Legislative Council

Thursday, 13 October 1988

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

CHILD SUPPORT (ADOPTION) BILL

Second Reading

HON J.M. BERINSON (North Central Metropolitan - Attorney General) [2.32 pm]: I move -

That the Bill be now read a second time.

The Child Support (Adoption) Bill extends the Commonwealth child support scheme to Western Australian children who are otherwise beyond the reach of Commonwealth legislative powers. The Bill ensures that all children in this State can benefit from the child support scheme. The Commonwealth's Child Support Act 1988 came into force on 1 June 1988. The legislation introduces a new national system for the collection of maintenance in Australia and is designed to ensure regular, reliable payments by non custodial parents. The purpose of the scheme is to ensure that wherever financially possible both parents contribute to the cost of raising their children. The central part of the child support scheme is the Child Support Agency established within the Australia Taxation Office. Court ordered child maintenance will in most cases be automatically deducted from the salary or wages of non custodial parents.

The need for the State Bill arises from the limited nature of Commonwealth law making powers concerning children. Since 1975 when the Commonwealth enacted its Family Law Act those limitations have caused serious jurisdictional problems in States other than Western Australia. We were able to avoid most of those problems by establishing our own Family Court of Western Australia. To overcome these difficulties New South Wales, Victoria, South Australia and Tasmania in 1986 referred power to the Commonwealth to legislate for the maintenance of children. On the basis of that reference, the Child Support Act extends to all children in those four States. Section 51(37) of the Australian Constitution allows this State to now adopt that law so as to extend its cover to all children in Western Australia.

The Bill adopts the Child Support Act in the form that that Act exists on the day the adoption is effected. Further adoption will be required of any subsequent amendments to the Child Support Act. Provision is made in clause 2(2) of the Bill to bring the adoption into operation by proclamation. The Bill also makes provision in clause 6 for the Governor to make arrangements with the Governor General for the transfer to the child support register of collection agency maintenance liabilities in Western Australia. These liabilities are existing maintenance orders and agreements made by the Family Court of Western Australia and currently being collected, disbursed and enforced by the Western Australian collector of maintenance, or, outside the metropolitan area, by Clerks of Courts. The arrangements will allow existing liabilities to be transferred to the child support scheme for collection.

Provision is made in clause 6 of the Bill to terminate State adoption by a proclamation published in the *Government Gazette*. Similar provision has been made by New South Wales, Victoria, South Australia and Tasmania in the Acts of those States which refer power to the Commonwealth.

I commend the Bill to the House.

Debate adjourned, on motion by Hon John Williams.

FAMILY COURT AMENDMENT BILL

Second Reading

HON J.M. BERINSON (North Central Metropolitan - Attorney General) [2.34 pm]: I move -

That the Bill be now read a second time.

The Family Court Amendment Bill amends provisions of the Family Court Act concerning child maintenance to bring them into line with recent changes to the Commonwealth Family Law Act 1975. Those changes were made as a result of the new Commonwealth child support scheme. The Bill also amends provisions of the Family Court Act concerning paternity testing to bring them into line with recent changes in the Commonwealth Family Law Act concerning parentage testing.

The Bill continues the commitment of the Government to ensure that all children in Western Australia, whether nuptial or ex-nuptial, will be treated equally under the laws in force in this State. The Bill overcomes the constitutional limitations on the Commonwealth's law making powers concerning children by enacting complementary State legislation. Clause 8 of the Bill prescribes the approach to be adopted by the Family Court of Western Australia in child maintenance proceedings under the Family Court Act and sets out the matters to be taken into account in considering the financial support necessary for the maintenance of the child. These include the proper needs of the child, the income of the child, the age of the child, the manner in which the parents expect the child to be educated, special needs of the child and earning capacity of the child. In keeping with the child support scheme, any entitlement of the child or any person to an income tested pension, allowance or benefit is to be disregarded. The matters to be taken into account by the Family Court in determining the financial contribution that should be made by a parent are set out in the Bill. These provisions are in similar form to the new maintenance provisions enacted by the Commonwealth in division 6 "Maintenance of Children" of the Family Law Amendment Act 1987.

Provision is made in clause 10 of the Bill that any entitlement to an income tested pension, allowance or benefit will be disregarded when a court considers the liability of a father to pay preliminary expenses.

In clause 7, provision is made for step-parents to assist in the maintenance of stepchildren in certain circumstances. Prior to 1975 a similar liability was imposed on step-parents in Western Australia under the provisions of the Married Persons and Children (Summary Relief) Act 1965. When in 1975 the Commonwealth enacted its Family Law Act and made provision for maintenance of children by step-parents, Western Australia repealed those provisions. Only in 1986 in a series of decisions in the High Court of Australia has it become clear that the provisions of the Family Law Act in regard to step-parents are invalid and beyond the legislative power of the Commonwealth insofar as they purport to impose liability on step-parents to maintain stepchildren.

In the Family Law Amendment Act 1987 the Commonwealth has enacted new provisions governing step-parents. Those provisions rely on the reference of power by New South Wales, Victoria, South Australia and Tasmania concerning the maintenance of children. The new section 58D of the Family Court Act is modelled on a provision in the Family Law Amendment Act 1987 and will again ensure that stepchildren in Western Australia are treated the same as stepchildren in all other States of Australia and that the duty of maintenance imposed on step-parents is the same throughout Australia.

