



WESTERN AUSTRALIA

# **Parliamentary Debates**

**(HANSARD)**

THIRTY-FOURTH PARLIAMENT  
FOURTH SESSION  
1996

LEGISLATIVE COUNCIL

Wednesday, 30 October 1996

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

## PETITION - CHAN, FRANCIS MARY, INQUIRY

Hon A.J.G. MacTiernan presented the following petition bearing the signatures of 10 persons -

To the Honourable the President and members of the Legislative Council in Parliament assembled.

We the undersigned Residents of Western Australia call upon the Legislative Council to urgently investigate all circumstances surrounding the Frances Mary Chan affair, in particular:

- 1 The failure of the Ministry of Fair Trading to address complaints concerning Ms Chan's activities
- 2 The impact of the consequent delay on those elderly people who lodged the complaints
- 3 Whether the prospects for justice have been undermined because at least one of the elderly complainants has, since the complaints were lodged, suffered a stroke
- 4 What action the Minister for Fair Trading took, after first learning of the complaints, to ensure matters were fully investigated.

Your petitioners respectfully request that the Legislative council will give this matter earnest consideration.

And your petitioners as in duty bound, will ever pray.

[See paper No 795.]

## MOTION - URGENCY

*Foreign General Practitioners, Ban On*

**THE PRESIDENT** (Hon Clive Griffiths): I have received the following letter addressed to me and dated 30 October 1996 -

Dear Mr President

At today's sitting, it is my intention to move under SO 72 that the House, at its rising, adjourn until 9.00 am on 25 December 1996 for the purpose of discussing the article in today's *The Australian* newspaper titled "10-year ban on foreign GPs to beat oversupply" and contradictions that may present themselves with the passage of the Medical Amendment Bill 1994.

Yours sincerely

Kim Chance MLC  
Member for Agricultural Region

In order to discuss this matter, it will be necessary for at least four members to indicate their support by rising in their places.

[At least four members rose in their places.]

**HON KIM CHANCE** (Agricultural - Leader of the Opposition) [2.37 pm]: I move -

That the House at its rising adjourn until 9.00 am on 25 December.

Recently I had occasion to raise in the adjournment motion an issue in which I expressed my dismay at a decision by the Federal Government, which had just been announced, to refuse recently graduated doctors a Medicare provider number. The result of that action by the federal Health Minister was to remove from the health system a number of recently graduated doctors to the extent that they would not be able to practise in their own right. I made the point that many of those doctors would not be going into practice in any case, but one of the difficulties they faced was the competition for the limited number of training places which those doctors would have been seeking in any case, created partly as a result of that decision. I indicated that some of those doctors would have been seeking to practise in their own right. I gave the example of a Fremantle based doctor who, for personal reasons, needed to be able to have her provider number in order to work for two sessions a week at a women's health centre.

My principal interest in what I think is an ill-considered decision by the federal Health Minister is that it will further reduce the availability of medical practitioners in remote and rural areas in which there is already an acute shortage of doctors. It has been acknowledged in debate in this House on more than one occasion that there is an acute shortage of medical practitioners in remote and rural Australia. Many areas of Australia, if not Western Australia - there is a distinction there - have already been declared areas of unmet need.

Hon Peter Foss: Do you acknowledge that the rural doctors scheme at UWA is doing a good job?

Hon KIM CHANCE: The Opposition has acknowledged that on a number of occasions, and also the excellent work of the Western Australian Centre for Remote and Rural Medicine which has made a significant contribution. That is why I have referred to Western Australia as distinct from Australia. I have no problem in acknowledging that Western Australia is in a much more fortunate position as a result of the work of those organisations and individuals.

Members have learnt from an article on page 10 of *The Australian* yesterday and another article in today's *The West Australian* that the federal coalition Government will now impose a 10 year moratorium on the issue of provider numbers to foreign doctors. This will have the effect of even further restricting the availability of doctors in rural and remote Australia. Last week, as a result of that earlier decision to restrict the availability of provider numbers to Australian trained doctors, I called upon the Western Australian Minister for Health to strengthen his endeavours to make his federal colleague see some sense in this matter. I was informed by way of interjection that the Western Australian Minister for Health had already raised the matter with his federal colleague, but we are yet to see any expression of the public outrage that should have been displayed by the Minister for Health on behalf of the whole of the Western Australian Parliament. This is a matter in which we have a common and very much bilateral point of view. I do not believe any members are happy with all aspects of the situation.

Following this latest exercise in what can be presented only as slavish adherence to the bidding of the Australian Medical Association - or a significant section of the AMA - it is about time the Western Australian Government and Minister for Health spoke up for country people. Although the first issue was possibly best handled with some discretion, we should not put up with the imposition of a moratorium on foreign trained doctors, hard on the heels of the decision about Australian doctors; and, more importantly, nor should the public gain the impression that this Government will tolerate it from the federal Minister for Health, Dr Wooldridge.

On occasions in this place members opposite have implied that Labor members are too inclined to the points of view of workers or unions representing workers. Opposition members do not mind that, although sometimes the accusations are wide of the mark. However, in this matter it is clear that the federal Minister for Health, Dr Wooldridge, is doing the bidding of the AMA, in the same way that members opposite are inclined to accuse the Opposition of doing the bidding of the unions. It is interesting that not all members of the AMA share the view that Dr Wooldridge is so avidly pursuing. I am gaining a very clear impression that Dr Wooldridge is concerned only with carrying out the bidding of the AMA - the huge and powerful union of doctors in Australia - and that the interests of country people and anybody in Australia who needs mental health care can go to hell. That is the clear message Dr Wooldridge is sending.

Hon Peter Foss: Did you say mental health care?

Hon KIM CHANCE: Yes. I included that in the same group as country people simply because there is such a shortage in the mental health area.

Hon Peter Foss: But it is mainly in the public hospital area.

Hon KIM CHANCE: I understand that the private sector is not very well served either.

Hon Peter Foss: The biggest problem is that everyone is moving from the public area to the private area.

Hon KIM CHANCE: I am concerned that a net shortage of doctors has been identified in both areas. I will explain why this issue is of such importance to people who live in remote areas in Australia. In the debates on the Medical Amendment Bill of 1994 and 1996 the Opposition underlined the need for country areas to have access to doctors who were trained overseas. I am sure Hon Peter Foss will remember the Opposition's concerns very clearly. The Opposition put the view that, if country areas do not have access to doctors trained outside Australia, more than half of rural Australia will have no doctors at all. At that stage half the doctors serving rural Australia were not trained in Australia. Only recently has the level been reached of half the doctors in rural Western Australia being Australian trained. I understand that, in other States, the proportion of Australian trained doctors in country areas is even lower. Whether it is half, 40 per cent or 60 per cent - is not a matter for debate. A large proportion of rural Australia relies on doctors trained in places such as India, Ireland and Singapore. As long as they have access to doctors, country people do not give a damn about the country in which those doctors gained their qualifications.

Hon P.H. Lockyer: Not once have I heard an undertaking from medical students that they will go into the bush.

Hon KIM CHANCE: We welcome foreign trained doctors because they will go into the bush. Hon Phil Lockyer raises a very good point. What is different about Australian trained doctors today compared with those in recent years is that organisations such as the WACRRM have been able to convince medical students that they, and the community, will benefit from providing services in the country. That is why I appreciate the work of those organisations so much.

The fundamental point is that the overseas trained doctors have proved by their actions that they are prepared to serve in towns such as Port Hedland, Lake Grace and Ravensthorpe. I gave an example in the debate in 1994, which was relayed to me by Ian Goldfinch, a Ravensthorpe shire councillor, that six of the eight doctors located closest to Ravensthorpe had been trained overseas. He said very clearly that, if there were any threat to entry of foreign trained doctors, country people would be badly disadvantaged. The assurance was given in the 1994 debate on the Medical Amendment Bill that the effect of the legislation would not be to deny rural Western Australia access to doctors. I have quoted once before from that initial statement which is at page 6073 of *Hansard* of 26 October 1994.

Hon Peter Foss: It does not stop it.

Hon KIM CHANCE: No, but I want to set the scene very carefully. I referred to the fact that I had spoken to the then Minister for Health, Hon Peter Foss, and said -

He reassured me that the present situation will not be made worse by this legislation. His view is that the availability of doctors will even be improved as a result of this legislation. I do not think I exaggerated.

Hon Peter Foss interjected and said, "No, that is fine." I am not suggesting for a moment that Hon Peter Foss misunderstood what I was saying or in any way misled us, because that was the situation at the time. What that underlines, and why I quoted it again, is that it was recognised on both sides of the House that it was necessary to ensure that that access to foreign trained doctors continued. The decision made by Dr Wooldridge completely negates that assurance given and agreed to by both sides of this House. I would like to think that Hon Peter Foss feels as betrayed by Dr Wooldridge's action as I do, and as will every country person who understands what this decision will mean.

Apparently not all members of the Australian Medical Association agree with the decision made last week regarding Australian trained doctors. Today I received a fax from Dr David Playford that seriously challenges the fundamental assumption that Australia has too many doctors. I will run through this, because it is a Western Australian point of view. Dr Playford states that there is not an oversupply of general practitioners in Perth, and the ratio is one GP for every 1 450, which is the Royal Australian College of General Practitioners' ideal. Dr Playford states that there is a serious undersupply of GPs and specialists in rural areas. The AMA, or at least one part of it - Dr D. Playford from the Royal Perth RMO Society - challenges the fundamental principles on which Dr Wooldridge's actions have been predicated. I have run out of time; however this Parliament should send a clear message to the Western Australian Minister for Health that it will not accept the actions of the federal Minister and we need him to bat for this Parliament and country people.

**HON PETER FOSS** (East Metropolitan - Attorney General) [2. 54 pm]: We must distinguish between rural and remote areas of Western Australia. In remote areas the medical services are generally provided by salaried medical officers. The refusal to give out provider numbers will probably be of benefit to those areas, because people who are unable to get provider numbers will continue to function as salaried medical officers. Therefore, the supply of people looking for jobs as salaried medical officers will probably increase. Many years ago that was the situation with salaried medical officers in our hospitals. With Medicare anybody can go out and beat the bush and the money will be paid by the Federal Government as opposed to obtaining a reputation and eventually making some money. As a result of Medicare people did not go into that service.

We must look at how this decision can be used and what effect it will have. I do not agree that it will threaten the provision of services in remote areas; it may in fact increase them. The other area in which we have a serious problem is the psychiatric area. There has been a major change in the method of practice. For many years all psychiatrists not only learnt their speciality through serving in state hospitals, but it was usual to spend something like five, 10 or even more years within the Public Service providing psychiatric assistance to people who were seriously psychiatrically ill. One of the problems we have had is that not only is there a shortage of such specialists, but those there are have a tendency to move into private practice, where the practice tends to be easier than it is in the state hospitals. That has had an aggravating effect, because as more people move out of the public hospitals the pressure goes on those who remain and not only is the work hard because of its content, but also it becomes even harder because of the number of people who are carrying it out.

The area of psychiatry which is probably better served - Western Australia still has a shortage - is the less seriously ill patient area. The more seriously ill people tend to end up in our psychiatric hospitals and we cannot serve them.

I hate to use these words, but the easier or softer end of psychiatry is better supplied because it is easily supplied. Medicare pays most of it and the type of patient is not as seriously difficult to deal with and the conditions of service and remuneration are considerably better. That is an area where we will again find the change may be of benefit to us, because it will put people back into the Public Service as salaried medical officers rather than allowing them to go out on their own as practitioners from a very early age and stage of practice. There are some disadvantages in practising at a very early stage of practice. In many areas it would be beneficial if people had a period of time under supervision which was longer than that which was absolutely required as a minimum by law.

Hon Kim Chance: Will Health Department budgetary considerations not restrict that? If more people are coming out of medical school, wouldn't you have to make room at the top?

Hon PETER FOSS: Currently we must fill SMO positions in remote areas. That is where we use SMOs.

Hon Kim Chance: In psychiatric areas?

Hon PETER FOSS: The big problem is getting people.

Hon Kim Chance: It is the same problem.

Hon PETER FOSS: We are prepared to put money in, but we need people. The harder it is for people to go into private practice with a Medicare provider number, the better we are able to retain those people in our service. It is a matter of how it will be used. I can see that the simple argument the member makes could be the answer. However, there are some indications to the contrary. Let us consider the differences between Western Australia and the rest of Australia. I believe there is a shortage of medical practitioners in Western Australia. We have always taken the attitude with regard to OTDs that Western Australia should be treated separately, certainly with regard to any restrictions that might be put on graduates. However, once people graduate and go into the country they tend not to stay in those areas where they are needed. Melbourne, and Victoria generally, are classic examples. Victoria has an enormous oversupply of city doctors and an undersupply of country doctors. We have a general undersupply of doctors, yet of all the States Western Australia is best served in the country. We are now moving to serve the remote areas better with specialist care. The other States think we are mad even to talk about working on the specialist shortage. They need to get basic doctors before specialists. We are streets ahead.

Hon Kim Chance is right that the Country Medical Foundation, the Western Australian Centre for Remote and Rural Medicine and all the programs that have been put in place under successive Governments have made the difference. It is not a matter of limiting the availability of Medicare numbers, it is providing the programs to attract our graduates to that area. We will have problems in those areas whether doctors are overseas or locally trained, and whether there is an oversupply or undersupply, because of Medicare. That has taken away the capacity to control the market. Doctors can open in the city; put up a sign saying they will bulk bill; advertise and draw the people and service them. I hesitate to say they will overservice, but overservicing is a strong possibility in Melbourne and Sydney. That is all paid for by the Federal Government. The problem is that the more money is sucked into that area, the less money there will be for solutions such as WACRRM, and our program for specialist locums. I would like to see the selective use of Medicare numbers; Medicare numbers that are available only in the country.

We need realism on the part of the graduates to accept that is where they must go. Why should we not say that if they want to be medical practitioners, if they graduate and qualify nobody will stop them; however, if they want the Government to pay for them they must go where the Government needs them. It would be perfectly fair to say that Medicare provider numbers are available for people who are prepared to go to the country.

Hon Kim Chance: I have no argument. How can we convince Wooldridge?

Hon Tom Helm: Why is Mr Prince not saying that?

Hon PETER FOSS: He is.

Hon Kim Chance: He needs to say it more loudly.

Hon PETER FOSS: I do not believe that merely stopping Medicare provider numbers and OTDs will necessarily have the effect the Leader of the Opposition proposes. Properly handled in the remote areas, it will drive more people to look at the state service as a way of earning their living and practice. It is different in remote and rural areas. It is time to stop wasting Medicare funds on something that is driven by the provider. We all know the big problem is that most of the money that is spent on medical care in this country is determined by doctors, not their patients. The doctors say where the money will be spent and how much will be spent. This sort of thing must be attacked. The right place to start is to look at the Medicare numbers because that is where the blank cheque is handed out. The cheque should not be completely blank. It should have written on it something to the effect "for payment

only in rural areas", "for payment only in remote areas" or "for payment only in psychiatry". In other words, it is a purchaser-provider arrangement.

It is time the Government started dictating how the money is spent. Leaving an open cheque on provider numbers and the capacity for doctors to come into this country does not solve the problem. All that does is result in a 1 per cent or 2 per cent spinoff which could be used in the areas referred to by the member. However, it does not tackle the essential problem. If I were Dr Wooldridge I would be saying, "I will cut out all those provider numbers, but they will be available in certain areas." In other words, we would have exactly what this Government legislated for in 1994. I understand the problem with that is the limitation of the federal Constitution on what is called "civil conscription". I have offered a solution to that as well; that is, the money be paid to the States and the States can offer it. Nobody would be given the provider numbers, a general purpose grant would be paid to the States and they would be expected to provide a particular type of service in the country. I offered this in a number of areas including pathology. I offer that suggestion because the States can often do what the Commonwealth cannot. What Dr Wooldridge has done is the first step, but there are more steps to follow.

**HON TOM HELM** (Mining and Pastoral) [3.02 pm]: One could say that Hon Peter Foss chose the wording of this motion!

Hon Peter Foss: It is like a Dorothy Dix.

Hon TOM HELM: That is right. Hon Peter Foss obviously agrees that it is a bilateral issue and I am glad Hon Kim Chance brought it to the attention of this House. During the debate on the Medical Amendment Bill I recall Hon Peter Foss saying, "Hon Tom Helm, you'll either have foreign medical doctors whose qualifications are first class, or you won't have any at all." I sat down somewhat chastened because the people in rural and remote areas want doctors and the best available. It appears that the initiative of the State Government was really the initiative of the federal Labor Government. It is probably one of the best things that has been done for regional Western Australia.

Hon Peter Foss: It had nothing to do with them.

Hon TOM HELM: I will not go into that. Nonetheless, it was the initiative of the state Liberal Government.

Hon Kim Chance: The mutual recognition legislation drove the 1994 Bill.

Hon TOM HELM: It was almost uniform legislation.

Hon Peter Foss: The former Government was proposing a reduction in the number of general practitioners and we applied for an exemption.

Hon TOM HELM: The Opposition was convinced from the arguments put during the debate on that Bill that it was the best thing for this State. A newspaper article put forward a different view, and the Minister agreed that was the case. Problems needed to be addressed and consideration was given to the provider numbers, which is what the Federal Government is now proposing.

Hon Kim Chance has hit the nail on the head. He said that it was a matter of bending the knee to one of the most powerful unions in this State and he was referring to the Australian Medical Association. I take members back to the debate in this place when the then Metal Workers Union raised an objection to 10 Filipino fitters being brought into this country to work for a fabrication business when local tradesmen were quite capable of doing the job. However, the Filipino fitters were prepared to work on an individual contract basis while the Western Australian fitters were not. This case is a little different, because the President of the AMA has gone to the Federal Government and has been given virtually what he asked for. It is crazy.

In the couple of minutes I had to research this issue I spoke to Fred Riebeling, the member for Ashburton, and he told me that, for the past 18 months, there has been only one doctor in Tom Price which has a population of 4 000. That doctor has an enormous amount of work and it will not be long before he is suffering from burnout. One thing is for sure, the north of this State is short of doctors. Even though it is short of doctors, the quality of medical care cannot be questioned - it is second to none. However, the doctors in rural and remote areas are overworked and they are killing themselves.

Karratha has eight doctors for a population of between 12 000 and 14 000. At Christmas time four of those doctors will leave the town and it will be left with only four doctors. Since the inception of Karratha there has been a major problem with attracting medical practitioners to the town. When I lived in the town from 1980 to 1986 the Nickol Bay Hospital was built and the town was crying out for general practitioners. The doctors who decided to go to the town were able to earn a fortune. The minimum pay for a five day week was in the vicinity of \$300 000 per year which is not a bad rate of pay! I suggest Karratha is not a bad place to live and to bring up children. The problem

is that doctors will not stay in the town. The doctors who work in the metropolitan area are of the opinion that the rural and remote areas have huge disadvantages. I am sure that if they carefully considered the issue they would find that the advantages would outweigh the disadvantages.

It is not good enough to say that foreign doctors and graduates will be refused provider numbers. The result will be that the pool of doctors who are prepared to work in the country will be reduced. On the one hand, I can criticise the AMA, but on the other, I do not blame it for displaying its militancy and being able to persuade the Minister to take certain action. The AMA has, to a great degree, been involved in encouraging doctors to work and live in remote areas because it is able to find suitable jobs with good remuneration for its members. Now, it is taking a different tack and is considering reducing the number of members so that those remaining have the ability to earn a very good salary in a place in which they want to live.

I do not agree with members opposite that people's access to Medicare will be reduced. We must genuinely address the problems of overservicing. It is illegal to overservice and doctors are regularly picked up for doing that. In an effort to prevent that, the provider numbers should be reduced, but it is tackling the problem from the wrong end. If doctors are encouraging people to use their services more than they should, surely that is a matter which should be addressed in isolation. We should not say that the provider numbers will be reduced in an effort to reduce the impost on the funds available for people who want to use the Medicare services. It is a joke.

During the debate on the Medical Amendment Bill, this Administration presented some cogent arguments. The Opposition argued that the best way to address the problem of isolation that this State faces was to ensure that people who were not born in Australia but had the necessary qualifications could practise in Western Australia. We were able to convince the Federal Government that that was the way we should go. We now have a set of circumstances which is entirely the opposite. It is a joke. We agreed in the first place. *Hansard* shows that Hon Peter Foss put up a good argument, and so did Hon Kim Chance, who was the lead speaker for the Opposition.

I was convinced during that debate that it was not the case that in some quarters we had what might be considered second-rate doctors, and that the Australian Medical Association would not allow a doctor who did not have the appropriate qualifications to practise in this State. However, we did believe that Western Australia was being treated differently from the remainder of the country and that we did not have the number of medical practitioners that we should have. We watched the number of medical practitioners wither before our eyes because of the amount of work they had to do. Therefore, this Bill was seen as the way to go. I will take some convincing that this federal impost, this agreement between the AMA and the federal Minister for Health, will not affect our rural areas. There is no mention of that in the Minister for Health's press release. The worst thing is that the Minister for Health is not protesting, and neither is he putting forward the proposals that have been put by Hon Peter Foss, which certainly have some merit, but is sitting pat and doing nothing; in the meantime, people in remote areas, including doctors, are being disadvantaged.

**HON B.K. DONALDSON** (Agricultural) [3.13 pm]: I am delighted that the Leader of the Opposition has raised this issue today as an urgency motion because it has enabled the thoughts of different people in this House, including the Attorney General, to be flushed out. The Attorney suggested that medical provider numbers be reassigned to particular areas. We have approached the Minister for Health about that matter, and he has taken it on board, and I believe he will discuss the idea with Michael Wooldridge, because it has also been raised in the Eastern States. Hon Kevin Prince has recognised that there is an opportunity to make medical provider numbers available in country regions. Unfortunately, I do not have with me a list, which makes interesting reading, of the number of doctors in the central eastern and northern wheatbelt regions and the number of people in the catchment area that they service. That problem has existed for many years; it has been talked about since 1986 when the inquiry by Professor Max Kamien was established. Since that time, substantial advantages have flowed to country areas from some of the programs that have been put in place, and that is to the great credit of the Western Australian Centre for Remote and Rural Medicine and the Country Medical Foundation, to which Hon Peter Foss alluded.

The other factor is the placement of country students in the medical faculty at the University of Western Australia. It was a major breakthrough for that faculty to consider for admission students whose Tertiary Entrance Examination score was a few points below that of their counterparts in the metropolitan area, not because of the failure of their teachers, but because there is not the competition in the classroom to encourage those students to obtain better results.

Hon Derrick Tomlinson: And the requirement that final year medical students do some work in a rural practice.

Hon B.K. DONALDSON: That is what is happening, and that is part of a national program. New South Wales has been looking at what Western Australia has put in place so that it can address its problems, because New South Wales and Victoria are 10 years behind Western Australia. I am not being parochial in saying that; it is a fact of life.

Medical provider numbers is an interesting issue. There are many multi-doctor practices in medical centres around the metropolitan area. However, many of those centres do not open after 9.00 pm. Anyone who visits the accident and emergency sections of our teaching hospitals will see the number of cases that come through the doors every night of the week, for all sorts of reasons. People may come in with a tummy ache that they have had for two or three hours but have decided that they need a check up. Those people are loading up our public health system and the accident and emergency sections of our major teaching hospitals. Members who do not believe me should go and see what is happening. The multi-doctor practices at medical centres should be on a roster system to ensure that they earn the blank cheque that they are given. They would remain open for longer hours than they are presently if they were not given that blank cheque by the Federal Government, because they would have to compete for business. Their provider numbers should be removed if they are not prepared to remain open for longer hours.

I am delighted to hear the Attorney General give tacit support to the idea of assigning medical provider numbers to country regions. In Merredin, there is justification for three doctors -

Hon Kim Chance: Just.

Hon B.K. DONALDSON: It is coming close; it is lineball. Let us say two doctors. We now have plenty of work for two doctors in Merredin. Two medical provider numbers should be assigned to Merredin. They could be vested in the health board or the shire; it does not really matter. A doctor who goes to Merredin should be able to operate on that medical provider number if he remains there for three to five years. A far better locum service is now being delivered through WACRRM. Once upon a time, many local general practitioners in country areas had to battle to take a holiday, to do a refresher course to improve their skills, or to do post-graduate research, which many of them wished to undertake, because of the difficulty and cost of getting a locum. They said that because of what a locum charged to come to a country town, they had to work for the next three months to pay the wage of that locum who had taken their place. That caused many doctors to leave country areas. That is an important issue, and the Minister for Health is looking at the situation and is talking to the federal Minister, Michael Wooldridge, about it.

One night when I was driving home from the country, I was listening to Tony Delroy on ABC Regional Radio, and someone rang from Queensland and said he had put this idea forward. He mentioned that the AMA had listened to that program a couple of nights previously and had cried foul because it believed it was an invasion of private enterprise. However, when doctors are getting a blank cheque, which is what it boils down to, they leave themselves open to accusations of over-servicing. The pharmaceutical benefits scheme is under great strain simply because we are the greatest pill poppers in the world. I do not know whether that is part of that over-servicing, and I am not qualified to say, but it has been alleged that that is happening.

We need to ensure that the programs we have put in place continue to work. The previous Government created scholarships to assist the Country Medical Foundation, which was set up by local authorities in country areas in Western Australia, and provided about \$37 500 on a dollar for dollar matching basis. It has provided a number of scholarships to many country students. A time frame is in place. By the time they went through the medical faculty and did their internship at the hospital, many would not be ready to go out as general practitioners in a country practice. They need that additional experience. There is nothing peculiar with that. They come across a wider range of health issues than a GP in Perth who can readily refer patients to one of his colleagues or a specialist. Country doctors must be far better skilled than some of the GPs in Perth. As Hon Derrick Tomlinson rightly pointed out, certain rural practice medicine is taught at some of the hospitals that have been identified as part of the internships.

Hon Derrick Tomlinson interjected.

Hon B.K. DONALDSON: Working with doctors has been identified in those country hospitals. Western Australia is doing well. It has for a long time relied on overseas doctors filling those vacancies. It is frustrating for local communities when they cannot replace a medical practitioner. We must consider seriously the role of medical provider numbers. They can be used effectively to ensure the delivery of health services and that people are not disadvantaged by living away from the metropolitan area.

I welcome the opportunity to say a few words on this matter this afternoon. I am pleased the Attorney General supports the submissions made to the Minister for Health, Kevin Prince, in the past few weeks on medical provider numbers being assigned to towns in country or remote areas.

**HON P.R. LIGHTFOOT** (North Metropolitan) [3.21 pm]: I appreciate the opportunity to say a few words again today. I agree with Hon Kim Chance, as I find myself doing often in these urgency motions; however, of course, I invariably qualify that. No doubt exists that there is a shortage of doctors in country areas. That is based on the figures per capita of doctors in the urban areas compared with per capita figures for the rural and outback areas. They tell the story. However, the real problem is the number of doctors wanting to come to Australia. Six hundred foreign doctors want to come to this nation every year, and if restrictions were not imposed, probably more than 600 would

come. It is not just doctors who want to come to this place: Lawyers - all the major firms on the Terrace have foreign lawyers - accountants and members of all the professions want to come to this country. I am referring not just to young professional people, but to professional people of all ages, genders, colours, ethnic groups and religions who want to come to Australia because Australia is a wonderful country. I will not harp on that. Our forebears - the pioneers; the people who built these foundations - have made it so attractive that foreign doctors want to set up here for life.

The taxpayer assiduously fills the Medicare trough each evening. It is bottomless. Doctors can come here, get a Medicare provider number and practise here, and be almost guaranteed a significant income. However, the tragedy of it is that most, not all, of those doctors come from countries that could use them. In some instances, full fee paying students from overseas who obtain their medical certificates in tertiary institutions throughout Australia opt to stay here instead of going back to their countries of origin because of the standard of living in this country and because Medicare is a bottomless well for doctors. As Dr Wooldridge, the federal Minister for Health, said, of those students who come here and graduate as doctors, some come from places such as India, Fiji, Sri Lanka, Egypt, and Lebanon that desperately need them. I do not believe that it is up to us to entice and encourage doctors from Third World countries, countries other than the 25 or 26 in the Organisation for Economic Cooperation and Development, to stay in this country. That has a tinge of immorality about it. We should encourage those doctors to come here and get their training because it is a damned good country to be trained in. Let us not forget it; let us not sell our country short all the time. However, let us not say, "Welcome to Australia. Take what we have. Come and sup at our table. If you want to stay, you can; don't worry about your own country." This is as much a question of morality as it is of a perceived oversupply of doctors in Australia, if we consider it across the country and not necessarily in outback, rural or urban areas. If we do that, we will find the reason these doctors who want to come to Australia should be encouraged to stay in their own countries, administer to their own people, and take their Hippocratic oath seriously, and not chase the dollar. Everything these days seems to boil down to the bottom line. It concerns me as a politician that the medical profession seems to be concentrating these days more and more on the bottom line and less and less on the Hippocratic oath; less on what they can do for the people and more on what the people can do for them. That is something of a tragedy.

During the 1980s the then Labor Government shut down teaching hospitals in major country centres. In retrospect that was a mistake. We do get more for our dollar as it is cost effective to build bigger training institutions in certain areas. Because 75 per cent of the population of this State lives in the metropolitan area, invariably better training and specialist services are offered here because the dollar can be concentrated in a smaller area. However, I believe that Kalgoorlie Hospital should have stayed as a teaching hospital. That change is one reason there is no specialist infrastructure left in places such as Kalgoorlie where kids who want to join the medical profession, not necessarily as doctors, can stay and be trained as nurses and do postgraduate work after their nursing training. The dramatic change to that hospital was a mistake. I like to think that this Government may show some initiative and reinstall teaching hospitals in those major rural areas and allow kids who have a bent towards that profession to stay there instead of either opting for other training or choosing to come to Perth, and, like foreign doctors, staying in Perth where the big dollar is and where the most attractive bright lights are when their training has finished.

I do not believe what Hon Kim Chance said - I said I would qualify my support - about there being a slavish adherence to the Australian Medical Association lobby by the federal Minister for Health. The federal Minister is genuine. He is a medico, as Hon Kim Chance knows. He has the needs of all people genuinely at heart. I do not think any political decision he makes is a priority one. The decisions he makes are based on getting the best for the dollar that comes out of Medicare and the best for the patients who subscribe to Medicare through their taxation. The doctors who come to Australia must be regulated to some degree. Hon Bruce Donaldson spelt out that Medicare provider numbers should match local areas; that is, local governments should be given Medicare provider numbers according to the size of their populations. That may be one way we can get doctors out of the cities and into the bush areas. I do not want that to sound as though there is a major concern in country areas. There is some concern; however, I do not think it has reached the level at which we must start conscripting doctors for those areas. Western Australia has excellent air ambulance services. One of those is the Royal Flying Doctor Service. One of the reasons we were concentrating on spending on medical research through teaching hospitals in the Perth area was that we had fast planes which brought in people instead of leaving them in the major centres. I commend the Royal Flying Doctor Service for the way in which it fills its part in modern day medical administration by bringing patients from areas, sometimes several thousand kilometres away, to Perth where treatment is second to none in the world.

[The motion lapsed, pursuant to Standing Order No 72.]

## **EQUAL OPPORTUNITY AMENDMENT BILL**

### *Introduction and First Reading*

Bill introduced, on motion by Hon J.A. Scott, and read a first time.

*Second Reading*

**HON J.A. SCOTT** (South Metropolitan) [3.31 pm]: I move -

That the Bill be now read a second time.

If enacted, the Bill will give recognition to the basic human right of a hungry infant to be fed. In addition, mothers will have the same rights as other citizens to travel and have access to public places without fear of harassment or discrimination. Society has generally accepted that breastfeeding is a natural and even preferably desirable way to nourish infants. To the infant, breastfeeding provides much more than nourishment. The sense of security and bonding to the mother is a vital part of an infant's psychological development. Progesterone in the milk passes on antibodies to many illnesses the child will encounter in its life - a factor which should not be lost on our economic rationalists.

The alternatives to breastfeeding in public are bottle feeding or not feeding the baby, which will cause great stress to the baby, parents and all within earshot. Feeding from a bottle is more difficult, less hygienic and where breast milk substitutes are used infants can develop allergies. The most prohibitive solution is for nursing mothers to stay home until the child no longer requires breast milk. Clearly this is an unacceptable and unworkable solution, particularly in the case of single parents. Whether or not it is accepted that breastfeeding is somehow indecent, the benefits and rights of the infants and mothers breastfeeding in public far outweigh the argument that breastfeeding in public is an indecent act. This Bill if enacted will enshrine the rights of mothers and infants in law and prevent the regrettable incidents of the past when nursing mothers have been put off public transport and forced to leave restaurants and other public places.

This is not a Bill to embarrass the Government and it holds no hidden agendas. I ask all members for their support. I commend the Bill to the House.

Debate adjourned, on motion by Hon Muriel Patterson.

**RESTRAINING ORDERS BILL***Introduction and First Reading*

Bill introduced, on motion by Hon Peter Foss (Attorney General), and read a first time.

*Second Reading*

**HON PETER FOSS** (East Metropolitan - Attorney General) [3.33 pm]: I move -

That the Bill be now read a second time.

Western Australian legislation for restraining orders was introduced in 1982 as an amendment to the Justices Act. The 1982 amendment replaced the provisions relating to recognisances to keep the peace which had been in the Act since 1902. Those amendments provided for the court to impose an order "to keep the peace" to deal with matters to afford protection for individuals against threats of or actual violence. The legislation also gave the police power to take action for breaches and prescribed penalties for the criminal offence of breach of a restraining order. The 1982 legislation was intended as an interim measure until more comprehensive legislation could be framed. Subsequently, the Criminal Law Amendment Act increased penalties for breach of a restraining order and classified the offence of breach of a restraining order as a "serious offence" under schedule 2 to the Bail Act. The Criminal Law Amendment Act also created the offence of "unlawful stalking" and appropriate penalties for that type of offence.

Recent amendments to the Justices Act provided for the registration of restraining orders made in another State or Territory. Most recently, the soon to be proclaimed Sentencing Act 1995 includes provision for a court, in addition to passing sentence, to make a restraining order in respect of an offender even though a complaint has not been laid. Despite these various important changes, the fundamental basis of the restraining order provisions has remained unchanged since 1982. Importantly, numerous reviews have commented on deficiencies of the present statutory arrangements and administrative response which have affected the value of restraining orders as a protective measure. This is a matter of particular concern as restraining orders play a central role in the legal response to domestic violence by affording what is intended to be ready access to legal protection for victims. In addition, the legislation will introduce improved protection to children from paedophile activity.

Family or domestic violence is rightly a matter of increasing community concern. Statistics such as those reported in May 1995 by the Crime Research Centre at the University of Western Australia confirm that incidents of domestic violence are not confined to isolated cases. The problem is very serious and very widespread and demands a multi-faceted response. Elements of prevention, legal intervention by the police and the courts, advocacy, counselling and

health care for victims, treatment of perpetrators, provision of crisis accommodation and other support of victims are involved.

No single agency has a mandate in all of these areas. This complexity demands a whole of government response in collaboration with non-government agencies. There is a need for the development of clearly defined policies and procedures both within and between agencies. These and other matters were addressed in the report of the Family and Domestic Violence Task Force, and subsequently in the Family and Domestic Violence Task Force Action Plan which was launched in November 1995. The draft Bill is a further development in support of these important initiatives.

In February 1995 the then Attorney General announced a review to examine all aspects of legislation and procedures relating to restraining orders and to make appropriate recommendations. The review set out to examine current legislative provisions and procedures; relevant interstate legislation and procedures; and the findings and recommendations of previous reviews. The review was conducted by an inter-agency reference committee chaired by the Ministry of Justice, and it reported to the Attorney General in September 1995. An agenda of legislative and procedural reforms was identified to streamline the process of applying for restraining orders and to increase their effectiveness.

