some quite significant work has been done over the years by the State Engineering Works, not least, the casting of the keel for *Australia II*, which has its own place in world history. The State Engineering Works has undertaken some remarkable engineering feats in the past. Despite some difficulties, and a certain amount of philosophical difficulty from members on this side of the Chamber, the works has fulfilled its role in the development of the State. The State Engineering Works built some of the early machinery for the agricultural development of Western Australia, and designed, built and modified machinery to meet the specific needs of the west. It is fitting that when we are winding up a works such as this, which has an historic role in the early development of the State, we should pay tribute to the people who set it up in the first place. Everyone, from the top executive to the foundry men and designers, deserves a small part of our thanks and a large part in the internal history of Western Australia. It is important that some of the more significant pieces of engineering equipment are remembered. There was a steel lathe -

Hon G.E. Masters: That is what I was talking about.

Hon W.N. STRETCH: - which could spin a 50 foot propeller shaft for a ship. It was used for spinning propeller shafts during the war. We should not brush over these achievements. I would like to pay tribute to the work that has been done by the works, and the assistance that has been given to it by Governments from both sides of the Parliament of Western Australia over many years. I probably shed a tear for the passing of an institution which has cost the taxpayer a packet of money over the years, but which has certainly played a role in the early development of heavy agricultural machinery, and maritime engineering, which has been of great service to the State, particularly in the Fremantle area. With those few remarks I support the Bill.

Hon J.N. CALDWELL: The question raised by Hon Gordon Masters is very important.

Hon G.E. Masters: That's right.

Hon J.N. CALDWELL: The Leader of the House said that he would provide the answers during the recess. Could he give us an indication of how long the recess might be?

Hon J.M. BERINSON: I understand that the schedule of sittings has been distributed, and we are scheduled to have a recess of one week's length.

Clause put and passed.

Clauses 2 to 4 put and passed.

Clause 5: Vesting of property and obligations -

Hon G.E. MASTERS: Is my understanding that this clause means that all property,

including the remaining equipment - even if it is not on site - is vested in the Minister to dispose of as he sees fit, correct? Perhaps I might also mention clause 6 on the next page which says, "Construction of agreements, instruments, etc." in dealing with the vesting of property and obligations. If the State Engineering Works had any contracts for supply of goods - and there are areas where the State Engineering Works, through holding some very valuable equipment, was able to do work which other groups could not - is the Minister to be held responsible for fulfilling those contracts? It may be that the situation is covered and that some of the equipment and labour at the Midland Railway Workshops will be used to continue contracts undertaken by State Engineering Works. This is a general inquiry. The most important inquiry concerns the property itself, and whether the Leader of the House is able to give us an answer concerning the involvement of the WADC.

Hon J.M. BERINSON: Clause 5 speaks for itself. It provides that all real and personal property is vested in the Minister.

Hon G.E. Masters: Are any contracts outstanding?

Hon J.M. BERINSON: I am not aware of any outstanding contracts.

Hon G.E. Masters: You are not very well briefed on this.

The DEPUTY CHAIRMAN (Hon Garry Kelly): Order! Could those behind the Chair keep their voices down.

Hon G.E. Masters: This is a pretty important Bill, you know.

Hon J.M. BERINSON: On my understanding of the position, the winding up of all activities of the State Engineering Works has proceeded in an orderly way, and there are no problems concerning outstanding contracts or anything else. In relation to the second part of the question, I believe that the WADC has been charged with the function of disposing of the land in the best interests of the State, but as the Leader of the Opposition will know, this is not an area of the Government's activity which comes within my direct authority.

Hon G.E. Masters: You are in charge of the Bill.

Hon J.M. BERINSON: Certainly; there is no doubt about that. I have not been altogether in charge of the timing of the processing of this Bill, as the Leader of the Opposition might acknowledge. I am able to say that I believe the WADC is charged with disposing of the property, but I will again take that on notice and provide specific details together with the other written advice which I have offered.

Hon MAX EVANS: There is not much left of the buildings - only two walls remain. I would have thought that simple courtesy demanded that the Parliament be consulted about the sale of this site. It is a fait accompli; the signs have been up for weeks. The WADC obviously forgot to tell the Government that legislation was required to sell the property. I hope the Government is not paying it too much commission for this. I hope the sale by tender is slightly better than the sale by tender of the Perth Technical College site and that it is a fair sale. I hope it will be to the long term benefit of the purchaser and not the vendor, being the State. I hope that the maximum benefits are obtained and that they are not handed to one of their friends. It is only the property that has to be sold. It appears that it is only a matter of telling the Parliament what is going on; no decision has to be made. We should have been told long ago.

Clause put and passed.

Clauses 6 to 9 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon J.M. Berinson (Leader of the House), and passed.

ACTS AMENDMENT (CHILDREN'S COURT) BILL

Committee

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

Clauses 1 to 5 put and passed.

Clause 6: Sections 13A to 13K inserted -

Hon KAY HALLAHAN: I move -

Page 6, line 1 - To delete "inquire into" and substitute "hear".

The reason for the amendment is that the Law Society, after reading the Bill, pointed out that the words "inquire into" did not guarantee the right of a detainee to be heard and suggested those words be replaced with the word "hear". This amendment will guarantee the right of a detainee to be heard in relation to an allegation of a detention offence. It is not controversial; it is something which the Law Society brought to the Government's attention and with which the Government agrees.

Hon P.G. PENDAL: I wonder whether it may have had something to do with the fact that this goes to the heart of the powers, as I understand it, of a superintendent in a place of detention and whether the proposed amendment would give the superintendent the power to inquire into and determine the charge. It appears to me that the amendment might also be indicating that it would not necessarily be the superintendent doing the inquiring, because presumably that would occur at a lower level in the scheme of things and that ultimately the superintendent would be called upon as an adjudicator. I thank the Minister for her explanation that the amendment strengthens the right of the detainee to be heard and I certainly have no objection to it. I had drawn the possible conclusion before hearing the Minister's explanation that the amendment may have had something to do with the need to have the superintendent doing not the inquiring, but the adjudicating.

Hon KAY HALLAHAN: I am advised that it will also have that effect, but the major reason for the amendment is to make sure that the detainee actually receives a hearing. If we are in agreement with the amendment I guess we are complying with what the Law Society pointed out as a minor error in the Bill as printed.

Amendment put and passed.

Hon KAY HALLAHAN: I move -

Page 7, line 18 - To insert after "that" the words "the conduct of".

The conduct of the detained young person in a detention centre should determine whether that person is moved from a detention centre to a prison. It is the Government's view that the transfer of young people from detention centres to adult prisons is a serious matter and should only take place with very good reason. The Government wants to ensure, by the insertion of these words, that the conduct of the young person will be responsible for his being transferred to a prison. It is a minor amendment, but I think significant in the change of emphasis on the conduct of the person involved.

Hon P.G. PENDAL: The Minister's amendment is not unlike the amendment to the next line which the Opposition intends to move. Therefore, I presume the Minister will see its merit and support it.

Hon KAY HALLAHAN: I do not see the need for the Opposition's amendment. I prefer to oppose it simply because it is very open ended. I am interested to hear what Hon Phillip Pendal has in mind and to hear the instances he can cite which will give me some understanding of why he intends to move that amendment.

Amendment put and passed.

Hon P.G. PENDAL: I move -

Page 7, line 19 - To insert after "safety" the words "or welfare".

This provision allows a person to be removed from a detention centre to a prison, and it can only be used when a court is satisfied that the child to be removed constitutes a significant risk to the safety of other children. The Opposition sees merit in that. In other words, if one

of the detainees is a physical bully who is threatening another person, he can be removed. However, it has been pointed out to the Opposition that it is not just the case of a bully being a significant risk to the physical safety of other children. The word "safety" is rather limited in its application in that it implies a person's physical wellbeing. The Opposition suggests that the two simple words "or welfare" can be applied to something different and less tangible. It could apply to a dominant individual who may seek to influence other children about what they do when they leave the detention centre. That may not constitute a physical risk against their safety but it could constitute a risk against their welfare. It could also apply to an overt sexual approach on the part of the bully. I suggest that it will help those in charge of a detention centre and provide greater grounds for moving against a bully who is not only threatening a person's physical wellbeing but is also threatening his moral wellbeing. It will strengthen the clause and I ask the Committee to support it.

Hon KAY HALLAHAN: I had some concern about the amendment being open ended, and the interpretive addition to the clause. I did not hear from Hon Phillip Pendal specific reasons for its inclusion, and certainly every person could fall within the ambit of his interpretation. Transferring a child to an adult prison is a serious matter and one must have very good and finite reasons for doing so. The insertion of the words "or welfare" opens the range, and juveniles cannot be transferred from detention centres into adult prisons on that basis. I was concerned when I read the amendment on the Notice Paper, but I wanted to ascertain whether the Government had missed a specific point in the drafting. I am satisfied that it has not; I do not think the amendment is well thought out so I am not prepared to support it.

Hon JOHN WILLIAMS: The crux of this matter is in the semantics and in the implication of the words. The implication of the word "safety" is physical; the implication of the word "welfare" is mental.

