taken place earlier this week. If he does not know it, I inform him that they are Standing Orders Nos 125 and 133 and I suggest that he read them. I thank members for their contribution to this debate and commend the Bill to the House.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chairman of Committees (Mrs Holmes) in the Chair; Mr Cowan (Deputy Premier) in charge of the Bill.

Clause 1 put and passed.

Clause 2: Commencement -

Mr COWAN: I move -

> Page 2, lines 2 and 3 - To delete "the day on which it receives the Royal Assent." and substitute the following -
>
> > such day as is fixed by proclamation.

This will ensure sufficient time in which to make regulations. Rather than the Bill coming into law when it is given the royal assent it will be on a date to be fixed by proclamation.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 3 and 4 put and passed.

Clause 5: Section 3 amended -

Mr COWAN: I move -

> Page 2, line 23 - To delete "subsection (5);" and substitute "subsection (4);".
>
> Page 3, line 10 - To delete "subsections (3) and (4)" and substitute "subsection (3)".

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 6 to 23 put and passed.

Schedule 1 put and passed.

Title put and passed.

Bill reported, with amendments.

SCHOOL EDUCATION BILL

Committee

Resumed from an earlier stage. The Deputy Chairman of Committees (Mrs Holmes) in the Chair; Mr Barnett (Minister for Education) in charge of the Bill.

Clause 116: Dissemination of certain information on school premises -

Progress was reported after the member for Belmont had moved the following amendment -

> Page 81, lines 22 and 23 - To delete the lines.

Mr RIPPER: The two lines I seek to delete relate to the dissemination of material advocating the case of a party to an industrial dispute including the chief executive officer. I was explaining that I am not in favour of propaganda being distributed to children, but I am concerned that this clause may prevent appropriate material from being distributed. When an industrial dispute occurs, advice must be given to parents about what will happen at the school. Typically, the school principal sends a notice home with children advising the parents that proper supervision cannot be provided at the school the next day and that they should keep their children at home because of the industrial dispute.

Sometimes dissension arises between the Education Department and the teachers' union about whether such a notice should be sent home. The staff of a school may send a notice home to parents explaining what course of action they propose to take. Many school staff feel an obligation to explain to the community why they are not providing a service which they would normally provide. In these cases the material is not targeted at students. It is not given to them to read; it is given to them to take home. However, I am concerned that material given to students to take home will be caught up in this ban.

In other words legitimate communications between a principal of a school and the parent community, and the teachers and the parent community which, in a practical sense, must be carried out by children taking home notices could be hindered as a result of this legislation. We are not in favour of children being proselytised by one side or another in an industrial dispute. However, the Opposition feels that both the union and the chief executive officer, the staff and the principal should be able to communicate with the parent community. As we all know, that is done by giving messages to children to take home. I only wish that more of the children produced those messages from their school bags and gave them to their parents.

Mr BARNETT: This is an important matter of principle. Political, commercial or industrial material is not to be distributed via children in our school system. If an industrial dispute involves teachers it is up to the principal, if appropriate, to send a note home with the children to advise parents of the arrangements for the next day. It is not up to the principal to comment for or against the industrial action. Although this clause may stop the teachers' union from distributing union material, it also prevents the chief executive officer from doing the same. This Government will not allow children to become pawns in industrial action in schools. It happened in 1995, and it will not happen again.

Mr RIPPER: It is not a question of children being pawns in a dispute; it is a question of the communication systems that operate in school communities. The following example does not relate to an industrial dispute: Recently the Minister was promoting a process that will result in the closure of certain high schools. In one case the P & C association at one of those high schools wanted to arrange a public meeting to discuss the proposed closure of the school. It was prevented from doing so by the district officer instructing the principal not to give material advertising this meeting to the students to take home to their parents.

Mr Barnett: Absolutely.

Mr RIPPER: That hampered the P & C association's from conducting its public meeting to dispute a government decision. It may be that schools should attend to their communication practices. If schools were able to give a list of the names and addresses of the parents to the P & C association, it would have a list of its members and would be able to post out the material. Posting the material would be preferable to giving it to children. Often the school will not give the addresses to the P & C association so the only way it has of communicating with its members is to give the material to the children. It is unsatisfactory, but we do not have any alternative. That means that if the P & C association is taking a political approach to the future of its school or some other educational issue affecting the school, under this rule it will not be able to communicate with its members. I would like to see the same system operating at all schools that operates at Kewdale Senior High School. If that P & C association wants parents to attend a meeting, it sends a letter or notice to the parents in the mail. That is more effective than relying on students to fish out a crumpled and greasy message from the bottom of their school bags. I want P & C associations and teachers and principals to be able to communicate with the community.

I agree that sending messages home with students is not the most satisfactory situation. They are not given to students to read; they are given to them to take home. If the material were addressed to the parents in an envelope and sealed, would it fall foul of this legislation?

Mr BARNETT: From my recollection, the recent example of a P & C association wanting to send home material advocating a protest to save our schools is an example of exactly the material that should not be distributed through children. I am happy for the P & C association in that case using political antics and having a protest rally, but the children should not be involved.

Mr Ripper: I agree with that.

Mr BARNETT: What happens at Kewdale is appropriate. Mailing of material home to parents, no matter what its content is fine. The preamble to this clause refers to material that will impress a viewpoint or message on the children's minds. It is the students having the material or being influenced by it that is of concern. In principle I do not have difficulty with properly enveloped and sealed material being delivered by students. However, I would be wary. I would prefer a more professional line of communication that did not involve students.

Mr RIPPER: Part of this clause relates to giving information to students verbally. What would be the position if a

teacher were asked to explain to a student why teachers were intending to strike the next day? Would a teacher who said teachers intended to strike because they were seeking a 10 per cent salary increase and the miserly Government was proposing to give them only 3 per cent fall foul of this clause?

Mr Barnett: Clause 68 makes it clear that teachers can talk about industrial disputes or political parties. However, they are not to promote a cause or philosophy, or one side of the argument. The explanation must be an objective account, not support of a cause.

Mr RIPPER: I take these following assurances from the Minister: If asked, can a teacher give an objective account of an industrial dispute without falling foul of this clause?

Mr Barnett: Yes.

Mr RIPPER: If a P & C association member or staff member put material into sealed envelopes for the parents, addressed to the parents, would they fall foul of the clause?

Mr Barnett: Again there is discretion there for the principal. If teachers believe students might open highly inflammatory material and read it, that would be inappropriate. I do not think that practice would fall foul of this legislation. I will not open the door to abuse by the use of colourful envelopes, for example, with material printed on the front. Done in a sensible way it should be acceptable.

There will be guidelines and the principal should be able to advise the parents and citizens' association on that.

Mr RIPPER: There seems to have been some action undertaken in 1995 which has led to the Minister's consideration of this clause. During an industrial dispute, have members of the teachers' union traditionally engaged in any action which the Minister is trying to cut off with the imposition of this clause?

Mr BARNETT: There is no particular action, but from my recollection material was distributed to students during the industrial dispute in 1995. Students staged their own assemblies cum strikes on school ovals. Effectively those students were mimicking the behaviour of the teachers. I did not think that was a desirable thing.

Mr Ripper: The teachers did not think it was desirable either.

Mr BARNETT: It happened and promotional material was given to students. That was totally inappropriate and I hope that, on reflection, the teachers' union will agree that that was not desirable.

Mr Ripper: There is no suggestion that they tried to get the students to do these things.

Mr BARNETT: No. If teachers are concerned, they can hand out material directly to parents outside the school gate, and so can P & C associations; however, it will not happen within the school ground and it will not involve students directly.

Mr KOBELKE: I seek clarification on a technical point arising from clause 116. I am not taking issue with its intent. A penalty of $2 000 applies if a person on the premises of a government school gives to a student, orally or in writing, material that could be party political information and not part of the education program of the school. We are well aware that schools are used quite regularly as the polling place for elections. At those elections, it is considered, within the constraints of the Electoral Act, quite right and proper to hand out party political information.

The DEPUTY CHAIRMAN (Mrs Holmes): I remind the member that we are dealing with the amendment. Perhaps the member might continue his remarks after we put the question on this amendment.

Amendment put and negatived.

Mr KOBELKE: I thank you for your guidance, Madam Deputy Chairman. I will try not to repeat any of my comments. There is a penalty for people handing out political information which does not relate to the educational program on the premises of a government school. Government schools are polling places at election times. Clearly it is not intended that this legislation will make it an offence for that information to be handed to a schoolchild. It comes down to the possible definitions that apply within this clause or, alternatively, it may be that the Electoral Act overrides any other legislation with respect to the conduct of a poll.

If it is permissible under the Electoral Act to hand out party political propaganda, such as how to vote cards, within the constraints of that Act, it may cover the possible technicality that causes me concern. If students turn up at the school on polling day and accept party political matter, on a technicality, the person handing out the material may have committed an offence which has a penalty attached to it of $2 000. The adviser has suggested that the definition of "student" would get around this; that is, if young people of school age turn up on a Saturday not for the purpose of attending school, they do not meet the classification of students. That may overcome the difficulty to which I am alluding.

It may not be as clear cut as that. My youngest boy plays netball on a Saturday. The teams which play on the Saturdays are school teams. Perhaps these players may turn up in uniform at the school on polling day to play some sporting fixture and could be considered part of the educational program, although in a general sense it is extracurricular. On that basis they could be classified as students; therefore, there is the potential for a technical offence. My question relates purely to the technical possibility that within this clause we could catch a set of circumstances relating to elections which is not intended.

Mr BARNETT: I think the member answered the question for himself. It might also apply to school premises being used by a church on a weekly basis. Young people might attend the church, but that does not contravene this clause. They may be there as churchgoers or during election time, but they are not there as students. This relates to only those times when students are involved in an educational program. That problem does not arise. It is good that it has been clarified.

Mr RIPPER: The speech of the member for Nollamara bears on the amendment that I will move, which defines a student and makes absolutely clear that this clause applies during school hours. We could quite easily have a circumstance where a student is on the school premises for other purposes. We have discussed some of those. A political party meeting might occur on school premises after hours and the student might be there with his or her parents.

A church youth group might use the school and perhaps the members of the group are students at the school. It may be a Baptist youth group and it may promote that denomination during youth group activities on school premises at night. I do not think we can say that a student is not a student at the school just because it is after school hours, unless the Minister can point me to a definition somewhere else -

Mr Barnett: They are not in an educational program. The definition of a student is a young person who is involved in an educational program.

Mr RIPPER: Is there a definition? Clause 4 gives the definition of "student" as a person who is enrolled at a school. That is pretty open and shut to me: The student is enrolled at the school; the student is on the school premises; the material given to the student is political, commercial, religious or industrial. I do not think the Minister has shown that this amendment which I will seek to move is not required. I move -

> Page 82, after line 5 - To insert the following -
>
> > (4) In this section **"student"** means a student enrolled at a government school who is on school premises at a time when the student is required to attend the school as a part of her or his educational programme at that school.

Mr BARNETT: The Government does not accept this amendment. We do not think it is necessary. It is putting unnecessary detail and repetition in the Bill

Mr BROWN: The Minister says that we should not worry about this amendment; that it is not necessary. That may well be correct; however, I want to know how the Minister arrives at his conclusion. The definition of "school" is pretty clear; that is, it is a government school or a non-government school. In my electorate, and I imagine in all others, both government and non-government schools are usually polling places during an election. A school is a school, irrespective of whether it is used for other purposes. It is not a sponge cake on the weekend. A student is defined as being a person who is enrolled at the school.

Mr Barnett: Clause 23(1) says that it is someone who is enrolled in an educational program at the direction of the principal. You are clutching at straws.

Mr BROWN: It says that a student must, on the days in which the school is open for instruction, either attend school, participate and so on.

Mr Barnett: If we follow this line, we will be defining every term and clause of the Bill. One of the objectives is to have a readable and workable piece of legislation.

Mr BROWN: I think that is right. It is appropriate to have a readable and workable piece of legislation. How does the Minister conclude that this clause narrows the scope of the definition of "student"?

Mr Barnett: A young person who is on the school premises on a weekend, and who is not part of the school program is there as a young individual, not as a student. He can be on any school grounds, whether or not it is the school he attends.

Mr BROWN: I understand and agree with the Minister's logic. The concern is whether the Bill reflects that. I find it difficult to comprehend the Minister's advice that section 23 can be read as narrowing the definition of "student"

as contained in the definition clause. However, if that be the Minister's view, so be it. I would have thought that if the matter went to court and was judicially determined, it would be an interesting test.

Mr Barnett: The Government had the amendments moved by the Opposition examined, and it is our legal advice that I am correct. However, I am prepared to have them re-examined, and if I am wrong, we will bring the amendment back into the upper House.

Amendment put and negatived.

Clause put and passed.

Clause 117: Dealings with a parent -

Mr RIPPER: I move -

> Page 82, line 9 - To insert after "student" the following -
>
> > , or a person whose details have been provided under section 16(1)(b)(ii)(II), the principal must notify that person,

This is really in the nature of a technical amendment which has been suggested to the Opposition. This is about principals' dealings with a parent. Occasions are contemplated in the legislation in which people, other than parents, will be on the enrolment register. It might be a grandmother, an uncle, or some other person who is a guardian. Those people, other than parents who nevertheless have a quasi parental responsibility, are people whose details have been provided under clause 16(1)(b)(ii)(II). We suggest that this clause should provide for those people, which relates to a school's responsibility to deal with a parent.

Mr BARNETT: The circumstances could involve an Aboriginal aunt or grandparent, who effectively cares for the child and takes responsibility. However, this clause defines the legal responsibility which lies with the parent. That will not prevent a school principal from providing information or communicating with an aunt if that is the practical situation. Were we to accept the amendment, which we will not, we would be putting further legal obligations on terms of communication and that would be unnecessary, an enormous duplication of work, and would probably lead to dispute. Commonsense will prevail. The principal will know whether he has to communicate with a grandmother, an aunt or a cousin and nothing will prevent him from doing it.

Mr RIPPER: The principal may do it. The principal may also say that he cannot find the parents, and so is not obliged to advise anyone who is not the parent. Therefore, the person who has the day to day practical responsibility for the child will not get the information. That is why we moved the amendment. I expect the Minister is right in that in most cases a professional school principal will make an appropriate decision. However, in most cases a professional school principal will provide the information to a parent, and so why have the clause in the first place?

Mr Barnett: It provides guidance to the principal. Every situation cannot be anticipated.

Mr RIPPER: The Minister wants the situations he anticipates included in the legislation. However, the situations we anticipate put too much detail into the Bill, according to him!

Mr Barnett: That is right; that is it.

Amendment put and negatived.

Mr RIPPER: I made these comments with regard to an earlier clause relating to dealings between schools and parents. I want to repeat them on this clause. It is important for schools to recognise that students have potentially two parents who have an interest in them. In many cases, students are in the day to day care of one parent, but only in contact with the other. I would like schools to recognise the rights of those parents who do not have a residence order with the child under the family law legislation, but who have a contact order. Too often parents in our society only have contact or access orders and lose contact with their children. To be realistic about it, in most cases we are talking about fathers who do not have access to or contact with their children. This clause allows a principal to deal only with the parent who has the residence order or the custody order, and to completely ignore the parent who has the contact or the access order. I am not saying that schools should get involved in disputes between estranged marital partners or divorced people. I would like schools to be more sympathetic to people who are in danger of losing contact with their children. It is not only a matter of a parent's rights; it is also a matter of the child's rights, and schools should be encouraged to send duplicate reports or school newsletters to the contact parents. That would be in the interests of the child.

