

Legislative Council

Thursday, 25 August 1988

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

ADDRESS-IN-REPLY

Presentation to Governor - Acknowledgment

THE PRESIDENT: I desire to announce that, accompanied by several members, I waited on His Excellency the Governor and presented the Address-in-Reply to His Excellency's Speech, agreed to by this House. His Excellency has been pleased to make the following reply -

Mr President and honourable members of the Legislative Council:

I thank you for your expressions of loyalty to Her Most Gracious Majesty the Queen, and for your Address-in-Reply to my Speech to Parliament on the occasion of the opening of the Third Session of the Thirty-Second Parliament.

Gordon Reid,
Governor.

BILLS (10) - ASSENT

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

1. Treasurer's Advance Authorization Bill.
2. Supply Bill.
3. Gold Banking Corporation Amendment Bill.
4. Silicon (Picton) Agreement Amendment Bill.
5. Geraldton Mid-West Development Authority Bill.
6. Acts Amendment (Parliamentary Superannuation) and Transitional Arrangements Bill.
7. Acts Amendment (Education) Bill.
8. Motor Vehicle (Third Party Insurance Surcharge) Repeal Bill.
9. Tailings Treatment (Kalgoorlie) Agreement Bill.
10. Local Government Amendment Bill.

OFFENDERS PROBATION AND PAROLE AMENDMENT BILL

Second Reading

HON J.M. BERINSON (North Central Metropolitan - Minister for Corrective Services)
[2.37 pm]: I move -

That the Bill be now read a second time.

The Bill seeks to provide for the appointment of a deputy for each member appointed by the Governor to the Parole Board. Section 21 of the Offenders Probation and Parole Act provides that the Parole Board consists of seven members. Four of these are specified by the Act and are able to have deputies participate in their absence. This Bill proposes to make similar provision for the three members of the Parole Board appointed by the Governor. Each of these members would have nominated deputies who could attend meetings and act in place of the members in their absence. The Bill also provides for minor amendments to section 50V of the Act. These are "tidying up" amendments identified by Parliamentary Counsel.

Section 50V refers to both division 1 and division 2 of part IIIA of the Act. Division 2, which is related to parole, was repealed on proclamation of the major amendments to the

parole system this year. The proposed amendments delete references to parole which are no longer applicable because of the repeal of the corresponding division. These amendments are consistent with previous amendments to the Act and have no consequential effects.

I commend the Bill to the House.

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

PAROLE ORDERS (TRANSFER) AMENDMENT BILL

Second Reading

HON J.M. BERINSON (North Central Metropolitan - Minister for Corrective Services) [2.40 pm]: I move -

That the Bill be now read a second time.

This Bill amends the Parole Orders (Transfer) Act 1984 which relates to reciprocal enforcement of parole orders between the various States.

Currently, Western Australian parole orders may be registered in another State to enable a parolee to reside in a State other than Western Australia while ensuring that the parolee is supervised by the other State authorities, and that appropriate breach action can be taken against the parolee for unsatisfactory performance while on parole. When registering a parole order in another State, that State, under section 6 of the Parole Orders (Transfer) Act 1984, must be provided with a copy of the "judgment or order" by virtue of which that person is liable to undergo the imprisonment to which the parole order relates. The Act currently provides no definition of "judgment or order" and some States have interpreted this phrase to mean a copy of the sentencing transcript which, in turn, has been certified by the magistrate or judge who imposed the sentence. On some occasions, either the transcript is not available or it is unable to be certified by the presiding court, thus preventing the registration of a parole order in some other States.

The Bill amends the Parole Orders (Transfer) Act 1984 to include a definition of "judgment or order", which includes more readily available documentation, such as a certificate of Clerk of Arraignment, or warrant of commitment. New South Wales has already amended its reciprocal legislation to make similar provision and it is anticipated that remaining States will also amend their reciprocal legislation.

I commend the Bill to the House.

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

RESIDENTIAL TENANCIES AMENDMENT BILL

Second Reading

HON GRAHAM EDWARDS (North Metropolitan - Minister for Consumer Affairs) [2.42 pm]: I move -

That the Bill be now read a second time.

When the residential tenancies legislation was drafted it was decided that disputes under the Act would be dealt with by the Local Court. The Local Courts Act was amended in anticipation of this arrangement. It was intended that services would be provided at five metropolitan Local Courts and 30 other Local Courts throughout the State. During debate on the Residential Tenancies Act, the National Party objected to residential tenancy matters being dealt with in the Local Court while the Small Claims Tribunal was available to deal with such disputes. Amendments to the Bill were therefore made which provided for disputes under that legislation to be heard and determined by the Small Claims Tribunal.

It has now become apparent that there are significant difficulties in ensuring the Small Claims Tribunal can provide a State wide service. All of the small claims referees and the registry of the Small Claims Tribunal are located in Perth. At present an insufficient number of disputes from regional areas are referred to the Small Claims Tribunal to justify an extension of the tribunal's activities into country centres. The tribunal is currently able to meet demands from regional centres by undertaking circuit work. Apart from avoiding the high cost of establishing the Small Claims Tribunal in regional centres, the Local Court

system provides a State wide service by which there can be speedy resolution of disputes. To create a regional Small Claims Tribunal service would be partially to duplicate existing services. In addition, the Small Claims Tribunal circuit system is too inflexible to deal with a speedy resolution of disputes under the Act. It would be technically possible to allow the Act to apply only to the metropolitan area to ensure that referees of the Small Claims Tribunal were able to deal with tenancy disputes. However, the Government does not believe that rights and responsibilities should apply to landlords and tenants in some parts of Western Australia, but not others. In addition, proclamation of the Residential Tenancies Act to apply only to the metropolitan area would result in rural tenants and landlords losing their rights under the Small Claims Tribunals Act because it would cease to have effect in these matters.

The amendments deal solely with the replacement of the Small Claims Tribunal, its referees and registrars, with the Small Disputes Division of the Local Court, its magistrates and clerks.

I commend the Bill to the House.

Debate adjourned, on motion by Hon N.F. Moore.

CHILDREN'S COURT OF WESTERN AUSTRALIA BILL

Second Reading

Debate resumed from 23 August.

HON KAY HALLAHAN (South East Metropolitan - Minister for Community Services) [2.45 pm]: I am very pleased to have in principle support for the Bill from members opposite. I know that support is conditional upon certain amendments. Each party has put forward some amendments to the Bill and I will address briefly some of the matters to which they have alluded.

With this legislation, we have the opportunity in Western Australia to do something quite significant with our Children's Court. I think we have agreement on the principle of transferring the administration of the court from the Department for Community Services to the Crown Law Department. There are two good things about that. Very often officers from the Department for Community Services actually take the case to the court. It is seen as an anomaly that the same department has to carry out the determinations of the court and also administer the court. That situation will be rectified by this legislation. The second thing is that we will be bringing our juvenile court system into line with our adult court system by having it administered by the Crown Law Department.

We will also be increasing the amount of fines. They have slipped well behind and we will make it possible for parents to have a realistic figure for restitution should they have been found to conduce the commission of the offence by the young person. Thus it can be seen that some very good changes are in the Bill and we have canvassed them. The second reading speech sets out the proposals in the Bill. I appreciated the thoughtful response given by members of the Opposition, and I will make some brief reference to some of the shortcomings that were referred to. I have some reservations about some of them, but I will not deal with them in detail at this stage because we will have time to do that in the Committee stage.

Hon Phillip Pental questioned whether we would be putting our court at the forefront of Australian courts dealing with juveniles and he had some suspicion that that may have been a factor in our bringing forward the legislation. I point out to members that we will be one of three States which have a judge heading their Children's Court. It will be the only Children's Court in Australia capable of dealing with all offences committed by children. It will be the only Children's Court, when constituted by a judge, to have access to the full range of penalties available in the adult jurisdiction. We will also have the only Children's Court in Australia where the president has the power to reconsider sentences by magistrates or members. We really are making our Children's Court of Western Australia by far the most powerful Children's Court in Australia. The notion that it will not be strong enough is not based on firm information.

Hon Phillip Pental had a second concern in regard to parents not attending the court with

their children. He related an incident in which there had been adjournments because a parent had not attended with the child. I point out to the honourable member that the magistrate in that instance had clearly failed to make use of the provisions which currently exist in the Child Welfare Act which can require a parent to attend and create failure to comply with such a requirement an offence against the Act. That provision can be exercised by any magistrate under the present legislation. However, as a Government we have asked the department to thoroughly review all the legislation underpinning its duties at this stage. We would certainly be prepared to have a full look at that. On the other hand, if other amendments come forward that are sufficiently flexible where all the circumstances that can confront families can be taken into account, I would be willing to look at them, too.

Hon P.G. Pental: I think the Minister will find that most of ours are in that category.

Hon KAY HALLAHAN: The member undoubtedly would think that, but I think there is quite a degree of inflexibility in them and I will point that out to him to see if he is open to reconsidering them in the Committee stage.

Hon P.G. Pental: We are always open to reasonable debate; the Minister knows that.

Hon KAY HALLAHAN: That has not been my experience, but if today is the new beginning of flexibility, tolerance and wanting to do the best for Western Australia then let us say hallelujah for today. I will pick up a few things that Hon Phillip Pental has said so he knows that I have looked seriously at what he has said and am keen to see the Bill proceed and to do so in what I think and what I hope is the most useful way possible for the jurisdiction.

There was a question raised of dismissing cases. I think the member has been informed that it was a regular occurrence for young people to come back 10 or 12 times - I think his language was, "merely to have their wrists slapped" - before any serious penalty was imposed. I have had discussions with the supervisor of court services and he does not support the information that the member has been given; in fact, he has just supplied information saying that of all the children who appeared in the Children's Court in 1987 with five or more previous court appearances the average number of times each had been dismissed under section 26 was 1.3 and the highest number of times anyone had been dismissed under section 26 was eight and that was for offences of drunk and disorderly, which is not unlike what happens in the adult jurisdictions with drunk and disorderly offenders. I raise that for the member's attention.

The other area raised was the discretion that the Bill allows the court not to impose compensation or restitution. The foreshadowing of amendments to make it obligatory to award restitution or compensation was raised. This is an area about which I have some concern, because I think the courts need the very greatest of flexibility in making such awards and in awarding such penalties, and I am not opposed to that.

Hon P.G. Pental: Is this compensation?

Hon KAY HALLAHAN: Yes, and restitution. I think that the courts need to have power to take into account all relevant circumstances. When one tries for mandatory things one removes the ability of the court to do that, so I must say that I am quite concerned about that prospect. I point out, too, that there will be new safeguards in the power of the president to review orders. Under clause 40 not only can the child or the child's representative ask for a review but also the prosecution can ask for a review by the president. They are new safeguards that have not existed before.

Another point was raised about probation orders about which the member had received information that concerned him in relation to their administration. Historically that was a fair enough comment, but in recent times the probation order system has been strengthened and 10 new positions have been created to strengthen the whole probation service. I indicate, too, that there is a pilot project running currently using volunteers in that probation area. That is something that the Opposition has wanted to see. It was certainly an area which did not have a lot of credibility, which has been strengthened and which is now gaining much acceptance by the courts. The probation runs along very much the same lines as the adult system. I think that while Hon Phillip Pental's concerns about that matter would have been fair enough 12 months ago, circumstances have changed because a lot has been done to upgrade that area.

I will introduce amendments in respect of a couple of areas. They relate to the Bail Act, which I understand will now be proclaimed prior to this Bill coming into effect, so we need to make some minor amendments in that regard. I think that there are one or two minor ones as a result of Law Society advice, but they can be dealt with in the Committee stage of the Bill when I can outline them to members. The Government is well aware that law and order, and particularly concern about the juvenile system, has been a great topic in the community. Members would remember that back in May I announced a package perhaps aimed mainly at the preventative end because I think that where young people are concerned our emphasis has to be directed to the preventative end, and this Bill will give us a much better juvenile justice system. I think that any system that works well has a component of prevention in it.

It is certainly the punishment end of the phase where we must always keep a balance between providing a good system on the consequences of action and the court system but not lose sight of the preventative end wherein we can hopefully persuade young people into more appropriate social behaviour than offending against society. I was pleased to have support from Hon Eric Charlton who indicated he has some amendments to move. I was pleased, also, to have the support of Hon Phillip Pendal and Hon John Williams and to hear the latter's belief that the Bill is a sound one and that we are progressing in the right direction.

With those comments I commend the Bill to the House.

Question put and passed.

Bill read a second time.

Committee

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

Clause 1: Short title -

Hon E.J. CHARLTON: As has been stated, we have a series of amendments to move and I apologise for the lateness of some of them. While it is no excuse, a combination of circumstances of which I think everyone is aware caused that to happen. Some of the amendments that have been circulated have been changed from the Bill to another Bill associated with it. Therefore, we will not be proceeding with some of the amendments foreshadowed to this Bill. I will explain matters as they arise.

Clause put and passed.

Clause 2 put and passed.

Clause 3: Interpretation -

Hon P.G. PENDAL: The Committee will note that the Opposition has an amendment on the Notice Paper in regard to the interpretation of what is a child which would have repercussions in many other clauses in the Bill. May I signify that the Opposition does not want to divide the Committee on the issue. Nonetheless, we want to use the occasion to say that surely the time has come when there should be some standardisation at law over what constitutes a child. Under the Bill a child means anyone under the age of 18. That means anyone aged 17 years 11 months and up to 30 or so days will be considered a child. Only a year or so ago this Parliament passed the Video Tapes Classification and Control Bill, which is now an Act of Parliament. Members might recall that in that Bill a child is described as a person who has not yet attained the age of 16.

[Quorum formed.]

Hon P.G. PENDAL: The point we are making is that it seems ludicrous to have one Act of Parliament describing a child as someone less than 16, and a year later a child is described as someone less than 18. That is a pretty wide gap. One is considered an adult at the age of 17 and capable of taking control of a fairly lethal weapon by way of a motor car. From memory, in Western Australia one can obtain a licence for a firearm at the age of 16. It is not my intention to press the point by dividing the Committee on it, but I think the time has arrived when some form of standardisation is needed. It is beyond me why we have different definitions of children in different Acts, and I would be interested to hear what the Minister has to say. I move -

Page 2, lines 4 and 6 -

To delete "18" and substitute "17".

Hon E.J. CHARLTON: I agree with the comments of Hon P.G. Pendal. He has signified that he is not pressing to divide the Committee on this amendment, but it needs to be brought home to the Government that this question requires examination during the proposed review.

