WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
SECOND SESSION
1998

LEGISLATIVE COUNCIL

Thursday, 19 November 1998

Legislative Council

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

STANDING COMMITTEE ON CONSTITUTIONAL AFFAIRS

Report on Friendly Societies Bills

Hon Ray Halligan presented a report of the Standing Committee on Constitutional Affairs in relation to the Friendly Societies (Western Australia) Bill and the Friendly Society (Taxing) Bill, and on his motion it was resolved -

That the report do lie upon the Table and be printed.

[See paper No 460.]

SELECT COMMITTEE ON BILLS REFERRED UNDER COMMONWEALTH NATIVE TITLE ACT

Appointment - Motion

HON GIZ WATSON (North Metropolitan) [11.03 am]: I move -

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.

(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.

The Greens (WA) believe it is essential that we have a select committee to examine, as set out in the first part of the motion, any legislation referred to the Legislative Council in this session that proposes to enact law under, or in reliance on, the Native Title Act of the Commonwealth. If this motion is passed, a select committee will be established that will be able to examine the impending Bills from the Government on native title. I have moved this motion because I am firmly of the opinion that this House has an obligation to scrutinise important legislation thoroughly. The Titles Validation Amendment Bill involves 211 titles which may, or may not, be legal. We have not seen the details of the schedule of interests; nor have they been provided in the Legislative Assembly.

There is also the matter of whether the Bill will transgress matters of equality. There is a need not only to have full scrutiny of this Bill and of another related Bill which will follow it shortly, but also to allow consultation. When the Government provided a draft of these Bills, it allowed a ridiculous period for consultation of three weeks. I find that to be most outrageous lip service to the consultation process. As all members in this House will know, the people most affected by this legislation are Aboriginal people living in remote communities. To suggest they had adequate opportunity to comment on the draft Bill within that three-week period is utter nonsense. In fact, they were not even notified directly.

I refer to the part of the Commission on Government report No 2, part 2, dealing with the role of committees in this House. It is important that members are reminded that not only this report but also that of the Royal Commission into Commercial Activities of Government and Other Matters emphasised the importance of committees, particularly in this place. The COG report of December 1995, on page 244, in dealing with committees and legislation states -

> The WA Royal Commission warned that Parliament is not '. . . and should not be allowed to become, the rubber stamp of measures put before it' . . .
>
> One way to overcome these problems and to improve Parliament's capacity to scrutinise and review legislation is through the use of legislation committees. These can assist the smooth and timely passage of Bills through the house of parliament involved. They also help ensure that a Bill is soundly conceived and will result in a law which has the intended effect.

The report goes on to identify a number of ways in which committees may contribute to the passage of legislation. These include enhancing the knowledge of parliamentarians and the development of expertise; improving the capacity of the public to make input into legislation; improving the quality of legislation; facilitating processes, such as bargaining, brokerage, consultation, information gathering and so on, which might be proceeding elsewhere; and increasing the responsiveness of

the person to assist the public demands. All those reasons are applicable to the case we are considering here; that is, the establishment of a select committee to look at all matters to do with native title legislation that comes before us. The new composition of this House is a clear indication from members of the voting public that they want to see this House become a House of Review. Of all the Bills we have had presented to us since the change in composition of the House, this one must rank highly. There is no dispute that this is a very important Bill. We need only look at comments from both the Australian Labor Party and the government parties confirming that this is very important legislation. That is one of the clearest arguments why we must ensure that these Bills are given thorough scrutiny by a select committee.

The Bill that we will be looking at first is the Titles Validation Amendment Bill. In order to persuade members why the committee needs to examine that Bill, I will briefly explain the intent of the Bill. The Titles Validation Amendment Bill will allow for the validation of all titles, except those on certain vacant crown land, issued since the Native Title Act 1993 commenced. Some of the leases granted may be unlawful because the Government did not follow the Native Title Act to ensure that native title holders had legal rights to negotiate - not veto - between January 1994 and 24 December 1996 on proposed developments. The Bill also includes new provisions to extinguish native title permanently on a range of current and historic titles. This is a major piece of legislation.

I will draw members' attention to the recent report of the Select Committee on Native Title Rights in Western Australia. It has the following chapter 3 -

The PRESIDENT: Order! I cannot allow the member to anticipate debate. As she knows, that matter is listed on the Notice Paper. If she refers to one line for some particular reason, I do not think that will breach all of the standing orders at once, but if she intends to do more than that she is anticipating debate and that is not allowed.

Hon GIZ WATSON: Thank you for that advice, Mr President. I will abbreviate my comments and refer more generally to the need for a select committee.

One matter that has had a lot of airing in the media is the need for these Bills to be passed before Christmas. That position has been pursued not only by the Government but also by the Australian Labor Party unfortunately. The Greens do not subscribe to the view that there is a need for this legislation to be passed before Christmas; in fact, it has been acknowledged that even when these Bills are dealt with, there will be a further period of perhaps nine months before they are passed by the Senate and go through the remaining processes in order for them to become law. We argue that the request for a select committee to examine these Bills for a period of three months - we are proposing a report-back date of March - is not unreasonable. As to the need for urgency, one of the comments by members of the Government in the other place is that there is a need for certainty. I will quote from page 2183 of *Hansard* of the other place where Mr Prince made the following comment -

> Although it is not apparent that any of the titles issued in Western Australia are invalid, we seek to provide maximum certainty, as was done previously, to those people to whom titles were granted, by passing this legislation.

That is an admission that there is not the level of uncertainty that this Government would have us believe. The Government is intending, by its admission, to provide maximum certainty. I challenge the very concept that there is this uncertainty which we are all supposed to be suffering from. On page 2184 of *Hansard* Mr Prince goes on to say -

> This Bill is essential to provide certainty to the thousands of individuals and developers who were granted titles in that period.

I have not seen any figures to indicate the thousands of people who are in this situation. If these Bills are passed without adequate scrutiny, they will certainly not provide any certainty for Aboriginal people, except inasmuch as they will have their native titles extinguished.

I also draw members' attention to comments made by Mr Barnett in the other place, where he stressed the importance of this Bill. I refer members to page 2666.

The PRESIDENT: Order! I have tried to be as lenient as I can but there is a standing order which talks about alluding to debates in the other place in the same session. I thought that the member was perhaps intending to quote one line of whatever someone said. The fact that the member is now returning to that *Hansard* requires me to draw the standing order to her attention. Members should note that there are ways of describing what someone said without picking up the *Hansard* and throwing it in my face and saying that this is what happened in the other place, because members immediately require me to invoke a standing order. I am not having a go at Hon Giz Watson. I am saying it to all members. The member understands the point I am making.

Hon GIZ WATSON: Yes, Mr President. Thank you. I was probably trying to be accurate. I will try to adopt a broader approach.

I will move on to what purpose I believe we could serve by having a select committee examine these Bills. I note that the

request in the other place for full details of the schedule of titles that will have native title extinguished has not been produced. I certainly argue that the select committee should have the ability to require that information to be produced. It is in the interests of all parties involved in this matter. If we are to make a decision to extinguish titles on a whole range of leases - I draw members' attention to the fact that we are talking about 5 434 mining titles and 10 944 titles issued under the Department of Land Administration - it is essential that this House be aware of which titles we are talking about. That information has not been made available to members of Parliament and is certainly not publicly available. How can the community of Western Australia be sure of what we are passing if we do not know what titles are on the schedule?

Another matter that is critical to this debate is that there has been no clear answer to the question of the level of compensation that the Australian taxpayers will be opened up to. It is acknowledged that the Commonwealth has given a commitment to pay 75 per cent of compensation that might be due if it is seen that native title has been extinguished and compensation is payable. However, that is taxpayers' money. Why should the Australian community allow to pass a Bill that creates an open-ended cheque book for compensation? Furthermore, the Bill will not remove the possibility of further challenges under common law. It is very clear that it may well lead to a further field day for lawyers if they are able to challenge even some of these thousands of titles that may well have been illegally extinguished. It is not clear from the debate in the other place that there is a clear process by which Aboriginal people can access that compensation. It is not clear how they will be notified of what the claims are. It is not clear how quickly they will be able to access compensation. All these questions on this Bill remain unanswered. Therefore, I believe a select committee is a very appropriate way to obtain some answers to these questions.

It was mentioned repeatedly in debate in the other place that nobody can estimate what the possible compensation bill will be for the Titles Validation Amendment Bill. It is important that members be aware that a strong request is being made to this House that it establish a committee to look into these important Bills. There is broad support for that committee to have adequate time to enable consultation. I am adamant that we must allow enough time for the committee to gather information and talk to all the people who will be affected if these Bills are allowed to pass. It was mentioned yesterday that a majority of Western Australians wanted these Bills passed as quickly as possible. I draw the attention of members to the following organisations that have contacted me, and I am sure other members of this place, to express their support for the establishment of a select committee. These organisations include Australians for Native Title and Reconciliation WA, WA Native Title Working Group, representatives of the Noongar community, the Law Society of WA, the Uniting Church social justice committee, the Anglican Church social justice committee and the Aboriginal Legal Service. Those organisations represent a large number of people who are as concerned as the Greens (WA) that we are about to rush through legislation which will permanently extinguish native title rights from thousands of Aboriginal people. We have a moral obligation in this place to address issues of equality and matters which may be in breach of the Racial Discrimination Act. This House should never be simply about getting on with business. I stress that we are not about trying to delay business or prevent developments. Indeed, the Aboriginal people who are involved in this debate also state that is not their intent. Their intent is to have justice done, to have adequate time to understand this complicated area of law and to understand how their rights will be affected. If it is the intent of this Parliament to change and reduce those rights, we must be very clear about what it is we are doing and why we are doing it. If that is the choice of this place - I strongly recommend that it is not - we have an obligation to the public to justify it

I remind members what happened the last time Parliament debated matters dealing with native title. I refer to the Land (Titles and Traditional Usage) Act, which was passed, despite all the warnings that it was being rushed through. It resulted in a 7:0 decision of the High Court that that piece of legislation was out of order. We are potentially doing exactly the same thing.

Hon N.F. Moore: It is the not first time the High Court got something wrong and regrettably it will not be the last.

The PRESIDENT: Order, members! I do not need a debate on the Land (Titles and Traditional Usage) Act from anyone in the House. We are meant to be talking about the reasons that this matter needs to be referred to a select committee.

Hon GIZ WATSON: I point out to members that in previous decisions to do with native title matters, things have been done without due consideration. I raise that as a strong reason that a committee be established to get it right this time, and get it right the first time, rather than leave it either to the courts or to the lawyers to slug it out and rectify the problems.

I have moved that the committee to be established be a select committee. I believe that a select committee is the best option for scrutiny of matters to do with native title because, as members know, a select committee on native title has done excellent work and its members have become well acquainted with this complicated area of law and administration. I can only praise all members of that committee who have done a thorough job in examining matters to do with native title both in Western Australia and elsewhere. I suggest that, to build on the expertise that has been developed over the past 12 months, it would be appropriate for the members of that committee to participate in this proposed select committee. For that reason I have suggested that a select committee would do the best job because several members in this place are already familiar with native title issues.

I conclude with a couple of comments. In a radio conversation this morning in which the Premier was involved, he again

raised the urgency for these Bills to be passed. He did some very interesting sums, because he said on air that he believed if a committee was set up to examine these Bills, it would not report back before March - in approximately three months' time - which would cause a delay of 12 months. I am not sure how he came to that conclusion, but I think it is just -

Hon W.N. Stretch interjected.

Hon GIZ WATSON: I do not think three months makes 12 months.

Hon N.F. Moore: You spend too much on holidays as you did the last time.

Hon GIZ WATSON: In my opinion that sort of response is merely a continuation of the position that this Government takes, which is to deride the native title processes that are in place and working, and to beat up the position of industry which indicates this State is at a standstill because of native title. I look forward to the debate on this Bill, specifically to address those issues and to point out to members that that is not the case. I appeal to members of the Labor Party not only to support this motion for a select committee, but also to ensure that the committee is given adequate time to do its job properly. If the ALP does not support the motion and allow the committee a full three months to consider these matters, but supports a shorter reporting period, it also will be implicated in the desire not to allow Aboriginal people a full understanding of what these Bills will do. The motion should also be supported to ensure that all the information is before this place before we make a decision. I appeal to members on ethical grounds, if nothing else, because we are about to embark on a grave injustice to Aboriginal people. We are about to hammer the final nail in the coffin of the extinguishment of Aboriginal rights in a large part of this State. Members who shake their heads do not understand the situation and I suggest they need to read more on this matter, because that is what we are about to do. Members must be fully aware of the choice we are making. For those reasons, I ask members to look sincerely at the establishment of a select committee. We will have history to answer for if we allow these Bills to pass without full and proper consultation and scrutiny. I for one will do all I can to ensure that does not happen. I support the motion.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [11.30 am]: The Government will oppose this motion vigorously.

Hon Tom Stephens: And succinctly.

Hon N.F. MOORE: I have a fair bit to say, and so have other members; and I hope the Leader of the Opposition will have as well. I look forward to the Labor Party's response, because, as I said yesterday, this is a real opportunity for the Labor Party to stand up for Western Australia and for those productive industries in this State that form the basis of our economy. This is an opportunity for the Labor Party to take notice of the full page advertisements in the newspaper, such as today's advertisement from the Chamber of Minerals and Energy of Western Australia, asking it to pass the Bills.

Hon Kim Chance: Vote against the government amendments! Amazing!

Hon N.F. MOORE: It is extraordinary that the Labor members of this House, one of whom is interjecting on me and represents a regional part of Western Australia, will go along with a proposition to set up a select committee to investigate native title legislation, when they know darn well that people in regional Western Australia, and I suggest also a lot of people in the city, want these Bills passed as soon as possible, if not last year, certainly this year. The native title issue has been around for a long time; in fact, since the Mabo decision. The problems really started when the Federal Government under Keating decided to give us the 1993 Native Title Act. Ironically, Mr Keating told us all at the time that that legislation extinguished native title on pastoral leases.

Hon Tom Helm: He did not exactly say that.

Hon N.F. MOORE: Of course he did. He did nothing about it, and we had a situation for years, until the current Federal Government got it reasonably straightened out, in which we had total chaos in respect of native title in Australia.

Hon J.A. Scott: Mostly caused by the State Government!

Hon N.F. MOORE: That is a stupid thing to say, and it is normal for Hon Jim Scott, regrettably, to say stupid things in this House. This Government attempted to bring in legislation which would deal with what is meant by native title. I suggest that Hon Jim Scott does not have the faintest clue about what native title means in reality; I do not think anyone does. However, we made an attempt to define what it means, and to deal with it by way of legislation. The Parliament passed that legislation, but the High Court ruled it out of order. As I said by way of interjection, that is not the first time it has made a stupid mistake, and it will not be the last time. This country has been set back on many occasions by decisions of the High Court, and I suspect that in the future it will be set back on many occasions by decisions of the High Court.

This proposition has been moved by the Greens (WA). The Greens are a tiny, minority group in Western Australian politics, with no representation in the Legislative Assembly, where Governments are formed. The Legislative Assembly currently has a coalition majority which is the largest in the history of the Legislative Assembly. A tiny minority has put forward a proposition to delay and frustrate the legitimate aspirations of this Government with regard to native title legislation; namely,

to seek to overcome the fundamental and significant problems that native title have caused for Western Australia. If members opposite do not believe me, I suggest they get out of their metropolitan electorates and go into the bush. I will suggest some places to which they can go to. They can go to Karratha and talk about residential land. They can go to Kalgoorlie and talk about residential land and the mining industry, and about all of the bribes, the rorts and the handouts. They can talk to the Aboriginal people who had money in their pockets because they had done a deal but then spent it all. They can talk to the major companies and organisations that are creating work for Western Australians about the problems they have had with native title. They can go to Broome and talk about getting land for the development of Broome and for the airport that is so desperately needed. They can go to Kununurra and talk about the expansion of the Ord River scheme and talk about native title with people who want to expand and create wealth and jobs for Western Australians. They can go to Port Hedland and find out that land could not be obtained for the direct reduced iron plant; but members opposite would rather that was not built, because they have argued that we should not have made land available for that plant. They can talk to the people in the mining, agricultural and resources industries who spend money in this State to create jobs and wealth, and to create taxes, which members opposite would happily spend. If they talk to those people, they will find out that this nonsense they go on with, about this being just a beat-up, demonstrates their complete lack of understanding of the situation in Western Australia.

It is a pity that a tiny minority party such as the Greens may be assisted by what used to be a major party in Western Australia - the Labor Party - which in this House, with its 12 members, is almost a minority group as well. I hope, and I am arguing, that the Labor Party will put the interests of Western Australia first.

Hon N.D. Griffiths: We always do.

Hon N.F. MOORE: I hope the Labor Party will continue to do that, if that is the case. The Labor Party now has an opportunity to continue its "impeccable record", if that is what it can be called. Labor members seem to have forgotten about WA Inc and the billions of dollars that they blew during that time when they were entrusted with the purse strings in Western Australia. This is an opportunity for the Labor Party to put Western Australia first and to put the industries that keep Western Australia going first.

I turn now to what has happened since the Federal Parliament enacted the native title legislation earlier this year. Two Labor Governments in Australia - Queensland and New South Wales - have passed validating legislation, with no problems at all. I understand that the Queensland Parliament - that single-Chamber Legislature - did not even have a debate. The legislation went straight through, because the Labor Party had been involved in granting titles, as had the National Party Government. Those Labor Governments have, without any problem at all, gone down the path of validating titles, which this Government is seeking to do in Western Australia. I do not know why it is necessary for this Parliament to set up a select committee to examine this issue when the Federal Parliament has already validated titles in respect of federal laws, and the New South Wales, Queensland and Northern Territory Parliaments have agreed to validate titles, without any problem at all. Hon Giz Watson sees the need, as a Greens member of Parliament, ensconced in some metropolitan electorate, for this Parliament to waste another three months at least in making a decision about native title. Members opposite are all about wasting time -

Hon N.D. Griffiths: You are filibustering, and you are telling other people they are wasting time!

Hon N.F. MOORE: Is Hon Nick Griffiths suggesting we should not speak on this matter? I will speak on this matter, and will expose what members opposite are doing, for as long as I have breath; and many other people will do the same thing. That is why people are spending a lot of money on telling members opposite what they should do.

Hon John Halden: Who are your financial backers? Vote against your amendments! How silly are they, and you?

The PRESIDENT: Order! I want to progress the debate, but the interjections keep getting in the way.

Hon N.F. MOORE: This motion is a simple, unadulterated attempt by the Greens to delay and avoid making a decision on native title legislation. That is what it is about. They have already told us they do not agree with it and will not support it. Why do they not just put up their hands in the House and say "No" when the Bills come here to be debated, rather than send them to a committee, which will come back with some sort of report? It is regrettable that the sorts of reports that come from committees these days are a bit short on credibility. One example is the School Education Bill. We have seen what members opposite can do with the School Education Bill; now they want to do the same with the native title legislation. Why do members opposite not make up their minds about where they stand and come into this Parliament and debate it so everyone can hear their views, and not express those views in some closed committee room? It is not hard to do that. The ultimate decision will be made in this place. Members opposite can put up their hands and say they are opposed to the legislation, and can vote against it. Parliament is about putting one's name in *Hansard*, either for or against a Bill. However, this proposal, which I hope will not be supported by the Labor Party, is all about delaying, frustrating and seeking to put obstacles in the way of decent law in this country which will provide certainty on titles.

I do not know whether members opposite have titles or are interested in titles. However, many people are interested in titles of various descriptions, and they want some certainty. If one is in the business of investing millions of dollars on exploration

for mineral deposits, and is seeking to mine those deposits and create jobs and wealth for Western Australians, one would be interested in certainty of title. People are anxious to have some certainty in a string of other types of leasehold titles. I suggest that members put themselves in the shoes of people who own pastoral properties. For the past six years they have been waiting for certainty over their titles. When members opposite go on the trip which I have suggested to them, they should talk to some pastoral leaseholders who have been sitting on pastoral leases for over 100 years and have empathy with the land, and want to know where they stand in respect of their leases and the significant investments they have made in developing those properties. Members opposite have smiles on their faces because they think that because one is a pastoralist in Western Australia, somehow one has done the wrong thing by the Aboriginal people and the environment. Given half a chance, members opposite would close them down tomorrow; in fact the Greens (WA) would close Western Australia down tomorrow. They want to stop logging and mining, and they do not believe in the pastoral industry. They believe farmers are environmental vandals. They would stop the wealth production of the State tomorrow given half a chance. That is why they will always be a minor party, a rump on the edge of the left of the political spectrum. One can only hope that within the Labor Party, which claims to be the legitimate Opposition, there are enough people who are sensible enough to understand that jobs for Western Australians are important. Labor members talk about jobs all the time. They did not create any when they were in government; we inherited record unemployment. They did not deliver in government, but let us hope they can deliver in opposition. Here is the opportunity to deliver on jobs while in opposition.

The native title issue is about jobs and people getting things going in Western Australia. It is about land on which to build houses and towns. In Port Hedland it is about land for people to live on while they are engaged in the construction of the direct reduced iron plant. It is about certainty of title. Anybody who is prepared to invest the sort of money that is needed to create the sort of wealth I am talking about needs some certainty of title.

Hon J.A. Scott: That DRI plant has already gone ahead.

Hon N.F. MOORE: It has been built, and I suggest Hon Jim Scott visit it. However, it is on land with titles which the member will argue shortly we should not have granted. The member will argue similarly that we should not have allowed the Pilbara to goldfields gas pipeline to be built, and mining titles for mining companies that needed a hand to keep their mining operations going, and in some cases to avoid the sacking of 300 employees. The Greens will argue against those decisions made by the Government because they have already said they are opposed to the legislation. Those decisions were all about job and wealth creation, and that is what this issue is all about. We do not need a select committee. We are capable, as sensible adults, to decide on these Bills. There is no reason that this House cannot take as long as it needs in the Committee of the Whole - as it always does - to argue the issues of concern to members opposite. Members opposite do not need to take this matter off to a committee room, where no-one can see what they are doing. Why not talk about those matters in this place?

Hon J.A. Scott: They are public hearings.

Hon N.F. MOORE: This is the most public place in the world, and people can listen in the gallery on any issue. What members opposite do in this Chamber is recorded. It is open to the public and everyone knows what is happening. There are no secret deliberations in this place, but there are in committee rooms. Members opposite know that as well as I do. The issue of native title and the three Bills that relate to it should be debated in this place, and be open to total and absolute public scrutiny so that every Western Australian knows who is for it and who is against it. Let us debate the issue in this place, not in a committee room.

Point of Order

Hon TOM STEPHENS: I refer to Standing Order 100. That is that the third time that argument has been used by the Leader of the House in this debate. Mr President, I ask that you ask the Leader of the House to observe the standing orders of this place.

The PRESIDENT: I will ask any member to observe the standing orders of this place . The Leader of the Opposition is referring to Standing Order 100 - irrelevancy in debate and continued irrelevance or tedious repetition. I have listened closely to both the mover of the motion and now the Leader of the House. The Leader of the House has given a general history of the procedures adopted by other Parliaments, he has discussed time factors involved, and has repeated on a number of occasions the reasons a select committee should not be established. However, to date I have not found any tedious repetition. All members can take some advice and read Standing Order 100.

Hon TOM STEPHENS: In case you missed the lines being used by the Leader of the House, he has said three times in the past five minutes that we should debate this issue in this Chamber because this is the Chamber that is open. That ignores the fact that the motion requires a standing committee to be open. He has repeated that argument three times in five minutes.