Clauses 11 and 12 amend the Family Court Act provisions concerning paternity testing and bring them into line with the Commonwealth provisions in sections 66V and 66W of the Family Amendment Act 1987 concerning parentage testing. The amendments are to sections 82D and 82E of our Family Court Act which were only inserted into the Family Court Act in 1987. At that time they were intended to bring our Act into line with provisions in the Family Law Act. The Commonwealth has now substantially amended its provisions and it is appropriate that Western Australia amend its complementary legislation so that the same paternity testing procedures apply in Western Australia as elsewhere in Australia.

I commend the Bill to the House.

Debate adjourned, on motion by Hon John Williams.

CRIMES (CONFISCATION OF PROFITS) BILL

Report

Report of Committee adopted.

CRIMINAL LAW AMENDMENT BILL

Committee

The Deputy Chairman of Committees (Hon P.H. Lockyer) in the Chair; Hon J.M. Berinson (Attorney General) in charge of the Bill.

Clauses 1 to 7 put and passed.

Clause 8: Chapters VI, VII and XI and sections 713 and 730 repealed and section 584 amended -

Hon J.M. BERINSON: I move -

Page 4, line 18 - To delete ", VII".

This is the first of several amendments made necessary by the Government's decision at this stage to accommodate the Opposition in its view that the chapter dealing with sedition should not be deleted. The original Bill moves to delete that whole chapter. In considering the advance advice from the Opposition on this question, it has emerged that there is a power, albeit only small, in chapter VII which continues to have a field of operation in spite of Commonwealth legislation on the same issue. Rather than take the time to offer further very substantial amendments to chapter VII, the Government proposes that chapter VII be left unaltered and that further attention to the sedition sections be given as later amendments to the Criminal Code emerge.

Hon JOHN WILLIAMS: The Opposition has been advised that certain matters in relation to this chapter could have created constitutional difficulties. The Attorney General was most modest when he said it was a small power. He and I both know that, for the purposes of the clause, it would have been very difficult to introduce it to the Parliament in time if amendments were to be made to all the other Acts. I thank him for that because it leaves a little in the Criminal Code.

However, I hope the Attorney General will indulge me for a second. My notes on this are not extensive, but being a sentimental person and a royalist, I say to the Attorney General that it is a pity that for the historical record chapter VI was not retained. I say that without rancour. I know that, even if I implored the Attorney, he would not retain it because circumstances have overtaken both the Government and the Opposition. This is one of the most historical moments in my parliamentary career. We asked that the chapter on treason be kept in the code. We did not want it to be operative, but historical. Although some members of the Chamber such as the Deputy Chairman (Hon P.H. Lockyer), Hon Phillip Pendal, the Attorney General, and Hon Bob Hetherington - who is an historian of note - know that we are closing a chapter of history this afternoon by agreeing to delete chapter VI of the Criminal Code relating to treason, many people do not.

The Attorney General is far more learned than I am, so I ask him to check his memory, but I believe that the reason for closing chapter VI is that we are now closing once and for ever the doctrine of indivisibility of the Crown, which was first established in 1199 by King John. Times have moved on and 1199 was the starting point for the recording of the law. Some people may tell me that the Domesday Book in 1066 was the beginning, but that is not true. The recording of the law began in 1199 under King John. Then the doctrine of the indivisibility of the Crown was held. The first little crack in that indivisibility appeared in 1931, when the first Statute of Westminster was passed. It created the tremor of the earthquake yet to come. The divisibility of the Crown was then established after 1931 when it was established in New Zealand in 1977.

Hon G.E. Masters: I hope you are going to reply to this.

Hon JOHN WILLIAMS: The Attorney General is extremely learned and he knows what I am talking about. He will acknowledge that this happened.

In 1982 the divisibility of the Crown again became apparent in Canada when Canada was established under the Crown but under a different law. Lots of people in Australia completely forgot about or still do not know that in the Australia Act of 1986 the divisibility of the Crown was established in Australia. The 1986 Australia Act made the Queen the Queen of Australia - that is what I am talking about when I talk about the divisibility of the Crown. Prior to that, it was indivisible.

I am neither a lawyer nor a constitutionalist, but a student. The argument amongst constitutional lawyers will rage for a long time, but the Queen is no longer Queen of Western Australia. She is only Queen by right of Western Australia, and that is what the Letters Patent issued in 1986 distinguish. Most of my colleagues would know that now we have a Queen of Australia by Letters Patent and Queen of Australia by right. New South Wales still proclaims its sovereignty; we in part proclaim our sovereignty, but constitutional lawyers on both sides will say on the one hand this establishes that, but on the other there are certain things it may not. That is why I thought that I would be safe in asking the Attorney General to leave in chapter VI, which he now proposes to delete, purely for historical reasons. But lawyers being what they are need clean cut decisions; they need a clean book to look at. Therefore, chapter VI from the Attorney General's knowledge and my reasoning of it would actually become superfluous because treason is against the monarch and the monarch's heir apparent, but not against the Governor, should an offence under the treason provisions, such as the murder of the monarch, be committed. No longer would such an offence be a treasonable act; if the Governor of the State were murdered, the offence would be one of murder.