Hon KAY HALLAHAN: I welcome the decision by Hon Phillip Pendal and by Hon Eric Charlton not to pursue a division on this matter, because it would in my view be a retrograde step to take. We would be putting 17 year olds immediately into adult criminal jurisdiction. My personal concern is that they would immediately go into adult prisons. Members may say they are adults; what does one year matter? But we know that young people who go into adult prisons can have a pretty bad experience. The detention centre at Riverbank has a program dealing with 15, 16 and 17 year olds, so they are all of a peer group age. The younger ones go to Longmore for training. If we took out the 17 year olds and pushed them into the adult prisons we would regret that.

I am pleased that members are willing to reconsider this question. I will give an undertaking that the review the department is conducting will look at the status and age of children. I take the point Hon Phillip Pendal makes about these different ages, but in terms of the criminal system of justice we have not had sufficient community debate about lowering the age. I like the way the Opposition is going about raising this as an issue of concern and not pushing it at this point. I will give an undertaking that the review will look at the age of criminal liability. I ask members to vote against the amendment.

Hon JOHN WILLIAMS: I am particularly pleased at the Minister's closing remarks; she has promised an ongoing review. In the field of criminal psychologists there is always an argument about the age, and the argument between 17 and 18 is a touchy one. I support the Minister wholeheartedly when she says that the general public have not had a chance to look at this problem. The Minister would know that at 17 some people have all the attributes of adults. In 1939 they were considered old enough to put on a uniform and go to war. However, times have changed, and I can see what Hon Phillip Pendal was hinting at. This is where we in Parliament come to understand each other. We have an area of difficulty which has not been sufficiently discussed, so to make an alteration now would be somewhat precipitous. Not only that; we could land ourselves in awful difficulties.

A remark of the Minister which attracted me even more was that there is a possibility that if they go to adult correction centres at a young age there is a 90 per cent chance of them remaining within the system for the rest of their lives, and that is what we are trying to guard against. I see what Hon Phillip Pendal and Hon Eric Charlton were talking about, but I also see the Minister's point of view, and I appreciate her assurance that an ongoing investigation will be undertaken within the community to find out whether at some time or other, between the various authorities and the community, an acceptable age can be set. We are here to serve the community and do what is best for the community, so I back the Minister on this clause.

Amendment put and negatived.

Clause put and passed.

Clauses 4 to 13 put and passed.

Clause 14: Power to sit in chambers -

Hon P.G. PENDAL: I move -

Page 7, line 16 - To delete "the trial of" and substitute "any hearing with respect to".

The basis of this amendment is fundamental to the legal system and our system of courts. In a country such as ours the business of the courts, to the largest extent possible, should be and must be conducted in the open. The Opposition believes that the power to sit in chambers under this clause is unnecessarily wide and could result in members of the public and Press being excluded from cases which they are presently able to attend. Members would be aware that even under our present system Children's Courts are in the main open to the media and

the public, although there is a quite justifiable and proper prohibition on the publication of names or any material which might identify juveniles. There is no good reason for the courts having the power to exclude the public or the Press from, for example, the sentencing of a child, whereas at the moment there is a limitation surrounding those words, 'the trial of'. We suggest therefore that the power to sit in chambers should not be restricted; in all other ways it nonetheless protects the name of the defendant from being published.

Hon KAY HALLAHAN: I ask members to vote against the amendment proposed by Hon P.G. Pendal. I think this amendment will again have the unfortunate outcome of removing any flexibility from the courts in matters like a review of a bail decision by the president. I understand practical considerations could be involved, such as all the courtrooms being in use; and there are minor things which the president deals with in chambers. If we put this amendment into the Bill it will remove the ability to do that. My understanding is that the judge will actually draw up rules about matters to be heard in chambers. That will be part of the establishment of this new court - that is, there will be the drawing up of guidelines, forms and rules, and rules about the use of matters being heard in chambers would be one of those things. I ask members to allow the flexibility which I have outlined. I agree with Hon P.G. Pendal: Everything ought to be heard in court, but we ought to allow this flexibility. I do not know whether Hon P.G. Pendal will reconsider the amendment, but I ask members to vote against it because of the inflexibility which it will introduce and which is not necessary.

Hon P.G. PENDAL: I thank the Minister for her explanation, but it makes me feel we should press on with this amendment, and indeed insist upon it. I think we are looking for a way of ensuring that a public hearing will still be possible in respect of matters such as that mentioned by the Minister - the granting of bail or the sentencing on a plea of guilty. People whom we consulted took the view that the concept of this applying to the trial was a little too narrow to encompass those hearings. Therefore, I see no reason not to press this point and in fact I seek to have the clause amended.

Hon JOHN WILLIAMS: I seek clarification. When I read the amendment, which is to delete "the trial of" and substitute "any hearing with respect to", I read "may exercise in chambers any jurisdiction of the Court except any hearing with respect to". As a Deputy Chairman of Committees I think the deletion of the words "the trial of" means that the clause will then read "except any hearing with respect to".

Hon P.G. Pendal: No.

Hon JOHN WILLIAMS: I seek clarification because at the moment the amendment does not make sense to me. I will discuss the other part later but at the moment I am confused about that.

Hon P.G. PENDAL: The word "except" remains in the clause so that it then reads, "may exercise in chambers any jurisdiction of the Court except any hearing with respect to a child accused . . ." I think that clarifies the point.

Amendment put and a division called for.

Bells rung and the Committee divided.

The CHAIRMAN (Hon D.J. Wordsworth): Before the tellers tell I give my vote with the Ayes.

Division resulted as follows -

Ayes (12)

Hon J.N. Caldwell
Hon E.J. Charlton
Hon Max Evans

Hon Barry House
Hon P.H. Lockyer
Hon G.E. Masters

Hon N.F. Moore
Hon Neil Oliver
Hon P.G. Pendal

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

Noes (11)

Hon J.M. Berinson
Hon J.M. Brown
Hon T.G. Butler

Hon Graham Edwards
Hon John Halden
Hon Kay Hallahan

Hon Garry Kelly
Hon Mark Nevill
Hon S.M. Piantadosi

Hon Doug Wenn
Hon Fred McKenzie
(Teller)

Pairs

Ayes

Hon A.A. Lewis
 Hon C.J. Bell
 Hon Margaret McAleer
 Hon Tom McNeil
 Hon H.W. Gayfer

Noes

Hon D.K. Dans
 Hon Tom Stephens
 Hon Robert Heberington
 Hon Tom Helm
 Hon B.L. Jones

Amendment thus passed.

Clause, as amended, put and passed.

Clauses 15 to 18 put and passed.

Clause 19: Criminal Jurisdiction as regards children -

Hon P.G. PENDAL: I move -

Page 9, following line 7 - To insert the following -

(2) Subject to section 22(2), the jurisdiction of the court referred to in subsection (1) of this section when constituted by or so as to include a magistrate is limited to those offences with which, apart from this Act, a stipendiary magistrate is empowered to deal.

We have received strong representations to amend this clause. If it is amended it will be necessary also to amend clause 22. The Opposition is suggesting that there should be a category of serious offences with which a magistrate in the Children's Court cannot deal. This clause when combined with existing clause 22 allows the new president of the court to delegate power to a magistrate to deal with a full range of indictable offences up to, and including, wilful murder. We suggest that is not appropriate and that there should be a category of serious offences with which a magistrate cannot deal.

Hon KAY HALLAHAN: The amendment does not acknowledge the range in ages of offenders who appear before the Children's Court. It is that which makes this matter more complex than offences dealt with by adult courts. Adults are more emotionally mature. Because of that there has been a tradition that magistrates in the Children's Court have had a wider jurisdiction to hear more serious cases than their counterparts in the adult system. Members know that a magistrate who sits in the adult jurisdiction may also be a special magistrate who sits in the Children's Court, and sitting in that court he will have the power to hear a wider range of offences than he hears in the adult jurisdiction. That is a tradition. I expect we could live with this amendment. However, it is unfortunate that we are considering an amendment to restrict the capacity of the magistrate. The president will have the power to decide who hears cases and this amendment will take much of that power from him. On the one hand we are attempting to strengthen the court by putting a president in place and, on the other, the Opposition wants to take away many of his powers. I believe we are getting the balance out of order. I ask members to vote against this amendment and the proposed amendment to clause 22.

Hon JOHN WILLIAMS: I can see precisely what Hon P.G. Pendal is trying to do. I have also listened carefully to the Minister's argument. There is a difference in so far as she is now appointing a judge to become President of the Children's Court. In order to understand clause 19 one has to look at clause 22(1). I am satisfied - I do not know whether my colleague is - that what he is trying to achieve is covered under clause 22(1). Under that clause the president can extend the powers of any magistrate to deal with specific cases. There is the safeguard in clause 22(3), which I know my colleague and the Minister looked at, that if counsel objects to a magistrate hearing the case, they must be informed that the president has already decided that the magistrate is competent and empowered to listen to that case. All I am pointing out to the Minister and Hon P.G. Pendal - who rightly proposed this amendment - is that it seems to me that his objection regarding clause 19 is covered in clause 22(1) and (3). If I am wrong, my colleague can correct me, and I will listen to his argument. When a magistrate is limited to the powers of a stipendiary magistrate, it could well be that the president of the court will say, "The nature of this case is such that I extend it to the jurisdiction of a judge of the District Court, and I am prepared to say so."

I await the comments of my colleague and the Minister, but in view of clause 22(1), (2) and

(3) it is not necessary to make an amendment because the newly appointed president of the court, as part of his jurisdiction, may cover my colleague's objections.

Hon P.G. PENDAL: Hon John Williams is right up to a point, but only by amending clause 19 will the effect of clause 22 follow. The Minister herself, in effect, has confirmed the need for the amendment by her reference to the new office of President of the Children's Court. Unlike the current system, we have not had anyone higher than a magistrate in the Children's Court jurisdiction. What I am saying, on advice given to me, is that when combined with clause 22, clause 19(1) as it is written - and perhaps this is the source of confusion to Hon John Williams - would allow the president to delegate powers to a magistrate to deal with a full range of indictable offences, including wilful murder.

Hon Garry Kelly interjected.

Hon P.G. PENDAL: What we are saying, and I point this out to Hon Garry Kelly, is that that is inappropriate and there should be a category of serious offences over which the magistrate does not have power. Therefore, from that point of view, I propose going to a vote on the matter.

Hon Garry Kelly: It is either a Children's Court, or it is not.

Hon P.G. PENDAL: Of course it is a Children's Court.

The CHAIRMAN: Order! Members can rise to their feet to make comments.

Hon KAY HALLAHAN: I would like to make the point again - and I do not know how more effectively to put it - that it is up to the president to delegate. We have a situation which concerns 10 and 12 year olds. I do not think this is intended to be an insult to the office of a judge, but one would expect that the president of the court would have the same status, expertise and knowledge of the legal system as a district judge, and we are limiting the ability of that person to make sensible decisions in a particular case. That is my concern. I cannot answer more persuasively than that.

The proposed amendments do not have to be coupled together. We may be able to agree on one, and not the other. I say categorically that they are both undesirable and unnecessary. I would prefer to see neither of them in the Bill because we would be ruling out possibilities. We may take this course of action and find ourselves in two years' time coming back because this really is not working as we expected it to, and saying we want to limit the capacity of the president to work in the way in which we expected he would. I do not want to take that possibility away and limit ourselves as to what we can do.

I ask Hon Philip Pendal if he could reconsider this. If he is unable to do so - and I know he will give it some thought - I ask members to vote against the amendment.

Hon P.G. PENDAL: I thank the Minister for that response, but I come back to the point which I think she has overlooked on both the occasions that she has spoken.

Hon Kay Hallahan: Spell it out for me.

Hon P.G. PENDAL: It is not only common, it is an everyday occurrence in our system of courts, that Parliament says, for example, that the District Court can deal with certain matters but the Magistrate's Court may not; or spells out that the Supreme Court can only deal with certain matters which are outside the jurisdiction of a District Court judge. A similar division is taking place within the new Children's Court for no other reason than that it spells out the seriousness with which some offences are viewed by the community. Therefore, Parliament is proposing - unlike the interjections from Hon Garry Kelly - the appointment of a president and subordinating magistrates within the court. What the amendment will do - and, I repeat, it is at the request of people who are skilled and learned in those matters - is enable Parliament to say to the president that there are some cases that he must not delegate; there are some cases that have got to be handled by the president; there are some cases that are of a serious nature which Parliament does not think should be handed down the line. That, in a nutshell, is the reason for the amendment, and I certainly propose to push for it.

Hon KAY HALLAHAN: I listened carefully to try to see what I had missed previously. I make the point again that in the Children's Court we have a history and tradition of hearing a wide range of cases. We are now putting in a president who will make judgments. The president will be there to hear the most serious cases, and that will be part of his duty. The

fear that the president will delegate inappropriate cases seems to me to show a lack of confidence in the way that that office will be run. I ask members to reconsider that. I still say it is better that we proceed without the two amendments proposed. I ask members to vote against the amendment to clause 19 on the basis that it does not add anything to the system that we are setting up; I take the point that Hon Phillip Pendal is putting forward the view that it does, but I am not persuaded by his argument.

Hon JOHN WILLIAMS: I have taken on board the comments made by Hon Phillip Pendal, and I have also listened to the Minister. However, I guess that in 99 per cent of cases heard in the Children's Court the child is represented. Hon Phillip Pendal is trying to make sure that in cases of an indictable offence the child is well protected. He has said that certain cases can only be heard by certain people and he wants that spelled out by the future president of the court. In the case of an indictable offence referred in clause 19(5) one would assume that the child would be represented, and the child's counsel has the opportunity to make the following decision -

the child may elect to be tried for that offence in the District Court or the Supreme Court, as may be appropriate, and if the child so elects, the Court shall exercise such powers and jurisdiction only as are conferred upon a court of petty sessions . . .

In other words, Hon Phillip Pendal is saying that we must be very careful that for indictable offences the child has certain rights. He has proposed a certain amendment, with which I agree in part; the Minister has suggested that we should look at clause 22 and not emasculate the president and his powers; but, if I am right - I could be wrong and I could have misinterpreted the Bill - the child's rights are safeguarded under clause 19(5) et al. I am not sure.

In addition, taking into account the provisions in clause 22, a person of the competency of a district judge may order that a certain magistrate hear a case. The case would then proceed in accordance with the provisions of clause 19(5), under which the counsel for the accused could ask for the case to be transferred to the District Court or the Supreme Court which must then hear the case under the provisions of this legislation.