Mr BARNETT: I understand the point made by the member for Belmont. It is a very prevalent problem in our community. This clause relates to a legal obligation to inform one parent. The policy guidelines will be drafted to

encourage principals to keep the contact parent informed, as long as it does not breach a Family Court order. We will do that.

Mr Ripper: I am pleased to have that assurance.

Clause put and passed.

Clause 118 put and passed.

New clause 119 -

Mr RIPPER: I move the addition of a new clause -

Page 83, after line 9 - To insert the following -

Corporal Punishment

119. A school shall not discipline any student by administering corporal punishment.

We have not had corporal punishment in government schools for more than a decade. The provision is in the regulations under the existing Education Act. I have no doubt that this Minister will insert a similar regulation in the new regulations under the School Education Bill. I regard this as an important issue.

This Parliament should make a statement about the invalidity of corporal punishment. We should entrench the ban on corporal punishment in government schools in this Bill. We should not leave it to our hopes about what the Minister will put into the regulations.

This is a controversial issue for some people, but they are looking to the past rather than towards the future. Today we have modern methods of managing children; we have more sophisticated approaches to managing children. With teachers' greater professionalism and with modern management methods we have achieved the required level of school discipline. We should not resort to the brutal methods of the past when dealing with our children. That would send a very bad message to children that when they have a problem, when they have a dispute, they can solve it with violence. In our community we are experiencing a frightening increase in violence, and the last message we want for our children is that violence can solve any problem. If they receive that message, as adults with greater strength and opportunity to use violence they will remember the way in which adults dealt with problems when they were children and they will be inclined to use violence to solve their problem.

Some people in the community would like to see children disciplined by corporal punishment. Unfortunately, some people in the community have an anti-youth attitude. People are suspicious and frightened of young people. People have no trust in our young people. Some people see young people's approach to life and fashions as a threat to the social order with which they are comfortable, and those people want young people to be disciplined strongly. They are prepared to use corporal punishment. I do not think that in a modern society in which we aim for a better quality of human relations and less violence we should be contemplating corporal punishment on school children. We do not flog rapists or murderers -

Mr Johnson: We should!

Mr RIPPER: We do not flog armed robbers or car thieves; yet some people consider that we should flog 10 or 11 year old children in our primary schools. If that is not an appropriate approach for hardened criminals why is it appropriate for children who have committed mere breaches of school discipline? We have set a policy on corporal punishment in this State in the Education Act regulations. We should make a statement as a Parliament and entrench that provision in this legislation governing our schools -

Mr Pendal: You are probably right, but as a matter of interest when was the last time that corporal punishment was used in schools?

Mr RIPPER: I do not remember the precise date, but I think it was put into the regulations fairly early in the term of the last Labor Government. Therefore, it is more than 10 years since corporal punishment was carried out in schools. It has not existed in practice for some time. It is covered by the regulations but it should be entrenched in this legislation.

Mr JOHNSON: I oppose the amendment. It is no surprise that I do so. I note the comments by the Deputy Leader of the Opposition that some people in society have an anti-youth attitude. I can assure the member that I am very far from having an anti-youth attitude. I have four children and five grandchildren. I work very closely with children and have done so for many years. However, I believe corporal punishment in schools is addressed in the regulations, and that is where the issue should remain. There may come a time when this State will bring back corporal punishment in schools in certain instances. I do not believe for one moment that it does a child any harm to receive

a whack across the bottom if the child has behaved so badly that it is warranted. Without a doubt, in countries such as Singapore the rattan has been used, but the number of people who have received the cane twice would be about 3 per cent. That is an admirable goal to reach.

I had the cane when I was at school on two or three occasions and it never did me any harm -

Mr Barnett: That is a matter of opinion!

Several members interjected.

Mr JOHNSON: It is lovely to receive a vote of confidence from my colleagues!

This amendment is similar to the philosophy of the do-gooders who say that parents do not have the right to smack their children. The amendment is travelling along the same avenue. The pendulum has swung too far to one side. We need to return the pendulum to the centre, so that we have some balance. I do not believe teachers would whack children's bottoms just for doing things the teachers thought were wrong. I do not agree with that thinking.

I do not agree with beating children, but I believe that a whack across the backside is acceptable, if a child has committed a violent act against someone or has done something bad, after repeated warnings, detentions, and writing lines. I am aware that members opposite are totally opposed to corporal punishment. However, I think that most members on this side believe that it does no harm -

Mr Riebeling: They want to get into it, with clubs!

Mr JOHNSON: No. Their children are under the care and supervision of teachers. Teachers do not particularly like carrying out corporal punishment. I know that the member for Churchlands, who has been a deputy principal at a girls' school -

Dr Constable: Do you support corporal punishment for boys and girls?

Mr JOHNSON: I would have it for both, if they deserved it. I believe in sexual equality. If a girl behaved so badly that she deserved a wallop on the backside or across the hand, so be it.

Several members interjected.

The DEPUTY CHAIRMAN (Mrs Holmes): Order!

Mr JOHNSON: Some people do that for pleasure! I do not suggest that in this instance we do it for pleasure. We would be doing it for the good of children. I have smacked all my children, when they have misbehaved. I know that some of my friends took the new age attitude, never to smack their children, but some of those children have turned out to be nothing but trouble.

Mr Ripper: Read their names into *Hansard*!

Mr JOHNSON: I will not do that.

I do not suggest that we go to the extreme of capital punishment. However, when we did away with capital punishment in the 1960s, the murder rate increased astronomically.

Mr Kobelke: Where was that?

Mr JOHNSON: I am talking about the United Kingdom. The statistics are similar throughout the world.

Mr Kobelke: Not at all!

Mr JOHNSON: There have been more murders in Australia since capital punishment was repealed. I am merely saying that corporal punishment should remain in the regulations, where I believe it belongs, because at some stage we may need to bring it back and it will be easier to do so if it is left in the regulations. I am a firm believer that an odd whack does not hurt any child when the child deserves it.

Sitting suspended from 5.59 to 7.00 pm

Mr BAKER: I am concerned about the relationship between this proposed amendment and section 257 of the Criminal Code, which states, under the heading "Domestic discipline", that -

> It is lawful for a parent or a person in the place of a parent, or for a schoolmaster or master, to use, by way of correction, towards a child, pupil or apprentice, under his care, such force as is reasonable under the circumstances.

I understand that that provision purports to create a specific defence to assaults against children in certain circumstances. Is it the intention of this amendment to override that provision?

Mr RIPPER: The intention of this amendment is to prevent corporal punishment being used as a means of discipline in government schools. I do not believe the amendment has any connection with the section of the Criminal Code to which the member referred. The member described that section as a defence. I would need to check - I am responding off the top of my head - but I imagine that a person who was charged with assault as a result of administering corporal punishment in a school might be able to use that defence. However, if the school had breached a provision of the Education Act, there would certainly be ways of dealing with the circumstance other than by a criminal prosecution for assault of the teacher concerned. I am trying to give the member an answer without having had a chance to study the point that he made. We are not intending this amendment to impact upon circumstances in the home, which are separate from circumstances in the school, and neither are we trying to alter the criminal law. We are simply trying to put into law a ban on corporal punishment in government schools.

Mr BAKER: I accept that that is the intent, but the proposed amendment necessarily excludes the application of that defence in circumstances involving corporal punishment in schools. To give a simple example, prima facie the application of force to a child is an assault; and an assault is an unlawful assault unless it is justified, authorised or excused by the law. Section 257 of the Criminal Code states that certain assaults on children in certain circumstances are lawful. It does not state, for example, that the defence can apply only in respect of assaults upon children at home or at school; it is a blanket defence. However, the proposed amendment basically excludes the application of that defence to corporal punishment if it is exercised at school.

Mr Ripper: I am seeking to shift to the Act a ban that has been in the regulations since 1987. I cannot see that having it in the Act will have any different effect from having it in the regulations. The member is a lawyer; perhaps he can advise me whether the situation with regard to the Criminal Code will be in any way altered by shifting a ban from the regulations to the Act.

Mr BAKER: That is a matter for debate. The member can consult various lawyers and they will give him different opinions.

Mr Ripper: I want your opinion. Will you give me your opinion for free?

Mr BAKER: Of course.

It seems that the proposed amendment will totally override the situation where a parent is prepared to delegate to a school teacher the authority to use corporal punishment in certain circumstances. A parent can effect that delegation to a baby sitter, a grandparent, or a person who is in place of a parent. Is the member saying that a parent does not have the right to delegate that authority to a school teacher?

Mr Ripper: The intention of the amendment is that corporal punishment will not exist in government schools, as it does not exist now, and a parent will not have the right to say to a teacher "If my son misbehaves, cane him."

Mr Johnson: What a pity!

Mr Ripper: A parent will have the right to say that, but it will have no effect.

Mr KOBELKE: I support the amendment and wish to take up some of the matters raised by the member for Hillarys. The member for Hillarys said that the next thing we will want to do is ban parents from disciplining their children by using corporal punishment. I do not think that is the issue. People may believe that they have the right to use corporal punishment on their children. However, that is very different from allowing a stranger to take some form of instrument to their child and inflict corporal punishment. There are many caring teachers and principals whom parents would trust, but in many cases principals are strangers to the parents of a child, and even strangers to the child. The member for Hillarys is suggesting that we should submit our children to being interfered with physically by being struck by a principal who is a total stranger to that child. That is a totally different matter from parents seeking to discipline their child by using corporal punishment. A principal is an authority figure, and a principal in any given situation may not have a relationship with the child to whom that principal is administering the corporal punishment, such that the child regards that corporal punishment other than as being sadistic and the infliction of physical pain for the principal's own purpose, whatever that purpose may be.

I find it strange indeed that the member for Hillarys is suggesting that there can be some positive gain from having a strange man whack the bottom of a young girl. Clearly that is a major problem. There cannot be discrimination between girls and boys in schools on matters of discipline. The corporal punishment must be equally applicable to girls and boys. It is unacceptable in this day and age for principals, who in most cases are strangers to the children, to inflict physical punishment on a boy or a girl. That has particular significance if a male principal is inflicting physical punishment on a female student.

People in the community are becoming more aware of the extent of sexual abuse and paedophilia, and they are grappling with the mechanisms to ensure children are protected from it. Detailed psychological analysis has been carried out on sadism and masochism and its connection to physical punishment. I know nothing about this, apart from what I have read in books. One of my constituents is a lawyer who has made a study of this because of the public debate. He has spent time going through this study with me and advising me of the authorities. He made it clear that some of the strange sexual practices of members of Parliament in the United Kingdom can be related to some of the private school practices in Britain and the common practice of corporal punishment in those schools. That connection between the British school system's use of corporal punishment and the range of weird sexual practices among Conservative members of Parliament is totally strange to me. I welcome the visitor to this country, the member for Hillarys, who seems to be well acquainted with the practices of his Tory colleagues in the United Kingdom. He seems to feel there is no problem with a male principal inflicting physical punishment on a female student. It is anathema to me and I could not countenance it.

Mrs HOLMES: I find it interesting to listen to members' comments about the amendment proposed by the member for Belmont. My comments are made as a result of information I have received from a deputy principal in one of the schools in my electorate. She spoke to me some time ago about the difficulties she was having with a group of children in her school who were terrorising another group of children. Some of the children being terrorised asked her to take some action on their behalf. She spoke to the parents about the children's request. As a result of the consultation between the deputy principal and the children, it was agreed that a cane would be placed in a glass case in the principal's office.

Corporal punishment is a wide ranging and far reaching phrase. In this school the existence of the cane in the principal's office became a deterrent. In the case of this Bill, we are talking about a deterrent and not about teachers and principals wielding canes, whacking children over the head and doing all sorts of things. I do not believe any member in this Chamber had that in mind. I have given an example in which the cane was used as a magnificent deterrent for children who were running amok. Some parents cannot control their children, for whatever reason, and when those children attend school they think they can behave in the same way as they do at home. That type of behaviour is not acceptable in schools but nor is it acceptable for teachers to strike children. I must admit that when I was at school I got the slipper, the cane and the ruler, and I had chalk in my ear, but I survived quite happily. When I told my mother I had been in trouble, she said it was my hard luck and I deserved everything I got. Things have changed since then.

This amendment is very far reaching in as much as it prohibits corporal punishment. A cane placed in a glass case in a principal's office could be regarded as corporal punishment. I am concerned about Bills in which the provisions are too specific. Principals and teachers are intelligent, knowledgeable and trained, and they know exactly what their job is. They will not hit children but they will try to teach them discipline so that they understand they have a purpose at the end of their school years. I will vote against this amendment because it is too specific, as such it could prevent action, such as, a cane being held in a glass case in a principal's office.

I am pleased to advise members that since that action was taken at the school to which I have referred, there have been no problems with the children who required that action to be taken in the first place. I urge members to think very carefully about this. They should not anticipate the use of corporal punishment in schools or that teachers and principals will wield batons and behave like the SS. That is totally ludicrous. We are talking about children being brought up in an environment in which they respect their teachers and principals and their values, and they learn to respect themselves.

Mr BROWN: I have vivid memories of the use of the cane when I was at school. One day at a lesson on religious instruction, I was told that honesty was the best policy and that an honest person was pure and would be rewarded in the hereafter. Shortly afterwards along with the other boys at the Scarborough Senior High School, which the Minister is seeking to close, I went to recess. The 200 or so boys were all throwing rocks at the wall. We were sprung by a teacher and asked to be honest and own up. Having just come from a lesson in religious instruction, I put up my hand, along with one other boy. We were the only mugs. The other 198 were saved from the lash. As a result of that experience, I am concerned about the arbitrary nature of the use of the slash and lash.

I recall another incident, which I am sure would not happen these days, involving an intellectually impaired student at the school. This was an excitable young man, and clearly off balance. He was walking into a classroom one day and he turned around and ripped off a young woman's tunic. It is not behaviour that one would countenance at all. However, it was clear that this young person had an intellectual impairment, as it was later found. He was caned mercilessly at that school, on the hands, arms and legs. I remember that very well. It would not happen today in a more enlightened society, but it certainly happened then. I am interested when people who advocate corporal punishment say that we should have the Singaporean system. I ask whether they realise that in Singapore adults are caned; caning is not limited to children. Is the member advocating caning for drunk drivers; and, if not, is he

advocating that it is okay to take the lash and the cane to children but not to adults? What sort of screwball intelligence is it that says it is okay to whack a six year old but it is not appropriate to whack a 30 or 45 year old drunk who has been endangering lives on the roads? Is it more important to give young Johnny a good whack if he has misbehaved than it is Fred who is a 45 year old drunk endangering lives on the roads? What about the double standards of that? How does the member justify that in a civilised society? If members opposite believed in corporal punishment they would apply it to adults as well as to children, and they would not shy away from that and say it is only for children.