I just draw the attention of the Chamber to the fact that on the afternoon of 13 October 1988 we are taking part in a vote of some historical note. Between 1199 and 1986 things went apace. From here on, those things which we adhered to and perhaps cherished - I certainly did - have disappeared and a passage of history has been closed. I wanted only to make this speech to make sure that it was put on the record. I have no legal grounds nor any logical argument for saying that chapter VI should be kept in the code.

By this amendment, chapter VII will be retained in the code. It is a very contentious issue of law. Were I blessed with being a constitutional lawyer or one who had taken silk, like the Attorney General, I dare say I could make a living over the next 20 years, even if I were in my dotage, arguing about the chapter. It is a very contentious chapter in the book. The Attorney General has said, "Well, there are one or two small items there." Mr Deputy Chairman, you know that the very small items in the law - the commas and the full stops - tend to make a whole case. You taught me that once. Many a case has been argued within the courts on full stops and commas. I am grateful that the Attorney is to retain chapter VII.

I may have some words to say on some of the further amendments, but generally speaking I merely wanted to put on record in the Chamber the fact that we are closing a chapter of history this afternoon. If we vote unanimously, all of us in the Chamber will be partners in that chapter of history. I only wanted to remind my colleagues that to a sentimentalist such as I, this is quite an occasion. We are now taking the step and it will be recorded. In 200 years' time somebody could stand up in this Chamber or something similar - probably in outer stellar space - and say, "Well, the Attorney General of the day was right to close that", or "The Attorney General was wrong", or "The House did the right thing." Remember when we vote, Mr Deputy Chairman, that we are voting for what is in my book - and it may not be in yours - a quite historical moment. I support the amendment.

Hon J.M. BERINSON: Hon John Williams keeps embarrassing me with the constant unfounded allegation that I know more about just about anything than he does. I assure the honourable member that I certainly cannot match him in his knowledge of King John's proclamation of 1199, nor indeed some of the other matters to which he referred. Nonetheless, I must say that, as the Leader of the Opposition suggested at one stage, he provided a lesson for us all, and I include myself in that general category. In dealing with treason, however, I do have to defend lawyers against the suggestion that they like to have Acts which are tidy, and they therefore move for the deletion of dead letters of the law. It is true that it is one argument for tidying up legislation that provisions no longer have an effect, but there are important practical reasons, as well, as to why dead letters of the law should not continue to be printed, especially in areas such as treason where a State provision is made inoperative by Commonwealth legislation which is either directly inconsistent or inconsistent as a result of covering the field.

One does take the chance that somewhere along the line charges in civil litigation, or in ordinary litigation, will be undertaken on the basis of State legislation and come to grief because that State legislation no longer has effect. That goes beyond the virtue of tidying up and is really directed at avoiding possible grounds for confusion. As for the treason offence, it may help the House to know, as I think Hon John Williams has been good enough to

concede, that this has lost its effect because of inconsistency with Commonwealth legislation, the relevant Act being the Commonwealth Crimes Act and, more particularly, sections 22AA, 24, 25 and 26. For the rest, I thank Hon John Williams for his background discussion on this matter and for his support of the amendment.

Amendment put and passed.

Hon J.M. BERINSON: I move -

Page 4, line 18 - To insert before "713" the following -

50,

Hon JOHN WILLIAMS: The Opposition has no quarrel with, and supports this amendment.

Amendment put and passed.

Hon J.M. BERINSON: I move -

Page 4, after line 19 - To insert the following subclause to stand as subclause (2) -

(2) Section 48 of the Code is amended in paragraph (1)(a) by deleting "mutinous or".

Hon JOHN WILLIAMS: The Attorney General is coy about this matter. For the benefit of the Committee section 48 states -

Any person who -

(1) Administers or is present at and consents to the administering of, any oath or engagement in the nature of an oath purporting to bind the person who takes it to act in any of the ways following, that is to say -

(a) To engage in any mutinous or seditious enterprise;

The words "mutinous or" have been deleted. Is that because the treason one went out?

Hon J.M. Berinson: No, because of the piracy one.

Hon JOHN WILLIAMS: So piracy must go and mutiny and sedition are two different offences?

Hon J.M. Berinson: Yes.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 9 to 15 put and passed.

Clause 16: Chapter XIII repealed and a Chapter substituted -

Hon J.M. BERINSON: I move -

Page 7, after line 15 - To insert the following -

Section 121 applies to judicial corruption

84. In sections 82 and 83 "public officer" does not include the holder of a judicial office within the meaning of section 121.

I should explain that the reason for this amendment is to exclude judges from the provisions of this section. The reason for that is that their position is dealt with specifically in a later section of the code, namely, chapter XVI.

Amendment put and passed.

Hon J.M. BERINSON: I move -

Page 7, line 31 - To insert before "Any" the following -

(1)

Amendment put and passed.

Hon J.M. BERINSON: I move -

Page 7, after line 33 - To insert the following -

(2) This section does not apply to an oath, declaration or affirmation administered or taken -

(a) as authorized or required by law of; or

(b) for purposes lawful in,

another country, State or Territory.