Hon P.G. PENDAL: A comment just made by Hon John Williams, by way of reference to clause 19(5), illustrates the point as well as it has been illustrated so far. It is true that under the provisions of clause 19(5) in the case of an indictable offence the child can elect to go to a higher court. I am saying that the child who elects to remain in the Children's Court should have the same right; that is, to have the matter dealt with by a superior judicial officer. Therefore, on the basis of Hon John Williams' argument, it would be quite inconsistent to allow a child to elect to go to a superior court because of the seriousness of the matter, but not give the child the right to be heard by the same superior judicial officer if he remains in the Children's Court - which is a free election. Hon John Williams has underlined the need to bolster the powers under clause 19(5), thereby giving the child the same right if he remains in the Children's Court. The amendment in no way attacks the power of the president of the court; if anything it will enhance that person's role.

Hon Kay Hallahan: How will it do that?

Hon P.G. PENDAL: It will do so by preserving for that president very serious offences, and that in itself is a small signal to the rest of the community that certain matters should be dealt with at a higher level. We have seen from Hon John Williams' point concerning clause 19(5) that some matters can be dealt with at a lesser level. On that basis I press the amendment.

Sitting suspended from 3.45 to 4.00 pm

[Questions taken.]

Hon KAY HALLAHAN: I need to persevere with this amendment because it is not in the best interests of what we are trying to construct with this Bill. Under the current Act, the Children's Court can hear all cases, except wilful murder, murder, manslaughter, or treason, which are very serious matters. It is part of the job of the President of the Children's Court to delegate the work to the various magistrates in the court. There are checks in the system, but I will move an amendment to clause 21 which will be a sentencing check on magistrates. A case may be referred to a magistrate, and it may be a serious case, but on hearing the case, the magistrate may find that he is unable to impose a serious enough sentence because there

is a restriction in clause 21 which imposes checks and balances on the sentences that can be imposed by magistrates. So after having heard the evidence in a case which is probably serious but thought to be within the jurisdiction of a magistrate's capacity and responsibility, if the magistrate decides the case is of such a serious nature that a heavier penalty needs to be imposed, the magistrate can refer the case back to the president, who is a judge, or to another person of equivalent status, for sentencing or delegation.

I am worried that this proposed amendment - and I do not think the honourable member realises this - will impose such a restriction on the sentencing powers of magistrates that we may need to have two judges in the Children's Court. I am not averse to having two judges, if that is what we need, but not when magistrates can do the work. With this amendment we would be shifting the balance of work from magistrates to judges. The other unfortunate side effect of that will be that in the country we could have children waiting a long time for their cases to be heard, because if we amend this clause in this way, they have then to have their cases heard by a judge. It would be unfortunate if this happened and would have enormous implications for the workload of judges. I am not sure that this amendment would accomplish what the member wants to accomplish. There already is a check on the sentences that can be imposed by magistrates, and that is a check on the sorts of offences that can be delegated to them. The more I consider this amendment, the more I become concerned about the prospect of its being carried by the Chamber.

Hon E.J. CHARLTON: The National Party did not have a great deal of time to consider all the other amendments, and I know that other members did not have time to consider our amendments. I can understand and acknowledge the amendment moved by Mr Pendal. My colleague in another place, Mr Max Trenorden, has made some inquiries into this aspect as it would affect the operations of the Children's Court in country areas. The National Party is of the opinion at this stage, having briefly discussed it, that it would be in the best interests of everyone to leave it as it is. We on this side of the Chamber want to watch carefully how things go in the future to see what changes should come about as a result of this. The main thrust of this clause is the rule of the president, and it gives him the flexibility to make judgments on how the cases will be heard. There are obviously two sides to this story and the National Party acknowledges both of them. The National Party believes we should wait to see how things go, taking into account particularly how country operations will be affected. The National Party will not support the amendment.

Hon P.G. PENDAL: I am a realist, if nothing else.

Hon Garry Kelly: And you can count.

Hon P.G. PENDAL: Yes, and having counted the Chamber in the last 30 seconds it is obvious the Liberal Opposition will not win this amendment.

I understood the Minister to say that under the present system the Children's Court cannot hear certain categories of offences, such as wilful murder, treason and a few other things. Under the new system it is proposed that the Children's Court will now deal with those.

Hon Kay Hallahan: Because it will have its own judge.

Hon P.G. PENDAL: Right. What we are seeking to do - and it is a great pity that the amendment will not be carried - is to continue the idea that serious matters before the Children's Court be resolved by a senior judicial officer so that lesser matters are dealt with by a person of magisterial rank. I think it is a pity we will not win this amendment. I would add a final point because I think the Minister's comment in relation to country areas is erroneous.

Hon Kay Hallahan: It is not erroneous; it is practical.

Hon P.G. PENDAL: I will tell the Minister what I think, and then she can tell me if I am wrong. That situation applies to country areas for court hearings in any case.

Hon Kay Hallahan: But this will shift the balance of what can be heard by magistrates. It will create a new situation in respect of cases that could be affected both in the metropolitan and country regions, although the ramifications for the country are greater.

Hon P.G. PENDAL: The Minister has answered my query. However, at the moment a child who is charged with an indictable offence in the country cannot have that heard in the country unless a judge visits the area he lives in. Therefore the situation is exactly what we

want to see occur. That is, if a child at Esperance, for example, is charged with an indictable offence, under the current system that child presumably must wait until a judge visits the town or else the child must be brought to Perth and the evidence taken here. Under this amendment that ought to apply in the new situation where a child is charged with an indictable offence in a country area. It is true it will be less convenient, but this is hardly a matter of convenience because a child's future is at stake. Under our system the child and his family may be put to some inconvenience because the trial would not be able to be heard until the President of the Children's Court visited Esperance. Far from being apologetic about that, we should insist upon it because under the current law, as under the future law, we are saying that the most serious offences should be heard by the most senior people in the judiciary. Anything less than really serious offences could be heard by a magistrate. I put that in as a final plea to my National Party colleagues, but if that fails to move them, I am aware that we could not win this amendment.

Hon KAY HALLAHAN: Because I interjected I may have added a note of confusion. I agree the member is doing what he says he is doing under clause 22, but he is not doing it under clause 19. He is catching a whole lot of offences under clause 19. At present if the child is charged at Esperance that child can elect to be heard under the Children's Court. When I said that a number of offences were unable to be heard at present, we are talking about wilful murder, manslaughter and treason - a very select number of offences, which quite frankly do not occur every day of the week. However, Hon P.G. Pendal's amendment forces offences which are currently being heard by a magistrate to be heard by a judge. There is a real shift in what he is saying in respect of clause 19, but I would be happy to live with what the member proposes for clause 22. It is not the same thing.

Amendment put and negatived.

Clause put and passed.

Clause 20 put and passed.

Clause 21: Limitations on exercise of certain jurisdiction -

Hon KAY HALLAHAN: I move -

Page 11, after line 21 - To insert the following subclauses -

(5) When the court constituted by or so as to include a magistrate finds a child guilty of an offence and convicts the child but considers that it does not have sufficient power to sentence or otherwise deal with the child adequately, it may refer the child to be sentenced or otherwise dealt with for the offence by the Court constituted by or so as to include a Judge.

(6) When the Court constituted by members only finds a child guilty of an offence and convicts the child but considers that it does not have sufficient power to sentence or otherwise deal with the child adequately, it may refer the child to be sentenced or otherwise dealt with by the Court constituted by or so as to include a Judge or magistrate.

I apologise for the oversight in the provision of this amendment to the Chamber. I thought all the amendments had been handed in. This amendment follows comments by the Law Society to the effect that a magistrate or member having dealt with a case should be able to refer it to a higher level for sentencing if they consider that a heavier sentence is warranted than their own powers permit. It was originally intended that this would be the case and it is agreed that this should be made explicit in the legislation and new subclauses (5) and (6) have been drafted to achieve that. We want a safeguard in the legislation. Magistrates have limits on what they can impose in the way of penalties. If it becomes clear that the matter is of sufficient seriousness, the magistrates can refer it up. This is what the Government intended in the Bill, and having had the Law Society point out that it would be better to make it explicit in the legislation, the Government is happy to do that.

Hon P.G. PENDAL: The Minister is suggesting that, if a magistrate who is on the point of handing down a sentence feels that he is restricted in his sentencing powers, the case will be referred to the judge within the Children's Court. I believe that her amendment confirms my argument and that we should have passed the amendment to clause 19 because exactly the same arguments apply in both cases.

Hon E.J. Charlton: The difference is that the Minister's amendment refers to after the hearing, and the other amendment to before the hearing.

Hon P.G. PENDAL: Yes, but in both cases we are suggesting that the severity of the offence or the sentence is such that the matter should be dealt with by someone other than a magistrate.

Hon E.J. CHARLTON: I have not had the opportunity to see what actually takes place in the proceedings of the Children's Court. However, my colleague has. We did not support the amendment to clause 19 because, as with the proposed amendment to clause 22, Mr Pendal's amendments related to events prior to the hearing. The system is clogged up enough now to the extent that both defence and prosecution do not know what is going on until they get to the hearing. Unless the system runs smoothly and fluently of course it will gum up. That is why we want to see amendments apply to a later stage of the hearing.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 22: President may extend powers of magistrate -

Hon P.G. PENDAL: Before I move my amendment, I would like to know the Minister's reaction to it given that the Committee defeated my amendment to clause 19.

Hon KAY HALLAHAN: My position on the proposed amendment is pretty much the same as it was to the amendment to clause 19. I believe that the Bill is better left as it is. However, I do not think the proposed amendment to this clause would have as serious consequences in shifting the workload as did the proposed amendment to clause 19. In a spirit of conciliation, I believe the amendment can be lived with. I believe it reflects on the integrity of the president and his ability to act sensibly and delegate his powers properly. I do not believe we realise his responsibilities and capacity to carry out that job. It is a poor reflection on us that we have to reflect on him.

I asked the Parliamentary Counsel to redraft Hon Phillip Pendal's amendment in the language of the Bill. We want the Bill consistent in language and style.

Hon P.G. PENDAL: I am happy to accept that my proposed amendment would be better served by the hand written version drafted by the Government. It achieves the same end, in language consistent with the rest of the Bill. I have no objection to that. I move -

Page 11, after line 35 - To insert the following subclause -

(4) This section does not apply in respect of an offence of a kind that can be determined only by the Supreme Court where the person charged with the offence is not a child.

Hon JOHN WILLIAMS: I have just read the amendment and obviously it is not only in the hand of the author of the Bill, but also in his wordage. I would support it, but as there are amendments to amendments and bits and bits - it is no fault of the Minister; I am not blaming her - and as the Minister is in such a conciliatory mood this afternoon, would she consider reporting progress and asking leave to sit again? Whilst Hon Phillip Pendal has it all taped, backbench members who want to support or not support these things have to be very nimble in their thoughts at the moment. I would not be competent to look at the redrafted amendment and say that it means the same thing as the amendment on the Notice Paper. I trust the Minister implicitly. There is a swathe of amendments and I ask that the Minister seek leave to sit again.

Hon KAY HALLAHAN: I am almost persuaded by Hon John Williams. I think he puts a very good and sensible point of view on many occasions. This must be one of the very rare occasions on which I cannot agree with him. I cannot on this occasion accede to his persuasiveness. I do not want to sit here and beat my breast, but it is unfortunate that I did not hand in those amendments which did not appear on the Notice Paper. That fact has added to the degree of confusion that we are alleged to have. I thought that we had moved through that and that we were on our way, in the spirit of conciliation to which the member referred, to agreeing to Hon Phillip Pendal's amendment. I would have thought it would be better to make as much progress as we can before we report progress. I ask that we persevere with the Bill as long as we can.

Hon JOHN WILLIAMS: I have never disagreed with the Minister, but I would be mortified if she had to stand in the Chamber and beat her breast. I do not want her to do that for obvious reasons. I agree that we can make a little more progress, but I have been advised by Hon P.G. Pendal that a little later on we could run into somewhat more stormy weather with other amendments. Perhaps at a later stage the Minister might concede that we have broken the back of the legislation, but that we have a bit more to do.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 23: Court may require attendance of parent or guardian -

Hon E.J. CHARLTON: As I said during the second reading debate, the National Party wants to put emphasis on the necessity for parents to be in attendance at court hearings of their children. Our amendment requires that there be some very good reason for their not attending. If the court considers that it is not reasonable to delay the proceedings for the attendance of a parent or guardian, it may continue with the proceedings. I refer members to the terms of the amendment, which make it unnecessary for me to have to elaborate on it to any great extent.

We have tried to give the court the option of proceeding without being held up. It is not our intention to congest the operations of the court, but to ensure that the court shall require the presence of a parent unless there is some valid reason for non attendance.

I move -

Page 12, lines 3 to 7 - To delete subclause (1) and substitute the following subclause -

(1) In any proceedings in respect of or affecting a child, the Court shall inquire into the reason if no parent or guardian of the child is present and, unless the Court considers that -

- (a) there is a valid reason to excuse attendance; or
- (b) it is not reasonable to delay proceedings for the attendance of a parent or guardian,

the Court shall, by order served on a parent or guardian of the child, or any one or more of such persons, require such parent or guardian to attend during all stages of the proceedings, whether or not from time to time adjourned, unless subsequently excused from further attendance by the Court.

Hon P.G. PENDAL: The amendment moved by the National Party is similar to the one which is next on the Notice Paper and which the Liberal Party was proposing. They appear to do the same thing. Are we dealing only with amendment (f) at this stage and not (g) and therefore have not heard Hon Eric Charlton's explanation of (g)?

The CHAIRMAN: I have only put (f).

Hon P.G. PENDAL: I give our strongest support to amendment (f). If members had read the next item on the Notice Paper they would have seen that the amendment to be moved by the Liberal Party would have left the court with discretion as to whether or not parents were required to appear with their child, but put a greater level of onus on them to do so. I think that is what the National Party is achieving with its amendment so I am happy to support it.

It is true, as Hon Eric Charlton has said, that some people, and perhaps the Government, would argue as they did during the second reading debate that we ought not to be loosening or diluting the discretion that a court has. Those important words were a way that we could at least signal to the courts that there should be a greater emphasis put on the attendance of parents while at the same time leaving the court with the discretion present, as I understand it, in the National Party's amendment, and certainly in what the Liberal Party intended to move. The Liberal Party's amendment intended to say that the court "may excuse a parent or guardian from attendance". That is said in a slightly different and nonetheless effective way by the National Party, so we support the amendment.

Hon JOHN WILLIAMS: I have listened to both Hon Eric Charlton and Hon Phillip Pendal who, using the royal "we" said that we are in agreement with this. I would like Hon Eric

Charlton or Hon Phillip Pental to tell me what the amendment to clause 23 does that that clause does not already do. The only difference that I can see is that they will remove the penalty for non attendance as there is no penalty mentioned in Hon Eric Charlton's amendment. I can see the sense in amendments (h) and (i), but what is it that is not in that clause in the Bill that Hon Eric Charlton seeks to add? I do not see any difference.

Hon Kay Hallahan: I can see a difference.