Mr BAKER: I am sure that before advocating this amendment the member for Belmont would have researched the possible impact on other areas of the law. Let us consider the hypothetical case of a 16 year old student who is 6 foot tall and weighs 15 stone, and who is known to be a bit of a lad and misbehaves quite often. We know that assaults are quite common. If this lad lashes out and assaults a teacher - it may be a punch, a kick, a push or a shove - and the teacher lashes out in response, can that teacher avail himself or herself of the defence of provocation or will this amendment exclude that defence? Assaults on teachers are very much a problem in our schools at the moment. I cannot see why teachers should be treated as second-class citizens because of their occupation.

Mr RIPPER: The member for Joondalup has asked me a series of legal questions to which I can give an amateur's answer. Including a prohibition in the regulations will not change the current situation.

Mr Baker: Why put it there?

Mr RIPPER: I explained that when I moved the amendment. The Opposition wants a declaration by this Parliament that corporal punishment should not exist in schools, and the impact of that prohibition is strengthened by inclusion in the legislation.

Mr Baker: So it is a symbolic statement?

Mr RIPPER: No. It will not change the practical situation in government schools because corporal punishment is banned by regulation in government schools already. I am assuming that when the School Education Bill is passed, the new regulations will include the regulation relating to corporal punishment.

Mr Barnett: Probably a stronger variant.

Mr RIPPER: It will be good to have that explained to us when the Minister responds to this amendment in formal debate.

I am not a lawyer but my impression is that teachers are as entitled as anyone else to use reasonable force to protect themselves from assault. The key to that is reasonable force. If it is a reasonable proposition to physically restrain a student who is about to assault another teacher or student, the teacher is entitled to do that. If a teacher is assaulted and there is no need to use force to prevent a further assault, in other words, if the teacher lashes out when there is no need to lash out in order to prevent an assault, the teacher has got himself or herself into some trouble because teachers are not permitted to assault students.

Mr Baker: We are all human beings and I was referring to the situation of the teacher responding to provocation before he has fully considered his position.

Mr RIPPER: The teacher would only be entirely in the right if the action he took was reasonable force to prevent an assault.

Mr Baker: So your amendment would not override the application of the provocation defence?

Mr RIPPER: This amendment has nothing to do with criminal law. It is about preventing the establishment of a system in government schools in which people are punished corporally. The system used to be that only the principal or deputy principal could use the cane and the name and reason had to be written in the book. This is about abolishing that system.

Mrs van de KLASHORST: I have taught in schools for many years and I say categorically that there is no place for the cane in schools. We should not use a cane in crime prevention or in discipline in schools. All that does is to teach children to hit. However, I will oppose this amendment simply because it is silly to elevate this to the highest level of legislation when it is not occurring in our schools at the moment. In the early 1980s regulations banned corporal punishment in schools. This amendment will bring the issue to the fore. Why give this issue credibility and credence when professional teachers are not hitting children and have not been hitting children for 15 years, and they should not be? Hitting children is no answer. If members read my speech in the budget debate I talked about role models in the family and the fact that children follow the example of adults. If adults are hitting their children, those children will hit. When we change and give some love with discipline, we will start to give some positive role models

for children. I managed children through managing student behaviour procedures in school, and found this to be effective. Even though I oppose the amendment, I categorically state that the cane has no place in schools. We must not elevate it to legislation. It should be in regulations, as it would be silly to elevate it to law when corporal punishment is not happening.

Mr BROWN: This issue may have arisen because of comments made by the Premier over the past three or four years. I am sure the member for Swan Hills will recall the Premier saying on more that one occasion that he would consider re-introducing corporal and capital punishment if it were decided positively by a referendum. In the lead up to the last election, the Premier repeatedly raised the prospect of a referendum being held on the issue at the time of the election vote. It was a standby speech. Every time something went wrong with school discipline or the criminal justice system, the Premier wheeled out his tired old speech about reintroducing these measures if the public supported them. Nobody believed him. No referendum was held at the 1996 election.

I have taken up the matter with the Premier on a couple of occasions since in questions without notice. He said a referendum would not be held because insufficient public support justified it. Interestingly, the State Government, according to the Premier, stated that neither corporal nor capital punishment would be put in the Statute book until sufficient public support existed for it. No referendum has been held. If we are not to hear this excuse extracted from the Premier's desk draw to rattle the chains again whenever a problem arises with schools or juvenile crime, and if it has been put to rest, why is this amendment not appropriate? The Premier made that comment not by way of interjection or when caught unguarded, but in a considered response to two questions on the Notice Paper. If that is the policy of the State, it is appropriate to reflect it in legislation.

Obviously, if the Premier decides to go to a referendum on the matter, and people support his view, the legislation can be changed, as occurs with any other matter on which the Government of the day has sought public views. On one occasion it was proposed that daylight saving would be continued only subject to a positive determination in a referendum. People voted it down and it was not continued. It seems it is policy of the State Government to oppose corporal punishment. If it is outlined in legislation, the Premier will not be able to give his tired old speech every time something goes wrong. The only implication of the amendment is that it would need to be changed if a referendum were held and a positive determination were made. That is not a strong enough excuse for excluding this amendment from the Bill.

Dr CONSTABLE: It seems to be an evening for anecdotes, and I have a couple also. The first teaching position I held was at an inner city junior boys high school in Sydney. Most of the boys were aged from 12 to 15 years and were from non-English speaking backgrounds, and they could not speak much English at all. Large classes were taught in those days. I was an inexperienced teacher. In fact, I did not have a teacher qualification, as a teacher shortage meant just about anybody could get a job as a teacher.

The first class I taught contained forty-five 13 year old boys. If there was a problem, I told the child to stand outside the classroom so he and I could cool off. I discovered after the first two or three weeks at this school that a teacher walked up and down this corridor and every time he saw a boy standing outside a classroom, he would make him hold out his hand and give it a few whacks. It was extraordinary. I soon stopped putting the boys outside the door, firstly, because I was teaching the boys and it was my punishment; and, secondly, because someone was interfering with my relationship with the students. It was appalling that anybody, without knowing why someone was outside the class for punishment, would treat the boys in that way. However, that was the standard practice for treating boys, but not girls, in New South Wales schools in those days. It was cavalier. This teacher enjoyed beating those boys. We may think in 1998 that teachers would not behave in that way if corporal punishment were allowed. However, with 28 000 teachers in the State, I am sure a few of them would enjoy beating students with a cane if they could.

My second anecdote relates to research with which I was involved when living in Boston and working at Harvard University. I was involved in observing mothers and children interacting. We spent thousands of hours recording and analysing the behaviour of mothers and their children. The upshot of the research was that corporal punishment was seen to be an ineffective way of punishing children. More effective ways can be used to impose punishment so children learn discipline and to respect the wishes of their parents. All the research I have read or come across confirms the findings of those studies. Therefore, teachers can discipline children in better ways than corporal punishment, and teachers are taught those ways in teacher training programs. I expect that will continue. Corporal punishment used to be a landmark of punishment regimes in non-government boys schools. It is no longer the case, and has not been for many years; in fact, they pride themselves on the fact it is no longer part of the punishment regime in the single sex, boys schools. Corporal punishment is not accepted even within institutions where it was a traditional form of punishment 10 or 15 years ago.

I support the amendment. I agree with the Deputy Leader of the Opposition that we should make the statement in legislation rather than leaving it within regulation, which could be changed without Parliament's involvement.

Mr BARNETT: I do not support corporal punishment in schools, either as an individual or as Education Minister, and neither does the Government support it; and it will not be reintroduced. Regulation 32 put in place in 1960 provides that discipline enforced in schools shall be mild but firm and any degrading or injurious punishment shall be avoided. In 1987 corporal punishment was expressly forbidden in government schools.

Mr Ripper: By administrative order, rather than regulation?

Mr BARNETT: Under a regulation by administrative action it has been forbidden since 1987. As the member for Swan Hills queried, why are we legislating against something that is not practised? Many things are not practised in schools and we do not regulate or pass legislation to prohibit them. I am sure most males got the cuts at some stage along the way for which they showed a sense of bravado and it did not do them any harm. We all recognise that corporal punishment, irrespective of whether it did harm, is a bygone era. Should the cane be used we can imagine the outcry from parents. Although there might be a sense of bravado it would be acceptable to neither the parents concerned nor the student population. It is not sought by teachers or school administrators. The Opposition has accused the Government of provoking debate on similar issues. Why is the Opposition provoking debate on corporal punishment? It has not applied in schools for many years and will not apply in the future. The amendment to prohibit corporal punishment applies to that part of the School Education Bill relating to government schools. If we have a strong moral or ethical position why not propose to ban corporal punishment in all schools?

Mr Ripper: Are you?

Mr BARNETT: No. The member for Belmont's amendment seeks to ban corporal punishment by legislation in government schools but to leave non-government schools untouched. That is discriminatory and unacceptable. A limited number of perhaps fundamentalist Christian schools maintain some elements of corporal punishment; almost all non-government schools do not. Principals of most private boys schools have said that in no way would they introduce corporal punishment. Seeking to ban corporal punishment specifically in government schools but remaining silent about non-government schools is hypocritical. This issue has been handled by regulation. It is not necessary to have the ban in the Bill. We will develop a regulation to replace regulation 32. I do not have the wording now but it will be far stronger and it will prohibit corporal punishment in government schools over which the government has direct jurisdiction. We are not about to legislate in this way for non-government schools which, although it may be inappropriate, may still use some elements of corporal punishment.

Ms ANWYL: I note the member for Joondalup left the Chamber but he raised the issue of the Criminal Code. I listened with some sense of satisfaction I suppose to the comments of the Minister for Education because it is important he make his position known. I accept his position on this issue. Unfortunately some parts of the community would like to see corporal punishment reintroduced into schools as a matter of course. According to my recollection of the summaries of the One Nation Party policy, mention is made of corporal punishment being reintroduced.

In my capacity as Labor spokesman for Family and Children's Services I have heard comment that there should be no government interference in the disciplining of children, not only among parents but also in schools. If we examine the Minister's comments in an objective sense where he says it is not an issue in our current society, the trouble is that section 257 of the Criminal Code refers to it being lawful for a schoolmaster or master - I am not sure where that leaves female principals, but this is the language we have in our laws - to use by way of correction towards a pupil, child or apprentice under his care such force as is reasonable under the circumstances. I accept this may not be occurring and in my time as a member of Parliament I have not had a complaint from a child about the issue. However, it is important to know that the Government's position could be contained in the Act. This debate is whether that should be by way of regulation or by way of the Act. Some segments of our society believe children should be punished in a physical way as a matter of course. I am not sure whether they think that is good for the soul or goodness knows what. Perhaps they think it will help young people find jobs. It is part of the simplistic way of disciplining young people for antisocial behaviour we see in the media from time to time.

I support the comments made by the member for Belmont. It is significant that this issue be covered in the main legislation.

Mr RIPPER: The Minister responded to my amendment with some welcome remarks on the one hand and unwelcome remarks on the other hand. He is opposed to corporal punishment and does not see it having a place in government schools and he assures us that a regulation will implement that policy position.

Mr Barnett: Stronger regulation.

Mr RIPPER: I welcome that assurance. His unwelcome remarks are those in which he accuses the Opposition of being hypocritical because it has moved this amendment in relation to government schools and is silent on the issue in relation to non-government schools. The Minister's position is the same. He is proposing to outlaw corporal

punishment in government schools, albeit by regulation rather than legislation; he is not proposing to outlaw it in non-government schools.

Mr Barnett: It is not the same.

Mr RIPPER: The second point is that there is a difference between government schools and non-government schools. Many people have no choice but to enrol their child at government schools. We have compulsory education and a very large proportion of our population does not have the financial capacity to make any other choice. With non-government schools, people have a choice. They can move their child from that school or leave them there if they wish.

The second set of unwelcome remarks from the Minister was the accusation that the Opposition had unnecessarily raised an issue that was not of significance. It is significant because there still are people in the community who believe that children should be subject to corporal punishment. An array of government backbenchers have given speeches in support of it. If we did not make a strong statement about this and had no regulation, some teachers and principals would believe that corporal punishment should be applied to children.

It was not the Opposition that first raised the issue of corporal punishment in recent times. The issue was long dead. The Premier canvassed the possible introduction of corporal punishment. I do not have a direct quote from the Premier; I have a quote from an article in the *Parents and Citizens Voice*. It was so alarmed that it developed a response to the Premier's comments. The article stated that recently Premier Richard Court announced that his Government might reintroduce corporal punishment into schools as part of an overall strategy to get tough on law and order issues. What we have is a Premier who does not do these things; we have not had a Bill in Parliament to reintroduce capital punishment; and we have not had a Bill in the Parliament to reintroduce corporal punishment. What we got was a throwaway media line designed to make a gesture to people in the community who believe in corporal punishment or capital punishment. The message the Premier was trying to send is, "I am really with you but I cannot do it because there are practical difficulties or some other reason why it cannot be done".

If the Premier will stop raising issues of capital and corporal punishment, the Opposition will stop raising them. However, while he flirts with those sentiments and encourages people in the community, then those people who are opposed to both capital and corporal punishment have to be on their guard and have to put up arguments against them. I have put up moral arguments against corporal punishment. However, there are also practical arguments against corporal punishment. It is not the most effective system of discipline that can be applied in schools. There are all sorts of negative aspects to corporal punishment which have been revealed by research. It is not only a moral issue about how children should be treated but also a practical position which should be adopted. The research shows that corporal punishment is not the most practical means of disciplining children in our schools.

Amendment put and a division taken with the following result -

Ayes (17)

Ms Anwyl	Mr Kobelke	Ms McHale	Mrs Roberts
Mr Brown	Ms MacTiernan	Mr Pendal	
Dr Constable	Mr Marlborough	Mr Riebeling	Ms Warnock
Dr Gallop	Mr McGinty	Mr Ripper	Mr Cunningham *(Teller)*
Mr Graham	Mr McGowan		

Noes (22)

Mr Ainsworth	Mr Bradshaw	Mr MacLean	Mr Trenorden
Mr Baker	Mrs Edwardes	Mr Marshall	Dr Turnbull
Mr Barnett	Mrs Hodson-Thomas	Mr McNee	Mrs van de Klashorst
Mr Barron-Sullivan	Mrs Holmes	Mr Minson	
Mr Bloffwitch	Mr House	Mr Nicholls	Mr Osborne *(Teller)*
Mr Board	Mr Johnson	Mrs Parker	

Pairs

Dr Edwards	Mr Court
Mr Grill	Mr Day
Mr Carpenter	Dr Hames
Mr Thomas	Mr Prince

Amendment thus negatived.

Clause put and passed.

Clause 120 put and passed.

Clause 121: Exemptions and approvals -

Mr RIPPER: I move -

Page 84, line 9 - To delete "some other means" and substitute the following -

a Parents and Citizens Association established under section 136

This clause enables the Minister to decide that a school should not have a council. The relevant exemption clause reads as follow -

(i) because the functions to be performed by a Council can be provided by some other means;

It is considered by many that the "other means" should be a representative body of parents and the relevant representative body is a parents and citizens association. That is why the Opposition has moved this amendment. Either a school has a council, or a school has the functions that would otherwise be performed by a council performed by a parents and citizens association. I think every school has a parents and citizens association. However, it would be interesting for the Minister to comment on that.