The PRESIDENT: The Leader of the Opposition is now debating the motion. I am aware that the Leader of the House has suggested on at least three occasions there should be an open debate in this House. However, that is no more than emphasising his position on this matter. I will not go into the definition of tedious repetition, but most members who have

been here for as long as Hon Tom Stephens has been here well and truly understand what tedious repetition is and when Standing Order 100 is breached. Given the words of the Leader of the House to date, that standing order has not been breached.

Debate Resumed

Hon N.F. MOORE: People who live in glass houses should not throw stones, and I will remind the member of that in the future when he starts throwing stones or is living in the glass house. Sometimes one needs to say things more than once for it to penetrate dense masses, so I am saying it several times in the hope that all members will understand what I am saying. It is not necessary for there to be a select committee because the Bills can be debated in this House properly and legitimately, as they have been for a long time. It is a recent phenomenon that every Bill in this place must go to a committee for investigation. Committee members deliberate in private; they reach their conclusions in private and then they make them public when they report to the House. This is the most public place of all. Let us have the debate in this Chamber so that everybody in the world knows where the Labor Party, the Democrats, the Greens (WA) and we stand on the legislation. Let everybody know so that there is no doubt in anybody's mind about who takes which position on native title.

It was suggested by Hon Giz Watson that we will rush the legislation through the Legislative Council. It is not being rushed through. We cannot rush things through here any more, as though we ever could, because throughout much of the history of this place, the Opposition has had the numbers. We certainly cannot rush things through now. This Chamber operates at a snail's pace. I do not have a problem with that, provided that we get most of the business done eventually. But to suggest that we will seek to rush things through denies the reality of this place, which is that members can take as long as they like to argue any points they like, that they can take as long as they like to make a decision, that they can ask for as much information as they like, and that for as long as they like they can avoid making a decision until they get the information. I do not know why setting up a committee is a preferable way to deal with the legislation.

We will not rush it through. We would like to have it passed by Christmas because, as members know, the legislation then must be agreed to by the Federal Government and not disallowed by the Senate. It is nonsense that somehow or other we are trying to do things that are different from anywhere else in Australia and that are outside the federal native title legislation. If the matter is as members say it is, the Federal Government or the Senate will knock it out. We are not keen for that to happen. We are anxious to make sure that the legislation we pass in Western Australia survives that process. As for Hon Ken Travers' talk about surviving the High Court, we are doing what is required at least to allow the legislation to survive the Senate. If we do not do that, we are wasting our time. Does that not make sense? We want to pass the legislation quickly for all the reasons I have said and because we want to put certainty into the title system. We want to pass legislation which we hope will satisfy the Senate. If we put forward legislation which clearly will not have Senate approval, we will waste time and act contrary to our own best interests.

I am putting a very simple proposition: We do not need a select committee; the House can debate the issue. The House will debate it thoroughly, because that is the way the system works, and I have no control over how long it takes to debate the legislation in the House, so it cannot be rushed through. A select committee is just another device for delaying, frustrating and causing difficulties for people who want the matter resolved. Western Australia is most affected and disadvantaged by native title. We want the legislation passed -

Hon J.A. Scott: Except the Aboriginals.

Hon N.F. MOORE: With respect, some Aboriginal people in Western Australia have a lot of money in their pockets at the moment because they were able to negotiate deals which gave titles to mining companies. Some of them do not have that money any more. In fact, Aboriginal groups in Western Australia are fighting with each other in an unbelievable way because they are arguing about who should have the money.

Hon J.A. Scott interjected.

Hon N.F. MOORE: I know those people personally. I know who has been arguing with whom. I know who has the money. I know who reckons they should have received it. I know that there are families and groups who are fighting with each other - and have done so for the past couple of years - who never fought with each other before and who were caught up in the web of the right to negotiate. They took advantage of the fact that they did not need to negotiate in good faith, and there are now some irretrievable breakdowns in relationships within the Aboriginal community, particularly in the goldfields. Again, I suggest that Hon Jim Scott gets out of his little metropolitan electorate and has a look.

The PRESIDENT: Order! We are not here to argue Hon Jim Scott's interjection. We are here to deal with the motion. The Leader of the House is dealing with another issue.

Hon N.F. MOORE: I apologise for that - I was provoked - but I feel very upset for those people because I know them well and it saddens me to see that happening within the Aboriginal community.

The Government clearly opposes the motion because it is not necessary and because the motives for moving it are not

legitimate and are designed to frustrate and delay the legislation. If members want to go down that path of frustration and delay, they can vote against the legislation, tell everybody what they know and what they think, and let us make a decision. Avoiding making a decision is one of the greatest problems facing Western Australia at present. I strongly oppose the motion.

HON B.K. DONALDSON (Agricultural) [11.55 am]: You might be able to help me, Mr President. There is a song called *The Great Pretender* by, I think, the Platters -

The PRESIDENT: Order! I am in the Chair; I cannot be drawn into the debate, and I cannot help Hon Bruce Donaldson.

Hon B.K. DONALDSON: As I have listened to the debate over the past couple of days I have thought about the great pretenders in the House and the gnomes at the bottom of the garden. Senator John Button referred to the Democrats in the Senate, but I guess I did not know who the great pretenders were. I do not know whether the Greens (WA) would have been the leprechauns if John Button were still in the Senate. Certainly, the great pretenders in this House are Labor members. It is a shame to see their hypocritical stance. They are trying to hide the fact that they rely on support from mining companies and mining workers. I am sure that those people will be happy to learn about that. I am pleased that mining companies are making it clear in the media exactly where the Labor Party stands. We can forgive the Democrats and the Greens because they do not know any better. Hon Tom Stephens should talk to some of his colleagues because they do not share the views that have been espoused in this place. I look forward to mounting a very good campaign in some seats that Labor members supposedly hold at the moment. The election results make very interesting reading. We will lift the curtain on the dishonesty in the debate.

Hon Tom Stephens interjected.

The PRESIDENT: Order! I call the Leader of the Opposition to order. The House does not need such outbursts. We are trying to proceed with a motion and the Leader of the Opposition is off on a frolic of his own.

Hon B.K. DONALDSON: Thank you, Mr President. I obviously need some protection. That is unusual. I must be hitting some soft tissue in the Labor Party. That man with great moral ethics -

Debate adjourned, pursuant to standing orders.

Hon TOM STEPHENS: Will there ever be a process by which this matter can be brought to a conclusion if the Government is of a mind to maintain a filibuster?

The PRESIDENT: Order! That is not a point of order. The Leader of the Opposition is a member of the Legislative Council's management team. I understand that the business of the House is discussed in that team. If the Leader of the Opposition wishes to pursue that matter, he should take it up with the Legislative Council management team.

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 12 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.

To which the following amendment was moved -

> To delete in the first line of the motion the word "endorses" and substitute the word "notes".

Hon N.F. MOORE: I was drawing my comments to a close. As members will have forgotten the great words of wisdom uttered last week, I will summarise what I was suggesting about this motion and amendment. I was trying to indicate to the House the significant difference between the words "endorses" and "notes". Endorses is a word which -

Hon Max Evans: You do not endorse.

Hon N.F. MOORE: I do not endorse the word endorse. In the dictionary, the definition of "endorse" talks about sanctioning, and "sanction" means solemn ratification, which is even more enthusiastic support for something than the word "support". While it is hard to get degrees of support for something, the word "endorse" demonstrates a more significant degree of support than the use of "support". It is appropriate in this one-hour session on Thursdays when we consider

committee reports to use the word "notes". Using that term means members can debate the issues and are not put in a position of the whole House having to make a judgment on the recommendations of the report. By noting, one is able to comment on the recommendations and to make one's point of view known without the requirement for the House to make a decision about them.

If a member wants the House to make a decision about a report's recommendations, he should do that by way of substantive motion. That gives the House the chance to debate an issue in its entirety as a separate issue. If we go down the path of endorsing reports on Thursdays, we will debate only one or two reports in the whole year. This report may evoke a significant amount of debate from members on the substantive question of whether it is endorsed. Therefore, we would go on and on debating one report on Thursdays when this should be an occasion for the House to have a cursory glance at the reports. If members wish to do anything else, they can do so by substantive motion. The amendment to the motion which talks about noting rather than endorsing is a more practical way of handling reports at this time of the parliamentary sitting.

Hon N.D. Griffiths: I was just reading the motion before us. It is not about the House endorsing it; it is about the committee recommending it and does not mean you have to take up the recommendation. This is a debate about nothing.

Hon N.F. MOORE: Hon Nick Griffiths can be pedantic about that, but I think when the member moved the motion, she intended that the House endorse the recommendations.

Hon N.D. Griffiths: It does not say that.

Hon N.F. MOORE: Maybe it does not, but I am trying to put in place a process of dealing with reports whereby we do not seek to endorse reports but rather note them at this point. Hon Nick Griffiths may be right that it recommends we endorse the report, and we could have another debate on that recommendation, but we would be talking about this report for the rest of the session. From a practical perspective - which is my main concern - to allow all reports to get a guernsey on Thursdays we should continue to adopt the term "noting" rather than "endorse", "support" or "agree to". I wish to avoid long debates on the substantive issues in the reports on Thursdays. If Hon Christine Sharp wishes to debate the recommendations of the report and have the House make a decision on them, she should use the processes of substantive motions and the matter can be debated when the motion comes on to the Notice Paper for consideration. I support the amendment moved by Hon Bill Stretch.

Hon CHRISTINE SHARP: I thank the Leader of the House for his invitation to move a substantive motion to endorse the Standing Committee on Ecologically Sustainable Development's report. However, as he knows, there is no mechanism whereby I am able to bring on that debate to resolution within the time frames relevant to the topic of the report; that is, the Regional Forest Agreement process and its completion. That is why I have taken this unusual step of moving in this consideration of committee reports that the Chamber "endorse" and not "note". I have not taken this step lightly. I am aware that I proposed something unusual to the Chamber but I expected the Chamber's indulgence because we all understand that it is the only mechanism available to the Chamber to debate whether it endorses the reform package contained in the committee's report. I am reluctant to politicise the committee process in any way; we would all regret that. On the other hand, we do not want to make the committee process an irrelevance.

Hon BARRY HOUSE: I support the motion that the report be noted and not endorsed. I have made three contributions to the debate on the general topics surrounding this issue. I have taken a different tack from that of most other members, and without guidelines about how these debates are to be conducted, I have not been ruled out of order. I have interpreted the first process in respect of a committee report as an opportunity to discuss the broader issues. I have proceeded in the past couple of weeks to discuss some of those broader issues in the forest debate. That is why I believe the committee report should be noted and not endorsed at this stage. If Hon Christine Sharp or any other member wants to take some of the aspects of that report further, avenues to do so are available. The substantive motion avenue is available, but I take the point that it takes some time for such motions to be debated. The member could also use an urgency debate or other mechanisms, as she has discovered in the past couple of days.

I will continue the general remarks I was making about forest management. Last week I started talking about the need for and sources of timber. The first part of that general discussion concerned old-growth forest and what constitutes old-growth forest. Different people have different definitions and interpretations. That is realistic enough in this debate: People will want to interpret these things in different ways. However, professional forest managers see value in timber harvesting from old-growth areas; that is, leaving aside the pristine areas in the reserve system. Professional foresters say that many of the forests areas that have been logged progressively over the past century are now unhealthy because most of the mature trees are marris, which restrict the growth of karri and jarrah and various other under-storey species. To manage that forest sensibly and sustainably in the longer term, those marris must be removed. That is taken into account in the logging program.

Point of Order

Hon CHRISTINE SHARP: Under Standing Order 100, what the member is discussing is irrelevant to the motion before us, which is the amendment to the motion to note rather than to endorse. He is speaking to the original motion.

The CHAIRMAN: Given the nature of the amendment with respect to a discussion of "notes" as opposed to "endorses", it is very difficult not to impinge on the substantive subject matter. I take a broad view of this and rule that there is no point of order.

Debate Resumed

Hon BARRY HOUSE: At the outset I acknowledged that I do not mind where I make these remarks, whether it is in this debate or during the next debate, which may or may not arise. However, I run the risk of its not arising if this motion to note the report is passed. If it is, the more general debate will then collapse.

If we do not get our timber resources from this State or this country, where will we get them? We will get them from overseas. The largest remaining areas of forest resource are in tropical -

Hon J.A. Scott: Have you not heard of agroforestry?

Hon BARRY HOUSE: Of course I have heard of agroforestry, and it is meeting some of the needs in Western Australia. However, it does not cater for all of our requirements for timber products. If we do not resource them here, we merely shift the problem to another nation. That nation will probably be Indonesia, Malaysia or the Amazon basin - areas that can least afford that activity. The best environmental management occurs in nations that are economically capable of sustaining these activities.

Hon Christine Sharp: Are you saying that two wrongs make a right?

Hon BARRY HOUSE: No, I am suggesting that we manage our own resource in a sensible and balanced way that is fair to all parties who have a stake in our forest resources. It is irresponsible of us to shift our problem to a third world nation that cannot afford it. It is irresponsible environmentally because such a nation's resources will be depleted and it will further deteriorate our balance of payments. We also will lose local jobs. An important part of my role in the south west involves representing those people who have jobs and who want to stay in their local communities and to earn an income to support their families.

The regional forest agreement process is the specific topic of this report. I know the debate has raged for decades and even centuries. However, this process is the most comprehensive scientific analysis of the forest debate to date. That cannot be disputed. On that basis alone, it deserves support. However, once again, there are different views about the process. I know some people are disappointed that the Conservation Council did not take up the place offered to it at the table from the start. That would have given a voice to the conservation movement. However, the council declined that opportunity and was prepared to take up the debate in the public arena. That is not a very constructive way to do business. If an organisation takes that point of view from the start, it indicates that, whatever the result, it will not agree. Unfortunately that has been the case here.

The scientific basis of the RFA process has come primarily from Department of Conservation and Land Management scientists, although there has been input from a variety of scientists throughout the world. The very nature of science, and particularly the science of botany, is that different people have different points of view about it. We will not get universal agreement among scientists in this area.

Hon J.A. Scott: You are speaking about economics.

Hon BARRY HOUSE: I am speaking about botany in this case. I freely admit that economics is not an exact science, nor is botany.

Hon Christine Sharp: Is the member suggesting it is not an exact science?

Hon BARRY HOUSE: There are different points of view about how to manage a forest. Peter Robertson and Dr Beth Schultz showed me some satellite photographs which provided a very useful general impression of the south west forests. However, when one talks to the people involved in the RFA process, one realises how much more specifically scientific the RFA analysis has been as opposed to the broader brush satellite photographs. One could not make a judgment on specific areas of forest based on the satellite photographs. Therefore, I am inclined to support the Regional Forest Agreement process as it has involved a thorough analysis, and the best analysis up to this point. I generally support the amendment moved by Hon Bill Stretch to note the report but not to endorse it at this stage.

Hon PETER FOSS: I support that. The word "endorse" is an interesting one. It comes from the concept of bills of exchange: When one endorsed a bill, one added one's name to it, thereby making oneself principally liable for it. The concept of endorsing something is different from the concept of noting or approving something. It is clear that each member of the committee has already endorsed the report. That is what the signatures on the bottom mean; that is an endorsement. What they are saying is, "This is my report. The facts, statements and opinions in it are my opinions. I have endorsed it; therefore it is my deed." As a Chamber, we can note it; we can agree to it; we can approve it; we can do many things.

Hon Kim Chance: We can endorse it.

Hon PETER FOSS: There is a difference when one endorses it, because when one endorses something, one is saying, "It is mine." In the same way as the members of the committee have personally put their names to it, one is saying that we, as a Chamber, are putting our names to it. "Endorse" is a bad word for a deliberative body of this nature to use, particularly as we can decide matters by majority.

Hon Kim Chance: Notwithstanding that, we can still do that if it is our choice.

Hon PETER FOSS: The problem about using that particular word is that we are virtually saying that we all adopt it as our report. By a majority, we may approve it; we may agree to it.

Hon N.D. Griffiths: This point has been made by several members in the course of this debate.

Hon PETER FOSS: I know. I understand.

Hon N.D. Griffiths: I do not think it is necessary to continue to make it.

Hon PETER FOSS: It is important that I make the point. One reason that the point has been made is that it is a legal point, and perhaps it is advisable for the Chamber to hear it from somebody who can give the legal basis for it.

Hon E.R.J. Dermer: If we want legal advice, we will ask Hon Nick Griffiths.

Hon PETER FOSS: Good. If Hon Nick Griffiths were to speak, I am sure he would confirm my point that by endorsing something, one makes oneself personally liable for it. One is saying one is adopting something in every respect as one's own. That is a problem. It is an imposition on members. It serves nothing, because it is clear that the people who speak against endorsing it are not endorsing it. For us to pass a motion to say that we all endorse it flies in the face of the reality, which is that we do not endorse it. Maybe by a majority members can agree to it. However, the proper way for this Chamber to agree to something is as a Chamber, not by a committee report which we then adopt. If one wants the Chamber to pass a resolution agreeing to something, that resolution should be moved and passed. The normal way in which this Chamber does that is that it approves of a report or agrees to it. However, to have us endorse it here, so that when it goes to the House, by a majority, we accept the report, we are all supposed to have endorsed something which we do not adopt at all.

The wording is most unfortunate. I assume it was used inadvertently, without thinking about the consequences of the word and without recognising that, instead of allowing committee reports to come forward and be accepted or noted, we will have this mighty bingle about them because somebody intends to force them down our throats and say, "Not only do you have to agree to this, but you will have to personally put your name on it. There will be a resolution of the Chamber which says that you personally agree to it." The obvious point is that many members do not agree to it. There may be some members on our side who endorse the report, and have already endorsed it. However, I do not accept that, as a Chamber, we should endorse it and force our members to take that personal participation in it.

Hon Christine Sharp: I can assure the minister it was not a mistake.

Hon PETER FOSS: I have just received the alarming news from Hon Christine Sharp that she intended that. It does not surprise me. One thing I have noticed about the Greens (WA) is that it is good at using the system to force everybody else into being seen as agreeing with it. The Greens are not content with winning. I do not think the Greens are even content with one saying yes and not meaning it; they want one to mean it. I am surprised Hon Christine Sharp does not have rat cages affixed to our faces in order to get us to say, "Yes, we agree. You have said it; we are overwhelmed; we endorse it." I inform the Chamber that I, for one, do not endorse it. I am sure the members of the committee do endorse it. I object to somebody who advisedly makes a person say, "We do endorse it." I suppose what will happen now is that instead of a committee report coming through and being discussed so that we see the pros and the cons, every single time we will have an argument about whether or not we endorse it.

Hon Christine Sharp: I have already said that the reason this situation is unique is because of the time frames involved.

Hon PETER FOSS: What have time frames got to do with whether or not we agree to it?

Hon Christine Sharp: Because the position of this Chamber has to be decided in a timely manner.

Hon PETER FOSS: However, members in this Chamber cannot be forced to agree with it. One can pass by majority -

Hon Christine Sharp: We do this every day: We pass things by majority.

Hon PETER FOSS: We can pass things by majority. If one wants to do that, one moves a substantive motion to say that the report be agreed to. However, the Greens are not content with the Chamber saying that we agree with it, we can have an argument about it, and we can pass it by a majority. It wants the Chamber to endorse it. The mind benders - the Greens - are mind boggling. The mover of the motion cannot see that what she is doing is offensive.

Hon Christine Sharp: I did not realise the minister was so sensitive.

Hon PETER FOSS: No, I am not sensitive. I just believe that what Hon Christine Sharp is trying to do is to upset the way that this Chamber operates.

Hon Christine Sharp: I am trying to wake up this Chamber about something very important.

Hon PETER FOSS: No, the member is not.

The CHAIRMAN (Hon J.A. Cowdell): Order!

Hon PETER FOSS: All the member wants to do is mind bludgeon. It is typical of the Greens. Their position is that we can have any view we like, as long as we agree with them. That is how the Greens work. I can remember having this type of dispute once before when the people said, "We don't oppose logging."

The CHAIRMAN: Order!

Hon PETER FOSS: I can remember one of the Greens' people said, "We don't oppose logging, as long as all this happens", and he went through a list which would make it absolutely impossible and to make sure there was none. The Greens like to think of themselves as people who consult the community, who look for consensus, who try to bring people along with them. Give them a moment of power, and, bang, one is belted on the head. In fact, they are worse than other people with power, because they are so unused to having power that they use it in the most corrupt way. Hon Christine Sharp thinks she has the numbers, so she will bang members on their heads and get it through. Out of the window goes consensus; out of the window goes consultation; out of the window goes the possibility of bringing everybody along together. Their view is that if one has the numbers, one should belt members on their heads to make sure one can say, "It was endorsed by the House. Every single person endorsed it."

Hon Christine Sharp: Can the minister suggest a way that this Chamber could operate on consensus?

Hon PETER FOSS: No. I am not suggesting it. All I am saying is that the principles of the Greens are very flexible.

The CHAIRMAN: Order!

Hon PETER FOSS: The Greens like consultation as long as they are the ones who have to be consulted and everyone agrees with them. I know that consultation with the Greens means that we have to ask them something, and if we do what they ask us to do, then we have consulted; if we ask the Greens something and we do not agree, that means we have not consulted. I have heard this time and time again. One can consult with the Greens for two years, but unless in the end one does everything they want, one has not consulted. For the Greens, consultation means agreeing with them. For them, consultation means that they push their own ideas through if they have the power, and blow everybody else. They are the ones who never follow their own principles, given half an opportunity.

It is interesting to hear that Hon Christine Sharp used the word "intentionally" and that she happens to believe that is perfectly okay. I hope Hon Christine Sharp knows how hypocritical the working of her party is. This matter about consensus is absolute rubbish. The Greens are as bad as anybody - in fact, worse - when it comes to having some power. They use it and abuse it. This whole motion is an abuse. Every time the Greens try to pull this little stunt, they are undermining the worth of the committees of this Chamber. They are taking away the one area where consensus and agreement is possible, because they insist that they will push their views on everybody in this place. If that is the way the member wants committees to work, she has destroyed the one possibility of this House doing what she says publicly she believes it should do. When it comes to actually doing it, she does not do it.

Hon DEXTER DAVIES: To get back to the motion on the report, as did Hon Barry House, the original report is about a process. I made that point before and the debate has become very emotional about other issues. The report is about ensuring that the Regional Forest Agreement process works. It is not about the forests and other emotive things that have been discussed. That is why I endorse the report. I accept that other people may not. However, the RFA process is what the report is about; that is, ensuring the RFA stands up to scrutiny to ensure that it works so that the ultimate result it delivers will stand up and stop the conflict. That is why I want to put on record that I endorse that as a process. I am not arguing who is right or wrong in the outcome; that debate will come later.

The report contains 22 recommendations to enhance the RFA process, to enable everybody to take part in that process so that it will be credible and sustainable at the end of the day, and to get consensus for the process to achieve what it sets out to do. I do not think anybody in this place has said that he does not support the RFA process. I emphasise that this report is about helping that process to do what it is meant to do, nothing else. I sympathise with Hon Christine Sharp's feeling frustrated by this House. As somebody new to this House, I have found working within its rules frustrating compared with the way I normally operate. I suspect that my hair will get greyer and thinner as time goes on. However, I joined the committee in good faith. I put on record that I agree with the 22 recommendations and I hope that the report does assist in making the RFA process more credible and actually deliver an outcome at the end of the day.