Hon JOHN WILLIAMS: I would be grateful if it were explained because it seemed to me that the clause read all right. One or two things pointed out by Hon Phillip Pental I understand, but the bench is committed to inquire why parents are not attending and is obliged to find out. I spoke the other night of children picked up who are so young that they do not know whether they have parents or where they lived previously. That matter is left to the discretion of the court. Could Hon Eric Charlton please explain his amendment?

Hon E.J. CHARLTON: The simple difference is that we are trying to establish certain things. Clause 23 says that the court may by order served on a parent require the parent or guardian to attend. It may "require" but does not emphasise the fact that the court is there in session and, unless it makes a decision to have the parent present in normal circumstances, it carries on without them. The point we are making is that the first thing the magistrate must do is find out whether or not the parent is present and not find that out as a later consideration. He must ascertain at the beginning of proceedings whether a parent or guardian is present and if they are not he must know why - reasons must be given why they are not there. If those reasons are important enough he can proceed with the hearing, but if he considers that they should be there, the case would have to be adjourned until such time as they attend. This still gives the magistrate discretion to proceed without the parents being present but emphasises the fact that they should be present rather than saying "they may be required" to be present, but as they are not there, "We will go ahead." There is no change to the penalty.

Hon JOHN WILLIAMS: As I read the clause, perhaps the only word that should be altered is the word "shall". It talks of an order served upon the parent or child. The court makes that order. If that order is not obeyed the person commits an offence and the court then proceeds to the next stage of the legal proceeding. If it is a case of debt and a person does not appear a chamber warrant is issued and the person is automatically arrested and brought to court.

Hon E.J. Charlton: That is still in it.

Hon JOHN WILLIAMS: I am talking about any proceedings that the court may by order served on a parent or guardian or any such person require such parent or guardian to attend during all stages of the proceedings whether or not from time to time adjourned unless excused from attendance by the court. How can the court excuse an attendance unless it knows the reason why the people are not there? Therefore, ipso facto, they are inquiring at the start of proceedings why the child's parents are not there.

Hon E.J. CHARLTON: That is explained. When the court proceedings commence the people prosecuting have gone through that exercise with the child as with the Child Welfare Act and are expected to have been informed of all proceedings that are taking place. That is already in place and does not change at all. As I understand the proceedings in the court, as of today that situation should apply. We are not changing any aspect of that whatever, whether it be from the present wording of the Bill or in the form of our amendment. If one reads all the wording one sees that nothing is changed except that the emphasis is placed upon the fact that parents or guardians should be in court.

Hon JOHN WILLIAMS: I take on board what Hon Eric Charlton said. I thought the clause was sufficient under legal phraseology and interpretation. However, if Hon Eric Charlton is now telling us that his amendment will reinforce the clause to make it more satisfactory, I will not quarrel with that.

Hon KAY HALLAHAN: I agree with members' expressions of concern about parental involvement in their children's appearance in the Children's Court. However, I thought that the clause as it stood was adequate. I have a problem with the amendment moved by Hon Phil Pental because by removing the words "unless excused from attendance by the court" he is removing any discretion from the court and placing it back in the clause in another line. I think there is quite a deal of inconsistency in that sort of approach. I would be happy to

support the amendment moved by Hon Eric Charlton and to indicate to members that the amendment actually goes further because in circumstances where the parents have not been in attendance the amendment requires the court to notify the parents or guardians in writing of the details and outcome of the charges and any other appropriate information that should be conveyed. I think we are now tying up pretty tightly this question of parental involvement and attendance when children are in the court.

Hon E.J. CHARLTON: I should have made a point at the beginning of what I said about the change to the wording of our amendment. When we first prepared the amendments, we did the simple exercise of just changing the "may" to "shall", and thought that would achieve what we were setting out to achieve. However, it became obvious when we tried to implement that in this clause that we would compound the problems when the parents or guardians were not in court. After due consideration, we changed the wording. I know there are certainly more words being used now, but hopefully we will get the same result without complicating the ability of the court system to flow freely.

Amendment put and passed.

Hon E.J. CHARLTON: I move -

Page 12, after line 14 - To insert the following subclause -

(4) If the Court proceeds with the hearing and determination of proceedings in the absence of any parent or guardian, the Court shall do what it reasonably can to ensure that the parents or guardians of the child are notified in writing -

- (a) of any charge laid against the child alleging the commission of an offence;
- (b) of any finding, order or decision made by the Court in the determination of the proceedings;
- (c) of any other information that the Court considers appropriate.

It is obvious that as a consequence of subclause (1), which we now want to have inserted, if the court proceeds with the hearing and determination of the whole question, and comes to its conclusions, and the parents or guardians have not been in attendance, we will want them to be notified of the outcome of the proceedings, as is laid down in paragraphs (a), (b) and (c) of my amendment. The amendment really condenses the whole question of the involvement of the parents and guardians so that even if they have not been in court to see for themselves what has been taking place and been a part of the decision that was handed down, they will be notified of what has happened and of what is expected of them. We want to ensure that we do not leave aside any opportunity to ensure that parents or guardians are involved, and they must therefore be informed.

Amendment put and passed.

Hon P.G. PENDAL: I will not proceed with my proposed amendments (h) and (i).

Clause, as amended, put and passed.

Clause 24: Court may refrain from imposing punishment -

Hon P.G. PENDAL: I move -

Page 12, line 21 - To add after "(2)" the words "Subject to subsection (3)".

Page 12, after line 24 - To add the following subclause -

- (3) The Court may not exercise the power to refrain pursuant to subsection (1) with respect to more than 3 offences. For the purpose of this subsection, multiple offences arising from the one incident shall be treated as one offence.

This probably comes as close to controversy in the Bill as anything else one could find. The Opposition outlined during the second reading debate that we would be moving an amendment of this kind. I take the view that the clause perpetuates one of the weaknesses of the old system. I had intended to check as to the situation in the adult courts when people are given dismissals on the ground that they are first offenders under section 669 of the Criminal Code. My recollection is - without having checked it - that the section allows for a dismissal on one occasion only. In other words, a first offender is exactly what is meant by those words; it is a person who has offended only once.

The Minister gave us some interesting statistics, and I am sure she will give them to us again, but they did not persuade me that we should not proceed with our amendment. This amendment will put a limit on the number of times that a child can be dealt with by the court so that it is underlined in the mind of that young person that there is a limit and that the court and the Parliament says there is a tolerance level beyond which the community ought not to go. I guess it is arbitrary to say, as we have, that a person can commit not more than three offences and have them dismissed. However, we could ask why would we say three rather than five, 10, or one. Therefore I admit it is very much an arbitrary thing, but that occurs with many of our laws and we must draw the line somewhere.

Equally it is worth pointing out that we are not seeking, for example, to have a situation where a child who commits perhaps 10 offences in one evening is treated as having committed 10 separate offences for the purposes of this clause. They would be treated as one group of offences, and that is spelt out when we say that the court may not exercise the power to refrain pursuant to subclause (1) of this clause with respect to more than three offences. It goes on to say that for the purpose of this subclause, multiple offences arising from the one incident shall be treated as one offence. That covers the situation where a child gets into trouble by stealing someone's car, then goes through a red light, knocks someone over on a crosswalk, assaults the policeman who arrests him, and so on. We are saying that the community should be tolerant enough to say that the offences committed in the course of that night constitute one offence for the purpose of the three-limit proposed in the amendment. I do not think that is unreasonable. It comes down to a question of philosophy in the end. In recent months I have attended many meetings where that point has been raised. If the Minister suggests her statistics indicate that it is not a real concern but rather just a perceived one I suggest she go out and have the experiences I had over those months, which give good reason for the Opposition to move the amendment standing in my name.

Hon KAY HALLAHAN: I strongly oppose this amendment because again we have the problem of wanting to take away from the court the discretion and power to make determinations on the basis of the full information that is before it and which none of us has the capacity to make judgments about.

I said in my second reading speech that it was just one of the aspects of the amendments with which I was not happy but which I did not mention in my summing up speech. I asked that figures be drawn out, and the figures I will read now are for 1987, which is pretty recent. It is useful to be able to look at the statistics for a 12 month period. They indicate that of all of the children who appeared in the Children's Court in 1987 with five or more previous court appearances, the average number of times each had been dismissed under section 26 was 1.3. So it was less than twice that young people had been dismissed under section 26. The statistics also indicate that the highest number of times anyone had been dismissed was eight, and that was with regard to drunk and disorderly offences. I think Hon Phillip Pandal made reference to much higher dismissal rates than that in his speech, but the highest number in 1987 was eight and they were for an offence which there is a move to decriminalise; namely, drunkenness.

With regard to Hon Phillip Pandal's challenge to me to go and experience what he did - and I think he was referring to sitting in the courts as a reporter - I sat in the Children's Court as a police officer, putting young children before the court, so I have been at the end of the process which is very frustrating, seeing people being dismissed or dealt with too lightly. In spite of that experience - which makes me as qualified as other members here to have a view, and perhaps my experience there convinced me in that view - I still put the case that we really do need to give the courts a discretion, in so far it is possible for us to do so, because those people sitting and listening, whether they be a magistrate and a member, or two members sitting together, hear the full story. We who are not there and who later see the record are not in possession of the facts.

I also query the number of offences, that the Opposition has struck at three. Childhood and being legally culpable goes on for a number of years. We all know that for some young children it has advantages and for others it has many disadvantages. A child at the age of 10 may fall into bad company and gets two dismissals, then have reasonably good behaviour until he is 14 or 15, then commit some minor offence. The court may think that because the other offences happened a long time ago and the current offence is not too serious, the child should be up for dismissal again. He would not be eligible for a panel because he had been

to the court earlier. If this amendment comes into effect it would be too inflexible. It does not take into account the range of years over which children's behaviour must be considered.

I ask members to vote against the amendment proposed by Hon Phillip Pendal.

Hon E.J. CHARLTON: Just in case someone says the National Party's contribution on this clause has been deafening by its silence, we support the amendment. While I acknowledge what the Minister has said, we certainly do not want to see the court start off and in the first few months be seen not to be doing its job. We take on board the fact that there will be a continual review, which we will emphasise throughout the debate on this Bill to ensure that it does happen, as we have said in relation to other pieces of legislation of similar complexity. However, in this case we support the amendment.

Hon JOHN WILLIAMS: I take it that in dealing with this amendment the Clerks will correct the language contained in it, because it is not in order as it stands. There are three mistakes in the clause and I assume the Clerks will pick them up and substitute for the word "offence" the word "offence".

Hon KAY HALLAHAN: Another error has been brought to my attention. The way this amendment has been written, it really means that if a child comes up with, say, a number of offences even on his first appearance, this would preclude his being dismissed on even one of those offences. I do not know whether the Opposition intended that, but there are some anomalies within the proposed amendment. Perhaps the honourable member would be prepared to look at it again. I do not agree with the amendment in any event, but there are some questions as to how one would interpret the amendment as it stands. Its intent is not clear.

Hon P.G. PENDAL: The intention is very clear. Personally I was prepared to back down on other matters earlier in debate but this is not one of them. I do not want to disturb the tranquil and bipartisan nature of the debate which has been operating for the last couple of hours. If the Government is not prepared to accept the amendment the inevitable charge levelled against the Government will be that it is soft on juvenile crime. A large number of people are demanding a greater level of activity from the Parliament. The way the clause is phrased in the Government's words will not achieve that. Juvenile crime is rising at an alarming rate. People are allowing themselves to be led into the view that to steal someone's car is unauthorised use or joyriding. That era has been passed through and people now feel enough is enough, and a signal needs to be given somewhere along the way to juvenile offenders that they will not receive unlimited mercy from the Children's Court.

However, the Opposition also says that juvenile offenders should be entitled to a few mistakes as a result of their youth. The Parliament will be saying - if this clause is passed - there will not be an unlimited level of tolerance or mercy shown to them. The State wide debate on law and order has reached the point where it can be decided on this clause alone - whether the Government will go along with a clause that perpetuates all the weaknesses of the old system and a clause which merely is an invitation to juvenile offenders to thumb their noses at the whole system. Even after a child has received the benefit of three lots of dismissals which, I repeat, might include 30 to 50 charges, the Opposition is not suggesting that the child be taken out and shot at dawn. The Opposition's view is that after the child has gone through the process of three separate lots of multiple offences then the court must impose a penalty of some kind; if the Minister is keen on the word "discretion", this could be at the discretion of the court as we are not limiting discretion in any way.

We say to the Government, which has just embarked on an expensive public relations campaign to show that it is serious about law and order, that all the sentiments which have been expressed in the public relations campaign will be put to the test as a result of this amendment. The Opposition does not accept the arguments put in rebuttal. I am grateful that the National Party supports the amendment, which I suggest is central to the whole thrust of this debate. I urge the committee to support the amendment.

Amendment put and a division called for.

Bells rung and the Committee divided.

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

Division resulted as follows -

Ayes (11)

Hon J.N. Caldwell
Hon E.J. Charlton
Hon Max Evans

Hon H.W. Gayfer
Hon P.H. Lockyer
Hon G.E. Masters

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

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

Noes (10)

Hon J.M. Berinson
Hon J.M. Brown
Hon T.G. Butler

Hon Graham Edwards
Hon John Halden
Hon Kay Hallahan

Hon Garry Kelly
Hon S.M. Piantadosi
Hon Doug Wenn

Hon Fred McKenzie
(Teller)

Pairs

Ayes

Hon A.A. Lewis
Hon C.J. Bell
Hon Margaret McAleer
Hon Tom McNeil
Hon Barry House
Hon N.F. Moore

Noes

Hon D.K. Dans
Hon Tom Stephens
Hon Robert Hetherington
Hon Tom Helm
Hon B.L. Jones
Hon Mark Nevill

Amendments thus passed.

Clause, as amended, put and passed.

Clause 25: Court may order compensation or restitution -

Hon P.G. PENDAL: In a very material way, this clause is a reflection of the attitudes we have heard expressed by the Opposition on clause 24 and, to a lesser extent, on clause 23. Therefore, I put to the Committee that it is very necessary to pass my amendment. I move an amendment -

Page 12, line 25 - To delete "may" and substitute "shall".

We have heard a lot today, and during the second reading stage, about the preservation of discretion for the new Children's Court. The Opposition has no objection to that; indeed, the discretion that we have heard so much about will in the main be preserved even with the Opposition's amendment. Provision remains for a magistrate to impose even the most nominal form of restitution order or compensation order. On the one hand Parliament demands that a more serious approach be taken to the question of restitution. At the same time it leaves it up to the court to determine the level of that restitution. It cannot be claimed that we are robbing the court of its jurisdiction and neither can it be claimed we are putting the court in a position where it will impose financial hardship on a child who comes from a financially barren background because, to repeat myself, the option is there for some form of nominal order on the part of the magistrate.