This Bill gives effect to recommendations arising from that review. Importantly, the procedural changes will be implemented as part of the Government's response to the Family and Domestic Violence Action Plan.

In overview the Restraining Orders Bill -

- distinguishes between violence restraining orders which relate to protection from personal violence, and misconduct restraining orders which relate to such matters as damage to property and disorderly conduct;
- provides for a restraining order to be made to prevent a person loitering near schools or places frequented by children if that loitering causes either the children or their parents to fear for the safety of the children;
- includes a non-exclusive list of conditions to assist the courts and to promote consistency;
- requires that firearms be surrendered or seized when a violence restraining order is made, and allows the court to order firearms to be surrendered when a misconduct restraining order is made;
- provides for applications for violence restraining orders to be made by telephone in urgent cases;
- allows for the clerk to authorise oral service of a restraining order if reasonable efforts to effect personal service have been unsuccessful and allows for the court to authorise any alternative method of service if the court is satisfied that the respondent is deliberately avoiding service in order to defeat the restraining order;
- makes new arrangements for hearings and for variation or cancellation of orders;
- requires the involvement of a "responsible adult" in restraining order proceedings involving juveniles but prohibits the making of a restraining order against children under the age of 10;
- provides for the court to be informed of any family order or application for such an order under the Family Law Act of the Commonwealth or the Western Australian Family Court Act; and
- prescribes penalties for breaches of orders.

I will comment on each of these matters in turn.

Under current law, the grounds for making a restraining order reflect a mixture of public interest and personal protection concerns. In order to more clearly reflect the purpose of the order and to ensure priority when an order is sought for protection against personal violence, the Bill distinguishes between violence restraining orders and misconduct restraining orders.

A violence restraining order is intended to provide protection for a person from a respondent who, unless restrained, is likely to either -

- commit a violent personal offence against the protected person; or
- behave in a way which would cause the protected person or another person, such as the parent making application on behalf of the protected person, to fear that the respondent will commit such an offence.

The grounds for a misconduct restraining order are different and include the respondent being likely to, unless restrained -

behave in a way that is intimidating or offensive to the applicant;  
 cause damage to the property of the applicant; or  
 behave in a way that is, or is likely to lead to, a breach of the peace.

An application for either kind of restraining order may be made by a police officer or other authorised person - a police officer or a person who is, or who is in a class of persons that is prescribed for the purposes of this definition; the person to be protected or, in the case of a child, by a parent or guardian of the child, or, in the case of a person for whom a guardian has been appointed, by the guardian.

In the interests of consistency, the Bill requires the court to have regard to a range of matters in considering whether to make an order and the terms of the order. These include matters relevant to the applicant, to the respondent and to others who may be affected, such as children of the parties concerned.

To enable the restraint of a person who, unless restrained, may loiter in the vicinity of a school, game arcade, or other place where children may congregate, the Bill provides that the court, in addition to other matters, is to have regard to any criminal record of the person and any similar previous behaviour of the person. This provision is based on similar provisions in South Australia relating to paedophile restraining orders. However, the provision in this Bill is broader than its South Australian counterparts in that they also provide a remedy relating to loitering behaviour.

Applications may be made in person, or, in the case of violence restraining orders, by telephone where the circumstances or urgency of the situation are such that an application in person would not be practical. An application in person may be made to a Court of Petty Sessions, or, if the respondent is a child, to the Children's Court. A telephone application may be made only to an authorised magistrate by an authorised person such as a police officer or by a person appointed as an authorised person. If necessary, to facilitate service of any order which may be made, a police order may detain a respondent during a telephone hearing for a maximum period of two hours.

If the application is for a violence restraining order, the applicant may choose to have an ex parte or initial hearing in the absence of the defendant. At a hearing in the absence of the respondent, the court may make a violence restraining order, dismiss the application, or adjourn the matter to a mention hearing. If the order is for more than 72 hours, the respondent may object to a final order being made, in which case the matter proceeds to a defended hearing. If the application is for a misconduct restraining order, the matter can only proceed by way of summons of the defendant to court, thereafter to an order or defended hearing depending upon the applicant and upon the objection or otherwise of the respondent.

To assist the courts and to promote consistency, the Bill includes a non-exclusive list of the sorts of restraints which may be imposed on the respondent. The Bill allows the court to impose such restraints as the court considers necessary on the otherwise lawful activities of the respondent to prevent the respondent from engaging in the conduct which caused the application to be made. In the case of a violence restraining order, these include restraints necessary to prevent the respondent committing a violent personal offence against the applicant or behaving in a manner which could reasonably be expected to cause the applicant, or the person making application on behalf of the applicant, to fear that the respondent will commit such an offence.

A respondent may be restrained from being on or near premises where the applicant lives or works; being on or near specified premises or in a specified locality or place; approaching within a specified distance of the applicant; communicating or attempting to communicate with the applicant; preventing the applicant from using personal property reasonably needed by the applicant; and causing or allowing another person to engage in such conduct.

If the court makes a violence restraining order, it must impose a firearms order. The court may also impose a firearms order in making a misconduct restraining order. A firearms order prohibits the restrained person from being in possession of a firearm or obtaining a firearm licence except where the court determines otherwise.

Where a firearms order is made against a person who has access to a firearm in the course of his or her usual occupation, the Commissioner of Police is required to notify promptly the person's employer of the order and that it is an offence for the employer to allow the restrained person to use or have access to a firearm in contravention of the order. When a violence restraining order is made at an ex parte hearing or by telephone, it will generally remain in force until the matter goes to a defended hearing or the respondent indicates that he or she does not wish to defend the order. It will then be made a final order which will remain in force for the period specified in it, or, if no period is specified, for two years. A violence restraining order obtained over the telephone has a maximum duration of three months. A misconduct restraining order remains in force for the period specified in it, or, if no period is specified, for one year. As a response to situations of "short term" violence, special provision has been made in relation to violence restraining orders - the duration of which is 72 hours or less. Such orders will lapse automatically if not

served within 24 hours and, having been served, are not subject to the defended hearing procedure. They will remain in force only for the period specified in the order.

Application may be made to a Court of Petty Sessions, or to the Children's Court where a child is bound by the order, for variation or cancellation of a final order. Such an application may be made either by the person protected by the order, a parent or guardian on behalf of the protected person, a police officer, or a person bound by an order. If an application is made for variation or revocation by a restrained person, the court must first hold a hearing to determine whether to grant leave for the application to proceed. The court may grant such leave only if it is satisfied that there has been a significant change in circumstances since the order was made.

At a hearing to consider variation or cancellation, the court may dismiss the application; make a new restraining order in addition to the original restraining order; cancel the original restraining order and make a new one; or cancel the original restraining order.

Summons relating to a restraining order may be served personally or by prepaid registered post. Personal service of restraining orders is required except in certain circumstances specified in the Act where the order may be served by registered post. Oral service may be authorised where reasonable efforts have been made to serve the order personally. Where the court is satisfied that a person is deliberately avoiding being served with a document, the person serving the document may take such steps as the court directs to bring the document to the attention of the person being served. A person bound by a restraining order who breaches that order commits an offence.

*Sitting suspended from 3.45 to 4.00 pm*

Hon PETER FOSS: The Bill proposes that a graduated range of penalties should apply: For breach of a violence restraining order, the penalty will be \$6 000 or imprisonment for 18 months; for breach of a violence restraining order of 72 hours or less, \$2 000 or imprisonment for 6 months; and for breach of a misconduct restraining order, \$1 000. In certain circumstances it is a defence to a charge of breaching a restraining order for the person bound by the order to satisfy the court that the person acted with the consent, as defined in section 319(2)(a) of the Criminal Code, of the person protected by the order. However, this defence is not applicable if the protected person is a child or someone for whom a guardian has been appointed.

The Bill also sets penalties for a restrained person who fails to answer or gives false information when asked whether he or she has access to firearms in the course of his or her usual occupation - penalty, \$2 000 or imprisonment for 6 months; and an employer, who has been notified that a restrained person is not to have access to a firearm, who permits that person to have such access is liable to a fine of \$4 000.

Other important reforms in the Bill include -

Where the respondent or person bound by the order is a child, a responsible adult is required to attend proceedings;

a person aggrieved by the decision of a court may appeal against that decision to the Supreme Court in accordance with Part VIII of the Justices Act 1902 or the Children's Court of Western Australia Act 1988 or the Commonwealth Family Law Act;

to avoid conflict with certain family orders made under the Western Australia Family Court Act, the applicant is required to notify the court of any family order or pending application for such an order; and the court cannot make a restraining order that conflicts with a family order if the court does not have jurisdiction under those Acts to modify the family order;

the court is not to order the applicant for a violence restraining order to pay costs to the respondent unless it considers the application was frivolous or vexatious;

the Bill requires the court to ensure that the protected person's whereabouts are not generally revealed as a further means of protecting a person protected by a restraining order; and

provision for the registration and recognition of restraining orders made in another State or Territory is transferred to this Bill from the Justices Act, part VIIA.

In conclusion, the Bill provides effective means to address the range of circumstances where a restraining order is an appropriate response to situations confronting individuals in our community. In particular, by creating a form of restraining order relating specifically to violence, the Bill is an important part of the Government's response to family and domestic violence and to paedophile activity. I commend the Bill to the House.

Debate adjourned, on motion by Hon Tom Helm.

**CRIMINAL CODE AMENDMENT BILL (No 2)***Returned*

Bill returned from the Assembly with amendments.

**STRATA TITLES AMENDMENT BILL***Receipt and First Reading*

Bill received from the Assembly; and, on motion by Hon N.F. Moore (Leader of the House), read a first time.

*Second Reading*

**HON N.F. MOORE** (Mining and Pastoral - Leader of the House) [4.04 pm]: I move -

That the Bill be now read a second time.

Members of the House will be well aware that there was immense public reaction when the Strata Titles Amendment Act 1995 came into effect in April this year. The reaction was not so much to what was in that Act, but was a result of the general community coming to understand what is a strata title and what is involved in owning a strata property. I say "the general community" because this learning process was not limited to strata owners, but applied to professional groups such as real estate agents and insurance companies.

As a result of this learning process, many strata owners discovered that what they legally own within their strata lots is very different from what they believed they owned. In most cases, they thought they owned the building and land that they occupied. However, in many cases the legal position is that the whole or part of the building and the land is common property, which is jointly owned with the other owners in the strata scheme. As a result of this misunderstanding, many owners, especially in small schemes such as duplexes and triplexes, were taking out individual insurance policies in the belief that "their" house was fully insured. The insurance companies did, in fact, fully cover the strata properties under these policies because they were also operating under a misunderstanding as to what a strata title covered.

One of the amendments in the 1995 amending Act removed the ability of the strata owners to agree that the strata company would not take out joint insurance of the buildings and public liability on the lots and common property. This obligation on the strata company could be removed only by an exemption from the strata titles referee. This amendment was made to the Act precisely for the reason that strata owners did not understand what they owned, and, consequently, the risks which they were taking by not taking out joint insurance. The amendment was designed to ensure that strata owners were fully protected against all possible risks, including those of which they were not aware.

I am sure that members of this House are now well aware of some of the possible risks. However, I will give an example anyway. In many cases, the roof of a strata home unit is common property, even where the two units are totally separate and freestanding. Let us assume that the two owners - I will call them Bill and Mary - each own a half share of the common property. If a storm dropped a tree on Bill's roof, he would make an insurance claim for the replacement of his roof. However, because he owns only half of the roof, the strict legal position is that his insurance company is obliged to pay out only half of the replacement cost. This may be so even though Bill was under the impression that he owned the whole of the home unit in which he lives. The other owner, Mary, as a joint owner of the common property, would also be liable for half the cost of replacing Bill's roof. Even if Mary had insured her house, under the same impression that she owns all of her house, she would not be able to claim on her insurance. This would leave Mary in the unenviable situation of being personally liable for half the cost of repairing Bill's roof.

I am sure that members of this House will agree that is not an acceptable situation. However, the situation does not arise if the strata owners who together make up the strata company have a joint insurance policy on all the buildings in the strata scheme, as well as a public liability policy. If there is a joint insurance policy, all possible liabilities of the strata owners will be fully covered. However, strata owners are concerned that their freedom of choice in relation to insurance has been taken away from them. In addition, there have been some instances where strata owners have had a great deal of difficulty in getting their neighbours to cooperate in taking out the joint insurance or paying their share of the premium.

Another way in which the owners could be fully covered under individual insurance policies is if the common property ownership of buildings and other areas is removed, so that those buildings and other areas become part of the strata lots and therefore individually owned by each strata owner. Once the ownership problems are solved, in the vast majority of cases individual insurance policies will provide adequate cover to protect strata owners against all probable risks. It will be apparent to members from what I have said that the concerns of strata owners as to the

joint insurance requirements currently in the Act cannot be addressed on their own, and can be adequately resolved only if the common property issue is also addressed. As a result of these problems surfacing earlier in the year, the Minister for Lands advised that he was reviewing the insurance provisions of the Act, and possible conversion options in relation to strata lots, survey-strata and conventional, or what has become commonly known as a green title.

To assist in this task the Minister appointed a Strata Titles Task Force to provide recommendations on each of these issues. I am pleased to report that the task force embraced its task with commitment and speed and has now provided its recommendations to the Minister for Lands on the insurance and strata and survey-strata conversion issues. I am also pleased to advise members that these issues are dealt with in the Bill. The task force has also agreed on proposals for conversion to green title, but I will deal with progress on that issue later.

In appointing the members of the task force, the Minister was concerned to ensure that there was a leading role for ordinary strata owners together with industry groups and Government, as well as strata owners whose concerns the review is seeking to address. The existing Strata Titles Consultative Committee is also to be commended for providing useful comment and feedback to the task force as it reached its decisions on the various issues. In the course of their deliberations, task force members also consulted with various representatives of state departments and local government authorities to obtain their views on the issues involved and possible solutions.

I turn now to the amendments in the Bill. The insurance and conversion options in the Bill are limited to what are called "single tier strata schemes". These are strata schemes in which no strata lot is above another strata lot, except in permitted circumstances. A single tier strata scheme will include a strata property which has a two or more storey townhouse or other building on it. The type of circumstance which will be permitted is where there are overhanging eaves, gutters or footings which intrude into space that would otherwise be part of an adjoining strata lot.

Essentially, strata owners in single tier strata schemes will, in each scheme, be given the choice of taking out individual insurance policies on their lots, or they may continue to insure through the strata company. In relation to insuring the common property, the strata company will still be primarily responsible for taking out a joint insurance policy. However, the strata company will not be obliged to take out a joint insurance policy in two cases: Firstly, if the only common property is cubic air and soil space in which there is no man-made structure, improvement or fences; secondly, the strata company will not be obliged to take out joint insurance if the owners agree by resolution without dissent not to take it out. Because of the potential risks to strata owners, any strata owner will be able to insist on joint insurance of the common property at any time.

The Insurance Council of Australia has advised that a single insurance policy could be made available to cover a strata owner's liability for his or her lot and the common property, if the conversion options are taken advantage of and only minimal common property, such as a shared driveway, remain. The amendments earlier this year also raised some questions in relation to the compulsory requirement for workers' compensation insurance. Workers' compensation insurance is compulsory only if the strata company is an employer under the provisions of the Workers' Compensation and Rehabilitation Act. The compulsory nature of this requirement is no different for owners of green titles. The only difference is that in strata schemes an owner may not be aware that another owner is employing a person on behalf of the strata company, so that all owners are liable for any accident that may happen to that employee.

The Bill makes it clearer that workers' compensation is compulsory only if the Workers' Compensation and Rehabilitation Act applies. It is up to the strata company to decide whether that Act does apply, but prudence would suggest that workers' compensation insurance should be taken out to protect against any possible contingency that might arise. The reference in the Strata Titles Act to workers' compensation insurance has not been removed as that would be misleading and might lead strata owners to believe it no longer applied to them. For those strata owners who have taken out joint insurance, the Bill provides that they may continue with that joint insurance without having to do anything further. The Bill contains a number of options in relation to conversion of common property within single tier strata schemes. Before detailing those options, I will make a number of preliminary points.

Firstly, I point out to members that the Act has always contained a mechanism by which the boundaries of lots could be changed, but this is a complex and costly procedure. The task force was charged with the task of coming up with a more simple and less costly procedure, which I am pleased to say it has achieved. Secondly, there are two main reasons why a number of options have been given. The first reason is to try to give strata owners different options so they can choose the option which will best suit the circumstances of their particular scheme. Not all of the existing schemes have the same common property problems, so there will be different solutions for different schemes. The second reason is that the different options will involve different costs. In some cases, there will be no costs at all; in other cases there will be some costs involved. Strata owners will be able to choose which option they wish to use depending on the costs involved.

Finally, the options are limited to all existing schemes and those which are registered before 1 January 1998. This will allow sufficient time for those new schemes, which are currently being developed and approved under the existing provisions, to become registered and then to take advantage of the conversion procedures. It is anticipated that the education campaign which will follow the passage of the Bill will have the effect that all new schemes registered after 1 January 1998 will avoid the problems which have occurred to date. I will now outline the various conversion options.

**Automatic Merger of Buildings:** The first conversion option applies to small strata schemes, being those which have between two and five lots. In those cases, the whole of the structure of the buildings shown on the plan will automatically be included within the strata lots six months after the amendments come into force, unless an owner objects within that period or the strata owners have already taken positive steps and used the second option to register a resolution. Because the boundaries are changed automatically, the strata owners are not required to do anything and no costs are involved. If an owner does not object within the six month period and can show good reason as to why they were unable to lodge an objection, an application can be made to the referee to order the reinstatement of the boundaries. The referee would order the boundaries to be reinstated only in exceptional circumstances.

**Merger by Resolution of Buildings:** The second conversion option is that strata owners may agree that the whole of the structure of the buildings - that is, including the roof, floor and walls which are shown on the strata plan - will be included within the strata lots. The Bill goes on to provide that this will include anything that is attached to the building that is prescribed by regulation. It is envisaged that such things as television antennas, hot water systems, air-conditioners, solar hot water panels and so on will be prescribed. If the necessary resolution is not achieved, there is provision for the referee to determine the matter. The resolution will be registered on the strata plan so that future purchasers will know what are the boundaries of the lot. Either of these two conversion options will be applicable to most schemes, but will be particularly useful for schemes registered under the 1985 Strata Titles Act because in most of these schemes the owners already own their backyards and the problem is only with parts of the building.

**Merger by Resolution of Land:** The third conversion option allows strata owners to agree to amend the strata plan to show additional buildings or extensions to buildings or to bring land, such as backyards, within the strata lots. This option will be useful to most of the schemes registered before 1 July 1985 under the 1966 Strata Titles Act, where the whole of the garden areas are common property. Again, if the necessary resolution cannot be reached there is provision for the referee to determine the matter. In this option, a plan will be required, although in some cases, the existing plan may be used. In most cases a surveyor's and valuer's certificate will be required, but the consent of the Western Australian Planning Commission and local government will not be required. The surveyor's and valuer's certificates will ensure that all of the strata owners' interests are properly and fairly protected. In particular, the surveyor will be responsible for ensuring that suitable provision has been made for the amenities currently enjoyed by the lot to continue to be available to the owner of that lot. For example, if there is a shared or common driveway in a duplex situation, the surveyor will have to ensure that each owner will continue to have the right to use it after the conversion process. Again, the resolution will be registered on the strata plan.

The final option contained in the Bill is that strata owners may agree to convert to a survey-strata plan. In this case, there is no provision for the referee to consider the matter if all the owners do not agree to convert. This is because there are some fundamental differences between strata schemes and survey-strata schemes. A modified survey-strata plan will have to be prepared and certified by a surveyor and valuer. Again, the surveyor will be responsible for ensuring that all necessary amenities will continue to be supplied to, or enjoyed by, the owners of the lots. If necessary, this may be achieved by the registration of statutory forms of easements which can be shown on the survey-strata plan. Again, the consent of the Western Australian Planning Commission and local government will not be required. Like the other options, the resolution will be registered on the strata plan so the change is recorded for all to see.

**Costs and Stamp Duty:** Some of these options will not cost strata owners anything. As no planning consents are required, there will not be any fees payable to those authorities. The only government authority which will be involved in the process will be the Department of Land Administration which is responsible for registering the changes on the strata plans. Cabinet has approved an exemption from the fees which would otherwise be payable to DOLA for registering documents provided for in the Bill.

In addition, the Bill provides that the document or documents giving effect to the changes are exempt from stamp duty if all that is happening is that common property is being divided in the same way in which it is currently used by the owners, and no other money or consideration passes between the owners. I understand, depending on the conversion option chosen, the costs will be relatively low. Normally these costs will be limited to professional fees of surveyors and valuers, and in some cases lawyers or settlement agents.

The involvement of surveyors and valuers in the process is necessary for the protection of the interests of the strata owners. Strata owners would normally have to pay in excess of \$3 000 to convert to conventional property, but using

the options in this Bill will cut that cost to about \$600. One of the specific concerns of the task force was to keep the costs of the options as low as possible without unduly compromising the integrity and, therefore, the value, of strata titled properties.

There is some possibility that there may be capital gains tax implications in the conversion process. This issue will need to be considered by strata owners before deciding to take action to agree or object to the application of the conversion options. Legal advice is being obtained on the issue of whether capital gains tax is likely to be generally applicable.

Once the issue of the removal of common property had been dealt with, it became apparent to the task force that it was necessary to minimise or remove the need for strata owners to deal with each other on other matters under the Act, as much as possible. The most obvious issue is the responsibility for fencing. Consequently the Bill amends the fencing provisions in the Act for single tier strata schemes and survey strata schemes. Responsibility for fences will now follow the principles of the Dividing Fences Act; that is, adjoining owners will share responsibility for a fence. If the adjoining land is part of a strata lot, the fence is the responsibility of the lot owner. If it is part of the common property, the fence is the responsibility of the strata company. These provisions will apply unless there is a contrary provision in the strata company's by-laws.

Again, these provisions have the effect of altering existing rights and obligations of the strata owners. Any owner may object to the alteration of the rights and obligations within six months, in which case the existing provisions will continue to apply. If an owner does not object within the six month period, there is the ability to apply to the referee for relief in exceptional circumstances.

Other amendments: As part of the review of these issues in the Act, the task force identified a number of other amendments which should be made to make the operation of the Act more user friendly. These amendments, which have been included in the Bill, include -

- (1) requiring all future strata plans to contain a statement in plain English about whether the internal or external surfaces of the buildings form the boundaries of the lots;
- (2) permitting the creation of certain easements on strata and survey-strata plans, which I mentioned earlier; and
- (3) giving certain powers to the referee to make orders for the reinstatement of a building where a portion of the building overhangs or intrudes into space that would otherwise be part of another lot.

Since the Strata Titles Amendment Act 1995 came into effect, it became apparent that a number of other technical and substantive amendments were required to be made to the Act as a matter of urgency. These are also included in the Bill and deal with such matters as -

- (1) modifying the requirements of management statements and plans of resubdivision;
- (2) facilitating the sale of lots off the plan;
- (3) clarifying the effect of certain resolutions made under the Act;
- (4) clarifying that exclusive use by-laws and grants did not require the consent of the Western Australian Planning Commission, irrespective of when they were made or granted;
- (5) permitting the registration of a survey-strata plan where it is approved on appeal to the Minister for Planning or Town Planning Appeal Tribunal; and
- (6) facilitating the recovery of insurance premiums in small schemes where no administrative fund is kept.

Green title: As I mentioned earlier, the Bill does not contain any provisions in relation to conversion to conventional or green title. Although the task force has given its proposals for the conversion to green title to the Minister, there was not enough time to deal with that issue in the Bill. The conversion options and insurance provisions in the Bill will go a long way to addressing strata owners' concerns and the Minister did not want to prejudice getting these amendments passed this year by waiting to complete the issue of conversion to green title. As the Minister has pointed out elsewhere, the issue of conversion to green title is not a simple one. It involves much more complicated issues than those which were required to be addressed to achieve the conversion options in the Bill. These issues need to be carefully considered.

As well as the task force's reaching a view on its direction for conversion to green title, I also understand that there have been productive discussions between the various government departments and authorities concerned, which are ongoing. The Minister is keen to achieve a result in relation to the issue of conversion to green title, and approval

has been given to the Department of Land Administration to draft a second Bill for introduction into Parliament as soon as it is ready. It is hoped that it will be introduced this year.

Members may be aware that there is currently a mechanism by which green titles may be issued in the place of some strata titles. However, a number of anomalies and restrictions currently are in place which means this option is limited to a very small number of strata schemes and it is also expensive. Further work is being done to remove or overcome those anomalies and restrictions in appropriate cases. However, I point out that conversion to green title is not likely to be available to all strata owners as it is anticipated that some schemes will not be able to meet even modified requirements for green titles.

Advice, mediation and conciliation service: As part of the reaction to the amending Act coming into effect earlier this year, there have been calls by many people, including members of this and the other House, for an advisory and conciliation or mediation service to be established. As soon as he was appointed earlier this year, the Minister for Lands requested DOLA to set up a strata titles telephone help line. Initially, the help line provided advice to strata owners on the changes in the amending Act and what they own individually and what is common property in their scheme. I am told that many of the calls being taken now are of a more general nature, with an emphasis on questions about management and meetings. It is proposed that this help line will continue to be available to provide advice on the changes in this Bill, as well as on general strata titles issues, in the future.

As members are no doubt aware, there is a strata titles referee, but the Act allows her to determine only formal applications for orders. What has been called for is a mediation or conciliation service which strata owners can use to try to resolve their differences without the need to make a formal application. The question of a mediation function is currently under consideration, although the advisory service may provide some basic opportunities for conciliation.

The Strata Titles Commissioner in New South Wales has some powers in relation to resolving certain disputes and currently there are proposals to widen those powers. Because it is early days yet, the Minister has asked DOLA to monitor the success of the New South Wales situation, as well as to establish what demand there is likely to be for a mediation service. Members can rest assured that an effective advisory service will be available to the general public on the changes to the Act which are contained in this Bill, and that proper consideration is being given to the need for a mediation service.

Public education campaign: Finally, the successful implementation of this Bill will depend in large part on an effective public education campaign. This campaign will need to provide information to strata owners in plain English on the changes in the Bill and the various options open to them. I understand the Minister has instructed DOLA to have available simple, easy to read information brochures and pamphlets on the changes, as soon as possible after the Bill is passed. A series of advertisements providing a summary of the changes will also be run.

It is anticipated that, to a large extent, strata owners will be advised by professionals, such as surveyors, about what the different options offer and which is most appropriate for their particular scheme. DOLA will be liaising with the various professional groups in the near future, now that the Bill has been introduced into Parliament, to provide whatever assistance it can to inform those professionals on the effect and implications of the changes to the Strata Titles Act.

In the longer term, a plain English strata titles guide will be published, which will deal generally with strata titles ownership and management issues. It will be a user friendly manual for strata owners. The Minister intends to continue to work closely with DOLA to ensure that, once the Bill is passed, as much information as possible is available to strata owners and other interested parties, in a format which is easy to understand and accessible. I am confident that this, together with access to the telephone help line, will give strata owners the information they need.

Three months ago the Minister for Lands promised strata owners that I would attend to their concerns about insurance and title ownership. This Bill provides options for strata owners which will effectively address the vast majority of their concerns and restore confidence in the ownership of a strata title property. I commend the Bill to the House.

Debate adjourned, on motion by Hon Graham Edwards.

## **SETTLEMENT AGENTS AMENDMENT BILL**

### *Receipt and First Reading*

Bill received from the Assembly; and, on motion by Hon Max Evans (Minister for Finance), read a first time.

### *Second Reading*

**HON MAX EVANS** (North Metropolitan - Minister for Finance) [4.26 pm]: I move -

That the Bill be now read a second time.

The Settlement Agents Amendment Bill amends the Settlements Agents Act 1981. This Bill complements and is introduced concurrently with, the Strata Titles Amendment Bill. Simultaneous amendments in relation to all strata titles issues will alleviate community concerns and frustration about the preparation of strata titles documentation so that settlement of strata titled properties can proceed smoothly and without delay.

The changes proposed make the system of prescribing by regulation certain documents relating to the Strata Titles Act, the Transfer of Land Act, the Bills of Sale Act and other relevant legislation more flexible and responsive to market needs, so that the community has speedier access to a range of conveyancing services in these areas. All documents that can currently be drawn or prepared will immediately be prescribed by regulation and all relevant industry and government bodies will be consulted before new documents are prescribed. Recent amendments to the Strata Titles Act have resulted in the introduction of many new documents, and members of the public have sought professional assistance in completing these documents. Currently schedule 2 of the Settlement Agents Act allows settlement agents to prepare only an application to register a strata plan.

The changes are supported by all three industry associations representing settlement agents and by other relevant industry bodies, including the Law Society of Western Australia Real Estate Institute of Western Australia. It has also been endorsed by the Settlement Agents Supervisory Board and the Settlement Industry Reference Group, which includes consumer representatives. In addition, other authorities, such as the Water Corporation, have recognised that if settlement agents could assist in withdrawing memorials, this would reduce demands on corporation staff, resulting in speedier settlements; for example, when broadacre land is divided into multiple lots, this measure will allow settlement agents to withdraw memorials on land after water charges have been paid by developers.

In framing the Bill, the Government has also been mindful of the need for settlement agents to maintain their level of skills and knowledge when providing conveyancing services in a rapidly changing market. It is therefore timely that the board be given the power to determine whether settlement agents should be required to complete additional professional development as a condition of licence renewal. A similar provision in the Business Licensing Amendment Act 1995 covered real estate and business agents.

In summary, the Bill paves the way for improved conveyancing services to the community by professionally qualified settlement agents. I commend the Bill to the House.

Debate adjourned, on motion by Hon Tom Helm.

## **FIREARMS AMENDMENT BILL**

### *Second Reading*

Resumed from 29 October.

**HON B.K. DONALDSON** (Agricultural) [4.30 pm]: The firearms issue has probably troubled us all considering we in this House are fully aware of the tight gun control laws that have existed in this State for a long time. The release of the Green Paper and the Prime Minister's announcement about his aim to see uniform gun laws throughout Australia following the Port Arthur tragedy inevitably brought about a backlash in our community from many very law abiding citizens. During that time I reflected on the extent of gun ownership in Western Australia and the way people have accepted responsibility for their firearms. Many of us grew up with tight gun control laws and learnt how to respect the capability of firearms and to implement the necessary safety measures when using them.

I remember my days as an Army cadet at school. I wonder what would be the reaction if a youth the age I was then got on a bus with a .303 rifle strapped over his shoulder. It was common for all cadets to travel on public transport, seemingly not that many years ago, but probably far too many for me to want to acknowledge.

Hon Derrick Tomlinson: Did you have the bolt out?

Hon B.K. DONALDSON: Yes; we always had the bolt out. We took our rifle home to clean and prepare, especially if we were going on a bivouac. Today, people would hyperventilate if they saw someone standing at the bus stop with a .303 rifle over his shoulder.

Hon Peter Foss interjected.

Hon B.K. DONALDSON: Yes, a child. I was much shorter then and my .303 was about the same height as I was. That is certainly something we would not see today.

Hon Graham Edwards: Not in this country.

Hon P.H. Lockyer: I suggest you go to Israel.

Hon B.K. DONALDSON: I have seen incidents in Rome. Last night I think Hon Graham Edwards said that he tried to encourage some sanity among his colleagues on the eastern seaboard. Without being political, most were colleagues of a similar political persuasion.

Hon Graham Edwards: I am sorry you were not here when I made my speech. The driving force against restrictions was Pickering of New South Wales. He was emphatically opposed to it.

Hon B.K. DONALDSON: I was not trying to be political.

Hon Graham Edwards: We had support from Queensland, which was Labor, and Tasmania, which was Liberal. It was a mind set across politics.

Hon B.K. DONALDSON: Queensland and Tasmania had the worst gun control laws of all the States.

Hon Graham Edwards: Particularly Tasmania.

Hon B.K. DONALDSON: As I think was mentioned in the Minister's second reading speech, even in the last three or four years Police Ministers have tried to come to some agreement to bring about some uniformity in gun control laws across Australia.

Hon Graham Edwards: Up to our standard.

Hon B.K. DONALDSON: Yes. Without being too parochial, Western Australia provided a very good benchmark from which to work. Most of us who were brought up in country areas had friends come onto our property with the usual letter to allow them to shoot on the property. We grew up in areas where it did not seem apparent that gun control laws, except in certain areas, needed to be adjusted. I do not think anyone would argue against tight controls applying to people who have restraining orders against them, convictions for serious assault, schizophrenic behaviour patterns or certain mental illnesses of which doctors are aware. Nor would anyone disagree with restrictions applying to the cadet movement, although it is not flourishing as it once did. Young people would need to be well educated if they were given opportunities to go shooting on properties or with rifle clubs or pistol clubs.

When the Green Paper was released and some of the issues came to light, my first reaction in response to the huge number of submissions and phone calls we all received as members of Parliament was that I would cross the floor and vote against any legislation. Although I felt I would be very lonely, I am not too sure whether I would have been. Hon Kim Chance summed up the situation very well last night when he said that in the years he has been in the Parliament the issue has been debated half-heartedly by most members. I do not think he meant they were being irresponsible or taking a cavalier attitude; rather, that members were fully aware of the controls already in place in Western Australia.

Members must ask themselves what they would do as Prime Minister in response to a tragedy such as occurred at Port Arthur. One could make a unilateral statement on policy without considering how it would be administered or without consultation with the other States. I thought consultation within the Commonwealth was a prerequisite to happy Commonwealth-State relationships. The Prime Minister made a unilateral statement which painted many States into a corner. The States could have ignored him, but the media played a prominent role during this time. I quote from a small article on a candid look at gun control by Nick Harvey in the *Shooters Special Report* which appeared some time in August. He says -

Some of the media are beginning to cautiously report the views of the pro-gun faction - a major shift from their usual anti-gun stance. It is about time . . .!

He went on to say -

The media in Australia, since the Port Arthur massacre, have been less than fair to law-abiding gun owners who have had nothing to do with the commission of any crime.

All of the major (and some of the smaller urban and country) newspapers, TV and radio as well as general interest magazines have typically treated gun control as a crime control measure. The message has emphatically been that if we want to reduce violent crime in Australia we must drastically reduce the number of guns (especially self-loading models) in circulation and make it more difficult for Australians to acquire such weapons.

He probably played into the hands of the media by using the word "weapons". They are either firearms or guns. We are not talking about military-style weapons. He went on to say -

Those who seriously question the effectiveness of practicality of gun control as crime control measures, are not being granted access to media exposure. They are being denied the right to air their views, something

we tend to take for granted in our democratic society and which goes against the traditional Australian concept of giving everyone a fair go.

However, media access is easily granted to the most extreme and radical members of the so-called gun lobby. In a blatant attempt to depict all gun owners as Rambos in the public eye, only infrequently does the media allow the public to hear the voice of reason. The argument is therefore entirely one-sided and unfair to decent gun owners.

I think we all agree that was going on. An emotive issue was at stake. The newspapers love to sensationalise these matters. We can thank the eastern seaboard States for that decision, because they had abrogated their responsibilities over many years by not providing better gun control in their own jurisdictions. Western Australia is now paying for their shortcomings. It has nothing to do with Western Australia; this whole legislation is about the shortcomings of the eastern seaboard States. We must cop this. I was very pleased by the work done by the Minister for Police, Bob Wiese, and the Premier and Cabinet. The Attorney General, Hon Peter Foss, put this matter in perspective when he said -

It remains the Government's very strong belief that the majority of firearm licence holders in this State are responsible, law abiding people. Accordingly, it is not intended to prevent the possession or use of firearms and ammunition by those who have a legitimate occupational, recreational or sporting need.

He also stated -

In progressing national uniformity, it has been the coalition Government's resolve not to compromise this State's very effective firearm licensing and registration system, which has served our community well, and which I believe is generally considered by all to be a commonsense approach to firearm regulation.