Hon Kay Hallahan: Or emotional.

Hon JOHN WILLIAMS: There is nothing sinister in this; if one child hits another child with a baseball bat, that child's safety is imperilled. However, it is well known that, from a psychological point of view, from the age of four years a child can terrorise even its parents, not by hitting or kicking but by other means. In my days it was called tantrums.

Hon Kay Hallahan: It must be taken to the court and something finite must be presented.

Hon JOHN WILLIAMS: It will be something finite. A person threatening, rather than touching or hurting, another child constitutes a risk to the welfare of that child; there is a psychological implication to that word "welfare". I do not think there is anything sinister in that, and the Minister may agree, if she thinks back a bit.

Hon Kay Hallahan: It is not sinister; it is just sloppy, and could be used by administrators in a way that we would not want it to be used.

Hon JOHN WILLIAMS: I do not think the people selected to look after these children would readily agree to go into the court with a transfer based on something sloppy. I am more confident in the staff than that. There is a connotation of two words here: Safety with physical, and welfare with mental. I am saying that a person adopting a bad mental approach to someone can be just as terrifying as a person using physical violence. I am sure the Minister would know that. I cannot see anything sloppy about the wording. The welfare of the child includes that it should be free of any mental hassles or any physical violence; and that is the way I read it.

Hon P.G. PENDAL: Hon John Williams is right, and it is unfortunate that what we have seen develop throughout the Bill - and I regret to say it - is a level of arrogance on the Minister's part, because anyone who suggests something beyond what the Minister can understand is, in her opinion, being sloppy. I can tell the Minister this proposal is being put by the retired Special Magistrate of the Children's Court, Peter Blaxell. I do not mind that the Minister calls him sloppy; I do not mind that the Minister suggests that he is somehow ignorant; but I will read to her the comments that -

Hon Kay Hallahan: You do go on.

Hon P.G. PENDAL: The Minister makes the rod for her own back, so I will make the point.

[Quorum formed.]

Hon P.G. PENDAL: I have no hesitation in saying that this flaw in the Bill was identified by Mr Blaxell, and since the Minister believes it is sloppy thinking on our part, I will read what he says.

Hon Kay Hallahan: Sloppy drafting; not thinking.

Hon P.G. PENDAL: I am a bit fed up with the Minister telling us about our sloppy drafting. The draftsman is provided by the Government.

Hon Kay Hallahan: Mr Blaxell is not provided by the Government.

Hon P.G. PENDAL: No, but the Parliamentary Counsel who provide the Opposition's amendments are provided by the Government, so if we want to have it coming down to a fight between two lawyers, I will be happy to pit the person who advises the Opposition at Government expense against the person who advises the Minister. I do not suggest that one person or the other has all the knowledge, and for the Minister to keep reflecting in that way on the person who is allotted to the Opposition is more a reflection on her than it is on anyone else.

Mr Blaxell had this to say when referring to clause 13J(2) -

This provides for removal of a child to a prison where there is significant risk to the "safety" of other children. This word suggests matters of a physical nature only. I suggest that there are plenty of other situations where a particular child might be a danger to the welfare or moral well-being of other children in a centre. Accordingly I suggest that the words "or welfare" being included after the word "safety".

So it is no flight of fancy on my part or that of the Opposition; it is a serious suggestion made by someone far more experienced - with all due respect - than the Minister.

Hon Kay Hallahan: That is rubbish.

Hon P.G. PENDAL: He has spent seven years as a magistrate in the Children's Court, and the Minister is telling us what he says is sloppy.

Hon T.G. Butler: What does that make him?

Hon P.G. PENDAL: It makes him worth consulting.

Hon Kay Hallahan: No-one else? Is he the oracle?

Hon P.G. PENDAL: Not at all; anyone is worth consulting. The Bill in its present form, and in its thousands of words, is the result of the Government taking the advice of a lot of people, is it not?

Hon Kay Hallahan: Dead right.

Hon P.G. PENDAL: The Bill has come into the Chamber, and the suggestion by the Minister throughout the whole of this debate and the debate on the other Bill has been that the only people who have any wisdom in the matter are the Government and its servants; and I regret that.

Hon Kay Hallahan: That has not been the case. The National Party has got a lot of sense.

Hon P.G. PENDAL: We are not talking about that. That is about as relevant as some of the Minister's earlier comments. So in moving my amendment on behalf of the Opposition, the words "or welfare" are very important to ensure that this subclause does not contain the deficiency that up to this point it has. Therefore, I ask the Committee to support the amendment.

Sitting suspended from 3.45 to 4.00 pm

Progress

Progress reported and leave given to sit again at a later stage of the sitting, on motion by Hon Kay Hallahan (Minister for Community Services).

[Questions taken.]

ELECTORAL AMENDMENT BILL

Assembly's Message

Message from the Assembly received notifying that it had disagreed to the amendments made by the Council, now considered.

Committee

The Chairman of Committees (Hon D.J. Wordsworth) in the Chair; Hon J.M. Berinson (Leader of the House) in charge of the Bill.

The amendments made by the Council, to which the Assembly had disagreed, were as follows -

1.

Clause 4.

Page 2, lines 8 and 9 - To delete paragraph (a) and substitute the following -

(a) in subsection (1) -

(i) by inserting after "election" the following -
"in a region"; and

(ii) by inserting after "voting ticket" the following -
"or 2 or 3 alternative voting tickets"

2.

New clause 3A.

Page 2, after line 5 - To insert the following -

Section 70 amended

3A. Section 70 of the principal Act is amended by deleting "not be" and substituting the following -

"be a Friday, not"

The Assembly's reasons for disagreeing to the Council's amendments were as follows -

Amendment No 1

Legal advice has indicated that interpreting a ticket vote to mean one of 2 or 3 alternative orders of preferences may not satisfy a requirement of the Western Australian Constitution that a Bill making such a proposal would require a referendum to pass. Progress of the Bill through the Parliament to the present stage has not followed the constitutional requirements of a Bill which requires a referendum for enactment.

Amendment No 2

The amendment proposing the close of nominations for an election on a Friday has many implications which are not dealt with by the amendment. Other provisions in the Act mean that if nominations are closed on a Friday at 6 pm -

the closing time for lodging Legislative Council ticket votes would be the next Monday at 6 pm; and

Monday 6 pm would also be the time issuing officers were required to issue postal votes.

This schedule of events leaves no time for printing Legislative Council ballot papers which is essential due to their complexity and length and also makes no allowance for the distribution of postal votes to issuing officers throughout the State.

Point of Order

Hon G.E. MASTERS: Members may recall that last year there was a message from the Legislative Assembly similar in style to this, where the Opposition sought to make an

amendment on the amendment it insisted upon when it sent a message to the Legislative Assembly. Members may recall that the Leader of the House moved that the Legislative Council should not insist upon its amendments. When I later attempted to move some amendments, I was ruled out of order; it was said I could not amend those amendments as I had left it too late. I received a ruling from the President and the Leader of the House argued strongly and won the argument, which precluded me from moving any amendments. I think this is an appropriate time to understand whether or not there is a ruling. It may be, after discussions with the Leader of the House, that I do not want to make amendments, but I want to be in a position to move amendments if I see fit. I am not sure what procedures we now need to follow.

The CHAIRMAN: I am attempting to get a copy of the previous ruling to which the Leader of the Opposition referred in order to examine it. However, if the amendment the Leader of the Opposition is proposing is acceptable - in other words it is a true amendment - I think he would be able to put it. The only time a member could not do that is when the amendment is contrary and is not a true amendment.

Hon G.E. MASTERS: I am sure the Leader of the House knows what I am talking about because I had a discussion with him in which I said it was possible the Opposition would not move an amendment, but we should have the opportunity at some stage during the debate to move amendments. I would like to debate the two amendments and the question of whether the Opposition seeks to insist on the amendments or whether I am satisfied with the Leader of the House's explanation. This has been debated in another place and the Leader of the House suggested he was not unduly upset with the Opposition's proposals, but it may be that there needs to be some undertaking given by the Leader of the House that those matters will be addressed in future legislation. That was indicated in the other place but because of the previous situation, I do not want to allow a debate of this nature to proceed without fully understanding whether there is a need to move an amendment if I am in a position to do so. I do not want to be cut off and have nowhere to go at the end of the debate.

The CHAIRMAN: In view of what the Leader of the Opposition has said, I have called for the ruling to which he referred. I will answer his query when I receive the ruling. I will leave the Chair until the ringing of the bells.

Sitting suspended from 4.07 to 4.20 pm

Chairman's Ruling

The CHAIRMAN: Members, I was asked by the Leader of the Opposition a question with respect to when or if he might be able to move an amendment to a motion that was presumably to come from the Leader of the House. He quoted an earlier ruling. I will read out the President's ruling that was made on 7 July 1987.

Hon G.E. Masters: I remember it well.

