WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
SECOND SESSION
1998

LEGISLATIVE COUNCIL

Thursday, 26 November 1998

Legislative Council

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THE PRESIDENT (Hon George Cash) took the Chair at 11.00 am, and read prayers.

SENTENCING LEGISLATION AMENDMENT AND REPEAL BILL

SENTENCE ADMINISTRATION BILL

Chief Justice, Letter and Report

THE PRESIDENT: I have received the following letter from the Chief Justice of Western Australia -

> Dear Mr President,
>
> ***Sentencing Legislation Amendment and Repeal Bill 1998 and Sentence Administration Bill 1998***
>
> I enclose a Report to Parliament pursuant to s144(1) of the *Sentencing Act 1995* which provides that:
>
> > "The Chief Justice of Western Australia, in writing, may report to Parliament on any matter connected with sentencing that he or she considers should be brought to Parliament's attention."
> >
> > Section 144(2) provides that:
> >
> > "A report under subsection (1) is to be given to the Speaker of the Legislative Assembly and to the President of the Legislative Council who respectively must cause a copy of it to be laid before the Legislative Assembly and the Legislative Council within 15 sitting days of that House after the report is received."
>
> In view of the fact that the Report is concerned with matters related to the above Bills it would be appreciated if the Report were tabled as soon as possible for the information of Honourable Members.
>
> Yours sincerely,
>
> The Hon David K Malcolm AC
> Chief Justice of Western Australia

I table that report, which is titled "Sentencing Legislation Amendment and Repeal Bill 1998 and Sentence Administration Bill 1998" from the Chief Justice of Western Australia.

[See paper No 488.]

SELECT COMMITTEE ON BILLS REFERRED UNDER COMMONWEALTH NATIVE TITLE ACT

Motion

Resumed from 25 November on the following motion -

> That -
>
> (1) a select committee of five members, a majority of whom constitute a quorum, be appointed to inquire into and report on any Bill or Bills referred to it in this session that proposes or propose to enact law under, or in reliance on, the Native Title Act 1993 of the Commonwealth;
>
> (2) the committee have power to send for persons, papers, and records;
>
> (3) the proceedings of the committee during the hearing of evidence be open to accredited representatives of the news media and the public; and
>
> (4) the committee report a Bill to the House on a date [if any] specified in the motion referring it and in any event not later than Thursday, 11 March 1999.

HON GREG SMITH (Mining and Pastoral) [11.06 am]: I would like to correct a mistake I made yesterday when I referred to the Mining Act. The ruling will conflict with section 123 of the Mining Act. The determination gives the right to control the use and enjoyment of others of resources of the determination area. However, section 123 of the Mining Act states -

> On and after coming into operation of the *Mining Amendment Act 1985*, in so far as the mineral is by virtue of section 9 the property of the Crown or the mining is authorized under this Act no compensation shall be payable in any case, and no claim lies for compensation, whether under this Act or otherwise -
>
> (a) in consideration of permitting entry on to any land for mining purposes;

(b) in respect of the value of any mineral which is or may be in, on or under the surface of any land;

(c) by reference to any rent, royalty or other amount assessed in respect of the mining of the mineral; or

(d) in relation to any loss or damage for which compensation can not be assessed according to common law principles in monetary terms.

One complication of the determination is that it seems to conflict with many principles on which State Acts operate. I have been criticised in the media for scaremongering on the issue. However, the determination says that native title gives the right to control the access of others to the determination area. The determination area covers much of Lake Argyle. If the determination is taken at its word, there is no legal reason that claimants do not have the right to control access to the determination area. If the matter were referred to a committee, it would not have the time or the qualifications to decide what are the ramifications of the determination, of the current legislation or of legislation that will come before the House relating to State Acts.

As I said yesterday, the State is enacting complementary legislation to a federal Act already in place. I notice that the Queensland, South Australian and Northern Territory Governments have already passed legislation almost identical to this State's. It was interesting that Queensland could not pass its legislation quickly enough, because both parties had to take responsibility for some of the titles which had been granted outside the rules, or for grants which had not followed the rules to the letter. Let us get the Titles Validation Amendment Bill through, and then look ahead to try to work with native title. This legislation is the paramount legislation with which we have had to deal in my short time in Parliament. We have dealt with native title for six years, but it is proposed to refer to a committee specific issues pertaining to the Native Title Act of 1993. A short time is available in sittings this session. No doubt members have plans for Christmas and the parliamentary break. People do not want to sit between Christmas and New Year, for example, or for a couple of weeks in January. Some might suggest that we should be with our constituents during the February break before returning to the House.

The formation of the committee at this late stage is an attempt to frustrate the passage of the Bill, not an attempt to scrutinise the legislation. If I believed it were a genuine attempt to scrutinise the legislation, I would still not support it; however, at least I would feel it was genuine.

Hon Ken Travers: At least you're being honest.

Hon GREG SMITH: I am told that one of my mistakes is that I am too honest. The handing down of the Miriuwung-Gajerrong claim decision has increased the necessity to deal with this legislation as rapidly as possible. It is necessary to bring some certainty into the legislation so people know how to operate under and deal with native title. A frustration with native title is that - I do not begrudge Aborigines native title - lawyers increase the difficulties. A friend of mine negotiated a deal with a native title claimant, not a holder, in which no lawyers were involved. It seems that as soon as a claim is lodged - it will be increasingly so since the recent determination was made - the legal profession takes up the cause to get as much as possible. In many cases the claimants want very little. If I genuinely thought we could speak to the Miriuwung-Gajerrong people and come to some agreement, I would be more than happy to facilitate the process. Inevitably, the Miriuwung-Gajerrong people will end up with a few lawyers representing them, and a few lawyers will represent the other side. White lawyers will argue the point and negotiate to achieve the best possible outcome for their clients. One side will want to give as little as possible, and the other gain as much as possible. It is like when two lawyers get hold of a separation case; the separating couple are the last consideration as the two lawyers try to secure as much as possible. That is the nature of the legal profession; it is a lawyer's responsibility to get as much as possible for the people he represents.

Due to the unfortunate state of numbers in this House, government members cannot prevent the formation of the committee or the Bill's referral to the committee. Therefore, I will move an amendment to the motion in the event that we are not successful in cajoling members to vote against the formation of this committee.

Amendment to Motion

Hon GREG SMITH: I move -

In paragraph (4), to delete the date "11 March 1999" and substitute 10 December 1998".

The Title Validation Amendment Bill is now in this House. We can deal with it at any time if the Opposition would stop its filibuster on the School Education Bill, and stop moving amendment on amendment because it no longer wants the recommendations of the Public Administration Committee. If the select committee had a reporting date of 10 December, six sittings days would be available to consider these Bills. The committee could be formed, and the questions people want answered could be put by the committee. I suppose all those to whom members want to speak are in Perth. I do not think the committee will be flying around Western Australia or taking a trip to Canada.

Hon N.F. Moore: Don't bet on it!

Hon Ken Travers: Sit down and we will vote on it.

Hon GREG SMITH: I would be happy to sit down if I thought members opposite would vote for my amendment. Will members opposite indicate whether they will support my amendment?

Hon Tom Stephens: You have stunned me so I will speak.

Hon GREG SMITH: I will say no more. I recommend amending the reporting date of the committee to Thursday, 10 December.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [11.17 am]: I refer briefly to the amendment and the substantive motion. The Labor Opposition supports the expeditious formation of this select committee. The strategy to try to thwart the will of the non-government majority in this House is clear.

Hon N.F. Moore: What are you talking about?

Hon TOM STEPHENS: I refer to the filibuster unleashed by the Government, and other devices at its disposal.

Hon N.F. Moore: Rubbish!

Hon TOM STEPHENS: Keep in mind that there are many ways in this place to skin a cat. Members know that these things grind on, and that there is an inevitability about the way the issue will be ultimately handled.

Hon Peter Foss: It is like telling people to lie back and enjoy it if they are being raped - that is what you're telling people.

The PRESIDENT: Order! The Leader of the Opposition has the call. He is addressing the amendment before the Chair.

Hon TOM STEPHENS: I will not go into the Attorney General's comment, which I find offensive.

The Opposition is most anxious to facilitate the passage of good legislation in this area through Parliament. It can be achieved expeditiously, but it needs the type of process which Hon Giz Watson has advocated by virtue of this motion. The select committee would have the report date under the substantive motion of Thursday, 11 March 1999. That framework is an acceptable outer limit for the operation of that select committee. Inside that framework is the opportunity of exercising the provision as the first part of paragraph (4) of the motion; that is, that the committee report a Bill to the House on a date, if any, specified in the motion referring the Bill. That provides for an earlier report back date for any one of the three Bills that would be referred to the select committee, if it is formed by the will and motion of this House, which it would be if the Government allowed this debate to come to its early resolution. From the viewpoint of the Labor Opposition, the Titles Validation Amendment Bill would have only a brief referral. It would be back in time for it to pass the Parliament before Christmas. That is our commitment. The Government is sorely testing that commitment; nonetheless, it is our commitment. By virtue of the decision delivered in the Miriuwung and Gajerrong case this week, we see more compelling reason than ever that the legislation needs to be subject to scrutiny, albeit short and sharp. Clearly the Bill begs amendment and clearly the amendment needs to be done with skill and precision that can draw upon the judgment in the Miriuwung and Gajerrong case, because through the committee system is available to the people of Western Australia the expertise of the committee staff and experts that can be drawn into that process.

There is another process that the Government will inevitably open up if it does not go down this route. Devices have previously been put before the House which have never been successfully carried in this place because the non-government members then did not have the majority. However, a range of alternatives have been flagged in previous debates as to how this House can get expertise before it before the passage of legislation if the Government wants to go down that route. At the end of this Chamber is a perfectly good brass Bar, which has never been put to very good use in my time in this place. It was put to use at one stage - not very good use - in the time that I have been in this place. The Bar can serve part of a very useful process if the Government is so intent, but it will take a damn long time to do it and the government members' Christmas puddings may go cold in the process. I advocate to government members a different strategy altogether. I suggest that they get this Bill into the process that Hon Giz Watson is advocating and I urge them not to filibuster any further on this motion.

Hon N.F. Moore: I find that offensive.

Hon TOM STEPHENS: I ask government members not to take up the next hour, but to get this motion dealt with. We oppose the amendment moved by Hon Greg Smith and support the motion moved by Hon Giz Watson. If given the opportunity if this motion is carried, we will get the Titles Validation Amendment Bill dealt with expeditiously in accordance with the agreement that the Labor Opposition has offered to the Government.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [11.23 am]: It is refreshing now to have heard the response from the Leader of the Opposition on this matter. We have been waiting for a couple of days to hear the Opposition's attitude towards this motion. As I said by way of interjection, I am offended by his suggestion that somehow or other this has been filibustered.

Hon Tom Stephens interjected.

Hon N.F. MOORE: This is a very important issue. The Government wanted this legislation to be passed as quickly as possible. This is a delaying tactic to put it off until 11 March next year. If the committee did report on 11 March, it will be the first time in history that a committee ever reported on time. That is why we are arguing against this motion and will do so until we run out of breath. We do not support it. Hon Greg Smith recognised that the non-government parties may use their numbers to set up this committee. What he has done is to put in place a new date of reporting which will give the Labor Party a chance to put into practice what it is preaching. We have heard Hon Tom Stephens going on outside the House about how he wants a quick little committee hearing into this and wants it to report back by Christmas. That is what he says publicly. I have no doubt that unless this amendment is passed, we will not see any Bills referred to that committee return here before Christmas. I would wager on that, if I were allowed to do so.

Hon Tom Stephens: You would lose your wager.

Hon N.F. MOORE: Here we have the Leader of the Opposition saying that he will not support an amendment which has a report back date of 10 December, which I suspect is the latest opportunity this House would have to deal with a committee's report before Christmas. He wants to retain the 11 March 1999 reporting date, yet he is going out publicly and saying that he wants to bring it back before Christmas. Here is a chance for him to vote on this amendment and put his hand up.

Hon Tom Stephens: You have misunderstood me. You will see the line above in the motion refers to "a date [if any]". I am indicating to you and undertaking to you that any referral of the Titles Validation Amendment Bill will exercise that provision so that there is an earlier report-back date than 11 March. Please do not misunderstand the assurance that I give you.

Hon N.F. MOORE: I understand the Leader of the Opposition absolutely. He wants to have two bob each way as usual.

Hon Tom Stephens: Not at all.

Hon N.F. MOORE: Here is an opportunity for him and his party to accept a report-back date of 10 December. All the Bills should be passed before Christmas so that we get some certainty in native title. I am not the only one who thinks that. I read out yesterday an answer to a question without notice. What is the Opposition resources spokesman's view on this? If what the Australian Broadcasting Commission reported him as saying was correct, and I have not heard that it is not, he wants it passed before Christmas too.

Hon Tom Stephens: The ABC report did not reflect his view.

Hon N.F. MOORE: Is the Leader of the Opposition saying that that is not his position?

Hon Tom Stephens: His view is outlined in a press release which was not accurately reported on the ABC.

Hon N.F. MOORE: What is his view?

Hon Tom Stephens: He supports the referral of the Titles Validation Amendment Bill to a short, sharp select committee consideration and would like all of the state native title legislation through this Parliament, as the Labor Opposition does - if we can get you to see reason - between now and Christmas.

Hon N.F. MOORE: What the Leader of the Opposition is saying in effect is that if the Government reintroduces the right to negotiate on pastoral leases, the Opposition will pass this by Christmas; in other words, if we gut the Bill the Opposition will pass it. He knows as well as I do Hon Julian Grill's position. He supports the Government's Bill and so do many, many other people in Western Australia. They want it passed now. We are giving the Labor Party Opposition in this House, and the Democrats and Greens if they want to be part of it, the opportunity to put their hands up for an early date of referral back to the House.

I do not trust the Labor Party on this issue: Unless it is put down in this motion as 10 December 1998, I do not trust the Labor Party to make any effort to get it back before Christmas. The reason I do not trust the party is that Hon Tom Stephens has a different point of view on native title, as do a number of members of his party. I do not know what the Labor Party's position is on all this, other than what we have heard through the media; that is, it wants a short, sharp committee inquiry into the Titles Validation Amendment Bill to report back before Christmas. That is what the Labor Party has said publicly. However, I know darn well that Hon Tom Stephens, because of his attitude to native title and land rights over the years, does not want any of these Bills to get passed at all. I suspect that his position and that of a large number of members of the Labor Party is that they do not support this legislation at all. What we hear publicly and what we hear about what is going on in the Labor Party privately are two different things. That is why I do not trust any outcome other than an outcome which is specified clearly in a motion like this. When he has already gone out publicly and said that the Labor Party wants the committee to report back by Christmas, what problem does the Leader of the Opposition have with putting in 10 December when that is the last possible date for a report back to the House if the Labor Party wants to get the matter dealt with by Christmas? Why can he not support that if what he says publicly is what he intends to do?

Hon Tom Stephens: It is to establish the machinery inside of which the three Bills could be considered.

Hon N.F. MOORE: I think we will have a bit of belt and braces here: We will have that the committee must report by 10 December, which fits in with the Leader of the Opposition's promise to the world. If the House agrees to refer the Bill, we will seek to have it returned by 10 December so that we have a cast-iron guarantee from the Labor Party. That was said twice so that could convince me that members opposite can be trusted on this matter.

Hon N.D. Griffiths: You have spent too much time associating with Liberals like John Howard; that is why you are not trusting of people.

The PRESIDENT: Order! We would like to deal with this proposal to delete certain words.

Hon N.F. MOORE: I have been here much longer than Hon Nick Griffiths and I have many good reasons not to trust people on his side of the House with regard to the way they handle taxpayers' money and various other things.

Hon Tom Stephens: You are the one who just wasted $3.6m on a High Court challenge.

Hon Kim Chance: It was $7m.

The PRESIDENT: Order! Members should give the minister a chance to speak.

Hon N.F. MOORE: This Government has sought to look after the interests of all Western Australians on this issue. Surely if the Labor Party had been the Government it would also have taken all the action it could in the Miriuwung-Gajerrong case to look after the interests of all Western Australians - if it is interested in all Western Australians. The more I hear from members opposite on this issue, the more I am convinced they are not interested in the overall benefits to Western Australia in toto. They have an interest in a tiny minority. That is why they are going through all this pain in their party. They are fighting each other tooth and nail because probably more than half of them do not agree with Hon Tom Stephens. The group to which Hon Tom Stephens belongs is adamant that we should not have this legislation. Members opposite must always put up their hand in the Caucus so that everybody knows for whom they are voting. Here is a genuine opportunity for Labor members to tell the Parliament and the public that what they are saying publicly about a report-back date and getting this legislation through by Christmas is what they believe will happen.

Hon Tom Helm: Let us get on with it and do it.

Hon N.F. MOORE: I will, but I am reminding members opposite of the opportunity I am giving them to do that. If the Labor Party does not vote for this amendment, it is in order for anyone taking an interest in this matter to conclude that what its members are saying publicly about a report-back date is not what they have in mind. If they are serious about getting these Bills passed, their best bet would be not to send them to a committee. The Government does not support a committee. If we must have one because of the numbers in this place, we should agree on a report-back date that fits in with the public promise of members opposite. That is not asking much.

Hon Tom Helm: Do you support native title?

Hon N.F. MOORE: What does that have to do with the price of fish?

Hon Tom Helm: Is that not what we are talking about? It might be relevant to this debate.

Hon N.F. MOORE: With all due respect, if that is Hon Tom Helm's level of understanding of this issue -

Several members interjected.

The PRESIDENT: Order! I am trying to hear one person; that is, the Leader of the House.

Hon N.F. MOORE: It is not a question of whether I support native title. The motion before the House, if Log over there read it, is that we have a committee to examine this Bill.

Withdrawal of Remark

Hon BOB THOMAS: I found that remark offensive and ask that it be withdrawn.

The PRESIDENT: Order! To which remark is Hon Bob Thomas referring?

Hon BOB THOMAS: The Leader of the House referred to an honourable member as a log and I find that offensive.

The PRESIDENT: Order! I did not hear the word "log". I do not know to whom it was directed. Apparently other people heard it. I said before that when members direct their conversation away from the Chair I am battling to hear anything. However, if someone has been referred to as a log, although I do not consider it to be necessarily offensive, and if the Leader of the House is indicating he intends to withdraw it, I invite him to do so.

Hon N.F. MOORE: I withdraw that. I was distracted by an interjection about whether I supported native title. I was trying

to explain to the member, which is probably a better way of describing him, that the motion is that we send the native title legislation to a committee and that the Government is opposing that. We are debating an amendment that we change the report date to give members opposite a chance to put into practice what they have been saying publicly. Whether I agree with native title is beside the point. I am happy to withdraw any reference to the member's being a log; because he certainly is not.

Debate Resumed

Hon Tom Stephens: As a display of good faith I will accept your amendment as long as you bring this motion to resolution now.

Hon N.F. MOORE: Hon Tom Stephens does not understand that this is a House of Parliament. It is not a place in which I can tell people they can talk. It might work like that in the Labor Party, but it does not work like that in this Chamber. I cannot give that assurance. I cannot give any assurance that no other member will speak on anything in this House. At times I wish I could, like the time the Leader of the Opposition spent six hours talking about industrial relations and eight hours about abortion. Every member here is elected to make a contribution if and whenever they wish.

Hon N.D. Griffiths interjected.

The PRESIDENT: Order! That is a serious matter. I decide whether people will be given an opportunity to speak. If a member indicates he wants to speak on this amendment, he will be given an opportunity to speak and may do so as long as he speaks to the amendment before the Chair.

Hon N.F. MOORE: It is not a question of control; it is a question of members exercising their proper role to say whatever they wish in this Chamber. If the Labor Party cannot understand that, it does not understand what representative democracy is all about. The problem with Labor members is that they live in a confined little world of making decisions and believing that is the way the world goes around.

Point of Order

Hon TOM STEPHENS: The Leader of the House has spoken on the motion. Can he be directed to now return to the amendment? He must comply with the requirements of the Chair and the standing orders.

The PRESIDENT: Order! That advice is directed to me, not to the Leader of the House. However, I concur with that general statement. We are talking about the amendment and whether the reporting date should be changed from 11 March to 10 December. The more members interject, the more they encourage the member speaking to digress. If they do not interject, I am able more easily to control the debate within the narrow parameters of the amendment.