That was the most positive part of the whole debate, and the statements were made in a second reading speech in this Parliament. It is a pity that some of the media have not looked further into the matter to see what has been happening around Australia. The media in Western Australia did not give any consideration to the gun control laws here and in other States. It was a distinct failing on their part which helped whip up an emotive debate that got out of control at one stage. It has settled down considerably since the law abiding shooters have been able to get their message across in one form or another. It has made a significant difference to the issue of gun control.

Something had to be done about the importation of military style weapons into other States. The matter was made even worse because the Federal Government was collecting duty on those imported weapons. I am led to believe that I could buy a military style weapon in Queensland today, together with all the necessary ammunition, put it in my suitcase and drive back to Western Australia with it. I know it would be illegal, but I was told by a gun dealer last night that it could be done. I do not dispute that. It makes a mockery of this whole thing. It is all very well to establish uniform legislation, under which each jurisdiction is responsible for the legislation in its area, but the administration of that legislation is an important factor. The legislative process may be in place but it must be administered properly. I wonder how some of the other States will be dealing with this matter in a couple of years. Will those States achieve a level of gun control that measures up to the existing system in Western Australia? It is an interesting question. I will watch this matter with great interest, to see what happens in the eastern seaboard States.

The orderly process was obviously not considered when the decision was made by the Prime Minister. He should have waited for the heat of the moment to die down after the emotion generated by the terrible tragedy in Port Arthur. When Governments seek to make changes, they should make sure they manage those changes so that the people are with them rather than against them. This whole issue became very divisive in Western Australia and in other States. It certainly was not helped by the handful of radical people in Queensland who made outrageous statements which indicated to the public that all gun owners were in that category. They talked about blood on the streets. It was irresponsible and it did not provide for a healthy debate on gun control laws in this nation.

It added further insult to the whole approach to gun control legislation when the Federal Government decided to increase the Medicare levy to fund the buyback of restricted category firearms, such as semiautomatics and pump action shotguns. Once again, Western Australia will fund the inefficiencies and incompetence of many of the Eastern States which have not complied.

Hon A.J.G. MacTiernan: Do you really believe that rubbish?

Hon B.K. DONALDSON: Hon Alannah MacTiernan should look at some of the figures. We know how many guns in Western Australia must be bought back, give or take a few unlicensed guns that we shall probably never know about. We know approximately how much it will cost.

Hon Peter Foss: New South Wales believes it will be unable to account for 10 times the number of weapons to be surrendered as Western Australia has registered.

Hon B.K. DONALDSON: The administration and enforcement of the gun control laws seem to be a joke. I hope I am wrong, but I do not think so. I wonder what the end result will be. I understand that between \$15m and \$20m will be needed in Western Australia for this buyback scheme. It is anticipated that \$50m will be raised from the Medicare levy. Therefore, the remaining \$30m will be used to assist the other States in the buyback program. I have never been a great believer in making decisions -

Hon N.D. Griffiths: That is interesting.

Hon B.K. DONALDSON: Let me finish. I make many decisions and I do not walk away from them; however, I do not make decisions when I am in an emotive frame of mind and when things have gone wrong. My country colleagues will understand the analogy I am about to make. One night I took over a plant doing seeding at night and the farm manager told me to be careful of the creek in the paddock because there had been a lot of rain. He suggested that I come back and cut that piece off. I thought it did not look too bad in the dark. He had not long left the paddock, and I decided to go across. Down I went with a four wheel drive, 65 tine shearer, scarifier and seeder and it took us six hours to remove it. I was all het up and not thinking clearly. I then stepped back and walked away, remembering that I had once been told not to make decisions in that state of mind. That is one of the disappointing aspects of this gun debate. Decisions were made by people who do not know a rim fire from a centre fire, or what a gun looks like.

Hon N.D. Griffiths: You are talking about Mr Howard.

Hon B.K. DONALDSON: It is the people who make the decisions: The Prime Minister and a few of his cohorts. I understand the Prime Minister made that decision because recalcitrant States had abrogated their responsibilities. I suppose there was no other way he could do it; however, I do not condone it.

Hon Tom Helm: Are you opposed to the Bill?

Hon B.K. DONALDSON: No, I support it.

Hon E.J. Charlton: This Bill is a different piece of legislation from that which the Prime Minister put forward.

Hon B.K. DONALDSON: I indicated his reasons earlier in my speech. I recognise what the Government has attempted to do.

Hon N.D. Griffiths: We heard the first part, but it is not marrying up well with the second part.

Hon B.K. DONALDSON: I will speak for another 10 minutes and I will probably ask the Deputy President to delay question time so that I can finish at 5.30 pm.

Hon A.J.G. MacTiernan: It was necessary. The Prime Minister used the Port Arthur tragedy as a catalyst. It is not as though he panicked; he made use of it.

Hon B.K. DONALDSON: I understand why the Prime Minister made the decision.

Hon E.J. Charlton: He just did not get it right, that is all.

Hon B.K. DONALDSON: This debate has branded many responsible citizens as irresponsible. The media paint us as criminals, as though gun ownership is an indictable offence and gun owners are Rambos who race up and down the Terrace and the streets of Geraldton firing guns madly at everything that moves or even looks like moving. That is not the case.

Hon Peter Foss: Are road sign wounds self-inflicted?

Hon B.K. DONALDSON: The Attorney General will not see as many road signs being shot now as used to be the case. People have become more responsible as the years have passed. Unfortunately, those signs got in the way of vermin that were hiding behind them. Vermin have a bad habit of doing that; some emus and kangaroos get crafty as they get older and they hide behind the Minister for Transport's road signs. That is why one sees the odd bullet hole in road signs.

Hon Tom Helm: There are a few members in here with holes in their heads.

Hon B.K. DONALDSON: A number of people have spoken on the issues that I intended to raise. I will refer to other things in society that have a greater effect on our community than the activities that have resulted in the imposition of gun controls in Western Australia. Hon Muriel Patterson clearly identified that tight gun controls or lax laws did not affect the number of suicides or the crime rate across Australia. The statistics indicated that the rate of suicide per 100 000 population was 1.8 per cent. There was no difference between those States that had tight gun controls and those with lax controls.

Hon A.J.G. MacTiernan: A universal system might change it. The debates have acknowledged that people are moving guns from strict jurisdictions to less strict jurisdictions.

Hon B.K. DONALDSON: It will not change the statistics.

Hon E.J. Charlton: Where they are unlicensed, they will still be unlicensed.

Hon B.K. DONALDSON: I will draw an analogy from some of those statistics. It would be an experience for all of us, and certainly those people who make decisions, to visit the accident and emergency section of a teaching hospital. Accidents increase around the full moon. Most of us are aware that the word lunatic is derived from the Latin for moon, and people's psychological behaviour is accentuated at a full moon.

Hon A.J.G. MacTiernan: We have noticed that with Eric.

Hon E.J. Charlton: What is your excuse?

Hon B.K. DONALDSON: It is a known fact that people become irrational at that time. The sad fact is that it is happening night after night. Anybody who works at the emergency ward of a public hospital could write a book about what goes on. They see people who have attempted suicide by overdosing on drugs - often prescribed drugs - and by all sorts of other methods. It is nothing for some people to swallow 50 valium or 70 or 80 panadol. We were told that one person was improving, because she had swallowed only 48 valium whereas the time before she had taken 70. They said this person had made a gigantic improvement! I should not be flippant about it, because it is serious problem in society. It is disturbing. We are fortunate that many suicides are not reported by the media, and I acknowledge they are taking a responsible attitude to that. Not long after the electrification of the urban rail system, a number of people took that path of committing suicide. Those incidents were not reported in the newspaper, although it was traumatic for the engine drivers and ambulance officers who had to clean up after them. In 1991 the Health Department admitted that one of the greatest health problems in society was suicide. Some recent figures indicate that country people are prone to pressures and stress. There is an alarming suicide rate among young males in country areas. It is worrying. If we were to put the same emphasis on reducing suicides in society as we have with introducing tougher gun control laws, I wonder what success we would have. To say that gun control laws will solve our problems is a fallacious argument.

Hon A.J.G. MacTiernan: No-one has suggested that, Mr Donaldson.

Hon B.K. DONALDSON: The media have. We are all hell-bent on treating the symptoms and not the cause. The Minister and the Cabinet considered eight or nine drafts of this amendment Bill before it got a berth in the parliamentary process. Coalition members, and I presume the Opposition, received many briefings to help them arrive at some satisfactory compromise that left our existing guns control laws in place and picked up on some of those issues that would have been addressed anyway. The commonsense approach that many responsible gun owners put forward is reflected in the regulations. I refer to the exemptions that will be applied to farmers, pastoralists and graziers, and those who need firearms for their occupations - semiautomatic .22s and pump action shotguns with a capacity for up to five rounds in their magazines - where it can be demonstrated that the person applying for an exemption can justify a need to own one.

[Continued below.]

#### **[Questions without notice taken.]**

### **JOINT STANDING COMMITTEE ON ANTI-CORRUPTION COMMISSION**

#### *Appointments*

On motion, by leave, without notice by Hon N.F. Moore (Leader of the House), resolved -

That the following members of the Legislative Council be appointed to the Joint Standing Committee on Anti-Corruption Commission: Hon Derrick Tomlinson, Hon Sam Piantadosi, Hon J.A. Cowdell; and that Hon Derrick Tomlinson be appointed Chairman.

### **FIREARMS AMENDMENT BILL**

#### *Second Reading*

Resumed from an earlier stage of the sitting.

**HON B.K. DONALDSON** (Agricultural) [5.34 pm]: Prior to question time I was saying how much more palatable the situation has become in Western Australia as a result of the commonsense approach by the Government to the

exemptions being applied to farmers, pastoralists, people with an occupational need, and sporting shooters. Such people will be able to retain their weapons for use in their day to day activities.

A number of changes have been mooted for discussion in Committee. One good aspect of this legislation is that people who enjoy recreational shooting will be able to continue to do so, although some firearms will be restricted. With the permission of the landowner, recreational shooters will be able to continue to shoot on certain properties. Much of our current law will not be changed, and that will be of some comfort to people who enjoy sporting shooting - just as other people enjoy going to the beach to fish or to sail at the weekend. I am glad that we have not yet banned yachts -

Hon Derrick Tomlinson: Sailors should be licensed.

Hon B.K. DONALDSON: That would be a worry. Many members in this House would be very indignant if that happened.

When people possess one or two firearms, trigger locks can be used for security, and that will be much better than forcing people to buy a security cabinet at a cost of between \$300 and \$400. It would be stupid to force that requirement on a person who had only one or two firearms. People who currently use trigger locks for the safe storage of weapons will not be affected. Some people have already installed a suitable steel cupboard on the premises, in line with the regulations. Therefore they will not need to go to any extra cost.

The appeal process has been streamlined. People can take up certain inexpensive options, which will keep them away from the courts. That is a very important point. Another important provision is that the commissioner will be required to provide reasons for rejecting the issue of a licence or for an exemption from holding a licence. That provision has received much approval.

Hon Murray Nixon alluded to curio guns and collectors' items. Many people possess very valuable weapons. I expect that further changes will be suggested in Committee to ensure that very old guns, such as flintlocks and muzzle loaders, are not damaged, rendered useless or destroyed for the sake of a safety campaign in our society. It is interesting to note that some weapons can be retained. For instance, I can keep my pump action .44 low velocity rifle. I can also retain a shotgun, side by side or over and under, such as a .303 which is not regarded as dangerous. However, I am expected to hand in my semiautomatic Ruger because it is believed to be a dangerous weapon. That provision makes a mockery of the whole situation. Anyone in this Chamber who possesses a firearm will know what I am talking about.

Hon Derrick Tomlinson: What is the reason behind that provision?

Hon B.K. DONALDSON: I have not been able to work it out. I wish that someone would explain it. If anyone explains the reason to Hon Derrick Tomlinson, perhaps he can explain it to me.

Hon Derrick Tomlinson: If anyone explains it to you, will you explain it to me?

Hon B.K. DONALDSON: The whole situation is ludicrous. I am trying to find out the reason. No doubt, the Minister will indicate the difference between my pump action .44 low velocity rifle and my Ruger semiautomatic.

Hon Muriel Patterson: It is probably the price.

Hon Tom Helm: Why do you prefer one over the other?

Hon B.K. DONALDSON: The .44 is very good for shooting vermin. It stops a kangaroo or an emu within a short distance. At about the 200 metre mark, however, the bullet is on the way down, and it is very slow. Depending on the type of ammunition used, the .22 is far more accurate. I will be very interested in what Hon Tom Helm has to say when he rises to speak.

I have been incensed by the way we have been asked to comply with uniform gun laws. I suppose the comforting thought is that at least this Government acted with commonsense. It set aside the sensationalism and slowly but surely tried to inform the community about what was going on. There have been a number of examples, even in the media, which indicate that the removal of firearms from society will not change anything anyway. I do not know what will happen from an administrative point of view in the other States and how many guns and rifles will be handed in through this buyback scheme. Many are not registered or licensed in those States at the moment. I do not know whether they will surface or whether we will have a thriving black market industry in illegal weapons. I will not hold my breath because many problems will emerge before it is all over.

I would like in closing to quote a bit more from Nick Harvey. He is the technical editor of *Sporting Shooters and Guns Australia*. He has been shooting from the age of 10 years. Over the last 40 years he has written several

thousand articles about guns and hunting and is the author of a number of firearm related books. In an article he said -

But the arguments of those who blindly support such controls -

He is talking about gun controls that were bandied around at one stage which involved the removal of all firearms and guns in Australia -

- must not be allowed to go completely unchallenged in the major media, and the culture conflict aspects of the controversy must be revealed so that average Australians will realise that there is a lot more to crime control than simple gun control.

If all guns were banned tomorrow it would not prevent another massacre from happening because the crazies are out there and if they do not have access to guns, they will use home-made explosives or other means to fulfil their grudge against society.

He said also -

... firearm ownership, although totally banned in Japan, hasn't prevented the rise of gun-related crime there either.

That is interesting when they have tight gun controls - almost a total ban. He continued -

Anti-gunners assume that where there is widespread gun ownership there is a high gun-crime rate, but anyone familiar with Switzerland knows that the nation's citizens are armed to the teeth and yet the Swiss have hardly any gun crime.

Hon Tom Helm: They make good knives also.

Hon B.K. DONALDSON: They do make good knives. I have not seen the statistics for those. That is a very interesting statistic. We did not see any of these figures in the media. Nick Harvey also said -

While we have seen increased use of guns in many crimes committed in Australia, these are almost without exception illegal guns used by unlicensed shooters. It is also becoming obvious to the average citizen that the hard-core advocates of gun control are much more anti-gun than they are anti-crime, and the opposition to guns is primarily more cultural than practical.

Those are very sensible words.

Hon Tom Helm: You are joking.

Hon B.K. DONALDSON: No, I am not. He also wrote that, as a current Swiss dictum puts it, if weapons are a token of power then in a democracy they belong in the hands of the people.

In 1939-40 many of the people who were called to arms to help defend Australia came from country and remote areas. They were sporting shooters and recreational shooters who became members of our armed services with a greater knowledge of the use of firearms and guns than those who had never used guns. Australia welcomed that experience. Those people adapted very quickly to the nation's needs at that time. Let us never forget that.

With great reluctance, I support this Bill. However, as I said initially, we will never stop people who have restraining orders taken out against them, people with serious assault backgrounds, people with schizophrenic behaviour, and, as Nick Harvey put it, the crazies. Even if we were to remove every gun in Australia that we could get hold of, we would not change the crime figures in this country. The ills of our society will continue irrespective of these amendments to the Firearms Act.

**HON TOM HELM** (Mining and Pastoral) [5.47 pm]: I have heard some awful speeches in this place, but Hon Bruce Donaldson, for whom I have a great deal of respect and love, is an embarrassment. He finished his speech on this Bill by commenting on the men from the bush who went to war. Let us think about that for a second. If the Australians who were killed in Queen Street, Hoddle Street and in Port Arthur were killed in a foreign country we would be at war now. We would have no civil liberties. We would be united as one nation fighting the enemy. We would be saying, "How dare somebody kill Australians" to the extent they were killed in those massacres. Mr Howard, no friend of mine, as Mr Keating was no friend of mine, has done a few things right. Keating was right about Mabo and the republic and Howard is right about gun legislation. It is not a knee-jerk reaction. We are at war.

Hon Derrick Tomlinson: Who with?

Hon TOM HELM: With ourselves. If members do not believe that automatic weapons were responsible for the tragedies of Hoddle Street, Queen Street and Port Arthur, they are playing with themselves.

Hon B.K. Donaldson: They were illegal.

Hon TOM HELM: That does not matter; it is to do with culture and how we see ourselves. With the exception of Hon John Cowdell, Hon Ross Lightfoot and, to a certain extent, Hon Kim Chance, I thought I must be living in some sort of never-never land where we all skip around shooting man-eating rabbits, tiger snakes and kangaroos, and shooting big holes in road signs, and that those massacres reported in the media did not really happen! We do not really need to have these gun laws! I have not read the Bill or the second reading speech. However, I can talk about the philosophy of the Bill and why Mr Howard did what he did.

Hon Derrick Tomlinson: Why?

Hon TOM HELM: He responded to this nation's cry for it all to stop.

Hon Derrick Tomlinson: It is about gun control.

Hon TOM HELM: That is right. These massacres must stop. People have spoken about how, when they were 10 years of age, they could, like Jim Bowie, shoot the eye out of a rabbit at 40 paces. I have never heard so much bull in all my life. That was thought to be relevant to Hoddle Street, Queen Street and Port Arthur, when it had nothing at all to do with it. It indicates that we as a nation are following a very dangerous track. We are killing each other. People may say that a schizophrenic or a madman has shot himself and so we will be unable to study him to find out exactly why he did it. However, he did that with a weapon that should not be allowed to be sold. It applies not only to the weapon that was used in that case but also to other weapons in our society. Hon Ross Lightfoot said that perhaps Mr Howard should have taken a more measured view of the matter and come down with more sensible legislation in the same way as the Poms did. I pointed out by way of unruly interjection that some time after the Dunblane tragedy Mr Major came down with similar legislation, except that it related to handguns. Of course, the same outcry occurred. People said, "I only take my handgun to a gun club. I lock it away after." It was considered to be a legitimate argument to say that their liberties should not be trampled upon.

Hon Derrick Tomlinson interjected.

Hon TOM HELM: I will come to the wide open spaces. The toys which the boys in this Chamber have spoken about, such as the little rifles, over and unders, side by sides and all the other stuff, have nothing to do with the issue before us. The issue is about we as a nation reacting not just to Port Arthur, but also to Hoddle Street. We members surely have not forgotten that. We surely have not forgotten Queen Street. The nation has not. The newspapers, which exist to make a profit, reflect that very well.

Hon B.K. Donaldson: Were they licensed shooters? No, they were illegal.

Hon TOM HELM: Is the member talking English?

Hon Derrick Tomlinson: We have not forgotten Greenough either. Will you ban axes?

Hon TOM HELM: I will come to that. I have something to say about axes. I do not think as many people died in Greenough as in Port Arthur. That is a cheap shot.

The people who feel under threat, the Bruce Donaldsons of this world who went round at the age of 10 with rifles, should have come to the party and not sat round whingeing, saying, "Oh, they are taking this away. My gun has all gone!" We should turn to them for advice on how best to implement the legislation. All we heard was, "We are law abiding. We have never done anything wrong."

Hon B.K. Donaldson: The Government has made those changes.

Hon TOM HELM: It has, but every inch of the way it has fought people like Hon Bruce Donaldson and those he admires. Why fight them? They can tell us how best to implement the legislation and look after the rights of people. Of the people surveyed, 87 or 90 per cent said that something must be done to prevent massacres happening. There is no doubt about that. The Prime Minister had to respond in the way he did. All we have heard many people saying is that they might lose this or that. We have heard nothing about how best to put in place the legislation. Hon Ross Lightfoot said that the Port Arthur massacre was committed by a schizophrenic and had he blown himself away he would have saved us a bit of money. That may be the case, but that is a separate argument altogether. We have mental health problems in this country which must be addressed in another way. For all his conservative, flat earth philosophy, Mr Howard is not saying that if we get rid of the guns we will get rid of crime or the schizophrenics. Those arguments are red herrings.

While we are talking about our boyhoods and where we all come from, let me tell members about where I come from - the town of Bootle. There were no trees or grass on any of the streets. It was all herded into parks. We were allowed out only on bomb sites. The parks were fenced and boarded. The trees and the grass stayed there. People

like me who come to Australia encounter a different world. Bootle is a port city and a pretty mean place. When I was being brought up, while others here were running round with rifles shooting rabbits and kangaroos, I was sewing razor blades into the lapels of my jacket so that when I went to a dance on Saturday night and somebody wanted to head butt me and got hold of my lapels, he would cut his hands. I used to have mates who were called hard cases in Liverpool who carried axes in their belts. Some of them carried two axes.

Hon P.R. Lightfoot: Maniacs!

Hon TOM HELM: Yes. That city has never known anything other than privation and that sort of activity, but we would never dream of having handguns or rifles, except maybe the odd air rifle to shoot the rats that used to go down the street. Nine out of 10 of the adults were in the armed forces as squaddies, sailors or airmen and all were proficient with small firearms. I joined the Sea Cadet Corps when I was 14 years of age. At 16 years of age I was a gunnery instructor. I went from .303s, to Beauforts, up to 4.5 inch guns on destroyers and cruisers. I learned about guns, cordite and ordnance. I used to enjoy shooting, rifle practice and bayonet practice because it was good fun. However, it stayed in that place. From that day to this I have never been keen on rifles.

Having come from that city with its background and history, I feel affronted by our policemen walking round our fair city carrying guns. In Liverpool the coppers do not even think of carrying guns; they may do in London. In the past 16 years I have been back to Liverpool only three times. I have never been there when the question of whether coppers should carry guns has been debated. Liverpool is a violent place. It has a lot of axings and stabbings but very few shootings. Liverpool is just across the Irish Channel from Ireland. We must have cells and active units of the IRA in Liverpool, but there is no gun culture. There may be an axe and razor blade culture, but no-one ever thinks about guns at all. That is not to say that there are no armed robberies in the city - there probably are - but they do not take place to the extent that police ask to be armed or the public wants them to be armed.

People in Liverpool are exposed to videos and American television shows. In one speech at the start of my career here I mentioned the pornography of *The A Team*. When my son was about 12 he used to love watching *The A Team*. I watched it with him on a couple of occasions. We could see explosions, guns and howitzers going off and all sorts of things. We did not see any blood or anybody lying around with his arm off or head off. That to me is pornographic and sending out the wrong message. We now have what they have in America. Someone said that we should not worry, that we were not going down the American path. We certainly are.

*Sitting suspended from 6.00 to 7.30 pm*

Hon TOM HELM: Briefly, I will emphasise the philosophy of the Bill before us. It occurred to me over the dinner break that if the people killed at Hoddle Street, Queen Street and Port Arthur had died on the road, the public outcry would have been to fix the section of roads involved, to reduce the speed limit or to take some other action to reflect the attitude of Australian people to the carnage on our roads.

Hon Derrick Tomlinson: There would have been no cry to ban the car.

Hon TOM HELM: No, but the calls would have been for the speeds at which the cars travel to be reduced. To answer that point in broad and philosophical terms, the legislation reflects the reasonable attitude adopted by the Prime Minister and the Australian population; that is, it is necessary to adopt whatever measures necessary to stop such tragedies. That ambition has not been helped by the attitude expressed by members in this Chamber talking about the wonderful world of skipping through the tulips with .22 rifles while outlining the positives of a gun culture.

Hon N.D. Griffiths: One expects them to break into a chorus of "Happiness is a Warm Gun".

Hon TOM HELM: I will not go down that track as I am a fan of John Lennon.

Through his actions, the Prime Minister is sending a message to the community, or reflecting the message the community sent to him, that Australia cannot continue to travel down that dangerous track of being attracted to American culture in video movies and literature which glorify violence.

I come from a violent background; the community in which I lived was violent. Life was about protecting the turf, being in gang fights and holding one's own. Nevertheless, a gun was never considered part of that gang war attitude. American young people affected by drugs are answering the drug war with arms. In 10 years in the merchant navy I went to a lot of places where the gun ruled; places like South America and Portuguese West Africa. People would carry six shooters, automatic rifles, sabres and bayonets and wear bandoliers of ammunition around their chest. It was an oppressive way to live. Sometimes walking around Perth one feels that same way about young police officers carrying side arms almost bigger than them; it appears that it would be an effort for these people to take the side arms from the holster. That carrying of weapons, and the related type of violence, is not our culture.

Of course, neither is our culture one of peace and love, as was expressed by members in their contributions to this Bill. By the same token, the Prime Minister is perfectly right to say to Australians that he heard their call to retain our unique culture, reflecting our Anglo-Celtic background. Hon Ross Lightfoot argued earlier in the debate that our beliefs and way of resolving conflicts do not involve firearms. However, the indicators of Hoddle Street, Queen Street and Port Arthur suggest that firearms might be used in that way. Also, drive-by shootings have occurred in our lovely city of Perth. As a community we are saying that we must do whatever it takes to stop that violence continuing.

The gun community contains experts in the field, and the recreational and shooter clubs to which they belong have a positive role to play. They can advise the community. They should not worry about their toys being taken away from them. The thrust of this Bill recognises that kangaroo shooters and farmers earn a living by shooting vermin. It is a matter of basic trust. Although those aspects should be taken care of, the basis of our society is damaged by the importation of the American culture and the acceptance that the gun has a role to play.

Hon Derrick Tomlinson: You're not saying that the sporting shooters are involved with the growing phenomenon of drive-by shootings and other violence? You claim that the drive-by shootings and other violent attacks on the individual are increasing, and then you seek to restrict sporting shooters. You are linking them.

Hon TOM HELM: I hope I am linking them in a positive way. As has been expressed in this place, experts in the shooting fraternity raised with guns can teach people who are attracted to shooting as a recreation.

Hon Derrick Tomlinson: They have a role to play.

Hon TOM HELM: Rather than being, as they appear to be, on the defensive and whining about the fact that access to some things they need will be either banned or severely restricted, for a good purpose, they should come on board with this proposal. These people should not do as their counterparts in New South Wales did and threaten the seats of members of Parliament, and they should not follow the American National Rifle Association, a huge and powerful lobby organisation. They should use the gun in a positive way. Guns have their sporting aspects. Recreation shooters and people who shoot for a living should respond to this legislation in a positive way and frown upon attacks from people who support the importation of the American idea of weapons and violence. I use the American example and I take on board the North Dakota situation, about which I knew nothing. I have been to Georgia a number of times, and the incidence of the use of guns in homicides would be pretty high by anyone's standards. That is anecdotal evidence. Nonetheless, that is the role we must play. We must take on board the philosophy of the Bill, and I support it.

**HON P.H. LOCKYER** (Mining and Pastoral) [7.41 pm]: I, too, support this Bill, but I do so unenthusiastically. Unfortunately I was in my electorate on parliamentary business yesterday and was not able to listen to the debate, but I have read *Hansard* carefully.

I represent a large proportion of gun owners in Western Australia, mostly pastoral people. As Hon Tom Helm so eloquently put it, when this legislation was foisted upon us by the Prime Minister after the unfortunate Port Arthur debacle, great concern was expressed to me by my pastoral constituents. In most cases they were third and fourth generation gun owners and licensees. Through no fault of their own their ability to own firearms will be profoundly affected. I am one of those members who has maintained for many years that Western Australian laws are very strict. I do not own a rifle at the present time, although, as most members know, I am going into the farming business in the next few months and I will need some form of low powered firearm to keep feral animals such as foxes at an acceptable level and also to put stock out of its misery when accidents occur.

Hon Derrick Tomlinson interjected.

Hon P.H. LOCKYER: Perhaps I will get a reference from Hon Derrick Tomlinson. That will no doubt assist when I go cap in hand to the Boyup Brook police station.

I know how difficult this is. I was approached by the manager of Doorawarra Station out of Carnarvon a couple of years ago. He wanted to purchase a pistol for the destruction of stock such as cattle with broken legs. Even though I gave a strong recommendation, he was denied permission to purchase a pistol because he did not convince the person issuing the permits that it was necessary. I thought it was tough at the time, but on reflection it is an indication of how tough the laws were even then.

From reading last night's *Hansard* it is obvious that members have been asking the same question: Why is Western Australia suffering because of the lack of attention to this matter over the years by Queensland, New South Wales and Tasmania? I read Hon Graham Edwards' speech very carefully. He said that when he was a Minister in the previous Government he tried to convince some of his interstate ministerial colleagues to establish some form of uniformity. The Minister in New South Wales at the time, who was a Liberal, would not have a bar of it. As a result,

we now have this legislation that does not make any difference in Western Australia. Its only effect is to cause responsible people to be dragged into something in which they do not want to be involved.

Tonight I spoke to Mr Bruce Teede, a professional shooter, who has been shooting kangaroos in the Gascoyne area for approximately 40 years. The part of the Bill he objects to is the necessity for him to have a whacking great steel locker bolted to the floor to hold his rifles. It will put him to enormous expense and he does not believe that it will make any difference. That is the sort of change that annoys people. For a long time this man has had some of the most powerful rifles in the State and he has never had any problems. He has been shooting feral animals for a very long time. He is now approaching 70 years of age and is suddenly being required to be involved in arrangements that he does not want to know about. Like many of us, he believes that the existing laws are tough enough.

However, the legislation is in the House and we must pass it. Obviously both sides of the House will vote for it and we will go into Committee to deal with amendments. I wanted on the record on behalf of my constituents the fact that, in many respects, this Bill is a nuisance. I sincerely hope that, when it is proclaimed, I will not suddenly find - even though I have been assured otherwise by the Minister and I have read the Bill carefully - that some of my pastoral friends will face problems with their firearms; particularly those who have had them for a long time. I have been assured by the Minister in the other place, and no doubt I will be assured by the Attorney General who is handling the Bill in this place, that that will not be the case.

I concede that a kangaroo has never attacked me so that I needed a 20-shot, fully automatic SLR to defend myself. It is more common on pastoral properties to have a semiautomatic rifle for the destruction of feral animals such as goats, donkeys and so on.

Hon Reg Davies interjected.

Hon P.H. LOCKYER: We must be very careful when mentioning cats. The federal member who mentioned them last week was dealt with very severely in Federal Parliament yesterday.

Hon Reg Davies interjected.

Hon P.H. LOCKYER: One could almost use them to dispense with some of our escaping prisoners at the moment. Someone said yesterday that it was like a fun run at Wooroloo. There is a sign up by the prison saying, "Careful: Prisoners crossing road."

Hon Peter Foss: They were on their way back.

Hon P.H. LOCKYER: Having had a very close friend at Wooroloo Prison, I know that it is not hard to get out. I was astonished to find that there are no fences. The prisoners are pleased that there are no fences because they would interfere with their Sunday afternoon trips to El Caballo Blanco. There are more green-shirted blokes than tourists there on Sunday nights.

I am concerned that pastoralists will be affected by this Bill. I want the Attorney General to assure me that, if these people who run pastoral properties meet the criteria, they will be able to keep their rifles. My good friend, Hon Derrick Tomlinson, says they are fit and proper people to hold licences, and they are. I also want to be assured that the Agricultural Protection Board will have the use of high powered rifles for the destruction of goats and donkeys from helicopters. I understand that the Bill provides that those weapons will be locked up in police stations. I want assurances that that system will be implemented. The Government can take all the rifles from people in Nedlands and so on - they do not need them. People should not have them for shooting 28 parrots at the back of Dalkeith. Rifles should be for a specific purpose.

I am in favour of sporting clubs being involved, because over the years they have clearly demonstrated that they can conduct their business properly. I have been assured separately by the Minister for Police that, subject to certain controls, they will be able to carry out their business with the least amount of interference.

As I said earlier, I have no enthusiasm about the Bill. The State is well covered by the present firearms legislation. Like many people across Australia, I am absolutely repulsed by the terrible shootings that have occurred. However, I am not absolutely convinced that by having uniform legislation, the same thing will not happen again tomorrow, although I hope I am wrong. If people want to do something stupid, they will. They might not use a rifle; they might think of another way of carrying out their intention rather than by using a firearm.

I look forward to hearing the Minister's reply, and I will listen very carefully to the debate on the amendments that are to be brought forward during Committee.

**HON J.A. SCOTT** (South Metropolitan) [7.50 pm]: This Bill has provided a number of surprises for me, not the least being the information I gained at the first meeting of my party about this issue. I assumed a great majority of

the people in the party would take a pacifist approach. In fact, many people at the meeting were concerned about a number of aspects of this legislation. They were not about the uniform nature of the legislation, which they all felt was necessary - that is certainly a key to having proper controls over firearms in this country - but rather about people who had held a licence and had been legitimate and lawful users of weapons to dispatch feral animals, for instance, and who felt they were being hard done by in having to hand over their licence in those circumstances. Quite a few people were worried about the very large unhindered powers to the police who, based on their judgment, could go into people's homes.

Generally I cannot agree with many of the arguments put up by some members opposite so far in support of the protection of excessive gun use in this country. Hon Muriel Patterson and Hon Murray Montgomery said that guns are not the problem; people are. Hon Mark Nevill raised the issue of people with mental health problems obtaining firearms. As I see it, the key to the successful control of firearms is uniformity of the laws. Western Australia may have had the very best laws in the country - I think that was the case - and we should be justifiably proud those laws did exist. However, it is no good having those sorts of laws when people could write to Queensland and order weapons that were to be brought into this State.

Hon Reg Davies: We should have been enforcing what could be brought in from other States.

Hon J.A. SCOTT: I realise that at this time of the year, the time in Western Australia is three hours behind the rest of the country -

Hon Reg Davies: If I had my way, it would only be two hours behind.

Hon J.A. SCOTT: - and people from elsewhere do not always take a lot of notice of what comes out of Western Australia. In this case Western Australia had the best laws regarding gun control. The fact is that elements in our society stockpile guns. I refer to the large cache of weapons that was uncovered in Geraldton. I understand that people around the country are concerned about groups like the confederate action party that is known to be stockpiling a large number of weapons. Such organisations are an extreme worry to me, particularly in the current climate in which racism is rearing its ugly head.

Some people were able to bring large numbers of powerful, automatic weapons into this State, despite our very good laws. Until we have some uniformity, we cannot control the situation. The argument has been put forward that weapons will be brought in untrammelled by the proposed laws. Queensland has not done a proper job in putting forward its legislation; however, we are not here to talk about that. We should be putting pressure on Queensland to ensure it falls into line with the rest of Australia, to ensure weapons cannot be taken across the border simply because they are more easily obtained in one State or another.

Hon P.R. Lightfoot: Are you saying this State should put pressure on Queensland?

Hon J.A. SCOTT: It should put pressure on the Federal Government to put pressure on Queensland to fall into line.

Hon Derrick Tomlinson: Queensland is a sovereign entity.

Hon J.A. SCOTT: That may be so, but it is failing in its duty to protect all Australians, by giving way to some elements within its society. Nearly every speaker in this debate has recognised that the sporting shooters and other associations within Western Australia have been far more responsible. Previous speakers pointed out that most of the ratbag element that comes out with silly arguments is from Queensland.

Hon Derrick Tomlinson: That is not what the figures on the use of weapons in homicides indicates. In fact, the so-called ratbag element would appear to be in Victoria. It has the highest use of weapons in homicides.

Hon J.A. SCOTT: Surely in Victoria, the Police Force would be pretty high in the figures for those who shoot people. Perhaps that State should look at disarming its Police Force if it wants to stop homicides.

Hon Derrick Tomlinson: I think the article was referring to the Hoddle Street massacre.