Mr BARNETT: I am just advised not necessarily. Obviously in a State with the geography of Western Australia, there may be many very small and isolated schools where the practicalities of having a school council just do not measure up; it just does not work. The effect of the Opposition's amendment is that if a school council cannot be formed, the P & C association performs the role. The P & C association has a particular role in terms of a parent body. However, a school council is meant to reflect parents, students, principal, teaching staff and perhaps even the community. Therefore, it is not appropriate to say that if a school council cannot be formed, the P & C association takes on that function. The P & C association has a particular function in its own right. This reflects the fact that in Western Australia in some schools it will not be practical to have a school council. We would love to have them. However, in some cases it will not be possible.

Mr RIPPER: What would happen if a school council could not be formed because the right people could not be found, for example? I am not sure why a council could not be formed. Would it be only if parents or staff or community representatives could not be found to serve on it? In what circumstances is it contemplated a school council might not be formed?

Mr BARNETT: How do we get on with a one or two teacher school, or a school in a very remote location with maybe a dozen or 15 students? That is the scenario we are talking about. Where it is practical to have a school council, everyone would support it. We must take into account the circumstances of some schools in this State. In some schools it just will not happen. It is not realistic. This allows the exemption.

Mr RIPPER: This is what I am driving at with my amendment: Even those parents at a very small school might want some involvement in the school.

Mr Barnett: The P & C or parent involvement would provide that. A school council is set up as a reasonably formal body. In very small or isolated schools it just ain't going to happen, to put it bluntly. However, that doesn't mean the P & Cs and parents are not involved directly with the principal in school management.

Mr RIPPER: The purpose of my amendment is to ensure that, even when there is not the critical mass to form a school council, people still get to have some say, some consultation, in school management.

Mr Barnett: Absolutely.

Amendment put and negatived.

Mr KOBELKE: My comments relate to more than one clause, but it is appropriate to raise them on this clause, which allows for exemptions and approvals by the Minister. My reading of the clauses on school councils gives me the impression that this is quite a good system. I will comment on one element of the system of establishing councils which relates to how these clauses will be put in place by the regulations that will go with them. I preface my comments by talking about the current arrangement for school councils or, as they have been called in the past, school based decision making groups.

The Labor Government moved to establish these councils and to require that all schools have a school council. As I say, at that time they were called school based decision make groups. I was very supportive of that move, although I was not comfortable with the way in which the Labor Government implemented the rules. I was not able to win

the day; therefore, I had to go along with that. It was a case of one model fitting all; all schools were required to fit into a fairly tightly prescribed set of rules for the group.

The exemptions in clause 121, in clause 122, which refers to the constitution and functions of councils, and in clause 124, under which the Minister can approve functions of the council, seem to be a basic structure that will allow a fair degree of flexibility. The council for a school may have a structure and a range of powers which best suits the needs of that school. Although that is my hope, it does not mean that is the way in which it will function. Many of these matters will be more clearly defined by regulation. Is it the intention that the regulations will be fairly prescriptive and all school councils basically will have the same model, or will a reasonable degree of flexibility be allowed? One school may want a small council of five members, to function in a particular way and to see itself playing a particular role and having a specific set of functions. Another school not far away with a different clientele, with parents from a different socioeconomic base, may want a council of 15 members, and to take on a range of functions which vary in some way.

I hope the Minister will be able to allow a degree of flexibility with rules so school councils will more closely fit the needs of a school. Will it be the intent, when drawing up the regulations, to have one model with variations; or will the Minister open up a fairly wide range of models, when it can be shown they will suit the needs of the school?

Mr BARNETT: The way in which this clause is structured allows sufficient flexibility. If necessary, we may be able to add to that by regulation. We have tried to recognise primary and secondary schools and senior colleges in the future and to allow that flexibility. Essentially we want teacher, parent, student and community involvement. What happens will vary from place to place. There is sufficient flexibility in this clause. If we need to reinforce that through regulation, we will do so.

Mr Kobelke: That is my understanding of the Bill; however, I am asking what is the intent, because the regulation making power that goes with this will enable the flexibility to be tightened or be let out.

Mr BARNETT: The intent is to allow flexibility, not to restrain or restrict it.

Clause put and passed.

Clause 122: Constitution of Councils -

Mr RIPPER: I move -

Page 84, line 22 - To insert after "school" the following -

including persons whose details have been provided under section 16(1)(b)(ii)(II)

My reason for moving this amendment is a technical one. This clause provides for parents and students over 18 years to be members of the school council. In some circumstances children will be cared for on a long term basis by people other than their parents - foster parents, grandmothers, uncles, aunts. People have all sorts of family arrangements at the moment. Where those people are responsible for the day to day care of the child, although they are not the child's parents, I would like to see them eligible for membership of the school council under the parental clause, rather than that relating to members of the local community. That can be achieved if this amendment, referring to the inclusion of those people on the enrolment register under clause 16, is accepted.

Mr BARNETT: We do not disagree with the sentiment. I foreshadow a series of amendments to be moved by the Government which will cover that point, but in a way that is appropriate to the structure of Bill. I think they are being circulated. That will achieve what the member is raising.

Mr KOBELKE: I thank the Minister for trying to take up the concerns which were raised by the Deputy Leader of the Opposition when he sought to provide an extension of those persons who can comprise members of the school councils under clause 122. I am not sure of the nature of the amendments, having just had them drawn to my attention by the Minister. Will the Minister move then en bloc?

Mr RIPPER: This is our chance to get very accurate information - the Minister has left the Chamber and is taking a breather! In the hope the Minister will be advised of my questions, having re-read his proposed amendment to clause 122, I do not see that his amendment actually takes account of the purpose of the amendment which I have moved. I am trying to get grandmothers, aunts, uncles and others on the school councils under the parental clause. The Minister seems to be moving amendments to change the provision for school councils where the majority of the students at the school are aged 18 or more.

I imagine that the Minister would like me to withdraw the amendment in favour of his. Before I embark on that course of action, will the Minister explain how the clauses will read once his amendments have been carried and how they will cover the intention of the amendment I have just moved? Since we are talking about the composition of

a school council, the Minister might want to foreshadow the debate on the next amendment, where I want to insert after "students" the words "and parents". There I am trying to allow parents to be part of a school council where a school has a majority of students aged 18 or more. These days the length of parental responsibility is being extended. The Commonwealth Government wants parents to look after their children until they are 25.

Mr Barnett: At least.

Mr RIPPER: If students are aged 24 and enrol in medicine, they will still be on the parental books until the age of 30.

Mr Barnett: Most parents would be delighted if their children found independence by the age of 25.

Mr RIPPER: I understand that it is a growing social problem. Parents are finding it difficult to move their children on in some cases, at least financially. We may deal with this more effectively, if the Minister wishes me to withdraw my amendments, if the Minister will explain how his amended clauses will deal with the issues I have raised.

Mr BARNETT: I do not agree with the first amendment. I think we will accommodate the second one. At a senior college where the majority of students are aged over 18, at law they are adults, therefore parental involvement, which I agree can contribute greatly to the educational institution, will be by way of community representation.

Mr Ripper: You are not intending that where the majority of students are aged over 18, parents will be part of the school council as of right?

Mr BARNETT: Not as parents but as community representatives. I assume those community representatives typically would be parents, but they are not designated as parents. The students are adults.

Mr RIPPER: The Minister is saying that he will not make provision for uncles, aunts and grandmothers.

Mr Barnett: That is right.

Mr KOBELKE: I would like to draw the Minister's attention to the situation at Nollamara Primary School, which for many years had a spare room which became a drop in centre, not so much for uncles, but for aunts and grandmothers. It was a very good centre and formed an important part of the community. They did handicraft and other work that created money for the school. It was a very important adjunct to the school. In situations like that, grandparents could come and contribute and become part of the school. As I read the proposed legislation, they could be on the board if they lived in the local community; however, if they travelled from outside the community, they would seem to be excluded. That is my concern. The amendment moved by the Deputy Leader of the Opposition would enable a grandmother, aunt or uncle, who had a degree of care for a child and lived outside the area, to become actively involved in the school and to be a possible appointee to the school council.

Mr BARNETT: It is an interesting point. Aunts, uncles, family friends and whoever else can contribute greatly to a school. They would be there as members of the local community. As the member spoke, I started to think of an ethnically based school, where the local community may be an ethnic group in the community and in no sense local geographically. I am pondering whether the word "local" is inappropriate in those circumstances and whether it might be better to delete the word "local". I take the member's point because if "local" is interpreted to mean geographically local, it would be inappropriate. Generally it would be that but there may be some other sense of community.

Amendment put and negatived.

Mr BARNETT: I move -

Page 84, line 22 - To delete "or," and substitute "except".

Mr RIPPER: Will the Minister explain the effect of the amendment?

Mr BARNETT: If the majority of students are aged 18 years or over, there is not the special category for parents because the students are adults. If parents were involved, they would be so by being community representatives.

Mr RIPPER: We are obviously dealing with the same issue that will be covered by my amendment. The Minister says that where the majority of students at a school are aged 18 years, the parents do not get appointed unless they are appointed under the community criteria. The only circumstances where we are likely to get that are in a senior college. If senior colleges are established, we would have years 11 and 12. Once the change in the schools starting age works its way through, if we had a large year 12 and a small year 11, we might get the majority of students aged 18 years or more. There would still be a significant minority of students aged under 18 years. The students who would be adults at the school would have only recently achieved adult status. There would still be a very considerable parent interest. The change in treatment of children really comes between the end of year 12 and the

beginning of tertiary or technical education or work rather than in the break between years 11 and 12. It may be that my son will have news for me in that regard. However, I think I am right, and parents would have a great interest in being on a council, even though 51 per cent of the students at a school happen to be aged 18 years. There would still be 49 per cent of the students aged under 18 years. Whatever the percentage, the parents would still have an interest in their future.

Mr BARNETT: There is commonsense in what the member says. However, the Government is respecting the fact that there might be a school in which the majority of students are over 18 years old. In those cases the parents of those concerned will be interested. Commonsense dictates that there would be more community representatives than might otherwise be the case, and typically that would include parents. Again, we can get tied up in this issue, but it can be handled practically.

Amendment put and passed.

The DEPUTY CHAIRMAN (Mr Sweetman): At this stage we must conduct a test vote unless the member for Belmont withdraws his amendment. Both amendments affect the same line of the same clause. The question will be that the words "the students" be deleted. If that is agreed to, the Minister's amendment could be passed. However, it would make the member for Belmont's proposed amendments invalid.

Mr BARNETT: The effect of the series of amendments I intend to move is that the school councils may comprise parents, except in schools where the majority of students are adults, community members, staff members and adult students. Students under 18 years of age can be members only of incorporated school councils.

Mr RIPPER: We have argued the principle of my proposed amendment and the Minister has indicated that he is not prepared to accept it; he thinks the matter can be handled. In view of the fact that he is not prepared to accept it and its moving is complicating the business of the Committee, I will assume that it will be defeated if it is moved. Therefore, I will not move it and we can avoid esoteric devices such as test votes.

Mr BARNETT: I move -

Page 84, line 24 - To delete ", the students at the school".

Amendment put and passed.

Mr KOBELKE: I move -

Page 84, line 25 - To delete the word "local".

The Minister indicated that he might be prepared to accept this amendment. It means that members of the school council can comprise other members of the community. "Local" therefore does not have to be examined carefully to establish whether it means geographically, locally or just members of the community.

Mr Bloffwitch: Would you not be a local if you were the aunt of a child going to a school? You would still be classified as a local.

Mr KOBELKE: That is a reasonable interpretation, but it is not the most commonly accepted interpretation. It normally means the local geographic community. For four years I was a member of the school council of Morley Senior High School. I live in Nollamara, which is two suburbs away. I might have been judged to be a local because I was the local member for that area. I certainly did not live in that suburb or in the next suburb. If we delete the word "local", we are not losing anything. It will overcome the potential difficulty of people having to work out the exact meaning. It broadens it so that people can be included in that community group if a school determines that it does not have people of a particular group who could be of benefit to the council or in the rare circumstance of a relative of a child at the school living a considerable distance away but being involved as the carer for that child. That individual may make a very good member of a school council. Clearly that person would be a member of the community. We are dealing with rare cases, but this provides some additional flexibility and I hope it will be acceptable to the Minister.

Mr BARNETT: The Government accepts the amendment.

Amendment put and passed.

Mr BARNETT: I move -

Page 85, line 2 - To delete "the Council is not incorporated and".

Amendment put and passed.

Mr BARNETT: I move -

Page 85, line 3 - To insert after "school" the following -

, but no student under 18 years of age can be a member of an incorporated Council

Amendment put and passed.

Mr RIPPER: I move -

Page 85, after line 22 - To insert -

(6) The Chairperson of the Council is to be elected by and from its members.

This clause relates to the provision that a majority of the members of a council cannot be staff of the school. The Minister contemplates a council composed of parents, students and members of the local community. I would like to see a majority of the council composed of parents of students at the school. This entrenches the rights of parents in the composition of councils.

Mr BARNETT: The Government does not accept this amendment. We always hope there is a fair balance of numbers and views on a school council. The effect of this would be to ensure that the parents, the community and students are always in a majority. That typically would be the case. However, there might be a scenario in a school where it is difficult to get parent and community involvement. This would preclude the establishment of a council for that school. While I understand the intent, legislating in this way could lead to all sorts of unintended and undesirable consequences.

Mr RIPPER: I am puzzled by the last comment. The Minister's proposal is that staff cannot be a majority on the school council. If the school cannot find parent or community representatives, it will not be able to form a council. The Minister's arrangement is slightly more flexible because, if the school can get a majority of parents and community members, it can form a council. My amendment provides that there would need to be a majority of parents. The ideal situation might be to have a provision giving parents the majority unless it would be impractical to form a council in such circumstances. That would cover the majority of schools, which would be able to attract enough parents, and the circumstance the Minister envisages, in which a handful of schools could not attract enough parents and therefore could not form a council.

Mr BARNETT: I want to protect the flexibility for when it is needed.

Amendment put and negatived.

Mr RIPPER: I move -

Page 85, lines 12 to 14 - To delete the lines and substitute the following -

(4) The majority of members of a Council must be persons referred to in subsection (1)(a).

Apparently it is not always accepted by members of a school council that they have the right to elect the chair. In some circumstances, I am told, it is just assumed that the principal of the school will be the chair of the school council. The principal assumes that role as if by right.

Mr Bloffwitch: Can you give us an example? I have never seen that happen in any of the schools in Geraldton.

Mr RIPPER: I am pleased to hear that.

Mr Bloffwitch: The only time it would happen is when no parent wanted to be the chairperson, and the principal would be asked to fill that role. You are saying that in that situation parents should not be able to do that. That amazes me.