Clause 16 provides for the repeal of chapter XIII and its substitution by a new chapter XIII. Attention has been drawn to the fact that some repeal provisions under the current section 90 of the Act really need to be retained. These are to ensure that oaths taken in this State under powers provided in other States or elsewhere can still be taken, as they are now, without coming into conflict with the code.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 17 to 29 put and passed.

Clause 30: Miscellaneous amendments removing requirement of corroboration -

Hon J.M. BERINSON: I move -

Page 12, line 3 - To insert before "191" the following -

52,

The addition of this reference to section 52 is consequential on our earlier decision to retain the sedition provisions.

Hon JOHN WILLIAMS: I fully agree with that. The wording of sections 52, 191 and 192 are identical, therefore this was a necessary follow on from chapter VII.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 31 to 49 put and passed.

Title put and passed.

Bill reported, with amendments.

JUSTICES AMENDMENT BILL

Returned

Bill returned from the Assembly with an amendment.

VETERINARY SURGEONS AMENDMENT BILL

Committee

The Deputy Chairman of Committees (Hon John Williams) in the Chair; Hon Graham Edwards (Minister for Consumer Affairs) in charge of the Bill.

Clauses 1 to 7 put and passed.

Clause 8: Sections 20AA and 20AB inserted -

Hon W.N. STRETCH: Proposed section 20AB(1) reads as follows -

> The Board may register a registered veterinary surgeon, not being a body corporate . . .

If several veterinarians work in an incorporated practice, does that mean they could not register as honorary veterinary surgeons? In other words, if a person retires from active practice into an incorporated practice, would he then be ineligible to be recorded as an honorary veterinary surgeon, even though he met the requirements in all other ways?

Hon GRAHAM EDWARDS: My understanding is no, it would not be prevented.

Clause put and passed.

Clauses 9 to 15 put and passed.

Clause 16: Section 26AA inserted -

Hon W.N. STRETCH: My concern is how far will we allow this specialisation in the profession to go. I trust that we will not reach the stage where one has to take one's pets to a general practice veterinarian who then refers one on to a specialist. It might sound ridiculous, but funnier things have happened in law. I assume that this is just a matter of identifying specialising veterinarians for the sake of the convenience of the general public and not for any progression to parallel what is happening in the medical profession, with its associated difficulties. I grant it has advantages as well, but it has difficulties from the point of view of the consumer.

Hon GRAHAM EDWARDS: It is difficult to say exactly where we will be in the future, given that from time to time we develop expertise in certain areas. One which springs to mind is organ transplantation in animals; I guess that is not something we should rule out in the future. In places like Queensland, New South Wales, Victoria and South Australia - if one can use that as some sort of a guide - such categories as anaesthesiology, veterinary medicine, veterinary opthalmology, pathobiology, radiology, reproduction and surgery are generally recognised as current categories. I take the member's point, but one of the things we need to balance against that is the evolution of expertise, and the need to specialise in these areas as more knowledge and greater expertise becomes available.

Hon W.N. STRETCH: I thank the Minister for his explanation, which I accept. However, I would sound a warning because we do not want to allow the profession to overspecialise to the detriment of the very good work it has always done in the community. My next question is two pronged: Has the Minister had extensive consultation with the veterinarians, and has the question of a referral type system being incorporated been floated?

Hon GRAHAM EDWARDS: Certainly there has been extensive consultation with the Veterinary Association. The second question was in relation to the referral system, and I assume that will happen as a matter of course.

Hon W.N. Stretch: My second question was whether the subject of specialisation and the need for referral had come up in any of those consultations.

Hon GRAHAM EDWARDS: I am not in a position to answer that question except to refer the member to my previous answer, which was that there has been extensive consultation in that area.

Clause put and passed.

Clause 17: Section 26A amended -

Hon W.N. STRETCH: I take it that this clause is dealing with the change to regulations regarding Murdoch University. Is that correct, or did it pass in an earlier clause?

Hon GRAHAM EDWARDS: I am not sure that has anything to do with Murdoch University.

Hon W.N. STRETCH: In the second reading speech there was reference to practices at Murdoch University which had to be tidied up. It might be more appropriate to mention this in the third reading stage if it is not covered in this clause or clause 18.

Hon GRAHAM EDWARDS: The Bill does not refer to it because it does not need to.

Hon W.N. STRETCH: The second reading speech reads in part as follows -

> The Bill deals with professional matters. It seeks to amend certain activities relating to the Murdoch School of Veterinary Studies . . .

Hon GRAHAM EDWARDS: The member is quoting a reference I made to new section 26A(6) in the second reading speech, which reads -

> Legal opinion is that the current registration may not provide for the legal operation of the Murdoch Veterinary Clinic.

The subclause states -

> (6) Notwithstanding this section, a university conducting a veterinary clinic or veterinary hospital registered under section 24A may hold itself out as being willing to provide veterinary surgery.

While it does not mention Murdoch University by name, this subclause enables that to be tidied up.

Hon W.N. Stretch: Thank you.

Clause put and passed.

Clause 18 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

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

SOIL AND LAND CONSERVATION AMENDMENT BILL

Committee

Resumed from 12 October. The Deputy Chairman of Committees (Hon John Williams) in the Chair; Hon Graham Edwards (Minister for Consumer Affairs) in charge of the Bill.