Hon J.A. SCOTT: The Hoddle Street and Queen Street massacres are very good examples of why some people opposite were wrong in the arguments they put forward. I know Hon Murray Montgomery talked about proper ways of training people to use weapons. He said that properly trained people were somehow a lesser problem; that he had been trained to use a gun when he was young; and that he was used to weapons and respected them. I believe all of that. However, the person involved in the Hoddle Street massacre was also very well trained in the use of weapons. I believe many of those who have been responsible for massacres have had great expertise in the use of the weapons. These people should have been stopped from causing major problems. They had weapons of war, and they were aimed to kill people. Let us not beat around the bush: Guns are to kill people. Hon Derrick Tomlinson and some

other members have tried to compare deaths caused by shootings with those that occur as a result of motor vehicle accidents. That argument falls down because the car has another use. A car is not manufactured to kill people.

Several members interjected.

Hon J.A. SCOTT: Guns are manufactured to kill.

Hon Peter Foss: Guns are to kill, but not people.

The PRESIDENT: Order! I ask the member to direct his comments to the Chair and to stop talking to other members.

Hon J.A. SCOTT: Thank you, Mr President. Guns are designed to kill whether it be animals or people. They are made to take the life of all creatures. Acts of madness have been reported in the news, such as the killing of Iraqi troops coming out of Kuwait in hundreds of thousands by people who are responsible for the running of countries. Madness affects people at all levels of life. Some people are able to kill on massive scales which would make the Port Arthur tragedy appear small.

Hon Peter Foss interjected.

Hon J.A. SCOTT: We have no control over that in this place. It has been argued that federal controls will drive the ownership of firearms underground. That argument is fallacious. We know that massive numbers of illicit weapons exist. Members should read today's *The West Australian*. A black market is not something that will be caused by this legislation. In fact, I hope it will diminish the number of underground weapons. Although I am sometimes accused in here of having airy fairy views I am not deluded into thinking that we will rid the world completely of weapons.

Hon Reg Davies: We would not say that, would we?

Hon J.A. SCOTT: They say that because they do not understand that I can back up my arguments. It has been argued that for some reason farmers should have numerous weapons at their disposal. The reality is that over the years, farming practices have changed considerably. Once upon a time a farmer did everything on his farm. He ploughed his field, tended his flocks and drenched and sheered his own sheep. He did many of the jobs, quite a few of which are now put out to contractors. There is no reason that if farmers want to get rid of feral animals -

Hon P.H. Lockyer: The trouble is, if we wait around for contractors the animals will be gone.

Hon J.A. SCOTT: The reality is that animals have habits which they tend to carry out day after day. They need to feed and drink at certain times.

Hon P.R. Lightfoot: What habits do feral goats have, apart from drinking water and eating grass?

Hon J.A. SCOTT: I am sure the member opposite knows a lot about the habits of feral goats.

The PRESIDENT: Order! I do not want members interjecting on the member who is addressing the Chair. I want the member to confine his remarks to the Bill and direct them to the Chair, not to anyone else. I will not interject; I will listen very intently.

Hon J.A. SCOTT: Thank you, Mr President. Complaints have also been made about the level of controls this Bill will impose on the ownership of weapons. Once again I draw the analogy of owning and driving a car. The Bill provides that people be trained before they handle a weapon and that they do not have permanent tenure of a licence just because they are pastoralists, for example. Motor vehicle drivers are governed by similar laws. They cannot obtain a licence without meeting the appropriate criteria or having sufficient skill levels. Motor vehicle licences must also be renewed. If drivers offend, their licence is taken away. The Bill does not impose draconian requirements on gun owners.

The idea has been mooted that somehow all farmers are responsible people. From having lived in the country, I know from personal experience that is not the case. Farmers are like everybody else; some are responsible and some are irresponsible. I have seen many shooting parties and know of licensed gun owners in this State who have lent their weapons to friends from country towns. I know of instances where people have fired weapons at kangaroos from the back of vehicles or whatever. Often they have consumed a fair amount of liquor. That applies particularly to duck shooters who would not have been allowed to drive a car in the state they were in.

The reality is that people do those things and need some sort of control. People most at risk from guns are families of people who own them and who have been properly trained.

Hon Peter Foss: The issue is that people shoot each other -

Hon J.A. SCOTT: Some shootings are accidental and some are deliberate. Hon Bruce Donaldson quoted an article which said something to the effect that if democracy is at the point of a gun, guns belong in the hands of the people. That would be all very well but, unfortunately, children do not use guns. Often the victims of people with guns are children.

Hon Reg Davies: We used to buy them toy guns at Christmas.

Hon J.A. SCOTT: During traumatic situations with family split ups children do not have the right to protect their democracy with guns; they are too small to use guns. I am sure they would not want to shoot their parents. Although some of those sayings roll off the tongue very easily, they do not make the arguments logical.

I commend Hon Peter Foss for his amendments to this Bill and the Bill he has introduced tonight in relation to domestic violence. That issue is very important in the context of the firearms legislation. It is often domestic situations that give rise to violence and it is crucial that people be protected. Even beyond the actual killings of people other sorts of violence occur. I was told about a woman in a country town who was very fearful and wanted to leave her husband, but he had specially polished bullets into which the names of her and the children had been scratched. He threatened to use those bullets on them if they tried to leave him. That sort of violence cannot be tolerated in this society, and such people should never have weapons in their hands. I hope the amendment proposed by Hon Peter Foss will mean such a person would be reported and lose his licence. A number of issues have been raised in this debate about other violent influences such as videos, the Internet, and instructions for making a bomb. These things have a level of truth and it is hard to gauge exactly how far to go in dealing with them. However, it does not mean that having fewer guns in the community will not prevent some deaths. I believe it will result in fewer deaths. Certainly, it is most important that there be fewer guns in the hands of people who should never have been given a licence in the first place. The instance of the instructions on how to make a bomb which can be accessed through the Internet pales into significance against the real violence seen regularly on news broadcasts.

Hon Peter Foss: Which is why I do not have a television.

Hon J.A. SCOTT: Some of the news broadcasts seem to linger on the blood running down the gutters. I believe the news could be better reported without that kind of sensationalism. Those things do have an effect, but this House is considering one of the ways in which it can act to reduce the number of deaths in our society. Of course, we should first look at the way in which we deal with each other in every day life. We must put in place systems that provide for non-violent conflict resolution throughout our society. We must teach our children non-violent conflict resolution, and tell them there are ways of dealing with problems without hitting people on the nose, shouting louder or being bigger. We must teach people the power of logical argument. Of course, sometimes it is logical to get away when being threatened with violence. At the end of the day we must look at the way in which we deal with each other in our society. When I became a member of this House one of the first things I was told when I entered this Chamber was that the distance between the front benches was two sword lengths. This House operates on a theory of conflict more than it deals with matters in a logical way. I tend to fall into that practice myself. Members of Parliament can take the lead by trying to moderate their arguments and by speaking to the subject rather than becoming involved in conflict. We should look to our behaviour at an individual level, as well as change the laws to prevent people from killing themselves and others.

I support this Bill. I am concerned about the powers of the police to decide whether to enter people's homes because that can be used inappropriately, as we have seen with the Fisheries Department. Some people will probably get a raw deal from this legislation but in the overall context far more will gain from it. The Bill can be amended in future to make it fairer to any groups that may have been treated unfairly thus far. It is important that lives be spared and the legislation will diminish the probability of events such as the Port Arthur and Hoddle Street killings. There are rambos in the community. They are a product of our society and probably come from a background which has not been conducive to their learning to deal with their problems in any other way. We must give consideration to that aspect.

**HON DERRICK TOMLINSON** (East Metropolitan) [8.16 pm]: When Hon Bruce Donaldson reminisced about the golden age of his youth, he conjured the image of himself as an adolescent cadet at the bus stop armed with a .303, the bolt of which was no doubt in his school bag. From that image he drew a picture of a different time when there were different attitudes towards firearms. Hon Bruce Donaldson did not bring to our recollection that in the golden age when he was standing at the bus stop with his .303 boltless gun over his shoulder, the policeman directing the traffic did not have a handgun in a hip holster. Neither did the constable on the beat in St George's Terrace or what is now the Hay Street Mall carry a baton with him. I say "him" because in those days female police officers were not used on such duty. In those days policemen went about their duties unarmed.

Hon Peter Foss: He had a whistle.

Hon DERRICK TOMLINSON: The policeman had a whistle, but I have yet to see anybody beaten to death with a whistle. The irony of this debate is that we are arguing about, and participating in, the reversal of the situation that Hon Bruce Donaldson brought to mind. We shall increase the control given to the police to deny, minimise or regulate the access of citizens to firearms. At the same time as that control is being given to the Police Service, it is becoming increasingly armed. In that golden age of Hon Bruce Donaldson's and my adolescence, the police were not armed in public and did not come into this place armed to care for the security of members of Parliament. Neither was there a tactical response group which is armed with the weapons of war which have been banned by the decision of the Australasian Police Ministers' Conference.

Therein lies the irony of this process of firearms control. Let us be clear that the principle of this Bill is firearms control. I draw members' attention to the paragraph of the Minister's second reading speech that Hon Graham Edwards quoted which states -

Australian Police Ministers have been working towards the introduction of a scheme of national uniformity for at least the past three years, and a special meeting of the APMC was scheduled for early 1996, hopefully to finalise the issue.

Hon Graham Edwards pointed out the error in that statement. In fact, the press for uniform firearms control is not something that occurred in the past three years but in the past decade. As I recall Hon Graham Edwards' speech, it was commenced in 1984. The real impetus was in 1987 following the so-called Hoddle and Queen Streets massacres. As consequence of the incidents at Hoddle and Queen Streets, in December 1987 an agreement was reached between Prime Minister Hawke, the State Premiers and the Chief Minister of the Northern Territory to establish a national committee on violence. That committee established in 1988 and funded through contributions by federal, state and territory Governments, brought down a report containing over 130 recommendations. The report was entitled "Violence: Directions for Australia." Seventeen of those 130 recommendations dealt with firearms control. That information is contained in a report entitled "After Port Arthur - Issues of Gun Control in Australia" from the Parliamentary Research Service in the Commonwealth Parliament. Those 17 recommendations included -

the enactment of uniform legislation throughout Australia to regulate the acquisition and possession of firearms, -

That is what this Bill is about.

a ban on the importation of military weapons except when imported for use by law enforcement officers and the defence force, -

That was agreed to at the APMC on 10 April 1996 -

if constitutionally possible, a Commonwealth ban on the sale of mail order firearms, -

That was enacted by the Commonwealth Parliament this year -

a ban on the sale of surplus military weapons, -

the establishment of a computerised national firearms register registry, -

That was agreed to on 10 April 1996 -

the prohibition of automatic weapons and some types of ammunition, -

That was agreed to on 10 April 1996; this legislation and complementary legislation in other States -

restrictions on the possession of semi-automatic weapons, -

That was agreed to on 10 April 1996; this legislation and attendant regulations -

a requirement that all firearm owners be licensed, -

This has been the case since the Firearms Act 1973 and probably before, and is now being enacted in complementary legislation in other States -

shooters' licences should not be available for minors, -

The eligibility for firearms licences being increased from 16 to 18 years was agreed to on 10 April 1996 -

a cooling off period between application for and the grant of a shooter's licence,

the introduction of training and competency standard for shooter's licence holders,

the introduction of mandatory safekeeping standards for individuals and businesses,  
 restrictions on private sales of firearms,  
 the imposition of severe penalties for those convicted of using a firearm in the commission of a crime.

This legislation and attendant regulations deal with those recommendations that has been part of our Criminal Code for some time. Those recommendations were contained in a report brought down in 1988. We have waited eight years for the opportunity to translate those recommendations into law. All that Port Arthur gave us was the situation in which offensive legislation could be introduced and accepted by the public because the public was horrified by what happened in Port Arthur.

I have heard many people in this debate claim that as a consequence of this legislation and the complementary legislation in the other States, Australia will be a much safer place. Statistics on firearms deaths in Australia have been published by the Australian Institute of Health and Welfare. The Queensland Parliamentary Library, Research Bulletin No 1/96 states that the figures for 1994 show that of the 522 firearms deaths in that year 420 were suicides, 76 were the result of interpersonal violence, 20 were the result of an accident and in six cases the intent was unknown. In that same year in Australia there were 1 830 suicides; that compares with 1 369 deaths from motor vehicle accidents.

Hon Reg Davies: Do you have a breakdown of country and city suicides?

Hon DERRICK TOMLINSON: For four consecutive years more Australians died by suicide than died in motor vehicle accidents. I refer Hon Reg Davies to a report entitled "The Epidemic in Youth Suicide", Queensland Parliamentary Library Research Bulletin No 1/96, which breaks down and demonstrates that the incidence of suicide is not only greater in rural Australia, but it is also accelerating. Another interesting fact is that the rate of suicide among males in rural Australia is accelerating compared with the rate of suicide among women not only in rural Australia, but in the whole of Australia. Let us not be deceived by that, because in the same report a table sets out methods of suicide in Australia from 1988 to 1992. The highest rate of suicide among males of all ages was by hanging, strangulation and suffocation at 26.5 per cent compared with firearms and explosive at 26.4 per cent. It is only marginally different. Those figures can be compared with poisoning by other gases and other vapours, 21.9 per cent, and poisoning by solid or liquid substances, 12.2 per cent. The highest rate of suicide among females was poisoning by solid or liquid substances, 38.4 per cent; by strangulation, suffocation or strangulation, 20.6 per cent; and by firearms and explosives, 6.2 per cent. Certainly the males choose firearms as one of their preferred methods of suicide.

Hon Reg Davies: They are more violent.

Hon DERRICK TOMLINSON: I point to the apparent fallacy that the rate of suicide is greater among males than females. The greatest number of female suicides is by poisoning by solid or liquid substance, which represents 38.4 per cent of female suicides. This report argues that female suicide rates are not showing the same sharp rise only because the increasing numbers of attempted suicides are being offset by improvements in medical treatment. It then quotes a report by Riaz Hassan on "Unlived Lives: Trends in Youth Suicide" on page 6 of the journal titled "Preventing Youth Suicide" as follows -

...men use violence of guns and women use self poisoning to suicide, the chances of women surviving serious suicide attempts are now greater than men because of advances in intensive care medical technology.

When one examines the incidence of such things as ingestion of poisons not leading to death, which are not tabulated as attempted suicide, but could reasonably be interpreted as such, one sees the incidence of attempted suicide among women is not less than the incidence of attempted suicide or successful suicide among men. However, only one-third of those suicides relate to self-destruction using a firearm. Firearms are not the only devices of suicide or homicide in Australia.

The 1992-93 data show that firearms were used in 25 per cent of homicides; sharp instruments, in 30 per cent of homicides; and blunt instruments, in 27 per cent of homicides. In other words, the stabbing of people, bludgeoning people with an axe or hitting people with a brick are much more common forms of homicide than is shooting. Seven per cent of homicides are caused by strangulation and in 10 per cent of cases the primary weapon was unknown or characterised as "other". Let us not run away with the belief that, because we will have firearms control, Australia will be a safer place. Australians will continue to bludgeon and stab one another to death and carve up one another with axes.

Hon Tom Stephens: Do those statistics give any indication of the calibre of weapons used?

Hon DERRICK TOMLINSON: I advise Hon Tom Stephens that in 1992-93, in 40 per cent of the homicides involving a firearm, the firearm was a .22 calibre rifle; in 30 per cent of cases, a shotgun; in 13 per cent of cases, a handgun; in 7 per cent of cases, an automatic or semiautomatic weapon; and in 4 per cent of cases, a .303 rifle.

Hon Tom Stephens: Do you have an analysis of the weapons used in suicides?

Hon DERRICK TOMLINSON: I do not have an analysis of the weapons used. So what! I put it to the member that, when one puts the muzzle of a rifle to one's head, irrespective of whether it is a rifle with more than 10 cartridges in the magazine, one gets only one shot. When one puts a double barrel shotgun within one's mouth and pulls the trigger, one gets only one shot. When one puts the rifle to one's heart and pulls the trigger, one gets only one shot. It does not matter which calibre weapon one uses or how many cartridges there are in the magazine; it only takes one shot. Irrespective of whether we ban semiautomatics with more than 10 cartridges in the magazine, people will continue to use a single shot or a repeater with up to five or 10 cartridges in the magazine to kill themselves or others.

The argument that in some way this legislation will affect the incidence of suicide by banning semiautomatic and automatic weapons, is fallacious. I am quite happy that the so-called military weapons have been banned. I do not believe there is any reason for any citizen to have those weapons. They are military weapons and they are designed to kill the greatest number of human beings possible at close range. They have a range of 40 metres and are intended for mass destruction of human beings. I cannot see a need for any Australian citizen to have one of these weapons except in times of war. I do not believe the police should have them. I would not have the tactical response group armed with those sorts of weapons. In this respect, I disagree with the Australasian Police Ministers' Council on this matter. They are totally unnecessary weapons and I have no objection to their being banned. Likewise, I do not see there is a need for any citizen, whether a farmer or a pastoralist using a weapon for vermin control, to have a weapon with more than 10 cartridges in the magazine. My experience is that, if the target is not hit the first time, it will not be hit. The reason for not hitting the target is that a person is a rotten shot. If he is a rotten shot, why does he need more than 10 cartridges in the magazine? He needs only one. It is nonsense to say that it must be an automatic or a semiautomatic with more than 10 cartridges in the magazine. If one is any good, one shot is enough. In the same way, one does not have to be a good shot to suicide because one shot is adequate.

It has been argued that, if the \$500m which is in the gun buyback scheme were put into mental health, we would have gone a long way to solving the problem. Having sat on the Minister's task force on mental health for 12 months, having chaired it for a couple of months and having participated in the development of the report, I could not argue more strongly the need for greater resource allocation for mental health in Western Australia. The resource allocation for mental health in this or any other State would not have prevented the Hoddle Street, Queen Street or any of the other mass killings which have occurred in Australia. I do not suggest that it would do a great deal about the incidence of suicide. The assumption is that there is a direct relationship between mental illness and suicide. There is an assumption that people who choose to end their lives are mentally ill. One reads statements like this in an article by Yvonne White titled, "Youth Suicide" in the *Medical Journal of Australia* volume 163, page 146 which is cited in a Queensland report titled, "The Epidemic in Youth Suicide". The article reads -

Overseas and recent Australian research has indicated that up to 90 per cent of young people who suicide have evidence of psychiatric illness before their death . . .

It states also -

A significant minority of young suicides have a mental illness such as schizophrenia, major depression, or manic depression, which was or could have been diagnosed before their death.

Such people do have a high tendency towards suicide and a high suicide mortality rate, but they represent a significant minority of suicides. The assumption is that because one decides to end one's life, one must be mad. That is the sum total of the justification for that assumption. People have talked about the young person who will soon go on trial for the Port Arthur killing as someone who is a schizophrenic. I am waiting for the medical evidence to demonstrate that he is, because I think we will find that such medical evidence does not exist, just as there was no such medical evidence in the Queen Street or Hoddle Street killings; certainly very twisted and confused people, but no evidence of mental illness. Nothing that could have been put into mental health would have prevented those incidents.

People have expressed the hope that once this firearms control legislation is enacted, we will see the end of such mass killings. Let me recite the recent multiple killings in Australia: August 1987, seven people shot in Melbourne in the Hoddle Street killings; December 1987, eight people killed in Melbourne in the Queen Street massacre; August 1990, five people shot in Surrey Hills, Sydney; August 1991, six people shot and one stabbed in Strathfield Shopping Plaza, Sydney; October 1992, six people shot by a lone gunman on the central coast of New South Wales; February 1993, four people hacked to death at a farmhouse north of Perth, the Greenough murders; August 1993, three people

shot dead by a gunman in the inner west of Sydney; December 1995, three members of one family knifed to death in Brisbane; and January 1996, seven people shot dead in a murder-suicide in a Brisbane suburb.

Look at the number of those mass killings which occurred in States where there were not stringent gun controls and look at the number of mass killings which did not involve the use of firearms. Look at the Greenough murders, where the weapon was an axe. Will we have axe control legislation?

Hon N.D. Griffiths interjected.

Hon DERRICK TOMLINSON: In the Go-Go Nightclub murders, the instrument was a match. Of course we cannot legislate against those things. The singular lesson to be learnt is that those who express the hope that this legislation will spell the end of those sorts of mass killings are wrong. We cannot legislate against that kind of lunacy. It will happen again.

Hon N.D. Griffiths: Is not the Bill really about telling the Eastern States to bring themselves up to Western Australian standards?

Hon DERRICK TOMLINSON: The Bill is about firearms control. I wish it was about the other States being brought up to Western Australian standards, and in some respects it is. Queensland and Tasmania, in particular, are being told to bring themselves up to Western Australian standards. This legislation is really the 1987 Gordon Hill Bill, which was not introduced by Hon Gordon Hill when he was Minister for Police, and it was not introduced by Hon Graham Edwards when he was Minister for Police. Members should read his speech and let him tell them in his own words why he did not introduce this legislation. This Bill is the result of work between 1987 and 1996. It is not about telling Queensland and Tasmania to bring themselves up to Western Australian standards but about imposing stronger gun controls on the Western Australian public - stronger than the gun controls which have been the strongest gun controls in Australia since 1973. How can we argue that that is about telling the other States to match Western Australian standards? It is about transferring from ordinary citizens to the police greater responsibility for the control of their lives.

Hon N.D. Griffiths: Do you disagree with your Minister?

Hon DERRICK TOMLINSON: It is about the control of people's lives by the police. The Minister's second reading speech contains the following rather interesting statement -

It is my very strong belief that the majority of firearm licence holders in this State are responsible, law abiding people.

I support that statement. However, the thrust of the Bill is the denial of responsibility. The thrust of the Bill is regulation and control. See how many times the words regulation, control and permission are used in the Bill, and see how many times responsibility is taken away from citizens and given to the police. The single concession in this Bill to the responsible gun owners is to establish a firearms advisory committee which will be chaired by the Minister for Police and will consist of the Commissioner of Police and representatives of primary producers, the firearms trade and firearms users, the general community and the health profession. Those people will advise the Minister on firearms safety and firearms matters and on national firearms matters. They will advise the Minister on control. The principle of this Bill is firearms control. The agreement among the State Ministers for Police was about firearms control. The 1988 report was about firearms control.

Shortly this Bill will pass through this House. In the time that I have been a member of this House, we have successively taken responsibility away from citizens and imposed controls on them. We have imposed those controls, we keep on arguing, for the general good. We introduced a 0.05 per cent maximum blood alcohol concentration. It was argued at the time that that would help reduce road trauma in this State. That legislation was enacted in 1992. Four years later in 1996, we are confronting a higher incidence of road death in this State than at any other time. We introduced prohibitions on the advertising of cigarettes. That prohibition was for the general good. It would reduce the incidence of lung cancer. I recall sitting at a desk and having a surgeon thump on the desk in front of me cancerous lung tissue and saying "This is what we want to prevent. This legislation to prohibit cigarette advertising will prevent the incidence of that affliction." We prohibited cigarette advertising to save people from themselves; to stop them being seduced into nicotine addiction by Paul Hogan or whoever advertises cigarettes. What do we find five years later? The incidence of smoking among mature males has dropped; the incidence of smoking among mature females has increased; and the incidence of smoking among young adolescents has accelerated.

Hon J.A. Cowdell: That is not due to our action.

Hon DERRICK TOMLINSON: The actions we have pursued in this place have demonstrably contributed little to the things that we claimed we were about to do. Members are about to impose greater gun control in Western

Australia. I put it to you, Mr President, that it will have about the same success as those other prohibitions that I have taken part in enacting.

**HON REG DAVIES** (North Metropolitan) [8.51 pm]: Mr President -

Hon Tom Stephens: Mr Davies, could you work out what Mr Tomlinson was on about?

Hon REG DAVIES: I am astounded by his speech. I have no idea whether Hon Derrick Tomlinson will vote against the Bill. I assume he will after that lecture. I do not want to take up valuable time by speaking at length on this legislation. It is more important that we deal with it tonight. It was interesting listening to members, particularly members of the Government, this evening. This place seemed like a real House of Review tonight with members offering opinions contrary to the Government's position.

I have had a lifetime associated with weapons, be they guns, pistols or rifles. I have learnt to respect them and use them properly. My youth was spent in a small rural farming community. It was essential that we all learn how to use weapons and to respect them. As most members know, my later life was spent in the military. Using weapons was second nature to me. It was interesting to listen to the debate on this matter. I can appreciate some of the comments from members from rural areas. Certainly, there will be concerns from some communities, particularly from farmers, who I understand must occasionally cull up to 500 sheep at a time. I am sure that would be a most difficult task with a single shot weapon. I can appreciate their position. However, when it comes to shearing their sheep, they do not generally take that task on themselves; they get in shearers to do that task for them. It would also be reasonable for them to bring in professional shooters to cull the sheep for them. I am sure someone will tell me if that is not a feasible alternative.

Hon Muriel Patterson: They don't; it is an extra cost. The farmers do it themselves.

Hon REG DAVIES: I understand the rural members' points of view. However, in speaking on behalf of my electorate - in case Hon Ross Lightfoot has forgotten that he represents a metropolitan electorate, I remind him that he shares my electorate - I can see no reason in the world why any person in North Metropolitan Region would want to have any weapon that was outside the guidelines the Government is about to introduce. Why would a person need automatic or semiautomatic weapons in inner city areas? If I had known a couple of years ago that this legislation would come before the Parliament, I would have purchased a gun shop, because I think gun shop owners will be the big winners out of this legislation when it is passed. All the automatic and semiautomatic weapons they currently have in stock will be bought back at today's rates. They will then have the monopoly to sell to those who had to hand in their automatic and semiautomatic weapons all their single shot and bolt action weapons. I understand that those firearms are pretty hard to get hold of in the Eastern States. If I had known that, I would have considered investing in such a business because I think they will be the big winners out of this Bill. Probably more importantly, the big winners will be the citizens of Australia. I hope that Western Australia will be a safer place in which to live. I am sure that my granddaughter will have the prospect of living in a much safer society than what we have seen over recent years. I unequivocally support this legislation.

**HON TOM STEPHENS** (Mining and Pastoral) [8.56 pm]: I was particularly surprised by the contribution of Hon Derrick Tomlinson because it seemed to be an extraordinary effort by a government member to stonewall government legislation. I will not participate in the stonewalling of this legislation in any way. It surprises me that a government member gave such a long speech, at the end of which we were left to arrive at only one conclusion; that is, his aim was to slow down the passage of the legislation through the House. He gave no new information about the Bill.

Hon Sam Piantadosi: Why don't you sit down, then we will catch up on a bit of time?

Hon TOM STEPHENS: I could do that, but then Hon Sam Piantadosi would be robbed of the benefit of the wisdom I am about to share with him.

Hon P.R. Lightfoot: That would be a first

Several members interjected.

The PRESIDENT: Order! Stop the interjections.

Hon TOM STEPHENS: Members should stop their interjections, otherwise they will delay the legislation. This Bill has my unequivocal support.

#### *Point of Order*

Hon SAM PIANTADOSI: My point of order is about interjecting on Hon Tom Stephens. He is the worst offender of that in this Chamber.

The PRESIDENT: Order! The member knows that that is not a point of order. This is about freedom of speech in this place. The member who has the floor has freedom of speech.

*Debate Resumed*

Hon TOM STEPHENS: More importantly, the comment of Hon Sam Piantadosi is untrue. He is one of the worst interjectors in this place.

The PRESIDENT: I know who the worst interjector is. When I write my book, members can read about it.

Hon TOM STEPHENS: The legislation has my support for a number of reasons, not the least of which is that I am one of those in this community who are keen to express in Statute the aspiration that a community can rid itself of these weapons of destruction. They are symbols of violence within our community that we are best to be without. Expressing support for this legislation is an attempt on the part of people like myself to have a kinder, gentler community.

Hon Mark Nevill: Ban fishing hooks too!

Hon TOM STEPHENS: We disagree!

Hon P.R. Lightfoot: Should all Aborigines be disarmed?

Hon TOM STEPHENS: Sometimes the member's comments are germane to the issue. This is not one of those occasions.

I do not know how many people in this place have been involved in vermin control. I have. When working on a pastoral lease I had to take up the task of tackling a plague proportion donkey problem. It is a very invidious situation being left with the responsibility of removing large numbers of feral donkeys.

Several members interjected.

Hon TOM STEPHENS: The donkeys should be removed in a kinder and more gentle way than that advocated by Hon Ross Lightfoot. I would be happy to see the removal of the donkeys by the use of the vote! I am a shocking shot -

Hon Peter Foss: We believe you!

Hon Mark Nevill: You have really hit the target.

Hon TOM STEPHENS: I was a shocking shot with the type of weapons that were available to me as I moved around that pastoral property trying to remove the feral donkeys. We were also plagued with goats in one section, and we had more camels than we needed as well as some brumby horses which I had to remove.

Hon P.R. Lightfoot: I would never shoot brumby horses.

Hon TOM STEPHENS: The task of removing feral animals should be left to the people with the necessary expertise in the use of a gun. People should not be provided with rapid fire weapons for that purpose.

Hon Sam Piantadosi: They are not all as bad a shot as you.

Hon Peter Foss: It is not fair to judge ordinary farmers by your standards.

Hon TOM STEPHENS: It is an appropriate response to licence vermin controllers to remove the vermin.

Several members interjected.

Hon TOM STEPHENS: No, I did not. I regret to say that my endeavours to use weapons of destruction were unsuccessful.

The PRESIDENT: Order! The debate is not being enhanced by rude interjections which are constantly being offered, and which seem to be designed to ensure that we stay here until 1.00 am tomorrow in an attempt to finish the second reading stage of this debate. It appears that some people do not know how to get around to saying what they need to say.

Hon TOM STEPHENS: I will be quick, Mr President. My point was that we have an opportunity to use vermin control operators which will obviate the need for every land-holder to possess weapons of mass destruction. Even though donkeys, goats, and, in some places, camels and other animals are considered vermin on pastoral leases and farming areas today, it can be done by ensuring that the Agriculture Protection Board officers and, if necessary, other

licensed people carry out a vermin control program. That is better than ensuring every pastoral leaseholder is entitled to possess a weapon of mass destruction.

Another point of concern for me about the way the gun licensing laws have operated in this State is that land or property owners, farmers and pastoral leaseholders have in many ways precipitated this community demand for a change in legislation. They have participated too willingly in the process where anyone who asks for a letter of entitlement to use a gun on that property, will receive approval, regardless of the fact that very many letters of approval issued by farmers and pastoralists are for people who will never use guns on the land in question. In many cases, they live thousands of kilometres away from the properties, and, therefore, succeed in gaining a gun licence under false pretences. That is, they pretend the weapons will be used on particular properties at a considerable distance from their residences with the compliance of the pastoral leaseholder, when all that will do is load up the metropolitan areas of Perth with guns that will never be operated on the land-holdings. They will be utilised by the gun licence holders for other locations.

That has been a source of considerable concern to me. To that extent, people involved in the agricultural or pastoral industries have let down their cause. They had the privilege of using the guns themselves, but they have extended that right to others because they have been too compliant and willing to extend the licence provisions and too many other people have gained access to those guns. These are people who do not need the guns and use them in locations to which the letters of permission do not correspond.

I support the legislation. However, I recognise that it is just like the legislation that banned tobacco advertising which has not produced the panacea of an immediate end to tobacco smoking within the community. Nonetheless, we run a risk if we do not take such steps. Our community can all too quickly go down the path travelled by other nations, especially America. Many of us do not want to see that happening. We want guns removed from the community, as far as practicable, away from the common place. We want them to be left for the people who have a genuine need or a regular and appropriate use for such weaponry. Gun clubs and the like, fall within those categories, and people involved in pastoral pursuits and other farming activities are entitled to access guns. I refer to appropriate guns, not those proposed for removal from the community by this legislation which is the subject of national agreement.

I hope that we will see the rapid enactment of this legislation. I hope also that, as a result of this legislation, this Parliament will join the Australian community in expressing the hope that our society can be a less violent one. I am concerned about the jocular manner in which some contributions have been made, as well as the trivialisation that has gone on during debate to which I have listened. Members who choose to trivialise this matter are trivialising a tragedy that the Australian community does not trivialise -

Hon P.R. Lightfoot: You are a trivial sensationalist!

Hon TOM STEPHENS: The mass revulsion we have seen -

Hon P.R. Lightfoot: You will not receive a gun licence under this legislation because you do not qualify mentally!

Hon TOM STEPHENS: Pop another pill, Mr Lightfoot and calm down. The trivialisation of this mass revulsion -

Hon P.R. Lightfoot: You are a ratbag.

The PRESIDENT: Order! Stop those interjections and allow the honourable member to conclude his speech.

Hon TOM STEPHENS: I will now conclude my speech in this way. I am not sure what the member takes offence at. If he is suggesting there is no mass revulsion in the community -

Hon P.R. Lightfoot: You said that the mass revulsion was about the trivialisation of the debate.

Hon TOM STEPHENS: The member is also deaf as well as being stupid. He should listen to what I am saying.

The PRESIDENT: Order! The member should ignore the interjections and direct his comments to me.

*Withdrawal of Remark*

Hon P.R. LIGHTFOOT: I am neither deaf nor stupid. I am offended by those remarks and I ask that the member withdraw them.

The PRESIDENT: Order! What were the words?

Hon P.R. LIGHTFOOT: The member said that I was both deaf and stupid, Mr President, and I am offended by both those words. I ask that they be withdrawn.

The PRESIDENT: Order! We have a practice in this place that if members take offence at a word the member is required to withdraw it. However, I get sick and tired of sitting here and listening to members interject and abuse members on their feet, and the moment the member reacts, they leap up and ask for the words to be withdrawn. I find that extraordinary. I do not think the word "deaf" is unparliamentary; therefore I certainly will not require the honourable member to withdraw that word. I think it is unparliamentary to call someone stupid and I suggest that he withdraw that. However, it typifies what is happening in this place. Members no longer tolerate the fact that someone has a different point of view. I am sad about that. The standard of debate today would be first bubs stuff in my view compared with the standard of debate yesterday. That is also sad. The honourable member will withdraw the word "stupid".

Hon TOM STEPHENS: I withdraw the reference to the member who called me a ratbag being stupid. Apparently "stupid" is considered to be unparliamentary.

The SPEAKER: Order! The member must withdraw and not comment.

Hon TOM STEPHENS: I do withdraw. The member who called me a ratbag is no longer one whom I will call stupid.

*Debate Resumed*

The PRESIDENT: Order! The member will now address the rest of his remarks to me.

Hon TOM STEPHENS: Nobody should trivialise the revulsion that the Australian community has exhibited for violence. The Australian community has demanded that parliamentarians and Governments respond to their revulsion by enacting legislation such as this. That should not be laughed at or scoffed at. Rather it should be responded to positively. This legislation attempts to do that. For that reason it has my support.

[Resolved, that the House continue to sit beyond 11.00 pm.]

**HON PETER FOSS** (East Metropolitan - Attorney General) [9.17 pm]: I thank all members who participated in this debate. I feel that almost every possible view and aspect of this debate which could have been put forward has been put forward in one way or another over the course of this debate in a very honest and genuine way. There is little I can add to this debate. I was asked to give an undertaking by Hon Phil Lockyer. I assure him that what is contained in the Bill does not have the effect that he fears. However, I suggest he keep an eye on the regulations. I commend the Bill to the House.

Question put and passed.

Bill read a second time.

*Committee*

The Chairman of Committees (Hon Barry House) in the Chair; Hon Peter Foss (Attorney General) in charge of the Bill.

**Clause 1: Short title -**

Hon N.D. GRIFFITHS: I note that the supplementary Notice Paper is 24-3. It is the third supplementary Notice Paper. A number of members have expressed an interest in causing this Bill to be amended. I have caused amendments to be placed on the Notice Paper. I first did that several days ago. I think that was 24-1; 24-2 dealt with further amendments. Hon Murray Montgomery has a number of amendments on the Notice Paper. I look forward to his putting forward his point of view and moving the amendments that he thinks should be moved after he has listened to alternative points of view. I have put a number of amendments on the Notice Paper. Some of those I will not move because they relate to resolution No 5 of the Australasian Police Ministers' Council of 10 May and they were put on the Notice Paper to flag my party's concern that that resolution has not been dealt with appropriately in the Bill. The Government, having all the resources of the State, will put forward an amendment which in my view more satisfactorily deals with resolution No 5 of 10 May. Therefore I foreshadow that I will not be moving those amendments in my name on the Notice Paper which relate to that resolution.