The CHAIRMAN: It reads -

The Council, in Committee, has agreed on the motion of the Leader of the House not to insist on the amendment it made to clause 30 of the Occupational Health Safety and Welfare Amendment Bill following the Assembly's rejection of that amendment.

The Leader of the Opposition sought to move an additional amendment as he believed he was entitled to do under the provisions of standing order 294(ii). The Leader of the House has taken exception to this procedure but his objection was overruled by the Deputy Chairman acting on the basis of precedent adopted in the Senate described in Odgers, Senate Practice at page 332. I am now asked to rule on the meaning and application of the Standing Order.

In terms of precedent, the Deputy Chairman was quite entitled to follow that of the Senate; particularly in cases such as this where the standing orders of both Houses are identical for all practical purposes. However, the Leader has made some interesting points and there is therefore reason for me to take this opportunity to clarify the meaning and application of the standing order so far as this House is concerned.

President Baker is correct when he states that every clause not agreed to by both Houses is open for discussion, but the real question here is whether, as the President

held, that the House must not insist on the amendments rejected by the other House before proceeding to make further amendments as provided for in our SO 294.

The leader of the House argued that the House, having agreed NOT to insist on its amendments, had in fact agreed to the clause as it stood before those amendments were made. That, indeed, is the effect of not insisting as was demonstrated recently where the Council took that course. It was taken for granted that an additional motion, to the effect that the clause as originally printed be agreed to, was unnecessary and that has been the practice of this House.

In my opinion, President Baker erred in holding that the House must first not insist on its amendment before making further amendments "... otherwise it would not be consequent upon the rejection of the amendment ...". The rejection is that of the other House and not of the Council of its own amendment.

The purpose of the standing orders governing disagreements between the Houses is to narrow the debate to resolving those disagreements. Nothing else is in issue. Viewed in that light, I agree with the Leader of the House that paras (i) - (iv) should be read as if the word "or" was inserted between the paragraphs. The best illustration is to take the situation where the Committee defeated the motion that the Council not insist on its amendments. The result would be that the Council DOES insist, but if it does insist, could it then be argued that further amendments, or proposed new amendments, could be made to the clause? To argue that such is the case is to make a nonsense of resolving that the Council insist. How can the Council insist on something that it then tries to amend?

I am forced to the conclusion that the Leader of the House is correct and that paras (i) - (iv) provide mutually exclusive procedures. Having said that, I have to warn the House that the time-honored practice whereby the first call in committee is given to the Leader of the House, as a courtesy, may well need to be revised. If the Leader moves a motion under para (i), the effect will be to lock out other members from moving any other motion under the subsequent paragraphs of the Standing Order.

I therefore rule that the Committee, having agreed not to insist on the amendments made by the Council, is prevented from proceeding further on the Bill.

Point of Order

Hon G.E. MASTERS: As I understand it, if I wish to move an amendment the only opportunity I would have to do so would be if I were to move it at this stage before the Leader of the House got to his feet and moved that we not insist on the amendments.

The CHAIRMAN: Yes.

Hon G.E. MASTERS: I do not have an amendment prepared at this time because we have not yet debated the issue. I understand that the Minister may be going to give some undertakings, but I want to establish the point that anyone wishing to give notice of further amendments to the amendments already insisted upon must do so at this stage. I am not quite sure whether one has to stand up on a point of order and then give notice. In the President's ruling read out by you, Mr Chairman, it was said that once the Leader of the House, according to the practice and courtesy of the House, made the first move, the Opposition was excluded from taking any further action if it so wished. I just want to establish whether, if I wished to give notice of a further amendment, I would be entitled to do so. It is necessary to establish the procedure for future debates.

The CHAIRMAN: Without looking further at Odgers and other references, I suggest that had the Leader of the Opposition put an amendment on the Notice Paper the Chairman of Committees would have to take note of it.

Hon G.E. MASTERS: On the same point of order, Mr Chairman, it is clear and on the record that if at any future time it is the wish of the Opposition or anyone to move an amendment to amendments that have been insisted upon and been returned as not acceptable, the practice will have to be that the amendments should be put on the Notice Paper and they would be recognised before the Leader of the House or the Minister handling the legislation rose to his feet and moved the motion that would cut off all future opportunities.

The CHAIRMAN: I believe that is so, but I think it would be an idea if it were to be referred

to the Standing Orders Committee so that the Committee could find a way of overcoming the problem. That would be the most sensible course of action. I remind members that if the Committee does insist upon its amendments, we resolve ourselves into a Committee of Managers and that is when the amendments may be put. I admit that it does not allow the Chamber to discuss what the Committee of Managers will do but doubtless it would be possible to raise that matter in one's speech. It would not be possible to get a vote of the Chamber. However, a member would have the opportunity to put it forward to the Chamber.

Committee Resumed

Hon J.M. BERINSON: I move -

That the Council not insist on its amendments.

The reasons supporting this motion are adequately set out in the message from the Legislative Assembly and I do not think that I need at this point refer to them again in detail. Suffice it to say that in respect of amendment No 1 there is serious doubt as to the constitutionality of the Council's previous amendment in the absence of support for that proposal by referendum. The Leader of the Opposition refers to a certain undertaking and I understand him to be drawing attention to an undertaking by the Minister for Parliamentary and Electoral Reform to subsequently produce legislation which would allow the alternative orders of preference sought by amendment No 1, but doing so in a form which would also provide for a referendum on that question.

As to amendment No 2 this really goes to a judgment of the practicality and efficiency of the operation. The Opposition previously argued that the 24 hours provided to parties to list their order of preferences was inadequate, and the Assembly has now indicated that the amendment that was carried by the Council would produce even greater difficulties and inefficiencies than those sought originally to be overcome.

In support of the provisions of the original Bill, I draw attention to the fact that we are not working blind, or on a theoretical basis only. The original provisions of the Bill are in line with those which applied to the last Federal election and which have applied to three by-elections in this State. Nothing has indicated that that arrangement has caused any difficulty and we could, therefore, safely proceed on the basis of the original proposal without fear that our own arrangement would somehow be disadvantaged. Again, in this respect, however, the Minister has undertaken to subsequently review this position with a view to extending the time to 48 hours if it is still the opinion of the parties in this Parliament that that course should be taken. For the moment it is important that we should all be clear as to the requirements of elections under the new system provided by this Bill, and in the interests of a quick resolution of outstanding questions I urge that the motion be supported.

Hon G.E. MASTERS: I have some comments to make about the proposal put forward by the Opposition and the response by the Leader of the House. The amendments are twofold, and I will not canvas the previous arguments which went on for some time. With elections for the upper House the State Government proposes to permit the registration of only one voting ticket for each party. That does not appear to be a good idea. Members of this Chamber have been told on a number of occasions by the Leader of the House that as far as possible it is the wish of the State Government to follow the procedures of the Commonwealth Government. That point was raised and supported by the National Party spokesman in the Legislative Assembly. We should consider very carefully allowing up to three voting tickets to be registered by any one party. The Leader of the House said he has received an opinion that there are some constitutional difficulties. The Opposition has received two verbal opinions, one from a QC, that there are no problems as far as the State Constitution is concerned. According to the advice from the Government, under the Federal Constitution up to three voting tickets are allowed for Senate elections. Mr Pearce, as the responsible Minister, referred in his speech to part VII, section 73(2) of the Constitution which states -

... expressly or impliedly provides that the Legislative Council or the Legislative Assembly shall be composed of members other than members chosen directly by the people.

Apparently three voting tickets do not comply with that requirement in the State Constitution; that is, the members are not chosen directly by the people. It is suggested that the use of one voting ticket constitutes a direct choice by the people. I put it to the Leader of

the House that that is a dubious argument. I see no difference between members of Parliament being elected by one voting ticket or by three voting tickets. After all, when one goes into a polling booth to vote at present the registered voting tickets are on the wall. If a person wanted to vote for the Australian Democrats party, and it had registered two voting tickets, the person casting a vote would know that his preferences would go in certain directions. For example, if two tickets were registered, half the preferences would go to one party and half to another.

Hon J.M. Berinson: That cannot be done, because a person has only one vote.

Hon G.E. MASTERS: That is where our legal opinions differ. I understand that the Government has received a written legal opinion and I think it is reasonable to ask for that opinion to be tabled. When Mr Pearce referred to that opinion in another place he said he had no objection to its being tabled and he would consult with the Leader of the House, to whom the opinion had been given. Under those circumstances the Minister did not consider he was entitled to make the opinion public. It would be of great help to the Opposition to be given a copy of that advice so that it could make further inquiries. Sooner or later, if not today, a decision must be made and the Minister responsible for this Bill thinks it is worth pursuing. It could be that the Government will introduce legislation after the next election which might be considered by this Chamber and progress could be made. In other words, an effort would be made to allow a multiple registration of voting tickets. To prevent that would disadvantage some of the minor parties, such as the Australian Democrats. Although it seems that the Government of the day is not too keen for the Australian Democrats to make great gains in this State or in this Chamber, it is only reasonable that they be given a fair chance and the opportunity to pick up any votes they can. Their best way of doing that is by having two registered voting tickets. If they are not given that opportunity, they will be disadvantaged. I understand that is also their view. The State Constitution is open to legal interpretation and the Minister in another place stated that six legal opinions could be given, all of which would differ in one way or another. That is the way of legal opinions and that is how the legal eagles make their money - it is one person against another. In most cases, although not all, the opinion depends on the person who is paying for it.