Clause 14: Sections 34A and 34B inserted -

Progress was reported after the clause had been partly considered.

Hon GRAHAM EDWARDS: We had a fairly prolonged debate on this matter when we were in Committee on a previous occasion. I was basically arguing that we had no need to amend this clause because the sort of problems which were being raised would have been covered by common law. As it is presently framed, proposed section 34B(a) is designed to ensure that incoming owners and occupiers are warned of soil conservation notices relating to the land concerned. The object of the warning is to enable people to comply with those soil conservation notices and thereby avoid prosecution for non compliance. As I said, a prudent prospective owner or occupier would in any event have consulted the relevant land register to find out if the land is subject to mortgage, caveats and other burdens of ownership or occupation.

It was not the purpose of the proposed section to deal with private civil law relationships between outgoing and incoming owners or occupiers. Proposed section 34B(a) will, if breached, require the prosecution to prove the existence of a written agreement to transfer the right to own the land in question. Apart from other considerations, an oral agreement would provide evidential difficulties. The proposed section may strengthen the position of an aggrieved incoming owner or occupier in civil litigation. Notwithstanding that, it may well be that the Opposition wishes to proceed with an amendment. If that is the case I will bow to the wish of the Chamber.

The DEPUTY CHAIRMAN: Minister, you have circulated an amendment which has been placed on the Notice Paper. In the interests of speed, it would be better if you move the amendment in your name.

Hon GRAHAM EDWARDS: That is what I was coming to. It being the will of the Chamber that we proceed with the amendment, I move -

Page 9, lines 22 to 39 - To delete those lines and substitute the following lines -

> Duty of outgoing owner or occupier to notify Commissioner and potential successor in ownership or occupation
>
> 34B. While a memorial of a soil conservation notice remains registered under section 34A, each owner and each occupier of the land to which the soil conservation notice relates shall -
>
> (a) before agreeing with another person in writing that the other person will succeed him in the ownership or occupation or both, as the case requires, of that land notify in writing the other person of the content of the soil conservation notice and of the fact that the soil conservation notice will be binding on the other person if the other person succeeds him in that ownership or occupation or both; and

(b) within a period of 14 days after the day on which he ceases to be such an owner or occupier, notify in writing the Commissioner of that cessation and of the name and address of each person who succeeds him in the ownership or occupation or both, as the case requires, of that land.

Penalty: $2 000.

Hon W.N. STRETCH: I thank the Minister for putting forward this amendment. It clarifies the position and leaves this Chamber with a greater sense of credibility in the eyes of the public because it sets out very clearly what the responsibilities of a new occupier or owner will be.

It still does not address the point of multiple ownership, which Hon David Wordsworth raised earlier. The amendment mentions "each owner" and "each occupier". Land held under a family trust, which is a common occurrence now, may have between two and 20 people all of whom could be legally construed to have an interest in the land. As I read the Bill and the amendment, each beneficiary in a trust would be obliged to either write or sign a letter indicating that they were disposing of the land. I wonder whether it could be simplified by specifying "his or her", or an accredited agent, in accordance with the Interpretation Act. A partnership does not normally run into double figures but family trust arrangements certainly do. I would like clarification as to whether each beneficiary of a trust would have to be a signatory and, if so, does the Minister agree that there is a way of simplifying this through an accredited agent clause?

The DEPUTY CHAIRMAN: May I help the Committee by saying that under the Interpretation Act, in any written law, words in the singular include the plural, and words in the plural include the singular. The word "each" can be singular or plural.

Hon W.N. STRETCH: Thank you, Mr Deputy Chairman, that certainly helps. Does it say that with regard to "his" and "her"?

The DEPUTY CHAIRMAN: Yes. Feminine and masculine gender is included.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 15 to 21 put and passed.

Title put and passed.

Bill reported, with an amendment.

Sitting suspended from 3.44 to 4.00 pm

[Questions taken.]

ACTS AMENDMENT (STOCK DISEASES) BILL

Committee

The Deputy Chairman of Committees (Hon John Williams) in the Chair; Hon Graham Edwards (Minister for Consumer Affairs) in charge of the Bill.

Clause 1: Short title -

Hon D.J. WORDSWORTH: Several questions I asked of the Minister referred to clause 5, and the use of the word "may" when an order of destruction is given for infected cattle. It should be obligatory on the chief inspector to (a) outline the manner in which, (b) the time in which, and (c) the person by whom, the cattle shall be destroyed. That is my main concern. Another concern is when an owner has failed to destroy cattle. I feel there is some need for expansion on that because a person can have done an excellent job but still have five per cent which he has not gained. If that is a failure, so indeed is failing to do anything. If failure means only a failure to do anything, that is understood and acceptable. Can the Minister explain the proportion of money landowners will have to pay to clean up these difficult groups of cattle? While they receive compensation for the cattle actually destroyed, it may cost more to destroy them than they will receive in compensation, and that seems unfair. That part of the Bill says quite explicitly that the owner of the cattle will have to foot the

costs and expenses. I would have thought there was a need for some allowance.

Hon GRAHAM EDWARDS: I thank the member for notice of his comments. I shall be happy to respond, and I will explain to him the reason for my mirth a little later.