A number of other amendments in my name relate to matters other than resolution No 5. At this stage I anticipate for the most part moving those amendments and listening to the responses of the Attorney General or others. At the conclusion of the appropriate debate I will determine whether we will be pursuing the amendments. I foreshadow at this stage that the one position we feel strongly about is the provisional licence. We are concerned that people who are trained to use firearms in a realistic way be covered by the appropriate tests and be fit and proper people in a meaningful way. If we are convinced by the Government that that is not necessary, we will not take the matter any further. The onus is on the Government to convince us, because at the moment as I read the Bill the appropriate safeguard for those engaged in training people does not exist.

There is one other matter to which I must regretfully refer. I will refer to that when the Attorney General is in his seat. I am conscious that I am speaking to the short title. We have just had a very long debate in which many members participated. They put forward a number of points of view. I want to place on record my view that the Attorney General's response to the second reading debate, which was taken seriously by members of this House representing all parties and points of view and all shades of opinion, was treated in this fashion. I have noted what he said.

*Points of Order*

Hon TOM STEPHENS: Most regrettably the practice is developing where the Attorney General ignores the member on his feet and engages in a loud conversation with his adviser at the Table. If the Attorney General needs to be briefed by the officer, perhaps he might ask you, Mr Chairman, to leave the Chair until the ringing of the bells, rather than extend to a member the complete discourtesy of a public display of a loud briefing going on at the Table while the member is speaking to him. He insisted on it when he was in opposition and addressing our Attorney General.

The CHAIRMAN (Hon Barry House): Order! That is not a point of order. For the member's benefit, I have had a request from the Attorney General to seat a second adviser at the Table, which I have agreed to. That has been our practice. I think that was what the Attorney General was trying to arrange.

Hon N.D. GRIFFITHS: It is delightful to hear those words. It would have been nice had we been afforded the courtesy of having that information earlier so that I could have stopped speaking until the Attorney General could listen to the points I was making rather than carrying on a conversation, with the greatest respect to him and his advisers. He is supposed to listen to what we are saying and engage in debate, but he treats the Committee with contempt, as he has for the last four years.

The CHAIRMAN: Order!

Hon PETER FOSS: I am taking advice on the points the member is raising. We should get on with dealing with what is before the House and not involve ourselves in this sideways debate.

The CHAIRMAN: Order! There is no point of order there either. I make the point that it has been a constructive debate. I want the Committee stage to be constructive as well. If we concentrate on the subject matter before the Committee, I am sure that can be achieved.

*Committee Resumed*

Hon N.D. GRIFFITHS: Thank you, Mr Chairman. I have had the pleasure of addressing you in that capacity for much of the last four years and, as you well know, I engage in these matters constructively. I wish quickly to terminate the point I was making before my colleague Hon Tom Stephens and the Attorney General engaged in a debate on these other matters, important though they are. I will not express my profound agreement with what was said by Hon Tom Stephens because that would be out of order.

We have engaged in a wide ranging debate. The Attorney General did not address all the points raised by members. Irrespective of their points of view, it was incumbent on him to address those points so that we could more appropriately appreciate the policy of the Bill. I do not know why he did not address their points but I think he could have. It reflects on this place, with the greatest respect, because he did not do his duty. Other members of my party may wish to speak on particular clauses of the Bill, but essentially in the role that my party is required to undertake and which I am pleased to undertake in leading the debate on my party's behalf, I propose to deal primarily with the clauses which are the subject of amendments on the Notice Paper, with a couple of additions. This is to facilitate debate, as I endeavour to do, in a constructive manner. Sometimes when we cut short debate, as the Attorney General did in his second reading reply, we do not facilitate debate. In order to facilitate debate I should indicate the clauses I am concerned to address. They are clauses 3, the commencement clause, which is usually clause 2, as we all know, and clause 38.

Hon SAM PIANTADOSI: Although I find it very difficult to support most things that Hon Nick Griffiths stands for, I believe that what he had to say about the Attorney General not listening is correct. Basically the Attorney General has tried to speed up debate to get on with the legislation rather than consider the wide ranging issues, the facts and the serious concerns that have been raised, as Hon Nick Griffiths said. More consideration should have been given by the Attorney General to what members had said. We have had a knee-jerk reaction by the Prime Minister. Legislation which is born in haste is often not good legislation. The Attorney General is acting in the same way and rushing through the legislation without giving members in this Chamber the opportunity to know his assessment of the concerns and arguments they raised. I am a little concerned about the manner in which this debate is taking place. The way the Prime Minister went about it was bad enough, but what Attorney General has demonstrated is worse. I certainly hope as we go through the Committee stage of this Bill the Minister will demonstrate a little more concern

about, and give consideration to, some of the issues raised by members on both sides of the Chamber rather than attempt to steamroll the legislation through the Parliament.

Hon PETER FOSS: I thought I expressed myself fairly clearly.

Hon N.D. Griffiths: We know that.

Hon PETER FOSS: After at least 20 speakers in this place expressed almost every point of view possible on this matter, I thought the elements involved had been adequately canvassed. I have the capacity, if the Committee wishes, to speak almost endlessly on this subject. If members want that, they should have indicated that to be the case as I would be happy to take a couple of days to reply to the debate! I can say four words to everybody else's one. I have adopted the view that this Chamber has adequately expressed itself on the matter, and that any words from me will be purely persiflage.

I reject the statement made by Hon Tom Stephens, although it is probably unnecessary to say that because probably most people in this Chamber take the same view and reject anything Hon Tom Stephens says.

Hon Tom Stephens: It was the contempt you showed to Hon Joe Berinson when you were on this side of the House.

Hon PETER FOSS: I would hate people who do not know Hon Tom Stephens to think that I agree with anything he says. I take everything in this debate seriously. If members measure seriousness by the number of words used, I must differ from them. I do not consider that the number of words used indicates the degree of seriousness of a debate. It is not necessary for me to speak endlessly to show that I am taking it seriously.

Hon Mark Nevill: We are asking for a bit of balance.

Hon PETER FOSS: When people raise serious points, I will take advice and not hold up the Chamber necessarily. I assure members that I treat the Bill seriously. However, if people want to measure my seriousness through my using more words, I am capable of doing that. It is possible to indicate a serious intention without using a lot of words.

The CHAIRMAN: Members have had the opportunity to make their points. The debate has been outside the guideline of a clause 1 debate. Having made their points, members should now get on to the substance of the debate. We will stick to that principle during the Committee stage.

Hon J.A. SCOTT: I reflect on the extraordinary nature of tonight's proceedings. Firstly, members on this side of the Chamber -

The CHAIRMAN: Order! I am sorry to bring the point home while Hon Jim Scott is on his feet, but I said that the rules of Committee will be abided by. Debate must relate to the clauses of the Bill and we cannot revisit the second reading debate. The principle of the Bill has been decided in the second reading debate, and we must now concentrate on the detail of the Bill.

Hon J.A. SCOTT: I had some concern for the future of the Bill and whether it would last the night with some integrity considering the many opinions on the government side which are contrary to what I expected. However, I am extremely pleased that so many people on this side of the Chamber are supporting the Minister and the Executive so we will see this Bill passed.

Hon MURRAY MONTGOMERY: Obviously, as Hon Nick Griffiths mentioned, some amendments are contained on the Notice Paper which I will move during Committee. Although, we have discussed the principles of the Bill, we have not debated whether the Minister, the Government or this Chamber will accept these amendments. I believe that this place has taken the view that it has acted as a House of Review with this Bill. It is everybody's right to express that point of view. The Notice Paper indicates the clauses on which those amendments will be moved, so the amendments are before members.

**Clause put and passed.**

**Clause 2 put and passed.**

**Clause 3: Commencement -**

Hon N.D. GRIFFITHS: Clause 3 occupies a position which clause 2 normally occupies in Bills in dealing with commencement. It is an interesting clause with regard to how it relates to the Government's legislative program. Everybody in Western Australia is now familiar with the disgraceful performance of this Government relating to the commencement of legislation and the application of the guillotine in the other place -

Hon P.R. Lightfoot: Why not stick to the clause?

Hon N.D. GRIFFITHS: Why does Hon Ross Lightfoot not listen for a change; he has no sense of reason and carries on with his stupid interjections!

Everybody in Western Australia knows of the disgraceful performance of this Government with respect to the commencement provisions, and how it has delayed legislation. As an aside, and by way of example, how urgent was the witness protection legislation, how was it held up and how is it still held up? People's lives are at risk as a result of the Government's silly political desires.

Clause 3 reads-

Subject to subsection (2), this Act comes into operation on such day as is fixed by proclamation.

When will that be? Will it ever occur? Are we going to wait on Tasmania, the Northern Territory, Victoria, South Australia and New South Wales? We have no idea. What criteria will be used to determine when it will come into operation? Perhaps we will receive an explanation to the effect, "It will come into effect when the regulations are ready, and all of those matters relevant to the appropriate administration of this Act are ready to be put into place." If the Attorney General is competent - I raise the question - he will tell us with respect to each of those criteria, what they are, when they will be ready, the consultative process so far and that expected in the future.

Proposed subsection (2) indicates that section 16 will come into operation following two situations - two alternatives. I am not filibustering. I am the lead speaker for the Australian Labor Party in this debate. I took about 45 minutes on this matter, which is pretty unusual for such a piece of legislation. I and Hon Graham Edwards dealt with the general principle of the Bill, and my colleagues dealt with matters of particular concern to them. In fact, most of the second reading debate on this Bill comprised the words spoken by members opposite, which is fair enough. I am not criticising them; I just put debate in that context. The Opposition will not vote against this clause. If this Chamber really lives up to the stupid pretence that it is a House of Review - we know it is a rubber stamp House -

Several members interjected.

Hon N.D. GRIFFITHS: The Government has the numbers.

Hon P.R. Lightfoot: Thank God!

Hon N.D. GRIFFITHS: Thank God! He brings the deity into it and I believe that is contrary to standing orders.

Hon Peter Foss: If the member were to address the clause, I would be very happy to reply.

The CHAIRMAN: I was about to make that point. I am sure he will confine his comments to the clause.

Hon N.D. GRIFFITHS: The Chairman knows that I am addressing the clause. The Attorney General's filibustering interjections are unwarranted. Subclause (2) provides -

Section 16 comes into operation on -

Hon P.R. Lightfoot interjected.

Hon N.D. GRIFFITHS: Why does the member not look at section 16? He should have spent a bit more time in school learning to read. I am referring to the Blue Bill, which was presented to the other place before it carefully considered it and before we had dealt with the legislation. It commences -

The licences which may be issued under this Act are -

It then deals with the licences. The Attorney General should not get too excited. However, proposed section 16 will not come into operation for licences that may be issued under the Acts -

Hon Peter Foss interjected.

Hon N.D. GRIFFITHS: They will not be issued. The Attorney General should refer to proposed section 16 at page 22. Is the Attorney General still tired? The Bill provides -

(2) Section 16 comes into operation on -

(a) the day on which the amendments made to the principal Act -

And that refers back to clause 2, which we have just passed, and I agree with that clause -

- by the Security and Related Activities (Control) Act 1996 come into operation; or

Before I deal with the word "or", I will refer to that legislation, because it is relevant to clause 3. Is this a nonsense and part of a pre-election balloon blowing, public relations exercise? Will the Government announce that the Firearms Amendment Bill has been passed and there are no more problems?

Hon Peter Foss: You are reading the wrong clause.

Hon N.D. GRIFFITHS: I am reading the wrong clause, am I? I am referring to clause 3 - Commencement. I really must be reading the wrong clause; that is what it says. Can the Attorney General not read that?

Hon Peter Foss: Read section 16.

Hon N.D. GRIFFITHS: I will read what I want to read and I am reading this. Clause 3 provides -

- (2) Section 16 comes into operation on -
  - (a) the day on which the amendments made to the principal Act by the Security and Related Activities (Control) Act 1996 come into operation; or

Hon Peter Foss interjected.

Hon N.D. GRIFFITHS: Does the Attorney General intend interjecting against standing orders repeatedly? Will he carry on like he did with Hon Joe Berinson four years ago?

The CHAIRMAN: Order! I ask the honourable member to make his point and the Attorney General to stop interjecting. If they do I am sure we will make some progress.

Hon N.D. GRIFFITHS: Thank you, Mr Chairman. I am sure you meant to say that the Attorney General should stop interjecting first.

The CHAIRMAN: I know what I wanted to say.

Hon N.D. GRIFFITHS: The Security and Related Activities (Control) Act is a charming piece of legislation. It gives us a lot of comfort when we talk about when it will come into operation. It tells us something about this Government. I refer members to the parliamentary document entitled "Progress of Bills introduced into the Parliament of Western Australia", dated 28 October 1996.

Hon Peter Foss: What is your point?

Hon N.D. GRIFFITHS: Why does the Attorney General not listen? If he did he would find out. We are talking about when this legislation will come into operation.

Hon Peter Foss: No, when proposed section 16 will come into operation.

Hon N.D. GRIFFITHS: The Security and Related Activities (Control) Bill was first read in the Legislative Assembly - the House of the guillotine - on 8 December 1994, and His Excellency assented to it on 2 July 1996. It has still not been proclaimed and we are getting pretty close to 31 October. Members opposite are great performers. Clause 3 continues -

- (b) the day on which the other provisions of this Act come into operation,  
whichever is the later.

The Security and Related Activities (Control) Act makes specific reference to this legislation, as set out in schedule 2 -

Hon Peter Foss: The member read section 16 from the Blue Bill, which is the wrong Bill. It should be section 16 from here.

Hon N.D. GRIFFITHS: Does the Attorney General want me walk over there?

The CHAIRMAN: I suggest that the honourable member might allow the Attorney General to respond rather than the Attorney General's interjecting. I am sure we will make some progress.

Hon N.D. GRIFFITHS: I am more than happy to allow the Attorney General to respond, but he should respond after I have finished speaking and not by way of interjection. If the Attorney General is telling me that the Blue Bill is a misleading document, I am quite happy to accept that and I will chuck it in.

Hon Peter Foss: I am saying that the member is reading the wrong Bill. It refers to section 16 of this Act, which has nothing to do with the categories of licences.

Hon N.D. GRIFFITHS: All right, I will sit down and let the Attorney General talk on.

Hon PETER FOSS: Clause 3(2) deals with section 16 of the Firearms Amendment Bill 1996. Clause 16 of the Bill, not section 16 of the current Act, states -

Section 16A of the principal Act is amended by deleting section 16C and substituting the following -  
 "section 16(1)(c)".

The reason it is dependent upon the coming into operation of the Security and Related Activities (Control) Act is that that section is inserted in its entirety in section 16A. Unless that is in effect we can hardly amend that section to refer to section 16(1)(c) - it does not exist. It is simply saying that there is no point in making the amendment contained in clause 16 until the clause to be amended exists. It has nothing to do with what the member read, which related to section 16 of the Act and refers to the particular categories of licences. That is the clause referred to in section 16A. Section 16(1)(c) already exists by virtue of the Firearms Act itself. It seems entirely illogical to defer the coming into operation of clause 16 of this Bill because it is amending a provision that does not exist.

That is not a matter of great moment. It is only changing a reference because "(1)" has been inserted which does not exist until such time as the legislation is passed. Otherwise, proposed section 16 is perfectly acceptable.

Hon N.D. GRIFFITHS: I make two points. First, the fact that this is another example of uncertainty with respect to a piece of legislation coming into operation is a matter of great moment. The second point is not a matter of great moment, but it takes up the technical aspect of the Minister's responsibility.

Hon P.R. Lightfoot: The uncertainty is in your mind.

Hon N.D. GRIFFITHS: Why does Hon Ross Lightfoot not listen for a change? For some reason he seems to be a bit frustrated. In considering this clause, the Minister is inviting us to have knowledge of a clause which appears later in the Bill. Surely that is against standing orders. The words are "section 16". If the Minister wants to talk about this issue after we deal with the clause to which he referred, he should postpone this clause. The primary position is this: This is yet another illustration of the uncertainty that exists with respect to this Government deciding to big-note itself by passing legislation and then doing nothing about it. The words are "Section 16 comes into operation". I am looking at clause 3. I should not be looking at other clauses because the Chamber may not agree to them. I am sorry; this is the place of rubber stamping - of course, they will be agreed to, because the Libs and the Nats have the numbers!

Hon PETER FOSS: All I can say is that clause 3 refers to section 16. To understand what this clause is all about, we must look at it. That is how the Committee stage works. Members read the Bill and look at what each clause refers to. If Hon Nick Griffiths does not want to look at section 16 and instead wants me to refer to section 16 of the Firearms Act, that is fine. However, I will read this Bill, and I will comment on this Bill.

Hon N.D. GRIFFITHS: He calls himself the Attorney General!

**Clause put and passed.**

**Clauses 4 and 5 put and passed.**

**Clause 6: Sections 5B and 5C inserted -**

Hon P.R. LIGHTFOOT: I refer to proposed new section 5B(3) and the composition of the Firearms Advisory Committee. I have some apprehension about the representative from the health profession. The reference to that representative should be more specific. It should have some definition, rather than the generic reference that has been given. I would like the Attorney General, if he is able, to define the health profession representative to be a member of the Firearms Advisory Committee. If that is premature to the amendment Hon Murray Montgomery will seek to move, which deals with this issue, I am happy to accede to him. If not, can the Attorney General define the health profession in that context? I see it as creating some imbalance on that advisory committee. In fact, I can see a dichotomy between the health profession representative and the other members of the committee. I see that representative as being somewhat superfluous. It could cause some problems with the proper function of the Firearms Advisory Committee.

Hon PETER FOSS: All these people are to be appointed by the Minister. Ultimately it is a decision by the Minister about what is a representative of the health profession. The idea of the advisory committee is, of course, to give advice. It has no function other than to provide advice. The Minister needs to have a broad range of opinions to provide him with advice he believes is necessary to enable him to arrive at a decision. The Minister is of the view that unless he has the advice of people who may take the view that firearms are a health hazard, his advice would be incomplete. It does not necessarily mean that the advisory committee must have unanimity in its views. It just needs

to be able to proffer advice to the Minister, such that he is able to make decisions and bring forward measures that he can decide on once he receives that advice. Although it is a vague term, the vagueness can be resolved by the Minister making up his mind about what constitutes a representative of the health profession.

Hon MURRAY MONTGOMERY: I refer to proposed new section 5B(3)(a). The amendment that has been placed on the Notice Paper deals with the Minister being a member of the committee. That would be an anomaly if it were to come into being. It means the Minister is chairing an advisory committee from which he is seeking advice, which he should not be doing. The amendment I will move seeks to ensure that the Minister can have advice given to him, which he does not necessarily have to take. If the Minister so wishes, he can address the advisory committee. Surely the chairman of any ministerial advisory group must not be the Commissioner of Police. It should be an independent chairman. I move -

Page 5, line 19 - To insert after the word "be" the words "an independent Chairman appointed by".

Hon PETER FOSS: The Government accepts the amendment.

Hon N.D. GRIFFITHS: When I first examined this amendment I thought it had great merit and I still think it has merit. The Minister for Police brought before us a proposition that the advisory committee would be chaired by him. What would be the point of that? The words "The Firearms Advisory Committee is to consist of 7 members of whom one is to be the Minister" proposed to be substituted by the words "one is to be an independent chairman appointed by the Minister" seems to be very sound. Hon Murray Montgomery expressed concern that it should not be chaired by the Minister for Police. Subclause (b) provides that one is to be the commissioner, so subclause (a) deals with the chairman. I take it that the commissioner is the Commissioner of Police, so he would not be the chairman but perhaps he could be.

I am a bit concerned about the word "independent", although I am not concerned about the concept of independence. Independence from the Commissioner of Police or perhaps some other body may be appropriate. However, to use the word "independent" in this context may be taking it a little too far. What Minister has ever appointed anyone he believed would act contrary to his philosophy or to what he wanted to achieve? In that context the word "independent" cannot arise with respect to any executive appointments. There is always a link, whether it be philosophical or some other. The word "independent" is superfluous. There may be a better method of dealing with this. If Hon Murray Montgomery's objective is that the chairperson should not be the Minister - with which I agree - but that it should not be "one of the following", it should be better expressed. I do not say that in a disparaging way. If there are no further words of expression, the Opposition will support the amendment. I understand the Government's intention in terms of its 7 December election deadline and the Opposition is happy to accommodate it.

Hon J.A. SCOTT: I am becoming a little concerned - I may be misconstruing things - about what seems to be a push from the back bench to change the nature of the Firearms Advisory Committee to one which is more aligned with the pro-shooting group. It is essential that the make-up of the committee be widely representative. It will have one representative from the primary producers, who will no doubt have an interest in ensuring that firearms ownership by primary producers is looked after. It will also have one representative of the firearms trade and one appointed by the Minister after consultation with organisations representing firearm users. It would therefore only be appropriate that one member should come from the health profession to represent the victims. I would not like to see the membership of the committee messed about with to put in place a yes committee of pro-shooting people.

Hon MURRAY MONTGOMERY: Consideration was given over some time to find suitable words, but the words in the Bill were the most suitable that would fit into subclause (3)(a).

Hon PETER FOSS: This is not my amendment and I do not intend to try to redraft it. Although we do not know what is the precise and definitive meaning of the term "representative of the health profession" it at least indicates the sort of person the Minister should appoint. An independent chairman could be interpreted to mean what Hon Nick Griffiths suggested; that is, someone who is not one of the representative groups named afterwards. The essential part of the amendment is good; that is, that the Minister should not be on a committee which is to advise him, otherwise it would be obvious which section of the committee would get the most attention. We must hear what other people have to say before making up our mind.

#### **Amendment put and passed.**

Hon PETER FOSS: I move -

Page 6, line 10 to page 7, line 29 - To delete the lines.

The reason for this amendment is that the provisions which were encompassed within the lines proposed to be deleted are now in a new clause at page 13 and 14 of the Supplementary Notice Paper.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clauses 7 and 8 put and passed.**

**Clause 9: Section 9A inserted and transitional provision -**

Hon MURRAY MONTGOMERY: I propose an amendment to extend the licensing period from one year to five years. I draw an analogy with a driver's licence, where a one year licence can be extended to five years. This will minimise the paperwork for police and allow for greater efficiency, and it will also allow eligible people to have the licence period extended. It will not stop regular checking or assessment by the police. Gun owners generally will support my proposed amendment as it is in their interests. I move -

Page 13, line 19 - To delete "12 months" and substitute "5 years".

Hon PETER FOSS: The Government opposes this amendment. In some instances it has been appropriate for the Government to extend the period of licences and I refer, for example, to business registration licences and drivers' licences. In the case of business registration licences, which have been extended to three years, generally speaking businesses have obligations to file regular statements and it is necessary only to reconsider the appropriateness of the person remaining a licensee. In the case of drivers' licences an argument could be put for adopting the United Kingdom system whereby people are licensed until the age of 70 years. The reason for issuing licences for shorter periods is to keep track of where the person is and to ensure the licence is reviewed in light of any offences during that period. A firearm licence is entirely different. It is assumed that it will be reasonable to allow most people to continue to drive after they have obtained a driver's licence. The basic premise of this Bill is that obtaining a licence is dependent on a state of affairs which must continue. It may very well be that the person's change of residence or occupation may lead to a review of the appropriateness of their having a licence. In the case of a driver's licence, if the address is not up to date, it is a problem only to the person and to nobody else. However, in the case of a firearm licence it is important that the information be up to date and that the police have the current information. All the reasons that justify longer licensing periods for drivers and businesses are absent in the case of firearm holders, and the extra matters relating to the firearm licence demand that it be an annual renewal.

**Amendment put and negatived.**

**Clause put and passed.**

**Clause 10: Section 10 repealed and a section substituted, and saving -**

Hon J.A. COWDELL: This clause states that a licence or permit cannot be issued to a person under the age of 18 years. It replaces the existing section 10 in the Act under which no licence or permit may be issued to any person under the age of 18 years in respect of a pistol, and no licence or permit may be issued to any person under the age of 16 years. The Minister will be aware from the debate last night that I have followed this issue with some interest. Although current arrangements are not affected by this amendment, for a couple of years I have been seeking information about how many 16 and 17 year old persons currently hold licences and how many weapons those licences cover. It is pertinent to our understanding of whether this problem needs to be addressed. Last night the Minister indicated the answer had been provided by the department, but I am still waiting for that answer. When I checked with the Chamber staff I was told no such reply had been given, and the question remained on the Notice Paper unanswered. It would be nice to receive an answer, as it is relevant to our changing section 10 of the Firearms Act 1973. I have been seeking this relevant information from the police - through the Minister for Police - for nigh on two years. I have received answers in this Chamber that the information would have to be found manually and, therefore, it could not be provided. I was then told it had been manually collected by the Police Service and put into its computer but it could not be retrieved from the computer because the police did not have a program to do so. When the Commissioner of Police appeared before the Estimates Committee I asked whether he needed an extra appropriation to enable information in the computer to be retrieved and provided to legislators. I was told to put the question on notice, and that some information would be provided.

Hon PETER FOSS: The number of 16 year old persons who currently possess a firearm licence in Western Australia is 48, with 104 firearms being licensed. The number of 17 year old persons who currently possess a firearm licence in Western Australia is 185, with 408 firearms being licensed. The member also asked how many firearm holders pay an ordinary fee of \$22 to cover one firearm, two to five firearms, six to nine firearms, and 10 or more firearms: 38 858 licence holders have one firearm; 57 353 have between two and five firearms; 8 553 have between six and nine firearms; and 1 996 have 10 or more firearms. I hope it is gratifying to the member to at long last receive a reply.

**Clause put and passed.**

**Clause 11: Section 10A inserted -**

Hon N.D. GRIFFITHS: I move -

Page 15, line 7 - To insert after the word "Act" the words "other than a Provisional Licence".

This amendment foreshadows an issue which is dealt with in a more substantive manner in a later clause. It is appropriate that the Committee deal with the issue of a provisional licence now rather than postpone the clause. If it is the Committee's will to accept the notion of a provisional licence - the substantive impact of which is not necessarily dealt with in this clause - it will pass the amendment that I have just moved. If it does not pass the amendment the will of the Committee will be to the effect that it disagrees with the notion of a provisional licence. I propose to make some brief comments on the notion of a provisional licence and to invite interested members to make their observations on the issue. When the Committee deals with this amendment it will then follow that the Committee has made its will known on the later amendment that I placed on the Notice Paper, that being the operational amendment. I raised the issue of a provisional licence during the second reading debate. That issue will in no way water down the regulatory regime that has been proposed. In fact, it will enhance it to the betterment of those who, as I understand it, would otherwise be placed at risk. I understand there is a view to the contrary, and I am interested to hear that view. I understand from conversations with members on both sides of all complexions - members of the National Party, the Liberal Party, the Labor Party, the Greens (WA) and others - that there is an understanding of the notion of a provisional licence in the terms that I expressed last night.

Briefly, I am advocating that the safeguards of licence issuing be put in place with regard to people who seek to be trained and therefore become trained in the use of firearms. That is necessary first and foremost to protect those who are involved in training, and the public at large. What happens if somebody is trained in the use of a firearm but does not fit the test among other things of a fit and proper person? If there is something really wrong with what I propose I want to hear it.

Hon PETER FOSS: I will ask Hon Nick Griffiths to expand a little more on how he sees a provisional licence operating. We have not formed a view, because at this stage we have not fully understood it. Once we understand it we might take the view that it requires a bit more development in relation to other parts of the Bill. This amendment anticipates the amendment to clause 15.

Hon N.D. Griffiths: I have suggested that we have the debate at this stage rather than at clause 15 because I do not want to impede progress. As the Attorney General knows, I have been cooperative in passing this legislation.

Hon PETER FOSS: I accept debating the issue at this point, because it may affect other parts as well as clause 15. Could the member give me a better idea of how it would operate? First, nothing prevents a person from undertaking training, although a person is entitled not to undertake training. If the member is envisaging another licence called a provisional licence, will that licence do any of the things that are required in clause 16, or is it only for the purpose of training? Is the member proposing a provisional licence for firearms, collectors, corporations or whatever, or is he confining a provisional licence purely to a firearm licence? If a person had a provisional firearm licence that would not entitle him to possess, carry and use it other than for the purpose of training, and probably only in that case with a person who already has a licence. I should think the normal way, if the member wishes to provide for training with the weapon, would be through an organisation such as one of the shooters organisations. I should think that we would not wish people to have a licence which allowed them to train without there being an exemption such as contemplated in section 8(1)(m). It would be necessary to set up a regime under which they could use that firearm. If they were not going to use a firearm they would not need that provisional licence.

Hon N.D. GRIFFITHS: Mr Chairman, in dealing with this amendment we are doing so with your indulgence because in a sense we are really dealing with the operative amendment to clause 15. The concept of a provisional licence involves the degree of safeguard that applies to licence holders overall, including people who undertake training. The clause to which the Minister referred does not deal with the problem to the extent necessary. I propose that when somebody is to undergo training in the use of firearms he must pass the appropriate tests to, firstly, safeguard those who will be training him and, secondly, safeguard the public at large. When somebody is trained, perhaps it is too late. Members are aware that there are unlicensed firearms in the community and that firearms are stolen. What is proposed by this amendment is for the good of society. It will not in any way impede the regulatory regime proposed in the Bill; it will add to it. I am aware it is not dealt with in the Australasian Police Ministers' Council resolutions, but that does not mean it is beyond the pale. We are simply improving the Bill.

I am aware that there are members in this Chamber who are more familiar with firearms than I and I do not profess to be an expert on these matters. I am conscious that some members understand the amendment I have put forward. If members continue to have doubts about it, I invite them to take part in the debate.

Hon DERRICK TOMLINSON: Hon Nick Griffiths indicated that the issue which is being debated really belongs to clause 15. Would it be appropriate to defer consideration of this clause until the question in clause 15 is dealt with? If the Committee accepts the amendment in clause 15 - that is, the notion of a provisional licence - it could then debate this clause.

The CHAIRMAN: It is up to the Chamber to decide that. The course of action suggested by Hon Derrick Tomlinson is sensible. The Committee can defer consideration of clause 11 until after clause 15.

Hon PETER FOSS: I am easy either way, but I accept that Hon Derrick Tomlinson may not find it comfortable.

**Further consideration of the clause postponed until after consideration of clause 15, on motion by Hon Peter Foss (Attorney General).**

[Continued on p .]

**Clause 12: Section 11 repealed and sections 11, 11A, 11B, and 11C substituted -**

Hon MURRAY MONTGOMERY: I move -

Page 16, line 12 - To delete the words "public interest" and substitute the words "interests of public safety".

This amendment will give the commissioner the power to refuse the granting of a firearm licence if it is in the interests of public safety rather than in the public interest. Public safety is of paramount importance even though it has a narrow focus.

Hon PETER FOSS: The Government opposes this amendment for a number of reasons. Firstly, the term "public interest" is well known and has been well used in many Statutes. It is a justifiable ground because if the public interest is such that a licence should not be granted, it would be strange that one should grant it even though it is contrary to the public interest, but is not a matter of public safety. In most cases, the incident of public interest relating to firearms is likely to be public safety. Therefore, for all intents and purposes the types of discretionary factors which can be taken into account will relate to the safety of the public. It is strange that we should limit the words to be used so as to admit the theoretical possibility that a person may be licensed against the public interest simply because the public interest is not a matter of public safety.

Secondly, one should, wherever possible, use phrases which are common usage and have been interpreted by the court. One of the recent cases relating to the question of public interest involved the Firearms Act. I am reluctant to adopt either the principle or the words in the present context. We should use words which are commonly understood and could form the grounds for refusing a licence.

Hon DERRICK TOMLINSON: I would be more persuaded by the Attorney General's proposition that public interest was the appropriate term if proposed section 11(1)(b) was in isolation. However, it is not; it is an alternative to proposed paragraphs (a) and (c). Proposed paragraph (a) deals with the approval being contrary to proposed section 11A or regulations under proposed sections 11B or 11C. Proposed section 11A deals with genuine reasons; 11B refers to genuine need and 11C refers to other restrictions and states that the regulations may restrict the grant, issue or renewal of licences, permits, or approvals under the Act. One assumes it is in the public interest. Therefore, the public interest is dealt with in proposed section 11(1)(c), which states that approval will not be granted if the person is not a fit and proper person to hold the approval, permit, or licence. It is a specific example of the public interest. Therefore, proposed paragraphs (a) and (c) refer to the public interest and proposed paragraph (b) states that it is not desirable in the public interest. Just as we have specified what the public interest is in those proposed sections, I suggest that the amendment moved by Hon Murray Montgomery is appropriate in this context, because it specifies a particular aspect of the public interest; that is, public safety.

Hon PETER FOSS: I cannot agree with the amendment. The more specific examples we give, the more likely we are to have a catch-all at the end. Why would we want to issue a licence if it was not in the public interest? By all means we can include public safety, because that certainly would be included in the public interest. However, to say that a licence should not be issued if it was not in the interests of public safety is to go even further than that and to say, "What would we need to prove to show that it was not in the interests of public safety?" In that regard, we might also have to deal with what is contained in proposed subsection 11(2).

Amendment put and a division called for.

Bells rung and the Committee divided.

The CHAIRMAN (Hon Barry House): Before the tellers tell I cast my vote with the noes.

Division resulted as follows -

Ayes (14)

Hon Kim Chance  
Hon J.A. Cowdell  
Hon Cheryl Davenport  
Hon Val Ferguson  
Hon N.D. Griffiths

Hon John Halden  
Hon Murray Montgomery  
Hon Mark Nevill  
Hon Sam Piantadosi  
Hon J.A. Scott

Hon Tom Stephens  
Hon Derrick Tomlinson  
Hon Doug Wenn  
Hon Tom Helm (*Teller*)

Noes (13)

Hon E.J. Charlton  
Hon M.J. Criddle  
Hon B.K. Donaldson  
Hon Max Evans  
Hon Peter Foss

Hon Barry House  
Hon P.R. Lightfoot  
Hon P.H. Lockyer  
Hon N.F. Moore

Hon M.D. Nixon  
Hon B.M. Scott  
Hon W.N. Stretch  
Hon Muriel Patterson (*Teller*)

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Pairs

Hon Graham Edwards  
Hon A.J.G. MacTiernan  
Hon Bob Thomas

Hon I.D. MacLean  
Hon George Cash  
-

**Amendment thus passed.**

Hon PETER FOSS: I move -

Page 16, after line 19 - To insert the following new subsections -

(3) The Commissioner has a sufficient ground for forming an opinion that a person is not a fit and proper person to hold an approval, permit or licence under this Act if the Commissioner is satisfied that -

- (a) at any time within the period of 5 years before the person applies for the approval, permit or licence -
  - (i) the person was convicted of an offence involving assault with a weapon;
  - (ii) the person was convicted of an offence involving violence;
  - (iii) the person was convicted of any offence against this Act; or
  - (iv) a violence restraining order was made against the person, whether in this State or in any other place; or
- (b) the person fails to meet standards of mental or physical fitness that the Commissioner considers to be necessary for the person to hold the approval, permit or licence.

(4) In subsection (3) -

**“violence restraining order”** means a judicial order imposing on the person against whom the order is made restraints on the person's lawful activities and behaviour to prevent the person -

- (a) committing an offence against the person under Part V of *The Criminal Code*, other than Chapters XXXIV and XXXV; or
- (b) behaving in a manner that could reasonably be expected to cause fear that the person will commit such an offence,

or a similar order made under the laws of any place other than this State.