Debate Resumed

Hon N.F. MOORE: I apologise for transgressing the standing orders about relevance. You are quite right, Mr President; I was distracted by inane and unrelated interjections from members opposite.

I sum up my argument by saying that the Labor Party has said that it agrees that we should see the speedy passage of the Titles Validation Amendment Bill before Christmas. Here is a chance for it to put that proposition into practice. Some members of the Labor Party - I am not sure whether Hon Tom Stephens is one of them - want all the legislation passed by Christmas. That is certainly the Government's desire. By agreeing to the amendments, it would mean that the committee would report - I think the other one would be classified as being under the purview of this motion - the three Bills by 10 December. While that is not the Government's preferred position, it is its fall-back position and it will wear that if the House decides on that date. However, if the House decides to adhere to 11 March, that will be an abrogation of the Labor Party's statements to the community. I give it an opportunity to tell everybody that what it is saying publicly is what it intends to do when it gets a chance to do it.

HON RAY HALLIGAN (North Metropolitan) [11.41 am]: Mr President -

Hon Tom Stephens: I hope you intend to be brief.

The PRESIDENT: This is where the Leader of the Opposition and I may come into conflict. Leader of the Opposition, every member in this House is entitled to speak. I am the one who decides whether debate is tedious repetition, irrelevant or in some way breaching the standing orders. It is not for the Leader of the Opposition to direct a person to be brief in the terms that he just did.

Hon RAY HALLIGAN: I was expecting a comment from the Leader of the Opposition about filibustering, but I have genuine concerns about this motion. I do not believe that the Bill needs to go to a select committee. Time is of the essence. People throughout Western Australia are very concerned about native title. They are also concerned that a resolution should be achieved in a short space of time. On Wednesday, 18 November, I asked a question in this House about the number of native title applications currently existing in the North Metropolitan Region. I was told that there are 11 claims currently

within the state electoral region of North Metropolitan. This flies in the face of certain things that have been said over some considerable time when people have mentioned that a person's backyard may be subject to a claim.

Hon Kim Chance: No-one ever believed that.

Hon RAY HALLIGAN: I am sure many people did.

Hon Kim Chance: It is a figment of your Premier's fevered imagination.

Hon RAY HALLIGAN: Why do 11 claims currently exist in the North Metropolitan Region? If it does not exist -

Hon Kim Chance: If it can never come to anything, they must be on crown land.

Hon RAY HALLIGAN: I hope the member is right.

Hon Kim Chance: You know I am right.

Hon RAY HALLIGAN: Nobody knows exactly what is the current situation.

Hon Tom Helm interjected.

Hon RAY HALLIGAN: A certain element on the other side of this House apparently either knows more than the judges in this country or believes it knows more; I think it is the latter. However, quite often members opposite have been wrong - not that they are prepared to admit it. Everyone knows that 83 per cent of Western Australia is currently under claim.

Hon Bob Thomas interjected.

Hon RAY HALLIGAN: Obviously Hon Bob Thomas does not believe that.

Hon Tom Stephens: Are you talking about mining claims?

Hon RAY HALLIGAN: No. Eighty-three per cent of this State is currently under claim.

Hon Tom Helm: Who are you talking about - BHP, Argyle Diamonds, who?

The PRESIDENT: Order! Members are wasting time.

Hon Tom Helm interjected.

The PRESIDENT: Order, Hon Tom Helm! I have one member telling me that members must be brief and I ask people not to interject. When they interject and someone digresses, I am battling to tell the member on his feet to return to the subject.

Hon RAY HALLIGAN: It is an important matter and one that no member in this House should take lightly. It concerns us all, and everyone has been asking for a workable resolution; something that provides equity for everybody, not only for the claimants but also for those people who wish to work the land. It is important for the economic welfare of this State. Currently a number of companies are considering going offshore because of the uncertainty about native title. Those are the companies that create jobs and pay taxes. The individuals who work for those companies pay taxes. That is from where Treasury coffers are filled so that welfare payments can be made. Without those jobs, taxes and certainty, the people currently receiving welfare payments may be in jeopardy. I do not think that is recognised by members opposite. Companies that are providing jobs can do so only if they know they have some security of tenure. I am not sure that anybody knows exactly where they currently stand.

We need legislation both at a federal and state level that is workable, equitable, and that is in operation as quickly as possible. I have concerns about the motion and some things that have been said by the Leader of the Opposition about the timing that the Australian Labor Party would allow for this Bill to go through. Paragraph 1 of the motion speaks of a select committee being appointed to inquire and report on any Bill or Bills referred to it in this session. My understanding is that this session continues until prorogation. Parliament was last prorogued in August of this year. It may well be that the next prorogation will be in August 1999. I wonder whether it is the intention of members opposite to draw this out so that it becomes impossible to get the legislation through within a reasonable time. It appears that opportunities abound for members opposite, which unfortunately includes the minor parties, the Democrats and the Greens (WA), which we have found tend to vote with Labor more often than not.

Hon Kim Chance interjected.

Hon RAY HALLIGAN: I would suggest otherwise. I have seen some amendments go through this place that I know others would term ridiculous. They have been supported by both the Democrats and the Greens (WA).

Hon Kim Chance: That is when their judgment has not been so good and they have voted with you.

Hon RAY HALLIGAN: They voted with the Opposition unfortunately.

Several members interjected.

Hon RAY HALLIGAN: I sincerely hope that commonsense prevails. I am not sure at present where that commonsense resides, but it does not appear to reside with at least 12 members on the other side of the House.

I am very concerned that there appears to be enormous latitude in this motion. It is one thing to say that a select committee should be established no doubt to go over much of the information that Hon Tom Stephens and his committee collected in putting together the report. However, the motion provides far too much latitude by way of timing, and that would allow members to subject this House to their will, and, therefore, to undermine the needs of the people of this State.

I am very concerned about what is happening on the economic front and what might happen if these issues are not brought to a conclusion as quickly as possible. We are aware that much has been said about law and order. I will not go down that path, but it relates to the economic situation in this State. The uncertainties with native title and what might happen to large companies and small businesses and the fact that there could very well be job losses could lead to all manner of unsavoury and antisocial behaviour. It is particularly important that we try to create jobs to prevent much of that behaviour. The only way we can do that is to provide certainty for those prepared to invest, both in the metropolitan area and in the country, and to assist in creating those jobs.

Another of my concerns is the proposed makeup of this committee. Mention was made of five members. I share with the Leader of the House the concern that there may well be a majority from the other side of the House again imposing its will on the House, not necessarily for the benefit of the people of Western Australia but to serve their own ends. I am not aware that the Leader of the Opposition has given any indication as to what the makeup of the committee should be.

Hon Giz Watson: The motion is mine, not the Leader of the Opposition's.

Hon RAY HALLIGAN: Hon Giz Watson has made a very good point: It is her motion. But who has control?

Hon Tom Stephens: The House has control.

Hon RAY HALLIGAN: It would be wonderful if that were the case, and if the Government had control of its own agenda. However, we have seen what has happened in this House over the past few days. I digress, but it is easy to do so when one considers all the negatives emanating from the other side of the House.

I wonder whether Hon Giz Watson, as the mover of the motion, would care to indicate how she would see the makeup of this committee - from where would those five come?

Hon N.F. Moore: It will be three Greens and two Democrats.

Hon Helen Hodgson: That would work.

Hon N.F. Moore: With a total of five per cent of the vote.

Hon Giz Watson: The membership should reflect the numbers in the House.

Hon N.F. Moore: So we get half of five. Who will be the .5 from your side?

Hon Tom Stephens: That would be the extent of your contribution.

Hon RAY HALLIGAN: That sounds very good indeed. The Government has 17 members, the Labor Party has 12 members, the Greens have three members and the Democrats have two. The member is proposing that the makeup of this committee of five members should be in that proportion.

Hon Giz Watson: I am proposing that the membership reflect all the parties in this House.

Hon RAY HALLIGAN: That is interesting in itself.

The timing of this is important. The people are demanding an answer to this problem. They want to know what is happening and when it is likely to happen; more importantly, they want to know that it will happen quickly. We have already had one select committee inquiring into native title rights in Western Australia. Now we are being asked to establish a further select committee. However, this second select committee will consider any other Bills affecting native title that come through this House in this session. Members on the other side of the House want to play the watchdog role, to pull everything apart -

Hon Greg Smith: They are just slow learners.

Hon Tom Stephens: They are certainly not slow speakers.

Hon RAY HALLIGAN: I was not in this place early last year, but it would have been an experience to hear the Leader of the Opposition speak for eight hours on the industrial relations legislation. I am sure he spoke very quickly.

Hon Kim Chance: Barely enough.

Hon RAY HALLIGAN: Is the member suggesting there was plenty of quantity but very little quality?

The PRESIDENT: We are digressing again because of the interjections.

Hon RAY HALLIGAN: A previous Prime Minister said that pastoral leases were not an issue. Those with pastoral leases presently do not know where they stand. No-one knows exactly where he stands. We keep facing new judgments and new situations. The judgment handed down two days ago has raised many eyebrows. There is enormous uncertainty.

Hon Greg Smith: Not only on this side of the House.

Hon RAY HALLIGAN: That is very true. For no other reason, we must bring this to a conclusion as quickly as possible. Sending any Bills that come through this House during this session to a select committee will not achieve that. It will not provide us with a situation in which we can say to the people of Western Australia, "This is exactly where you stand." That is most unfortunate. We certainly have a need to debate this matter in this House to enable every member to contribute.

Debate adjourned, pursuant to standing orders.

COMMITTEE REPORTS - CONSIDERATION

Committee

The Chairman of Committees (Hon J.A. Cowdell) in the Chair.

Standing Committee on Ecologically Sustainable Development - Second Report- Management of and Planning for the use of State Forests in Western Australia: The Regional Forest Agreement Process

Resumed from 19 November on the following motion -

> That the committee recommends the Legislative Council endorses the findings and recommendations of the Standing Committee on Ecologically Sustainable Development - Second Report

Hon CHRISTINE SHARP: I was in the middle of explaining to the House last week some of the reasons that the committee's report considered that the Regional Forest Agreement process had not been very satisfactory. I am reading from the findings on the public consultation process in the second report of the Standing Committee on Ecologically Sustainable Development. The committee found that important documents prepared on the basis of projects undertaken for the steering committee were released late in the RFA process; in some cases, after the release of the public consultation paper. This makes it less likely that rigorous, independent scrutiny of the documents can occur. It also adversely affects the ability of members of the public who are genuinely interested in contributing to the RFA to formulate adequate responses to the public consultation paper when the technical studies are not available.

The committee also found that the public consultation paper is difficult to understand. Chapter 2 of the public consultation paper attempts to draw out, in three pages, the objectives of the RFA. However, because the objectives are drawn from so many sources, it must refer not only to other chapters of the public consultation paper, but also to a range of documents. Some of the key issues are relegated to appendices in the public consultation paper; for example, BIS Shrapnel Forestry Group's important *Review of Value Adding Development Opportunities for the Western Australian Hardwood Industry* as set out in a one-page flow diagram at appendix 3, despite the critical aspect of this document to the future of the hardwood industry. Specific forest areas are not discussed. Mr Alan Walker's explanation for this is that essentially the public consultation paper is not intended to go into that level of detail. There are valid reasons for the steering committee to have avoided raising detailed issues for debate in the public consultation paper. However, the committee noted that the price of this strategic decision is inevitably that the public will tend to perceive that critical decisions about particular areas are being made behind closed doors and without consultation. The committee lastly commented that the community information forums are not helpful. Members of the committee who have attended such a forum are of the view that little was achieved in the way of meaningful explanation of the RFA process and how it will affect individual communities.

I spoke last week about the opportunity that is presented for the future of the timber industry by the refit that is currently taking place at the Pemberton sawmill - the main karri sawmill in the south west. There are 955 000 hectares of regrowth forest which is now available. Even if we were to stop all old growth logging immediately, nearly one million hectares of forest would still be available to the timber industry. The main karri industry is being refitted. What a golden opportunity for that mill to change its production focus to only regrowth timber so that the last remaining stands of karri old growth, many of which are heritage listed, can be preserved in perpetuity.

There is also the limitation of the agenda. Many people in the community think that the RFA is only about which areas of forest should be reserved. They could not be blamed for this misconception because the RFA process has been structured to focus on that one question: Which areas of forest should be reserved? When we talk about areas, we do not specify areas; we talk only in ecotypes, not about local forest blocks. Notwithstanding that, the RFA process is about achieving ecologically sustainable forest management in Western Australia. The process is seeking a very broad outcome, yet the process ignores many critical aspects of how we go about achieving ESFM. I will read to members from the committee's report. The committee's findings on page 79 of the report state -

> The Committee believes the desirability of achieving ecologically sustainable forest management is self-evident. Remaining below maximum sustainable yield is a critical element in achieving this. In the Committee's experience most industries reliant on renewable resources have accepted the need to remain within sustainable yield, for the reason that in the long term it benefits the industry. Examples are Western Australia's broad acre cropping and crayfishing industries.
>
> It is disappointing that the Approaches do not propose levels for jarrah first and second grade sawlog harvest which are in the vicinity of CALM's estimated level of 300,000 m^3/yr. While there are immediate financial benefits to harvesting over sustainable yield, it is accepted by most industries that the long term costs in depletion of the resource are too great to justify over-harvesting. There is no reason why the general rule should not apply to the timber industry.
>
> The Committee does not accept that it is self-evident that the first and second grade jarrah sawlog harvest levels are irrelevant to achieving ESFM.

That was the proposal of Mr Alan Walker. It continues -

> The currently applicable parameters for timber harvest levels in the State, determined by the Minister for the Environment and applied by CALM through the Forest Management Plan, are given in terms of first and second grade sawlog harvest levels. If, as Mr Walker suggests, the RFA process has abandoned this key indicator without discussion or justification, this appears to be a serious flaw in the RFA process.

In my opinion recommendation 8 covers a key approach of the committee to the Regional Forest Agreement process. In essence, it says that it is in the interests of the timber industry that the RFA process works well and gains widespread acceptance, otherwise the process will fail to provide a reduction in conflict and, as a result, a long-term resource security for the timber industry. Until the timber industry comes to terms with its place in the Western Australian community, there will be no resolution of that issue. The committee noted that the difference between the timber industry and other industries in Western Australia - for example, crayfishing and broadacre cropping - is not that they are not affected by environmental problems, but that they are not in a state of denial of these matters. On the contrary, the agricultural industry is working as hard as it possibly can to turn around past environmental problems and to put in place a sustainable industry. The timber industry is denying that there are any environmental problems, that its current level of cut is not sustainable. This denial in the long term will cost the industry its resource security. Those are my words. These are the words of the committee on page 58 of the report -

> **GENERAL FINDINGS**
>
> The Committee's conclusion is that the RFA is falling short of delivering resource security to industry in a social and political sense. The timber industry will not be further advanced towards obtaining resource security in a social and political sense unless the RFA process increases public acceptance of forest management and the industry.
>
> A failure to deliver public acceptance is to the detriment of industry, which will continue to face opposition from conservationists and some local councils, some tourism bodies and sections of the community. Recent developments such the rally against the RFA process on 5 July 1998 in Perth indicate that the RFA process may indeed have had the opposite effect to the intended outcome.
>
> In the Committee's view it is critical that the Government should seek to enhance acceptance of the RFA process and thereby to promote resource security in a political and social sense for native forest-based timber industry. Based on the positive examples of the Bridgetown-Greenbushes Accord and the Queensland experience, the Committee finds that social and political acceptance for the timber industry is not impossible. To put it the other way, the current level of conflict is not inevitable.

Therefore, the committee goes on in recommendation 8 to state -

> That the Government seek to enhance acceptance of the RFA process and thereby to promote resource security in a political and social sense for the native forest-based timber industry.

Notwithstanding that everybody knows the chairman of the committee is from the Greens (WA), this report is not about pushing anybody's bandwagon. This report and the committee are not captured by the greenies or the timber industry. Members of the committee are captured by the issue, and by the information and understanding that they have gained about forest issues in the year the committee has studied them. There are compelling reasons that all members feel the way they do about reforming the RFA process; quite simply, it is in the best interests of not only the conservation movement, but also the timber industry. However, when we make a statement like this, which is seeking to create a breakthrough on this issue, which everybody knows has been vehement and polarised for many years, one problem is that the issue suffers from an over-familiarity.

All people say that they think they know what the issues are in relation to forest management. I have listened to the

comments in the debate, particularly those from members opposite, who take a stand which they believe sincerely is for the long-term benefit of the timber industry, but who, unfortunately, do not understand many of the problems facing that industry. People think this is an issue about tree hugging, about some sort of green sentimental agenda, and that they understand what it is all about, without first informing themselves of the details of the issue. Those issues are quite alarming. That is why the Standing Committee on Ecologically Sustainable Development has been captured by the compelling needs of the issue. I urge all members of this place to try to move beyond the stereotypes in this issue. All people - I say this on behalf the conservation movement also - must move beyond their comfort zones and their comfortable assumptions that they know what this issue is all about, and that it should be rammed through as quickly as possible. I urge members to read the report if they want to speak on the issue, and to inform themselves about what is going on in forest management. We are awaiting a very important report from the Environmental Protection Authority, which I hope will be released in the next few days, about the compliance of the Department of Conservation and Land Management with the Environmental Protection Authority Act. I urge members to read the information so they know the issues, and do not just continue to think they know about these matters.

Hon Barry House has made some well-intentioned statements, but he is not up to date with some issues in the timber industry. He said that the quality of timber had improved in recent times. That is inaccurate. In fact, the quality has been acknowledged universally not to have improved, particularly due to the ever-decreasing dimensions of the trees.

Hon Peter Foss: I think he said that the drying process has improved so that often far more of the timber that is cut is used, and far less is turned to pulp; whereas before, a perfectly good piece of timber might have been cut, but a lot more would have been lost.

Hon CHRISTINE SHARP: That is right. As the forest has become increasingly younger, because of the level of overcutting, with juvenile timber, the problems of drying and losing quality timber have become larger. The drying technology has, of course, improved the turnover of that timber into usable resources, and that is a good thing; however, it is quite wrong to say that the quality of the timber as it is delivered in the log to the mill has improved. I would like to know whether any member can provide me with any scientific information that kiln-dried timber is of equal or superior quality to traditionally air-dried timber. I know of absolutely no scientific information in that regard; however, I have heard anecdotally of a story of one case -

Hon Peter Foss: You are saying the wrong thing now.

Hon CHRISTINE SHARP: I urge the Attorney General to listen.

Hon Peter Foss: Anecdotes!

Hon CHRISTINE SHARP: This anecdote is about someone who attended a prize-giving ceremony for the fine woodcraft industry, and who had a piece of jarrah in his hand. Somehow he contrived to knock it against a hard object and it broke in two and he then said, "If this is what kiln-drying does for timber, you can keep it." Although that is only one anecdote, the incident was embarrassing when it occurred at a prize-giving ceremony for fine woodcraft. On a more serious note, as far as I am aware there is no scientific evidence to demonstrate that kiln-dried timber is of equal or superior quality to air-dried timber; in fact, there are fears to the contrary.

Hon Peter Foss: That is a bit unscientific for you; I would have thought you would do better than that.

Hon CHRISTINE SHARP: I am so glad the Attorney General has come into the Chamber! Hon Barry House quite correctly mentioned that it is undesirable that Homeswest have a policy of insisting on the use of native hardwood ceiling timbers in its constructions, rather than moving to either pine trusses or even to recycled hardwood timber. It is good that the member should point this out; however, he does not seem to understand that this is not a local problem with Homeswest and the buying policy in one government agency; the fact is that with the current royalty and pricing structures of timbers in this State, it is far cheaper to use jarrah as a construction timber than to use pine. Therefore, the whole way in which timber is being marketed is moving away from the conservation and careful use of the native hardwoods. It is not endorsing any value-added approach.