The next point I raise is important to the whole debate. It is interesting that we have heard about the rights of the offenders and we have heard about the desire to protect the position of the magistrate and the judge of the Children's Court, but there has been no mention of the rights of the victim. That is what this clause is about. I do not make any apology for that. The idea that any offender, be he a juvenile or an adult, can go on some sort of spree which results in damage or loss to an individual in our society, and then for that individual to be left out on a limb with no restitution, is not acceptable. To some extent it is a watershed for this Bill in much the same way that clause 24 was germane to what we are trying to do. We are also seeking to add a new subclause (3) which spells out that in the case of damage or loss occasioned by a group of children the court may direct payment by all, some of the children, or by parents or guardians as it sees fit. We are quite unashamedly levelling the clause not only at juvenile offenders, but where possible and appropriate at the offender's parents or guardians. The idea that the parent or guardian should be able to walk away totally free of the responsibility for what his child has done is repugnant to most people in our society.

In recent years people have heard all sorts of things about their rights and there has been a heavy de-emphasis on their responsibilities. For every action there is a reaction and every time a person breaks another person's window, burns another person's car or damages another person's house there should be some equal reaction in the eyes of the law that says that the offender makes good the damage to the car, the window or the house. It is not

draconian; it is putting back into the law something that should have been there for a long time. In the final analysis it still allows the court, the magistrate or the judge to award only nominal damages or restitution when it becomes apparent that to award anything more is to only go through the motions. I commend the amendment to the Committee.

Hon E.J. CHARLTON: As members are aware the National Party supports, in principle, the proposition before the Chamber. Initially, the National Party intended to amend this clause in a similar way to Hon Phil Pental, but after further consideration it decided that it would seek to make a similar amendment in another Bill which is complementary to this Bill. This decision was taken during the Committee debate on the short title.

With reference to compensation and restitution the National Party is of the opinion that if it proceeded with its amendment, which is similar to Hon Phil Pental's amendment, it would make it easier for a child to walk away from his responsibilities which, in turn, would be passed on to that child's parent or guardian. That is only one reason that the National Party has taken the action it has and there are other reasons, but I do not intend to deal with them at this stage. As I said, the National Party is of the opinion that we should not proceed with this amendment, but rather amend another Bill which we will deal with at a later stage. I am making this point in the hope that this Committee will understand, acknowledge and agree with what we are trying to do.

In essence, what we have done is separated the difference between the court costs and the fine, on the one hand, and the compensation and restitution, on the other hand. We have separated those two areas in the child welfare Bill and believe that by doing so they will be catered for specifically and no-one will be in a position to say that by inserting the word "shall" the responsibility will be passed down the line. I will not attempt to speak to the amendment we propose to make to the child welfare legislation but I point out that the court has the opportunity and discretion to decide whether the child is responsible for a criminal offence, or whether the responsibility lies with the parent or guardian or with the child and the parent or guardian. The legislation implies that if the child is unable to meet the fine it will be met by the parent or guardian. The National Party is of the opinion that Hon Phil Pental's amendment will not achieve, in the best way possible, the intent of his amendment.

Again I stress that the National Party agrees with the intent of the amendment, but it has reached the conclusion that it will be better not to deal with this matter in this Bill, but in legislation we will deal with at a later stage.

Hon KAY HALLAHAN: I very strongly oppose the amendment to this clause moved by Hon Phil Pental. I think the clause, as it stands, is adequate for the task. Quite frankly, members opposite have a penchant for removing discretion from the courts when that is the role of the courts in our society. The amendment is also a departure from basic principles and there is no jurisdiction, adult or juvenile, where the matter of restitution is actually mandatory and not at the discretion of the court.

The member is making a serious proposal which in Western Australia would have the effect of imposing far harsher penalties in relation to children than exist in relation to adults and restitution. Hon Phillip Pental can go on about the law and order debate and make veiled threats about the Government being soft on juvenile crime and the sorts of things he said in the debate on the previous clause; but it is nonsense to use as an excuse that we should not be soft on juvenile crime in order to justify going against basic legal principles. The Government will not be browbeaten, and I think it is putting up a strong Bill to fulfil the need of the community for a sense of security and safety, for young people to answer for the consequences of their behaviour, and to deal with the whole question of sensible restitution. I know that that has not been addressed in the past and I do not disagree with the principle; however, we should not go overboard by going against basic legal principles in order to rectify what is perceived by some members in the Committee to be a wrong. Therefore, I support the proposed amendments to section 34E of the Child Welfare Act because they are far more appropriate than the amendment before the Committee at the moment. The amendment of section 34E will retain the important principle that responsibility must be established on the part of the parents to exercise proper control before they can be reasonably penalised for their child's behaviour. It then follows that the additional subclause (3) is perhaps covered and is unnecessary. I ask the Committee to vote against the amendment before the Chair.

Hon P.G. PENDAL: In summarising my arguments I want to stress to Hon Eric Charlton, who talks of his later amendment to the Acts Amendment (Children's Court) Bill - in the hope that I will get his support for my amendment, because I certainly intend to support his - the fact that the Opposition amendment will do exactly what he hopes his amendment will do with regard to determining whether or not restitution will be made by the child or the adult. I refer him to the last part of new subclause (3) in which the court may direct payment by some such child or parent or guardian as it thinks fit. That makes clear that the Opposition sees value in leaving it to the court to decide whether or not the child or the parents will make the restitution. In reality it is mostly the parent in any case and to some extent that is determined by the age of the child. I hasten to assure the member that the Liberal Party amendment, which I certainly intend to press, will leave it to the court to determine who shall make good the damages that have occurred.

I put it to the Committee that we have reached the real nub of the penal provisions of this Bill. It is not a question of deciding whether we want the Children's Court Act to have any teeth. It should be mandatory for the offender to make some form of restitution, but I am prepared to agree with the Minister that it should be left to the magistrate or the court to decide the level of restitution. It may well be a nominal level of compensation or restitution, but it is not appropriate for the court to decide in the first place whether or not there should be compensation. It is perfectly reasonable for Parliament to make that decision.

The Minister also said that we shall be imposing harsher penalties than those for adult offenders. I remind her that we are dealing with the Children's Court of Western Australia Bill; if she wants to introduce a Bill to strengthen the Criminal Code or the Police Act, that is her entitlement and I imagine the Opposition would support such a Bill. The Opposition does not seek to impose greater sanctions on the juvenile; the Government has introduced this Bill relating to juvenile offenders. It is nonsense to say that the amendment is against basic legal principles.

Hon Kay Hallahan: It is not.

Hon P.G. PENDAL: I ask the Minister what evidence she has of a basic legal principle which states that a court should not be required to impose forms of restitution on a person who has offended.

Hon Kay Hallahan: There is a whole debate about mandatory impositions.

Hon P.G. PENDAL: I am aware of that. The Minister knows that through the ages the courts have derived their powers from the Parliament, and it has perhaps been too soft in the past.

Hon Kay Hallahan: You think we can do a better job than the courts?

Hon P.G. PENDAL: No, I am saying there will not be a court if the Parliament does not pass the Bill.

Hon Kay Hallahan: The next thing is that we shall have people at the Bar and we shall be judging again.

Hon P.G. PENDAL: Now the Minister is taking the debate off onto irrational and almost hysterical ground, as one of her colleagues did in the last 24 hours.

Finally, if the Committee goes along with the Government's wishes, I suggest we shall have cosmetic legislation. If the Committee seriously wants to address what the community perceives as a problem of alarming proportions, it should support the Liberal Party's amendments. Whenever we get to matters such as this it appears there is an obligation on the part of the Minister and the Government to appease a left wing mentality within the Government and to let everybody off scot free. The Government continues with that wrist slapping mentality to which I referred the other day and it is an irrelevancy to the debate. Unless we insist that offenders be given adequate penalties, there is no point discussing the Bill. We may as well put it in the rubbish pile and continue with the current Act of Parliament, which is pretty poor legislation. If that were not the case, we would not be asked to review the legislation in its entirety.

I urge the Committee to support the amendment, to give the Bill some teeth, and to give the community the strong impression that Parliament is not soft when dealing with juvenile crime.

Hon E.J. CHARLTON: I am not sure whether for Mr Pendal's amendment to be successful it is dependent on the previous amendments.

Hon P.G. PENDAL: I do not want to say anything that would diminish the member's chances of supporting me, but to give him an honest answer, it is possible to support the conversion of "may" to "shall" without necessarily supporting the Liberal Party on its later amendment.

Hon E.J. Charlton: It is the other way around.

Hon P.G. PENDAL: So Mr Charlton is more inclined to leave "may" in and to support later on the Liberal Party amendment, which has not yet been moved. That answers the question. I am sure the two are independent and it is possible to do one and not the other.

Amendment put and a division called for.

Bells rung and the Committee divided.

The CHAIRMAN: The question I am putting is for the deletion of the word "may". Before the tellers tell, I cast my vote with the Ayes.

Division resulted as follows -

Ayes (8)			
Hon Max Evans	Hon Neil Oliver	Hon D.J. Wordsworth	
Hon P.H. Lockyer	Hon P.G. Pendal	Hon W.N. Stretch	
Hon G.E. Masters	Hon John Williams	<i>(Teller)</i>	
Noes (13)			
Hon J.M. Berinson	Hon E.J. Charlton	Hon Kay Hallahan	Hon Fred McKenzie
Hon J.M. Brown	Hon Graham Edwards	Hon Garry Kelly	<i>(Teller)</i>
Hon T.G. Butler	Hon H.W. Gayfer	Hon S.M. Piantadosi	
Hon J.N. Caldwell	Hon John Halden	Hon Doug Wenn	

Pairs		
Ayes		Noes
Hon A.A. Lewis		Hon D.K. Dans
Hon C.J. Bell		Hon Tom Stephens
Hon Margaret McAleer		Hon Robert Hetherington
Hon Barry House		Hon B.L. Jones
Hon N.F. Moore		Hon Mark Nevill
Hon Tom McNeil		Hon Tom Helm

Amendment thus negatived.

Hon P.G. PENDAL: I move -

Page 12, lines 26 and 27 - To delete "on the application of the prosecutor made".

All the arguments have centred around those which I have already given and I do not propose to go over that ground. Notwithstanding that the word "may" remains in the clause, the Opposition intends to pursue the amendments on the Notice Paper leading up to that most important amendment in subclause (3).

Amendment put and a division called for.

Bells rung and the Committee divided.

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

Division resulted as follows -

Ayes (8)

Hon Max Evans
Hon P.H. Lockyer
Hon G.E. Masters

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

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

Noes (13)

Hon J.M. Berinson
Hon J.M. Brown
Hon T.G. Butler
Hon J.N. Caldwell

Hon E.J. Charlton
Hon Graham Edwards
Hon H.W. Gayfer
Hon John Halden

Hon Kay Hallahan
Hon Garry Kelly
Hon S.M. Piantadosi
Hon Doug Wenn

Hon Fred McKenzie
(Teller)

Pairs

Ayes

Hon A.A. Lewis
Hon C.J. Bell
Hon Margaret McAleer
Hon Barry House
Hon N.F. Moore
Hon Tom McNeil

Noes

Hon D.K. Dans
Hon Tom Stephens
Hon Robert Hetherington
Hon B.L. Jones
Hon Mark Nevill
Hon Tom Helm

Amendment thus negatived.

Hon P.G. PENDAL: I move -

Page 12, line 27 - To add after "child" the words ", or parent or guardian of such child or any of them,"

The success rate in the last five minutes has fallen off pretty dramatically, but the words that we seek to have added in this and the following several subclauses are very important. These words actually address the query that the National Party spokesman raised; that is, to broaden the section which up until now has been quite limited.

Under the Government's proposals an order for compensation or restitution may be directed against the child, and I would be very surprised if the Government and the National Party did not support the Liberal Party on this amendment because we are saying that by all means it should be directed against the child but it may be more appropriate to direct it against the parent or the guardian of a juvenile offender.

The phrase that has been heard consistently today - "maintaining the discretion of the court" - is more than enhanced by the addition of these words. In fact I would even go so far as to say that it would make a nonsense of all of the arguments put by the Government were it not to accept what we are seeking. That is to say, if we are going to have the power in the Children's Court to direct a child to make restitution it only makes sense that we should also have a provision that allows that order to be directed against the parent or guardian of that child.

Hon E.J. CHARLTON: I did speak earlier on this matter but in case anyone who queries where the National Party stands on this point wants to check out our position I reiterate my earlier comments.

When we deal with the other Bill we want to tie in what the Liberal Party is attempting to do here with all those other things. Where it says that if a child is found guilty of an offence and fined, of all the people involved - parents, guardians and so on - who, as a result of the decision of the court, will be responsible for paying the fine, or restitution, or compensation?

I emphasise especially to Hon Phillip Pendal that we agree totally with what he is doing but we came to the conclusion that because of the complications that could possibly result from this amendment, the provision should be placed in the other Bill. It went further than that because it allowed the court to decide whether all those people involved - the child, the parent and the guardian - would be responsible for the decision of the court, whereas the present amendment provides that the responsibility can be passed on down the line. That is the simple qualification.

We do not disagree with the intent of the amendment proposed by the Liberal Party; however, we believe it would be a lot cleaner, straighter, and more clear cut if it were placed in the Acts Amendment (Children's Court of Western Australia) Bill.

Hon KAY HALLAHAN: I support the words of Hon Eric Charlton. I do not want to reflect on Hon Phillip Pental's understanding of such matters but it really is quite inappropriate to do what he is attempting to do by this amendment because this matter is dealt with very adequately in the Child Welfare Act under section 34E. It does not mean that anybody is going soft, nor does it make a nonsense of what the Government is doing. I do wish the member would not use such inflammatory language when he gets a bee in his bonnet about matters like this.

The member's proposals would be more appropriately dealt with under the Child Welfare Act, and the National Party has given notice that it will propose an amendment which I think Hon Phillip Pental will find himself able to support, thereby achieving that which he wishes to achieve. If he can contain his enthusiasm until we get to the next Bill I am sure he will get the outcome he desires. I urge members to continue to vote against the proposed amendments to clause 25 outlined by Hon Phillip Pental.

Hon P.G. PENDAL: It is clear we will not get any sense out of the Government on the matter so I appeal to the National Party because this is an important part of the Bill. I pose this question to Hon Eric Charlton: Why leave these provisions out of a section of a Bill that actually deals with compensation and restitution? It does not make sense to say that the only place we should appropriately deal with them is in the Acts amendment Bill which will follow this one. It was not the Opposition that decided to include a section dealing with compensation and restitution, it was the Government.