(5) The Commissioner may form an opinion that a person is a fit and proper person to hold an approval, permit or licence under this Act in a case in which the Commissioner has a sufficient ground under subsection (3) for forming the contrary opinion.

(6) Subsection (3) does not limit the Commissioner's ability, when forming an opinion as to whether a person is a fit and proper person to hold an approval, permit or licence under this Act, to take into account -

- (a) a conviction or order made outside the period of 5 years referred to in paragraph (a) of that subsection; or
- (b) anything else that could have been taken into account if that subsection had not been enacted.

Hon PETER FOSS: This amendment picks up the references to violence restraining orders and domestic violence and makes it clear that it dovetails with the provisions that will be introduced with regard to violence restraining orders, particularly where a person has behaved in such a manner as to reasonably cause fear that the person will commit an offence. Under those circumstances, there is a capacity to remove the firearm from that person.

Hon N.D. GRIFFITHS: I support the amendment and I congratulate the Government for meeting the concern of the Australian Labor Party, as expressed by me in the second reading debate, that the Bill did not appropriately accommodate APMC resolution No 5 with respect to domestic violence, criminal history and associated matters. Hon Graham Edwards and my friend and colleague the member for Balcatta, Nick Catania, have put a considerable amount of effort into that matter. It is the subject of a number of amendments on the Notice Paper, and it was the subject of a number of amendments on the Notice Paper in the other place. I will not move any of those amendments because the wording produced by the resources of the State of Western Australia is superior to that produced by the Opposition at short notice for the purpose of flagging our concern about the need to deal with that resolution.

Hon PETER FOSS: I thank the member for his statements. It also has the advantage of dovetailing with the Restraining Orders Bill, for which I delivered the second reading speech today.

#### **Amendment put and passed.**

Hon MURRAY MONTGOMERY: I move -

Page 17, lines 6 to 17 - To delete proposed subsection (4).

My amendment aims to take away some of the powers of the Commissioner of Police in seeking information in a specified period. If a form is not filled out, it is possible that a licence will lapse; or if the commissioner sees the application in a form that he wants, it will come back to him within the correct period. For that reason I believe the words in new section 11(4) should be deleted.

Hon PETER FOSS: The Government does not agree to this amendment. This clause deals with restrictions on the commissioner's discretion. It requires him to ascertain certain facts and to act on those facts before deciding whether to grant or not grant an approval, permit or licence. For him to be able to make such a decision, he plainly requires information. It may be that that information is not provided in the first instance by the applicant. Therefore, necessarily, he must be able to require that information. Having required that information, there must be a consequence if a person fails to provide it.

The most sensible way to deal with that is to say that that is the end of the application. If a person cannot put his efforts into answering those questions and providing that information in the form requested, why should that licence be granted? It is in the hands of the applicant, having been asked to provide information that is necessary to determine the exercise of the discretion, to provide that information. If he does not, why should it be left as an open application for possibly years because the person neglected to deal with it? Obviously there must be an end. The appropriate time for the end is when the person does not respond within the time set.

Hon N.D. GRIFFITHS: I have listened to what Hon Murray Montgomery and Hon Peter Foss have had to say. The Commissioner of Police, or whoever acts on his behalf, is entitled to seek information. However, that information may be inappropriate or irrelevant. If the commissioner seeks information and that information is not provided, the commissioner may decide to refuse the application. If the commissioner refuses, an appeal can take place. However, under this provision the application will lapse; nothing will take place. In most cases in an appropriate administrative regime the failure to provide information that is appropriately requested, leading to a refusal and then an appeal, would lead to the appeal failing. In those circumstances what Hon Murray Montgomery proposes has merit. Perhaps I have it wrong. If I do, I would like to hear why.

Hon PETER FOSS: It is because of the formation of this clause. The commissioner must form the positive opinion that the licence is contrary to new sections 11A, 11B or 11C; the positive opinion that it is not desirable in the interests of public safety; or the positive opinion that the person is not a fit and proper person. If the commissioner does not have any information on which to form that positive opinion, he must grant the licence. That is the difficulty

here: He needs to be able to form a positive opinion. If members were to allow this amendment and the commissioner was not able to form an opinion, the consequence would be to put all the other things totally at a loss: New sections 11A, 11B and 11C and the resolutions of the Australasian Police Ministers' Council may as well be forgotten because the easiest way to get around these problems is not to provide the information the commissioner asks for. He therefore would not be able to come to a positive opinion and the legislation would have a big loophole that one could drive a truck through. That would be inappropriate. Members may as well not bother to enact new sections 11A, 11B and 11C if they delete this new subsection.

Hon N.D. GRIFFITHS: The Minister is inviting us to look at sections 11A, 11B and 11C. I am not going to do that. All members must do is read the words. It is up to the person to show the genuine reason. The Attorney General is putting it around the wrong way. He has not placated the reasonable concern raised by Hon Murray Montgomery.

Hon PETER FOSS: I will make it clear. If this amendment is allowed, it will be the end of the ability of the commissioner to form the opinions referred to in this new section, and that would be the end of new sections 11A, 11B and 11C. It would be the end of the fit and proper person test and all the restrictions that will be put in place. Frankly, if members pass this amendment, they might as well forget the rest of the Bill. I say quite publicly that if members pass this amendment, they will hazard the entire Bill.

Hon DERRICK TOMLINSON: I was going to refrain from speaking; however, I resent being told to support legislation under that kind of threat, especially since the Attorney General unfortunately overstated the problem. Just as Hon Nick Griffiths indicated, it is perfectly appropriate for the Commissioner of Police to request information. It is also perfectly appropriate for the commissioner to specify a time and a form for the return of that information. All this new section will do is say that if the information sought is not returned within at least 28 days or such further period as the commissioner may approve, and in the appropriate form, the application will lapse. I disagree with the concern of Hon Murray Montgomery. I support the clause in its current form. However, I resent being told that I must conform under the sort of threat that was just issued by the Attorney General.

Hon PETER FOSS: I am not issuing threats. I would like people to understand the consequences of the incapacity of the commissioner to ask for further information and the necessity for a consequence if he does not get the information requested. I am making it clear that unless he has the capacity to demand that information, he will be hamstrung with regard to new section 11(1). It is rather like saying that there is an offence, but no penalty. We can say that the provision is in the Bill, but there is no penalty. This new subsection is the penalty for the failure to provide that information. If the Bill does not contain this penalty, the commissioner's hands will be tied. He will not be able to refuse people because he will have no grounds to refuse.

I am not making a threat; I am making clear what the consequences are. The threat is to delete that new section.

Hon Derrick Tomlinson: I am happy to support the clause.

Hon PETER FOSS: I am very glad. This is not a threat. I am pointing out the consequences. If we take out the penalty for failing to provide information, we take out the capacity of the commissioner to deny the licence, on the grounds which we have just said are appropriate. He must form a positive view, and if he does not have the basis on which to come to a positive view, the easiest way to get around it is to not give him the information. If we do not give him that information, the easiest way through the loophole is to send him the least amount of available information and hope that he does not find anything positive.

Hon MURRAY MONTGOMERY: That was not the explanation I sought. However, I accept the explanation. The Attorney General believes that the amendment should not be agreed to.

**Amendment, by leave, withdrawn.**

Hon N.D. GRIFFITHS: I am very pleased that Hon Murray Montgomery will not move his foreshadowed amendment, because we would have voted against it.

I foreshadowed earlier that I would not move my next amendment, in the light of the amendment referred to as D12, in the name of the Attorney General, regarding APMC resolution No 5. This is one of several amendments of like character that I propose not to move.

**Clause, as amended, put and passed.**

**Clauses 13 and 14 put and passed.**

**Clause 15: Section 16 amended and transitional provision -**

Hon N.D. GRIFFITHS: I move -

Page 21, after line 4 - To insert new paragraph (b) as follows -

- (b) by inserting new paragraphs (b) and (c) as follows -
  - (b) a Provisional Licence which entitles the holder to undertake training;
  - (c) a Shooters Licence which entitles the holder to apply for a licence under this Act other than a Provisional Licence or a Corporate Licence.

The amendment deals with the question of a provisional licence which I referred to in debate on an earlier clause and at the second reading stage. I understand that Hon Derrick Tomlinson wished to speak on that matter. The amendment also raises the question of a shooter's licence. The words with respect to a provisional licence are "a provisional licence which entitles the holder to undertake training". That is an enhancement of the regulation.

The question of a shooter's licence is one which enables us to make peace with many people in the community who have a concern. Some members have expressed the view that the concern is unjustified, and others have expressed the view that the concern is justified. My primary concern is public safety. We only have public safety with respect to a law which we are told is designed to enhance public safety - notwithstanding the matters raised by a number of members with whom I have some sympathy regarding the proposition that perhaps the Bill does not necessarily do that. However, if a Bill is designed to enhance public safety it must have a strong degree of acceptance, not just by the community as a whole but by members of the community to which it has immediate application.

The first point about the proposition of a shooter's licence is that it provides integrity to the person involved. Secondly, I am aware that such a notion was abroad in the Eastern States, and that a shooter's licence of the kind envisaged by itself would cause a collapse of regulation and lead us to what has occurred in eastern Australian jurisdictions. However, this amendment does not say that. This amendment says that that notion is in addition: The words are "Shooters Licence which entitles the holder to apply for a licence under this Act other than a Provisional Licence or a Corporate Licence".

I have dealt with the provisional licence and with the shooter's licence in terms of, first, its providing that degree of acceptance, and, second, in pointing out that the concept by itself would detract from the regulatory regime. However, in the words that it is being put before the Committee which will enhance the regulatory regime, it is a precondition. In the amendments, the two concepts are present - the professional licence and the shooter's licence. The Committee may be of the view that both concepts as expressed in this form of words are appropriate. On the other hand, a majority of members may not accept the proposition in respect of a shooter's licence but accept the proposition in respect of the professional licence, or they may accept the proposition in respect of the shooter's licence but not the provisional licence.

I do not know who proposes to speak on this matter. Perhaps no-one will, although Hon Derrick Tomlinson expressed a willingness to so do. If, after listening to what members have to say, the Committee without taking it to a vote is of the view that the matters should be dissected in some way, that should be looked at, because I do not see the provisional licence and the shooter's licence as part and parcel of what should take place. Each of them is capable of standing alone. We postponed the previous clause to deal with this clause first. However, in doing so, I suppose we lost the chance of expressing a view on the provisional licence standing alone. That aspect can be remedied if we so desire.

Hon PETER FOSS: As the member said, they are two different concepts. There are two ways in which we can look at a provisional licence. That is something that should be expanded by either the Act or by regulations. I suspect it should be expanded by the Act if it is to have efficacy. The member may be saying in respect of a provisional licence that it is either disqualifying or it is enabling. A provisional licence could be disqualifying in that it says that a person cannot apply for a substantive licence until he has been granted a provisional licence, rather like one getting a provisional licence for a car. That person cannot learn until he has at least passed a threshold test which enables him to be trained.

Hon N.D. Griffiths: The wording is that it is a licence which enables a person to be trained. If they are not trained there are other difficulties.

Hon PETER FOSS: There are two ways of interpreting that. It may mean that unless a person holds a provisional licence he may not undergo training, or it may mean that if a person holds a provisional licence he may undergo training which involves the use of firearms by virtue of a provisional licence and not by virtue of any other provision of the Act. I do not agree with either of these concepts but I would like clarification on how the member sees them. At the moment, unless people hold a licence or are exempt they have no right to use a weapon. Training can be partly with a weapon and partly without a weapon. Obviously, at some stage one would expect it to be with a weapon. It is presently envisaged that the training with a weapon would take place under the exemption provided by section

8(1)(m) which states that no licence under this Act is required by a person who, with the permission of the owner of the firearm on an approved range that is properly constructed and maintained, has in his possession, handles or uses a firearm or ammunition for a firearm that is the property of, or is the property of a member of, an approved club or other approved organisation, and is held by that owner under a licence or permit granted under this Act.

This is apparently still being developed by an officers' group of the APMC, but it is felt that the shooters' organisation would be the prime source for the appropriate training of people wishing to have a firearm licence. Therefore, people will be trained by going through a training course where the availability of the firearms for the training comes under one of the exemptions in section 8. It is not intended that there be a learner's permit whereby a person has access to firearms by virtue of that permit. The Government does not envisage a situation in which a licence will give access to firearms until the person has a substantive licence. The only way to gain that access would be by exemption under section 8. The Government considers it appropriate that the training take place only where there is a supervisory body or person who is authorised to give the training and who will provide it through a properly authorised range, using weapons which are the responsibility of an approved organisation.

Hon J.A. Scott interjected.

Hon PETER FOSS: That is being worked on by the APMC but it is more likely to be a body where there will be formal training rather than informal training. As with drivers' licences, some training is provided by people with experience who already drive and other training is provided by properly authorised teachers. The legislation provides other exemptions; for instance, section 8(n) will provide that no licence under this Act is required by a person under the age of 18 years who uses a firearm, not being a handgun or ammunition for that firearm, under the supervision of, and which is the property of, a person who is the holder of a licence or permit under this Act relating to that firearm. Principally the intent is that the training be by bodies such as the shooters' organisation which have discipline, standard methods of dealing with these matters and ethics for the proper use of firearms. If the provisional licence were enabling and would give access to firearms other than in the regime proposed, the Government would oppose it. It is not in favour of a provisional licence which in itself gives access to firearms. I take it that Hon Nick Griffiths does not intend that to be the case. If it is to be a threshold test in that a person may not join one of those organisations or seek that type of training without it, it would require further amendments to the Act to put the prohibition in place. That would then require people to have a provisional licence. If the member regards it as exclusionary, the amendment is insufficient because section 8 already provides exemptions which enable a person to take the training. If Hon Nick Griffiths wishes to give proper effect to its being an exclusionary licence, other amendments will be required to the Act. That is not the process envisaged by the APMC. I understand the process envisages that appropriate supervision be available through authorisation of the organisation providing training. Without one of the exemptions provided in the Act, a person could not undertake that training. The threshold limitation is provided by the general prohibition on the use of firearms and the control is placed by the nature of the exemptions provided. The Government would not support it as a threshold limitation either.

The concept of a shooter's licence is again a limiting one. A person may not avail himself of some of the exemptions unless he is the holder of a shooter's licence. I refer to the member's next suggested amendment to line 5 on page 24 of the Bill. That would provide that a person with the capacity to use a weapon under a corporate licence must also hold a shooter's licence in order to use it. The concept of a separate licence for the person, in addition to a licence for the firearm, would be a new one under Western Australian law. It would be further tightening of the provisions but it would require further amendment. The member is providing an extra limitation so that any person who wished to avail himself of the exemption under 8(1)(f) must have the licence which serves no purpose other than to register him as a person who could possibly use the weapon under that provision.

The Government does not support that further tightening of the provision to prevent people from accessing firearms. The intent is to face the reality that there will be occasions where weapons will be held by corporate organisations and the responsibility is on that corporate organisation to ensure that the weapon is appropriately dealt with. I understand the nature of what the member is seeking to do. He wants to institute a double system of licensing. That is, people who are licensed for a particular licence because they are fit and proper and other people who have had no association with a firearm but have had to be licensed in a personal capacity before they could avail themselves of some of the exemptions that are provided under the Act. That is a tightening of legislation, certainly beyond what was agreed at the Australasian Police Ministers' Council, and a further tightening which has not received public consultation and would be a matter of some concern to people who believe that the legislation has probably gone far enough already. The amendment has not been appropriately canvassed and the Government would have considerable difficulty in imposing a further restriction that has not been contemplated by the APMC or the public to further object to the tightening of this legislation.

Hon DERRICK TOMLINSON: I want some clarification from the Attorney General about the sequence. The Committee has inserted new section 10A, which requires that before a person qualifies for a licence he or she must

undertake successfully an accredited course of training. One assumes that training might include firearm use and safety. We do not know what the accredited course is, because it is not specified. Furthermore the Committee has approved amendments which require that an applicant must meet certain tests that he is a fit and proper person to hold a firearm licence. For example, it has inserted a clause requiring that a person demonstrate that within five years before receiving the licence he or she was not convicted of an offence involving assault with a weapon, not convicted of an offence involving violence, not convicted of an offence against the Act, not the subject of a violence restraining order, and has been able to meet mental and physical fitness requirements. The Committee has said it is appropriate that before a person is issued a firearm licence he must meet those tests of fitness. However, before a person undertakes a course of training in an exempt place or under the clause of exemption to which the Attorney General refers, there is no indication that the person is a fit and proper person to undertake that course of training. Therefore, the person who may have committed any of those offences, who may have such a restraining order issued against him or who may not be physically or mentally fit to hold such a firearm licence, may undertake the course of training. Therefore, a person who may later be deemed to be not fit to hold a firearm licence becomes competent in the use of a firearm.

If the person is not fit to hold a firearm licence does it not follow that the person is not fit to undertake such a course of training? Does it not also follow that if the person is not fit to undertake such a course of training, by allowing that unfit person, mentally, physically or morally, to undertake a course of training under the exemption clause we are putting the trainers at risk? The person might be deemed to be unfit at some later stage, but that unfit person is undertaking a course of training. What is the process? Will an unfit person be allowed to undertake a course of training under the exemption clause and then be deemed unfit to hold a licence, or will the Committee accept the notion of the provisional licence, which says before a person undertakes a course of training he must demonstrate his fitness?

Hon PETER FOSS: We have postponed the clause that deals with the point the member raised about the training courses.

Hon Derrick Tomlinson: How can we deal with this clause until we have dealt with that?

Hon PETER FOSS: Section 10A deals with training courses and the regulations. We do not know what the regulations will do. We have to start somewhere, and we cannot do that until we have the power to write them. I do not remember which Greek philosopher said it could be proved that one could never start anything. Some parts of those regulations on training should deal with a person's fitness to handle a weapon. For instance, before someone who wishes to fly an aeroplane is even allowed to set foot in an aeroplane he or she must go through extensive tests. It is a matter of devising the appropriate training course and then putting it into the regulations. It is not a matter so much of devising the regulations and trying to fit the training course to those regulations.

It is appropriate that a training course have steps along the way in which people can be disqualified from proceeding any further on the ground that they failed that part of the training course. It is through that training course and those regulations that it will be appropriate to deal with those issues. Part of it will be the capacity to show that the people have an understanding of basic precepts of safe handling and the necessity for not using the weapon inappropriately. Those tests could include psychological tests. The appropriate place is through the training course, which has not yet been fully developed, and that could disqualify the person from proceeding past the training.

Hon DERRICK TOMLINSON: When I spoke in the second reading debate I was accused of trivialising what happened at Port Arthur. I was not trivialising anything; I was making the point that this is an important restraint upon the rights of individual citizens of Australia. It is a transfer of responsibility from the citizen to the Police Service.

I regard this as not just an important piece of legislation but a profound piece of legislation and, therefore, I am taking the debate seriously. The Attorney General is asking me now to accept as a matter of faith that this very important issue will be dealt with by regulation at some time in the future. He says that the training program, or accredited course, does not exist and we do not know what will be in it; that the prerequisites for entry to such a course have yet to be decided; and that, therefore, the best way to handle this is by delegated legislation, to allow somebody else beyond the confines of this Parliament and without the authority of this Parliament to develop the regulations and to make the decision which this Chamber is required to make.

The point of the provisional licence is to establish a sequence of determining the fitness of an individual to meet the licence. I believe that is a decision for this Chamber and not a decision which can be left in good faith to those who frame regulations, to delegated legislation. If we accept this as an important piece of legislation - and I used the term "profound" piece of legislation - we have a responsibility to ensure that those who frame the regulations know the intention of the Parliament. I hope that the intention of the Parliament is to make quite clear that before anybody

undertakes a course of training and puts at risk the trainers of such a course, the person is deemed to be a fit and proper person as specified in several clauses in this Bill.

Hon N.D. GRIFFITHS: Hon Derrick Tomlinson has expressed a point of view with which I have a lot of agreement. I am particularly concerned about the issue of the provisional licence. I want to know what protection there is for the trainers. Hon Derrick Tomlinson has spoken about that. I do not need to add to what he said, but the Attorney General has not responded satisfactorily.

Hon PETER FOSS: I am sorry if I have not responded appropriately. Things such as training courses should not be in an Act of Parliament. I even have some hesitation about their being in regulations. Training courses are appropriately worked out by trainers and accredited by others, rather than freezing them in any form of legislation, direct or delegated. I have indicated the mechanism which can apply to that. That mechanism must be appropriately fitted to that training course. I do not wish to predict, but I understand that in the course of the next month the APMC working party will have the answers. Part of that training course should require people to submit themselves to the appropriate tests of suitability, which may well include psychological tests. I would be loath to have the question of whether a person is a fit and proper person determined prior to the opportunity to put the person through certain tests. Having determined that the person is a fit and proper person, one would need to have some reason for changing that point of view. I suppose one could say that one had more information since reaching the decision. That would be more difficult than reaching the decision at a time when one has more information about that person, having put the person through a particular course.

We can place more obstacles in the way, if we wish to, to tighten it up further. That is capable of being done, but it is not to be done by these amendments because further amendments will be required throughout the Bill to give efficacy to them. Although I may have some sympathy with the view put forward, I oppose it for two reasons. One is that it goes beyond what has been approved at the APMC and it certainly goes beyond what the public understands as being the type of regulations put forward. It certainly goes beyond what I have any capacity to agree to in terms of what my party room or Cabinet thinks about the degree of limitation. Finally, it falls under the problem that the amendment as proposed does not achieve the result. We as a Government and coalition do not wish to add a further degree of limitation to the initial obtaining of a licence or the exercise of the exemptions which are contained in the Bill. Therefore, I must oppose the further restriction that is being proposed by Hon Nick Griffiths. I understand that it may very well be arguable. I do not in any way question the logic of what he is saying, but I see this as a further degree of limitation which is neither necessary nor in this case desirable.

Hon DERRICK TOMLINSON: I do not believe that there is any further restriction being imposed by this requirement. All that it asks is that a particular sequence be established in meeting the requirements, that before a person undertakes the training he pass the other test of fitness, because a person not fit to hold a licence should likewise be deemed not fit to undertake the course of training. There is no additional constraint, limitation or requirement. This is simply asking that there be a preferred sequence in meeting the requirements. As for this exceeding the agreement of the APMC, I have long held the view that this Parliament determines the laws of Western Australia, not a meeting of the APMC or any other ministerial conference. It is our decision. We are authorised by the people of Western Australia to make decisions and act in that way. I dismiss the proposition that simply because it goes beyond the APMC agreement we cannot exercise our discretion.

Having dealt with the provisional licence, I turn now to the shooter's licence. I am concerned that the provisional licence, which I can support, is linked in this clause with the shooter's licence, which I have yet to be convinced has any merit. Before I decide on the amendment, I would rather be convinced of the need for a shooter's licence, because unfortunately I have to agree with both or neither.

Hon PETER FOSS: My reference to the APMC is not in terms that we cannot but that we should not do it. This legislation is probably among the most highly discussed of all the legislation that we have had in a long time. The parameters of the limitations have been fairly well discussed too. The members of the public, on whose behalf we are purporting to act, have made their views pretty strongly felt; that is, many of them do not agree with the limitations proposed by the APMC. As far as I know, nobody has suggested to them that we are going further than that. All I am saying is that if we intend to go further than the limitations, which are suggested by the APMC and seen to be a one-bound proposal, I do not believe we have fairly put that to the public. If we want to impose greater limitations than those proposed by the APMC, I suspect some people out there may like to know about it, may wish to express views about it, and may even wish to lobby about it.

Hon Derrick Tomlinson: This Parliament has never accepted legislation by a plebiscite.

Hon PETER FOSS: That is quite right. If we want to take an issue that has been so thoroughly debated and add an extra little curl to it in the form of a further limitation, we must tell the public about it. If the people were not told about it, they would not have the opportunity to discuss it. They will suddenly find another limitation, about which

they would be upset - and reasonably so. They understand where the lines are drawn at the moment, and they expect the legislation to fall eventually between one extent and another. People do not expect the line to veer off to one side and beyond the boundaries set.

I have raised the matter for consideration by the public. That does not mean we cannot make that change - we can do what we like - but it should not be made. I am pleased that the member raised the different character of a shooter's licence and a provisional licence. However, in the case of both licences, the amendment as moved is inadequate to achieve its intention. If we wanted to put in place a regime as suggested, it would require a radical change to this Bill and the principal Act. Those changes are not before us as the legislation is presently proposed. This is a significant change which I do not wish to adopt. Even if we were mindful to do so, it would not be achieved by the amendment as moved.

Hon GRAHAM EDWARDS: I listened with keen interest to the Attorney's comments in relation to the Australasian Police Ministers' Council. Members of the Committee should have far more confidence in our ability to make the right decision in relation to gun control legislation. The history of gun control legislation in Western Australia shows that the Western Australia Parliament has got it right consistently over a long period. In contrast, the APMC has constantly got it wrong over a long period.

Indeed, the principle we are debating did not come out of the APMC, as the matter was taken out of its hands and placed with a higher authority; namely, the office of the Prime Minister. I ask members of the Committee to have a little more confidence in our ability to make the right decision. We have done it in the past in Western Australia. This Parliament has got it right. It is the APMC which unfortunately has been so influenced by Ministers from other States which has caused us to get it wrong.

Hon N.D. GRIFFITHS: My primary concern is to deal with the question of the provisional licence. I listened to what has been said, and without putting the view of the Committee to the absolute test at this stage, it is appropriate that I achieve what I trust is achievable and do not persist with something which is not achievable. I note that the question of the provisional licence was going to be dealt with in an earlier postponed clause. The appropriate course of action for me to take with this matter is to separate the provisional licence from the shooter's licence. Therefore, I move -

That the the amendment be amended by deleting new paragraph (c).

**Amendment on the amendment put and passed.**

Amendment, as amended, put and a division called for.

Bells rung and the Committee divided.

The CHAIRMAN: Before the tellers tell, I cast my vote with the noes.

Division resulted as follows -

**Ayes (12)**

Hon Kim Chance  
Hon J.A. Cowdell  
Hon Cheryl Davenport  
Hon Graham Edwards  
Hon Val Ferguson

Hon N.D. Griffiths  
Hon John Halden  
Hon Mark Nevill

Hon J.A. Scott  
Hon Derrick Tomlinson  
Hon Doug Wenn  
Hon Tom Helm (*Teller*)

**Noes (13)**

Hon E.J. Charlton  
Hon M.J. Criddle  
Hon B.K. Donaldson  
Hon Peter Foss  
Hon Barry House

Hon P.H. Lockyer  
Hon I.D. MacLean  
Hon Murray Montgomery  
Hon N.F. Moore

Hon M.D. Nixon  
Hon B.M. Scott  
Hon W.N. Stretch  
Hon Muriel Patterson (*Teller*)

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**Pairs**

Hon A.J.G. MacTiernan  
Hon Bob Thomas  
Hon Tom Stephens

Hon George Cash  
Hon P.R. Lightfoot  
Hon Max Evans

**Amendment, as amended, thus negated.**

**Clause put and passed.**

**Postponed clause 11: Section 10A inserted -**

Consideration resumed from an earlier stage.

Hon PETER FOSS: I move -

Page 15, lines 15 to 21 - To delete the lines.

Proposed subsection (2) as outlined in the Bill is a substantive part of the 1973 Act. The effect of this change is to include the same provision in the legislation. After a short period it will be complied with and will no longer have any relevance.

**Amendment put and passed.**

Hon PETER FOSS: I move -

Page 15, after line 22 - To insert the following subclause -

(2) The Minister is to ensure that, within 12 months after the commencement of the provisions of this Act other than section 16 —

- (a) regulations are made in accordance with section 10A of the principal Act; and
- (b) those regulations reflect the spirit of Resolution 5 of the Special Firearms Meeting of the Australasian Police Ministers' Council on 10 May 1996.

This amendment may need some tidying up by the Clerks, but the effect of it is to achieve what I have already indicated.

**Amendment put and passed.****Postponed clause, as amended, put and passed.****Clauses 16 and 17 put and passed.****Clause 18: Section 18 amended -**

Hon PETER FOSS: I move -

Page 26, after line 3 - To insert the following new subsections -

(4a) Before granting or issuing a licence, permit, or approval to a person under this Act the Commissioner is to ensure that, for the purpose of forming an opinion as to whether the person is a fit and proper person to hold the licence, permit, or approval -

- (a) reference has been made where practicable to relevant criminal records held by the police forces in this State and elsewhere in Australia;
- (b) if there is any apparently reliable indication that the person may not meet standards of mental or physical fitness referred to in section 11(3)(b), sufficient evidence has been provided to the Commissioner to satisfy the Commissioner that the person does meet those standards; and
- (c) if there is any apparently reliable indication that for any other reason the person may not be a fit and proper person to hold the licence, permit, or approval, sufficient evidence has been provided to the Commissioner to satisfy the Commissioner that the person is a fit and proper person to hold the licence, permit, or approval.

(4b) The evidence that the Commissioner may require before being satisfied that the person meets standards of mental or physical fitness referred to in section 11(3)(b) may include a certificate from a medical practitioner to the effect that the person has been examined and has not been found to have any physical or mental condition that could reasonably result in the person being considered not to be a fit and proper person to hold a licence, permit, or approval under this Act.

(4c) On being provided with a certificate from a medical practitioner as required under subsection (4b), the Commissioner may request from the medical practitioner any further information that the Commissioner considers to be relevant and nothing prevents the medical

practitioner from providing the Commissioner in good faith with further information about the person.

(4d) Subsection (4c) has effect despite any duty of confidentiality, and the provision of information in good faith as requested under that subsection does not give rise to a criminal or civil action or remedy.

This amendment deals with the matters I referred to earlier in relation to criminal records and the requirements to be a fit and proper person.

Hon N.D. GRIFFITHS: This amendment deals with matters raised by the Opposition and I thank the Government for providing an appropriate form of words, which it is able to do with the full resources of the State available to it.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clauses 19 to 23 put and passed.**

**Clause 24: Section 22 repealed and a section substituted -**

Hon N.D. GRIFFITHS: A number of amendments to this clause are on the Notice Paper, two of which are in the name of Hon Murray Montgomery. I propose to comment on his amendments if and when he moves them. I intend to move the amendment in my name, but before I do I will give Hon Murray Montgomery the opportunity to move his amendments.

Hon MURRAY MONTGOMERY: Before I move the amendment standing in my name I ask the Attorney General to outline the reason for the amendment he has on the Notice Paper.

Hon PETER FOSS: I have not moved the amendment, but the effect of it, if and when I move it, would be that the applicant would have to show error on the part of the commissioner, but it would not be restricted to an error as defined in the Bill of improper or irrelevant considerations; it would be based on the question of law and would include any ways in which he erred. It is not restricted to an error on the basis of fact. It would not involve a hearing whereby the appellate body would substitute its decision for the commissioner's decision. Prima facie credit would have to be given to that decision and only those cases in which it could be shown that the commissioner's decision was wrong could be set aside. It would not be a matter of the appellate body forming a different view from that of the commissioner.

Hon MURRAY MONTGOMERY: I move -

Page 39, line 15 - To delete the figure "2" and substitute the figure "6".

By the time a person lodging an appeal has gained the relevant information, started to work through it and lodged the appeal, two months could have passed. It is important that people be given the opportunity and a reasonable period in which to lodge an appeal. For country people particularly, six months is not an unreasonable period in which an appeal can be lodged.

Hon PETER FOSS: I oppose the amendment because two months is a generous period within which to lodge an appeal. The time frame for appeals is usually fairly limited. Obviously an appeal is unusual and it is best dealt with quickly. In the Supreme Court jurisdiction, one month is the usual time frame. Appellants should act quickly, and six months is well out of sight, especially when one is referring to a 12-month licence. Appeals are the exception rather than the rule and one usually moves quickly. It is normal to allow 21 days or one month for an appeal, so two months is more than adequate.

Hon N.D. GRIFFITHS: The principles put forward by the Attorney General are appropriate. I would be interested to know from Hon Murray Montgomery whether he is aware of any cases of hardship as a result of a limited period for appeal. A period of two months is not restrictive, but if he is aware of cases of hardship perhaps we should consider the matter.

Hon MURRAY MONTGOMERY: Country people take time to think through their options. I cannot provide Hon Nick Griffiths with an example of hardship, primarily because we have never had this sort of appeal mechanism. However, I am aware of one person who lodged an appeal about the issuing of a gun licence, and by the time he took advice it was six or seven weeks before he lodged the appeal. He was close to a large population centre and people further out might not have that opportunity. This amendment provides that opportunity for people in more remote areas.

Hon PETER FOSS: I hate to have to say it, but often the biggest cause of delay in lodging an appeal is the lawyer's formulating the terms. If an appellant were to go to a lawyer and say that he has four weeks in which to appeal and he would like assistance, he would get the advice within the four weeks. Being aware of his professional responsibility, the lawyer is likely to provide the advice in time to lodge the appeal. On the other hand, if the period were 12 weeks, the same situation might occur and the advice would arrive slightly before the time limit expired. I hate to say that about my colleagues, but undoubtedly prioritisation occurs in a lawyer's office, much of which is dictated by the expiry time of the procedure.

In light of what the member has said, two months is an appropriate period. It is in everyone's interest that appeals be lodged quickly and dealt with quickly. The longer the time available for people to make their decision, the longer both they and their advisers will take before bringing the matter to some conclusion.

**Amendment put and negatived.**

Hon N.D. GRIFFITHS: We have two amendments relating to the same matter. The first is an amendment in my name and the second is in the Attorney General's name. My amendment suggests that subclause (2) end after the word "decision". That is a fairly reasonable provision. The words "an improper or irrelevant consideration" are unnecessarily restrictive. I note that the Attorney General's amendment proposes that those words be deleted; therefore it is not necessary to go any further in addressing that aspect. Before deciding whether to move my amendment, I would be interested to hear from the Attorney General why he thinks it is so necessary to add the words that "the commissioner erred in the making of the decision". It is appropriate that the Attorney tell the Committee why the form of words that I propose with respect to the subclause, which is a rather commonplace form of words in matters of this kind, is not more appropriate than the form of words that he proposes.

Hon PETER FOSS: The words which Hon Nick Griffiths is suggesting are the words in the current Act. The reason for my amendment is to put beyond doubt that it is a process not for second guessing but for complaints about error. The actual wording is derived from the commonwealth provisions. Although the words which have been proposed by the member do not necessarily allow a second bite at the cherry - they do not necessarily allow the body to decide that it would have made a different decision even though there was no error in what occurred - we want to put it completely beyond doubt that the effect of the appeal is to show not merely that the appellate tribunal would have come to a different conclusion but that the commissioner erred in arriving at that conclusion; he applied some consideration or took into account some evidence which was an error on his part.

The member may take the view that everyone should get two goes at it and that the commissioner is merely an interim decider and a person who does not like his decision can go to the appellate tribunal and have another go. On the other hand, he may take the view that the appellate tribunal is really for when the decider has erred and should be subject to some form of review. We want to ensure that when the decider has erred, a person can go to the appellate tribunal. It is arguable that the words that Hon Nick Griffiths has suggested can be interpreted in that way, but the words that I have suggested will put the matter beyond doubt.

Hon N.D. GRIFFITHS: I listened with interest to what Hon Peter Foss said. The words as currently exist do the job satisfactorily. When it comes to matters of legislation, I tend to err on the conservative side. Therefore, I move -

Page 39, lines 17 and 18 - To delete the words "on the grounds that it was made on an improper or irrelevant consideration".

Hon PETER FOSS: I oppose the amendment. I would be interested to know, however, whether Hon Nick Griffiths believes it should be a second bite of the cherry or, strictly speaking, an appeal. If he believes it should be an appeal rather than a second bite of the cherry, I urge him to support the amendment that I will move if his amendment is defeated to make that quite clear.

The CHAIRMAN: The Attorney General's foreshadowed amendment contains a deletion of the same words that we are now debating. Therefore, because of the standing orders, if the Attorney wants to move his amendment he will have to agree to this amendment and then move to substitute the words that he wishes to substitute.