Hon Barry House also spoke about the importance of pine plantations. Again, I endorse his statements. These plantations are very important. All members of this place will agree that for all bread-and-butter construction purposes the State should use softwood timber to replace the native hardwoods as much as it can. This does not concern only me; it is worrying those in the industry sick. Where does the Government stand on this issue? Why is it allowing an active policy of selling pine plantations? What kind of message are we giving to the softwood industry when the royalty on pine is $60 whereas on jarrah it is $40 for relative grades? Economically it is hard for the softwood industry to compete. It is no wonder that people are still using jarrah or karri in their roofs. However, at the same time, the Government has decided that it no longer wants to financially support the ongoing regeneration of pine plantations. Instead, they are being put on the market. Members may have noticed an advertisement in one of the south west papers this week advertising more land in the Blackwood valley that has been put on the market by the Department of Conservation and Land Management.

Hon Peter Foss: You know why, don't you, because it has not proved to be very good for pine plantations?

Hon CHRISTINE SHARP: What absolute nonsense. Does the Attorney General know what we did in Grimwade last year?

Hon Peter Foss: It is cheaper elsewhere.

Hon CHRISTINE SHARP: Section 2 of the pine plantation in Grimwade, a few kilometres from where I live, has produced the finest quality pine that Western Australia has ever produced. That land is not freehold title, therefore it is not on the market currently. It is titled state forest. Does the Attorney General know what we did when we harvested that area 18 months ago? We replanted it to blue gums. That is the kind of message that we are giving the softwood industry. That is why people from the softwood industry are approaching me, a greenie, asking, "Can you please help our industry?"

Hon Peter Foss: Do you know that CALM wants to have major pine plantations throughout Western Australia in dry areas?

Hon CHRISTINE SHARP: Yes, we are all very well aware of that. We can talk about that; it is a very interesting story. That is great, except it has not been proved that this species is viable in a 300 millimetre rainfall zone, which is where we desperately need deep-rooted agronomic crops.

Hon Peter Foss: You have to start sometime. That is what the Government does.

Hon CHRISTINE SHARP: I absolutely endorse it.

Hon Peter Foss: Governments should lead the way; other commercial enterprises should follow.

Hon CHRISTINE SHARP: However, we must know whether, firstly, trees will grow and -

Hon Peter Foss: How can you tell if they will grow except by planting some?

Hon CHRISTINE SHARP: - secondly, whether there is farmer acceptance of the industry.

Hon Peter Foss: You have to start by persuading them.

Hon CHRISTINE SHARP: Mr Chairman, shall I sit down and allow the Attorney General to speak?

The CHAIRMAN: Order! Hon Christine Sharp has the call at the moment.

Hon CHRISTINE SHARP: The pinaster program on the wheatbelt is universally endorsed as being a good thing if it works. However, currently it is unproved for various reasons. One is that we do not know whether it will grow in economic time frames in a 300 mm rainfall zone.

Hon Peter Foss: Have you tried them?

Hon CHRISTINE SHARP: Yes, of course. That is the way that we find out, we try it. Secondly we do not know whether farmers will be prepared to accept this crop.

Hon Peter Foss: We must persuade them.

Hon CHRISTINE SHARP: Yes, we do. It has taken enormous amounts of effort and energy to persuade the farming community to embrace, first, the radiata crop and then to embrace blue gums. We cannot just assume that we will be planting at such and such proposed planting rates because we do not know whether farmers will take this up.

Hon Peter Foss: You know farmers will take a lot of persuading. They are still in denial.

Hon Greg Smith: If they can make money out of it, we can persuade them.

Hon CHRISTINE SHARP: These are technical problems. We do not know what rotation lengths are achievable.

Hon Peter Foss interjected.

Hon CHRISTINE SHARP: No. I am saying that currently we do not know just how well it will work. It is great that we are trying it but until we know how well it will work, it is crazy to undermine the thousands of hectares of pinus radiata that are ready for an industry by either actively regenerating with blue gums or selling the land because we can make more money by selling it to hobby farmers in Perth. That is an appalling message to the softwood industry. Many people are extremely concerned about it, although the Attorney General may sit there in such complacency.

What we want to do is to get people thinking beyond the stereotypes, thinking beyond, "Yes, we feel comfortable; yes, we understand these issues; yes, all is well; and, yes, we can ram through the Regional Forest Agreement in great confidence because this is what is needed for the long-term benefit of not only the State but also of the timber industry itself." If members informed themselves of where forest management is going in this State; of the very serious scientific concerns about the state of regeneration of most of the regrowth forest after intensive harvesting through either clear felling in the karri

or gap creation in the jarrah; and a whole raft of other issues which are the detailed reality of why this issue is so important, then perhaps they would be able to break out of their comfort zone and realise, as the committee proposes, that it is in the interests of everybody including the timber industry. I am speaking for the timber industry as well as for the conservation movement. It is in everybody's interests that the RFA be a decent process which achieves widespread social acceptance. Otherwise it will be a stuff-up. It will have cost - I do not know how much - between $5m and $10m to achieve almost nothing, except to increase the level of conflict. What a stuff-up!

In moving this motion, I am trying to prevent the Government from making a huge error over the RFA. I am trying to make the Liberal members of this place realise that they are fairly ignorant about the real issues. Their own coalition partners have gone to the trouble of doing a year's research into these very real problems that I have just skimmed over today, and they have come to similar conclusions: All is not well down in the bush. When will the Liberal Party wake up to the fact that it is in a minority, and that the conflict will continue unless this process is reformed? This level of conflict over the forest is not inevitable. It is indicative of a poor management process. The longer it takes to heal this, the longer it will take to sort out the issues.

I will not take up much more time of the House. However, I want to deal with the role of the Department of Conservation and Land Management in this process. As members will be aware, the committee has suggested that because of a perceived conflict of interest with the funding arrangements of CALM, it is not appropriate for CALM to be the lead agency in finalising the RFA. In fact, many commentators have spoken of the need for a full examination and public explanation of CALM's business structure and of the relationship between its reliance on timber royalties and its own financial appropriations and expenditure.

When we began this debate several weeks ago, Hon Derrick Tomlinson listened to comments I made in this regard. He seemed to be quite shocked to discover that 93 per cent of CALM's self-generated income is from logging, and that this income does not even go via Treasury and then in the form of a reappropriation; it goes straight to CALM. Therefore, when a truckload of logs is delivered to a timber mill, the money for that load is due to be paid straight to CALM's account. That is paying CALM's salaries for the next month.

I was struck by the reality of this, again to use an anecdote, a couple of weeks ago when discussing a particular forest block in the south west which the community has shown a great desire to maintain unlogged. It is close to a community, and there are no other old-growth forests left in the vicinity of that community. The community took this debate as far as the High Court of Australia, where the case was thrown out, not because of the lack of evidence, but on a technicality. CALM has announced that it intends to log this block this summer. With this background, I telephoned a senior person in CALM in the south west. I did not ask that this block not be logged; I simply said, "You may need to know that for the last few months this community has been negotiating with the shire council. The shire council is considering whether to endorse, on behalf of the community, a series of proposals covering small, local areas of bush that the community would like to be protected from logging. We do not know what the outcome of this process will be; we do not know which bits of bush the shire council may or may not seek to help the community to protect. However, we do know that there is a genuine community process going on here. We do know that the shire council is taking a lot of time. It has been out in the bush on several weekends. This is a valid process. Let's respect the integrity of this process. Let's put off the decision about this particular block until that process can be finished. If you put some pressure on them, that process could probably be over within a couple of months." This person's answer to me was, "I did not know about this. I really like what you are saying. I think it is a good idea that CALM works at a local level with shire councils and community groups. The trouble is that I do not have a lot of flexibility. However, I will ring the business unit this afternoon to see if it will give me a little bit of time." He rang the business unit, and the business unit would not give him any time. It wanted those logs harvested before Christmas. It said it needed those logs now as they were part of its whole business plan.

That was shocking to me, because it was coming at a practical level. I was coming to terms with the reality that I have talked about a lot at a theoretical level, which is that CALM is financed by logging, and therefore that is the body driving the logging. It is not even the timber industry; it is CALM that is driving the current levels of cut.

Hon J.A. Scott: Surely the Government has some responsibility in that respect.

Hon CHRISTINE SHARP: It seems to me that the Government is either ignorant or guilty. At the end of the day, as Dr Shea always stresses, it is his minister who makes the decision. He may be on his thirteenth minister; he may know more about this than the ministers. Nevertheless, at the end of the day -

Hon Greg Smith: Hon Bob Pearce thinks CALM is doing a good job.

Hon CHRISTINE SHARP: As Hon Greg Smith has just noted -

The CHAIRMAN: Order! Remarks should be addressed to the report rather than being of a general nature.

Hon CHRISTINE SHARP: In concluding my remarks about the problem with CALM's funding arrangements, I note that yesterday Hon Bob Pearce, who is the Executive Director of the Forest Industries Federation (WA), gave evidence at a

hearing of the Standing Committee on Ecologically Sustainable Development. He suggested that the timber industry is trying to reduce the jarrah cut. It is aware that the time is ticking away when it needs to bring the cut down to estimated sustainable yields, and it notes with some concern that because the timber industry is not in all cases taking up the full extent of its contracts, last year CALM put 60 000 cubic metres of jarrah onto the open auction market because "CALM needed the money".

Hon N.F. Moore: Who said that?

Hon CHRISTINE SHARP: Hon Bob Pearce.

Hon N.F. Moore: So he knows?

Hon CHRISTINE SHARP: There is acceptance across the board that the funding arrangements that are in place -

Hon N.F. Moore: You said he gave you definitive evidence about CALM.

Hon CHRISTINE SHARP: I did not say it was definitive, although he does like to speak in those terms.

Hon N.F. Moore: He does not speak on behalf of CALM, does he?

Hon CHRISTINE SHARP: No. He speaks on behalf of the Forest Industries Federation.

Hon N.F. Moore: I know, but when he speaks about what CALM is doing, that does not mean that he knows exactly what it is doing.

Hon CHRISTINE SHARP: There is acceptance across-the-board that the current funding arrangements are not satisfactory and that this is a very serious matter.

Hon N.F. Moore: That may be your point of view.

Hon CHRISTINE SHARP: Even Hon Bob Pearce, who is at great pains, as Hon Greg Smith has said, to do everything that he can to support CALM and to broker no criticism whatever of CALM, has admitted that this funding arrangement is leading to extra trees being cut in the bush in order to support CALM's income.

Hon N.F. Moore: That is your interpretation of what he said.

Mr Thomas: When did he say that?

Hon CHRISTINE SHARP: Yesterday, in the hearings of the ESD committee.

Hon N.F. Moore: Do you think you should be talking about what your committee did yesterday when this motion is about what you did last year?

Hon CHRISTINE SHARP: This is relevant to one of the recommendations in the second report of the ESD committee, which is before the House today.

We are asking for a breakthrough on this issue. We are asking people from all sides in the community, including conservationists and people in the timber industry, and people from all sides in this House, to stop trying to make each other wrong, to stop trying to polarise the issue, to stop trying to hype up the issue, and to sit down and try to achieve a breakthrough. It is in everybody's interests to achieve a breakthrough. That can be done only if we slow down the RFA. The RFA does not need to be signed in any statutory sense until the end of 2000. We have time to bring together the stakeholders in a dialogue so that they can listen to each other and find some of the common ground which I, as a person who has talked to people from all sides for many years, know exists. We are then asking that a draft RFA be put out for public consultation. This is commensurate with the huge level of community interest in this matter. The estimated total number of submissions on the RFA has now increased to 30 000. Therefore, it is critical that we allow a draft RFA to go out for public consideration, and that it also be assessed by the Environmental Protection Authority of Western Australia, so that by 2000, we will have in place a genuine agreement which has gained not only the endorsement of this place, but also the endorsement that is so desperately required by everyone, and so that we can move this issue forward, after many years of its being bogged down.

HON J.A. SCOTT (South Metropolitan) [12.43 pm]: I support the motion. I commend the Standing Committee on Ecologically Sustainable Development for its good work and for the high quality of the recommendations that it has made. I particularly congratulate the committee on the approach that it has taken. It has not adopted a confrontationist approach in arriving at its decisions, and all members of that committee have been happy to sign off on what they believe are the right solutions in this matter.

We need to have a realistic look at this immensely important issue, which has generated vast community interest. As Hon Christine Sharp pointed out, 30 000 submissions have been made on the RFA. I have never heard of such a high level of public interest in any issue. That demonstrates that we need to be very careful as legislators in this place to consider this

matter carefully, because we are in a position, with reports such as this, where we can make a big difference to the future of the timber industry and the survival of the ecology of Western Australia, and to the future of other important industries, such as the beekeeping, tourism and fine woodcraft industries, which make their living from the forests of Western Australia. It is particularly important that this committee has examined this issue, because of the huge number of complaints that have been made by various interest groups about the RFA process. I do not know about other members, but I have received complaints from a number of people in the tourism and apiarian industries, who believe that their views have not been considered in the RFA process. This committee has had a particularly important job, and it has done that job very well.

It is interesting to note with regard to the RFA process the comments of Senator Hill in the Federal Parliament on 25 November 1998. He said in response to a question without notice from Senator Dee Margetts, with regard to the work of the Western Australian Legislative Council Standing Committee on Ecologically Sustainable Development, that -

> It is true that the Western Australian Legislative Council conducted an inquiry and came to the conclusion that what was needed in Western Australia was a negotiated outcome between all stakeholders -- the sort of solution that one would have suggested could only come from a 'green' chairman of the committee. It is totally unworkable, nevertheless that is the way it is. The report was of course to the Western Australian Legislative Council, and how the Western Australian parliament responds to it is something to be determined by the Western Australian parliament.

I suggest to all those people in this place who complain about attacks on States' rights that while Senator Hill has said that it is the role of the Western Australian Parliament to respond to that report in whatever way it wishes, he has also made snide references to a committee of this Parliament. That illustrates the funny way in which he thinks, because the very strength of that committee is that it has achieved a negotiated outcome. I wonder what sort of outcome Senator Hill wants. Does he want an outcome in which the side of the argument with the most money can get its way and completely override and trample upon the rights of not only this generation of Australians but also Australians who are yet to be born? It is clear from the report that the industry also has great concerns about the future. I have certainly seen a great many examples of problems within the industry. One issue that was not referred to in the report, and which must be considered at some stage if this State is to have a viable and ecologically sustainable industry, is the system of assessment of the grades of logs in the forest. A long time ago a committee of this Parliament inquired into this issue. In the grading of logs in the forests, small mills go to the coupes and pay a premium price for better quality logs. Once that premium has been paid and the small users have taken their quota of logs, I understand an arrangement is in place whereby Bunnings takes the remaining logs, which are assumed to be of the next lower grade even though they may be of the same grade, without paying a premium. No proper assessment is made of the logs. When all the sawn timber logs required have been taken, the remaining timber is suddenly graded as chippable because whatever is not usable is regarded as chippable. When there is a downturn in the building industry, vast amounts of high value forest are chipped and sent away to be turned into Japanese toilet paper. It is an absolute disgrace and it should be stopped as soon as possible. A proper system of assessment is needed. That aspect was outside the initial terms of reference of the committee, but it is an important area to raise because it interacts with the issue the committee looked at. It certainly interacts with the overall good use of forest resources.

The comments made by the Attorney General and Hon Barry House about the better use of timber are a bit of a joke because, although processes have been put in place to better use the timber cut, in recent years there has been a huge change.

Hon NORM KELLY: I understand the motion before the Committee of the Whole is to endorse the findings and recommendations of the report of the Standing Committee on Ecologically Sustainable Development. We spent an inordinate amount of time debating the semantics of "noting" and "endorsing", and now we are debating whether to endorse the report. As a member of the Standing Committee on Ecologically Sustainable Development, I draw to the attention of members some of the critical recommendations contained in the report and indicate why I believe it would be for the betterment of this State to support the motion that the recommendations be implemented. This report was tabled in August. It is now almost December, and no official response has been received from the Minister for the Environment giving her views on the report. I expected some action to be taken quickly.

The recommendations were framed on the understanding that time was of the essence. The committee did not want to unnecessarily prolong or delay the RFA process, but it saw scope to change that process within the existing time frame. As with many government initiatives, the RFA process was intended to be finished by now. I remember coming to this place last year expecting the process to be signed off by the end of 1997. Members cannot get a straight answer from the Minister for the Environment on this matter, but the latest estimate for completion of this process is 1999. The timber industry is concerned about delays by the Government in signing the RFA because it wants some security in order to make the investments needed to provide a more efficient native timber industry in the south west.

One of the most critical recommendations in the report is for the minister to ensure that a draft RFA is released for public comment and assessment by the state Environmental Protection Authority. As Hon Jim Scott said, Senator Hill understands that the EPA is required to make an assessment of the RFA. That seems to run counter to the state minister's understanding of the situation. Unfortunately, the whole RFA process has been shrouded in secrecy. That is demonstrated by answers from

the Minister for the Environment to questions raised in this House. About 30 000 submissions were made after the public consultation paper was released, but no report is available on those submissions. In response to questions, the minister has said that a report will be attached to the RFA when it is signed, sealed and publicly released. There is no reason for such a delay. Approximately 30 000 Western Australian individuals and organisations have made a contribution to this process and they are denied access to the result of that consultation. I can understand that the minister may fear some backlash if she releases a report showing that 95 per cent of the submissions oppose the Government's current approach. In a sense, she is interfering with the process by making a political decision to stifle genuine public debate.

I have experienced this at other times, when I have sought taxpayer-funded scientific reports on timber. Those reports should be publicly available but the only way to get a copy of those reports appears to be by asking questions in the Parliament. On one occasion when I asked for half a dozen documents through questions in this Parliament, I received them 10 minutes later even though these reports had been requested by others for many weeks previously. It is a pity the Government has taken this secretive and sheltered approach to the issue. Bearing in mind the report of the Commission on Government, it is true that dark deeds are done in secret. That is why there is great concern throughout the Western Australian community about what the Government may be preparing in the RFA.

Recommendations 10 to 12, which are also very important, are that an accord process be established and that the process include representatives from the timber industry, the Australian Workers Union, the conservation movement, indigenous people, the Institute of Foresters, the Forest Protection Society, the Department of Conservation and Land Management, local government, the tourism industry and other non-timber forest-based industries. This was to achieve greater acceptance of the final RFA document. The committee was trying to set up a quick and effective way of dealing with this matter, without unnecessarily delaying the RFA process. This accord process could have been established a couple of months ago, and could have been well on the way to conclusion. Unfortunately, the Minister for the Environment has not used the time wisely.

Debate adjourned, pursuant to standing orders.

Sitting suspended from 1.00 to 2.00 pm

BAIL AMENDMENT BILL

Assembly's Amendment

Amendment made by the Assembly now considered.

Committee

The Chairman of Committees (Hon J.A. Cowdell) in the Chair; Hon Peter Foss (Attorney General) in charge of the Bill.

The amendment made by the Assembly was as follows -

Clause 15, page 15, line 19 - To insert the following -

2a. ***Misuse of Drugs Act 1981***

s. 6(1)	Offences concerned with prohibited drugs generally
s. 7(1)	Offences concerned with prohibited plants generally
s. 33(2)(a)	Conspiracy to commit an offence under s. 6(1) or 7(1)

Hon PETER FOSS: I move -

That the amendment made by the Assembly be agreed to.

The Bail Amendment Bill will, among other things, change schedule 2 offences under the Bail Act. When the Bill left this place, it contained some additions to schedule 2, and the other place has added offences under the Misuse of Drugs Act. That statute is unusual in that it contains indictable offences; most others are in the Criminal Code. The Misuse of Drugs Act contains two sections dealing with indictable offences relating to the supply of drugs; namely, sections 6(1) and 7(1), which respectively deal with offences concerned with prohibited drugs generally and prohibited plants generally. Section 6(1) reads -

Subject to subsection (3), a person who -

(a) with intent to sell or supply it to another, has in his possession;

(b) manufactures or prepares; or

(c) sells or supplies, or offers to sell or supply, to another, a prohibited drug commits an indictable offence, except when he is authorized by or under this Act or by or under the Poisons Act 1964 to do so and does so in accordance with that authority.

An exception is contained in subsection (3). Section 7(1) reads -

> Subject to subsection (3), a person who -
>
> (a) with intent to sell or supply a prohibited plant or any prohibited drug obtainable therefrom to another, has in his possession or cultivates the prohibited plant; or
>
> (b) sells or supplies, or offers to sell or supply, a prohibited plant to another, commits an indictable offence, except when he is authorized by or under this Act or by or under the Poisons Act 1964 to do so and does so in accordance with that authority.