Hon Garry Kelly: It is good to see you are backed up by your party.

Hon P.G. PENDAL: That is all right. In case the member is not aware, we have resolved to make members opposite keep the House, which they are supposed to do and which they have never done.

Several Government members interjected.

Hon P.G. PENDAL: So I am quite happy. As a matter of fact I do not mind if we put the Bill off until next week. The Leader of the House has indicated that he wants the place to rise at 6.15 pm. If we have not completed the Bill - and if I have my way we will not have completed the Bill because there are more amendments -

Hon Garry Kelly: Is that a threat?

Hon P.G. PENDAL: No, but the member will see what happens in a few minutes' time.

To return to the Bill, again I ask Hon Eric Charlton what sense it makes to leave out of the very section of an Act dealing with compensation and restitution the method by which the responsibility for compensation and restitution will be allotted. The second point I remind him of is that the proposed amendment still allows the compensation or restitution to be apportioned either to the child or to the parent or guardian. That is the whole point, if I remember correctly, of the words we are discussing at the moment. The Minister tells us that it is inappropriate to do it here, but with due respect that is merely a matter of opinion.

Hon Kay Hallahan: The other section is much broader.

Hon P.G. PENDAL: The Minister should at least listen to my arguments before she criticises them. It is purely a matter of the opinion of one Parliamentary Counsel as against another - there is no difference at all. One Parliamentary Counsel says we should put it in here and another would put it somewhere else. Since Hon Eric Charlton has been impressed with the idea that it should be put in the other Bill and not this one, I say it is not inappropriate to have it in both Bills if it will underline the point about compensation.

I really do appeal to the members of the National Party to join us in this. It is crazy to suggest that in the very section of the Bill that deals with compensation and restitution we do not stipulate the method of allotting the compensation and restitution. That is all we want to achieve. Not only will the Liberal Party support the National Party's amendment when we get to the other Bill -

Hon Kay Hallahan: So will we.

Hon P.G. PENDAL: - so will the Government. It makes equal sense for it to go into this Bill as well. The Opposition did not put clause 25 into the Bill, dealing with compensation and restitution - it was the Government. To go down the path Hon Eric Charlton is suggesting makes a nonsense of what the Government is doing.

Hon Kay Hallahan: No, it doesn't.

Hon P.G. PENDAL: Therefore, I appeal to the Committee to support the Liberal Party's amendment.

Hon E.J. CHARLTON: The only difference between what Hon Phillip Pendal is saying and the position taken by the National Party is to be seen by looking at clause 25, which says the "Court may order compensation or restitution". What is sought is to change "may" to "shall". If that is inserted the court has to order payment of compensation or restitution, knowing full well that it will not be paid because the wherewithal to do so is not there. It would be impractical to force the court into a situation where it has to order compensation or restitution when it cannot be paid. If that is done, the offender would eventually be in default of payment which would result in another sequence of events.

Anyone sitting in a court and watching proceedings would see, knowing the circumstances in which children are placed, that it is a pointless exercise to order compensation or restitution. I have always supported the payment of restitution for vehicle thefts, for example. It is the person against whom the misdemeanour is carried out who is the loser. The offender gets a slap on the wrist, as Hon Phillip Pendal says, and goes off scot free; the individual is left to cop the consequences of higher insurance premiums, and so on. Nevertheless, we know it is impossible to get blood out of a stone. We will force the court into a situation where it cannot operate.

Hon P.G. Pendal: No.

Hon E.J. CHARLTON: There is a section in the Children's Welfare Act which deals with the court having to be satisfied that a parent or guardian of the child has contributed to the commission of the offence by neglecting to exercise due care and control. That ties the court down because it may come to the conclusion, having heard the evidence, that the parent or guardian has contributed to the situation, and it then has the back-up of the Act to impose compensation or restitution orders, and know that they will be enforced. While it looks good to pursue this matter, in practical terms we will not achieve the result we set out to achieve, and that is the reason why the National Party has moved to its present position - I do not like to use the words "fall back". It is a bit like starting an attack from the halfback flank instead of the centre; providing a goal is scored in the end it does not matter where the attack came from. That is the situation in which the National Party finds itself. I apologise again for the fact that we did not have time, after coming up with our amendment, to explain the situation to the Government and the Liberal Party. I should have perhaps spelled out our position in more detail at an earlier stage. One cannot get blood out of a stone and, as much as I hate to say it, there is no point in forcing the court into a situation where it cannot comply with what we are saying it must do.

Hon P.G. PENDAL: Two points need to be made to Hon Eric Charlton because they are very important to what we are attempting to do here. He suggests that we wait until we get to the second Bill to do what we want to achieve. What would happen if we were to pass one Bill and the other were rejected? We could have the situation, which has happened before in the eight years that I have been here, where the Premier prorogued Parliament in mid-flight.

Hon Kay Hallahan: Before next week?

Hon P.G. PENDAL: The Government is in more trouble with the electorate, and gains nothing by having Parliament continue.

Hon T.G. Butler interjected.

Hon P.G. PENDAL: It has happened before that one gets to the door of the Chamber and finds that Parliament has been prorogued overnight. The Minister might not remember that it happened -

Hon Kay Hallahan: I tell you that I want these Bills through; okay?

Hon P.G. PENDAL: I am not appealing to the Minister, because she is intransigent.

Hon Kay Hallahan: I want both. I am greedy.

Hon P.G. PENDAL: I am speaking seriously to the National Party. There could be a situation where this Bill goes through Parliament, Parliament is prorogued, and the second Bill, in which the National Party wants these provisions to appear, never gets through. The National Party would be left up the proverbial creek without a paddle if that happened.

Hon W.N. Stretch: It happened in December 1985.

Hon P.G. PENDAL: In December 1985 we came to Parliament to resume the session, and found that it was prorogued.

Hon E.J. Charlton: There was a notice out on the door.

Hon P.G. PENDAL: That is spot on.

Hon Kay Hallahan: Is that the best argument you can put forward?

Hon P.G. PENDAL: The Minister should not get overexcited.

Hon Garry Kelly: You are overexcited.

Hon P.G. PENDAL: Hon Eric Charlton misunderstands the situation when he says one cannot get blood out of a stone.

Hon T.G. Butler: Can you?

Hon P.G. PENDAL: The member for North East Metropolitan has already made a mug of himself.

The CHAIRMAN: Order! We are tolerating going past Standing Order time. If interjections continue, it is the Government which will erode the time that has been granted to it. I ask members in these, what I hope will be dying, seconds to make fewer interjections.

Hon P.G. PENDAL: My second point to Hon Eric Charlton concerns what he said about getting blood out of a stone, meaning that it is no good making an order for restitution or compensation which cannot be paid. I agree with that entirely, but I am emphatic about the fact that the quantum of any restitution would be entirely in the hands of the court as a result of our amendment. In other words, we are not saying an order for compensation or restitution should be made if it is impossible for someone to pay it. The drafting has been deliberately worded in a way which will allow for a nominal compensation order. What do I mean by that? It may well mean that a court will order someone to pay 50c. That is provided for in the Opposition's amendment. It is not correct to assume that a judge will be put in the situation of trying to get blood out of a stone.

The National Party members should support the Liberal Party's amendments and, if they end up in both Acts, then both situations are covered. I repeat, if it ends up in only one Act of Parliament, Hon Eric Charlton and the National Party may rue the day they did not support it being put in both.

Hon E.J. CHARLTON: We are not suggesting that certain things may be done under the child welfare legislation, but that they shall be done. We are being even more specific than has been suggested in relation to decisions about the child, the parent or the guardian. In relation to the question of which Bill will pass the House first, we have a decision to make and I do not know what are the Government's intentions. However, I expect the other Bill to proceed through the Committee stage before this Bill receives a third reading. For that reason I do not consider that we will be left in the lurch.

Hon P.G. Pendal: I wanted it on the record so that I will be able to say, "I told you so."

Hon E.J. CHARLTON: I wanted it on the record to indicate that it will not be too late.

I hope the Minister's intentions are that this legislation will not receive a third reading until the complementary legislation is dealt with in Committee.

Hon KAY HALLAHAN: I am happy to indicate that to the member. This Bill simply sets out the powers of the court in ordering restitution. The other Bill has a broader provision for parental responsibility dealing with finances, court costs and restitution. That is why the Government feels it is better to have those matters dealt with in that Bill.

Hon P.G. PENDAL: The Government, not the Opposition, made the decision to include

clause 25 in the Bill which outlines the details of compensation and restitution. It therefore does not make sense to give the bases upon which compensation and restitution can be ordered and then not spell out the mechanism whereby that can be achieved. I believe that the Government is being bloody-minded. I still urge the National Party to support this amendment.

Amendment put and a division called for.

Bells rung and the Committee divided.

The DEPUTY CHAIRMAN (Hon John Williams): Before the tellers tell I give my vote with the Ayes.

Division resulted as follows -

Ayes (8)

Hon Max Evans	Hon G.E. Masters	Hon John Williams
Hon A.A. Lewis	Hon Neil Oliver	Hon W.N. Stretch
Hon P.H. Lockyer	Hon P.G. Pandal	(Teller)

Noes (11)

Hon J.M. Berinson	Hon Graham Edwards	Hon Kay Hallahan	Hon Doug Wenn
Hon J.M. Brown	Hon H.W. Gayfer	Hon Garry Kelly	Hon Fred McKenzie
Hon E.J. Charlton	Hon John Halden	Hon S.M. Piantadosi	(Teller)

Pairs

Ayes

Hon D.J. Wordsworth
 Hon C.J. Bell
 Hon Margaret McAleer
 Hon Barry House
 Hon N.F. Moore
 Hon Tom McNeil
 Hon J.N. Caldwell

Noes

Hon D.K. Dans
 Hon Tom Stephens
 Hon Robert Hetherington
 Hon B.L. Jones
 Hon Mark Nevill
 Hon Tom Helm
 Hon T.G. Butler

Amendment thus negatived.

The DEPUTY CHAIRMAN: In compliance with Sessional Orders, I will now leave the Chair, report progress, and seek leave to sit again.

Progress

Progress reported and leave given to sit again.

House adjourned at 6.17 pm

QUESTIONS ON NOTICE

STATE GOVERNMENT - JURIES

Protection - Legislation

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

I refer to the announcement in *The West Australian* of 10 January 1986 to the effect that the Western Australian Government was preparing legislation to protect jurors against interference from convicted people after their trials and ask -

- (1) Why has legislation not proceeded?
- (2) Was a report prepared by the Solicitor General?
- (3) Was this report considered by Cabinet?
- (4) Will he table or supply a copy of the report?

Hon J.M. BERINSON replied:

- (1) It was found, particularly dealing with access to jury lists, that by changed administrative arrangements it was possible to ensure a better measure of protection for jurors by utilising the existing contempt laws. In the absence of further difficulties in this area, it has not been necessary to proceed with legislation.
- (2) No.
- (3)-(4) Not applicable.

THEATRE - "ESCAPAIDS"

Government Assistance

209. Hon P.G. PENDAL to the Minister for Community Services representing the Minister for Health:

I refer to the One Night Stand Theatre Company's AIDS awareness play, "Escapoids", and ask -

- (1) Is the Minister's department contributing funds towards the play's production?
- (2) If no, is the Commonwealth Health Department assisting with finance for the play?

Hon KAY HALLAHAN replied:

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

RAILWAY TRANSPORT - CAPEL-BUSSELTON

Wonnerup-Nannup - Future Use

210. Hon P.G. PENDAL to the Minister for Consumer Affairs representing the Minister for Transport:

I refer to the Capel-Busselton and Wonnerup-Nannup railway lines and ask -

- (1) Is it the intention of the Government to retain these railway lines?
- (2) Would the retention of these lines -
 - (a) provide a valuable means of transporting mineral sands, timber, passengers and tourists thereby reducing the present level of traffic on roads in these areas;
 - (b) improve access to and from the area by passenger train; and
 - (c) allow for future tourist use of the rail systems?

- (3) Has any feasibility study on the future use of these railway lines been carried out?
- (4) If not, will he give consideration to such a study being conducted?

Hon GRAHAM EDWARDS replied:

- (1) No decision has been taken on the future of these lines.
- (2) The possibility of utilising the lines for new mineral sands projects is currently being addressed by Westrail. The size of the freight task in terms of tonnage and length of haul, associated with mineral sands projects in the area could not justify the large capital expenditure required to upgrade these railways to an adequate standard. The more significant of these projects currently in the offing could be handled more economically on other existing rail routes. Up to this point in time, no viable tourist service proposals for the lines have been forthcoming but the Government remains open to any suggestions. Regular passenger services on these lines are unlikely given the costs involved in securing appropriate track standards.
- (3) The Department of Transport assessed the viability of the lines in 1985. Further assessments have been made as outlined in (2) and consideration will be given to any viable tourist railway proposals which are forthcoming.
- (4) Answered by (3).

TOURIST RESORT COMPLEXES - FREMANTLE, NORTH MOLE *Proposals*

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

- (1) Are there any proposals to build a hotel/tourist resort development in the area of the North Mole, at Fremantle?
- (2) If so, what are the details of this proposal?
- (3) Why is the North Mole currently closed to the public?

Hon KAY HALLAHAN replied:

- (1) No.
- (2) Not applicable.
- (3) Vehicular access to the North Mole is temporarily suspended for trenching requirements to relocate electricity and water services on the North Mole prior to work commencing on the new commercial boat harbour project. Pedestrian access has not been prohibited.

MINISTRY OF EDUCATION - TEACHERS *Employment*

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

- (1) How many teachers employed by the Ministry of Education have -
 - (a) resigned; or
 - (b) retiredin each of the years 1979 to 1987?
- (2) How many teachers, employed by the Ministry of Education have -
 - (a) resigned; or
 - (b) retiredthis year?

Hon KAY HALLAHAN replied:

(1)-(2)

Teachers Retiring and Resigning, Government Schools, 1979-88

Retirements	1979	50	
	1980	55	
	1981	37	
	1982	52	
	1983	47	
	1984	54	
	1985	124	
	1986	102	
	1987	100	(see Note 2.)
	1988	35	(see Note 3.)
Resignations	1979	381	
	1980	353	
	1981	396	
	1982	418	
	1983	377	
	1984	325	
	1985	277	
	1986	376	
	1987	310	(see Note 2.)
	1988	216	(see Note 3.)

Notes:

1. Includes preprimary, primary, secondary and education support schools permanent teaching staff.
2. All information is based on: Annual Report Tables 4:3 for 1979-86; and a computer printout from the staffing-payment system for 1987.
3. The information for 1988 is for Semester 1 only and is based on data provided by Human Resources Services Branch.