Hon N.D. GRIFFITHS: I thank the Government for its foreshadowed support of my amendment!

Hon M.J. CRIDDLE: I am definitely of the opinion that the second bite of the cherry should be provided for in this amendment, so I urge that we continue with this amendment in due course.

Hon DERRICK TOMLINSON: Mr Chairman, given your ruling on the standing orders and that we cannot deal with the same amendment twice, since the Attorney General's amendment subsumes Hon Nick Griffiths' amendment would it not be appropriate to deal with the Attorney's amendment first?

The CHAIRMAN: It is complicating the matter, but under the rules if Hon Nick Griffiths insisted on his amendment we would have to deal with that first, and at some later stage the Attorney might wish to insert additional words.

Hon N.D. GRIFFITHS: It is not a matter of my insisting. I have moved the amendment, which I think is proper, and I trust the Committee will agree with it.

**Amendment put and passed.**

Hon PETER FOSS: I move -

Page 39, line 17 - To insert after the word "decision" the words "on the grounds that the Commissioner erred in the making of the decision".

Hon M.J. CRIDDLE: The Attorney General said earlier that the person had a second bite of the cherry. If the words "erred in the making of the decision" were included, would it give a person a second chance?

Hon PETER FOSS: It is arguable that these people do not have a second chance under the present wording of the clause. This intends to make it quite certain that it is not a second bite; it is a review on the ground of error. People have a right of appeal, a second chance; they just do not have a second bite of the cherry. The difference between the two is that there is either one decision maker with a right to appeal against that decision maker, or there are two decision makers, with the second decision maker prevailing over the first. This is to make certain there is one decision maker, with a right of appeal.

Amendment put and a division called for.

Bells rung and the Committee divided.

The CHAIRMAN: Before the tellers tell, I cast my vote with the ayes.

Division resulted as follows -

Ayes (13)

Hon E.J. Charlton  
Hon B.K. Donaldson  
Hon Peter Foss  
Hon Barry House  
Hon P.H. Lockyer

Hon I.D. MacLean  
Hon Murray Montgomery  
Hon N.F. Moore  
Hon M.D. Nixon

Hon B.M. Scott  
Hon W.N. Stretch  
Hon Derrick Tomlinson  
Hon Muriel Patterson (*Teller*)

Noes (12)

Hon Kim Chance  
Hon J.A. Cowdell  
Hon M.J. Criddle  
Hon Cheryl Davenport

Hon Graham Edwards  
Hon Val Ferguson  
Hon N.D. Griffiths  
Hon John Halden

Hon Mark Nevill  
Hon J.A. Scott  
Hon Doug Wenn  
Hon Tom Helm (*Teller*)

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Pairs

Hon George Cash  
Hon Max Evans  
Hon P.R. Lightfoot

Hon A.J.G. MacTiernan  
Mr Thomas  
Hon Tom Stephens

**Amendment thus passed.**

**Clause, as amended, put and passed.**

**Clause 25: Section 23 amended -**

Hon MURRAY MONTGOMERY: I seek an explanation from the Attorney General about amended section 23(9a), as it appears in the Act. The word "knowingly" is being deleted. It refers to a person who from any place discharges any firearm and causes fear in the vicinity of where a firearm has been discharged. A person going about his lawful business can discharge a firearm and unknowingly may cause fear. Is the firearm owner, who is discharging the firearm, liable under this clause?

Hon PETER FOSS: The deletion of the word "knowingly" does not impose a strict liability. Section 23 of the Criminal Code enables a person to prove a defence, whereby if a person is not criminally responsible for an act or an omission which occurs independently of the exercise of his will, or from an event which occurs by accident, that would apply to a prosecution under this section. As the clause is currently phrased with the word "knowingly" in it,

it becomes an element that the prosecution must prove to show that the person knew he was discharging the gun. That can be somewhat difficult on occasion to prove because the prosecution must show what was inside that person's mind at that time. It is appropriate when a person says that it occurred independent of his will that his statement is either believed or not believed.

If a person went down a street and fired a gun 50 times, there may be a reasonable assumption that the person knew he was firing the gun, and it was not an accident. If the gun is fired once, proving intent becomes a little more difficult. By way of interjection earlier I mentioned a Papua-New Guinean case which is quite famous involving a man who was charged with the murder of his wife and pleaded that it was an accident. The only problem was that he shot her twice, using a single shot rifle. Nonetheless, he urged the defence of accident.

Hon Kim Chance: A very bad accident.

Hon PETER FOSS: It was a very unfortunate accident that it happened twice.

As it happened, he was not believed. Circumstances can exist where the external evidence proves that the necessary mental element was there. In many cases that is the case. It appears that the better way of dealing with this is not to have the extra word "knowingly" included. It then becomes a necessary part of the role of the prosecution to prove that the person knew he was discharging a firearm as opposed to the person using the general defences provided for in section 23 of the Criminal Code under which if it does occur, accidentally and independent of the will of the person, the person can plead that as a defence and prove it. That is the practical and proper way for this offence to be dealt with. Members should keep in mind that people who have firearms have a duty to ensure that they do not accidentally let them off in public. It is an irresponsible act to wander around in public and have a firearm go off accidentally.

**Clause put and passed.**

**Clause 26: Sections 23A and 23B inserted -**

Hon MURRAY MONTGOMERY: This clause relates to disclosure by the medical profession. I have some concerns about it because it means that a doctor must disclose information on the mental wellbeing of a patient and whether in the medical practitioner's view the person is a fit and capable person to hold a firearm. General practitioners are usually not psychiatrists and generally do not have any training in that area. The other concern is that patients would perhaps not seek medical advice when they should.

Hon PETER FOSS: This clause will not require a medical practitioner either to form a view or, having formed that view, to communicate it. All it will do is relieve the medical practitioner of any legal liability from having formed a view and telling someone about it. There is no compulsion to do so. There are examples where a medical practitioner can be put in a serious quandary when he or she is consulted and it becomes clear that the patient is, in vernacular terms, mad in a form that renders him likely to be homicidal. Under those circumstances the medical practitioner may form the view that that person should not have a weapon. If the practitioner forms that view and feels obliged to inform the authorities, it is appropriate that he or she should be relieved from the responsibility of doing so. I have given an extreme circumstance. This clause does not limit itself to extreme circumstances, but just states -

If a medical practitioner is of the opinion that -

- (a) because of the patient's physical, mental, or emotional condition, -

That could be suicidal as well as homicidal tendencies -

- it is not in the person's interest or not in the public interest that the person possess any firearm or ammunition to which the patient is believed to have access; or

- (b) a person is seeking or has sought medical assistance for an injury in the infliction of which a firearm or ammunition is believed to have been involved,

nothing prevents the medical practitioner from informing the Commissioner of that opinion.

It is purely an opportunity for the medical practitioners to exercise their judgment as to whether they should do that or not. The reason that is contained in new subsection (2) is that -

This section has effect despite any duty of confidentiality, and nothing done by a medical practitioner in accordance with this section gives rise to a criminal or civil action or remedy.

A doctor would not otherwise be able to do that because of the duty of confidentiality the doctor owed to the patient. I can see the quandary in which medical practitioners could find themselves when they formed a strong opinion that

a person should not, for either his benefit or the benefit of somebody else, to prevent homicide, injury or suicide, have possession of a firearm or ammunition. They may feel under a professional duty to inform the Commissioner of Police of that. All this clause will do is give the medical practitioners that option, free of the concern of the professional duty of confidentiality. It will not compel those people. Members must bear in mind that the patients they are dealing with may not be operating properly mentally. To predispose some of the ideas one is talking about does not take into account the fact that a patient is probably seriously mentally disturbed.

Hon DERRICK TOMLINSON: New section 23B(1)(b) is a most peculiar provision in the context of this legislation. I accept the Attorney General's argument that it will simply relieve the medical practitioner from the requirement of confidentiality. My concern is the context, because the long title of the Firearms Act is as follows -

AN ACT to make provision for the control and regulation of firearms and ammunition, the licensing of persons possessing, using, dealing with, or manufacturing firearms and ammunition, the repeal of the *Firearms and Guns Act 1931-1971*, and for incidental and other purposes.

This is certainly an incidental purpose, but it is far removed from the principal intent of the Act as expressed in the long title. If one wants to provide for exemption from the confidentiality of information available to a medical practitioner, this is hardly the appropriate place to do it. I would be pleased to hear the Attorney General's explanation of why it is in this context.

Hon PETER FOSS: The original Act and this Bill seek to prevent the use of firearms in the wounding or killing of people. The legislation contains a general intent that if firearms are to be used, they should be for recreational purposes or purposes of occupation, and where there is a genuine justification for using those firearms. It is clear that it is intended that that not include the intentional or even accidental use of a firearm so as to injure a person. If a person is injured, there probably has been an offence under the Act, whether it is intentional or accidental. One way or another the person has used that weapon in a way which either led to somebody being prosecuted or at least serious consideration being given to removing that person's licence because he failed to observe the basic precautions for its maintenance or use so as to prevent jury. Plainly, the reporting by a doctor of an injury is likely to lead to the proper enforcement of the Act. That person will need to be retrained, or lose his licence, or be prosecuted, or two or more of those things. As in any legislation, as well as providing for a penalty to flow from a particular event, we would like to ensure that, first, those happenings are detected and, second, something happens as a result of it. Proposed section 23B(1)(b) is obviously intended to have much the same effect as the other; that is, to prevent a recurrence of the type of incident which has occurred when a doctor sees someone who has a firearms related injury.

Hon MURRAY MONTGOMERY: What could be the ramifications of this clause setting a precedent and thereby making it able to be used in other legislation? Will it be confined only to the firearms legislation?

Hon PETER FOSS: Anything could be a precedent; I cannot say it would not be. It is certainly not a precedent in the case of firearms. There is a precedent in New South Wales. It is the first occasion of which I am aware that it has been used in legislation in Western Australia. There has been talk in the past of some form of compulsory notification. I suppose the classic one was child abuse, which has generally been rejected by doctors in Western Australia who see that as having a negative effect. There are circumstances in which one can be obliged to obtain a medical certificate for people over a certain age wishing, for instance, to obtain a driver's licence. In that case it would not be so much a case of the doctor's then passing on information which one might not have guessed he would. One would go to the doctor for the very purpose of obtaining medical certification. Some diseases are notifiable under the Health Act, but they involve anonymous notifications. For epidemiological reasons we would know that a person was suffering from a disease. Without having the ability to search through the Statutes I cannot say whether there is another one in Western Australia of this nature. However, the same or similar provisions exist in New South Wales and I believe there are some Commonwealth provisions relating to the passing on of information by medical practitioners.

Hon SAM PIANTADOSI: Could that be required to be a prerequisite when an application is made? The clause provides basically for the medical profession to self-regulate on how and what to report, rather than enforcing notification and basically falling in line with the legislation. To be consistent surely it should not be left to a doctor to determine whether he should report the requirements under proposed paragraph (b), although they should certainly be reported.

Hon PETER FOSS: The doctor does not make the determination, he merely provides information to the commissioner, who must then go through the appropriate procedures to deal with it. It does not require the doctor to do it; it is up to the doctor to decide whether to report. A person may get a clean bill of health when he applies for a licence. Unfortunately, problems of mental health do not necessarily manifest throughout a period. Quite often a person can move to a florid condition quite quickly. In many cases of people with quite violent actions, no previous history of mental illness was apparent.

I remember when I was Minister for Health being told that the most dangerous lunatics are those not identified or who have not previously been under medical supervision. At least people who have had some treatment can be kept under some degree of supervision and are probably less likely to be a problem. I remember a case some years ago of a man who had access to weapons who went to his home where I think he shot his wife, took his children and then holed up in a bunker in the bush and shot them and himself. I do not believe there was any warning whatsoever of the general sense of his illness. A person may have access to a gun and have a legitimate reason for using it and a doctor can become aware that the person is seriously mentally disturbed and may use that weapon against himself, others or both. This clause does not say to that doctor that he must tell. It says that he may tell without risk of action.

Hon J.A. Scott: Without the clause would they be able to tell?

Hon PETER FOSS: No. They would run the risk of being sued or even prosecuted under the Medical Practitioners Act for unethical behaviour. Strictly speaking their first obligation is not to tell. This enables a doctor to defend a matter subsequently by saying the stringency of the situation justified it, but he would be on the wrong foot in the first instance and would have to fight uphill to justify his actions. This clause relieves such a person of that obligation. It will be more likely that a doctor would be prepared to make that sort of statement. It makes it less of a moral dilemma for a doctor who has such information to report it to the commissioner. However, it gives no obligation to do so. I am sure that any medical practitioner would hesitate to use the power in this proposed section unless he really believed it was important to the public interest or the interest of his patient.

Hon SAM PIANTADOSI: I am still concerned. The Attorney General said that no obligation would be placed on a doctor. I understand that medical practitioners must be protected from possible legal consequences. However, this legislation is being imposed on a number of people in the community as a result of a tragedy. Many people raised concerns regarding the role of the media and the violence on television, and the fact that the industry can self-regulate. Again, my impression is that doctors have been able to self-regulate on whether they will report an incident - under proposed section 23B(b) - when someone seeks medical attention for an injury in the infliction of which a firearm is believed to have been involved. I put to the Attorney General that it should be a doctor's duty to report. A doctor should be bound to report such events; it should not be left to the doctor to make such a determination.

Hon PETER FOSS: That is a position one could hold. I am in a difficult position because, on one side, someone says this goes too far; that I am running the risk that people will not consult doctors because of the possibility that a doctor will tell. On the other side, the member says that this does not go far enough, because doctors should be compelled to tell. Both views are capable of being held. I do not disagree with the member. Both views are held in this Chamber: Some people think it does not go far enough and others think the reverse. It is a value judgment. It is appropriate at this stage to take this half-way step, which makes it very much an obligation on the doctor to decide what he or she will do. To go that much further, and compel the doctors, is a significant quantum change in the provision. We should insert this provision to see, first, whether it leads to any reports and, second, whether there are any incidents where a doctor has failed, notwithstanding the state of knowledge. The argument regarding compulsion stands up better in regard to proposed paragraph (b) than it does for proposed paragraph (a). The state of a person's mind is always difficult to judge, whereas forming an opinion regarding a bullet wound is probably more objective. It requires the use of expert knowledge but it is a lot more measurable than the state of a person's mind.

If we were to compel doctors to report we would justify that more with respect to proposed paragraph (b) than proposed paragraph (a). I would have serious hesitation about doing it with proposed paragraph (a) because it would put doctors in a quandary. Every time someone came in and said he or she felt lonely or depressed the doctor would have to run to the Commissioner of Police to say that someone was feeling lonely or depressed. It would have the adverse effect about which Hon Murray Montgomery was concerned. I would be very hesitant about proposed paragraph (a) in this regard. Proposed paragraph (b) has greater justification than proposed paragraph (a); it is after the event rather than before. Once the event has occurred I do not believe that the urgency is quite so great; it is a matter of enforcement, not of human life. Given that the first one is a far harder decision to be made and, therefore, there would be difficulties in making it compulsory, the justification is that a human life may be saved; and given that the second one is not so urgent, because it is after the event, but is nonetheless more quantifiable, we have the right balance by making it an option on the part of doctors.

Hon SAM PIANTADOSI: I appreciate much of what the Attorney General has said in this regard. I agree that my comments relate more to proposed paragraph (b) than proposed paragraph (a). I repeat that we are imposing this legislation on a number of people. We are not giving anyone the opportunity to do anything voluntarily. The option was already afforded by the Prime Minister to the media moguls: They will fix it themselves. This is a similar case to the medical profession being given the opportunity to self-regulate. However, the law abiding gun owners who handed in their weapons have not been treated in the same way. Justice has not been seen to be served either in this Bill or by the path taken by the Attorney General.

Hon PETER FOSS: The answer is provided by the comments of Hon Derrick Tomlinson: He queried whether this provision should be in the legislation, because the doctors are not handling firearms or ammunition. This is an incidental purpose whereby we give an opportunity to doctors - the people who have had nothing to do with the handling of firearms. We must make a distinction in firearms legislation between people who want a dangerous thing - called a firearm - and the fact that we do not give them too many options, and another person whose role is to provide care, succour and health support; that is, not to treat that person in the same way as a person who wants to use a firearm. There is a distinct difference. Hon Derrick Tomlinson would object greatly if we were to treat doctors, in this instance, in the same way as we treat the holders of firearms. He has already queried why we are dealing with doctors. We should not deal with doctors severely, merely because their patients happen to have a firearm.

**Clause put and passed.**

**Clause 27: Section 24 amended -**

Hon MURRAY MONTGOMERY: I am concerned that this provision will give the Police Force a great deal of licence - if I can put it that way - to enter a person's property without obtaining a search warrant. Is that what we should be doing, particularly when other Acts, such as the Police Act, can be used for these purposes?

Hon PETER FOSS: The provision about which the member is concerned is proposed section 24(2a). Proposed subsection (2a) refers to subsection (2) of the Act. That subsection currently allows a member of the Police Force to do certain things without a warrant. We have taken out of section 24 the words "without warrant" and inserted a subsection (7) which deals with what can be done without warrant. Generally speaking that does not make a great deal of difference except in form, except with regard to proposed subsection (2a). All it does is shift all the without warrant provisions to subsection (7) and it provides a limitation on (2a). The circumstances set out in subsection (7) to permit an entry without warrant are eminently reasonable because a policeman has to form an opinion that there is immediate threat of harm being suffered by a person. I would be the first one to demand why the police did not go in if they thought there was an immediate threat of harm being suffered by a person. In respect of paragraph (a)(ii) of proposed subsection (7), again I would ask why the police officer was getting a warrant while a person was under immediate threat of harm. Every member of the public would say that the police should get in and do something. If ever there were a reason for the police entering without a warrant, that is it. I would have thought that the police would have the right at common law to enter premises without a warrant if they thought an offence was about to be committed and a person was about to be threatened with immediate harm.

This proposed subsection, rather than being an unreasonable limitation on the police, sets out in reasonable form what they should do. As a means of accountability on the exercise of that power of entry without warrant, the section provides that a person is to give a written explanation and the proposed regulations provide detailed information on what has to be provided by the police officer to justify the exercise of that power. Therefore, not only is it a proper exercise of power, but also it is a proper system of accountability upon the exercise of that power.

Hon MURRAY MONTGOMERY: The Attorney General has just explained on what grounds a police officer can enter premises when a person is under threat of violence. I understood him to say that it is the first duty of a policeman to enter when a person is under threat of violence by a firearm. What would happen under this clause if a policeman believed there were reasonable grounds to enter premises without a warrant, not necessarily because he believed violence was being committed on a premises, but he had reason to believe that there were firearms being held legally on the premises? Does that policeman have the right to enter premises without a warrant or does he have to believe there are illegal firearms or ammunition on the premises?

Hon PETER FOSS: For the purpose of proposed subsection (2a) it does not matter whether they are legal or illegal, if the policeman is of the opinion there is an immediate threat of harm. I do not think logically there should be. I think it would be extraordinary that someone could threaten somebody with harm with a licenced rifle but he could not do it with an unlicensed rifle. There are a number of circumstances under which things can be done without warrant, not necessarily an entry. Section 24 allows the police to seize and take possession of any firearm that is in the possession of a person if they are of the opinion that possession of it may result in harm. Therefore, whether it is a licensed or unlicensed firearm, they can make that demand if they are there lawfully. If the policeman has to enter and search the premises, he has to have the view expressed in proposed subsection (7). Under subsection (3) a member of the Police Force can, again without warrant, require a person to examine a firearm if he is of the opinion it is unsafe or unserviceable.

Under subsection (4) a member of the Police Force may without warrant question any person who is suspected on reasonable grounds of being able to furnish information or evidence relating to an offence or suspected offence under this Act, or stop, search and detain any person who is suspected on reasonable grounds of having a firearm or ammunition in his possession without lawful excuse. That would normally be on the road. It also applies to any vehicle or conveyance where there are reasonable grounds to suspect that a firearm is kept without lawful excuse.

In a number of other areas a search warrant is required. Clause 28 of the Bill deals with the grounds upon which a justice of the peace may issue a warrant in respect of that firearm. It has similar provisions. It sets out a number of opportunities to make demands or stop or search people. Where premises are to be entered, a warrant must be obtained or the member of the Police Force must be of the opinion that there is an immediate threat of harm.

Hon J.A. SCOTT: I am satisfied by the Attorney General's answer. However, I do not understand why proposed new subsection (9) is included. How could anybody be threatened by any part of a firearm or a silencer?

Hon PETER FOSS: They could not, but section 24 of the Act will be amended to allow for all sorts of things to happen, and they could relate to silencers. In order to satisfy proposed new subsections (2a) and (7) it is necessary to demonstrate that it could cause harm. A silencer on its own could not cause harm and, therefore, it would not satisfy the provisions of new subsection (7). However, for many of the other subsections it would be relevant to seize silencers or parts of firearms.

**Clause put and passed.**

**Clauses 28 to 36 put and passed.**

**Clause 37: Schedules 2 and 3 inserted -**

Hon PETER FOSS: I move -

Page 56, line 17 - To insert after "(3)" the following -

(a),

This amendment is consequent upon the fact that the chairman is no longer the Minister. It is, therefore, an appointed member as opposed to an ex officio member.

**Amendment put and passed.**

Hon PETER FOSS: I move -

Page 58, lines 5 and 6 - To delete the lines and substitute the following -

(a) the Chairman or, if the Chairman is absent, the Chairman's deputy, is to preside; or

**Amendment put and passed.**

Hon PETER FOSS: I move -

Page 61, line 27 - To insert after the word "respondent" the following -

and any other person considered by the tribunal to have a sufficient interest in the matter.

There is a logical possibility with certain types of licences that another person may have an interest and this allows the adjoiner of that other party.

**Amendment put and passed.**

Hon N.D. GRIFFITHS: I move -

Page 62, lines 17 to 27 - To delete the lines and substitute "a legal representative."

Hon PETER FOSS: The Government opposes this amendment. The intent is to try to establish a tribunal which is informal and not subject to participation by legal parties. I know there are some interesting questions as to whether this trend, which has grown, should be encouraged. Some members of the community believe that lawyers should be removed from all such proceedings. Obviously, in due course this will come under consideration under the competition policy, but for the time being the Government wishes the tribunal to be for people who are not of a permanent advocacy basis.

Hon N.D. GRIFFITHS: Often when legal representatives are excluded, it is done on the basis of the perceived cost. However, on the one hand, are the full power and resources of the State and on the other hand, the capacity to have a legal representative is an evener. It provides the capacity to meet the forces of the State on something approaching a fair basis.

Hon MURRAY MONTGOMERY: I have some amendments on the Notice Paper which relate to the same area, and I wish to point out that the tribunal will comprise a magistrate, police officer and a representative of shooting

organisations. The tribunal will have two people with some legal training, but the appellant will be without legal representation. I will move an amendment at a later stage to allow the appellant to have legal representation.

Hon PETER FOSS: Leaving aside the policy concerns, I ask Hon Nick Griffiths to look at his amendment to see whether would work.

Hon N.D. GRIFFITHS: We have gone through a fascinating debate. Many of us have made errors; two clauses will be resubmitted. That is testament to the proposition that we should not sit these stupid hours. In that context the amendment that Hon Murray Montgomery has placed on the Notice Paper deals with the issue in a better manner than does the amendment I moved. I therefore seek leave to withdraw my amendment.

**Amendment, by leave, withdrawn.**

Hon MURRAY MONTGOMERY: I move -

Page 62, line 18 - To delete the words "is not to" and substitute the word "may".

I have already spoken on this amendment that says a legal representative may be present at the tribunal hearing.

Hon PETER FOSS: As far as allowing the appearance of lawyers before the tribunal Hon Murray Montgomery's amendment is better than that which was proposed by Hon Nick Griffiths, but it has its own problems. It allows the establishment of an advocacy group whose members are remunerated and virtually become quasi-legal practitioners without any of the justifications that one has for giving that profession a right to appear because of the disciplines and other matters to which they are subject. In particular, the deletion of clause 10(4) in schedule 3 is an invitation for a group of advocates to grow whose members are not in any way subject to the discipline, ethics or control that lawyers are. I can sympathise with the wish to allow legal practitioners to appear. However, I have a problem with creating a new class of remunerated advocates who may appear on a regular basis before the tribunal. That goes beyond merely allowing legal representation, to virtually creating a new profession without the sorts of protections one would expect from a profession. I have a difficulty with the deletion of clause 10(3) and (4) of schedule 3, even if we were to agree to the change in subsection (2). Subclauses (3) and (4) cannot be left in place unless a distinction can be made between the advocate and the legal practitioner.

The CHAIRMAN: The Minister has jumped ahead one amendment.

Hon PETER FOSS: I have, because if subclauses (3) and (4) are retained it will prohibit a legal practitioner from charging. The changes being suggested here will allow legal practitioners in, but will prevent them from charging. The member may be anticipating another amendment, but this amendment would permit a new group of people to set up their own legal profession. As the amendment currently stands, to insert "may" would prohibit legal practitioners from charging, and not too many lawyers would work on that basis.

Hon N.D. GRIFFITHS: This amendment deals with part of the clause and the Attorney General says we should not vote for it because he anticipates we will reach a particular conclusion in another amendment that Hon Murray Montgomery has foreshadowed. We should deal with matters as they arise. I look forward to hearing what Hon Murray Montgomery has to say.

Hon PETER FOSS: My objections are on the basis of the clause as it stands, which is without Hon Murray Montgomery's amendment. I am not anticipating his amendment; I am reading the clause as it stands. If this amendment goes through the clause will say that a person who is a legal practitioner may appear as an advocate or represent a party in proceedings against a tribunal, yet subclause (4) says that a person who receives any fee or reward for appearing at proceedings before a tribunal commits an offence. This will allow for a lawyer to appear, but if he charges he will commit an offence. As it stands the clause is unrealistic.

**Amendment put and negated.**

Hon J.A. SCOTT: I have a philosophical query about clause 10(3) and (4). What is the problem with having someone who is insolvent on the tribunal?

Hon PETER FOSS: It is not just that they have no money, it is that they have somebody else's money and have not paid it back. That is the problem with insolvency. It is not considered to be inappropriate that people exercise these powers purely because they are indigent or short of the ready; it is when they take a large quantity of someone else's money - under the Corporations Law it is a significant amount of money - and do not pay it back. It is inappropriate for them to be on these bodies while owing a significant amount of money.

**Clause, as amended, put and passed.**

**Clause 38: Transitional regulations -**

Hon N.D. GRIFFITHS: I want to point out just how efficient this Government is with its human resources. It had a go at members without resources about dotting "i's" and crossing "t's" and minor words not being in a particular place. This clause is a magnificent clause, but it seems it is a clause on which the Government did not seek the advice of others. What a lovely set of words. The Attorney General probably drafted this himself with the aid of his most trusted advisers.

Hon Graham Edwards: They would have drafted something and he would have changed it to fix it up.

Hon N.D. GRIFFITHS: He probably did, but what he put in the clause were not words as such but letters. He is very good at letters. The clause refers to category C or D. What is the definition of category C? Will he show me so that I can see the definition of category C? What does "D" stand for? Dumbo? We all know that categories C and D come from the resolutions of the APMC, but they are not legislation, are they? This clause has gone to the Legislative Assembly. The brilliant minds of those who run the State of Western Australia allow us to talk about C and D in legislation but they are not defined anywhere. It is meaningless rubbish. I suppose we can refer to a few pieces of pink paper called draft regulations which tell us almost everything, or we can look at media releases which will tell us a little more. We can look at the words of those wise men from the east and not so wise men from the west. This is rubbish. The Attorney and his Government are incompetent for bringing before this Chamber this sort of legislation -

Hon Peter Foss: Mr Griffiths!

*Point of Order*

Several members interjected.

HON PETER FOSS: Let me make my point of order, please.

The CHAIRMAN: Order!

Hon PETER FOSS: There has been a gratuitous and irrelevant statement that I have in some way have been responsible for the drafting of this legislation and that I am incompetent. I ask for those words to be withdrawn. I ask for the member to direct his remarks to this clause without speculating why I drafted it when he knows perfectly well that I had nothing to do with it.

The CHAIRMAN: I do not know that there is a point of order.

Hon PETER FOSS: I ask that the word "incompetent" be withdrawn.

The CHAIRMAN: Order! Normally the word "incompetent" is not unparliamentary but we have the convention in this House that if a member takes offence at a certain phrase I ask the member who uttered the phrase to withdraw it; but I cannot insist.

Hon N.D. GRIFFITHS: If you are asking me to withdraw it, Mr Chairman, I will withdraw it. If you are not asking me to withdraw it, I will not withdraw it.

The CHAIRMAN: I am asking you to withdraw it.

Hon N.D. GRIFFITHS: In deference to you, Mr Chairman, I withdraw the comment without qualification.

*Committee Resumed*

Hon N.D. GRIFFITHS: We have heard members this evening talk about how legislation comes after great deliberation and how we review matters. One of my colleagues from the East Metropolitan Region referred to the fact that the laws of this State are made by the members of this Chamber and the members of the other place and not by a bunch of people engaged in what some may see as a bit of a public relations exercise over east. If we are to pass this clause, we must know where it says in this Bill what category C or D means, otherwise others will reflect on our competence. We will not be in a position where we can in any reasonable sense request that they withdraw that reflection.

Hon PETER FOSS: The regulations refer to the renewal of a licence. The licence categories can obviously be quite multitudinous. It is true that at this stage we do not know what is a licence called C or D. There may be many other licence categories which we do not know yet, this Bill giving an appropriate regulatory power. I confess that it would have been considerably better if there were some other way in which we could have identified the categories. If one looks at the logic of this, if the categories are to be defined by regulation, then it is intended that those categories called C and D are able to be changed in a renewal, so that any particular category we may call C or D falls within the regulation making power. It certainly has the capacity to work. Whether one likes it or not is another matter. I can certainly understand that the member may not like it but I really do not have an alternative drafting that I can

suggest for how it can better be handled. If we try to define categories C and D in the Bill, we are pre-empting what we intend to do by regulation later on. We do not know at this stage what will be the various kinds of licences. We could have made it that any of the licences created could have this capacity. We could have made the clause read -

Regulations under section 34 of the principal Act may provide for the first renewal of the licence of a firearm of any category after the commencement of the provisions of this Act other than section 16 . . .

If the member wishes to make that amendment, by all means he may do so. We will then be far more certain than we are that we will take in not only licence categories C and D but also any category. I do not know that the clause will be any more definite as a result but it will satisfy the member in that the references to categories C and D will be removed. I would be very happy to move that amendment, if the member wishes.

Hon N.D. GRIFFITHS: I am loathe to say that the clause we are about to vote on as it stands is absolute nonsense. Frankly, the explanation given by the Attorney General does not make it any less nonsensical.

Hon Peter Foss: Then move your amendment.

Hon N.D. GRIFFITHS: What does the Attorney General mean - "move your amendment"? What amendment is he talking about? I am not responsible for this legislation. I do not have the resources of the Attorney General or the Minister for Police in the other place. If I were to move an amendment I would be criticised for having some little dot or dash out of place. This is not my legislation. The Attorney General has had this for a long time. He has talked about his great program for a long time. He had his Green Bill and everything else out there. His job is to bring to this Chamber appropriate legislation. With the greatest of respect, he has failed in his duty. He is asking us to vote for nonsense. If he thinks that is good enough, good on him.

Hon DERRICK TOMLINSON: Hon Nick Griffiths doth protest too much. We are referring to clause 38 and transitional regulations. Although it is true the paper Hon Nick Griffiths referred to as "some piece of pink paper" represents only draft regulations, the draft regulations quite clearly categorise firearms under schedule 3. If any competent person could not recognise the reference to the regulations and therefore refer to the regulations to find out what categories C and D are, I suggest that person go back to grade 3 of primary school and undertake a reading comprehension exercise. While the protesting individual might argue that he wants categories C and D contained in the legislation, in the context of the clause any reference to C and D is a reference to regulations, and it is appropriate that the regulations contain categories C and D! He doth protest too much.

Hon PETER FOSS: Hon Derrick Tomlinson is quite correct. The nonsense is that Hon Nick Griffiths, despite his protests, knows that the provision is workable. I have taken the member seriously. To allow his protest to be dulled, I will be moving an amendment to delete the words "of category C or D". Under those circumstances it will be perfectly certain and will give a little more versatility. I hope that that will satisfy the member.

Hon John Halden: On that basis, Hon Derrick Tomlinson was not taken seriously.

Hon PETER FOSS: Yes, he was. He was right. I move -

Page 64, lines 23 and 24 - To delete "of category C or D".

Hon N.D. GRIFFITHS: I am almost persuaded to speak against this amendment. Why move this amendment after listening to the learned words of the Attorney General, not to mention those of one of my colleagues from East Metropolitan Region, a man who passed grade 3 with flying colours and has a profound understanding of the law? It seems to be perfectly reasonable, we are told, that we should have a piece of legislation containing category C and D without definition, as that definition is contained in regulations. It is claimed that everyone knows that they are contained in the pink draft regulations. However, these are daft regulations with no legal standing. Of course, Hon Peter Foss will say that they have legal standing.

Hon Peter Foss: I never said that.

Hon N.D. GRIFFITHS: The Attorney agreed with Hon Derrick Tomlinson. I will not suggest that Hon Peter Foss go back to grade 3 as I might be asked to withdraw that suggestion. I have been trying to expedite this legislation. I did not cause a couple of clauses to be postponed because I was too tired to jump up in time to move my amendments. I will expedite these matters.

The CHAIRMAN: I suggest that the member has made his point. Let us concentrate on the substance of the amendment.

Hon N.D. GRIFFITHS: Unlike others, I have no intention of engaging in gratuitous comments.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clause 39 put and passed.**

**Clause 40: Sections 22A, 22B, and 22C inserted -**

Hon PETER FOSS: I move -

Q40 Page 66, line 8 - To insert after the word "times" the words "except if it is impracticable to do so".

R40 Page 66, after line 24 - To insert the following new subsection -

(4) A person does not commit an offence under subsection (2)(b)(i) if the person is not in possession of the Extract of Licence when the request is made and, within 48 hours after being requested to produce the Extract of Licence, the person produces the Extract of Licence for inspection by the officer-in-charge of any police station.

Hon N.D. GRIFFITHS: Does the second amendment not have the capacity to undermine the point behind the clause? Is the Attorney not giving too much away?

Hon PETER FOSS: If one has the second one, the first is not needed, is it? The original amendment suggested by Hon Murray Montgomery was to insert "where practicable". However, if people cannot provide the extract, it could never be seen. We need a situation similar to that with a driver's licence; that is, people have an absolute commitment to produce the licence, but do not commit an offence if it is not on their person at the time of being stopped as long as it is produced within 48 hours. The second amendment is preferable as it puts an obligation to produce the licence at a later stage. The point raised by Hon Nick Griffiths is correct. In those circumstances, I seek leave to withdraw the first amendment and rely purely upon the defence provided by the second amendment, which will insert proposed subsection (4).

**Amendment Q40, by leave, withdrawn.**

**Amendment R40 put and passed.**

**Clause, as amended, put and passed.**

**Clauses 41 to 50 put and passed.**

**New clauses -**

Hon PETER FOSS: I move -

Page 48, after line 6 - To insert the following new clause -

**Section 27A inserted**

**29.** Before section 28 of the principal Act the following section is inserted -

**“ Disqualification by court imposing restraining order**

**27A.** (1) A court making a violence restraining order against a person may order that, for a term set by the court or until a court orders to the contrary, the person be disqualified from holding or obtaining any licence, permit, or approval, or any particular licence, permit, or approval, under this Act.

(2) In subsection (1) -

**“violence restraining order”** has the same meaning as it has in section 11(4).

(3) If an order under subsection (1) disqualifies a person from holding any licence, permit, or approval already held by the person when the disqualification order is made, the licence, permit, or approval held is, by force of this section, suspended and has no effect for so long as the disqualification order is in force.