Mr RIPPER: The member does not understand my amendment. If the school council wants to elect a member as the chair of the council it can do so. My amendment seeks to provide an election process. I am told, although I do not have a specific example, that in some circumstances members of school councils have the mistaken view that the principal is automatically the chair of the school council, and the members do not have the right to conduct an election. This provision should be written into this legislation. This is supposed to be plain English, user-friendly legislation, to give people a guide in the exercising of the roles of school councils. I seek this provision for the election of a council chairperson to avoid a situation where a principal may be able to dominate by virtue of the lack of skills, competence or knowledge of the parents who happen to be members of the council.

Mr BARNETT: We do not think this amendment is necessary. The procedures for the operations of school councils are outlined in clause 134. It is self-evident that the chair of the council would be elected from within the council.

Mr Ripper: I am told that it is not self-evident. Perhaps the Minister needs to issue some guidelines for the operation of school councils.

Mr BARNETT: It is a superfluous provision, but if it is a matter of importance to the Opposition, we will agree to it.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 123: Functions of Councils -

Mr RIPPER: I move -

Page 86, lines 3 to 22 - To delete the lines and substitute the following -

(a) to establish and review from time to time the school's objectives and priorities and to approve any plan developed under section 63 (1)(e) to implement them;

(b) to establish, review and approve school-based policies in consultation with the students, their parents and the staff of the school, including -

(i) any parent participation policy;

(ii) any code of conduct;

(iii) any dress code for students when they are attending or representing the school; and

(iv) any general policy concerning the use in school activities of prayers, songs and materials referred to in section 68(2)(b);

(c) to participate in the planning of financial arrangements necessary to fund such objectives, priorities and policies;

(d) to approve -

(i) the school budget; and

(ii) any agreement or arrangement for advertising or sponsorship entered into under section 209;

(e) to promote the school in the community.

This is a replacement amendment for the functions of the school council. I have no embarrassment in saying that the amendment was suggested by the WA Council of State School Organisations. WACSSO believes that this is a better description of the role of school councils than that sought by the Minister. WACSSO believes that this amendment defines the school councils' functions more explicitly. WACSSO also argues that some schools will allow participation only in decisions that are explicitly defined as a responsibility of school-based decision making groups in the current Act or regulations.

In view of the fact that some principals are inclined to take a very strict interpretation of the role of school councils, the Council of State School Organisations is keen to have in the legislation a broader and more explicit description of the function of school councils.

Mr BARNETT: In our view and on our legal advice, this is not a well worded amendment and as such would be a poor substitute for the amendments that I intend to move, which will give the school council a clear role in matters pertaining to sponsorship and advertising. Therefore, we do not support the amendment.

The DEPUTY CHAIRMAN (Mr Sweetman): The Minister has indicated that he intends to move the amendment on the Notice Paper in his name. There is a degree of overlap between the Minister's amendment and the one that the member for Belmont has moved. I intend to put a test vote, which is that lines 3 to 18 be deleted. If that vote is successful, in effect the member for Belmont will be able to continue with his amendment; if it is not, the Minister's amendment will be more correctly put. The question is that lines 3 to 18 be deleted.

Question put and negatived.

Mr BARNETT: I move -

Page 86, lines 19 and 20 - To delete "and 98(3)" and substitute the following -

, 98(3) and 204(5)

The effect of the amendment will be to enable school councils to approve any local arrangements concerning advertising and sponsorship, which is addressed later in the Bill.

Amendment put and passed.

Mr RIPPER: Is it the intention of that last amendment that councils have a veto on sponsorship arrangements?

Mr BARNETT: This amendment will give councils the power to approve. I am not sure whether that will extend to a veto. If we had an across-schools sponsorship arrangement - for example, for a Quit campaign - I do not envisage that a school council would be able to veto a government policy. I am advised that when we get to clause 204, I will move some amendments that will clarify the role of councils and give councils a role in respect of advertising and sponsorship, and a veto. I will give consideration to across-school policies. We need to think about that.

Mr Ripper: As things stand, they will have a veto, but you have a last minute worry about across-school sponsorship?

Mr BARNETT: Yes. I do not have a problem with a veto that will apply to things peculiar to a school. However, if a statewide program were implemented across all schools, I would be concerned if a school council could somehow exempt a school from that program. We will give that matter some thought, and by the time we get to clause 205, I will have an answer for the member.

Clause, as amended, put and passed.

Clause 124: Minister may approve additional functions for a Council -

Mr RIPPER: Clause 124(2)(a) states that with the approval of the Minister, a council for a school may take part in the selection of the school principal. Clause 125(1) states that regulations may be made prescribing functions that a council may perform only if it has the approval of the Minister in terms of subclause (2). The state Opposition opposes clauses 124 and 125 because it wishes to prevent school councils becoming involved in the hiring and firing of principals and teachers. This was a matter of some controversy recently and it made the front page of *The West Australian*. At a forum on devolution organised by the Education Department the Minister said that school councils would not be involved in the hiring and firing of principals and teachers.

Mr Barnett: No. I was talking about staffing and I said school communities and councils will not hire and fire staff. Schools already play a role in the selection of principals and can play a role in the merit selection of staff. That is appropriate. However, they are not the hirers and firers of staff. There is a difference between making a recommendation about an appointment and actually making the appointment. School councils are not the employers and they will not hire and fire staff. They should, and I hope they will, play a role on selection panels. Selection panels will not make the appointments.

Mr RIPPER: This distinction is becoming more mushy and grey. I thought the Minister said at the forum that school councils would not hire and fire staff.

Mr Barnett: They will not.

Mr RIPPER: I was pleased to hear that because WA is a very large State, in which some schools will be the subject of intense competition from teachers for appointment, and at other schools there will be virtually no competition.

Mr Barnett: Are you opposed to merit selection?

Mr RIPPER: No, I am not opposed to appointments based on merit. However, there should be a centralised staffing system which distributes the available teaching talent across the State in a fair manner. There must be a move away from the situation where, for example, the Paraburdoo school cannot get an manual arts teacher and the Carnarvon Primary School starts every school year without a full complement of staff. There are shortages of teachers in remote areas and the education of children living in those areas suffers as a result. If all the employment of teachers is organised on a local basis, to the extent that it is organised on a local basis there will be difficulty attracting experienced and knowledgeable teachers to less favoured areas, such as remote and rural areas. Schools in these areas will find it hard to survive in the competition for teaching staff. Unfortunately, some schools in the metropolitan area are not regarded by teachers as a preferred teaching environment, and those schools, which are principally in the less wealthy areas, will find it difficult to attract staff in the competition.

I have no objection to a school council telling the Education Department what type of principal appointment it would like. A school may want a principal with expertise in Aboriginal education, or one with great experience in

mathematics. The school councils will have a good role in indicating to the Education Department the type of staff the school requires. However, if staffing is organised on a school by school basis - even if it is called merit selection - the schools that are well off and well favoured will become even more well off and well favoured, while others will lose out in the competition.

Mr BARNETT: I understand the argument; it is put by the teachers' union.

Mr Ripper: It is put by a lot of people who support the public school system and worry about inequity.

Mr BARNETT: I refer the member to subclause 2(a), in which a school council may take part in the selection of the school principal. That is entirely appropriate, and I am encouraging school communities to take part in the selection of school principals. Those principals are merit selected but not merit appointed. There is a distinction. A selection panel involving the community and parents plays a role, along with Education Department personnel, in making a recommendation for the appointment of a school principal. The appointment is always made by the chief executive officer, who is the employer in the context of government schools.

Typically in merit selection the principal selects staff. The principal may decide to involve the community. Perhaps there is a philosophical difference between the member for Belmont and me. I want to see parents and community members involved. Although there has been controversy about the process, invariably where there has been merit selection of the principal it extends to merit selection of the staff, and there is a great sense of pride among the staff because they are there because they are good teachers, and there is an enormous amount of pride in the community that they had a role in the appointment of staff. The atmosphere among parents and staff is positive. I can see the point that the member makes that there may be some unintended consequences and some schools may face problems. We may need to provide extra assistance and implement special provisions to do that. I do not think it will arise, but if it does we will address that. However, that is not a reason to stop merit processes and community involvement. I support this. It is hardly a dramatic change or policy shift. It is interesting that the member for Belmont is raising this now, when the teachers' union did not voice this concern during the consultation process.

Mr RIPPER: I have listened to the Minister present this argument on previous occasions. Schools operating in a pilot program for merit selection will be more advantaged than if merit selection were spread out across the system. If only 60 or 70 schools are involved in merit selection, which is about 10 per cent of government schools, obviously they will have the pick of the teaching work force. The Minister has been visiting the winners under a merit selection system, and good luck to them if they can assemble a committed, enthusiastic and highly professional staff. However, I am concerned about those schools that are the losers. They begin term 1 with the dispiriting situation of having no English or manual arts teacher and have had to cancel a class, of possibly getting a retired teacher who is living in a town 30 km away if she is prepared to come over. The morale of those schools suffers and the education of the children suffer. I am concerned about the losers while the Minister has been visiting the winners.

Mr KOBELKE: I support the sentiments expressed by the member for Belmont. I appreciate that the Minister is seeking to encourage the good schools to do better. Where parents are involved and there is a sense of community, the Minister wants to encourage them to take a role in setting a course with their school, developing a style of education, and enhancing the education that is available, and if they want a particular type of principal to help them with that, that is all well and good. However, the Minister runs the grave danger of destroying something else that is good in our education system. We need to achieve a balance.

Mr Barnett: This is worthy in its own right and, given the Equal Opportunity Commission, appointments are essentially based on merit. We cannot wind back the clock.

Mr KOBELKE: I understand what the Minister is saying, but merit selection in many areas has become a dirty word.

Mr Barnett: I agree that a lot of criticism and concern arose about it. I have noticed significantly in the past six months or so, during this school year, that attitudes are changing quite quickly. It is working and working well.

Mr KOBELKE: The Minister has returned to an apt response to what I was saying, but I had not finished my point. I was applying it across the whole of government, not picking only on the Education Department. Many people across a range of agencies believe merit selection does not mean what the name suggests. It has nothing to do with selecting people on merit, as it has not been implemented to give opportunities for an advancement by those seen by the majority of their peers to be the most capable people. I allude to the problem not as a criticism of the Education Department, but regarding its applicability to any department the Minister may wish to identify. It is a matter of whether it works. Although one has good intentions to make it happen across a large bureaucratic system, it cannot be done.

What is the downside of this? The short answer is that we currently have a high quality of professionals in our teaching service. Clearly, a range of abilities and competencies can be found. One needs most of those people, if

not all, to make it work. If the Minister is to ensure that those who already have the most are able to organise themselves so they receive the best, it will lead to a dichotomy in the system. That would be a major negative. Public education has been a fundamental ingredient in developing Australian democracy. If we have no commitment to educating all children beyond a minimum standard, we will strike at the very heart of Australian democracy and the unity which largely has been achieved across a wide geographic area and a wide range of ethnic and religious backgrounds, irrespective of people's wealth and income. It is important, in promoting what is good, that we do not divide people between the haves and have nots. I am genuinely concerned that in aspiring to advance the best, as we should, the Minister's structure is likely to open up a big negative. Many teachers I have as friends and acquaintances in the past have had a clear commitment to education in the State. This has led them to be committed to their school, but the school has come second in many minds to a professional commitment to education. It is a danger that one could have a focus not on schools' interests, but the interests of the profession. Cosy arrangements will be made by which principals will swap posts which will be advantageous to them professionally.

Mr RIPPER: The Opposition has raised the question of quality of education opportunities regarding these two clauses. It is important to ensure that all schools in the State have a fair opportunity to obtain a fair share of the teaching talent available. If one has school by school employment, or some variant of or movement towards school by school employment, to the extent that such a move is made, some schools will be winners and others losers. The Labor Party fears that the losers will be the schools that are already struggling the most, and have the populations most difficult to educate. Schools that already have the least chance of raising additional resources from their communities will also be the losers if the new staffing regime is adopted.

We know that the public school system is a very important bulwark for equality of opportunity in this State. We do not want the public school system to become inequitable, because it would lose that role as a protector of equality of opportunity. We know also that education is becoming ever more important in determining people's future positions in society. In the coming world more and more advantages will accrue to people who are skilled and well educated. Fewer secure places will be available for people who have not managed to succeed in the education system. Education has always been an important determinant of people's social standing. It will become more so in the future.

Those equity considerations are important reasons that the Opposition will oppose these two clauses. When large numbers of teachers apply for large numbers of positions in a very large system, surely it would be more efficiently handled at a central level. I am already hearing that the process of merit recruitment and local selection is taking up considerable time at schools. I can envisage hundreds of teachers applying to dozens of different schools which would involve the applications being assessed many times; whereas that assessment could be done by a centralised selection panel, which would produce more consistency in selection and involve less wastage of resources than at the school level. It would allow schools to get on with educating children rather than involving themselves in what should be the human resources management responsibilities of the Education Department.

Clause put and a division taken with the following result -

Ayes (27)

Mr Ainsworth	Mr Court	Mr MacLean	Mr Pendal
Mr Baker	Mr Cowan	Mr Marshall	Mr Sweetman
Mr Barnett	Mrs Edwardes	Mr McNee	Mr Trenorden
Mr Bloffwitch	Mrs Hodson-Thomas	Mr Minson	Dr Turnbull
Mr Board	Mrs Holmes	Mr Nicholls	Mrs van de Klashorst
Mr Bradshaw	Mr House	Mr Omodei	Mr Osborne *(Teller)*
Dr Constable	Mr Johnson	Mrs Parker	

Noes (15)

Ms Anwyl	Mr Kobelke	Mr McGowan	Mrs Roberts
Mr Brown	Ms MacTiernan	Ms McHale	Ms Warnock
Dr Gallop	Mr Marlborough	Mr Riebeling	Mr Cunningham *(Teller)*
Mr Graham	Mr McGinty	Mr Ripper	

Pairs

Dr Hames	Dr Edwards
Mr Prince	Mr Grill
Mr Shave	Mr Carpenter
Mr Day	Mr Thomas

Clause thus passed.

Clause 125: Incorporated Council may have prescribed additional functions if approved by the Minister -

Mr RIPPER: Clause 125 raises the same issues as raised by clause 124. The same equity and efficiency considerations apply. I will not repeat all of the arguments. However, we oppose clause 125 for the same reasons as clause 124. I am interested in the additional functions which the Minister thinks might be extended to incorporate school councils under this clause. The Opposition is voting against this clause because we interpret it as giving the potential for school councils to be involved in the hiring and firing of not only principals but also school teaching staff. It is a very broadly worded clause which gives the Minister power to give additional unspecified functions to a council if it is incorporated. I will not rehash the arguments about equity and efficiency. I have done that already with regard to clause 124. However, I want the Minister to explain his intention.

Mr BARNETT: This clause relates to an incorporated council which could be given extra functions. A typical example might be to run the canteen and have responsibility for it.

Mr Ripper: That may be the Minister's explanation. However, in the way it is worded, the clause could give the council employment functions, could it not?

Mr BARNETT: I suppose it could in terms of employing people to work in the canteen, but not in employing principals or teachers; that would be the function of the chief executive officer.