EDUCATION - FOUR YEAR OLDS

Costs

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

- (1) Will the Minister table an itemised list showing the component costs of providing a place for all four year olds, estimated by the Minister to cost \$30 million?
- (2) If not, why not?

Hon KAY HALLAHAN replied:

- (1) The \$30 million advised by the Minister for Education related only to capital expenditure, viz -

Centres required	180		
Metropolitan centres	126		
Cost of single purpose-built unit		\$150 000	\$18 900 000
Country centres	54		
Cost of single purpose-built unit		\$210 000	<u>\$11 340 000</u>
			\$30 240 000

In addition, the salary costs of these 180 centres would be \$8 460 000 per annum. (This excludes joint overhead costs of the centres.)

- (2) Not applicable.

SWAN BREWERY SITE
Building Proposals

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

- (1) Have the building proposals for the old Swan Brewery site been finalised?
- (2) If so, what are the details of the building proposals?
- (3) If yes, to (1), when is construction scheduled to commence?

Hon KAY HALLAHAN replied:

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

EDUCATION

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

I refer the Minister to the document issued by the Labor Party prior to the 1986 election entitled "Education - A Programme for Excellence" and ask -

- (1) Have all parents been provided with the option of a place in preschool education for their four year olds, and if not, why not?
- (2) How many five year olds are attending full day schooling in Government schools?
- (3) Which new secondary school courses have been introduced to promote greater employment opportunities?
- (4) How many computers were provided by the Government to schools during the first year of the Government's current term?
- (5) How many computers have been provided to Government schools since February 1986?
- (6) Has the school dental scheme been extended to secondary schools, and if so, which secondary schools have dental therapy centres?
- (7) What Government assistance is available to "after-school" care centres?
- (8) What was the average class size in primary schools in July 1985 and what is it in July 1988?
- (9) What action has been taken to improve literacy and numeracy levels in primary schools?
- (10) How many additional specialist teachers have been appointed to primary schools since 1986 and in what specialist areas have they been appointed?
- (11) Has a system of literacy profiles been introduced into primary schools?
- (12) Are pupils' achievements in reading, writing, speaking and listening tested in primary schools, and if so, how?
- (13) How many teachers of pupils up to year 3 have, since February 1986, undergone courses to improve their skills in literacy teaching?
- (14) Has the ELIC program been extended to teachers of year 4-7, and if so, how many teachers have participated in courses since February 1986?
- (15) Have centrally prepared mathematics tests been made available to all primary and secondary schools and if so, is it a requirement that they be used?

- (16) Has a new teacher in-service course in primary mathematics skills been established, and if so, how many teachers have attended the course since February 1986?
- (17) What procedures have been developed to enable students to move from preprimary and primary to secondary education without disruption or loss of direction?
- (18) What action has been taken, since February 1986, to raise standards of literacy in secondary schools?
- (19) Have educators in other States and countries maintained their interest in the so-called new system of student testing of literacy, and if so, what is their attitude now?
- (20) Has a new, coordinated English syllabus been introduced into primary and secondary schools?
- (21) Has a unit been set up to help schools deal with behavioural problems?
- (22) What action has been taken to increase the emphasis on foreign language studies in year 8?
- (23) How many moderately handicapped students have been transferred from special schools to support centres in regular schools since 1986?
- (24) Has the Government received objections from parents over its decision to "mainstream" handicapped children?
- (25) Is it the Government's intention to close the Carson Street Special School, and if so, when?
- (26) If it is the Government's intention to close Carson Street Special School, how does the Minister reconcile this decision with the commitment, in the Government's policy, that the transfer of handicapped students to regular schools will only occur if the "parents want this"?
- (27) What action has been taken to enable talented students to extend their abilities?
- (28) Are there any promotional positions in Government schools which are not filled by a promotional system based on merit, and if so, which positions?
- (29) What policies, relating to the recruitment and placement of teachers have been introduced, which have attracted the best graduates and teachers?
- (30) What action has resulted from negotiations with teacher training institutions aimed at giving teachers essential skills and knowledge, particularly in literacy and numeracy?
- (31) What has been the increase in the number of student places in higher education institutions in Western Australia since 1986?
- (32) Which tertiary education courses are available in Albany and Geraldton?
- (33) How many overseas students attend the Joondalup campus of the Western Australian College of Advanced Education?
- (34) Will a tertiary institution, under the auspices of an existing tertiary institution, be built at Yanchep, and if so, by whom and when?
- (35) What action has been taken to implement the recommendations of the Hetherington report?
- (36) How has AUSSAT been used to enhance educational opportunities in remote areas?
- (37) What incentives have been provided to teachers to help keep them in remote and country schools?

- (38) How many computers are available to children learning by correspondence?
- (39) Has the subject "Work Studies" been introduced into secondary schools?
- (40) Has a subject "Skills for Small Business" been introduced into the years 11 and 12 curriculum?
- (41) How has the work experience scheme for years 11 and 12 been extended?
- (42) Which TAFE subjects are available to upper secondary students?
- (43) How many upper secondary students, and at which TAFE colleges, are enrolled in TAFE subjects?
- (44) Has a training scheme for school counsellors been developed, and if so, how many persons have undertaken the course and where is it being conducted?
- (45) Has driver-awareness education been introduced for upper secondary students, and if so, at which schools?
- (46) Which secondary schools have developed guidelines for students in responsible self-management?
- (47) Will the Minister table a copy of a set of guidelines referred to in part (46), and if not, why not?
- (48) What were the unemployment figures for -
 - (a) 15 year olds, 16 year olds, 17 year olds and 18 year olds in February 1986; and
 - (b) what were the figures for July 1988?
- (49) Has the State Government provided a grant to all 16 and 17 year olds attending school which brings their allowance up to the level of unemployment benefits, and if so, how much is paid to each student and what is the total amount provided by the State Government for this scheme?
- (50) Which two senior colleges have been established by the Labor Government in the metropolitan area for second chance education?
- (51) What was the TAFE participation rate for 15 to 25 year olds in February 1986 and what was it in July 1988?
- (52) What is the average number of students per Government provided computer in Government secondary schools?
- (53) What is the average number of computers in Government primary schools?
- (54) What in-service courses have been conducted to ensure greater awareness amongst teachers of modern technology?
- (55) How many primary teachers and how many secondary teachers attended these courses?
- (56) Has a one-stop information service for parents been set up in the Education Ministry, and if so, what is its telephone number?
- (57) Have parent contact days been instituted in all Government schools?
- (58) What new community and recreation facilities have been built as a result of joint State and local government funding since February 1986, and which ones are available to be used by Government schools?
- (59) What has been the total amount provided in per capita grants to non-Government schools in each of the financial years 1985-86, 1986-87 and 1987-88?

- (60) What assistance did the State Government provide, per student, to non-Government school students for recurrent expenditure in each of the financial years 1985-86, 1986-87 and 1987-88?
- (61) Has the Government provided guidance officers to non-Government schools, and if so, how many?
- (62) Are all non-Government schools entitled to the benefits of the Government's bulk-buying system?
- (63) How many new primary schools have been opened since February 1986 and where are they located?
- (64) How many new secondary schools have been opened since February 1986 and where are they located?
- (65) Which new primary and secondary schools will be opened between now and the beginning of the 1989 school year?
- (66) Which schools have received substantial improvements and extensions since February 1986?
- (67) What new facilities have been provided at Kalgoorlie, Karratha and Hedland Colleges since February 1986?
- (68) Does the Government intend to retain the four term school year?
- (69) What language courses - other than English - are available for study in Government secondary schools and how many students are studying each language?

Hon KAY HALLAHAN replied:

This is an extraordinary parliamentary question on notice. The aim of questions on notice is to provide detailed answers in as short a time as possible to facilitate the functions of Parliament. The amount of officer time, and thus disruption of their normal duties, required to answer this question with the usual celerity of this Government is extreme and would certainly detract from the educational services these officers would normally provide for the Ministry and Western Australian students. Therefore, I will respond to this question in writing in due course.

LAWRENCE, DR - CHARTER FLIGHTS

Costs

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

- (1) Who accompanied the Minister on her recent visit to the central reserves?
- (2) What was the total cost for aircraft charter for the central reserve trip?

Hon KAY HALLAHAN replied:

- (1) Chief Executive Officer - Ministry of Education;
District Superintendent - Kalgoorlie District Office;
Aboriginal Education Officer - Kalgoorlie District Office;
Aboriginal Liaison Officer - Kalgoorlie District Office;
Resource and Distribution Media Officer - Kalgoorlie District Office;
State Director - Department of Employment, Education and Training;
Executive Officer - Minister for Education's Office;
Press Secretary - Minister for Education's Office;
Minister for Agriculture;
Administrative Assistant - Minister for Agriculture's Office.
- (2) No account has yet been received for the trip. However, the total cost is to be divided between all parties.

RELIGIOUS EDUCATION - GOVERNMENT POLICY

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

- (1) What is the current policy of the Government relating to religious education in schools?
- (2) Have there been any policy changes in recent times, and if so, what are they?

Hon KAY HALLAHAN replied:

- (1) Current policy of the Government relating to religious education in schools recognises that there are two approaches available to schools, referred to as Special Religious Instruction and General Religious Instruction. Both are taught by volunteers, and parents have right of withdrawal on behalf of their children.

Special Religious Instruction is conducted by church accredited visitors who are registered by the Director-General of Education for this purpose. Instruction may occur in mixed denominational classes, or in denominational groups. Instructors are accredited and registered for either or both settings. Instruction is not subject to Ministry supervision, but must be approved by the accrediting churches.

General Religious Instruction is taught by volunteer staff teachers in some primary schools. Teaching is part of the school curriculum and accordingly subject to supervision.

- (2) There have been two policy changes implemented from February 1988.

Requirements for church accreditation of mixed denominational class instructors now include a minimum relevant tertiary credit, and some denominational instructors are also subject to specific church requirements. These changes were initiated by the heads of churches and implemented through the churches' Commission on Education.

The adoption of the South Australian syllabus in religious education for volunteer primary schools in Western Australia was also implemented in 1988 through 208 schools.

STUDENTS - KALGOORLIE

Public Transport - Fares

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

- (1) Is it correct that school children in Kalgoorlie travelling to and from school are required to pay a fare on local public transport?
- (2) When was the decision made to charge children for these services?
- (3) Why was the decision made and what fares are charged?

Hon KAY HALLAHAN replied:

- (1) Yes.
- (2) Charges to student passengers have been levied since the introduction of regular public transport services. The actual date of introduction cannot be clearly established due to the destruction of obsolete files; however, the date may go back to 1934.
- (3) The original decision was contained on the files mentioned in (2); however, the fares charged are based upon the Transperth scholars concession fare which is currently set at 45c per trip.

PRIMARY EDUCATION - NORTH SCARBOROUGH PRIMARY SCHOOL

Amalgamation

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

- (1) Have the two sections of the North Scarborough Primary School been amalgamated, and if so, at which site and why?
- (2) If (1) is no, is it intended to amalgamate the two sections, and if so, when?

Hon KAY HALLAHAN replied:

(1)-(2)

There has been considerable discussion with the parents and citizens' associations, the principals and the district superintendent over recent months about amalgamation. There is broad support for such a move. Whilst the matter has not been finalised it is possible that the two schools will operate as one school from the beginning of the 1989 school year. This school would still operate on the two sites, with consolidation on to one of the sites being determined at a later stage. Amalgamation would result in the better use of resources and enhanced educational opportunities for students.

TECHNICAL AND FURTHER EDUCATION - DUAL ENROLMENT

Review

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

- (1) Further to question 185 of 21 June 1988, is the Minister yet in a position to announce the findings of the review being carried out into TAFE's dual enrolment period?
- (2) If (1) is no, could she indicate when decisions are likely to be made, having regard to the imminence of the December enrolment period?

Hon KAY HALLAHAN replied:

The Minister assisting the Minister for Education with TAFE has advised me that -

- (1) The review has been completed. Recommendations will be announced in the near future.
- (2) Not applicable.

PRIMARY EDUCATION - STUDENT ALLOWANCES

Income Level

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

Below what income level will the primary school student allowance of \$50 be paid?

Hon KAY HALLAHAN replied:

Eligibility for the primary school student clothing allowance of \$50 is restricted to holders of the following health cards issued by the Department of Social Security -

Pensioner Health Benefits and Concession Cards;
Health Benefits Card (sickness beneficiaries);
Health Care Card (unemployment benefits and low income earners).

To qualify for one of the above cards a family unit with one primary school aged child must have an income of no more than \$15 860 per annum. This increases by \$1 768 per annum for each additional dependent child.

AGRICULTURE, DEPARTMENT OF - LAND

Analysis

230. Hon A.A. LEWIS to the Minister for Consumer Affairs representing the Minister for Agriculture:

- (1) Has the Department of Agriculture done an analysis of the State's diverse land resource?
- (2) If so, in what areas and to what degree?

Hon GRAHAM EDWARDS replied:

- (1) Yes.

- (2) The Department of Agriculture has resource mapping activities in both the pastoral and agricultural areas. Mapping of the pastoral areas commenced in 1969, is now 40 per cent and is expected to be complete by the late 1990s. Areas completed to date are the catchment of the Gascoyne River, the west Kimberley, east Nullarbor, Ashburton catchment, Camarvon and Murchison regions with the northern goldfields presently in progress.

In the agricultural areas, mapping began 80 years ago. Recently, survey activities cover the coastal belt between Gingin and Busselton, the Shires of Margaret River and Augusta, the Shires of Manjimup and Nannup, the Geraldton region, Northam agricultural region and the Esperance region, Beaumont, Cascades and Eneabba areas.

RURAL AREAS - PLANNING

Review

232. Hon A.A. LEWIS to the Minister for Community Services representing the Minister for Planning:

- (1) Is there a review of planning procedures for rural areas currently taking place?
(2) If so, when is it expected to be completed?

Hon KAY HALLAHAN replied:

- (1) Yes.
(2) A draft rural land use planning policy has been prepared and made available for public submissions. The policy will be reviewed in the light of the submissions over the next few months.

EDUCATION - RYLINGTON PARK

Research Establishment

233. Hon A.A. LEWIS to the Minister for Community Services representing the Minister for Education:

Is it intended that Rylington Park become a research establishment?

Hon KAY HALLAHAN replied:

No, not for Government purposes. It is used by a self-funded farmer group as the site for a long term genetic trial to develop resistance to worms in sheep.

AGRICULTURE - SOUTH WEST

New Industries - Officers' Assistance

234. Hon A.A. LEWIS to the Minister for Consumer Affairs representing the Minister for Agriculture:

- (1) Is it the intention of the Government to locate officers in the south west region to assist new industries such as goat and deer farming and floriculture?
(2) If so, how many officers and where are they going to be located?