Some of the other heat and light in here has been irrelevant. Hon Jim Scott should be very careful about how he uses the

committee system. Minority groups have a right to use the committee system, but those rights should not be abused. Rights should never be abused, otherwise minority groups may cut off their lines of communication. I want members to think about that carefully. Minority groups can make their point. The committee is a place where minority groups do have rights. It would be silly to abuse those rights.

Hon W.N. STRETCH: This debate seems to have gone around since I moved the amendment. I make it clear that I have no problem with any finding that any committee brings to this place. In the forum of the committee, its members in their wisdom produce findings and recommendations. My difficulty is with the word "endorse", which, as my learned colleague and others have said, indicates automatic support. That I will not give. I do not believe that any committee has the right to demand that of this Chamber. My problem is not with the committee process, its findings or its chairmanship, it is with the process which has been established.

Hon Jim Scott said that things have to change, and they do, but there is a democratic process in this place. The difficulty with democratic processes is that there are 10 or 12 definitions of democracy. There can be democracy within a small committee or in a committee of two, three, five, 11 or whatever. There is democracy when the report is brought to the House and the House makes a decision. However, nothing is added to democratic debate by putting in a precondition which asks members to give automatic endorsement, and therefore automatic support, of the findings brought forward. Therefore, my difficulty is with the process.

I have been here a long time, as has Hon Tom Stephens. The parliamentary process is a very frustrating process. However, so is the law and so is negotiation on a project as complicated as setting up an RFA. The processes of this House have stood the test of time. In past years there have been many minority Governments. Minority parties have put forward their points of view and, depending on their persuasiveness, statesmanship and credibility, have prevailed upon Governments of the day to carry them through.

I remind members opposite that when I came to this House in 1983 the Liberal Party went out of Government in the lower House and we sat here in opposition, with the numbers. Over the years the figures will reflect that we passed at least 97 per cent of all the legislation put forward by the Government, with whom we had a serious philosophical difference. However, we recognised the right of Brian Burke's Government at the time, which carried on to other Premiers, that if it had the numbers and convinced people in the wider electorate of its views, there was an obligation to give the Labor Government the right to govern. There were a couple of extreme cases towards the end of its term.

Hon Tom Stephens: Ha, ha!

Hon W.N. STRETCH: The Leader of the Opposition must agree with me.

Hon Tom Stephens: Some of them were early. You knocked off a Bill.

Hon W.N. STRETCH: Is the Leader of the Opposition talking about the first Aboriginal land rights Bill?

Hon Tom Stephens: I was thinking of that Bill.

Hon W.N. STRETCH: Does the Leader of the Opposition know what his leader, Hon Brian Burke, said? He said it certainly in private, but he said, "Thank God for the Legislative Council."

Hon Tom Stephens: Allow me to assure you that he never said it.

Hon W.N. STRETCH: He said, "Thank God for the Legislative Council."

Hon Tom Stephens: He did not, you know. That is a myth.

The CHAIRMAN: Order, members! I have taken a broad view of this amendment but it is not so broad as to include the 1984 land rights debate.

Hon W.N. STRETCH: Thank you, Mr Chairman. I agree with you. However, as your honourable leader brought up the subject about the way the House worked at that time, I must put some facts in place. The fact is there is a place for minority parties to have their view heard with the proper and existing processes of the House. I was using the figures of 97 per cent or 98 per cent of legislation passed when we were in opposition to indicate to minor parties that there is a process. There are ways, depending on their skills and attitude, in which to get over their points of view. However, the use of the word "endorse" is not the way to go. I am happy to note the report. I have a difficulty with some of the committee's recommendations. However, this is not the place at this stage in the debate to debate them. I have a philosophical difference with the Greens (WA) party's attitude to forest management and timber harvesting. This is also not the place to debate that. I agree to differ on that; I believe I always will. I believe that there will be no negotiation on that. I also believe that when the RFA process is passed there will still be no agreement. I have the feeling in my bones that we are looking at a demand from one side for total surrender, and the other side, I believe, will not give in.

It is not regarded as urgent that we pass the native title validation legislation, yet it appears to be urgent that this review of

the RFA process be undertaken. That is purely a point of view. The Government believes one thing, and the Greens another. The simple fact is that the Government has had its point of view before the public for a long time, and the RFA process has been ongoing for some time. The question of urgency is subjective and does not really apply.

Hon Christine Sharp: The only party which thinks it is urgent is the Liberal Party. You have the support of no other party in this matter.

Hon W.N. STRETCH: What is the member talking about now?

Hon Christine Sharp: You're suggesting that only the Greens want to slow down the RFA process. The Liberal Party is quite alone on this issue.

Hon Barry House: What about the Nats?

Hon Christine Sharp: Exactly - what about the Nats?

Hon W.N. STRETCH: I am glad that Hon Christine Sharp knows the position in the Liberal Party better than I do! The majority of the party's supporters and the people to whom I speak want the RFA passed. They want whatever certainty it can provide, however far down the path that may be. They want a benchmark from which they can move to either side. My mind boggles at the presumption that the member knows better than this House, and better than the Liberal Party, and that she should seek to impose her views on everyone.

I was trying to take a conciliatory view. I said that I accepted that I differ from the member, and I believe always will. I believe the member is wrong - she believes I am wrong. That is fine. That is what democracy is all about. That is why Parliament is the place of deliberation and speech. It is presumptuous for a committee on any subject to request, in very vulgar terms in this case, the total agreement of the Chamber. I will not go along with that request. I moved my amendment not because of the subject of the report, but in support of a process which has stood the test of time. I have tried to demonstrate that a minority can express its views in a proper way. A number of minority reports have been presented in this place, been noted and acted upon. For example, I chaired the Select Committee into Dieback Diseases, about which we did not make a great song and dance. The House noted it, and many recommendations were agreed to, and some were not acted upon; however, I did not cut my throat about that. A few committee reports have been released - one will be released in a few weeks' time - with which I disagree with the content; however, I preserve my right to vote against such content. The process can be fine, and the findings can be wrong. One meddles with the process by altering the odd key word here and there at one's ultimate peril. Members opposite will be the Government one day. I hope it is a long while ahead, and no doubt members opposite hope it is soon. Here is another example of differing views.

Hon Kim Chance: Split the difference - say two years!

Hon W.N. STRETCH: We will see. Two years is a long time from my perspective. Things turn. Members must remember that what one meddles with today can bite one's backside tomorrow. We had an example of that in the electoral reform Bill of 1987, which had some unexpected consequences. In fact, we are wearing some of that consequence today. Someone must have the intestinal fortitude to bite the bullet to place that process back on a truly democratic basis. I will not see it in my lifetime, but I hope in this case that the process can be respected.

Hon TOM STEPHENS: As a Committee of the Whole, we must consider some issues raised regarding process. A fresh response is required to words which have arisen in consideration of committee reports in the future. The Labor Party will support this motion moved by Hon Christine Sharp, but this debate has displayed the prospect of problems in handling future reports. I alert all members to the fact that this should not be taken as a precedent by which members can rely on Labor Party support for such motions in the future. This motion has the consequence about which a number of people have spoken. It is unnecessary to spell out other consequences regarding the orderly consideration of committee reports in the future. I will say no more. We support Hon Christine Sharp's motion for all the reasons contained in the report. The process of such a motion in the future will be reconsidered. I cannot imagine my colleagues wanting to entertain a motion with reference to committee reports in exactly this way in the future.

Hon RAY HALLIGAN: I am concerned with the words of the Leader of the Opposition regarding backing this process each way and agreeing with certain things at certain times. Obviously, that suits the Leader of the Opposition. That is unfortunate. I am new to the place, and many experienced members in this place, particularly some opposite, know full well the processes of this Chamber which have been in place for some time. I have grave concern about the word "endorse", and not only regarding the dictionary definition. I hope Hon Helen Hodgson understands, given her background and experience, what "endorse" means. It has been explained to us succinctly by the Attorney General. To me it means acceptance - one gives in and capitulates. It is tantamount to ratifying what is proposed. One need go no further as one accepts it as it is. I am sorry, Mr Chairman, but I do not accept this motion. I do not want to be placed in this position.

It has been said before that this is a House of Review. Members of this House should be given the opportunity to debate matters, but members of this House are asked to endorse what is placed before us whether we like it or not. That process

is not in the long-term interests of this place. I believe in the very good committee system. Providing the opportunity for committees to review, to obtain additional information, to provide alternative points of view, and even to recommend certain courses of action, is the way in which committees should work. However, matters should then come to the Chamber to give all members the opportunity to debate, rather than just accept, proposals.

Amendment put and a division taken with the following result -

Ayes (13)

Hon M.J. Criddle	Hon Ray Halligan	Hon N.F. Moore	Hon W.N. Stretch
Hon Dexter Davies		Hon Simon O'Brien	Hon Derrick Tomlinson
Hon B.K. Donaldson	Hon Barry House	Hon B.M. Scott	Hon Muriel Patterson *(Teller)*
Hon Peter Foss	Hon Murray Montgomery		

Noes (14)

Hon Kim Chance	Hon Tom Helm	Hon Ljiljanna Ravlich	Hon Tom Stephens
Hon J.A. Cowdell	Hon Helen Hodgson	Hon J.A. Scott	Hon Giz Watson
Hon N.D. Griffiths	Hon Norm Kelly	Hon Christine Sharp	Hon E.R.J. Dermer *(Teller)*
Hon John Halden	Hon Mark Nevill		

Pairs

Hon M.D. Nixon	Hon Ken Travers
Hon Greg Smith	Hon Cheryl Davenport
Hon Max Evans	Hon Bob Thomas

Amendment thus negatived.

Debate (on Motion) Resumed

Hon CHRISTINE SHARP: Now that we are dealing with the substantive motion of whether this Chamber should endorse the report on the Regional Forest Agreement process, I will comment on the committee report and the RFA process. Hon Bill Stretch when talking about the RFA last week said that he and many other people in the south west are sick and tired of the RFA. I put it to the honourable member that he should try to grasp the fact that he and members of the timber industry are not the only sector who are sick and tired of the RFA. Everybody is sick and tired of the RFA, it has been a sickening and tiring process. It has been an extremely stressful, conflict-ridden and appalling process. Somehow it is maintained that this is the fault of the conservation movement. I ask members to open their minds and to recognise that it is not the fault of the conservation movement but is perhaps the fault of the process itself. I will give a few examples which I dealt with in the committee report.

First, I refer to the obfuscation of the data available. I am sure members will have noted that the options paper widely circulated as the RFA consultation paper on which areas should be put into reserves, did not contain one specific proposal about which areas of forest should be given protection and nor did it contain any maps. It was extremely bewildering to most people and difficult for them to understand what was proposed. I challenge any member in this Chamber to claim that it was easy to understand what the RFA public consultation paper was getting at. It was extremely difficult and over-scientific to the point that most ordinary people who had an interest in this matter could not understand the document.

The second reason for the enormous difficulty in this process relates to the definition of "old growth". This definition has been set at a national level but, to use the verb introduced into this Chamber recently by Hon Derrick Tomlinson, it has been operationalised in a fairly specific way. The operationalisation of the notion of old growth in Western Australia is specific to Western Australia, and it has caused enormous conflict and criticism. That is because the definition of old-growth forest in an operational sense in Western Australia is so strict that it virtually excludes all the forest in the Swan - previously the northern - and central forest regions. There is no old-growth forest of any significance in those two of the three major forest regions. There is a real problem with the way old growth has been defined. Obviously, 60 per cent of a lower figure results in a smaller reserve, and geographically it limits the areas in which new reserves can be established. The people who live in Bunbury, Collie, Bridgetown, Manjimup, Harvey, Pinjarra and similar areas will have virtually no new reservations because old growth in that area is not recognised as old growth.

Currently there are 1 000 100 hectares of production forest, and 145 000 hectares of old-growth forest. That means this State has almost one million hectares of regrowth forest, and 950 000 hectares of regrowth forest are available to the timber industry. That cannot be described as trying to close down the timber industry. At this moment Bunnings is refitting its Pemberton mill, which is its main karri sawmill, and will use it largely for value-added products. In this conversion process it is using the manager of Dean mill, who helped to convert the Dean mill to value-adding production. Value-adding needs a lower grade of timber. It is, therefore, a golden opportunity for karri logging to move to regrowth forest, to those areas that have already been clear-felled through the woodchipping process, and for the timber industry to demonstrate the

sustainability of that process of silviculture. Moreover, the restructuring involved could be supported financially through the RFA process.

The most important way in which the RFA process has been entirely unsatisfactory - I know the National Party shares my concern about this - is that the jarrah cut is not dealt with in the process. The popular understanding is that the RFA denotes where reserves should be located and how much land should be reserved.

Debate adjourned, pursuant to standing orders.

Sitting suspended from 1.00 to 2.00 pm

SCHOOL EDUCATION BILL

Committee

Resumed from 18 November. The Deputy Chairman of Committees (Hon Derrick Tomlinson) in the Chair; Hon N.F. Moore (Leader of the House) in charge of the Bill.

Clause 13: Powers of authorized person -

Progress was reported after the following amendment had been partly considered -

> Page 11, line 14 - To insert before the word "require" the words "having produced the certificate provided to the authorized person under section 14,".

Hon KIM CHANCE: I explained yesterday that the Standing Committee on Public Administration's position was that the school attendance officer, the authorised person as referred to in the Bill, should be required to exercise the authority contained within the Bill where clearly visible evidence of that authority exists. My last words in explaining the committee's position were that it is not the committee's view that that person should wear that symbol of authority at all times. However, that person should wear that symbol of authority at all times when exercising that authority. At any time when the authorised person is in contact with a child that the authorised person believes is or should be a student, that authority should be clearly visible. That is the content of the committee's argument.

Hon N.F. MOORE: The Government accepts this amendment. I will explain to the Committee what the Government proposes to do during the remainder of this debate. We have indicated that we will accept a number of amendments. I do not propose to debate those clauses if we accept the amendments. I suggest to members who are moving those amendments that they keep their comments to a minimum. It is clear to the Government that the opposition parties are determined to significantly amend this Bill to the point where it is almost unrecognisable at the end. We hope and pray that at the end of the day the Bill will be passed in one form or another and that the Legislative Assembly can repair the mess that we have created. There is little point in my arguing every clause because the opposition parties seem quite determined to emasculate this Bill.

Amendment put and passed.

The CHAIRMAN: The other amendment in Hon Kim Chance's name cannot be taken until new clause 11 is debated. Clause 11 is a new clause and I anticipate that we will be dealing with that at 9.30 pm on 16 December. Therefore we will defer that amendment until after new clause 11 is debated.

Further consideration of the clause postponed until after consideration of new clause 11.

Postponed clause 9: When enrolment compulsory -

Resumed from 18 November on the following amendment -

> Page 9, line 23 - To delete the line and substitute the following paragraph -
>
> > Penalty: $25 for each day from the time when the court considers that the person should have complied with subsection (1) and $25 for each day on which the offence continues after conviction.

Hon N.F. MOORE: Last night we were discussing the penalties for students who do not enrol in an education system. We argued which was the best way to go on the penalties; that is, whether we should accept the Bill which has a head penalty plus a daily penalty, or accept the Standing Committee on Public Administration's recommendation which is a figure of so much a day as the initial penalty and then a prospective penalty of another amount each day afterwards. I indicated to the Chamber that I would seek advice overnight. The Education Act review group has spoken to crown counsel and its recommendation is that we retain a head penalty. I suggest that that penalty be $2 500 and we remove the daily penalty. It is the view of crown counsel that that is the best way to go. Although it is not usual for ministers to table legal advice, I am happy to discuss these matters with members behind the Chair if they wish. However, the advice is that we should retain a head penalty and I am suggesting that it be reduced and we remove the daily penalty provision.

The CHAIRMAN: At this stage Hon Kim Chance must seek leave to withdraw his proposed amendment and then the minister may move a further amendment.

Hon KIM CHANCE: I seek leave to withdraw the Standing Committee on Public Administration's amendment in clause 9 which is referred to in the supplementary Notice Paper as amendment A9.

Amendment, by leave, withdrawn.

Hon N.F. MOORE: I move -

Page 9, line 23 - To delete the line, and substitute "Penalty: $2 500."

That effectively deletes the penalty of $5 000 and the daily penalty of $25 and replaces it with a penalty of $2 500.

Hon CHRISTINE SHARP: I must apologise because this information was provided some weeks ago but I do not have it with me. Will the minister tell me what the current penalty is?

Hon N.F. Moore: It is $200.

Hon CHRISTINE SHARP: A fine of $2 500 is too high. A maximum penalty of $1 000 would be more appropriate. I will not be supporting the amendment for all the social reasons that we discussed, particularly those put forward by the Aboriginal Legal Service. The amendment could impose an unnecessary financial hardship on certain members of the community.

Amendment put and passed.

Hon N.F. MOORE: I move -

Page 9, after line 23 - To insert the following subclauses -

(3) A complaint of an offence against subsection (2) is not to be made against a parent unless the chief executive officer has given a certificate to the effect that all reasonably practicable steps have been taken to secure compliance with subsection (1) by the parent.

(4) Where in any proceedings a document is produced purporting to be a certificate given under subsection (3) the court is to presume, unless the contrary is shown, that the document is such a certificate.

This is intended to provide some comfort for those people who think that new clause 11 has some merit. The intention is to try to reduce the apparent bluntness of the penalty and the provision relating to compulsory enrolment. Essentially, we are proposing that the chief executive officer must provide a certificate to the court to the effect that all reasonably practicable steps have been taken to assist the person in enrolling the child and basically to indicate that the system is trying to help people to enrol. It is not meant in any way to be an aggressive approach but seeks to encourage people. The only people who would ultimately be prosecuted would be those who quite defiantly refuse to enrol their child as opposed to somebody who for reasons, such as being at a funeral in Wiluna, does not get around to enrolling.

Hon HELEN HODGSON: I recall that when we were discussing this in the committee, we were discussing the whole issue. The committee came up with an approach to clause 11. This matter was raised as being able to be done as simply as this proposed amendment. I have a bit of a problem. Having received this proposed amendment on Supplementary Notice Paper 4-2 in the Chamber only last night, it has been a bit difficult to go back, compare them, and work out exactly what are the differences. Having looked at it in the past couple of minutes, it seems that the approach the committee preferred was to incorporate a few protections and ensure that advisory panels were involved in the process. This very limited approach simply picks up the certificate, whereas the committee's preferred approach in the new subclause, which we cannot debate until the end of this matter, has a far more detailed way of dealing with it. Would it be in order to defer deliberation of this until that new clause is considered?

The DEPUTY CHAIRMAN (Hon Derrick Tomlinson): It is within the member's power to move that it be postponed until after the deliberation on new clause 11.

Hon N.F. MOORE: I do not have a problem with deferring the consideration but I do have a problem with considering this after new clause 11. Our proposition is a far better approach than new clause 11. New clause 11 covers about half a dozen pages. It is the most detailed piece of legislation I have ever seen and should be in regulations. I am happy to go along with the deferral but for us to consider this ahead of new clause 11.

Hon LJILJANNA RAVLICH: The Australian Labor Party concurs with the view of Hon Helen Hodgson. Whether this is more appropriate than new clause 11 is really a matter of judgment. In view of the fact, as Hon Helen Hodgson pointed out, that this amendment came out only fairly late last night, members would not have had the opportunity to compare the two proposals in any great detail. We fully support the course of action that Hon Helen Hodgson has proposed.

Further consideration of the clause postponed until after consideration of new clause 11, on motion by Hon Helen Hodgson.

Clause 14: Certificate of appointment -

Hon KIM CHANCE: I move -

Page 11, after line 26 - To insert the following new subclause -

(4) An authorised person may make recommendations to the chief executive officer to take appropriate steps under section 11.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 15 to 20 put and passed.

Clause 21: Removal from register -

Hon LJILJANNA RAVLICH: I move -

Page 16, after line 17 - To insert after paragraph (f) the following -

(g) the Minister has directed a government agency or a School Attendance Panel appointed under section 39 to review the whereabouts of a child at a specified future time.

Members will note that a number of steps must be gone through prior to any student's being removed from the register. The principal of a school is not to remove from a register the name of a child of compulsory school age unless the principal has gone through a number of steps, such as the principal believes on reasonable grounds that the child has enrolled in another school in another State. Clause 21(c) reads that an exemption is granted under section 11 in respect of the child and so on.

The Opposition believes that as an absolutely last resort, it is important to ensure that all steps are taken prior to the removal of children from registers. The Opposition's amendment attempts to ensure the existence of a cooperative interagency approach and the follow-up of children who disappear from the register. The substantive clause would allow students to disappear from school registers without the appropriate follow-up. In this day and age when computing technology and Internet facilities are available, schools should be able to communicate with each other through the use of email, the Internet or other modern means of communications. It should be much easier to track the location of students. The notion that it is an administrative burden and we should not worry about it does not appear to be good enough anymore. This amendment is about ensuring that students do not disappear from a school register, and that other agencies are advised that a student's whereabouts are unknown, and that that agency also becomes involved in the process of tracking down the student in question.

It has been pointed out to me by the minister's adviser that one of the difficulties that might be presented in this amendment is that it refers to a future specified time. The reason for that specified time is that we do not want to track kids in the past; we want to keep the tracking of them some time in the future. If, for example, a year 8 student disappears from a register, the Opposition wants to ensure that a check takes place every six months of the whereabouts of that child until such time as it is deemed through regulation that it is an appropriate time to stop that checking.

The Opposition is concerned about students who fall through the system. It is concerned that a lack of interagency cooperation may mean that no-one takes responsibility for these students. The Australian Labor Party will not be giving up on children. The community needs a system that works more effectively and allows the tracking of students. There is too much talk about the need for interagency cooperation and the need for not losing students from the school system and from school registers, but in practice these things do occur. That interagency cooperation does not exist to the extent that it should and students are not tracked as effectively as they could be tracked and many students disappear from the system. It is a most unacceptable situation in this day and age. I urge the Committee to support this amendment.

Hon CHRISTINE SHARP: I support this amendment. It is an important amendment for the reasons that Hon Ljiljanna Ravlich has outlined. It is a neglect under the Bill that it is before us for consideration. My understanding is that when the school system has been able to track the whereabouts of a child, other government agencies take on the file and the responsibility for tracking that individual. It is very important that that kind of responsibility continue.

Hon N.F. MOORE: We are talking about the removal of a child's name from the register; in other words, this is an enrolment issue, not an attendance issue. The Government finds this amendment to be unnecessary and confusing. It refers to the minister directing a government agency. There are not many agencies which the minister can direct. The only one he can probably direct is the Education Department. I do not know how a minister can direct Family and Children's Services or some other organisation that is in some way involved with the care of children. The amendment refers to a specified

future time; I can only presume that somehow or other the minister might say that so and so's whereabouts must be looked at in six months' time. I do not know what purpose that will achieve. The whole aim of the exercise is to ensure that children are enrolled. We have agreed to substantial penalties for people who do not enrol their children. The whole aim of the Bill and the whole intention of the Government is to encourage and require children to be enrolled. We are not anxious to ensure they become unenrolled. Every intent is made to discover where they are and to ensure they remain on the register. We believe this amendment is unnecessary and that it is inappropriate to suggest the minister can direct a government agency other than the Education Department, for which he has responsibility.