Mr RIPPER: There is no restriction like that in this clause unless the Minister says that other clauses override it. The chief executive officer might remain the nominal employer of the teaching staff. However, all the essential human resource management functions - the recruitment, dismissal and transfer functions - which bear on where the quality teachers in the system go, would be exercised by the school council.

As I say, it is a very broadly worded clause. My interpretation is that under this provision the most significant parts of the employment function, even if the chief executive officer remains the nominal employer, could be given to school councils.

Mr BARNETT: Clause 126(c) makes it very clear that a council cannot exercise authority over teaching staff or other persons employed in the school. An incorporated council may run a canteen, or may decide to run some special out of school hours program, a youth program, and someone is employed to do that. That is fine; but it is not the teaching staff or the educational program of the school. The principal and the staff remain the people employed by the chief executive officer.

Mr RIPPER: Although clause 126(c) says that the school council cannot exercise authority over teaching staff, it does not say that a school council cannot, on behalf of the chief executive officer, do all the recruitment of the teaching staff.

Mr KOBELKE: The matters raised by the member for Belmont cause me concern. It is appropriate to speak on them now and not under clause 126, which says that a council cannot intervene in the control or management of a school unless the council is one to which clause 125 applies and the intervention is by way of performing a function prescribed for the purposes of clause 125. Again the Minister is saying what is his intent, but that does not necessarily match the way in which the words in the provision may be properly interpreted. It seems to me that clause 125 provides a mechanism by which a Minister in the future - I accept the Minister has said he has no intention of doing it; he does not believe it can be done - could devolve powers to a school council that directly relate to the appointment of staff.

The control and management of a school could rightly cover the employment of staff, and the method of staff selection. It is not saying that the staff would be employed legally by the council. However, matters relating to control and management and the school very much relate to the staff mix, and may come down to the individual staff members who are judged to serve best the educational interests of that school. Therefore, that "out" in clause 126 means that clause 125 provides powers to the Minister of the day, which I believe may go well beyond the Minister's desire and his expressed understanding of clause 125. I am not in any way trying to question the Minister's intent, but I do not believe the words match what the Minister says is the intent of the clause.

Mr BARNETT: The member is partly right: It would, theoretically, be possible to give a school council, so incorporated, the powers to recruit and recommend appointments; but it could not employ the principal or teaching staff. Under this clause we could devolve the power to recruit and make a recommendation; however, only the chief executive officer can make the appointment. Once staff members are appointed, they are responsible and accountable to the chief executive officer. We differ on this; however, I favour school communities' playing a role in the recruitment of staff. Clearly the education district directors and central office people would also be involved. We have a difference: We want to allow more freedom and let the system devolve with more authority to grow its school levels; those opposite do not.

Clause put and a division taken with the following result -

Ayes (28)

Mr Ainsworth	Dr Constable	Mr Johnson	Mrs Parker
Mr Baker	Mr Court	Mr MacLean	Mr Pendal
Mr Barnett	Mr Cowan	Mr Marshall	Mr Sweetman
Mr Barron-Sullivan	Mrs Edwardes	Mr McNee	Mr Trenorden
Mr Bloffwitch	Mrs Hodson-Thomas	Mr Minson	Dr Turnbull
Mr Board	Mrs Holmes	Mr Nicholls	Mrs van de Klashorst
Mr Bradshaw	Mr House	Mr Omodei	Mr Osborne *(Teller)*

Noes (14)

Ms Anwyl	Mr Kobelke	Mr McGowan	Mrs Roberts
Mr Brown	Ms MacTiernan	Mr Riebeling	Ms Warnock
Dr Gallop	Mr Marlborough	Mr Ripper	Mr Cunningham *(Teller)*
Mr Graham	Mr McGinty		

Pairs

Dr Hames	Dr Edwards
Mr Prince	Mr Grill
Mr Shave	Mr Carpenter
Mr Day	Mr Thomas

Clause thus passed.

Clauses 126 to 133 put and passed.

Clause 134: Regulations -

Mr RIPPER: I move -

Page 91, line 17 - To insert after "co-opted" the following -

provided that no co-opted member shall have any voting rights on the Council to which she or he is co-opted

This clause provides power for regulations to be made in respect of the functions, powers and duties of school councils and, in particular, regulations enabling councils to co-opt the members of the local community as members of council. Parents are very concerned to preserve their influence in school councils and they have asked me to move this amendment. They do not oppose the co-option of members of the local community to school councils, but they want those co-opted members not to upset the voting balance on the council. If this amendment is passed, the council will be able to co-opt members for their expertise, but that will not deprive the parents of their ability to exercise the influence that they expect to have on the school council.

Mr BARNETT: I want to understand the Opposition's intent. The previous clause debated dealt with the composition of the council, which included community members. The member's concern is that once the council, properly constituted, decides to co-opt another community member, for whatever reason, that co-opted person should not have a vote.

Mr Ripper: That is correct.

Mr BARNETT: I do not have a difficulty with that.

Mr RIPPER: The Minister is correct. This relates to a council, having been properly constituted, moving to co-opt other people for their expertise. They should feel free to do that without worrying about whether that will disturb the voting balance on the council.

Mr BARNETT: The Government accepts the amendment but reserves the right to make any necessary drafting changes.

Amendment put and passed.

Mr BROWN: Paragraph (b) enables councils to allow students to attend meetings and to take part in discussions, but not to have the right to vote or be counted in determining a quorum. Clause 122(1) provides that the membership of a council is to be drawn from the parents of students at the school or, where the majority of the students are aged

18 years or more, students at the school. This clause suggests that students will not be members of the council or voting members.

Mr BARNETT: That is correct. We have student members on the council and this enables councils to have other students attend for whatever reason. However, they would not have the rights of full council members.

Clause, as amended, put and passed.

Clauses 135 and 136 put and passed.

Clause 137: Objects etc. -

Mr KOBELKE: What is the intention and the Minister's understanding of subclause (3) which provides that a P & C association is not to expend its funds that are in excess of administrative costs otherwise than for the benefit of students at a government school? Recently there was some difficulty with a chief executive officer giving a direction that government funds for schools should not be spent on entertainment, or on flowers for funerals, and so on. That situation has been resolved in a reasonably satisfactory way. However, P & C associations may wish to put on, say, an afternoon tea, and people may argue that such a function does not relate to the benefit of students. Similarly, flowers may be sent to a funeral of perhaps a close relative of someone who has been very involved with the P & C association, and in that case it could be argued that the expenditure is not a direct benefit to students at a government school. We do not want to see money wasted. However, in some circumstances, the expenditure of small amounts on something not directly related to the benefit of the students could be very much about looking after the school community, and fostering the school community and the people contributing to it indirectly benefits the students.

Mr BARNETT: I understand the point. The subclause refers to the expenditure of funds in excess of administrative costs. One could argue that an afternoon tea, or any other minor expense, could be part of the general administration of the P & C association. I hope the provision will be interpreted relatively liberally, because it is appropriate to purchase flowers for retiring teachers or for someone who is in a stressful situation.

Mr Kobelke: It is within the guidelines of commonsense and would benefit the overall community.

Mr BARNETT: Perhaps that can be handled by way of regulations to make it clear. I agree with the sentiments expressed.

Clause put and passed.

Clauses 138 and 139 put and passed.

Clause 140: Transitional provision -

Mr RIPPER: This clause applies to the rules governing P & C associations. Subclause (2) requires a P & C association to become an incorporated association. I move -

> Page 94, after line 26 - To insert the following -
>
> (7) An association to which this section applies is not liable for the payment of any government fee or charge which might otherwise be required in order to fulfil the provisions of this section.
>
> (8) The Minister shall ensure that arrangements are put in place for the waiving of all government fees and charges referred to in subsection (7).

The amendment is almost self-explanatory. The clause requires P & C associations to become incorporated, and a charge is applied. P & C associations do not think that as a result of a government requirement they should be required to meet those charges. I hope the Minister will agree that if he is imposing an obligation on P & C associations he should meet the costs of that obligation.

Mr BARNETT: This amendment is based on the original provision in the Green Bill, which placed a requirement on associations to rely on their constitutions. Out of the consultation process it would recognise that that would impose obligations on P & C associations, including financial obligations and costs.

The redrafted Bill before the House compels only new associations or those not previously incorporated to become incorporated. The amendment has been overtaken by the changes that have been made to the Green Bill.

Mr RIPPER: I am grateful for the Minister's explanation, but it is not clear from the wording of clause 140 that it will apply only to new associations. Subclause (2) appears to back up my argument.

Mr BARNETT: Subclause (2) states -

> An association that is not incorporated at the commencement of this Division is to become an incorporated association . . .

It will apply to associations that have never been incorporated or that are newly formed. That will overcome the problem in the Green Bill.

Mr Ripper: Are many P & C associations not incorporated?

Mr BARNETT: I understand that the majority are incorporated. I cannot provide exact figures; I imagine the Western Australian Council of State School Organisations will be able to do that if the Education Department cannot. I understand that the majority are incorporated, and in the future we hope that progressively all new P & C associations will become incorporated bodies. It will be in their interests to do so.

Mr RIPPER: The Opposition will take the Minister's comments and consult with WACSSO, because the position the Minister has put is somewhat different from the advice I have received. Fortunately we have a bicameral system of government, and if we are required to revisit this matter, we will do so in the upper House. I will take at face value the Minister's assurance that he has attended to the matter which was originally complained about by WACSSO and that its existing constituent associations will not incur fees as a result of this transitional provision.

Mr BARNETT: We want them to be incorporated, and it is in the interests of members of P & Cs for that to be the case.

Mr RIPPER: Is the Minister telling me that the overwhelming majority of P & C associations will not incur fees as a result of this transitional provision?

Mr BARNETT: Not by compulsion, but certainly by persuasion we will continue to encourage P & Cs to be incorporated.

Mr RIPPER: If the Minister can tell me that this Bill will not require P & Cs to pay additional fees, I will not proceed with my amendment, but the Minister seems reluctant to give me that assurance, which makes me want to proceed with the amendment.

Mr BARNETT: The Bill requires P & Cs to be incorporated. The amendment will exempt P & Cs from paying an incorporation fee. The Green Bill required all P & C associations to align their constitutions with the standard constitution, which might have caused them to incur additional costs. The redrafted Bill compels new associations, or those not previously incorporated, to become incorporated. That is perhaps the distinction. The Bill requires, and WACSSO supports, that P & Cs be incorporated. That does not necessarily require the standard constitution.

Mr RIPPER: I will rely on my advice from the Western Australian Council of State School Organisations and persist with this amendment. If the Minister is sticking to his explanation, he may defeat the amendment but, in view of the uncertainty, I would appreciate it if the Minister would re-examine the issue before the Bill is finalised in the other place.

Mr BARNETT: If there is any uncertainty, I will do that. The effect of the exemption is to waive the $80 cost, which the Government will not agree to. The associations must be incorporated and it will cost $80.

Mr RIPPER: I will continue with my amendment if it will save each parents and citizens association $80.

Amendment put and negatived.

Clause put and passed.

Clauses 141 and 142 put and passed.

Clause 143: Other associations -

Mr RIPPER: I move -

> Page 96, after line 27 - To insert the following -
>
> > (6) An association referred to in this section may not be formed for the purposes of duplicating or countering any of the objects of an existing association already formed under section 136 except where in the opinion of the chief executive officer such existing association does not or is unable to properly represent the interests of any particular section of the community.

This amendment is moved to prevent the formation of rival parents and citizens associations at any school. The parents and citizens associations provide a forum for all parents associated with a school, and it would be destructive to the sense of cohesion in the school community if different bodies performed the same functions as a PCA. I am

mindful that there might be some reason for other groups of parents to get together. The amendment is not intended to prevent the organisations of Aboriginal parents which are established at schools. Those organisations play a very valuable role in supporting the education of Aboriginal children. However, I do not think there should be different associations for different age levels at the school, as occurs in some schools in which there is one association for the kindergarten and preprimary area, and another for the mainstream area of the primary school.

The amendment is intended to prevent the formation of rival parents and citizens associations, to reinforce the pre-eminence of the PCA as the principal representative of the parents. The Opposition does not want to frustrate the formation of associations of parents of Aboriginal children or parents of children with a disability who may be attending a support centre at the school.

Mr BARNETT: The Government does not support this amendment, although it does not want to limit the ability of parents and citizens associations to grow as an organisation. The member referred to associations of Aboriginal parents and community groups, and that is acknowledged. There may also be associations of ex-students, such as the Perth Modern ex-students association, which supports the interests of the school but is not a parent group or a PCA in the normal sense of the word. Associations may be formed around schools for the purpose of supporting schools.

Mr Ripper: You do not think my amendment would ban that?

Mr BARNETT: No, but the Government will not agree to the amendment because it does not want to restrict whatever might evolve in the future in terms of parent or community organisations around the school. The Government has confidence in and supports the PCAs and, at the same time, it will not put limitations on what might evolve.

Mr KOBELKE: I have real concerns about the wording of this clause, because if those provisions were abused they would be undemocratic. I am not assuming that is the intent of the current Minister. However, there will be times when education becomes a matter of keen public interest and debate, and groups will take a strong position on something which the Minister of the day of whatever political complexion will not be happy about. I am concerned that the Minister could be given powers that could be undemocratic; for example, the defence of government schools group which was prominent in the 1970s could be an organisation as defined in subclause (1). If the Minister of the day judges that the association is being carried on in a way that is not in the interests of schools, the Minister can direct the organisation to comply with his directions or be wound up. That action would be coloured by the political complexion of and line taken by the Minister. Although I understand that is not the Minister's intention, I am concerned about the extreme measures that are possible under clause 143. The wording is fairly loose. I am not saying that it could be applied in that way, because I am not clear what will be the final determination of this clause.

Subclause (3)(a) refers to an association defined in subclause (1) that is being carried on in a way that is not in the interests of the school. I do not know whether legally the word "school" will be interpreted in the plural. Would an association that applied across a number of schools for a particular purpose be caught by that, or is it intended to be limited to a school by school basis - for example, in the case of rival P & C associations or a ginger group in one area that is creating problems for one school? Let us take the current problems with local area planning. If an association in one district was opposed to local area planning and the Minister believed it was being carried on in a way that was not in the interests of the school, this clause gives power to the Minister to close down that group whether it is incorporated or not. That is totally undemocratic. I do not assume that this Minister will use those powers. However, the Minister of the day could use this power against a group that was politically active and had a strong power base in a group of schools and was campaigning on an educational issue of political significance and prominence. I am not clear whether this clause could be used in that way, but I have concerns about it.

Amendment put and negatived.

Mr KOBELKE: Is the Minister prepared to respond on the question of schools? What is the power of the Minister to take action and could it be applied, for instance, with a group that was formalised and not incorporated and ran a campaign against the local area planning?

Mr BARNETT: The intent does not relate to a school or a small group of schools. I note the member's point regarding, for example, local area planning. We will clarify that. If it is necessary to make an amendment, we will prepare one before it gets to the other House to make sure it is covered.

Clause put and passed.

New clause 144 -

Mr RIPPER: I move -

Page 96, after line 27 - To insert the following -

144. (1) For the purposes of this Subdivision the Western Australian Council of State School Organisations (Inc.) ("WACSSO") shall be regarded as the peak parent body in relation to government schools.