(4) The court is to ensure that details of the restraining order and the disqualification order are made known to the Commissioner as soon as is practicable.”

Page 78, after line 9 - To insert the following new clause -

**“ Amendments to the *Sentencing Act 1995***

51. (1) In this section the *Sentencing Act 1995*\* is referred to as the principal Act.

[\* *Act No. 76 of 1995.*  
*For subsequent amendments see 1995 Index to Legislation of Western Australia, Table 1, p. 201 and Gazette 25 June 1996.]*

(2) Section 106 (1) of the principal Act is amended by deleting “a firearms offence” and substituting the following -

an offence specified in subsection (4a)

(3) Section 106 (3) of the principal Act is repealed and the following subsection is substituted -

(3) When an order is made under subsection (1), by force of this subsection any relevant licence, permit or approval held by the offender under the *Firearms Act 1973* -

- (a) is suspended and has no effect for so long as the disqualification order is in force; or
- (b) if the order so specifies, is cancelled.

(4) Section 106 (4) of the principal Act is amended by deleting “firearms”.

(5) After section 106 (4) of the principal Act the following subsection is inserted -

(4a) This section applies to -

- (a) a firearms offence;
- (b) an offence involving assault with a weapon;
- (c) an offence involving violence.

Page 78, after line 9 - To insert the following new clause -

“ **Minister to report on implementation of APMC Resolutions**

52. (1) A reference to a “**Resolution**” in this section is a reference to a resolution of the Australasian Police Ministers’ Council meetings on 10 May 1996 and 17 July 1996.

(2) The Minister shall prepare a report on any Resolution that requires for its implementation -

- (a) any ministerial direction;
- (b) any other executive action;
- (c) the enactment of any Act; or
- (d) the making of any subsidiary legislation.

(3) The Minister shall cause copies of the report required by this section to be laid before each House of Parliament within 12 months after the commencement of the provisions of this Act other than section 16 or by 31 December 1997, whichever is the later.

(4) Without limiting the matters the subject of the report required by this section, the report must contain advice on the participation by this State in -

- (a) an effective nationwide firearms registration system in compliance with Resolution 2;
- (b) the development of uniform guidelines by licensing authorities in compliance with the Resolutions;
- (c) the development of an accredited course for firearms safety training in compliance with Resolution 5;
- (d) the implementation of national uniform standards for when a licence for a firearm is to be refused or cancelled in compliance with Resolution 6 including

- the development of criteria and systems for determining mental and physical fitness to own, possess or use a firearm;
- (e) the development of a national standard approach to the storage of firearms and ammunition in compliance with Resolution 8;
  - (f) the provision of records to the National Register of Firearms in compliance with Resolution 9; and
  - (g) the implementation of compensation and incentive issues and other action taken before and after the proposed 12 month national amnesty in compliance with Resolution 11.

Hon N.D. GRIFFITHS: The first new clause is the result of concerns my colleagues in the other place raised in another context. The other new clauses deal with issues which were not included in the Bill; for example, the Australasian Police Ministers' Council resolutions. The other matters have been adequately dealt with.

**New clauses put and passed.**

**Title -**

Hon PETER FOSS: I move -

Page 1 - To insert after the words "*Justices Act 1902*" the words "**and the *Sentencing Act 1995***".

**Amendment put and passed.**

**Title, as amended, put and passed.**

**Bill reported, with amendments, and an amendment to the title.**

*Recommittal*

On motion by Hon Peter Foss (Attorney General), resolved -

That the Bill be recommitted for the further consideration of clauses 24 and 26.

*Committee*

The Chairman of Committees (Hon Barry House) in the Chair; Hon Peter Foss (Attorney General) in charge of the Bill.

**Clause 24: Section 22 repealed and a section substituted -**

Hon PETER FOSS: I move -

Page 40, line 10 - To insert after the word "against" the following -

and, if the decision is set aside, may -

- (a) make a decision in substitution for the decision set aside; or
- (b) remit the matter for reconsideration in accordance with any directions or recommendations that are considered appropriate.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clause 26: Sections 23A and 23B inserted -**

Hon N.D. GRIFFITHS: I move -

Page 44, line 23 - To insert after the word "practitioner" the words "in good faith".

Hon PETER FOSS: I accept the amendment.

**Amendment put and passed.**

Hon PETER FOSS: I move -

Page 44, line 26 - To insert after the word "practitioner" the words "in good faith".

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Bill again reported, with further amendments.**

*Recommittal*

On motion by Hon Peter Foss (Attorney General), resolved -

That the Bill be recommitted for the further consideration of clause 40.

*Committee*

The Chairman of Committees (Hon Barry House) in the Chair; Hon Peter Foss (Attorney General) in charge of the Bill.

**Clause 40: Sections 22A, 22B, and 22C inserted -**

Hon PETER FOSS: I move -

Page 66, line 8 - To insert after the word "times" the words "except if it is impracticable to do so".

When I accepted the removal of the first part of the amendment to clause 40, which included the words "except if it is impracticable to do so", I omitted to note that two duties are imposed: First, to carry the card at all times; and, secondly, to produce it on demand. The first amendment deals with the first of those obligations and the second provides that the card must be produced on demand, but one has a defence if it can be produced within 48 hours. The impracticability is required in respect of section 22A(2)(a), which requires one to carry the extract of licence. The defence is for section 22A(2)(b)(i).

**Amendment put and passed.**

**Clause, as further amended, put and passed.**

**Bill again reported, with a further amendment.**

**ADJOURNMENT OF THE HOUSE - ORDINARY**

**HON N.F. MOORE** (Mining and Pastoral - Leader of the House) [2.14 am]: I move -

That the House do now adjourn.

Although I indicated earlier that we would sit at 11.00 am today, in view of the hour we will sit at 2.30 pm as normal.

Question put and passed.

*House adjourned at 2.15 am (Thursday)*

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**QUESTIONS ON NOTICE**

**LIVE SHEEP TRADE - MORTALITY RATE**

658. Hon J.A. SCOTT to the Minister for Transport representing the Minister for Primary Industry:

- (1) Why does the Minister for Primary Industry accept a mortality rate in the live sheep trade of 2 per cent?
- (2) Is the Minister aware that in 1994 the New Zealand Government banned the export of lambs under 10 months because they decided that a 1 per cent mortality rate was unacceptable?
- (3) If yes, will the Government move to a similar standard?
- (4) If not, why not?
- (5) Can the Minister explain why the Government has legislated that all animals slaughtered in Western Australia be stunned before being killed, yet millions of sheep every year are allowed to die while being exported?
- (6) How much income did the live sheep trade earn Western Australia in the last financial year?

Hon E.J. CHARLTON replied:

- (1) A mortality rate of 2 per cent occurred in live sheep exports from Western Australia in 1995. Industry/government research aimed at further reducing the mortality rate is continuing, and there is a strong industry commitment to reduce the current rate.
- (2) I am aware that New Zealand banned the export of lambs under 10 months of age in 1994.
- (3)-(4) Not applicable.
- (5) Western Australia has adopted Australian standards which require animals to be stunned prior to slaughter in accordance with the code of hygienic production of meat for human consumption.
- (6) The value of live sheep/lambs exported from Western Australia in 1995-96 was \$180m. In addition, there is a significant multiplier effect on the State's economy.

**HALLS CREEK RIOT - MEETINGS**

784. Hon MARK NEVILL to the Leader of the House representing the Minister for Aboriginal Affairs:

- (1) What meetings have taken place since the riots at Halls Creek on 15 August 1996 to address the problems which those riots reflect?
- (2) Which state government officers and federal government officers, if known, attended each meeting?
- (3) In what capacity were the officers referred to in question (2) attending?
- (4) What was the purpose of the meeting?
- (5) What action was resolved at the meeting?
- (6) Which government officers is the department aware have visited the Balgo area since 15 August 1996, and what was the purpose of their visit?
- (7) What other action is planned to address the problems reflected in the riot at Halls Creek?

Hon N.F. MOORE replied:

- (1) A public meeting was held in Halls Creek soon after the riot and a subsequent meeting with Aboriginal communities was held at Balgo on 28 August.
- (2) Mr Cedric Wyatt, Chief Executive Officer of the Aboriginal Affairs Department, and Mr Ray Blackwood, Acting Coordinator AAD Office, East Kimberley, attended the public meeting. Brendan Higgins (AAD East Kimberley), Inspector Kim Richards (police), Venus Collard (police/Aboriginal relations), Mike West (Ministry of Justice), Margie Bourke, and Steve Carter (Aboriginal Legal Service) attended the second meeting.
- (3) As senior officers representing their respective departments/agencies.

- (4) The purpose of the meeting was in response to the Halls Creek meeting and was initiated by police and the Aboriginal community to address the Halls Creek riot and the broader issues of law and order within the desert communities.
- (5) The major outcomes of the meeting was a call for urgent government action in amending the Aboriginal Communities Act and the establishment of a desert communities committee to develop strategies to prevent such incidents as the Halls Creek riot from happening in the future and to resolve the broader issues of law and order in the desert communities.
- (6) Halls Creek police conducted a patrol to the area early in September and officers from the Aboriginal Affairs Department, Kununurra, plan to visit Balgo in the next week.
- (7) A meeting of government departments involved in the Wardens scheme is also planned to take place next week to address the issues of training for Balgo wardens and Aboriginal Affairs Department will be assisting the communities in establishing the desert communities committee.

LAND - AVON LOCATIONS 23936, 27637, 26019, 27519, MEMORIAL F 598638 REGISTRATION

821. Hon KIM CHANCE to the Minister for Transport representing the Minister for Primary Industry:

- (1) Was memorial No F598638, under the Soil and Land Conservation Act 1945, registered on Avon locations 27637, 23936, 26019 and 27519 on 30 June 1994, as result of a conservation order which prohibited clearing on these locations?
- (2) Was this memorial withdrawn on 10 January 1996?
- (3) Why was it withdrawn?

Hon E.J. CHARLTON replied:

- (1) Yes. It was the result of a soil conservation notice placed on the previous owner, Mr Cunningham.
- (2) Yes. The memorial was withdrawn on 10 January 1996.
- (3) The memorial was withdrawn to enable reregistration in the name of the new owner. This was accomplished on the same day; that is, 10 January 1996. Documents GO73728 to GO73731 apply.

**QUESTIONS WITHOUT NOTICE**

MENTAL HEALTH BILL - CONSIDERATION UNDERTAKING

**1041. Hon KIM CHANCE to the Minister representing the Minister for Health:**

Can the Minister advise the House whether the Government is able to give an undertaking that the Mental Health Bill will be dealt with during the term of the existing Parliament?

**Hon PETER FOSS replied:**

I thank the member for some notice of this question. The Minister for Health is keen to have the Mental Health Bill considered by the Parliament but, in the end, it is the Parliament which makes the decision.

PREScribed BURNINGS - PROHIBITION INSTRUCTION

**1042. Hon KIM CHANCE to the Minister for the Environment:**

Has the Minister or any senior officer in his department issued an instruction which prohibits any further prescribed burning in those areas from which the smoke may reach the Perth metropolitan area?

**Hon PETER FOSS replied:**

Without notice of this question I am not in a position to say what officers in my department have done. However, I have not issued an instruction. The question of prescribed burning is a difficult one. Anybody who is aware of the events in New South Wales, Victoria and Tasmania or remembers what occurred in Western Australia in 1962, knows the effect of wildfire in areas where there is a build-up of fuel. It is a matter of, where we can, balancing the need to reduce the build-up of fuel with community concerns relating to the environment and air quality. The Department of Conservation and Land Management is working in conjunction with the Department of Environmental Protection and the Weather Bureau to determine the time -

Hon J.A. Scott interjected.

*Withdrawal of Remark*

Hon PETER FOSS: Mr President, I do not think the expression "bulldust" is parliamentary and I ask that the member be requested to withdraw it.

The PRESIDENT: Order! I did not hear the remark.

*Questions without Notice Resumed*

Hon PETER FOSS: CALM works on the basis of having prescribed burns only on those days where the expectation is that they will not create a problem with haze. The members who read the weather forecast each day know that sometimes what is predicted is not what actually occurs. The other problem is that CALM is only one contributor. There tends to be a greater contribution from other people or organisations because they do not have the same link-in with the DEP and the Weather Bureau as does CALM. Shortly I will make a statement about the control of people who do not comply with the requirements of the DEP and who are major contributors, notwithstanding that people frequently blame CALM rather than them.

WORKSAFE WESTERN AUSTRALIA - TRAINING SESSIONS ON OCCUPATIONAL SAFETY AND  
HEALTH REGULATIONS SUSPENSION

**1043. Hon A.J.G. MacTIERNAN to the Minister representing the Minister for Labour Relations:**

- (1) Did WorkSafe Western Australia's management issue an instruction that WorkSafe WA staff are no longer to present training sessions on the Occupational Safety and Health Regulations at courses run by the Trades and Labor Council because the TLC supported the disallowance of the regulations?
- (2) Was the Minister consulted or involved in the issuing of that instruction?
- (3) Is the Minister aware that the only mechanism available under the standing orders to discuss the regulations is to move disallowance of them?
- (4) Does the Minister condone this discriminatory withdrawal of WorkSafe WA expertise from TLC courses for occupational safety and health representatives?

Hon John Halden: Now for the short answer.

**Hon MAX EVANS replied:**

I thank the member for some notice of this question to which I will give a short answer.

- (1) All WorkSafe WA participation in training courses on the Occupational Safety and Health Regulations 1996 was suspended on 21 October following Hon Alannah MacTiernan's disallowance motion of 17 October. Similarly, from 21 October all enforcement by WorkSafe WA was based on breaches of the Occupational Safety and Health Act 1984, not the Occupational Safety and Health Regulations 1996, because of uncertainties which would arise if the regulations were disallowed. The WorkSafe WA Commissioner wrote to the Secretary of the Trades and Labor Council on 25 October advising that the department would continue to provide training sessions on the role of the inspectorate, given those sessions did not focus on the Occupational Safety and Health Regulations 1996.
- (2) No.
- (3) There are many opportunities available under standing orders to discuss the Occupational Safety and Health Regulations 1996.

Hon A.J.G. MacTiernan: Tell us.

Hon MAX EVANS: For example, the member could have used a motion to express any concerns, instead of the motion on 24 October 1996 which was utilised to make unfounded allegations about the bribery and corruption within the construction inspectorate at WorkSafe WA. In addition, issues could be raised during the adjournment debate or the member could seek to clarify issues by placing questions on notice, and that would be a change. The member could have discussed the regulations directly with the Minister for Labour Relations. None of these measures would have jeopardised the nearly 300 regulations contained in the Occupational Safety and Health Regulations which were developed to enhance workplace safety and health.

Hon A.J.G. MacTiernan: They do not jeopardise it.

Hon MAX EVANS: To continue -

- (4) As mentioned in (1), WorkSafe WA has withdrawn from all enforcement and promotion of the Occupational Safety and Health Regulations until such time as the outcome of the member's disallowance motion is clear.

Hon A.J.G. MacTiernan: That is disgraceful. What about the Bunbury Port Authority disallowance motion?

**CHILD CARE - COMMUNITY BASED CENTRES, COMMONWEALTH OPERATIONAL SUBSIDY  
REMOVAL**

**1044. Hon CHERYL DAVENPORT to the Minister representing the Minister for Family and Children's Services:**

I refer to the decision of the Howard coalition Government to remove the operational subsidy for community-based child care.

- (1) Has the Minister given any indication that the State Government may provide such child care centres with an operational subsidy or other payment to compensate or partly compensate for the loss of the operational subsidy?
- (2) Exactly what payment, if any, has the Government got under consideration?
- (3) Does the Government plan to -
  - (a) introduce; or
  - (b) give consideration to introducing
 an additional payment to centres in the next three months?
- (4) If so, exactly what is planned or is under consideration?

**Hon E.J. CHARLTON replied:**

I thank the member for some notice of this question.

- (1) No.
- (2) Family and Children's Services is considering how it can best support community-based centres.
- (3)-(4) The operational subsidy administered by the Commonwealth Government will not be removed until 1 July 1997.

**GARDEN ISLAND - LIME SAND MINING PROPOSAL**

**1045. Hon J.A. SCOTT to the Leader of the House representing the Premier:**

- (1) Is the Premier aware of plans to explore and mine lime sand on Garden Island?
- (2) Given the importance of the island to the people of Western Australia, will the Premier assure the House that the Government will oppose mining on Garden Island?
- (3) If no, why not?

**Hon N.F. MOORE replied:**

I thank the member for some notice of this question.

- (1)-(3) Precious Metals of Australia Ltd has applied for exploration licence 70/1301 to explore for lime sand on Garden Island. As Garden Island is owned by the Commonwealth, the State of Western Australia may grant exploration titles on Commonwealth-owned land only with the approval of the Federal Minister for Administrative Services. The company has approached the Minister for Administrative Services seeking his support for its application.

It should be noted that exploration is a means for determining an inventory of the State's natural resources. However, only one in 1 000 exploration licences leads to mining. In this case the exploration licence has not been granted, only applied for. Nevertheless, any proposal to mine for lime sand on Garden Island would require environmental clearance by the Western Australian Environmental Protection Authority in association with the Commonwealth environmental protection agency. The State Government is well aware of the environmental and social significance of Garden Island and any future application for a mining lease by PMA will be assessed in the light of this.

## ROAD FUNDING - DENMARK SHIRE COUNCIL, TREE WALK TRAFFIC INCREASE

**1046. Hon MURIEL PATTERSON to the Minister for Transport:**

The popular added attraction of the Valley of the Giants Tree Top Walk has lead to a large increase in traffic, without an increase in revenue for the Denmark Shire Council. I understand the Department of Conservation and Land Management is responsible for the maintenance of portion of the road but there is a shortfall.

- (1) Will the Minister increase the road funding to maintain the level of road maintenance required?
- (2) If so, when?

**Hon E.J. CHARLTON replied:**

- (1)-(2) I had preliminary discussions with representatives of the Denmark Shire Council at a recent ward meeting. They drew my attention to the problem associated with the additional traffic resulting from the tree walk, which is good news for the region. It has already been mentioned in this House that the area has many roads leading into it. The traffic on the road from Denmark has increased significantly. I mentioned to the Denmark Shire Council that I would take up this issue with Main Roads Western Australia. Additional funding can come from three areas within Main Roads and the local government systems. I look forward to finding additional funding for the shire as a consequence of the increased traffic.

## ROYAL COMMISSION INTO THE CITY OF WANNEROO - KYLE, PETER, ALLEGATIONS

**1047. Hon N.D. GRIFFITHS to the Attorney General:**

What action will the Attorney take to ensure that the Davis royal commission's terms of reference will be sufficiently wide to investigate Mr Kyle's allegations that he was subjected to pressure from the Government, of which the Attorney is a member, in particular the pressure that involved trying to persuade him to leave some matters alone and to investigate other matters?

**Hon PETER FOSS replied:**

Not only am I not aware of the suggestion that that occurred but also I am not aware that he made those allegations. As the member knows, royal commission terms of reference fall within the portfolio of the Premier, not that of the Attorney General, and I have no power as Attorney General to do anything to the terms of reference.

## KYLE REPORTS - DECEMBER 1992

**1048. Hon N.D. GRIFFITHS to the Attorney General:**

Has the Attorney General read Mr Kyle's report?

**Hon PETER FOSS replied:**

To which report is the member referring?

Hon N.D. Griffiths: The report of December 1992.

Hon PETER FOSS: No.

## ARTIFICIAL SURFING REEFS - CABLE STATION BEACH, COTTESLOE, PROPOSAL

**1049. Hon KIM CHANCE to the Minister for Sport and Recreation:**

In 1995 the Government said it would investigate the possibility of creating an artificial surfing reef at Cable Station Beach in Cottesloe.

- (1) Is the Government proposing to construct, or be involved in the construction of, the reef?
- (2) If so, how much will it cost?
- (3) How will it be funded?

**Hon N.F. MOORE replied:**

I thank the member for some notice of this question.

- (1) In February 1995 Cabinet approved in principle the construction of an artificial surfing reef at Cable Station Beach in Cottesloe, subject to environment clearance, exploring funding options and negotiating with appropriate government agencies and other levels of government. This process is continuing.

(2)-(3) Not applicable.

WORKSAFE WESTERN AUSTRALIA - OCCUPATIONAL HEALTH AND SAFETY REGULATIONS AND  
DRAFT REGULATIONS, DIFFERENCES

**1050. Hon A.J.G. MacTIERNAN to the Minister representing the Minister for Labour Relations:**

- (1) In order to facilitate the assessment by the House of the Occupational Safety and Health Regulations 1996, will the Minister for Labour Relations.
  - (a) advise how many of these regulations differ from the draft regulations approved by the WorkSafe Western Australia Commission on 7 August 1996 and forwarded to the Minister; and
  - (b) list those regulations which have been so altered?
- (2) If not, why not?

**Hon MAX EVANS replied:**

I thank the member for some notice of this question.

- (1) The WorkSafe Western Australia Commission was advised of the differences at its meeting on 2 October 1996. A copy of the paper advising the commission of the differences is hereby tabled with this reply. The commission noted the information.
- (2) Not applicable. I seek leave to table the paper.

Leave granted. [See paper No 796.]

HEALTH DEPARTMENT - PEEL HEALTH SERVICE

*Redundancies*

**1051. Hon J.A. COWDELL to the Attorney General representing the Minister for Health:**

With regard to staff employed by the Peel Health Service -

- (1) Have any staff members recently been offered redundancies?
- If yes -
- (2) How many and in what departments?
  - (3) Will all departments be offered similar redundancy deals; if not, why not?

**Hon PETER FOSS replied:**

I thank the member for some notice of this question.

- (1) Yes.
- (2) One, from the nursing division.
- (3) Substituted voluntary severances are available under the Public Sector Management (Redeployment and Redundancy) Regulations 1994. If similar circumstances arise, this section of the regulations may again be utilised.

WESTRAIL - MANN, FRANCIS, LOCOMOTIVE OPERATOR EMPLOYMENT OFFER

**1052. Hon A.J.G. MacTIERNAN to the Minister for Transport:**

Does the Minister now have the answer to the question that I have asked on several occasions regarding Mr Francis Mann; if so, will the Minister provide that answer? The question was -

- (1) Has Westrail offered to Mr Francis Mann a position of locomotive operator level 5 in Kalgoorlie?
- (2) Is the offer conditional on the signing of an individual workplace agreement?
- (3) If yes, why has Mr Mann been denied the choice of working under the enterprise agreement, AG21, under which most locomotive drivers are employed?
- (4) If Mr Mann refuses to sign this workplace agreement, will the offer of employment be withdrawn?

- (5) Is the Minister aware of the decision in the Novek case where it was found that making the execution of a workplace agreement a precondition of employment was unlawful?

**Hon E.J. CHARLTON replied:**

I thank the member for some notice of this question.

- (1) Westrail invited applications for the position of locomotive operator level 5 Kalgoorlie under a workplace agreement, in the Press. Mr Mann responded to that invitation.
- (2) The offer is for employment as locomotive operator level 5 Kalgoorlie under a workplace agreement.
- (3) Westrail was not obliged to recruit staff under enterprise agreement AG21.
- (4) The offer is for employment under a workplace agreement. No other offer with respect to the position of locomotive driver level 5 Kalgoorlie will be made to Mr Mann.
- (5) No.

PRISONS - UPGRADE OR NEW COMMITMENT

**1053. Hon KIM CHANCE to the Minister for Justice:**

- (1) Has the Government made a commitment to either upgrade existing prison facilities or construct a new prison?
- (2) If so, when is it expected that the upgrade or construction of a new prison will commence?
- (3) What is the estimated cost of this upgrade or new construction?

**Hon PETER FOSS replied:**

I thank the member for some notice of this question.

- (1) The Government is committed to an upgrade at Eastern Goldfields Regional Prison.
- (2) The upgrade is subject to the resolution of native title claims.
- (3) \$15m. This includes a security upgrade and additional accommodation.

ELECTION COMMITMENTS - NOT HONOURED

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

- (1) Did the Premier promise to explain to the people of Western Australia if he failed to honour any of his 1993 election commitments?
- (2) Is the Premier aware that most of his environmental commitments have not been honoured?
- (3) Will the Premier provide me with the detailed explanation he promised for each of the commitments which have not been honoured?
- (4) If not why not?

**Hon N.F. MOORE replied:**

I thank the member for some notice of this question.

- (1) Yes. Since being elected in 1993 the Government has achieved its election platform of "more jobs, better management". A total of 100 000 jobs have been created with unemployment being reduced from 9.8 per cent in February 1993 to 7.6 per cent in July 1996. In addition, 1995-96 was the fourth successive year of positive growth. Western Australia's public debt was reduced for the first time in 1993-94. Net debt at July 1996 stands at \$6.7b, compared with 8.4b when the coalition was elected to office, a \$1.7b reduction.
- (2) The Government is proud of its environmental achievements during its first term in office, which has seen a substantial increase in the budget of the Department of Environmental Protection for 1996-97. The Government has introduced a range of new initiatives which has led to issues such as salinity, coastal waters, conservation, feral animal control and environmental considerations within planning procedures being seriously addressed, some for the first time.

- (3)-(4) There are few areas where the Government has not been able to introduce the planned commitments with regard to the environment.

WORKSAFE WESTERN AUSTRALIA - OVERSEAS TRAVEL

**1054. Hon A.J.G. MacTIERNAN to the Minister representing the Minister for Labour Relations:**

- (1) Have any inspectors or staff within the construction branch of WorkSafe Western Australia travelled overseas on WorkSafe WA business since June 1994?
- (2) If so, please list the names of the officers concerned, and the destination, length of stay and cost of that travel?
- (3) How many other WorkSafe staff have travelled overseas on WorkSafe business during that period and what was the total cost of travel, including allowances and expenses?

**Hon MAX EVANS replied:**

I thank the member for some notice of this question.

- (1)-(3) All overseas travel for officers of WorkSafe Western Australia on WorkSafe Western Australia business between 1994 and December 1995 has been tabled in Parliament as part of the Government's quarterly report of interstate and overseas travel undertaken by Ministers, members of Parliament and officers on official business. Information on travel after that period will be provided in subsequent travel returns when they are tabled by the Premier.

COASTCARE PROGRAM - COMMENCEMENT DATE; COST

**1055. Hon KIM CHANCE to the Attorney General representing the Minister for Planning:**

- (1) Has the Government given a commitment to implement the Coastcare program, which it outlined earlier this year?
- (2) If so, when does it expect that the program will commence?
- (3) What is the expected cost of implementing that program?

**Hon PETER FOSS replied:**

I thank the member for some notice of this question.

- (1) Yes, the State Government has given a commitment to implement the Coastcare program under the memorandum of understanding between State, Local and Commonwealth Governments, signed on 9 June 1996.
- (2) The program commenced in the 1995-96 financial year. The Coastwest/Coastcare grants for 1996-97 will be open for applications within a fortnight.
- (3) The expected cost of the program including the Coastwest/Coastcare grants for 1996-97 is about \$1.5m.

BUILDERS REGISTRATION BOARD - BGC CONTRACTING PTY LTD, COMPLAINTS AGAINST

**1056. Hon A.J.G. MacTIERNAN to the Minister representing the Minister for Fair Trading:**

- (1) Has the Builders Registration Board of WA received complaints that BGC Contracting Pty Ltd - a company that is not registered as a builder - has been carrying out construction of 14 homes on Cook Point in Port Hedland?
- (2) Has the BRB been provided with evidence that although BGC Australia Ltd, a registered builder, has a contract with BHP to construct the homes, the construction work is in fact being carried out by BGC Contracting?
- (3) Has the BRB examined allegations that no "natural person" registered builders are actively engaged in the supervision of the construction and that the construction is substandard?
- (4) What action is the BRB taking on these matters?

**Hon MAX EVANS replied:**

I thank the member for some notice of this question, which was marked for urgent reply on 24 October.

- (1) Yes, one complaint has been received alleging that BGC Contracting Pty Ltd has traded as an unregistered builder.
- (2) No evidence is as yet to hand.
- (3) In the context of the investigation referred to in part (1), the board is examining this issue.
- (4) Inquiries have been initiated to establish whether the matters can be substantiated.

HOSPITALS - BUNBURY DEVELOPMENT

*Contaminated Soil*

**1057. Hon DOUG WENN to the Attorney General:**

I asked a question yesterday about the new hospital site in Bunbury. Can the Attorney General now provide me with that answer?

**Hon PETER FOSS replied:**

I thank the member for some notice of this question.

- (1) The contamination on the site was removed prior to the filling operations, which are ongoing.
- (2) The more heavily contaminated material was taken to the City of Rockingham landfill site at Millar Road, Baldivis. The remainder of the contaminated material was disposed of in dedicated disposal areas at the Bunbury-Harvey regional tip site.
- (3) Not applicable.

ROADS - SUES ROAD, SOUTH WEST, UPGRADING

**1058. Hon DOUG WENN to the Minister for Transport:**

I asked a question yesterday on the upgrading of Sues Road in the south west. Can the Minister now provide me with that answer?

**Hon E.J. CHARLTON replied:**

Yes, I can. I thank the member for notice of this question yesterday.

- (1) An amount of \$15.4m.
- (2) Seventeen kilometres have been sealed south of Jalbaragup Road; earthworks have been completed from the end of the sealed section south to Sues Bridge - a distance of 12 kms; and a further 10 kms have been cleared between Sues Bridge and Brockman Highway.
- (3) April 1997.

WARRANTS OF EXECUTION - ENTRY BY FORCE UNDER PROPOSED ENFORCEMENT OF  
JUDGMENT LEGISLATION CONSIDERATION

**1059. Hon JOHN HALDEN to the Attorney General:**

Is the Ministry of Justice considering entry by force in the execution of any warrant under the proposed new enforcement of judgment legislation?

**Hon PETER FOSS replied:**

I thank the member for some notice of this question. Yes; only in respect of warrants of execution where a debtor's land is seized.

PLANNING APPEALS - TO MINISTER FOR PLANNING

**1060. Hon JOHN HALDEN to the Attorney General representing the Minister for Planning:**

In the period from January 1995 to October 1996 -

- (1) How many appeals were made to the Minister following rejection of development or rezoning applications by local government authorities?
- (2) Of these appeals, how many did the Minister uphold?

**Hon PETER FOSS replied:**

Unfortunately the question delivered by the member is different from the one of which I received notice, which is without any time limitation. On the basis of the question of which I was given some notice I was going to ask him to put it on notice because it would take considerable time to research the appeals database. Perhaps in view of the fact that he wants the information relating to only a limited period, if the question is asked again tomorrow, I may be able to get him an answer.

**HOSPITALS - BUNBURY HEALTH CAMPUS***Patient Transfers Arrangement***1061. Hon DOUG WENN to the Attorney General representing the Minister for Health:**

- (1) Will St John Ambulance Australia be the sole provider in the transfer of patients at the new Bunbury health campus?
- (2) If not, what arrangements will be made to transfer patients?

**Hon PETER FOSS replied:**

I thank the member for some notice of this question.

- (1) It is not proposed to alter the existing arrangement for patient transfers at Bunbury as part of the new campus development.
- (2) Not applicable.

**EXMOUTH MARINA PROJECT - CIVCON PTY LTD****1062. Hon TOM STEPHENS to the Minister for Transport:**

I put on notice question 927 that flowed from the question without notice that I asked in the House on Civcon Pty Ltd. Is the Minister in a position to be able to answer that question now?

**Hon E.J. CHARLTON replied:**

No, I do not have that information. I will check that and try to get the answer to the member tomorrow.

**WESTRAIL - PARK 'N' RIDE FACILITIES, FEES****1063. Hon JOHN HALDEN to the Minister for Transport:**

- (1) For how many Park 'n Ride facilities does the government department or private companies charge parking fees, and what are they?
- (2) What was the revenue collected in 1995-96 or the fees charged for private companies to manage this facility?
- (3) What are the anticipated fees or revenue for 1996-97?

**Hon E.J. CHARLTON replied:**

I thank the member for some notice of this question.

- (1) Fees are charged for secure Park 'n Ride facilities at Warwick and Edgewater railway stations.
- (2) The facilities are operated, under an agreement with Westrail, by a private operator. Revenue from the facilities is collected and retained by the operator, who meets the cost of operating them. Under the agreement any revenue in excess of the operator's costs is shared between the operator and Westrail.
- (3) The amount of revenue collected by the car park operator is commercial information which I am not in a position to release.

**TRANSPORT, DEPARTMENT OF - MORLEY-PERTH TRANSITWAY****1064. Hon KIM CHANCE to the Minister for Transport:**

- (1) What is the Morley-Perth Transitway that was launched recently?
- (2) Does it involve the widening of any existing roads?

- (3) If so, which roads?

**Hon E.J. CHARLTON replied:**

I thank the member for some notice of this question.

- (1) The Government recently launched the Better Public Transport program that is designed to comprehensively improve the quality of the Transperth system. Apart from planned extension to the suburban rail network, the program includes major new options for the residents of Perth to travel by fast and comfortable buses. The major elements of the bus service improvement program to be initiated over the next two years are the introduction of the circle route and the System 21 concept for high frequency, high quality radial services, of which the program the member refers to is a part.

The Morley-Perth Transitway was proposed as an additional project to be developed over the coming five years in consultation with affected local authorities and communities. The proposal will provide priority for high occupancy vehicles; that is, buses and cars with at least two occupants.

- (2) The facility will be provided within existing road reservations. Whether widening or existing kerb-to-kerb widths at some locations will be required is yet to be determined.
- (3) The most appropriate roads to be used for the Transitway will be identified in consultation with local governments.

The Government has done preliminary planning to enable the use of high frequency buses, because it believes that is the way to ensure that people will take advantage of the quality public transport system.

#### BOLD REGIONAL PARK - FUNDING

**1065. Hon JOHN HALDEN to the Minister for the Environment:**

- (1) What is the projected funding for the Bold Regional Park for the period 1996-97 to 2000-01?
- (2) Which department will provide that funding?
- (3) From where will it receive that funding?
- (4) Will any of the funding be from the sale of land adjacent to Bold Park or in the park?
- (5) If yes, how much?

**Hon PETER FOSS replied:**

I thank the member for some notice of this question.

- (1) The figures are as follows: 1996-97, consolidated fund, recurrent, \$382 000 and capital works program, \$838 000; 1997-98, consolidated fund, \$510 000 and capital works program, \$1 683 000; 1998-99, consolidated fund, \$510 000 and capital works program, \$1 000 000; 1999-2000, consolidated fund, \$510 000 and capital works program, \$695 000; and 2000-01, consolidated fund, \$510 000 and capital works program \$840 000.
- (2) Kings Park Board.
- (3) Consolidated fund.
- (4)-(5) It is not possible to determine the extent of funding to be received from the sale of land as negotiations are continuing with the Town of Cambridge.

#### TAXES AND CHARGES - FUTURE POLICY

**1066. Hon TOM STEPHENS to the Minister for Finance:**

In the time the Minister has been in office, he has shifted the tax burden in a variety of ways so that small taxpayers have had to bear a disproportionate share of the cost of taxes in Western Australia. The Minister has shifted the tax burden away from the big end of town. If the Court Government -

*Point of Order*

Hon PETER FOSS: That is a statement concerning certain facts and inferences, which is out of order. Perhaps the member should ask a question rather than make a statement.

The PRESIDENT: I think the member was making some preliminary comments. However, he must get around to asking a question.

*Questions without Notice Resumed*

Hon TOM STEPHENS: If re-elected, does the Court Government intend to pursue that same policy in a future term in office?

**Hon MAX EVANS replied:**

I ask the member to clarify the question. He is making a broad brush statement about taxes which run to about \$2.6b. He also should refer to land tax.

Hon Tom Stephens: You know about exemptions you have given to your wealthy mates!

Several members interjected.

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