Hon HELEN HODGSON: I endorse those comments of the Leader of the House that the idea of the legislation is to ensure that children are enrolled and remain enrolled. Children can slip through the cracks in many situations. There are numerous instances of custody disputes and so on in which a child simply disappears off a school's roll. It is difficult for the principal and the teachers to ensure they comply with any duties of care that they may have. It is important to ensure a mechanism exists so that if a child disappears, and none of the previous subsections can be complied with, a follow-up system is in place to determine whether something has happened to the child. The child may have simply dropped out of sight while the family was in transit and turn up somewhere else after a time, or a genuine problem may exist. Although I recognise that this is an education Bill, rather than a welfare Bill, one of the ways in which we can ensure that we keep an eye on what is happening in these other areas when children are involved is to use the rolls and the enrollment procedures that are established under the Education Act to ensure that children do not slip through the cracks. We support the amendment.

Hon SIMON O'BRIEN: It strikes me that without some modification, this amendment must fail on the basis that, if inserted, it would not make sense. The mover has indicated that under proposed clause 21, a range of situations listed in paragraphs (a) to (f) be established. For this clause to come into play, only one of those situations must be met, as signified by the use of the word "or" after paragraph (e). The mover suggested that these were a series of events which happen in turn, and therefore the proposal in the amendment must be added to that list. I suggest that as the Bill reads now, that logically could not be so. The amendment does not contain any indication whether this is another "or" as an alternative to (f), or if it is an "or" in the sense of an alternative to (a), (b), (c), (d), (e) or (f); nor is it apparent whether it is meant to be an addition denoted by the word "and" in addition to one of the first five situations, or an addition to the sixth option, (f). That is not clear, and it would be absurd if it were allowed to appear.

Hon LJILJANNA RAVLICH: These amendments have been drafted by parliamentary drafts people. I can see the issue to which Hon Simon O'Brien has alluded, and I seek leave to amend the amendment.

The CHAIRMAN: The member must indicate what she is seeking leave to do.

Hon LJILJANNA RAVLICH: I move -

Page 16, line 17 - To insert after the word "successful" the word "and".

Hon N.F. Moore: You do not want the word "and". You want the word "or". It is paragraphs (a) to (e), or (f).

The CHAIRMAN: There is obviously some question about whether it should be the word "and" or the word "or", and about the legal effect of those words. If an amendment were made, it should be made on a more considered basis. The member might like to consider moving the postponement of this clause, because I do not know that it can be amended on the run in this way.

Hon LJILJANNA RAVLICH: I move -

That further consideration of this clause be postponed until after consideration of clause 240.

Hon N.F. MOORE: The way we are heading now, we will not pass any of these 240 clauses and will need to reconsider and deal with them all over again at some time down the track. That is just ridiculous. If members want to move amendments of this nature, they should ensure that the amendments are in good order before they put them on the Supplementary Notice Paper. We are now in the absurd situation of deferring consideration of clauses while people redraft them. I oppose the motion.

Further consideration of the clause postponed until after consideration of clause 240, on motion by Hon Ljiljanna Ravlich.

Clauses 22 to 24 put and passed.

Clause 25: Non-attendance for reasonable cause -

Hon CHRISTINE SHARP: I move -

Page 20, line 1 - To delete the figure "3" and substitute the figure "5".

This amendment would make the practice under the new Act similar to the practice under the current Act. We should not

allow the new Act to lean too far towards a law and order approach. This amendment is important not as a matter of principle but as a matter of practice. I am concerned that notification of non-attendance within three school days may be fairly difficult to achieve in practice. I assume that the notification will be required to be written notification, as is the current practice. Written notification in country areas may take some time. In the south west, where I live, mail delivery takes two days, unless people pay a surcharge for guaranteed next-day delivery. Therefore, on the first day that a child was sick, the parents would need to decide whether the child would be sick for longer than three school days, and notify the school immediately by mail, assuming they did not have access to a fax machine, and most people in the country do not have a fax machine. In many cases, it is quite difficult to determine for how long a child will be sick: The child may get better, or the child may get worse.

I am concerned also that we are proposing to change the current practice within the community. The parents of a sick child normally send a note with the child when the child returns to school. However, if a child had a bad case of the flu and was sick for the whole school week, and the parents then sent the child back to school the following week with a note, those parents would be breaking the law. The net effect of this change to the law is that the everyday practice of many parents would become illegal. That is not a desirable outcome.

Hon N.F. MOORE: The Government does not support the amendment, and I am surprised that the member has moved it, in view of her general approach to this Bill. The intention of this clause is to ensure that the school is notified within a reasonable time, which we consider to be three days, that a child will be absent from school. Clause 25(3) provides that notification can be given in any way that is determined by the principal to be acceptable; in other words, a telephone call, a fax or an email will be adequate notification. The amendment proposes that if a child was ill for one day, the parents would have four more days before they had to notify the school. We are suggesting that if a child was sick and would be absent from school for two weeks, the parents should let the school know as early as possible - within three days - so that school need not worry too much about that child's whereabouts. However, if the school was not notified for five days, a lot of things could have happened within those five days and it might be too late to find out the circumstances of the child. We are talking about children who are absent from school. The school should be notified as soon as possible that the child will be absent so that the school does not need to concern itself about whether the child has some problem. Many schools these days, particularly private schools, require parents to notify the school on the day on which the child is absent and, in all cases, it should be on the day on which the child returns to school. It is not helpful to make it a longer period as that would be detrimental to the overall concern that schools have for the wellbeing of children.

Hon HELEN HODGSON: I have some difficulties with this amendment, and that is partly my fault for not picking it up earlier. When I originally considered the amendment, it was incorrectly placed on the Supplementary Notice Paper, and I thought it related to the notification of home-based schooling. I have some concerns about allowing one whole week to pass before a child's absence is notified if it is a legitimate absence. That is because of the responsibility that teachers may feel in following-up on a child. Many schools have instituted pastoral care programs, and if a child's absence is unexplained someone will contact the child's home. If there is a truancy it is far more effective to pick that up within the first few days, rather than after five days. I have listened to the minister's comments on the forms of notification that are appropriate. Although I agree with the motive behind the amendment, which is to give parents a reasonable time to notify the school, the methods devised, including telephone, fax and email, are acceptable. I appreciate that the majority of parents do not have a fax.

Hon Kim Chance: Or a telephone in some places.

Hon HELEN HODGSON: In that situation I hope the principal would accept an appropriate form of notification. On balance, and in the interests of pastoral care to make sure the child is not truanting, I cannot support the amendment.

Amendment put and negatived.

Clause put and passed.

Clause 26: **Referral to a School Attendance Panel where doubtful reasons given about non-attendance -**

Hon CHRISTINE SHARP: I move -

Page 21, after line 9 - To insert the following paragraph -

(c) in giving advice and assistance as mentioned in paragraph (b) (ii) in relation to a child, a Panel is to seek to mitigate any disadvantage arising from —

(i) the child's gender;

(ii) geographic, economic, social, cultural or lingual factors;

(iii) specific learning difficulties; or

(iv) other causes;

that may be affecting the child's education;

The wording of the amendment clearly indicates my intention. I explained at length in the second reading debate my concern about the operations of school attendance panels and other panels as constituted under the Bill and the importance of maximising the efficiency of panels so they are effective mechanisms to facilitate an interventionist approach for children whose education progress is not going well. We assume that when a child is referred to a school a attendance panel for non-attendance that some dissatisfaction has caused the non-attendance of the child. This amendment will make it a responsibility of the panel to seek the cause of that dissatisfaction and, in particular, to provide advice and assistance to the school on certain social factors which may be contributing to that child 's non-attendance. We all recognise the factors which can interfere with effective educational progress. They are all particularly important. However, I draw members' attention to subparagraph (iii), specific learning difficulties, which in many cases will mean that for health reasons a child is a problem child within a class. Not all teachers will have sufficient training to pick up on these kinds of learning difficulties and be able to intervene effectively. It is important, if this causes a flow-on of non-attendance because a child finds his or her schooling is unsatisfactory, that school attendance panels pick that up. It is the same with geographic, social, cultural, lingual, gender and other causes, which speak for themselves.

Hon N.F. MOORE: The Government supports the amendment.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 27 to 33 put and passed.

Clause 34: Certificate of appointment -

Hon KIM CHANCE: I move -

Page 26, line 16 -To insert after the word "**appointment**" the words "**, and identification**".

The CHAIRMAN: I rule out the amendment because it seeks to amend a marginal note, not part of the Bill.

Amendment ruled out of order.

Hon KIM CHANCE: I move -

Page 26, after line 25 - To insert the following new subclause -

(4) A school attendance officer must wear an identification badge in the prescribed form when exercising any of the powers of a school attendance officer.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 35 put and passed.

Clause 36: Powers of school attendance officers to inquire -

Hon LJILJANNA RAVLICH: I move -

Page 28, line 6 - To delete the line and substitute the following -

(4) A person who fails to comply with subsection (3) shall be referred to a School Attendance Panel.

Hon LJILJANNA RAVLICH: The Australian Labor Party has specific concerns about subclauses (2) and (3), under which a person detained by a school attendance officer may be questioned by the officer as to whether the person is an absentee student, and may be required to provide information to that officer such as name, address, age and the school he or she attends. Subclause (3) provides that a person to whom a requirement under subclause (2) is directed must not fail to comply with the requirement. That means the student must answer all the questions asked by the school attendance officer and must not give any information that is false or misleading. The fine for doing so is $200. The Labor Party has difficulty with the fact that under the provisions of this Bill a child will be fined $200 for not providing information. I do not know of any other legislation that provides for the State to fine a child a sum of money when that child clearly has no earning capacity.

The Labor Party has moved that we delete the $200 penalty and insert a new subclause (4), providing that a person who fails to comply with subsection (3) shall be referred to a school attendance panel. Members on this side cannot see how a child can be fined $200 for not providing information to the school attendance officer. Accepting this amendment is the most appropriate way to go. I am not sure about the difficulties that might arise from this, but the clause cannot be retained in its present form. In view of the fact that we cannot fine a child when he or she has no capacity to earn, I ask the Committee to agree that a child who fails to comply with subclause (3) should be referred to a school attendance panel rather than be forced to pay the fine.

Hon SIMON O'BRIEN: I agree that we would not necessarily want to take a truanting 11 year old before the court and fine him. I hope we do not see outcomes like that. Perhaps in that situation the school attendance officer could refer him to the principal or a school attendance panel, or use some other avenue of recourse. A penalty may be applicable to someone who is not a student but who seeks to give the officer the run-around. Perhaps that is the reason for this subclause. Removing the penalty will stand or fall according to its merits. If we were to include new subclause (4), would that mean someone would have to be referred to a school attendance panel? That would limit the options available to the school attendance officer.

Hon LJILJANNA RAVLICH: My understanding of the Bill is that a school attendance officer would need to have the capacity to exercise some discretion. The degree to which the student failed to comply would be a matter of judgment on the part of the school attendance officer, who would then make a judgment about the referral to proceed to the stage at which the child would be fined $200.

Hon Simon O'Brien: You have an "either way" scenario. Perhaps we have talked through the reason for leaving it as it is. To save time, perhaps it should be withdrawn.

Hon LJILJANNA RAVLICH: I cannot withdraw it in view of the penalty provision; and, as it stands, it is discriminatory. We cannot fine a child. If there is a perception that the child has not provided accurate information to the school attendance officer, the Labor Party would rather a judgment be made and that the child be referred to a school attendance panel.

Hon HELEN HODGSON: This clause attracted some debate in the committee's deliberations. The committee's ninth report recommended moving down a path very similar to that suggested by Hon Ljiljanna Ravlich. The addendum to the ninth report details some of the difficulties that the committee found in drafting something that achieved the required result. The approach the committee took was to insert a couple of new clauses that have not yet been debated. The committee found that drafting an amendment to do what Hon Ljiljanna Ravlich has said she would like to do was extremely difficult. This does not refer only to students; it also refers to people who may or may not be students. A person who is small for his age may be past the age of compulsory schooling but may be approached by a school attendance officer. One can imagine a situation in which a 17-year-old who looks as though he is 14 years old makes some rude comment to the school attendance officer. How would that person be dealt with?

Hon Kim Chance: It happened to Hon Ken Travers all the time.

Hon HELEN HODGSON: I am sure it did. The difficulty lies in arriving at definitions, matching the definitions and age limits in the School Education Bill with those in the Young Offenders Act and the Sentencing Act, and then defining the differences between adults who may be students and students who may not be children. There are many complexities.

Although I have sympathy with the issues Hon Ljiljanna Ravlich has outlined and the intent of this amendment, when the committee looked at it, it found that this was not the appropriate way to go. In fact, one of the reasons for the many complexities in one of the new clauses - clause 11 - is the desire to ensure that this sort of thing happens. When a student is picked up under these provisions, he or she will go through the panel process prior to going through the court process. For those reasons, although I am in sympathy with the intent, I cannot support the amendment.

Hon N.F. MOORE: The Government does not support this amendment either. As Hon Helen Hodgson has indicated, a number of problems arise. If a person fails to give his full name and address, how does one then refer him to the school attendance panel? We do not know who he is.

Hon Ljiljanna Ravlich: Then how will you fine him?

Hon N.F. MOORE: The processes of the law would be used. Anyone who breaks the law is pursued by the police and is required -

Hon Ljiljanna Ravlich: If you do not know who it is, how will you pursue him?

Hon N.F. MOORE: The same applies when someone breaks into a house. The police investigate and collect evidence. We are talking about someone refusing to give his name. The member is saying that he should be referred to a school attendance panel. Who will refer whom to a school attendance panel? Will the school attendance officer get the police to track down this person to find out who he is so that that person's name can then be referred to a school attendance panel? Of course that will not happen. The substantive clause says that when there is every reason to believe that a person is an absentee student, that person may be asked by a school attendance officer to give his name and address. That is probably the only way to find out who that person is. One needs some penalty to make sure that people comply. If one says, "You have to give me your name and address, but there is no penalty if you do not," I know what I would say, and I know what everyone else would say. There is a maximum penalty of $200. There must be a penalty. We want to know why people are not at school, and we are trying to put in place a process to alleviate the problem of truancy, which is far too prevalent. Therefore, if a school attendance officer asks the identity of a person whom he believes to be a truant, that officer should have some power to make sure the answer is given. Whether one agrees with that is probably a matter of principle. However, to insert a new

subclause (4), when one does not know who the person is, simply makes a mockery of what the Opposition is trying to do.

Hon LJILJANNA RAVLICH: I do not accept that argument. If one does not know who a person is because he has failed to provide information about his name and address, it will be difficult for the authorities to track that person down. However, can the Leader of the House tell me of any law in this State under which an 11-year-old child can be fined $200? What law prevails in this State under which a six-year-old might be fined $200? Where will that child get that money?

Hon Simon O'Brien: What relevance does that have? The member is missing the point.

Hon LJILJANNA RAVLICH: I do not think I am missing the point at all. I think I am spot-on.

Hon Simon O'Brien: I am not trying to have a go at you.

Hon LJILJANNA RAVLICH: I know that. A school attendance officer has the power to seek certain information from somebody whom he suspects is a truanting student. Obviously, it could be a four-year-old; it might even be a 45-year-old who happens to be a mature-age student doing his tertiary entrance examination. I do not know. However, if it is a five-year-old or a 10-year-old, I want to know under what Act of Parliament in this State a child can be fined $200, and where can a child earn that money? I am interested to hear about the child's capacity to pay.

The CHAIRMAN (Hon J.A. Cowdell): I call on the legal expert, Hon Dexter Davies.

Hon DEXTER DAVIES: I am not a legal expert - far from it. That is why I asked for the legal advice, and that is why the committee asked for legal advice. That is why we read it, and that is why the committee decided to do what it did. The legal advice was clear. It was that without an appropriate sanction, there is no capacity to obtain the necessary information. The committee's legal advice made it clear that referral under the Young Offenders Act is part of the State's law. It does not require explicit reference, except in conjunction with the stated penalty. The penalty is there for compliance. That is the what the legal advice said.

Hon Ljiljanna Ravlich: I want to know about the penalty for children.

Hon DEXTER DAVIES: It is to create compliance. We got the legal advice to explain the process for us. That is why we had it printed.

Hon KIM CHANCE: I read the legal advice in appendix 3 very carefully on a number of occasions. I may be wrong, but it seems to me that the Bill provides an offence and, even if the Bill were amended in the manner proposed by Hon Ljiljanna Ravlich, notwithstanding the absence of a penalty, an offence would still be created. That offence could be processed under the Young Offenders Act. Therefore, the ability of the proper authorities to enforce the proposed section, as amended, would not be inhibited. That was my understanding, on reading that advice.

Amendment put and a division taken with the following result -

Ayes (12)

Hon Kim Chance	Hon John Halden	Hon Ljiljanna Ravlich	Hon Tom Stephens
Hon J.A. Cowdell	Hon Tom Helm	Hon J.A. Scott	Hon Giz Watson
Hon N.D. Griffiths	Hon Mark Nevill	Hon Christine Sharp	Hon E.R.J. Dermer *(Teller)*

Noes (15)

Hon M.J. Criddle	Hon Ray Halligan	Hon Murray Montgomery	Hon W.N. Stretch
Hon Dexter Davies	Hon Helen Hodgson	Hon N.F. Moore	Hon Derrick Tomlinson
Hon B.K. Donaldson	Hon Barry House	Hon Simon O'Brien	Hon Muriel Patterson *(Teller)*
Hon Peter Foss	Hon Norm Kelly	Hon B.M. Scott	

Pairs

Hon Bob Thomas	Hon Greg Smith
Hon Cheryl Davenport	Hon M.D. Nixon
Hon Ken Travers	Hon Max Evans

Amendment thus negatived.

Clause put and passed.

Clause 37: Offence of obstructing etc. -

Hon LJILJANNA RAVLICH: I move -

> Page 28, line 11 - To delete the amount "$1 000" and substitute the amount "$250", and add the following new subclause to stand as subclause (2) -

(2) Where a child resists, hinders or obstructs a school attendance officer who is exercising or attempting to exercise any power under this subdivision, the child shall be referred to a School Attendance Panel appointed under section 39.

The Australian Labor Party has some difficulties with the substantive clauses in this Bill. Clause 37 reads -

A person must not resist, hinder or obstruct a school attendance officer who is exercising or attempting to exercise any power under this Subdivision.

Those offences are subject to a penalty of $1 000. The words "resist, hinder or obstruct" sound fairly subjective. The school attendance officer will decide whether people are resisting, hindering or obstructing the officer from what he or she is attempting to do. The use of words is a matter of interpretation. I can see a problem arising in which perhaps Aboriginal people or people from non-English speaking countries would not understand how this whole process might work and, therefore, not understand the expectations of them and, as a result, not be able to respond in the way in which the school attendance officer might expect a person to respond. It is quite reasonable that a school attendance officer might make a judgment that a person is obstructing his or her work. The penalty of $1 000 is really over the top. There are clearly circumstances in which a school attendance officer must exercise discretion. There will be circumstances in which the officer will make the wrong judgment.

The second issue is that as the clause currently stands a "person" by definition could also include a student. In view of the fact that the clause has the potential to include students, we want to make it very clear that where a child resists, hinders or obstructs a school attendance officer who is exercising or attempting to exercise any power under this subdivision, the child shall be referred to a school attendance panel appointed under clause 39. In our amendment we have made that distinction very clear. Our amendment limits the offence of obstruction to persons other than absentee students and recognises that children cannot be penalised by a fine. The fine should not be applied to students, who should be dealt with in a much more appropriate manner. If the clause is left unamended, the Australian Labor Party's view is that it could discriminate against certain people in our community. I am sure that is not the aim of this clause. I ask members to give the amendment their full consideration because I do not think the clause as it stands at present is in the best interests of Western Australians.

The CHAIRMAN: Members may think that this amendment should be in two parts. However, I will take the amendment to be: To delete the amount "$1 000" and substitute "$250", and then go on to new subclause (2).

Hon HELEN HODGSON: Thank you for your advice, Mr Chairman. I intended to ask you about that. We have here two separate issues rolled up in one amendment. My problem with the amendment as a whole is very much the same as that which I raised in respect of the previous clause and the dilemma that the committee was grappling with when it attempted to draft amendments to give effect to the recommendations of the committee in its ninth report. We found that the problem of the definitions of persons, students and non-students does not equate to young persons and adults in the Young Offenders Act. That causes problems when trying to separate the provisions that relate to children from the provisions that relate to other people. I am in a bit of a quandary because I agree that in the case of a child a $1 000 fine is too high. Paragraph 9.5.3 of the report says that non-students should be subjected to the penalty in its present form. The committee was quite clear that it was aware there could be circumstances in which a non-student could be involved in resisting, hindering or obstructing. It could develop to a point where the non-student may be subjected to a fairly severe sanction. The example that comes to mind is where an older brother or a parent intervenes and causes violence. At the same time we acknowledge that criminal law will apply once the situation reaches a certain point. However, we do not want necessarily to subject people to the provisions of the Criminal Code. The penalty of $1 000 is too high for students, even acknowledging the provisions of the Sentencing Act and Young Offenders Act, which were canvassed in the legal advice to which Hon Dexter Davies referred a number of times. Quite clearly the discretion exists for the magistrate to levy a much lower penalty or even to say that because the child does not have any resources, the child should not be subject to a penalty.

I ask the advice of the Chair on this matter: If the clause as presented were to be defeated, would it be in order to move a subsequent amendment to delete "$1 000" and substitute "$250", or would it be putting the same question a second time?

The CHAIRMAN: The member could certainly support the removal of "$1 000", but if she opposed substituting "$250" plus subclause (2), she could not reinsert "$250" because it had just been defeated. However, she could propose an amendment inserting an amount, other than $250.

Hon HELEN HODGSON: We have already received a ruling from the Chair that we cannot debate them separately.

The CHAIRMAN: If the Committee wants the two parts to be put separately, I can deal with it in that way.

Hon HELEN HODGSON: I ask the Chair's indulgence to do it in that way; it would assist in dealing with this matter. In that case, I indicate that I support the first part of the amendment, which is the reduction in the quantum of the penalty, but I think the technical difficulties in interpreting the second part, as outlined in the addendum to the committee's report, are significant. For those reasons, I cannot support the second part.

Hon N.F. MOORE: On the question of deleting "$1 000" and substituting "$250", we are talking about a public officer going about his duties and a person resisting, hindering or obstructing that officer from exercising his powers under the subsection in the Act. A $250 fine is about what people get these days for failing to use turn indicators in their car or something of that kind; it is hardly a penalty of any substance.

A range of offences attract a penalty of $250 and they pale into insignificance when compared to the obstruction of a public official going about his duties. Public officials should receive as much protection as possible when carrying out their responsibilities; they should not be resisted, hindered or obstructed. A penalty of at least $1 000 should be imposed because that demonstrates, as we discussed earlier regarding other penalties, the severity of the offence.

Hon Helen Hodgson raised a number of matters. There is no doubt that a magistrate would not impose the maximum fine on a child of 10 years of age, unless the child had, for example, used a knife or taken other serious action to obstruct. Taking into account the circumstances, there is no doubt that a magistrate would take cognisance of the age of the child. A situation could exist whereby a 17-year-old who is enrolled at a school looks like an adult, is the size of an adult and restricts, hinders or obstructs a school attendance officer going about his business; yet the penalty is only $250. A person of adult size could inflict significant damage on the officer, although other penalties would be attached to that offence as well. We are trying to put in place a process whereby officers who are going about their business of ensuring that children are at school are given the maximum protection while carrying out that activity. I argue that $1 000 gives the message to the community that we believe that public officials should not be obstructed. At the same time the sentencing legislation and the young offenders legislation deal with the problem that Hon Helen Hodgson raised, which is a legitimate concern. There is no doubt that magistrates and others dispensing the law take into account the circumstances of the person who broke it. We do not support the deletion of the "$1 000" and the substitution of "$250".