We recognise the fact that the member appreciates the imperative need for legislation of this type to be embodied in the principal Act. The first point the member raised was made in the interpretation clause in which "destroy" is widely defined, almost in biblical terms. A wide definition is necessary to ensure that the most appropriate means of preventing the dissemination of unwanted animal diseases can be put into effect. This will vary according to the circumstances. As far as the definition of "in effect" is concerned, the Bill does not alter the meaning of the phrase. The Bill allows for the eradication of all animals in infected herds where it is considered that the complete destocking of a property is the only way to achieve disease eradication. The percentage of a herd which is infected is not relevant. The detection of a single infected animal could necessitate complete destocking in extreme circumstances.

The word "may" is used in the Bill because an order is (a) not always required, and (b) in need of flexibility of style and demand over a wide range of conditions which occur in pastoral areas. In effect the word "shall" can be inferred to be the result of the actual issue of an order which may be given.

A difficulty was also recognised in the strict interpretation of the word "supervision". In the sense of this Bill the word may mean the presence of an officer on site, but more often it will mean frequent visits by an inspector and discussion with the person responsible for destocking a property. The honourable member is correct in pointing out that an order should highlight the type of supervision and the level of satisfaction which will be required by an inspector. I will draw this to the attention of the Minister responsible for the administration of the Act. The definition of the word "failure" also caused some concern. Failure means that the owner has not destroyed or could not destroy all stock as required in an order. I am advised that the Department of Agriculture will, in the circumstances, arrange for the destruction of the remaining stock and will deduct the associated costs from the compensation due to the owner. If costs exceed compensation owing, outstanding moneys are paid from industry, State and Commonwealth funds in the proportion of 50:30:20.

In circumstances where an owner is faced with a foreseen problem, for example where the property is difficult to get into and perhaps the only access is by helicopter, and he is faced with the eradication of all stock, such an owner can make a decision whether it is economic to attempt this work. If not, the responsibility can be relinquished to the department, and open ended costs will not be incurred. This action is considered just as it is in the joint interests of the industry, the State and the Commonwealth for total destocking to be obtained where necessary.

I think that covers all the points. It is my intention now to report progress so that those matters can be considered. I looked at the member's greens, and I was particularly looking for one word which I found. I quote the member, who said, "The main effort during 1986 in the Kimberleys . . .". I do not know whether that was a quote from the Department of Agriculture pamphlet or a misinterpretation by *Hansard*, but it appeared to me on reading the greens that the "s" was there.

Hon D.J. Wordsworth: That was a quote from the Department of Agriculture, and I corrected it.

Hon GRAHAM EDWARDS: I thought I should point this out. I think I have covered all the points raised.

Clause put and passed.

Progress

Progress reported and leave given to sit again, on motion by Hon Graham Edwards (Minister for Consumer Affairs).

PERSONAL EXPLANATION - "KALGOORLIE MINER"

Armstrong, Ms Christina - Apologies

HON TOM STEPHENS (North) [4.20 pm]: I seek leave to make a personal explanation in respect of an article which appeared in the *Kalgoorlie Miner*.

Point of Order

Hon G.E. MASTERS: I know the question is not debatable but I want to have this matter clarified. The honourable member has sought leave to make a statement. If that statement is in the form of an explanation or an apology, that is okay. However, if it is controversial, I would like the assurance of the Government that I will be in a position to make a counter statement.

The DEPUTY PRESIDENT (Hon P.H. Lockyer): Order! That is not possible. The question is whether leave should be granted to Hon Tom Stephens to make a personal statement concerning an article that appeared in the *Kalgoorlie Miner*.

Debate Resumed

Leave granted.

Hon TOM STEPHENS: The *Kalgoorlie Miner* carried a story last Friday relaying the concerns of a witness, Ms Christine Armstrong, a psychologist of Kalgoorlie, who appeared before the Select Committee into Aboriginal Funding. She complained about the manner in which she was cross-examined about her submission to the Select Committee.

It is clear from what this witness has said to the media and to others that she was upset by the way in which I, as a member of the Select Committee, cross-examined her about allegations she relayed to the Select Committee. She has stated that she felt intimidated by my manner. I want to take the opportunity of placing on the record my sincere apologies for any upset that I may have unwittingly caused that witness. It was certainly not my intention to either upset or intimidate either Ms Armstrong or any other witness.

House adjourned at 4.22 pm

QUESTIONS ON NOTICE

WITTENOOM
Hotel - Closure

413. Hon N.F. MOORE to the Minister for Community Services representing the Minister for The North West:

(1) Who owns the hotel at Wittenoom?

(2) Does the Government have any plans to close down the hotel at Wittenoom and, if so, when can this closure be expected?

Hon KAY HALLAHAN replied:

(1) The Hotel Fortescue was purchased in December 1986 as part of the State Government's overall policy of phasing down activity in Wittenoom because of health risks associated with airborne asbestos fibres in and around the town. The hotel is vested in the Department of Regional Development and the North West.

(2) The intention of Government in purchasing the Hotel Fortescue has always been to eventually close it down. That decision will be made when alternative facilities are available elsewhere to service the volume of tourists visiting the Hamersley Range National Park. No alternative exists at this time.