Hon E.J. Charlton: And on how much you pay.

Hon G.E. MASTERS: Yes, that too. I put it to the Leader of the House that the Government should prepare legislation and very seriously consider aligning this State with the Commonwealth. If there is a need for further investigation it should be done as soon as possible. At this stage I am obviously not in a position to move an amendment, even if I may wish to do so, after the ruling of the Chairman, and there has not been a vote taken. However, I understand the position and have discussed it with the Minister, and for that reason I am not seeking an amendment but would seek an assurance from Mr Pearce, the responsible Minister, that the Government is going to proceed along the lines promised.

The first amendment deals with the registration of voting tickets. I feel quite strongly that it is in the interests of all parties for the Government to consider a change in the law. We have a completely new system of voting for the upper House. I do not know how many candidates there will be in the south west or in the north metropolitan region. In the north metropolitan region we could have 20, 30, or 40 people seeking election, so we could have a whole range of candidates from the Australian Democrats, the One Australia Movement, the National Party, the Liberal Party, or the Labor Party, plus half a dozen independents, or other parties that I have not mentioned.

Let us assume that nominations close on a Thursday night. The Act says all the people who have nominated will have 24 hours in which to organise and register a voting ticket. So the parties would then have to approach the independents and the people they hope to gain some advantage from. It is beyond my understanding how they are going to make those sorts of arrangements in one day. The Minister said there was no problem at the by elections. If that is the case, he did very well because there certainly were some difficulties as far as we were concerned and as far as some of the other minor parties were concerned. I put it to the Minister that the least that would be required would be to make 48 hours available for the voting ticket arrangements. The Minister has acknowledged that and has given undertakings that he will introduce legislation to this effect; and he seemed to favour the idea.

It is obvious that if it is going to affect my party it is going to affect every other party in one

way or another. If we will need to organise our voting tickets with a large number of people, especially in the early days of this new system, 48 hours will not be enough. I would have liked to put forward an amendment which said that the nomination closing time or day would be, say, Wednesday at 6.00 pm, and there would then be 48 hours allowed for parties to register their voting tickets. I would have preferred a closing time - as was in our amendment - of 6.00 pm on Friday, and that the voting ticket closing time would be 6.00 pm on Monday, because that seemed to be a more reasonable time. However, I can understand as well as anyone else that the Government would be strongly opposed to that procedure because it is likely that instead of giving the parties 28 days' notice, there will be another seven days added on to it; and come hell or high water the Government is not going to give the Opposition an extra week's notice if it can help it. So what we would like and what is realistic are two different things.

The responsible Minister has given some undertakings that he will produce legislation to this effect as soon as possible and that he would inquire further into the constitutional matters. The Minister said also that he could see no reason why the legal opinion made available to the Government could not be made available to the Opposition, but that was in the hands of the Leader of the House. If that is the case, I would like an undertaking that the opinion will be tabled during this debate so there is a clear sign of goodwill and that we can count on Mr Pearce to keep his word. The Opposition is not in a position to do anything else but decide to either insist or not insist; and we will not insist.

Hon A.A. LEWIS: I am horrified at the Leader of the Opposition's attitude. He should report progress on this. He has mentioned the legal opinion, and I am sure the Leader of the House is going to give us that legal opinion, but it cannot be tabled today in this Chamber, or debated today. I will just read some of the things the legal opinion says -

Legal advice has indicated that interpreting a ticket vote to mean one of 2 or 3 alternative orders of preferences may not satisfy a requirement of the Western Australian Constitution . . .

The opinion does not say which part of the Constitution. I believe it would be courtesy alone to quote that part of the Constitution and tell us where and what to look for. I can see the Leader of the House is looking at his *Acts and Other Information Relating to Parliament*. We should have this opinion - not to deal with today, but when we come back. I remember that if Hon Ian Medcalf had brought in something like this, Mr Justice Olney and the new Premier, when they were members of this Chamber, and Hon J.M. Berinson, would have gone berserk because of the discourtesy of not stating the relevant part of the Constitution. I cannot see that there is any need to rush this through, because despite the urging of the President of the Labor Party for an election on 1 October, I am convinced it will take place on 18 February, and that is where my money stays. So there is no hurry, and it seems to me that this is becoming a talking horse between the Leader of the House and the Leader of the Opposition and they are making the deals, which the rest of us are meant to follow along with like little lost sheep - Mary had a little lamb, or something like that. I am not going to be a little lamb and I am not going to be shorn by either of them.

It is interesting that the Government has given us an answer in this form. We should have some time and the proper legal background to make a fair judgment. The Leader of the Opposition can have all the assurances from this Government that he likes, but I would like to see it legally set out. I do not believe assurances from this Government because I have been let down a couple of times. The Leader of this House has let me down, and he knows it.

Hon B.L. Jones: That is going too far.

Hon A.A. LEWIS: He knows it.

Hon J.M. Berinson: I know nothing of the sort, and neither do you.

Hon A.A. LEWIS: And he does not debate it.

Hon B.L. Jones: He denies it!

Hon A.A. LEWIS: If the Leader of the House casts his mind back to the Western Australian Development Corporation Bill he will remember what I am talking about without any problem at all. Assurances were made, I took them in good faith, and those assurances were broken.

Hon Tom Stephens: There must have been a misunderstanding.

Hon A.A. LEWIS: There must have been a misunderstanding, and I thank Hon Tom Stephens for his interjection. I am sure his leader will be very grateful to him. That is why, now, I want things in writing.

Hon E.J. Charlton interjected.

Hon A.A. LEWIS: I believe that the Labor Party and the Liberal Party are the only people who matter here.

Hon E.J. Charlton: We noticed that last night.

Hon A.A. LEWIS: The sooner Hon Eric Charlton realises he is irrelevant, the better we will get on. I move now to amendment No 2. The answer to that amendment is the same sort of answer as Commissioner Bull's telex last night - it is the department telling us what makes its life easier and happier. I reiterate what I said last night: We are here to make the laws. I do not give two hoots if the Electoral Department has a fairly tough job. Perhaps it does not get things until six o'clock, and perhaps it has to have the ballot papers out by eight o'clock. But one can have the number of blank ballot papers one is going to use. Between six o'clock at night and nine o'clock the following morning one can fill out by hand the number of ballot papers one will need. I do not mind if the Government has a 28 day election or a 28 year election, but I do not believe this Chamber should be pushed around by the Electoral Department and its administration. They are the two reasons for my stance. Surely the Government, with all the brilliant legal brains it has at its disposal, can come up with some real argument that we can get our teeth into. This is bubs' stuff. The four year olds who do not have a place in kindergarten - the ones for whom the ALP promised a place but did not deliver - would deal with this and probably do a very good job.

Hon E.J. Charlton interjected.

Hon A.A. LEWIS: I know Hon Eric Charlton wants to get in there too. We are meant to be a legislative body and I believe the courtesy of precise details is due to us. Amendment No 1 does not give us the precise detail, and amendment No 2 makes excuses for the Electoral Department. In all fairness I believe the Leader of the House should report progress and we should look at this matter again when we come back. The Leader of the House could then circulate to members the legal opinion - his own opinion as well, if he likes - and some detail on this which normally we would expect to receive. If the Government wishes to include some further things in the second amendment which it has left out because they might be a little difficult, they should be added to that amendment or appear as an addendum to the paper so that we can properly debate it.

I will not talk about clause 1 or clause 3A at the moment because I picked this up when I came back here after a Chairman's ruling and it was the first I knew about it. That is how much time the Government has given us to deal with legislation - legislation which will not affect me in any shape or form because I am not running for office again; but certainly it will affect many members in this Chamber. It seems to me that reporting progress and dealing with the matter at a future sitting would be the sensible thing to do and would also assist in a proper consideration of either the acceptance of the message from another place or the rejection of it. I can only see a rejection of the message resulting unless we are given some time to look at the legal implications of it.

Hon E.J. CHARLTON: Before the Leader of the House takes his cue from Hon A.A. Lewis and reports progress I would like him to reply to the comments that have been made and state clearly how our amendments would not be in line with the Constitution. If we are to make a decision we must be able to base it on facts, which so far have not been provided. Until we have those facts I do not believe we are in a position to either support or reject the proposition.

Hon P.G. PENDAL: We have been told in the message that came from another place that the actions of that Chamber are based on legal advice. I would have thought that when a House of Parliament is being asked to back off from a certain matter at least the substance of that legal advice ought to be conveyed to us. The phrase "legal advice" can mean a member of the Government who happens to be a lawyer saying, "Here is a way we can get around this. Tell them there is a bit of doubt about it." It can mean someone on the Minister's staff who happens to have a law degree saying, "There is some doubt about this." It can mean

some low ranking officer of the Crown Law Department has given his opinion. Being aware of all those people who might have given that advice may lead members in this Chamber to see that advice as worthless. However, if the Leader of the House is saying the Solicitor General's advice to him is that we should not proceed down this path or it would require a referendum, surely that would make some difference to some Opposition members when considering whether they should back off. It is not a question of being bloody-minded but rather of knowing whether a decision is being made because an articulated clerk has said XYZ or because the Solicitor General has said there is some substance in the fears that are now being expressed.