Amendment (amount "$1 000" to be deleted) put and a division taken with the following result -

Ayes (14)

Hon Kim Chance	Hon Tom Helm	Hon Ljiljanna Ravlich	Hon Giz Watson
Hon J.A. Cowdell	Hon Helen Hodgson	Hon J.A. Scott	Hon E.R.J. Dermer
Hon N.D. Griffiths	Hon Norm Kelly	Hon Christine Sharp	*(Teller)*
Hon John Halden	Hon Mark Nevill	Hon Tom Stephens	

Noes (13)

Hon M.J. Criddle	Hon Ray Halligan	Hon N.F. Moore	Hon W.N. Stretch
Hon Dexter Davies	Hon Barry House	Hon Simon O'Brien	Hon Derrick Tomlinson
Hon B.K. Donaldson	Hon Murray Montgomery	Hon B.M. Scott	Hon Muriel Patterson *(Teller)*
Hon Peter Foss			

Pairs

Hon Ken Travers	Hon Murray Nixon
Hon Cheryl Davenport	Hon Greg Smith
Hon Bob Thomas	Hon Max Evans

Amendment thus passed.

The CHAIRMAN: The question now is that the amount of "$250" be substituted.

Amendment put and passed.

The CHAIRMAN: The question now is that proposed new subclause (2) be added.

Hon SIMON O'BRIEN: I have the view that we have already had the philosophical debate and we want to bring this to fruition. I will not sit here in this Chamber and allow amendments to go by which bring this whole process into disrepute because they are so shallow and not thought out. Are members of this Chamber seriously suggesting that we are trying to put into legislation a provision that states -

> Where a child resists, hinders, or obstructs a school attendance officer . . . the child shall be referred to a School Attendance Panel appointed under section 39?

We are not writing a manual. Other options must be available. The mover of this amendment earlier suggested that a school attendance officer will and must exercise a bit of discretion, but the Opposition wants to write in legislation that that is what will happen. What about other things? What if it is a six-year-old child who does not do as he is told? Is that what the Opposition has in mind? Is the child to be taken home in the first instance to his parents? What is the legal definition of a child in this State?

Hon Kim Chance: Eighteen years.

Hon SIMON O'BRIEN: Correct; 18 years of age. Let us consider a 17-year-old who has left school a couple of years before and physically tries -

Hon Ljiljanna Ravlich: He would not be a student if he left school.

The CHAIRMAN: Order!

Hon SIMON O'BRIEN: Precisely. As I was saying, let us consider a child of 17 years of age - I did not say a student - who has not been a student for a couple of years and who is obstructing a school attendance officer - one of our state government officers - in the performance his duty. He may be trying to talk to, say, an 8-year-old truant for the benefit of that child; but under this provision, what do we do? We certainly do not fine him $1 000; we have dealt with that. What we do - it will be in black and white in the legislation - is refer the 17-year-old to a school attendance panel. What for? That is the absurdity of it! This has been through a Green Bill, consultation, committees and all those sorts of thing, and now we get this amendment out of the blue. I am very sorry, Mr Chairman, but despite the length of time it has already taken, it is an embarrassment to have this sort of thing go through a Chamber of which I am a member. That is why I feel constrained to repeatedly oppose these amendments. They are patently absurd.

Hon KIM CHANCE: I said to Hon Simon O'Brien by interjection that if the Government had supported the first motion the Opposition moved in the committee stage which related to the en bloc reference, this clause could not have been considered. The fact is the Government voted to consider every one of the clauses individually.

Hon Simon O'Brien interjected.

Hon KIM CHANCE: Clause 36. The member should have a look at the report! I suggest people read the report.

Hon Simon O'Brien: It is not in the report. It is in the name of Hon Ljiljanna Ravlich.

Hon KIM CHANCE: Clause 36 features on page 27 of the report. Clause 36 relates to powers of school attendance officers to inquire; and clause 37 to the offence of obstructing etc. The fine detail is on pages 27 and 28. The clauses have been considered by the committee.

Hon Simon O'Brien: You have not moved anything. That is supplementary and we still would have had to debate it.

Hon KIM CHANCE: Hon Simon O'Brien misunderstands the meaning of the standing order. If a committee considers a clause and decides not to make a recommendation on it, under the standing order the Committee of the Whole cannot look into that clause.

The CHAIRMAN: Yes, it can.

Hon KIM CHANCE: I have been misinformed if that is the case. My information was that if the standing committee charged with that function had considered the clause and made no recommendation, the clause could not be considered by the Committee of the Whole. I seek Mr Chairman's advice.

The CHAIRMAN: My interpretation of the standing order is that if anything appears on the Supplementary Notice Paper, that is, as an amendment from anyone else, it is discussed.

Hon Kim Chance: Notwithstanding the committee?

The CHAIRMAN: Notwithstanding the committee's opinion.

Hon DEXTER DAVIES: Following on from that and relating to the points that Hon Kim Chance made about the standing order and its difficulties, on page 28 the report clearly states -

> The Committee is satisfied that the *Young Offenders Act* and the *Sentencing Act* already provide alternatives to fines in appropriate circumstances.

The committee discussed the clause at length and the fact that it would be dealing with people other than school children and that is why it reached that conclusion. I remember talking about the potential for serious offences to be committed by people who are not school children and therefore a far more appropriate way to approach the issue would be to leave it to the judiciary. That is why the committee wrote that in the report. It was the conclusion the committee reached and it did so for those reasons.

Hon Kim Chance: That is correct. The committee decided not to make a recommendation.

Hon DEXTER DAVIES: For the reasons I outlined. They were good reasons relating to the advice. I have a commitment to what I said in the committee. I was advised to note where I disagreed with the report so I would be able to say so, but on the last three points we have discussed the rest of the committee has acted contrary to what is in the report. Therefore, if I wish to argue something differently now, I can.

Hon Kim Chance: We have not voted contrary to recommendation.

Hon DEXTER DAVIES: That is open to dispute.

Hon Kim Chance: There is no recommendation on this clause.

Hon DEXTER DAVIES: The report states -

> The Committee is satisfied that the *Young Offenders Act* and the *Sentencing Act* already provide alternatives to fines in appropriate circumstances.

The CHAIRMAN: Order! The comments should be pertinent to this clause and not to committee reports generally.

Hon DEXTER DAVIES: There were good reasons for the committee to reach that conclusion.

Hon N.F. MOORE: The Government opposes the second part of the amendment. The issue is the same as with the previous clause. If a child resists or obstructs the school attendance officer, he is referred to a school attendance panel. How can that be done if one does not know who the person is? Without reflecting on the decision of the Chamber, we have decided that if an adult, the father of a child for example, intimidates an officer going about his business he will be fined a maximum of $250. It is outrageous and we are turning this Bill into a joke.

Hon Kim Chance: Intimidation can be an offence under the Criminal Code. Do not mislead the House.

Hon N.F. MOORE: I am talking about intimidating an officer because that is what clause 37 deals with. The Opposition needs to understand that because it is putting ridiculously low penalties into this legislation. People going about their lawful business will not have protection in the law. It is unacceptable. This amendment does not make any sense. It suggests that a school attendance panel is set up permanently and the attendance officer can grab the recalcitrant child and drag him off to see some sort of school attendance panel. That does not happen.

Hon Kim Chance: The attendance panel is established by the Bill.

Hon N.F. MOORE: Yes, but it is not permanent.

Hon Kim Chance: It has a function.

Hon N.F. MOORE: It is not a permanent office down the road where all recalcitrant children are taken. It must be set up and the child referred to it. How does one refer a child to the panel if one does not know who the child is? What is the point of the exercise? This whole thing is becoming stupid.

Hon LJILJANNA RAVLICH: I should not be surprised at the position of the Government. It is acting as if it has spent two years working on a painting which is its Picasso and it feels as if people are putting smudge marks on it. This is pathetic! At the end of the day we have Hon Simon O'Brien who thinks that he should not be wasting his time as these proposed amendments are so ridiculous purely and simply because he has a different view. I do not mind his having a different view. The Government's view is in the Bill but let me assure members that nothing will preclude me from coming to this place with my view. It is a view which has been formed in consultation with a wide range of people. Every single clause that the minister or the members on the other side look at seems to have a problem. These clauses were drafted by a parliamentary draftsperson.

Hon N.F. Moore: Who was it? A government parliamentary draftsperson?

Hon LJILJANNA RAVLICH: It was a parliamentary draftsperson

Hon Kim Chance: The best available.

Hon LJILJANNA RAVLICH: Exactly! The best available.

The CHAIRMAN: Order! We will have comments pertinent to this clause, not on drafting procedures per se.

Hon LJILJANNA RAVLICH: I put on the record my disappointment. I am not happy with the Government's position on this substantive clause. Members opposite might have some difficulties with the amendments which have been drafted for the Opposition. I am not a lawyer nor do I profess to have a good legal mind. That is not what I am paid to do. We have experts to do this work for us. The bottom line is that this clause has been drafted. It was brought to this place because the Labor Party did not like the substantive clause. It was within its rights to do that. The position that we present is a position that other people have put to us. In their view, the existing provision is inequitable and will capture the wrong people. Their clear view is that children should be dealt with differently from adults and should not be fined. This is a matter of principle. We do not want children to be fined. We want children to be dealt with in some other manner.

Members opposite should accept the fact that we too are entitled to our policy position. I will not spend my time crying about the fact that the minister feels that his work of art is in some way being spoilt. The only way that he could feel that

it was not being spoilt was if no-one touched the Bill. However, that is not what we are about in this place. We are about ensuring that we end up with good legislation. I urge members to support the amendment.

Hon DEXTER DAVIES: I presume that I was included in the people about whom Hon Ljiljanna Ravlich was talking. It was not only the minister and the Leader of the House who disagreed with it, but also the committee. I sat in the same room as Hon Ljiljanna Ravlich -

Hon Ljiljanna Ravlich: That does not prevent me from bringing an amendment to this place.

Hon DEXTER DAVIES: No, but I heard Hon Ljiljanna Ravlich say it was frivolous and absolute rubbish, when the committee had discussed it and had put some quite rational reasons about why we had reached that conclusion. I was involved in that process, and so were her colleagues Hon Kim Chance and Hon Helen Hodgson, and we reached that conclusion in a rational way, not because the Bill was a work of art -

Hon Ljiljanna Ravlich: Are you implying that I am irrational? I do not think so.

Hon DEXTER DAVIES: I believe that what I am saying is correct. Those conclusions were arrived at rationally. As Hon Ljiljanna Ravlich said, she is not a legal expert. Therefore, in my kindness, I suggested that we get some legal advice to help the member.

Hon Ljiljanna Ravlich: That was a big contribution.

Hon DEXTER DAVIES: Yes, it was; it contributed to this matter quite considerably, as acknowledged by Hon Kim Chance. Hon Ljiljanna Ravlich's comments were totally irrelevant.

Hon KIM CHANCE: The points raised by Hon Dexter Davies were well made, but they seem to pertain more to the first part of the amendment than to the second part. We have already dealt with the first part, which is the matters relating to the Sentencing Act. I urge members to consider the purpose for which the amendment was introduced. I would be the first to concede that there are difficulties in drafting a position. One of the reasons that the committee decided not to recommend an amendment was that it recognised those difficulties. Hon Dexter Davies is quite right. We are now running into the problem that I thought we might have avoided through the committee process; ultimately, we have chosen another route.

Sitting suspended from 3.45 to 4.00 pm

Hon KIM CHANCE: I was asking members to consider the fundamental principles involved in this amendment. The amendment applies to a person who has committed the offence of resisting, hindering or obstructing a school attendance officer. It does not constitute, as some members have tried to impute, a criminal offence against that officer. Those criminal offences might include a range of assaults to more serious offences. The Criminal Code remains in place and is not supplanted by this piece of legislation.

Hon Derrick Tomlinson: Children under 10 years of age would not be liable.

Hon KIM CHANCE: They would not be liable under the Criminal Code; however, they would be liable under the Young Offenders Act. The point is that there is other legislation and I thank the member for reminding me that the spread of legislation extends beyond the Criminal Code. Therefore, the kind of acts we are looking at, which become offences under the Bill, tend to be not actions which will cause damage or physical injury to the school attendance officer but rather things like lying or refusing to speak to the officer and turning one's back and walking away or shutting the door on the officer. That is the range of acts which would constitute resistance, hindrance or obstruction. We need to put that behind us. We get to the stage where we are concerned about the definition of a child. We concede that it is a valid point that the amendment contains a weakness in that it includes persons who are legal minors but who are not persons of compulsory school age. A 17-year-old is not a person of compulsory school age, and the amendment has that deficiency.

It is fundamental. Will the minister apply a penalty which requires a child to go to court in the event that he or she refuses to cooperate with a school attendance officer, or will the minister require a child to attend the very institution to be established through this legislation for the purposes of ensuring school attendance? This legislation creates the school attendance panel for a specific purpose. Members opposite have suggested that some amendments introduced by the Opposition for consideration by the Committee are somehow anathema to the Government's intention. However, the Government's proper intention is to create the institution of the school attendance panel. When something goes wrong in the process, such as a child hindering an officer's performance of his or her duties, the Government will not use the institution created in the legislation to facilitate a child's school attendance. Instead, it will send the matter to court! The amendment has imperfections; nevertheless, the amendment's logic has no imperfection. I challenge the Bill on that point as a logical imperfection rather than a legislative difficulty. Members must understand why the Opposition takes this action. The committee considered the matter, and threw out this proposition because it was unable to find a way to overcome the legislative difficulties involved. The Chamber may choose to throw out the amendment for the same reason. However, members must understand that no imperfection can be found in the amendment's logic. The amendment makes sense, even though it may be imperfect in its drafting.

Amendment put and a division taken with the following result -

Ayes (12)

Hon Kim Chance	Hon John Halden	Hon Ljiljanna Ravlich	Hon Tom Stephens
Hon J.A. Cowdell	Hon Tom Helm	Hon J.A. Scott	Hon Giz Watson
Hon N.D. Griffiths	Hon Mark Nevill	Hon Christine Sharp	Hon Bob Thomas *(Teller)*

Noes (15)

Hon Dexter Davies	Hon Ray Halligan	Hon Murray Montgomery	Hon W.N. Stretch
Hon B.K. Donaldson	Hon Helen Hodgson	Hon N.F. Moore	Hon Derrick Tomlinson
Hon Max Evans	Hon Barry House	Hon Simon O'Brien	Hon Muriel Patterson *(Teller)*
Hon Peter Foss	Hon Norm Kelly	Hon B.M. Scott	

Pairs

Hon Ken Travers	Hon M.D. Nixon
Hon Cheryl Davenport	Hon Greg Smith
Hon E.R.J. Dermer	Hon M.J. Criddle

Amendment thus negatived.

Clause, as amended, put and passed.

Clause 38: Breaches of section 23 -

Hon N.F. MOORE: I move -

Page 28, line 17 - To delete "and a daily penalty of $25".

The amendment is designed to bring the provision in line with the principal decision made on earlier provisions to do away with daily penalties. I believe that a head penalty of some substance is needed to convey to parents the importance of a child's attendance at school. I ask that the Chamber retain the $1 000 penalty, which I understand was reduced from $2 500 in the other place.

Hon HELEN HODGSON: I appreciate that the issue of daily penalties caused some consternation last night, but it was resolved earlier today by the deletion of daily penalties in earlier provisions. It is sensible to adopt this amendment. However, the $1 000 head penalty is large in this situation; that is, applying to a parent who is not ensuring that his or her child attends school. Clause 23 deals with attendance and outlines that a student must attend a school or otherwise participate in an educational program. The important issue of intent must be considered. Children may act without the knowledge of their parents. I appreciate that the objects of which we approved yesterday indicated that we should ensure that parents participate in the education of their children and take some responsibility for that education. However, I have strong memories as a high school student of my sister's habit of sneaking out in the morning dressed in her school uniform, hiding her school bag, and then heading to the beach on the bus. I hasten to add that I did not do so - I sunburn far too easily to engage in that behaviour! This illustrates the problems which could arise. If a student, particularly one of high school age, is behaving in that way without the knowledge of his or her parents, the first they may know about it is when they are contacted by the school to be told that they must pay the large penalty of $1 000. I appreciate the argument put previously about the way penalties are interpreted by the courts. I had a choice on this matter. I am not happy with the head penalty being $1 000. I agree with the minister's decision to ask us to excise the daily penalties. I could either have moved to amend the minister's amendment or circulated my own amendment. The latter option was preferable. I recently handed to the Table my proposed amendment, which reads -

Page 28, line 17 - To delete "$1 000" and substitute "$500".

For reasons given, I do not support the minister's proposition because I think the head penalty is too high, but I agree with the notion of removing the daily penalty.

Hon LJILJANNA RAVLICH: The ALP does not support the minister's amendment. Some children are pretty wild and will do their own thing. I feel sorry for some parents who must deal with children who are uncontrollable. These children exist and sometimes the parents have done everything possible, have provided a good environment, have tried to keep tabs on where their children are and have been involved with their child's development. However, for whatever reason, some children go off the rails, and irrespective of what the parents do, it is almost impossible to get the children to do as the parents want. Parents who are the victims of children who will not listen to them, will be hit hard by this penalty of $1 000. They are already victims because their children are uncontrollable. I do not think these people should be given a double penalty. In view of that, the ALP will support the proposed amendment by Hon Helen Hodgson of a $500 head penalty.

Hon CHRISTINE SHARP: I will also support Hon Helen Hodgson's proposed amendment. The minister's proposal of a

fine of $1 000 is contrary to the best advice I have received from various legal people representing interest groups in the community. This clause will strike many people, but not all, very hard, and I do not think it is desirable. We should not punish people; we should educate them. That must be remembered at all times.

The CHAIRMAN: The question now is that the words "and a daily penalty of $25" be deleted.

Amendment put and passed.

The CHAIRMAN: The question is now that "$1 000" be deleted.

Hon N.F. MOORE: New South Wales and Tasmania have recently revised their legislation in this regard and the penalty in both States is $1 000. I do not accept the idea that putting penalties in the legislation is an invasion of the rights of the individual or the suggestion that some people cannot afford it. Members must take into account that people are required to do certain things and they have certain responsibilities. A child's attendance at school is the parents' responsibility.

Hon Ljiljanna Ravlich: What if they cannot?

Hon N.F. MOORE: Does the member think that a judge would impose the maximum penalty or put people in jail without taking into account the reasons that parents cannot get their children to school? The aim of this clause is to suggest to parents that they must accept responsibility for their children attending school. It is considered an important responsibility by the Legislature because a significant penalty is imposed on those who quite blatantly and flagrantly deliberately do not make their children go to school when they probably could. The penalties are all being watered down to the point that the cynic in me queries whether any penalties should be imposed. Perhaps people should be allowed to do as they please! The Government wants to make sure that parents enrol their children at school and that their children attend school. Pressure must be applied in some places to make sure that happens. If children do not go to school they will not receive a formal education. Other States have adopted a penalty of $1 000 and it is appropriate on this occasion.

Amendment (deletion of $1 000) put and a division taken with the following result -

Ayes (14)

Hon Kim Chance	Hon Tom Helm	Hon Ljiljanna Ravlich	Hon Tom Stephens
Hon J.A. Cowdell	Hon Helen Hodgson	Hon J.A. Scott	Hon Giz Watson
Hon N.D. Griffiths	Hon Norm Kelly	Hon Christine Sharp	Hon Bob Thomas *(Teller)*
Hon John Halden	Hon Mark Nevill		

Noes (13)

Hon Dexter Davies	Hon Ray Halligan	Hon N.F. Moore	Hon W.N. Stretch
Hon B.K. Donaldson	Hon Barry House	Hon Simon O'Brien	Hon Derrick Tomlinson
Hon Max Evans	Hon Murray Montgomery	Hon B.M. Scott	Hon Muriel Patterson *(Teller)*
Hon Peter Foss			

Pairs

Hon E.R.J. Dermer	Hon M.D. Nixon
Hon Ken Travers	Hon Greg Smith
Hon Cheryl Davenport	Hon M.J. Criddle

Amendment thus passed.

The CHAIRMAN: The question now is that "$500" be substituted.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 39: Appointment of School Attendance Panels -

Hon CHRISTINE SHARP: I will not move the amendment standing in my name on the Supplementary Notice Paper because it has been explained to me that the minister will still have charge of the appointment of such persons and, therefore, the removal of his discretion in this clause fails to distinguish it from the clause above. I was not actually seeking to remove the minister's discretion but to reinforce the notion of professional best practice. I was told that I could not use that term in the Bill and the amendment on the Supplementary Notice Paper was an unsuccessful attempt to achieve that. However, later amendments to this clause will achieve the same sort of requirement for professional best practice.

Hon LJILJANNA RAVLICH: I move -

Page 29, after line 8 - To insert the following subclause -

(3) At least one person on each panel must be a parent or community representative.

As the substantive clause stands currently, the minister may appoint an attendance panel consisting of not less than three persons but there is no requirement for one of those persons to be a parent or a community member. It is important to enshrine that requirement in the legislation because it is likely there will be situations, particularly in the more remote parts of the State, where an attendance panel may be constituted solely of somebody from the district office, a principal and a teacher. That would provide the system's perspective of any attendance panel matter. We do not want to delay the Chamber, because it is a fairly straightforward amendment. The emphasis throughout this Bill is on local negotiation and resolution of matters where possible. Local community people and parents have a key part to play in this. I ask members to support this amendment.

Hon N.F. MOORE: The Government does not support the amendment. It is of the view that under clause 39(2) the minister has the capacity to determine a panel depending on the circumstances of the case. If it is considered appropriate to have parents or community representatives on a panel, the minister will make that decision based on the merits of the case. The amendment is viewed by the Government as unnecessary because there may be times when community representation is not required or appropriate. I understand that the committee's amendment, which Hon Kim Chance will move, will make it clear that the appropriate people must be on these panels. Parents or community representatives will be appointed if that is a requirement of the case. We believe this amendment is unnecessary and the Chamber should not agree to it.

Amendment put and passed.

Hon KIM CHANCE: I move -

Page 29, lines 16 to 21 - To delete the lines and substitute the following subclause -

(4) A Panel cannot deal with the case of a child —

(a) who is enrolled at a government school if a member of the Panel is —

(i) a member of teaching staff of the school; or

(ii) a parent of a child who is enrolled at the school;

or

(b) who is enrolled at a non-government school if a member of the Panel is —

(i) the principal of, or a teacher employed at, the school; or

(ii) a parent of a child who is enrolled at the school.

Amendment put and passed.

Hon CHRISTINE SHARP: I move -

Page 29, lines 22 to 25 - To delete the subclause and substitute the following subclauses -

(5) A Panel is to give a child whose case is before the Panel, and the child's parents, an opportunity to be heard.

(6) In performing its functions a Panel is also to observe all other principles of natural justice, including the duty of procedural fairness.

(7) Subject to subsections (5) and (6), the Minister may give directions in writing to a Panel as to its procedure.

(8) Except as is otherwise provided by or under this section, a Panel may determine its own procedure.