There is also a conspiracy offence which goes with that offence. Section 33(2)(a) provides -

> A person who conspires with another to commit an offence (in this subsection called **"the principal offence")** commits -
>
> (a) if the principal offence is an indictable offence under section 6(1) or 7(1) the indictable offence, but is liable on conviction to the penalty referred to in section 34(1)(b); or
>
> (b) if the principal offence is a simple offence or an indictable offence, other than the indictable offence referred to in paragraph (a), the simple offence or that indictable offence, as the case requires, and is liable on conviction to the same penalty to which a person who commits the principal offence is liable.

This picks up the two indictable offences under sections 6(1) and 7(1) and a conspiracy to commit one of those offences. The point was made when the Bill was previously before the Chamber that some people used these provisions in the way that car parking tickets are used; that is, once one has a parking ticket, one may as well park there all day. A tendency emerged for drug people charged under sections 6(1) or 7(1) to continue to offend while on bail. A matter may take some time to reach court, and people were in no hurry. Subsequent offences tended to be charged all at the same time, and faced a lesser tariff when heard.

Hon Ken Travers: That is not the case only for drug offences. It applies to break and enter.

Hon PETER FOSS: Yes. That is why changes were made in that area. It is seen that drug offenders believe they should offend as much as possible before appearing in court. This amendment has the Government's support.

Hon N.D. GRIFFITHS: The Australian Labor Party supports the amendment. However, I express my surprise, given the words of the Attorney General, that the Bill did not contain these provisions when it first came before us.

Question put and passed; the Assembly's amendment agreed to.

Report

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

SCHOOL EDUCATION BILL

Committee

Resumed from 25 November. The Chairman of Committees (Hon J.A. Cowdell) in the Chair; Hon N.F. Moore (Leader of the House) in charge of the Bill.

Clause 116: Dissemination of certain information on school premises -

Progress was reported after the following amendment had been moved -

> Page 83, lines 22 and 23 - To delete the paragraph.

Hon N.F. MOORE: I feel very strongly about this amendment, as I endeavoured to indicate to the Chamber last night. As a matter of interest the Chamber has passed clause 68(1), which states that the curriculum and teaching in government schools is not to promote the case of a party to an industrial dispute. We have already decided that an industrial dispute's being part of the curriculum or teaching in government schools is not appropriate. Now we are seeking to make sure under clause 116 that nobody else on school premises endeavours to promote a particular point of view on issues such as industrial disputes. It refers to a person, not a teacher. It states that any person must not on the premises of a government school seek to impress a particular viewpoint or message on the minds of students in respect of an industrial dispute. The clause the member is seeking to delete advocates the inclusion of a party to an industrial dispute. I would argue very strongly that a party to an industrial dispute is a union or an employer organisation in most cases and not some other organisation that may be affected by the industrial dispute. I used the example of the State School Teachers Union of WA, but under this amendment the Maritime Workers Union of WA or some mad, right-wing employer organisation, if there is such a thing -

Hon Simon O'Brien: It is a contradiction in terms.

Hon N.F. MOORE: I agree.

Hon Ken Travers: You could probably give an example.

Hon N.F. MOORE: I probably could, but I cannot think of one off the top of my head. They do not jump to mind as do those on the other side of the argument. There may well be at some future time some mad, right-wing employer organisation or some extraordinarily left-wing employee organisation. The point I am trying to make is that I do not believe it is appropriate that we should allow any organisation of that nature to bring its industrial disputes into school grounds and to impress its viewpoint or message on the minds of the students. As I said yesterday, this is about the most important issue we have come across so far in this Bill.

Hon Ken Travers: Your priorities are interesting.

Hon N.F. MOORE: I cannot believe that the member would support a union or organisation of employers being allowed access to school grounds to impress its point of view on the minds of students. I do not know what the member would seek to achieve by doing that. It is very, very unhealthy. If this Chamber agrees to the amendment, it would be saying that it is condoning that action because it took a deliberate action to allow that to happen. That is totally unacceptable. As a parent of children in schools I would be absolutely ropeable, as would most parents, if a union executive or an employee organisation executive officer turned up at my children's school and started telling my children the merits or demerits of a particular industrial dispute, seeking to impress his particular viewpoint or message on the minds of my children. That is what it comes down to. That would be quite acceptable, when one thinks that we are trying to keep out partisan views from the education system in the sense that a promotion of a particular point of view on an industrial dispute would entail. We agree that we take political parties out because we do not want political parties trotting around saying that they want children to believe in their point of view. We have said that will not happen because it is inappropriate. It is also inappropriate for parties to industrial disputes to do the same thing. I do not know what the Labor Party wants to gain by having children involved in industrial disputes. That is the only reason it would do it.

Hon Ken Travers: Does clause 68 not already cover this?

Hon N.F. MOORE: No, that is that the curriculum and teaching in government schools "is not to promote". People should not be allowed to go onto school premises to promote a particular point of view on an industrial dispute. I very strongly argue that this amendment should not be agreed to.

Hon HELEN HODGSON: I have had a think about this overnight. The point of view that I put yesterday was primarily that although I agree that the intention here is to do with the viewpoint or message being imprinted on the minds of students, a practical difficulty that might arise would be that if in the heat of an industrial dispute somebody sent a message home to parents, it could be interpreted as possibly being in breach of this clause and simply inflame an industrial dispute. Since then there has been a considerable amount of debate. The minister has clarified some of the issues about which I was concerned. However, I seek clarification from the minister that if a party to an industrial dispute, being either a union or a CEO, were to send home a message addressed to parents, it would not be seen as being in contravention of this clause because it would not be to impress a viewpoint on the minds of the students. If the minister could clarify that to my satisfaction, it would assist my decision making.

Hon N.F. MOORE: The intent of clause 116 is to avoid a situation where students are being orally or in writing persuaded to a particular point of view - it is the students, not the parents. If a message were sent from a school to parents at home via the child and the child were not involved other than as a courier, I would not see that as being a breach of this clause.

Hon LJILJANNA RAVLICH: The Labor Party will press on with this amendment. In response to the minister's comments, my understanding of the way in which the State School Teachers Union operates is that it does not go onto school grounds with a view to impressing a viewpoint or message on the minds of the students. Its members may go onto the school ground with the intention of impressing a particular viewpoint or message on the minds of teachers, but I do not believe that they go into schools with the intention of doing that to children. When an industrial dispute occurs, there is a need to communicate to parents what will happen with supervision arrangements and other considerations. Many staff have an obligation to advise parents in such circumstances. In those cases the information to be conveyed to parents has nothing to do with impressing a particular view on the child. It is more about effective communication with the parents about what is going on at the school level. When that does not occur and parents are poorly informed about what may be a change to the school's operation or schedule, I can assure members that parents can be very frustrated. They tend to take out that frustration on the school administration if it has been negligent in providing information regarding the changes to the day's organisation. It would be in the school's interests therefore to facilitate effective communication with the parents. The Australian Labor Party feels the chief executive officer, the State School Teachers Union, staff and the school principal should be able to communicate effectively with parents. I was interested in the important question asked by Hon Helen Hodgson about whether an envelope sent to parents would fall foul of this legislation.

Hon Simon O'Brien: It has nothing to do with it. The minister said it had nothing to do with it. I do not know what is your problem; you will not listen to reason.

Hon LJILJANNA RAVLICH: I may not have the same view as Hon Simon O'Brien but I will press on with this amendment. In 1995 a major dispute occurred and some teachers advised parents of the situation regarding that dispute. Many of them were disciplined under section 7C of the Education Act for doing that. That was heavy handed; teachers have a right to inform parents of these matters. In fact, the entire teaching staff of one primary school had section 7C notices issued against them. Given that neither the CEO nor the State School Teachers Union can advocate the case of a party in an industrial dispute, it begs the question: Who will inform the parents about any changes to school routines?

Hon N.F. Moore: The school principal has an obligation to do that. You know that if for some reason the school changes its program, a letter goes home with the children.

Hon LJILJANNA RAVLICH: In the light of the importance of ensuring information is effectively disseminated and there is balance in the argument, the ALP will press on with this amendment.

Hon RAY HALLIGAN: I have grave concerns about some of the members opposite and their reading of this clause. I urge all members to read it again. The Leader of the House has told us what it means. It is obviously not getting through to members of the ALP. It is particularly good that Hon Helen Hodgson sought and obtained clarification. I hope that commonsense will prevail with both the Democrats and the Greens (WA). However, if we read the clause yet again, it is clear that it has nothing to do with parents, nor does it have anything to do with children being able to take home envelopes to their parents. It has everything to do with industrial disputes and those who advocate the case of a party and try to impress on the mind of a student their viewpoint, causing the student to have to accept and, often as far as I am sure the ALP is concerned, embrace the position of the teachers. It is certainly not to do with not being able to communicate to the students' parents.

The Leader of the House has already told members opposite through the question from Hon Helen Hodgson that there is no problem with students taking home sealed envelopes. The problem occurs when either party to an industrial dispute tries to "impress a particular viewpoint or message on the minds of the students". It is most unfortunate that the ALP is going down this path to try to delete paragraph (d). I sincerely hope, as I said, that commonsense will prevail and both the Greens and the Democrats are not caught up in this spurious argument.

Hon CHRISTINE SHARP: I have found this clause a very difficult one to decide on. I have listened to the arguments from both sides with great interest. As I said in the Chamber yesterday evening, the members of the committee were concerned at how limited is the prescription of what is not allowed to be impressed on the minds of children. We were concerned that this clause would not prevent sexually offensive, lewd and soft pornographic material being circulated in schools. We thought if it were to be prescriptive there should be a wider prescription.

As I explained, the committee did not have time to consider a way to redraft the clause. That is a pity. I considered it when I was preparing amendments and sought advice about whether such prescription could include the material to which I am referring. I was told that if we used a term such as "offensive" it would require someone to adjudicate what is offensive. As this clause does not provide for any mechanism for the determination of what material may or may not be offensive or any other prescription that requires judging in that way, it could not be included in the Bill.

Hon N.F. Moore: Clause 115 deals with offensive or disruptive behaviour on the school premises and the good order of the school.

Hon CHRISTINE SHARP: Perhaps. However, it is still a limit and perhaps another mechanism could have been found. I again find the argument we are having this afternoon on subclause 2(d) difficult. This may seem naive to other members, but as someone without any legal background or experience, I can read one meaning into legislation and after advice from Parliamentary Counsel or someone with a great deal of legal experience the words can mean something different. It is confusing to the layperson.

Hon N.F. Moore: This means exactly what it says; that is the problem. There is no dispute about what this means.

Hon CHRISTINE SHARP: Nevertheless, the wording of legislation can seem like two different languages. Members will recall that I withdrew amendments which referred to the principles of natural justice and procedural fairness because I was given to understand that if they were used in a court of law they would constrain the law. I drafted the amendments not imagining a hypothetical situation in a court of law, but that of advisers on an advisory panel; that is, ordinary, non-legal people, reading their job descriptions. For those people, it is right and proper that they be instructed to follow natural justice and procedural fairness.

In the light of the clarification by the Leader of the House that this clause does not refer to the circumstances to which I referred last night when I said I supported this deletion, and given that he is maintaining that if information goes to the students' homes via the students in sealed envelopes which is not meant to impress on the students any point of view but is a communication between either the chief executive officer or the State School Teachers Union, WACSSO or whoever, and the parents, I will not be supporting this deletion.

In doing that, I am coming down on the side of all the weight of experience in this place about how law works. Nevertheless,

I still feel torn because in the heat of the moment of an industrial dispute, if someone from a party were shown this part of the Act, they might, without having deeper legal advice, assume they would not be allowed to make that kind of communication. Therefore it comes back to the question of who is the law communicating to - the actors or the courts? It is way beyond my experience to make a judgment on that question in this short time. I have no advice on it and therefore I am following my instinct, which is that we must ultimately rely on the courts to protect the law. I will not be supporting the deletion.

Hon KIM CHANCE: I am reluctant to extend this debate any further; however, I wish to say one or two things. I will be supporting the amendment although I will do so with some reservations. I am grateful to Hon Christine Sharp for advising us of her intentions, and that rather decides the issue. I must say to the Leader of the House that regardless of whether this amendment is won or lost, I sincerely believe the Government should take on board some of the issues that have been raised in this debate and have another look after the passage of the Bill at clause 116 and the appropriateness of the matters contained in subclause (2). A number of issues have been mentioned. I understand from what the Leader of the House told us yesterday that the current position is inconclusive, so it would be good to have more certainty about how material of this nature and others might be communicated to children. I am disappointed that the committee did not have time to get some clarity about clause 116. Apart from those examples that have been given of the perceived difficulties with the matters raised in subclauses (a) to (d) of clause 116, subclause (a), which is not a matter of dispute in terms of the amendment, is something that everyone would want to support: "This section applies to information that is intended to generate support for a political party". When one thinks again about who that excludes, and by its specification who it includes, it raises serious issues; for example, a political movement or organisation which is not a party is not prevented from influencing the minds of children. That means a Trotskyite organisation, some of which have shown an inclination to take an interest in influencing children, would not be prevented by clause 116 from seeking to influence the minds of children. Members should think about that. I will not name the organisation, but I think members know which one I am talking about. The matter of offensive material has been raised and the minister has correctly said that is covered by legislation, but there have been editions of *Prosh*, for example, of which some members opposite may be more aware than I am, with articles on issues that are not legally offensive but contain certain issues which many children and their parents might regard as offensive. I do not mean to single out *Prosh*, but it is good example because it is a publication which has been targeted at older school children. Once it is targeted to older school children, by necessity it becomes available to younger school children. I am sincere about this and I understand the points made by members opposite, but in trying to be specific I believe the Government has got itself into the same trouble that the Opposition did with another amendment to do with fees and trying to be specific about what can and cannot be charged. I cannot ask the Leader of the House for an undertaking that he will do that, but I would appreciate his assuring me that he will raise it with the Minister for Education.

Hon N.F. MOORE: I will certainly do that. I do not have a problem with people thinking about what other things should be excluded from school grounds, whether it is pornographic material, flashers or whatever else. It may be that we need to have legislative protection for children in schools to prevent people with certain points of view imposing them on children. That is the reason this clause is in the Bill now. It has sought to ensure that political and industrial issues, advertising, which has nothing to do with education, and religious views are not forced upon children. The main issues have been covered, but I am happy to talk to the Minister for Education about adding any others that might appear proper. I am concerned that we are trying to remove an issue from this amendment which is fundamental. I am pleased to hear that the Democrats and the Greens (WA) will not be supporting the amendment.

Amendment put and a division taken with the following result -

Ayes (8)

Hon Kim Chance	Hon E.R.J. Dermer	Hon Mark Nevill	Hon Tom Stephens
Hon J.A. Cowdell	Hon John Halden	Hon Ljiljanna Ravlich	Hon Bob Thomas *(Teller)*

Noes (18)

Hon M.J. Criddle	Hon Helen Hodgson	Hon M.D. Nixon	Hon C. Sharp
Hon B.K. Donaldson	Hon Barry House	Hon B.M. Scott	Hon W.N. Stretch
Hon Max Evans	Hon Norm Kelly	Hon J.A. Scott	Hon Giz Watson
Hon Peter Foss	Hon Murray Montgomery	Hon Greg Smith	Hon Muriel Patterson *(Teller)*
Hon Ray Halligan	Hon N.F. Moore		

Pairs

Hon Ken Travers	Hon Simon O'Brien
Hon Tom Helm	Hon Dexter Davies
Hon Nick Griffiths	Hon Derrick Tomlinson

Amendment thus negatived.

Hon LJILJANNA RAVLICH: I move -

Page 84, after line 5 - To insert the following new subclause -

(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 program at that school.

Students who may be on the school grounds after school may be caught up in an unintentional consequence of clause 116. The current definition of a student refers to a person who is enrolled at a school. The Government has over time supported the notion of school facilities being used as community facilities, particularly in regional areas. The Opposition is concerned that where a school is used in the broader community sense - for example, a lady demonstrating Tupperware - community members could fall victim to subclause 2(b) and therefore incur the penalty of $2 000. The amendment will redefine the definition of student to mean a student enrolled at a government school who is on school premises at the time the student is required to attend the school as part of his or her educational program. If the school were used as a community facility, and was being used by the local community for a political meeting or for a Tupperware or Bamix demonstration, we would not want the person who gave the presentation to incur the penalty of $2 000 because a 17-year-old student of the school attends one of those meetings. The Opposition has endeavoured to tidy up the definition of student. The definition proposed in the Opposition's amendment will avoid silly situations in which people are unduly punished for disseminating information on school grounds to students when the school is being used for a meeting venue for purposes other than educational instruction. I ask members to support the amendment.

Hon SIMON O'BRIEN: I agree with Hon Ljiljanna Ravlich that we do not want silly situations to arise. However, the amendment addresses silly situations and not real situations. It does not offer anything, and only detracts from what is the real reason for the clause, which we have already agreed to. I will illustrate one way in which the Opposition's definition will not help, but will muck up that which we have just agreed to. A problem might arise when, 15 minutes before the school bell rings, a person is supplying information in any of those four categories, the purpose of which is to impress a viewpoint or message on the minds of the students. Most children are at school 10 or 20 minutes before school begins, either playing in the yard or doing last minute homework and the amendment will allow all the Trotskyites, the commercial people, and the weird denominations to -

Several members interjected.

Hon SIMON O'BRIEN: I am not trying to have a go at good intentions. However, that is what occurs when we try to make definitions on the run. The amendment will muck up the intent of the clause in pursuit of some other silly situation that, in a reasonable world, will not arise. That is why we should take this amendment back to the drawing board and leave it there.

Hon HELEN HODGSON: I have given the amendment some thought, and I am not making a decision on the run. At various times all members in this place have done a stint in front of schools on polling day when an 18-year-old post-compulsory student comes along to vote and we are expected to impress upon him a particular point of view - that being to vote for our party. That would be prohibited under subclause (2)(a). The other situation that arises in new and developing suburbs is that churches are given permission to use part of the school facilities on a Sunday to conduct services, Sunday school and so on. That would be prohibited under subclause (2)(c). There will be times when students are not at the school for the purpose of education, in which case these activities should not be prohibited.

Hon CHRISTINE SHARP: Hon Helen Hodgson has raised some valid circumstances in which this amendment may be required. Even in the example that Hon Simon O'Brien raised, I would be surprised if a court would rule that a child who is at school 15 minutes before the bell rings for lessons to begin is not there because he or she is required to be there as part of the day's school activities. Therefore, the example Hon Simon O'Brien raised does not carry weight, and I will support the amendment.

Hon N.F. MOORE: The points raised by Hon Helen Hodgson are fair and reasonable in the context, and I agree generally with what Hon Ljiljanna Ravlich is saying. However, Hon Simon O'Brien also raised a potential problem, and in that sense he is quite right. If somebody turns up at 8.45 am and starts haranguing children about who they should vote for or why they should join a particular religion, technically they would be behaving legally if we agreed to the amendment. However, if a church service is conducted at a school on Sunday and we do not agree to the amendment a church group would be contrary to the Act. We will go along with the amendment, but we will examine it in more detail later to make sure that the spirit of what we are seeking to do is being adhered to. The spirit of clause 116 is that schools are places that kids attend compulsorily. They are not places where people can foist their own ideas on children, often contrary to what they want. However, it is not intended to take away the community nature of many school buildings and the fact that out of hours they are used for all sorts of purposes, including political, industrial and religious purposes. The Government will accept the amendment, but we will need to monitor it closely to make sure that the spirit of the legislation is not transgressed.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 117 to 121 put and passed.

Clause 122: Constitution of Councils -

Hon KIM CHANCE: I move -

> Page 86, line 22 - To insert after "school" the words "and persons whose details have been provided under section 16(1)(b)(ii)(II)".

When I consulted the list of amendments to which the Government's agreement has been notified, I found that this amendment was not on the list, although the next amendment is agreed. I am at a loss to understand why. Let me explain the effect of the amendment. Clause 122 deals with the constitution of school councils which may be established for a single government school or for two or more government schools. It deals also with who may be a member of that school council. Subsection (1)(a) provides that the parents of students at a school shall be the pool from which the members of the council are drawn. Of course, the Opposition has no difficulty with that, along with the remainder of the clause, which states -

(b) other members of the community;

(c) the staff of the school; and

(d) where the school is of a prescribed class, students at the school . . .