(2) The chief executive officer shall within 6 months from the day on which this section commences enter into an agreement with WACSSO to enable WACSSO to -

(a) operate as a representative body to the Western Australian Education Department and the government;

(b) provide guidance, support and training for its affiliated members and parents in general;

(c) participate effectively in panels, committees and councils constituted under this Act;

(d) seek subsidisation for the activities of WACSSO from the government; and

(e) do such things as are necessary generally to pursue WACSSO's objects.

(3) Any Council or any Parents and Citizens' Association has a right to affiliate with WACSSO.

New clause 144 would establish, for the purpose of the subdivision under consideration, the Western Australian Council of State Schools Organisation as the peak parents' body in relation to government schools. The clause further provides for the Western Australian Council of State Schools Organisation to enter into an agreement with the chief executive officer of the Education Department establishing the operation of the council as the representative body of parents and providing for the council to have a variety of functions. It also provides in subclause (3) for any council of any parents and citizens association to have the right to affiliate with WACSSO.

It will come as no great surprise to the Minister that the new clause is moved at the suggestion of WACSSO, which already has an established presence in Western Australian government school education. I am not sure of the level of funding received from the Education budget, but it certainly supports WACSSO. Its role as the peak body for parents and citizens associations in all government schools in Western Australia already has defacto recognition.

A similar organisation is the peak body in the non-government welfare sector - the Western Australian Council of Social Service, which also is funded by the State Government. It also has a defacto position in the non-government welfare sector and in the operations of the overall community services sector. That organisation was threatened with the loss of its government funding by a former Minister for Family and Children's Services. In fact, the threat did not come to pass because the Government took fright of the political implications of de-funding that peak body in the community service sector. Later the Minister who made the suggestion was removed from the portfolio in a reshuffle. That indicates that even a long-established defacto presence of a peak representative body in a sector can be suddenly threatened by the Government withdrawing funding. I imagine that the former Minister for Family and Children's Services who made the threat to withdraw the funding to the Western Australian Council of Social Service did so because, like previous Ministers, he was irritated by the council's criticism of the Government's policy.

Likewise I can imagine that a Minister for Education might become irritated with criticisms of government policy engaged in by WACSSO and might move to limit its influence by reducing its funding. Part of the benefit of a peak representative body like this is that it is prepared to blow the whistle on Governments. It is uncomfortable for Governments when that is done, but it is a role for them.

Mr Johnson interjected.

Mr RIPPER: When I was speaking about WACSSO and the irritation it caused Ministers I had in mind my period as the Minister responsible for that portfolio. I too suffered some irritation with the council's criticism. However, unlike the present Government did at one stage, I did not seek to impose my will by withdrawing its funding. A de facto presence in policy making can be undermined by a Government withdrawing funds. I would like to see the council's role recognised in the legislation so it can withstand retribution if it takes a political attitude that the Government does not like.

Mr BARNETT: The Government does not agree with the recognition of WACSSO in the Bill. This Bill does not represent WACSSO, the Parents and Friends Federation, the State School Teachers Union, the Principals Association or any other peak body. That is appropriate. In a practical sense WACSSO is the peak body for parent associations in government schools. If it is to retain that position, it will do so by its conduct and performance.

Mr Ripper: That is what I am saying - Governments might become unhappy with its conduct.

Mr BARNETT: The council is not a creation of government. It reflects, and has constituent membership of, parent and citizen associations. If it does not perform to the satisfaction of those associations, they will form something else or it will split. That is a direct measure on the performance of WACSSO. We provide support for WACSSO through a component of the salary of the director and with accommodation at 151 Royal Street.

In a similar way we provide a grant to the Parents and Friends Federation representing non-government schools. The council is an incorporated association and the Minister has no power to influence it or to appoint or remove directors or whatever else. It has a responsibility to perform and to represent its constituent P & Cs. If it decides to behave in a political way, the community will judge it accordingly.

That is the danger of a body like WACSSO. It must be careful with its comments and behaviour. It is a weakness of WACSSO that it depends on government financial support. It continually makes claims for additional government support. That makes it dependent on government and raises a concern. I suspect some members on this side of the House think we should not continue to provide financial support and I have some sympathy with that point of view.

Mr Marlborough: You are just being unkind as the night wears on.

Mr BARNETT: Too right. As a Government we want to see a peak organisation of parent associations. The council holds that position because of its membership. It will not be enshrined in that position through legislation. We will not confer that recognition or monopoly status on WACSSO, the State School Teachers Union or any other group. If they are good, they will have the membership and an influence on policy and the community. If they are not good, they will lose membership. If they behave in a political way, they will be seen and treated accordingly.

Mr JOHNSON: I support the comments of the Minister for Education and I accept the comment made by the member for Belmont that WACSSO is a very important organisation. However, does the member agree that WACSSO should not be seen to be politicised? Does he know who is the president of WACSSO and who is her employer?

Mr RIPPER: Yes, I am aware of that.

Mr Johnson: Could you tell us who they are?

Mr RIPPER: Yes, I am aware of that.

Mr Johnson: Could you tell us who they are? I am asking the question.

Mr RIPPER: The member for Hillarys should go ahead if he wants to put those personal matters on the record.

The DEPUTY CHAIRMAN (Ms McHale): Order!

Mr Johnson: I think your answer would probably embarrass you to some extent.

Mr RIPPER: If the member for Hillarys thinks it will embarrass me, he should go ahead.

Mr Johnson: You are asking for this parent body to be inserted in place of the one that has been suggested by the Minister when you know full well that the president of that body was a political candidate at the last election, continually speaks on behalf of West Australian Council of State School Organisations and I believe is employed by one of your colleagues. Is that correct?

Mr RIPPER: The member for Hillarys seems to know all about it, if he wants to put things on the record.

The DEPUTY CHAIRMAN: The member for Hillarys knows well to direct his comments to the Chair.

Mr Johnson: Madam Chair, I was directing my comments through you to the member for Belmont. However, I think his silence gives us the answer.

Mr RIPPER: I want the new clause inserted in the legislation, because the moment WACSSO throws up as its president someone with whom the member for Hillarys does not agree politically, the member for Hillarys is suspicious of the association. Perhaps if he were the Minister for Education, the future role and funding of the association might be at risk.

Mr Marlborough: The last woman I remember who made a name for herself on education matters is now working for the Attorney General. Is that not right?

Mr Barnett: Did she receive government funding?

Mr Marlborough: So what? She made a name for herself. She has been the Attorney General's right-hand person.

Mr Barnett: What office did she hold? She did not hold any office.

The DEPUTY CHAIRMAN: Order! The member for Belmont has the floor.

Mr RIPPER: I thank the member for Peel for his assistance. The dispute that has broken out between the backbench of the Government and members of the Opposition shows the problem which I am trying to deal with by amendment. The Government is suspicious of WACSSO unless WACSSO throws up as its leaders people with whom the Government has political sympathy.

Having listened to the member for Hillarys and the Minister for Education, WACSSO had better behave itself from the point of view of the Government, otherwise WACSSO might have some problems. The Minister said words to the effect that there will be trouble for WACSSO if it is seen to take a political role. The trouble is that one person's proper representative function is another person's political role. Government school education is, naturally, a political issue from time to time. It is inevitable that WACSSO will be required to take positions on matters that are in political dispute. I accept though that one would not expect the council to be a partisan body in a party political sense. I know that, despite the innuendo of the member for Hillarys, the current president of WACSSO is careful to recognise the distinction between the various roles that she occupies. Given the composition of that body, she would not continue to occupy the presidency of that body if she were not careful to distinguish between the different roles which she plays.

If the member for Hillarys wishes to put on the record for whom a person works to cast doubt over the bona fides of the representative organisation in which that person has a role, he can get up and make the allegation and say why he thinks it is relevant to this education debate; because what he is trying to argue is that that person is not doing her job and is not behaving with integrity because she has a political affiliation with which he does not happen to agree.

I do not accept that. I do not accept the Minister's implied threats to WACSSO that it had better not take a political role, otherwise he might not be able to hold back the unrest or the lack of sympathy on the government benches. I want to see the role of this peak representative body protected from actions like that. I want to see that reflected in the legislation.

Mr BARNETT: I really do not want to pursue this, but I will make an observation which the Opposition probably will not like. The other side of the issue raised by members opposite is this: The President of WACCSO holds two positions which, at least potentially, raises a serious conflict. I do not reflect on the President of WACSSO or her conduct. Even she will concede that I have been very fair, open and reasonable right through the election campaign, perhaps to the annoyance of some candidates. Because she has two positions - I do not reflect on her; perhaps I reflect on myself - in the next week or so it will directly affect what I will discuss with WACSSO and what I will not. That is the reality of the conflict that exists.

Mr RIPPER: I am not sure what the Minister is saying.

Mr Barnett: I am making an observation.

Mr RIPPER: I think he is saying that he does not trust the President of WACSSO, that he is not prepared to divulge certain information to her. I do not know quite what he is saying. The implication is that she would misuse that information. That is outrageous allegation. Has the Minister any evidence that she has misused information he has given to her in the past? In my experience of dealing with the person in question, she has been very honourable in the way in which she has approached any potential conflict of roles she has. I absolutely reject any assertion by the Government that her position compromises the organisation in any way.

Mr BARNETT: I will not pursue this. As I said, I do not reflect on the person concerned. The observation I make is that my choice as to the amount of information or the level of consultation that will take place with WACSSO, the teachers' union or any group will be influenced by that fact. That is the reality, and we cannot get away from that.

Mr RIPPER: Is this retribution for the Opposition having taken up a significant number of amendments to this Bill proposed by WACSSO?

Mr Barnett: No.

New clause put and a division taken with the following result -

Ayes (15)

Ms Anwyl	Mr Kobelke	Mr McGowan	Mr Thomas
Mr Brown	Ms MacTiernan	Mr Riebeling	Ms Warnock
Dr Gallop	Mr Marlborough	Mr Ripper	Mr Cunningham *(Teller)*
Mr Graham	Mr McGinty	Mrs Roberts	

Noes (27)

Mr Ainsworth	Dr Constable	Mr Johnson	Mrs Parker
Mr Baker	Mr Court	Mr MacLean	Mr Sweetman
Mr Barnett	Mr Cowan	Mr Marshall	Mr Trenorden
Mr Barron-Sullivan	Mrs Edwardes	Mr McNee	Dr Turnbull
Mr Bloffwitch	Mrs Hodson-Thomas	Mr Minson	Mrs van de Klashorst
Mr Board	Mrs Holmes	Mr Nicholls	Mr Osborne *(Teller)*
Mr Bradshaw	Mr House	Mr Omodei	

Pairs

Dr Edwards	Dr Hames
Mr Grill	Mr Prince
Mr Carpenter	Mr Day

New clause thus negatived.

Clause 144: Definitions -

Mr RIPPER: This clause provides a number of definitions with regard to the operations of the non-government school sector. I refer to the definition of "school system". There is also the definition of "system agreement". I am concerned that school systems could be quite small under the arrangements in this Bill. I am not sure of the number of schools that are required to make up a system. If the Minister makes a system agreement with any system, substantial functions are devolved from the Minister to the system. That is perfectly appropriate when we are dealing with the Catholic Education Office, which is a substantial organisation in its own right and could well accept the devolved responsibility from the Minister. Is it not the case that some systems recognised under this Bill and with which potentially system agreements could be reached, would be too small to accept the devolution of the powers which could be provided for under a system agreement?

Mr BARNETT: That is the case. An obviously large and well operating school system is the Catholic school system, to which we have already devolved quite a lot of administrative detail; for example, the allocation of low interest loans in that school system. There are two elements to this: First, there would need to be sufficient numbers of schools and a sufficient coordination between those schools, and perhaps a central organisation, for it to be recognised as a school system. That would be the first hurdle to overcome. Second, once recognised as a school system, there is no automatic devolution; in fact, there is no prescribed amount of devolution that might take place. The concern is not warranted. There would have to be a significant group of schools and significant coordination in administration for them to be recognised as a school system. Even once recognised, there is no laid down amount of devolution of responsibility that might take place. Merely recognising a group of schools as a school system does not mean anything about the extent that responsibility might be devolved to it.

Mr Ripper: Under this Bill, how many schools would we need before we would have a school system?

Mr BARNETT: It is a minimum of two. The only school system formally recognised in that way immediately will be the Catholic school system. We are not talking about loose groups of two or three schools, but significant organisations.

Mr RIPPER: The Minister has advanced a proposed administrative approach about which it is difficult to argue. However, the Bill does not match that approach. Theoretically another Minister could recognise a system with only two schools, reach a system agreement and devolve many powers to it. The Bill is more loosely framed than the proposed administrative policy. Although I do not intend to move an amendment, I would prefer it if school systems were required to be somewhat more substantial than this Bill appears to allow before these arrangements could come into effect.

Mr BARNETT: I agree. However, once we try to prescribe that sort of thing in legislation we might rule out something admirable. We might have a very small, well run and coordinated, specialised school system providing for Aboriginal children. It might be appropriate to recognise such a system. This clause allows many variations. The intent is to recognise significant school systems, but we might get a boutique school system in some areas. However, the criteria will be their professionalism and ability to manage their affairs before they would be recognised, let alone have responsibilities devolved.

Mr RIPPER: What school systems and system agreements are likely to be dealt with in the next two or three years?

Mr BARNETT: The Catholic school system would be recognised immediately. I refer members to clause 167, which outlines the content of the system agreement. The requirements to be recognised as a school system are exacting;

a loose affiliation of schools will not qualify. It must be a well run and coordinated system in itself. The Catholic education system has 154 schools; the Anglican Schools Commission has four schools; the Swan Christian Education Association has six schools; and the Seventh Day Adventists organisation has nine schools.

Clause put and passed.

Clause 145: References to chief executive officer -

Mr RIPPER: This legislation seems to provide for a separate Department of Education Services to monitor the non-government school sector and to administer the Government's relationship with it. Nowhere is a department with that name mentioned in the Bill. Is the Bill structured to provide for two separate departments? It is not possible to determine whether we must have two separate departments or whether that is the way it operates at the moment.

Mr BARNETT: They could be the same and they could be different. Indeed, if the system is restructured, it may well change. My preference, and it is appropriate for the future, is for the Education Department to run a large government school system. The non-government schools are happy with the arrangement whereby their administrative responsibilities are channelled through the Department of Education Services. It is separate from the Education Department and therefore avoids potential conflicts of interest between government and non-government schooling.

Clause put and passed.

Clause 146 put and passed.

Clause 147: Offence of carrying on unregistered school etc. -

Mr KOBELKE: I would like to make some general comments on this and following clauses, in the hope of obtaining a clear view of what is or what is not a school. Clause 4 defines a school as a government school or a non-government school. We have dealt with a non-government school which is declared as such by the Minister. This clause defines an establishment that carries out an educational program; and makes it an offence to do that if certain requirements are not met.

Under clause 149 the Minister may register non-government schools. I take that as a determination of what is a non-government school; that is, an organisation which is carrying out educational programs and is registered. What will be registered to be called a non-government school?