I am not suggesting, by the way, that this is the fault of the Leader of the House. Indeed, in this case he happens not to be the leader of the Labor Party in this Chamber but the leader of this House and it is therefore a dispute between the two Houses of Parliament. It is, if you like, as much an insult to the Leader of the House as to other members of it to be told merely, in a pretty cavalier way, that legal advice says we are not going down the right track. It is incumbent on the Leader of the House, not just as the Leader of the Government but as a representative of the 34 elected members in this place, to be able to convey that. It occurs to me that there may even be some amendment made to the Leader of the House's own motion to the effect that this Chamber takes great exception to an incomplete message, which is what it amounts to, because we are being asked to make a very serious decision based on a bit of half baked terminology that clearly has been written by the Government in another place to the extent that legal advice has suggested certain things. I do not think that is good enough. I urge the Leader of the House to address himself seriously to that point before any member moves in the direction of informing the other place on that point.

Hon J.M. BERINSON: The main argument seems to have come down to amendment No 1 and the legal problems which that amendment creates from the constitutional point of view. I am rather surprised at the stress put upon the requirement for further information than that in the Assembly's message because that would appear to indicate the constitutional problem is being brought to our attention for the first time. That is not the position. In the course of debate in this Chamber in the first instance, I tried to stress as hard as I could that a constitutional problem was involved and that it had serious implications. I cannot remember whether at that time I went into details as to the background of my own consideration of this matter. I expect that I did but I have not checked *Hansard* on that point. However I can assure Hon P.G. Pendal and other members that in raising the constitutional question originally, and in supporting views the Assembly is now conveying to us, I am not relying on any discussion with an articulated clerk in the Crown Law Department. My consultation was with the Solicitor General and it was on the basis of that consultation and his opinion that I warned the Chamber originally that we were entering into a minefield. The minefield is that if we proceed in this way and have an election on this basis we are at serious risk of having that election declared wholly invalid. That is a risk that we dare not take. I have never said that that is a certainty.

I accept what the Leader of the Opposition says, that if one goes to a number of legal advisers, particularly on a question which is as obscure as this one is, one can expect to get differing opinions. I have said previously, and I maintain, that is enough to require us to put this proposition aside. We simply cannot take the risk of an election being held and subsequently found to be invalid.

Hon P.G. Pendal: That depends on who wins.

Hon J.M. BERINSON: Since I was asked for some detail on the basis of this concern, I refer members to section 73(2)(c) of the Constitution Act. That is the provision which requires that the Legislative Council shall not be composed of members other than those directly chosen by the people. The problem that has been raised is that the system provided by the amendment carried by this Council provided for a party to list more than one order of preferences but leaving it to the returning officer to arbitrarily divide the votes according to the number of tickets that supported the alternative. In other words, in any particular case a particular voter could not be certain where his preferences went. That is what I intended to convey in my interjection to Hon Gordon Masters - a single vote cannot be divided; that is the problem, and that is the risk.

The Assembly has not tried to carry that risk further than the terms in which I put it. It is

significant that in providing its reasons for disagreeing with amendment No 1, the Assembly has said that legal advice has indicated that order of preferences "may" not satisfy a requirement of the Constitution. The Assembly has not said that it definitely contravenes a section of the Western Australian Constitution but that it may do so. That is precisely in line with the limitations of the argument put first during debate, and which I put again a few moments ago. The truth is we cannot be certain; a further truth is that if we cannot be certain, we cannot go down that path because we cannot afford to take the risk of the massive constitutional and parliamentary disruption into which that would lead us.

I am happy to repeat that the responsible Minister confirms his undertaking to produce a Bill that will provide for this provision to be implemented but to have the support of a referendum to that effect. That cannot be done before the next election, so we have to proceed on the basis that that is a measure to be subsequently introduced. Nonetheless that undertaking stands.

Hon G.E. MASTERS: I ask the Leader of the House whether he will table his written legal opinion. He will recall during debate on a previous occasion, when I talked about legal opinions, he was sorely tempted to pass the legal opinion to me. I noticed in the passing around process, a recall occurred. The Leader of the House will acknowledge a written legal opinion exists. I ask again whether he would be prepared to table the legal opinion - it appeared he was at some time - particularly as his colleague, the person responsible for the legislation, said, "I said that I would discuss with the Leader of the House whether I could make the opinion available. I have no difficulty in making it available but it is not mine to cast around. I have not yet taken the opportunity to take up the matter with the Leader of the House." In view of that I ask whether the Leader of the House would be prepared to table that written opinion.

Hon J.M. BERINSON: My general approach is that legal opinion provided by our professional officers is for the advice of the Government or for my own advice in particular cases. That was the reason I had second thoughts about conveying that opinion when we were first debating this Bill - not because of any reservations about the opinion. There are reasons for that general thinking, and for that reason I do not propose to table the opinion. In any event, the tabling of the opinion would not help the Opposition to take this further. The argument that I have put to the Committee in respect of section 73 of the Constitution is at the heart of the problem. It is conceded that the question is not free of difficulty; it is not absolutely certain. That is the opinion which I give to the Committee and which I say is based on the advice of and after consultation with the Solicitor General. It will not help us any further because it is not definitive. Certainly the advice that the Leader of the Opposition has offered does not go anywhere near the detail which I have provided in that he not only indicates that the advice is in general terms but also that it was provided orally. We just have to make up our minds about this - whether we are going to risk the validity of a whole election or whether we are going to ensure that no question of invalidity can arise and that the aims of the original amendment by this Council are attended to subsequently.

Hon A.A. LEWIS: I have seen some double standards in my life. Last night the Minister for Sport and Recreation bandied around the advice given to him by the Commissioner of Police. On other occasions we have had the Crown Solicitor's advice thrown across the Table, but now we cannot have the advice because it is improper. Am I to perceive that this Government is now going to get some standards? I do not really believe it will. Am I to perceive that it is talking about standards and the normal parliamentary practice that could have been carried out during the years it has been in Government? Despite the double standards, what is wrong? The Premier has told us the elections will be held in February and I believe him wholeheartedly. Is the Leader of the House trying to tell me this Government is so slow it could not get a Bill before the Parliament for a referendum?

Hon J.M. Berinson: No, we are saying we would not support the holding of a referendum, and neither would you, between now and the election or on election day.

Hon A.A. LEWIS: The Government does not want a referendum on election day; it wants the voters to go to the polls on a separate occasion.

Hon J.M. Berinson: That is right. It is an entirely different question.

Hon A.A. LEWIS: I wanted to make sure that the Government is willing to spend between

\$2 million and \$3 million of public money on a referendum that would not be held in conjunction with an election. It is absolute rot. I come back to the point I made a short while ago when I berated the Leader of the House and the Leader of the Opposition for the cosy sort of relationship they have. I want some proper information. I believe this message is an insult to this Chamber. Normally, if a reasoned argument is advanced and members are given time to consider it, together with some references, I would say, "Very well, Mr Leader of the House, we will go along with the Assembly." Surely the Leader of the House can cast his mind back to when the previous Government was in power and remember the detailed messages that passed between the two Houses. If he does not remember that he will remember his colleagues making mincemeat out of the Ministers of the day because not enough detail was provided. Obviously some members do remember it because I can see some odd grins on members' faces. Why should we be more lenient on this Government than it, when in Opposition, was on the previous Government?

Hon T.G. Butler: We are a better Government.

Hon A.A. LEWIS: That is the sort of comment we expect from Hon Tom Butler. If it is a better Government, give us the answers. The Government and the Leader of the House have not been able to give us the answers, and we hear inane interjections from Government members. According to the Leader of the House this is reasonably serious and it is a great constitutional moment. Members heard him say how deadly important this was and that we could not afford to put a total election at risk because of it. Yet, we have the President of the Labor Party making smart cracks and the Leader of the House joking with a member behind him and no answers are being given to this Chamber.

I happen to be one of the fairest members in this place; I also happen to require that the proceedings of this Chamber are carried out to the satisfaction of all members, and I do not believe this Government has done that. I know that a lot of Labor members agree with me and I know that a lot of Liberal members agree with me. We either obtain the explanation or we are forced in a certain direction. Surely the Leader of the House can see that. We have not been given the explanation and we have not had sufficient time to consider the matter. What is wrong with reporting progress and adjourning debate on this Bill until the next day's sitting?