Paragraph (d) applies to schools which cater for adult students. However, our concentration is on paragraph (a). The Bill does not provide for a custodian of the child other than the parent to be a member of the school council. It does not provide for the child's legal guardian or for the child's informal guardian. Regardless of the legal status of the guardian - that is, formal or informal - that person does not qualify to be a member of the council of the school attended by the child for whom he or she is responsible.

To some extent I can understand that it might have been simply left out of the Bill by mistake, at least in respect of guardians, although we would almost certainly have raised the matter of informal guardians. I cannot understand why, having notified the intention to include the persons described in clause 16(1)(b)(ii)(II), the Government did not accept the amendment. Perhaps I should conclude my remarks and wait for the minister to tell me.

Hon N.F. MOORE: I regret that I was not listening with my normal intensity to the member's question, so I shall ask him to repeat it in a moment. The Government does not support the amendment, and I will state why after the member has asked his question.

Hon KIM CHANCE: Summing up my rather lengthy introduction, the question is: In respect of school councillors, why, in paragraph (a), are school councillors able only to be parents and not parents or guardians?

Hon N.F. MOORE: The word "guardian" means "parent", if my understanding is right, within the definition of "parent", but there are other persons who would come under clause 16(1)(b)(ii)(II) who in some cases might be the right people to be on a school council, but not by right. For example, in an Aboriginal community they could be the extended family, and that could be grandparents, uncles and aunts - that is, the range of people who are part of an extended family. Also, the extended family of a non-Aboriginal child could be the person who does the enrolling. It could be a welfare officer, Family and Children's Services officers, advocating adults and so on. It could be a range of people for different reasons. I do not think that they collectively form a group that we would say is a group of people from which a school council should be chosen. Clause 122(1)(b) provides for other members of the community. I notice that Hon Kim Chance wants to change that to "general community" - I am not sure what that means - but other members of the community are envisaged to be part of a school council.

The people about whom Hon Kim Chance talks fall within the definition of "community". That is probably the place from which they should be chosen, rather than simply a group that has the same legislative significance as parents. Parents are the parents of the children who go to the school, but the other people - I have listed some potential groups - do not form a homogenous group who might think that it is appropriate for them to be on a school council. For example, I do not think that Family and Children's Services officers who might happen to enrol a child should therefore have a position on a school council in the role of parent.

Hon Kim Chance: But they have a right, as I read the definition of "parent".

Hon N.F. MOORE: If that is the case, the member's argument is unnecessary.

Hon Kim Chance: No, it is not.

Hon N.F. MOORE: It is defined at law. Clause 16(1)(b)(ii)(II) states -

> any adult person, not being a parent, who is responsible for the child;

"Responsible" does not necessarily mean responsibility at law. It might be the person who happens to take the child along for enrolment. It is not necessary to suggest that by right such a person should have a position on a school council, but he might be appointed because of his membership of the community generally.

Hon KIM CHANCE: I thank the Leader of the House for his explanation. I am a little confused about the width of the definition of "parent". It seems to include an employee of the State who is responsible for a ward of the State at a certain time. It is not such a large issue that we must debate it endlessly. I take the Leader of the House's point, particularly the last point. Having re-read clause 16(1) in the terms he has described, it could even describe a babysitter or a day carer who has taken a child to be enrolled at the school on that day. That would mean that the person is not appropriately -

Hon N.F. Moore: It may be the appropriate person to go on the council, but not by right.

Hon KIM CHANCE: The person may be appropriate under paragraph (b). I see the point. The committee asked for this amendment to recognise the specific role of the extended family, particularly in Aboriginal communities, but not only Aboriginal communities. In some ethic communities an aunt or a grandparent has sole control, albeit not legal control, of the day-to-day care of the child. In those circumstances, such persons should be treated as a parent in the meaning of clause 122(1)(a). As I said, it is not a large issue, but committee members would feel more comfortable if this Committee considered it.

Hon N.F. MOORE: I suggest to the member that he not proceed with this amendment. He is trying to put into law a requirement that certain people be one of the groups from which the council is drawn. There is no real boundary around who those people are or who they represent. It could be a range of people; as the member said, it could be the babysitter. Legislating in this way is a bit loose. I can advise the Minister for Education that this point has been raised; that is, including extended Aboriginal families or people with a particular interest in a child who may not be the parent in any legal sense, but should be considered for inclusion on the school council by virtue of paragraph (b), which is community members, because they have a particular interest in a child and are also members of the community. I suggest that the member withdraw the amendment and we will draw it to the attention of the minister when he drafts the regulations to make provision for such a problem.

Hon KIM CHANCE: I will not withdraw the amendment, but I am sure the Chairman will be able to tell from the voices which way the Committee has decided.

Amendment put and negatived.

Hon KIM CHANCE: I move -

Page 86, line 25 - To insert before "community" the word "general".

Hon N.F. MOORE: I cannot for the life of me work out the difference between the "community" and the "general community". The amendment is quite innocuous and I can see no reason to support it. However, because it is innocuous, we will not oppose it.

Amendment put and passed.

Hon KIM CHANCE: I move -

Page 87, line 13 - To delete "(c) cannot" and substitute "(a) must".

The effect of this amendment, which must be read with the next amendment, which is BA122, affects the composition of a school council. The effect of the clause will be that people referred to in paragraph (c) of subclause (1) - the staff of the school - cannot form the majority of the members of the council, but otherwise the majority of the members of the council will be as prescribed in the regulations. The committee determined that there was a need for the Bill to take a more active role in determining the composition of the council. The effect of the two amendments read together will be that subsection (4) would read -

Persons referred to in subsection (1)(a) must form the majority of members of a Council.

The next amendment removes the reference to regulations, because there would be no need for those regulations in that matter. Rather than stating that the staff of a school cannot form the majority of the members of a school council, the amendment seeks to insist that parents must form the majority of the members of a council, and the balance of the composition of the council is left to the discretion of the council itself.

Hon N.F. MOORE: This is an interesting amendment. The Bill states that staff cannot form the majority of members on a council. That is the Government's position and that is how it should be. The amendment seeks to reverse that and state that there must be a majority of parents. This would have the effect of reducing the flexibility that is available to a school council to have people with a broad range of expertise on the council. It is not necessarily intended that a school council simply represent the views of parents; it must represent the views of the community. I have circulated an amendment which

I have just thought of; that is why members have received no notice of it. If we were to say that persons referred to in subsection (1)(a) and (b) must form a majority of members of a council - in other words, the majority must be parents or community members - that would provide the sort of flexibility that members opposite want. However, limiting it to a majority of parents would potentially limit the source of experience. We would achieve a better result if the clause stated that it must be a majority of parents and community people.

Amendment put and passed.

Hon N.F. MOORE: I move -

> Page 87, line 13, after "(a)" to insert "and (b)".

Amendment put and passed.

Hon KIM CHANCE: I move -

> Page 87, lines 14 and 15 - To delete the words "but otherwise the majority of the members of a Council is as prescribed by the regulations".

I do not need to speak to this amendment. This is the second part of the change we have just made to subclause (4). It would follow logically that the words "but otherwise the majority of the members of a Council is as prescribed by the regulations" would need to be deleted.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 123 put and passed.

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

Hon HELEN HODGSON: I have looked at clauses 124 and 125. It is a matter that attracted some debate in the committee. On this occasion I support the clause, because it involves a fundamental issue. I accept the purpose behind these two clauses that school councils may wish to exercise different degrees of control over the function of their schools. They may wish to have an input. Therefore, one method of ensuring that distinction is by differentiating between councils that are incorporated and those that are not. My concern is more the extent to which the use of incorporated councils may take us down the road of self-managed schools in Victoria. Further on in the new clauses section of the Notice Paper I propose a new clause which will deal with that issue. I have no problem with the fundamental issue that school councils should have varying degrees of power, depending on whether or not they are incorporated, but I want to see limits placed on the extent of those powers and the best way to deal with that is by inserting a new clause rather than by deleting an existing clause.

Hon LJILJANNA RAVLICH: I oppose the clause. My reason for doing so is that the Australian Labor Party has grave concerns about it. Much of that concern stems from the fact that we do not know the full extent to which this clause could be applied and practised. Clause 124 is about the minister being able to approve additional functions for a council and by doing so a council may take part in the selection of the school principal and carry out any other function prescribed by regulation for the purpose of this clause. We, and the Western Australian Council of State School Organisations, have concerns about councils being involved in the selection of school principals. However, WACSSO also has concerns about clause 124(2)(b) which relates to the other functions of councils which may be prescribed by regulation. Central to its concern is the fact that we do not know what those other functions may be. Therefore, that organisation and also the State School Teachers Union are concerned about the involvement of councils in staff selection. Although the current provision of clause 124(1)(a) is limited to school principals, there is nothing in the clause which denies power to the minister to involve councils in staff selection. That is also an area of concern, not only to the teachers union but also to WACSSO. Members of WACSSO are of the view that they may not necessarily have the skills and qualifications to be able to fulfil some of those functions. Clearly, some members may have those skills, however, others may not feel that way inclined.

The greatest concern is that we do not know what the full extent of the implementation of the clause may entail. It is fair to ask the minister what some of those official functions may be that could be prescribed through regulations. Until such time as the minister is prepared to define the additional functions, associations do not want the right of a minister to have the right to approve additional functions for them. We agree with their position that currently there is too much uncertainty and as a result we support the deletion of this clause.

Hon N.F. MOORE: The amendment being moved by the Australian Labor Party strikes at the heart of one of the most important elements of this Bill. If we look at the Bill in its current form, essentially clause 123 deals with a regular school decision-making group, a school council, with the functions of the council listed under clause 123. Clause 124 relates to councils where the minister has approved additional powers. Those additional powers, include, for example, being involved in the selection process for a school principal. Clause 125 envisages a further step where the council can become an incorporated body. However, I need to add that the two types of councils envisaged under clauses 124 and 125 are very

much constrained by the words contained within the Bill; for example, "in the best interests of the students". Therefore, there are requirements that whatever is done is in the best interests of students. The roles of the councils will be determined by regulations. As members know only too well, it is quite possible for this Chamber to disallow regulations that it does not like. Therefore, I think there are sufficient safeguards in the way in which these clauses have been constructed to ensure that nobody heads off on some path that would be of any serious concern to any fair-thinking person. The problem I have with the Australian Labor Party's position is that it is back in the eighteenth century on this matter.

Hon Ljiljanna Ravlich: When am I going to get to prehistoric?

Hon N.F. MOORE: I think that is clause 293. The world has gone past the highly centralised, highly bureaucratic education system. Western Australia still has a largely centralised and bureaucratic education system. One of the reasons that I initiated the Hoffman report when I was Minister for Education was to get Western Australians to start thinking about this whole notion of devolution. Devolution became a dirty word because some people thought it was taking away all their power. In fact, all it was about was redistributing power to let people at the coalface and in the school environment have some serious capacity to be involved in decision making at the school level. As I remember the Hoffman report, it did not say that we should go from one point to another point in one hit; it talked about an evolutionary process of giving more authority to local school communities. It always amazes me that some people take the view that schools cannot be self-managed and that it is impossible for a government school to have people of sufficient intelligence and capacity to manage their own school. At the same time, in Western Australia we have hundreds and hundreds of independent schools, all with their own boards of management. Most of them provide excellent educational programs for their students, and they operate within the curriculum frameworks. In many cases they are delivering outstanding results.

Hon Helen Hodgson interjected.

Hon N.F. MOORE: Is the member saying that parents of children at government schools are incapable of managing their own schools, whereas parents whose children go to private schools are capable of doing that?

Hon Helen Hodgson: They do not want to be involved.

Hon N.F. MOORE: Nobody is saying they do. This is all about choosing to change; it is all about making decisions about where one wants one's school to go. I am not the sort of person who wants to be on a school council. I have had enough of education to last me for all of my life when it comes to any direct involvement with the running of a school. I have had enough of that. I did that once. That was part of my life, and it was important. However, if my child goes to a school that is controlled by the Director General of the Education Department and the principal, that is fine. If the council has no real say, that is up to the parents of the children at that school. I am not going to slash my wrists over that. However, I do know that many parents believe that they should have a more significant role in the management of a school than simply raising money at the cake stall for the P & C. Regrettably, that has been the role that parents have been given. That is all they have been allowed to do for much of the history of the Western Australian education system, to the point where many parents do not get involved because they think that all they are there for is to bake cakes for the cake stall. They never get asked about the educational program; they never get asked to become involved in the serious decision making that might go on in a school. That has been changing slowly.

Hon Ljiljanna Ravlich interjected.

Hon N.F. MOORE: I did not say that at all. Do not misrepresent me. I think they should be very much involved. However, at the end of the day, somebody must have the ultimate authority in the school, and that must be the principal. With that proviso, one should have as much input as possible from the staff, the students, and the community in respect of one's school. When we debated the previous clause, we argued about having community people on school councils. There are many people in the community, many of whom are not parents, who could make a significant contribution to a school because of the experience and understanding they have of a whole range of matters. For example, a lawyer, an architect, an engineer or a landscape architect could bring skills to a school - and possibly provide them free of charge - to make a school work even better than it does. We want those people to become part of the process. Clauses 123, 124 and 125 are all about having a range of different options available to schools to allow them to carry out different roles.

It is interesting that the Minister for Education who actually unleashed devolution on the unsuspecting education system of Western Australia was not me; it was Hon Bob Pearce. I draw members' attention to a document put out by Hon Bob Pearce called Better Schools. I think it was in the late 1980s. It was revolutionary to most people at the time because it talked about things like devolution, giving people some real say, breaking down the head office structure and getting rid of the bureaucratic nature of the Education Department that existed at that time, and still exists. That is where it started. Hon Bob Pearce was responding to the way in which the rest of the world had been moving.

As I said during the second reading debate, when I was Minister for Education I attended a couple of conferences. One was in New Zealand and the other was in Sydney. These were international conferences about education. The papers that were delivered were all talking about the next step after one had a devolved system. They were not talking about whether we

should be devolved or not; that had already happened. They were asking: Where do we go to next? I felt a bit left out of things because we had not even reached the stage of providing any meaningful devolution of authority within our education system. I believe Hon Bob Pearce was responding to what was happening elsewhere. However, he did not get very far. Regrettably, one of the great stumbling blocks to any of this is the State School Teachers Union. The teachers union, for some reason best known to it, does not think that schools with authority are in the best interests of the education system. I do not know why it thinks that, other than that it sees it as a diminution of the power it has within the system. When I became the minister, education was run as a duopoly between the Education Department and the union; it was a joint venture. If the union did not agree, the Government did not do anything. That is how it used to be run. When I came along, the union said that it would carry on in that fashion. I said that we would not, and that did not help at all, from my point of view, because the union has a great deal of power in respect of the education of children.

What we are trying to do in this Bill is to go from that highly centralised education system that we have had for many years. We want to say to individual schools, "Here is some serious decision-making power for you in respect of your school." Every school is different; every community is different. There are different students, different expectations, different communities, different capacities to raise money, and different levels of involvement of people. There are many differences right across the system. Therefore, to treat every school as being identical simply ignores the reality of the education system. I can understand the Opposition, speaking on behalf of the teachers union, being concerned about -

Hon Ljiljanna Ravlich: Did you consult the Western Australian Council of State School Organisations?

Hon N.F. MOORE: I do not think that the people who speak for WACSSO these days in any way at all represent the views of most parents. As I said on a previous occasion, the president of WACSSO works in your office, I think, Mr Chairman. I thought it was Hon Tom Stephens' office, but I have since been told that I was wrong. It is impossible for that person, as much as I admire her as an individual, to argue that her point of view on an issue is in any way independent of the Australian Labor Party. She works for the ALP; she was an ALP candidate; and she is trying to get ALP information. Therefore, I have tended to discount her views on these issues. I think parents are very keen on school councils. I believe that many parents, if they were given a choice, and if their councils were allowed to evolve and to gain experience, knowledge and understanding about the processes, would be very interested in what clauses 124 and 125 will provide for our education system.

However, the teachers union would not be satisfied with allowing school councils to take part in the selection of the school principal, because it wants to maintain the system of seniority by which principals have traditionally been appointed. The teachers union has always been opposed to appointment based on merit, although it has reluctantly gone along with promotion among principals based on a combination of some merit and some seniority. However, the old fashioned idea of promotion as a matter of course is no longer satisfactory.

It is important that the parents at a school have at least some say in the sort of person they believe is the appropriate principal for that school. Everyone knows, particularly those who have been teachers, that on many occasions a person who has been appointed the principal of a school based on seniority is a totally inappropriate person for that school. I have seen in my lifetime schools with large Aboriginal populations get a principal who does not have a clue about Aboriginal culture and is totally the wrong person. Similarly, I have seen schools which have spent a lot of money on developing a significant music program, and on setting up a band and an orchestra, get a principal who hates music, and who closes down the music program and offers the students physical education, so that all of the expertise and equipment that has been built up over many years is cast aside because the new principal has a different point of view.

Hon Ljiljanna Ravlich: Could councils select teachers under the provisions of this clause?

Hon N.F. MOORE: Only if that was provided for in the regulations, which members opposite can put a line through if they do not want that to occur. The same argument applies to the appointment of teachers. If school councils are to have any serious capacity to influence the direction of their school, they should have some say in who undertakes the teaching.

Hon Ljiljanna Ravlich: Here we go! It is about transferring and getting rid of the staff!

Hon N.F. MOORE: It does not say that. It says, "take part in the selection of the school principal".

Hon Ljiljanna Ravlich: I asked would that extend to teachers, and you just said it would.

Hon N.F. MOORE: I did not say it would. I said it could, if a regulation was brought in for that to happen; and members opposite could stop that if they wished. I do not think that is the intention. I am not the responsible minister. I am just telling members about the theory behind this. The words in the Bill are, "to take part in the selection of the school principal". The intention is to try to get round pegs in round holes and square pegs in square holes, rather than what we often have in schools, which is the opposite. I get a bit disappointed when the Labor Party adopts the approach that we should stick with what we have now because that is very good. We need to have change, and that change is inevitable. The taxpayers who pay for the education system, and the parents of the children who attend the education system, are entitled to have much more say about what happens in their schools than they have been given in the past. When I was a principal, I did not want parents

to come into my school, because parents can be an absolute nuisance to a principal who is going down a particular path that he thinks is absolutely right. However, the facts of the matter are that it is the parents who are paying the principal's salary, and it is their children who are in that school, and they are entitled to have more say than they have now. If we agree to what the member is proposing and delete these clauses, we will remove one of the significant thrusts of this Bill, which is to give school communities a greater say in how their schools operate.

Hon B.M. SCOTT: I support what the Leader of the House has said. A number of members have spoken about parents being partners in the school scenario. This clause gets to the basic point of whether parents really want to be partners in the triangle of educating their children. I have had a lot of experience on school councils at all levels, from the early childhood sector through to schools and colleges. If parents want to grow as partners in the school scenario, they cannot pull in the reins. The clause says, "with the approval of the minister, a council for a school may take part". It does not say it "must" take part. If the council decides that it wants to have a say in the selection of the principal, it may take part in the selection, with the approval of the minister.

Let us take the situation in rural Western Australia. The parents on the Narrogin Agricultural School council may want a principal who has some agricultural background, and they are presented with three people from whom to select a principal. That proposal has a lot of merit. Warnbro Community High School has probably the most advanced technological centre in the State. That school would not want to have a principal who was computer illiterate and said, "Where do we go from here?" Other schools specialise in sporting or academic interests and want a principal who can share in that specialty. One school in my electorate, Port Community High School, is a school for students who do not fit into the mainstream education system. We should not restrict parents by denying them a say in the selection of the principal. In a small rural community, where most of the people are interested in art and craft, or sport, we would be restricting parent involvement if we did not allow them to have a say.

I am not surprised that WACSSO does not support this clause, because when we were conducting the early childhood consultations around the State, WACSSO had very little to say and little experience in that area, and it was not really interested in parent involvement. The nature and history of parent involvement is that parents are more likely to be involved when their children are very young. I have been involved is the early childhood sector, and we were becoming very excited to think that a community kindergarten might be able to select a teacher or teachers' aide who understood the concept of parents running the centre and of the centre being truly devolved.