Clause 147 states that a person must not establish or carry on an establishment that provides an educational program for children in their pre-compulsory education period, compulsory education period, or post-compulsory education period unless the establishment is registered. That registration occurs under clause 149 which also applies a penalty of $10 000 and a daily penalty of $50.

This matter should be taken seriously to ensure that someone does not set up and call an establishment a "school" which is not in accordance with reasonable standards and the requirements of this Bill. However, many educational programs may or may not be called schools. Ballet schools run educational programs, which would be picked up under "educational programme" in clause 4 as an organised set of learning activities designed to enable a student to develop knowledge, understanding, skills and attitudes relevant to the student's individual needs. Although clause 147 relates to the pre-compulsory education period etc, it does provide a requirement for the amount of time involved. Therefore, it appears that one could have to register as a school, a ballet school which runs dance classes. I do not say this should not be done, but it must be clear how far the provision will go.

Currently many educational programs are run to help children with special needs. There are tutoring-type schools which help students to pick up in areas where they have difficulty. Many educational development programs are available which help students who have different types of learning difficulties or psycho-motor development needs. Many programs are offered - some call themselves "tutoring"; others call themselves "reading assistance"; some call themselves "schools". The secondary question is whether the organisations could use the schools now. Can a dance school still be called a dance school or will it be required to be registered?

Proposed subsection (2)(c) is the key; that is, an establishment that provides an educational program of a kind prescribed by the regulations is allowed as an out. If an educational program is that which is provided by an establishment prescribed by regulation as opting out, we do not need to have a registration as a school.

I am not sure whether the Minister already has a clear view about when a school would be required to be registered. In the post-compulsory area, a training program might be offered at what was called the Osborne Park school of welding. Would such a school be required to be registered?

Mr BARNETT: I recognise that the definition of a school for this purpose is a complex matter and that all sorts of

possibilities arise. The regulations will describe in detail the characteristics of a school and will address the number of children, the nature of the educational program and the duration of instruction, and will lay down the minimum criteria. That is not easily done. The member is right; it may sound simple to define a school, but in practice it is not. We recognise that, and that will be dealt with in the regulations.

Mr KOBELKE: Will the regulations prescribe schools that will be exempt because they run educational programs that are limited in nature and not part of the mainstream education system, such as dance schools that offer only part time tuition, or some of the post-compulsory and trade related schools? The regulations need to set aside immediately schools that offer tutoring or specialised assistance for children with special needs so that they can continue to offer their educational programs and not be caught up with the requirements of the Bill.

Will the use of the word "school" in this Bill prohibit organisations such as driving schools from using the word "school"; and, if so, what will be the extent of that restriction?

Mr BARNETT: We will, through regulations, immediately exclude a range of organisations that are defined as not being schools. This Bill does not address the use of the word "school". That is a general term that can be used in a variety of areas. The use of a word such as that is prescribed in the regulations and generally comes under the companies law. People are not entitled to register words such as "university" or "chamber of commerce", because they have limited application. The word "school" is not within that category and can be used widely.

Clause put and passed.

Clauses 148 to 151 put and passed.

Clause 152: Matters to be considered by Minister -

Mr RIPPER: This clause details the matters that must be considered by the Minister in determining an application for registration, or for the renewal of registration, of a school. Paragraph (e) refers to the qualifications of the teachers. Subclause (2) states that -

> The Minister may determine standards in respect of the matters referred to in subsection (1) and is to determine any standard in accordance with consultation procedures prescribed by the regulations.

I am interested to know whether the standards the Minister will determine with regard to the qualifications of teachers in the non-government system will be the same as the standards provided for in clause 223(2) for the government school system; that is, a person is not to be employed as a member of the teaching staff unless the person holds a qualification recognised by the chief executive officer as being an appropriate qualification.

The Bill provides two different provisions and two different mechanisms for determining the teaching qualifications required. One mechanism in the government school system is a determination by the chief executive officer, and the other mechanism for the non-government sector is a ministerial determination of the qualifications of the teachers required before a school will be registered or before its registration will be renewed. Is it anticipated that the two standards will be the same? If not, why not?

Mr BARNETT: The process for registration of schools and the criteria are broadly similar to what happens currently. It is done in a very exacting way, and I am always impressed by the diligence with which the task is undertaken. I recently formed a non-government schools committee which will look into issues we have discussed previously, such as the number and location of schools. It will also look at the registration of new schools. Through the formation of the Department of Education Services, there is a very positive and constructive relationship between non-government schools and government. I commend the officers in that department for the way that has been developed, and I also commend the non-government sector. It is a good and professional relationship, from my observations and experience.

With regard to the standards, particularly with reference to teacher qualifications, I acknowledge the reality that in some non-government schools teachers may not have the qualifications required in either government school systems or the larger school systems. That issue is being dealt with through consultation. The Government is conscious of standards, but there may be differing standards of teacher qualification in the government system and some parts of the non-government system. Generally, that stage is passing, as qualifications and qualified teachers are spread throughout the system, although there are some existing cases.

Mr RIPPER: Is it anticipated that eventually the qualifications of teachers necessary to satisfy the registration requirements will be the same as those required in the government school system? Is that the aim of policy in this area?

Mr BARNETT: We shall debate this at some stage with regard to teacher registration. From my perspective, if

minimum standards are required, I would like them to apply in all schools, and certainly all schools receiving government funding, whether as government schools or through per capita grants to non-government school systems. That is desirable but, in reality, we must recognise the circumstances and location of some schools, and some of the cultural issues that may impact on some schools. I am not talking necessarily about Aboriginal issues, but about some of the European and ethnic groups running schools.

Mr KOBELKE: There is a major problem embedded in clauses 152 and 153 in that the provisions address two issues that should be kept separate. They may have been run together for drafting convenience. These two issues are the need to ensure, first, that non-government schools provide the required quality and standard of education and, second, that government funding is efficiently spent in supporting such non-government schools.

They are two different issues but they are caught up together. If a group wanted to set up a small community school without government funding it should not have to meet the criterion of location of the premises. The premises should be of a standard to meet the health and safety requirements of children and teachers. However, the location should not be a matter of concern to the Minister granting or refusing registration. Clause 153(f) states that a school will not have a detrimental effect on the ability of an existing school to function as a school. The main issue is that if a school were established in an area where it would take students from an existing school and therefore create inefficiencies and perhaps waste government money, the Minister would not want to register that school for the purpose of funding, but not necessarily for the purpose of ensuring that it provides a quality education. On the whole, this confusing of the two issues will not create a problem. That is because most established schools will be a strong political lobby if the provisions in clause 152 were used in a way which they considered inappropriate. However, I am fearful that small community based schools, which have a place even though they educate only a small number of students, would not have the political muscle to stand up for their rights. It would be open to the Minister of the day to close a school down because it was being effective and drawing students from another school which might become uneconomical to operate. The Minister should be able to take economic grounds into account. He should be able to refuse funding to a non-government school because the viability of a quality non-government school in the area would be threatened. This clause and the following clause go beyond that by saying that a school will not be allowed to function on the basis that it is a threat to the viability of another school. We should not give the Minister that power. If non-government schools are a matter of choice, we should not close them on such economic grounds when they are providing a quality education for the children who attend that school.

Mr BARNETT: From a government perspective registration performs an assurance that the school provides an appropriate education; it has the appropriate staff, facilities, curriculum and the like. From the school's point of view registration gives access to both commonwealth and state funding, which is critically important. I have yet to come across a non-government school that has not sought registration and government funding. The scenario the member for Nollamara gives that location is important is correct. The Non-government Schools Committee looks carefully at location so the Government does not devalue existing expenditure whether by government schools, or by partly government funded non-government schools, by the proliferation of other schools. If a school operates and it has not sought or received registration and it continues to operate, it is not that the Minister will close it down. The issue is the basis under which the children are being educated. If it is not a government school or registered non-government school, it amounts to home education and those children's education will be required to meet the home education provisions.

Effectively, it might be in the form of group home education. The Plymouth Brethren might be an example of something approaching that situation. That would be allowable under the requirements of home education. People can hire a hall and run a school - no-one will stop them doing that - but they cannot expect government money if the school is not registered. At least they must meet the requirements of home education.

Mr KOBELKE: I accept the Minister's indication that one option for such a group would be to establish it as with non-school education. If a group of parents wanted to establish a school of 30 to 50 students, but did not meet the criteria for location - it will not be a common event - and it appeared to be an inefficient use of government funds, would the Minister be willing under clause 147(2)(c), by regulation, to provide an exemption so an education program could be run without receiving funds? It might open up a range of other problems with the Bill's construction. Does that provide another means by which parents can provide a real school, but one not meeting certain criteria in relation to funding? Could they find a mechanism to operate as a school while not receiving government funding?

Mr BARNETT: We are entering hypothetical situations. We would look to examples such as the Plymouth Brethren. The Government is supportive of it, although it has not operated as a registered school as such. We would look at it on its merits. Ultimately, it is the quality of the education program which counts.

Mr KOBELKE: I have taken an interest and had some minor involvement with schools such the Steiner school, Montessori schools and small community schools set up by groups of parents. I understand that the Minister for

Health and his wife were very much involved in a community school in Albany about which I have heard good reports. The school may want to run very good programs. Such schools are run on the energy and enthusiasm of parents, and consequently do not necessarily have a long life. The Minister properly does not want to provide for a school if it were to be detrimental to the quality of education in the area generally. A mechanism should be created for such schools if they meet all other criteria relating to the quality of education. The only problem is that they present economic issues for the viability of schools in the area.

Clause put and passed.

Clause 153: Grant or refusal of registration -

Mr RIPPER: This provision deals with the grant or refusal of registration for non-government schools. Significantly subclause (2)(f) reads -

> the school will not have a detrimental effect on the ability of an existing school to function as a school; . . .

This is where the operation of the new non-government schools committee will come into effect. Who has been appointed to that committee, and what are its reporting arrangements? Will the Parliament, for example, receive any information about the way in which that committee works and the decisions it makes? Also, clause 161(3) makes reference to a non-government school registration advisory panel. Is that panel the same body as the new non-government schools committee, which we have been discussing?

If it is not the same body, what is the difference in functions between the two bodies?

Mr BARNETT: I will happily provide a list of the membership of the Non-government Schools Committee. The non-government school registration advisory panel does not exist. It is one of the advisory - almost appeal - processes in this legislation. If a dispute arose over the refusal of the Minister to register a non-government school, that panel would be established to review the situation. It is a panel to be established on a needs basis; it will not be a permanent fixture.

Mr RIPPER: Will there be an annual report from the new Non-government Schools Committee? Will the Parliament and the public find out whether the committee has refused registration to a school and the basis on which it has been refused?

Mr BARNETT: There is no formal reporting process. It is advisory, to help the Minister make decisions on registration or non-registration of non-government schools. There is no mystery about it. If the member cares to write detailing what information he would like, I would be happy to provide it. It is an advisory group comprising membership from both government and non-government education. It seems to be working very well, albeit for a brief period so far.

Clause put and passed.

Clauses 154 to 159 put and passed.

Clause 160: Cancellation of registration -

Mr RIPPER: The grounds for cancellation of registration do not seem to be as specific or comprehensive as the grounds for registration. The point I am making is that the Minister must consider a specific and comprehensive list of matters before a school can be registered or have its registration renewed. However, when it comes to cancellation, the provisions do not seem to be as all-encompassing. Will the Minister assure us that all the matters considered when a school is registered will be considered when the possibility of cancelling its registration is considered?

Mr BARNETT: Registration will be cancelled when a school breaches the Act or fails to meet the school registration criteria. It obviously would not be a decision made lightly. From my experience an enormous amount of consultation would be undertaken and a huge amount of effort put in to help the school before it reached that position.

Mr Ripper: Have you cancelled the registration of a school in recent times?

Mr BARNETT: I could stand corrected, but I do not think we have cancelled a registration. In one or two cases schools have needed some counselling and advice to avoid the loss of registration. Those preventive mechanisms naturally arise. It is important we have the ability within the Act to cancel registration if a school is not performing.

Mr KOBELKE: That matter was debated some time ago on another clause. I have concerns about subclause (3), that the matter must be "in the opinion of the Minister" only for the cancellation of registration. The cancellation of registration requires notification in subclause (2); however, in subclause (3) it does not require that notification if the health or welfare of persons may be at risk if the registration is not cancelled immediately. That is quite right and proper. However, if there were a risk to the health or welfare of persons, the Minister would close it without the

notice. If people were aggrieved by that and felt that there was no risk to health or welfare, they would have a right to challenge the matter in the court. However, because it is in the opinion of the Minister, they have no basis for challenge.

The Minister does not need the words "in the opinion of the Minister" because he would take that step only in exceptional circumstances. The exceptional circumstances would be where he, or any other Minister, had evidence that the health or welfare of persons were at risk. If the Minister of the day got it wrong, legal redress would be available to the parties involved with the school. As it is worded in that clause, the Minister of the day would simply cancel the registration on the basis of his opinion, which means the matter could not be challenged and held up for any form of objective verification that there was a basis for fearing that the health and welfare of persons were at risk.

Mr BARNETT: We understand the point the member makes, though he is lacking in trust and confidence in Ministers.

Mr Kobelke: Not about this Minister. We do not know who will come after.

Mr BARNETT: This is discretionary, and it needs to be discretionary. The reality is that the Minister would act only on advice and with care. If that decision is not well received, there are appeal processes, either through this Act or through the courts. However, there may be a situation - it happens to Ministers all the time in many areas - where a judgment must be made, someone must make a decision. An example in this context might be, despite controversy and differing opinions in the community, where a Minister might close a school, say at Wittenoom; or the Burekup situation where the termites ate the school. There was dispute about whether the school was going to fall down. A Minister may decide, "I do not care. You can have that dispute. However, I will not risk it; I will close the school." We should not make it too prescriptive that we take away that ability of judgment. Perhaps wrong decisions will be made from time to time, but there must be an ability to assess the situation and make a judgment, even if there is dispute over medical evidence, health requirements, safety of buildings, or whatever else. We need to allow that to stay.

Mr Kobelke: In both of the examples given by the Minister, there was clear objective evidence on which the Minister could take that stand. If the Minister had been challenged in court, he would have been able to defend it; whereas when the words "in the opinion of the Minister" are inserted, there are no grounds for challenging the decision if a bad decision is made.

Mr BARNETT: I dispute that. We in this Chamber may say there was clear evidence, hence the Government acted. However, the history and the debate on Wittenoom shows there were differing opinions among the community as to that. Similarly, there were differing opinions at Burekup about the school. The power will not be exercised lightly; however, a judgment must be allowed. In a portfolio such as Education, from time to time situations occur where a Minister must act. It is important that ultimately someone must have the power to make decisions.

Clause put and passed.

Clauses 161 to 166 put and passed.

Progress reported.

BILLS (3) - APPROPRIATIONS

Messages from the Governor received and read recommending appropriations for the purposes of the following Bills -

1. Port Authorities Bill.

2. Gas Pipelines Access (Western Australia) Bill.

3. Fire and Emergency Services Authority of Western Australia Bill.

House adjourned at 10.45 pm