Members will note that in my amendment the proposed new subclauses (7) and (8) reiterate the intent of the subclause which would be deleted but I am adding two new proposals to subclauses (5) and (6). Those proposals are based on a philosophy of procedural fairness. I am seeking to ensure that all cases to be heard before the panel have the opportunity to be heard and that the panel is obliged to follow the duty of procedural fairness. That would cover such things as a fair length of time for notification of the consideration of the case to ensure that the person whose case is being heard has an opportunity for a fair hearing

The CHAIRMAN: Before we proceed on this, perhaps the member might like to explain the amendment to the Chair. It appears that although the amendment reorders the principles stated in current subclause (5), the proposed subclauses (7) and (8) exactly mirror the current subclause (5). The amendment to subclause (6) explicitly states observation of "all other principles of natural justice" but they are inherently contained in subclause (5) at the moment. Would the member like to explain how this amends subclause (5) and is different from the current subclause (5)?

Hon CHRISTINE SHARP: The current subclause (5) makes no reference to the principles of natural justice or procedural fairness. Therefore, I am building that into the requirements of the operations of the panel.

Hon N.F. MOORE: The Government supports the amendment.

Amendment put and passed.

Hon KIM CHANCE: I move -

Page 30, line 2 - To insert after "representation" the following words -

but nothing in this subsection prevents the child and parents from being accompanied by another person when appearing before the Panel

Amendment put and passed.

Clause, as amended, put and passed.

Clause 40: Referral to School Attendance Panel of persistent breaches of section 23 -

Hon KIM CHANCE: I move -

Page 30, line 23 - To insert after the word "to" where it first appears, the words "the school,".

This is one of the committee's amendments that is not supported by the Government. This amendment would enable the panel to give such advice and assistance as is deemed necessary to the school as well as to the child and the parents in order to assist the school to develop an appropriate educational program for the child. It appears to be a simple, almost trivial amendment, although after a great deal of consideration the committee did not believe it was trivial. It recognises that the panel has an important role to perform. I have said that the creation of the panel is a valuable innovation, and the committee endorses the role of the Government and the architects of the legislation in that. In fact, the committee believes this source of advice should also be available to the school. The amendment proposes that as part of the objects of the legislation one of the functions of the panel, when it has identified a matter in which the educational program of a school needs some attention, is to provide assistance and advice to the school. It does not mean that the school, the minister or the chief executive officer is bound to do anything; it means that the pool of wisdom contained within the panel has a recognised capacity to give advice to the school regarding how this problem might be overcome - if the matter arises at all. I am a little surprised that the Government will not support this amendment.

Hon N.F. MOORE: This is an unnecessary amendment. The clause provides for the school attendance panel to give advice and assistance to a child and to his or her parents, which is appropriate. However, I am not sure how the panel can give assistance to the school. Maybe it can give advice, but it cannot give assistance. Under proposed clause 40(5) the panel is to prepare a written report that will be provided to the school's principal and, if the child is in a government school, to the CEO of the government school system. That report will set out the advice or assistance given by the panel and recommendations about the way in which the child might be dealt with. I cannot think of a way in which such a panel could provide assistance to a school. The amendment does not make any administrative sense. The advice will be provided to the school in the report.

Hon LJILJANNA RAVLICH: This is an important amendment, because the role of attendance panels is to inquire into the reasons that a student is not attending school. Sometimes the root of the problem is within the school - the child is being bullied, he does not like one of the teachers, or whatever the situation. It is important that advice be conveyed to a school.

Hon N.F. Moore: It will be.

Hon LJILJANNA RAVLICH: Having been a teacher and an administrator, I know that sometimes things move so fast in a school environment that the last thing people want to do is to read a lot of reports. In some schools that will be managed more effectively than in others depending on the effectiveness of the school administration team and how caring and sharing the school environment is. However, Johnny may be a pain in the neck and the school may not want him there anyway, so it will not be bothered about what is said in the report. We must look at what happens in the school situation. We are only requesting that advice and assistance be given, and that would be given to a school only when the panel deems it to be required. It would not be a direction. I am surprised that the Leader of the House has a difficulty with that. He may perceive it to be an intrusion into the school system. This body can add to the education system rather than take away from it. Providing that role to a school is worthwhile and long overdue, and I urge members to support the amendment.

Hon CHRISTINE SHARP: The insertion of the words "the school" is an extraordinarily important change to the way in which the school attendance panel and the entire Bill could function by providing advice. The words will be inserted into subclause (2), which sets out what the panel is meant to do in its inquiries. It not just about its reporting functions but its inquiry functions. Therefore, its position in clause 40(2) is very important.

I agree with the minister that normally one would not expect panels to provide assistance to schools. However, in normal circumstances one would also not expect attendance panels to provide assistance, as opposed to advice, to parents and children. Normally, the function of the panel would be to provide advice; assistance is an adjunct and it would not be very common. Nevertheless, if it is appropriate to provide assistance to children and parents, it is also appropriate to provide it to schools. However, the most important issue is that we ensure we look in both directions in the provision of advice. Not only might there be different practices that the child and the parents need to consider, but also the school might need to look at its practices, educational program and also receive advice. That is why the words are very important.

Hon KIM CHANCE: A couple of issues should be addressed. My colleague Hon Ljiljanna Ravlich hit the nail on the head when she identified one of the possible reasons for a child's failing to attend on a regular basis; that is, the child might have been bullied. We all know of and are concerned about the effect of bullying in schools. If, for example, an attendance panel were to notice an unusually high rate of truancy resulting from bullying and matters related to that activity in one school in the area with which it was concerned, it could advise the school of that fact. That is a matter of advice. The leader asked how the panel can provide assistance to the school. The assistance might be offered as a result of the panel's experience in similar matters. It might be something as simple as getting hold of an appropriate report that may have been prepared by the Education Department of Western Australia or some other similar institution that can provide guidance to the school about how it might implement a program to militate against bullying. The school might have access to that report if it were an Education Department of Western Australia production, but if it were a production of the New South Wales Department of Education, the school and its principal or deputy principal might not have reasonable access to it. It would be of assistance to the school if the panel knew about these things because of its experience at other schools. It is as simple as that.

I concede the leader's point: There is not a lot of difference; much of what can be achieved by the amendment to subclause (2) can be achieved by subclause (5) and the written report, except the matter of assistance. One can relay advice by advising the school's principal according to paragraph (d) and through the written report provided in subclause (5) on the recommendations about the way the child has been dealt with. In other words, the written report could say, "We are happy enough with the way the school has dealt with this child, but the school has an apparent bullying problem." However, it would be beyond the powers of subclause (5) for the panel to say, "We think you might be able to do something about the bullying problem if you did what this school or a school in New South Wales did." That is advice.

Several members interjected.

Hon KIM CHANCE: Subclause (5) does not provide for that. Indeed, it seems to exclude that.

Hon N.F. Moore: Rubbish!

Hon KIM CHANCE: Subclause (5) provides that the panel is to prepare a written report on the child's case, setting out any advice or assistance given by the panel. It is not what should be provided by the school. What advice and assistance has been given by the panel? The panel may be able to provide some advice and assistance, but in a case such as that presented by Hon Ljiljanna Ravlich, that action must come from the school. The school apparently must do something about introducing a program to control bullying. The subclause also allows the panel to make recommendations about the way in which the child has been dealt with. There is some scope to say that the child has been dealt with badly by his or her peers. However, there is still no scope for the panel to advise the school to do this, that and the other to get over the problem. It can then give a copy of the report to the principal. What is missing is that valuable component of advice. We had this argument at some length in the committee. I am still not convinced that the prescription in subclause (5) can give anywhere near the assistance to the school that the amendment can provide.

Hon N.F. MOORE: I am getting the impression very rapidly that the committee and members opposite have very little faith in the capacity of principals and schools to deal with the problems they confront. Members of the school attendance panel might decide to rock up to the principal's office and say that they are there to help. They might try to tell him how to run the school because it appears to have too much bullying. They might tell him to make changes because they do not like what he is doing. Principals currently have so little authority and so many rules and regulations that they can do very little. Giving a panel the capacity to turn up and say it is there to help is tantamount to saying to the principal that we have no faith in his capacity to deal with the problem. The principals and schools will get a report on the case. The report will say that the child was bullied, would not turn up because he was being teased, could not do his sums or whatever. The principal will see that and implement the school policy on bullying, teasing or learning sums. He will deal with it at the school level without the need for the panel to turn up to help. It is yet another amendment that undermines the capacity of schools and principals to make decisions.

Hon KIM CHANCE: I do not know why, but I feel I must respond. How does one undermine the authority of a principal by giving him a hand? How can the minister possibly say that given the prescription in subclause (5), which provides that the panel can already analyse the problem and report to the principal in writing? The only thing it cannot do is say, "We think you should look at the program operating in school XYZ. That school had a similar problem and used this program, which worked. It might work for you." If that is an intrusion, the Government is showing a lack of faith in its own

legislation. This amendment augments the capacity of the panels to assist in the administration of the school system. I will cop the minister's argument about some of the amendments, but to insist that this amendment and others are doing anything other than recognising the intrinsic value of the legislation and doing something to augment its effect is wrong and obstructive. It seems that the Leader of the House is obstructing his own legislation.

Amendment put and passed.

Hon KIM CHANCE: I move -

Page 30, lines 23 to 24 - To delete the words "to his or her" and substitute the words "the child's".

This is a straightforward amendment.

Amendment put and passed.

Hon CHRISTINE SHARP: I move -

Page 30, after line 24 - To insert the following subclause -

(3) In giving advice and assistance as mentioned in subsection (2)(b) in relation to a child, a Panel is to seek to mitigate any disadvantage arising from -

(a) the child's gender;

(b) geographic, economic, social, cultural or lingual factors;

(c) specific learning difficulties; or

(d) other causes,

that may be affecting the child's education.

This is the second occasion on which we have had to deal with a similarly worded amendment. The first occasion was when we dealt with an amendment to clause 26, which also concerned the way in which the school attendance panel functions, in that case where doubtful reasons had been received for non-attendance. In this case, clause 40 refers to persistent breaches; in other words, persistent non-attendance. The Government accepted the amendment to clause 26, and I anticipate it will support the amendment to clause 40.

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

Amendment put and passed.

Hon KIM CHANCE: I move -

Page 31, lines 15 and 16 - To delete the words "and recommendations about the way in which the child had been" and substitute the following words -

, comments about how the matter had been dealt with and recommendations about how the matter should be

Hon N.F. MOORE: In view of the previous decision of the Chamber to insert the words "the school", I wonder if this is not belts and braces.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 41 to 45 put and passed.

Clause 46: Definition -

Hon KIM CHANCE: I move -

Page 36, after line 10 - To insert the following definition -

"chief executive officer" means the chief executive officer referred to in section 145;

This is the first amendment which deals with home educators. Since home educators are not a part of the government schools system, it seemed more appropriate to the committee that the chief executive officer referred to should be the officer who is referred to in clause 145, in part 4 of the Bill, which is that part of the legislation which deals with non-government schools. The committee therefore recommended that there should be a new clause headed "References to chief executive officer". It is noted that references in this division to the chief executive officer are to the chief executive officer referred

to in clause 145. That is the nature of the amendment. That puts the argument succinctly. I am aware that it is an amendment that the Government does not intend to support. At this stage I think it is appropriate for the Leader of the House to make his comments.

The CHAIRMAN: Before that happens, I rule the amendment out of order on the basis that there is already a definition of chief executive officer under the definitions section, and a further reference later with respect to proposed clause 222 which refers to it in exactly the same capacity. Therefore, as we have already adopted a definition, we cannot adopt another one.

Amendment ruled out of order.

Clause put and passed.

Clause 47: Application for registration -

Hon KIM CHANCE: I move -

Page 36, line 13 - To delete the line and substitute the following heading -

Parents to notify intention to educate child at home

On the basis of your earlier ruling, Mr Chairman, this may also be out of order.

The CHAIRMAN: Yes. Similarly, this is a heading which does not form part of the Bill; therefore, I must rule the amendment out of order.

Amendment ruled out of order.

Hon KIM CHANCE: I move -

Page 36, line 15 - To delete the words "make an application for registration" and substitute the words "be registered".

Hon N.F. MOORE: The Government does not oppose any of the amendments proposed to clause 47.

Amendment put and passed.

Hon KIM CHANCE: I move -

Page 36, line 16 - To delete “apply to” and substitute “notify”.

Page 37, line 7 - To delete “An application” and substitute "A notification".

Page 37, line 8 - To delete “an application” and substitute “notification”.

Page 37, lines 12 and 13 - To delete “make an application for registration” and substitute “be registered”.

Page 37, lines 13 and 14 - To delete “the application is to be made” and substitute “notification is to be given”.

Amendments put and passed.

Clause, as amended, put and passed.

Clause 48: Registration -

Hon KIM CHANCE: I move -

Page 37, line 21 - To delete “completed application” and to substitute “notification”.

Amendment put and passed.

Clause, as amended, put and passed.

Causes 49 to 55 put and passed.

Clause 56: Closure and amalgamation -

Hon LJILJANNA RAVLICH: I move -

Page 46, line 2 - To insert after “determines” the following words -

in accordance with the regulations prescribed for the purpose of this section

This is an important clause dealing with closure and amalgamation of schools. The Australian Labor Party seeks to amend subclause (4) because it believes regulations should be prescribed regarding the educational, economic and social reasons for not complying with subclause (3), which provides that the minister must be satisfied that a government school is regularly

attended by fewer than a prescribed number of students. The minister should either change the classification under clause 55(2) or take action under subclause (1). Subclause (4) reads -

> Subsection (3) does not apply where the Minister determines that there are significant educational, economic or social reasons for not complying with that subsection.

At the end of the day the decision to close or amalgamate a school is pretty much in the hands of the minister. I have heard argument in this place that it should be the prerogative of the minister. I do not have a problem with that. However, I have a problem with lack of consistency across the board in terms of some standards or benchmarks for those educational, economic and social reasons as defined in subclause (4). One of the problems with local area education planning which is about restructuring the school system, is that it has become apparent that people were saying that the criteria being used in one area seemed to be inconsistent with what was applied elsewhere. People perceived there were irregularities. I do not know how real they were because I am not in the planning department of the Department of Education. However, that perception is as dangerous as the actuality. It is therefore important we ensure that perception does not exist. Such an important issue should have regulations which clearly define the reasons a school may be required to close or amalgamate. That would prevent claims that the minister of the day was acting unfairly.

This is an important part of the Bill. The substantive subclause (4) gives too much discretionary power to the minister. The regulations should clearly specify the prescribed number of students before closure or amalgamation can occur. Those regulations should specify the significant educational, economic and social reasons that must prevail for the minister not to comply with subclause (3). We hear that school closures will result, for example, in better educational opportunity. However, when we ask the Government what studies have been done in this area and how it can demonstrate those results, it has been fairly light on in providing that information. The perception that the school decisions regarding school closures and amalgamations are made ad hoc must be changed. Regulations should outline the economic and social reasons for not complying with subclause (3). I urge members to support the amendment.

Hon N.F. MOORE: This is an interesting and vexed question. I have experienced more of this than most people in this Chamber. As Minister for Education I inherited a situation in which little had been done about school closures for a long time or about some of the obvious anomalies in the whole system. Some schools were tiny and some were very large and there were many other problems in between. The previous Government had given some thought to it; in fact enough thought to have appointed one of its number crunchers, Hon John Halden, to be chairman of a committee that travelled extensively throughout Western Australia looking at schools. That committee prepared an interesting document called "School Renewal" which I mentioned in the second reading speech. It demonstrated the way in which the Labor Party was able to endeavour to hoodwink people about what it was doing. "School Renewal", which is a report about school closure, was an extraordinary use of language. I commend the ALP for its almost Goebbels-like capacity to pursue a propaganda line. Everybody knows that "School Renewal" was about school closures. However, the Labor Government tried to hide it because it thought it would cause it trouble. Indeed, it hid it on a shelf somewhere. Hon John Halden's report recommended a process which I thought was not bad. It involved considerable community consultation and allowed it to be part of the process. At the end of the day the minister was to make the decision about school closures.

That was the Labor Party's position, but Hon John Halden's report came down too late for the Labor Party to do anything about it because it was pretty close to the election in 1993. The report was put on a shelf with a lot of other things that then gathered dust until we became the Government in 1993. We were confronted with the same problems that confronted the previous minister. We decided to try to deal with this in a democratic way by putting in place a similar process to that which Hon John Halden suggested but at the end of the day allowing parents to make the final decision. I thought that was a very good process because - in the context of Hon Ljiljanna Ravlich's comments - it required the Government to convince the parents that the educational benefits to their children would be enhanced by the school closure. If we could not convince them of that, we would not close the school. The whole object of the exercise was not for parents to try to convince the Government that they did not want the school closed but for the Government to convince the parents that the school should close.

It was an extraordinarily successful program in many ways. Many schools closed because the parents decided that was in the best interests of their children. On occasions a couple of schools closed down and a new one was built. Innaloo is a classic. That part of the metropolitan area where there had not been a new school for 30 years or so now has a brand new school because two small schools decided to close, amalgamate and build one new school on one of the sites and sell off the other site. It was a good decision which was reached by the parents themselves. However, there were some very nasty and unnecessary debates in some school communities to the point where they got quite vicious. I guess this happens in all democracies when people are voting on something and there are two different points of view. People often take their argument to the extreme. Many school communities were split down the middle on this issue and of course that left lasting problems within some of those schools. My successor decided to take away the voting process. Although I do not altogether agree with that decision, I understand it. We now have a process in which we think that the minister should be given the ultimate authority to close schools within the first 12 months of the proposition where parents are required to be part of the decision-making process.

The member's amendment refers to providing regulations. The regulations relate to clause 56(4), under which the minister can determine that there are significant educational, economic or social reasons for not complying with subclause (3). Subclause (4) has been put in the Bill to give the minister the power to take into account a whole range of issues that are not strictly educational. When Hon Ljiljanna Ravlich spends a bit more time thinking about this and thinks about some of the arguments that were put forward by school communities that oppose school closure, she will come to the conclusion that most of them have nothing to do with educational issues at all. As a Minister for Education it is very easy to get carried away with the view that schools are for educating children when many people will say that is not the reason for schools at all and that they are there for the heart of the community. They say that unless a community has a school, it has no soul or heart. Whether the children are getting a good education is quite irrelevant to many people. To them every community must have a school whether the school is good or not. The argument was repeatedly put forward, particularly by the smaller communities, who were opposed to their schools being closed due essentially to a lack of numbers. It is argued - I think with justification - that very tiny schools do not offer the breadth of educational opportunity that bigger schools do, particularly in respect of the courses that can be provided and the range and experience of teachers.

Progress reported, pursuant to standing orders.

BILLS (3) - RETURNED

1. Government Railways (Access) Bill

2 Dangerous Goods (Transport) Bill

3 Dangerous Goods (Transport) (Consequential Provisions) Bill

Bills returned from the Assembly without amendment.

ADJOURNMENT OF THE HOUSE

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [5.57 pm]: I move -

That the House do now adjourn.

Sadik Shek Elmi - Adjournment Debate

HON HELEN HODGSON (North Metropolitan) [5.58 pm]: This morning I received a phone call from a contact who advised me that today there was to be a deportation through Perth Airport of a Somalian asylum seeker. His name is Sadik Shek Elmi. He has been in Australia since 2 October 1997 seeking asylum. He is a member of the Sheikal community in Somalia, which is particularly vulnerable. It is a small group - I think, a religious minority. He is suffering severe risk of torture, persecution and possibly execution if he returns to that country. So far both Mr Elmi's father and brother have been killed, one in 1991 simply because he refused to ensure that one of the sons went into the Hawiye militia. His sister has committed suicide as a result of multiple rape. This gentleman came to Australia hoping that we would give him protection from the circumstances he is facing in his home country. It is a big step for anybody to take.

He has been in custody since his arrival on 2 October 1997 until now, which is over a year. During that time he has been allowed very little contact with anybody other than his lawyer. I gather that at the hearings that have been proceeded with he has attended at least once without a lawyer present. That in itself represents a denial of natural justice. I will not go into the Federal Government's policies, which I believe in some respects make it extremely difficult for any person who is seeking asylum ever to be able to prove his circumstances. However, this is the first time in nine years that Amnesty International has issued an urgent-action alert, which means that it has requested people all around the world to write to the federal minister to ask to have this deportation stopped, at least temporarily, until the matter can be properly reviewed.

This is holding up Australia in the human rights arena as being the equal of some of the third world countries that we continually try to encourage in the area of human rights. I have also been informed that a communication has been conveyed to the Geneva headquarters of the United Nations Committee against Torture hoping that they will be able to take up this case, look at it and try to find a way of assisting this gentleman. The point is that we in Australia consider ourselves to be living in a lucky country. We have a relatively free lifestyle - a lifestyle that many people in the world envy. I appreciate that we must have migration controls for those reasons; however, when somebody flees his own country with no possessions, no money, no papers, nothing except the belief that there must be something better for him in another part of the world, we have an obligation to listen to him, particularly when we are a signatory to the United Nations conventions which indicate that we do not support the use of torture anywhere in the world and that this is almost certainly what we are returning this man to. He apparently left Melbourne this morning and was due to pass through Perth Airport at 1.05 pm today. He is probably out of Australia's jurisdiction and on his way back to Somalia. I have heard nothing this afternoon about whether the deportation order has been halted as a result of the action people are taking today. It is time for everybody who is in a position of public influence to stop and think about these cases and be prepared to stand up and say that these people who are genuinely at risk of persecution in their home country deserve to be listened to, and given an opportunity to be shown

another form of life that we may be able to offer them in Australia. We do not have to open the floodgates - I gather that that is the main argument in this case - to show compassion to a human being who is suffering this sort of persecution in his home country.

Optimum Resources' Tailings Dam - Adjournment Debate

HON TOM HELM (Mining and Pastoral) [6.05 pm]: I apologise for keeping the House after we moved to adjourn. However, a matter came to my attention at the weekend when I was in Kalgoorlie. I obtained some documents under the Freedom of Information Act provisions which suggest that there may be collusion between the Department of Minerals and Energy and Kalgoorlie Consolidated Gold Mine in Kalgoorlie. It concerns a matter with which I have been involved for quite some time. The reason I take this opportunity to bring it to the attention of the House is that I am still asking questions about the relationship of Optimum Resources, KCGM and the Department of Minerals and Energy. The answers provided by the department are that it will not pursue those questions any further. I put this information that I received at the weekend before the House and allow the House, the minister and the department to have the weekend to consider what I am about to say and perhaps come back next week with some answers.

The reason I think there is some form of collusion or incompetency - if I am to be kind - is that the FOI document suggests that the department agreed at some time that there had been a breach of regulation 98 of the Mines Act in regard to tailings dams owned by KCGM in the vicinity of a tenement owned by Optimum Resources that has been subject to contamination from heavy metals and excessive water. It was suggested by the department in 1993 that that was brought about by the activity of these tailings dams; and that was admitted. A letter was written but not sent on 31 August 1993. It states -

> Other activities carried out by KCGM contractors on Optimum's licences have added to Optimum's allegations that two sets of rules exist, one for big companies and another for small companies and prospectors.

It goes on to say that the penalty for breaching regulation 98 was $5 000 plus $1 000 a day if the offence is a continuing one. Optimum Resources contend that it is a continuing one.

Another document obtained under the FOI provision contains advice that the acting director general informed his minister that he had received advice from Crown Law Department that he should avoid directly answering questions related to matters confidential between KCGM and the department. That, to me, smells of collusion between the department and one mining company.