I reiterate the Leader of the House's comment that the deletion of this clause will move the education system backwards rather than forwards, because this part of the Bill will allow parents to be involved in the school sector as partners. That is already the case in the early childhood sector, because that is nature of that sector. However, as children grow, the parents withdraw and tend to have less to do with the school. The days have long gone when parents go to the kindergarten or the school just to cut up fruit, clean the toilets, or whatever. Parents now want to make choices for their children. They want to say, "We want that principal, or that mission statement." Schools are now writing mission statements about what their school is all about, so that the principal and the teachers of that school will reflect what the community and the children want and need. It is very clear in small and large rural communities, and in the city, that parents want to be involved in the development of the school; and the leadership must come from the person at the top. I support the statements made by the Leader of the House, and I will do everything in my power to persuade members opposite that if they really want parents to be partners in the school system, and if they really want to achieve the best outcomes for our children, they should not close this small gate, which is only a "may", not a "must".

Hon LJILJANNA RAVLICH: I do not want to delay debate on this matter, but the Leader of the House never passes an opportunity to give the State School Teachers Union a kick. This clause is not just about the SSTU and its concerns, but also relates to the concerns of the Western Australian Council of State School Organisations, which, whether members like it or not, is the peak body representing parents. The Leader of the House has already indicated that under clause 125 councils will have the capacity to become incorporated bodies. In that event they can sue and be sued, and the councils have some concerns about the possible legal implications of clause 125.

Hon B.M. Scott: Anybody can be sued. Incorporation protects the individuals in the group.

Hon LJILJANNA RAVLICH: But they can still be sued as a body.

Hon B.M. Scott: Anybody can sue anybody, and incorporation will protect the individuals.

Hon LJILJANNA RAVLICH: That was a key concern expressed to me. Consequently, these groups are sceptical about being given additional functions which they feel they may not have the capacity to fulfil. They believe they may run the risk of legal action being taken against them. It is a fair enough position for them to adopt at this stage, particularly because we do not know what functions the Government might prescribe through regulations which would be tested in this place. It would have helped the argument if there had been more open debate on the additional functions, so that the concerns of the SSTU, WACSSO and parents generally could have been allayed to some extent. The Leader of the House has continually referred to me as living in the Dark Ages, the eighteenth century and so on. His view is that self-management is the panacea for all ills.

Hon N.F. Moore: I do not believe that at all.

Hon LJILJANNA RAVLICH: That seems to be the position the Leader of the House adopts. I can assure him that there is plenty of evidence to suggest that self-management has its problems.

Hon N.F. Moore: I agree. I said the reason there were three different types of councils was to allow people to chose the one that suits them best.

Hon LJILJANNA RAVLICH: The Leader of the House also said that the Opposition is standing in the way of progress and the evolution of a fantastic school system, and that Opposition members will be hung, drawn and quartered because the Government is not getting everything it wants. There is plenty of evidence that self-management has some real drawbacks. The Auditor General was very scathing about a year ago about the financial administration of state schools.

Hon N.F. Moore: That is under a centralised system.

Hon LJILJANNA RAVLICH: Under a decentralised model schools will have greater autonomy, greater financial responsibility, and less accountability to a central organisation. Yesterday, on the question of school fees, I said that with a devolved system of greater self-management, some schools are testing the boundaries and they are getting away with all sorts of things. They overcharge parents in many instances and there is not enough regulation of schools by the Education Department. The Leader of the House seems to be very critical about where I am on the time scale and has run the line that the Labor Party is not interested in progress. The ALP wants some progress but any change must be managed. From what I hear from colleagues in the school system, there is too much change and teachers cannot keep up with the rate of change. Quite clearly, this amendment will accelerate that rate of change.

Sitting suspended from 3.45 to 4.00 pm

[Questions without notice taken.]

Hon LJILJANNA RAVLICH: My concern is that schools are expected to keep up with the rate of change, including changes to the curriculum and devolution of responsibility to schools. There is too much change and the Leader of the House's proposal to clause 124 would add to that burden of change. I asked a question earlier and it has not been satisfactorily answered by the Leader of the House. What additional functions may be prescribed or are likely to be prescribed for a council? Clause 125 states that incorporated councils may have prescribed additional functions if approved by the minister. I conclude from that that there will be virtually two categories of councils; those which are incorporated and those which are not incorporated. I can only assume that the ones which will be incorporated will have responsibility for higher-order functions that may be approved by the minister. I am keen to ascertain, apart from the question of participation in the selection of the school principal in clause 124(2)(a), what other functions may be prescribed under 124(2)(b)? What is the difference in functions between clauses 124 and 125 on the different categories of councils; those that are incorporated versus those that are not incorporated?

Hon N.F. MOORE: The regulations will be prepared and members will see them set out. I am not involved in preparing the regulations so I cannot inform members of their contents. Members will have a chance to disallow those regulations; that is the purpose of regulations. As stated in clause 124, the fact that it is an incorporated body would allow it to enter into more contractual relationships with other organisations. That will allow that type of council to progress to a further state of autonomy in the context of the whole system. I suggest we move along and vote on this amendment.

Hon CHRISTINE SHARP: I support the clause. I am doing something which I hate to do; that is, I am changing my mind without warning on something about which I have made a prior commitment. That is why I have sought the call. I have listened to the remarks of Hon Barbara Scott on this matter and I have been persuaded by the sound argument by her and the Leader of the House to support devolution. It is very consistent with the philosophy of the Greens (WA). We like to decentralise control wherever possible. I have also looked at the new clause that is proposed by Hon Helen Hodgson which will provide a safety net for the regulations to ensure that devolution does not take place too quickly. I have also looked at the Western Australian Council of State School Organisations' information on this issue. I cannot find any statement by WACSSO which opposes these clauses or devolution in general. It is certainly cautious about it and does not want devolution to take place at too fast a rate. We all agree with that. In principle, it also accepts the overall thrust of that notion. Therefore, I apologise to those members to whom I have indicated that I will support their position. I will be changing my mind on this issue and I will be supporting the clause.

Hon KIM CHANCE: I, like the Leader of the House, am anxious to move to a vote on this and the next clause. However, my view on this clause may be influenced by a number of matters, about which I would be grateful if the Leader of the House would provide some advice. Does the current Act contain any provisions that would permit a school council or any expression of the school community to have any influence over the appointment of the principal or any other staff? Secondly, if this clause were deleted, would school councils be able to advise the CEO on the appointment of the principal or any other staff?

Hon N.F. MOORE: I do not carry the whole Act in my mind, but I am not aware of any such provisions. With regard to the second question, there is no official process, but I have known plenty of school councils and committees make their view about a particular teacher or principal very well known to the CEO.

Hon KIM CHANCE: I thought that was the situation, but I was not certain. Despite what the Leader of the House has said, I am firmly of the view that we should delete this clause, not because the whole clause is a problem, but because I am concerned about the role of the council in the appointment of staff. I know it may not necessarily be politically correct to argue that school councils and local level management in any field cannot be trusted to have an input into the appointment of staff, but I do not feel comfortable about the devolved appointment of staff in the public sector. If the Leader of the House thinks that brands me as an old centralist, I guess he will be right. There is good reason for my ideology on this matter. Members should reflect on the basis of the establishment of the public sector and on the effect of what we have done to that basis in this State. The public sector system on which we work is often thought to have had its origins in Great Britain. That is not correct. That public sector system and its principle of line management devolved in the Prussian army in the last century and is called the Weber principle of line management. The Weber principle relies for its effectiveness on the decision making in that line management being taken by persons who are disinterested in the outcome in its proper sense: They are totally isolated from the concepts of bias, nepotism, fear and favour. That has been the strength of the public service system and of line management generally, which the British Public Service so effectively adopted and spread throughout its colonies.

We are going through a process of breaking down the concept of line management. It is very easy to sell the pluses of devolution. It is much harder to sell the effectiveness of the principles of line management; however, believe me, there are down sides, and we are now paying a huge cost, and we will continue to pay a huge cost as we progressively break down the system of line management. The Prussian army which developed this system was regarded, for those members who are not historians, as the most efficient organisation of its kind that the world had ever seen.

The CHAIRMAN: I trust the member will address the clause shortly, rather than the Prussian army.

Hon KIM CHANCE: I will, Mr Chairman, but it is necessary to note that matter of history, because ideology almost always has a sound base. Sometimes we may disagree with the ideology -

Hon Mark Nevill: Tell us about the Prussian education system!

Hon KIM CHANCE: I am not too sure about the Prussian education system. I do not think it was all that good. However, Prussia had a really good army.

Members should recognise that if we pass this clause and the next clause, we will be taking one more step towards a devolution process. I assure members that that devolution process is not marked with a bed of roses. Just today, I posted a letter to the Commissioner for Public Sector Standards with regard to an appointment of the type that will be made as a result of this clause. It was in the health field, not the education field, but it was an appointment by a selection panel, made by a district council in the health field, which clearly breached the standards established in section 8 of the Public Sector Management Act. That happened not because those people were corrupt or intent on breaching the Act, but because those people were not sufficiently aware of their requirements under the Public Sector Management Act. It was an entirely innocent mistake. Nonetheless, the applicants for that position were, in my view, greatly disadvantaged. We put an enormous load on people at the local level when we set out to devolve these systems, which were established under the line management system and have worked well under that system. It appears that we will lose this vote, but we will lose it at our eventual cost.

Hon N.F. MOORE: Thank God the Education Department has never made a mistake with an appointment in its history! I assure the member it has made thousands of mistakes.

Clause put and a division taken with the following result -

Ayes (17)

Hon B.K. Donaldson	Hon Barry House	Hon Simon O'Brien	Hon Greg Smith
Hon Max Evans	Hon Norm Kelly	Hon B.M. Scott	Hon W.N. Stretch
Hon Peter Foss	Hon N.F. Moore	Hon J.A. Scott	Hon Giz Watson
Hon Ray Halligan	Hon M.D. Nixon	Hon Christine Sharp	Hon Muriel Patterson *(Teller)*
Hon Helen Hodgson			

Noes (8)

Hon Kim Chance	Hon E.R.J. Dermer	Hon Mark Nevill	Hon Tom Stephens
Hon J.A. Cowdell	Hon John Halden	Hon Ljiljanna Ravlich	Hon Bob Thomas *(Teller)*

Pairs

Hon Murray Montgomery	Hon Ken Travers
Hon M.J. Criddle	Hon N.D. Griffiths
Hon Dexter Davies	Hon Tom Helm
Hon Derrick Tomlinson	Hon Cheryl Davenport

Clause thus passed.

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

Hon LJILJANNA RAVLICH: My argument is fairly similar to the argument relating to clause 124. The ALP is particularly concerned about the nature of these additional functions for an incorporated council, and it is keen to find out why the Government is attempting to establish two types of councils. One will be incorporated and the other will not be, and I wonder whether it is intended that all councils will become incorporated over time. I would be concerned if the Government went down that path, particularly bearing in mind the Leader of the House's comment that one of the functions of the incorporated councils is to enter into contractual relationships. I am sure members of WACSSO would be keen to know what it means in real terms, particularly in the context of clause 125(3) which requires councils to become incorporated associations under the Associations Incorporation Act 1987 within a period specified by the minister, if they are to have additional functions approved by the minister. That linkage between the two concepts, which could involve some contractual relationships - the Government has not explained with whom those relationships will be - could put the councils into a vulnerable position. I have great concerns about it.

I do not think the Leader of the House has adequately addressed the question of how the functions in clause 124 differ from those in clause 125. The Opposition would like to know the difference between the functions that can be prescribed for the two types of councils, and what legal protection will be provided in the event that an incorporated council is sued by an individual or group of individuals if one of the contractual arrangements falls apart. Who would pick up any legal costs? Would the incorporated council be expected to pay those legal costs? It must be remembered that we are talking about volunteers who have committed their time and expertise. They may themselves feel limited in terms of their time and expertise. The Bill proposes to set up a framework whereby additional functions are involved but those functions are not identified. The Leader of the House said they will be included in regulations, but I do not think the Bill should go that far. The ALP is of the view that this provision is fraught with problems and the Leader of the House has given no assurances in response to the questions I have put to him. As a result, I certainly do not feel comfortable with clause 125 of this Bill. Councils could be fearful of the provision on many counts.

Clause 125(1) provides 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). That subclause states that an approval is to be given by the minister only if in his or her opinion the performance by the council of the function will improve an educational program of the school or the management of the school's facilities and be in the best interests of the students. Will school councils have some responsibility for entering into contractual relationships to provide facilities at the school level? I seek some clarification from the Leader of the House. There is very broad scope for the minister to tell an incorporated body to enter into a set of contracts. This clause has the potential to be used in the manner I have described, and I am very concerned for members of school councils who could become victims because of their desire to do the right thing, become involved and give freely of their time.

I want the Leader of the House to explain the fundamental questions of how functions in clause 124 differ from those in clause 125. I want a clear explanation of the extent to which contractual relationships can be entered into. What is the potential to prescribe an additional function for school councils to enter into a relationship with a private provider of a service or facility to the school? What is the legal implication for a council in the event that something goes wrong with the contract, if the council is deemed to have committed some breach? How much security or protection will be provided to the council by the Education Department? These are fundamental issues and I am not at all satisfied with the explanation so far provided by the minister. His explanation has been light on and we still do not know what he is talking about. It is about some abstract concept to use people's goodwill, and the potential to exploit that. I will be interested to hear his comments on the specific questions I have asked.

Hon B.M. SCOTT: I have had extensive experience in advising parents around the State on incorporation of school councils, and I will take a few minutes to explain that. Clause 125 clearly states that an incorporated council may have prescribed additional functions if approved by the minister. If a school council declares that it wants more responsibility, the minister may approve the extension of its role. Under subclause (3)(a)(ii), approval is conditional on becoming an incorporated association under the Associations Incorporation Act. To become an association the school council must have a constitution that is compatible with the Associations Incorporation Act. The council must meet all the requirements of that Act relating to objects, functions and membership, where the money will go if it goes in decline, and all that sort of thing. It is clear to the members of incorporated bodies what are their functions, missions and obligations. The fact of becoming an incorporated association gives a legal protection to individual members. People can do work anywhere they like in the

community and they can raise funds. If the secretary or treasurer of a school, kindergarten, or any other body steals funds, that person is liable for the loss. If the school council is an incorporated body, that body is liable for the loss; if it is not incorporated, individual members of that group are liable for that cost.

It is important that we understand the legal protection that incorporation provides a body. This clause gives an incorporated council prescribed additional functions, if approved by the minister. It is not saying to schools they must enter into contractual arrangements. Under the Associations Incorporation Act a body cannot operate outside its functions and objects without first changing its constitution. The boundaries are clearly defined. An incorporated body must inform the body administering the Associations Incorporation Act of changes in the constitution, and this clause provides that it must also let the minister know of any specified changes. I cannot understand the Opposition's concern. If the incorporated school council were to enter into an arrangement to build a new fence or put in a swimming pool, the contract must be tightly done. I am trying to think of a situation that might be causing the Opposition concern, where a group of people could be responsible individually for a cost. I want to give the Opposition the necessary clarity of understanding of the process of becoming an incorporated body, and how clearly it is set out in the constitution of that body. The school council cannot operate outside its constitution.

Hon Ljiljanna Ravlich: Who would police that?

Hon B.M. SCOTT: It is a legal and binding document under the Associations Incorporation Act. It is a compelling piece of legislation. The council is compelled to comply with it.

Hon Ljiljanna Ravlich: It is also illegal to charge over $9 for voluntary fees.

Hon B.M. SCOTT: No, it is not; that is a voluntary fee. My wish is to have the Opposition understand that an incorporated body is clearly defined under the Associations Incorporation Act. It a legal entity. Incorporation provides an assurance that the school council is covered against claims against its members as individuals. It is a protection rather than anything else. It gives parents more powers than they have ever had.

Hon N.F. MOORE: We are seeking to replace the Education Act, which was written in 1928. It bears very little resemblance now to what it was then, because it has changed according to circumstances as they changed over time. The Bill is designed to put in place a structure that will allow the education system to evolve over the next 70 years or however long it takes to introduce another Act. I suspect that in the future, when members read how long it took for this Act to pass, they will not embark on the process again. The Bill will put in place structures that will allow for evolution of the system to take place. Clause 125 is another stage of the process of giving schools more autonomy. It is based on the notion that the Government has about devolution that schools choose to change. This will not be forced on anybody. No council will be required by clause 125 to be an incorporated council, or by clause 123 to be an ordinary council. That will be for schools to choose, and they will choose whatever suits their circumstances best. I worry about Hon Ljiljanna Ravlich's attitude to the capacity of people at the school level to carry out the sorts of activities that a school council will be asked to undertake.

Hon Ljiljanna Ravlich: I worry about your capacity to provide fundamental answers to fundamental questions.

Hon N.F. MOORE: I have said three times already in the debate on this clause that the regulations have not been drawn up. They will be drawn up under the general terms and principles outlined in these three clauses.

Hon Ljiljanna Ravlich: So you have no idea.

Hon N.F. MOORE: Mr Deputy Chairman, do I have to put up with this?

The DEPUTY PRESIDENT (Hon Mark Nevill): The Leader of the House has the floor.

Hon N.F. MOORE: Hon Barbara Scott just explained the reason for incorporating bodies, and how that provides protection for individuals against being sued. Most incorporated bodies take out insurance against liabilities they might face down the track. At the end of the day, any government body which is an incorporated body which has directors usually takes out directors liability insurance. However, if the Rottnest Island Authority went broke the Government would probably support it, as it would with any other government-owned organisation, if all other avenues had expired. The Government is seeking to put in place a process by which incorporated bodies can make decisions and enter into contracts, such as to manage residential accommodation attached to the school, farms that are attached to schools, and shared community facilities that might be part of the school buildings. The school council can become a significant part of the operation and the management of the school in those matters. They have a meaningful role. In exchange for the meaningful role they will get, they will have some responsibilities - that of an incorporated body to carry out their actions within the rules that are set. As Hon Barbara Scott pointed out, there are laws which require people to fulfil their obligations as an incorporated body.

I cannot give Hon Ljiljanna Ravlich details of what will occur in 25 years' time in Western Australia, and neither can she. All we are putting in place is the structure and the opportunities for people to do the sort of things they want to do in the future, but always constrained by the fact that the minister must approve it, it must improve the educational program for children and it must be in their best interests. That caveat is covered by those two requirements. The member is being

unnecessarily pessimistic and alarmist. We need to pass this clause so that we can put in place modern education legislation that allows for the sort of changes that will take place in the future.

Clause put and a division taken with the following result -

Ayes (17)

Hon B.K. Donaldson	Hon Barry House	Hon Simon O'Brien	Hon Greg Smith
Hon Max Evans	Hon Norm Kelly	Hon B.M. Scott	Hon W.N. Stretch
Hon Peter Foss	Hon N.F. Moore	Hon J.A. Scott	Hon Giz Watson
Hon Ray Halligan	Hon M.D. Nixon	Hon Christine Sharp	Hon Muriel Patterson *(Teller)*
Hon Helen Hodgson			

Noes (8)

Hon Kim Chance	Hon John Halden	Hon Ljiljanna Ravlich	Hon Ken Travers
Hon E.R.J. Dermer	Hon Mark Nevill	Hon Tom Stephens	Hon Bob Thomas *(Teller)*

Pairs

Hon Murray Montgomery	Hon N.D. Griffiths
Hon M.J. Criddle	Hon Tom Helm
Hon Derrick Tomlinson	Hon Cheryl Davenport
Hon Dexter Davies	Hon J.A. Cowdell

Clause thus passed.

Clauses 126 to 139 put and passed.

Clause 140: Transitional provision -

Hon LJILJANNA RAVLICH: I move -

Page 96, after line 28 - To insert the following new subclauses -

(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).

We have just debated the proposition that councils might be given additional functions by a minister under clause 124 and that incorporated councils might have prescribed additional functions if approved by the minister under clause 125. Depending on the type of functions that the council is required to undertake, there might be a requirement that the council become incorporated. This amendment deals with the fact that there are costs associated with incorporation. Clause 139 provides that an association is to become an incorporated body within three months after it is formed and it is not to apply for incorporation under the Associations Incorporations Act unless the minister has first approved the provisions of the proposed constitution. That makes sense and reinforces the point made by Hon Barbara Scott.