Hon G.E. MASTERS: I am disappointed the Leader of the House has seen fit to refuse to table what is an important document. Hon Phil Pental and Hon Sandy Lewis hit the nail on the head when they said that we have a message from the Legislative Assembly to the Legislative Council saying that as a result of legal advice it cannot accept the Legislative Council's amendment. The legal advice should have been made available. It has been suggested that we should take the Leader of the House at his word. Why should we take him at his word when we get this sort of message which is insulting? If the Leader of the House is not prepared to table the document we are entitled to think there is some doubt about the advice and some proviso may be attached to it.

Hon J.M. Berinson: I have told you that is precisely the nature of it. I have told you it is not free of doubt.

Hon G.E. MASTERS: Is the Leader of the House saying that the written advice is not specific?

Hon J.M. Berinson: It is specific, but it adds that it is an issue that is not free of doubt.

Hon E.J. Charlton: It is specific, but there is a doubt!

Hon G.E. MASTERS: I suggest to the Leader of the House that there must be very good reason that he is not prepared to table the document. The reason would be that the Opposition could pick some holes in it and, indeed, there is some strong doubt on both sides. If that is the case, surely we are entitled to read what is in the document. If the Leader of the House has some reason to cover it up perhaps it is a ploy to avoid this issue until after the next election. If that is the case we should say to the parties which are likely to suffer, for example, the Australian Democrats, that once again this Government is seeking to deny it the votes it is seeking to win at the next election. We heard the Leader of the House say in a previous debate that he would not like to see the Australian Democrats holding the balance of power in this place. He made that statement in response to a statement I made.

Hon E.J. Charlton: It is not what the Prime Minister thinks.

Hon J.M. Berinson: Do you want a minor party to have the balance of power?

Hon G.E. MASTERS: The Australian Democrats are entitled to gain as many votes as they can. I am not in the business of denying them that right.

Hon J.M. Berinson: Neither am I.

Hon G.E. MASTERS: I suggest that the Leader of the House is. If there are any doubts, and the Leader of the House insists that he is not worried about that aspect, he should table the evidence. The Opposition considers it a ploy to delay the issue until after the next election. I am very disappointed. The Minister in another place said he had no objection to this opinion being tabled; it seems the Government has something to hide and as a result the Australian Democrats will be denied votes as a result of the Government's actions.

Hon J.M. BERINSON: There is nothing to hide and nothing is being hidden. I have indicated specifically the basis of this constitutional concern, and it cannot possibly be claimed that it comes as a surprise to the Chamber. I put this issue to the Legislative Council months ago and put it precisely on the basis on which I have put it today. It rests on the doubt that section 73(2)(c) would be complied with. It is not a matter of convenience.

Hon A.A. Lewis: I think it is for your convenience.

Hon J.M. BERINSON: I assure Hon A.A. Lewis that it is not.

Hon A.A. Lewis: Your assurances are not my favourite subject.

Hon J.M. BERINSON: Since Hon A.A. Lewis does not want an assurance on anything, let me assure you, Mr Chairman, it is not a question of Government convenience that we cannot seriously consider the prospect of a referendum on the same day as the next State election. The problem in that case is: How can we go to an election on the basis that a referendum will be carried, when it might not be carried? Where shall we be then?

Hon A.A. Lewis: You will have to go back for another election.

Hon J.M. BERINSON: We shall be in the position of having held an invalid election. Is Hon A.A. Lewis seriously suggesting that that is a reasonable and acceptable possibility?

Hon A.A. Lewis: You don't have a clue.

Hon J.M. BERINSON: Having been in this place a few years, it is very hard to surprise me, but it is really astonishing that Hon A.A. Lewis could seriously argue that there is nothing wrong with going to an election which might be declared invalid and that another election might be necessary. I cannot understand how anyone could put the legislative basis of this State on such an uncertain foundation, and I cannot believe that that is seriously argued. Of course, the truth is that it is not seriously argued.

Hon A.A. Lewis interjected.

The CHAIRMAN: Order! Hon A.A. Lewis will cease interjecting.

Hon J.M. BERINSON: I have indicated the basis of the legal doubts about this issue: the serious implications of those doubts; and the reasons for my reluctance to move from my normal practice of not making generally available legal advice to me. In that last respect I refer to page 434 of the 20th edition of Erskine May's *Parliamentary Practice* which states -

The opinions of the law officers of the Crown, being confidential, are not usually laid before Parliament . . .

Hon A.A. Lewis: It says "not usually".

Hon J.M. BERINSON: I am aware of that. I do not say they are invariably refused, but they are not normally laid on the Table. There is nothing in my reluctance on this matter to take this issue out of the general run. I put it to the Chamber that as well as all those matters which I have canvassed, I have made clear that this is a question on which there is room for differing opinions; that is conceded. It is such a serious and fundamental issue that we cannot take the risk that an opinion in favour of validity should be adopted in favour of an opinion against validity. The implications simply go too far. I can add nothing further to the debate, and I urge the members, taking these matters into consideration, to support the motion I have moved.

Hon A.A. Lewis: Would you indicate to the Chamber why we cannot have a few days to look at this question, and why you cannot report progress so that we can consider it in depth?

Hon J.M. BERINSON: With due respect, that is the speech we heard in this Chamber a few months ago.

Hon A.A. Lewis: Which has not been answered.

Hon J.M. BERINSON: It is not a matter of having had a few minutes to look at this matter, members have had a few months. This is precisely the issue we discussed when the matter was before the Chamber originally and nothing was dealt with so fully as this question of the constitutional point. I express my amazement at this stage that members should be prepared to proceed on the basis of the recent proposition, and nothing in that respect has changed over the months that would change in another couple of days.

Hon E.J. CHARLTON: A fairly lengthy debate was held in this place when this matter was originally discussed. A majority of members made a decision that carried the amendment, and that amendment went to another place which in its wisdom has rejected it. It was rejected for a number of reasons: Firstly, the Government said it could lead to an invalid election; secondly, the Government does not agree with multiple voting tickets; and thirdly, if the preferences were split the Government may feel the votes could get into the wrong hands. The list goes on. A decision was made previously and, as the Bill has been returned, that decision must be made again. Members have two options: They can either accept the proposal or reject it. It makes no difference whether we put off making that decision until tomorrow or next month. We all know the position and we can make up our minds as to whether the Government's suggestion that the next election could be invalid is reasonable, or whether it has some other reason for rejecting the amendments.

Hon A.A. Lewis: Are you going to refuse it?

Hon E.J. CHARLTON: I have not yet indicated what my decision will be, but I was responding to Hon A.A. Lewis's suggestion that the debate should be delayed for a few days. I do not think such a delay would make any difference to our position. At the moment voters have two alternatives; they either fill in the whole voting card against all the names nominated or they use a ticket vote. When this matter was first debated, members knew that there would be some doubt on the validity of an election if more than one voting ticket were used for each party, but we decided that it would be acceptable and valid. We had no guarantee, although we had a legal opinion on it. There is only one way to settle this question: An election should be held using multiple ticket voting for parties, the validity of that election should be challenged in court and, if it is ruled to be invalid, another election should be held. Members must make their own judgment as to whether they want to take that chance.

I do not think it will help to put this matter off any longer. We can make our judgment as to which way we want to go. Obviously, I prefer that everybody should fill out the whole voting card, which was what we stated at the time, but for consistency between Federal and State elections, and to cut down informal votes, we went for the option of the ticket vote as well. Another reason was that people should have more than one ticket so that preferences can apply in more than one direction. We also have to concede the other side of that, which is that it might result in there being more than one ticket of votes split, with someone saying, "I am not going to fill out the whole card. I am prepared to have a ticket vote, but I do not want my second preference to go to the National Party, the Liberal Party, the Labor Party, or the Democrats."

Hon A.A. Lewis: The Liberal Party would win then.

Hon E.J. CHARLTON: I can see a good reason why the Labor Party would not want multiple ticket voting. I cannot make up my mind whether that is the reason why the Labor Party does not want it, or whether it is because the election would not be valid.

Hon G.E. Masters: The first is right.

Hon E.J. CHARLTON: We have to take a punt one way or the other. It is no good putting the matter off. We have to make our decision and hope; that is all we can do. I have to accept what the Leader of the House says, that there cannot be a referendum now, or on election day, because no-one would know which way it would go.

Hon A.A. LEWIS: I am a little more confused than I was before. There is talk about legalities, advice given to the Leader of the House, and whether it was tabled. We are being

asked to buy a pig in a poke. This committee has not been given any direction by the Leader of the House, who holds the highest legal position in the State as the Leader of the House.

Hon T.G. Butler: And does so extremely well.

Hon A.A. LEWIS: I am not doubting that he does, and Hon Tom Butler is not helping his leader much at all. We have not been given any answers as to what the real legal situation is. What the Leader of the House is saying is, "We say it, and so it must be right."

Hon J.M. Berinson: On the basis of consultation with the Solicitor General.

Hon A.A. LEWIS: On the basis that we cannot be told in what area the Solicitor General believes it is illegal.

Hon J.M. Berinson: It is section 73(2)(c).