Further correspondence sent by the then minister to Optimum gives some detailed answers to questions contained in a plethora of letters, one which denies that the department was being evasive. Therefore, the minister, on advice from the department, sent advice to Optimum Resources that it was not being evasive; yet I have in my possession a letter to the Crown Law Department from the acting state mining engineer in which he asks advice from the Crown Law Department on how to stop Optimum people from pursuing their claim and asking if the Department of Minerals and Energy is correct in refusing to answer the so-called questions being asked. In reply, the Crown Law Department advised that the Department of Minerals and Energy should only advise the minister and should not be talking to people from Optimum Resources. This matter is ongoing and has yet to be concluded. There have been court cases and other matters; however, I do not believe the issue is before the court currently, therefore it is not sub judice.

I paid a visit to the tenement in Kalgoorlie that is owned by Optimum Resources and I could see that it is severely affected by waterlogging. No-one denies that there have been breaches of the regulations covering the tailings dam in the vicinity of that water. The water level on that tenement ranges from five to 15 metres. I have seen reports that the Department of Minerals and Energy and others have suggested that the level of water is about 55 metres. Optimum Resources is unable even to drill its tenement to find out how rich the mineralisation is, never mind mine it, as it is a mining lease. Regulation 98 of the Mines Act Regulations provides that people who own mining leases should not carry out activities that will interfere with other activities that might take place.

Most of the documents I have in front of me have been obtained through the FOI provisions and are stamped accordingly. However, there are one or two letters that do not have that stamp and some people may think that those documents may have come into my hands and the hands of the person dealing with them by accident rather than by a search application. The documents contain some matters of a technical nature but are difficult to understand. The contents of the documents admit that there is interference in breach of regulation 98. The Department of Minerals and Energy refused to pursue the matter with KCGM. I want the House to understand that there is a push on in Kalgoorlie that calls KCGM the ogre of the town. I advise people who put that proposition to me that that may not be the case and that they may be attacking an organisation that is behaving only in the way that it has been advised. KCGM has worked closely with the Department of Minerals and Energy, which is a right and proper thing to do. However, the terms of reference of the Department of Minerals and Energy do not give Optimum Resources the relief that it should have.

One of the other reasons I got to my feet tonight about this matter relates to question on notice 1712 of 1 July 1998 in which I asked the minister -

> Does the Minister stand by the statement that "the delay in responding has been primarily due to the complexity of the investigations necessary in evaluating the multitude of matters raised in your questions"?

They are all to do with the basic interference rights of the people to work on Optimum Resources' tenement. The minister was asked whether he stood by the statement, "I do not consider the letters sent by the department to have been evasive." Evidence here strongly suggests that the department has been evasive and in some instances that evasiveness has been encouraged by the Crown Law department.

Osaka Youth Forum - Adjournment Debate

HON GIZ WATSON (North Metropolitan) [6.10 pm]: It was brought to my attention on the weekend that students from Western Australia will be attending a youth forum in Osaka, Japan. I thought it might be important that members be aware that a number of students from Thornlie Senior High School have the opportunity to attend a UNESCO World Heritage Youth Forum in Osaka. It is important that these students involve themselves in this international forum, which is about encouraging youth to understand and get involved in issues to do with World Heritage matters. The forum will bring together 60 participants from 16 member states of UNESCO from all over the world. The objective of this forum is that -

> The World Youth Forum will bring together students and teachers from Associates Schools from all parts of the world to discuss the ways in which young people can become motivated to learn about World Heritage, cherish them and participate in the protection of World Heritage sites precious to all humankind.
>
> . . . During separate discussions throughout the Forum, students discuss the roles of young people in World Heritage conservation from particular viewpoints to be provided by the organization such as peace, identity, tourism, environment, inter-cultural exchange and local community involvement. . . .

I raise this matter because Shark Bay is a World Heritage area. I trust that the students from Thornlie Senior High School will talk about that area and sing its praises to the rest of the world. I also hope that they will be provided with useful suggestions for how we might manage that area better, because as members may be aware we are currently contemplating whether the World Heritage area at Shark Bay should be subjected to further excision to allow for salt production and potential gypsum mining. In my experience young people are aware of the need to conserve the environment and need little encouragement to do so. I trust that they will be debating this matter with other young people from around the world.

I would also like to acknowledge the initiative of the teacher, Mr Felters Falconer, from Thornlie Senior High School for arranging for these students to attend that forum. He runs a green youth and environment club at Thornlie and is the coordinator of an excellent organisation called Greenteach, which is a professional organisation for teachers interested in the environment.

I assume that one of the topics of debate at this forum will deal with one of Australia's other significant World Heritage areas; that is, Kakadu National Park. Members will be aware of the disgraceful situation that exists at Kakadu where a uranium mine is located with tailing dumps which will remain radioactive for the next 25 000 years. I hope that that will be raised at this forum and I hope that the young people from all around the world will realise that that is an utter disgrace in terms of World Heritage management. I also hope that they spread the message to the countries they represent that Australia is not doing the right thing in managing its World Heritage areas, and that they will apply whatever pressure they can within their countries to embarrass Australia in the international arena for this transgression of World Heritage efforts.

Optimum Resources' Tailings Dam - Adjournment Debate

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [6.14 pm]: I cannot let the House adjourn until I respond to Hon Tom Helm. He has had several goes at this in the House. If Mr Kean and his son have a problem with the Department of Minerals and Energy, he should tell them to go to the Ombudsman. Ironically, today we received the Ombudsman's annual report and in it were a number of pamphlets which tell people what to do if they have a problem. If people have a complaint about a state government department or agency, they should see the Ombudsman. There are three copies for Hon Tom Helm - one for the him and two for the Keans, who are -

Point of Order

Hon TOM HELM: I wonder about the propriety of being told as a member of Parliament that I should take issues that I feel are necessary to run in this place to another place.

The PRESIDENT: The Leader of the House can offer any advice to members. Whether they take that advice is up to them, but there is no point of order.

Debate Resumed

Hon N.F. MOORE: Most of the advice I would like to give to the member I cannot say in this place. I am asking Hon Tom Helm to give advice to the people who have asked him to raise this issue. He should tell them to take their problems to the Ombudsman. If they do not get any satisfaction from him, maybe they do not have an argument, or, if they think they do

have an argument, maybe they should take legal action against somebody instead of carrying on the way the member does now. The bottom line is that Kalgoorlie Consolidated Gold Mines will not pay the sort of money that they asked for in the first place.

Hon Tom Helm: They are not asking for any.

Hon N.F. MOORE: The member does not know the background to this at all. I can give him the numbers and even tell him what they put to some of his colleagues about how much money they wanted for this to be resolved.

Hon Tom Helm interjected.

Hon N.F. MOORE: No. The member is saying that the Department of Minerals and Energy is somehow behaving in an inappropriate -

Hon Tom Helm interjected.

Hon N.F. MOORE: I listened to the member without an interjection. This is not so much about this issue in Kalgoorlie as it is about Hon Tom Helm and the Trades and Labor Council having an issue in Kalgoorlie that they are seeking to use to get themselves some sort of a foothold in that town. They have got on to the wrong bandwagon. Perhaps Hon Tom Helm will learn that in his own time. However, he and Mr Bryant, I think it is, from the TLC have moved into Kalgoorlie and picked up this issue. It is all about undermining his colleagues. His colleagues, Hon Mark Nevill and Hon Julian Grill, the member for Eyre, know about this issue very well indeed and they will not touch it with a barge pole because they know the truth of the matter. Hon Tom Helm has gone into Kalgoorlie trying to make a name for himself in order to undermine his colleague. It is all about the left of the Labor Party trying to stitch up Hon Mark Nevill and Julian Grill because they did not support the Labor Party candidate in Kalgoorlie. Hon Tom Helm knows it as well as I do and so do his colleagues. I found it extraordinary the other day when Hon Tom Helm told the House what Hon Mark Nevill had said on a previous occasion in the House. Hon Mark Nevill made a speech about something that Hon Giz Watson had raised - it was to do with Wagerup, Worsley or one of those places. Hon Mark Nevill made a speech in the House which some people in the Labor Party did not appreciate. The following day Hon Tom Helm came in and said, "This is what Hon Mark Nevill meant to say; not what he did say." I did not notice that Hon Mark Nevill was in the House to say he agreed with what the member was talking about. This is all about the Labor Party's internal problems in the goldfields.

Hon Tom Stephens: We have no problems.

Hon N.F. MOORE: If there are no problems, it is because the Labor Party has nobody left. The left, along with Hon Tom Helm and the TLC, is moving into Kalgoorlie and picking up an issue that seemed like an easy one on the surface. These people are using it to undermine their colleagues to create a base for themselves in Kalgoorlie. They will not wear the member's sort of politics in Kalgoorlie and they will not have a bar of Hon Tom Helm because Kalgoorlie has never been the lefty town that the member wants it to be. It has never been like the Pilbara; it is a different place altogether and the people there will not welcome the member's involvement at all. People such as Hon Tom Helm will ensure that the Labor Party's stocks in that part of the world will continue to be rock bottom, as they are now.

Question put and passed.

House adjourned at 6.20 pm

QUESTIONS ON NOTICE

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

ABORIGINAL COMMUNITIES

Health Funding

274. Hon MARK NEVILL to the Minister for Finance representing the Minister for Health:

(1) What funding has been provided by the Health Department of Western Australia for the -

(a) Mulan;
(b) Billiluna;
(c) Yagga Yagga; and
(d) Balgo,

communities in each financial year since July 1, 1990??

(2) What Patient Assisted Travel Scheme funding has been provided to residents of the same communities since July 1, 1990?

Hon MAX EVANS replied:

(1) The Health Department has provided the following funding for health services covering the communities of Mulan, Billiluna, Yagga Yagga, and Balgo:

For the periods 1990/91 to 1993/94:

During this period, the Health Department provided funding to the Kimberley Community Health Service for provision of services to ALL remote communities and towns in the Kimberley. Separate expenditure information is not available for specific communities over this period.

1994/95 $599,200 ($321,500 contract paid to Mercy Balgo Health Service and $277,700 in goods and services provided by East Kimberley Health Service)
1995/96 $615,000
1996/97 $646,100
1997/98 $657,400

In addition, the Health Department has provided funding to the Yagga Yagga community for an Aboriginal Environmental Health Worker as follows :

1995/96 $30,000
1996/97 $11,976
1997/98 $25,811

(2) This information has not been collected over this period. Individual hospitals fund PATS and medical officers from those hospitals refer PATS patients from a variety of communities. It is likely that residents of the communities mentioned accessed PATS from several hospitals across the Kimberley.

RAILWAYS, MINISTER'S BRIEFING ON EXTENSION OF NORTHERN LINE

327. Hon KEN TRAVERS to the Minister for Transport:

(1) Has the Minister received a briefing on the proposed extension of the Northern Suburbs railway line?

(2) If yes, when and by whom?

(3) If not, why not?

Hon M.J. CRIDDLE replied:

I have had a preliminary briefing on the proposed extension of the Northern Suburbs railway line by the Department of Transport. A full briefing on the proposal is being arranged.

ATTORNEY GENERAL - DEFAMATION ACTION, INDEMNITY

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

I refer to your answer provided on October 14, 1998 to question without notice 265 in relation to the action of former Law Reform Commissioner, Moira Rayner, brought against you for defamation of her and ask -

(1) When did you ask for a minute to Cabinet requesting indemnity?

(2) Has the amount of that indemnity been quantified?

(3) Of the amount of that indemnity how much is sought with respect to the payment of private lawyers engaged to act for you?

(4) Have you received an account(s) from those private lawyers?

(5) What is the amount of such account?

Hon PETER FOSS replied:

(1) Recently, after the case was settled.

(2) Not by me.

(3) Not yet qualified but that is the only claim.

(4) I am expecting a final account shortly.

(5) Not applicable.

MANDURAH HOSPITAL - MENTAL HEALTH BEDS

514. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Health:

In relation to the new Mandurah Hospital -

(1) How many beds will be allocated for mental health care patients in the new hospital?

(2) Will these beds be located in the public wing or the private wing?

Hon MAX EVANS replied:

(1) Mental health beds are not specifically identified in the contract for services at Peel Health Campus. The hospital is able to treat lower acuity mental health conditions (eg depression) in their general medical beds.

(2) Not applicable.

HEALTH DEPARTMENT - MR GEORGE LIPTON'S CONTRACT

527. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Health:

(1) What is the length of the term of the contract for the position of General Manager, Mental Health Division, currently filled by Mr George Lipton?

(2) When did the contract commence and when is it due to expire?

(3) What is the annual salary for the position, including salary packaging and any other entitlements?

(4) Has Mr George Lipton been the subject of a performance audit?

(5) If yes -

(a) when was the audit carried out; and
(b) what were the findings of the audit?

(6) If no, what is the reason for an audit not being conducted and when will one be done?

Hon MAX EVANS replied:

(1) 5 year term appointment.

(2) Commenced 1 November 1996, will expire 31 October 2001.

(3) $155,640 plus on call allowance of $7,952 per annum.

(4) No.

(5) Not applicable.

(6) Employees are not subject to performance audits.

FREMANTLE ROCKINGHAM INDUSTRIAL AREA REGIONAL STRATEGY REPORT - COMMUNITY GROUPS' INPUT

539. Hon J.A. SCOTT to the Attorney General representing the Minister for Planning:

In relation to the 1998 Fremantle Rockingham Industrial Area Regional Strategy report -

(1) What organisations and community groups has the Department for Planning approached for input into the social impact assessment part of the report?

(2) What organisations and community groups will the Department for Planning be contacting for input into the social impact assessment?

Hon PETER FOSS replied:

(1)-(2) As part of the draft Fremantle Rockingham Industrial Area Regional Strategy (FRIARS), options for future land use including an assessment of social effects has been undertaken. The study was prepared utilising information obtained from the exhibition of the proposed Jervoise Bay Metropolitan Region Scheme Amendment and following the release of the FRIARS discussion paper last year. In total, 281 submissions were received. On this basis, issues have been scoped and assessed. A draft FRIARS report is currently being considered by the Western Australian Planning Commission. Once approved for release by Government the draft regional strategy will be exhibited for public comment for a period of three months in early 1999. This consultation period will include further examination of social issues of the options.

CSBP KWINANA - ARSENIC CONTAMINATION OF GROUNDWATER

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

(1) In July of 1996 did CSBP Kwinana bore sampling record up to 180 parts per million of arsenic in one of its groundwater testing bores?

(2) Did CSBP advise the Department of Environmental Protection ("DEP") of this level of arsenic contamination?

(3) If yes, when and how was this done?

(4) If not, why not?

(5) Did the DEP notify either the Water Corporation, the Health Department or the Waters and Rivers Commission about the arsenic contamination in the groundwater under CSBP Kwinana?

(6) How extensive is the arsenic contamination?

(7) In which direction is the arsenic contamination moving?

(8) What action has the DEP taken to remedy the arsenic contamination?

Hon MAX EVANS replied:

(1) The arsenic contamination was detected by Wesfarmers CSBP in their groundwater monitoring programme at their site.

(2)-(3) The DEP was advised of the contamination in a six-monthly groundwater monitoring report submitted by Wesfarmers CSBP to the DEP in January 1997.

(4) Not applicable.

(5) At present, there is no requirement. However further investigative work is underway at present and other agencies will be informed if this proves to be necessary.

(6) The DEP has been advised that Wesfarmers CSBP investigations show the real extent of the arsenic contamination is no greater than 5 hectares. The contamination is at 5 to 15 m depth and contained within the upper aquifer. DEP understands that the more highly contaminated part of the contamination is confined to an area of about 1 hectare. The contamination has not entered Cockburn Sound and there is no extraction from the aquifer for industrial, agricultural, domestic or other purposes.

(7) The groundwater flow is broadly to the west, with some localised tendencies to flow to the northwest.

(8) The DEP has advised Wesfarmers CSBP to develop a groundwater management plan and a remediation program in consultation with the DEP and other relevant government agencies.

LANDCORP - JOINT VENTURE WITH RDC PROJECTS AND PENPAGE NOMINEES

551. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Lands:

With regards to the Minister for Lands' answer to question 396 of October 27, 1998, can the Minister provide the following details of LandCorp's joint venture in Thornlie with RDC Projects and Penpage Nominees -

(1) When were expressions of interest called for this joint venture?

(2) What were the names of the companies which submitted their expressions of interest for the joint venture?

(3) Who made the decision to award the joint venture to RDC Projects and Penpage Nominees?

(4) What share of the joint venture does each partner hold?

(5) What are the terms of this joint venture agreement in respect to -

(a) profit sharing;
(b) cost sharing; and
(c) liability in the event of failure of the project?

(6) What are the anticipated costs and profits of the project?

Hon MAX EVANS replied:

(1)-(3) LandCorp's share of the joint venture in Thornlie with RDC Projects and Penpage Nominees was acquired as a consequence of the assignment of land development operations resulting from the sale of BankWest. LandCorp did not participate in the original establishment of the Joint Venture.

(4) The share of the Joint Venture held by each Joint Venture partner varies according to each stage.

(5) (a)-(c) All profits, costs and liabilities are shared in accordance with each partner's interest in the relevant stage of the Joint Venture.

(6) LandCorp's return on the joint venture project will depend on contract prices and market conditions at the time of development and sale.

LANDCORP - JOINT VENTURE WITH NORTH WHITFORDS ESTATES PTY LTD

552. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Lands:

With regards to the Minister for Lands' answer to question 396 of October 27, 1998, can the Minister provide the following details of LandCorp's joint venture in Port Kennedy with North Whitfords Estates Pty Ltd -

(1) When were expressions of interest called for this joint venture?

(2) What were the names of the companies which submitted their expressions of interest for the joint venture?

(3) Who made the decision to award the joint venture to RDC Projects and Penpage Nominees?

(4) What share of the joint venture does each partner hold?

(5) What are the terms of this joint venture agreement in respect to -

(a) profit sharing;
(b) cost sharing; and
(c) liability in the event of failure of the project?

(6) What are the anticipated costs and profits of the project?

Hon MAX EVANS replied:

(1) 26 November 1994.

(2) Webb Brown Neaves/Dale Alcock Group
Dakin Nominees Pty ltd
The Ingle Group Pty Ltd
Peet & Company Ltd
Delfin Property Group Ltd

Estates Development/Domain Project Developments
Police & Nurses Credit Society
Australian Housing & Land
Statewise Pty Ltd
Taylor Woodrow
Benchmark Design & Development
North Whitfords Estates
Carioca Brockman & Dry
Everard Yeo & Associates/Dennis Group
Landrow
Port Kennedy Resorts
Summit
Kinsman Pty Ltd
McCusker Holdings
Cedar Woods Properties

(3) Neither RDC Projects nor Penpage Nominees submitted tenders for the Port Kennedy Joint Venture. The Board of LandCorp approved negotiating a joint venture with North Whitfords Estates on 20 June 1995 and the Minister for Lands approved the joint venture agreement on 22 March 1996.

(4) LandCorp is to contribute the land and North Whitfords Estates is to contribute all development and marketing costs. From the sale of each subdivided lot LandCorp received a proportional payment for the value of the land and North Whitfords recoups its costs with the remaining profit split 50/50.

(5) The profit and cost sharing arrangements are as outlined in (4). The joint venture agreement makes provision for LandCorp to receive its proportional payment for the value of the land prior to the reimbursement of costs to North Whitfords Estates.

(6) LandCorp's return on the joint venture project will depend on contract prices and market conditions at the time of development and sale.

LANDCORP - NORTH WHITFORDS ESTATES

553. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Lands:

With regards to the Minister for Lands' answer to question 396 of October 27, 1998, can the Minister provide the following details of LandCorp's joint venture in Landsdale with North Whitfords Estates -

(1) When were expressions of interest called for this joint venture?

(2) What were the names of the companies which submitted their expressions of interest for the joint venture?

(3) Who made the decision to award the joint venture to RDC Projects and Penpage Nominees?

(4) What share of the joint venture does each partner hold?

(5) What are the terms of this joint venture agreement in respect to -

(a) profit sharing;
(b) cost sharing; and
(c) liability in the event of failure of the project?

(6) What are the anticipated costs and profits of the project?

Hon MAX EVANS replied:

(1) 2 September 1995.

(2) Hanscon Holdings Pty Ltd
North Whitfords Estates Pty Ltd

(3) Neither RDC nor Penpage Nominees submitted tenders for the Landsdale Joint Venture. The Board of LandCorp approved negotiating a joint venture with North Whitfords Estates on 21 November 1995 and the Minister for Lands approved the joint venture agreement on 6 March 1998.

(4) LandCorp is to contribute the land and North Whitfords Estates is to contribute all development and marketing costs. From the sale of each subdivided lot LandCorp receives a proportional payment for the value of the land and North Whitfords Estates recoups its costs with the remaining profit split 50/50.

(5) The profit and cost sharing arrangements are as outlined in (4). The joint venture agreement makes provision for LandCorp to receive its proportional payment for the value of the land prior to the reimbursement of costs to North Whitfords Estates.

(6) LandCorp's return on the joint venture project will depend on contract prices and market conditions at the time of development and sale.

CONSOLIDATED CONSTRUCTIONS PTY LTD - CONTRACT DETAILS

566. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Lands:

(1) Have any agencies or departments under the Minister for Lands' control awarded any contracts to Consolidated Constructions since July 1, 1996?

(2) If yes, can the Minister provide the following details of those contracts -

(a) the contract number;

(b) the date it was awarded;

(c) the project the contract was awarded for;

(d) the cost of the contract;

(e) if the contract has been completed, the final cost of the contract; and

(f) the names of any other companies who tendered for the contract?

Hon MAX EVANS replied:

DOLA

(1) No.

(2) Not applicable.

LANDCORP

(1) LandCorp has awarded one contract to Consolidated Constructions since 1 July 1996.

(2) (a) Not applicable.
(b) 14 November 1997.
(c) Lakeside Joondalup Cinema Complex as part of the Lakeside Joondalup Shopping Centre Joint Venture.
(d) $10 192 000.
(e) The contract has not been completed.
(f) Doric Construction
Transfield
Multiplex
John Holland
Entact Clough

BGC CONSTRUCTION AND HOMESTYLE PTY LTD - DETAILS OF CONTRACTS

572. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Lands:

(1) Have any agencies or departments under the Minister for Lands's control awarded any contracts to BGC Construction or Homestyle Pty Ltd since July 1, 1996?

(2) If yes, can the Minister provide the following details of those contracts -

(a) the contract number;
(b) the date it was awarded;
(c) the project the contract was awarded for;
(d) the cost of the contract;
(e) if the contract has been completed, the final cost of the contract; and
(f) the names of any other companies who tendered for the contract?

Hon MAX EVANS replied:

(1) No.

(2) Not applicable.

PINDAN CONSTRUCTIONS - DETAILS OF CONTRACTS

578. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Lands:

(1) Have any agencies or departments under the Minister for Lands's control awarded any contracts to Pindan Constructions since July 1, 1996?

(2) If yes, can the Minister provide the following details of those contracts -

(a) the contract number;
(b) the date it was awarded;
(c) the project the contract was awarded for;
(d) the cost of the contract;
(e) if the contract has been completed, the final cost of the contract; and
(f) the names of any other companies who tendered for the contract?

Hon MAX EVANS replied:

(1) No.

(2) Not applicable.

MacMAHON HOLDINGS AND MacMAHON CONSTRUCTIONS PTY LTD - DETAILS OF CONTRACTS

584. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Lands:

(1) Have any agencies or departments under the Minister for Lands' control awarded any contracts to MacMahon Holdings or MacMahon Constructions Pty Ltd since July 1, 1996?