EDUCATION - SCHOOL OF THE AIR
Meekatharra - Itinerant Teacher

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

(1) Is the Meekatharra School of the Air to receive an additional itinerant teacher?

(2) If so, when will the person be appointed?

(3) If not, why not?

Hon KAY HALLAHAN replied:

(1) Yes.

(2) An appointment will be made from the commencement of the 1989 school year.

(3) Not applicable.

EDUCATION - DISTANCE EDUCATION
"Future Directions" Report

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

(1) Will the Minister provide me with a copy of the report into distance education entitled "Future Directions"?

(2) If not, why not?

(3) When will this report be released for public consideration?

(4) Were the staff of Schools of the Air given an opportunity to make a submission to the review?

(5) If not, why not?

(6) Were the Schools of the Air P & C associations given an opportunity to make a submission to the review?

(7) If not, why not?

Hon KAY HALLAHAN replied:

(1) Yes, when it is completed.

(2) Not applicable.

(3) The report is due to be completed by 30 November, and will be available for public consideration after that date.

(4) Yes, this consultation is still in progress.

(5) Not applicable.

(6) Yes, this consultation is still in progress.

(7) Not applicable.

EDUCATION - PRIMARY SCHOOLS
Woodvale - Enrolments

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

(1) How many -

(a) primary; and

(b) preprimary

students were enrolled at the Woodvale Primary School for the years 1987 and 1988?

(2) What are the enrolment figures of

(a) primary; and

(b) preprimary

students for 1989 at the Woodvale Primary School?

Hon KAY HALLAHAN replied:

(1)	(a)	1987	201 students
		1988 (12 October, 1988); and	379 students
	(b)	1987	46 students
		1988 (12 October, 1988).	54 students
(2)	(a)	1989	529 students; and
	(b)	1989	104 students.

EDUCATION - HIGH SCHOOLS
Como Senior - New Gymnasium

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

(1) Is the Minister aware of the Como Senior High School Council's request for a new gymnasium as the current one is considered to be considerably below the standard of gymnasiums in other Government high schools?

(2) If so, what consideration has been given to the request?

(3) When is it expected that construction of the new gymnasium will be commenced?

Hon KAY HALLAHAN replied:

(1) Yes.

(2) The request was considered for inclusion in the 1988-89 Capital Works Program. However, insufficient funds were available to enable the project to proceed.

(3) The provision of a new gymnasium will be considered for inclusion in the 1989-90 Capital Works Program, subject to the availability of funds.

EDUCATION - CONTRACTS
Computer Administration System - Government Schools

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

(1) Which companies have been awarded contracts to provide the computer administration system to Government schools?

(2) Which other companies lodged tenders to supply this system?

(3) What was the contract price in each case?

(4) Who are the principals of the companies awarded the contracts?

(5) Have these companies been awarded any other Education Ministry contracts to supply computer software and/or hardware to the ministry or schools within the ministry and, if so, what are the details of the contracts?

(6) Why was Olivetti not granted the contract to supply the software for this system?

Hon KAY HALLAHAN replied:

(1) Nimrod Computer Services and CAZ Computer Services for a total contract price of $2.897 million.

(2) Apple Computer Australia
Atlas Software Pty Ltd
AWA Computers
Computerland
Data Peripherals
Lionel Singer Pty Ltd
Memorex Telex Australia
NCR Australia Pty Ltd
NEC Information System Pty Ltd
Olivetti Australia Pty Ltd
Powerlink
Prime Computers
Pundit Ltd
Unisys
Unix System Specialists

(3) Tender details are company confidential.

(4) The Corporate Affairs Department advises that the persons carrying on business for Nimrod Computer Services and CAZ Computer Services are respectively, Nimrod Holdings Pty Ltd as trustee for N & J Thomas Family Trust and Karmet Pty Ltd. Further inquiries should be directed to the Corporate Affairs Department.

(5) Yes. Nimrod Computer Services for the supply of educational computing systems.

(6) The Olivetti software did not meet the mandatory requirements of the specification.

QUESTIONS WITHOUT NOTICE

CRIME - CONVICTIONS
Meredith, Nicholas - Crown Appeal

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

Is he now in a position to answer the question I asked him on Tuesday concerning the Meredith case and the possibility of an appeal by the Crown?

Hon J.M. BERINSON replied:

I thank the honourable member for notice of this question. I have received a report on this case from the Crown Prosecutor, Mr Graeme Scott QC, and have discussed a number of related issues with him. The Crown Prosecutor has recommended against an appeal by the Crown on the question of sentence, and his opinion has been endorsed by the Solicitor General. On the basis of this advice, I have decided that an appeal by the Crown should not be initiated.

The Meredith case involved a conviction for manslaughter in circumstances which the trial judge described as at the more serious end of the scale. However, after taking account of seven months' detention on remand, a head sentence of two years and five months was imposed. It is reasonably clear that a longer sentence would have been imposed if not for the fact that Meredith was 17 years old at the time of the offence and therefore had the benefit of the sentencing provisions of the Child Welfare Act.