Hon A.A. LEWIS: The Solicitor General has often been proved wrong. That is not a personal comment - Solicitors General have been proved wrong. The Leader of the House should give us the chance to consider this again. He uses the argument that Hon Gordon Masters and Hon Eric Charlton argued this out, and the rest of us were used as cannon fodder by both sides. Now the Leader of the House comes back with something that has been decided by this place and with which the Assembly disagrees. He is backing the Assembly - I acknowledge that was his original thought - and he is not giving us the time to go away and look at it again.

A day or two ago the Leader of the House talked about his memory. I was not involved in the earlier debate on this matter to any great length, and my memory of it is not very good. Members in this Chamber should have the opportunity to take advice on what is happening. The Leader of the House is being extremely cavalier with the members of this Chamber; he says that because the Solicitor General says something is right, we have to snap to attention, salute, and touch our forelocks.

Hon T.G. Butler interjected.

Hon A.A. LEWIS: That is a bit hard for the Leader of the House to do as he has not got much of a forelock left. It must be one of the problems of leadership. The Leader of the House has not given us a decent argument about amendment No 2 at all, concerning the proposal that 6.00 pm would also be the time issuing officers were required to issue postal votes. The Leader of the House and I, as politicians, both know that often postal voters are issued with a write-in ballot paper. Why cannot that be done this time? I have had no explanation as to why it cannot and I believe we should have a proper explanation.

Hon J.M. BERINSON: There is virtually nothing I can add to the main question as the truth is that the explanations have already been given. However, I realise that I have not previously responded to the question about amendment No 2, and the practicability of having this two-hour gap between the closing time for lodging tickets and the issue of postal votes.

Most things are possible, but we have to understand the limitations of the officers who would be required to meet these responsibilities. It is simply a question of practicalities involved here. We have said before that the practicality of applying these provisions is what prevails in respect of amendment No 2. Hon A.A. Lewis would acknowledge that that is a serious question and not a reasonable burden to put upon the officers.

As to the first question, in spite of the fact that Hon A.A. Lewis continues to request details, he is asking for details that have already been provided, and he has not gone to the extent of denying the existence of a serious risk which would put the validity of a whole election in question.

Hon A.A. Lewis: That is your comment, not mine.

Hon J.M. BERINSON: It is for these reasons that the Assembly's proposal should be accepted. I repeat, this is on an understanding and a commitment to prepare further legislation allowing split tickets in proper form and, on the basis of a referendum question and legislation, if necessary and sought by other parties, it would go to the 48 hour period.

Question put and passed; the Council's amendments not insisted on.

Report

Resolution reported, the report adopted, and a message accordingly returned to the Assembly.

CRIMINAL LAW AMENDMENT BILL*Second Reading*

HON J.M. BERINSON (North Central Metropolitan - Attorney General) [5.40 pm]: I move -

That the Bill be now read a second time.

This Bill continues the Government's implementation of the Murray review of the Criminal Code and of our announced policy in relation to whole of life imprisonment and increased penalties for corruption offences. Elements of the Government's proposals on the rate of imprisonment are also proposed to be enacted. Whole of life imprisonment is provided for by investing the Supreme Court with the power, when imposing a sentence of strict security life imprisonment, to order that the offender is not to be eligible for parole at any time. Such an order is to be made at the court's discretion. Given the extreme nature of such an order, it is expected that its application would be limited to those cases where the circumstances of the offence were of the very worst kind or where considerations of public safety would always militate against the release of the offender.

A major aspect of the Bill deals with corruption and abuse of office. The Bill inserts new provisions into the Criminal Code to strengthen the criminal law and facilitate law enforcement procedures against official corruption by either State or local government officers. A new crime of bribery will be created. This will apply not only to public officers who accept or solicit bribes but also to any person offering or promising a public officer a bribe. In both cases the proposed penalty is seven years' imprisonment. A bribe is defined to include not only the promise or offer of money but of property or benefit of any kind.

Public officers will be liable to conviction of the crime of corruption if they improperly gain a benefit for any person or cause any person monetary or other damage -

by acting upon knowledge or information obtained in their employment; or

by acting in their employment in relation to any matter in which they have any direct or indirect pecuniary interest; or

by acting corruptly in their employment.

In any of those circumstances a public officer becomes liable to three years' imprisonment.

A crime of corruptly falsifying records, certificates, returns or information is also created. Such crimes, of course, can clearly provide opportunities for personal gain or to cause detriment and hardship to others. The proposed penalty in such cases is three years' imprisonment.

The offence relating to administering extrajudicial oaths has been clarified by expressly making subject to criminal sanctions the administration of such oaths without lawful authority. The penalty has been increased to two years' imprisonment. Consequently section 105 of the Evidence Act, which provides the same prohibition but without criminal penalty, is repealed.

An offence of impersonating a public officer or assuming the powers of a public officer will also be included in the Criminal Code. This offence has a wider operation than the current provisions which are limited to the impersonation of a public servant. The crime of corruptly bargaining for an appointment or employment as a public officer is also included in this Bill. This extends the current operation of the criminal law in related areas and, as a result, section 119 of the Criminal Code, which deals only with employment in the Public Service, is repealed.

In conjunction with these measures the Bill also deals with offences against the Governor, Ministers of the Crown and members of Parliament. The elements which constitute the offences of interfering with the free exercise of authority by the Governor, State Ministers or parliamentarians of either House of Parliament have been clarified. Deletion of the word "advisedly" removes an unnecessary ambiguity without diminishing the need for the prosecution to establish the accused's intent to commit the offence.

Threatening witnesses so as to prevent or hinder their giving evidence to Parliament or a parliamentary committee and threatening or injuring witnesses who have given such

evidence will be reclassified from a misdemeanour to a crime with an increase in the penalty of imprisonment from three to five years. Witnesses who refuse to attend or to give evidence to Parliament or a parliamentary committee will be liable to two years' imprisonment or a fine of \$7 000. In appropriate cases, and where the accused consents, the offences to which I have referred will be capable of being summarily tried by a magistrate rather than on indictment before a judge and jury. This will enable such matters to be dealt with expeditiously and will reduce the potential workload of the District Court. Modified penalties will apply on summary conviction.

This Bill also strengthens the provisions relating to bribery of members of Parliament. The criminal law will now clearly indicate that where members of Parliament accept bribes, or persons give or offer bribes to parliamentarians, the bribe does not have to involve the giving or receiving of money. Non pecuniary benefits will also be caught. The penalty of disqualification from membership of Parliament is deleted because that is provided by the Constitution Acts Amendment Act.

This Bill also implements measures to reduce the rate of imprisonment as foreshadowed in my ministerial statement to the House on 28 October 1987. In the first place, the maximum fine under the Criminal Code is to be increased from \$50 000 to \$250 000. This dramatically increases the availability to the courts of adequate non custodial penalties, especially in the area of white collar crime. Legislative expression is also given to the principle which the Court of Criminal Appeal has repeatedly enunciated, namely that imprisonment must be the sentencing option of last resort. If penalties or punishment other than imprisonment are available and appropriate they, and not imprisonment, should be applied.

In conformity with recommendations in the Murray review of the Criminal Code the Bill deletes from the Criminal Code a number of provisions which no longer have any practical effect as a result of overriding Commonwealth legislation or for other specified reasons. The sections to be deleted are as follows -

Sections 37 to 43 in chapter VI and sections 584(1) and 730: These deal with treason and other offences against the Sovereign's person and authority and are all covered by the Commonwealth Crimes Act.

Sections 44 to 53 in chapter VII: The provisions defining seditious intention, seditious enterprises, and the offences of sedition and defamation of foreign princes are covered by the Commonwealth Crimes Act. The provisions dealing with unlawful oaths are outmoded and are now covered by the offences of conspiracy to commit a crime and incitement to commit a crime.

Sections 76 to 80 in chapter XI: These sections deal with piracy. Mr Murray QC, in his review, did not recommend their deletion from the Criminal Code. However, after further consideration, Mr Murray concluded that these provisions should be deleted because a much broader jurisdiction can be secured for offences such as robbery, which constitute acts of piracy by the application of the provisions in chapter III of the code, particularly section 14A dealing with offences committed in adjacent offshore areas and the WA Crimes (Offences at Sea) Act 1979.

Section 119 in chapter XV: This has already been referred to.

Sections 152 to 166 in chapter XVIII, and section 713: The offences of counterfeiting and uttering are now covered in the Commonwealth Crimes Act and Currency Act.

Section 167 in chapter XIX, and the definitions of "mail" and "mail conveyance" in section 1: Offences relating to mail are now covered by the Commonwealth Post and Telegraph Act.

Sections 179 and 180 in chapter XXI: These provisions contain offences relating to religious worship. They are now covered by other provisions such as the general offence in section 338 of the Criminal Code and provisions in the Cemeteries Act and Police Act.

Sections 214 to 219 in chapter XXIV: These offences against public health are now covered by the Commonwealth Quarantine Act and the Western Australian Health Act.

Section 207 in chapter XXIII: Section 207 which creates the offence of common nuisance has not been used for many years. The sorts of activity with which it might deal are now specified under individual Statutes.

Sections 188 and 189 are amended. The phrase "idiot or imbecile" is removed and replaced with a reference to mental disability or intellectual handicap. There is also an increase in the penalty under section 188 from five years' to 14 years' imprisonment.