However, clause 140 deals with the transitional provision. The Opposition is particularly concerned about the costs to councils and P & C associations of becoming incorporated associations, which is a requirement of the legislation. It believes that if the minister imposes this obligation, the Government should foot the Bill. I understand that the cost of incorporation is $80 through the Office of State Corporate Affairs. That cost should be covered by the Government rather than passed on to P & C associations.

The Leader of the House also made the point that some incorporated bodies also take out liability insurance and thus incur additional costs. What is the total cost of incorporation? Do members think it is fair that P & C associations, which do all of their work voluntarily and make an enormous contribution, will now be required to incur this impost for the privilege of making that contribution? To my sense of what is reasonable, fair and just, this transitional provision should be amended to ensure that these organisations, which make such a substantial contribution, are not forced to pay a levy for the privilege of doing so. I ask members to support the amendment.

Hon N.F. MOORE: The member is a little confused. She was talking about parents and citizens associations and councils. This clause relates only to P & C associations. Many such associations are incorporated because they operate canteens and so on, and they want the legal protection that incorporation provides. In the past the WA Council of State School Organisations wanted all P & C associations to come into line, initially with a common constitution. It has been agreed that we will not follow that path. However, the Government wants all P & C associations to be incorporated bodies, and that is what this clause requires them to do. As has been said, it costs about $80 to become an incorporated body. The amount

of liability insurance that an organisation needs to take out depends on the liability that it faces. Insurance companies would assess the premium to be paid. It would depend on what a P & C is doing as to what liability insurance it would need to take out. If it were running a canteen, of course, it would have employees and it would need to take out insurance to cover liabilities in respect of the operation of the canteen and its employees' needs. The cost would depend on what they do. Hon Ljiljanna Ravlich does not oppose the requirement to incorporate, but she says that P & Cs should not have to pay for it.

Hon Ljiljanna Ravlich: That is right.

Hon N.F. MOORE: I cannot work out why that should be the case. Many incorporated bodies that are involved in humanitarian and philanthropic activities are not exempt from paying incorporation fees. There is no reason that a P & C should be exempt.

Hon Kim Chance: Only that you are forcing them to incorporate.

Hon N.F. MOORE: That is WACSSO's view. It wanted it to happen. There is the view that incorporation is the way to go to make sure that bodies are properly protected in respect of the things that they might or might not do. P & Cs are not controlled by the Government. Although they come under the legislation, they are required to become incorporated bodies, and that is a worthwhile and sensible approach; but to suggest that they should not have to pay would put them on a different level from many incorporated bodies which perhaps do even more worthwhile things in the community through charities in which they are involved. To exempt P & Cs only is unfair to everybody else.

Hon B.M. SCOTT: The point is the cost. I explained to Hon Ljiljanna Ravlich that when there were 400 or 500 kindergartens across the State, almost every one of them was incorporated. On average they had about 50 children each. We are talking about a cost impact on parents in a large school; few schools in the State now have 50 children. The costs of incorporation have not increased very much. With more freedom and rights we have responsibility. It is not a huge cost impact on parents.

Hon Ljiljanna Ravlich: Why wouldn't the Government pick it up?

Hon B.M. SCOTT: If we want to drive our own agenda, we must take some responsibility for it. We do not have to follow a certain course if we do not want to.

Hon Helen Hodgson: You do. The Bill requires incorporation.

Hon B.M. SCOTT: I apologise; fine. In most large schools it would be a minimal cost compared with the benefit that would flow from it. I am familiar with public liability insurance in the early childhood sector. All play groups across the State pay $9 a year per family to cover their public liability insurance. Again, that is not a huge cost. As members would understand, public liability insurance is attached to a property or building, and an argument can be made only if there is negligence.

Hon Ljiljanna Ravlich: Is it normal that if a body becomes incorporated it must take out liability cover?

Hon B.M. SCOTT: No. Public liability insurance applies to the ownership of a building. An incorporated body at a school would not own the building, so the State Government would be responsible for the public liability insurance. I was saying that, for instance, in the play group sector in which thousands of families are involved, the cost is $9 per family per year. They might take mobile equipment into someone else's building or into a tennis club, for example, so there must be a liability on an incorporated body, and the play group association takes it out.

Other cost factors would apply if one owned a property and one took out property insurance or if one employed someone and had workers' compensation insurance premiums to pick up, as kindergartens have always done if they have employed cleaners, for instance. That is not the case in schools - as I have said, I have had much experience on school boards - because the Government or an organisation owns the school building and employs staff. The cost of becoming incorporated is minimal. If we want responsibility we must surely expect to cover that responsibility and that choice by bearing the small cost of incorporation because it gives parents freedom to make decisions about their own school and about their own district. It is inherent in the changes that we are trying to divert from a central body that tells us how to take every step every day, to a body that gives parents autonomy and responsibility for their own direction in schools in order to develop their own mission statements, purpose, being and individuality in the school system, whether at the beginning or end of the school system, and to be more appropriate for the school population. Parents deserve that. The incorporation fee, as I am told, is $80 a year - it has risen in the past few years. That is a minimal cost for a school population of up to 1 000 children in order for a parent body to have the autonomy that we are talking about. When a body is incorporated, decisions cannot be imposed upon it. It is a legal entity and it is in control. It may request further responsibilities from the minister, as we pointed out when we discussed the previous clause. The body may take on more functions if it requires them.

Hon N.F. MOORE: For the sake of uniformity in the legislation, clause 125 requires school councils when they become incorporated to pay the fee, clause 139 requires new P & Cs to pay the fee, and we are now considering clause 140, which states that existing P & Cs do not need to pay it. That provides a serious inconsistency in respect of who should pay the fees. For that reason, if for none other, we should not agree to the amendment.

Hon HELEN HODGSON: I disagree with the Leader of the House and I support the amendment. It is a transitional provision whereby P & Cs that are currently operating as unincorporated bodies are required to incorporate within two years. That is different from the situation in respect of school councils and new P & Cs. It is not unusual to have transitional provisions which provide a grandfathering arrangement when an organisation has imposed on it an obligation that did not previously exist. For that reason, I do not consider it to be inconsistent. The Australian Democrats will support this proposed subclause.

Amendment put and a division taken with the following result -

Ayes (13)

Hon Kim Chance	Hon Norm Kelly	Hon J.A. Scott	Hon Ken Travers
Hon E.R.J. Dermer	Hon Mark Nevill	Hon Christine Sharp	Hon Giz Watson
Hon John Halden	Hon Ljiljanna Ravlich	Hon Tom Stephens	Hon Bob Thomas *(Teller)*
Hon Helen Hodgson			

Noes (12)

Hon B.K. Donaldson	Hon Ray Halligan	Hon M.D. Nixon	Hon Greg Smith
Hon Max Evans	Hon Barry House	Hon Simon O'Brien	Hon W.N. Stretch
Hon Peter Foss	Hon N.F. Moore	Hon B.M. Scott	Hon Muriel Patterson *(Teller)*

Pairs

Hon N.D. Griffiths	Hon Dexter Davies
Hon J.A. Cowdell	Hon Murray Montgomery
Hon Tom Helm	Hon Derrick Tomlinson
Hon Cheryl Davenport	Hon M.J. Criddle

Amendment thus passed.

Clause, as amended, put and passed.

Clauses 141 and 142 put and passed.

Clause 143: Other associations -

Hon LJILJANNA RAVLICH: I move -

> Page 98, after line 27 - To insert the following subclause -
>
> (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 deals with other associations and specifically relates to clause 136, which deals with the formation of parents and citizens associations. Clause 143(1) reads -

> Nothing in the Subdivision prevents the formation and carrying on of any other association, in relation to a government school or group of schools, that has as its object or one of its objects the promotion of the interests of the school or the group of schools or students at the school or group of schools, either generally or in any particular respect.

The second part of the clause states that the associations referred in subsection (1) are not to have a name which is likely to be misunderstood as referring to an association to which section 136 applies. Clause 136 reads -

> Parents and other persons who are interested in the welfare of a government school or a group of government schools may, in accordance with this Subdivision, form a Parents and Citizens' Association for that school or that group of schools.

This amendment attempts to provide protection for bona fides P & C associations formed under clause 136, and standing committees established to pursue special purposes, all of which are covered by the P & C's incorporated status. Where a void needs to be filled, the clause will enable that to occur. However, we do not want a situation in which rivals form to the existing P & C infrastructure. It would be destructive to the sense of cohesion if rival P & C bodies were established throughout the State. These associations have worked for 70 years or longer in this State, supported by the WACSSO framework. This amendment will simply ensure that a duplication of the P & C infrastructure does not occur.

Hon HELEN HODGSON: I seek more information from the Leader of the House to assist me in determining whether to

support the amendment. I understand the intention is to prevent rival groups of parents to the local P & C association setting up in a school. Both of these bodies would purport to have a similar role, thereby dividing the school community. I note that 143(3) reads -

> If the minister is of the opinion that an association referred to in subsection (1) -
>
> (a) is being carried on in a way that is not in the interests of the school; or
>
> (b) has a name that contravenes subsection (2) -

How does the Leader of the House see subclause (3) being interpreted? Might it be used to deal with the situation which the amendment has specified as being of concern? His answer will help me make up my mind on this amendment.

Hon N.F. MOORE: Before I respond to the question, I put the amendment in context. It is the intent of the legislation that the P & C association of a school be the main organisation representing the interests of parents and the community at that school. However, it is acknowledged that other interest groups may be set up in particular schools; for example, an ex students association or an alumni. Churchlands Senior High School and Perth Modern School have music associations that have been set up because they are music schools. Some schools have Aboriginal parent groups that are set up for particular purposes. It will be possible under subclause (3) for the minister to remove any organisation that has been set up that is not acting in the best interests of the school. That deals with the concern raised by Hon Helen Hodgson.

The Government believes there is no need for new subclause (6), because any organisation that is not operating in the interests of the school can be dealt with under subclause (3). New subclause (6) provides that an association may not be formed for the purposes of duplicating or countering any of the objects of an existing association. That would in most cases be a P & C association. The objects that are outlined in clause 137 are so broad that I do not think it would be possible for any other association to be established. Therefore, it will not be helpful to go down this path, and it may well have the effect of getting rid of some worthwhile associations which operate in schools and which have a specific focus. It is not intended that any association will replace or be in competition with the P & C association. It is intended that it will work in harmony with the P & C association; and if it does not and is acting counterproductively, the minister can disband it if he wishes.

Hon HELEN HODGSON: I thank the Leader of the House for that explanation. Given that he has put on the record how he expects this clause will be interpreted and how he anticipates rival organisations will be dealt with, I am happy to accept the clause as printed and not to support the amendment.

Amendment put and a division taken with the following result -

Ayes (11)

Hon Kim Chance	Hon Mark Nevill	Hon Christine Sharp	Hon Giz Watson
Hon E.R.J. Dermer	Hon Ljiljanna Ravlich	Hon Tom Stephens	Hon Bob Thomas *(Teller)*
Hon John Halden	Hon J.A. Scott	Hon Ken Travers	

Noes (14)

Hon B.K. Donaldson	Hon Helen Hodgson	Hon M.D. Nixon	Hon Greg Smith
Hon Max Evans	Hon Barry House	Hon Simon O'Brien	Hon W.N. Stretch
Hon Peter Foss	Hon Norm Kelly	Hon B.M. Scott	Hon Muriel Patterson *(Teller)*
Hon Ray Halligan	Hon N.F. Moore		

Pairs

Hon N.D. Griffiths	Hon Dexter Davies
Hon Tom Helm	Hon Derrick Tomlinson
Hon Cheryl Davenport	M.J. Criddle
Hon J.A. Cowdell	Hon Murray Montgomery

Amendment thus negatived.

Clause put and passed.

Clauses 144 to 169 put and passed.

Clause 170: Inspection without notice -

Hon KIM CHANCE: I move -

> Page 117, line 7 - To delete “without notice” and substitute "on at least one hour's notice to the presiding member of the school's governing body or the school's principal".

This amendment was raised with the committee by representatives of non-government schools, who cited the issue of duty of care. In order for non-government schools, as for government schools, to exercise their common law duty of care, they need to know who is on their school property at any one time. A person may purport to be an inspector but not be an inspector, which increases the possibility of that person being on the school property for an illegal purpose. The requirement to give one hour's notice was in the committee's view not onerous and, indeed, the committee could see and certainly heard no evidence of any difficulties that this may cause while ensuring that the school was abiding by its proper procedures.

Hon N.F. MOORE: Clause 169 refers to inspections of independent schools with notice and clause 170 refers to inspections without notice. There is a fundamental inconsistency in the approach being moved by Hon Kim Chance. No notice means no notice. Now he is proposing to give notice. Whether it is one minute, one hour, or one week it is still giving notice. He is creating an inconsistency. Clause 170(1)(b) says that if the minister is of the opinion that it is necessary for an inspection to be made without notice he or she may authorise a person in writing to inspect the school without notice. That contradicts the previous clause. The drafting of the amendment is wrong and contrary to what has already been agreed to. Bearing in mind that the purpose of the exercise is to inspect without notice, to put in with notice is also inconsistent with the intent of the clause. The member would be better off voting against it if he thinks that notice should be given in every case. The reason no notice is given is that it is believed that things could be going on in the school which are of serious concern to the minister and that an inspection should be undertaken immediately so that there would be no time for the shredding of documents or the removal of materials which may be helpful in respect of some further investigation. Christopher Skase fixed up his whole empire in about half an hour and got out of the country. Within a very short period of, say, an hour people can do many things to get rid of a lot of evidence if they are given notice. The reason we are seeking an inspection without notice clause as well as an inspection with notice clause is to deal with those circumstances where without notice is imperative in order to achieve what needs to be achieved. I do not think we need to proceed with this.

Hon KIM CHANCE: I am inclined to concur with the Leader of the House, particularly taking into account the drafting error. It would be contradictory. Reading ahead to clause 171, the committee's amendment to that clause would largely overcome the duty-of-care issue. I am quite happy not to withdraw but to allow the chairman's discretion on his hearing of the voices.

Amendment put and negatived.

Clause put and passed.

Clause 171: Proof of authority -

Hon LJILJANNA RAVLICH: I move -

Page 118, line 4 - To delete the words “whenever asked to do so by” and substitute the word "to".

This amendment relates to the inspection of schools, both inspection on notice under clause 169 and without notice under clause 170. It relates to whether an authorised person should produce a certificate when asked to do so by a person in charge of any premises which are being inspected or whether it should be done as a matter of course. My amendment will ensure that rather than a person authorised under clause 169 or clause 170 producing a certificate referred to in subclauses (2) of those clauses whenever asked to do so, the certificate must be produced. There will be no requirement for the certificate to be asked for; as a matter of course the certificate must be produced. I ask members to support my amendment.

Hon N.F. MOORE: The Government does not oppose this amendment.

Amendment put and passed.

Clause, as amended, put and passed.

Progress reported, pursuant to standing orders.

House adjourned at 5.57 pm

QUESTIONS ON NOTICE

Answers to questions are as supplied by the relevant Minister's office.

ROCKINGHAM NOISE MONITORING STUDIES - RESULTS

596. Hon J.A. SCOTT to the Minister for Finance representing the Minister for the Environment:

Further to question without notice 226 of September 17, 1998 -

(1) What action has the Department of Environmental Protection taken to ensure that excessive noise levels recorded in the Rockingham noise monitoring studies are brought within acceptable levels?

(2) Have any noise monitoring studies been carried out at Wells Park in Kwinana?

(3) If yes, what were the results?

(4) If not, why not?

(5) What are the acceptable noise levels for Wells Park?

(6) Will noise from the proposed iron ore loading facility at Kwinana impact on the environment around Wells Park?

(7) If yes, what will be the increase in noise levels?

Hon MAX EVANS replied:

(1) In July 1998, the DEP requested CBH, BP Oil, Kwinana Nickel Refinery and Australian Fused Materials to conduct noise surveys and determine their compliance with the *Environmental Protection (Noise) Regulations 1997*. Where non-compliance with the regulations was identified, an action plan was to be submitted to the DEP. Australian Fused Materials were found not to have a significant noise impact. BP Oil have implemented changes to reduce flare noise. Kwinana Nickel Refinery and CBH are currently considering options for noise reduction.

(2) No.

(3) Not applicable.

(4) Noise has not been the subject of complaints to the DEP at Wells Park.

(5) The assigned noise for Wells Park which is not to be exceeded for more than ten percent of the time is 60dB(A).

(6)-(7) It is not yet possible to determine if there will be a significant noise impact from the proposed iron ore loading facility on Wells Park as no modelling of noise impacts on Wells Park has yet been conducted. This will be done as part of the consultative environmental review process for the proposed iron ore loading facility.

QUESTION ON NOTICE, ANSWER NOT RECORDED IN *HANSARD*

634. Hon KEN TRAVERS to the Leader of the House representing the Minister for Commerce and Trade:

I refer to the Minister for Commerce and Trade's answer to question 515 of 1998 and ask -

(1) Is the Minister aware that his response to question 2016 of June 30 1998 does not appear in the Hansard?

(2) Does the Minister have any reason for wishing his answer not to be recorded in the records of the House?

(3) Will the Minister table a copy of his response to question 2016 of June 30, 1998?

Hon N.F. MOORE replied:

Question No 2016 was asked by the honourable member on 30 June 1998. The Legislative Council rose for the winter recess on 1 July 1998 before a response to the question could be submitted and recorded in Hansard. Out of courtesy, I provided a written response to the member on 15 July 1998. As the member would be aware, Parliament was prorogued on 7 August 1998 which has the effect of removing all outstanding parliamentary matters from the Notice Paper, including parliamentary questions. Therefore, unless the Hon Member formally asks the question on notice again in this Session, it cannot be recorded in Hansard.

QUESTIONS WITHOUT NOTICE

SENTENCING MATRIX, CONSULTATION WITH JUDICIARY

604. Hon TOM STEPHENS to the Attorney General:

I refer to the report of the Chief Justice of Western Australia tabled today. Will the Attorney General now engage in consultation with the judiciary with respect to the sentencing matrix; and, if not, why not?

Hon PETER FOSS replied:

I have been in consultation with the judiciary, in particular, over the practical application of the sentencing matrix. I make it clear that not much more can be done with regard to its basic premise. The members of the judiciary have made it clear to me that they oppose any form of mandatory minimum sentencing or any form of alteration which will inhibit their discretion. We have gone as far as we can go; we have agreed to disagree. I have made it clear that the practical aspects of it will be a matter of consultation. I have agreed to a timetable with the Chief Judge of the District Court, who, of course, is the appropriate person to deal with these criminal matters. I draw the attention of members to a point that has been made on a number of occasions by the opposition spokesperson on legal affairs.

Hon Mark Nevill: I am glad you listened.

Hon PETER FOSS: I do listen to him. He has pointed out, quite rightly, that the judges are not lawmakers, but those who must apply the law. On occasion, he has castigated me - I think with some justification - when I have cited the judges as the basis upon which one can justify bringing amendments to the law to this House. He believes, and I agree with him - in fact, on many of these matters we have a very good bipartisan approach, and I thank Hon Nick Griffiths for the very cooperative attitude he takes not just on crime matters, but all legal matters -

Several members interjected.

Hon PETER FOSS: He has quite rightly taken me to task when he has said that there is a division between the roles of the Government and the Parliament, and the role of judges. An awful lot of small amendments have come before this House at the behest of the judiciary, and we must take into account that there are differences in our roles. I also draw the attention of the Leader of the Opposition to the report itself. More than half of it is a criticism of the parole and remission system. The parole and remission reforms came about after a two-year consultation process. On a number of occasions I was criticised by Hon Nick Griffiths for failing to bring legislation on this matter before the Parliament. I appeared to be taking far too long on this consultation process. We have gone into that matter quite fully. It is proper in these matters that practical issues be worked out, for which a lengthy period of consultation is required. In due course I accepted the recommendations of the major part of the Hammond committee. The Chief Justice has drawn attention to the fact that he does not have support of the District Court judges for his criticism of the parole and remission changes. It is extraordinary, and quite strange, that I have been criticised for a lack of consultation, when on this matter we were in consultation for two years. Even after that time and the adoption of the committee's report, I still found a report to this Parliament objecting to that process.

The PRESIDENT: Order! I must ask the Attorney General to wind up his answer.

Hon PETER FOSS: It is clear that I consult where it is appropriate, and I will continue to do so. With regard to the matrix, I will consult with regard to the specific way in which it is carried into effect by regulation.