(2) If yes, can the Minister provide the following details of those contracts -

(a) the contract number;
(b) the date it was awarded;
(c) the project the contract was awarded for;
(d) the cost of the contract;
(e) if the contract has been completed, the final cost of the contract; and
(f) the names of any other companies who tendered for the contract?

Hon MAX EVANS replied:

(1) No.

(2) Not applicable.

MAINLINE CONSTRUCTIONS - DETAILS OF CONTRACTS

590. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Lands:

(1) Have any agencies or departments under the Minister for Lands' control awarded any contracts to Mainline Constructions since July 1, 1996?

(2) If yes, can the Minister provide the following details of those contracts -

(a) the contract number;
(b) the date it was awarded;
(c) the project the contract was awarded for;
(d) the cost of the contract;
(e) if the contract has been completed, the final cost of the contract; and
(f) the names of any other companies who tendered for the contract?

Hon MAX EVANS replied:

(1) No.

(2) Not applicable.

QUESTIONS WITHOUT NOTICE

CARNARVON FASCINE, DREDGING

541. Hon TOM STEPHENS to the Minister for Transport:

In relation to the dredging operations being carried out on the fascine in Carnarvon, I ask -

(1) Have there been any difficulties associated with that dredging?

(2) Is there a shortfall in funding for the project?

(3) Has the Government approached the shire council seeking a financial contribution towards the project despite previous commitments that the State Government would meet the full cost?

Hon M.J. CRIDDLE replied:

(1)-(3) There have been difficulties with that fascine dredging. I have not caught up with the latest developments. I know that another contract was let, but I will get further information and forward it to the member.

CERTIFICATE OF TITLE 2090/328

542. Hon TOM STEPHENS to the minister representing the Minister for Lands:

(1) On whose instruction did the Office of Titles transfer a portion of land that was formerly a closed road on to certificate of title No 2090/328?

(2) In whom was that closed road vested prior to its incorporation on to certificate of title No 2090/328?

(3) Will the minister table the documents that authorised the transfer or grant of all the land on that title?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) The Acting Manager, Land and Property Services Branch, Land Operations Division of the Department of Land Administration.

(2) The care, control and management of DOLA.

(3) Yes, and I seek leave to table the document.

Leave granted. [See paper No 461.]

PRISON, PYRTON SITE

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

Is the minister aware that the communities of Lockridge, Eden Hill and Bassendean oppose the location of a prison at the Pyrton site? Will he accept the communities' view and establish a prison on a site other than the Pyrton site? On which site has the Government chosen to establish the prison?

Hon PETER FOSS replied:

I am aware that that claim is incorrect. It is a claim that is being made by the Bassendean Town Council based on a survey that it carried out. There were several problems with that survey. The first problem was that, on any form of examination, it asked questions in a manner which was unsuitable for a scientific survey in that the questions were biased and set up in such a way as to elicit a particular response. The second problem with the survey was that it was self-reporting; that is, the only people who sent it back were those who wanted to send it back. Perhaps thousands of people received it but only certain people responded to it. Without great thought on the matter, one can determine that the people who are likely to return such surveys are those who are vehemently opposed to the proposition involved. The third problem was that no preliminary information was sought and the usual type of preliminary work was not done to determine whether the survey was fair. There are standard procedures to be carried out by survey people to determine whether the question is likely to lead to a neutral result; in other words, a result which is unaffected by the survey but which is based on the opinions of the people involved.

That was the survey which was carried out by the Bassendean Town Council and which has been strongly relied upon by it to state that the communities are against it. Another survey was carried out under proper survey conditions - that is, those accepted within the survey industry - and followed each requirement to ensure that the questions were fairly put, that the people surveyed were a fair representation and that the survey had the proper pre-qualification to ensure that it would give a reliable result. It was interesting that the survey indicated that a significant number of people were in favour of it. In fact it was the reverse of the allegation made by Hon Nick Griffiths. A significant number of people are concerned. It is to be expected that they would be concerned in view of the fairly strong incorrect statements made by some people as to what the project was. The survey which was properly carried out showed a majority of people in favour. On that basis, I do not believe that the basic presupposition of Hon Nick Griffiths' argument has been satisfied.

ROCKINGHAM ROAD REALIGNMENT, WATTLEUP

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

I refer the minister to statements made in the document "Response to PER Submissions, Industrial Infrastructure and Harbour

Development, Jervoise Bay (1091)". In appendix 2 on page 2, the proponents state that the realignment of Rockingham Road in Wattleup is necessary because of predicted additional traffic noise and social amenity impacts on the Wattleup townsite. I ask -

(1) Will the minister explain what the social amenity impacts on the town of Wattleup will be and what increases in traffic noise are predicted if the road is not realigned?

(2) How close to Brownman Swamps is the proposed realignment of Rockingham Road and is it closer to the wetlands than the proposed and now to be deleted section of the Fremantle-Rockingham controlled-access highway?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1) The social amenity impacts on the Wattleup townsite will be a decrease in traffic safety and accessibility and an increase in noise and pollution if the road is not realigned. Traffic along Rockingham Road will increase almost two-fold and there will be a corresponding increase in traffic noise.

(2) The ultimate second carriageway along Rockingham Road will be 50 metres from Brownman Swamps. The existing north-bound carriageway that will be removed is only 15 metres from Brownman Swamps. The deleted section of the Fremantle-Rockingham controlled-access highway was further from the wetlands.

HARVEY NORMAN STORES, SUNDAY TRADING

545. Hon NORM KELLY to the minister representing the Minister for Fair Trading:

With regard to the recent issue of Harvey Norman stores trading on Sundays, I ask -

(1) Have Harvey Norman franchisees been charged under the Retail Trading Hours Act?

(2) If not, why not?

(3) Has the department completed investigations into advertising breaches relating to seven-day trading by Harvey Norman?

(4) If yes, what action has been taken?

Hon MAX EVANS replied:

I thank the member for some notice of this question. I am advised -

(1) The chief executive officer of the Ministry of Fair Trading has authorised the prosecution of 32 offences.

(2) Not applicable.

(3) Further alleged breaches of the advertising provisions of the Act are being investigated.

(4) See (3) above.

ALBANY AIRPORT UPGRADE

546. Hon MURIEL PATTERSON to the Minister for Transport:

Is there a geological or other reason that the present Albany Airport upgrade cannot be extended to take a 747 cargo plane or to meet international cargo standards?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

There is no technical reason that the airport could not be upgraded. The Government strongly supports the export of Western Australian perishable products to the international marketplace, and to that end has established the Air Freight Export Council to facilitate the growth of the export of perishables from the State. As minister responsible for the council and transport issues, I would be happy to talk to the people involved about their air freight proposals.

NORTHBRIDGE TUNNEL, WATER LEAKAGE

547. Hon LJILJANNA RAVLICH to the Minister for Transport:

In relation to the construction of the Northbridge tunnel, I ask -

(1) Is the minister aware that following heavy rain last Tuesday night the tunnel's diaphragm walls leaked to the extent that there was 50 to 70 cm of water at the tunnel face?

(2) Is the minister aware that work on the tunnel face was stopped on Wednesday to enable water to be pumped out as it created an occupational health and safety issue for employees?

(3) What has been done to rectify the problem with water leakage from the walls of the tunnel?

(4) Why are the chemically treated concrete walls and steel roof, which are supposed to be watertight, now leaking?

Hon M.J. CRIDDLE replied:

(1)-(4) Obviously, during construction, incidents like this will happen. I will follow up the matter.

Hon Ljiljanna Ravlich: Didn't you know about these issues?

Hon M.J. CRIDDLE: No. I am just about to tell the member that I will follow up this issue and find out the reasons for the leakage.

Hon Ljiljanna Ravlich: It happened two days ago and you still do not know. They are supposed to be leak proof.

Hon M.J. CRIDDLE: If these incidents did occur, I will be able to give the member -

Hon Bob Thomas: Don't treat her like a mushroom.

The PRESIDENT: Order! If members do not want to listen to the answer, I have a list of the names of members who would like to ask questions.

Hon M.J. CRIDDLE: A contractor is working in this area. If the incident did occur, I will get back to the member with the reasons for it.

PEEL HEALTH CAMPUS, SECURE MENTAL HEALTH UNIT

548. Hon J.A. COWDELL to the minister representing the Minister for Health:

(1) Is land still available for the construction of a secure mental health unit at the Peel Health Campus?

(2) What is the estimated cost of a five-bed unit?

(3) What is the Government's timetable for the construction of such a facility at the Peel Health Campus?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) Land is available for the future expansion of the Peel Health Campus facilities.

(2)-(3) At this time there are no plans for the construction of a secure mental health unit at the Peel Health Campus.

WA TOURISM COMMISSION CEO, REMUNERATION PACKAGE

549. Hon KEN TRAVERS to the Minister for Tourism:

I refer to question on notice 509 and a similar unanswered question 1666 of 29 April 1998 concerning the remuneration package of the chief executive officer of the Western Australian Tourism Commission.

(1) Is any aspect of question 509 causing the minister difficulty in providing an answer?

(2) If not, why has the minister not yet answered the two questions; and when does he expect to be able to provide an answer to question 509?

Hon N.F. MOORE replied:

(1)-(2) I must confess - I am a little embarrassed by this - that I do not carry around in my head question 509.

Opposition members: Shame, shame!

Hon N.F. MOORE: I know; I know. Members opposite are right, I should know; I should have instant recall of all questions that have been asked of me since I have been the Minister for Tourism! I regret that I am unable to meet the member's requirements on this occasion. I do not know what question 509 says. If the member really wanted an answer, instead of making a silly little attempt to embarrass me, he might have given me a copy of the relevant questions. At least then I could have given a considered answer. As I say, I do not know what question 509 states.

Several members interjected.

The PRESIDENT: Order! If members do not want to hear the answer and if the minister would care to sit down, I will call the next member who has a question to ask.

OSBORNE PARK HOSPITAL, CLOSURE PLANS

550. Hon RAY HALLIGAN to the minister representing the Minister for Health:

(1) Can the minister indicate whether the Health Department has any plans to close Osborne Park Hospital?

(2) If so, what reasons are behind the closure and when is it likely to happen?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1)-(2) There are no plans to close Osborne Park Hospital.

BUSES, FIRES

551. Hon BOB THOMAS to the Minister for Transport:

(1) Can the minister confirm that on 11 November 1998 two Transperth buses, under lease to Path Transit, caught fire within an hour of each other in Mt Hawthorn, forcing passengers to be evacuated?

(2) What action is the Government taking to investigate these incidents?

(3) What action is the Government taking to compel private operators to maintain the buses properly.

(4) Has a formal contract been signed for the purchase of the new bus fleet?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1) The engine of Transperth bus 1122, leased to Path Transit, caught fire on 11 November. On the same day, bus 402 experienced an engine-cooling problem which caused the bus to emit smoke, but it did not catch fire.

(2) The bus that caught fire was examined and an investigation revealed that incorrect injector leak-off pipes had been fitted. Transperth has, as a result, contacted all its services operators and instructed them to inspect all buses in their care for this fault and to rectify it, where applicable.

(3) Buses are inspected on a random basis without prior warning by Transperth staff. In addition, all buses are inspected annually by the licensing division of the Department of Transport. Further, if unsatisfactory maintenance on the part of the operator results in buses breaking down and trips being missed, the operator will incur a fine.

(4) Mercedes-Benz Australia Pty Ltd has been provided with a binding letter of intent, and the written contract is being finalised for execution.

TRANSPERTH SERVICE PERFORMANCE TEAM, FTEs

552. Hon TOM HELM to the Minister for Transport:

(1) How many full-time equivalents are allocated to the transport dedicated service performance team to monitor the private bus operators?

(2) How many of these FTEs are actively engaged in inspection audits?

(3) What is the average number of spot checks carried out during each month since July 1998?

(4) What is the nature of the dawn-to-dusk audits conducted by Transperth?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1) The Transperth service performance team comprises three full-time employees and two part-time employees, who are complemented with the addition of between four and six contracted employees, dependent upon the scope of the project to be undertaken.

(2) All staff are actively engaged in inspection audits.

(3) Members of the Transperth service performance unit have undertaken an average of between eight and 10 spot checks each month, in addition to the dawn-to-dusk audit of the whole contract areas.

(4) The dawn-to-dusk service performance audit involves the entire service performance team moving into a selected contract area with the objective of monitoring the services operated from the first bus at 5.45 am until 12.45 the

following morning. Generally these audits take two days to complete and cover 90 per cent or more of all services scheduled for the relevant contract area. The members of the team are strategically located at departure points, bus stations and route timing points.

STATE REVENUE DEPARTMENT, ENFORCEMENT OF LEGISLATION

553. Hon KIM CHANCE to the Minister for Finance:

I refer to correspondence to the Leader of the Opposition from the State Revenue Department which states that the commissioner of that department is not enforcing legislation relating to stamp duty on mining tenements through tenement grants, but instead is waiting for the appropriate legislation to be amended to ensure these grants are not subject to stamp duty.

(1) Is the State Revenue Department not enforcing the legislation in any other instances?

(2) If so, will the minister provide details of those instances?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1)-(2) The Commissioner of State Revenue has advised that he is not aware of any other instances.

MINIMUM SECURITY PRE-RELEASE CENTRE FOR WOMEN

554. Hon DERRICK TOMLINSON to the Minister for Justice:

(1) Has the minister received a submission for the location of a minimum security pre-release centre for women?

(2) Has the minister made a decision on that submission?

(3) If so, what will be the location of that facility?

Hon PETER FOSS replied:

(1)-(3) I have received a submission. I should mention that part of that submission is a report from a community group established for consultation. I thank Hon Derrick Tomlinson and the member for Bassendean for being co-chairmen of that committee, and Hon Norm Kelly for being a member of the committee. I have considered all the papers on that issue in some detail. I have decided that we should immediately apply to the State Planning Commission for use of the Pyrton site for the pre-release centre. It is subject to a number of legal considerations. However, as I had already advised the committee, we have indicated to the State Planning Commission our interest. I have now confirmed that the Ministry of Justice wishes to use a small portion of the Curtin site for the establishment of a women's pre-release centre.

WESTERN POWER'S RENEWABLE BUY-BACK SCHEME

555. Hon CHRISTINE SHARP to the Leader of the House representing the Minister for Energy:

(1) How many customers have joined Western Power's renewable energy buy-back scheme?

(2) Is Western Power likely to reach its target of 100 customers by 31 December 1999?

(3) What purchase rates are envisaged to be charged after 2003, when the special premium rates no longer apply?

(4) Does Western Power intend to look at a more equitable system whereby rates for selling and buying electricity are more evenly matched?

Hon N.F. MOORE replied:

(1) Two customers have joined the scheme. The equivalent of six additional customers have systems nearby ready to export under the scheme.

(2) That is unlikely unless the cost of renewable energy systems falls significantly.

(3) No decision has yet been made.

(4) Western power regularly reviews all its price rates for selling and buying electricity, including those in the renewable energy buy-back scheme.

HAVE-A-GO NEWS, BUSINESS NAME

556. Hon E.R.J. DERMER to the Minister for Sport and Recreation:

(1) Why did the Government discontinue the publication *Have-a-Go News*?

(2) When did the Government discontinue publication of *Have-a-Go News*?

(3) Did the Government have the title of the publication registered as a business name?

(4) Did the Government assign or release the business name to the private publisher?

(5) Did the ministry staff prepare editorial copy especially for the magazine?

(6) If all the Government did was give to the publisher a copy from which generic releases were sent to all media outlets, why is the support to the magazine cited as a significant outcome in the ministry's annual report?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) The *Have-a-Go* broadsheet produced by the Ministry of Sport and Recreation in the late 1980s promoted a range of participation initiatives to challenge stereotypes about the capacity of older adults to lead active, healthy lifestyles. Once initiated, programs were devolved to emerging community-based organisations and there was no need for the ministry to continue production of the sheet.

(2) Archive documents are being retrieved to ascertain dates on which the ministry discontinued publication of the *Have-a-Go* broadsheet - the current publisher of *Have-A-Go News* commenced publication in July 1991 - hence it was prior to that date.

(3) No.

(4) Not applicable.

(5) Yes, editorial has been provided on occasions only as it relates to the promotion of active healthy lifestyles for mature age persons.

(6) It is a significant outcome in that the publication has an extensive and targeted mature age readership that, since inception, has promoted active healthy lifestyles for mature age persons. On that basis the ministry support, through provision of occasional editorial copy, is considered entirely appropriate. I will provide a copy to some of our ageing members in due course!

YOUNG OFFENDERS ACT, REVIEW

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

In relation to the report of an independent review of the 1995 Young Offenders Act received by the minister, I ask -

(1) When was the review initiated?

(2) When was the report received by him?

(3) What are the main recommendations of the report?

(4) Will he table a copy of the report? If not, why not?

Hon PETER FOSS replied:

To provide a precise answer, those details must be researched. I would not like to give an inaccurate answer in case another motion of privilege were moved against me. Therefore, I will take that question on notice.

SWAN BREWERY SITE, WELL

558. Hon NORM KELLY to the Attorney General representing the Minister for Heritage:

(1) Is the minister aware of the existence of an old well situated on the site of the old Swan Brewery?

(2) Has a heritage assessment been made of an old well on the Old Swan Brewery site?

(3) If so, what was the outcome of the assessment, and will the minister table it?

(4) If not, will the minister initiate an assessment of the heritage value of the old well?

(5) If not, why not?

Hon PETER FOSS replied:

Unfortunately the answer I received two days ago was -

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

MAIN ROADS, CAPITAL WORKS IN SOUTH WEST REGION

559. Hon MURIEL PATTERSON to the Minister for Transport:

Can the minister list the capital works that Main Roads has undertaken in the south west region, their total costs and completion dates?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

As the member is aware, the coalition Government has shown strong commitment to addressing the State's road infrastructure needs over years of neglect by previous Governments. This is highlighted by the many road projects either currently under way or planned to commence in the rapidly growing south west region over the next few years. I will table the capital works in the south west region.

[See paper No 462.]

BROWNMAN WETLANDS, WATTLEUP

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

(1) Has Main Roads WA had any discussions with the Environmental Protection Authority in relation to the environmental consequences on the Brownman wetlands from the proposed Rockingham Road realignment in Wattleup?

(2) If yes, what was the EPA advice?

(3) If no, why not?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1)-(3) Consultants Halpern Glick Maunsell, acting on behalf of Main Roads, the Department of Commerce and Trade and the Jervoise Bay Infrastructure Study, had discussions with officers from the Department of Environmental Protection during the preparation of the public environmental review report. The construction of the ultimate second carriageway along Rockingham Road has been assessed by the Environmental Protection Authority as part of the public environmental review for industrial infrastructure and harbour development at Jervoise Bay. This review is now available for public input. A copy is available at the Department of Environmental Protection. The proposed realignment of Rockingham Road is within the existing road reserve.

NORTHBRIDGE TUNNEL, MAINTENANCE

561. Hon LJILJANNA RAVLICH to the Minister for Transport:

(1) Does the minister know whether Main Roads WA was informed of the leakage of the Northbridge tunnel walls?

(2) Can the minister confirm that ongoing maintenance is already required on the tunnel?

(3) Can the minister advise how often this maintenance is carried out?

Hon M.J. CRIDDLE replied:

(1)-(3) I have already indicated that I was not aware of the situation.

Hon Ljiljanna Ravlich: You do not know whether Main Roads knows?

Hon M.J. CRIDDLE: How would I know?

PSYCHIATRIC EMERGENCY RESPONSE, PEEL REGION

562. Hon J.A. COWDELL to the minister representing the Minister for Health:

In 1996 the State Coroner said there was urgent need for a 24-hour seven-day, locally based, psychiatric emergency response unit in the Peel region.

What steps has the Government taken in response to the coroner's comments?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

A 24-hour, seven-day emergency service must be a component of a comprehensive community-based mental health service. The Peel Community Mental Health Service has had its budget doubled in the past two years and now employs 23 mental health clinicians. Emergency services during the day are provided by the community services. After hours emergency services are available through general practitioners, Rockingham Hospital and, if hospitalisation is necessary, through Fremantle Hospital.

Further planning of emergency services with anticipated increase in resources is taking place.

RALLY AUSTRALIA, ECONOMIC BENEFITS

563. Hon KEN TRAVERS to the Minister for Sport and Recreation:

In *The West Australian* of 7 November 1998 the Rally Australia executive director is quoted as saying that the rally event will generate between $20m and $25m for the Western Australian economy, plus television exposure to 700m people worldwide.

(1) Will the minister provide a breakdown of the estimated $20m-$25m the event will bring to the State?

(2) On what basis has the executive director estimated that 2 500 overseas and 1 500 interstate visitors attended the event?

(3) How many visitor nights does the minister expect these visitors to have generated?

Hon N.F. MOORE replied:

I do not have a copy of the question. If the member puts it on notice, I will answer it.

DRUG TAKING IN PRISONS

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

(1) What steps have been taken to ensure that the minister has been informed of the incidence of drug taking in our prisons?

(2) Can the minister confirm that there has been an increase in the number of positive drug tests at Canning Vale Prison?

(3) If so, what action is he taking to stop the smuggling of drugs into the prison?

Hon PETER FOSS replied:

(1)-(3) It is not simply a matter of having a plan to prevent the smuggling of drugs into prisons but, rather, an overall strategy on drugs in prisons. The Ministry of Justice has developed a strategy for dealing with drugs in prisons. I am not sure whether the committee chaired by Hon Mark Nevill has seen that strategy. However, the smuggling of drugs into prisons is only a small part of the problem. Those members who have read my report - obviously Hon Ken Travers has - of my visit to Oregon in the United States will notice that the prison authorities there developed a clever strategy for dealing with the smuggling of drugs into prisons: They banned smoking everywhere in the State. The preferred drug of addiction, instead of being heroin and cocaine which was then smuggled into jails, became tobacco. That probably says something about the addictive nature of nicotine.

There are many ways of dealing with this problem. One of the most effective ways of preventing the smuggling of drugs into prisons is to prevent contact visits. Although that may prevent the smuggling of drugs into prisons, it has adverse effects on the general morale of prisoners; it may have adverse effects greater than the effect of the drugs. The major concern at the moment is that high quality heroin has been smuggled into the jail.

Another way of dealing with the problem is to increase the surveillance on visitors. That, again, has a problem because probably only a small percentage of people are taking hard drugs. It may be that 90 per cent of visitors are not smuggling in drugs or they are visiting people who are not taking drugs. To be certain of preventing a visitor bringing in drugs, strip searches and searches of body orifices would have to be carried out. That would be an incredible imposition on that 90 per cent for the purposes of preventing smuggling in by the ones who may be the other 10 per cent.

The other concern is that minimum security prisons have transactions between them and the maximum and medium security prisons. For instance, most of the food for prisoners is supplied from prison farms. From time to time, we have found that prisoners have used those supplies as a way of smuggling drugs into maximum security prisons. If they were supplied from somewhere else, I suppose it could still happen.

Sometimes a means of preventing the introduction of drugs is so extreme that the adverse consequences of doing that are worse than the consequences of having the drugs in prison. Merely trying to prevent the introduction of

drugs is not the answer. Obviously, we must keep up our vigilance; however, the most important thing is to address the drug problem. That is why the strategy has been developed and we hope that will be much more effective.

To stop people taking drugs, they must want to stop taking drugs. There are many people who wish to stop taking drugs but cannot prevent themselves from doing so because of their addiction. There are others who are addicted to drugs and have no wish to stop taking drugs. We want to implement programs to deal with people who wish to get rid of their addiction but are unable to do so.