Several provisions in the Criminal Code stipulate that a person cannot be convicted of a specified offence - for example, certain sexual offences and perjury - upon the uncorroborated testimony of one witness. The Murray review of the code recommended that the requirement of corroboration as a matter of law should be deleted because this rule is inflexible and offences to which it applies are arbitrary. Mr Murray therefore recommended deletion of this requirement for corroboration so as to leave the court with a discretion, having regard to the evidence given, to decide whether the jury should be given any particular warning in respect of evidence. The court may comment on the facts and the witnesses. If in any case any witness appears to the judge to be one about whom the jury ought to be warned to be careful, that caution can be given at the court's discretion. The Bill does not affect the law in relation to the unsworn testimony of a child.

This Bill is an important further measure in the Government's continuing reform of the Criminal Code. While the measures proposed are relatively straightforward, there are a substantial number of them and, with a view to assisting interested members, copies of Committee notes will be available on request at my office early next week.

I commend the Bill to the House.

Debate adjourned, on motion by Hon John Williams.

ROAD TRAFFIC AMENDMENT (RANDOM BREATH TESTS) BILL

Assembly's Message

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

ACTS AMENDMENT (CHILDREN'S COURT) BILL

Committee

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

Progress

Progress reported and leave given to sit again, on motion by Hon Kay Hallahan (Minister for Community Services).

ADJOURNMENT OF THE HOUSE - SPECIAL

On motion without notice by Hon J.M. Berinson (Leader of the House), resolved -

That the House at its rising adjourn until Tuesday, 13 September.

ADJOURNMENT OF THE HOUSE - ORDINARY

HON J.M. BERINSON (North Central Metropolitan - Leader of the House) [5.54 pm]: I move -

That the House do now adjourn.

HON A.A. LEWIS (Lower Central) [5.55 pm]: I know one of my colleagues wants to speak so I will be brief. It has been brought to my notice, and I bring it now to the attention of the House, that one of my electors had a car stolen last week by a 17 year old youth. I am told there were 12 police cars involved in the chase and the late model Commodore was written off. The only thing that was saved from the car was the family Bible, which was in the only portion of the car not wrecked. The 17 year old youth went before a magistrate with

an horrific record. It was put to me that if one unrolled his record, it would reach from the ceiling to the floor. The police wanted to hold that person but the magistrate granted bail. I wonder where we are going in this country when we allow so-called law and order -

Hon P.G. Pendal: It is what we called "wrist slapping" last week.

Hon A.A. LEWIS: Hon Phillip Pendal may call it that, but we are presently dealing with laws to do with the Children's Court. It horrifies me that people's property can be treated in this cavalier way and that a person with a record as long as that could be released on bail. If he had no record, one might say, "All right, first offender", but I am sick to death of these people, time after time, with absolutely no respect for other people's property, being released by our court system. I will not refer to the Bills because they are presently under discussion -

Hon Robert Hetherington: You have already referred to them.

Hon A.A. LEWIS: Not very much; but as Hon Robert Hetherington said, I have referred to them, although not in detail. The time has come for us as legislators to stop this wrist slapping exercise and to do something about it. I call on the Attorney General and the Minister for Community Services, because it is their joint responsibility along with the Minister for Police and Emergency Services, to put some teeth into our laws. I do not believe any member of this House would agree that people with a record like that to which I referred - and which indicates that they will continue to offend - should be allowed to get out and practically do the same thing again. I hope the Government takes some notice of this and does something about it.

I will conclude now because I know another member wishes to speak and time is limited.

HON GARRY KELLY (South Metropolitan) [5.57 pm]: I would like to be associated with the comments made earlier today in respect of the Eagles' venture in Melbourne on Saturday. I wish the Eagles all the best in their elimination final. I cannot help but think the fact that the Eagles will appear in Melbourne on Saturday was not put into the script the Victorian Football League wrote when the Eagles and the Brisbane Bears joined the expanded VFL. I am sure the idea was simply to drain money from Western Australia and Queensland; but the fact that one of those teams should have a chance of reaching the finals and, horror of horrors, actually win a Grand Final is not according to the script at all. I wish the Eagles all the best and I hope the "Fight for Football" and the Western Australian Football League can get together to produce a formula to preserve a viable local competition at club level in this State, otherwise Australian Rules Football as we know it will die.

As for the other important contest on Saturday, I urge all Western Australians to play safe and vote yes, yes, yes, and yes, in order to produce a Constitution of which we can all be proud.

HON D.J. WORDSWORTH (South) [5.59 pm]: I am forced to express concern at the way things have changed in this House to the point where we should commence and finish the day talking about the favourite subject of football. I think we can all be interested in football -

Hon Garry Kelly: I did not finish on football.

Hon E.J. Charlton: Even worse.

Hon D.J. WORDSWORTH: It amazes me that this House, on a Government motion, can spend 20 minutes debating the pros and cons of who should play for what team in a football game when we stood the chance of failing to get legislation through this House. Had we failed to get that legislation through, it would have reflected very badly upon us.

Question put and passed.

House adjourned at 6.00 pm

QUESTIONS ON NOTICE

**ABORIGINAL ART - LOUIS ALLEN COLLECTION
OF ABORIGINAL ART**
Berinson, Hon J.M.

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

In the case of the purchase of the Louis Allen collection of Aboriginal art -

- (1) Was he consulted?
- (2) Did he approve the release of the \$2.1 million purchase price?
- (3) From where did the \$2.1 million come?
- (4) Was he entirely satisfied that the proper procedures for the purchase and the assessment of its value were adhered to?

Hon J.M. BERINSON replied:

- (1) No.
- (2) Yes.
- (3)-(4)

See reply to question 281.

**LOUIS ALLEN COLLECTION OF ABORIGINAL
ART - TREASURY**

Purchase - Berinson, Hon J.M.

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

- (1) Is he satisfied with the procedure whereby \$2.1 million in Treasury funds were released to buy the Louis Allen art collection without being referred to, or approved by, the body which normally advises on art purchases, namely the Art Gallery?
- (2) If not, will he institute a full inquiry into the circumstances of the purchase?

Hon J.M. BERINSON replied:

- (1)-(2)

The procedures for the release of funds were followed correctly. See reply to question 281.

CANNABIS - BOOKS
Cultivation - Western Australia

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

- (1) Is the Minister aware that books on the cultivation of marijuana are available in Western Australia?
- (2) If (1) is yes, why is the sale of such books allowed, when the use of marijuana is illegal?
- (3) If (1) is no, will he undertake to investigate whether books on marijuana cultivation are on sale and, if so, look into this incongruous situation?

Hon GRAHAM EDWARDS replied:

- (1) I am advised by the Commissioner of Police that such books may be on sale.
- (2)-(3)

I am advised by the Commissioner of Police that there is no direct evidence that the sale of such books encourages the illegal cultivation and use of marijuana.

PRIMARY EDUCATION - STUDENT ALLOWANCES
Family Units - Eligibility

321. Hon N.F. MOORE to the Minister for Community Services representing the Minister for Education:

Further to her answer to question 227 of 1988, will the Minister advise the estimated number of family units which will be eligible to receive the primary school student allowance of \$50 in 1988 and 1989?

Hon KAY HALLAHAN replied:

As part of its recently announced social strategy, the Government extended the secondary clothing allowance scheme to primary students for 1989. It is estimated that approximately 32 000 Government and non Government primary students will be eligible to receive the \$50 per student clothing allowance in 1989.

LAWRENCE, DR - CHARTER FLIGHTS
Minister for Agriculture

322. Hon N.F. MOORE to the Minister for Community Services representing the Minister for Education:

I refer the Minister to her answer to question 219 of 1988 and ask why it was necessary for the Minister for Agriculture to accompany her on her visit to the Central Reserve?

Hon KAY HALLAHAN replied:

The Minister for Agriculture asked if he could accompany me on my visit to schools in the Central Reserve. As no additional costs to the Ministry were entailed I saw no reason to refuse his request.

STUDENTS - KALGOORLIE
Public Transport - Fares Charged

323. Hon N.F. MOORE to the Minister for Community Services representing the Minister for Education:

Further to her answer to question 223 of 1988 will the Minister advise -

- (a) when the decision to charge school children in Kalgoorlie was made; and
- (b) how much are they being charged?

Hon KAY HALLAHAN replied:

- (a) The decision to charge school children who travel on the regular passenger transport services in Kalgoorlie was made many years ago. The actual date cannot be clearly established because the obsolete file that contained that approval has been destroyed.
- (b) Forty five cents per trip.

QUESTION WITHOUT NOTICE

STATE GOVERNMENT ELECTIONS
Timing - 1 October

151. Hon G.E. MASTERS to the Leader of the House:

With all the conjecture in the House, with everyone rushing around, will the Leader of the House tell me whether we are due for an election on 1 October?

Hon J.M. BERINSON replied:

As the Leader of the Opposition well knows, the timing of elections is the prerogative of the Premier, which I am not.