SENTENCING MATRIX, JUDICIAL RESOURCES

605. Hon TOM STEPHENS to the Attorney General:

What consideration has the Attorney General given to increasing the judicial resources to the extent necessary to cope with the demands of the sentencing matrix system to which the report of the Chief Justice of the District Court refers?

Hon PETER FOSS replied:

To some extent that was based on part of the report that was derived by the District Court judges. They were concerned that a lot of work and trouble would be involved in it which would interfere with the fast-tracking. I have spoken to the Chief Judge of the District Court and we are now happy that we can deal with it, without imposing any great burden on them. We have already put ourselves in a position to provide the computer support that will be necessary so that the reporting by the judges can be done instantaneously, without any extra resource being required by them. That, I can assure members, is already under control. It has been arranged and I see no problem with it whatever. The Leader of the Opposition shakes his head. However, the fact is I have spoken to the Chief Judge and we have arrived at agreement on that. Had I known that the report was to be tabled, I may have been able to correct some of the misapprehensions on the part of the Chief Judge.

SENTENCING MATRIX, CONSULTATION WITH JUDICIARY

606. Hon N.D. GRIFFITHS to the Attorney General:

(1) Is it true that the Attorney General asserted that he did not consult with members of the judiciary with respect to the sentencing matrix system because they would not agree with it anyway?

(2) When did the Attorney General arrive at that view?

(3) What was the basis of his assertion?

Hon PETER FOSS replied:

(1)-(3) I do not believe I asserted that, although I do believe they will not agree to it and my discussion with them seemed to indicate that. It is clear that the judges do not agree with minimum mandatory sentencing. That is not news to anybody in this Chamber; I am sure it is not news to Hon Nick Griffiths. The day that judges come forward and say, "We will agree to minimum mandatory sentences and we agree to the control of our discretion" will be a very unusual one. I would love to know if at some stage outside the House Hon Nick Griffiths may be able to tell me whether he thinks that day is ever likely to arrive.

NATIVE TITLE, PAYMENTS TO TRADITIONAL LANDOWNERS

607. Hon J.A. SCOTT to the Leader of the House representing the Premier:

(1) Has any estimate or budget been prepared of payments to traditional landowners in compensation for loss of land title caused by the three native title Bills before the Parliament?

(2) If not, why not?

(3) If yes -

(a) what is the estimated cost of compensation;

(b) from what area of the budget will such payments be made; and

(c) will the minister table the estimates or budgets?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) No.

(2) There has been no determination of compensation by a court anywhere in Australia to serve as a guide. Therefore, those quoting compensation figures are guessing.

(3) Not applicable.

HOMESWEST, "YOUR HOME" VIDEO

608. Hon HELEN HODGSON to the minister representing the Minister for Housing:

In respect of the video "Your Home" released by Homeswest -

(1) What was the cost of production?

(2) What is the expected cost of distribution?

(3) How, to whom and in what areas of the State will the video be distributed?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) $35 771.

(2) Nil.

(3) Through Homeswest regional and branch offices to Aboriginal tenants in all areas of the State.

Is it a good video?

Hon Helen Hodgson: I have not seen it.

ARTS FUNDING, REGIONAL AREAS

609. Hon MURIEL PATTERSON to the Minister for the Arts:

Can the minister indicate whether any of the State's funding that goes towards the arts is specifically linked to productions being performed in regional areas?

Hon PETER FOSS replied:

I thank the member for some notice of this question. Country Arts WA receives an allocation of $370 000 a year specifically to support tours to regional areas. In addition, the triennial funding agreements between the State and each of the performing arts companies known as Arts Agencies include touring to regional areas as a part of the agreement. Under the arrangement with the Western Australia Symphony Orchestra for an extra $250 000 to be matched by the Australian Broadcasting Corporation, there was a requirement that the enhanced size of the orchestra be used to divide the orchestra and in part use it for country touring.

BANDYUP WOMEN'S PRISON, PLACEMENT OF PRISONERS

610. Hon J.A. COWDELL to the Minister for Justice:

Yesterday, in answer to a question on the overcrowding at Bandyup Women's Prison, the Attorney General told the House that he intended to place prisoners in another prison. Where does he intend placing these prisoners?

Hon PETER FOSS replied:

I would rather wait until I have all permissions in place for that, particularly for funding, before making that announcement.

ELECTORATE OFFICES SURVEY, COMPUTER SUPPORT SERVICES

611. Hon LJILJANNA RAVLICH to the Leader of the House representing the Premier:

(1) Was a telephone survey conducted early this year of electorate offices which included questions on computer support services?

If yes -

(2) Who conducted this survey and when was it conducted?

(3) Did the results of this survey indicate any preference for who should provide the computer support service; and, if so, which organisation did the electorate offices recommend?

(4) Did the survey seek comment on the Ministry of the Premier and Cabinet taking over this role; and, if so, what was the level of support for this option?

(5) Will the Premier table the results of this survey; and, if not, why not?

Hon N.F. MOORE replied:

I thank the member for some notice of this question and ask that it be placed on notice.

INDONESIAN PRISONERS, BROOME

612. Hon MARK NEVILL to the Minister for Justice:

(1) Is the minister aware that approximately 25 Indonesian prisoners are currently in the Broome minimum security prison, many of whom do not speak English?

(2) Is the minister considering the proposal to transfer those Indonesian prisoners from the Broome prison to the Roebourne medium security prison.

(3) If so, why?

(4) Are there any interpreters in the Roebourne prison who can deal with the Indonesian speakers if they are sent there?

Hon PETER FOSS replied:

(1)-(4) The problem of Indonesian fishermen in Broome prison is a very aggravating one. A considerable number of Indonesian fishermen are coming to Western Australia who are posing a series of significant problems. They are bringing with them a number of health problems. They are causing depredations to our fisheries. They are going far beyond the traditional areas and not fishing in a traditional way. They are fishing for shark, cutting off the fins and throwing the rest away. They are certainly not subsistence fishers.

Hon Tom Stephens: That has nothing to do with their prison arrangements.

Hon PETER FOSS: It has a lot to do with it. One of the difficulties we face is that when they are caught and imprisoned they are then paid a daily rate, which is, in fact, more than they could have earned if they had stayed in Indonesia. They are now starting to come through in increasing numbers because they can make more money by being a prisoner in Western Australia than by staying in Indonesia. The immediate effect, however, has been that the numbers in Broome prison are causing overcrowding there and require the movement of prisoners to other prisons. For a period of time this resulted in Aboriginal prisoners being moved from Broome to Roebourne. I thought that was unjust to local people. It seemed to me that to the extent that Indonesian fishermen had decided to go well away from their home, and be well away from their loved ones, was a choice of their own.

Hon Mark Nevill: You can re-open Wyndham prison.

Hon PETER FOSS: That is not as silly as it might sound.

Hon Mark Nevill: The next one will be Fremantle jail.

Hon PETER FOSS: I do not think we will re-open Wyndham prison.

Several members interjected.

The PRESIDENT: Order! I do not want Hon Mark Nevill's questions to be taken as supplementary questions.

Hon PETER FOSS: That was causing a considerable number of questions on the justice of moving those prisoners. The question is, who should be moved to Roebourne? Is it more unjust to the Indonesians, who may find themselves less able to have Indonesian translators; or for Aboriginal people who come from the Broome area to be deprived of the opportunity of meeting their own visitors. Also, the Indonesian fishermen are learning a lot of English. When I visited the prison I found it full of Indonesian prisoners learning English - reading, writing and speaking it. A considerable amount of educational money is being spent on teaching them English. Some of them are progressing reasonably well. It is a vexed question. I have written to the Minister for Fisheries and asked him to deal with his federal colleague to see how we can deal with Indonesian fishermen in a way that is responsible and humane for them and does not disadvantage our own indigenous people who currently suffer the greatest impact from what is happening at Broome.

LOCAL GOVERNMENTS, POSTAL BALLOTS

613. Hon NORM KELLY to the Leader of the House representing Minister for Parliamentary and Electoral Affairs:

(1) How many local governments conducted postal ballots for the 1997 elections?

(2) How many local governments have stated that they will be conducting postal ballots for the 1999 elections?

(3) How many local governments are still considering whether to conduct postal ballots?

(4) Will the minister table a list of those local governments referred to in the previous questions?

(5) Has the City of Joondalup and the Shire of Wanneroo indicated their preference for either attendance or postal ballot voting for their 1999 elections?

Hon N.F. MOORE replied:

(1) The Electoral Commissioner conducted postal elections for seven local governments in the 1997 biennial elections.

(2) Thirty local governments have resolved that the Electoral Commissioner will conduct their elections in May 1999 as postal elections.

(3) The Electoral Commissioner is aware of five local governments which are still considering the matter.

(4) Yes.

(5) No.

I seek leave to table the attached document.

Leave granted. [See paper No 489.]

MURRAY SHIRE COUNCIL, MEETING WITH MINISTER ON YUNDERUP CANALS

614. Hon MURRAY MONTGOMERY to the Minister for Transport:

Can the minister confirm that he met with representations of the Murray Shire Council recently to have discussions on the

immediate and long-term solutions to the current problem with the entrance to the Yunderup canals. If he did meet with them, what was the outcome of the meeting?

Hon M.J. CRIDDLE replied:

I can confirm that, after representations from the member, I met with officers of the Shire of Murray, put forward a proposal to them which I think will resolve the issue of the Yunderup canals, and advised them that I would support an application to Treasury Corporation to borrow the balance of the funds. I think that will resolve the immediate problem of cleaning out the canals. Further, for the long term I have suggested that the Department of Transport and the Shire of Murray should form a working party to look at the issues over the long term, preferably over a two-year period, because of the drift in that area. I understand that shire officers are meeting today to look at that option.

HORIZON MINING NL, NATIVE TITLE INDEMNITY

615. Hon GIZ WATSON to the Minister for Mines:

I refer the minister to the deed of release dated 8 August 1995 between the Minister for Mines and Horizon Mining NL, Money Mining NL and Allen John Maynard, in relation to native title indemnity. Given that Horizon Mining NL is identified as registered with the Australian Securities Commission as ACN 009 153 119 in the agreement, I ask -

(1) Is the part of the agreement ascribed to Horizon Mining NL affected or nullified by the fact that ACN 009 153 119 referred to in the deed is assigned to a different company; that is, Striker Resources NL?

(2) Why has such a simple mistake been made in the ratification of such an important document to the State?

(3) If this is not a mistake, why is Striker Resources NL not identified in the deed?

Hon N.F. MOORE replied:

I thank the member for some notice of this question. I have not had time today to receive the information requested. Therefore, I ask the member to place the question on notice.

BUSES, COMMITTEE TO EVALUATE RELATIVE MERITS OF GAS AND DIESEL TECHNOLOGY

616. Hon CHERYL DAVENPORT to the Minister for Transport:

On 28 April this year, the former Minister for Transport announced that he was setting up an evaluation committee to assess and evaluate the relative merit of gas and diesel technology for our buses.

(1) When was the committee appointed?

(2) Who is on it?

(3) Has its report been presented to the minister; and, if so, will he table it in Parliament?

(4) If it has not been completed, when does he expect the committee to report?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1) June 1998.

(2) Mr Brian Bult (chairman) - Managing Director, Voith Australia Pty Ltd
Mr Alan Bray - Managing Director, Path Transit
Mr John Stanley - Environmental Economist
Mr Kevin Bishop - Manager, Corporate Sales, AlintaGas
Dr Phillip Morgan - Assistant Director, Air Quality Management, Department of Environmental Protection
Mr Greg Martin - Executive Director, Metropolitan Division, Department of Transport

(3) No. I expect to table the report shortly after it is presented to me.

(4) The committee is expected to report to me in late December 1998.

WANNEROO COMMISSIONER ROB ROWELL

617. Hon KEN TRAVERS to the minister representing the Minister for Local Government:

(1) Is the minister aware of concerns reported in the *Wanneroo Times* of 27 October 1998 that Wanneroo Commissioner Rob Rowell -

(a) was trying to "sell" residents a proposal to rezone two lots on Wanneroo Road from residential development R20 to R40 and mixed business; and

(b) failed to take notes at a meeting between developers and a resident which he organised?

(2) Does the minister consider these actions have breached any of the recommendations of the Royal Commission into the City of Wanneroo?

(3) If yes, what action is the minister taking on these matters?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question and ask him to place it on notice.

RENEWABLE ENERGY REMOTE AREA POWER SYSTEMS SCHEME

618. Hon GREG SMITH to the Leader of the House representing the Minister for Energy:

(1) Since its inception in 1996, how much government funding has been allocated to the renewable energy remote area power systems rebate scheme?

(2) How many properties have incorporated renewable energy sources into their electricity generating systems?

(3) How long is the scheme likely to last?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) The Government allocated $500 000 a year for the renewable energy remote area power systems rebate scheme. Since its inception in September 1996, $815 000 has been paid in rebates. A further $242 500 has been allocated to systems which have been designed but have not yet been completed.

(2) One hundred and one properties have had systems installed under this scheme. A further 24 properties have installations in progress. Some of these properties involved multiple households.

(3) The budget was allocated for four years. Before completion of this period a review will be undertaken and a recommendation will be made on whether the scheme should continue and, if so, in what form.

AGRICULTURE WA, SUPPLY CHAIN MANAGEMENT SEMINAR

619. Hon KIM CHANCE to the minister representing the Minister for Primary Industry:

In relation to the Supply Chain Management: Building Partnerships and Alliances in Food and Agribusiness Seminar which was held at the Hotel Rendezvous on 3 August this year, can the minister advise -

(1) How many representatives of Agriculture Western Australia attended the seminar?

(2) What was the cost per head of the Agriculture WA representatives at the seminar?

(3) What was the total cost to Agriculture WA of its representatives' attendance?

(4) How many of the Agriculture WA representatives who attended the seminar have any commercial input into decisions that affect supply chain management?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

The Minister for Primary Industry informs me -

(1) Forty-nine staff out of a total attendance of 220 representatives of a wide cross-section of the Western Australian farming and agribusiness sectors.

(2) $140 per head.

(3) $6 860.

(4) Agriculture WA has a major focus on assisting agriculture, food and fibre businesses with supply chain management, particularly the development of an understanding of export market requirements, strategic alliances and quality assurance schemes. All staff attending had an involvement in projects and activities which are required to deliver outcomes to improve Western Australian agriculture, food and fibre supply chains. It was a unique opportunity for these staff to hear from an international panel of experts on this subject.

KEMERTON INDUSTRIAL PARK, WETLANDS

620. Hon BOB THOMAS to the Leader of the House representing the Minister for Resources Development:

(1) Does the area of the proposed expansion of the Kemerton Industrial Park contain wetland areas recognised as significant by the System 6 study?

(2) What steps are being taken to ensure no damage is done to these important wetlands if the expansion proceeds?

Hon N.F. MOORE replied:

(1)-(2) The area of expansion does contain wetland areas recognised as significant by the System 6 study. However, these areas are not included as part of the core area of the park and, therefore, will not be affected by development proposals in the future.

HEALTH DEPARTMENT, COMMUNICATIONS NETWORK

621. Hon E.R.J. DERMER to the minister representing the Minister for Health:

I refer to the comment reported on 1 September 1998 in *The Australian* by the Health Department's infrastructure service manager, Frank Gaglio, with reference to recent changes to the department's communications network, that there is a fairly extensive network out there that requires additional capacity and upgrades, and this is probably the tip of the iceberg compared with what else needs to be done.

(1) Does the Minister for Health concur with the substance of this comment?

(2) What is the "iceberg" to which Mr Gaglio refers?

(3) What additional capacity and upgrades are required and by what date are they required?

(4) What is the estimated cost of the additional capacity and upgrades?

(5) Were these costs provided for in the 1998-99 budget?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) Yes.

(2) Mr Gaglio referred to the rapidly increasing requirement for bandwidth experienced in Health. Health expects to increasingly utilise services such as medical image transfer, video conferencing, clinical research through the use of the Internet, and general electronic commerce to deliver services to its clients and health consumers, especially in rural and remote Western Australia.

(3)-(4) The Health Department plans communication upgrades based on an ongoing capacity planning and monitoring program, which is designed to meet the business requirements of hospitals and health services throughout Western Australia. Given the broad nature of the communication requirements, as outlined above, they are not specifically defined or costed.

(5) All planned telecommunication services and projects for 1998-99 are fully covered in the 1998-99 budget. Strategic communication requirements, as outlined in (2) above, will be included in Health's forward estimates.

BANDYUP WOMEN'S PRISON, DAILY REPORTS TO MINISTER

622. Hon N.D. GRIFFITHS to the Minister for Justice:

(1) When did the minister last visit Bandyup Women's Prison to see at first hand what conditions are like at this prison?

(2) Is the minister getting daily reports of the situation at this prison?

(3) If the minister is not getting daily reports, why not?

Hon PETER FOSS replied:

I cannot remember when I last visited Bandyup. However, I know I am going to the prison some time next week; a visit is scheduled in the very near future. I get reports from all prisons whenever there is an incident. I do not get daily reports; I get exceptional reports.

MIRIUWUNG-GAJERRONG NATIVE TITLE CLAIM, COST

623. Hon TOM STEPHENS to the Leader of the House representing the Premier:

I refer to the minister's answer yesterday that the State Government has spent a total of approximately $3 347 617 on the

Miriuwung-Gajerrong native title claim case, including $2 980 948 on legal costs. On 30 June this year, I asked the same question of the Premier, at which time his answer was that the State Government had spent $3 361 962, including $2 955 293 on legal costs.

(1) Can the Premier explain how the costs spent by the Government on this case dropped by $14 345 between these two dates, particularly as the legal costs were supposed to have increased by $25 655?

(2) On what was the $25 655 in further legal costs spent?

(3) How much was spent on the application by the State in this case in relation to arguing that the court should defer its decision until the Titles Validation Amendment Bill was passed?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1)-(2) Yes. The discrepancy between the two figures provided was due to an error in the previous answer, which occurred as a result of incorrect adding up of the figures for different components. We apologise for that error.

(3) The answer relating to total cost incurred has already been provided. It is not possible to separate the cost for one part of the State's submission.

HOMESWEST, "YOUR HOME" VIDEO

624. Hon HELEN HODGSON to the Minister for Finance representing the Minister for Housing:

In respect of the video "Your Home" released by Homeswest -

(1) Has the video been produced in any Aboriginal languages?

(2) Who was consulted in respect of -

(a) The decision to produce the video?
(b) The content of the video?
(c) Whether the material is culturally appropriate?

(3) Will Homeswest make facilities available to clients to view the video?

(4) Will similar videos be produced for other ethnic or cultural groups?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) No.

(2) (a) Aboriginal Housing Board.
(b) Aboriginal Housing Board and Perth Aboriginal Medical Service.
(c) Aboriginal Housing Board and Perth Aboriginal Medical Service.

(3) Homeswest regional offices will have facilities in foyers to show videos to clients and members of Parliament.

(4) No discussion has been held on this.

BRAND HIGHWAY REALIGNMENT, EFFECTS ON RUDDS GULLY, GERALDTON, RESIDENTS

625. Hon J.A. SCOTT to the Minister for Transport:

Further to question without notice 498 of 17 November -

(1) Is the minister aware of the extreme dissatisfaction that residents in Rudds Gully area have in relation to the Brand Highway realignment options being considered by Main Roads Western Australia in the Rudds Gully area in Geraldton?

(2) What community groups or Rudds Gully residents were approached or consulted in the development of these options with Main Roads WA?

(3) Who made the assessment that realignment options being investigated may reduce existing impacts on wetlands in the Rudds Gully area?

(4) Has a study of the impacts on the wetlands from the highway realignment options been commissioned or completed by Main Roads WA?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1) Yes, I am aware of community concerns.

(2) Consultants Connell Wagner Pty Ltd, working on behalf of Main Roads WA and Westrail, have contacted and written to all residents and owners of property likely to be affected by the options being considered. The consultants are in Geraldton today to meet with the owners and are addressing the Rudds Gully group at a meeting tonight.

(3)-(4) Consultants Connell Wagner and its sub-consultants, Mitchell McCotter and Associates Pty Ltd are currently investigating the impacts of all options including those on the wetlands. This work will form part of the supplementary report to the master plan for the southern transport corridor.