Hon GRAHAM EDWARDS replied:

(1)-(2)

The department is locating six animal production specialists in regional centres over the next two years. One has recently been appointed to Albany. One is about to be appointed to Katanning. One is to transfer to Geraldton next year. Another is about to be advertised for Merredin and two other positions are as yet undecided. In addition to the major industries, sheep and cattle, each of these officers will have responsibility for minor animal industries such as deer and goats. At present a significant proportion of the time of the veterinary officer at Bridgetown and of a technical officer at the same location is specifically devoted to aspects of goat production.

The regional economist at Bunbury also provides a significant input into goat, deer and floricultural enterprise financial management.

Horticultural advisers located at Manjimup and Bunbury, and Albany in the

south coast region, have, as part of their responsibility, research and advisory activities in floriculture and cater for the present needs of that industry in the south west region.

ECONOMIC PLANNING - SOUTH WEST

Canning Factory

235. Hon A.A. LEWIS to the Leader of the House representing the Minister for Economic Development and Trade:

- (1) Is the Government considering proposals for the setting up of another canning factory in the south west?
- (2) If so, where would it be located?

Hon J.M. BERINSON replied:

- (1) Not to my knowledge.
- (2) Not applicable.

FISHERIES, DEPARTMENT OF - AMATEUR FISHING

Catch Restrictions - Inspectors

241. Hon A.A. LEWIS to the Minister for Consumer Affairs representing the Minister for Fisheries:

- (1) Is it the Government's intention to increase the number of inspectors to enforce catch restrictions on amateur fishermen?
- (2) If so, how many more inspectors is it intended will be employed?

Hon GRAHAM EDWARDS replied:

(1)-(2)

Government will shortly be considering an increase in the staff resources of the Fisheries Department as part of its examination of the report on the department by the Functional Review Committee.

FISHERIES, DEPARTMENT OF - AMATEUR FISHING

Restrictions - Legislation

242. Hon A.A. LEWIS to the Minister for Consumer Affairs representing the Minister for Fisheries:

Is it the intention of the Government to introduce legislation to put extra controls on amateurs fishing so as to conserve the fish resources of the State?

Hon GRAHAM EDWARDS replied:

The Government has recently approved the Fisheries Department undertaking a review of recreational fishing in consultation with recreational fishing bodies and the community with the view of adopting a new State strategy.

FISHERIES, DEPARTMENT OF - AMATEUR FISHING

Fishing Licences - Review

243. Hon A.A. LEWIS to the Minister for Consumer Affairs representing the Minister for Fisheries:

Is it the intention of the Government to review the licensing procedures applicable to amateur fishermen?

Hon GRAHAM EDWARDS replied:

No.

INDUSTRIAL DEVELOPMENT - BUNBURY

Industrial Park

245. Hon A.A. LEWIS to the Minister for Consumer Affairs representing the Minister for The South West:

- (1) Is it intended that an industrial park be established in Bunbury?

(2) If so, has a site been chosen, and if so, where?

Hon GRAHAM EDWARDS replied:

(1) Yes, a number of private entrepreneurs are examining this possibility.

(2) No.

LOCAL GOVERNMENT - GOVERNMENT ASSISTANCE

Industrial Land

246. Hon A.A. LEWIS to the Minister for Community Services representing the Minister for Lands:

Has a fund been established by the Government to assist local government authorities where the provision of industrial land is required in their area?

Hon KAY HALLAHAN replied:

The Minister for Lands is unaware of a specific fund to assist local government authorities in the manner suggested. However, the Department of Land Administration administers land development funds, programmed on a priority/needs basis throughout the State, which include the provision of industrial land in local government areas. The program is developed in close consultation with local government authorities.

ROAD CONSTRUCTION - SOUTH WEST

Planning

250. Hon A.A. LEWIS to the Minister for Consumer Affairs representing the Minister for Transport:

(1) Has a long term development plan been created for the construction of roads in the south west?

(2) If so, does the plan encompass both financing and timing?

Hon GRAHAM EDWARDS replied:

(1)-(2)

The Main Roads Department issued a discussion paper in June 1987, "Roads Outlook Western Australia 1987-1997", which raised the overall roads issue in the State. In particular the Government initiatives in "Bunbury 2000" and the upgrading of the Bunbury-Perth Highway and on the Mandurah-Pinjarra Road are two examples of Government recognition for improved roads in the south west. The Main Roads Department has an overall strategy with five and 10 year horizons from which road projects are taken in preparing the annual program.

RAILWAY TRANSPORT - SOUTH WEST

Closure - Upgrade

251. Hon A.A. LEWIS to the Minister for Consumer Affairs representing the Minister for Transport:

Is it intended that the Government will -

(a) upgrade; or

(b) close

any railways in the south west in the near future?

Hon GRAHAM EDWARDS replied:

(a) No; and

(b) no decision has been taken to close any railway lines in the south west in the near future.

PORTS - BUNBURY

Roll-on/roll-off Facilities

252. Hon A.A. LEWIS to the Minister for Consumer Affairs representing the Minister for Transport:

When is it expected that the Port of Bunbury will have adequate roll-on/roll-off facilities?

Hon GRAHAM EDWARDS replied:

There are no current proposals to provide special roll-on/roll-off facilities. However, Bunbury has facilities which can cater for specific ro-ro ships.

GOVERNMENT DEPARTMENTS - BUNBURY

Administration - Increase

254. Hon A.A. LEWIS to the Minister for Consumer Affairs representing the Minister for The South West:

- (1) Is it the intention of the Government to increase the administration of all Government departments in Bunbury?
- (2) If so, will he give an assurance that this proposed centralisation will not be at the expense of other major centres in the south west region?

Hon GRAHAM EDWARDS replied:

- (1) No.
- (2) Not applicable.

"SOUTH WEST STRATEGY" - COSTS

265. Hon A.A. LEWIS to the Minister for Consumer Affairs representing the Minister for The South West:

In detail, how much did the launch of the "South West Strategy" cost with regard to -

- (a) invitations and postage;
- (b) printing of booklets; and
- (c) refreshments?

Hon GRAHAM EDWARDS replied:

- (a) \$304.85 plus \$110.63;
- (b) still being calculated by Government Print; and
- (c) \$5 144.80.

CONSERVATION AND LAND MANAGEMENT, DEPARTMENT OF - INDUSTRIAL DEVELOPMENT

Pulp Mill

266. Hon A.A. LEWIS to the Attorney General representing the Minister for Economic Development and Trade:

- (1) Where will the proposed pulp mill be built?
- (2) Has any preliminary planning been done on the project?
- (3) If so -
 - (a) what will the mill's capacity be;
 - (b) has any environmental planning been commenced; and
 - (c) are the local members of Parliament going to be given a briefing on the project?

Hon J.M. BERINSON replied:

- (1) Selection of a site for the proposed paper pulp mill is currently under investigation as part of a pre-feasibility study.
- (2) The pre-feasibility study will determine the economic feasibility of the project before any preliminary planning is undertaken.
- (3) See (2) above.

AIDS - PRISONS
Western Australia - Fremantle

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

- (1) How many known cases of AIDS are there in WA prisons?
- (2) How many known cases of AIDS are there in Fremantle Gaol?

Hon J.M. BERINSON replied:

- (1)-(2)
None.

CORRECTIVE SERVICES, DEPARTMENT OF - PERSONNEL
Statistics

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

What are the total staff numbers employed by the Department of Corrective Services as at 23 August 1988?

Hon J.M. BERINSON replied:

Figures are only available to 18 August 1988. The total number of staff employed at that date was 1 582, including 66 part time employees.

PRISONS - FREMANTLE PRISON
Infectious Diseases Unit - Capacity

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

What is the present capacity of the infectious diseases unit in the infirmary at Fremantle Gaol?

Hon J.M. BERINSON replied:

Six.

CHARTER FLIGHTS
Carnarvon Resident Magistrate - Clerk of Courts

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

With regard to charter flights made by the Carnarvon resident magistrate to the Murchison and Pilbara in 1988 -

- (1) How many flights were made?
- (2) Did the Carnarvon Clerk of Courts travel on any of these flights?
- (3) If so, how many?
- (4) For what reason was it necessary for the Clerk of Courts to travel on these charters?

Hon J.M. BERINSON replied:

- (1) Seventeen
- (2) Yes.
- (3) Five.
- (4) To undertake routine audit inspections of Courts of Petty Sessions' records and to attend seminars conducted for justices of the peace.

ROAD CONSTRUCTION - TOM PRICE
Sealing

273. Hon P.H. LOCKYER to the Minister for Consumer Affairs representing the Minister for Transport:

What plans are in hand to seal the remaining section of the road into Tom Price?

Hon GRAHAM EDWARDS replied:

The Government is preparing a strategy for the development of major roads in the Pilbara. A draft strategy document was released for public information and comment last year and it is currently being reviewed. I met with the Shire of Ashburton earlier today when some of the issues were discussed. I expect to be in a position to make an announcement shortly.

LAND - ONSLOW

Building Blocks

274. Hon P.H. LOCKYER to the Minister for Community Services representing the Minister for Lands:

What plans are in hand for the release of building blocks in Onslow?

Hon KAY HALLAHAN replied:

Design plans and funding are available for the servicing of land at Onslow but because of the inadequacy of the town water supply, development cannot proceed until the matter is resolved.

SCHOOLS - CARNARVON

Air Conditioning

276. Hon P.H. LOCKYER to the Minister for Community Services representing the Minister for Education:

What plans or proposals are in hand for the air conditioning of schools in Carnarvon?

Hon KAY HALLAHAN replied:

None. The Ministry's policy in respect of the provision of air cooling in schools is formulated in terms of data provided by the Bureau of Meteorology. Carnarvon is located to the south of the high priority zone for air cooling.

AGRICULTURE - CARNARVON

Banana Compensation Fund

279. Hon P.H. LOCKYER to the Minister for Consumer Affairs representing the Minister for Agriculture:

How much compensation was paid to Carnarvon growers from the banana compensation fund?

Hon GRAHAM EDWARDS replied:

The banana growers at Carnarvon have been paid a total amount of \$856 979.48 in compensation claims against the Carnarvon banana industry compensation trust fund. The claims have not yet been audited.

ABORIGINAL ART - STATE GOVERNMENT

Louis Allen Collection - Education Department Funds

288. Hon P.G. PENDAL to the Minister for Community Services representing the Minister for Education:

In the matter of the purchase by the Government of the Louis Allen collection of Aboriginal art, will she reveal whether Education Department/Ministry funds were used to finance the purchase?

Hon KAY HALLAHAN replied:

No Ministry of Education funds were used to finance the purchase.

AIDS - LADEN, DR

Debate

295. Hon P.G. PENDAL to the Minister for Community Services representing the Minister for Health:

(1) Has Dr Laden been gagged from speaking publicly on the AIDS debate?

- (2) Was he gagged because his professional view was that the Government and the department were not attacking the AIDS crisis in the proper manner?

Hon KAY HALLAHAN replied:

- (1) No. Dr Laden was reminded of his obligations as a public servant under the Public Service Act. I refer Hon P.G. Pendal to "Rights, Responsibilities and Obligations - A Code of Conduct for Public Servants".
- (2) See above.

TRAINS - "PROSPECTOR"

Capacity

297. Hon P.G. PENDAL to the Minister for Consumer Affairs representing the Minister for Transport:

- (1) Is it correct that the demand for seats on the *Prospector* is so great that at times, for example in school holidays, it is booked to capacity?
- (2) If (1) is yes, is it possible to use extra carriages to allow more passengers on the train at peak demand periods?

Hon GRAHAM EDWARDS replied:

- (1) Yes.
- (2) No. The total available fleet of cars is fully utilised to cater for the peak demands. When it is not possible to meet the extra demand at such times, consideration is given to running a special road coach service to cater for those intermediate passengers who would normally travel on the *Prospector*.

PLANNING - LEEUWIN-NATURALISTE REGION

Plan - Stage 1

299. Hon BARRY HOUSE to the Minister for Community Services representing the Minister for Planning:

When will the final release of the Leeuwin-Naturaliste Region Plan, stage 1, be made?

Hon KAY HALLAHAN replied:

The Leeuwin-Naturaliste region plan (stage 1) final report will be considered by Cabinet in the next few weeks. I expect that it will be publicly released soon thereafter.

SCHOOL BUILDINGS - NORTHAMPTON JUNIOR HIGH SCHOOL

Vandalism

301. Hon MARGARET McALEER to the Minister for Community Services representing the Minister for Education:

- (1) Is the old Northampton Junior High School building being vandalised?
- (2) What future use is intended for this building?

Hon KAY HALLAHAN replied:

- (1) The Ministry of Education is unaware of any vandal damage to the old school buildings.
- (2) The old school site was vested in the Shire of Northampton for 'Recreation' purposes on 28 August 1987.

QUESTIONS WITHOUT NOTICE

CHILD CARE CENTRES

Closures - New Departmental Guidelines

130. Hon P.G. PENDAL to the Minister for Community Services:

I gave the Minister notice of this question earlier in the day.

- (1) Is it correct that as a result of new departmental guidelines on child care centres a number of these centres have now been closed or are in the process of being closed throughout the metropolitan area?
- (2) If so, how many have been adversely affected by the new guidelines?
- (3) Is she aware, for example, that a day care centre at Langford, run successfully by a Mrs R. Nicholas for 14 years, and strongly supported by parents, is now being closed because of the new guidelines?
- (4) Is she aware that this centre will be able to re-open as a family care centre, which means it can operate with fewer children?
- (5) Is there a risk that more and more strict regulations will force the closure of more centres, and leave many more parents without appropriate venues to place their children?
- (6) Will she undertake to urgently review the guidelines and other regulations to ensure that they are not unduly harsh, given that parents acknowledge the need to monitor centres on the grounds of safety?

Hon KAY HALLAHAN replied:

I thank the member for having given notice earlier in the day of the question.

- (1) No.
 - (2) Not applicable.
 - (3) It is not correct that a day care centre operated by Mrs R. Nicholas is being closed down because of the new regulations. Mrs Nicholas has been asked to comply with the current Child Welfare (Care Centres) Regulations 1968, clauses 16(p) and 16(r), which relate to cleanliness of a centre and protection of children from any hazard.
 - (4) Yes.
 - (5) No.
 - (6) The Child Welfare (Care Centres) Regulations 1968 were reviewed in 1986 and 1987. The Acts Amendment (Child Care Services) Act passed all stages in Parliament in November 1987. Community services child care regulations will be tabled in this session of Parliament. The proposed regulations will require that the building, grounds and all equipment and furnishings used in child care services are maintained in a thoroughly safe, clean and hygienic condition and in good repair at all times.
-