For similar reasons, the Court of Criminal Appeal in the Yorkshire case recently changed a term of 21 years' imprisonment to an indeterminate sentence. This means that instead of Yorkshire being ineligible for parole for at least 14 years his situation, theoretically at least, can now be reviewed at any time. I do not question the judgment of the court in either of the cases to which I have referred. On the other hand, I share the widespread concern that current statutory provisions affecting the sentencing of juveniles - especially in serious cases where the offenders are approaching 18 years of age - are not sufficiently flexible.

With the agreement of the Minister for Community Services I have therefore asked the Crown Prosecutor to review the effect of the Child Welfare Act on juvenile sentences and to provide an opinion on the desirability of any amendments beyond those already before the Parliament in the Children's Court Bills.

SPORT AND RECREATION - UNDERWATER DIVING
Task Force Report

209. Hon MAX EVANS to the Minister for Sport and Recreation:

Has the report of the task force headed by Philip Smith MLA on underwater diving been completed?

Hon GRAHAM EDWARDS replied:

Yes.

SPORT AND RECREATION - UNDERWATER DIVING
Task Force Report - Public Document

210. Hon MAX EVANS to the Minister for Sport and Recreation:

Will the report of the task force be tabled in the Parliament and become a public document?

Hon GRAHAM EDWARDS replied:

It is intended to release the document as soon as sufficient copies are printed. I understand that that is the delay at the moment. As the member has raised this matter I take this opportunity to congratulate the chairman, Philip Smith, on doing an absolutely tremendous job trying to bring together a number of organisations and factions in the diving community. It needs to be understood that there are a number of differing opinions held in the diving community and I think everyone who worked on that committee under Mr Smith's chairmanship should be congratulated and commended for the tremendous job that they did. Having completed their part of the report, however, there remains more work to be done in the area of education and in other areas, but it was pleasing to see a reduction in the number of bends cases following the release of the major recommendations of that report. I feel that there is a fair bit to be done with the education and profile that followed from that.

SPORT AND RECREATION - UNDERWATER DIVING
Crossover Courses - Legislation

211. Hon MAX EVANS to the Minister for Sport and Recreation:

The department is advertising crossover courses but there is no legislation in place, so will he explain the reason for those crossover courses when no legislation has passed and we have not seen the report?

Hon GRAHAM EDWARDS replied:

I am not sure that we will ever have legislation in relation to this matter. I wonder how one can control by legislative means divers who dive with the use of a hooker machine. This is very difficult and a matter I hope we can control other than by way of legislation. It is interesting that we have been working to get information from different parts of the world when in some parts of America, for instance, they are now repealing legislation established to control diving. As I have said previously, that has been done because they find this activity terribly difficult to control. I feel that the way we will control this problem is through education and training. That is, indeed, what these crossover courses are designed to achieve. It is a process that will take some time and there are still a number of difficulties to be worked through. If it is helpful to Hon Max Evans I am more than happy to arrange a full briefing for him, which I think he would find very interesting.

SPORT AND RECREATION - UNDERWATER DIVING
Crossover Courses - Departmental Subsidisation

212. Hon MAX EVANS to the Minister for Sport and Recreation:

I commend the Minister on his answer, which will put the minds of a lot of people to rest. That is a move in the right direction because an impossible situation could have developed.

(1) What will be the degree of departmental subsidisation of the crossover course?

(2) What will it cost?

(3) Will it be ongoing or short term?

Hon GRAHAM EDWARDS replied:

(1)-(3)

I do not have that figure in my head. We will be happy to put enough money into it to ensure that the diving public get something out of it. The cost of that is being borne by my department. What really needs to be considered is the cost of having someone put into the chamber, which is quite significant.

SPORT AND RECREATION - UNDERWATER DIVING
Crossover Courses - Commercial/Voluntary Instructors

213. Hon MAX EVANS to the Minister for Sport and Recreation:

Will he comment on the fact that commentary has been made that crossover courses are for the benefit of commercial instructors as against voluntary instructors and that their courses may be better and the other courses inferior?

Hon GRAHAM EDWARDS replied:

It is a fairly subjective argument, I guess. There are people out there who believe that the courses they are involved in are the appropriate and proper ones. I have been absolutely horrified at some of the practices that have gone on with some of the courses where, for instance, there may have been one or two instructors looking after in excess of 20 people. How in the heck they can adequately train someone in that sort of situation is beyond me. What we are trying to achieve with the help of the diving community - and I realise how difficult it is to bring everyone along - is a course which everyone supports as being adequate and proper to train people for the dangers that they may encounter when diving in a fairly hostile environment.

SPORT AND RECREATION - UNDERWATER DIVING
Voluntary Courses - Professional Firms' Courses

214. Hon MAX EVANS to the Minister for Consumer Affairs :

Some of the voluntary courses have been going on for a long time and have been highly regarded. Will people be cut out of the system as a result of using courses run by professional firms?

Hon GRAHAM EDWARDS replied:

The intention is not to cut out anyone but to bring everyone to what is seen and recognised by all involved as an adequate standard where people are trained sufficiently to ensure that they enjoy their diving with complete confidence. Should they run into problems, they should be trained sufficiently to respond to those problems and get out of trouble. It is not my intention or the intention of anyone to put anyone out of business or prevent anyone from enjoying a very pleasant pastime. We are trying to ensure adequate safeguards are in place.